

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

WALEED HAMED, as the Executor of the Estate
of MOHAMMAD HAMED,

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and **UNITED CORPORATION**

Defendants/Counterclaimants.

vs.

**WALEED HAMED, WAHEED HAMED, MUFEEED
HAMED, HISHAM HAMED, and PLESSEN
ENTERPRISES, INC.,**

Counterclaim Defendants,

WALEED HAMED, as the Executor of the Estate
of MOHAMMAD HAMED, *Plaintiff,*

vs.

UNITED CORPORATION, *Defendant.*

WALEED HAMED, as the Executor of the Estate
of MOHAMMAD HAMED, *Plaintiff*

vs.

FATHI YUSUF, *Defendant.*

KAC357 Inc., *Plaintiff,*

vs.

HAMED/YUSUF PARTNERSHIP,

Defendant.

FATHI YUSUF, *Plaintiff,*

vs.

ESTATE OF MOHAMMAD A. HAMED,

Defendant.

Case No.: SX-2012-CV-370

**ACTION FOR DAMAGES,
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-287

Consolidated with

Case No.: SX-2014-CV-278

Consolidated with

Case No.: ST-18-CV-219

Consolidated with

Case No.: ST-17-CV-384

**HAMED'S REPLY AS TO HIS MOTION FOR SUMMARY JUDGMENT
RE CLAIM H-142: HALF-ACRE ACCESS PARCEL AT TUTU**

I. Introduction

The parties both agree that this matter arose out of a 2-3 hour “in-person” settlement negotiation at the home of Mohammad Hamed—between Fathi Yusuf and Mr. Hamed. This negotiation took place just prior to the July 2011 trips that each man took separately to Jordan to execute a written agreement for “one parcel in Jordan.” They also agree that the only people at that face-to-face settlement negotiation were Fathi, Mohammad and Wally Hamed. They agree that Fathi and Mohammad were the negotiators—and that Wally was there solely as one of the ‘subjects’ of the negotiation. They agree that the negotiation was conducted mostly in Arabic. Finally, there is no disagreement that two sets of videotaped depositions about this meeting have been held—in 2014, and again, following discovery, on January 22, 2020.

Thus, there are no other witnesses to either that in-person settlement negotiation or the subsequent conversations between Fathi and Wally in the following days. All three men have testified *in detail* as to what was said—subject to cross-examination. Most importantly, there is no disagreement at all as to exactly what was said. The only issues before the Master relate to the meaning and legal impact of the settlement discussion and Fathi’s subsequent attempts to renegotiate that initial agreement with Wally. Lastly, the parties also agree a writing was then prepared by Yusuf’s lawyers, it was signed, and it was performed. The written agreement is in evidence and there is no factual dispute about its contents.

Appended to this reply is the entire testimony of all three men, from both of those deposition sessions—it is less than 2 hours and forty minutes.

i. **Exhibit 18**¹ is computer disk containing the entire 3 minutes of videotaped testimony by Fathi Yusuf from 2014. **Exhibit 19** provides the 5 pages from that transcript which reflect that testimony.

¹ The first 17 Exhibits are attached to Hamed’s main motion, this numbering picks up sequentially, and thus Exhibits 18 to the end are attached hereto.

ii. **Exhibit 20** is computer disk containing the entire 3 minutes of videotaped testimony by Mohammad Hamed from 2014. **Exhibit 21** provides the 3 pages from that transcript which reflect that testimony.

iii. **Group Exhibit 22** is computer disk containing the entire 2 hours, 29 minutes of videotaped testimony by Fathi Yusuf and Wally Hamed from January 22, 2020. Exhibit 22a is Fathi Yusuf, Exhibit 22b is Wally Hamed and Exhibit 22c is a sealed portion of Wally Hamed's testimony that must be disregarded if the *motion in limine* is granted. **Exhibit 23** provides the 77 pages of the transcript which reflects that testimony.

Thus, there has been extensive discovery, three prior sets of motions, and the principals have been examined on videotape, subject to cross-examination. The facts related to this motion are well known and undisputed. All of that testimony is now in the hands of the Master.

II. Argument

Hamed responds to the Opposition in three separate sections below. In the first, he goes through Yusuf's Opposition page-by-page—and points out the inaccuracies and factual misstatements. In the second section, Hamed identifies the arguments in Hamed's main motion which Yusuf simply fails to meet, and therefore fails to refute. In the third, Hamed notes the legal principles that Yusuf either gets wrong or simply fails to contradict—and, thus, why this motion should be decided as a matter of law.

A. Section 1 of 3: Page-by-Page Analysis of Factual Statements in Yusuf's Opposition

At pages 2-3, Yusuf states that there was an original deal for Hamed to provide him "two properties." There are two problems with this statement based on the facts of record: (a) both Yusuf and Hamed testified in 2014 in detail about this settlement negotiation, and both agreed that while Hamed initially agreed to Yusuf's request for "two parcels,"² by the end of that one-

² In his 2014 Mohammad Hamed testified at his deposition that Fathi Yusuf asked for "two parcels in Jordan." (**Exhibit 21**). The Tutu parcels were not involved in that original negotiation as discussed below:

In.16 [INTERPRETER:] he had asked for **two pieces of property in Jordan**. He told him, I'd sign for them, no problem. Later, he came--meaning Mr. Fathi Yusuf

and-only, in-person negotiation they both agreed “one parcel is enough.” Also, (b) right after that statement in the Opposition, Yusuf (oddly) goes on to describe three properties, not two: (1) the parcel in Jordan, (2) the 9.3 acre parcel in Tutu, and (3) the half-acre parcel in Tutu.

As Yusuf stated in his original opposition to Hamed’s Motion for Partial Summary Judgment, in 2011, the Partners agreed to reconcile a \$2,000,000 disparity, in which Yusuf discovered Hamed had misappropriated partnership assets. As part of Hamed’s efforts to appease Yusuf following his discovery of this significant misappropriation, **Hamed agreed to relinquish his interests to two Partnership properties**: to wit, 1) one located in the district of Tabarbour in Jordan (the “Jordan Property”), and 2) property located in Tutu, St. Thomas including both **a 9.3 acre tract** titled in Plessen and **the Tutu Half-Acre** (titled, at the time, in United)(both the 9.3 acre tract and the Tutu Half-Acre are referred to collectively as the “Collective Tutu Property”) so that Yusuf would then own these properties separate and apart from the Partnership. In exchange, Yusuf would forbear pursuit of Hamed for the \$2 million misappropriation of partnership assets. (Emphasis added.)

Yusuf does so to avoid the dispositive admission he made in his September 30, 2016, *Claims Filing*³ where he told a totally different story—one where he admitted that he did make a subsequent demand for the 9.3 acre Tutu parcel. He admitted that a third parcel was demanded in exchange for additional, “future” possible malfeasance he might discover. There he stated:

Yusuf had agreed to resolve this misappropriation, but not any others that Yusuf might later discover, **by the conveyance of Hamed's interest in two parcels: one in Jordan that is the subject of Exhibit N, and one half acre parcel in St. Thomas**, previously titled in the name of Plessen Enterprises, Inc., which is addressed in a number of the Liquidating Partner's Bi-Monthly Reports. See Ninth Bi-Monthly Report at p. 5-6. **Yusuf insisted that if Hamed wanted a resolution addressing all Hamed misappropriations, whether known or unknown,**

--and told him, You've kicked me in my stomach. It's a term of, in other words, he was willing to accept, as I understand, one piece of property instead of two.

In his 2020 deposition, Wally Hamed testified the same, noting that the “requests” for a third parcel, the Tutu parcel, did not begin until after the return from Jordan in July of 2011. This comports with the Affidavit of Hannun, which states that this third parcel in Tutu was demanded *in those post-July 2011 mediations*. Hamed has asked that these mediations and Hannun’s affidavit be struck under Rule 408. At various times and in various places, Yusuf has testified about various, different numbers and locations of those initial two parcels. Hamed will not go into all of this here, because all three men agreed in their depositions that by the end of that negotiation they agreed and shook hands on “one parcel only.” It was the one parcel in Jordan.

³ *Yusuf's Accounting Claims and Proposed Distribution Plan. (Exhibit 3).*

Hamed would have to arrange for the conveyance to Yusuf or United of another approximately 9.3 acre parcel located on St. Thomas also titled in the name of Plessen Enterprises, Inc. Hamed, through his son, Waleed, refused to convey this third parcel. (Emphasis added.)

Thus, previously, Yusuf not only admitted that there was “another” parcel—a third parcel—but also that it was sought for additional “known and unknown” claims. As shown below, he said this many times.

At page 3, Yusuf then goes on to state one of the two central pillars of his new story—that Hamed’s transfer of the one Jordanian property on July 18, 2011 was “partial performance” of some greater deal:

As partial performance of this agreement, Hamed relinquished his interests to the Jordan Property on July 18, 2011. As to the Tutu Half-Acre, because the record title was already in the name of United, an entity solely owed by Yusuf, **no further documentation was needed to “transfer” or document Hamed’s relinquishment of his partnership interests therein.**

But Yusuf has repeatedly admitted facts that make this impossible: Time after time he has admitted that neither Hamed nor the Partnership ever transferred the half-acre parcel in Tutu in 2011. To the contrary, before he knew the importance of the admission, in 2014 Yusuf stated under oath that **Hamed absolutely refused to transfer both the Tutu half-acre parcel and the 9.3 acre parcel to him in 2011.**⁴ And, he referred to it as a separate, third parcel yet again.

When Responding Party [Yusuf] asked Waleed Hamed to proceed with the transfer of the Tutu Park property, it is at this point, several months later, that **Plaintiff Waleed "Wally" Hamed and Plaintiff Mohammed Hamed refused to transfer not only the second property [Tutu], but also the third property** requested as a set-off for the unauthorized transactions. (Emphasis added.)

⁴ (**Exhibit 2**, at 9). This is an interrogatory attested to by Yusuf personally—under oath—BEFORE he realized the impact of that statement and had a chance to change it. How is this prior sworn statement consistent with the present story that not only did Hamed agree, but actually voluntarily “relinquished” BOTH Tutu parcels in July of 2011 when the one Jordanian parcel was being conveyed by a writing?

See *also*, Yusuf Claims Filing at 14, (**Exhibit 3**).

[In 2011] Yusuf insisted that if Hamed wanted a resolution addressing all Hamed misappropriations, whether known or unknown, Hamed would have to arrange for the conveyance to Yusuf or United of **another approximately 9.3 acre parcel** Hamed Mot. for Summary Judgment re Claim H-142 1/2-Acre Access Parcel at Tutu, at 27 located on St. Thomas also titled in the name of Plessen Enterprises Inc. Hamed, through his son, Waleed, refused to convey **this third parcel**.

In addition, neither page 3 nor anywhere else does Yusuf provide a scintilla of evidence of the existence of this “larger deal.” No writing, email, letter, memo, or advice of counsel.

In this same vein, at page three, Yusuf also states “Yusuf’s recitation of events and the agreement have been consistent and detailed.” But contrary to that, the second pillar of his Opposition can be found in the tricky paragraph where he describes the “new” version of the story where the half-acre parcel was supposedly “relinquished” to Yusuf by Hamed in July of 2011, at the time the one parcel in Jordan was transferred by a writing (emphasis added):

As partial performance of this agreement, Hamed relinquished his interests to the Jordan Property on July 18, 2011. As to the Tutu Half-Acre, because the record title was already in the name of United, an entity solely owed by Yusuf, **no further documentation was needed to “transfer” or document Hamed’s relinquishment of his partnership interests therein**. Hence, since the time of the agreement in mid-2011 and, in particular, at the time of the dissolution, the Tutu ½-acre was not a partnership asset, subject to division.

Thus, what Yusuf is really arguing is that despite the fact that although he has continually admitted that Hamed repeatedly refused to have the Partnership transfer the two Tutu parcels in 2011, by some sort of magical effect the parcel was “relinquished” **simply because the name “United” was already on the written deed**. Thus, all of this is an attempted way around the basic RUPA rule that the Master has already enforced—that the name on the deed is NOT CONTROLLING. In fact, the Master has already held that the “name” on the deed in 2008, after the deed in lieu of foreclosure was executed, was NOT actually “United Corporation,” but rather “United Corporation as a Representative of Plaza Extra.”

Thus, Yusuf's entire argument here is just a well-disguised a throwback to the "our name is on the deed, so we own it" theory that started all of this before Yusuf actually read RUPA. This is just an updated version of the *identical* argument. That is definitely not the law under RUPA. For the Partnership to alienate the parcel, it would have had to do some affirmative act to transfer its interest to Yusuf from "United as *the Partnership Representative*" to Fathi—**something Yusuf admits that he complained bitterly in 2011 that his Partner refused to do.** The mere fact that he had a deed with what appeared to be the right name on it and claims his Partner verbally agreed to a deal does not create an actual transfer of Partnership property.

Moreover, the drafters of RUPA included a specific official comment to 204(c) that addresses exactly this sort of attempt, as Hamed pointed out in the motion, at fn 6, page 7:

Even under Yusuf's "best" telling of events, he clearly took with absolute notice of the Partnership's interest in this parcel. Thus, he should have created a writing to overcome the strong presumption. *See, Official Comment 4* to RUPA Section 204(c). Exhibit 1.

The inference concerning the partners' intent from the use of partnership funds outweighs any inference from the State of the title, subject to the overriding reliance interest in the case of a purchaser without notice of the partnership's interest.

Yusuf is not a purchaser without notice. More to the point, Yusuf has clearly and repeatedly stated in both 2014 and 2016, that Hamed's intent in 2011 was to not transfer the Tutu parcels. Under 204(c), and particularly *Comment 4*, NOTHING can be inferred from the state of the title APPEARING to be in "United Corporation" that contravenes that express intent of the Partner. Despite this, Yusuf argues that the state of the title at that time allows the IMPLICATION of transfer or a TRANSFER BY OPERATION OF LAW—both directly contrary to RUPA.

Moving on to pages 4-6, Yusuf once again tries to make it appear that when the meeting between Mohammad and Fathi (at Mohammad's house) ended, Hamed had agreed to two parcels—again by simply not finishing the quoted testimony from both men's depositions. Yusuf

ends the quotation at the point where Hamed initially agrees to two parcels—but leaves out the next little part of BOTH MENS' TOTALLY UNAMBIGUOUS TESTIMONY where they discuss it some more before agreeing “one parcel is enough.” This attempt is covered in detail in the main motion, as this is exactly what Yusuf did in the Prior Opposition. Hamed will not go back through that again.

Thus, we arrive at the center of Yusuf's elaborate revision of the story—a point as to which everyone agrees, **a point that requires no further testimony or hearings**. AFTER the negotiation with Mohammad had ended, after the men had shaken hands and agreed, Fathi tried to re-negotiate with Wally:

5. *Within hours of returning, Yusuf tells Waleed to advise Mohammed that the deal is for two properties—the Jordan Property and the Collective Tutu Property as originally agreed.*

In his November, 2013 Interrogatory Response, Yusuf testified:

Immediately, the same afternoon, Responding Party [Yusuf] informed Waleed Hamed to tell his father that one property not enough to compensate and that it had to be the two (2) properties they had agreed on—the Jordanian Property, and the Tutu Park property.

What follows from page 6 through page 9 is simply Yusuf's discussion of what HE THOUGHT was going on in discussions **with Wally**. He does not dispute what was said—there is no fact dispute. He admits that Wally was not a negotiator here and that Wally never said that his father agreed to any changes. He admits that well after that attempted renegotiation, he and Mohammad entered into a writing that EXACTLY matched the “one parcel in Jordan” agreement. He admits that *his lawyers* drafted that agreement, provided it for signing and that it was signed. He admits that the writing never discusses either (1) a second parcel in Tutu, or (2) any larger deal that this writing was “partial performance” of. Thus, the principal idea that is found on pages 6-9 is embodied in Yusuf's own ultimate statement of his position:

Yusuf has a **firm belief** that there is confirmation from Waleed on behalf of Mohammed Hamed, that they have agreed to the deal, as reached originally as to the two properties, that in consideration of Yusuf's agreement not to pursue the Hameds for the \$2 million transgression, that Hamed gives up his interest in two properties: the Jordan Property and the Collective Tutu Property. Once Yusuf cited to Waleed's testimony in his Opposition to Hamed earlier Motion for Partial Summary Judgment wherein **he said "Yes" to Yusuf's question "did you tell your father"** demonstrating Hamed's assent to returning to the original agreement that Hamed immediately had agreed to in their meeting at his home hours before, **Waleed then reversed course and indicated that his response "Yes" was actually intended to deceive Yusuf. Waleed argued that when he was asked by Yusuf whether he told his father of the return to the two properties agreement, that he answered "yes, I told him," conveying only the fact that a conversation occurred, but not the substance of it.** Clearly, Waleed's statements were **meant to be deceptive.**

At the 2020 depositions, Yusuf's counsel then tried to get Wally to say that Mohammad had actually agreed to the adding the Tutu Parcel to the deal. But a review of Wally's actual testimony (**Exhibit 23**, attached to this Reply) reveals three things:

1. Wally and his father considered the deal was already reached and agreed to without the Tutu Parcel.
2. As Yusuf himself admits, his demand to Wally was nothing more than a renegotiation attempt—AFTER the deal was agreed to at Mohammad's house. Even Yusuf admits that these were all things he "thought to himself" (not things he actually said) when agreeing to the one parcel deal. He admits there was no statement at Mohammad's house that the deal was preliminary....that it was subject to change or to finalization after Yusuf went through more papers.
3. Even if there was to be a renegotiation, Wally was not a negotiator—it was made VERY clear to Yusuf that this was between the two men. Yusuf admits this as well.

Yusuf then tries to suggest that in saying "yes" to his question "did you tell your father" that WALLY was being deceptive. First, it is good to remember that it was YUSUF's initial 2014 deposition testimony that explicitly set out who said what and that Wally didn't agree to the renegotiation. Second, nothing in this effort to patch together some sort of equitable reliance/fraud/misrepresentation/misunderstanding creates a contract between Mohammad and Fathi. **This is not an argument about a meeting of the minds necessary for contract, it is (at best) a deception argument....or maybe a misunderstanding argument. It is NOT a**

contract argument. Yusuf would have to seek some sort of equitable relief—**not proving the actual, 2011 transfer of real property**. Moreover, if it was an equitable fraud/deception argument, it would be demolished by the fact that AFTER any perceived misunderstanding or deception, YUSUF had a written document *created by his lawyers*. The written document states “one parcel in Jordan.” It states Hamed’s consideration. It states that Yusuf has received his consideration via the document. It was signed. Yusuf says the parcel was conveyed. THERE IS NOT A SINGLE MENTION THAT THIS IS PART OF A LARGER DEAL OR THAT A TUTU PARCEL IS SOMEHOW INVOLVED. And, again, Yusuf admits that Hamed repeatedly refused to transfer the parcels in 2011.

And finally, at the end of page 9, Yusuf tries to make the argument that when signing a written agreement for just one parcel in Jordan in July of 2011, he TOLD Mohammad that he wanted a second parcel.

discovered so far...” *Id.* Moreover, even with Waleed’s attempt to deceive Yusuf with his deliberately elusive answer of “yes, I told him” to Yusuf’s “did-you-tell-your-father” question, Yusuf thereafter, discussed the matter with Hamed, in person, in Jordan, “more than once” at the point in which the partial performance was occurring. *Id.* If Hamed did not agree, assent or did not understand Yusuf during their discussions in Jordan, he could have objected and refused to proceed with the partial performance. Hamed did not. Rather, “Mohammed Hamed went ahead and transferred his interest in the Jordanian Property.” *Id.* Hence, there is sufficient evidence of the agreement, as Yusuf has described for the transfer of the Jordan Property and the Collective Tutu Property in 2011, to which Hamed was aware and had assented. *Id.*

Yusuf says it all: “**if Hamed did not agree, assent** or did not understand Yusuf. . .he **could have objected** and refused to proceed with [signing the written document for one parcel.]” It is hard to list how many ways this is just wrong. First, Yusuf admits the single controlling fact as

to this issue in this statement—that **Hamed DID NOT verbally “agree” or “assent.”** That is enough for contract law. It ends this inquiry. There was a writing, Yusuf made a verbal statement about a “further condition.” He admits no written or verbal assent in response—nothing said by Hamed as to a second parcel. Period. There was no “manifestation of mutual assent.” As Hamed cited in the main motion, USVI law on this is rock solid:

The basic law of contract and the basic burden Yusuf bears are clear. *Cornelius v. Bank of Nova Scotia*, No. 2015-0058, 2017 V.I. Supreme LEXIS 50, at *21 (Aug. 8, 2017) (“a contract is only formed or modified to the extent there is mutual assent and mutual consideration,”) see *Williams v. UVI*, 2019 V.I. LEXIS 2, at *5-6 (Super. Ct. Jan. 18, 2019).

Here, this court finds that Defendant is correct that there was no express contract created between the parties. The language of the 1997 memo does not expressly offer a promise of merit pay to Plaintiffs, there was no clear acceptance by Plaintiffs as Plaintiffs were conditioned on their employment agreement to continue working for Defendant, thus the continued benefit given to Defendant by Plaintiffs does not signal separate adequate consideration to this court. Also, without an offer presented by Defendant and an acceptance by Plaintiffs, this court cannot deduce that there was **a manifestation of mutual assent** between both sides or a “meeting of the minds.” Therefore, **absent clear evidence** of all requirements of an enforceable contract, this court holds that no enforceable express contract existed between Plaintiffs and Defendant. (Emphasis added.)

Here, there was “no clear acceptance of any offer.” In short, there is no offer and acceptance after the initial oral agreement as to the one parcel in Jordan—which Hamed did transfer to Yusuf—exactly as described in the writing. There is only Yusuf repeatedly TELLING the Hameds.

Thus, what is happening here is that although Yusuf admits a lack of such a manifestation, he instead tries to rely (without case citations or other law) on a different rule of law—he tries to create a rule that a “lack of refusal is a manifestation of assent.” This is the opposite of VI law.

Pages 11-14 are simply Yusuf trying to explain away what he wrote in his Claims Filing and elsewhere. In a footnote he says:

⁵ Yusuf notes that the 9.3 acre parcel together with the Tutu Half-Acre were actually considered to be one property as per Yusuf's deposition testimony. See Exhibit A. The description in Yusuf's Initial Accounting Claims inadvertently misstates the 9.3 acre to be considered a third property. Yusuf clarified in his Supplemental Responses to Hamed's Discovery filed on January 15, 2019. See Exhibit K—Yusuf's Supplemental Responses to Hamed's Discovery, January 15, 2019, p. 7-8 with Verification.

But this assertion of yet another “misstatement” does not explain the explicit text of the claims filing where Yusuf directly states that there was a subsequent negotiation for a third parcel, and that the 9.3 acre parcel WAS that third parcel.

by the conveyance of Hamed's interest in two parcels: one in Jordan that is the subject of Exhibit N, and one half acre parcel in St. Thomas, previously titled in the name of Plessen Enterprises, Inc., which is addressed in a number of the Liquidating Partner's Bi-Monthly Reports. See Ninth Bi-Monthly Report at p. 5-6. Yusuf insisted that if Hamed wanted a resolution addressing all Hamed misappropriations, whether known or unknown, Hamed would have to arrange for the conveyance to Yusuf or United of another approximately 9.3 acre parcel located on St. Thomas....

Nor does it explain the prior interrogatory answers where Yusuf told the same story and also admitted that in 2011 the Hameds rejected these renegotiations and refused such a transfer.

B. Section 2 of 3: Points Yusuf Does Not Even Attempt to Address in the Opposition

The primary thrust of Hamed's motion is that this was Partnership property by 2008. Yusuf does not address or contradict this point. The Master has held this to be true.

Hamed argued that as Partnership property, it is subject to RUPA 204(c). While admitting that this is a RUPA-controlled case (and taking refuge in the lack of a statute of frauds) Yusuf does not address the facts under 204(c) that: (1) in 2011, the Partnership did not actually transfer the parcel, (2) that in 2011, the Partner expressed his intent not to transfer and refused to transfer and (3) that the treatment in the years after the alleged 2011 transfer reflects the intent of the Partners not to transfer—that this was still intended to be Partnership property--- the Partnership paid all taxes, collected all rents, carried the parcel on its books and represented its ownership to both federal and territorial tax and corporate authorities.

Thus, as a matter of law, these facts regarding intent and treatment not being addresses, they are not in dispute. Summary judgment should be entered.

C. Section 3 of 3: Yusuf's "Legal" Arguments

Hamed argued that this matter could be determined at law for seven reasons. It is useful to look at Yusuf's 7 responses, one-by-one:

- a. **Legal Issue 1:** This new Yusuf argument involves what both parties state was a settlement negotiation, so that intermediate oral 'agreements' during such discussions are inadmissible and non-binding.

Yusuf tries to ignore this issue. He does not dispute that it was a settlement negotiation. He does not dispute that he is attempting to rely on statements in a settlement negotiation. Instead he states that the transfer of the Jordanian parcel shows partial performance—but it does not. There is no reference in that writing as to Tutu or any "larger deal." Prior to Fathi's 2014 telling of the story in his 2014 interrogatories and testimony, there is no mention that the deal at Mohammad's house ended with an agreement as to two parcels. Thus, any discussion of a two-parcel contract falls squarely under Rule 408 and must be excluded. The applicable law and effects of Rule 408 are discussed in the *motion in limine*, which is incorporated herein.

- b. **Legal Issue 2:** The parol evidence rule

Here Yusuf confuses the statute of frauds ("SOF") (which requires certain types of transactions to BE IN WRITING), which is obviated by RUPA, with the parol evidence rule (which excludes verbal testimony about an EXISTING WRITING if one exists) which is not obviated by RUPA. To the contrary, when there is an actual writing, the parol evidence rule operates "to exclude evidence of prior or contemporaneous conversations, representations, or statements offered for the purpose of *varying or adding* to the terms of an integrated contract." *Ruppel v. Basmajian*, 14-cv-728, 2018 U.S. Dist. LEXIS 59277, at *3 (D. Utah Apr. 5, 2018).

The cases cited by Yusuf (*Wirth* and *Caroline Brown*) deal with the absence of a writing. They apply to a party trying to avoid “giving effect to an oral Partnership Agreement”—not the opposite—of trying to give effect to subsequent oral “additions” to a clear, written agreement between the partners. In fact, *Wirth* and *Brown* actually support Hamed’s position. **RUPA is wary of oral agreements and thus does not allow the SOF—but it distinctly favors and protects actual, existing written agreements.** The bedrock of RUPA is that to the extent that there are written agreements between the partners, they control. 26 V.I.C. § 4, “Effect of partnership agreement.” Consider how Yusuf tries to phrase this issue, at 16:

Subsumed in this contention is the position that any relinquishment or transfer of ownership of real property between the Partnership and partners is subject to the statute of frauds and must be in writing. (Emphasis added.)

“Subsumed.” What? That is 180 degrees turned around from what Hamed alleges. Hamed’s parol evidence argument is not subsumed in the statute of frauds. Quite the contrary is true. Hamed is not saying that the “deal” as to what parcels were being transferred HAD to be in writing—that WOULD be the statute of frauds. Hamed is saying the opposite: WHERE THERE IS A WRITING that describes a settlement, Yusuf cannot vary it verbally. That is why Yusuf presents not a single case or other authority for the proposition the parol evidence rule is subsumed within the statute of frauds in RUPA. It is simply not true.

This is not a verbal discussion between partners that one party is alleging should be enforced, despite the fact that the other side is arguing that it is not in writing. It is the opposite. It is a settlement that was initially discussed orally which WAS THEN memorialized in writing—which was reduced to a writing BY YUSUF. He even calls it the “settlement agreement” in various places, including the Claims Filing. (**Exhibit 3**). The agreement states on its face what it is doing. It effectuates a settlement negotiation between the Partners drawn up AFTER the verbal discussions (both at Mohammad’s house and in the following days.) Yusuf had a writing

drafted soon after the negotiation and attempted renegotiations—to create what he calls a settlement agreement. His lawyers drew it up. It expressly deals with one parcel. It recites the both the deal and both parties' consideration. It states that the consideration is being delivered by the writing and that Hamed *has received* his consideration, the release of claims. All that is happening now is that Yusuf seeks to vary the writing he had drafted to add a second parcel.

c. **Legal Issue 3:** Yusuf is judicially estopped from arguing “alternative facts.”

The Opposition is either confused or intentionally misleading as to this issue. Yusuf states:

Yusuf has demonstrated that his position has been consistent from the time the agreement was reached and then breached. His testimony, discovery responses and supporting evidence have been consistent. Hamed has attempted to confuse the issues by using terms interchangeably.

The facts that Yusuf has changed are things *Yusuf himself has admitted he has changed*:

1. He does not dispute that the half-acre parcel was ALWAYS carried on the Partnership books. He admits this continued long after the alleged 2011 transfer. He admits he has tried to change that after 2015. It was a “correction.”
2. He does not dispute that the Partnership and United represented in its financials that the Partnership was the owner of the half acre parcel to the Court, the USVI and the US government. Again, he admits this continued long after the alleged 2011 transfer. He admits he tried to change that after 2015. Those were “errors.”
3. He does not dispute that the Partnership collected all rents from the property. Again, he admits this continued long after the alleged 2011 transfer. He admits he has tried to change that after the issue came up in litigation.
4. He does not dispute that the Partnership paid all taxes on the property. Again, he admits this continued long after the alleged 2011 transfer. He admits he has tried to change that after the issue came up in litigation—after 2015.
5. He does not dispute that he has consistently and repeatedly, under oath, stated and testified that the HAMEDS REFUSED TO TRANSFER THE TUTU PARCELS in 2011. He admits he has tried to change that after the issue came up in litigation....in just the past few months. Again, he “misspoke” when he described a third parcel, he “misspoke” when he admitted that he tried for the third parcel and was rejected. He “misspoke” when he stated in both 2014 and in his claims filing they were renegotiations which were rejected by both Hameds.

These are the facts as to which Hamed seeks estoppel—as is plainly set forth in the motion.

Yusuf did not (and cannot) dispute that these are all things he initially represented as facts here

and elsewhere—but seeks to run away from them by saying that he “corrected” them after 2015. AFTER 2015 is also three years AFTER this case began. In other words, he has been consistent if you call all of the “changes” “corrections.” Those five “corrections” are EXACTLY what estoppel prevents. You cannot “correct” long-term, consistent and explicit documented factual representations 3 years into a case by saying “oops.....” we “misspoke” repeatedly.

Hamed asks that these five factual representations by United and/or Yusuf, all evidence of record on January 1, 2015, be enforced: the parcel was always on the Partnership’s books and financials, these were represented as being accurate as to who owned the parcel to the Master, and both governments; the Partnership collected all rents from the parcel, and the Partnership paid all taxes on the parcel. Neither Yusuf nor United did so.

d. **Legal Issue 4:** No “meeting of the minds” as to which parcels were involved.

At page 20, Yusuf advances two totally disjointed legal theories: (1) that Wally was deceptive, so there WAS a meeting of the minds, and (2) when Yusuf said it was a deal for two parcels (at the July 2011 signing of the agreement for one parcel in Jordan) Hamed could have said something to contradict this.

Likewise, as to Hamed’s “Legal Issue 4” whether there was a meeting of the minds, Yusuf has demonstrated a clear understanding as to the agreement and has demonstrated Hamed’s assent. Yusuf and Hamed made an agreement which Yusuf confirmed during their meetings in Jordan. Despite Waleed’s efforts to be deceptive in his discussions with Yusuf, there was a meeting of the minds between Hamed and Yusuf as evidenced during their interactions which occurred subsequently in Jordan. Moreover, Waleed’s deception cannot support an argument that there was no meeting of the minds. To the contrary, Waleed was acting as an agent for his father, Hamed and had a duty to fully disclose to Yusuf information material to matters relating to the partnership.

And:

Yusuf shows that the subsequent meeting between Hamed and Yusuf in Jordan where Yusuf reiterated his understanding is further evidence of meeting of the minds.

Yusuf does not address the legal theories in Hamed's motion. Thus, he does not dispute them...he merely argues that the facts of record (all of which are before the Master in testimony) shows that while there was **NOT** a meeting of the minds...**it was Hamed's fault**. He states, he admits as a fact, that there was not a meeting of the minds, but suggests that this was due to deception. Thus, he admits there was never actual agreement between the negotiators (Fathi and Mohammad) *because Wally failed or was deceptive as a messenger*. Alternatively, Yusuf argues there was never evidence of a lack of meeting of the minds because *Mohammad did not dispute statements Yusuf said he made* when signing a document Yusuf had drafted which said the opposite....one parcel. Again, an admission of lack of MOM.

In other words, if one actually reads the authorities cited, this is EXACTLY the type of situation the USVI courts have held constitutes a failure to have a meeting of the minds. In other words, in the Opposition, Yusuf himself admits that Hamed did not make a "manifestation" of acceptance or assent. Yusuf is the witness that Hamed said nothing in response.

This is exactly what happened in the VI cases cited by Hamed—there were ambiguous assertions on both sides but in the absence of a *clear, unambiguous* manifestation of acceptance, there was not a meeting of the minds. This "Wally deceived me" argument is brand new, as is "Mohammad should have disagreed." Never discussed or raised before. Nothing in the 2014 depositions indicates deception—in fact, even now, Yusuf characterizes this as "what he understood" and "what he thought." Only in the past weeks has this morphed into "it was all A BIG PLOT into which I stumbled by (oddly) having a writing drafted which said EXACTLY what I have always said before the past few weeks was the deal when I left Mohammad's house—one parcel." Wally was just a subject being examined at the meeting before, not as either a negotiator or an agent of his father for the negotiation. Apparently, Yusuf wants to go back and amend his claims to assert this brand new allegation of fraud and misrepresentation,

but that effort is now time-barred. **But based on contract law, which is before the Master here and now, his position is directly contrary to the (uncontested) authority cited.**

The sole question before the Master is a legal one, and is set forth in both *Cornelius v. Bank of Nova Scotia*, No. 2015-0058, 2017 V.I. Supreme LEXIS 50, at *21 (Aug. 8, 2017) (“a contract is only formed or modified to the extent there is mutual assent and mutual consideration,”) and *Williams v. UVI*, 2019 V.I. LEXIS 2, at *5-6 (Super. Ct. Jan. 18, 2019):

Here, this court finds that Defendant is correct that there was no express contract created between the parties. The language of the 1997 memo does not expressly offer a promise of merit pay to Plaintiffs, **there was no clear acceptance by Plaintiffs** as Plaintiffs were conditioned on their employment agreement to continue working for Defendant, thus the continued benefit given to Defendant by Plaintiffs does not signal separate adequate consideration to this court. Also, **without an offer presented by Defendant and an acceptance by Plaintiffs, this court cannot deduce that there was a manifestation of mutual assent between both sides or a “meeting of the minds.”**

The question before the Master is simple: Was there “clear acceptance by Plaintiffs. . . [was there] an offer presented by Defendant and an acceptance by Plaintiffs, **[from which] this court can[] deduce that there was a manifestation of mutual assent between both sides** or a “meeting of the minds?” As the Williams court concluded:

Therefore, absent clear evidence of all requirements of an enforceable contract, this court holds that no enforceable express contract existed between Plaintiffs and Defendant.

- e. **Legal Issue 5:** Even if Yusuf thought he initially had an oral deal for two parcels, Yusuf repudiated and then breached that deal by subsequently demanding that the deal would only go through with 2 then 3 parcels.

Yusuf’s response here is unintelligible, so it is hard to reply to. He seems to state that even though he admitted in interrogatories and his own claims filing that he would not release the claims against Hamed without a third parcel, that was all just “misunderstood.” Here is exactly what he said in this Claims Filing, **Exhibit 3:**

[In 2011] Yusuf insisted that if Hamed wanted a resolution addressing all Hamed misappropriations, whether known or unknown, Hamed would have to arrange for the conveyance to Yusuf or United of another approximately 9.3 acre parcel located on St. Thomas also titled in the name of Plessen Enterprises, Inc. Hamed, through his son, Waleed, refused to convey this third parcel.

And it is exactly what he said in his 2014 interrogatory responses:

When Responding Party [Yusuf] asked Waleed Hamed to proceed with the transfer of the Tutu Park property, it is at this point, several months later [in 2011] that Plaintiff Waleed "Wally" Hamed and Plaintiff Mohammed Hamed refused to transfer not only the second property [Tutu], **but also the third property requested as a set-off for the unauthorized transactions.**

And here is what Hannun said in his affidavit was still occurring—many months later:

before 24 hours past, Mr. Yusuf called and asked, if I find anything else, can he ask for it, and I said no the agreement covers everything, even what he doesn't know about right now, and Mr. Yusuf said no, that the agreement was for what he knew now, not for anything else he finds. Then there was no more agreement.

(**Exhibit 4**). And at ¶21, yet another incident in these mediations—identical result:

Finally, at one the last meetings, Mr. Yusuf said that **if the Hameds transferred a third piece of property** that would settle everything about the unauthorized monies, whatever he knows and he would not do any more searching for monies he did not know about.

Now what Yusuf says, and Hamed will leave the Master to disentangle this, is:

As to Hamed "Legal Issue 5," there was no repudiation, the agreement ultimately reached was for two properties. It had been agreed earlier, and then was reaffirmed by Yusuf subsequently in his interaction with Waleed. It was later manifest in the interactions between Yusuf and Hamed in Jordan when Yusuf, while in Jordan "made it clear, more than once" the extent of the agreement, to which Hamed assented and proceeded with partial performance.

What? An agreement was reached for two properties—which Yusuf now says included the third 9.3 acre parcel.....but I've always said that the 9.3 acre parcel was a third parcel which I've always before said was additional consideration for what I have always called "another" property and said it was additional consideration:

Yusuf insisted that if Hamed wanted a resolution addressing all Hamed misappropriations, **whether known or unknown**, Hamed would have to arrange for the conveyance to Yusuf or United of another approximately 9.3 acre parcel located on St. Thomas....

Yup. It is perfectly clear that Yusuf was not endlessly negotiating and trying to get more and more parcels. In fact, the negotiations never really stopped, and **Fathi Yusuf** himself testified that by the end of 2011, at yet another renegotiation meeting was held—and again Yusuf was STILL in there pitching for additional parcels in return for the release. See Answers to Plaintiff Waleed "Wally" Hamed's First Set of Interrogatories in *Mohammad Hamed, et. al. v Fathi Yusuf*.

18. Do you dispute that a meeting was held in or around December 2011 in order to try and resolve the disputes between the parties, if not, who was present, the date of the meeting, the substance of what was discussed, whether an investigation was undertaken, by whom the scope of the investigation and the results and whether an agreement was put in writing to be finalized by Attorneys and the terms and conditions of that agreement.

RESPONSE No. 18: [Yusuf] objects to the form of the question. . . . Notwithstanding the above objection, [Yusuf] believes that this Interrogatory is referring to a meeting that was held on the day before Christmas. For Attendees see Defendant's Response to No. 16. No agreement was reached. No agreement was drafted as a result of this meeting to [Yusuf's] knowledge. (**Exhibit 2**).

- f. **Legal Issue 6:** There is a failure of consideration. Even if Yusuf thought he had an oral deal for two parcels, he cannot show facts that suggest he "paid" the full "purchase price" where he finally stated that he would not provide a release absent a third parcel.

Yusuf's response to issue 6, at 21, is just a bald-faced misrepresentation to the Master:

As to Hamed "Legal Issue 6" there was consideration, as Yusuf has not pursued the specific issues giving rise to the \$2 million transgression and agreed to forebear the pursuit of them. See Original Claims and Amended Claims.

The "lifestyle" and other accounting claims by BDO absolutely incorporated these claims and tried to recover these funds. Period. They only thing that stopped it was Judge Brady's 2006 cutoff. Wally's spending during that time was ABSOLUTELY part of that claim. In fact, in this litigation, Yusuf subpoenaed the exact same casino and bank records he alleged back in 2010-2011 to demonstrate these exact claims.

- g. **Legal Issue 7:** The RUPA issues: Burden and "Treatment"

- i. Burden: The Presumption that the Parcel is Partnership Property, and
- ii. Intent Gauged by Acts in RUPA: How the Parties "Treated" it after 2011

What is most interesting in the Opposition is the total non-response to the four full pages of Hamed's legal issue 7. With a one sentence exception, Yusuf simply refuses to respond to any of the law, the statutes and the cited cases—because there can be no response. He states only the following paragraph at 20-21:

Finally, as to the issue of rebuttable presumption of the nature of the asset, Yusuf has demonstrated that Hamed's relinquishment of the Tutu Half Acre was the result of an agreement reached between the parties to compensate for misappropriations and that it was effective upon the agreement and evidenced, in part, by the partial performance of the agreement with the transfer of the Jordan Property. Further, it is clear that the partners were willing to enter into an agreement to relinquish their rights property for such purpose as demonstrated by the transfer of the Jordan Property. Moreover, the evidence as to the books and bi-monthly reports which arose later is not determinative of the nature of the asset. See *McCormick v. Brevig*, 96 P.3d 697, 709, 322 Mont. 112, 131, 2004 MT 179, ¶ 69 (Mont.,2004)(holding that despite the fact that the cattle were included in the Partnership tax returns, and proceeds from the sale of the cattle's offspring placed in Partnership accounts, the cattle was separate property of one of the partners).

Yusuf does not and cannot dispute the law. RUPA is crystal clear on this issue—**which is THE central point of dealing with disputed property that was purchased with Partnership funds**. As Hamed argued in the Motion,

RUPA §204(c) creates a mandatory presumption that because the Partnership supplied the funds from its "d/b/a Plaza Extra account" it is the owner. Thus, Yusuf must overcome the rebuttable presumption that property is partnership property the burden shifts to him to rebut that ownership by proving that the intent of the Partners was to transfer title to him in 2011. See *In re Estate of Bolinger*, 1998 MT 303, ¶ 80, 292 Mont. 97, 116, (1998). . . .Once this presumption is triggered and the burden shifts, RUPA jurisdictions considering the resulting burden have looked to several factors—but in all cases, the single question that all of these factors are reviewed to answer is: "What did the Partners intend?"

And then, citing *White*:

White, supra. The 1992 deed lists the grantees as Charles W. White and Charles T. White, as tenants in common [not the partnership]. At trial, the testimony revealed that all of these properties were treated as partnership property, that they were **purchased with partnership funds**, that the property **taxes** were paid with partnership funds, and that the **rent** from the properties was collected by and

paid to the partnership. Again, there is no dispute. Not only did the rents from this parcel still go into Partnership's account after 2011, but the parcel was still carried on the Partnership's books as Partnership property from after the 2008 Deed until 2015—when Yusuf had it this changed after Hamed raised the issue. Same with joint payment of taxes. They changed nothing at all. (Emphasis added.)

Yusuf fails to address the real impact and holding of the whole body of RUPA law illustrated by Hamed's discussion of *McCormick v. Brevig*—that 204(c) is the controlling statute, that it expressly applies to this type of a situation, and that what controls IN THE ABSENCE OF A WRITING when the property was purchased with partnership money, is the intent and subsequent treatment by the partners.

Yusuf has supplied Hamed's intent vis-a-vis whether the Partner intended to transfer—he has said in both discovery and testimony that in 2011 Hamed refused transfer. As for the subsequent actions of the partners, Yusuf admits that the rent, taxes, books, reports to the government, representations to the Court all continued long after 2011—all the way until Yusuf realized the import of this under 204(c) and “corrected” his “misunderstandings” after 2015.

This case should really be decided on this RUPA issue as a matter of law. It is a RUPA case with a directly applicable RUPA provision, that has been unanimously upheld by every court considering the issue under RUPA, where both official RUPA commentaries make it clear that such a claimant should have gotten something in writing if he was coming after what was RUPA Partnership Property paid for entirely by the Partnership.

Not one single thing that Yusuf has said undercuts 204(c) or its application here—and none of the “facts” Yusuf tries to put in contention change the outcome. Property purchased with Partnership funds, no writing about alleged favorable last-minute transfer to one partner (the partner precipitating the breakup) where the stated intent of one partner was “no transfer” and EVERY SINGLE FACT regarding post-2011 “treatment” shows it was claims by, paid for, collected on and represented to be Partnership property. If this is not summary judgment on

the face of it, then section 204(c)—which was revised and aimed at EXACTLY this sort of “transfer at dissolution” to one partner is a stupid, meaningless law.

III. Conclusion

There are no disputes as to any of the material facts here. There is no dispositive fact which requires testimony. As a matter of law, there is no contract and no transfer of the parcel. RUPA 204(c) should be applied and judgment should issue. If not, all of the other six legal theories apply and judgment at law should be given on those grounds.

Dated: March 18, 2020



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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of March, 2020, I served a copy of the foregoing by email, as agreed by the parties, on:

Hon. Edgar Ross (*w/ 2 subsequent paper copies to be delivered to his Clerk*)
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CERTIFICATE OF WORD/PAGE COUNT

This document does NOT comply with the limitations set forth in Rule 6-1(e).

A separate motion for enlargement is filed simultaneously



**Exhibit 18
(supplied separately)**

A computer disk containing the entire 3 minutes of videotaped 2014 testimony by Fathi Yusuf.

EXHIBIT 19

Fathi Yusuf's 2014 Deposition Testimony Regarding the Settlement Negotiations at Mohammad's House for the "One Parcel in Jordan"

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

EXHIBIT
19

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

THE VIDEOTAPED ORAL DEPOSITION OF FATHI YUSUF

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

Reported by:

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

FATHI YUSUF -- DIRECT

1 **THE VIDEOGRAPHER:** Going off record at 10:57.

2 (Short recess taken.)

3 **THE VIDEOGRAPHER:** Going back on record at
4 11:12.

5 **Q. (Mr. Holt)** Mr. Yusuf, I think you'd finished with
6 your last answer.

7 **A.** I think so, yes.

8 **Q.** Okay. But if you recall something that you wanted
9 to say, always feel free to say it. Okay?

10 **A.** Thank you very much for the offer.

11 **Q.** You know, I asked a question, but I asked it
12 wrong, but didn't there come a time when you and Mohammad
13 Hamed sat down within the last year and a half and tried to
14 resolve things by -- he talked about it a little bit in his
15 deposition about the giving of properties and things of that
16 nature.

17 Do you recall that?

18 **A.** Much more than a year and a half.

19 **Q.** Can you tell me about that?

20 **A.** Can you come up with question, or you want to come
21 up with a story?

22 **Q.** I can -- I actually like the way you tell the
23 story, but I'll tell you what I've -- what I've heard, and
24 then you can correct what I've heard.

25 That the two of you met to try to resolve all

FATHI YUSUF -- DIRECT

1 the differences between you and yourself, the Hamed family,
2 and Wally in particular.

3 **A.** Yes.

4 **Q.** And that he offered two or three properties, and
5 you agreed to take one or something like that. And, you
6 know, I never really quite --

7 **A.** I can comment on that.

8 **Q.** Okay. Please.

9 **A.** I -- we met, and after I tell him my story of what
10 I know at that time, he say, What do you want? I say, I'll
11 take two property for what I discover so far. He say,
12 Which? I give him the description of the property, one in
13 Jordan and one at Tutu Park. The one in Jordan, I pay one
14 million two, approximate. The one at Tutu Park, I paid
15 1 million for it. 1,000,350, I believe. It's two pieces at
16 Tutu Park, but we call it one piece. One-half an acre as an
17 entrance, and 9.31 as the major piece of property.

18 He say, You can have it. And after they say
19 it, the man come up front after I tell him my story, and he
20 was very generous to say, You can have it. And we kept
21 talking, as a family. After all, we are family, as you
22 mentioned over and over in your correspondence. We are
23 family at that time, and we have a very high respect for
24 each other, even though, up to now we still have high
25 respect to each other, and I told him, No, one is enough.

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1 But we kept talking.

2 And when we kept talking, you know, whatever
3 what he was saying, it doesn't add up. So I went to the
4 store, I take a look, and I analyze the bank statement of
5 what he was saying. I say, Man, after that, this man would
6 not even tell me the truth, unfortunate? So immediately I
7 told Wally, Do me a favor, Wally. You was present. Go back
8 to your father and tell him, No, I wanted the two piece of
9 property.

10 That's the same day. Not even, as soon as we
11 get to the store, it take me about half an hour to take a
12 look of what he was talking about. Unfortunate, I have
13 found it's impossible what he was talking about, it could be
14 true. And I say, Come on, man. You know? And -- and he
15 went home that night. He told his father. The next day he
16 come to work, I say, Did you tell your father? He said,
17 Yes. I said, Fine.

18 That's it.

19 **Q.** Okay. You done?

20 **A.** Done.

21 **Q.** Okay. On the property in Jordan, you say that
22 there was 1.2 million paid for that. I take it that was
23 purchased with the money, joint money from the supermarket?

24 **A.** Money, yes. I own 50 percent, they own 50.

25 **Q.** Okay. And did you ever get a deed to that

FATHI YUSUF -- DIRECT

1 property?

2 **A.** No. I have a contract.

3 **Q.** So if I went over to Jordan and did a title
4 search -- I don't even know if they do that -- it would show
5 the property's still in both your names?

6 **A.** Yes.

7 **Q.** And the Tutu Park property, is that also called
8 Ft. Milner, as well?

9 **A.** Yeah, it's Ft. Milner or Tutu. It's Ft. Milner, I
10 believe.

11 **Q.** Okay. And one is a 9-acre parcel?

12 **A.** 9.31.

13 **Q.** Then the other one is like a half-acre parcel?

14 **A.** It's about .53, if I recall.

15 **Q.** Okay.

16 **A.** Not too sure exactly.

17 **Q.** And -- and both of those properties were supposed
18 to belong 50 percent to you and 50 percent to Hamed?

19 **A.** Up to the time he give me his word, it was 50/50.
20 After that, I would assume all is mine.

21 **Q.** Okay. So, and what I'm trying to get at is I know
22 there's a half-acre piece in United, that's in the name of
23 United?

24 **A.** Yes.

25 **Q.** But that was actually purchased with --

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1 **A.** This is part of the --

2 **Q.** Bigger piece?

3 **A.** -- of the one he pledge to settle the number I
4 give him at our first meeting.

5 **Q.** Okay. And both of those, the smaller piece and
6 the bigger piece, were purchased with money from the
7 supermarket, so they're 50/50.

8 **A.** That's correct.

9 **Q.** Okay. And, you know, you keep referring back to
10 the testimony yesterday of Mr. Mohammad Hamed.

11 Did you hear him say anything that you think
12 is incorrect or untruthful?

13 **A.** A lot, unfortunate. A lot of what he say, I don't
14 agree with.

15 **Q.** Okay. Let me come back to that.

16 All right. So getting back to the exhibit in
17 front of you, I'm just going to read you two more clauses
18 and then we'll be done with this one.

19 The third -- the third clause from the bottom
20 says, Whereas the partners have shared profits, losses,
21 deductions, credits and cash --

22 **A.** Excuse me. Where -- where it says that? What
23 page?

24 **Q.** The page you're on, right there.

25 **A.** This?

**Exhibit 20
(supplied separately)**

A computer disk containing the entire 3 minutes of videotaped testimony by Mohammad Hamed from 2014.

EXHIBIT 21

Mohammad Hamed's 2014 Deposition Testimony Regarding the Settlement Negotiations at His House for the "One Parcel in Jordan" Pages 137-139

In.10 Q. (Mr. Hodges) Mr. Hamed, given the 25-plus years
In.11 that your -- you and Mr. Yusuf have -- have worked together
In.12 in the store, why haven't you taken the time to make sure
In.13 you understand what the facts are with respect to this
In.14 \$2.7 million dispute?

In.15 MR. HARTMANN: Object as to form. Object,
In.16 argumentative.

In.17 A. (Speaking in Arabic.) Work, work, work, work, day
In.18 and night.

In.19 THE INTERPRETER: Okay. I can only translate
In.20 or interpret what he said.

In.21 He's saying -- he said that they come from
In.22 the same area, they are farmers, and that, you know, he was
In.23 responsible for bringing them here. When they arrived here,
In.24 they came to his home. He welcomed them, and -- and helped
In.25 them out, and -- and over the years, he established a

begin page #138

MOHAMMAD HAMED -- DIRECT

In.1 business, a grocery business, and when he made some money,
In.2 there came a time when -- when Mr. Fathi Yusuf was going to
In.3 build a shopping center. It's a long story, and that, you
In.4 know, most of their time has been working, working, and
In.5 there's really -- there hasn't been a time that they could
In.6 sit and talk.

In.7 Q. (Mr. Hodges) In the past two years, isn't that
In.8 right?

In.9 A. (Speaking in Arabic.) Okay. Go ahead.

In.10 THE INTERPRETER: He said, **I begged him to**
In.11 **sit and -- and -- and -- so we can finish this**, and in
In.12 Jordan, we -- we -- we, in my house, we met, and I was
In.13 giving him -- (speaking in Arabic).

In.14 He asked for two pieces of --

In.15 A. Just one I want.

In.16 THE INTERPRETER: -- he had asked for two
In.17 pieces of property in Jordan. He told him, I'd sign for --
In.18 for them, no problem. Later, he came -- meaning Mr. Fathi
In.19 Yusuf -- and told him, You've kicked me in my stomach. It's
In.20 a term of, in other words, he was willing to accept, as I
In.21 understand, one piece of property instead of two. (Speaking
In.22 in Arabic.)

In.23 Next day, he came back and asked for the
In.24 other piece of property.

In.25 Q. (Mr. Hodges) But my question, Mr. Hamed, is that
begin page #139

MOHAMMAD HAMED -- DIRECT

In.1 given your -- the long relationship between your
In.2 families, --

In.3 A. Yeah.

In.4 Q. -- before you filed a lawsuit and started this big
In.5 fight that's been going on and on, why didn't you take the
In.6 time to understand the facts about the -- the dispute over
In.7 \$2.7 million?

In.8 MR. HARTMANN: Object. Asked and answered.

In.9 THE INTERPRETER: He says, I have no -- no
In.10 answer. In other words, we -- we -- we did not sit together
In.11 to discuss it.

In.12 A. (Speaking in Arabic.) He got two million point
In.13 seven, and I don't got nothing. I have big family.

In.14 THE INTERPRETER: Arabic, Arabic.

In.15 A. I have a lot of support, the people, my brother
In.16 die, who his family, and I am solely (inaudible), and you go
In.17 and you take care of yourself, and you leave me with
In.18 nothing? That's not fair.

In.19 THE INTERPRETER: Do I need to translate
In.20 this?

In.21 MR. HODGES: No.

In.22 Could I have this marked as, I believe we're
In.23 up to Exhibit 7.

In.24

In.25

begin page #140

MOHAMMAD HAMED -- DIRECT

In.1 (Deposition Exhibit No. 7 was
In.2 marked for identification.)

In.3 MR. HARTMANN: Exhibit 7 is a document
In.4 entitled General Durable Power of Attorney. In the lower
In.5 left-hand corner, it's Bates stamped HAMD592235. It's a
In.6 two -- two-page document ending in HAMD592236, and that's
In.7 Exhibit No. --

Exhibit 22
(supplied separately)

A computer disk containing the entire 2 hours, 29 minutes of videotaped testimony by Fathi Yusuf and Wally Hamed from January 22, 2020. Exhibit 22a is Fathi Yusuf, Exhibit 22b is Wally Hamed and Exhibit 22c is a sealed portion of Wally Hamed's testimony that must be disregarded if the *motion in limine* is granted.

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

EXHIBIT
23

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.)

DEPOSITIONS TAKEN
JANUARY 22, 2020

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.)

FATHI YUSUF, Plaintiff,)

vs.)

Consolidated with
Case No. ST-17-CV-384

MOHAMMAD A. HAMD TRUST, et al.,)
Defendants.)

KAC357 Inc., Plaintiff,)

vs.)

Consolidated with
Case No. ST-18-CV-219

HAMED/YUSUF PARTNERSHIP,)

Defendant.)

WALEED "WALLY" HAMED -- DIRECT

1 **MR. HARTMANN:** All right. I have no further
2 questions.

3 **MS. PERRELL:** No further questions. I think
4 we're good.

5 **A.** Okay.

6 **MS. PERRELL:** Okay.

7 **THE VIDEOGRAPHER:** That's the conclusion of
8 the deposition. The time is 1:28.

9 (Lunch recess taken.)

10 **THE VIDEOGRAPHER:** This is the continuation
11 of the deposition of Waleed Hamed. The time is 2:08.

12 **WALEED "WALLY" HAMED**

13 **DIRECT EXAMINATION**

14 **BY MR. HARTMANN:**

15 **Q.** Okay. Mr. Hamed, I'm going to need you to
16 actually come back over to the seat over here. I'm going to
17 have you look at a short video and ask you some questions
18 about it, if you could. I just have to turn -- the court
19 reporter needs the thing turned this way. I don't need this
20 transcribed, by the way.

21 **THE COURT REPORTER:** Your discussion with
22 him?

23 **MR. HARTMANN:** No, no, the -- the discussion
24 I do, but not --

25 **THE COURT REPORTER:** Yeah, of course.

WALEED "WALLY" HAMED -- DIRECT

1 **MR. HARTMANN:** -- the existing tape.

2 **THE COURT REPORTER:** Yeah.

3 **THE VIDEOGRAPHER:** Do you want this on film?

4 **MR. HARTMANN:** Yes. That's why I'm turning
5 it so you can see it.

6 **MS. JAPINGA:** Do you want him to sit next to
7 you, Carl?

8 **MR. HARTMANN:** It -- it doesn't really
9 matter. He'll be able to hear it. That's all that's really
10 important. This is ground we've all been over many times.

11 (Video played.)

12 **Q. (Mr. Hartmann)** Okay. You can take the seat back.

13 **A.** (Witness complies.)

14 **Q.** Now, I'll represent to you that -- I'll represent
15 to you that that was a deposition taken in this case on the
16 2nd day of April of 2014.

17 Did you attend that deposition?

18 **A.** Yes, sir.

19 **Q.** Okay. And did you see that testimony?

20 **A.** Yes.

21 **Q.** Okay. And do you recall the meeting between
22 yourself and Mr. Yusuf and your father that's being
23 described there?

24 **A.** Yes.

25 **Q.** Okay. Could you tell me what led up to that

WALEED "WALLY" HAMED -- DIRECT

1 meeting?

2 **A.** Fathi Yusuf was accusing us of stealing from him,
3 doing many things, and he was talking all over the place.

4 **Q.** And when did that start?

5 **A.** Probably 2010, right after I think we came in --
6 right around when we were negotiating a plea agreement with
7 the federal government.

8 **Q.** Okay. And -- and what kinds of things was Fathi
9 Yusuf saying about you guys in the community?

10 **A.** Well, that we stole from him. That my father
11 stole \$2 million. That -- that, you know, several monies
12 were -- that were transferred that went to him, went to his
13 account. He was accusing me of stealing and all that.

14 **Q.** And that was -- if you -- your recollection is
15 that was in 2010, soon after the -- the plea agreement was
16 entered into in February of 2010?

17 **A.** Somewhere around that, yes.

18 **Q.** Okay. And did that continue through the middle of
19 2010?

20 **A.** Yes, sir.

21 **Q.** Okay. And do you recall the specific day that
22 Mr. Yusuf was talking about? The day where you and he and
23 your father met?

24 **A.** It was sometime -- sometime in 2010.

25 **Q.** Okay. And what -- just start with where you were

WALEED "WALLY" HAMED -- DIRECT

1 and where Mr. Yusuf was and how it ended up at your father's
2 and what happened.

3 **A.** I think Fathi Yusuf came over from St. Thomas that
4 week, or maybe he was here for a few days, I'm not quite
5 sure, but he was in the store, I was in the store. And how
6 it came about to go ahead and go see my father that day, I
7 think my father have heard stuff that he's been saying
8 around in the community about him and stuff like that. And
9 how it became that we went over, I don't exactly recall, but
10 we ended up at my dad's home that afternoon.

11 **Q.** And you and Mr. Yusuf had been meeting prior to
12 going over to your father's?

13 **A.** Yes. We were at the store together, yes.

14 **Q.** Okay. And was Mike there?

15 **A.** I don't recall if Mike was there, no.

16 **Q.** Okay. Did Mike go with you over to the meeting?

17 **A.** Absolutely not, no.

18 **Q.** Okay. So you went over to a meeting at your
19 father's house?

20 **A.** Yes.

21 **Q.** Okay. And -- and tell me, just generally, were
22 you a participant in that meeting?

23 **A.** I was -- I was, what you call, I was the subject
24 of that meeting.

25 **Q.** What do you mean by that?

WALEED "WALLY" HAMED -- DIRECT

1 **A.** Well, Fathi was accusing me of doing -- of
2 stealing money. Of hiding things. Of doing everything that
3 was -- that's wrong and --

4 **Q.** Were you taking part in the actual negotiation
5 yourself?

6 **A.** No, sir.

7 **Q.** Who was taking part in the negotiation?

8 **A.** My father and Fathi.

9 **Q.** Okay. And in what language was that negotiation
10 taking place?

11 **A.** In Arabic.

12 **Q.** Okay. And how fluent are you in Arabic?

13 **A.** Fairly decent.

14 **Q.** Okay. So you could understand what they were
15 saying?

16 **A.** Yes.

17 **Q.** Okay. Were you speaking in Arabic?

18 **A.** I don't recall. No, I don't think so.

19 **Q.** Okay.

20 **A.** I don't think so, no.

21 **Q.** And you said they were discussing things back and
22 forth.

23 About how long did that discussion take
24 place?

25 **A.** Two to three hours.

WALEED "WALLY" HAMED -- DIRECT

1 Q. Okay. And at the end of it, was there a deal?

2 A. There was a deal made.

3 Q. Go ahead.

4 A. There was a deal made, and they agreed on -- on
5 certain things, and they shook hands and we left.

6 Q. Okay. So tell me about the negotiation. What --
7 what -- what went on back and forth between them, to the
8 best of your recollection?

9 A. Well, you know, they talked extensively about the
10 relationship and they don't want to lose each other. And
11 then Fathi was saying that you took monies. And, you know,
12 prior to that, we -- my dad -- Fathi requested certain
13 documentation and we provided all those documentations that
14 he asked. He wanted bank accounts. We gave him bank
15 accounts for my dad. Wherever the bank accounts, we gave
16 him power of attorney on our behalf to go ahead and do what
17 he needs to do, and he still didn't stop and wasn't
18 convinced that nothing was wrong.

19 Q. Excuse me, I don't mean to interrupt, but did you
20 also give him a power of attorney to go and get your actual
21 bank accounts --

22 A. Yes.

23 Q. -- in -- wherever they --

24 A. Yes.

25 Q. -- existed?

WALEED "WALLY" HAMED -- DIRECT

1 **A.** Yes.

2 **Q.** Okay. Go ahead.

3 **A.** And the deal was to go ahead. We're going to sell
4 the stores. We're going to get our half. Everybody goes
5 his own way. And like Fathi said in the video, we're family
6 and we want to stay family and so on.

7 At the end of the deal where my dad asked
8 Fathi, Okay. Well, look, we need to finish with this. We
9 need to buy peace or -- or get peace together, we can't
10 continue doing this. And he offered -- Fathi said, I want
11 two pieces of property. My father said, Yes. Fathi said,
12 Look, it's not -- at the end of the day, he only accepted
13 one.

14 **Q.** And where were those two pieces?

15 **A.** Those two pieces of property were -- were in
16 Jordan.

17 **Q.** So the original deal was for two pieces -- your
18 father said yes to a deal for two pieces of property in
19 Jordan?

20 **A.** Yes, sir.

21 **Q.** Okay. And -- and after he said yes, Mr. Yusuf and
22 your father talked some more?

23 **A.** Yes.

24 **Q.** And before the thing was over, Mr. Yusuf said, You
25 don't need to give me two pieces, you just give me one

WALEED "WALLY" HAMED -- CROSS

1 parcel?

2 **A.** Yes.

3 **Q.** Okay. And did they shake on that?

4 **A.** Yes, they did.

5 **Q.** And did they say that's a deal?

6 **A.** Yes, sir.

7 **Q.** And that was it, it was over?

8 **A.** Yes.

9 **MR. HARTMANN:** Okay. I have no further
10 questions.

CROSS-EXAMINATION

11
12 **BY MS. PERRELL:**

13 **Q.** Okay. I have a few questions.

14 So this meeting that took place, after they
15 shook on it, the -- you said the two pieces of property that
16 were originally discussed were both in Jordan?

17 **A.** Yes, ma'am.

18 **Q.** Okay. Mr. Yusuf's position is that the property
19 that were discussed at this meeting with the three of you
20 actually involved property in St. Thomas, that we refer to
21 as the Tutu Park property. Not Tutu Park, just Tutu
22 property.

23 Do you dispute that?

24 **A.** Yes.

25 **Q.** Okay. So is it your testimony that there was no

WALEED "WALLY" HAMED -- CROSS

1 discussion about the Tutu property at all during this
2 meeting that you had -- well, that you were present for
3 between Mohammad Hamed and Mr. Yusuf?

4 **A.** That's correct.

5 **Q.** Okay. After the meeting that took place in the
6 afternoon, did you have an occasion to speak to Mr. Yusuf
7 later that day back at the store?

8 **A.** Yes.

9 **Q.** Okay. Did you have an occasion to speak to him
10 about the deal that you said was resolved? Was there any
11 further discussions about the deal that afternoon, or that
12 evening?

13 **A.** Well, like he said in his deposition, he came back
14 and he said, No, Go back and tell your father I want the
15 other piece.

16 **Q.** Okay. So there was a conversation about that?

17 **A.** Yeah, that's what he told me.

18 **Q.** Okay. And in your mind, you understood "the other
19 piece" to mean, the other piece that is a piece of property
20 in Jordan?

21 **A.** Well, that's the only two pieces they discussed.

22 **Q.** I know. I'm just clarifying for the record.

23 **A.** Yeah.

24 **Q.** Okay. I mean, Mr. Yusuf is going to say it's a
25 different piece, but your -- you understood Mr. Yusuf said

WALEED "WALLY" HAMED -- CROSS

1 to you, No, tell him I actually want the two, which was the
2 original agreement, correct?

3 **A.** Yes.

4 **Q.** Okay. And your father had originally agreed to
5 the two pieces?

6 **A.** Yes.

7 **Q.** Okay. That's not how it ended up, but that's what
8 he'd agreed to earlier?

9 **A.** Yes.

10 **Q.** Okay. So did Mr. Yusuf say to go back and talk to
11 your father about that?

12 **A.** He told me to go back and tell him.

13 **Q.** Okay. And did you do that?

14 **A.** Yeah, I told him.

15 **Q.** Okay. And what did your father say?

16 **A.** He said, Okay.

17 **Q.** Okay. And then did you come back the next day and
18 tell Mr. Yusuf that your father had agreed to go back to the
19 two-property deal?

20 **MR. HARTMANN:** Object.

21 **A.** No.

22 **MR. HARTMANN:** Go ahead.

23 **Q.** **(Ms. Perrell)** Okay. So your father had agreed to
24 go to the two-property deal?

25 **A.** No.

WALEED "WALLY" HAMED -- CROSS

1 Q. That's what you just --

2 A. My father said, Okay.

3 Q. Okay. Was that an agreement to go to the two-
4 property -- to do the two-property deal?

5 A. Nope.

6 Q. Okay. So --

7 A. That's not what I gathered from what -- he just
8 told me to go and tell your father, and that's exactly what
9 I told my father.

10 Q. Okay. Well, why would he tell your father if you
11 weren't -- I mean, the whole purpose of this 2- or 3-hour
12 meeting was to reach an agreement, correct? The original
13 meeting?

14 A. Yeah. And they did reach an agreement.

15 Q. Okay. And so then Mr. Yusuf went back and then
16 says to you, No, go tell your father I need the two. And
17 you said, Okay. I'll go tell my father, right? So you go
18 and you tell your father that, --

19 A. Yeah, um-hum.

20 Q. -- correct?

21 A. Um-hum.

22 Q. Okay. And your father says, Okay?

23 A. Okay, but he didn't agree on giving him.

24 Q. Okay. So, at that point, did your father say, I
25 do not agree to give him anything, or what did your

WALEED "WALLY" HAMED -- CROSS

1 father --

2 **A.** My father said, We had a -- we had a deal, and
3 that's the deal, which is one piece of property.

4 **Q.** Okay. But earlier in the day, your father had
5 already agreed to the two?

6 **A.** But the agreement, at the end of the day, shook
7 hand for one.

8 **Q.** Okay. But it wasn't as if your father was -- when
9 you go back and you said, Actually, it's going to be the
10 two, that wasn't some -- you had already -- they had already
11 been discussing those two properties already, correct?

12 **A.** Yeah. They discussed it, yes.

13 **Q.** Right.

14 And earlier in the day, your father had gone
15 ahead and agreed to that earlier in the day?

16 **A.** Yes.

17 **Q.** Okay. All right. So when you saw Mr. Yusuf
18 again, I assume you saw him the next day; is that correct?

19 **A.** I'm not sure if it's the next day or the same day.

20 **Q.** Okay.

21 **A.** Could be.

22 **Q.** Soon thereafter?

23 **A.** Yes.

24 **Q.** Okay. You saw Mr. Yusuf. And did you report to
25 him that you had, in fact, conveyed what he had asked you

WALEED "WALLY" HAMED -- CROSS

1 to, to Mr. Hamed?

2 **A.** Yeah. He asked me, I said, Yes.

3 **Q.** Okay. And did you tell him, My father does not
4 agree?

5 **A.** I didn't tell him my father agreed or my father
6 disagreed. I didn't tell him either. I said, I told him.
7 That's it.

8 **Q.** Okay. So you understood that the purpose of the
9 conversation was to reach a deal?

10 **A.** But they reached the deal.

11 **Q.** Okay.

12 **A.** When he walked out of that house, they reached a
13 deal for one property.

14 Now Fathi reneged and went back and said, I
15 want -- I don't want that deal anymore. I want the new
16 deal. It can't happen that way. He can't have things
17 according to whatever he says is right.

18 **Q.** Okay. So did you lead Mr. Yusuf to believe that
19 after you spoke with your father that it was all right, that
20 he had agreed to the two-property deal?

21 **A.** Absolutely not.

22 **Q.** Okay. But you said a minute ago that you didn't
23 tell him he agreed or you didn't tell him he disagreed,
24 you -- you just said that you said, I told him.

25 **A.** He asked me if I told him. I told him, Yes, I

WALEED "WALLY" HAMED -- CROSS

1 told him. That's it.

2 Q. All right. And did you say, My father does not
3 agree?

4 A. I didn't tell him anything like that. He asked me
5 and I said, Yes, I told him. Did he ask me, Did he agreed?
6 He didn't ask me if my father agreed. He asked me if I told
7 him, and I said, Yes, I told him.

8 Q. So you were aware that Mr. Yusuf was extending a
9 counteroffer, basically?

10 A. What counteroffer? The deal was already made. We
11 shook hands.

12 Q. Okay.

13 A. We shook hands. They had an agreement and they
14 left. So Fathi decide he wants to change the deal the
15 following evening or the following day, why? They had an
16 agreement. They had had a gentlemen's agreement, right?

17 And as a matter of fact, that gentleman
18 agreement was fulfilled because if there was a deal for
19 another piece of property, he would have signed for it,
20 right?

21 Q. So when you came back and you spoke to Mr. Yusuf,
22 you were aware that Mr. Yusuf was seeking to return to an
23 amount or an arrangement that had previously been discussed,
24 and an amount and agreement that your father actually had
25 agreed to less than 24 hours earlier?

WALEED "WALLY" HAMED -- CROSS

1 **MR. HARTMANN:** Object. Asked and answered.
2 Argumentative.

3 **A.** Ma'am, I told you already what was -- what
4 happened, and I already stated what happened, and you want
5 to go back, and he reneged on the first deal, all right? He
6 had an agreement. They both shook hands on it. Then he
7 changed it and -- or wanted to change it later on.

8 **Q.** (Ms. Perrell) Okay. But --

9 **A.** The first deal was signed and done.

10 **Q.** Okay. It wasn't signed. There was no paper,
11 written agreement that says, This is what's going to happen,
12 was there? A written agreement?

13 **A.** No, there wasn't.

14 **Q.** Okay. So isn't it true, also, that at the
15 beginning of the day, the agreement was for two properties
16 that your father agreed to it?

17 **MR. HARTMANN:** Object. Asked and answered
18 and argumentative.

19 And if you ask it a third time, I'm going to
20 instruct him not to answer. You asked him the exact same
21 question twice now.

22 **Q.** (Ms. Perrell) You can still answer.

23 **A.** That's what happened and that's what the deal
24 was, --

25 **Q.** Okay.

WALEED "WALLY" HAMED -- CROSS

1 **A.** -- yes.

2 **Q.** Okay. So the deal went from two. And then
3 Mr. Yusuf changed his mind and said, No, you know what, one
4 is enough, right? And so Mr. -- the Hameds got the benefit
5 of the fact that Mr. Yusuf had changed his mind, even though
6 he'd previously agreed to the two, you also got the benefit
7 of Mr. Yusuf reconsidering and deciding one was enough,
8 right?

9 **MR. HARTMANN:** Object. Asked and answered
10 and argumentative. You don't have to answer it a third
11 time.

12 **MS. PERRELL:** It's a different question.

13 **MR. HARTMANN:** No, it isn't.

14 **Q.** **(Ms. Perrell)** Hamed got the benefit -- isn't it
15 true that Mr. Hamed got the benefit of the change of the
16 negotiation over the course of the day that ended up at one
17 property, 'cause he'd already agreed previously to two
18 properties? He got the benefit of that change of heart,
19 Mr. Yusuf, right?

20 **A.** According to you, or according to Yusuf.

21 The deal was one piece of property. That's
22 when we walked out of that house, it was one-deal property.
23 That's all.

24 **Q.** So when Mr. Yusuf asked you the next day, Did you
25 tell your father, and you responded, I told him, you're

WALEED "WALLY" HAMED -- CROSS

1 saying to -- your testimony here is that you intended to
2 convey to him that all you did was communicate the
3 information, but that there was no change, even though
4 that's what Mr. Yusuf was asking for? That's what you're
5 saying you were trying to convey to him?

6 **A.** I wasn't trying to convey anything. He asked me a
7 question, I answered it.

8 **Q.** Okay. But you didn't tell Mr. Yusuf that your
9 father would not agree to the two properties, correct?

10 **MR. HARTMANN:** Object. Asked and answered.
11 Argumentative. He's already testified he wasn't a principal
12 in the negotiation. You've asked him this now four times.

13 **MS. PERRELL:** Okay.

14 **MR. HARTMANN:** He wasn't the person
15 negotiating. He was communicating something that the two
16 principal negotiators were talking about.

17 **MS. PERRELL:** I'm asking --

18 **MR. HARTMANN:** You've asked him four times.

19 **MS. PERRELL:** I am asking him what he
20 intended to convey when he made the statement, and I can ask
21 him that question.

22 **MR. HARTMANN:** Ask it again.

23 **Q. (Ms. Perrell)** When you conveyed -- when Mr. Yusuf
24 said, Did you speak with your father about the fact that he
25 wanted to go to two -- go back to the two properties and you

WALEED "WALLY" HAMED -- CROSS

1 simply indicated, yes, you had spoken to your father.

2 That's correct, right?

3 **A.** Yeah, I told him.

4 **Q.** Okay. But you did not intend to convey to
5 Mr. Yusuf, in that response, that your father had no
6 intention of going forward with the two-property deal; is
7 that correct?

8 **A.** He didn't ask me that. He asked me if I told him,
9 and I answered back, and I said, Yes, I told him.

10 **Q.** Okay. So you never provided any further
11 information to Mr. Yusuf?

12 **A.** He didn't ask me.

13 **Q.** Wow. All right.

14 Do you believe that Mr. Yusuf would have
15 wanted to know what your father's response was to the
16 question, I want to go back to the two properties?

17 **A.** You should ask Yusuf that, not me.

18 **Q.** I'm asking you, though. Do you believe --

19 **A.** I have no idea.

20 **MR. HARTMANN:** Objection. Calls for him to
21 speculate --

22 **A.** I have no idea.

23 **MR. HARTMANN:** -- on the state of Mr. Yusuf's
24 mind.

25 **A.** I have no idea. Question was proposed to me, I

WALEED "WALLY" HAMED -- CROSS

1 answered.

2 **Q. (Ms. Perrell)** Okay. The fact --

3 **MR. HARTMANN:** And, Counsel, can we go off
4 the record for one second?

5 **THE VIDEOGRAPHER:** Going off the record. The
6 time is 2:29.

7 (Discussion off the record.)

8 **THE VIDEOGRAPHER:** Going back on the record.
9 The time is 2:30.

10 **Q. (Ms. Perrell)** All right. Have you ever told
11 Mr. Yusuf that Mohammad Hamed never intended to agree to go
12 back to the two properties that was originally discussed the
13 day before?

14 **MR. HARTMANN:** Object. Asked and answered.
15 Argumentative.

16 **Q. (Ms. Perrell)** You can still answer.

17 **A.** I have to answer?

18 Like I said, he asked me to deliver a
19 message. I delivered the message. He asked me if I did. I
20 said, Yes, I did.

21 **Q.** Okay. And you -- just to be clear, you never told
22 Mr. Yusuf that your father did not agree to go back to the
23 two properties; is that correct?

24 **A.** He never asked me that.

25 **MR. HARTMANN:** Object. Asked and answered.

WALEED "WALLY" HAMED -- CROSS

1 **MS. PERRELL:** It is not asked and answered,
2 Carl. I've asked him whether he ever said that to him.

3 **MR. HARTMANN:** Yeah, you asked him that like
4 three times, Charlotte.

5 **Q. (Ms. Perrell)** Okay. But he's answering that he
6 was never asked.

7 And my question is not whether you were
8 asked, my question is, did you ever say to Mr. Yusuf, My
9 father does not agree to go back to the two properties that
10 we discussed the day before, that he does not agree to that?

11 **A.** If that's what -- if he asked me that, I would
12 have answered it back then.

13 **Q.** Okay. So you've never told him that?

14 **A.** No.

15 **Q.** Okay. All right. With regard to the -- what was
16 the second property in Jordan that was discussed on the
17 afternoon meeting?

18 **A.** I think it was called Taberpour.

19 **Q.** The second one?

20 **A.** Yes.

21 **Q.** Okay. So which was the one that was conveyed,
22 ultimately?

23 **A.** I really don't remember. Really don't remember
24 which one.

25 **Q.** And you're absolutely certain that the Taberpour

WALEED "WALLY" HAMED -- CROSS

1 property was the one that was ultimately not part of the
2 deal?

3 **A.** I could be mistaken, but I know there was two
4 pieces of property: The one of them was Taberpour; and
5 there was another one --

6 **MR. HARTMANN:** Do you know where it was?

7 **A.** I -- I'm just -- I got a mind block. Sorry.
8 Maybe --

9 **Q.** (Ms. Perrell) The -- the agreement, as you
10 understood it, which was to transfer one property, was it
11 your understanding that that was an agreement that would
12 resolve all of the outstanding issues between the partners?

13 **A.** Yes.

14 And it was an agreement also to go ahead and
15 sell the stores or divide the stores up equally and
16 everybody goes their separate ways.

17 **Q.** Okay. Are you aware, or were you ever present for
18 a series of other meetings that took place in -- subsequent
19 to this initial meeting that you had with Mr. Yusuf and your
20 father?

21 **MR. HARTMANN:** Object. And direct that --
22 the witness not to answer as a matter of privilege, if these
23 are mediations you're talking about. Mediations are
24 privileged and confidential. You can't invade them in a
25 court proceeding.

WALEED "WALLY" HAMED -- CROSS

1 **MS. PERRELL:** Right. This was all pre-court
2 proceedings and this was with the other members of the Arab
3 community.

4 **MR. HARTMANN:** They were mediations.

5 **Q. (Ms. Perrell)** Okay. So -- but were you present
6 for -- you want to call them mediations, I want to call them
7 a meeting, okay? I mean, you had outside third parties
8 present.

9 **MR. HARTMANN:** It doesn't matter. Whatever
10 they are, they are privileged and confidential under V.I.
11 law. You can't go into them.

12 **MS. PERRELL:** Okay. So you're not going to
13 allow me to ask him any questions relating to those things?

14 **MR. HARTMANN:** No, I'll allow you. I'm
15 telling you that it violates privilege and confidentiality
16 for you to do so.

17 **MS. PERRELL:** Okay.

18 **MR. HARTMANN:** If you want to ask him the
19 questions, go ahead.

20 **Q. (Ms. Perrell)** All right. Were you pre -- were you
21 in certain meetings that occurred between you -- well,
22 between Mr. Yusuf and Mr. Mohammad Hamed and other members
23 of the Arab community to discuss resolving the issues
24 between the two families?

25 **A.** There was a lot of meetings. Don't recall

WALEED "WALLY" HAMED -- CROSS

1 exactly. My father really wasn't present in most of those
2 meetings.

3 **Q.** Okay. So were you present, though?

4 **A.** Yeah. Fathi would go out there. He would have
5 his little session with his little people. They're nice
6 people. And then they would call me and say, Come over.
7 Let's solve this.

8 **Q.** So as a result of that -- when did those meetings
9 take place?

10 **A.** I don't have specific dates, but sometime after --
11 probably after the middle of 2010 and on.

12 **Q.** Okay. Do you recall when the property -- you're
13 not sure which property it was -- but the property in Jordan
14 was transferred?

15 **A.** It was transferred in 2011.

16 **Q.** Okay. So these meetings that were taking place,
17 took place before the transfer?

18 **A.** No, I would say probably after.

19 **Q.** Okay. So you said -- do you know when the
20 transfer took place? I'm sorry if you just said that, I
21 missed it.

22 **MR. HARTMANN:** He misspoke. You said 2010.
23 That's what she's asking about.

24 **Q.** **(Ms. Perrell)** When did the transfer of the
25 property take place?

WALEED "WALLY" HAMED -- CROSS

1 **A.** 2010. I mean, 2011, I think.

2 **Q.** Okay. And so these meetings --

3 **MR. HARTMANN:** The meetings were after that,
4 is all she's asking.

5 **A.** Yes.

6 **Q.** **(Ms. Perrell)** I was asking when the meetings took
7 place.

8 Did the meetings take place before the
9 transfer or after the transfer?

10 **A.** After.

11 **Q.** After the transfer?

12 **A.** Yes.

13 **Q.** Okay. All right. What is your understanding as
14 to the arrangement for the half acre in Tutu? How it was to
15 be purchased and owned?

16 **A.** We had -- I went over to St. Thomas. I think
17 Yusuf and Willie was working on a half-acre access deal,
18 access parcel to the nine-and-a-half acres that we purchased
19 about -- several years ago to put a project -- a Plaza Extra
20 project there.

21 Yusuf wasn't present for that -- for that
22 closing, I was. I went over to St. Thomas. Took over the
23 check. Did the closing on it with, I believe, Mr. Hank
24 Smock, if I remember. There was an attorney there. We did
25 the closing, me, Willie, and the attorneys. Paid them the

WALEED "WALLY" HAMED -- CROSS

1 money. Got the title. And it was titled into Plessen
2 Enterprises.

3 At the time, we were under the indictment and
4 we -- once the feds found out that it was in Plessen's name,
5 they said, No, no, no, no, you can't do that. You need to
6 put it in United because United is under the federal
7 indictment. So that's when the transfer happened back to
8 United.

9 Q. Okay. And do you recall the time frame when that
10 happened?

11 A. No.

12 Q. Okay. And just to be clear, you dispute
13 Mr. Yusuf's contention that the resolution that he had
14 reached with your father as to a limited number of claims he
15 had involved the Tutu half acre or the Tutu property; is
16 that correct?

17 A. Yeah, I disagree with him.

18 Q. Okay. All right. So are you -- do you have any
19 knowledge of any communications between either yourself and
20 Mr. Yusuf, or your father and Mr. Yusuf, related to the Tutu
21 half acre or the 9.3 acres being transferred, in any way, to
22 the Yusufs?

23 A. Well, down the road when -- after Fathi came back
24 from Jordan after he followed my father to go ahead and do
25 that document they did in 2011, he came back and the -- the

WALEED "WALLY" HAMED -- CROSS

1 deal was, it's a complete disengagement. Complete peace
2 out. Everybody divided. Everybody out of it. The stores
3 as well. Anything that he has, whatever claims that he has
4 in his head. It's a complete, complete everything.

5 Now, after he secure my dad's signature on
6 that document, he came back from Jordan and he brought me
7 offer to the desk. And he says, I found more. I found 1.5
8 million. Where did this go?

9 Okay. I looked at it, and I said, in my
10 head, What the hell is going on? That's what I said in my
11 head. I thought we had a deal. You got the property. The
12 property's transferred. We're going to go ahead and divide
13 up whatever and we're done. He's asking me about stuff
14 that's already closed. I said, You have all the documents.
15 You see all the documents. We've shown you everything.
16 We've given you everything and you're not satisfied. What
17 is it going to take for you to finish all this? He says, I
18 want another piece of property. I told him, Let me think
19 about it. And that's when the Tutu acre came up.

20 **Q.** So when --

21 **A.** Not -- the Tutu property came up.

22 **Q.** Okay. And when you were talking about the Tutu
23 property, or having this conversation with Mr. Yusuf, did
24 you understand, when you said Tutu property, it encompassed
25 both the 9.3 and the half acre, together?

WALEED "WALLY" HAMED -- CROSS

1 **A.** I -- honestly, I don't exactly remember if it, but
2 I know we have land in Tutu that we owned.

3 **Q.** Okay. Did you bring that discussion or this
4 conversation that you had with Mr. Yusuf back to your
5 father? 'Cause you said, Let me think about it, but as your
6 counsel has pointed out, you are not the one to negotiate
7 with Mr. Yusuf on anything. So did you take this back to
8 your father?

9 **A.** My dad was sick at that time, and I'm not sure if
10 he was there present at the time or not. I really don't
11 recall exactly if he did. Maybe sometime down the road, but
12 I don't recall exactly.

13 **Q.** So your father was present in -- in 2011 to do the
14 transfer of the Jordan property?

15 **A.** In Jordan.

16 **Q.** In Jordan, right.

17 And did -- and you said this was shortly
18 after that, this conversation you had with Mr. Yusuf?

19 **A.** In St. Croix.

20 **Q.** I understand, but it was shortly after this
21 transfer that happened in Jordan, correct?

22 **A.** Some -- some months down the road. I'm not sure
23 exactly. I think that happened in July, maybe. September,
24 October.

25 **Q.** Okay.

WALEED "WALLY" HAMED -- CROSS

1 **A.** Maybe August. I'm not sure.

2 **Q.** Okay. And so my -- I just -- so that I'm clear,
3 you -- at or about the time that the conversation happened
4 with Mr. Yusuf, within close proximity of time when you
5 said, Let me think about it, did you ever go back to your
6 father and explain that to -- explain what Mr. Yusuf had
7 said?

8 **A.** I don't -- don't remember, or I don't recall
9 exactly if I did. I didn't -- like, I didn't like the
10 initial deal, but I respected my father's wishes. And for
11 him to go ahead and give him the property, I disagreed with
12 it. I, personally, disagreed. And when I see Fathi, he
13 want another piece, and another piece, I disagreed with
14 that. And, you know, for me not to sit there and argue with
15 Fathi or anything, I just told him, I'll think about it.

16 **Q.** So you didn't convey the message?

17 **A.** I don't recall if I did or I didn't. Maybe I did
18 at one time, but I don't think my dad was around that time
19 for me to go ahead and convey or tell him that at that time.

20 **Q.** Did you speak with your father on the phone, even
21 though he might not have been here?

22 **A.** No, I don't think I spoke to him on the phone.

23 **Q.** No, I'm just asking in general. Did you not speak
24 to your father on the phone? Did he have to be present for
25 you to speak with your father?

WALEED "WALLY" HAMED -- CROSS

1 **A.** Who? What? I don't understand the question.

2 **Q.** You. Did you -- when you said your father wasn't
3 here in St. Croix, so, therefore, you didn't speak with him
4 relating to this conversation. And my question is, did you
5 speak with your father on the telephone at all at the time
6 that he was in Jordan?

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

8 **Q.** Okay. You would agree with me that in 2011, that
9 it was Mohammad Hamed, your father, to the extent there was
10 any negotiations that needed to happen, that it would be
11 Mohammad Hamed who would need to negotiate with Mr. Yusuf,
12 correct, not you?

13 **A.** That's correct.

14 **Q.** And that as your attorney has already pointed out,
15 that you were the messenger between the two, correct?

16 **A.** Yes.

17 **Q.** Okay. So would you agree with me that not
18 conveying to Mr. Mohammad Hamed a proposal that was provided
19 by Mr. Yusuf, you weren't properly conveying the message
20 that was requested, correct?

21 **A.** Shoot me. I mean, really, you got this man
22 telling me all -- he's accusing us left and right of
23 everything. And then every -- every day, it depends on the
24 flavor of the day, he changes his mind, and I'm supposed to
25 take him on.

WALEED "WALLY" HAMED -- CROSS

1 When we provided every single thing so we can
2 accommodate the things that he has in his head, okay? Power
3 of attorney, everything, and then you're telling me that he
4 wants a second and third piece of property.

5 **Q.** So with regard to the -- did you ever have any
6 subsequent conversations with Mr. Yusuf about conveying the
7 9.3 acres or the Tutu half acre that was already in United's
8 name, other than the conversation you just described?

9 **A.** I -- I don't recall, no.

10 **Q.** Okay. When did it become clear to you that the
11 deal that you indicate you thought was done was not a
12 comprehensive resolution of the claims between the two
13 families?

14 **A.** I believe that's when Fathi came back, and he
15 start questioning or start looking, bringing up new
16 materials, so-called new material and he's saying that he
17 wants more property and more property.

18 **Q.** I'm just trying to get the timeline on this, okay?

19 **A.** Um-hum.

20 **Q.** So you had a conversation with Mr. -- let's go
21 back in time.

22 You had a conversation with Mr. Yusuf within
23 24 hours of the handshake deal that you understood was a
24 final resolution of all matters, right?

25 **A.** Yes.

WALEED "WALLY" HAMED -- CROSS

1 **Q.** And you -- at that conversation, Mr. Yusuf says,
2 No, I want to go back to the two. Okay. We're not going to
3 revisit all this.

4 Subsequent to that conversation, when is it
5 that you believed that the -- there was no deal to resolve
6 everything?

7 **MR. HARTMANN:** Object. Asked and answered.

8 **A.** I think after Fathi secured my father's signature
9 on a document to transfer the first property that he made a
10 deal with my dad, and that was sometime in 2011.

11 **Q.** **(Ms. Perrell)** Okay. So even though 24 hours after
12 the handshake, Mr. Yusuf says to you, I actually want to go
13 back to the two properties, in your mind, that didn't change
14 anything?

15 **MR. HARTMANN:** Object. Asked and answered.
16 Counsel, move on. I'm -- I'm just going to tell him not to
17 answer anymore.

18 **MS. PERRELL:** No, no. I'm asking --

19 **MR. HARTMANN:** You don't have to answer this
20 anymore.

21 **Q.** **(Ms. Perrell)** There's a point in time in which he
22 says he does not believe that the deal was the deal. And
23 you said that you don't believe that the deal was what you
24 thought it was after they came back from the Jordan
25 transfer, is that -- I think that's what you just said?

WALEED "WALLY" HAMED -- CROSS

1 **MR. HARTMANN:** And then you've asked him
2 whether --

3 **MS. PERRELL:** And I'm asking him --

4 **MR. HARTMANN:** -- when he got back, and he
5 said, Yes, Mr. Yusuf then started asking him for more
6 property.

7 **MS. PERRELL:** Right.

8 **MR. HARTMANN:** And you said, Was that in a
9 bunch of meetings, and he said, Yeah, that was in a bunch of
10 meetings.

11 **Q. (Ms. Perrell)** Okay. And I'm trying to ask,
12 didn't -- it didn't occur to you in that subsequent
13 conversation that you had back when Mr. Yusuf says, I want
14 to go back to the two properties, that somehow the deal
15 wasn't complete?

16 **A.** In my mind, no, I think the deal was complete.
17 They shook hand on it and subsequently they went and my dad
18 signed a document to -- transfer document for the property.

19 **Q.** Okay.

20 **A.** And he accepted that.

21 **Q.** Okay. So when Mr. Yusuf talks to you about the
22 Tutu property, did you ever convey to any of your siblings
23 that the deal we thought we had to resolve all of this is no
24 longer viable, or is not happening?

25 **MR. HARTMANN:** Object. That assumes facts

WALEED "WALLY" HAMED -- CROSS

1 not -- they did have a deal. You -- you keep saying that
2 there wasn't a deal. He said there was a deal. He's
3 testified to it four times now.

4 **Q. (Ms. Perrell)** Okay. Carl, I thought that he --
5 let me just ask the question.

6 I thought that you just testified -- I asked
7 you, when did you think that this was not -- that there
8 wasn't actually a -- that -- that there was no longer this
9 would have resolved it all, and you said, When we came back,
10 and Mr. Yusuf says to me, Now I want the Tutu property. In
11 your mind, that's when you understood, Okay. Well, wait a
12 minute. I thought we were done, and I think that now this
13 may not be the case.

14 And I'm asking you -- I know you didn't
15 convey that to your father -- I'm asking you, did you ever
16 convey that belief to any of the siblings?

17 **A.** It's possible. I'm pretty sure we discussed many
18 things, and this is over what, 9 years, 10 years, 8 years.
19 I mean, --

20 **Q.** Okay.

21 **A.** -- there's a lot of things that happened between
22 2010, '11 and so on. I mean --

23 **Q.** Okay. Well, I mean, at some point, you realized
24 that there hadn't been a deal, correct?

25 **MR. HARTMANN:** No, no. Object.

WALEED "WALLY" HAMED -- CROSS

1 Argumentative. He said there was a deal. And what you want
2 to ask is, At what point did you realize Mr. Yusuf breached
3 his deal and wanted a whole new deal? So answer that
4 question. When did you realize he reneged on the deal?

5 **MS. PERRELL:** No, I object. This is my part
6 of the --

7 **MR. HARTMANN:** Okay.

8 **MS. PERRELL:** -- deposition. If you want to
9 cross.

10 **MR. HARTMANN:** Then I -- I will object to
11 argumentative if you keep asking him the same question over
12 and over.

13 **Q. (Ms. Perrell)** All right. When you filed this
14 lawsuit in September of 2012, did you have a belief that the
15 partners had reached an agreement, or did you -- as to a
16 resolution of all the issues between them, or did you
17 believe that it was an issue that needed to be resolved in
18 the courts?

19 **A.** That's why I filed a lawsuit. That's why I filed
20 a lawsuit, because there was no resolve. Excuse me.

21 **Q.** Okay. Do you have an opinion as to the ownership
22 of the Tutu half acre?

23 **A.** What you mean by --

24 **MR. HARTMANN:** Object, because --

25 **A.** Sorry.

WALEED "WALLY" HAMED -- CROSS

1 Q. (Ms. Perrell) Let me -- let me rephrase that.

2 Are you making a claim on behalf -- are you
3 claiming that the Tutu half acre is owned by the
4 partnership, or is it owned -- do you know, if it is owned
5 separate from the partnership by United, meaning Yusuf
6 United?

7 A. It's not -- it's not -- it's definitely not
8 United's. It's owned by the partnership.

9 Q. Okay.

10 (Respite.)

11 Did you -- are you making a claim to undo the
12 transfer that occurred in Jordan?

13 A. I think that's in a different district. Different
14 everything. I don't know. I really don't know how to
15 answer that one.

16 Q. Well, but I'm -- I'm trying to understand.

17 On what basis would you contend that the
18 transfer in Jordan wasn't proper?

19 A. Because we haven't been able to -- how to assert
20 that it was transferred.

21 Q. Okay. You said at the -- at the early meeting
22 that you had with Mr. Yusuf, yourself, and your father, that
23 part of the deal was that the parties were going to sell the
24 property -- I'm sorry. Sell the grocery store operations
25 and everyone go their separate ways; is that right?

WALEED "WALLY" HAMED -- CROSS

1 **A.** Yes, ma'am.

2 **Q.** Okay. What efforts were undertaken to effectuate
3 that or to -- to go forward with that? What was the next
4 step that you understood was going to happen after you leave
5 that day?

6 **A.** Mr. Yusuf would start the process.

7 **Q.** Okay. And so did -- and -- and what did you
8 understand was going to happen?

9 **A.** I don't know. The attorneys or accountants or
10 whatever it is they're going to do, they're going to do.

11 **Q.** Okay. And did you see anything that occurred
12 that -- that started to effectuate that part of the
13 arrangement?

14 **A.** No, I didn't. I didn't.

15 **Q.** Okay. Did you raise that issue with Mr. Yusuf?

16 **A.** I think everything. There was so much was going
17 on that time. And my dad, prior to that, he just came back
18 from the hospital, I think. It was during -- during some
19 really tough time for the family. Trying to coordinate with
20 my dad. He had to go back to the hospital before he took
21 his trip. And then my dad went to -- to a wedding, my
22 niece's wedding. And then right after that, Fathi just
23 followed him, and they did it over there. So there's a lot
24 of -- there was a lot happening. There was a lot happening
25 at that time.

WALEED "WALLY" HAMED -- CROSS

1 But I expected after he came back that we
2 start the process, but rather than starting the process, he
3 started the stuff all over again.

4 **Q.** Okay. What was the -- do you have any -- and I'm
5 sorry if you have answered this. This is not an attempt for
6 me to ask you a question yet again. The question I have is,
7 is how long between the time that you had this meeting, the
8 three of you and the transfer of the property? I apologize
9 if I have asked that before. Was it months or a year?

10 **A.** No, definitely not a year, really. I, really,
11 it's not here.

12 **Q.** So if the transfer of the Jordan property was in
13 2011, midyear, July of 2011, how many months before that
14 would you say this conversation took place, if you can?

15 **A.** It's in 2000 -- 2011, maybe. It's right after --
16 it was after the -- it's maybe within a couple months --

17 **Q.** Okay.

18 **A.** -- prior.

19 **Q.** Okay.

20 **A.** Yeah.

21 **Q.** So earlier in 2011?

22 **A.** Yes.

23 **MS. PERRELL:** Okay. All right. I need a
24 quick break, but I think that I might be done with my
25 questions from him. So can we take just a two-minute break?

WALEED "WALLY" HAMED -- REDIRECT

1 **MR. HARTMANN:** I only have a couple
2 questions. Do you want to hear those before?

3 **THE VIDEOGRAPHER:** Going off the record. The
4 time is 2:58.

5 (Short recess taken.)

6 **THE VIDEOGRAPHER:** Going back on the record.
7 The time is 3:03.

8 **MS. PERRELL:** I have no further questions
9 subject to potential re -- recross.

10 **MR. HARTMANN:** Okay. At this time, I'd like
11 to go off the record and suspend this deposition.

12 **THE VIDEOGRAPHER:** Going off the record. The
13 time is 3:03.

14 (Discussion off the record.)

15 **THE VIDEOGRAPHER:** Going back on record.
16 This is the sealed portion of the deposition. The time is
17 3:04.

18 **REDIRECT EXAMINATION**

19 **BY MR. HARTMANN:**

20 **Q.** Okay. Mr. Hamed, you were asked questions about
21 meetings that you had with a bunch of other people to try to
22 solve this.

23 **A.** Yes, sir.

24 **Q.** Okay. And you said that they occurred after you
25 came back and transferred the one parcel, right?

WALEED "WALLY" HAMED -- REDIRECT

1 **A.** Yeah, after my father and Fathi, yeah.

2 **Q.** And when you came back and after you transferred
3 the one parcel, you still thought you had a deal because you
4 had delivered the one parcel; is that correct?

5 **A.** Yeah, we delivered the one parcel.

6 **Q.** And were you called in to a -- a series of -- of
7 mediations where various members of the community and -- and
8 religious people acted as the mediators to try to reach
9 settlements?

10 **A.** Yes, sir.

11 **Q.** Okay. I'm now going to hand you what's been
12 marked -- Exhibit 14?

13 **MS. PERRELL:** Yes, I think so.

14 **Q.** **(Mr. Hartmann)** Fourteen.

15 (Deposition Exhibit No. 14 was
16 marked for identification.)

17 I'd ask you to look that over --

18 **A.** No, that's a duplicate.

19 **Q.** -- and ask you if you've ever seen that before?

20 **A.** Fourteen?

21 **Q.** Yes.

22 **A.** Yes, sir.

23 **Q.** Okay. And what do you understand that document to
24 be?

25 **A.** That's an affidavit of Mohammad Hannun.

WALEED "WALLY" HAMED -- REDIRECT

1 **Q.** Okay. And when did you find out about this
2 document?

3 **A.** Couple weeks ago, I guess.

4 **Q.** Okay. And do you know when your lawyers found out
5 about it?

6 **A.** Same. Probably on the same time.

7 **Q.** Okay. And I'd ask you to turn over in this
8 affidavit to Page 3 of 4, Paragraph 19. And I'll read the
9 paragraph into the record and then I'll ask you some
10 questions.

11 "We called Wally" had -- Wally. Excuse me.
12 19. "We called Waleed after Mr. Yusuf had agreed to settle
13 the dispute for the two properties for what he had
14 discovered, we called Waleed (and he) came in and we told
15 him of the agreement and we shook hands, and everyone left.
16 Later that night, before 24 hours past, Mr. Yusuf called and
17 asked, if I find anything else, can he ask for it, I said no
18 the agreement covers everything even what he doesn't know
19 about right now, and Mr. Yusuf said no, that the agreement
20 was for what he knew now, not for anything else he finds.
21 Then there was no more agreement."

22 Do you see that section?

23 **A.** Yes, sir.

24 **Q.** Do you remember that meeting?

25 **A.** Yes.

WALEED "WALLY" HAMED -- REDIRECT

1 **Q.** Okay. Tell me what happened in that meeting.

2 **A.** I -- I was called, I believe, into Food Town,
3 that's where they had, I guess, a meeting session. Prior to
4 that, Fathi has had -- sitting down with the good folks over
5 there. They came to some conclusion after hours and hour of
6 talking to him and all that. And they called me over and
7 they put a lot of pressure on me. I didn't agree to it,
8 but -- but they put a lot of pressure. A lot of pressure
9 just to get -- get this over with. Done with it, so I
10 agreed to --

11 **Q.** You agreed to what?

12 **A.** To a second piece of property.

13 **Q.** That was the second piece in Jordan, the one that
14 Mr. --

15 **A.** Yes.

16 **Q.** Okay. So -- so in -- now, when you said they put
17 a lot of pressure on you, was this -- were they threatening
18 to beat you up, or was this moral pressure by community
19 leaders?

20 **A.** It wasn't threatening things. It was just moral
21 pressure as far as -- because they are the elders in the
22 community, in our community, and we, you know, we have to
23 respect and honor them.

24 **Q.** And did you understand this to be a mediation
25 where they were trying to help you understand?

WALEED "WALLY" HAMED -- REDIRECT

1 **A.** Yes.

2 **Q.** And him understand?

3 **A.** Yes.

4 **Q.** And were you trying -- were the negotiations for
5 the purpose of settling a contested claim?

6 **A.** Not the contested -- contested claim.

7 **Q.** Well, a claim between two parties?

8 **A.** Yes, yes, yes.

9 **Q.** All right. And -- and at the conclusion of this
10 thing, did you once again agree to a two-parcel property
11 deal?

12 **A.** Yes, yes.

13 **Q.** Okay. Now, how come you didn't call up your
14 father and okay it with him at that -- this time?

15 **A.** Because my father gave me the authority to act on
16 his behalf.

17 **Q.** Okay. And why did he do that? Why did this time,
18 in particular?

19 **A.** Because he was sick.

20 **Q.** Okay.

21 **A.** He was sick.

22 **Q.** What did he have?

23 **A.** He had cancer.

24 **Q.** Okay. And was he being actively -- as soon as he
25 got back from Jordan, did he start being actively treated

WALEED "WALLY" HAMED -- REDIRECT

1 for cancer again?

2 **A.** Yes, sir. Yes.

3 **Q.** And did he become so debilitated that he wasn't
4 eventually able to do things like this?

5 **A.** Yes, sir.

6 **Q.** Okay. And did he eventually die from that cancer?

7 **A.** Yes, sir.

8 **Q.** Okay. And so you went into a meeting and they
9 asked you stuff. And so finally after being berated by the
10 local pooh-bahs, you said, Okay. Fine. I'll give you the
11 second piece in Jordan; is that correct?

12 **A.** Yes, sir.

13 **Q.** Okay. And were you happy about that?

14 **A.** Definitely not, but there was so much pressure
15 exerted, and just to get it over with. My dad was sick.
16 We -- Fathi always threatening that we have nothing in our
17 names and he's going to take everything.

18 **Q.** Okay. So -- so at the end of that, you shook
19 hands. And now for the second time in 2011, you had a
20 two-parcel-in-Jordan deal; is that correct?

21 **A.** Yes.

22 **Q.** Okay. And you went home and you thought to
23 yourself, Thank God, this is all over, right?

24 **A.** Yes, sir.

25 **Q.** Okay. And then what happened?

WALEED "WALLY" HAMED -- REDIRECT

1 **A.** The flavor changed.

2 **Q.** Did the phone ring?

3 **A.** Yes, sir.

4 **Q.** And who was on the phone?

5 **A.** Mr. Hannun.

6 **Q.** And what did Mr. Hannun tell you?

7 **A.** That there's no deal. There's no deal. Fathi
8 wants this and Fathi wants that.

9 **Q.** And what, specifically, did Fathi want this time?

10 **A.** Fathi wants a third piece.

11 **Q.** Let me finish asking the question.

12 **A.** Fathi wants a third piece.

13 **Q.** And what third piece is that?

14 **A.** Oh, St. Thomas, Tutu.

15 **Q.** Okay. So now he wants a third piece, which is
16 St. Thomas, Tutu.

17 And what do you say to Mr. Hannun?

18 **A.** I told --

19 **Q.** Who is who? By the way, who is Mr. Hannun?

20 **A.** Mr. Hannun is my uncle and Mike's uncle.

21 **Q.** Okay.

22 **A.** He is Fathi's brother-in-law and my father's
23 brother-in-law.

24 **Q.** So he's -- he's a relative of both of you. He sat
25 in the meeting. He's watched you shake hands, right?

WALEED "WALLY" HAMED -- REDIRECT

1 **A.** Yes, sir.

2 **Q.** He's heard Fathi Yusuf say, We have a deal.
3 You've left believing you have a deal. And then Mr. Hannun
4 called you up and told you, you have no deal, right?

5 **A.** Yes.

6 **Q.** Okay. And what did you say to Mr. Hannun?

7 **A.** I told him, No deal. I'm not going to agree to
8 one property. I'm not going to agree to two properties.
9 I'm not going to agree to three properties. I'm done.

10 **Q.** And why wouldn't you -- why did you tell him you
11 wouldn't give him the third property?

12 **A.** Because he's always changing his mind. He
13 can't -- can't agree onto one thing. I mean, it's just --
14 it's more and more. You give him one, you give him two, you
15 give him three. What's the end? What's going to be it? Is
16 there going to be more? Going to be the fourth, the fifth,
17 the sixth?

18 **Q.** Okay.

19 **A.** Until what?

20 **Q.** And -- and at that time, when you were in this
21 meeting with Mr. Hannun that he speaks of, when they asked
22 for the third parcel, which was the Tutu parcel, and you
23 said no to that, now to the -- to the renegotiation of the
24 renegotiation, did you still think you had a deal with
25 Mr. Yusuf for a fair splitting up of the stores and

WALEED "WALLY" HAMED -- RECROSS

1 everything?

2 **A.** No, sir.

3 **Q.** And how many times did you think you agreed to
4 that deal already?

5 **A.** Several times.

6 **MR. HARTMANN:** Okay. I have no further
7 questions.

8 **RECROSS-EXAMINATION**

9 **BY MS. PERRELL:**

10 **Q.** All right. I just have a follow-up on that.

11 Can I direct your attention to Paragraph 18?
12 Let me read that into the record. This is the same
13 affidavit of Mr. Hannun.

14 "By the time of the first meeting to mediate,
15 it was my understanding that the Hameds had agreed to
16 turn-over two properties to Mr. Yusuf, for what he had
17 discovered so far: \$1.4 million, for the \$2 million
18 transfer, including the \$700K that Mohammad Hamed agreed he
19 received for the Batch Plant, and to cover what was spent
20 on" Wally's -- "Waleed's gambling habit."

21 Do you see that?

22 **A.** Yes.

23 **Q.** Okay. So going into this meeting, would you
24 dispute it if Mr. Hannun testified that it was his
25 understanding going into this meeting that the original deal

WALEED "WALLY" HAMED -- RECROSS

1 was actually for -- as he describes here in Paragraph 18?
2 Do you dispute Paragraph 18, I guess, is the easiest way to
3 ask?

4 **MR. HARTMANN:** Object. Compound. Could you
5 re-ask the question? You asked two completely separate
6 questions. First you asked whether Mr. Hannun believed it,
7 which he could have believed it from Mr. Yusuf --

8 **Q. (Ms. Perrell)** My question is, do you dispute what
9 Mr. Hannun has stated in his affidavit at Paragraph 18?

10 **A.** According to this, this is Fathi's words, man,
11 because we -- the way he's saying two pieces of property
12 discovered so far, because that's not the agreement we had.

13 **Q.** So you dispute Mr. Hannun's statements that are
14 set forth in Paragraph 18?

15 **A.** That doesn't sound right to me.

16 (Respite.)

17 **Q.** Okay. Paragraph 20 indicates that there were
18 other meetings to discuss splitting up the business in
19 Paragraph 20, do you see that?

20 **A.** Yes.

21 **Q.** All right. So after you had this meeting, in
22 which Mr. Hannun was present, were there subsequent meetings
23 where you're still talking meeting splitting up the
24 business?

25 **A.** I think that probably within this particular

WALEED "WALLY" HAMED -- RECROSS

1 meeting, there was discussion about that. And we probably
2 had maybe one or two after that before the end of the year.

3 Q. Okay. So wouldn't it be fair to say after you
4 left this meeting, because you had subsequent meetings to
5 discuss how to resolve certain things, that you believe that
6 there was still discussion about how to resolve it all, and
7 you were still discussing it?

8 A. No, ma'am.

9 Q. Okay.

10 A. When I left this meeting -- when I left this
11 meeting, it was a done deal. Just like when we left that
12 meeting earlier in the year, it was a done deal. Now we
13 have another meeting with maybe 7-8 adults in the community,
14 and I get a call there's no deal, because he changed the
15 flavor.

16 Q. All right. And just to be clear, it's your
17 understanding that when there was a discussion of what is
18 called a third property, that it's your belief that the
19 third property relates to the property in Tutu, the 9.3 and
20 the half acre; is that correct?

21 A. It was Tutu. Whether it was the -- like you say,
22 half acre, 9.3, I know it's St. Thomas property.

23 MS. PERRELL: Okay. All right. I have no
24 more questions.

25

WALEED "WALLY" HAMED -- REDIRECT

REDIRECT EXAMINATION

1
2 **BY MR. HARTMANN:**

3 **Q.** I would like you to look at Paragraph 21 there.
4 I'll read it into the record and then ask you a question.

5 Paragraph 21 says, "Finally, at one of the
6 last meetings, Mr. Yusuf said that if the Hameds transferred
7 a third piece of property that would settle everything about
8 the unauthorized monies, whatever he knows" about "he would
9 not do" -- "and he would not do any more searching for
10 monies he did not know about."

11 So, whether it was at that particular meeting
12 with Hannun, or at some other point, there finally came a
13 point where he said there was going to be no settlement
14 unless there was a third parcel; is that correct?

15 **A.** Yes, sir.

16 **Q.** And you didn't accept that, right?

17 **A.** I didn't accept that, no.

18 **Q.** And that's reflected in 20 -- Paragraph 22 here?

19 **A.** Twenty-one.

20 **Q.** Mr. Yusuf -- after you said no to the third
21 parcel, he "said he cannot work with the Hameds and that
22 they still had to sell the business and to divide the
23 business and go their separate ways."

24 Was that the end result of all of these
25 negotiations after you rejected that third parcel?

FATHI YUSUF -- DIRECT

1 **A.** Yes, sir.

2 **MR. HARTMANN:** Okay. I have no more
3 questions.

4 **MS. PERRELL:** I have no questions.

5 **MR. HARTMANN:** Okay. We can go off the
6 sealed deposition and if --

7 **THE VIDEOGRAPHER:** Going off the record, the
8 sealed deposition. The time is 3:18.

9 (Discussion off the record.)

10 **THE VIDEOGRAPHER:** Going back on the record.
11 The time is 3:18. This is the conclusion of the deposition,
12 and the time is 3:19.

13 (Short recess taken.)

14 **THE VIDEOGRAPHER:** This is the continuation
15 of the deposition of Fathi Yusuf. The time is 3:23.

16 **FATHI YUSUF**

17 **DIRECT EXAMINATION**

18 **BY MR. HARTMANN:**

19 **Q.** Good afternoon, Mr. Yusuf. I have only one
20 question for you. Actually, it's two questions.

21 The first one is, do you recall being in the
22 deposition of Mohammad Hamed on the 31st day of March, 2014?
23 Do you remember, in Adam Hoover's office, do you remember
24 being at Mr. Hamed's deposition?

25 **A.** I don't understand the question.

FATHI YUSUF -- DIRECT

1 **Q.** Do you -- we took -- a long time ago in 2014, we
2 took Mr. Hamed's deposition.

3 Do you remember being there?

4 **A.** I believe. I believe so. Yeah, I believe so.

5 **Q.** Okay. And do you remember him testifying about
6 this deal, the one that we're talking about here?

7 **A.** Who we're talking about?

8 **Q.** About the --

9 **A.** Who?

10 **Q.** -- the two parcels?

11 **A.** Wally or his father?

12 **Q.** Mr. -- Wally's father.

13 **A.** Oh.

14 **Q.** Mohammad Hamed.

15 **A.** Okay. Let me see.

16 **Q.** Okay.

17 **A.** I remember where I seen him in the deposition,
18 yes.

19 **Q.** Okay. And do you remember that in his deposition,
20 he testified that originally, you asked for two parcels in
21 Jordan?

22 **A.** Never in Jordan, sir. It's always one in Jordan
23 and one at Tutu Park.

24 **Q.** Okay. But you were at the deposition, right?

25 I'm now going to show you a small part of a

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1 transcript.

2 **A.** Okay.

3 **Q.** The video --

4 **A.** Yeah.

5 **Q.** -- of Mr. Hamed testifying.

6 (Respite.)

7 **A.** What is that?

8 **MS. PERRELL:** I don't think it's playing.

9 **MR. HARTMANN:** I didn't hit the play thing.

10 Wally, do you want to go outside for this?

11 **MR. WALEED HAMED:** No, that's fine.

12 (Video played.)

13 **Q. (Mr. Hartmann)** Could you hear that, sir?

14 **A.** Not really.

15 **Q.** When the translator says for two pieces in Jordan,
16 that's what I want you to listen to.

17 **A.** Never. I don't care what he said.

18 **MS. PERRELL:** Just --

19 (Video played.)

20 **Q. (Mr. Hartmann)** Okay. So do you remember him
21 testifying? I know you don't agree.

22 **A.** I believe he mean to say I ask for two in
23 St. Croix -- one in St. Croix -- St. Thomas and one in -- in
24 Jordan.

25 **Q.** Okay. But you were there when he said two in

FATHI YUSUF -- DIRECT

1 Jordan?

2 **A.** Excuse me, let me please finish, please.

3 Only for what I discover. And he say, What
4 do you want? I say, I will take one piece, such a such a
5 piece in Jordan. 310, Plot 310 Taberpour. And the second
6 one by Tutu Park. He say, You can have them.

7 **Q.** I'm not asking that question, sir.

8 I'm asking simply if you were at the
9 deposition --

10 **A.** Um-hum.

11 **Q.** -- and whether you heard Mr. Hamed say the deal
12 was that you were originally asked for was two parcels in
13 Jordan? Did you hear him testify to that?

14 **A.** Not at the same time, sir.

15 After the two, I discover more item. Then
16 the third time -- the second time, I asked for a piece in
17 Jordan.

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

19 **A.** This is how it happened.

20 **Q.** Okay. Thank you.

21 **A.** I never asked for two pieces in Jordan at the same
22 time. At the very beginning.

23 **Q.** Okay. I do have one more question.

24 Did you -- did -- at some point, did you ask
25 for an appraisal of two parcels in Jordan?

FATHI YUSUF -- DIRECT

1 **A.** I want about it the way it happened.

2 I said, Give me two pieces of property; one
3 in Jordan and one at Tutu Park. He say, You can have them.

4 After that, you know, I feel we're friend.
5 We're family. And the man being very gentle, I say, No, one
6 is enough.

7 When I went to the office, less than half an
8 hour, I hit the store and I find out -- go back through what
9 Mr. Mohammad told me, it end up to be untrue. None of what
10 he told me is right. I get angry, and I went to his son,
11 Wally, and say, Wally, do me a favor. Tell your father I
12 have to have the second piece. All I'm discussing is two
13 pieces. The two pieces in Tutu Park, we always call it one
14 piece, and the one in Jordan.

15 **Q.** Okay.

16 **A.** And that's it. Now --

17 **Q.** Wait, wait.

18 **A.** Allow me, please, to continue.

19 **Q.** Wait, wait. Before you go on, move to strike.

20 **A.** Shoot me then.

21 **Q.** Move to strike.

22 **A.** I want to continue my -- my statement.

23 **Q.** Your lawyer is going to get to ask you questions.
24 You'll get to tell your whole story.

25 **A.** Should I stop?

FATHI YUSUF -- DIRECT

1 **MS. PERRELL:** Yes.

2 **A.** Okay.

3 **MS. PERRELL:** He's only asking you certain --

4 **Q.** (**Mr. Hartmann**) I'm only asking you a simple
5 question.

6 **A.** Uh-huh.

7 **Q.** At some point, did you write over to your lawyers
8 or appraisers in Jordan and ask for them to approve two --
9 to appraise two pieces east of property in Jordan?

10 **A.** No.

11 **Q.** You didn't? Okay.

12 **A.** No --

13 **Q.** So I'm going to show you Exhibit 15, which your
14 lawyers have told the Court --

15 **A.** Yes.

16 **Q.** -- is an appraisal that you got done --

17 **A.** Yes.

18 **Q.** -- of two parcels in Jordan.

19 **A.** Yes.

20 **Q.** Okay. So you did?

21 **A.** Apple is apple, oranges is oranges.

22 **Q.** Okay.

23 **A.** This two-piece -- two pieces of property in Jordan
24 have nothing to do with this deal whatsoever.

25 **Q.** Okay.

FATHI YUSUF -- CROSS

1 **A.** Is absolutely two separate property that when
2 Mohammad Hamed have to give me back my half, we forget it.
3 He did not transfer it to my half. And then I ask him to
4 give me an appraisal on two separate property have nothing
5 to do with the deal whatsoever.

6 **MR. HARTMANN:** Okay. I withdraw the exhibit.
7 I have no further questions.

8 **A.** It's different number completely.

9 **MR. HARTMANN:** Okay.

CROSS-EXAMINATION

10
11 **BY MS. PERRELL:**

12 **Q.** All right. Mr. Yusuf, you've heard the testimony
13 that's happened today.

14 **A.** Yes.

15 **Q.** Tell me what you remember about the meeting that
16 took place between yourself, Wally Hamed, and Mohammad
17 Hamed, in the afternoon at their house.

18 **A.** I went and -- see, we were supposed to send \$1
19 million -- I want to go from the beginning -- to try to have
20 some kind of work for -- to employ some unemployed people.
21 In substitution with the money we used to send from the
22 water, sometime we late, they making noise, why you don't
23 send the money? I told Mr. Mohammad, Look, our people is
24 getting lazy, man. They don't want to work. They start to
25 wait for the fund. Let's give them lump sum and give them

FATHI YUSUF -- CROSS

1 some pressure to work where they can help the community. He
2 said, What do you want to do? They say, according to our
3 law, we supposed to come up with two-and-a-half percent of
4 our net worth annually and we have their money. He say,
5 What do you mean, want? I say, Can we send \$1 million to
6 build a batch plant in Jordan? He say, Okay.

7 Then I told Wally, Do me a favor, Wally. Go
8 to St. Maarten and transfer \$1 million to your father. And
9 I done.

10 And after that, we have the raid. There's no
11 communication with the people at the batch plant. And one
12 day, I went to Jordan, and the two people that we put them
13 to manage the batch plant, came to me and say, We need
14 money. I asked him about work and they tell me work is
15 good, but we short of money. I say, What you mean, you're
16 short of money? I send you a million dollar. How come you
17 short of money? I say, What do you want the short of money
18 for? He says he lose a lot of business because we don't
19 have a concrete pump to provide the service when -- when
20 it's needed. I said, But we send you a million dollars,
21 man? That's not enough? They say, No. All we have is 700.
22 You know, I didn't take it any way, because I never asked
23 Mohammad how much money you gave them. My impression, it
24 was a million dollars and should have a million dollars.

25 Then when I met Mohammad, I asked him, how

FATHI YUSUF -- CROSS

1 much did you give these people? He said, seven fifty. I
2 think he said seven fifty. Yeah, seven fifty. I think
3 Wally gave them is less than 700. What he give them is less
4 than 700. I says, But -- but they say all you give them is
5 this. And he say, I give seven fifty. And when I -- when I
6 told him I think it was 700, he scratch his head, and he
7 said, I spend the money on something else.

8 I still, you know, the man maybe forget or
9 something. Something like that. Until we have the raid.
10 When the raid came, I look. Mohammad Hamed, where is
11 located in Jordan, \$2 million. Hey, I'm not aware of no \$2
12 million. All I know is a million dollars I told Wally to
13 send. And I been confirmed by the people, the two manager
14 in the batch plant, it's 700. Mr. Mohammad, he said, No,
15 no, no, I give him seven fifty. So there's a lot of
16 confirmation I have. I told him to send one million. The
17 people receive the money, they say 700. Hamed say, I give
18 seven fifty. I said, What -- these people received 700.
19 What did you do with the seven fifty? With the 50,000, you
20 know? He scratch his head and give all -- all kind of
21 excuses. I accept it and I let it go.

22 Then, that's before I received the FBI
23 report. I look at that. When I see the 2 million, I get
24 upset, really upset. Now I start to look at Mohammad Hamed
25 and his son completely different to what I thought.

FATHI YUSUF -- CROSS

1 Okay. I came. Approach Wally.

2 **Q.** So you -- okay. Go ahead.

3 **A.** I approach Wally and I say, Wally, here is the
4 document. It's \$2 million your father send, and I told you
5 to send a million. Why you send two? He say, No, I never
6 sent. I never -- I sent a million. And the bank have to be
7 making a mistake. I say, Wally, can't be making a mistake
8 with a million dollars. And it's your father account number
9 in Jordan, in West Bank, and your father address, and your
10 father full name, and I know the bank. They don't make
11 mistakes like this. He kept insisting. I say, Look, Wally.
12 I make a bargain with you. Prove to me that the bank
13 deliver the one million to your father, and for that, the
14 bank make a mistake. So he can't get no way from our -- my
15 offer, because he admit the million. Your father say seven
16 fifty. The batch plant is 700. At least prove to me what
17 you say you sent. For me to say the bank don't know what
18 they doing, you have to prove the bank -- 'cause they went
19 through the same bank.

20 **Q.** Okay. Mr. Yusuf, what happened at the meeting
21 that you had with Wally, Mr. Hamed and yourself?

22 **A.** Then I decided after giving Wally to think over
23 about a week, he don't want to admit.

24 While I am searching, I find one million four
25 came in transfer to the Bank of Nova Scotia to -- I think to

FATHI YUSUF -- CROSS

1 16 Plus or to Plessen Enterprise, I'm not remember to whom.
2 And I say, Wally -- I was in St. Thomas. Always in
3 St. Thomas. He call me, and I say, Open up account and put
4 what's sitting in the account.

5 And in about less than 2 minutes, Wally
6 called me and say the bank refuse to open up account for us.
7 I say, Why, Wally? He said, because we did not do the
8 paperwork. We're not register with the government. We have
9 nothing to prove there's a company exist. I say, Then put
10 it in United, and I hung up the phone and I never check it.
11 Never. Just to show you how much I trust Wally and Wally
12 father and I never thought something will go wrong.

13 **Q.** Okay.

14 **A.** A million four hundred.

15 **Q.** Mr. Yusuf, we've got limited time today, so can --
16 so what happened? So go to the meeting. The meeting you
17 had.

18 **A.** The meeting I told you.

19 **Q.** Right. No, what happened at the actual meeting
20 that you had with --

21 **A.** I told him about the 2 million.

22 **Q.** Okay.

23 **A.** And the story of the batch plant.

24 **Q.** Right.

25 **A.** And the one million four.

FATHI YUSUF -- CROSS

1 **Q.** Okay.

2 **A.** He say, What do you want?

3 **Q.** Who said, What do you want?

4 **A.** Mohammad Hamed.

5 **Q.** Okay.

6 **A.** He say, Give me the property in Jordan and the two
7 property at Tutu Park and we settle that.

8 **Q.** Okay. Stop.

9 **A.** But Mr. Mohammad, I want you to know, the
10 settlement only cover what I discover so far.

11 Now, I have all the right to accuse these
12 people, they're not straight. So I will take it as a
13 settlement in exchange of the 3.4; the 2 million and the one
14 million point 4. Because the property, Tutu Park, I
15 purchased for \$1 million. And the half acre, three thirty.
16 That's one million three. And the property in Jordan is
17 about one million one, one million two. So it's a total of
18 like two million something.

19 **Q.** Mr. Yusuf, I'm going to ask a question: The
20 property in Jordan that you were discussing at this first
21 meeting, --

22 **A.** Yes.

23 **Q.** -- what is the -- which property is that?

24 **A.** It's in Jordan. It's a land, empty land. It's
25 zoned residential.

FATHI YUSUF -- CROSS

1 **Q.** Is it the Taberpour or whatever property?

2 **A.** It's 310 Taberpour.

3 **Q.** Okay.

4 **A.** 310 Taberpour.

5 **Q.** Okay.

6 **A.** And --

7 **Q.** At that meeting, did you guys discuss at all any
8 other Jordan properties?

9 **A.** No.

10 **Q.** Okay. All right.

11 **A.** No. The Jordanian property is just --

12 **Q.** Did Mr. Hamed agree --

13 **A.** Excuse me, may I just mention something --

14 **Q.** Yes.

15 **A.** -- before?

16 That appraisal is just 2 years ago, based on
17 my request, because I find there's three, maybe two or three
18 property then when we transfer. Now, look, one day I have
19 property, but the FBI, I sold the property I own.

20 **Q.** Okay.

21 **A.** And I bought the property from Mohammad Hamed with
22 the same money because the proceed is mine and his. I don't
23 want to interfere with any more property. I put everything
24 in his name.

25 **Q.** Okay.

FATHI YUSUF -- CROSS

1 **A.** Now when I --

2 **MR. HARTMANN:** Mr. Yusuf, when your attorney
3 raises her hand, you've got to stop and let her ask her next
4 question, okay?

5 **Q.** **(Ms. Perrell)** Yeah, let me ask the next question,
6 okay?

7 So at -- you were talking about the meeting.
8 You were talking about that you discussed the Jordan
9 property and then you discussed the Tutu property, the half
10 acre and the 9.3.

11 **A.** Yes.

12 **Q.** And did Hamed agree to do that?

13 **A.** Yes.

14 **Q.** Okay. And then before?

15 **A.** I told him --

16 **Q.** Wait. Before the day ended, did you discuss it
17 further?

18 **A.** Yeah, at the meeting, I say one is enough.

19 **Q.** Okay.

20 **A.** I respect him. The old man is about 10-15 years
21 older than me and I respect him a lot. And, you know, he's
22 the father-in-law of my two daughters. I say, Hell with it.
23 I still own half of it. I drop it. But unfortunate, when I
24 get to my office, every word he tells me is a lie.

25 **Q.** Okay. Let me -- before you --

FATHI YUSUF -- CROSS

1 **A.** I'm sorry to say this, --

2 **Q.** Okay.

3 **A.** -- but that's the fact.

4 **Q.** Before you go to -- when you get back to the
5 office, I want to stick to at the meeting, you said, I'll
6 only take one. Which?

7 **A.** The one in -- back home.

8 **Q.** The Jordan Taberpour --

9 **A.** Yes.

10 **Q.** -- property? Okay.

11 And everybody understood that was the one
12 that you were going to take?

13 **A.** Up to the time I left Mr. Hamed.

14 **Q.** Okay. And Mr. Wally was present?

15 **A.** And Wally was present.

16 **Q.** Okay.

17 **A.** We both left.

18 **Q.** Okay.

19 **A.** In separate cars.

20 **Q.** Um-hum.

21 **A.** He come back to work in his car and back to my
22 car. We meet in the same floor. I told Wally -- after
23 about half an hour in my office, I double-check. I find
24 what Mohammad told me unfortunately is the opposite.

25 **Q.** Okay.

FATHI YUSUF -- CROSS

1 **A.** I say then, I should never done what I did, and
2 they don't deserve it. They have to put it back. But now
3 these two property, only for what I discover. Only and only
4 for what I discover. A million four and 2 million.

5 **Q.** Okay. So what did you say to Wally?

6 **A.** I told him, Wally, do me a favor. Tell your
7 father I have to have the two property for this deal to
8 cover this, the three million four is, you know, to cover it
9 up.

10 **Q.** Okay.

11 **A.** And he says the next day, Did you tell your
12 father? He said, Yes.

13 **Q.** Okay. And when he said that, did you understand
14 that he -- what did you understood he meant when he said,
15 Yes?

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

17 **Q.** Okay.

18 **A.** And I could tell you, my calculation is right.
19 Two months later, he travel to Jordan and he move one of the
20 property to me.

21 Then when I come back, I told Wally, When are
22 we going to change the Tutu Park property? He say, We're
23 not going to do it. Then, Hey, look. I been burned. I
24 been working for 28 years, and I honestly believe -- I'll
25 put my hand on the Quran. I hardly miss more than

FATHI YUSUF -- CROSS

1 2 percent. I believe I lost about \$50 million. \$50 to \$50
2 million. \$50- to \$55 million --

3 Q. Okay.

4 A. -- with these family.

5 Q. So the first time you understood that Wally was
6 not agreeing, or that the Hamed side was not agreeing, was
7 after you got back from Jordan?

8 A. Yes.

9 Q. And you said, When are we going to handle the Tutu
10 Park property?

11 A. And he said, We're not going to do it.

12 Q. Okay. All right. And at that point --

13 A. By the way.

14 Q. Yes.

15 A. When I left Mohammad Hamed, --

16 Q. Um-hum.

17 A. -- the only time I saw him is in Jordan.

18 Q. Um-hum.

19 A. And after I saw him in Jordan, I -- we never
20 talked to each other. And he signed it, the property to me,
21 and one of his sons was witness on his signature.

22 Q. Okay.

23 A. And that evidence, that is okay to transfer to
24 Tutu Park, because, you know, when I don't want to give you
25 a ten dollar, I'm not going to give you a dollar.

FATHI YUSUF -- CROSS

1 **Q.** Okay.

2 **A.** Do whatever you want.

3 **Q.** Did you and Mr. Hamed talk about the Tutu property
4 at all when you were in Jordan?

5 **A.** No.

6 **Q.** Okay. Did Wally ever say to you that -- before
7 you went to Jordan to do the transfer, --

8 **A.** Um-hum.

9 **Q.** -- we don't agree to the Tutu Park?

10 **A.** No.

11 **Q.** Okay. So that was your understanding when you had
12 that conversation with him that morning after the first
13 deal?

14 **A.** Yes.

15 **Q.** Okay. All right. And all of that occurred in
16 2011; is that correct?

17 **A.** To be honest with you, I wouldn't even remember
18 the year.

19 **Q.** Okay. Well, all this -- you would agree that
20 whenever the property in Jordan was transferred, all of this
21 happened in a couple of months before and then after?

22 **A.** Yeah.

23 **Q.** Shortly after?

24 **A.** Yes.

25 **Q.** Okay. All right.

FATHI YUSUF -- CROSS

1 **A.** May I continue?

2 **Q.** Sure. So -- so what happened next?

3 **A.** When I find more wrongdoing -- even a check of a
4 hundred thousand dollars written out of the St. Maarten
5 account. In the back of it, it says, Attention Gloria. And
6 deposited -- it have to be in his fund. The check is
7 written in my name. He signs it, because it's in his
8 account. He wrote the check in my name. And in -- in the
9 check stub, it says Attention Gloria. I never saw that
10 check. And Gloria looked like she passes it on to him.
11 That's not the way people go partnership. And that's why I
12 couldn't leave myself open.

13 Then I asked for the third property in
14 Jordan, because the third property in Jordan, I pay
15 \$3 million for it. And we have an offer, \$30 million, and I
16 turned it down. And I figure out 55 million, I believe I
17 lost, at least I get back something and I'm okay. And these
18 people, they are my partner in the profit, but Judge Brady
19 say, No, they are your brother. Your partner. Okay. With
20 a thief, I don't want to work. If he give me \$2-million-a-
21 day profit, I'm not that type of person.

22 **Q.** Okay. So Mr. Yusuf, what is the property, the
23 third property, in Jordan? What is it?

24 **A.** It is commercial. It is 3 acre of land. It's --
25 it makes it expensive. It is -- became the only large

FATHI YUSUF -- CROSS

1 property.

2 Q. Okay. Did -- did -- how did you convey this, that
3 you wanted the third property? How did you convey that
4 to --

5 A. I told Wally.

6 Q. Okay. And what did he say when you told him?

7 A. He said, we're not going to give you nothing.

8 Q. Okay.

9 A. Then I thought we talked to, you know, our
10 relatives and friend, trying to settle with the third
11 property. And then I tell him whatever I find, it's my
12 problem. I'll swell (sic) it. I'll decide to stop
13 searching.

14 Q. Okay.

15 A. If I get that property, you know, but I will never
16 give him forever -- what you mean, the case close? I
17 already seen three million four hundred in cash.

18 Q. Okay.

19 A. Bank language be denied.

20 Q. So Mr. Yusuf, was your understanding that after
21 you came -- after you had the original meeting and the
22 conversation the next day, that there was a set deal that
23 everybody had agreed to for the two properties: The one in
24 Jordan, the Taberpour property, and also the Tutu property,
25 including --

FATHI YUSUF -- CROSS

1 **A.** Yes.

2 **Q.** -- the 9.3 and the half acre; is that right?

3 **A.** Yes, that's correct.

4 **Q.** And that's based upon the conversations that you
5 had both with Mr. Hamed --

6 **A.** Um-hum.

7 **Q.** -- and the fact that he had agreed to that the day
8 before --

9 **A.** Yes.

10 **Q.** -- and then that's ultimately what you believe was
11 settled on the following day?

12 **A.** That was settled the same evening.

13 **Q.** Okay. But he had to come back to you the next day
14 and tell you --

15 **A.** But telling me from there. From his house.

16 **Q.** Okay.

17 **A.** We don't agree to it.

18 **Q.** Okay. But he never told you that they didn't
19 agree?

20 **A.** No.

21 **Q.** You understood there was an agreement?

22 **A.** It is an agreement. It is an agreement.

23 **Q.** Okay.

24 **A.** And Mohammad Hamed to go two months later and
25 transfer the property from Jordan to me, it's certified.

FATHI YUSUF -- CROSS

1 The agreement is valid.

2 Q. Okay. And then the only time the third property
3 came into play was when you had discovered other issues, and
4 you said, I'll -- for a third property, because the first
5 two was already done, or would have -- was agreed?

6 A. Yes.

7 Q. Then the third property would resolve everything;
8 is that correct?

9 A. I was taking the chance to resolve everything with
10 the last property.

11 Q. Okay. But you guys never agreed to that?

12 A. Never agreed.

13 Q. To the third property?

14 A. Yeah.

15 Q. Okay.

16 A. It was never agreed.

17 Q. And then you also found out that Wally wasn't
18 going to agree to the Tutu property to do the transfer?

19 A. Yeah. He told me that. I spoke to him over the
20 phone.

21 Q. Okay.

22 A. And he said, No, we're not going to give it to
23 you. I said, Okay.

24 MS. PERRELL: Okay. All right. I have no
25 further questions.

FATHI YUSUF -- REDIRECT**REDIRECT EXAMINATION**1
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25**BY MR. HARTMANN:**

Q. Okay. Mr. Yusuf, when you and Wally and Mr. Hamed, Mohammad Hamed, met at his house.

A. Yes.

Q. You didn't just talk about these parcels, did you? You talked about ending the whole thing, right?

A. What the whole thing?

Q. The whole partnership? Everything?

A. No, no, no, no. We have not talking about any partnership at that time.

Q. Okay.

A. I think two or three weeks later, I say, Wally -- I never went back to his father, because he's an old man and I -- whether he's right or wrong, I have to respect him.

Q. Okay.

A. I will be blame if I make a mistake with him.

So all my discussion is with his son.

Q. Okay.

A. Say, Wally, I'm sorry. I can't work with you guys. That sometime in about July, I say, Not this year Christmas. I will allow you to stay in my property until the following year and we have to come out and liquidate the other two stores.

Q. Okay. But when the three of you were meeting in

FATHI YUSUF -- REDIRECT

1 his house.

2 **A.** Yes.

3 **Q.** Just the three of you there.

4 **A.** Yes.

5 **Q.** Okay. You remember that meeting?

6 **A.** Yes.

7 **Q.** Okay. And who was there? Just you and Wally and
8 Mohammad?

9 **A.** Yes. Only.

10 **Q.** Okay. Only.

11 And -- and when you were there, did you say
12 to them, I'm -- I want two parcels of property to settle
13 things, but this is -- but I might come back later and want
14 a third piece of property or a fourth piece of property?
15 Did you say that?

16 **A.** Attorney Hartmann, be logical. You're a
17 intelligent man. I -- how could I say it? I already have
18 three million four. I take a property, I pay three million
19 four for it.

20 **Q.** But did you tell them -- at that time, during that
21 meeting --

22 **A.** I told him anything I catch, you'll have to pay 10
23 times, ten time. I will not accept five time. His lawyer
24 was Attorney Smock.

25 **Q.** And you said --

FATHI YUSUF -- REDIRECT

1 **A.** Who recommend -- he come to me and five time.

2 **Q.** And you said --

3 **A.** Five percent. And I said, No. Five time.

4 **Q.** And you said that to him just before you said, No,
5 no, one parcel is enough, and you left feeling really good
6 about it?

7 **A.** Listen, I told him, one piece is enough, because
8 the man, I could see his face getting red. I could see, he
9 show me that he's sorry. I -- you know, all that is into
10 it.

11 **Q.** I understand that.

12 **A.** Plus my two daughter is with his sons.

13 **Q.** I understand.

14 **A.** So I say -- excuse me.

15 **Q.** Okay.

16 **A.** Let me finish.

17 **Q.** Um-hum.

18 **A.** You's a lawyer, you know your field. I'm a
19 businessman, I know what it is.

20 **Q.** Okay.

21 **A.** I still own half -- half of the property anyhow.
22 I'm giving up only half. It's not worth it to destroy my
23 two daughters.

24 **Q.** I guess what I'm asking is this. Can I ask this
25 question?

FATHI YUSUF -- REDIRECT

1 **A.** Sure. Ask any question you want.

2 **Q.** You're saying -- you're saying that you felt sorry
3 for the guy. You -- you were feeling -- you said, We're all
4 family. You said all these nice things. You said it's
5 just -- he offered to give you two and you said, No, no, I'm
6 feeling so good about you, I'll take one parcel. And then
7 did you say, when you said, I'll take one parcel, but if I
8 find you stealing more stuff, I'm going to want more
9 parcels?

10 **A.** Sir.

11 **Q.** You said that, even though you said only one
12 parcel?

13 **A.** Wait, wait, wait. That's from the very
14 discussion, anything I find, I want 10 time as much.

15 **Q.** And -- and that was the discussion you had with
16 Wally afterwards, you mean?

17 **A.** Yes.

18 **Q.** Okay. Good.

19 **A.** He never said no, and he never said yes. His
20 father never said no and never said yes. And up to now, I
21 will not settle less than 10 time.

22 **Q.** Okay. Good. I have no further questions.

23 **A.** Because the property for \$3 million, --

24 **Q.** Okay.

25 **A.** -- I could have buy it for 3 million. It sold for

FATHI YUSUF -- RECROSS

1 35 million.

2 **RECROSS-EXAMINATION**

3 **BY MS. PERRELL:**

4 **Q.** Mr. Yusuf, I think I need to clarify one question.

5 When you had the initial meeting with the
6 three of you, --

7 **A.** Yes.

8 **Q.** -- was that on the basis of just what you had
9 found out so far?

10 **A.** Exactly.

11 **Q.** Okay. And did you convey that to both Mohammad
12 Hamed --

13 **A.** Explain.

14 **Q.** But I'm asking you, did you --

15 **A.** Yes.

16 **Q.** -- say to them, we're going to resolve this issue
17 only?

18 **A.** Yes.

19 **Q.** Okay. All right.

20 **A.** I even told you, if you recall, or you can tell
21 your associate, I remind him with this case, do not mention
22 the 2 million and do not mention the 1.4, because it already
23 taken care of, if you recall.

24 **Q.** Correct. Okay.

25 **A.** And that's why -- you know, because I can't ask

FATHI YUSUF -- RECROSS

1 for -- for my right twice. I already agreed to it and I
2 give up the three million four. Besides the three million
3 four, I will not give up anything.

4 **Q.** All right.

5 **MR. HARTMANN:** Okay.

6 **MS. PERRELL:** Okay. I think we're good. I
7 have no more questions.

8 **MR. HARTMANN:** I have no more questions.

9 **THE VIDEOGRAPHER:** Okay. This is the
10 conclusion -- conclusion?

11 **MS. PERRELL:** Um-hum, yes.

12 **THE VIDEOGRAPHER:** Conclusion of the
13 deposition. The time is 3:57.

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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 witnesses, **FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, YUSUF YUSUF, and MAFEED "MAFI" HAMED** were first duly sworn to testify the truth; that said witnesses did thereupon testify as is set forth; that the answers of said witnesses 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 25th day of February, 2020, at Christiansted, St. Croix, United States Virgin Islands.

My Commission Expires: Susan C. Nissman, RPR-RMR
June 28, 2023 NP 234-19

EXHIBIT A DECLARATION

1. The undersigned is an attorney admitted to the Practice of law in the USVI, Bar No. 48.
2. The Declarant was present and participated in the deposition discussed herein.
3. This Declaration is true and accurate to the best of my knowledge, and is made under oath.
4. As can be seen in **Exhibit B**, Wally Hamed testified that the *original pre-July 2011 negotiation* between Fathi and Mohammad concluded with a one parcel deal—after the criminal plea agreement deal was signed in February 2010—because Fathi suddenly started accusing the Hameds of stealing.

Q. Okay. Could you tell me what led up to that [Page 151 WALEED “WALLY” HAMED – DIRECT] meeting?

A. Fathi Yusuf was accusing us of stealing from him, doing many things, and he was talking all over the place.

Q. And when did that start?

A. Probably 2010, right after I think we came in -- right around when we were negotiating a plea agreement with the federal government.

Q. Okay. And -- and what kinds of things was Fathi Yusuf saying about you guys in the community?

A. Well, that we stole from him. That my father stole \$2 million. That -- that, you know, several monies were -- that were transferred that went to him, went to his account. He was accusing me of stealing and all that.

Q. And that was -- if you -- your recollection is that was in 2010, soon after the -- the plea agreement was entered into in February of 2010?

A. Somewhere around that, yes.

Q. Okay. And did that continue through the middle of 2010?

A. Yes, sir.

Q. Okay. And do you recall the specific day that Mr. Yusuf was talking about? The day where you and he and your father met?

A. It was sometime -- sometime in 2010.

5. That face-to-face negotiation was held at Mohammad's house, and only Fathi, Mohammad and Wally were present:

Q. Okay. And what -- just start with where you were [Page 152 WALEED "WALLY" HAMED – DIRECT] and where Mr. Yusuf was and how it ended up at your father's and what happened.

A. I think Fathi Yusuf came over from St. Thomas that week, or maybe he was here for a few days, I'm not quite sure, but he was in the store, I was in the store. And how it came about to go ahead and go see my father that day, I think my father have heard stuff that he's been saying around in the community about him and stuff like that. And how it became that we went over, I don't exactly recall, but we ended up at my dad's home that afternoon.

Q. And you and Mr. Yusuf had been meeting prior to going over to your father's?

A. Yes. We were at the store together, yes.

Q. Okay. And was Mike there?

A. I don't recall if Mike was there, no.

Q. Okay. Did Mike go with you over to the meeting?

A. Absolutely not, no.

6. Wally testified that he was there are a "subject" of the discussion and did not take part in the negotiations himself.

Q. Okay. So you went over to a meeting at your father's house?

A. Yes.

Q. Okay. And -- and tell me, just generally, were you a participant in that meeting?

A. I was -- I was, what you call, I was the subject of that meeting.

Q. What do you mean by that? [Page 153 WALEED "WALLY" HAMED – DIRECT]

A. Well, Fathi was accusing me of doing -- of stealing money. Of hiding things. Of doing everything that was -- that's wrong and --

Q. Were you taking part in the actual negotiation yourself?

A. No, sir.

Q. Who was taking part in the negotiation?

A. My father and Fathi.

7. The negotiations were in Arabic, and while Wally listened, he was not a negotiator:

Q. Okay. And in what language was that negotiation taking place?

A. In Arabic.

Q. Okay. And how fluent are you in Arabic?

A. Fairly decent.

Q. Okay. So you could understand what they were saying?

A. Yes.

Q. Okay. Were you speaking in Arabic?

A. I don't recall. No, I don't think so.

Q. Okay.

A. I don't think so, no.

8. It was a long discussion, taking two to three hours:

Q. And you said they were discussing things back and forth. About how long did that discussion take place?

A. Two to three hours. [Page 154 WALEED "WALLY" HAMED – DIRECT]

9. Wally's testimony was identical to that of both Fathi and Mohammad, by the end of the negotiation, there was a deal—that while Yusuf had originally asked for two pieces of land in Jordan, after additional discussions, the final deal was for one parcel in Jordan.

Q. Okay. And at the end of it, was there a deal?

A. There was a deal made.

Q. Go ahead.

A. There was a deal made, and they agreed on -- on certain things, and they shook hands and we left.

Q. Okay. So tell me about the negotiation. What -- what -- what went on back and forth between them, to the best of your recollection?

A. Well, you know, they talked extensively about the relationship and they don't want to lose each other. And then Fathi was saying that you took monies. And, you know, prior to that, we -- my dad -- Fathi requested certain documentation and we provided all those documentations that he asked. He wanted bank accounts. We gave him bank accounts for my dad. Wherever the bank accounts, we gave him power of attorney on our behalf to go ahead and do what he needs to do, and he still didn't stop and wasn't convinced that nothing was wrong.

Q. Excuse me, I don't mean to interrupt, but did you also give him a power of attorney to go and get your actual bank accounts --

A. Yes.

Q. -- in -- wherever they --

A. Yes.

Q. -- existed? [Page 155 WALEED "WALLY" HAMED – DIRECT]

A. Yes.

Q. Okay. Go ahead.

A. And the deal was to go ahead. We're going to sell the stores. We're going to get our half. Everybody goes his own way. And like Fathi said in the video, we're family and we want to stay family and so on. At the end of the deal where my dad asked Fathi, Okay. Well, look, we need to finish with this. We need to buy peace or -- or get peace together, we can't continue doing this. And he offered -- Fathi said, I want two pieces of property. My father said, Yes. Fathi said, Look, it's not -- at the end of the day, he only accepted one.

Q. And where were those two pieces?

A. Those two pieces of property were -- were in Jordan.

Q. So the original deal was for two pieces -- your father said yes to a deal for two pieces of property in Jordan?

A. Yes, sir.

Q. Okay. And -- and after he said yes, Mr. Yusuf and your father talked some more?

A. Yes.

Q. And before the thing was over, Mr. Yusuf said, You don't need to give me two pieces, you just give me one [Page 156 WALEED "WALLY" HAMED – CROSS] parcel?

A. Yes.

Q. Okay. And did they shake on that?

A. Yes, they did.

Q. And did they say that's a deal?

A. Yes, sir.

Q. And that was it, it was over?

A. Yes.

10. On cross examination, Yusuf's attorney discussed a series of events that took place AFTER that negotiation ended and the parties had shaken hands on the deal and left Mohammad's house. Wally testified that these were just discussions between Wally and Fathi—he was not a negotiator and there was never another in-person negotiation between Fathi and Mohammad.

Q. Okay. After the meeting that took place in the afternoon, did you have an occasion to speak to Mr. Yusuf later that day back at the store?

A. Yes.

Q. Okay. Did you have an occasion to speak to him about the deal that you said was resolved? Was there any further discussions about the deal that afternoon, or that evening?

A. Well, like he said in his deposition, he came back and he said, No, Go back and tell your father I want the other piece.

Q. Okay. So there was a conversation about that?

A. Yeah, that's what he told me.

Q. Okay. And in your mind, you understood "the other piece" to mean, the other piece that is a piece of property in Jordan?

A. Well, that's the only two pieces they discussed.

Q. I know. I'm just clarifying for the record.

A. Yeah.

Q. Okay. I mean, Mr. Yusuf is going to say it's a different piece, but your -- you understood Mr. Yusuf said [Page 158 WALEED "WALLY" HAMED – CROSS] to you, No, tell him I actually want the two, which was the original agreement, correct?

A. Yes.

Q. Okay. And your father had originally agreed to the two pieces?

A. Yes.

Q. Okay. That's not how it ended up, but that's what he'd agreed to earlier?

A. Yes.

Q. Okay. So did Mr. Yusuf say to go back and talk to your father about that?

A. He told me to go back and tell him.

Q. Okay. And did you do that?

A. Yeah, I told him.

Q. Okay. And what did your father say?

A. He said, Okay.

Q. Okay. And then did you come back the next day and tell Mr. Yusuf that your father had agreed to go back to the two-property deal? . . .

Q. (Ms. Perrell) Okay. So your father had agreed to go to the two-property deal?

A. No. [Page 159 WALEED "WALLY" HAMED – CROSS]

Q. That's what you just --

A. My father said, Okay.

Q. Okay. Was that an agreement to go to the two property -- to do the two-property deal?

A. Nope.

Q. Okay. So --

A. That's not what I gathered from what -- he just told me to go and tell your father, and that's exactly what I told my father.

11. Yusuf's attorney unsuccessfully tried to equate Wally's "telling his father" about Fathi's additional demands with some sort of renegotiation of the one-parcel agreement—for a second parcel. Wally repeatedly pointed out that this was not correct—that Mohammad never agreed to a second parcel after the original deal was done and they had shaken hands and had final agreement.

Q. Okay. Well, why would he tell your father if you weren't -- I mean, the whole purpose of this 2- or 3-hour meeting was to reach an agreement, correct? The original meeting?

A. Yeah. And they did reach an agreement.

Q. Okay. And so then Mr. Yusuf went back and then says to you, No, go tell your father I need the two. And you said, Okay. I'll go tell my father, right? So you go and you tell your father that, --

A. Yeah, um-hum.

Q. -- correct?

A. Um-hum.

Q. Okay. And your father says, Okay?

A. Okay, but he didn't agree on giving him.

Q. Okay. So, at that point, did your father say, I do not agree to give him anything, or what did your [Page 160 WALEED "WALLY" HAMED – CROSS] father --

A. My father said, We had a -- we had a deal, and that's the deal, which is one piece of property.

Q. Okay. But earlier in the day, your father had already agreed to the two?

A. But the agreement, at the end of the day, shook hand for one.

Q. Okay. But it wasn't as if your father was -- when you go back and you said, Actually, it's going to be the two, that wasn't some -- you had already -- they had already been discussing those two properties already, correct?

A. Yeah. They discussed it, yes.

Q. Right. And earlier in the day, your father had gone ahead and agreed to that earlier in the day?

A. Yes.

Q. Okay. All right. So when you saw Mr. Yusuf again, I assume you saw him the next day; is that correct?

A. I'm not sure if it's the next day or the same day.

Q. Okay.

A. Could be.

Q. Soon thereafter?

A. Yes.

Q. Okay. You saw Mr. Yusuf. And did you report to him that you had, in fact, conveyed what he had asked you [Page 161 WALEED "WALLY" HAMED – CROSS] to, to Mr. Hamed?

A. Yeah. He asked me, I said, Yes.

Q. Okay. And did you tell him, My father does not agree?

A. I didn't tell him my father agreed or my father disagreed. I didn't tell him either. I said, I told him. That's it.

Q. Okay. So you understood that the purpose of the conversation was to reach a deal?

A. But they reached the deal.

Q. Okay.

A. When he walked out of that house, they reached a deal for one property. Now Fathi reneged and went back and said, I want -- I don't want that deal anymore. I want the new deal. It can't happen that way. He can't have things according to whatever he says is right.

Q. Okay. So did you lead Mr. Yusuf to believe that after you spoke with your father that it was all right, that he had agreed to the two-property deal?

A. Absolutely not.

Q. Okay. But you said a minute ago that you didn't tell him he agreed or you didn't tell him he disagreed, you -- you just said that you said, I told him.

A. He asked me if I told him. I told him, Yes, I [Page 162 WALEED "WALLY" HAMED – CROSS] told him. That's it.

Q. All right. And did you say, My father does not agree?

A. I didn't tell him anything like that. He asked me and I said, Yes, I told him. Did he ask me, Did he agreed? He didn't ask me if my father agreed. He asked me if I told him, and I said, Yes, I told him.

Q. So you were aware that Mr. Yusuf was extending a counteroffer, basically?

A. What counteroffer? The deal was already made. We shook hands.

Q. Okay.

A. We shook hands. They had an agreement and they left. So Fathi decide he wants to change the deal the following evening or the following day, why? They had an agreement. They had had a gentlemen's agreement, right? And as a matter of fact, that gentleman agreement was fulfilled because if there was a deal for another piece of property, he would have signed for it, right?

12. Yusuf's counsel then attempted to question Wally regarding post-July 2011

mediations and settlement discussions—to which Hamed's counsel objected

both because these were mediations and because they violated Rule 408:

Q. Okay. Are you aware, or were you ever present for a series of other meetings that took place in -- subsequent to this initial meeting that you had with Mr. Yusuf and your father?

MR. HARTMANN: Object. And direct that -- the witness not to answer as a matter of privilege, if these are mediations you're talking about. Mediations are privileged and confidential. You can't invade them in a court proceeding. [Page 170 WALEED "WALLY" HAMED – CROSS]

MS. PERRELL: Right. This was all pre-court proceedings and this was with the other members of the Arab community.

MR. HARTMANN: They were mediations.

Q. (Ms. Perrell) Okay. So -- but were you present for -- you want to call them mediations, I want to call them a meeting, okay? I mean, you had outside third parties present.

MR. HARTMANN: It doesn't matter. Whatever they are, they are privileged and confidential under V.I. law. You can't go into them.

MS. PERRELL: Okay. So you're not going to allow me to ask him any questions relating to those things?

MR. HARTMANN: No, I'll allow you. I'm telling you that it violates privilege and confidentiality for you to do so.

MS. PERRELL: Okay. MR. HARTMANN: If you want to ask him the questions, go ahead.

13. **Wally testified that his father and Fathi went to Jordan and transferred the one Jordanian parcel in July of 2011—and that a series of mediations for settlement negotiations took place after that transfer—after July 2011.**

Q. (Ms. Perrell) All right. Were you pre -- were you in certain meetings that occurred between you -- well, between Mr. Yusuf and Mr. Mohammad Hamed and other members of the Arab community to discuss resolving the issues between the two families?

A. There was a lot of meetings. Don't recall [Page 171 WALEED "WALLY" HAMED – CROSS] exactly. My father really wasn't present in most of those meetings.

Q. Okay. So were you present, though?

A. Yeah. Fathi would go out there. He would have his little session with his little people. They're nice people. And then they would call me and say, Come over. Let's solve this.

Q. So as a result of that -- when did those meetings take place?

A. I don't have specific dates, but sometime after -- probably after the middle of 2010 and on.

Q. Okay. Do you recall when the property -- you're not sure which property it was -- but the property in Jordan was transferred?

A. It was transferred in 2011.

Q. Okay. So these meetings that were taking place, took place before the transfer?

A. No, I would say probably after.

Q. Okay. So you said -- do you know when the transfer took place? I'm sorry if you just said that, I missed it.

MR. HARTMANN: He misspoke. You said 2010. That's what she's asking about.

Q. (Ms. Perrell) When did the transfer of the property take place? [Page 172 WALEED "WALLY" HAMED – CROSS]

A. 2010. I mean, 2011, I think.

Q. Okay. And so these meetings -- MR. HARTMANN: The meetings were after that, is all she's asking.

A. Yes.

Q. (Ms. Perrell) I was asking when the meetings took place. Did the meetings take place before the transfer or after the transfer?

A. After.

Q. After the transfer?

A. Yes.

* * * *

14. Going into those mediations/settlement discussion, Yusuf's counsel inquired into when and how the Tutu parcels came into the discussions. Wally testified that it was after the July 2011 transfer that the Tutu parcel or parcels came into the discussion:

Q. Okay. All right. So are you -- do you have any knowledge of any communications between either yourself and Mr. Yusuf, or your father and Mr. Yusuf, related to the Tutu half acre or the 9.3 acres being transferred, in any way, to the Yusufs?

A. Well, down the road when -- after Fathi came back from Jordan after he followed my father to go ahead and do that document they did in 2011, he came back and the -- the [Page 174 WALEED "WALLY" HAMED – CROSS] deal was, it's a complete disengagement. Complete peace out. Everybody divided. Everybody out of it. The stores as well. Anything that he has, whatever claims that he has in his head. It's a complete, complete everything. Now, after he secure my dad's signature on that document, he came back from Jordan and he

brought me offer to the desk. And he says, I found more. I found 1.5 million. Where did this go? Okay. I looked at it, and I said, in my head, What the hell is going on? That's what I said in my head. I thought we had a deal. You got the property. The property's transferred. We're going to go ahead and divide up whatever and we're done. He's asking me about stuff that's already closed. I said, You have all the documents. You see all the documents. We've shown you everything. We've given you everything and you're not satisfied. What is it going to take for you to finish all this? He says, I want another piece of property. I told him, Let me think about it. And that's when the Tutu acre came up.

Q. So when --

A. Not -- the Tutu property came up.

Q. Okay. And when you were talking about the Tutu property, or having this conversation with Mr. Yusuf, did you understand, when you said Tutu property, it encompassed both the 9.3 and the half acre, together? [Page 175 WALEED "WALLY" HAMED – CROSS]

A. I -- honestly, I don't exactly remember if it, but I know we have land in Tutu that we owned.

Q. Okay. Did you bring that discussion or this conversation that you had with Mr. Yusuf back to your father? 'Cause you said, Let me think about it, but as your counsel has pointed out, you are not the one to negotiate with Mr. Yusuf on anything. So did you take this back to your father?

A. My dad was sick at that time, and I'm not sure if he was there present at the time or not. I really don't recall exactly if he did. Maybe sometime down the road, but I don't recall exactly.

Q. So your father was present in -- in 2011 to do the transfer of the Jordan property?

A. In Jordan.

Q. In Jordan, right. And did -- and you said this was shortly after that, this conversation you had with Mr. Yusuf?

A. In St. Croix.

Q. I understand, but it was shortly after this transfer that happened in Jordan, correct?

A. Some -- some months down the road. I'm not sure exactly. I think that happened in July, maybe. September, October.

Q. Okay. [Page 176 WALEED "WALLY" HAMED – CROSS]

A. Maybe August. I'm not sure.

15. Wally also testified that by this time, August of 2011, his father was so sick that Mohammad did not participate, but that Wally became the negotiator for the Hameds because of the cancer.

Q. Okay. And so my -- I just -- so that I'm clear, you -- at or about the time that the conversation happened with Mr. Yusuf, within close proximity of time when you said, Let me think about it, did you ever go back to your father and explain that to -- explain what Mr. Yusuf had said?

A. I don't -- don't remember, or I don't recall exactly if I did. I didn't -- like, I didn't like the initial deal, but I respected my father's wishes. And for him to go ahead and give him the property, I disagreed with it. I, personally, disagreed. And when I see Fathi, he want another piece, and another piece, I disagreed with that. And, you know, for me not to sit there and argue with Fathi or anything, I just told him, I'll think about it.

Q. So you didn't convey the message?

A. I don't recall if I did or I didn't. Maybe I did at one time, but I don't think my dad was around that time for me to go ahead and convey or tell him that at that time.

Q. Did you speak with your father on the phone, even though he might not have been here?

A. No, I don't think I spoke to him on the phone.

Q. No, I'm just asking in general. Did you not speak to your father on the phone? Did he have to be present for you to speak with your father? [Page 177 WALEED "WALLY" HAMED – CROSS]

A. Who? What? I don't understand the question.

Q. You. Did you -- when you said your father wasn't here in St. Croix, so, therefore, you didn't speak with him relating to this conversation. And my question is, did you speak with your father on the telephone at all at the time that he was in Jordan?

A. I don't think so. I don't remember.

Q. Okay. You would agree with me that in 2011, that it was Mohammad Hamed, your father, to the extent there was any negotiations that needed to happen, that it would be Mohammad Hamed who would need to negotiate with Mr. Yusuf, correct, not you?

A. That's correct.

Q. And that as your attorney has already pointed out, that you were the messenger between the two, correct?

A. Yes.

Q. Okay. So would you agree with me that not conveying to Mr. Mohammad Hamed a proposal that was provided by Mr. Yusuf, you weren't properly conveying the message that was requested, correct?

A. Shoot me. I mean, really, you got this man telling me all -- he's accusing us left and right of everything. And then every -- every day, it depends on the flavor of the day, he changes his mind, and I'm supposed to take him on. [Page 178 WALEED "WALLY" HAMED – CROSS] When we provided every single thing so we can accommodate the things that he has in his head, okay? Power of attorney, everything, and then you're telling me that he wants a second and third piece of property.

Q. So with regard to the -- did you ever have any subsequent conversations with Mr. Yusuf about conveying the 9.3 acres or the Tutu half acre that was already in United's name, other than the conversation you just described?

A. I -- I don't recall, no.

Q. Okay. When did it become clear to you that the deal that you indicate you thought was done was not a comprehensive resolution of the claims between the two families?

A. I believe that's when Fathi came back, and he start questioning or start looking, bringing up new materials, so-called new material and he's saying that he wants more property and more property.

* * * *

Q. (Ms. Perrell) . . . I thought that you just testified -- I asked you, when did you think that this was not -- that there wasn't actually a -- that -- that there was no longer this would have resolved it all, and you said, When we came back, and Mr. Yusuf says to me, Now I want the Tutu property. In your mind, that's when you understood, Okay. Well, wait a minute. I thought we were done, and I think that now this may not be the case. And I'm asking you -- I know you didn't convey that to your father -- I'm asking you, did you ever convey that belief to any of the siblings?

A. It's possible. I'm pretty sure we discussed many things, and this is over what, 9 years, 10 years, 8 years. I mean, --

Q. Okay.

16. When the cross-examination of Wally was completed, Hamed's counsel went back on the record in what he asked to be a sealed portion of the testimony. Based on

the view that the inquiry into the post-August 2011 mediations / settlement negotiations were improper, he performed *voir dire* on the witness about those discussions;

The time is 3:03. MS. PERRELL: I have no further questions subject to potential re -- recross. MR. HARTMANN: Okay. At this time, I'd like to go off the record and suspend this deposition. THE VIDEOGRAPHER: Going off the record. The time is 3:03. (Discussion off the record.) THE VIDEOGRAPHER: Going back on record. **This is the sealed portion of the deposition. The time is 3:04. REDIRECT EXAMINATION BY MR. HARTMANN:**

Q. Okay. Mr. Hamed, you were asked questions about meetings that you had with a bunch of other people to try to solve this.

A. Yes, sir.

Q. Okay. And you said that they occurred after you came back and transferred the one parcel, right? [Page 187 WALEED "WALLY" HAMED -- REDIRECT

A. Yeah, after my father and Fathi, yeah.

Q. And when you came back and after you transferred the one parcel, you still thought you had a deal because you had delivered the one parcel; is that correct?

A. Yeah, we delivered the one parcel.

Q. And were you called in to a -- a series of -- of mediations where various members of the community and -- and religious people acted as the mediators to try to reach settlements?

A. Yes, sir.

17. Hamed's counsel then conducted *voir dire* about a 2014 affidavit given to Yusuf by a Mr. Hannun, one of the mediators, which had just been supplied to Hamed within the past two weeks.

Q. Okay. I'm now going to hand you what's been marked -- Exhibit 14?
MS. PERRELL: Yes, I think so.

Q. (Mr. Hartmann) Fourteen. (Deposition Exhibit No. 14 was marked for identification.) I'd ask you to look that over --

A. No, that's a duplicate.

Q. -- and ask you if you've ever seen that before?

A. Fourteen?

Q. Yes.

A. Yes, sir.

Q. Okay. And what do you understand that document to be?

A. That's an affidavit of Mohammad Hannun. [Page 188 WALEED
"WALLY" HAMED -- REDIRECT

Q. Okay. And when did you find out about this document?

A. Couple weeks ago, I guess.

Q. Okay. And do you know when your lawyers found out about it?

A. Same. Probably on the same time.

18. In that affidavit, Hannun admitted that the mediations for additional parcels did take place after July of 2011. He admitted another deal was reached, that Hamed and Yusuf shook on the deal, and that within 24 hours Fathi called Hannun and reneged on that deal as well. He concluded "Then there was no agreement."

Q. Okay. And I'd ask you to turn over in this affidavit to Page 3 of 4, Paragraph 19. And I'll read the paragraph into the record and then I'll ask you some questions. "We called Wally" had -- Wally. Excuse me. 19. "We called Waleed after Mr. Yusuf had agreed to settle the dispute for the two properties for what he had discovered, we called Waleed (and he) came in and we told him of the agreement and we shook hands, and everyone left. Later that night, before 24 hours past, Mr. Yusuf called and asked, if I find anything else, can he ask for it, I said no the agreement covers everything even what he doesn't know about right now, and Mr. Yusuf said no, that the agreement was for what he knew now, not for anything else he finds. Then there was no more agreement." Do you see that section?

A. Yes, sir.

Q. Do you remember that meeting?

A. Yes. [Page 189 WALEED "WALLY" HAMED -- REDIRECT

Q. Okay. Tell me what happened in that meeting.

A. I -- I was called, I believe, into Food Town, that's where they had, I guess, a meeting session. Prior to that, Fathi has had -- sitting down with the good folks over there. They came to some conclusion after hours and hour of talking to him and all that. And they called me over and they put a lot of pressure on me. I didn't agree to it, but -- but they put a lot of pressure. A lot of pressure just to get -- get this over with. Done with it, so I agreed to --

Q. You agreed to what?

A. To a second piece of property.

Q. That was the second piece in Jordan, the one that Mr. --

A. Yes.

Q. Okay. So -- so in -- now, when you said they put a lot of pressure on you, was this -- were they threatening to beat you up, or was this moral pressure by community leaders?

A. It wasn't threatening things. It was just moral pressure as far as -- because they are the elders in the community, in our community, and we, you know, we have to respect and honor them.

Q. And did you understand this to be a mediation where they were trying to help you understand? [Page 190 WALEED "WALLY" HAMED -- REDIRECT

A. Yes.

Q. And him understand?

A. Yes.

Q. And were you trying -- were the negotiations for the purpose of settling a contested claim?

A. Not the contested -- contested claim.

Q. Well, a claim between two parties?

A. Yes, yes, yes.

Q. All right. And -- and at the conclusion of this thing, did you once again agree to a two-parcel property deal?

A. Yes, yes.

Q. Okay. Now, how come you didn't call up your father and okay it with him at that -- this time?

A. Because my father gave me the authority to act on his behalf.

Q. Okay. And why did he do that? Why did this time, in particular?

A. Because he was sick.

Q. Okay.

A. He was sick.

Q. What did he have?

A. He had cancer.

Q. Okay. And was he being actively -- as soon as he got back from Jordan, did he start being actively treated [Page 191 WALEED "WALLY" HAMED -- REDIRECT for cancer again?

A. Yes, sir. Yes.

Q. And did he become so debilitated that he wasn't eventually able to do things like this?

A. Yes, sir.

Q. Okay. And did he eventually die from that cancer?

A. Yes, sir.

Q. Okay. And so you went into a meeting and they asked you stuff. And so finally after being berated by the local pooh-bahs, you said, Okay. Fine. I'll give you the second piece in Jordan; is that correct?

A. Yes, sir.

Q. Okay. And were you happy about that?

A. Definitely not, but there was so much pressure exerted, and just to get it over with. My dad was sick. We -- Fathi always threatening that we have nothing in our names and he's going to take everything.

Q. Okay. So -- so at the end of that, you shook hands. And now for the second time in 2011, you had a two-parcel-in-Jordan deal; is that correct?

A. Yes.

Q. Okay. And you went home and you thought to yourself, Thank God, this is all over, right?

A. Yes, sir.

Q. Okay. And then what happened? [Page 192 WALEED "WALLY"
HAMED -- REDIRECT

A. The flavor changed.

Q. Did the phone ring?

A. Yes, sir.

Q. And who was on the phone?

A. Mr. Hannun.

Q. And what did Mr. Hannun tell you?

A. That there's no deal. There's no deal. Fathi wants this and Fathi wants that.

Q. And what, specifically, did Fathi want this time?

A. Fathi wants a third piece.

Q. Let me finish asking the question.

A. Fathi wants a third piece.

Q. And what third piece is that?

A. Oh, St. Thomas, Tutu.

Q. Okay. So now he wants a third piece, which is St. Thomas, Tutu. And what do you say to Mr. Hannun?

A. I told --

Q. Who is who? By the way, who is Mr. Hannun?

A. Mr. Hannun is my uncle and Mike's uncle.

Q. Okay.

A. He is Fathi's brother-in-law and my father's brother-in-law.

Q. So he's -- he's a relative of both of you. He sat in the meeting. He's watched you shake hands, right? [Page 193 WALEED "WALLY" HAMED -- REDIRECT

A. Yes, sir.

Q. He's heard Fathi Yusuf say, We have a deal. You've left believing you have a deal. And then Mr. Hannun called you up and told you, you have no deal, right?

A. Yes.

Q. Okay. And what did you say to Mr. Hannun?

A. I told him, No deal. I'm not going to agree to one property. I'm not going to agree to two properties. I'm not going to agree to three properties. I'm done.

Q. And why wouldn't you -- why did you tell him you wouldn't give him the third property?

A. Because he's always changing his mind. He can't -- can't agree onto one thing. I mean, it's just -- it's more and more. You give him one, you give him two, you give him three. What's the end? What's going to be it? Is there going to be more? Going to be the fourth, the fifth, the sixth?

Q. Okay.

A. Until what?

Q. And -- and at that time, when you were in this meeting with Mr. Hannun that he speaks of, when they asked for the third parcel, which was the Tutu parcel, and you said no to that, now to the -- to the renegotiation of the renegotiation, did you still think you had a deal with Mr. Yusuf for a fair splitting up of the stores and [Page 194 WALEED "WALLY" HAMED -- RECROSS everything?

A. No, sir.

Q. And how many times did you think you agreed to that deal already?

A. Several times.

Dated: March 2, 2010



EXHIBIT B

Deposition Transcript

Waleed Hamed

**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.))	DEPOSITIONS TAKEN: JANUARY 21, 2020
WALEED HAMED, WAHEED HAMED,) MUFEED HAMED, HISHAM HAMED, and) PLESSEN ENTERPRISES, INC.,) Counterclaim Defendants.))	
<hr/> WALEED HAMED, as Executor of the) Estate of MOHAMMAD HAMED,) Plaintiff,) vs.))	Consolidated with Case No. SX-2014-CV-287
UNITED CORPORATION, Defendant.))	
<hr/> WALEED HAMED, as Executor of the) Estate of MOHAMMAD HAMED,) Plaintiff,) vs.))	Consolidated with Case No. SX-2014-CV-278
FATHI YUSUF, Defendant.))	
<hr/> FATHI YUSUF, Plaintiff,))	
vs.))	Consolidated with Case No. ST-17-CV-384
MOHAMMAD A. HAMD TRUST, et al.,) Defendants.))	
<hr/> KAC357 Inc., Plaintiff,))	
vs.))	Consolidated with Case No. ST-18-CV-219
HAMED/YUSUF PARTNERSHIP,) Defendant.))	

**THE VIDEOTAPED ORAL DEPOSITIONS OF FATHI YUSUF,
MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF,
MAFEED "MAFI" HAMED, AND JOHN GAFFNEY**

was taken on the 21st day of January, 2020, at the Law
Offices of Joel H. Holt, 2132 Company Street, The Alcove
Room, Christiansted, St. Croix, U.S. Virgin Islands, between
the hours of 10:00 a.m. and 5:09 p.m., pursuant to Notice
and Federal Rules of Civil Procedure.

Reported by:

Susan C. Nissman RPR-RMR
Registered Merit Reporter
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Also Present: Michael Gelardi, Videographer

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WALEED "WALLY" HAMED -- DIRECT

1 **MS. PERRELL:** It's a continuance.

2 **THE VIDEOGRAPHER:** This is the continuance of
3 the deposition. The time is 3:52.

4 (Short recess taken.)

5 **WALEED "WALLY" HAMED**

6 **THE VIDEOGRAPHER:** This is the continuation
7 of the deposition of Waleed Hamed. The time is 3:56.

8 **DIRECT EXAMINATION**

9 **BY MR. HARTMANN:**

10 **Q.** Mr. Hamed, were you -- you were present for the
11 earlier deposition of Mike Yusuf; is that correct?

12 **A.** Yes, sir.

13 **Q.** And you saw his testimony as to what Document 9,
14 Page Bates Numbered FY 01966 is?

15 **A.** Yes.

16 **Q.** Okay. Do you -- do you recognize this document?

17 **A.** Never seen it.

18 **Q.** Okay. And do you recognize the format that it's
19 in?

20 **A.** No, sir.

21 **Q.** Okay. Was this a format that was commonly used at
22 the time at the -- at the Plaza Extra East store in 1996?

23 **A.** Not that I know of, no.

24 **Q.** Okay. And let's talk about what he testified were
25 transfers to Plaza Extra.

WALEED "WALLY" HAMED -- DIRECT

1 There's a Check Number 567, Check G/L 1201,
2 for \$15,900.

3 Do you see that entry?

4 **A.** Yes.

5 **Q.** Okay. Do you know -- first of all, do you know
6 what account this is?

7 **A.** I have no idea.

8 **Q.** Okay. And do you know if 15,900 was received by
9 Plaza?

10 **A.** Absolutely not.

11 **Q.** You know, or you don't know?

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

13 **Q.** You have no idea? Okay.

14 If you look further down, there's a Check
15 Number 575 for \$30,300.

16 **A.** Yes.

17 **Q.** Says it was a transfer.

18 **A.** I see that.

19 **Q.** Okay. Mr. Yusuf testified that that was a
20 transfer of \$30,000 from the tenant account to Plaza Extra
21 partnership account.

22 Was the tenant account transferring \$30,000 a
23 shot into the Plaza Extra account?

24 **A.** I don't recall. And I know of no time that the
25 tenant account ever transferred any money into Plaza East

WALEED "WALLY" HAMED -- DIRECT

1 account or Tutu account --

2 Q. Okay.

3 A. -- in '95 or '96.

4 Q. Okay. In '95 or '96 -- well, I asked him about
5 Document Number -- where's 10?

6 Now, you heard me go over with Mike Yusuf the
7 fact that there was a fair amount of extra cash running
8 around in '96, '97, '98, '99, 2000, and 2001, as shown in
9 Exhibit 10.

10 Was -- at any time, during that period, was
11 the grocery store -- I'm going to take a date, April 1st,
12 1999, was -- was there any need for money to be transferred
13 from the tenant account to the --

14 A. Absolutely not.

15 Q. Okay.

16 A. Absolutely not.

17 Q. And why? Why would it -- why would money not be?
18 How about in '96, '97, '98, '99, 2000, and 2001?

19 A. Absolutely not.

20 Q. Okay. And why would there not have been a need to
21 be transferring money?

22 A. Because we were making a lot of money back then.

23 Q. A lot of money?

24 A. Yes.

25 Q. Okay. And -- and have you seen this Exhibit

WALEED "WALLY" HAMED -- DIRECT

1 Number 10 before?

2 **A.** I might have had maybe earlier on sometime.

3 **Q.** Okay. Were you aware that the FBI and the Justice
4 Department did an analysis of the earnings, the tax payment
5 and the unreported income from '96 to 2001?

6 **A.** I know they've done several things, yes.

7 **Q.** Okay. And -- and eventually you know that United
8 pled guilty to -- to tax evasion during that time period for
9 these dates for these amounts; is that correct?

10 **A.** Yes, sir.

11 **Q.** Okay. So if I'm correct, in 19 -- Mr. Yusuf said
12 that the reason that the -- the tenant account would have
13 transferred money to the partnership was because the
14 partnership would have needed money.

15 But isn't it true that the government figured
16 that the partnership took in \$44 million, reported taxes on
17 36, and walked away with eight point something million?

18 **A.** Yes. What it says, yes.

19 **Q.** Okay.

20 **MS. PERRELL:** All right.

21 **A.** Can I -- can I just add? Just, can I say just one
22 thing?

23 **Q.** **(Mr. Hartmann)** Sure.

24 **A.** I don't see where Plaza would need a thousand
25 dollars to be transferred from United. I don't see why

WALEED "WALLY" HAMED -- CROSS

1 Plaza Extra would need \$950 to be transferred in '96 from
2 the tenant, and we were making so much money. Why would
3 that be?

4 **Q.** I don't know.

5 **A.** I mean, that's why I'm looking at it. I'm
6 questioning myself. When I look at that, it's impossible.

7 **MS. PERRELL:** Okay. Are you done?

8 **MR. HARTMANN:** I'm done.

9 **MS. PERRELL:** All right. I have a couple
10 questions.

CROSS-EXAMINATION

11
12 **BY MS. PERRELL:**

13 **Q.** Mr. Hamed, the information that is reflected in
14 Exhibit 10, the summary schedules that were prepared by the
15 Department of Justice, they don't -- this reflects sales,
16 correct? Exhibit -- the Page 9995.

17 **A.** It says actual sales, yes.

18 **Q.** Right. Actual sales. All right.

19 But that's not -- that's not profit, correct?

20 **A.** No. It says, "Actual Sales."

21 **Q.** Okay. So that's not accounting for any of the
22 expenses incurred in those sales, correct?

23 **A.** I'm no accountant. All that I see is a document,
24 and it says, "Actual Sales."

25 **Q.** Right.

WALEED "WALLY" HAMED -- CROSS

1 **A.** Whatever else that you're asking me, but I
2 don't --

3 **Q.** But you were -- in 1996, you were primarily
4 operating the Plaza Extra East store, correct?

5 **A.** No. I mean, me, personally?

6 **Q.** Yes.

7 **A.** Yes.

8 **Q.** Okay. So in 1996 -- 1996, what was your average
9 weekly gross income?

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

11 **Q.** All right. What would have been your average
12 gross income for the year 1996?

13 **A.** I don't remember. I mean, the records should
14 speak for itself.

15 **Q.** Okay. What was the last year that you ran the
16 Plaza Extra East store? 2012? '11?

17 **A.** Somewhere around there.

18 **Q.** All right. What was the average -- what was the
19 total gross actual sales for Plaza Extra East in 2011?

20 **A.** I don't -- I don't recall.

21 **Q.** You don't have any idea?

22 **A.** I don't recall. It's been such a long time, so
23 many numbers, I don't recall.

24 **Q.** So do you have any idea whether forty-four million
25 dollars nine hundred and ten was a good year or a bad year?

WALEED "WALLY" HAMED -- CROSS

1 **A.** Based on these?

2 **Q.** No. I'm asking you. You ran the store, Plaza
3 Extra East, from basically 1994 or '93, '94, when it
4 reopened until 2011. And what is a typical good year? I
5 asked you and you said you don't know. So my question is,
6 then you don't know whether these actual sales numbers,
7 they're big numbers, but that doesn't necessarily mean
8 that's profit; isn't that correct?

9 **A.** Of course not.

10 **Q.** Of course it's correct?

11 **A.** Of course it's correct. They're not profit. It
12 says the actual sales.

13 **Q.** Right. So you don't know, is \$44 million for 1996
14 a good year, or not?

15 **A.** When you say -- this is per store. See, I'm not
16 sure if this is per store or for the two stores.

17 **Q.** Okay.

18 **A.** So I'm not sure what -- what that is.

19 **Q.** Well, what's a good year -- what's a good year for
20 Plaza Extra East?

21 **A.** Excuse me, you're trying to tell me because
22 they -- well, supposedly I got a thousand dollars or Plaza
23 Extra got a thousand dollars in 1996 transferred, supposedly
24 transferred from the tenant account just because Plaza
25 needed a thousand dollars? Because they needed help? In

WALEED "WALLY" HAMED -- CROSS

1 doing what?

2 When there sales, whether this is combined
3 Tutu and -- and -- and East of \$44 million, why would the
4 store need a thousand dollars, or \$950, or \$4,182? I don't
5 see that.

6 **Q.** All right. Object. Nonresponsive.

7 My question to you is, what is a good year --

8 **MR. HARTMANN:** Object. Asked and answered.

9 **Q.** (**Ms. Perrell**) -- in sales?

10 He did not answer the question.

11 **MR. HARTMANN:** He said he didn't know.

12 **MS. PERRELL:** Okay.

13 **MR. HARTMANN:** Three times, actually.

14 **Q.** (**Ms. Perrell**) So you don't know whether or not
15 this \$44,000,000 -- \$44,999,000 was for both stores? For
16 three stores? Well, in 1996, it would only be for
17 potentially two stores, correct? Because the third
18 store wasn't --

19 **A.** Yeah. I told you. I just stated that, yes.

20 **Q.** All right. So just potentially for two stores.

21 So if that's both stores' gross for the year,
22 do you have any sense of whether or not there was any
23 profits made in 1996?

24 **A.** Show me the documents. I have no idea. I mean,
25 this back what, 20 years ago? 25 years ago?

WALEED "WALLY" HAMED -- CROSS

1 Q. Well, according to you, you guys were making tons
2 of money. And my question for you is, is how do you know
3 that?

4 A. 'Cause we made tons of money.

5 Q. Always?

6 A. Always.

7 Q. Every year?

8 A. Always.

9 Q. You were never underwater?

10 A. Look at the amount of money that was laundered.

11 Q. So it's your testimony --

12 MR. HARTMANN: No, let him answer. You
13 wanted --

14 Q. (Ms. Perrell) I think he was finished.

15 So in 1996, you're telling me after all the
16 expenses and so forth, that you were never -- that the Plaza
17 Extra grocery store was not underwater at all? Meaning they
18 didn't have enough cash flow to pay for their expenses on
19 any given week or month?

20 A. Could you repeat the question, please, because I
21 think you lost me there somewhere.

22 Q. All right. During 1996, --

23 A. Um-hum.

24 Q. -- are you telling me that the Plaza Extra grocery
25 store operations always had sufficient cash flow from their

WALEED "WALLY" HAMED -- CROSS

1 sales so that they were never underwater at all, meaning
2 they didn't have enough cash to pay their --

3 **A.** We always had cash. We had so much cash. We had
4 cash all over the place, all right?

5 **Q.** Okay. Wasn't it true that in 1992, the Plaza
6 Extra East store burned down?

7 **A.** Yeah, that's true.

8 **Q.** All right. So -- and it happened early in 1992,
9 didn't it?

10 **A.** Yeah, I think so.

11 **Q.** All right. So that would mean, you would agree
12 with me, in 1992, there was no cash coming into Plaza Extra
13 East in 1992 from grocery store operations, 'cause it was
14 burned down, correct?

15 **A.** That's correct.

16 **Q.** All right. So the same for 1993, the store was
17 still down. There was no sale of any -- not one item. Not
18 one grocery item was sold in 1993; is that correct?

19 **A.** That's correct.

20 **Q.** All right. And at the same time, the store was
21 having to be rebuilt; is that correct?

22 **A.** Yes.

23 **Q.** All right. So there were cash outlays associated
24 with that, correct?

25 **A.** Yes.

WALEED "WALLY" HAMED -- CROSS

1 **Q.** Okay. And isn't it true that Mr. Yusuf took loans
2 in order to assess -- help with that as well, the
3 rebuilding?

4 **A.** No. The partnership took loans to assess that.

5 **Q.** Did you put up any collateral?

6 **A.** Doesn't matter if I put up collateral. We put the
7 store for collateral.

8 **Q.** Okay.

9 **A.** We had the insurance proceeds.

10 **Q.** Okay. Did you put up -- did you, personally, sign
11 any guarantees?

12 **A.** I didn't have to sign guarantees.

13 **Q.** So that's a no, you did not sign any guarantees?

14 **A.** No, I didn't sign guarantees.

15 **Q.** Do you know if Mr. Yusuf signed any guarantees?

16 **A.** I don't even recall if he did, but we, I know -- I
17 know we had the store equipment and inventory, I believe,
18 I'm not sure, for collateral.

19 **Q.** Okay. What was the debt service on the loan?

20 **A.** I don't recall exactly. I think it's a couple
21 of -- couple of million dollars, I think.

22 **Q.** Okay. What was the monthly debt service on it?

23 **A.** I don't recall, exactly.

24 **Q.** And so you were also -- so you were down in '92,
25 you were down in '93, and you opened in 1994, correct?

WALEED "WALLY" HAMED -- CROSS

1 **A.** If -- I -- you say so. It might be '93 or '94,
2 I'm not sure about the date. The years.

3 **Q.** And so at the same time, the Plaza Extra
4 operations were opening up the St. Thomas store; isn't that
5 true?

6 **A.** Yes.

7 **Q.** And there were cash outlays associated with the
8 opening up the St. Thomas store, correct?

9 **A.** Yes.

10 **Q.** And do you know whether or not the St. Thomas
11 store, when it opened, which was, I believe, around 1994,
12 whether or not it was actually making money or losing money
13 in 1994?

14 **A.** I believe probably we were breaking even at the
15 time.

16 **Q.** Okay. So no profit?

17 **A.** I don't recall exactly, but I know we had a third
18 partner in there and finally he got out. We got him out.
19 And we got hit by a hurricane in '95, maybe, in St. Thomas.
20 I think it was Hurricane Marilyn. I'm not sure what year,
21 '95-'96.

22 **Q.** Okay.

23 **A.** And I know at that time, things just went -- sales
24 just tripled. So when you tell me that Plaza needed money
25 at that time, no way in heaven I would believe that for a

WALEED "WALLY" HAMED -- CROSS

1 second.

2 **Q.** Okay. So -- but yet, you can't tell me whether or
3 not in 1996, the 44 million was, in fact, a good year or
4 not?

5 **A.** I know sales were up.

6 **Q.** Okay. But with regard to expenses, you have no
7 idea whether there was any net profits for the Plaza --

8 **A.** I -- I --

9 **Q.** I'm asking. Let me finish. Whether the Plaza
10 Extra East store had any profits in 1996, you don't know the
11 answer; is that right?

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

13 **Q.** Okay. And, likewise, you don't know the answer as
14 to whether or not the Plaza Extra Tutu Park store had any
15 net profits in 2 -- in 1996; isn't that correct?

16 **A.** Look, if you're looking --

17 **Q.** No, I'm just asking. Do you know?

18 **A.** I don't know, to be certain. It was a long time
19 ago, but there was a lot of money that we laundered, okay?
20 There was a lot of cash flow. You can't tell me that's not
21 profit.

22 **Q.** Okay. But you don't know, correct? You don't
23 know?

24 **A.** I just told you. I just answered.

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

WALEED "WALLY" HAMED -- CROSS

1 **A.** I just answered, Lady.

2 **Q.** You do not know, correct, in 1996, whether there
3 was any profit on either store; isn't that right?

4 **MR. HARTMANN:** Object. Asked and answered.

5 **A.** I've already answered.

6 **Q.** **(Ms. Perrell)** Well, I'm asking you to answer it.

7 **A.** I just told you, there was so much money around
8 all over the place.

9 **Q.** But you did not know whether or not there was any
10 net profit in 1996, --

11 **A.** If you --

12 **Q.** -- at either the Plaza Extra East store or the
13 Tutu Park store; isn't that true?

14 **A.** I didn't handle the accountant. I don't know what
15 the accountants do. I mean, the accountant might have been
16 doing something that we're losing money and he's going to
17 show that we're losing money because we were laundering so
18 much money.

19 **Q.** Do you recall whether or not -- I'm going to ask
20 this one last time, whether or not there was enough cash
21 flow coming into the Plaza Extra East store in 2000 -- I'm
22 sorry, in 1996, to cover all of the expenses that it was
23 paying in 1996 --

24 **A.** Yes.

25 **Q.** -- as it --

WALEED "WALLY" HAMED -- CROSS

1 **A.** Yes, it was.

2 **Q.** And you know this now?

3 **A.** No. Yes, it was, because there was a lot of cash
4 flow all over the place.

5 **Q.** All right. But you don't know that for sure,
6 though, do you?

7 **MR. HARTMANN:** Object. Argumentative. You
8 just asked him to answer, and he answered.

9 **MS. PERRELL:** Yeah, he's answering
10 differently. On the one hand, he said he doesn't know. He
11 doesn't have any idea. And I asked him to confirm that he
12 doesn't know and then he comes up and he tries to give
13 another answer. So I'm trying to understand.

14 **Q.** **(Ms. Perrell)** Do you have any idea whether or not
15 there was any profit available to any of the stores in 1996?

16 **MR. HARTMANN:** He answered that there was.
17 He said that there were tons of money around.

18 **MS. PERRELL:** Okay.

19 **MR. HARTMANN:** That's the answer.

20 **Q.** **(Ms. Perrell)** I'm not asking counsel, I'm asking
21 you.

22 **A.** Repeat the question, please.

23 **Q.** Do you know whether or not there was any profit in
24 1996? Do you know for sure whether there was any profit in
25 1996 at the Plaza Extra East store and the Plaza Extra Tutu

WALEED "WALLY" HAMED -- REDIRECT

1 Park store? Do you know? Not what you surmise. What you
2 know.

3 **A.** I know there was a lot of cash around. How the
4 accountants do their thing, I have no idea, and I don't
5 recall exactly what's on paper, but I know there was a lot
6 of cash around.

7 **MS. PERRELL:** So you don't know. All right.
8 I don't have any more questions.

9 **REDIRECT EXAMINATION**

10 **BY MR. HARTMANN:**

11 **Q.** Let's go back to the questions counsel asked you.
12 Tell me what happened in 1995.

13 **A.** Where?

14 **Q.** In St. Thomas?

15 **A.** St. Thomas, I believe we had -- I'm not sure if it
16 was '94 or '95 when we bought out our -- our partner that we
17 had in the St. Thomas store.

18 **Q.** And right after that, was there a hurricane?

19 **A.** Right after that, we had a hurricane.

20 **Q.** And how bad was the hurricane?

21 **A.** That hurricane, I think -- I'm not sure the
22 category they referred to it, but it was --

23 **Q.** It was that --

24 **A.** -- significant. Yeah, Marilyn.

25 **Q.** Marilyn. Okay.

WALEED "WALLY" HAMED -- REDIRECT

1 And tell me how the business did in '95 and
2 then in '96 compared to how it had ever done before?

3 **A.** Probably triple, quadruple, maybe 10 times.

4 **Q.** And why was that?

5 **A.** Because of the hurricane. I mean, business just
6 went out -- just went through the roof.

7 **Q.** I'll put Mr. Yusuf on next and ask him the same
8 questions if you'd like. He'll tell you the same thing.

9 And why did the profits and the income
10 triple?

11 **A.** Well, we -- we probably were one or two of the
12 surviving stores in St. Thomas.

13 **Q.** So your volume --

14 **A.** My volume, our sales, went up.

15 **Q.** By how much?

16 **A.** Three, four, maybe five times.

17 **Q.** Okay. And -- and that was in late '95 and into
18 '96?

19 **A.** Yes, sir.

20 **Q.** And how long was it from '95 until the other
21 stores recovered?

22 **A.** The other? I'm sorry?

23 **Q.** The other stores. Your competitors got --

24 **A.** We had -- we had, I think '95, '96, '97, '98, and
25 '99 were stellar years. I mean, we just -- we were really,

WALEED "WALLY" HAMED -- REDIRECT

1 really busy. I mean, we had one time, St. Thomas was
2 beating the St. Croix locations.

3 Q. Okay. And -- and what's the impact of St. Thomas
4 beating the St. Croix locations?

5 A. It's significant, because at the time, the
6 St. Croix location was beating the St. Thomas location --

7 Q. Okay.

8 A. -- in sales.

9 Q. So -- so would it be fair to say -- as I said,
10 I'll call Mr. Yusuf next on this -- but would it be fair to
11 say that '95 through '99 were probably the greatest years
12 possible for a grocery store anywhere ever?

13 MS. PERRELL: Object. Speculation.

14 Q. (Mr. Hartmann) You can answer.

15 A. I'm not too sure if you could say for all over the
16 place, but, I mean, for -- for --

17 Q. Well, --

18 A. It was good years for us.

19 Q. Let me put it to you a different way: Were you
20 guys loading bundles of cash into suitcases and taking it to
21 foreign countries?

22 A. Yes, sir.

23 Q. And what -- and what year did that all started?

24 A. That was late '95 to 2000-2001.

25 Q. And why -- why were these bundles of cash just

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1 rolling in and rolling out during that period?

2 **A.** It's good business.

3 **MR. HARTMANN:** Okay. I have no more
4 questions for him, but I'd like to call Mr. Yusuf now on the
5 same thing.

6 **THE VIDEOGRAPHER:** Okay. This is a
7 continuance of the deposition. The time is 4:17.

8 (Short recess taken.)

9 **FATHI YUSUF**

10 **THE VIDEOGRAPHER:** This is the continuation
11 of the deposition of Fathi Yusuf, and the time is 4:18.

12 **DIRECT EXAMINATION**

13 **BY MR. HARTMANN:**

14 **Q.** Mr. Yusuf, tell me what happened after Hurricane
15 Marilyn with regard to your business.

16 **A.** We have to establish when Hurricane Marilyn occur.
17 What year?

18 **Q.** '95.

19 **A.** '95.

20 **Q.** Um-hum.

21 **A.** We dead broke before that.

22 **Q.** Right.

23 **A.** Because we were building maybe October 28, 1992 in
24 St. Thomas. We open with a grand opening, big advertising.
25 We sell \$292,000 that week. And -- and the second week, we

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1 lost funds about 10-20,000. We kept going down, going down
2 until we reach \$135,000 a week. And for me to break even, I
3 have to do at least 160- to 170,000 in sale just to break
4 even.

5 And when we was doing so bad, I have -- I
6 have a very coward partner. Very coward. He give us all
7 kind of problem. He put pressure on us to -- to split. I
8 charge him, after the pressure, from -- not from him.
9 Pressure to pressure, it don't bother me, but I'm a human
10 being and I have a lot of people that I highly, respect very
11 highly, they put pressure to me just to get him out. And I
12 get him out with a loss of 150,000. Why?

13 From October 28 till sometime in March, I was
14 estimating we have a loss at least of 450,000. Therefore,
15 I'm not going to let him lose without putting his share of
16 the loss at least. And I do not have a cent to pay him.
17 His investment was seven fifty. My offer was 600. And the
18 down -- I think I get a down payment from a relative of his.
19 He just give it to me because he want -- don't want to
20 create a problem to give it to him.

21 And so you can see that we was really losing
22 money until about April or maybe May of '94. '94 sometime
23 on the 10th or sometime in the April, St. Croix store opened
24 up after the fire. So you can see that we open up a store
25 that was losing money. Wally, he's here. I'm sitting in

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1 front of him. And his brother, Willie, came to me more than
2 once shaky. Uncle, uncle, we're going to lose all our
3 money. I said, Don't worry. I'll take care of it. Don't
4 worry. Just give me time to think.

5 So I -- we get -- I keep trying and trying
6 and trying. And finally I turn the store around by copying
7 the concept of Costco. Because Costco has people coming
8 from all over the island to Cost-U -- to Costco. And Costco
9 investment was not even 25 percent of my investment. And he
10 was considered the -- the key person, the supermarket, and I
11 became the convenience store. I said, No way in the world
12 I'm going to stay like that.

13 So, I told Wally, come up to the office.
14 After I tried several ideas. I just copied the concept of
15 Cost-U-Less. I have about 50,000 item, Cost-U-Less have
16 maybe two, three thousand. I say I'm going to copy it, and
17 use his items as leaders.

18 **Q.** And when did it turn around?

19 **A.** The turn around, sometime late in '94.

20 **Q.** Okay.

21 **A.** Okay. It turn around, but we still heavily loaded
22 with debt. I don't know if it's to the bank and also to the
23 suppliers. But the suppliers, first in St. Thomas, I order
24 50 cases, suppliers start to give me 30. They want to sell
25 me, but they don't want to give me what I want because they

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1 could see the business is going forward -- backward. So
2 when I turn the store around, then I show it in my credit
3 rating, because suppliers human being. Like me and you.
4 They could see if I'm losing money. And it's straight
5 people. So you can say we finish 1994 with -- '94
6 definitely loaded with debts. We're not losing money, but
7 it take some time for -- for St. Croix store to regain his
8 own customers, because the supermarket is -- the hardest
9 thing in a supermarket is to get a customer. Because I like
10 you, is my friend, but I don't have time to come and shop in
11 your store. I don't know where you putting the item is.
12 I'm not too familiar with your stores.

13 **Q.** Um-hum.

14 **A.** So I normally stays shopping at the same store I
15 normally go to. It's much easier for me. I could find
16 everything where it is. So actually supermarket takes time
17 for it to build its own customers, okay?

18 **Q.** Okay.

19 **A.** Unless -- just to show you, that absolutely was in
20 solid debts, maybe at least all part of '95.

21 **Q.** Okay.

22 **A.** Then our business start to be really profitable.
23 And then we start, you know, making money, but, you know, if
24 today --

25 **Q.** After '95?

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1 **A.** Hmm?

2 **Q.** After '95?

3 **A.** After '95.

4 **Q.** Okay. When Hurricane Marilyn, it hit on
5 September 15th and 16th of '95.

6 **A.** Okay. September.

7 **Q.** 15th and 16th.

8 **A.** At least until that day, we were in trouble.

9 **Q.** And --

10 **A.** Excuse me. Let me finish.

11 **Q.** Okay.

12 **A.** And it take me two, three months to rebuild my
13 inventory. So I was out of work for two or three weeks.
14 And because I lost my -- my ceiling, my roof, I end up
15 having a total loss in -- right after the hurricane, I get a
16 total loss. And unless -- I didn't suffer until late, late
17 '96, or maybe early '97. So right there in '96, we're
18 absolutely broke and we're absolutely in need of money. And
19 I don't mind no problem for me to put my rent money into the
20 store, 'cause I know my capability of running the store.
21 Wally knows my capability of running the store. This is
22 enough to prove to you that in '96, we was deeply needing
23 money.

24 Remember, my partner, he have loss at one
25 fifty and get out, and get out with no money. Why? That

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1 would tell you right there. We was in danger. I offer my
2 store to Pueblo to buy me out. To the big boss. You know
3 what his answer is after I drink my coffee? He laugh and
4 say, I buy you later. I say, Please, sir, one more thing,
5 one more thing. I want to tell you one more word. He say,
6 What it is? I tell him, I don't think you know how to run
7 business. I promise you as a man, I either put you break
8 even in St. Thomas or put you out of St. Thomas.

9 Q. And in '90 -- '95, after the hurricane, how many
10 stores were reopened? How many grocery stores were opened
11 besides you?

12 A. Well, I have no idea.

13 Q. Was anybody open besides you?

14 A. Yeah.

15 Q. How many?

16 A. Some people. Maybe it's not all. Well, I could
17 tell you, Cost-U-Less was not out. None of us was out. It
18 was out maybe few weeks. Not destroyed like what we seen
19 Cost-U-Less this -- the past hurricane. The last two years
20 for him to come back. No, everybody went back with less
21 than a month.

22 Q. So -- so you think that in '96, you were
23 rebuilding? You didn't have a roof then?

24 A. I lost my roof.

25 Q. But -- but how soon after you lost your roof were

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1 you guys back solid?

2 **A.** No, no, I have to do construction for maybe a
3 month, or 2 months, or 3 months.

4 **Q.** Okay.

5 **A.** First of all, the first month, forget it. Just
6 like a chicken on the road. Nowhere to go. No food, no
7 water, no this, no that. Nothing. Looking for construction
8 to fix your building. Look for an adjustor. It was not
9 that simple.

10 Finally, we find an adjustor. We enter into
11 a contract. We let the adjustor -- adjustor hold the --
12 handle the claim, because I'm not an insurance man and I'm
13 not a adjustor. I don't know how to talk. I know how to
14 run a supermarket. And then I go.

15 But now, it take you 3-4 months after the
16 hurricane if you try to get a trailer, because I was clean.
17 It takes me time to clean my store. Take me time to
18 rebuild. Put everything back towing. The roof takes time,
19 about 3 months, because I give my money to the guy and he
20 went to Switzerland and have an operation. I can't restock
21 myself.

22 First of all, I have no money to restock
23 myself. Insurance haven't paid me yet. And I don't
24 think -- I think it's first quarter of '96. '97. Sorry to
25 say it's '96. '97. Maybe the first quarter we open up, but

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1 we're not the only one. We open up along with all the
2 others.

3 **Q.** And how about the -- how about your tenants in
4 that same period, '95, when Marilyn hit?

5 **A.** My tenant -- my concrete building is concrete
6 there. Nobody lost. That's -- that is the -- whenever
7 hurricane come, I'm the most manmade money because all my
8 tenant, when everybody's open, there's -- there's not enough
9 business on either island for existing stores. When a
10 hurricane come, some of the store will be interrupted. Some
11 will be wiped out. Some will come back. Some will never
12 come back. But my tenant, the best days is when a hurricane
13 occur, 'cause I will not lose a tenant. My concrete is
14 building. My building is concrete. While on roof and
15 everything.

16 **Q.** So the best days for your tenants was when the
17 hurricane hit.

18 **A.** The what?

19 **Q.** Okay.

20 **A.** Yeah, because the simple reason, right now --
21 right now, I don't have a hurricane insurance. I don't need
22 it.

23 **Q.** Um-hum.

24 **A.** Hurricane -- earthquake might take my building
25 out, but not the hurricane. I have concrete. Eight-inch

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1 roof. My --

2 **Q.** So your recollection is -- let me just check.

3 Your recollection is after Marilyn, that -- that you were --

4 you were open how soon after the hurricane did you start?

5 **A.** Maybe 3 or 4 months. No, no, no. Maybe 6 month.

6 **Q.** You think you were closed for 6 months?

7 **A.** Yeah, maybe -- yeah, closed. Not really closed.

8 It's fix. Preparing myself.

9 **Q.** But were you selling to the public? Were you
10 selling groceries?

11 **A.** The public, at least 6 months.

12 **Q.** You didn't sell any groceries for 6 months?

13 **A.** No, I couldn't, because I had no roof. Even if I
14 have money, I can't put my merchandise underneath the roof.
15 There's no roof. And you can see, I pay my deposit to the
16 man. Big, heavy deposit.

17 **Q.** Um-hum.

18 **A.** And he says I have to place an order. And when he
19 place an order, all of a sudden, the man went to Switzerland
20 and he have an emergency operation.

21 **Q.** And your recollection is that all your competitors
22 were up and functioning immediately?

23 **A.** I think so, yes.

24 **Q.** Okay.

25 **A.** I think so.

FATHI YUSUF -- CROSS

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

2 **A.** I think so.

3 **CROSS-EXAMINATION**

4 **BY MS. PERRELL:**

5 **Q.** I just want to clarify, Mr. Yusuf.

6 **A.** Yes.

7 **Q.** You're saying that the roof damage after Hurricane
8 Marilyn was as to the St. Thomas store; is that right?

9 **A.** Right.

10 **Q.** Okay. Was there any damage to the Plaza Extra
11 East store during Hurricane Marilyn?

12 **A.** No.

13 **Q.** Okay.

14 **A.** No.

15 **Q.** All right.

16 **A.** I -- I don't recall, no.

17 **Q.** Okay. Was there a period of time when the Plaza
18 Extra East store, right after Hurricane Marilyn, had --
19 didn't close operations?

20 **A.** No.

21 **Q.** Was it operating always?

22 **A.** It's always operating, yes.

23 **Q.** Okay. But Plaza Extra St. Thomas was not?

24 **A.** It was -- the roof was destroyed, really.

25 **Q.** Okay. And what kind of roof was the Plaza Extra

FATHI YUSUF -- CROSS

1 Tutu Park roof?

2 **A.** Tarpaulin.

3 **Q.** I'm sorry?

4 **A.** Tarpaulin. What you call it? Tarpaulin.

5 **Q.** No, what was -- what was the --

6 **A.** Cloth. Cloth. Like --

7 **Q.** What was the material? Was it the metal?

8 **A.** No, no metal.

9 **Q.** Okay.

10 **A.** It was rafters, what they call joist or beams.

11 Above the beams, very, very light galvanize. Above the
12 galvanize, it's -- I don't know. Hypalon. No, not Hypalon.

13 It's -- it's something that rolling. Just like a tent.

14 **Q.** Okay.

15 **A.** Quality is tent. And I even have an argument with
16 the landlord because I didn't consult with him. I said,
17 Look, you were not there. It's up to -- okay.

18 **Q.** All right.

19 **A.** Now, this hurricane now, there was complaining
20 about the hurricane. I did not rebuild the same way he give
21 me. The next hurricane, the hurricane did not touch the
22 roof.

23 **Q.** Okay.

24 **A.** It destroyed Kmart, but it did not destroy the one
25 I rebuild.

FATHI YUSUF -- CROSS

1 **Q.** All right. Was it common to transfer funds
2 between the St. Thomas store -- let's just talk about the
3 grocery stores. Was it common to transfer monies from the
4 grocery store operations in St. Thomas, along with the
5 grocery store operations in St. Croix, to cover for
6 monies --

7 **A.** Yeah, well, many often, I ask for money from
8 Wally.

9 **Q.** Okay.

10 **A.** And he -- he deposited it in my account, 400, 500,
11 600.

12 **MS. PERRELL:** Okay. All right. No more
13 questions.

14 **A.** I would like to speak one more word. My son is
15 maybe overlook it.

16 Sometimes somebody will do a service for the
17 store and the tenant will pay a check to cover that service.

18 **Q.** Okay.

19 **A.** The store really, it was the plumber work, and the
20 store does not need \$900. But if the store owes you 900
21 and -- and he tell you, you know, you tell me, write him a
22 check. I write him a check and I write it to Plaza.

23 **Q.** Okay.

24 **A.** That's it.

25 **MS. PERRELL:** All right.

FATHI YUSUF -- REDIRECT**REDIRECT EXAMINATION**1
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25**BY MR. HARTMANN:****Q.** I have two more quick questions.

Sir, if you look at this. I'm showing the witness Exhibit 9, third page in.

A. Yes.**Q.** Okay. Do you see the two amounts on that list for 15 --**A.** What?**Q.** On the list, there's one for 15,000 and one for 30,000. Do you see this?**A.** Yes.**Q.** Okay. Do you know what those were for?**A.** I don't know. I was not here.**Q.** You weren't there?**A.** I was in St. Thomas.**Q.** '96?**A.** From the time -- sir, from the time St. Thomas opened.**Q.** I forgot.**A.** Wally kick me out and say, go to St. Thomas. And I were respecting that.**Q.** Okay.**A.** I was not troublemaker. But now I know Wally more than himself.

MAHER "MIKE" YUSUF -- DIRECT

1 **Q.** Okay.

2 **A.** Okay.

3 **MR. HARTMANN:** I can take this. Thank you
4 very much. I have no more questions.

5 **MS. PERRELL:** I have no more questions,
6 either. Thank you. Appreciate it.

7 **MR. HARTMANN:** Now you can sit back over
8 there again.

9 **MS. PERRELL:** We're done for the day, aren't
10 we?

11 **MR. HARTMANN:** No.

12 **THE VIDEOGRAPHER:** Wait. This is the
13 continuance of the deposition. The time is 4:38.

14 (Short recess taken.)

15 **MAHER "MIKE" YUSUF**

16 **THE VIDEOGRAPHER:** This is the continuation
17 of the deposition of Maher Yusuf. The time is 4:41.

18 **DIRECT EXAMINATION**

19 **BY MS. PERRELL:**

20 **Q.** All right. Mike, let me ask you, there's another
21 claim that is being made by United relating to certain
22 ledger balances that United is contending needed to be
23 reimbursed by the partnership. Reimbursed to United.

24 Are you familiar with that claim that United
25 is making?

MAHER "MIKE" YUSUF -- DIRECT

1 **A.** Yes, that's my handwriting.

2 (Deposition Exhibit No. 11 was
3 marked for identification.)

4 **Q.** Okay. So what I've handed you has been marked as
5 Exhibit 11. Can you identify it?

6 **A.** Yes.

7 **Q.** What is it?

8 **A.** It's a -- what I paid from United. What tenant
9 account for Plaza. I used to write it down on this ledger.

10 **Q.** Okay.

11 **A.** And I used to keep -- it was in a black book that
12 I used to keep in the safe.

13 **Q.** Okay. All right. And this particular sheet is --
14 the Bates Number on it is FY 14955.

15 Is that your handwriting?

16 **A.** No, no.

17 **Q.** No, no, no, not the 14955. That's just the number
18 of thing.

19 Is the handwritten portions of it, --

20 **A.** Oh, yes, yes.

21 **Q.** -- this document?

22 **A.** Yes, it's my handwriting. I said that earlier.

23 **Q.** Okay. That's what I was asking.

24 Okay. So -- and why did you keep this list
25 or this ledger?

MAHER "MIKE" YUSUF -- DIRECT

1 **A.** Because Plaza owes this back to United.

2 **Q.** Okay.

3 **A.** I kept it. I used to -- I kept it in the safe
4 because it's things that I did, you know, I was told to do
5 certain things and I -- I wrote the check and took it to
6 wherever and I used to keep a ledger --

7 **Q.** Okay.

8 **A.** -- of what I paid out of the tenant account.

9 **Q.** Okay. And at the top, can you read -- I know the
10 copy of it is not that great.

11 **A.** Yeah.

12 **Q.** Can you read basically what you understood it to
13 say?

14 **A.** What I understand, this is Plaza paid out for -- I
15 mean, United paid out for Plaza.

16 **Q.** Okay.

17 **A.** When I say, "United," I mean tenant account.

18 **Q.** Okay. And when you say Plaza, you mean the
19 partnership?

20 **A.** The supermarket.

21 **Q.** Okay. And at the time -- at the time when you
22 would say "Plaza, you meant the partnership, correct?"

23 **A.** Yeah.

24 **Q.** Okay. All right. So let me go down these various
25 items.

MAHER "MIKE" YUSUF -- DIRECT

1 The first one is on May 23rd, 1994. It says,
2 Steve -- well, let me ask you this: Can you read the first
3 item and just state what it is and if you recall what it was
4 for?

5 **A.** Yeah. I -- I looked -- I looked at this paper
6 earlier and a lot of stuff came back to me. Steve Nesky was
7 a guy that used to do the chlorination for us and I used to
8 pay him out of the tenant account for the tenant and the
9 supermarket. So I -- I used to break it out and charge, you
10 know, Plaza their portion out of it.

11 **Q.** Okay. So is the 400 the portion that should be
12 paid by the Plaza? And I'm going to say Plaza, the --

13 **A.** The stores. The store.

14 **Q.** The operation?

15 **A.** Right.

16 **Q.** Okay. All right. And can you please read the
17 next one?

18 **A.** That's Prudential. I think that was like
19 Prudential Securities. We used to have, or we had stocks
20 between the -- both families.

21 **Q.** Um-hum.

22 **A.** And I think if they had margin calls or something
23 that they needed to put money, I guess, I -- I used to do it
24 and take down the check.

25 **Q.** Okay.

MAHER "MIKE" YUSUF -- DIRECT

1 **A.** Something pertaining to stocks or bonds or
2 whatever that they were involved in.

3 **Q.** Okay.

4 **A.** You know.

5 **Q.** And the amount was how much?

6 **A.** 30,000.

7 **Q.** Okay. And it's your understanding that normally
8 that might have come out of the operating account, but
9 instead, for whatever reason, you paid it out of the tenant
10 account, but it should have been for both families, correct?

11 **A.** Yeah, I don't know what the reason that I took it
12 out of the tenant account. This is in '94. I'm not sure if
13 I could not -- at the time, I couldn't sign on the operating
14 account for Plaza or not. I wasn't sure.

15 **Q.** Okay.

16 **A.** Or Plaza didn't have the money, you know, at that
17 time, so it was quicker to do it this way.

18 **Q.** Okay.

19 **A.** I wasn't -- not certain of the details why it came
20 out.

21 **Q.** Okay. All right. The next one is, if you could
22 read the third one down.

23 **A.** If I'm not mistaken, this is Core State Properties
24 in St. Thomas.

25 **Q.** Um-hum. What was the amount?

MAHER "MIKE" YUSUF -- DIRECT

1 **A.** \$40,010. So looking at this with the \$10, it
2 looks like I transferred money to Core State for something
3 to do with Plaza.

4 **Q.** Okay. And do you know -- this year was what year?

5 **A.** It's the same. If you go down -- how I usually
6 used to write stuff down. I would start -- I put the first
7 5-23-94 and I'll just keep going just the day. I mean, the
8 month and day. And then if it changes to another year, I
9 would start. If you notice, it says 2-17-95, and then all
10 that is 2-17 -- I mean, year '95.

11 **Q.** Okay. So this was in 9-23, would be 1994?

12 **A.** '94, correct.

13 **Q.** Okay. And it's your belief that because it was
14 40,000, because there was a \$10 on it, that it must have
15 been some kind of a transfer?

16 **A.** Yeah, and it says in St. Thomas. Something.
17 Something Core -- I don't know if it's Core State
18 Properties, but it says in St. Thomas. So it's something.
19 Had to be a transfer, something like that.

20 **Q.** All right. Can you read the fourth one down?

21 **A.** Refrigerator times two. I think that's -- it
22 should be 500. It's a thousand.

23 **Q.** Um-hum.

24 **A.** I'm not -- I'm not sure if both families agreed to
25 give it, our refrigerator to whoever. Or the families took

MAHER "MIKE" YUSUF -- DIRECT

1 one here and one there. But we had a tenant -- we have a
2 tenant that's Best Furniture, which is Ashley. And if the
3 families or somebody wanted to -- I think in this instant, I
4 don't know if it was -- went to the two families, one for
5 each here, one for each there. And it came out of our
6 tenant, so I deducted it from our tenant's rent. So Plaza
7 owes the tenant -- not the tenant, but the tenant account
8 back that money, 'cause I deducted it from the rents for --
9 it was Best Furniture at that time.

10 **Q.** So Best Furniture paid less in rent --

11 **A.** For that, yeah.

12 **Q.** -- for that? And then it should have been paid
13 for by the partnership, so the partnership would owe United
14 the money back?

15 **A.** Correct.

16 **Q.** Okay. The next one, can you read that? Starts --
17 says bed, but I'll let you read it.

18 **A.** Oh, bed and bench. I'm not sure if that's what it
19 is, bed and bench, 350. Same thing. I don't know.

20 **Q.** And then the next one is? What is the next one?

21 **A.** I think that's property -- property for United.

22 **Q.** Um-hum. And then there's --

23 **A.** And it says something '90. 1993.

24 **Q.** Um-hum.

25 **A.** So I'm not sure. It's not clear.

MAHER "MIKE" YUSUF -- DIRECT

1 Q. Okay.

2 A. So I'm not -- I can't pinpoint what this is for.

3 Q. And the 20,000, --

4 A. Yeah.

5 Q. -- do you recall what that is for?

6 A. No.

7 Q. All right. And then the next one, 5-5?

8 A. That's Peter's Farm investment.

9 Q. Um-hum.

10 A. Corp.

11 Q. Um-hum.

12 A. 60,000. Well, Peter's Farm is owned by the --
13 both families.

14 Q. Um-hum.

15 A. So this came out of the tenant account to, I
16 guess, to Peter's Farm Investment Corp.

17 Q. Okay. And that's something that should have been
18 a joint payment, is that what you --

19 A. Right. It should come out of the store, but I
20 guess for some reason, I don't know who, told me to pay it
21 out of the tenant account.

22 Q. Okay. And the next one is 8-31?

23 A. It's another property. Oh, this is property tax
24 for United.

25 Q. Um-hum.

MAHER "MIKE" YUSUF -- DIRECT

1 **A.** '94. 40,000. I'm not sure. It's not clear.

2 **Q.** All right. And then the last one says something
3 5, a date.

4 **A.** Oh, five something '98.

5 **Q.** What is that?

6 **A.** Bedroom.

7 **Q.** What does it mean?

8 **A.** Bedroom set. If I'm not mistaken, that's a cousin
9 of ours. Both families.

10 **Q.** What is his name?

11 **A.** Allaah.

12 **Q.** Um-hum.

13 **A.** He's my -- he's my first cousin and their first
14 cousin. I guess he got married that year.

15 **Q.** Um-hum.

16 **A.** And I did ask somebody yesterday if he did, and
17 they said yes. So that was a gift from the -- both families
18 to him.

19 **Q.** Like a wedding gift?

20 **A.** Right.

21 **Q.** Okay.

22 **A.** And that came out of the same issue like the
23 refrigerator.

24 **Q.** Um-hum.

25 **A.** Best Furniture. We got it from Best Furniture for

MAHER "MIKE" YUSUF -- DIRECT

1 him, and I deducted it from the rent for Best Furniture.

2 Q. Okay. So it would have been a gift from both
3 families?

4 A. Correct.

5 Q. All right. Other than this ledger with these
6 however many, 3, 4, 5, 6, 7, 8, 9, other than these 9.

7 A. Um-hum.

8 Q. And not talking about the transfer issues that we
9 dealt with earlier, these are the only amounts that you
10 recall came out of the tenant account that somehow should
11 have been reimbursed by the partnership, or you're
12 contending that, correct?

13 A. Correct, this -- yes. And I know there's more.

14 Q. Okay.

15 A. Because I had a black book, and it's the same page
16 just like this. And I know there's more, but it's just to
17 put my hands on it.

18 Q. This is the only one that you have?

19 A. It's the only one I have, yes.

20 Q. Okay. All right. All right. Do you recall
21 whether you had conversations with Wally or any -- well, let
22 me just ask you, any of the Hameds related to this, or do
23 you recall?

24 A. I -- I took his instructions from Wally. In -- in
25 '94, I, you know, my dad wasn't there. Most of my

MAHER "MIKE" YUSUF -- CROSS

1 instructions were from Wally.

2 **MS. PERRELL:** Okay. All right. Okay. I
3 have no further questions on this.

4 **CROSS-EXAMINATION**

5 **BY MR. HARTMANN:**

6 **Q.** Okay. So I have a couple.

7 First of all, two of these things say that
8 they're property tax for the United, right? The one on
9 2-17-95 and the one on 8-30-96. One says it's the property
10 tax for United for 1993, and I think the other one says it's
11 the property tax for United for 1996, right?

12 **A.** No.

13 **Q.** No?

14 **A.** '96.

15 **Q.** 20,000 --

16 **A.** The 20,000 -- if I'm not mistaken, it seems like
17 it says property tax for United. And the --

18 **Q.** The one, two down from that.

19 **A.** And the other one --

20 **Q.** Says property tax for United 1990 -- one says '93,
21 one says '96.

22 **A.** '94.

23 **Q.** Or '94.

24 **A.** '94.

25 **Q.** Okay. I'm sorry, I'm old.

MAHER "MIKE" YUSUF -- CROSS

1 Okay. So United was paying its property tax
2 for -- \$60,000 of your claim is United paying its own
3 property tax? I'm just trying to understand what the claims
4 are.

5 **A.** Excuse me?

6 **Q.** This says it was property tax for United, right?

7 **A.** United paid out for Plaza. That's what it says on
8 top.

9 **Q.** No, I understand.

10 **A.** Oh, here, property tax for United.

11 **Q.** Property tax for United?

12 **A.** Yes, yes.

13 **Q.** Okay. So what did United pay property tax on?

14 In other words, what -- what land was -- did
15 United own that it was paying property tax for?

16 **A.** The Sion Farm location.

17 **Q.** The Sion Farm. The shopping plaza?

18 **A.** Yeah.

19 **Q.** Okay. And the -- the Prudential Bache one, the
20 second one down there, you said that was an investment, you
21 think?

22 **A.** I know we had investment -- at that time, I think
23 it was called -- I think it was Merrill Lynch, but I don't
24 know. I don't know.

25 **Q.** Okay.

MAHER "MIKE" YUSUF -- CROSS

1 **A.** I had nothing to do with it. I was just following
2 instructions.

3 **Q.** Okay. And when you were following instructions,
4 did someone tell you that -- for instance, let's take the
5 Prudential Bache. Did someone say, Go ahead. Write a check
6 out of the tenant account for Prudential Bache for \$30,000,
7 but that's for United? I mean, that's for -- that's for the
8 partnership?

9 **A.** That's for the families.

10 **Q.** Okay.

11 **A.** Partnership.

12 **Q.** And that was Wally telling you, you think?

13 **A.** I -- if anything, it came from Wally.

14 **Q.** Uh-huh.

15 **A.** To take care of something like this. I don't
16 think it would be my dad, because Wally was the one who --

17 **Q.** Okay.

18 **A.** -- who was here on the island.

19 **Q.** So if this came out of the United -- if these were
20 checks out of the United tenant account, somewhere there's a
21 sheet just like the one we were looking for -- at before
22 which shows, for instance, a check number and an account
23 number, and then the check amount, right?

24 **A.** Correct.

25 **Q.** Okay. And -- and do you have that, or does your

MAHER "MIKE" YUSUF -- CROSS

1 counsel have that?

2 **A.** No, I -- I didn't keep it. When I -- when I did
3 this here, I didn't keep that that way. I just whatever --

4 **Q.** I see.

5 **A.** -- I paid out. I kept a black book. Not just
6 this, but other, you know, other stuff --

7 **Q.** Okay.

8 **A.** -- that pertains between the two families.

9 **Q.** Okay. And -- and you see over on the right side
10 here, there are a bunch of -- of tab stickers? They look
11 like things that were copied when this page was copied?

12 **A.** Right.

13 **Q.** Do you -- do you know what was underneath this
14 page?

15 **A.** No. That's what I'm telling you. That's the
16 black book. I don't know where it is.

17 **Q.** Do you know when this copy was made?

18 **A.** When it was made?

19 **Q.** Yeah.

20 **A.** Not sure, no.

21 **Q.** Okay. Well, I'm curious, because in your earlier
22 testimony when you were testifying about the --

23 **MS. JAPINGA:** Transfers?

24 **Q.** **(Mr. Hartmann)** The transfers, yes, I said, Well,
25 this -- you could have written this yesterday, right? And

MAHER "MIKE" YUSUF -- CROSS

1 you said, No, no, no, that's like calling me a liar. And
2 you said you can see that's not the case, because down here,
3 because this was in the business, there's this Bates Stamp
4 from the FBI. Because all -- you said all of the documents
5 that were seized from the business had that FBI Bates Stamp
6 on it. All of them.

7 So I'm kind of wondering, where's the Bates
8 Stamp, if this was a business -- at the business?

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

10 **Q.** You said it was in a safe at the business, right?

11 **A.** Yes.

12 **Q.** Okay. What safe was that?

13 **A.** Plaza East.

14 **Q.** Plaza East?

15 **A.** Plaza East.

16 **Q.** Okay. And was it the big safe or the little safe?

17 **A.** The big safe.

18 **Q.** And -- and who had access to the big safe?

19 **A.** Mafi.

20 **Q.** Mafi and you?

21 **A.** Me until a period until I left.

22 **Q.** Okay. And when the FBI raided the place, they
23 emptied the safes, right?

24 **A.** Not really. Not really.

25 **Q.** They left the --

MAHER "MIKE" YUSUF -- CROSS

1 **A.** They left some stuff in there, yes.

2 **Q.** They did?

3 **A.** Yes, they did.

4 **Q.** So -- so -- so not all the documents -- I'm really
5 shocked.

6 **A.** I'm surprised you're shocked.

7 **Q.** So all the documents from the store don't have
8 Bates Stamps, is what you're saying? Some of the FBI didn't
9 get some of the documents?

10 **A.** I don't believe so. I think some stuff was still
11 in -- in the safe.

12 **Q.** Okay. So you keep -- you said to your own lawyer
13 a couple times that you -- this came from your black book?

14 **A.** Yeah.

15 **Q.** But you can't find your black book?

16 **A.** No.

17 **Q.** Okay. Where do you think this photocopy from your
18 black book came from?

19 **A.** I don't know. I don't know. But I didn't -- I
20 never had tabs in the book when I had -- when I had it.

21 **Q.** Yeah, that looks more like the FBI's work, doesn't
22 it?

23 **A.** It looks like it, yeah. So I don't know if was
24 cut off. I mean, it's not this short. It's a small, you
25 know, one of those small black book, not a full-size --

MAHER "MIKE" YUSUF -- CROSS

1 Q. Okay.

2 A. -- black book.

3 Q. Okay. So -- so in this black book, there were
4 other pages, right? Obviously, or it wouldn't be a book,
5 but in -- do you know what was on the other pages?

6 A. Yeah. I tell you, it has other stuff that --
7 that's --

8 Q. Back and forth?

9 A. Back and forth, yes.

10 Q. Okay.

11 A. There's other stuff. And there's -- I used to
12 keep record of anything that I did if I need to refer back
13 to it. And if it was not just this, it was even -- our
14 records that I used to keep. This was not, you know, we
15 talked about a black book that the partnership had, well,
16 this was something I used to keep for -- so I don't forget.

17 Q. Okay.

18 A. I can go back to.

19 Q. So -- so there could have been like the next page
20 of this thing. I don't have it, but obviously somebody did,
21 because they put all these tabs on it. So let's say I
22 flipped up this tab and read the heading at the next page,
23 could the next page say -- this one says -- what does it say
24 at the top? Can you just read that out for me where it says
25 A?

MAHER "MIKE" YUSUF -- REDIRECT

1 **A.** I think that says United paid out for Plaza.

2 **Q.** For Plaza. Okay.

3 So if I flipped it over, could the next page
4 have said, Plaza paid out for United?

5 **A.** Possibly.

6 **MR. HARTMANN:** Okay. I have no further
7 questions.

8 **REDIRECT EXAMINATION**

9 **BY MS. PERRELL:**

10 **Q.** Mike, are you aware as to whether or not there's
11 any documents that the FBI seized that they did not put
12 Bates Stamps on?

13 **A.** Yeah. Yes.

14 **Q.** Okay. So there are documents that the FBI seized
15 that didn't get a Bates Stamp?

16 **A.** They didn't get a Bates Stamp, yes.

17 **Q.** And your testimony today was that there was some
18 documents that the FBI could have seized, but they chose not
19 to seize?

20 **A.** Right. And they left. They left behind. I mean,
21 there were things on my desk. They didn't seize everything.
22 Still paperwork was still there.

23 **MR. HARTMANN:** No, I was just stunned when
24 you said that they left stuff in the safes. I mean, you
25 don't think about that with the FBI.

MAHER "MIKE" YUSUF -- REDIRECT

1 **MS. PERRELL:** Okay.

2 **MR. HARTMANN:** All right.

3 **Q. (Ms. Perrell)** All right. But this is the only
4 copy that you have?

5 **A.** This the only copy.

6 **Q.** That you have? You don't have any others of
7 this -- of this book or anything else in this?

8 **A.** I got -- you know, I'm the -- the book is
9 someplace. It's got to be someplace.

10 **Q.** Okay. But this document, is it possible that the
11 FBI took this document and then just didn't put a Bates
12 number on it?

13 **A.** No, I believe -- I believe they did, but I'm
14 not -- I'm not -- not a 100-percent sure.

15 **Q.** All right.

16 **A.** But I -- I -- there's more in that book.

17 **Q.** Okay.

18 **A.** You know.

19 **Q.** All right. But as far as making the claims, this
20 is the only amount that you're making?

21 **A.** That's the only amount in this -- from this page,
22 yes, 'cause I remember this. I did this.

23 **MS. PERRELL:** Yeah. Okay. I have no further
24 questions. I think we're done.

25 **MR. HARTMANN:** Okay.

FATHI YUSUF - DIRECT

1 **THE VIDEOGRAPHER:** Okay. This is the
2 continuance of the deposition.

3 **MS. PERRELL:** Oh, did you want to speak on
4 this?

5 **MR. FATHI YUSUF:** Yeah, you ask.

6 **MS. PERRELL:** Yeah, okay.

7 **THE VIDEOGRAPHER:** This is the continuance of
8 the deposition. The time is 5:02.

9 (Short recess taken.)

10 **FATHI YUSUF**

11 **THE VIDEOGRAPHER:** This is the continuation
12 of the deposition of Fathi Yusuf, and the time is 5:04.

13 **DIRECT EXAMINATION**

14 **BY MS. PERRELL:**

15 **Q.** All right. Mr. Yusuf, I just wanted to ask you a
16 couple of questions. You were present for the testimony of
17 Mike Yusuf a minute ago, --

18 **A.** Yes.

19 **Q.** -- right?

20 **A.** Yes.

21 **Q.** Are there any of these items that you have any
22 information relating to these particular entries and why
23 those amounts were paid by United and why United is seeking
24 them back from the partnership?

25 **A.** Okay. You see whatever here, Peter's Farm or

FATHI YUSUF - DIRECT

1 whatever is 50/50 partners. 50/50 partner in the -- in the
2 profit of Plaza Extra and 50/50 interest in any company. We
3 have four, five companies.

4 I heard you asking my question -- somebody
5 asking my question about the taxes. This taxes refer to
6 investment tax. See, wherever the government is, they have
7 two kind of taxes: They have the bare land, unfinished
8 property. Very, very minimum. And after that, they come
9 and appraise your investment. They come up with number and
10 that what the taxes is. That's what you call it improvement
11 tax. So the supermarket really is over acre and a half.
12 Just an example. Acre and half with nothing on it in Sion
13 Farm, maybe about \$250. But when it's a building and it's
14 solid concrete and sidewalk, that jump to \$40-50,000
15 improvement tax. And I believe these taxes are for
16 improvement tax.

17 **Q.** Okay. And so United paid these. And in 19 --
18 for, it looks like, the periods 1993 and 1994; is that
19 right?

20 **A.** Please understand, I did not make any payment.
21 The instruction for my son, Listen to Wally. Whatever Wally
22 tell you, he's our partner. He's representing his father.
23 Make sure the man make him feel good.

24 **Q.** Okay.

25 **A.** It's not --

FATHI YUSUF - DIRECT

1 **Q.** Okay.

2 **A.** -- my son, anything else.

3 **Q.** All right.

4 **A.** And he was taking my instruction to listen to
5 Wally and their cousins, and we believe in Wally and father
6 and mother. And unfortunately, everybody do the best he can
7 to hurt us.

8 **Q.** Okay. But Mr. Yusuf, let me ask you this: So
9 this is for the United -- I'm asking, do you know whether
10 this property taxes is for the United property taxes at Sion
11 Farm?

12 **A.** No. It could be the improvements of the
13 supermarket.

14 **Q.** Okay. And why is that amount an amount that
15 should be paid by the partnership?

16 **A.** Well, what you mean? If they have no money, we
17 explain already.

18 **Q.** No, but --

19 **A.** Supermarket was dry with cash.

20 **Q.** Was the supermarket operations supposed to be
21 paying that, those amounts?

22 **A.** Yes.

23 **Q.** Okay. So that was supposed to be paid --

24 **A.** But if they don't have no money, he could tell
25 you -- my son, Go ahead and pay it.

FATHI YUSUF - DIRECT

1 **Q.** Okay.

2 **A.** And my son being told to listen to Mr. Wally.

3 **Q.** Okay. All right.

4 **A.** Everybody make mistake, and I did make a mistake.

5 Now I know Wally very good.

6 **Q.** Okay. Do you --

7 **A.** Now if he cheat me with \$5, I'll give him 50,000
8 for that.

9 **Q.** Okay. Let me ask you about the third one. It
10 says Core States Property in St. Thomas.

11 Do you know what that was about?

12 **A.** The what?

13 **Q.** It says Core States?

14 **A.** Core State is a bank.

15 **Q.** It's a bank?

16 **A.** Yeah, Core State Bank, I believe is V.I. bank used
17 to be.

18 **Q.** Okay. So do you have any recollection as to why
19 there would be a \$45,000 payment, basically?

20 **A.** I have no idea.

21 **Q.** Okay.

22 **A.** They must have -- maybe it's a stock.

23 **Q.** Okay.

24 **A.** And it's being paid. I don't know. I was not in
25 St. Croix.

FATHI YUSUF - DIRECT

1 **Q.** Okay.

2 **A.** All I know is my son was acting, not as in he's
3 the president of the company.

4 **Q.** Right.

5 **A.** But if I tell him, be an employee to Wally, he
6 listen to me.

7 **Q.** Okay. All right.

8 **A.** And that may be a mistake I made. It's okay.
9 I'll correct it later.

10 **Q.** Okay.

11 **MR. HARTMANN:** Can I ask one question for my
12 own curiosity?

13 **MS. PERRELL:** Sure.

14 **Q.** **(Mr. Hartmann)** What kind of business did you guys
15 do at Prudential Bache?

16 **A.** Stock. Stock. Prudential known as stock.

17 **Q.** So that was a stock trading account?

18 **A.** Yeah, yeah.

19 **MR. HARTMANN:** Okay. I have no further
20 questions.

21 **MS. PERRELL:** Me, neither. Thank you.

22 **A.** You're very welcome.

23 **MS. PERRELL:** Thank you, everybody.

24 **MR. HARTMANN:** Continuation.

25 **THE VIDEOGRAPHER:** This is the continuation

FATHI YUSUF - DIRECT

1 of the deposition. The time is 5:09.

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(Whereupon the depositions adjourned

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at 5:09 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 witnesses, **FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, and JOHN GAFFNEY**, were first duly sworn to testify the truth; that said witnesses did thereupon testify as is set forth; that the answers of said witnesses 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 22nd day of February, 2020, at Christiansted, St. Croix, U.S. Virgin Islands.

My Commission Expires:
June 28, 2023

Susan C. Nissman, RPR-RMR
NP 234-19

**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.)

**DEPOSITIONS TAKEN
JANUARY 22, 2020**

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.)

FATHI YUSUF, Plaintiff,)

vs.)

Consolidated with
Case No. ST-17-CV-384

MOHAMMAD A. HAMD TRUST, et al.,)
Defendants.)

KAC357 Inc., Plaintiff,)

vs.)

Consolidated with
Case No. ST-18-CV-219

HAMED/YUSUF PARTNERSHIP,)

Defendant.)

**THE VIDEOTAPED ORAL DEPOSITIONS OF
FATHI YUSUF, WALEED "WALLY" HAMED, MAHER "MIKE" YUSUF,
MAFEED "MAFI" HAMED, AND YUSUF YUSUF**

was taken on the 22nd day of January, 2020, at the Law
Offices of DNF, 1131 King Street, Suite 204, Christiansted,
St. Croix, U.S. Virgin Islands, between the hours of
10:15 a.m. and 3:57 p.m., pursuant to Notice and Federal
Rules of Civil Procedure.

Reported by:

Susan C. Nissman RPR-RMR
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Also Present: Michael Gelardi, Videographer
Hisham "Shawn" Hamed

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COLLOQUY

1 **THE VIDEOGRAPHER:** In the matter of Waleed
2 Hamed versus Fathi Yusuf and the 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 am the
6 videographer for today's proceedings. Our court reporter is
7 Susan Nissman. Today's date is January 22nd, 2020. The
8 deponent is Fathi Yusuf. The time is 10:15.

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

12 **MS. PERRELL:** Charlotte Perrell, on behalf of
13 United Corporation and Fathi Yusuf.

14 **MR. HARTMANN:** Carl Hartmann, for the Hameds.
15 And Joel Holt will be joining us during the proceeding.
16 He's out of the room for a moment, but I don't want to stop
17 the tape when he comes in and makes his appearance, so I'll
18 mention that he's appearing.

19 **THE VIDEOGRAPHER:** Okay. Please swear in the
20 witness.

21

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23

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25

FATHI YUSUF -- DIRECT

FATHI YUSUF,

called as a witness, having been first duly sworn,
testified on his oath as follows:

DIRECT EXAMINATION

BY MS. PERRELL:

Q. All right. Good morning, Mr. Yusuf.

A. Good morning.

Q. All right. Today, we want to ask you some questions about the United's claim for water revenue from April of 2004 through, in essence, the present or the time when the -- the -- the parties split, okay?

So was there an arrangement that you had with Mr. Mohammad Hamed relating to the water revenues at the United Shopping Center?

A. Yes, there is arrangement.

Q. Can you explain what that was?

A. Well, during construction, the final construction, I was bidding for the -- for the water supply. I know that I have a lot of well on the property. I think a total of five wells. I say, Let me ask Mr. Mohammad if he will agree to spend \$4- to \$5,000, maximum -- maximum will be seven. And we should start sell water. And just because we are committed with each for the common 10 years, it is my duty to get his approval. And I say the result, the -- the -- the money that comes in from the water, I don't need it, and

FATHI YUSUF -- DIRECT

1 I'm sure you don't need it, but this is a good way of
2 accumulating some free money to send to your -- to your poor
3 people in your family and my -- some -- every family have
4 some wealthy, medium, and poor. And we give these monies
5 for these guys. And he said, that's a good idea.

6 So we have a big cistern anyhow. The nature
7 of our construction, we are force to put a big huge cistern.
8 The simple reason why, because the property is way below the
9 street level. And if you want to enter into the driveway,
10 it will be almost impossible for trucks with trailer loaded
11 to come down that sharp level down. I say, Let me build a
12 cistern in there.

13 So behind the supermarket -- all of you know
14 is Plaza Extra East supermarket. Behind it is cistern. It
15 serve two purposes: It collect the water from the roof, and
16 we raise the land to accommodate the trucks coming into the
17 properties. And sees it's an opportunity to do it. And we
18 did it with the approval of Mr. Mohammad, but my commitment
19 was 10 years only. Ten years from the opening. Ten years
20 after that. I remember that we opened sometime in April,
21 either late April or early May in 1994. That for
22 automatically 10 years later, that commitment on my part, it
23 will be over.

24 And so we was selling the water. And I,
25 being in St. Thomas all the time, and the money that was

FATHI YUSUF -- DIRECT

1 there for -- we used to send it back home. We send it every
2 year until we been raided by the FBI. So we have to follow
3 the FBI instruction: No money out -- to be out of the
4 store. So that -- we did not stop selling water, because we
5 have a customer. We have commitment. We have commitment to
6 our customers and the community, and we kept selling water.
7 And the -- whatever we get from the water goes into the
8 business of Plaza Extra East.

9 **Q.** Okay. Mr. Yusuf, the 1994 through 2004 time
10 frame, can you tell me what you understood how many -- how
11 many trucks per day were coming into the store to get water?
12 Let's say the first part of it, the 1994, '95, '96?

13 **A.** First of all, as I said, I was never at Plaza
14 Extra East location.

15 **Q.** Right. Okay.

16 **A.** I can tell you the numbers I used to see in the
17 book.

18 **Q.** Okay.

19 **A.** Wally have wrote it for 2 years.

20 **Q.** Okay.

21 **A.** One, I think -- I don't remember, 52-something,
22 but I know one time, he sent \$72,000.

23 **Q.** For 1 year?

24 **A.** For 1 year.

25 **Q.** Okay.

FATHI YUSUF -- DIRECT

1 **A.** One year, I think 52, between the 50 and 60.

2 That money was going to the -- to his
3 family -- not really his immediate family or my immediate
4 family. I don't have no immediate family back home, but a
5 60,000 people village is consisting of 16 -- 13 family. And
6 he's part of one of the families and I'm part from a
7 different family, and each -- each, you know, each family
8 may be 4-5,000 to 8,000. Is small and big. And we said,
9 Let's give them some money. Things is bad.

10 **Q.** So when you say give the families money, was that
11 a charitable, like a -- like a gift? A charitable donation?

12 **A.** Yes, to buy food.

13 **Q.** Okay. All right. And both of the families did
14 that with those funds?

15 **A.** Yes.

16 **Q.** Okay. All right. And who was primarily in charge
17 of coordinating, and all of these funds for the water
18 revenues, from 1994 through the raid, or up to the raid in
19 2001?

20 **A.** Wally is the man in charge of Plaza Extra East.

21 **Q.** Okay.

22 **A.** I have one or two son maybe was working there.

23 **Q.** Um-hum.

24 **A.** But it was under the supervision of Wally.

25 **Q.** Okay. And do you know what the systems were to

FATHI YUSUF -- DIRECT

1 track, or if there were systems to track the water, how much
2 was being collected in water revenue?

3 **A.** Now, my feeling is they must have a system. What
4 kind of system Wally carry, I honestly don't know.

5 **Q.** Okay. All right. And with regard to the papers
6 that you saw, that's the only evidence that you've seen?

7 **A.** That's the only evidence I seen. And, you know,
8 every 10 days, I used to come to St. Croix, because I was
9 only by myself in St. Thomas, but my wife and my children,
10 they are in St. Croix. I used to come four days every 10
11 days.

12 **Q.** Um-hum.

13 **A.** But not too much to be involved in the business.
14 It's just I want to rest and take the pressure off my head.
15 Relax. I'm obligated to my children to be with them once in
16 a while, and my wife. But I was not coming really to do
17 some duties --

18 **Q.** Okay.

19 **A.** -- in St. Croix.

20 **Q.** Did Wally ever tell you that the water revenue
21 dropped off after a certain period of time, between 1994 and
22 2001?

23 **A.** No.

24 **Q.** Okay. Did Wally ever tell you that the water
25 revenue dropped off -- I know that you couldn't do the

FATHI YUSUF -- DIRECT

1 family thing after 2001, but did he ever say that the water
2 revenue dropped off after 2001, even?

3 **A.** No.

4 **Q.** Okay.

5 **A.** Because you see, I want to point out that the
6 water revenue to us, it was a drop in the bucket.

7 **Q.** Okay.

8 **A.** We have revenue of over \$30 million annually.

9 **Q.** Um-hum.

10 **A.** Thirty-five, maybe 4 -- I don't know if we hit 40
11 or not. And we was collecting between 50- and 75,000 a
12 year. You could imagine it's the -- the different numbers.

13 **Q.** Right.

14 **A.** So you aren't going to worry about that, a 60-
15 \$70,000 revenue and forget about --

16 **Q.** The big one?

17 **A.** The big ones.

18 **Q.** Right.

19 **A.** It's a drop in a bucket, honestly.

20 **Q.** Okay. So what was the arrangement to be after
21 2004?

22 I know that after 2000 and -- you said that
23 the arrangement was a 10-year arrangement that the monies
24 would be split to give -- to be able to give to charity or
25 do whatever you want, each family.

FATHI YUSUF -- DIRECT

1 After the 10 years, after April of 2004, what
2 was the arrangement supposed to be at that point?

3 **A.** I supposed to take over my building.

4 **Q.** Okay.

5 **A.** After 2004.

6 **Q.** Okay.

7 **A.** Or negotiate a new kind of deal.

8 **Q.** Okay.

9 **A.** Whether rent, it become the -- my property with no
10 commitment in my part to any partners.

11 **Q.** Okay. And so in 2004, or before 2004, you know,
12 right before that 10-year time frame ended, did you have a
13 discussion with Mr. Hamed or Wally about what to do next
14 after 2004?

15 **A.** Yeah. Well, I have think about it, what to do,
16 what should I -- what -- how much -- what kind of rent to
17 ask for that building. I know my commitment was free right
18 for them, but I'm obligated to my family. I respect my --
19 Wally's children and wife and himself, but my children come
20 first. I have to really think. I just can't keep going
21 with three. My -- my commitment is over. I fulfill it
22 100 percent.

23 Then about a year or 2 years later, before
24 this -- before. I'm sorry, not later, before, 2004, maybe
25 2002, maybe 2003, I approach Wally. And I says, Look,

FATHI YUSUF -- DIRECT

1 Wally, my commitment will be finished in May or something,
2 2004, and we have to come to an understanding what collect
3 should I be getting. He say, What you have in mind? I say,
4 Look, I want to be reasonable with you. I can't charge you
5 per square footage, because if I charge you per square
6 footage, I will not be fair. Because the St. Thomas store
7 is 30,000 -- 50,000 square foot, and this store is above 60,
8 it's 69,000 square foot. But if you really look at it,
9 it's -- it does not produce as much revenue as St. Thomas.

10 He say, What do you want? I said, I prefer
11 to be fair for you and fair for me, is to charge you rent
12 based on sale. Whatever it costs us in St. Thomas, we'll
13 just simply apply it to St. Croix. We both accept
14 St. Thomas bills, why we can't accept St. Thomas bills
15 (sic)? I'm not going to go by size, because if I go by
16 size, I'll be charging him a lot more for less revenue.

17 And --

18 **Q.** But how --

19 **A.** He says, That's fine. Yes.

20 **Q.** How does that -- that -- that issue relating to
21 the rent, how does that apply or relate to the water
22 revenue?

23 **A.** Okay. The water revenue after 2004 is absolutely
24 out of the question. Then when 2004 came in and I send him
25 a bill, I show him how much it costs us, every expense in

FATHI YUSUF -- DIRECT

1 St. Thomas; base rent, percentage rent, insurance. Maybe
2 not -- maybe the insurance, no, because that's the insurance
3 always. It -- everything go individual. Maintenance and
4 consumption of water.

5 He says, Are you going to charge me water? I
6 says, Yes. The agreement, whatever costs us in -- in
7 St. Thomas, we want to apply it to St. Croix to be fair.
8 Then he didn't even answer me back. And I bill him. I
9 think he have the record up to now. Water was included.
10 It's not -- it's a -- it's a matching, but water was costing
11 us about \$40,000 annually in the St. Thomas store. So most
12 likely, he bid \$40,000 for water annually for Plaza Extra
13 East.

14 **Q.** So let me just stop you right here.

15 So what you're saying is when you tagged the
16 rent that was to be paid by Plaza Extra East from 2004
17 through, I think you guys did a 10-year -- another
18 10-year --

19 **A.** No.

20 **Q.** Okay.

21 **A.** 1994 to 2004 --

22 **Q.** I know, but I'm talking --

23 **A.** -- is my commitment.

24 **Q.** I understand, but at 2004, the deal changed?

25 **A.** Right.

FATHI YUSUF -- DIRECT

1 **Q.** Right, that's what I'm talking about.

2 **A.** Exactly.

3 **Q.** So in 2004 when the deal changed and you -- you
4 connected or linked --

5 **A.** Yes.

6 **Q.** -- the rent for Plaza Extra East to, in essence,
7 what was happening in St. Thomas just to provide a base or a
8 means to calculate it, right?

9 **A.** The calculation is we have bill from Tutu Park
10 Mall.

11 **Q.** I understand.

12 What I'm saying is when that happened, when
13 it went from the prior arrangement to the new arrangement.

14 **A.** As of the first day after 2004 commitment.

15 **Q.** I understand.

16 So from that point, what I'm asking you is,
17 is water was being charged to the partnership for
18 consumption --

19 **A.** Yes.

20 **Q.** -- based the consumption that was used at --

21 **A.** In St. Thomas.

22 **Q.** -- in St. Thomas?

23 **A.** Yes.

24 **Q.** Okay. So your -- Wally was aware that water was
25 no longer free, in essence, to Plaza Extra East?

FATHI YUSUF -- DIRECT

1 **A.** Yes, he knew.

2 **Q.** Because of this rent?

3 **A.** The bill can prove it. It's evidence.

4 **Q.** Okay. Now, that's the charge for consumption and
5 it's just a number that ties to what was done in St. Thomas,
6 right?

7 **A.** Right.

8 **Q.** It's not the actual consumption, because it was
9 just a way --

10 **A.** It's way it's matching --

11 **Q.** Right.

12 **A.** -- St. Thomas bill.

13 **Q.** Right. But it put Wally on notice that water is
14 no longer free?

15 **A.** He knows that. Whatever penny.

16 **Q.** Okay.

17 **A.** Whatever it costing me, you know.

18 **Q.** I understand.

19 **A.** Look in the dictionary, say what is the -- what is
20 the whatsoever. Whatever it cost in expenses to operate --

21 **Q.** Right.

22 **A.** -- in St. Thomas, he -- the St. Thomas --
23 St. Croix store obligated to match --

24 **Q.** Right.

25 **A.** -- for that location, without looking at the size.

FATHI YUSUF -- DIRECT

1 **Q.** Okay. So that -- that deals with the expense of
2 the water consumption.

3 **A.** Yes.

4 **Q.** Now, my question for you is --

5 **A.** Yes.

6 **Q.** -- I'm trying to get to the next part.

7 **A.** Sure.

8 **Q.** The next part is, how was there -- what was the
9 discussion, or was there a discussion, or what was the
10 arrangement for the water revenue, not the consumption,
11 which I understand you put them on notice, there's no --
12 it's not free anymore.

13 **A.** Yes.

14 **Q.** What was the arrangement for the revenue for the
15 water sales after 2004?

16 **A.** The -- the -- I didn't understand what you mean.

17 **Q.** So after 2000 --

18 **A.** You mean the revenue outside?

19 **Q.** The revenue that was coming from the sale of
20 water, what was the arrangement with Wally --

21 **A.** Um-hum.

22 **Q.** -- for how that would be -- how that would go?
23 How it would go to United? How -- how would you deal with
24 the revenue?

25 **A.** Naturally, it have to go to United.

FATHI YUSUF -- DIRECT

1 **Q.** Okay. Did you discuss -- tell me how that
2 conversation went.

3 **A.** No, we did not discuss. I thought everything he
4 write it down.

5 **Q.** Okay.

6 **A.** And when we sit down and do our balance, he knew
7 that money get into Plaza and is not Plaza money, it's my
8 own money.

9 **Q.** Okay.

10 (Whereupon Attorney Holt enters room.)

11 Did you discuss with him how that money was
12 going to be put into the United accounts?

13 **A.** No, I did not discussed it, --

14 **Q.** Okay.

15 **A.** -- honestly.

16 **Q.** And at the time that these conversations were
17 happening, was it during the period that the FBI was
18 monitoring you, because this was in 2003 and '4?

19 **A.** Yeah, yeah.

20 **Q.** All right.

21 **A.** Well, we couldn't make any changes --

22 **Q.** Okay.

23 **A.** -- because of the FBI.

24 **Q.** Okay. All right.

25 **A.** But we have -- we have a -- a running balance,

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1 what they consume, what I consume. How much rent he owes.
2 Whatever my duty is and his duty is. Whenever they -- we
3 want to consolidate our -- everybody have his right, we'll
4 go through what you owe me and what I owe you.

5 **Q.** Okay.

6 **A.** Now, the store was collecting the water, I'm
7 expecting to that water, above any other expense.

8 **Q.** Okay. All right.

9 **A.** He know the water was not free. If he was knew
10 that the water is free, why my commitment only to 2004?

11 **Q.** Right.

12 **A.** After 2004, I have the right to do whatever I want
13 with my water. It was never given to the partnership.

14 **Q.** Okay.

15 **A.** It was I did enough for the partnership.

16 **Q.** All right. So -- just a minute.

17 (Respite.)

18 **MR. HARTMANN:** Just for the record, during
19 the last question, Joel Holt entered the room. We entered
20 his appearance on the record earlier, but he's now
21 physically in attendance.

22 **Q.** (Ms. Perrell) All right. So Mr. Yusuf, you're
23 making a claim for the water revenue from 2004, April of
24 2004, forward, correct?

25 **A.** Yes.

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1 **Q.** All right. Did you do a -- how did you determine,
2 or how do you calculate the amount of the water revenue for
3 that time?

4 **A.** I was looking to -- I looking for something. I
5 looking through records and I came across this. I says,
6 This water was Wally handwriting. It was in the book twice.
7 For 1 year, it was -- I honestly don't remember. It was 52
8 or 54. I know it's more than 50, and less than 60. But the
9 second numbers was absolutely 72. I remember it like in
10 front of my own eyes.

11 **Q.** Okay.

12 **A.** So what I did, how much month I'm looking for, and
13 I -- I calculate how many month. I divide it -- I add in
14 these two numbers together. I divide it in -- on 24 months,
15 or if I divide it -- if I divide it, come total and divide
16 in two and then it will be for 12 month. And then I
17 multiply that for how many months that Plaza Extra should
18 come up with that water money.

19 **Q.** Okay.

20 **MR. HARTMANN:** Just not to interrupt, I'm
21 just going to make a continuing objection on hearsay,
22 foundation, and best evidence.

23 **Q.** (Ms. Perrell) Okay. All right. Mr. Yusuf, this
24 document that you said you -- you looked at, can you
25 describe where you found this document?

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1 **A.** I -- I don't know. I believe it was in one of the
2 books.

3 **Q.** Okay. At the Plaza Extra East store?

4 **A.** At the Plaza Extra East store, yes.

5 **Q.** Okay. And do you recall whether you provided that
6 document to the attorneys?

7 **A.** Yes.

8 **Q.** Okay. Do you recall when you would have done
9 that?

10 **A.** When there's a case between us and Hamed family.

11 **Q.** Okay. During the pendency of this lawsuit?

12 **A.** Yes.

13 **Q.** Okay. All right. And you -- was there anything
14 else written on this -- was it a ledger book or --

15 **A.** It was a ledger book, but it was -- water money
16 was on two separate pages and nothing else but one number
17 says, Water revenue, amount.

18 **Q.** Okay.

19 **A.** That's one page. Second page --

20 **Q.** Um-hum.

21 **A.** Maybe 4-5 page, because as he need it, he write
22 notes. The following year, he come up with the clear page
23 and he wrote again that -- that amount was 72,000. His
24 handwriting, not my handwriting.

25 **Q.** Okay. All right.

FATHI YUSUF -- DIRECT

1 **MR. HARTMANN:** Excuse me, whose handwriting?

2 **A.** Wally handwriting, not my handwriting. Wally is
3 the man, the final man work in the store.

4 **MR. HARTMANN:** I'm sorry, I just couldn't
5 hear you. I'm sorry.

6 **Q. (Ms. Perrell)** Okay. Based on those two numbers
7 for those 2 years, you made the calculation?

8 **A.** Yes.

9 **Q.** Okay. And have you done that calculation in this
10 lawsuit and provided answers to the opposing side?

11 **A.** Yes, I think so.

12 **Q.** Okay. Let me hand you what we'll mark as -- I'm
13 just going to go out of order for a minute. It will be 13.

14 (Deposition Exhibit No. 13 was
15 marked for identification.)

16 (Respite.)

17 Hold on a second. I think some of these got
18 clipped together.

19 Carl, I was going to hand him -- and I don't
20 know where my third copy is.

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

22 **MS. PERRELL:** The discovery responses, the
23 original discovery responses from May 15th.

24 **MR. HARTMANN:** Okay. We don't need a copy.

25 **MS. PERRELL:** I'm just telling you what it

FATHI YUSUF -- DIRECT

1 is.

2 **MR. HARTMANN:** No problem.

3 **Q. (Ms. Perrell)** Okay. So Mr. Yusuf, I'm handing you
4 what's been marked as Exhibit 13. And I'll represent to you
5 that these were discovery responses that had been submitted
6 in this case previously.

7 **A.** Um-hum.

8 **Q.** And there's some calculations here. And just want
9 you to just take a quick minute to read, and just, if you
10 have any changes to it, or if that number is -- is correct,
11 if you can please confirm.

12 **A.** I'm sure I went more than once through the
13 calculation and I find it, it's final.

14 **Q.** Okay. So these -- these numbers are correct?

15 **A.** Yes, it is.

16 **Q.** Okay. All right. And the calculation you
17 prepared there is the calculation you were just describing a
18 moment ago?

19 **A.** Based on these two item.

20 **Q.** Okay. All right. Do you have -- I know I asked
21 you this a minute ago --

22 **A.** Keep asking me. No problem.

23 **Q.** -- so I apologize. Apologize if I do it again.

24 **A.** No problem.

25 **Q.** Was there any point in time where you understood,

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1 or heard, or just generally knew that the water that was
2 sold, the -- the amount of water that was sold, dropped or
3 diminished?

4 **A.** No. Before we split, I was never told, or I never
5 noticed anything drop. When I say I never noticed, because
6 nobody ever tell me.

7 **Q.** Okay.

8 **A.** I really don't go and look how much we sell water.

9 **Q.** Okay.

10 **A.** This is minor for me and them.

11 **Q.** Okay. All right. One of the statements that the
12 Hameds have stated in this case is that they believe that in
13 2000, around 2000, the water consumption dropped a lot
14 because they state that there were competitors such as
15 Marco's and others.

16 Do you have any information about the --
17 whether the water dropped off or not in the 2000s?

18 **A.** I was never told of any water drop off.

19 **Q.** Okay.

20 **A.** And the water is something beyond anybody control.
21 Three month ago, if I have 10 million -- 10 million gallon
22 of water, I would sell it.

23 **Q.** Um-hum.

24 **A.** They have WAPA, they couldn't deliver water to
25 the -- to the customers, and everybody turn to his well,

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1 whatever, until everybody well end up dry, and then they
2 come to us, and we can't keep up with it. We just simply
3 can't keep up with it.

4 **Q.** Okay.

5 **A.** And we have five well running, and we have a
6 500,000 gallon cistern, and we can't keep up with it.
7 And -- and this is just about 3 or 4 months ago, not 3 or 4
8 years ago.

9 But we was -- we known, you could see from
10 the main road, there's a commercial water for sale for
11 trucks, 'cause you could see the -- the setup, and everybody
12 knows we have water to sell.

13 Now, by the way, for the past month or 2
14 month, I find it difficult to accept any trucks, because I
15 have too much machinery on the cistern, on the roadway. I
16 have backhoes. I have two, three trucks of ours. And, you
17 know, we have construction in Barren -- Barren Spot, and we
18 just don't want that water business no more.

19 **Q.** All right. Mr. Yusuf, one of the things that --
20 one of the issues that the Hamed family has raised during
21 the course of this case is that various agreements are not
22 in writing.

23 Isn't it true, Mr. Yusuf, that the -- the
24 entire partnership arrangement that you had was not in
25 writing with Mr. Hamed?

FATHI YUSUF -- CROSS

1 **A.** Nothing in writing whatsoever.

2 **Q.** Okay. All right.

3 **A.** Everything is visibly -- verbally. They have
4 leased as much as they can. I don't care. But any time I
5 find thieving, I will shut that door the same day. I can't
6 work with a thief.

7 **Q.** All right.

8 **A.** I just can't turn my back --

9 **Q.** All right.

10 **A.** -- and leave myself exposed. Enough is enough.
11 And, therefore, I decide to split. I understand the judge
12 says you's a partner. I don't need this partnership.

13 **MS. PERRELL:** All right. All right. All
14 right, Mr. Yusuf. I don't think I have any further
15 questions. You confirmed this number. We've talked about
16 everything else. I may come back and ask you a couple more
17 questions.

18 **A.** Sure. No problem.

19 **MS. PERRELL:** But Mr. Hartmann, go ahead.

20 (Deposition Exhibit No. 12 was
21 marked for identification.)

22 **CROSS-EXAMINATION**

23 **BY MR. HARTMANN:**

24 **Q.** Thank you.

25 Mr. Yusuf, if you'll look at the exhibit

FATHI YUSUF -- CROSS

1 that's marked Exhibit --

2 **MS. JAPINGA:** 12.

3 **Q. (Mr. Hartmann)** -- 12, that's a listing of the
4 months and years that your claim states. And if you'll
5 notice that the light pink color ends at 9-17-2006, which
6 was the bar date that Judge Brady imposed. And then the
7 rest of the chart, the darker pink runs from that date going
8 into the time when the stores were actually split up.

9 Do you see that chart?

10 **A.** Yeah, I see it.

11 **Q.** Okay. Now, during -- during that time, any of the
12 colored time, you said earlier in response to Attorney
13 Perrell's question, we were selling the water. And I just
14 want to be clear about something.

15 If I drove a truck into -- to the facility,
16 right?

17 **A.** Yeah.

18 **Q.** Into the east facility, at any time on this chart.

19 **A.** Yes.

20 **Q.** And I was a truck driver.

21 **A.** Um-hum.

22 **Q.** Okay. I had to pay somebody, right?

23 **A.** Yes.

24 **Q.** When I drove. You weren't there, so you don't
25 know really how the process worked, right?

FATHI YUSUF -- CROSS

1 **A.** I know -- I was not there, but I know how it
2 works.

3 **Q.** Okay. So then the truck driver drove in. And --
4 and now the truck driver has to pay.

5 How does the truck driver pay? Who does the
6 truck driver pay?

7 **A.** I understand the truck driver will go to the
8 cashier and pay. The -- the one that you see in very,
9 very -- not -- not rapidly -- not daily. He comes once a
10 week. Once every 2 weeks. He only have one truck. But
11 there's customers own 3-4, up to -- maybe some of them up to
12 10 trucks. These people, it was easier for them -- none of
13 them -- none -- the owner cannot drive the truck, he has
14 drivers, so it's preferred to pay by checks, not by cash and
15 not keep receipt.

16 Wally permit them to take -- some of them pay
17 money in advance and bill against it. Or some -- some of
18 these people will -- we will give them a credit and they
19 come and pay. Both ways.

20 **Q.** Okay. Okay. So let's talk about both ways.

21 So before we talk about the checks, we'll put
22 that over here for a second. We'll just talk about the
23 truck, individual truck driver who drives up.

24 **A.** Um-hum.

25 **Q.** The individual truck driver drives up. He says, I

FATHI YUSUF -- CROSS

1 want a truckload of water. He goes into the store.

2 **A.** Um-hum.

3 **Q.** He gives a cashier, the Plaza Extra store cashier,
4 the money.

5 **A.** Okay.

6 **Q.** Okay. And the store cashier gives him a receipt?

7 **A.** Yes.

8 **Q.** Okay. Now, the other way you just described is,
9 he might make a special deal with Wally where he wants to
10 pay by check.

11 **A.** Um-hum.

12 **Q.** And if I understand what you said, he can pay by
13 check two different ways.

14 **A.** Yes.

15 **Q.** He can send a check to Plaza Extra supermarkets
16 that says, I'm paying a month in advance. And then he would
17 bring his trucks in and take the water out.

18 **A.** Yes.

19 **Q.** Or he could pay -- he could take some water out
20 and then pay at the end of the month?

21 **A.** Yes.

22 **Q.** Okay. And the person that he would talk to about
23 that was Wally, right?

24 **A.** Wally is the one who set up this.

25 **Q.** Right. Okay.

FATHI YUSUF -- CROSS

1 And -- and -- and the person who took the
2 money in, if it was in the store, was the Plaza Extra
3 cashier, right?

4 **A.** Yes.

5 **Q.** Okay.

6 **A.** I would assume so, yes.

7 **Q.** And -- and who -- do you -- I don't know if you
8 know this. If you don't, just say, I don't know. Who would
9 actually pump the water into the truck?

10 **A.** You got it. I don't know.

11 **Q.** Okay. I'll ask somebody else then.

12 And who -- if -- if the person had to be
13 billed for water, who would do the billing?

14 **A.** Someone in the office.

15 **Q.** Okay. Somebody in the Plaza Extra supermarket
16 office?

17 **A.** Yeah.

18 **Q.** Okay. And did they -- did they ever get a bill
19 from the -- the tenant account? Did they ever pay a check
20 into the tenant account?

21 **A.** A tenant -- which you mean, tenant account?

22 **Q.** The United account. The separate United account.

23 **A.** I don't charge for water. None of my tenant pays
24 water.

25 **Q.** Okay.

FATHI YUSUF -- CROSS

1 **A.** And they get it directly. No transportation. It
2 does not even go into that cistern.

3 **Q.** Okay. So there are two different systems?

4 **A.** Yeah. All my tenant for the past 40 years never
5 pay for water.

6 **Q.** Okay. And who -- between you and Yusuf Yusuf, who
7 would be the person who could tell me a little bit something
8 about the system itself, like how the system was built
9 and -- and things like that? Would that be you or would
10 that be Yusuf Yusuf?

11 **A.** When you say "system," what kind of system you
12 talking about?

13 **Q.** Well, when you rebuilt the store, you built a
14 separate water system that fed into the cistern that you use
15 to sell the water to the trucks, right?

16 **A.** I told you the purpose of putting up that cistern;
17 it's to level off the entrance of --

18 **Q.** I understand that.

19 **A.** -- of the premises.

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

21 **A.** And then we used it -- the only different is I get
22 commitment for -- when I have to spend about \$4- to
23 \$10-12,000 for big jumbo pump and piping to the cistern into
24 the truck preparation. That's is the only -- when I came up
25 with that idea, and I using the partnership money, I have to

FATHI YUSUF -- CROSS

1 be fair enough, and I'm not that greedy. I let him feel
2 good, my partner.

3 **Q.** Okay.

4 **A.** I don't mind. I'm giving it to my tenant for the
5 past 40 years free. I could give it to my partner for as
6 long he's in the store.

7 **Q.** That's not what I'm asking.

8 What I'm asking is, is a slightly different
9 question. Can I ask you questions --

10 **A.** You ask me any question you wish.

11 **Q.** Okay. I'll ask you the questions.

12 When -- when you built the new system with
13 the cistern, when you came up with that idea, right, to do
14 that?

15 **A.** Yes.

16 **Q.** Did you do that when you were rebuilding the
17 store?

18 **A.** You see, the system, you could say, it split into
19 two. The availability of the water, the water is available
20 from the beginning of the building in -- in the '80s. I
21 have 4-5 well on that property. And I have, I think, three
22 big cistern on the property. And one of the cistern was
23 designed it to the store, inside the store.

24 This one now, I -- as I tell you, I don't
25 need no cistern, honestly. I just needed a cistern to level

FATHI YUSUF -- CROSS

1 off the driveway. And I founded an opportunity. And I have
2 -- excuse me -- I have the water. I have the roof. And I'm
3 forced to put in this, because if I put fill, it's useless.
4 You know, when you go fill, about 10-12 feet, I don't care
5 how much you compact it, it's going to sink.

6 **Q.** I understand that.

7 **A.** So that's why I came up with the idea a cistern.
8 Take out all the fill and bring the cistern and collect the
9 water. And then all that is just to provide convenience for
10 the truck to come.

11 The only thing when the piping came up,
12 this -- this a new idea came up in my mind not to waste the
13 opportunity.

14 **Q.** Let me ask the question a different way.

15 **A.** I check with my partner, if it's okay. He say,
16 Okay. Go ahead.

17 **Q.** Let me ask the question a different way.

18 Where's the cistern, the one we're talking
19 about, the one that you elevated, you know, that allowed the
20 trucks to get access? Is that on the old property or on the
21 new property?

22 **A.** Which old property?

23 **Q.** Well, you bought an extra acre.

24 **A.** Yeah.

25 **Q.** Okay.

FATHI YUSUF -- CROSS

1 **A.** It's a new property.

2 **Q.** It's on the new property?

3 **A.** Yes.

4 **Q.** So -- so that cistern wasn't there before you got
5 the new property?

6 **A.** No.

7 **Q.** Okay. And how did you get the new property?

8 **A.** I get the new property when we was running the new
9 supermarket -- the old supermarket. Unfortunately, we have
10 fire started at our store, and naturally we have insurance.
11 And we finally collected our insurance. And at that time,
12 unfortunately, we was heavily penalized because we was
13 underinsured. So we -- we, as a family, his wife and my
14 wife are sisters. They always in my house, at their -- in
15 their house, you know. I says -- and we could -- we would
16 like to continue together. I says, Look, the old store now
17 maybe is good, but not for the future. That's my language
18 to Wally. I tell him, this store, 33,000 square foot is --
19 is an excellent for what's going on now, but soon, in the
20 future, this type of store is not going to survive. And we
21 have that fire. I asked Wally -- let's put it Wally,
22 because 99.9 of my discussion is with Wally. His father, I
23 don't bother to talk to him. Just hello, how are you, and
24 that's it. And --

25 **Q.** Can -- can I ask you one other question?

FATHI YUSUF -- CROSS

1 **A.** No, no, no, no, let me finish your question,
2 please.

3 **Q.** Okay.

4 **A.** I told Wally, Since we're going in, the best thing
5 is to go expand and we have no more property to expand. I
6 say, Let's see if we can buy at least an acre from the
7 neighbor. I'm willing to put in 100,000 of my own money,
8 the rental money, and if -- if the partnership bought the
9 additional one fifty, I will give the store 10 years at \$3,
10 at the same old price. \$3 a square foot. And he says, It's
11 okay. I'll go for it. I did not want to buy the land.
12 Wally's the one negotiate it. Wally is the one bought it,
13 United Corporation. Wally knows that he can get -- being
14 compensated. Look, there is no space in St. Croix since the
15 '40s. Not since the '80s at \$3 a square foot. Wait a
16 minute, I commit myself for additional 10 years, because,
17 you know, really, really my -- my commitment, really,
18 because it's -- I have five sons with me and five daughter.
19 Three with me and two with them. So it wasn't really a big
20 deal to give Mohammad Hamed free ride and his children,
21 because I figure out, it's my daughter enjoying it. That
22 was the -- that's the whole thing all about. Otherwise, I
23 will treat Mohammad Hamed just like I treat any other Arab.

24 **Q.** Okay. Now --

25 **A.** But I was treating him as a family.

FATHI YUSUF -- CROSS

1 **Q.** But to go back to the water for a second.

2 **A.** Yeah, go ahead.

3 **Q.** When you put the cistern in.

4 So you put the cistern in, using the
5 insurance money, and also did you take out some loans?

6 **A.** Excuse me, sir. The insurance money is the
7 landlord money.

8 **Q.** Okay. But also did you take out some loans?

9 **A.** I -- maybe. I'm not sure.

10 **Q.** After the store burned down?

11 **A.** I'm not sure. Maybe I took a loan, maybe I
12 didn't.

13 **Q.** Okay.

14 **A.** But -- please, I would like to make this clear:
15 If I ever take a loan after we became partner, I have never
16 invest a penny outside of the business. If I get a loan, I
17 get it for the business, because before we become a partner,
18 I have the shopping center free and clear. It does not owe
19 a penny. I have a house on top of the hill, 12,500 square
20 foot. No lien whatsoever. So, if any loan ever option is
21 being to the interest of Plaza Extra.

22 **Q.** And Plaza Extra would have paid back that loan?

23 **A.** Yes.

24 **Q.** Okay. That's what I was trying to get to.

25 Okay. So now you said that -- that the way

FATHI YUSUF -- CROSS

1 you figured out the -- the water amount, you saw a document
2 that had Wally's handwriting on it. And it had 2 years:
3 One year you said was between 50 and 55, you're not --

4 **A.** Fifty and sixty.

5 **Q.** Oh, 50 and 60.

6 **A.** Yes.

7 **Q.** And the next year was 72?

8 **A.** Absolutely 72.

9 **Q.** Okay. So there was a big difference between those
10 2 years, right?

11 **A.** Yeah, I could say that.

12 **Q.** Okay. But -- but to get the number that you used,
13 you averaged the two years?

14 **A.** I add both of them to come up with an average.

15 **Q.** Okay. But for the next 10 years, it could have
16 run at 50, you don't know?

17 **A.** It could have run at a hundred twenty-five.

18 **Q.** It could have run at two fifty?

19 **A.** Well, let's say --

20 **Q.** Okay.

21 **A.** Let's be realistic.

22 **Q.** Okay. All right. And then finally, you said
23 Wally never told you that the amount of -- of water was --
24 was -- was higher or lower at any other year.

25 Did -- during all of the years that are on

FATHI YUSUF -- CROSS

1 Chart 12, was all the money for this, for water sales to
2 truck drivers, was all that money always being booked in to
3 the -- to the Plaza Extra supermarket accounts?

4 **A.** Yeah.

5 **Q.** In other words, so Wally would have been seeing
6 all it --

7 **A.** Yes.

8 **Q.** -- because it was all coming into the Plaza Extra?

9 **A.** Yes.

10 **Q.** Okay. And -- and with it coming into the Plaza
11 Extra for all those years, was there ever a time when --
12 when the tenant account said, you owe me a bunch of money,
13 because this is really not your money, this is my money?

14 **A.** Who's the tenant?

15 **Q.** United?

16 **A.** Oh, no, no, it's commitment.

17 **Q.** Okay.

18 **A.** My commitment. I tell you already, my commitment
19 in giving them the 10 years.

20 **Q.** Okay.

21 **A.** And after -- 1 year before the 10 years or 18
22 months before, I come up. I say, I can't -- I want to
23 continue working with these people, but I can no way let him
24 stay getting a free ride.

25 **Q.** Okay.

FATHI YUSUF -- CROSS

1 **A.** I have responsibility toward the rest of my
2 daughters and sons, and I can't give everything to my two
3 daughters, in which one of them being divorced already.

4 **Q.** Okay. Now, my last question is, your counsel
5 showed you Exhibit 13, I believe.

6 **MS. PERRELL:** Yes.

7 **MR. HARTMANN:** No, I want the one with the
8 calculation. Is that 13?

9 **MS. PERRELL:** Yeah, there's a calculation.

10 **Q.** **(Mr. Hartmann)** Thirteen. Look at the calculation
11 on -- that you said that you used.

12 **A.** Whatever this is, is final.

13 **MR. HARTMANN:** Look at the column pile of
14 numbers that he added up. You didn't show him a column of
15 numbers?

16 **MS. PERRELL:** I did not show him a column
17 of -- okay. Here is the one from May of '18. There was a
18 supplement.

19 **MR. HARTMANN:** You showed him a set of
20 numbers and you said, is this still correct.

21 **MS. JAPINGA:** No.

22 **MS. PERRELL:** No, no, I didn't. No column of
23 numbers.

24 **MR. HARTMANN:** Okay.

25 **MS. PERRELL:** What I showed him was this, the

FATHI YUSUF -- CROSS

1 answer.

2 **MR. HARTMANN:** Okay.

3 **MS. PERRELL:** Which is here.

4 **MR. HARTMANN:** Oh, okay.

5 **MS. PERRELL:** There's some numbers --

6 **MR. HARTMANN:** The text. Okay.

7 **MS. PERRELL:** -- down at the bottom here.

8 The text.

9 **MR. HARTMANN:** All right. I don't have a
10 copy of it, so I --

11 **MS. PERRELL:** Sorry. Yes.

12 **Q. (Mr. Hartmann)** So you see that column of numbers
13 that's -- how you told your counsel how you calculated it?

14 In other words, you took the sales. You
15 created an average number, and then you multiplied it by
16 this number of years, right?

17 **A.** Right.

18 **Q.** Okay. Where, in that calculation, is -- is the
19 cost to deliver the water?

20 In other words, where's the -- that's the
21 gross sales. That's just money coming in. Okay. Where --
22 where's the amount that comes out of that, for instance, for
23 the -- you testified the cashiers took in the money and
24 who -- who took care of the cisterns?

25 **A.** We take care of the cistern.

FATHI YUSUF -- CROSS

1 **Q.** "We," who? The partnership?

2 **A.** What care of the cistern? Cistern doesn't need
3 care.

4 **Q.** You didn't -- they were never inspected by the
5 government? You never cleaned them out?

6 **A.** No, we cleaned them out once maybe after -- after
7 the hurricane, we cleaned them out.

8 **Q.** Who did that?

9 **A.** We did it.

10 **Q.** "We," who?

11 **A.** We did it. We -- we have partner.

12 **Q.** The partnership?

13 **A.** I say we don't have partner. We clean it after
14 these people leave.

15 **Q.** No, I'm sorry.

16 During the period here --

17 **A.** I don't recall.

18 **Q.** Okay. So who -- who paid the -- who paid the
19 cashiers to take in the money?

20 **A.** Who paid?

21 **Q.** Yes.

22 **A.** The supermarket.

23 **Q.** Okay. And who paid the accountants to send out
24 the bills?

25 **A.** Which accountant?

FATHI YUSUF -- CROSS

1 **Q.** You said that -- you said that sometimes they had
2 to send out bills to people.

3 **A.** Oh, oh, you want to charge me for the cashier and
4 the accountant.

5 **Q.** I just want --

6 **A.** Take out 5 percent.

7 **Q.** I just want to know who did it.

8 **A.** He did it.

9 **Q.** Wally did it?

10 **A.** Yeah, or his staff.

11 **Q.** And who's --

12 **A.** You want -- you want 10 percent off? Take
13 10 percent off. I'm not greedy. But my money has to be
14 paid.

15 **Q.** Okay. And who -- and who supervised the
16 operation?

17 **A.** He. I trust him. I made a big mistake by
18 trusting the wrong man.

19 **Q.** Okay. "He," being Wally?

20 **A.** Um-hum.

21 **Q.** Okay. And when you say you made a big mistake by
22 trusting him, you mean with regard to the water?

23 **A.** With everything.

24 **Q.** But how about the water?

25 **A.** Well, less -- I already told you, sir. I respect

FATHI YUSUF -- CROSS

1 you and I will continue respect you.

2 The water is a drop in the bucket. If I was
3 trusting him with a lot of thing, what is the water?

4 **Q.** The water is a drop in the bucket.

5 **A.** It is.

6 **Q.** Okay.

7 **A.** Compared to our sale. You selling half a million
8 dollar water a year? Or two million?

9 **Q.** Did you make any mistakes with regard to Wally
10 with regard to the water?

11 **A.** I don't make no mistake. I simply don't make no
12 mistake, because I always double and triple check before I
13 even give my numbers.

14 **Q.** Okay. So when you said that no one told you about
15 what was going on for -- for 15 years, you were double and
16 triple checking all those numbers?

17 **A.** Which 15 years?

18 **Q.** You start -- this chart starts in 2004. I'm
19 sorry, '4 to 2015, so there's 11 years where you said no one
20 ever told you what was going on with water sales.

21 **A.** Nobody ever told me what was going on with
22 anything.

23 **Q.** Okay.

24 **A.** I told you, it was a drop in the bucket, and our
25 sale is above 30 million in that location.

FATHI YUSUF -- CROSS

1 **Q.** Okay.

2 **A.** And the last year we quit, our sale exceed
3 \$120 million in three stores.

4 **Q.** And this was a drop in the bucket?

5 **A.** It is.

6 **MR. HARTMANN:** Okay. I have no further
7 questions.

8 **MS. PERRELL:** I don't think I have any
9 further questions for Mr. Yusuf, either. I think we're
10 good.

11 **MR. HARTMANN:** Thank you. Continuation,
12 please.

13 **THE VIDEOGRAPHER:** Okay. This is a
14 continuation of the deposition. The time is 11:10.

15 (Short recess taken.)

16 **THE VIDEOGRAPHER:** In the matter of Waleed
17 Hamed versus Fathi Yusuf and United Corporation, in the
18 Superior Court of the Virgin Islands, Division of St. Croix,
19 Civil Action Number SX-2012-CV-370.

20 My name is Michael Gelardi. I am the
21 videographer for today's proceedings. Our court reporter is
22 Susan Nissman. Today's date is January 22nd, 2020. The
23 deponent is Waleed Hamed. The time is 11:13.

24 For the purpose of voice identification, I am
25 requesting that the attorneys present identify themselves at

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1 this time.

2 **MS. PERRELL:** Charlotte Perrell, on behalf of
3 United Corporation and Fathi Yusuf.

4 **MR. HOLT:** Joel Holt, on behalf of the
5 Hameds.

6 **MR. HARTMANN:** Carl Hartmann, on behalf of
7 the Hameds.

8 **THE VIDEOGRAPHER:** Please swear in the
9 witness.

10 **MR. HARTMANN:** He's already sworn. This is a
11 continuation.

12 **THE VIDEOGRAPHER:** This is a continuation.

13 **WALEED "WALLY" HAMED**

14 **DIRECT EXAMINATION**

15 **BY MS. PERRELL:**

16 **Q.** All right. Good morning.

17 **A.** Morning.

18 **Q.** I wanted to ask you a couple questions related to
19 the water sales at the Plaza Extra East store from, in
20 essence, the entire time that you were there, all right?
21 I'll break it down into years, but that's what I'd like to
22 ask you questions about.

23 You've heard Mr. Yusuf testify a few minutes
24 ago. Would you agree that, in fact, there was an agreement
25 to -- for some period of time, for the water revenues to be

WALEED "WALLY" HAMED -- DIRECT

1 split between the two families to be able to give, in
2 essence, to charity or to -- as gifts to other family
3 members?

4 **A.** No, there was no agreement for that period.

5 **Q.** Okay. Was there an agreement to do that at all?
6 To give the revenues to family members? Half to -- or to
7 provide charitable donations to half of the family and the
8 other half of the family?

9 **A.** There was an agreement to go ahead and give the
10 proceeds or the funds to charitable organiz -- no, family.

11 **Q.** Okay. But the idea was it was gifts?

12 **A.** Yes.

13 **Q.** Okay. Not loans? Not investments? Gifts.

14 Do you need some water?

15 **A.** I have some, thanks.

16 **Q.** So were you present during the conversations
17 between Mr. Yusuf and Mohammad Hamed when the decisions were
18 made to begin to sell water after the fire?

19 **A.** I might have been, yes.

20 **Q.** Okay. Do you recall having -- being present for
21 any of those conversations?

22 **A.** I don't recall. It's been such a long time, but I
23 know I was there. I was around, yes.

24 **Q.** Okay. Do you -- okay. Well, you either recall or
25 you don't.

WALEED "WALLY" HAMED -- DIRECT

1 Do you recall, during a meeting with
2 Mr. Yusuf and Mr. Hamed, where they discussed that that
3 would be an arrangement for 10 years to do -- to do water
4 sales; and in order to do it, there would be -- to give to
5 charitable family members or charitable donations, is just
6 what I'm going to call it, for 10 years?

7 **A.** There was an agreement to go ahead and give the
8 proceeds for charitable --

9 **Q.** Okay.

10 **A.** -- donations.

11 **Q.** Okay.

12 **A.** As far as the 10-year period, anything like that,
13 no.

14 Remember talking about building the cistern
15 after the fire, buying the property after the fire, to do
16 that sort of stuff.

17 **Q.** Okay. So is it possible that Mr. Yusuf and
18 Mr. Mohammad Hamed, your father, agreed to the 10 years, and
19 you're just not aware of it?

20 **A.** I doubt that very much, 'cause if there's
21 anything, my dad would tell us.

22 **Q.** Okay. So -- but you don't know that for sure,
23 correct?

24 **A.** I'm pretty certain if it is, yes, because we know
25 that the monies are supposed to go to charitable

WALEED "WALLY" HAMED -- DIRECT

1 organizations.

2 **Q.** All right. So how did that happen? How did the
3 money -- so in 1994, Mr. Yusuf is in St. Thomas, right?

4 Mostly?

5 **A.** Yes.

6 **Q.** So you would agree that you were primarily in
7 charge of the store from 1994 until the time of the -- the
8 split, is what I'll say?

9 **A.** Yes.

10 **Q.** Okay. And so did proceeds actually go to
11 family -- split to these family charitable donations?

12 **A.** Yes.

13 **Q.** All right. And did you coordinate that?

14 **A.** I didn't coordinate that, no.

15 **Q.** Okay.

16 **A.** 'Cause I'm not the person who's receiving the
17 funds.

18 **Q.** Okay.

19 **A.** The person who would receive the funds and who
20 would calculate how much or tabulate how much money was sold
21 in the water would be Mike Yusuf at the time. For that
22 period that's in question, which I think you said 1994 to --
23 till I think when Mike left and he started -- excuse me, not
24 working at the East store, which is '98 or '99.

25 **Q.** Okay. So from '94 through, let's say '98, which

WALEED "WALLY" HAMED -- DIRECT

1 is when they started breaking ground on the West store.

2 **A.** Yes.

3 **Q.** Okay. It's your recollection that Mike Yusuf was
4 in charge of receiving and calculating the revenues for the
5 water sales?

6 **A.** It was tabulated, yes.

7 **Q.** Okay. And so obviously, you had -- how did he get
8 you the money for the half of the money that was supposed to
9 be split?

10 **A.** He didn't give me the money. I didn't take money.
11 I didn't receive the money.

12 **Q.** Okay. So did you send any -- did the Hameds send
13 any money to family members in Jordon as a result of the
14 receipt of the monies from the water sales?

15 **A.** Yes.

16 **Q.** Okay. How did they get the money to do that?

17 **A.** Well, Mike would give them the money. Would give
18 it to his father or give it to my father. How, I don't
19 exactly remember the dates or how that was done, but it was
20 done.

21 **Q.** Okay. So the money would go directly to your
22 father, not you?

23 **A.** Absolutely. Yeah, not me.

24 **Q.** All right. So Mike was in charge of -- of receipt
25 of those funds?

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1 **A.** Yes.

2 **Q.** Okay. And then let me ask you this: So the funds
3 for that, would you agree with me, that some folks, some of
4 the vendors, would have -- or the customers, I'll just say,
5 really not a vendor, a customer, would have -- it would be a
6 one guy with one truck. He would pay the cashier, and then
7 he would go get his monies.

8 Was that money paid to the cashier, was there
9 any particular code set up for the cashier? And I'm
10 talking, let's keep the time frame 1994 through 1998 when
11 Mike was in charge. Was there a code?

12 **A.** No, no, there wasn't any code.

13 **Q.** Oh, your voice sounds really bad.

14 **A.** It's really bad. I'm sorry.

15 In '94, from that period, '94, to say
16 '98-'99, the truckers would go to the warehouse and actually
17 pay the warehouse attendant.

18 **Q.** Okay.

19 **A.** Or if -- I don't know if we had at the time, we
20 had set up charge accounts for certain truckers or not, but
21 they would pay the warehouse attendant in cash or check.

22 **Q.** Okay.

23 **A.** And then he would tabulate that at the end of the
24 day. Give it to Mike or -- I'm sure he would give it to
25 Mike, because Mike was in charge of the sales. He was in

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1 charge of the POS, or the front end, to say.

2 Q. Okay. So, for the one -- so let's say those were
3 the individual, let's say the guys that had sort of the --
4 the one -- one truck, one guy.

5 For the companies, for example, that would
6 have multiple trucks and so forth, do you know how they
7 would pay in this 1994 through 1998 time frame?

8 A. If they had a charge account, they -- they would
9 be billed at the end of the period, whatever it is, or
10 whatever arrangements that we had with them at the time.

11 Q. Okay.

12 A. I don't recall if there were that many or who they
13 were.

14 Q. Okay. And were you coordinating for those bills?

15 A. No.

16 Q. Okay. Who was coordinating for those bills from
17 '94 through '98?

18 A. It could have been the office staff. It could
19 have been Mike.

20 Q. Okay. So that was just another charge.

21 Do you have other clients that you have
22 these, where you would have like a monthly charge, besides
23 the water trucks?

24 A. At that time, no.

25 Q. Okay. But is that just something that was set up

WALEED "WALLY" HAMED -- DIRECT

1 in the system for them to send out an invoice?

2 **A.** I don't think it was a system in place at that
3 time.

4 **Q.** Okay. All right. And we're talking '94 through
5 '98?

6 **A.** Yes.

7 **Q.** Okay. So '94 through '98, did you ever have
8 anything in writing that you ever kept track of the water
9 sales? The water revenues?

10 **A.** I never did.

11 **Q.** Okay. So Mr. Yusuf described a document that had
12 handwriting on it with a number for 1997 that was around
13 between 50- and 60,000, and another number that said 72,000.

14 Did you have any documents that you would
15 keep like that, handwritten notes or documents that you
16 would keep with that kind of information?

17 **A.** No, ma'am. No.

18 **Q.** Okay. And if you had to, based on your
19 understanding and familiarity, would it be your -- who do
20 you believe would have kept track of that?

21 **A.** Mike.

22 **Q.** Okay. All right. Other than those -- well, you
23 said -- let me ask you this: If you were to -- in 1998,
24 before Mike starts really getting going on West, if you
25 wanted to get a -- a full list of how much water revenue

WALEED "WALLY" HAMED -- DIRECT

1 there had been from 1994 through 1998, what would you have
2 done? How would you have gotten that information?

3 **A.** I never thought about it that way, but I guess
4 you'd go to Mike, or the person who was in charge of that.

5 **Q.** Okay. And your testimony is that would have been
6 Mike?

7 **A.** Yes.

8 **Q.** Okay. All right. After 1998, Mike is busy with
9 getting Plaza Extra -- Plaza Extra West up and running; is
10 that fair?

11 **A.** Um-hum.

12 **Q.** All right. Who would be in charge of water
13 revenues after 1998? From 1998 through 2001, which is, I'm
14 just going to say, the raid?

15 **A.** It -- it could have been Mafi, or it could have
16 been Yusuf. I'm not sure if Yusuf was back from college at
17 that time or not.

18 **Q.** Okay.

19 **A.** Yusuf Yusuf.

20 **Q.** Yeah, yeah. Okay.

21 So was there any change in the systems, as
22 far as how it was tracked or kept track of?

23 **A.** I'm not sure if it was -- at that time. Maybe
24 one -- between '98 to 2000, I'm -- I don't -- I'm not quite
25 sure. Maybe it's a little bit different.

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1 I know at one time down the road, we've
2 changed where we had -- the truckers would go and they would
3 go to the front end and they would sign a receipt. A
4 receipt would be kept and they would be given a copy and
5 they'll go back to the warehouse. Be given to the warehouse
6 attendant and turn the switch on so they can get the water.

7 **Q.** Okay. But let's -- let's -- let's -- and I -- I
8 think I'm -- I know when that started, so let me back up a
9 little bit.

10 So between 1998, and let's say before the
11 raid, or at the time of the raid, 2001, it's your belief
12 that it would have been either Mafi Yusuf -- I'm sorry, Mafi
13 Hamed -- I apologize -- or possibly Yusuf Yusuf, but you're
14 not sure because you don't remember when Yusuf -- 'cause
15 Yusuf's younger when he came back from college, right?

16 **A.** Yes.

17 **Q.** Okay. But was that -- from that period of time,
18 1998 through 2001, was not something that you were
19 specifically tracking, as far as the water revenue?

20 **A.** No.

21 **Q.** Okay. And you're not aware, even though you were
22 over the store, that there was any particular system to
23 track that water revenue, like any specific mechanism? It
24 was just, you know, as they came, a receipt and so forth,
25 and it all got put together; is that fair?

WALEED "WALLY" HAMED -- DIRECT

1 **A.** I -- I know what the system was.

2 **Q.** Okay. But, I mean, there's no way for you -- in
3 2001, let's say, you know the raid is happening and you want
4 to get the money, let's say, for sending money to family
5 members for this charitable donation and you want to make
6 sure that all of that revenue money from 1998, when Mike
7 left, to 2001 is accounted for. Where would you go, before
8 the raid, to have figured out that number?

9 **A.** I would ask whoever was in charge of that
10 particular department or the revenues that were coming in.

11 **Q.** Okay. And what I'm asking you is, was it kept in
12 some kind of a formal system with a accounting general
13 ledger number or something like that, or was it just
14 somebody kept track of it in the books, or do you know?

15 **A.** I -- I believe it wasn't in the general ledger,
16 or, you know, accounting system. I think it was on a pad or
17 something that someone kept.

18 **Q.** Okay.

19 **A.** As the revenues came in, they would put it in.

20 **Q.** Okay.

21 **A.** Mark it down.

22 **Q.** Okay. That -- that helps. Okay. Then let me
23 just back up.

24 So from 1994, when the sales started, until
25 the time of the raid, which was in October of 2001, do you

WALEED "WALLY" HAMED -- DIRECT

1 have a familiarity with the number of trucks that would come
2 at any given time for water?

3 I know that you weren't necessarily in charge
4 of that, but, you know, do you have a sense of just being at
5 the store, how many trucks would come, and did that change
6 over time?

7 **A.** What period, ma'am?

8 **Q.** Okay. Well, let me break it up. So let's keep
9 same time frames.

10 From 1994 through 1998, when Mike was in
11 charge of keeping track, from 1994 through '98, do you have
12 any knowledge as to generally how many trucks per day of
13 water were being sold?

14 **A.** I don't know the exact number of trucks, but I
15 know there was a period prior to 2000, I believe St. Croix
16 had a drought, and there was a lot of business happening.
17 Probably '97, '98, '99. We had a lot, a lot of business --

18 **Q.** Okay.

19 **A.** -- as far as the trucks.

20 I know after a period of time, the same
21 individuals that were purchasing water opened up their own
22 wells or they put up their own cisterns, so they no longer
23 needed to come by us, and I know it dropped significantly
24 for sure.

25 **Q.** Okay. So you believe that happened around

WALEED "WALLY" HAMED -- DIRECT

1 2000-2001?

2 **A.** Probably, yeah. '99, 2000, 2001, yes.

3 **Q.** All right. But whoever was keeping track in the
4 book would be able to demonstrate whether the sales -- well,
5 that would be reflected in that sales drop, do you think?

6 **A.** Well, the sales, but at the same time, you can see
7 the traffic.

8 **Q.** Right.

9 **A.** The traffic in the back. I mean, I've always been
10 on the floor. I've always been in the warehouse. Know what
11 kind of traffic goes in and out.

12 **Q.** Okay. So after 2000, and I'm going to say
13 2000-2001, when you say it dropped, how many trucks would
14 you estimate came in on a daily basis?

15 **A.** Five, six. I'm not sure. I'm not quite sure.

16 **Q.** Okay.

17 **A.** I mean, it's been a while. I don't remember
18 exactly.

19 **Q.** Okay. But there was still sales?

20 **A.** Well, yeah, there were still sales.

21 **Q.** Okay. All right. Who were the primary -- did you
22 have folks that were primary customers that had, you know,
23 multiple drivers and so forth? Who were those?

24 **A.** You had, I think, Schuster's, Schuster's Water.

25 **Q.** Okay.

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1 **A.** You had Marco.

2 **Q.** Um-hum.

3 **A.** But I'm not too sure if Marco really started back
4 in the early 2000s or not. I'm not sure.

5 **Q.** Okay.

6 **A.** It could have been that down the road, he did.

7 You also had Mario, I believe. He had a
8 couple of trucks.

9 **Q.** Okay.

10 **A.** Or a few trucks that came by.

11 **Q.** Okay. So those were the primary ones at different
12 points in time of the customers that would have the multiple
13 trucks?

14 **A.** Yes.

15 **Q.** Okay. Otherwise, they were people that I would
16 call sort of a one-off or one-man show, small operations?

17 **A.** Yeah, it's not that many.

18 **Q.** Okay.

19 **A.** It's not that many.

20 **Q.** All right. After 2001, when the FBI came in for a
21 raid -- well, let me back up.

22 Before the FBI came in for a raid, was there
23 any reconciliation -- was there any reconciliation of the
24 water revenue that was supposed to go and be divided between
25 the families?

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1 **MR. HARTMANN:** Object. Assumes evidence not
2 in record.

3 **A.** Could you repeat the -- repeat the question,
4 please?

5 **Q.** **(Ms. Perrell)** Yeah.

6 You had said a minute ago that you agreed
7 there was an -- an agreement that the water revenue -- you
8 dispute whether it ended, you know, this relationship ended,
9 but that certainly in 1994 through, let's say the time of
10 the raid, which would have been 2001, the arrangement was to
11 be that any water revenues that came in was to -- supposed
12 to be split to the families to each then be able to give as
13 gifts or donations or whatever they chose to do with it.

14 My question is, you don't -- well, let me ask
15 you this: At any point in time, between 1994 through 2001,
16 it's your understanding that monies did come in to the
17 families to be given away that was part of the water
18 revenue, correct?

19 **A.** Yes.

20 **Q.** Okay. At the time of the raid, do you know
21 whether there was any reconciliation or saying, Okay, well,
22 the last time we did the water revenue was 2 years ago, we
23 need to shore up where we are on the water revenue? Did
24 that happen at all before the raid?

25 If you know. It may not have happened. I

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1 don't know. That's why I'm asking.

2 **A.** It could have happened. I'm not sure. If I
3 understand the question, if you're asking me, was the monies
4 disbursed?

5 **Q.** Yes.

6 **A.** That's what you're asking me?

7 **Q.** Yes.

8 **A.** Possibly.

9 **Q.** Okay. All right. And if it had been disbursed,
10 you're saying it really wouldn't have come to you, it would
11 have gone straight to Mohammad Hamed?

12 **A.** And -- and Mr. Yusuf.

13 **Q.** And Mr. Yusuf?

14 **A.** Yes.

15 **Q.** All right. All right. All right. After 2001,
16 when the FBI was in there monitoring, it's true, at that
17 point in time, that there could have been no split of the
18 monies at that point, right? No pulling of the money out?

19 **A.** That's correct.

20 **Q.** Okay. Because of the way that the monitor was
21 looking at all of the finances?

22 **A.** Yes.

23 **Q.** Okay. And that -- I understand we disagree as to
24 what was supposed to happen after 2004, but no monies could
25 have been distributed to any one family from the water

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1 revenues from the time of the raid in 2001, basically until
2 after the end of the criminal case, in 2011 or '12, right?

3 **A.** That's correct.

4 **Q.** Okay. All right. After 2001, who was in charge
5 of monitoring the water revenue?

6 **A.** I think, at that time, we changed. Rather than
7 having receipts --

8 **Q.** Um-hum.

9 **A.** -- being written up, in order to have, I guess,
10 more control because the -- the federal government --

11 **Q.** Um-hum.

12 **A.** -- was there, came up -- I -- I came up with, and
13 I told them that I needed a key. Told Yusuf or I told --
14 I'm not sure if it's Yusuf or Mafi, that I needed a key at
15 the register. I'm sorry, at the service desk on the
16 register, so anybody who comes in, they'll say, I want
17 15,000 gallons, 30,000 gallons, whatever they're paying for
18 it at the time, and they'll give them a receipt.

19 **Q.** And then the person takes the receipt back to the
20 back?

21 **A.** Yes.

22 **Q.** And shows the receipt?

23 **A.** Show that it was paid, yeah.

24 **Q.** And shows the time that it just -- a minutes
25 before, they fill up, and off they go?

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1 **A.** Yes.

2 **Q.** Okay. And then if they were one of the vendors
3 that had the scenarios where -- not vendors, the customers
4 where there were multiple checks, how did that work?
5 Multiple fill-ups between payment?

6 **A.** I believe what started happening, some of these
7 people weren't paying.

8 **Q.** Uh-huh.

9 **A.** Collection was a little bit of a problem, returned
10 checks.

11 **Q.** Um-hum.

12 **A.** And I believe that's why we came up with the you
13 got to pay --

14 **Q.** Um-hum.

15 **A.** -- in order to fill up.

16 **Q.** Okay. And during that time frame, it still would
17 have been either Yusuf Yusuf, you're saying, or Mafeed?

18 **A.** Well, they were no longer collecting the money
19 or -- or tallying the money, it's on the register. It's on
20 the POS system.

21 **Q.** Okay. And is there a specific -- would have been
22 on the POS system, but would it have been designated out for
23 water?

24 **A.** Yes, yes.

25 **Q.** Okay.

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1 **A.** There was -- there was a key, and it says water.

2 **Q.** Okay. And you believe that that POS code, for
3 lack of a better word, would be what? What was that code?

4 **A.** Whatcha mean, "what was that code"?

5 **Q.** Well, if I wanted to pull this up, you're saying
6 that -- that it was coded in at the -- at the -- when they
7 came in. They said, I want to fill up my truck. It's 3,000
8 gallons. And the cashier rings it up. She has to put in
9 what it is that she's ringing up, right?

10 **A.** Yes.

11 **Q.** And so my question to you is, what -- what was it
12 called?

13 **A.** Water.

14 **Q.** Water. Okay.

15 So if you wanted to get the water sales,
16 specifically, you could pull that up, is what you're saying?

17 **A.** From the POS system, yes.

18 **Q.** Okay. And when was that POS system created?

19 **A.** I'm not sure what year we started doing it, but
20 it's around the time that the fed -- the federal government
21 was there.

22 **Q.** Okay. So you think it was all the way back in
23 like 2001 and '2?

24 **A.** It's possible. I'm not sure.

25 **Q.** Okay. Is it possible it was in 2013?

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1 **A.** I'm not sure.

2 **Q.** Okay.

3 **A.** I mean, it could be around that time.

4 **Q.** All right.

5 **A.** I'm not sure what year.

6 **Q.** All right. Okay. All right. In some of your
7 discovery responses, you indicate that you believe that the
8 water sales is something that belongs to the partnership, as
9 opposed to something that is United's as part of owning of
10 the shopping center.

11 Why do you believe that?

12 **A.** Well, it's on the rented property. We paid rent
13 for the Plaza store. We paid to construct the cistern. We
14 paid to maintain the cistern. We paid for the power. We
15 paid for the pumps. We paid for -- for the whole operation.

16 **Q.** Okay. But it's -- the arrangement is very -- I
17 mean, many tenant arrangements, many arrangements would be
18 that certain things are pulled out or included.

19 For example, Mr. Yusuf said with other
20 tenants in the shopping center, he doesn't charge them
21 water, but he could charge them water. That doesn't mean
22 that because he gave the tenants water for free, or as part
23 of their just general rent payment, he didn't charge them
24 separate, that somehow that's no longer his water, correct?

25 **MR. HARTMANN:** Object. Argumentative.

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1 Assumes facts not in evidence. And -- just a second, and
2 hypothetical. Calls for a conclusion and facts not in
3 evidence.

4 **Q. (Ms. Perrell)** Okay. All right.

5 **A.** Would you repeat the question, please?

6 **Q.** Right. Just because there were certain -- let me
7 ask you this: For example, because Mr. Yusuf didn't charge
8 other tenants for water, that doesn't mean that the water
9 isn't owned by United, correct?

10 **A.** I -- I don't know how to answer that one. I mean,
11 you're -- you're telling me that I should speak on his
12 behalf, or the way -- what he owns, what. I can't speak on
13 his behalf.

14 **Q.** Okay. The payment or nonpayment doesn't
15 necessarily change the ownership of the water, correct?

16 **A.** You're asking me stuff that I shouldn't answer on
17 his behalf.

18 **Q.** Okay. You don't know the answer?

19 **A.** No.

20 **Q.** All right. So you don't know whether or not, just
21 because payments were made by the Plaza Extra grocery store
22 operations, whether that changes the ownership to the
23 water --

24 **MR. HARTMANN:** Object.

25 **Q. (Ms. Perrell)** -- that was collected by the -- by

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1 the shopping center, correct?

2 **MR. HARTMANN:** Object. Asks for a legal
3 conclusion.

4 **A.** You're asking me who owns the water. I don't know
5 how to answer that one. I really don't.

6 **Q. (Ms. Perrell)** Okay. You heard Mr. Yusuf testify
7 that after 2002-'3 time frame, that he had discussions with
8 you about a change in the rental relationship, or the rental
9 amounts that would ultimately be tied or tagged to what was
10 going on in St. Thomas.

11 Do you recall that testimony?

12 **A.** Yes.

13 **Q.** Okay. And as part of that arrangement, I think
14 we've all seen these, there were documents that come through
15 that show all the various expenses in St. Thomas. And then
16 there was a percentage or an amount calculated for what the
17 rent would be in St. Croix Plaza Extra East, correct?

18 **A.** Show me that document you're referring to.

19 **Q.** Let me ask you this: Do you recall that there was
20 a change in the arrangement, as far as the rent after 2004?

21 **A.** There was a change in the arrangements, yes --

22 **Q.** Okay.

23 **A.** -- for the rental.

24 **Q.** And what is your understanding of that
25 arrangement?

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1 **A.** My understanding is the rent, the lease property,
2 or the Plaza Extra rent would be based on St. Thomas rate,
3 base rate.

4 **Q.** Okay.

5 **A.** I'm sorry, not base rate, percentage.

6 **Q.** Right.

7 **A.** Yes.

8 **Q.** And as part of tying those together, then isn't it
9 true that you would receive information from -- relating to
10 the St. Thomas store?

11 **A.** I don't understand the question.

12 **Q.** How would you figure out the rent?

13 **A.** Based on the sales. Based on -- yeah, percentage
14 rate, yes.

15 **Q.** And was a document provided to you that would have
16 that information?

17 **A.** Yes.

18 **Q.** Okay. And did there come a point in time when you
19 questioned Mr. Yusuf about the fact that in St. Thomas, they
20 have to pay for water?

21 **A.** I don't recall saying or any -- discussing that,
22 to be honest with you.

23 **Q.** Okay. So is it possible that you discussed it and
24 you just don't recall?

25 **A.** It's -- I don't recall. I just don't recall

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1 discussing that.

2 Q. Okay. All right. All right.

3 A. And besides, that document that you're referring
4 to, that list that you're referring to, I don't think that
5 came about in 2004 or 2005, like what you're saying. I
6 think that came about in 2009 or '10, when we started --
7 when Yusuf started having problems with us.

8 Q. Okay. All right.

9 (Respite.)

10 Do you know whether or not any other members
11 of the Hamed family that are still with us, either Mafeed,
12 Hisham, Willie, would have information about the receipt of
13 the water revenues? You know, a distribution of the water
14 revenues to the families?

15 MR. HARTMANN: We'll stipulate that they
16 don't.

17 A. The distribution that -- what -- I mean, that they
18 know that there is an arrangement to go ahead?

19 Q. (Ms. Perrell) No, I'm sorry. I'll clarify. I
20 apologize.

21 What I mean is, is you had testified that you
22 knew that at some point in time, I believe it was prior to
23 the raid, that water -- that the water revenue monies did --
24 some portion of the water revenues monies did go to the
25 Hamed family, and some portion of it did go to the Yusuf

WALEED "WALLY" HAMED -- CROSS

1 family to be given away and provided to charity, and that
2 that would have gone straight to your father.

3 I'm trying to find out if there's anybody
4 else that knows about the receipt of those funds? You said
5 it was your dad who would have received it.

6 **A.** I don't think anybody would have --

7 **Q.** Information?

8 **A.** -- information about that.

9 **Q.** That's fine. It is what it is. Okay. Just
10 trying to understand that. All right.

11 All right. I don't think I have any further
12 questions. Thank you.

13 **MR. HARTMANN:** Okay. I just have a couple.

14 **CROSS-EXAMINATION**

15 **BY MR. HARTMANN:**

16 **Q.** When you were asked by Attorney Perrell why you
17 thought that the water revenues were coming into the
18 partnership, you said because we paid for the cistern. We
19 maintained the cistern. We took the money and we sent the
20 bills.

21 Okay. Was -- was all of that work done by
22 Plaza Extra partnership employees?

23 **A.** Yes.

24 **Q.** Okay. And give me the names of some of the
25 employees that would have been involved in that?

WALEED "WALLY" HAMED -- CROSS

1 **A.** Over the years, I -- it could be -- Wadda could be
2 one of them. Chris could be one of them. Fathi. Fathi
3 Hannun would be part of them. So many over the years.

4 **Q.** A lot of them?

5 **A.** Yeah, a lot of them.

6 **Q.** And -- and all of the people that were -- that
7 were doing this work were being paid as employees of the
8 partnership?

9 **A.** Yes, sir.

10 **Q.** Okay. And when -- when you said Mike oversaw it
11 for a while, and maybe Yusuf Yusuf, and maybe Mafi at some
12 point possibly even, were they all being paid as Plaza Extra
13 employees?

14 **A.** Yes, sir.

15 **Q.** Okay. And the -- the way that the unit works, as
16 I understand, is that this is a cistern located on the Plaza
17 Extra partnership leased land?

18 **A.** Yes.

19 **Q.** Okay. And the trucks drove onto the Plaza Extra
20 leased land?

21 **A.** Yes.

22 **Q.** Do they drive onto the shopping center land?

23 **A.** Well, they drive around the -- the dock.

24 **Q.** Right, but actually do the loading and unloading?

25 **A.** Yeah. Well, around that area.

WALEED "WALLY" HAMED -- CROSS

1 Q. Okay. And -- and you said that the partnership
2 paid for it.

3 What did you mean when you said the
4 partnership paid for it?

5 A. Paid for -- I'm sorry?

6 Q. The cistern and the stuff like that?

7 A. We built it. We built it.

8 Q. The partnership?

9 A. Yeah, the partnership built the cistern.

10 Q. Okay. And did you also install some pumps?

11 A. Yes, there were pumps.

12 Q. And that was installed by the partnership?

13 A. Yes.

14 Q. Okay. And where did you get the money to -- well,
15 strike that. Wrong question.

16 The pumps you talked about that you bought,
17 they ran on electricity?

18 A. Yes.

19 Q. And what meter did those go through?

20 A. Plaza Extra.

21 Q. Okay. And to the best of your knowledge, were you
22 ever reimbursed for any of this money by -- by the tenant
23 account?

24 A. No, sir.

25 Q. Okay. Did you ever deal with the tenant account

WALEED "WALLY" HAMED -- CROSS

1 with regard to it?

2 **A.** No, sir.

3 **Q.** Did -- did anybody -- did Mr. Yusuf or Mike or
4 anybody ever suggest to you that this was really money that
5 was due to the tenant account?

6 **A.** No.

7 **Q.** Or to United Corporation?

8 **A.** No, sir.

9 **Q.** And I'll ask you to take a look at Exhibit 12
10 here.

11 And those -- I will represent to you that
12 those are the months for which, what I call Yusuf's United,
13 the tenant account side of United, not the partnership side,
14 is making claims here. If you'll notice, it's April of 2004
15 through February of 2015.

16 Now, during that time, did -- did -- did you
17 ever change how the water income was coming into the
18 partnership?

19 In other words, counsel asked you if -- if
20 records were kept of the -- of the -- the water income, and
21 you said at one point, it was under a key. At another
22 point, it was kept in ledgers. But in all that time, that
23 was all money coming into the partnership; is that correct?

24 **A.** Yes, sir.

25 **Q.** Okay. And did that process ever change from 2004

WALEED "WALLY" HAMED -- CROSS

1 to 2015?

2 **A.** It's -- it's possible. Throughout the time that
3 you're talking about, yeah, it's possible.

4 **Q.** So the process might have changed?

5 **A.** Yes.

6 **Q.** But did the -- did the actual recipient of the
7 money ever change?

8 In other words, did it ever go to anybody,
9 other than the partnership? But the money was always coming
10 into the partnership.

11 **A.** Yes.

12 **Q.** And if -- if they existed, I could go and look at
13 the partnership amounts -- at the partnership accounting
14 from 2004 to 2015, and I could see in there where the money
15 for water sales was coming into the partnership, right?

16 **A.** Yes.

17 **Q.** And do those accounting books exist?

18 **A.** I -- I'm not sure if they do. I'm not in control
19 of it.

20 **Q.** Okay. But the books would never show that money
21 went to anyone, other than the partnership?

22 **A.** That's correct.

23 **Q.** Okay. And when did the -- when did the stores
24 come out from underneath the federal control, approximately?

25 **A.** I think the plea agreement was signed in 2013,

WALEED "WALLY" HAMED -- CROSS

1 maybe, or 2012, something like that.

2 **Q.** And so from 2013 to 2015, did the water revenues
3 start going to -- to the -- someone other than the
4 partnership?

5 **A.** No.

6 **Q.** I have no further questions. Oh, no, I do have a
7 further question. I'm sorry.

8 So -- so all that time that this water
9 revenue was being collected, it was -- it was going into the
10 accounting system of the store as gross income, right?

11 **A.** Yes.

12 **Q.** Okay. And every month, at the end of the month,
13 someone did up a gross receipts payment for the East store;
14 is that correct?

15 **A.** Yes.

16 **Q.** Okay. And -- and who was that reported to?

17 **A.** That was reported to the controller.

18 **Q.** Okay. And -- and then the controller would do a
19 check and pay the government?

20 **A.** The gross receipts, yeah.

21 **Q.** Okay. The gross receipts.

22 And where was that handled?

23 **A.** That was handled out of St. Thomas.

24 **Q.** Okay. And so the water sales were in that amount
25 of gross receipts?

WALEED "WALLY" HAMED -- REDIRECT

1 **A.** I assume, yes.

2 **Q.** Okay. So for that entire time, the partnership
3 was paying the gross receipts?

4 **A.** Yes.

5 **Q.** Not only that, but for the entire time, the
6 partnership was representing to the government that that was
7 income of the partnership; is that correct?

8 **A.** Yes.

9 **Q.** Okay. And do you know who signed the gross
10 receipts forms that went to the government?

11 **A.** I'm not sure, but --

12 **Q.** Was it someone in St. Thomas?

13 **A.** It was somebody in St. Thomas.

14 **Q.** Somebody in the accounting department?

15 **A.** It's -- it's possible.

16 **Q.** And who was in charge of that contracting deputy?

17 **A.** Fathi Yusuf.

18 **MR. HARTMANN:** Okay. I have no further
19 questions.

20 **MS. PERRELL:** All right. I have a couple
21 follow-ups.

22 **REDIRECT EXAMINATION**

23 **BY MS. PERRELL:**

24 **Q.** The entire time that the criminal case was
25 pending, isn't it true that there was never any disclosure

WALEED "WALLY" HAMED -- REDIRECT

1 of the fact of a partnership during the criminal
2 proceedings?

3 **A.** Could you repeat the question, please?

4 **Q.** During the time of the criminal case, there was
5 never any disclosure that there was this partnership, this
6 oral partnership, between Mohammad Hamed and Yusuf Hamed;
7 isn't that correct?

8 **A.** There were -- there were discussions and there was
9 discussions among the legal team that we had back and forth.
10 I don't remember exactly what year it was or -- but there
11 was, to the federal government, no, there wasn't.

12 **Q.** Right.

13 So the fact that Attorney Hartmann just asked
14 you, during this entire time of, you know, from the time of
15 the federal monitors until 2013, the fact that gross
16 receipts were being paid by, and signed by, United, would
17 have been completely consistent with the relationship and
18 the manner in which it was disclosed to the federal
19 government, correct? That it was just United? There was no
20 partnership?

21 **A.** It is what it is. Yeah, I assume so.

22 **Q.** Correct. Okay.

23 Let me go back and ask this: Your -- you own
24 other commercial properties, correct?

25 **A.** Yes.

WALEED "WALLY" HAMED -- REDIRECT

1 **Q.** Okay. And you're aware that it's common for
2 tenants to oftentimes do a build-out of a particular
3 commercial location and to pay for that build-out, correct?

4 **A.** Yes.

5 **Q.** Okay. And it's also common that the build-out and
6 whatever changes are made to the property, along with the
7 landlord's approval, remain on the property, or those
8 changes are part of the property, even though the tenant may
9 leave, correct?

10 **A.** Yeah. Depends on the negotiations that you do.

11 **Q.** Exactly.

12 **A.** The lease that you have.

13 **Q.** Exactly.

14 So isn't it also true that the relationship
15 for the building and the cistern and so forth by the
16 partnership was an arrangement that was made, as Mr. Yusuf
17 said, for the partnership to make certain payments, along
18 with investments that he also made, and that that build-out
19 would be allowed, but at the end of the day, all of that
20 property is still owned by the landlord, United, correct?

21 **A.** I'm not sure I understand what you're saying.

22 Maybe you need to repeat it for me, please, because --

23 **Q.** Okay. Just like any other build-out, if a tenant
24 makes changes to a particular property, in negotiation with
25 the landlord, it's all -- it's common for those changes to

WALEED "WALLY" HAMED -- REDIRECT

1 remain part of the property, and the tenant may leave,
2 correct?

3 **A.** Yes.

4 **Q.** Okay. The same could apply in this case, where
5 the changes that were made to the Plaza Extra store after
6 the fire, that a portion of which may have been paid for by
7 the partnership, were changes to the physical store,
8 including the cistern and so forth, but that all of those
9 changes didn't change the fact that the property was still
10 owned by United, correct?

11 **A.** No. You're telling me changes. There were no
12 changes made to the store. The cistern. You have a
13 build-out from the beginning.

14 **Q.** Right.

15 **A.** Right.

16 **Q.** Okay?

17 **A.** So there's no changes. It's not a change like
18 you're stating that I have a lease. I leased a place and
19 whatever changes I make, yes, they -- possibly they could
20 stay, but this is from the ground up. The store went from
21 the ground up. The cistern went the ground up.

22 **Q.** Okay. So are you saying that it's -- it's
23 beyond -- are you familiar with scenarios where a tenant
24 will come in and actually build the store, build a store
25 from the ground up, and at the end of the lease, as part of

WALEED "WALLY" HAMED -- REDIRECT

1 that negotiation, they may get a break on the rent for a
2 little bit -- I'm just asking -- and then the tenant would
3 leave, and that doesn't change the fact that the landowner
4 would still own that building that the landowner may not
5 have paid to build?

6 **A.** Yeah, I understand that, yes.

7 **Q.** Okay.

8 **A.** Yes. There's scenarios like that, yes.

9 **Q.** Okay. So isn't it also true that in this
10 situation, that the fact that the partnership may have
11 contributed in some way to the building of the additional
12 cistern space, along with investment that the landlord made
13 as well, that the arrangement was just as Mr. Yusuf said,
14 that just because they might -- the tenant may have paid for
15 certain portions, that that doesn't mean that the tenant
16 would then be entitled to all of the water revenue that
17 would ultimately result from the cistern being built and so
18 forth?

19 **A.** I think I'm -- I'm a little bit confused with
20 that. I mean, you're talking about the cistern. You're
21 talking about improvements. And now you're telling me it's
22 water.

23 **MR. HARTMANN:** Excuse me. Wait. Let me --
24 let me object.

25 **MS. PERRELL:** No, no, you're going to have to

WALEED "WALLY" HAMED -- REDIRECT

1 object to the question when the question comes up.

2 **MR. FATHI YUSUF:** May I have a piece of
3 paper, please?

4 **MS. PERRELL:** You didn't object.

5 **MR. FATHI YUSUF:** I'll write it for you and
6 let everybody see it.

7 **MS. PERRELL:** Okay. Mr. Yusuf, here. Let me
8 ask.

9 **MR. FATHI YUSUF:** What happened to these two?

10 **Q. (Ms. Perrell)** Okay. You've already agreed that
11 there are scenarios where a tenant might actually pay for
12 the physical building of a building that they would then
13 lease. And that at the end of their tenant relationship,
14 they would leave and the landowner would get the benefit of
15 the entire now-built building and would still own the
16 building, correct?

17 **A.** Yes.

18 **Q.** Okay. In this scenario, isn't it also possible
19 that the fact that the partnership may have contributed to
20 some of the building of the cistern, or the infrastructure,
21 or the piping and the so forth, that that contribution
22 doesn't necessarily mean that the tenant would have a right
23 to water revenue that resulted from that infrastructure that
24 was put into place?

25 **MR. HARTMANN:** Now I'll object. The question

WALEED "WALLY" HAMED -- REDIRECT

1 is over. Object. It posses a hypothetical. You keep
2 shifting between keeping it at the end and during the
3 pendency.

4 **Q. (Ms. Perrell)** You can still answer the question.

5 **A.** While it's being leased, right, we are entitled to
6 the water. It's being -- I'm paying rent for the Plaza
7 store. It's being collected off of the roof of Plaza store.
8 I'm entitled to the water.

9 **Q.** And you believe that simply because of the fact of
10 the payments, correct?

11 **A.** I'm sorry?

12 **Q.** You believe that you're entitled to the water
13 simply because -- the reason you believe that is because you
14 believe that because the tenant paid for some of the
15 coordination of the collection, correct? The employees
16 collecting the water?

17 **A.** Um-hum.

18 **Q.** And because the tenant pays for and may have
19 contributed some portion to the building of the
20 infrastructure so that there is additional cistern capacity,
21 yada, so forth, that that's the reason that the tenant is
22 entitled to the water revenue?

23 **A.** That's part of it, plus you're paying rent.

24 **Q.** So you believe those are the reasons why?

25 **A.** Yes.

WALEED "WALLY" HAMED -- REDIRECT

1 **Q.** Okay. But isn't it also true that an arrangement
2 could have been made that those contributions by the tenant
3 were there, but that after 2004, the tenant would not have
4 any entitlement to the water revenue?

5 **MR. HARTMANN:** Object. Asked and answered.

6 **A.** There's no arrangement.

7 **Q.** **(Ms. Perrell)** Okay. And you believe there's no
8 arrangement because you were not told by your father of the
9 arrangement?

10 **MR. HARTMANN:** Object. Asked and answered.

11 **A.** There was no arrangement that I know of.

12 **Q.** **(Ms. Perrell)** But you're not aware of whether or
13 not your father had a conversation with Mr. Yusuf for that
14 arrangement?

15 **MR. HARTMANN:** Object. Asked and answered.

16 **A.** I -- if there was an arrangement, we would know
17 about it.

18 **Q.** **(Ms. Perrell)** Okay. But it is possible that
19 Mr. Hamed and Mr. Yusuf had this arrangement and you don't
20 know about it; isn't that true?

21 **MR. HARTMANN:** Object. Asked and answered.

22 **A.** There's no arrangement that I'm aware of.

23 **Q.** **(Ms. Perrell)** That you're aware of. Okay.

24 **MR. HARTMANN:** Object. Argumentative. Move
25 to strike.

WALEED "WALLY" HAMED -- REDIRECT

1 My witness?

2 **MR. FATHI YUSUF:** Attorney Charlotte.

3 **MS. PERRELL:** No, I'm not done yet.

4 **MR. HARTMANN:** Okay.

5 **MR. FATHI YUSUF:** Attorney Charlotte.

6 **MS. PERRELL:** Yes.

7 **MR. FATHI YUSUF:** I want to have an
8 opportunity to go back on the stand.

9 **MS. PERRELL:** Okay.

10 **MR. FATHI YUSUF:** Give me another
11 opportunity.

12 (Respite.)

13 **Q. (Ms. Perrell)** The water that was being used for
14 the delivery of water, what cistern was it pulling from?

15 **A.** The water that was, I'm sorry?

16 **Q.** The water that we're talking about, this water
17 that was being sold --

18 **A.** Uh-huh.

19 **Q.** -- to the truckers, to the water trucks, what
20 cistern was it pulling from?

21 **A.** The cistern that's right behind the store.

22 **Q.** The cistern that was in place before the storm?

23 **A.** No, the one that -- behind the store that was
24 built when we rebuilt the store.

25 **MS. PERRELL:** Okay. All right. Let me talk

WALEED "WALLY" HAMED -- RECROSS

1 to Mr. Yusuf for just a moment. He has -- and then I can
2 finish up with this witness, so I just need a two-minute
3 break.

4 **THE VIDEOGRAPHER:** Going off the record. The
5 time is 12:01.

6 (Short recess taken.)

7 **THE VIDEOGRAPHER:** Going back on the record.
8 The time is 12:06.

9 **Q. (Ms. Perrell)** Okay. All right. Just to clarify,
10 it's your testimony that the water that was sold between
11 2004, April of 2004 through February of 2015, all came from
12 the cistern that was put into place after the store burned?

13 **A.** That's what I understand, yes.

14 **Q.** That's your understanding?

15 **A.** Yes.

16 **MS. PERRELL:** Okay. I have no further
17 questions.

18 **RECROSS-EXAMINATION**

19 **BY MR. HARTMANN:**

20 **Q.** To clarify something counsel asked you, she said
21 that you couldn't tell the government that there was a
22 partnership.

23 Did there come a time in 2012 when you hired
24 counsel to bring a lawsuit?

25 **A.** Yes.

WALEED "WALLY" HAMED -- RECROSS

1 Q. Okay. And who did you bring the lawsuit against?

2 A. Fathi Yusuf, United Corporation.

3 Q. And who was the plaintiff in that lawsuit?

4 A. Mohammad Hamed.

5 Q. Okay. And you -- at that time in the lawsuit, you
6 acted with his power of attorney so you could file documents
7 and do things for him; is that correct?

8 A. Yes, sir.

9 Q. And did you cause that lawsuit to be filed?

10 A. Yes.

11 Q. Okay. And in that lawsuit, did you say there was
12 a partnership?

13 A. Yes.

14 Q. And did you say when the partnership started?

15 A. Yes.

16 Q. And did you say who was the -- who were the
17 partners?

18 A. Yes.

19 Q. And did you say that the money that looked like it
20 was coming into United was really coming into the
21 partnership?

22 A. Yes.

23 Q. Okay. And did you make a claim for that money?

24 A. Yes, sir.

25 Q. And did you make a claim for your half of that

WALEED "WALLY" HAMED -- RECROSS

1 partnership?

2 **A.** Yes, sir.

3 **Q.** Okay. And do you recall -- and do you think the
4 government knew about that? Knew about that lawsuit?

5 **A.** I'm pretty sure they did.

6 **Q.** And, in fact, isn't it true that on 12-18 of 2014,
7 there was a proceeding -- actually just before that, but as
8 a result of a hearing in front of the federal judge here
9 that on 2-18-2014, all the TROs and all the other controls
10 by the federal government were lifted?

11 **A.** Yes.

12 **Q.** Okay. So let's take the month after that. Let's
13 take January 1st of 2015.

14 Do you -- do you know whether all the stores
15 filed gross receipts returns then?

16 In other words, did you report monthly gross
17 receipts after 2014?

18 **A.** Yes.

19 **Q.** Okay. So -- and it would be the same process you
20 described before, let's say, I'm going to pick a month,
21 February of 2014?

22 **A.** Yes.

23 **Q.** There were no federal impediments stopping if --
24 if the tenant account believed that it was -- actually
25 received that income, there was nothing from them filing a

WALEED "WALLY" HAMED -- RECROSS

1 gross receipts tax return, was there?

2 **A.** That's true.

3 **Q.** So -- so during that time, who was paying the
4 gross receipts tax on the water income?

5 **A.** The partnership.

6 **Q.** The partnership.

7 And who was controlling the office at the
8 time that gross receipts tax was paid?

9 **A.** The Fathis.

10 **Q.** And did they represent to the government that that
11 was income of the partnership?

12 **A.** Yes.

13 **MR. HARTMANN:** Okay. I have no further
14 questions.

15 **MS. PERRELL:** Okay.

16 **Q. (Mr. Hartmann)** Oh, I'm sorry. I do have one
17 further question.

18 And did that continue up until the -- the
19 stores split up?

20 **A.** Yes, sir.

21 **MR. HARTMANN:** Okay. Thank you.

22 **MS. PERRELL:** Okay. I have no more
23 questions. Thank you.

24 **MR. HARTMANN:** Thank you.

25 **THE VIDEOGRAPHER:** This is the continuance of

MAHER "MIKE" YUSUF -- DIRECT

1 the deposition. The time is 12:10.

2 (Short recess taken.)

3 **MAHER "MIKE" YUSUF**

4 **THE VIDEOGRAPHER:** This is the continuation
5 of the deposition of Maher Yusuf. The date is January 22nd,
6 2020. The time is 12:14. The witness is sworn in.

7 **DIRECT EXAMINATION**

8 **BY MS. PERRELL:**

9 **Q.** All right. Mike, you've been here for most, or
10 part, of the testimony that we've had today relating to the
11 water revenue that was collected.

12 When were you at -- just to refamiliarize and
13 have this in this particular transcript, when were you
14 physically at the -- working at the Plaza Extra East store?

15 **A.** Before the fire.

16 **Q.** Okay. And when was the fire?

17 **A.** 2001. January 2001, if I remember.

18 **Q.** All right. The fire?

19 **A.** Fire.

20 **Q.** Okay. I think --

21 **A.** Oh, sorry. 2001, I came. I came in 2001, yeah.

22 **Q.** Let's back up. Let's back up.

23 When did you come back from college and begin
24 working at the Plaza Extra East store?

25 **A.** 2001.

MAHER "MIKE" YUSUF -- DIRECT

1 Q. 2001?

2 A. I mean, sorry. 1991.

3 Q. Sorry.

4 A. Sorry.

5 Q. I can't testify for you, but I --

6 MR. HARTMANN: Sure, you can.

7 A. Yeah, I get that one stuck.

8 MR. HARTMANN: Are you sure it wasn't 1991?

9 Q. (Ms. Perrell) Okay. So now we're back in the
10 right decade.

11 A. Yeah, yeah.

12 Q. 1991.

13 A. 1900s.

14 Q. Okay. 1991.

15 And when was -- when was the fire?

16 A. 2000.

17 Q. Okay.

18 A. Sorry. 1992.

19 Q. All right. I feel good about how this is going to
20 go.

21 (Laughter.)

22 MR. HARTMANN: Me, too.

23 Q. (Ms. Perrell) Okay. It's all right. All right.

24 So in 1992 is when the fire happened. All
25 right. Are you familiar with the -- the rebuilding of the

MAHER "MIKE" YUSUF -- DIRECT

1 property in 2000 -- in 19 -- now I'm doing it.

2 **MR. HARTMANN:** Counsel, please lead your
3 witness.

4 **MS. PERRELL:** Okay.

5 **MR. HARTMANN:** You can lead all you want.

6 **MS. PERRELL:** Okay.

7 **MR. HARTMANN:** You don't have to --

8 **Q. (Ms. Perrell)** Okay. So -- well, I'm just going to
9 ask him, though, are you familiar with the -- the
10 construction, or the reconstruction of the store after the
11 fire?

12 **A.** Yes.

13 **Q.** Okay. And you've heard testimony today about the
14 construction of an -- of an additional cistern subsequent to
15 the fire?

16 **A.** Correct.

17 **Q.** Okay. Once the store reopened in 1994, are you
18 familiar with the fact that the store started doing water
19 revenues?

20 **A.** Yes.

21 **Q.** Okay. And how are you familiar with that? How do
22 you know about that?

23 **A.** Because I was the one involved installing --

24 **Q.** Okay. Installing?

25 **A.** -- the pipe stand and for the truckers. I was

MAHER "MIKE" YUSUF -- DIRECT

1 involved with hooking up the pipe stand for the truckers.

2 **Q.** From what cistern did -- the water that was used
3 for sales to the water trucks, what cistern did it come
4 from?

5 **A.** There was a cistern that -- right behind the
6 pharmacy that we used to pull the water from.

7 **Q.** Okay. And was that a cistern that was already in
8 place on the shopping center before the store was rebuilt?

9 **A.** Yes.

10 **Q.** Okay. Do you mind if I have that grouping of
11 documents from before?

12 I'm going to show you what's been marked as
13 Exhibit 4.

14 **A.** Yes.

15 **Q.** And Exhibit 4 is a sketch that was prepared
16 yesterday.

17 Did you prepare this one yesterday?

18 **MR. HARTMANN:** Yes.

19 **A.** Yes.

20 **Q.** (**Ms. Perrell**) I don't remember who did what.

21 Okay. So this is, you know, a rough outline
22 of the Plaza -- of the United Shopping Center; is that
23 right?

24 **A.** Right.

25 **Q.** Okay. You said that it pulled -- that the water

MAHER "MIKE" YUSUF -- DIRECT

1 that was used to fill up the trucks that was part of the
2 water revenue sale from the sales --

3 **A.** Um-hum.

4 **Q.** -- came from a cistern near the pharmacy?

5 **A.** Correct.

6 **Q.** Okay.

7 **A.** Yeah.

8 **Q.** Can you indicate?

9 **A.** Sure.

10 **Q.** I'll tell you what, don't write on this, 'cause it
11 will mess it up.

12 **MR. HARTMANN:** No, no. Write on it.

13 **MS. PERRELL:** You're sure?

14 **MR. HARTMANN:** Just put another letter.

15 **MS. PERRELL:** Okay.

16 **MR. HARTMANN:** You put A there.

17 **Q. (Ms. Perrell)** We have an A and a B, so put C where
18 is the pharmacy and where the cistern would have been.

19 **A.** This would be rough. Someplace here is the
20 cistern. It was two compartment cistern.

21 **Q.** Okay.

22 **A.** And the pharmacy was like right here in the store.

23 **Q.** Okay. So the pharmacy is in the store?

24 **A.** Yes.

25 **Q.** Okay. And is this cistern in place before the

MAHER "MIKE" YUSUF -- DIRECT

1 fire?

2 **A.** Yes.

3 **Q.** Okay. So that was in place before the fire?

4 **A.** Right.

5 **Q.** Okay. So where is the cistern that was built
6 after the fire?

7 **A.** Write it down?

8 **Q.** Yeah.

9 **MR. HARTMANN:** Do it as D.

10 **A.** There's two cisterns, by the way.

11 **Q.** (Ms. Perrell) Okay.

12 **A.** Not one.

13 **Q.** Okay. Put D-1 and D-2 or something.

14 **MR. HARTMANN:** Yeah.

15 **A.** (Witness complies.)

16 **Q.** (Ms. Perrell) Okay. Where did the trucks pull up
17 to fill up for the water?

18 **A.** I'm going to give you the pipe stand here, okay?

19 **Q.** Okay.

20 **A.** Kind of. Okay.

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

22 **Q.** (Ms. Perrell) Okay. So when the water trucks
23 would pull up to fill up, let's say in 1994. Let's just
24 keep it easy. 1994, you opened, and the water -- first
25 water truck pulls up and you're going to sell him some

MAHER "MIKE" YUSUF -- DIRECT

1 water, where's he going to go on this?

2 **A.** He's going to go here, on this.

3 **Q.** Okay. And where is the water that he would get in
4 his truck coming from?

5 **A.** From here.

6 **Q.** Okay. How did you know that?

7 **A.** Because I was the one who was involved in the
8 installation.

9 **Q.** Okay.

10 **A.** Now, the water that was supplying the cistern --

11 **Q.** Um-hum.

12 **A.** -- was from two wells out of four wells we had at
13 that time.

14 **Q.** Okay. Where are the wells?

15 **A.** The well was -- one was here. Can I mark on this?

16 **MR. HARTMANN:** Yeah, just every time you put
17 something else in, just put another letter.

18 **A.** Okay.

19 **MR. HARTMANN:** So what letter is it?

20 **A.** This is the well.

21 **MS. PERRELL:** E.

22 **MR. HARTMANN:** I thought the standpipe was E.

23 **A.** And there's another one out here.

24 **Q.** (**Ms. Perrell**) Okay. Make that F.

25 **A.** Okay. The standpipe.

MAHER "MIKE" YUSUF -- DIRECT

1 **MR. HARTMANN:** What letter is that?

2 **A.** I can put --

3 **MR. HARTMANN:** G.

4 **A.** -- G.

5 **MR. HARTMANN:** Okay.

6 **A.** Okay.

7 **Q. (Ms. Perrell)** Okay. So the water -- so what I'm
8 trying to understand is, is the water that is actually being
9 sold is coming from the cistern -- we need to put a letter
10 on this one. Make this H just to --

11 **MR. HARTMANN:** What is it?

12 **MS. PERRELL:** I'm getting ready to describe
13 it.

14 **MR. HARTMANN:** Okay.

15 **Q. (Ms. Perrell)** It's the cistern that is underneath
16 the pharmacy; is that correct?

17 **A.** No, behind the pharmacy.

18 **Q.** Behind the pharmacy?

19 **A.** Underneath, behind, I'm not sure, but it was -- in
20 that. Behind the pharmacy is where the access to the pump
21 was.

22 **Q.** Okay. And this is the H, which is the -- I'm
23 going to call it the pharmacy cistern, okay?

24 **A.** Um-hum.

25 **Q.** The H pharmacy cistern was a cistern that was in

MAHER "MIKE" YUSUF -- DIRECT

1 place and had been in place in the -- on the property before
2 the fire?

3 **A.** Correct.

4 **Q.** Okay. And the water that fed that cistern was
5 from the two wells, F and E; is that correct?

6 **A.** Correct.

7 **Q.** And so the water that was being sold to the
8 trucks, when the trucks would pull up, the water trucks
9 starting in 1994, came from the wells -- well, let me ask
10 you this: Were both Wells E and F on the property and
11 installed before the fire?

12 **A.** Before the fire, yes. I know this one, yes. And
13 this one, I believe so. I can't recall, but we -- I know we
14 had one in the back and one in the front from years ago
15 or -- I'm not sure. I'm not sure.

16 **Q.** Okay. So the sales are going from F and E, and
17 the cistern that is H; is that correct?

18 **A.** Right.

19 **Q.** Okay. These new cisterns, D-1 and D-2.

20 **A.** Right.

21 **Q.** That were -- these were definitely built
22 post-2000 -- or post fire, correct?

23 **A.** Right.

24 **Q.** Okay. Was water from these two utilized to sell
25 to the trucks in 1994?

MAHER "MIKE" YUSUF -- DIRECT

1 **A.** We used to have a pump to supply it. The
2 standpipe.

3 **Q.** Um-hum.

4 **A.** But we always -- we always had problems with that
5 pump.

6 **Q.** Um-hum.

7 **A.** And it was on the -- this roof here, all the water
8 went into this cistern.

9 **Q.** Um-hum.

10 **A.** And into this cistern, it overflows to this
11 cistern.

12 **Q.** Okay.

13 **A.** So if we was to use this cistern for truckers, it
14 would empty out real quick. We didn't have water going in
15 unless it's rainwater, and that was it.

16 **Q.** Okay.

17 **A.** So -- and at the same time, we always had problems
18 with it. It was a smaller pump versus the pump that we had
19 here.

20 **Q.** Okay.

21 **A.** And so if we got it working, we probably got it
22 working and it would break down. You know, we spent more
23 time -- I spent a lot of time rearranging the piping and all
24 that.

25 **Q.** All right.

MAHER "MIKE" YUSUF -- DIRECT

1 **A.** But this was our main --

2 **Q.** Okay.

3 **A.** -- guy here.

4 **Q.** Okay. So the majority of the sales for the water
5 from, let's just say from 1994 through 1998, were from the
6 ones that we've just described a second ago, the F well, the
7 E well, and the H cistern primarily; is that fair?

8 **A.** Yeah.

9 **Q.** Okay. All right.

10 **A.** Do you want me -- we had more wells on the
11 property, if you want me to indicate those.

12 **Q.** Okay. Yes. Show me where the other wells are.

13 **A.** I have a well here.

14 **Q.** Make it -- where --

15 **MR. FATHI YUSUF:** You want to use this pen?

16 **Q.** **(Ms. Perrell)** H.

17 **A.** H? No.

18 **Q.** No.

19 **A.** We are G.

20 **Q.** It would be I.

21 **A.** And I have one here.

22 **Q.** J.

23 **A.** J. Okay.

24 **Q.** And where does this water from Well I run to?

25 **A.** Well, I, we didn't kind of use it. It was a well

MAHER "MIKE" YUSUF -- DIRECT

1 sitting there.

2 Q. Okay.

3 A. We didn't use it.

4 This, we had another cistern here that was
5 supplying this.

6 Q. Okay.

7 A. The laundry. We had a laundry there.

8 Q. Okay. So Well J really, though, was never
9 utilized for anything having to do with the water or truck
10 or whatever, okay? It just happened to be the other
11 wells and --

12 A. The other well, and it used to feed the tenants.

13 Q. Got it. Okay. All right. All right.

14 With regard to the -- the piping and the
15 utilization of the water that was sold, even after you left
16 in 1998, did the source of the water ever change between the
17 time that you left, 1998, through February of 2015?

18 A. No, it never changed.

19 Q. Okay.

20 A. Yeah, until I left, it never changed. After I
21 left -- after I got out of the store, I changed it.

22 Q. Okay. What does that mean? Say that again?

23 A. Well, it never changed from where the source of
24 the water was coming and which well it was coming from.

25 Q. Okay.

MAHER "MIKE" YUSUF -- DIRECT

1 **A.** I mean, the source of the water coming from the
2 wells.

3 **Q.** Um-hum.

4 **A.** And which cistern the standpipe was getting its
5 water from.

6 **Q.** Okay. And then you just said something until you
7 changed it. What does that mean?

8 **A.** I just changed the piping.

9 **Q.** Just when?

10 **A.** About a year ago.

11 **Q.** Okay. After the February of 2015?

12 **A.** Yeah, way after.

13 **Q.** Okay. All right. So after Mr. -- your father,
14 Mr. Yusuf, went to St. Thomas in 1994, and you were at the
15 St. Croix store, were you the one in charge of tracking or
16 keeping track of the sale of the water at the Plaza Extra
17 East store?

18 **A.** Yes.

19 **Q.** Okay. How did you do that?

20 **A.** I don't recall, but it was just -- it was a bunch
21 of different ways we used to do it.

22 **Q.** Okay.

23 **A.** And listening to Wally's testimony, one was that
24 we used to write down and charge a certain driver a lump
25 sum, or some would come and pay in advance, and they'll

MAHER "MIKE" YUSUF -- DIRECT

1 pull. And when they pulled their loads, then they'd go and
2 pay more. Different drivers or different companies, we'd
3 treat them differently.

4 **Q.** Okay.

5 **A.** They'd pay at the end of the month. You know, it
6 was just different. But I was the sole person that kept a
7 tally of what was that standpipe generated.

8 **Q.** Okay.

9 **A.** Yesterday we were talking about a black book. I
10 used to keep that in that black book, what -- what I had and
11 what we had for that year and all that stuff.

12 **Q.** Okay. So is it possible that the -- well, let me
13 ask you this: Did Wally keep a list of that? Of that water
14 sales?

15 **A.** No.

16 **Q.** Okay. So how did you get the information as to
17 what the water revenues were?

18 **A.** It was several different ways. I can't
19 remember --

20 **Q.** Okay.

21 **A.** -- how we did.

22 **Q.** Okay. So did you -- was there a general ledger
23 number or -- when the cashier would do a receipt, how would
24 you know that that was for a water sale?

25 **A.** We didn't -- at that time, I'm not sure if we had

MAHER "MIKE" YUSUF -- DIRECT

1 them paying in the front and the girl keep the receipts in
2 the back, plus some of them was writing it down and they
3 paid us as a lump sum. 'Cause we used to have -- they used
4 to come after hours. The receiving used to close at a
5 certain time, so they had to come up front and do, you know,
6 write down or -- or pay, or go in the back, write down in
7 the book. Take the key, go around, and put the water.

8 **Q.** Okay. What I'm asking, though, is how did you
9 know what the water sales were? Did you go get the monthly
10 receipts? Did you go get the -- how did you write it down?

11 **A.** Oh, yeah, on a daily basis, they used to give me
12 all the information. If it was sold by check or -- or by
13 receipts or whatever, I used to collect all that
14 information.

15 **Q.** Okay. So did you keep copies of all those?

16 **A.** Yeah.

17 **Q.** Okay. And where would those copies be?

18 **A.** It would be maybe on my desk or I kept it on the
19 safe until I wrote down --

20 **Q.** Okay.

21 **A.** -- a lump-sum number.

22 **Q.** And then after you wrote down the lump-sum number,
23 what did you do with those records?

24 **A.** Well, every time my dad came over from St. Thomas,
25 he would ask me, how much water -- how much money you made

MAHER "MIKE" YUSUF -- DIRECT

1 in water?

2 Q. Okay. And then -- and so that's how you -- you
3 kept a record of that?

4 A. Right.

5 Q. Okay.

6 A. I used to write it down in this -- in this book.

7 Q. And how did you pay Mohammad Hamed? How did you
8 pay Mohammad Hamed his half or his portion during the 1994
9 through 2004 time frame?

10 A. I -- I was the one who gave them the number of,
11 you know, this is how much I collected in water sales.

12 Q. Okay.

13 A. Either my father or Wally would be the one that
14 tell me how to distribute it. And I don't remember how I
15 distribute it. I know it was given to Mr. Mohammad on
16 several occasions.

17 Q. Okay.

18 A. And some occasions, I know my dad would tell
19 Mr. Mohammad, Give this to such and such family or this or
20 that when you go back home. And so he would get the lump
21 sum of -- of it and it -- it would be split 50/50 and he
22 would give whoever he wanted to, my dad, and Mohammad would
23 give to whoever he wanted to.

24 Q. Okay. All right. After you left, you really were
25 not involved in that much after 1998, or after 2000, when

MAHER "MIKE" YUSUF -- DIRECT

1 you were doing Plaza Extra West; is that fair?

2 **A.** Yeah. I mean, when -- I don't know what year
3 Mafeed came in, but everything that I used to do, I used to
4 tell him or show him what, 'cause I knew I was going to go
5 and do the store. And that was -- that would be one of the
6 things that I was doing, because he was solely responsible
7 now for what I do is the front end, the registers, the POS
8 system, the safe, and all that.

9 **Q.** Okay.

10 **A.** So he -- he keep the track. I don't know how he
11 kept his records.

12 **Q.** And after you left in 2000, were you -- do you
13 remember when you turned this over to Mafeed?

14 **A.** It had to be in 1998, when I kind of -- I'm not
15 there like during the day. I'd come in the evenings, so no
16 way for access.

17 **Q.** Okay. All right. So between 1998, and let's say
18 the time of the raid in 2 -- October of 2001, do you recall
19 if there was ever an occasion that Mafeed said or provided
20 the accounting to Mr. Yusuf or Mohammad?

21 **A.** I'm not sure.

22 **Q.** Okay.

23 **A.** After I left, it was hard for me to, you know. I
24 wasn't there all the time, so my dad, if he came and they
25 asked Mafi --

MAHER "MIKE" YUSUF -- DIRECT

1 Q. Okay.

2 A. -- or -- or Wally about --

3 Q. Okay.

4 A. -- the water money, I don't know what -- what --

5 Q. Okay. And at the time you were leaving in
6 1998ish, would that -- would Yusuf Yusuf have been on site
7 yet, or no?

8 A. No, no, no.

9 Q. Okay. So -- and then did you -- do you ever
10 recall having this sort of handover of this information or
11 this process to Wally Hamed?

12 A. No. It was mostly to Mafeed.

13 Q. To Mafeed. Okay. All right.

14 A. And the reason for that, because I kept it in the
15 safe.

16 Q. Okay.

17 A. A book that I used to use.

18 Q. That book. Okay. All right. Okay. All right.

19 I don't think I have any further questions
20 about that. I think we're -- well, let me ask you this.
21 Let me back up.

22 So between 1994 and 1998, when you step back
23 and were in the West store, about how many trucks were
24 delivering -- were coming to the store to fill up? Let's
25 say in 1994, do you have a sense of that?

MAHER "MIKE" YUSUF -- DIRECT

1 **A.** No. I mean, it was -- people got to know that we
2 have water all the time, so the business was picking up more
3 and more.

4 **Q.** Okay.

5 **A.** We had some -- a lot of occasions that we had to
6 just say, come back this afternoon. We're low on water.
7 Let the cistern build up.

8 **Q.** Um-hum.

9 **A.** You know, it was always constant. We watched
10 that -- that cistern, you know, that it doesn't run out.

11 **Q.** Okay. Do you have any recollection -- you heard
12 Mr. Yusuf testify today as to one number in 1997 that was
13 somewhere between \$50- and \$60,000 for 1997, and \$72,000 for
14 1998, I believe. Do those numbers -- do you have any
15 recollection of those amounts as the water sales for the
16 time frame?

17 **A.** I don't -- I don't remember the value of it, or
18 the total sales that we did.

19 **Q.** Okay.

20 **A.** I used to have it that -- that book --

21 **Q.** Okay.

22 **A.** -- for -- for each year.

23 **Q.** Okay.

24 **A.** If I see it, I'll know.

25 **Q.** Okay. And do those amounts -- you are familiar,

MAHER "MIKE" YUSUF -- DIRECT

1 however, with the amounts. If the number was 400,000, would
2 you be surprised that the number would be that big?

3 **A.** In a year?

4 **Q.** Yeah.

5 **A.** Yeah.

6 **Q.** Okay. And if the number was down at 10,000, would
7 you be surprised at how low that would be?

8 **A.** Yes.

9 **Q.** Okay.

10 **A.** Yes.

11 **Q.** So are the numbers, the around 50,000 or around
12 early 70, you know, low 70,000, was that consistent with
13 your general recollection as to the amounts?

14 **A.** Yeah.

15 **Q.** Okay. And then Wally Hamed testified that after,
16 I believe it was early 2000, that the water sales dropped
17 off significantly.

18 Do you have any information? Are you aware
19 of that at all? I know you were no longer at that store.

20 **A.** I wasn't no longer there, but, you know, we're in
21 a tropical and we always had droughts that we didn't have
22 water for months and that's when the truckers really are
23 very busy and we had availability of water all the time.

24 **Q.** Okay.

25 **A.** You know.

MAHER "MIKE" YUSUF -- DIRECT

1 **Q.** And so did Wally ever say something to you like,
2 This whole water sales thing is really dropping and it's not
3 worth our time, or anything like that?

4 **A.** No.

5 **Q.** Okay. Are you familiar with the agreement that
6 was in place for the water sales to be split from 1994
7 through 2004, and then not after that?

8 **MR. HARTMANN:** Object. Assumes evidence not
9 in the record.

10 **Q.** **(Ms. Perrell)** You can still answer.

11 **A.** I don't -- I don't remember what inspired back
12 then. How -- how they used to handle it.

13 **Q.** Okay.

14 **A.** I was -- I was too busy in the West store.

15 **Q.** Okay. What I'm asking is, is do you know --
16 Mr. Yusuf testified earlier about the arrangement for the
17 splitting between the families of the -- of the water, which
18 you said that you helped coordinate.

19 **A.** Yeah.

20 **Q.** That it was supposed to go from 1994 to only 2004.

21 Do you have any information about that, other
22 than what you hear today? Did you know about that before or
23 did you not know about that before?

24 **A.** No, there was an agreement between my dad and
25 Mr. Mohammad --

MAHER "MIKE" YUSUF -- DIRECT

1 Q. Okay.

2 A. -- about, you know, whatever proceeds, the water,
3 and they'd give it to charity.

4 Q. Okay.

5 A. And what the details were, I was just doing what I
6 was told to do.

7 Q. Okay. All right. So other than that, you don't
8 have any other information about it?

9 A. No.

10 Q. Okay. All right.

11 A. But I want to mention something.

12 When I heard Wally's deposition, he was
13 saying about Plaza employees was maintaining and --

14 Q. Right.

15 A. -- taking care of all this --

16 Q. The cisterns?

17 A. -- the cistern and this and that, there was
18 nothing to take care of.

19 Q. Okay.

20 A. The well pumps in the thing and it pumps out.

21 Q. Okay. And you were the one that was involved with
22 the coordinating for the installation of the -- the
23 standpipe or --

24 A. Yes.

25 Q. -- or whatever; is that correct?

MAHER "MIKE" YUSUF -- CROSS

1 **A.** Yes.

2 **MS. PERRELL:** All right. I have no further
3 questions.

4 **CROSS-EXAMINATION**

5 **BY MR. HARTMANN:**

6 **Q.** On the maintenance, didn't you have -- say earlier
7 in your deposition that you had to go down there and do
8 stuff a lot, working with the cistern and the stuff?

9 **A.** Yeah, yeah.

10 **Q.** Weren't you an employee of the partnership?

11 **A.** Yeah, of United Corporation.

12 **Q.** But you were being paid out of the grocery store?

13 **A.** Yeah.

14 **Q.** Okay. Turning back to this. I'm confused now.

15 Yesterday on Exhibit 4, yesterday, I had you
16 draw what has turned out to be the most important exhibit,
17 I'd like to point out. And you said that -- I asked you to
18 draw a box around what is the supermarket.

19 **A.** Right.

20 **Q.** And you've put a cistern. You said that the main
21 cistern that's being used here is the H cistern; is that
22 right? The one you put the H by?

23 **A.** For the standpipe for the truckers?

24 **Q.** Yeah, for the truckers.

25 **A.** Yes.

MAHER "MIKE" YUSUF -- CROSS

1 **Q.** But, excuse me, but that seems to be inside of A?

2 **A.** Correct. Yeah, correct.

3 **Q.** So there's a big cistern standing up on the floor
4 somewhere inside of A?

5 **A.** Do you know what's a cistern?

6 **Q.** Yeah, I got a general idea. I know that these
7 outside are standing up, right?

8 **A.** No.

9 **Q.** Oh, they're buried?

10 **A.** Yeah.

11 **Q.** Oh, okay.

12 So all of this stuff is buried?

13 **A.** Yeah.

14 **Q.** Okay. So this is actually buried underneath the
15 store?

16 **A.** Yes.

17 **Q.** Okay. And that's the store that the partnership
18 leases?

19 **A.** Yes.

20 **Q.** Okay. So all of the water that was being given to
21 the truckers came from basically a cistern that was located
22 inside the store?

23 **A.** Right.

24 **Q.** Okay. And --

25 **MS. PERRELL:** I would object.

MAHER "MIKE" YUSUF -- CROSS

1 **MR. HARTMANN:** Okay.

2 **MS. PERRELL:** Not inside the store.

3 **A.** Sorry, yeah. Not inside the store.

4 **Q.** (Mr. Hartmann) Let me add, sir. I'll do it.

5 And -- and some of that water was coming from
6 here?

7 **MS. JAPINGA:** Say where you're saying.

8 **Q.** (Mr. Hartmann) From F; is that correct?

9 **A.** Yes.

10 **Q.** Okay. But it was being stored in cisterns in A?

11 **A.** In A. I --

12 **Q.** Okay.

13 **A.** Some of that cistern, if I'm not mistaken, was
14 under -- under one of the tenants. There was a small bay
15 on -- on --

16 **Q.** Okay. And you said that sometimes water from D-2
17 was used in the standpipe as well, right?

18 **A.** No.

19 **Q.** It was never used?

20 **A.** We always had problems, and that was D-1.

21 **Q.** D-1 was the overflow?

22 **A.** D-1 was the back cistern, --

23 **Q.** Okay.

24 **A.** -- which used to overflow from D-2.

25 **Q.** So one of them you did sometimes use to supply the

MAHER "MIKE" YUSUF -- CROSS

1 standpipe. You know that because you had problems with it?

2 **A.** We always had problems with it.

3 **Q.** Okay.

4 **A.** Always had problems. We never could get it
5 working.

6 **Q.** But sometimes it worked and sometimes it didn't?

7 **A.** It was just there.

8 **Q.** Okay. So where did all the water in D-1 and D-2
9 go?

10 **A.** To the store.

11 **Q.** To the store. Okay.

12 So this one that's located underneath the
13 store, the H cistern, you said you installed the pumping
14 cistern?

15 **A.** I coordinate the pumping.

16 **Q.** Okay.

17 **A.** To install it. I -- I, maybe, physically did it
18 with the plumber or I was the one who did the --

19 **Q.** So to -- to look at this cistern, I would go into
20 the store and I'd go behind the pharmacy and I'd open a
21 hatch; is that right?

22 **A.** No, it's not a hatch. It's concrete.

23 **Q.** It's what?

24 **A.** It's a concrete -- a concrete hatch.

25 **Q.** Okay. A thing? It's a --

MAHER "MIKE" YUSUF -- CROSS

1 **A.** Concrete cover.

2 **Q.** A big concrete cover. Okay.

3 **A.** Right.

4 **Q.** And where would I go to see the actual motor
5 that's driving that?

6 **A.** You should be able to go into the warehouse and
7 see that.

8 **Q.** Warehouse in the supermarket?

9 **A.** The warehouse in the back of the supermarket.

10 **Q.** Okay. And if -- if I went to that pump and I
11 followed -- there's electric lines going into it, right? If
12 I followed those electric lines, where would they go?

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

14 **Q.** Well, I mean, somebody was paying to run the pump?

15 **A.** Yeah, yeah.

16 **Q.** The store?

17 **A.** I believe so.

18 **Q.** Okay. I've been told I have to say which letter
19 it is.

20 So just to be clear, the -- could you draw
21 in, I think, we're up to K, could you draw in where, on that
22 map, the electrical connection would be? 'Cause apparently
23 me saying "there" is not going to look very good on the
24 transcript. So just wherever you think the electrical
25 supply was for the --

MAHER "MIKE" YUSUF -- REDIRECT

1 **A.** Well, the pump was in -- in H, so --

2 **Q.** The pump was in H, okay.

3 **A.** So the electrical is in H.

4 **Q.** Okay. And -- and where was the meter that the
5 pump ran to?

6 **A.** I'm not sure.

7 **Q.** Okay. But it was somewhere in the store?

8 **A.** It was -- I'm not sure what it was hooked up to.
9 If it was hooked up to the store or not, --

10 **Q.** Okay.

11 **A.** -- I'm not sure.

12 **Q.** Okay. All right.

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

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

REDIRECT EXAMINATION

17 **BY MS. PERRELL:**

18 **Q.** I just have one follow-up question.

19 With regard to Cistern H that is labeled
20 here.

21 **A.** Um-hum.

22 **Q.** And you said it's under the pharmacy. This
23 cistern existed before the fire; is that correct?

24 **A.** Correct.

25 **Q.** Okay. So none of the funds that were part of the

MAHER "MIKE" YUSUF -- REDIRECT

1 reconstruction build-out after the fire were utilized to
2 build this cistern, correct?

3 **A.** No. And I'm going to go back a little bit.

4 Before the fire, that cistern was actually
5 under a tenant, one of the tenants before, 'cause the store
6 never -- the store was not that big. It was maybe about --
7 a little bit smaller than that box, so this H cistern was
8 under one of our tenants.

9 **Q.** Okay. Before the fire?

10 **A.** Before fire.

11 **Q.** Okay.

12 **A.** Yes.

13 **Q.** And the -- the build-out, there was nothing
14 relating to the subsequent build-out of the store after the
15 fire that contributed to the construction of this cistern?
16 It was already there?

17 **A.** It's already there, yeah.

18 **Q.** Okay. And the same would go for at least the Well
19 F, correct?

20 **A.** I believe so, yes.

21 **Q.** Okay. All right. And what about Well E?

22 **A.** The same thing.

23 **MS. PERRELL:** Okay. All right. I have no
24 further questions.

25

MAHER "MIKE" YUSUF -- RECROSS

RECROSS-EXAMINATION

1
2 **BY MR. HARTMANN:**

3 **Q.** Weren't some wells put in?

4 **A.** Yes.

5 **Q.** Which wells were put in -- in that time when the
6 rebuilding was done and the new cisterns were put in?

7 **A.** I believe we put in E. E, at that time.

8 **Q.** Okay. And -- and what does E do? What does E
9 supply?

10 **A.** E supply H.

11 **Q.** E supplies H?

12 **A.** Right.

13 **Q.** Okay. So when you put in a new well, E, it was
14 pouring into the Cistern H?

15 **A.** Right.

16 **MR. HARTMANN:** Okay.

17 **MS. PERRELL:** I have no further questions.

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

19 **THE VIDEOGRAPHER:** This is the continuance of
20 the deposition. The time is 12:46.

21 (Short recess taken.)

22 **THE VIDEOGRAPHER:** This is the continuation
23 of the deposition of Mafeed Hamed, January 22, 2020. The
24 time is 12:48. The witness has been sworn in.

MAFEED "MAFI" HAMED -- DIRECT

1 MAFEED "MAFI" HAMED

2 DIRECT EXAMINATION

3 BY MS. PERRELL:

4 Q. All right. Good afternoon.

5 A. Good afternoon.

6 MR. HARTMANN: Whoever you are.

7 Q. (Ms. Perrell) Just had a couple of questions for
8 you. And I apologize, I had -- I had forgotten when your
9 time frame was at the Plaza Extra East store. So could you
10 just tell me what time frame did you start working at the
11 Plaza Extra East store?

12 A. I started in 1995.

13 Q. 1995?

14 A. Of August.

15 Q. August of --

16 A. Yeah, shortly after Hurricane Marilyn.

17 Q. Okay. All right. And you heard testimony from
18 Mike Yusuf just a few moments ago that around the 1998 time
19 frame -- can you still hear me with all this? Okay.

20 Around the 1998 time frame when he started
21 spending more time putting together and -- and working on
22 Plaza Extra West, that he turned over to you -- one of the
23 things that he turned over was tracking and keeping track of
24 those water revenues.

25 Do you recall the testimony?

MAFEED "MAFI" HAMED -- DIRECT

1 **A.** Yeah, I recall it. I was here, yes.

2 **Q.** Okay. And so do you recall that happening?

3 **A.** Yes, he did.

4 **Q.** Okay. So in -- and was it around 1998?

5 **A.** It was around 1998.

6 **Q.** Okay.

7 **A.** But let me add that it wasn't that he left the
8 store completely.

9 **Q.** No, no, I understand.

10 **A.** He still had -- he still had -- he oversaw
11 everything there.

12 **Q.** Okay.

13 **A.** He oversaw the front end. He oversaw the cash
14 room. He oversaw the safe. He oversaw the water revenues.

15 **Q.** Okay. And so with regard to the water revenues,
16 what -- what did you understand you were to do?

17 **A.** Well, the process was, when I first got there in
18 '95, it was a lot of cash. It was a lot of cash receipts.
19 People would come in. They would go to the warehouse
20 manager. They would say how much they want. We would
21 write -- the warehouse manager would write it on a carbon
22 receipt with a copy.

23 **Q.** Um-hum.

24 **A.** And then once they collect the amount, they would
25 give them the key. Then the driver would go up and dispense

MAFEED "MAFI" HAMED -- DIRECT

1 the water.

2 Q. Um-hum.

3 A. And basically what we would know what the size of
4 the tank is so we would know what amount to charge.

5 Q. Okay.

6 A. So it was being received -- the cash was being
7 received by the warehouse managers. And that cash would
8 then, at the end of the day, would be presented to Mike, and
9 Mike would put it in the safe.

10 Q. Okay. And then did there come a point in time
11 where that process changed and they would go and pay the
12 cashier at the front?

13 A. Yeah. There came a point in time.

14 Q. Do you remember when that was?

15 A. I think in 19 -- I mean, we got raided in 1999.
16 And then we got raided again in 2001.

17 Q. Okay.

18 A. In 1999, I mean, it was like, you know, when you
19 see a pile of shit, nobody wants to come around it. So a
20 lot of these water companies didn't want to come around us
21 no more, just because they thought we had issues.

22 Q. Um-hum.

23 A. Federal issues.

24 Q. Um-hum.

25 A. So things had to change.

MAFEED "MAFI" HAMED -- DIRECT

1 Q. Okay. So --

2 A. Excuse my language. Sorry.

3 Q. Oh, that's okay. So in 1990 --

4 A. Pardon me.

5 Q. Regardless of what -- what the trucks did, there
6 was a point in time in which whoever was coming, okay, to
7 get water, would actually go up to the cashier and make a
8 payment there?

9 A. Yeah, they would have to go to the front end. We
10 didn't want the cash to be sent --

11 Q. Um-hum.

12 A. -- to the warehouse anymore.

13 Q. Um-hum.

14 A. Go to the front. Ring it up on the register so
15 it's in the POS system.

16 Q. Um-hum.

17 A. And then they walk back with the receipt. The
18 warehouse manager would see how much it is and verify that
19 that's the correct amount for the size truck, --

20 Q. Um-hum.

21 A. -- and they give them the key.

22 Q. Okay. So that -- so what happens to the receipt
23 and the -- and the money that comes in? Does it -- when it
24 goes into the POS system, is it going in just as non --
25 non-food? Is it going in as water in the 1998 time frame,

MAFEED "MAFI" HAMED -- DIRECT

1 do you know?

2 **A.** I think that happened in 1999. That's when Yusuf
3 was there. I only did it for maybe almost a year.

4 **Q.** One year. Okay.

5 **A.** Mike left, then Yusuf came in. And then Yusuf
6 took over the safe, the front end, the POS, everything.

7 **Q.** Okay. So you had it for one year from 1990 --

8 **A.** Approximately, yeah.

9 **Q.** 1998 until --

10 **A.** '99.

11 **Q.** -- about 1999. Okay.

12 Did you keep a book?

13 **A.** No, I didn't keep a book.

14 **Q.** Okay. So how did -- what did you do to keep track
15 of the --

16 **A.** Whatever was in process before, which was cash
17 would come in. It would be given -- it used to be given to
18 Mike, then it was given to me. I would put it in the safe.

19 **Q.** Okay. Did you keep track of it? Like did you
20 keep track of how much of it?

21 **A.** No, it was kept in a -- in a box, basically, or
22 a -- some kind of an area designated for water sales.

23 **MR. HARTMANN:** Inside the safe?

24 **A.** Inside the safe.

25 **MR. HARTMANN:** Okay.

MAFEED "MAFI" HAMED -- DIRECT

1 **Q.** **(Ms. Perrell)** Okay. Was there ever a tally, or --
2 I understand the physical money was going in there, but how
3 do you know how much was in there?

4 **A.** Mike --

5 **Q.** Did you keep a ledger?

6 **A.** Mike was still in charge of the safe until Yusuf
7 came over. I mean, I basically just maintained whatever
8 status quo until he came over. I didn't implement anything
9 new. I didn't change anything.

10 **Q.** Okay. So did you write it down? In other words,
11 you would just put money in and that was the --

12 **A.** Yeah, because it would -- it would be sales.

13 **Q.** Yeah, every day?

14 **A.** It would be a receipt --

15 **Q.** Right.

16 **A.** -- with the cash amounts, stapled it or clipped
17 on.

18 **Q.** Um-hum.

19 **A.** And it would be in that pile.

20 **Q.** Okay. What I'm trying to get to is, I understand
21 you didn't change the system, but did you keep a tally, like
22 for a week, or a month, or --

23 **A.** No, I didn't keep a tally.

24 **Q.** Okay. So you just physically put the money with
25 the receipts in there?

MAFEED "MAFI" HAMED -- DIRECT

1 **A.** And then it was supposed to be tallied up at a
2 later date.

3 **Q.** And that was it, and you were out?

4 **A.** And that was it.

5 **Q.** Okay. So when did Yusuf Yusuf come in?

6 **A.** In '99.

7 **Q.** In 1999? Okay.

8 And then did you show Yusuf Yusuf in '99 the
9 system?

10 **A.** I showed him, as well as Mike. I mean, we were
11 friends at one time, so we got together. We showed him. We
12 taught him everything that we needed to teach him.

13 **Q.** Right.

14 **A.** And he took over.

15 **Q.** Okay. And then you were still at the St. Croix
16 store for a longer period of time after 1999, right?

17 **A.** I was until the split in 2015.

18 **Q.** Okay. So you were the whole time?

19 **A.** I was there for the 20 years, yes.

20 **Q.** Okay. So you were there the whole time. So --

21 **A.** And was there prior when the store was being
22 built, too.

23 **Q.** Right. Okay.

24 So after 1999, when this is now under
25 Yusuf's -- Yusuf Yusuf's responsibility, did you see any

MAFEED "MAFI" HAMED -- DIRECT

1 changes or any issues that came up with the system that you
2 guys were doing with the receipt, and the key, and the whole
3 thing? Any changes to the system?

4 **A.** The changes were to go to the cash register, yes.

5 **Q.** Okay. But that was implemented under your --

6 **A.** I didn't say that.

7 **Q.** Oh, I misunderstood. I apologize.

8 When -- when was that?

9 **A.** I said I didn't change anything. And then when
10 Yusuf Yusuf came over, things changed.

11 **Q.** Okay.

12 **A.** In 1999, we also were raided the first time.

13 **Q.** Okay. So, I'm sorry, I misunderstood.

14 So as of 1999, with the raid, as a part of
15 that, I guess, or -- is the -- is the raid the reason that
16 there was a change?

17 **A.** A change in the way we do our business?

18 **Q.** Yes.

19 **A.** Or the change in the amount of business that we
20 were getting in water revenues?

21 **Q.** How you did it?

22 **A.** In the way we did, when Yusuf Yusuf came over, we
23 changed some -- we changed some things under his --

24 **Q.** Time?

25 **A.** -- time.

MAFEED "MAFI" HAMED -- DIRECT

1 Q. Okay. All right. So -- and he's the one -- when
2 he was overseeing it, is when it changed to the receipt at
3 the cashier system; is that what you're saying?

4 A. That's -- it should have been. I believe so, yes.

5 Q. Okay.

6 A. I can't remember exactly if it was 1999, but I
7 know things changed within that period after the raid.

8 Q. Okay. Okay. I'm just trying to get the timeline,
9 so this is not a trick.

10 A. And it's been a long time --

11 Q. I know.

12 A. -- and I'm trying to remember as best I can.

13 Q. All right. Okay. The -- there's been some number
14 -- as a result of you were -- your -- you -- you were
15 tracking this, or at least had some participation in this
16 water revenue during the 1998 to '99 time frame, right?

17 A. Right.

18 Q. Okay. And do you have any sense of how much
19 revenue was generated during that year?

20 A. That's an open-ended question. I mean, I would
21 really have to think and --

22 Q. Well, you were the one that saw how much was going
23 in.

24 A. No, I wasn't physically sitting there. I wouldn't
25 tally it up, so I wouldn't know how much was coming in.

MAFEED "MAFI" HAMED -- DIRECT

1 **Q.** Okay. That's what I'm asking.

2 **A.** I mean, on Sundays, they don't open. On
3 Saturdays, it was hardly any business. These water trucks
4 don't deliver on those days.

5 **Q.** Right.

6 **A.** And drought is just like a -- you know, unless
7 you've got weather forecasts where, I mean, weather records
8 to know when droughts were.

9 **Q.** All right. So --

10 **A.** Business was up and down.

11 **Q.** Okay. So you don't have any idea whether a 72,000
12 year is good or bad for water revenue; is that correct?

13 **A.** At this -- at this point, no, I would really have
14 to look at the numbers and remember.

15 **Q.** That's fine.

16 **A.** It's been a while.

17 **Q.** I know. That's fine. I'm just trying to
18 understand. Okay.

19 So after -- although you weren't actually
20 physically coordinating the cash and so forth after 1999,
21 did you have any view, and because you were on site on the
22 store, at the store, as to whether or not there was an
23 increase in the sales, let's say after 2001, or a decrease
24 in the sales?

25 **A.** Well, after 2001, the second raid, it was worse.

MAFEED "MAFI" HAMED -- DIRECT

1 Q. Okay.

2 A. I mean, our names were all over the news, even
3 nation news.

4 Q. Um-hum.

5 A. Nobody wanted to come near us.

6 Q. Okay.

7 A. Business went down.

8 Q. Um-hum.

9 A. Store sales went down.

10 Q. Um-hum.

11 A. Water sales went down. I mean, it was a mess.

12 Q. Okay. So let's move forward to 2004. It's a
13 number of years past the raid.

14 A. Sure.

15 Q. Do you have a sense as to the business? Did it
16 start to come back?

17 A. No, no, it didn't come back.

18 Q. Okay. So -- and when I say "the business," I mean
19 the water revenue?

20 A. The water business, yeah, obviously these guys
21 figured out better ways of getting their water.

22 Q. Okay.

23 A. Whether they bought property and they did their
24 own thing, or they went to a different supplier, but they
25 all did it their way.

MAFEED "MAFI" HAMED -- DIRECT

1 Q. Okay. So do you have a sense of how many trucks,
2 on average, would have been coming to the store from the --

3 A. I -- I never keep a tally or count.

4 Q. So you don't have any information about that?

5 A. No.

6 Q. Okay. All right. Do you have any familiarity as
7 to the cisterns that are used for this?

8 A. Yes. I've been working there for 20 years. I'm
9 very familiar with that whole property.

10 Q. Okay. And Mike's testimony earlier was -- is that
11 the -- the primary source for the water truck fill-ups was
12 the H cistern.

13 Do you agree with that?

14 A. Yes.

15 Q. Okay. And do you agree that the -- do you know,
16 or do you have any familiarity with regard to what feeds the
17 H cistern? What source of water feeds into the H cistern?

18 A. The source of the H cistern is Well F, which was
19 built after the fire, along with Well E, which was built
20 after the cistern. And also part of the roof, part of the
21 physical store is underneath where he put A, that's the
22 physical store, but there's about another hundred feet
23 that -- of -- of underneath this roof that the store is --
24 is under that -- under that roof. I don't know if I'm --
25 yeah.

MAFEED "MAFI" HAMED -- DIRECT

1 **MR. HARTMANN:** Does it feed into that
2 cistern?

3 **A.** It feeds into that cistern, yes. So part of this
4 roof -- it doesn't have a -- can I put a -- J, H. Can I put
5 a K?

6 **MS. PERRELL:** Yes.

7 **MR. HARTMANN:** No, not a K.

8 **A.** No?

9 **MR. HARTMANN:** We used K. You got to use M.

10 **MS. PERRELL:** I don't see a K.

11 **A.** Sorry. M.

12 **Q.** (Ms. Perrell) Okay.

13 **A.** So M also feeds into H.

14 **Q.** All of M?

15 **A.** M. Part of M feeds into H.

16 **Q.** Okay.

17 **A.** Actually, correction: All of them.

18 **Q.** Okay. So how do you know that F was a well that
19 was built or prepared after the fire?

20 **A.** That's general knowledge. I asked. I -- I used
21 to fix the wells.

22 **Q.** Um-hum.

23 **A.** I used to fix the pumps. I would buy the pumps.
24 I would call up the suppliers in Florida, have them shipped
25 down in our containers. I would set up with the -- the

MAFEED "MAFI" HAMED -- DIRECT

1 installers, and I would physically be out there late at
2 night pulling the old well out, installing the new well,
3 doing the wiring, and dropping it back in and make sure it
4 runs.

5 **Q.** Okay.

6 **A.** So I'm familiar -- prior to the fire, they had two
7 wells, I and J. I is condemned. It actually doesn't work.
8 Never worked. It used to work, but it stopped working after
9 the store was built after the fire. J was kept and it was
10 continuing to be used for the -- primarily for the laundry
11 that they owned.

12 **Q.** Um-hum.

13 **A.** And E and F were built afterwards.

14 **Q.** Okay. When were they built?

15 **A.** After -- during the reconstruction of the -- after
16 the fire.

17 **Q.** Okay. You came in August of 1995, right?

18 **A.** Yes.

19 **Q.** Okay. So reconstruction occurred prior to that
20 time, right?

21 **A.** Yes. That doesn't mean I wasn't -- I never came
22 back to St. Croix.

23 **Q.** Okay.

24 **A.** Obviously during the holiday breaks, I would see
25 things.

MAFEED "MAFI" HAMED -- DIRECT

1 **Q.** Okay. So -- but --

2 **A.** And this is general knowledge that I asked Mike.
3 When I got -- when I got to St. Croix, I mean, we talked
4 about all this. And, you know, we were -- I was very much
5 involved in the operations and -- and the processes and --
6 and the equipment of the -- of the building. Of the
7 store's.

8 **Q.** Okay. So -- but I just want to be clear.

9 **A.** Sure.

10 **Q.** So your testimony is, is that the F well that you
11 know that it was built after the storm, even though you
12 weren't working at the store until August of 2000 -- or
13 1995?

14 **A.** Yeah.

15 **Q.** That's your testimony?

16 **A.** That is my testimony, yes.

17 **Q.** Okay.

18 **A.** Because I was there even prior to the fire. Prior
19 to the rebuilding, I would be back and forth on the island.

20 **Q.** Okay. And you were in college?

21 **A.** I was in college at the time.

22 **Q.** And -- which was off island?

23 **A.** It was off island, yes.

24 **Q.** Okay. All right. With regard to Well E, is it
25 your testimony that that was put in after the fire?

MAFEED "MAFI" HAMED -- DIRECT

1 **A.** Yes.

2 **Q.** Okay. And you know that for the same reason that
3 you believe that's just something common knowledge when you
4 came back --

5 **A.** Yes.

6 **Q.** -- to visit?

7 **A.** Yes.

8 **Q.** Okay. All right. With regard to providing any of
9 the monies that was part of the water revenues to any of the
10 family members, were you involved with distributing any of
11 the monies to either your father or to Mr. Yusuf?

12 **A.** No.

13 **Q.** Okay. Did you have any conversations with -- do
14 you know as to whether any of the water revenue was
15 distributed to Mr. -- your father, Mohammad Hamed, and
16 Mr. Yusuf?

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

18 **Q.** You don't know? Okay.

19 Did you have any discussions with your father
20 about the water revenue and how that was supposed to be
21 handled, and for how long?

22 **A.** We had discussions, yes.

23 **Q.** Okay. And what were those discussions?

24 **A.** The discussions were, the revenues generated from
25 the water sales was going to go as to the family members, or

MAFEED "MAFI" HAMED -- DIRECT

1 the -- or to the unfortunate family members that are abroad.

2 Q. Okay.

3 A. And there was no time limit, as he's saying.

4 Q. Okay. And that was because -- you know this
5 because of the conversations you had with your father?

6 A. This is direct knowledge from my father, yes.

7 Q. Okay.

8 A. Because my father talks to us.

9 Q. Okay.

10 A. We have conversations. He lets us know what's --
11 what's the right way to do things and what's the proper way.

12 Q. All right.

13 A. And what's owed and what's -- what's owed to us.

14 Q. Okay. And your father was gone and no longer on
15 St. Croix after 1996; isn't that right?

16 A. My father was going back and forth. I think in
17 1996, that's when he went and did the pilgrimage in Mecca
18 with my mother, --

19 Q. Okay.

20 A. -- yes.

21 Q. I mean, it's been a fact -- so 1996, though, he
22 was no longer at the store on a daily basis?

23 A. Right.

24 Q. A hundred percent?

25 A. Yes.

MAFEED "MAFI" HAMED -- CROSS

1 **MS. PERRELL:** Okay. All right. All right.
2 All right. I -- I have no further questions. Thank you.

CROSS-EXAMINATION

3
4 **BY MR. HARTMANN:**

5 **Q.** Two minutes.

6 You said that you did the maintenance on E
7 and F? The Wells E and F?

8 **A.** I -- I did the maintenance on E, F, and J, also.

9 **Q.** Okay. And on E and F, could you tell that that --
10 from the physical building of it, from the equipment in it,
11 that it was a newer well?

12 **A.** Yes.

13 **Q.** Okay. And when you said you -- how often did
14 these well pumps burn out?

15 **A.** Every few years.

16 **Q.** Okay. So you were the person who actually dragged
17 the -- the sticky thing up, and pulled it out, and threw it
18 in a garbage truck, --

19 **A.** Yes.

20 **Q.** -- and you ordered a new one from Miami, you said?

21 **A.** Yes.

22 **Q.** And who paid for that?

23 **A.** The partnership.

24 **Q.** Okay. And who paid for your time to do that?

25 **A.** The partnership.

MAFEED "MAFI" HAMED -- CROSS

1 **Q.** Okay. Did you ever hear anybody say that these --
2 that this water operation, or the wells, or anything
3 involved with it, was -- was anybody other than the
4 partnership's?

5 **A.** No, it's always been the partner -- partnership's.

6 **Q.** Okay. And -- and did you ever hear that the --
7 that the splitting of the -- of the -- the monies ended at
8 some time?

9 **A.** No.

10 **Q.** Okay. When -- when was the first time you ever
11 heard that story?

12 **A.** Today.

13 **MR. HARTMANN:** Oh, okay. All right. I have
14 no further questions.

15 **MS. PERRELL:** I have no further questions.
16 Thank you.

17 **MR. MAHER YUSUF:** By the way, they are not
18 stinky wells, okay?

19 **MR. HARTMANN:** They're not what?

20 **MR. MAHER YUSUF:** They're not stinky wells.

21 **MR. HARTMANN:** Well, I heard they were
22 brackish.

23 **MR. MAHER YUSUF:** Yeah, they are brackish.

24 **MS. JAPINGA:** Wait, you guys.

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

YUSUF YUSUF -- DIRECT

1 **MR. MAHER YUSUF:** Oh, sorry.

2 **THE VIDEOGRAPHER:** This is the continuance of
3 the deposition. The time is 1:07.

4 (Short recess taken.).

5 **THE VIDEOGRAPHER:** In the matter of Waleed
6 Hamed versus Fathi Yusuf and the United Corporation, in the
7 Superior Court of the Virgin Islands, Division of St. Croix,
8 Civil Action Number SX-2012-CV-370.

9 My name is Michael Gelardi. I am the
10 videographer for today's proceedings. Our court reporter is
11 Susan Nissman. Today's date is January 22nd, 2020. The
12 deponent is Yusuf Yusuf. The time is 11:15 (sic).

13 For the purpose of voice identification, I am
14 requesting that the attorneys present identify themselves at
15 this time.

16 **MS. PERRELL:** Charlotte Perrell, on behalf of
17 United Corporation and Fathi Yusuf.

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

19 **THE VIDEOGRAPHER:** Please swear in the
20 witness.

21

22

23

24

25

YUSUF YUSUF -- DIRECT

YUSUF YUSUF,

called as a witness, having been first duly sworn,
testified on his oath as follows:

DIRECT EXAMINATION

BY MS. PERRELL:

Q. Okay. Could you please state your name for the record?

A. Yusuf Yusuf.

Q. Okay. Yusuf Yusuf, we've been talking about a number of things having to do with the water revenues that are generated at the Plaza Extra -- I'm sorry, at the, well, I'll just call it the Plaza Extra at St. Croix, okay?

A. Okay.

Q. All right. I just want to ask you a couple of questions relating to that.

At what point, or did at any point, you have involvement in tracking or collecting revenues for the water sales?

A. I started in -- end of September in 2000, so whatever was in place, I just continued from there forward. So I can't recall exactly when I had any involvement in the water.

Q. Okay. So end of September, 2000. All right.

And do you recall anyone meeting with you, or showing you what needed to be done with regard to collection

YUSUF YUSUF -- DIRECT

1 of the water revenue?

2 **A.** I didn't -- I didn't collect anything for water.
3 Everything was processed through two -- two steps,
4 basically.

5 **Q.** Um-hum.

6 **A.** The cash register in the front, and whoever
7 collected -- in other words, they generated a book.

8 **Q.** Um-hum.

9 **A.** A tally on whoever, like, for example, Marco
10 Trucking, he would have like a large amount of collecting
11 water.

12 **Q.** Um-hum.

13 **A.** At, you know, per day or per week, so he -- they
14 kept a tally, and that was transferred to the office.

15 **Q.** Okay. And so when a -- a particular water truck
16 would come and make a payment to the cashier and the receipt
17 would be generated, they would go fill up the truck, but
18 they paid. They paid cash or would pay for it.

19 Was those -- was that -- what happened to
20 that cash?

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

22 **Q.** Okay. Did anybody ever then provide you copies of
23 the receipts relating to the water sales?

24 **A.** The -- just as you said, someone would cash --
25 that would want to purchase water, --

YUSUF YUSUF -- DIRECT

1 Q. Um-hum.

2 A. -- they would go to the register and present that
3 receipt to the receiving --

4 Q. Um-hum.

5 A. -- to show what amount he's paying for and what's
6 going to be collecting. And that -- that was it. That's
7 the only thing that I would -- I would have knowledge of.

8 Q. Okay. No, what I'm trying to understand is, is I
9 understand the process that the truck driver had to go
10 through to pay for it. Go in the back. Show his receipt.
11 He gets a key or whatever. He -- they fill it up. They
12 verify the amount and so forth. And he fills it and he's on
13 his way. I'm fine with what's going on with the truck,
14 water truck.

15 What I'm trying to understand is, is at the
16 front, then, the money came in for the -- for the water,
17 right, to the cashier?

18 A. Correct. It was collected at the -- majority of
19 the time -- well, all of the time I know for someone walking
20 into the front would be at the service counter.

21 Q. Okay. And so my question is, is as the money was
22 coming into the service counter, after the time that you
23 were there and that you had any involvement, did any of
24 those folks at the service counter, the cashiers, anyone at
25 the service counter, ever provide, then, to you, a stack of

YUSUF YUSUF -- DIRECT

1 receipts, or anything relating to the water sales?

2 **A.** No.

3 **Q.** Okay. They didn't give it to you on a daily
4 basis?

5 **A.** No, I never got them.

6 **Q.** Okay. Do you know how they rung up water?

7 **A.** Well, they would either run it up as a grocery,
8 the tender grocery, tender non-food. Anything just to be
9 able to show that there was \$12 changed, or 15, or whatever
10 amount was purchased, and they would send it to the back
11 through the guidance of the young lady from the back.

12 **Q.** Um-hum.

13 **A.** She would say, you know, there's someone in the
14 front that's paying for a truck load, and this is how much
15 he's paying.

16 **Q.** Okay.

17 **A.** And that's it.

18 **Q.** Okay. So was -- when they rung it up, did they
19 keep any kind of -- what -- was there ever a way, if you
20 wanted to know, let's say in 2000, how much water revenue
21 there was for all the people that came to the front and
22 would pay in the manner that you just described, how would
23 you have gotten that information?

24 **A.** I was not in control of it.

25 **Q.** Okay. Who was?

YUSUF YUSUF -- DIRECT

1 **A.** So everything was mainly between Wally and Mafi.

2 **Q.** Okay. All right. So do you know if, after you
3 were there in 2000, Mafi would receive receipts relating to
4 the water sales?

5 **A.** Not that I know of. I just know that whatever was
6 collected, it was collected under grocery, non-food. And
7 however they have collected to -- to know how much was
8 generated, that -- I was never taught that.

9 **Q.** Okay.

10 **A.** I was never given direction of how to gather that
11 information.

12 **Q.** Okay. And with regard to the people that would
13 have multiple trucks coming and so forth, how was the money
14 collected from those folks?

15 **A.** Well, if they would -- they would generate -- they
16 would have a receipt book and they would keep a log of, if
17 it's a 3,000-gallon, 5,000-gallon. And I can't -- I don't
18 know if it was at the end of the week, or at the end of the
19 day, that they turned in the book to the office.

20 **Q.** Okay. And then did someone, like one of the
21 administrative folks, generate an invoice or something? How
22 did that work?

23 **A.** Well, everything was sent to Wadda Charriez.

24 **Q.** Um-hum.

25 **A.** And she would -- she was the one who used to --

YUSUF YUSUF -- DIRECT

1 collected any of the funds.

2 **Q.** Okay.

3 **A.** So, like, you know, normal procedure, you have a
4 log.

5 **Q.** Um-hum.

6 **A.** And then you would send out an invoice.

7 **Q.** Okay. All right. And this log is something that
8 you're saying is kept in the back of the store where the
9 actual fill-up was happening?

10 **A.** They used -- they used receipts box as a reference
11 of a log --

12 **Q.** Um-hum.

13 **A.** -- so that way they could send it to the office to
14 say, Hey, this -- this company, Marco Trucking or Hamilton,
15 have collected so much in this period of time, and here you
16 go. This is the book.

17 **Q.** Okay. Was there a point in time in which there
18 was a specific number that was utilized, like a -- and
19 I'm -- I'm sorry, I'm not using the right words, like a POS
20 number, or a general ledger number, or something to indicate
21 that a sale was a water sale?

22 **A.** That was generated like very late. I would say
23 this -- it was generated recent, to my knowledge, like 2013.

24 **Q.** Okay.

25 **A.** Because I'm the one who was -- who created that.

YUSUF YUSUF -- DIRECT

1 **Q.** Okay.

2 **A.** Like, for example, a code.

3 **Q.** Okay.

4 **A.** You would walk into the store and you would want
5 to purchase banana or apples, they would put in a code and
6 weigh it. But with this, a trucker would come to the front.
7 They would put in a code to reference that.

8 **Q.** Okay.

9 **A.** But that was done in 2013.

10 **Q.** Okay. So prior to 2013, is it fair to say, at
11 least as to your knowledge, there was no specific code that
12 was being used all the time consistently to demonstrate
13 water revenue?

14 **A.** Correct. There was no -- there was no, per se,
15 code, other than they just randomly put whatever tender,
16 which would be grocery. It could be dairy. It could be
17 produce. Whatever is generated, but majority of the time,
18 it would be grocery or non-food.

19 **Q.** Okay. So based upon the amount of time that you
20 spent at the store, do you have a sense, or a belief as
21 to -- or any knowledge of the number of trucks that would
22 normally come, let's say in -- when you first started in
23 2000, how many trucks were coming, average trucks per day,
24 were coming to get water? And then did it change over time?

25 **A.** Well, when I first started, a lot of different

YUSUF YUSUF -- DIRECT

1 truckers used to come and get water from us. And I would
2 say 10 plus, more than 10.

3 **Q.** Um-hum.

4 **A.** And it -- it all depends on the season. Summer
5 versus winter. It -- it varies. You would -- sometimes you
6 would get more than 15 trucks a day. Sometimes you'd get as
7 low as maybe eight, six.

8 **Q.** Okay. All right. And was there a period of time
9 just over the course -- I understand seasonal issues and so
10 forth, but were there a period of years where that just
11 dropped off, as you recall?

12 **A.** No. Between -- I would -- I would say it started
13 to slow down maybe 2 years ago.

14 **Q.** Um-hum.

15 **A.** And that's -- the reason for that is because of
16 our changes that we've been -- made in the back. We made it
17 more difficult for them to come and get that easy service.

18 **Q.** Okay. So I'm talking about between now -- between
19 April of 2004 until February of 2015, based upon your time
20 at the store during that time, do you recall any particular
21 period where it had significantly dropped or increased
22 during that 2 -- April 2004 through February of 2015 time
23 frame?

24 **A.** No.

25 **Q.** Okay. Based upon the information that you see --

YUSUF YUSUF -- DIRECT

1 I'm sorry, that you see in your position, do you have any
2 sense as to the value of the water sales on an annual basis?

3 **A.** No.

4 **Q.** Okay. All right. Do you have any knowledge as to
5 the wells that supply the water? Which wells are used and
6 which cistern used to supply the water?

7 **A.** Generally, yes, I do. There is a four-compartment
8 cistern that is underneath the pharmacy as per se right now,
9 and the pump room --

10 **Q.** Okay.

11 **A.** -- where we have the sprinkler system.

12 **Q.** Okay.

13 **A.** That is what mainly supplied the trucks --

14 **Q.** Okay.

15 **A.** -- that was collecting water.

16 **Q.** Okay.

17 **A.** And well-wise, would be the one directly outside.
18 We have four on the property.

19 **Q.** Okay.

20 **A.** And, generally, it was -- it was mainly two of
21 them all the time that catered to servicing the service
22 trucks.

23 **MS. PERRELL:** Okay. All right. I don't
24 think I have any more questions. Thank you.

25 **A.** You're welcome.

YUSUF YUSUF -- CROSS

CROSS-EXAMINATION

1
2 **BY MR. HARTMANN:**

3 **Q.** I'm sorry, I got lost.

4 Have you -- you started -- when you first got
5 there, you took over the water fairly quickly, right? And
6 have you been the person sort of coordinating the water the
7 whole time?

8 **A.** No, I never took over the -- the water.

9 **Q.** No?

10 **A.** No.

11 **Q.** Who -- who ran the water after Mike and Mafi
12 weren't running it?

13 **A.** Well, it was always Wally and Mafi that kind of
14 showed me what is the normal business running for the water.

15 **Q.** Oh, okay.

16 **A.** Just like anything else in the store.

17 **Q.** But sometimes you did work on the water stuff,
18 generally?

19 **A.** Well, if you want to say "work on." Pump goes
20 down, yes, I catered to it.

21 **Q.** Okay. And -- and when you did that, whenever you
22 were doing that, who was paying you?

23 **A.** Plaza Extra was paying me.

24 **Q.** The supermarket?

25 **A.** I was an employee, yeah.

WALEED "WALLY" HAMED -- DIRECT

1 **MR. HARTMANN:** All right. I have no further
2 questions.

3 **MS. PERRELL:** No further questions. I think
4 we're good.

5 **A.** Okay.

6 **MS. PERRELL:** Okay.

7 **THE VIDEOGRAPHER:** That's the conclusion of
8 the deposition. The time is 1:28.

9 (Lunch recess taken.)

10 **THE VIDEOGRAPHER:** This is the continuation
11 of the deposition of Waleed Hamed. The time is 2:08.

12 **WALEED "WALLY" HAMED**

13 **DIRECT EXAMINATION**

14 **BY MR. HARTMANN:**

15 **Q.** Okay. Mr. Hamed, I'm going to need you to
16 actually come back over to the seat over here. I'm going to
17 have you look at a short video and ask you some questions
18 about it, if you could. I just have to turn -- the court
19 reporter needs the thing turned this way. I don't need this
20 transcribed, by the way.

21 **THE COURT REPORTER:** Your discussion with
22 him?

23 **MR. HARTMANN:** No, no, the -- the discussion
24 I do, but not --

25 **THE COURT REPORTER:** Yeah, of course.

WALEED "WALLY" HAMED -- DIRECT

1 **MR. HARTMANN:** -- the existing tape.

2 **THE COURT REPORTER:** Yeah.

3 **THE VIDEOGRAPHER:** Do you want this on film?

4 **MR. HARTMANN:** Yes. That's why I'm turning
5 it so you can see it.

6 **MS. JAPINGA:** Do you want him to sit next to
7 you, Carl?

8 **MR. HARTMANN:** It -- it doesn't really
9 matter. He'll be able to hear it. That's all that's really
10 important. This is ground we've all been over many times.

11 (Video played.)

12 **Q. (Mr. Hartmann)** Okay. You can take the seat back.

13 **A.** (Witness complies.)

14 **Q.** Now, I'll represent to you that -- I'll represent
15 to you that that was a deposition taken in this case on the
16 2nd day of April of 2014.

17 Did you attend that deposition?

18 **A.** Yes, sir.

19 **Q.** Okay. And did you see that testimony?

20 **A.** Yes.

21 **Q.** Okay. And do you recall the meeting between
22 yourself and Mr. Yusuf and your father that's being
23 described there?

24 **A.** Yes.

25 **Q.** Okay. Could you tell me what led up to that

WALEED "WALLY" HAMED -- DIRECT

1 meeting?

2 **A.** Fathi Yusuf was accusing us of stealing from him,
3 doing many things, and he was talking all over the place.

4 **Q.** And when did that start?

5 **A.** Probably 2010, right after I think we came in --
6 right around when we were negotiating a plea agreement with
7 the federal government.

8 **Q.** Okay. And -- and what kinds of things was Fathi
9 Yusuf saying about you guys in the community?

10 **A.** Well, that we stole from him. That my father
11 stole \$2 million. That -- that, you know, several monies
12 were -- that were transferred that went to him, went to his
13 account. He was accusing me of stealing and all that.

14 **Q.** And that was -- if you -- your recollection is
15 that was in 2010, soon after the -- the plea agreement was
16 entered into in February of 2010?

17 **A.** Somewhere around that, yes.

18 **Q.** Okay. And did that continue through the middle of
19 2010?

20 **A.** Yes, sir.

21 **Q.** Okay. And do you recall the specific day that
22 Mr. Yusuf was talking about? The day where you and he and
23 your father met?

24 **A.** It was sometime -- sometime in 2010.

25 **Q.** Okay. And what -- just start with where you were

WALEED "WALLY" HAMED -- DIRECT

1 and where Mr. Yusuf was and how it ended up at your father's
2 and what happened.

3 **A.** I think Fathi Yusuf came over from St. Thomas that
4 week, or maybe he was here for a few days, I'm not quite
5 sure, but he was in the store, I was in the store. And how
6 it came about to go ahead and go see my father that day, I
7 think my father have heard stuff that he's been saying
8 around in the community about him and stuff like that. And
9 how it became that we went over, I don't exactly recall, but
10 we ended up at my dad's home that afternoon.

11 **Q.** And you and Mr. Yusuf had been meeting prior to
12 going over to your father's?

13 **A.** Yes. We were at the store together, yes.

14 **Q.** Okay. And was Mike there?

15 **A.** I don't recall if Mike was there, no.

16 **Q.** Okay. Did Mike go with you over to the meeting?

17 **A.** Absolutely not, no.

18 **Q.** Okay. So you went over to a meeting at your
19 father's house?

20 **A.** Yes.

21 **Q.** Okay. And -- and tell me, just generally, were
22 you a participant in that meeting?

23 **A.** I was -- I was, what you call, I was the subject
24 of that meeting.

25 **Q.** What do you mean by that?

WALEED "WALLY" HAMED -- DIRECT

1 **A.** Well, Fathi was accusing me of doing -- of
2 stealing money. Of hiding things. Of doing everything that
3 was -- that's wrong and --

4 **Q.** Were you taking part in the actual negotiation
5 yourself?

6 **A.** No, sir.

7 **Q.** Who was taking part in the negotiation?

8 **A.** My father and Fathi.

9 **Q.** Okay. And in what language was that negotiation
10 taking place?

11 **A.** In Arabic.

12 **Q.** Okay. And how fluent are you in Arabic?

13 **A.** Fairly decent.

14 **Q.** Okay. So you could understand what they were
15 saying?

16 **A.** Yes.

17 **Q.** Okay. Were you speaking in Arabic?

18 **A.** I don't recall. No, I don't think so.

19 **Q.** Okay.

20 **A.** I don't think so, no.

21 **Q.** And you said they were discussing things back and
22 forth.

23 About how long did that discussion take
24 place?

25 **A.** Two to three hours.

WALEED "WALLY" HAMED -- DIRECT

1 Q. Okay. And at the end of it, was there a deal?

2 A. There was a deal made.

3 Q. Go ahead.

4 A. There was a deal made, and they agreed on -- on
5 certain things, and they shook hands and we left.

6 Q. Okay. So tell me about the negotiation. What --
7 what -- what went on back and forth between them, to the
8 best of your recollection?

9 A. Well, you know, they talked extensively about the
10 relationship and they don't want to lose each other. And
11 then Fathi was saying that you took monies. And, you know,
12 prior to that, we -- my dad -- Fathi requested certain
13 documentation and we provided all those documentations that
14 he asked. He wanted bank accounts. We gave him bank
15 accounts for my dad. Wherever the bank accounts, we gave
16 him power of attorney on our behalf to go ahead and do what
17 he needs to do, and he still didn't stop and wasn't
18 convinced that nothing was wrong.

19 Q. Excuse me, I don't mean to interrupt, but did you
20 also give him a power of attorney to go and get your actual
21 bank accounts --

22 A. Yes.

23 Q. -- in -- wherever they --

24 A. Yes.

25 Q. -- existed?

WALEED "WALLY" HAMED -- DIRECT

1 **A.** Yes.

2 **Q.** Okay. Go ahead.

3 **A.** And the deal was to go ahead. We're going to sell
4 the stores. We're going to get our half. Everybody goes
5 his own way. And like Fathi said in the video, we're family
6 and we want to stay family and so on.

7 At the end of the deal where my dad asked
8 Fathi, Okay. Well, look, we need to finish with this. We
9 need to buy peace or -- or get peace together, we can't
10 continue doing this. And he offered -- Fathi said, I want
11 two pieces of property. My father said, Yes. Fathi said,
12 Look, it's not -- at the end of the day, he only accepted
13 one.

14 **Q.** And where were those two pieces?

15 **A.** Those two pieces of property were -- were in
16 Jordan.

17 **Q.** So the original deal was for two pieces -- your
18 father said yes to a deal for two pieces of property in
19 Jordan?

20 **A.** Yes, sir.

21 **Q.** Okay. And -- and after he said yes, Mr. Yusuf and
22 your father talked some more?

23 **A.** Yes.

24 **Q.** And before the thing was over, Mr. Yusuf said, You
25 don't need to give me two pieces, you just give me one

WALEED "WALLY" HAMED -- CROSS

1 parcel?

2 **A.** Yes.

3 **Q.** Okay. And did they shake on that?

4 **A.** Yes, they did.

5 **Q.** And did they say that's a deal?

6 **A.** Yes, sir.

7 **Q.** And that was it, it was over?

8 **A.** Yes.

9 **MR. HARTMANN:** Okay. I have no further
10 questions.

CROSS-EXAMINATION

11
12 **BY MS. PERRELL:**

13 **Q.** Okay. I have a few questions.

14 So this meeting that took place, after they
15 shook on it, the -- you said the two pieces of property that
16 were originally discussed were both in Jordan?

17 **A.** Yes, ma'am.

18 **Q.** Okay. Mr. Yusuf's position is that the property
19 that were discussed at this meeting with the three of you
20 actually involved property in St. Thomas, that we refer to
21 as the Tutu Park property. Not Tutu Park, just Tutu
22 property.

23 Do you dispute that?

24 **A.** Yes.

25 **Q.** Okay. So is it your testimony that there was no

WALEED "WALLY" HAMED -- CROSS

1 discussion about the Tutu property at all during this
2 meeting that you had -- well, that you were present for
3 between Mohammad Hamed and Mr. Yusuf?

4 **A.** That's correct.

5 **Q.** Okay. After the meeting that took place in the
6 afternoon, did you have an occasion to speak to Mr. Yusuf
7 later that day back at the store?

8 **A.** Yes.

9 **Q.** Okay. Did you have an occasion to speak to him
10 about the deal that you said was resolved? Was there any
11 further discussions about the deal that afternoon, or that
12 evening?

13 **A.** Well, like he said in his deposition, he came back
14 and he said, No, Go back and tell your father I want the
15 other piece.

16 **Q.** Okay. So there was a conversation about that?

17 **A.** Yeah, that's what he told me.

18 **Q.** Okay. And in your mind, you understood "the other
19 piece" to mean, the other piece that is a piece of property
20 in Jordan?

21 **A.** Well, that's the only two pieces they discussed.

22 **Q.** I know. I'm just clarifying for the record.

23 **A.** Yeah.

24 **Q.** Okay. I mean, Mr. Yusuf is going to say it's a
25 different piece, but your -- you understood Mr. Yusuf said

WALEED "WALLY" HAMED -- CROSS

1 to you, No, tell him I actually want the two, which was the
2 original agreement, correct?

3 **A.** Yes.

4 **Q.** Okay. And your father had originally agreed to
5 the two pieces?

6 **A.** Yes.

7 **Q.** Okay. That's not how it ended up, but that's what
8 he'd agreed to earlier?

9 **A.** Yes.

10 **Q.** Okay. So did Mr. Yusuf say to go back and talk to
11 your father about that?

12 **A.** He told me to go back and tell him.

13 **Q.** Okay. And did you do that?

14 **A.** Yeah, I told him.

15 **Q.** Okay. And what did your father say?

16 **A.** He said, Okay.

17 **Q.** Okay. And then did you come back the next day and
18 tell Mr. Yusuf that your father had agreed to go back to the
19 two-property deal?

20 **MR. HARTMANN:** Object.

21 **A.** No.

22 **MR. HARTMANN:** Go ahead.

23 **Q.** **(Ms. Perrell)** Okay. So your father had agreed to
24 go to the two-property deal?

25 **A.** No.

WALEED "WALLY" HAMED -- CROSS

1 Q. That's what you just --

2 A. My father said, Okay.

3 Q. Okay. Was that an agreement to go to the two-
4 property -- to do the two-property deal?

5 A. Nope.

6 Q. Okay. So --

7 A. That's not what I gathered from what -- he just
8 told me to go and tell your father, and that's exactly what
9 I told my father.

10 Q. Okay. Well, why would he tell your father if you
11 weren't -- I mean, the whole purpose of this 2- or 3-hour
12 meeting was to reach an agreement, correct? The original
13 meeting?

14 A. Yeah. And they did reach an agreement.

15 Q. Okay. And so then Mr. Yusuf went back and then
16 says to you, No, go tell your father I need the two. And
17 you said, Okay. I'll go tell my father, right? So you go
18 and you tell your father that, --

19 A. Yeah, um-hum.

20 Q. -- correct?

21 A. Um-hum.

22 Q. Okay. And your father says, Okay?

23 A. Okay, but he didn't agree on giving him.

24 Q. Okay. So, at that point, did your father say, I
25 do not agree to give him anything, or what did your

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1 father --

2 **A.** My father said, We had a -- we had a deal, and
3 that's the deal, which is one piece of property.

4 **Q.** Okay. But earlier in the day, your father had
5 already agreed to the two?

6 **A.** But the agreement, at the end of the day, shook
7 hand for one.

8 **Q.** Okay. But it wasn't as if your father was -- when
9 you go back and you said, Actually, it's going to be the
10 two, that wasn't some -- you had already -- they had already
11 been discussing those two properties already, correct?

12 **A.** Yeah. They discussed it, yes.

13 **Q.** Right.

14 And earlier in the day, your father had gone
15 ahead and agreed to that earlier in the day?

16 **A.** Yes.

17 **Q.** Okay. All right. So when you saw Mr. Yusuf
18 again, I assume you saw him the next day; is that correct?

19 **A.** I'm not sure if it's the next day or the same day.

20 **Q.** Okay.

21 **A.** Could be.

22 **Q.** Soon thereafter?

23 **A.** Yes.

24 **Q.** Okay. You saw Mr. Yusuf. And did you report to
25 him that you had, in fact, conveyed what he had asked you

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1 to, to Mr. Hamed?

2 **A.** Yeah. He asked me, I said, Yes.

3 **Q.** Okay. And did you tell him, My father does not
4 agree?

5 **A.** I didn't tell him my father agreed or my father
6 disagreed. I didn't tell him either. I said, I told him.
7 That's it.

8 **Q.** Okay. So you understood that the purpose of the
9 conversation was to reach a deal?

10 **A.** But they reached the deal.

11 **Q.** Okay.

12 **A.** When he walked out of that house, they reached a
13 deal for one property.

14 Now Fathi reneged and went back and said, I
15 want -- I don't want that deal anymore. I want the new
16 deal. It can't happen that way. He can't have things
17 according to whatever he says is right.

18 **Q.** Okay. So did you lead Mr. Yusuf to believe that
19 after you spoke with your father that it was all right, that
20 he had agreed to the two-property deal?

21 **A.** Absolutely not.

22 **Q.** Okay. But you said a minute ago that you didn't
23 tell him he agreed or you didn't tell him he disagreed,
24 you -- you just said that you said, I told him.

25 **A.** He asked me if I told him. I told him, Yes, I

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1 told him. That's it.

2 Q. All right. And did you say, My father does not
3 agree?

4 A. I didn't tell him anything like that. He asked me
5 and I said, Yes, I told him. Did he ask me, Did he agreed?
6 He didn't ask me if my father agreed. He asked me if I told
7 him, and I said, Yes, I told him.

8 Q. So you were aware that Mr. Yusuf was extending a
9 counteroffer, basically?

10 A. What counteroffer? The deal was already made. We
11 shook hands.

12 Q. Okay.

13 A. We shook hands. They had an agreement and they
14 left. So Fathi decide he wants to change the deal the
15 following evening or the following day, why? They had an
16 agreement. They had had a gentlemen's agreement, right?

17 And as a matter of fact, that gentleman
18 agreement was fulfilled because if there was a deal for
19 another piece of property, he would have signed for it,
20 right?

21 Q. So when you came back and you spoke to Mr. Yusuf,
22 you were aware that Mr. Yusuf was seeking to return to an
23 amount or an arrangement that had previously been discussed,
24 and an amount and agreement that your father actually had
25 agreed to less than 24 hours earlier?

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1 **MR. HARTMANN:** Object. Asked and answered.
2 Argumentative.

3 **A.** Ma'am, I told you already what was -- what
4 happened, and I already stated what happened, and you want
5 to go back, and he reneged on the first deal, all right? He
6 had an agreement. They both shook hands on it. Then he
7 changed it and -- or wanted to change it later on.

8 **Q.** (Ms. Perrell) Okay. But --

9 **A.** The first deal was signed and done.

10 **Q.** Okay. It wasn't signed. There was no paper,
11 written agreement that says, This is what's going to happen,
12 was there? A written agreement?

13 **A.** No, there wasn't.

14 **Q.** Okay. So isn't it true, also, that at the
15 beginning of the day, the agreement was for two properties
16 that your father agreed to it?

17 **MR. HARTMANN:** Object. Asked and answered
18 and argumentative.

19 And if you ask it a third time, I'm going to
20 instruct him not to answer. You asked him the exact same
21 question twice now.

22 **Q.** (Ms. Perrell) You can still answer.

23 **A.** That's what happened and that's what the deal
24 was, --

25 **Q.** Okay.

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1 **A.** -- yes.

2 **Q.** Okay. So the deal went from two. And then
3 Mr. Yusuf changed his mind and said, No, you know what, one
4 is enough, right? And so Mr. -- the Hameds got the benefit
5 of the fact that Mr. Yusuf had changed his mind, even though
6 he'd previously agreed to the two, you also got the benefit
7 of Mr. Yusuf reconsidering and deciding one was enough,
8 right?

9 **MR. HARTMANN:** Object. Asked and answered
10 and argumentative. You don't have to answer it a third
11 time.

12 **MS. PERRELL:** It's a different question.

13 **MR. HARTMANN:** No, it isn't.

14 **Q.** **(Ms. Perrell)** Hamed got the benefit -- isn't it
15 true that Mr. Hamed got the benefit of the change of the
16 negotiation over the course of the day that ended up at one
17 property, 'cause he'd already agreed previously to two
18 properties? He got the benefit of that change of heart,
19 Mr. Yusuf, right?

20 **A.** According to you, or according to Yusuf.

21 The deal was one piece of property. That's
22 when we walked out of that house, it was one-deal property.
23 That's all.

24 **Q.** So when Mr. Yusuf asked you the next day, Did you
25 tell your father, and you responded, I told him, you're

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1 saying to -- your testimony here is that you intended to
2 convey to him that all you did was communicate the
3 information, but that there was no change, even though
4 that's what Mr. Yusuf was asking for? That's what you're
5 saying you were trying to convey to him?

6 **A.** I wasn't trying to convey anything. He asked me a
7 question, I answered it.

8 **Q.** Okay. But you didn't tell Mr. Yusuf that your
9 father would not agree to the two properties, correct?

10 **MR. HARTMANN:** Object. Asked and answered.
11 Argumentative. He's already testified he wasn't a principal
12 in the negotiation. You've asked him this now four times.

13 **MS. PERRELL:** Okay.

14 **MR. HARTMANN:** He wasn't the person
15 negotiating. He was communicating something that the two
16 principal negotiators were talking about.

17 **MS. PERRELL:** I'm asking --

18 **MR. HARTMANN:** You've asked him four times.

19 **MS. PERRELL:** I am asking him what he
20 intended to convey when he made the statement, and I can ask
21 him that question.

22 **MR. HARTMANN:** Ask it again.

23 **Q. (Ms. Perrell)** When you conveyed -- when Mr. Yusuf
24 said, Did you speak with your father about the fact that he
25 wanted to go to two -- go back to the two properties and you

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1 simply indicated, yes, you had spoken to your father.

2 That's correct, right?

3 **A.** Yeah, I told him.

4 **Q.** Okay. But you did not intend to convey to
5 Mr. Yusuf, in that response, that your father had no
6 intention of going forward with the two-property deal; is
7 that correct?

8 **A.** He didn't ask me that. He asked me if I told him,
9 and I answered back, and I said, Yes, I told him.

10 **Q.** Okay. So you never provided any further
11 information to Mr. Yusuf?

12 **A.** He didn't ask me.

13 **Q.** Wow. All right.

14 Do you believe that Mr. Yusuf would have
15 wanted to know what your father's response was to the
16 question, I want to go back to the two properties?

17 **A.** You should ask Yusuf that, not me.

18 **Q.** I'm asking you, though. Do you believe --

19 **A.** I have no idea.

20 **MR. HARTMANN:** Objection. Calls for him to
21 speculate --

22 **A.** I have no idea.

23 **MR. HARTMANN:** -- on the state of Mr. Yusuf's
24 mind.

25 **A.** I have no idea. Question was proposed to me, I

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1 answered.

2 **Q. (Ms. Perrell)** Okay. The fact --

3 **MR. HARTMANN:** And, Counsel, can we go off
4 the record for one second?

5 **THE VIDEOGRAPHER:** Going off the record. The
6 time is 2:29.

7 (Discussion off the record.)

8 **THE VIDEOGRAPHER:** Going back on the record.
9 The time is 2:30.

10 **Q. (Ms. Perrell)** All right. Have you ever told
11 Mr. Yusuf that Mohammad Hamed never intended to agree to go
12 back to the two properties that was originally discussed the
13 day before?

14 **MR. HARTMANN:** Object. Asked and answered.
15 Argumentative.

16 **Q. (Ms. Perrell)** You can still answer.

17 **A.** I have to answer?

18 Like I said, he asked me to deliver a
19 message. I delivered the message. He asked me if I did. I
20 said, Yes, I did.

21 **Q.** Okay. And you -- just to be clear, you never told
22 Mr. Yusuf that your father did not agree to go back to the
23 two properties; is that correct?

24 **A.** He never asked me that.

25 **MR. HARTMANN:** Object. Asked and answered.

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1 **MS. PERRELL:** It is not asked and answered,
2 Carl. I've asked him whether he ever said that to him.

3 **MR. HARTMANN:** Yeah, you asked him that like
4 three times, Charlotte.

5 **Q. (Ms. Perrell)** Okay. But he's answering that he
6 was never asked.

7 And my question is not whether you were
8 asked, my question is, did you ever say to Mr. Yusuf, My
9 father does not agree to go back to the two properties that
10 we discussed the day before, that he does not agree to that?

11 **A.** If that's what -- if he asked me that, I would
12 have answered it back then.

13 **Q.** Okay. So you've never told him that?

14 **A.** No.

15 **Q.** Okay. All right. With regard to the -- what was
16 the second property in Jordan that was discussed on the
17 afternoon meeting?

18 **A.** I think it was called Taberpour.

19 **Q.** The second one?

20 **A.** Yes.

21 **Q.** Okay. So which was the one that was conveyed,
22 ultimately?

23 **A.** I really don't remember. Really don't remember
24 which one.

25 **Q.** And you're absolutely certain that the Taberpour

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1 property was the one that was ultimately not part of the
2 deal?

3 **A.** I could be mistaken, but I know there was two
4 pieces of property: The one of them was Taberpour; and
5 there was another one --

6 **MR. HARTMANN:** Do you know where it was?

7 **A.** I -- I'm just -- I got a mind block. Sorry.
8 Maybe --

9 **Q.** (Ms. Perrell) The -- the agreement, as you
10 understood it, which was to transfer one property, was it
11 your understanding that that was an agreement that would
12 resolve all of the outstanding issues between the partners?

13 **A.** Yes.

14 And it was an agreement also to go ahead and
15 sell the stores or divide the stores up equally and
16 everybody goes their separate ways.

17 **Q.** Okay. Are you aware, or were you ever present for
18 a series of other meetings that took place in -- subsequent
19 to this initial meeting that you had with Mr. Yusuf and your
20 father?

21 **MR. HARTMANN:** Object. And direct that --
22 the witness not to answer as a matter of privilege, if these
23 are mediations you're talking about. Mediations are
24 privileged and confidential. You can't invade them in a
25 court proceeding.

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1 **MS. PERRELL:** Right. This was all pre-court
2 proceedings and this was with the other members of the Arab
3 community.

4 **MR. HARTMANN:** They were mediations.

5 **Q. (Ms. Perrell)** Okay. So -- but were you present
6 for -- you want to call them mediations, I want to call them
7 a meeting, okay? I mean, you had outside third parties
8 present.

9 **MR. HARTMANN:** It doesn't matter. Whatever
10 they are, they are privileged and confidential under V.I.
11 law. You can't go into them.

12 **MS. PERRELL:** Okay. So you're not going to
13 allow me to ask him any questions relating to those things?

14 **MR. HARTMANN:** No, I'll allow you. I'm
15 telling you that it violates privilege and confidentiality
16 for you to do so.

17 **MS. PERRELL:** Okay.

18 **MR. HARTMANN:** If you want to ask him the
19 questions, go ahead.

20 **Q. (Ms. Perrell)** All right. Were you pre -- were you
21 in certain meetings that occurred between you -- well,
22 between Mr. Yusuf and Mr. Mohammad Hamed and other members
23 of the Arab community to discuss resolving the issues
24 between the two families?

25 **A.** There was a lot of meetings. Don't recall

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1 exactly. My father really wasn't present in most of those
2 meetings.

3 **Q.** Okay. So were you present, though?

4 **A.** Yeah. Fathi would go out there. He would have
5 his little session with his little people. They're nice
6 people. And then they would call me and say, Come over.
7 Let's solve this.

8 **Q.** So as a result of that -- when did those meetings
9 take place?

10 **A.** I don't have specific dates, but sometime after --
11 probably after the middle of 2010 and on.

12 **Q.** Okay. Do you recall when the property -- you're
13 not sure which property it was -- but the property in Jordan
14 was transferred?

15 **A.** It was transferred in 2011.

16 **Q.** Okay. So these meetings that were taking place,
17 took place before the transfer?

18 **A.** No, I would say probably after.

19 **Q.** Okay. So you said -- do you know when the
20 transfer took place? I'm sorry if you just said that, I
21 missed it.

22 **MR. HARTMANN:** He misspoke. You said 2010.
23 That's what she's asking about.

24 **Q.** **(Ms. Perrell)** When did the transfer of the
25 property take place?

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1 **A.** 2010. I mean, 2011, I think.

2 **Q.** Okay. And so these meetings --

3 **MR. HARTMANN:** The meetings were after that,
4 is all she's asking.

5 **A.** Yes.

6 **Q.** **(Ms. Perrell)** I was asking when the meetings took
7 place.

8 Did the meetings take place before the
9 transfer or after the transfer?

10 **A.** After.

11 **Q.** After the transfer?

12 **A.** Yes.

13 **Q.** Okay. All right. What is your understanding as
14 to the arrangement for the half acre in Tutu? How it was to
15 be purchased and owned?

16 **A.** We had -- I went over to St. Thomas. I think
17 Yusuf and Willie was working on a half-acre access deal,
18 access parcel to the nine-and-a-half acres that we purchased
19 about -- several years ago to put a project -- a Plaza Extra
20 project there.

21 Yusuf wasn't present for that -- for that
22 closing, I was. I went over to St. Thomas. Took over the
23 check. Did the closing on it with, I believe, Mr. Hank
24 Smock, if I remember. There was an attorney there. We did
25 the closing, me, Willie, and the attorneys. Paid them the

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1 money. Got the title. And it was titled into Plessen
2 Enterprises.

3 At the time, we were under the indictment and
4 we -- once the feds found out that it was in Plessen's name,
5 they said, No, no, no, no, you can't do that. You need to
6 put it in United because United is under the federal
7 indictment. So that's when the transfer happened back to
8 United.

9 Q. Okay. And do you recall the time frame when that
10 happened?

11 A. No.

12 Q. Okay. And just to be clear, you dispute
13 Mr. Yusuf's contention that the resolution that he had
14 reached with your father as to a limited number of claims he
15 had involved the Tutu half acre or the Tutu property; is
16 that correct?

17 A. Yeah, I disagree with him.

18 Q. Okay. All right. So are you -- do you have any
19 knowledge of any communications between either yourself and
20 Mr. Yusuf, or your father and Mr. Yusuf, related to the Tutu
21 half acre or the 9.3 acres being transferred, in any way, to
22 the Yusufs?

23 A. Well, down the road when -- after Fathi came back
24 from Jordan after he followed my father to go ahead and do
25 that document they did in 2011, he came back and the -- the

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1 deal was, it's a complete disengagement. Complete peace
2 out. Everybody divided. Everybody out of it. The stores
3 as well. Anything that he has, whatever claims that he has
4 in his head. It's a complete, complete everything.

5 Now, after he secure my dad's signature on
6 that document, he came back from Jordan and he brought me
7 offer to the desk. And he says, I found more. I found 1.5
8 million. Where did this go?

9 Okay. I looked at it, and I said, in my
10 head, What the hell is going on? That's what I said in my
11 head. I thought we had a deal. You got the property. The
12 property's transferred. We're going to go ahead and divide
13 up whatever and we're done. He's asking me about stuff
14 that's already closed. I said, You have all the documents.
15 You see all the documents. We've shown you everything.
16 We've given you everything and you're not satisfied. What
17 is it going to take for you to finish all this? He says, I
18 want another piece of property. I told him, Let me think
19 about it. And that's when the Tutu acre came up.

20 **Q.** So when --

21 **A.** Not -- the Tutu property came up.

22 **Q.** Okay. And when you were talking about the Tutu
23 property, or having this conversation with Mr. Yusuf, did
24 you understand, when you said Tutu property, it encompassed
25 both the 9.3 and the half acre, together?

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1 **A.** I -- honestly, I don't exactly remember if it, but
2 I know we have land in Tutu that we owned.

3 **Q.** Okay. Did you bring that discussion or this
4 conversation that you had with Mr. Yusuf back to your
5 father? 'Cause you said, Let me think about it, but as your
6 counsel has pointed out, you are not the one to negotiate
7 with Mr. Yusuf on anything. So did you take this back to
8 your father?

9 **A.** My dad was sick at that time, and I'm not sure if
10 he was there present at the time or not. I really don't
11 recall exactly if he did. Maybe sometime down the road, but
12 I don't recall exactly.

13 **Q.** So your father was present in -- in 2011 to do the
14 transfer of the Jordan property?

15 **A.** In Jordan.

16 **Q.** In Jordan, right.

17 And did -- and you said this was shortly
18 after that, this conversation you had with Mr. Yusuf?

19 **A.** In St. Croix.

20 **Q.** I understand, but it was shortly after this
21 transfer that happened in Jordan, correct?

22 **A.** Some -- some months down the road. I'm not sure
23 exactly. I think that happened in July, maybe. September,
24 October.

25 **Q.** Okay.

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1 **A.** Maybe August. I'm not sure.

2 **Q.** Okay. And so my -- I just -- so that I'm clear,
3 you -- at or about the time that the conversation happened
4 with Mr. Yusuf, within close proximity of time when you
5 said, Let me think about it, did you ever go back to your
6 father and explain that to -- explain what Mr. Yusuf had
7 said?

8 **A.** I don't -- don't remember, or I don't recall
9 exactly if I did. I didn't -- like, I didn't like the
10 initial deal, but I respected my father's wishes. And for
11 him to go ahead and give him the property, I disagreed with
12 it. I, personally, disagreed. And when I see Fathi, he
13 want another piece, and another piece, I disagreed with
14 that. And, you know, for me not to sit there and argue with
15 Fathi or anything, I just told him, I'll think about it.

16 **Q.** So you didn't convey the message?

17 **A.** I don't recall if I did or I didn't. Maybe I did
18 at one time, but I don't think my dad was around that time
19 for me to go ahead and convey or tell him that at that time.

20 **Q.** Did you speak with your father on the phone, even
21 though he might not have been here?

22 **A.** No, I don't think I spoke to him on the phone.

23 **Q.** No, I'm just asking in general. Did you not speak
24 to your father on the phone? Did he have to be present for
25 you to speak with your father?

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1 **A.** Who? What? I don't understand the question.

2 **Q.** You. Did you -- when you said your father wasn't
3 here in St. Croix, so, therefore, you didn't speak with him
4 relating to this conversation. And my question is, did you
5 speak with your father on the telephone at all at the time
6 that he was in Jordan?

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

8 **Q.** Okay. You would agree with me that in 2011, that
9 it was Mohammad Hamed, your father, to the extent there was
10 any negotiations that needed to happen, that it would be
11 Mohammad Hamed who would need to negotiate with Mr. Yusuf,
12 correct, not you?

13 **A.** That's correct.

14 **Q.** And that as your attorney has already pointed out,
15 that you were the messenger between the two, correct?

16 **A.** Yes.

17 **Q.** Okay. So would you agree with me that not
18 conveying to Mr. Mohammad Hamed a proposal that was provided
19 by Mr. Yusuf, you weren't properly conveying the message
20 that was requested, correct?

21 **A.** Shoot me. I mean, really, you got this man
22 telling me all -- he's accusing us left and right of
23 everything. And then every -- every day, it depends on the
24 flavor of the day, he changes his mind, and I'm supposed to
25 take him on.

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1 When we provided every single thing so we can
2 accommodate the things that he has in his head, okay? Power
3 of attorney, everything, and then you're telling me that he
4 wants a second and third piece of property.

5 **Q.** So with regard to the -- did you ever have any
6 subsequent conversations with Mr. Yusuf about conveying the
7 9.3 acres or the Tutu half acre that was already in United's
8 name, other than the conversation you just described?

9 **A.** I -- I don't recall, no.

10 **Q.** Okay. When did it become clear to you that the
11 deal that you indicate you thought was done was not a
12 comprehensive resolution of the claims between the two
13 families?

14 **A.** I believe that's when Fathi came back, and he
15 start questioning or start looking, bringing up new
16 materials, so-called new material and he's saying that he
17 wants more property and more property.

18 **Q.** I'm just trying to get the timeline on this, okay?

19 **A.** Um-hum.

20 **Q.** So you had a conversation with Mr. -- let's go
21 back in time.

22 You had a conversation with Mr. Yusuf within
23 24 hours of the handshake deal that you understood was a
24 final resolution of all matters, right?

25 **A.** Yes.

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1 **Q.** And you -- at that conversation, Mr. Yusuf says,
2 No, I want to go back to the two. Okay. We're not going to
3 revisit all this.

4 Subsequent to that conversation, when is it
5 that you believed that the -- there was no deal to resolve
6 everything?

7 **MR. HARTMANN:** Object. Asked and answered.

8 **A.** I think after Fathi secured my father's signature
9 on a document to transfer the first property that he made a
10 deal with my dad, and that was sometime in 2011.

11 **Q.** **(Ms. Perrell)** Okay. So even though 24 hours after
12 the handshake, Mr. Yusuf says to you, I actually want to go
13 back to the two properties, in your mind, that didn't change
14 anything?

15 **MR. HARTMANN:** Object. Asked and answered.
16 Counsel, move on. I'm -- I'm just going to tell him not to
17 answer anymore.

18 **MS. PERRELL:** No, no. I'm asking --

19 **MR. HARTMANN:** You don't have to answer this
20 anymore.

21 **Q.** **(Ms. Perrell)** There's a point in time in which he
22 says he does not believe that the deal was the deal. And
23 you said that you don't believe that the deal was what you
24 thought it was after they came back from the Jordan
25 transfer, is that -- I think that's what you just said?

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1 **MR. HARTMANN:** And then you've asked him
2 whether --

3 **MS. PERRELL:** And I'm asking him --

4 **MR. HARTMANN:** -- when he got back, and he
5 said, Yes, Mr. Yusuf then started asking him for more
6 property.

7 **MS. PERRELL:** Right.

8 **MR. HARTMANN:** And you said, Was that in a
9 bunch of meetings, and he said, Yeah, that was in a bunch of
10 meetings.

11 **Q. (Ms. Perrell)** Okay. And I'm trying to ask,
12 didn't -- it didn't occur to you in that subsequent
13 conversation that you had back when Mr. Yusuf says, I want
14 to go back to the two properties, that somehow the deal
15 wasn't complete?

16 **A.** In my mind, no, I think the deal was complete.
17 They shook hand on it and subsequently they went and my dad
18 signed a document to -- transfer document for the property.

19 **Q.** Okay.

20 **A.** And he accepted that.

21 **Q.** Okay. So when Mr. Yusuf talks to you about the
22 Tutu property, did you ever convey to any of your siblings
23 that the deal we thought we had to resolve all of this is no
24 longer viable, or is not happening?

25 **MR. HARTMANN:** Object. That assumes facts

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1 not -- they did have a deal. You -- you keep saying that
2 there wasn't a deal. He said there was a deal. He's
3 testified to it four times now.

4 **Q. (Ms. Perrell)** Okay. Carl, I thought that he --
5 let me just ask the question.

6 I thought that you just testified -- I asked
7 you, when did you think that this was not -- that there
8 wasn't actually a -- that -- that there was no longer this
9 would have resolved it all, and you said, When we came back,
10 and Mr. Yusuf says to me, Now I want the Tutu property. In
11 your mind, that's when you understood, Okay. Well, wait a
12 minute. I thought we were done, and I think that now this
13 may not be the case.

14 And I'm asking you -- I know you didn't
15 convey that to your father -- I'm asking you, did you ever
16 convey that belief to any of the siblings?

17 **A.** It's possible. I'm pretty sure we discussed many
18 things, and this is over what, 9 years, 10 years, 8 years.
19 I mean, --

20 **Q.** Okay.

21 **A.** -- there's a lot of things that happened between
22 2010, '11 and so on. I mean --

23 **Q.** Okay. Well, I mean, at some point, you realized
24 that there hadn't been a deal, correct?

25 **MR. HARTMANN:** No, no. Object.

WALEED "WALLY" HAMED -- CROSS

1 Argumentative. He said there was a deal. And what you want
2 to ask is, At what point did you realize Mr. Yusuf breached
3 his deal and wanted a whole new deal? So answer that
4 question. When did you realize he reneged on the deal?

5 **MS. PERRELL:** No, I object. This is my part
6 of the --

7 **MR. HARTMANN:** Okay.

8 **MS. PERRELL:** -- deposition. If you want to
9 cross.

10 **MR. HARTMANN:** Then I -- I will object to
11 argumentative if you keep asking him the same question over
12 and over.

13 **Q. (Ms. Perrell)** All right. When you filed this
14 lawsuit in September of 2012, did you have a belief that the
15 partners had reached an agreement, or did you -- as to a
16 resolution of all the issues between them, or did you
17 believe that it was an issue that needed to be resolved in
18 the courts?

19 **A.** That's why I filed a lawsuit. That's why I filed
20 a lawsuit, because there was no resolve. Excuse me.

21 **Q.** Okay. Do you have an opinion as to the ownership
22 of the Tutu half acre?

23 **A.** What you mean by --

24 **MR. HARTMANN:** Object, because --

25 **A.** Sorry.

WALEED "WALLY" HAMED -- CROSS

1 **A.** Yes, ma'am.

2 **Q.** Okay. What efforts were undertaken to effectuate
3 that or to -- to go forward with that? What was the next
4 step that you understood was going to happen after you leave
5 that day?

6 **A.** Mr. Yusuf would start the process.

7 **Q.** Okay. And so did -- and -- and what did you
8 understand was going to happen?

9 **A.** I don't know. The attorneys or accountants or
10 whatever it is they're going to do, they're going to do.

11 **Q.** Okay. And did you see anything that occurred
12 that -- that started to effectuate that part of the
13 arrangement?

14 **A.** No, I didn't. I didn't.

15 **Q.** Okay. Did you raise that issue with Mr. Yusuf?

16 **A.** I think everything. There was so much was going
17 on that time. And my dad, prior to that, he just came back
18 from the hospital, I think. It was during -- during some
19 really tough time for the family. Trying to coordinate with
20 my dad. He had to go back to the hospital before he took
21 his trip. And then my dad went to -- to a wedding, my
22 niece's wedding. And then right after that, Fathi just
23 followed him, and they did it over there. So there's a lot
24 of -- there was a lot happening. There was a lot happening
25 at that time.

WALEED "WALLY" HAMED -- CROSS

1 But I expected after he came back that we
2 start the process, but rather than starting the process, he
3 started the stuff all over again.

4 **Q.** Okay. What was the -- do you have any -- and I'm
5 sorry if you have answered this. This is not an attempt for
6 me to ask you a question yet again. The question I have is,
7 is how long between the time that you had this meeting, the
8 three of you and the transfer of the property? I apologize
9 if I have asked that before. Was it months or a year?

10 **A.** No, definitely not a year, really. I, really,
11 it's not here.

12 **Q.** So if the transfer of the Jordan property was in
13 2011, midyear, July of 2011, how many months before that
14 would you say this conversation took place, if you can?

15 **A.** It's in 2000 -- 2011, maybe. It's right after --
16 it was after the -- it's maybe within a couple months --

17 **Q.** Okay.

18 **A.** -- prior.

19 **Q.** Okay.

20 **A.** Yeah.

21 **Q.** So earlier in 2011?

22 **A.** Yes.

23 **MS. PERRELL:** Okay. All right. I need a
24 quick break, but I think that I might be done with my
25 questions from him. So can we take just a two-minute break?

WALEED "WALLY" HAMED -- REDIRECT

1 **MR. HARTMANN:** I only have a couple
2 questions. Do you want to hear those before?

3 **THE VIDEOGRAPHER:** Going off the record. The
4 time is 2:58.

5 (Short recess taken.)

6 **THE VIDEOGRAPHER:** Going back on the record.
7 The time is 3:03.

8 **MS. PERRELL:** I have no further questions
9 subject to potential re -- recross.

10 **MR. HARTMANN:** Okay. At this time, I'd like
11 to go off the record and suspend this deposition.

12 **THE VIDEOGRAPHER:** Going off the record. The
13 time is 3:03.

14 (Discussion off the record.)

15 **THE VIDEOGRAPHER:** Going back on record.
16 This is the sealed portion of the deposition. The time is
17 3:04.

18 **REDIRECT EXAMINATION**

19 **BY MR. HARTMANN:**

20 **Q.** Okay. Mr. Hamed, you were asked questions about
21 meetings that you had with a bunch of other people to try to
22 solve this.

23 **A.** Yes, sir.

24 **Q.** Okay. And you said that they occurred after you
25 came back and transferred the one parcel, right?

WALEED "WALLY" HAMED -- REDIRECT

1 **A.** Yeah, after my father and Fathi, yeah.

2 **Q.** And when you came back and after you transferred
3 the one parcel, you still thought you had a deal because you
4 had delivered the one parcel; is that correct?

5 **A.** Yeah, we delivered the one parcel.

6 **Q.** And were you called in to a -- a series of -- of
7 mediations where various members of the community and -- and
8 religious people acted as the mediators to try to reach
9 settlements?

10 **A.** Yes, sir.

11 **Q.** Okay. I'm now going to hand you what's been
12 marked -- Exhibit 14?

13 **MS. PERRELL:** Yes, I think so.

14 **Q.** **(Mr. Hartmann)** Fourteen.

15 (Deposition Exhibit No. 14 was
16 marked for identification.)

17 I'd ask you to look that over --

18 **A.** No, that's a duplicate.

19 **Q.** -- and ask you if you've ever seen that before?

20 **A.** Fourteen?

21 **Q.** Yes.

22 **A.** Yes, sir.

23 **Q.** Okay. And what do you understand that document to
24 be?

25 **A.** That's an affidavit of Mohammad Hannun.

WALEED "WALLY" HAMED -- REDIRECT

1 **Q.** Okay. And when did you find out about this
2 document?

3 **A.** Couple weeks ago, I guess.

4 **Q.** Okay. And do you know when your lawyers found out
5 about it?

6 **A.** Same. Probably on the same time.

7 **Q.** Okay. And I'd ask you to turn over in this
8 affidavit to Page 3 of 4, Paragraph 19. And I'll read the
9 paragraph into the record and then I'll ask you some
10 questions.

11 "We called Wally" had -- Wally. Excuse me.
12 19. "We called Waleed after Mr. Yusuf had agreed to settle
13 the dispute for the two properties for what he had
14 discovered, we called Waleed (and he) came in and we told
15 him of the agreement and we shook hands, and everyone left.
16 Later that night, before 24 hours past, Mr. Yusuf called and
17 asked, if I find anything else, can he ask for it, I said no
18 the agreement covers everything even what he doesn't know
19 about right now, and Mr. Yusuf said no, that the agreement
20 was for what he knew now, not for anything else he finds.
21 Then there was no more agreement."

22 Do you see that section?

23 **A.** Yes, sir.

24 **Q.** Do you remember that meeting?

25 **A.** Yes.

WALEED "WALLY" HAMED -- REDIRECT

1 **Q.** Okay. Tell me what happened in that meeting.

2 **A.** I -- I was called, I believe, into Food Town,
3 that's where they had, I guess, a meeting session. Prior to
4 that, Fathi has had -- sitting down with the good folks over
5 there. They came to some conclusion after hours and hour of
6 talking to him and all that. And they called me over and
7 they put a lot of pressure on me. I didn't agree to it,
8 but -- but they put a lot of pressure. A lot of pressure
9 just to get -- get this over with. Done with it, so I
10 agreed to --

11 **Q.** You agreed to what?

12 **A.** To a second piece of property.

13 **Q.** That was the second piece in Jordan, the one that
14 Mr. --

15 **A.** Yes.

16 **Q.** Okay. So -- so in -- now, when you said they put
17 a lot of pressure on you, was this -- were they threatening
18 to beat you up, or was this moral pressure by community
19 leaders?

20 **A.** It wasn't threatening things. It was just moral
21 pressure as far as -- because they are the elders in the
22 community, in our community, and we, you know, we have to
23 respect and honor them.

24 **Q.** And did you understand this to be a mediation
25 where they were trying to help you understand?

WALEED "WALLY" HAMED -- REDIRECT

1 **A.** Yes.

2 **Q.** And him understand?

3 **A.** Yes.

4 **Q.** And were you trying -- were the negotiations for
5 the purpose of settling a contested claim?

6 **A.** Not the contested -- contested claim.

7 **Q.** Well, a claim between two parties?

8 **A.** Yes, yes, yes.

9 **Q.** All right. And -- and at the conclusion of this
10 thing, did you once again agree to a two-parcel property
11 deal?

12 **A.** Yes, yes.

13 **Q.** Okay. Now, how come you didn't call up your
14 father and okay it with him at that -- this time?

15 **A.** Because my father gave me the authority to act on
16 his behalf.

17 **Q.** Okay. And why did he do that? Why did this time,
18 in particular?

19 **A.** Because he was sick.

20 **Q.** Okay.

21 **A.** He was sick.

22 **Q.** What did he have?

23 **A.** He had cancer.

24 **Q.** Okay. And was he being actively -- as soon as he
25 got back from Jordan, did he start being actively treated

WALEED "WALLY" HAMED -- REDIRECT

1 for cancer again?

2 **A.** Yes, sir. Yes.

3 **Q.** And did he become so debilitated that he wasn't
4 eventually able to do things like this?

5 **A.** Yes, sir.

6 **Q.** Okay. And did he eventually die from that cancer?

7 **A.** Yes, sir.

8 **Q.** Okay. And so you went into a meeting and they
9 asked you stuff. And so finally after being berated by the
10 local pooh-bahs, you said, Okay. Fine. I'll give you the
11 second piece in Jordan; is that correct?

12 **A.** Yes, sir.

13 **Q.** Okay. And were you happy about that?

14 **A.** Definitely not, but there was so much pressure
15 exerted, and just to get it over with. My dad was sick.
16 We -- Fathi always threatening that we have nothing in our
17 names and he's going to take everything.

18 **Q.** Okay. So -- so at the end of that, you shook
19 hands. And now for the second time in 2011, you had a
20 two-parcel-in-Jordan deal; is that correct?

21 **A.** Yes.

22 **Q.** Okay. And you went home and you thought to
23 yourself, Thank God, this is all over, right?

24 **A.** Yes, sir.

25 **Q.** Okay. And then what happened?

WALEED "WALLY" HAMED -- REDIRECT

1 **A.** The flavor changed.

2 **Q.** Did the phone ring?

3 **A.** Yes, sir.

4 **Q.** And who was on the phone?

5 **A.** Mr. Hannun.

6 **Q.** And what did Mr. Hannun tell you?

7 **A.** That there's no deal. There's no deal. Fathi
8 wants this and Fathi wants that.

9 **Q.** And what, specifically, did Fathi want this time?

10 **A.** Fathi wants a third piece.

11 **Q.** Let me finish asking the question.

12 **A.** Fathi wants a third piece.

13 **Q.** And what third piece is that?

14 **A.** Oh, St. Thomas, Tutu.

15 **Q.** Okay. So now he wants a third piece, which is
16 St. Thomas, Tutu.

17 And what do you say to Mr. Hannun?

18 **A.** I told --

19 **Q.** Who is who? By the way, who is Mr. Hannun?

20 **A.** Mr. Hannun is my uncle and Mike's uncle.

21 **Q.** Okay.

22 **A.** He is Fathi's brother-in-law and my father's
23 brother-in-law.

24 **Q.** So he's -- he's a relative of both of you. He sat
25 in the meeting. He's watched you shake hands, right?

WALEED "WALLY" HAMED -- REDIRECT

1 **A.** Yes, sir.

2 **Q.** He's heard Fathi Yusuf say, We have a deal.
3 You've left believing you have a deal. And then Mr. Hannun
4 called you up and told you, you have no deal, right?

5 **A.** Yes.

6 **Q.** Okay. And what did you say to Mr. Hannun?

7 **A.** I told him, No deal. I'm not going to agree to
8 one property. I'm not going to agree to two properties.
9 I'm not going to agree to three properties. I'm done.

10 **Q.** And why wouldn't you -- why did you tell him you
11 wouldn't give him the third property?

12 **A.** Because he's always changing his mind. He
13 can't -- can't agree onto one thing. I mean, it's just --
14 it's more and more. You give him one, you give him two, you
15 give him three. What's the end? What's going to be it? Is
16 there going to be more? Going to be the fourth, the fifth,
17 the sixth?

18 **Q.** Okay.

19 **A.** Until what?

20 **Q.** And -- and at that time, when you were in this
21 meeting with Mr. Hannun that he speaks of, when they asked
22 for the third parcel, which was the Tutu parcel, and you
23 said no to that, now to the -- to the renegotiation of the
24 renegotiation, did you still think you had a deal with
25 Mr. Yusuf for a fair splitting up of the stores and

WALEED "WALLY" HAMED -- RECROSS

1 everything?

2 **A.** No, sir.

3 **Q.** And how many times did you think you agreed to
4 that deal already?

5 **A.** Several times.

6 **MR. HARTMANN:** Okay. I have no further
7 questions.

8 **RECROSS-EXAMINATION**

9 **BY MS. PERRELL:**

10 **Q.** All right. I just have a follow-up on that.

11 Can I direct your attention to Paragraph 18?
12 Let me read that into the record. This is the same
13 affidavit of Mr. Hannun.

14 "By the time of the first meeting to mediate,
15 it was my understanding that the Hameds had agreed to
16 turn-over two properties to Mr. Yusuf, for what he had
17 discovered so far: \$1.4 million, for the \$2 million
18 transfer, including the \$700K that Mohammad Hamed agreed he
19 received for the Batch Plant, and to cover what was spent
20 on" Wally's -- "Waleed's gambling habit."

21 Do you see that?

22 **A.** Yes.

23 **Q.** Okay. So going into this meeting, would you
24 dispute it if Mr. Hannun testified that it was his
25 understanding going into this meeting that the original deal

WALEED "WALLY" HAMED -- RECROSS

1 was actually for -- as he describes here in Paragraph 18?
2 Do you dispute Paragraph 18, I guess, is the easiest way to
3 ask?

4 **MR. HARTMANN:** Object. Compound. Could you
5 re-ask the question? You asked two completely separate
6 questions. First you asked whether Mr. Hannun believed it,
7 which he could have believed it from Mr. Yusuf --

8 **Q. (Ms. Perrell)** My question is, do you dispute what
9 Mr. Hannun has stated in his affidavit at Paragraph 18?

10 **A.** According to this, this is Fathi's words, man,
11 because we -- the way he's saying two pieces of property
12 discovered so far, because that's not the agreement we had.

13 **Q.** So you dispute Mr. Hannun's statements that are
14 set forth in Paragraph 18?

15 **A.** That doesn't sound right to me.

16 (Respite.)

17 **Q.** Okay. Paragraph 20 indicates that there were
18 other meetings to discuss splitting up the business in
19 Paragraph 20, do you see that?

20 **A.** Yes.

21 **Q.** All right. So after you had this meeting, in
22 which Mr. Hannun was present, were there subsequent meetings
23 where you're still talking meeting splitting up the
24 business?

25 **A.** I think that probably within this particular

WALEED "WALLY" HAMED -- RECROSS

1 meeting, there was discussion about that. And we probably
2 had maybe one or two after that before the end of the year.

3 **Q.** Okay. So wouldn't it be fair to say after you
4 left this meeting, because you had subsequent meetings to
5 discuss how to resolve certain things, that you believe that
6 there was still discussion about how to resolve it all, and
7 you were still discussing it?

8 **A.** No, ma'am.

9 **Q.** Okay.

10 **A.** When I left this meeting -- when I left this
11 meeting, it was a done deal. Just like when we left that
12 meeting earlier in the year, it was a done deal. Now we
13 have another meeting with maybe 7-8 adults in the community,
14 and I get a call there's no deal, because he changed the
15 flavor.

16 **Q.** All right. And just to be clear, it's your
17 understanding that when there was a discussion of what is
18 called a third property, that it's your belief that the
19 third property relates to the property in Tutu, the 9.3 and
20 the half acre; is that correct?

21 **A.** It was Tutu. Whether it was the -- like you say,
22 half acre, 9.3, I know it's St. Thomas property.

23 **MS. PERRELL:** Okay. All right. I have no
24 more questions.

25

WALEED "WALLY" HAMED -- REDIRECT

REDIRECT EXAMINATION

1
2 **BY MR. HARTMANN:**

3 **Q.** I would like you to look at Paragraph 21 there.
4 I'll read it into the record and then ask you a question.

5 Paragraph 21 says, "Finally, at one of the
6 last meetings, Mr. Yusuf said that if the Hameds transferred
7 a third piece of property that would settle everything about
8 the unauthorized monies, whatever he knows" about "he would
9 not do" -- "and he would not do any more searching for
10 monies he did not know about."

11 So, whether it was at that particular meeting
12 with Hannun, or at some other point, there finally came a
13 point where he said there was going to be no settlement
14 unless there was a third parcel; is that correct?

15 **A.** Yes, sir.

16 **Q.** And you didn't accept that, right?

17 **A.** I didn't accept that, no.

18 **Q.** And that's reflected in 20 -- Paragraph 22 here?

19 **A.** Twenty-one.

20 **Q.** Mr. Yusuf -- after you said no to the third
21 parcel, he "said he cannot work with the Hameds and that
22 they still had to sell the business and to divide the
23 business and go their separate ways."

24 Was that the end result of all of these
25 negotiations after you rejected that third parcel?

FATHI YUSUF -- DIRECT

1 **A.** Yes, sir.

2 **MR. HARTMANN:** Okay. I have no more
3 questions.

4 **MS. PERRELL:** I have no questions.

5 **MR. HARTMANN:** Okay. We can go off the
6 sealed deposition and if --

7 **THE VIDEOGRAPHER:** Going off the record, the
8 sealed deposition. The time is 3:18.

9 (Discussion off the record.)

10 **THE VIDEOGRAPHER:** Going back on the record.
11 The time is 3:18. This is the conclusion of the deposition,
12 and the time is 3:19.

13 (Short recess taken.)

14 **THE VIDEOGRAPHER:** This is the continuation
15 of the deposition of Fathi Yusuf. The time is 3:23.

16 **FATHI YUSUF**

17 **DIRECT EXAMINATION**

18 **BY MR. HARTMANN:**

19 **Q.** Good afternoon, Mr. Yusuf. I have only one
20 question for you. Actually, it's two questions.

21 The first one is, do you recall being in the
22 deposition of Mohammad Hamed on the 31st day of March, 2014?
23 Do you remember, in Adam Hoover's office, do you remember
24 being at Mr. Hamed's deposition?

25 **A.** I don't understand the question.

FATHI YUSUF -- DIRECT

1 **Q.** Do you -- we took -- a long time ago in 2014, we
2 took Mr. Hamed's deposition.

3 Do you remember being there?

4 **A.** I believe. I believe so. Yeah, I believe so.

5 **Q.** Okay. And do you remember him testifying about
6 this deal, the one that we're talking about here?

7 **A.** Who we're talking about?

8 **Q.** About the --

9 **A.** Who?

10 **Q.** -- the two parcels?

11 **A.** Wally or his father?

12 **Q.** Mr. -- Wally's father.

13 **A.** Oh.

14 **Q.** Mohammad Hamed.

15 **A.** Okay. Let me see.

16 **Q.** Okay.

17 **A.** I remember where I seen him in the deposition,
18 yes.

19 **Q.** Okay. And do you remember that in his deposition,
20 he testified that originally, you asked for two parcels in
21 Jordan?

22 **A.** Never in Jordan, sir. It's always one in Jordan
23 and one at Tutu Park.

24 **Q.** Okay. But you were at the deposition, right?

25 I'm now going to show you a small part of a