

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

<p>WALEED HAMED, as the Executor of the Estate of MOHAMMAD HAMED, <i>Plaintiff/Counterclaim Defendant,</i></p> <p style="text-align: center;">vs.</p> <p>FATHI YUSUF and UNITED CORPORATION <i>Defendants and Counterclaimants.</i></p> <p style="text-align: center;">vs.</p> <p>WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC., <i>Counterclaim Defendants,</i></p>	<p>Case No.: SX-2012-CV-370</p> <p>ACTION FOR DAMAGES, INJUNCTIVE RELIEF AND DECLARATORY RELIEF</p> <p><u>JURY TRIAL DEMANDED</u></p> <p>Consolidated with</p>
<p>WALEED HAMED, as the Executor of the Estate of MOHAMMAD HAMED, <i>Plaintiff,</i></p> <p style="text-align: center;">vs.</p> <p>UNITED CORPORATION, Defendant.</p>	<p>Case No.: SX-2014-CV-287</p> <p>Consolidated with</p>
<p>WALEED HAMED, as the Executor of the Estate of MOHAMMAD HAMED, <i>Plaintiff</i></p> <p style="text-align: center;">vs.</p> <p>FATHI YUSUF, Defendant.</p>	<p>Case No.: SX-2014-CV-278</p>
<p>FATHI YUSUF, Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>MOHAMMAD A. HAMED TRUST, et al, <i>Defendants.</i></p>	<p>Consolidated with</p> <p>Case No.: ST-17-CV-384</p>
<p>KAC357 Inc., Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>HAMED/YUSUF PARTNERSHIP, <i>Defendant.</i></p>	<p>Consolidated with</p> <p>Case No.: ST-18-CV-219</p>

HAMED'S REQUEST TO TAKE JUDICIAL NOTICE

Pursuant to Rule 201 of the Virgin Islands Rules of Civil Procedure, the Plaintiff Hamed hereby request this Court to take Judicial Notice of the Orders in already entered in this case regarding the following matters:

1. That the Special Master has already found that Parcel No. 2-4 Rem Estate Charlotte Amalie, No. 3 New Quarter, St. Thomas, U.S. Virgin Islands, consisting of 0.536 acre, more or less (hereinafter "Half Acre in Estate Tutu"), belonged to the Hamed-Yusuf Partnership even though titled in the name of United Corporation from 2008, with the issue of whether the partnership transferred the parcel to Fathi Yusuf in 2011 being the dispute currently before this Court.

See Order dated January 14, 2020, at pp. 12-13 (except attached-Ex. A).

2. That the Special Master has already found that (i) it is undisputed that Hamed, Yusuf, and Waleed Hamed, at some time in 2010 or 2011, met to discuss Yusuf's discovery of Hamed's misappropriation of funds; and (ii) it is undisputed, per Yusuf's admission and corroborated by Hamed, that while Yusuf originally asked for two properties— with one of the two properties being a property located in Jordan (hereinafter "Jordan Property")—to resolve the issue of Hamed's misappropriation of funds, he ultimately agreed to one property— the Jordan Property—because he believed Hamed "was being straight with him" (hereinafter "Original Agreement"), but that it is further undisputed, per Yusuf's admission and corroborated by Hamed, that Yusuf subsequently rescinded the Original Agreement.

See Order dated May 3, 2020, at pp.23-30 (excerpt attached-Ex B).

3. That Fathi Yusuf signed the attached interrogatory responses in this case (excerpt attached-Ex C).

Counsel for Hamed

Dated: September 24, 2021

/s/ Joel H. Holt

Joel H. Holt, Esq.

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CERTIFICATE OF SERVICE AND COMPLIANCE WITH RULE 6-1(e)

I hereby certify that the above document meets the requirements of Rule 6-1(e) and was served this 24th day of September, 2021. I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

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

Stefan Herpel
Charlotte Perrell
TOPPER, NEWMAN FEUERZEIG LLP
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/s/ Joel H. Holt

EXHIBIT A

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

**MOHAMMAD HAMED, BY HIS
AUTHORIZED AGENT WALEED HAMED,**

PLAINTIFF/COUNTERCLAIM DEFENDANT,

v.

**FATHI YUSUF AND UNITED
CORPORATION,**

DEFENDANTS/COUNTERCLAIMANTS,

v.

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

COUNTERCLAIM DEFENDANTS.

**WALEED HAMED, AS EXECUTOR OF THE
ESTATE OF MOHAMMAD HAMED,**

PLAINTIFF,

v.

UNITED CORPORATION,

DEFENDANT.

MOHAMMAD HAMED,

PLAINTIFF,

v.

FATHI YUSUF,

DEFENDANT.

Civil No. SX-12-CV-370

**ACTION FOR INJUNCTIVE
RELIEF, DECLARATORY
JUDGMENT, PARTNERSHIP
DISSOLUTION, WIND UP, and
ACCOUNTING**

CONSOLIDATED WITH

Civil No. SX-14-CV-287

**ACTION FOR DAMAGES and
DECLARATORY JUDGMENT**

CONSOLIDATED WITH

Civil No. SX-14-CV-378

**ACTION FOR DEBT and
CONVERSION**

ORDER



Tutu to Yusuf per an agreement between Yusuf and Hamed for Hamed to transfer his interest in two Partnership properties—the Tabarbour, Jordanian property and the collective Tutu property, including both the 9.3 acre tract and the Half Acre in Estate Tutu—to Yusuf “[a]s part of Hamed’s efforts to appease Yusuf following his discovery of this significant misappropriation [of \$2,000,000].” (Opp., p. 3) In his reply, Hamed disputed United and Yusuf’s claim that the agreement between Yusuf and Hamed was for Hamed to transfer of both the Tabarbour, Jordanian property and the collective Tutu property, and instead argued that the agreement between Yusuf and Hamed was for Hamed to transfer only one property—the Tabarbour, Jordanian property—which Hamed subsequently transferred to Yusuf.

At this juncture, the Master concludes that Hamed has not satisfied his burden of establishing that there are no genuine disputes as to any material fact regarding Hamed’s partial motion for summary judgment for the limited holding that “the ‘United’ that has been in record title since 2008 is ‘United operating as the Partnership.’” *See Rymer*, 68 V.I. at 575-76 (quoting *Williams*, 50 V.I. 191, 194) (“Because summary judgment is “[a] drastic remedy, a court should only grant summary judgment when the ‘pleadings, the discovery and disclosure materials on file, and any affidavits, show there is no genuine issue as to any material fact.’”) With that said, in light of United and Yusuf’s concession, the Master will grant summary judgment regarding the narrow issue that the Partnership’s United held title to the Half Acre in Estate Tutu from 2008 to 2011; whether the Partnership’s United or Yusuf’s United held title after 2011 remains in dispute.

CONCLUSION

Based on the foregoing, the Master will deny Hamed’s motion to for partial summary judgment for Hamed Claim No. H-142 but will grant summary judgment regarding the narrow issue that the Partnership’s United held title to the Half Acre in Estate Tutu from 2008 to 2011.

Having considered all the ancillary motions, the Master will grant Hamed's motion for expedited determination of his motion for partial summary judgment by January 17, 2020, grant Hamed motion to exceed the Rule 6.1(e)(2) limitations as to his reply, and deny United and Yusuf's motion for leave to file sur-response to Hamed's reply. Accordingly, it is hereby:

ORDERED that Hamed's motion for partial summary judgment for Hamed Claim No. H-142: Half Acre of Estate Tutu is **DENIED**. It is further:

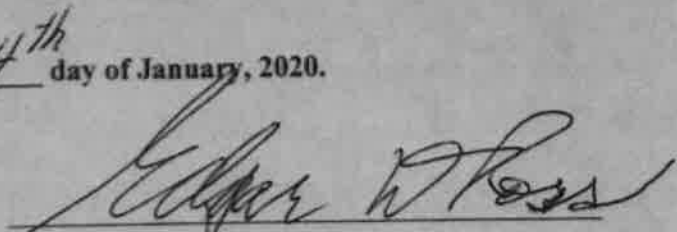
ORDERED that summary judgment regarding the narrow issue that the Partnership's United held title to the Half Acre in Estate Tutu from 2008 to 2011 is **GRANTED**. It is further:

ORDERED that Hamed's motion for expedited determination of his motion for partial summary judgment by January 17, 2020 is **GRANTED**. It is further:

ORDERED that Hamed motion to exceed the Rule 6.1(e)(2) limitations as to his reply is **GRANTED**. It is further:

ORDERED that United and Yusuf's motion for leave to file sur-response to Hamed's reply is **DENIED**. United and Yusuf's sur-response and Hamed's response thereto shall be and are hereby **STRICKEN**.

DONE and so **ORDERED** this 14th day of January, 2020.



EDGAR D. ROSS

Special Master

EXHIBIT B

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

**MOHAMMAD HAMED, BY HIS
AUTHORIZED AGENT WALEED HAMED,**

PLAINTIFF/COUNTERCLAIM DEFENDANT,

v.

**FATHI YUSUF AND UNITED
CORPORATION,**

DEFENDANTS/COUNTERCLAIMANTS,

v.

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

COUNTERCLAIM DEFENDANTS.

**WALEED HAMED, AS EXECUTOR OF THE
ESTATE OF MOHAMMAD HAMED,**

PLAINTIFF,

v.

UNITED CORPORATION,

DEFENDANT.

MOHAMMAD HAMED,

PLAINTIFF,

v.

FATHI YUSUF,

DEFENDANT.

Civil No. SX-12-CV-370

**ACTION FOR INJUNCTIVE
RELIEF, DECLARATORY
JUDGMENT, PARTNERSHIP
DISSOLUTION, WIND UP, and
ACCOUNTING**

CONSOLIDATED WITH

Civil No. SX-14-CV-287

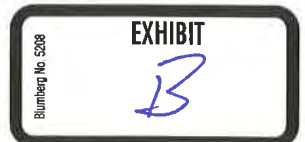
**ACTION FOR DAMAGES and
DECLARATORY JUDGMENT**

CONSOLIDATED WITH

Civil No. SX-14-CV-378

**ACTION FOR DEBT and
CONVERSION**

ORDER



The Master must address the threshold issue at the outset¹⁵ that the Master has jurisdiction to hear motions filed in connection with Hamed Claim No. H-142.¹⁶

1. The Original Agreement

Based on the record before the Master, the Master finds that: (i) it is undisputed that Hamed, Yusuf, and Waleed Hamed, at some time in 2010 or 2011, met to discuss Yusuf's discovery of Hamed's misappropriation of funds;¹⁷ and (ii) it is undisputed, per Yusuf's admission and corroborated by Hamed, that while Yusuf originally asked for two properties— with one of the two properties being a property located in Jordan (hereinafter "Jordan Property")—to resolve the issue of Hamed's misappropriation of funds, he ultimately agreed to one property— the Jordan Property—because he believed Hamed "was being straight with him" (hereinafter "Original

¹⁵ Although the threshold issue of whether jurisdiction to hear motions filed in connection with Hamed Claim No. H-142 was not raised in Yusuf and United, it was addressed in Hamed's motion.

¹⁶ See *supra*, footnote 1. Also, in the Partial Summary Judgment Order, the Master found that it remains in dispute whether the Partnership's United or Yusuf's United held title to the Half Acre in Estate Tutu after 2011.

¹⁷ In Hamed's SOF, Hamed provided in relevant parts,

9. Fathi Yusuf and Mohammad Hamed gave very similar deposition testimonies about **what happened regarding the 2010 in-person negotiation** and 2011 writing that underlie Yusuf's position here. Compare Yusuf testimony with Hamed testimony. ¶¶ 10-16 below. (Hamed's SOF, ¶¶ 8-9) (Emphasis added)

In their MSJ Opposition, Yusuf and United provided in relevant parts,

1. Discussion with Hamed, Yusuf and Waleed at Hamed's Home in St. Croix. (MSJ Opp., p. 4)

In their opposition to Hamed's SOF, Yusuf and United provided in relevant parts,

Yusuf's Response to Hamed Statement No. 9: Disputed as written. **Yusuf admits that he discovered transgression of the Hameds and investigated these issue [sic] in discussions with them.** There was an agreement reached for Hamed to transfer and/or relinquish his interest in a property in Jordan and property in Tutu consisting of a 9.3 acre tract and the half-acre entrance parcel, which is the subject of Hamed's Motion. The substance of this agreement and factual support for the same are set forth in Yusuf's Opposition to the Motion as well as his Statement of Disputed Facts. Both are incorporated herein as responsive to this statement to the extent that it seeks to evidence any statements to the contrary. (Emphasis added)

In the statement of facts attached to Yusuf and United's opposition to Hamed's motion for summary judgment (hereinafter "Yusuf and United's SOF"), Yusuf and United provided in relevant parts,

5. At the meeting at Hamed's St. Croix home. Hamed agreed to relinquish his interests in two properties, the Jordan Property and the Collective Tutu Property, but Yusuf then says one is enough—the Jordan Property... (Yusuf and United's SOF, ¶ 5) (Emphasis omitted)

At his January 22, 2020 deposition, Waleed Hamed testified:

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.** (Waleed Hamed Dep. 151:21-24, Jan. 22, 2020) (Emphasis added)

Agreement”).¹⁸ However, the following issues are in dispute: (i) As to the second property Yusuf asked for, whether the second property referred to (a) the Half Acre in Estate Tutu, or (b) the entire

¹⁸ In Yusuf and United’s SOF, Yusuf and United provided in relevant parts,

5. At the meeting at Hamed’s St. Croix home, Hamed agreed to relinquish his interests in **two properties, the Jordan Property and the Collective Tutu Property, but Yusuf then says one is enough—the Jordan Property...** (Yusuf and United’s SOF, ¶ 5) (Emphasis added)

At his April 2, 2014 deposition, Yusuf testified:

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

He say, You can have it. And after they say it, the man come up front after I tell him my story, and he was very generous to say, You can have it. And we kept talking, as a family. After all, we are family, as you mentioned over and over in your correspondence. We are family at that time, and we have a very high respect for each other, even though, up to now we still have high respect to each other, **and I told him, No, one is enough.** (Yusuf Dep. 78:9-25, April 2, 2014) (Emphasis added)

In Yusuf’s Interrogatory Answers in Case 733, Yusuf provided in relevant parts:

It was then then that Mohammed Hamed asked Responding Part [Yusuf], “what he [Responding Party] wanted in exchange” and Responding Party requested that for what he has seen so far, including an estimated amount for the gambling, the account will balance out if Mohammed Hamed were transfer his interest in two (2) properties: the one property in Jordan, and the property in Tutu Park. Defendant Yusuf had purchased both properties and transferred a half interest to Mohammed Hamed and/or a corporation owned by both families.

When Mohammed immediately agreed to transferring his interest in the two (2) properties, admitting responsibility, Responding Party believed that Mohammed Hamed was being straight with him. Responding Party then said that one property was enough, that he will take the property in Jordan. (Yusuf’s Interrogatory Answers in Case 733, p. 8) (Emphasis added)

At his March 31, 2014 deposition, Hamed testified:

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

...

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

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

THE INTERPRETER: He said, I begged him to sit and -- and -- and -- so we can finish this, and in Jordan, we -- we -- we, in my house, we met, and I was giving him -- (speaking in Arabic). **He asked for two pieces of -**

A. **Just one I want.** (Hamed Dep. 137:10-14, 138:7-15, March 31, 2014) (Emphasis added).

At his January 22, 2020 deposition, Waleed Hamed testified:

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.**

Estate Tutu (which includes the Half Acre in Estate Tutu and the 9.3 acre parcel of Estate Tutu (hereinafter “9.3 Acres of Estate Tutu” together with Half Acre in Estate Tutu, the “Entire Estate Tutu”), or (c) another property in Jordan (hereinafter “Second Jordan Property”). Based on Yusuf’s Amended Accounting Claims, the second property seems to refer only to the Half Acre in Estate Tutu.¹⁹ However, based on Yusuf testimony at his April 2, 2014 deposition and Yusuf’s SOF, the second property seems to refer to the Entire Estate Tutu,²⁰ and based on Waleed Hamed’s

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 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. (Waleed Hamed Dep. 155:3-156:8, Jan. 22, 2020) (Emphasis added)

¹⁹ In Yusuf’s Amended Accounting Claims, Yusuf provided in relevant parts:

Hamed’s interest in another parcel that was purchased in Jordan using funds from the Plaza Extra Stores has already been conveyed to Yusuf as part of Hamed’s efforts to appease Yusuf following his discovery of the misappropriation of \$2,000,000 sent to Hamed from St. Maarten in or around 1997. A copy of the agreement in Arabic conveying Hamed’s interest in such parcel is attached as Exhibit O.¹⁶ **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, 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. (Yusuf’s Amended Accounting Claims, pp.13-14) (Emphasis added)

²⁰ At his April 2, 2014 deposition, Yusuf testified:

A. I -- we met, and after I tell him my story of what I know at that time, he say, What do you want? I say, I’ll take two property for what I discover so far. He say, Which? **I give him the description of the property, one in Jordan and one at Tutu Park. The one in Jordan, I pay one million two, approximate. The one at Tutu Park, I paid 1 million for it. 1,000,350, I believe. It’s two pieces at Tutu Park, but we call it one piece. One-half an acre as an entrance, and 9.31 as the major piece of property.** (Yusuf Dep. 78:9-25, April 2, 2014) (Emphasis added)

In Yusuf’s SOF, Yusuf and United provided in relevant parts,

testimony at his January 22, 2020 deposition, the second property seems to refer to the Second Jordan Property;²¹ (ii) As to the Original Agreement, whether it resolved the issue of Hamed's misappropriation known at the time or the issue of all of Hamed's misappropriation, whether known or unknown. According to Yusuf's testimony at his January 22, 2020 deposition,²² Yusuf's

5. At the meeting at Hamed's St. Croix home, Hamed agreed to relinquish his interests in two properties, the Jordan Property and the **Collective Tutu Property**, but Yusuf then says one is enough—the Jordan Property... (Yusuf and United's SOF, p. 2) (Emphasis added)

See also, infra, footnote 34.

²¹ At his January 22, 2020 deposition, Waleed Hamed testified:

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. [Mr. Hartmann] 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. [Ms. Perrell] Okay. **Mr. Yusuf's position is that the property that were discussed at this meeting with the three of you actually involved property in St. Thomas, that we refer to as the Tutu Park property. Not Tutu Park, just Tutu property. Do you dispute that?**

A. Yes.

Q. Okay. **So is it your testimony that there was no discussion about the Tutu property at all during this meeting that you had -- well, that you were present for between Mohammad Hamed and Mr. Yusuf?**

A. **That's correct.** (Waleed Hamed Dep. 155:3-20, 156:18-157:4, Jan. 22, 2020) (Emphasis added)

See also, infra, footnote 35.

²² At his January 22, 2020 deposition, Yusuf testified:

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

...

A. But Mr. Mohammad, I want you to know, **the settlement only cover what I discover so far.** Now, I have all the right to accuse these people, they're not straight. So I will take it as a settlement in exchange of the 3.4; the 2 million and the one million point 4. Because the property, Tutu Park, I purchased for \$1 million. And the half acre, three thirty. That's one million three. And the property in Jordan is about one million one, one million two. So it's a total of like two million something.

...

...

A. ...I told Wally -- after about half an hour in my office, I double-check. I find what Mohammad told me unfortunately is the opposite.

Q. Okay.

A. I say then, I should never done what I did, and they don't deserve it. They have to put it back. But now these two property, only for what I discover. Only and only for what I discover. A million four and 2 million.

Q. Okay. So what did you say to Wally?

A. I told him, Wally, do me a favor. Tell your father I have to have the two property for this deal to cover this, the three million four is, you know, to cover it up.

...

Q. Mr. Yusuf, I think I need to clarify one question. When you had the initial meeting with the three of you, -

A. Yes.

Q. -- was that on the basis of just what you had found out so far?

A. Exactly.

Q. Okay. And did you convey that to both Mohammad Hamed -

A. Explain.

Q. But I'm asking you, did you -

A. Yes.

Q. -- say to them, we're going to resolve this issue only?

A. Yes.

Q. Okay. All right. (Yusuf Dep. 208:19-20, 209:9-18, 212:22-213:9, 224:4-19 January 22, 2020) (Emphasis added)

Amended Accounting Claims,²³ Yusuf's Interrogatory Answers in Case 733,²⁴ and Yusuf's testimony at his April 2, 2014 deposition,²⁵ it seems like the Original Agreement was to resolve the issue of Hamed's misappropriation known at the time. However, according to Waleed

²³ In Yusuf's Amended Accounting Claims, Yusuf provided in relevant parts:

Hamed's interest in another parcel that was purchased in Jordan using funds from the Plaza Extra Stores has already been conveyed to Yusuf as part of Hamed's efforts to appease Yusuf following his discovery of the misappropriation of \$2,000,000 sent to Hamed from St. Maarten in or around 1997. A copy of the agreement in Arabic conveying Hamed's interest in such parcel is attached as Exhibit O.¹⁶ 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, 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. (Yusuf's Amended Accounting Claims, pp.13-14) (Emphasis added)

²⁴ In Yusuf's Interrogatory Answers in Case 733, Yusuf provided in relevant parts:

...Responding Party has asked Waleed Hamed to account for certain transactions based on the report from the St. Martin Banking Authorities given to the US Government... Such documents, include and are not limited to...shows that "\$2,000,000 dollars [were transferred], in favor of Mohammad Abdel Qader Hamed...

...

Responding Party [Yusuf] also reminded Mohammed Hamed that he had told [Mohammed Hamed] even before this dispute arose, to speak to Wally Hamed about his gambling addiction and that Wally has been going almost every night to the casino and gambling the maximum amount of \$500.00 on each hand... During this same meeting in Estate Carlton, Responding Party also discussed several deposits of funds to Wally Hamed's personal Merrill Lynch account that he had seen on the Hard drive, amounting to about \$300,000.00+.

It was then that Mohammed Hamed asked Responding Party, "what he [Responding Part] wanted in exchange" and Responding Party **requested that for what he has seen so far, including an estimated amount for the gambling**, the account will balance out if Mohammed Hamed were transfer his interest in two (2) properties: the one property in Jordan, and the property in Tutu Park.

When Mohammed immediately agreed to transferring his interest in the two (2) properties, admitting responsibility, Responding Party believed that Mohammed Hamed was being straight with him. Responding Party then said that one property was enough, that he will take the property in Jordan.

... (Yusuf's Interrogatory Answers in Case 733, p. 8) (Emphasis added)

²⁵ At his April 2, 2014 deposition, Yusuf testified:

A. I -- we met, and after I tell him my story of what I know at that time, he say, What do you want? I say, **I'll take two property for what I discover so far.** He say, Which? I give him the description of the property, one in Jordan and one at Tutu Park. The one in Jordan, I pay one million two, approximate. The one at Tutu Park, I paid 1 million for it. 1,000,350, I believe. It's two pieces at Tutu Park, but we call it one piece. One-half an acre as an entrance, and 9.31 as the major piece of property. (Yusuf Dep. 78:9-25, April 2, 2014) (Emphasis added)

Hamed's testimony at his January 22, 2020 deposition,²⁶ it seems like the Original Agreement was to resolve the issue of all of Hamed's misappropriation, whether known or unknown.

2. The Original Agreement was Rescinded by Yusuf

Based on the record before the Master, the Master finds that it is undisputed, per Yusuf's admission and corroborated by Hamed, that Yusuf subsequently rescinded the Original

²⁶ At his January 22, 2020 deposition, Waleed Hamed testified:

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

A. **Yes.** And it was an agreement also to go ahead and sell the stores or divide the stores up equally and everybody goes their separate ways.

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?

...

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

A. **Yeah, I disagree with him.** (Waleed Hamed Dep. 169:9-20, 173:11-17, Jan. 22, 2020) (Emphasis added)

Agreement.²⁷ According to Yusuf and United's SOF,²⁸ Yusuf testimony at his April 2, 2014 deposition,²⁹ and Yusuf's Interrogatory Answers in Case 733,³⁰ Yusuf rescinded the Original Agreement because he discovered additional misappropriation of funds by Hamed.

²⁷ In Yusuf and United's SOF, Yusuf provided in relevant parts:

7. Within hours of returning to the Store from Hamed's home, Yusuf tells Waleed to advise Mohammed that the deal is for two properties—the Jordan Property and the Collective Tutu Property as originally agreed to... (Yusuf and United's SOF, ¶ 7)

In Yusuf's Amended Accounting Claims, Yusuf provided in relevant parts:

Hamed's interest in another parcel that was purchased in Jordan using funds from the Plaza Extra Stores has already been conveyed to Yusuf as part of Hamed's efforts to appease Yusuf following his discovery of the misappropriation of \$2,000,000 sent to Hamed from St. Maarten in or around 1997. A copy of the agreement in Arabic conveying Hamed's interest in such parcel is attached as Exhibit O to the Original Claims¹⁸. **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, 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. (Yusuf's Amended Accounting Claims, pp.13-14) (Emphasis added)

At his April 2, 2014 deposition, Yusuf testified:

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

And when we kept talking, you know, whatever what he was saying, it doesn't add up. So I went to the store, I take a look, and I analyze the bank statement of what he was saying. I say, Man, after that, this man would not even tell me the truth, unfortunate? **So immediately I told Wally, Do me a favor, Wally. You are present. Go back to your father and tell him, No, I wanted the two piece of property.** (Yusuf Dep. 78:9-79:9, April 2, 2014) (Emphasis added)

In Yusuf's Interrogatory Answers in Case 733, Yusuf provided in relevant parts:

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.

...

When Responding Party returned to St. Croix, he continued to review the hard -drive and discovered even more unauthorized transactions of Wally Hamed taking funds for his personal use. As a result of these new discoveries of even more unauthorized transfer of funds by Plaintiff Waleed Hamed, **the Defendant [Yusuf] informed Wally Hamed that it has to be three (3) properties to cover everything Responding Party had found.** Responding Party requested that Mohammed Hamed transfer his interest in another property in Jordan Responding Party had bought and given an half interest to Mohammed Hamed. (Yusuf's Interrogatory Answers in Case 733, pp. 8-9) (Emphasis added)

At his March 31, 2014 deposition, Hamed testified:

THE INTERPRETER: He said, I begged him to sit and -- and -- and -- so we can finish this, and in Jordan, we -- we -- we -- we, in my house, we met, and I was giving him -- (speaking in Arabic). He asked for two pieces of -

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ORDER

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ORDERED that, within seven (7) days from the date of receipt of invoice, Yusuf and United shall pay for the reasonable fees and costs in connection with Hamed's motion in limine argument with regards to Rule 37 sanctions. **And** it is further:

ORDERED that Hamed's motion for summary judgment for Hamed Claim No. H-142 is **DENIED**.

DONE and so **ORDERED** this 3rd day of May, 2020.


EDGAR D. ROSS
Special Master

EXHIBIT C

←

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

**MOHAMMED HAMED, WALEED
"WALLY" HAMED, WAHEED
"WILLY" HAMED, MUFEEED "MAFI"
HAMED, HISHAM "SHAWN" HAMED,**

Plaintiffs,

vs.

FATHI YUSUF,

Defendant.

CIVIL NO. 377/2012

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

**DEFENDANT FATHI YUSUF'S ANSWERS TO
PLAINTIFF WALEED "WALLY" HAMED'S FIRST SET OF INTERROGATORIES**

COMES NOW, Defendant Fathi Yusuf, (hereinafter referred to as "Fathi Yusuf" or "Defendant" or "Responding Party"), by and through undersigned counsel, Law Offices of K. Glenda Cameron, by K. Glenda Cameron, Esq., and respectfully answers as follows to Plaintiff Waleed "Wally" Hamed's First Set of Interrogatories to Defendant Fathi Yusuf.

Subject to the objections set forth below, Defendant answers as follows to the First Set of Interrogatories served by Plaintiff Waleed "Wally" Hamed.

PRELIMINARY STATEMENT

These answers and objections are made solely for the purpose of this action. Each answer is subject to any and all objections as to competence, relevance, materiality, propriety, and admissibility; and any and all objections and grounds that would require the exclusion of any statement contained in any response, if such request were asked of, or any statement contained therein were made by, a witness present and testifying in court, all of which objections and grounds are hereby reserved and may be interposed at the time of trial.



16. Describe the meetings held in late 2011 as described in paragraph 49 and 50 of Plaintiffs' complaint, the dates they occurred, the persons attending each such meeting, what Defendant contends was discussed, the substance of statements made by Defendant at each such meeting, whether any agreement were reached and if so, the substance of those agreements.

RESPONSE No. 16:

Responding Party objects to the form of the question as misleadingly stated, in that it makes a statement and does not ask a question, contains a reference to the Plaintiffs' allegations in the Complaint which have been denied and is phrased in such a manner so as to cause any response to be ambiguous and potentially misleading.

Responding Party further objects on the ground that the factual contention in Paragraph 49 of the Complaint that there were meetings of "all the male family Members" and that there were "threats or defamation" are incorrect and are allegations of the Plaintiffs which have been denied.

Subject to the above objections, the attendees were people selected in part by Plaintiffs Mohammed Hamed and Waleed Hamed, directly and indirectly through Mohammed Hannun (the uncle of Plaintiff Waleed Hamed and the Brother-in-Law of Plaintiff Mohammed Hamed and Responding Party Fathi Yusuf through their respective wives who are sisters). Attendees for the meeting are believed to have been contacted by Mohammed Hannun, Waleed Hamed and agreed to by Responding Party when called.

There were no "threats or defamation" as claimed in Paragraph 49 of the Complaint

Specifically, to the best of Responding Party's recollection, the Attendees at the meetings were as follows:

Meeting at Mr. Dollar Department Store, St. Croix USVI 2011 Attendees:

<u>Attendee:</u>	<u>Contact Info:</u>	<u>Relationship</u>
Fathi Yusuf	340-778-6240 Plaza Extra	
Waleed Hamed	340-778-6240 Plaza Extra	
Mohammed Hannun	340-690-0472	Brother-in-Law to

Mohammed Hamed and
 Fathi Yusuf

Naim Suid	Mr. Dollar	Mutual Friend
Abdullah Suid	Mr. Dollar	Mutual Friend (Deceased)
Bakir Hussein	340-778-6440 Best Furniture	Mutual Friend
Maher Abu Kais		Nephew of Mohammed Hamed

Meeting at Best Furniture, St. Croix USVI 2011 Attendees:

<u>Attendee:</u>	<u>Contact Info:</u>	<u>Relationship</u>
Fathi Yusuf	340-778-6240 Plaza Extra	
Bakir Hussien	340-778-6440 Best Furniture	Mutual Friend
Mohammed Hannun	340-690-0472	Brother-in-Law to Mohammed Hamed and Fathi Yusuf
Mohammed Hamed	340-778-6240 Plaza Extra	
Waleed Hamed	340-778-6240 Plaza Extra	
Maher (Mike) Yusuf	340-719-1870 Plaza Extra	Son of Fathi Yusuf
Maher Abu Kais	Hermon Hill	Nephew of Mohammed Hamed
Solomon Khaled	340-718-9990 93 Hermon Hill	Nephew of Fathi Yusuf
Ahmed Bakir	340-778-6440 Best Furniture	Mutual Friend (Son of Bakir Hussein)

Meeting at Food Town, St. Croix USVI, 2012 Attendees:

<u>Attendee:</u>	<u>Contact Info:</u>	<u>Relationship</u>
Solomon Khaled	340-718-9990 93 Hermon Hill	Nephew of Fathi Yusuf
Khalid Ali	340-718-9990 93 Hermon Hill	Mutual Friend
Fathi Yusuf	340-778-6240 Plaza Extra	
Waleed Hamed	340-778-6240 Plaza Extra	
Bakir Hussien	340-778-6440 Best Furniture	Mutual Friend and Father of Ahmad Hussien
Mohammed Hannun	340-690-0472	Brother-in-Law to Mohammed Hamed and Fathi Yusuf
Ahmad Hussien	340-778-6440 Best Furniture	Mutual Friend and Son of Bakir Hussien

The allegations of Paragraph 50 are denied as stated. No agreement was reached. Responding Party states that there were certain terms, which were conditions to a final agreement, which were not met.

17. If you disagree that an agreement was reached as a result of the meetings described in Interrogatory No. 16 that the Plaza Extra stores would be sold within six months and all Plaza assets split 50/50 and Plaza Extra dissolved, state the factual bases to support the denial of the agreement, the name and address of persons with knowledge.

RESPONSE No. 17:

See prior Responses by Defendant. No agreement was ever reached as a result of the meetings described in Interrogatory No. 16.

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 under taken, 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:

Responding Party objects to the form of the question as misleadingly stated, in that it makes a statement and does not ask a question, contains a reference to the Plaintiffs' allegations in the Complaint which have been denied and is phrased in such a manner so as to cause any response to be ambiguous and potentially misleading.

Notwithstanding the above objection, Responding Party 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 Responding Party's knowledge

RESPECTFULLY SUBMITTED:

Dated: November 20, 2013

LAW OFFICES OF K. G. CAMERON

By:


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V.I. Bar No. 683

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Counsel for Defendant

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT a true and exact copy of the foregoing *Defendant Fathi Yusuf's Answers to Plaintiff Waleed "Wally" Hamed's First Set of Interrogatories* was served via U.S. Mail, postage prepaid, fax, electronic mail or hand delivery on this the 20th day of November 2013 to wit:

Lee J. Rohn, Esq.
Lee J. Rohn & Associates
1101 King Street
St. Croix, Virgin Islands 00820
Tel: 340.778.8855
Email: lee@rohnlaw.com
Counsel for Plaintiffs

via: CM/ECF | Mail | Fax | Hand Delivery | Email


Cordelia L. Jones
Certified Paralegal, C.L.A

CERTIFICATION

I hereby swear and affirm that the answers to the above Interrogatories are true and correct to the best of my knowledge and belief.

DATED: 11-19-2013 By: Fathi Yusuf
Name
Fathi YUSUF
Print Name

SUBSCRIBED AND SWORN TO
BEFORE ME, this 19 day
of November 2013

[Signature]
NOTARY PUBLIC

My Commission Expires: _____

K. Glenda Cameron
Commission Number LNP 010-09
Expiration Date: May 26, 2017

Attorney for Defendant

DATED: 11-19-13

By: [Signature]
K. Glenda Cameron, Esquire