

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

WALEED HAMED, as Executor of the)
Estate of MOHAMMAD HAMED,)
)
Plaintiff/Counterclaim Defendant,)

CIVIL NO. SX-12-CV-370

v.)

ACTION FOR INJUNCTIVE)
RELIEF, DECLARATORY)
JUDGMENT, AND)
PARTNERSHIP DISSOLUTION,)
WIND UP, AND ACCOUNTING)

FATHI YUSUF and UNITED CORPORATION,)
)
Defendants/Counterclaimants,)

v.)

WALEED HAMED, WAHEED HAMED,)
MUFEED HAMED, HISHAM HAMED, and)
PLESSEN ENTERPRISES, INC.,)
)
Additional Counterclaim Defendants.)

Consolidated With

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

CIVIL NO. SX-14-CV-287

v.)

ACTION FOR DAMAGES AND)
DECLARATORY JUDGMENT)

UNITED CORPORATION,)
)
Defendant.)

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

CIVIL NO. SX-14-CV-278

v.)

ACTION FOR DEBT AND)
CONVERSION)

FATHI YUSUF,)
)
Defendant.)

**FATHI YUSUF and
UNITED CORPORATION,**

Plaintiffs,

v.

**THE ESTATE OF MOHAMMAD HAMED,
WALEED HAMED,** as Executor of the Estate of
Mohammad Hamed, and **THE MOHAMMAD A.
HAMED LIVING TRUST,**

Defendants.

CIVIL NO. ST-17-CV-384

**ACTION TO SET ASIDE
FRAUDULENT TRANSFERS**

KAC357, INC., a USVI Corporation,

Plaintiff,

v.

FATHI YUSUF, a partner, and
THE HAMED-YUSUF PARTNERSHIP
a/k/a **THE PLAZA EXTRA SUPERMARKET**
PARTNERSHIP,

Defendants.

CASE NO.: SX-18-CV-219

**ACTION FOR DEBT AND
UNJUST ENRICHMENT**

**FATHI YUSUF’S MOTION PROPOSED FINDINGS OF FACT
AND CONCLUSION OF LAW RE: CLAIM H-142**

FINDINGS OF FACT

I. Meeting to Resolve Certain Misappropriations by Hamed

1. “[I]t is undisputed that [Mohammad] Hamed, [Fathi] Yusuf, and Waleed Hamed, at some time in 2010 or 2011, met to discuss Yusuf’s discovery of Hamed’s misappropriation of funds.” Master’s May 3, 2020 Order, p. 23.

2. Mr. Yusuf wanted that meeting because he had discovered from a review of bank records in the FBI documents that \$2,000,000 in partnership was sent from St. Martin to Hamed - - and \$1,400,000 in partnership money that was supposed to have been transferred to Plessen Enterprises, Inc. from a St. Martin account was instead transferred elsewhere, and not to any United or partnership account. Yusuf Tr, p. 81¹; Master’s May 3, 2020 Order, p. 25, n.19 (quoting deposition testimony of Mr. Yusuf).

II. First Agreement—Jordan Property and Collective Tutu for Misappropriations So Far.

3. At the meeting between Fathi Yusuf, Mohammad Hamed and Waleed Hamed held at Mohammad Hamed’s St. Croix home, “it is undisputed, per Yusuf’s admission and corroborated by Hamed, that...Yusuf originally asked for two properties – with one of the two properties being a property located in Jordan (hereinafter the “Jordan Property”) – to resolve the issue of Hamed’s misappropriation of funds...” The Jordan Property is a parcel in Tabarbour Village, Jordan. *See* Plaintiff’s Exhibit 4, Deed describing the Jordan Property.

4. In addition to requesting from Mohammad Hamed the Jordan Property to compensate him for the misappropriation, Mr. Yusuf also requested what he and Hamed normally called one piece of property in Estate Tutu, in St. Thomas, but what is actually two contiguous parcels—namely, a 9.3-acre parcel² in Estate Tutu in St. Thomas and an adjoining half-acre parcel

¹ All citations to the September 28, 2021 trial testimony take the form of the name of the witness, followed by TR and the page number(s) of the transcript on which that testimony appears.

²The larger Estate Tutu Property, which is slightly more than 9.3 acres, was alternately referred to at the September 28 trial as the 9.3, 9.4, or 9 and a half acre property or parcel by the witnesses and attorneys at the September 28 trial. For sake of consistency, Yusuf will refer to it as the 9.3-acre parcel throughout these findings and conclusions, even when summarizing testimony that referred to it in one of the other ways.

(the “Collective Tutu Property”). Yusuf Tr, p. 83; *see also* Master’s May 3, 2020 Order, p. 25, n. 20 (quoting April 2, 2014 deposition testimony of Mr. Yusuf).

5. Mohammed Hamed agreed with Mr. Yusuf that he could have the Jordan Property and the Collective Tutu Property (the “First Agreement”). Yusuf Tr, p. 83; Master’s May 3, 2020 Order, p. 26, n. 20 (quoting Yusuf’s Statement Of Undisputed Facts, ¶ 5, which states, *inter alia*, “[a]t the meeting at Hamed’s St. Croix home, Hamed agreed to relinquish his interest in two properties, the Jordan Property and the Collective Tutu Property...”).

6. In his deposition, Waleed Hamed agreed that Mr. Yusuf requested two pieces of property as compensation for Hamed’s misappropriations, and he agreed that his father, Mohammad Hamed, agreed to give up to Mr. Yusuf his interest in the two properties. Master’s May 3, 2020 Order, p. 26, n. 21 (quoting from Waleed Hamed’s January 22, 2020 deposition testimony).

7. At the September 28 trial, Waleed Hamed reiterated his deposition testimony, by testifying that “Fathi Yusuf asked for two pieces of property, my father gave him two pieces of property.” Hamed Tr, p. 24, 44. But he revised his deposition testimony by acknowledging that the second piece of property requested by Mr. Yusuf was the “Tutu Park property” rather than another Jordanian property. Hamed Tr, pp. 44-45; May 3, 2020 Order, p. 36, n.35. Waleed Hamed confirmed the Tutu Park property was the 9.3-acre parcel, and possibly the half-acre parcel as well. Hamed Tr, pp. 40, 41-42, 44-45.

8. Because of the fact that the only acceptable access to the 9.3-acre parcel was across the half-acre parcel, the Master gives no weight to Waleed Hamed’s speculation in his trial testimony that Mr. Yusuf may only have been requesting that his father convey the 9.3-acre parcel, and not the half-acre parcel as well. Waleed Hamed admitted that the 9.3-acre parcel was

purchased with the intention of using it to relocate the Plaza Extra Tutu Park store there. Hamed, Tr, p. 20. The Virgin Islands legislature would not rezone the 9.3 acre parcel to commercial unless the owners were able to offer an access other than access along the public road which adjoined that parcel. *Id.* at pp. 16, 42. He admitted that the partnership purchased the half-acre solely for the purpose of providing an adequate access to the 9.4 acres that the Legislature required as a condition of rezoning the larger parcel to permit the operation of a supermarket there. *Id.* at p. 18, 42, 47. Waleed Hamed further admitted that under these circumstances the partnership would not have had any reason to ever sell the two parcels separately. *Id.* at p. 42. *See also* Yusuf’ trial testimony at pp. 83-85.

9. In light of the trial testimony of Waleed Hamed and Fathi Yusuf, the Master finds that although short-lived and not specifically labeled as such in earlier Orders, the undisputed facts show that there was indeed a first agreement under which the Jordan Property and the Collective Tutu Property was to be conveyed by Hamed to Yusuf in exchange for the misappropriations Yusuf had discovered to that point (the “First Agreement”).

III. Second Agreement—Jordan Property Only for Misappropriations So Far.

10. Mr. Yusuf testified that after confronting Mohammad Hamed about his misappropriations and getting Hamed’s agreement to convey his interests in both the Jordan Property and the Collective Tutu Property to him, Hamed seemed to be genuinely sorry for what he had done, and Mr. Yusuf perceived that he was “very shameful” about it. *Id.* at 83. This, in part, led to a change of heart on Mr. Yusuf’s part on what he would demand in compensation from Mohammad Hamed. *Id.* at p. 83.

11. Despite Hamed’s agreement and willingness to give up his interests to Mr. Yusuf in both the Jordan Property and the Collective Tutu Property, “It is undisputed, per Yusuf’s

admission and corroborated by Hamed, that...[Mr. Yusuf] ultimately agreed to one property – the Jordan Property – because he believed Hamed “was being straight with him.” Master’s May 3, 2020 Order, p. 23. *See also* Hamed Tr, p. 44 (“My recollection is Fathi Yusuf asked for two pieces of property, my gather gave him two pieces of property. Fathi then, same 30 seconds, came back and said, “No, only one piece, I will accept one piece”); Yusuf Tr, p. 83 (testifying that after Hamed agreed to give him his interests in the Jordan Property and the Collective Tutu Property, “I myself decided to tell him I’ll take only one”).

12. As stated in Finding No. 9, there was a First Agreement between Hamed and Yusuf under which Hamed would convey his and his family’s 50% interest in the Jordan Property and the Collective Tutu Property to Mr. Yusuf. The Master finds, however, that Mr. Yusuf did not insist on compliance with the First Agreement, and agreed that Hamed need only convey his interest in the Jordan Property to him (the “Second Agreement”). *See* Hamed Tr, p. 44, Yusuf Tr, p. 83.

13. The Master has already found in a prior Order that “Yusuf entered into the Original Agreement [defined in Finding No. 12 as the Second Agreement] based on Hamed’s representation that there is no other misappropriation of funds by Hamed...” other than the \$2 million and \$1.4 million which Yusuf confronted Mohammad Hamed with and for which he seemed to express shame and sorrow. Master’s May 23, 2020 Order, p. 32.

**III. Recission of Second Agreement—Jordan Property Only
for Misappropriations So Far;
New Offer to Return to First Agreement—Jordan Property and Collective Tutu
for Misappropriations So Far.**

14. After reaching the Second Agreement with Mohammad Hamed, Mr. Yusuf left Hamed’s home and went to his office at the Plaza Extra East and while reviewing bank records saw that Mohammad Hamed had engaged in another misappropriation of partnership funds of

approximately \$100,000 for the purchase of an olive farm. Yusuf Tr, pp. 85-86; *see also* Master's May 3, 2020 Order, p. 31, n. 30 (quoting Yusuf's interrogatory answer regarding the discovery of additional misappropriations). The Master has further found that, as a result, Mohammad Hamed engaged in a fraudulent misrepresentation when he represented "that there are no other misappropriation of funds by him..." Master's May 3, 2020 Order at p. 33.

15. The Master has already found that "it is undisputed, per Yusuf's admission and corroborated by Hamed, that Yusuf subsequently rescinded the Original Agreement [referred to herein as the Second Agreement]...because he discovered additional misappropriation of funds by Hamed." Master's May 3, 2020 Order, at pp. 29-30. The Master has further found that "Yusuf was allowed to rescind [that Agreement] on the basis of material misrepresentation." *Id.* at p. 33.

16. After discovering Mohammad Hamad's deceit and additional misappropriations, Yusuf immediately sought out Waleed Hamed at the store and told him to tell his father that he now wanted the two properties – *i.e.*, he wanted to revert back to the preliminary agreement. *See* Yusuf Tr, p. 86 ("I immediately look for Wally and tell him, Wally, this, your father lied to me on this. Tell him I will take the two property") and 87 ("I change my mind because...your father was not truthful to me"); Master's May 3, 2020 Order at p. 31, n. 29 (quoting Yusuf's April 2, 2014 deposition testimony that "Man, after that, this man would not even tell me the truth," and his testimony that he immediately requested Waleed Hamed to "[g]o back to your father and tell him, No, I wanted the two piece of property").

17. The second property that Mr. Yusuf was insisting on after acting within his rights to rescind the Agreement was the Collective Tutu Property. This is clear from Yusuf's trial testimony at pp. 83 and 87, and from "Yusuf and United's MSJ Opposition, Yusuf and United's SOF, Yusuf's testimony at his January 22, 2020 deposition, Yusuf's testimony at his April 2, 2014

deposition, and Yusuf's [November 19, 2013] Interrogatory Answers in Case 733..." Master's May 3, 2020 Order at p. 34. It also follows from the fact that Yusuf was simply falling back on the preliminary first agreement after he rescinded the Second Agreement, and that the Master has found at paragraphs 5 and 11, above, that the preliminary first agreement required Hamed to convey his and his family's interest in both the Jordan Property and the Collective Tutu Property.

IV. Hamed's Assent to New Offer to Return to First Agreement—Jordan Property and Collective Tutu for Misappropriations So Far—Third Agreement.

18. Waleed Hamed conveyed Yusuf's message and told his father that Mr. Yusuf now wished to obtain his interest in the Jordan Property and the Collective Tutu Property, and his father said "Okay." Hamed Tr, p. 55, 56.

19. Waleed Hamed testified in response to the question "[a]nd the agreement was to transfer both the Jordan property and the Tutu property, correct?" with "Yes, Ma'am." *id.* at 58:10-13. Waleed Hamed also testified in response to the question "[a]nd when you say the Tutu property, it's the collective Tutu property, correct?" with "Well, the assumption is, but we referred to it as the Tutu property." *id.* at 58:14-18.

20. Waleed Hamed testified that the next day after speaking to his father that he spoke to Mr. Yusuf and conveyed that his father, Mohammad Hamed had said either "yes" or "okay" to the offer to transfer both the Jordan property and the collectively Tutu property. *id.* at 56:1-5, 20-24.

21. While Hamed equivocated by saying that he didn't know what his father meant by "Okay" -- i.e. whether he was just acknowledging that Yusuf had made the request for the two properties, or had agreed to the request, *see id.* at p. 55, the Master finds this equivocation not credible, because on a matter of this importance Hamed would have asked his father what he meant if he had any doubts about that. The Master finds that when Mohammad Hamed told his son

Waleed, “Okay,” this meant that he was agreeing to transfer both the Jordan Property and the Collective Tutu Property.

22. The next day, when Waleed Hamed told Mr. Yusuf that he had talked to his father, and his father said “yes,” Mr. Yusuf concluded that he and Mohammad Hamed once again had an agreement as to the Jordan Property and the Collective Tutu Property. Yusuf Tr, p. 87. The Master finds that this was an objective manifestation of assent to a contract (the “Third Agreement”) by Mohammad Hamed and his son.

23. The Master finds that the Third Agreement was a settlement of just the misappropriations by Hamed that Yusuf had discovered to date. Yusuf Tr, 91. At this time, Mr. Yusuf believes that the Hamed family has stolen “at least 55 to \$58 million in this 20 years.” Yusuf Tr, p. 90. Therefore, the settlement of the Jordan Property and the Collectively Tutu Property is a small percentage in dollar terms of the total alleged misappropriations.

V. Partial Performance of Third Agreement—Hamed Conveys Jordan Property

24. Hamed partly performed the Third Agreement by meeting with Yusuf in Jordan at a lawyer’s office and conveying by written instrument all of his interest in the Jordan Property. Yusuf Tr, pp. 104-105; Hamed Trial Exhibit 4 (translated instrument by which Hamed conveyed all of his interest in the Jordan Property to Mr. Yusuf dated July 12, 2011).

25. As the half-acre parcel was already titled in the name of United Corporation, there was no conveyance required and it should not be treated as partnership property. Yusuf Tr, p. 119-120.

VI. Breach of Third Agreement—Hamed Refuses to Convey the 9.3 Parcel of the Collective Tutu Property

26. After Mr. Yusuf returned to St. Croix from Jordan, he asked Waleed Hamed to fulfill the rest of the agreement by transferring the Hamed family interests in 9.3-acre parcel to Yusuf from its owner, Plessen Enterprises, Inc. Hamed has refused to do so. Yusuf Tr, p. 92.

27. The Master finds that Hamed breached the Third Agreement by failing to do what is necessary to cause Plessen to convey the 9.3 acre parcel to Mr. Yusuf.

VII. Efforts to Reach a Subsequent Global Resolution Were Unsuccessful

28. Following Hamed's breach and refusal to convey the 9.3 acre parcel of the Tutu Property, Mr. Yusuf solicited the aid of elders in the community to reach a resolution of the breach and possibly a global resolution of all of the claims between the families.

29. The Master finds that the third property which Yusuf would have taken to settle all claims (i.e., a global resolution), whether discovered yet or not, was the very valuable Second Jordan Property in Amman, Jordan for which Yusuf was offered \$42 million dollars. Yusuf Tr, pp. 89-90. No agreement was reached regarding a global settlement involving the Second Jordan Property and all discovered or undiscovered misappropriations was never reached. *id.* at 90. Insofar as Yusuf's 2016 Amended Accounting Claim is inconsistent with the deposition testimony and written answers to interrogatories that precede or post-date the Claim on these points, the Claim should be amended to conform to proofs at the trial.

30. The Master finds that the parties were never able to reach an agreement as to a global resolution. Further, as noted in paragraph 7, the Master finds that Waleed Hamed's deposition testimony correctly identified the first Jordan Property as one of the two parcels his father agreed to relinquish to Fathi Yusuf as identified in the First, Second and Third Agreements. However, the Master finds that Waleed Hamed mistakenly identified the second piece of property

discussed in the First and Third Agreements not as the Collective Tutu Property, but rather another larger and far more valuable piece of property in downtown Amman, Jordan that Hamed and Yusuf jointly own and which the Master designated as the “Second Jordan Property.” *See id.* at p. 26, n. 21; p. 34, p. 35, footnote 32. Mr. Yusuf testified that he bought the “Second Jordan Property” for \$3 million years ago, but that it is worth far more now, and that he turned down an offer to buy it for \$42 million. Yusuf Tr, p. 89. The Second Jordan Property was part of the discussions for a global settlement, which did not materialize. The Second Jordan Property was not part of the agreements as described above – the First and Third Agreements which were limited to the misappropriations discovered to date and only related to the first Jordan Property (which was conveyed) and the Collective Tutu Property.

31. The Master finds that affidavit of Mohammad Hannun, one of the four Arab mediators who tried to help resolve the disputes between Fathi Yusuf and Mohammad Hamed and Waleed Hamed, neither supports nor undercuts any of the Master’s findings above regarding the terms of the Third Agreement. *See* Hamed’s Trial Exhibit 7. Paragraph 19 of his affidavit contains a contradiction which makes it especially useless for assistance in resolving the H-142 issues (the ½ acre Tutu Parcel). The first sentence states that “Mr. Yusuf had agreed to settle the dispute for the two properties for what he had discovered [in misappropriations to date]. Hamed Trial Exhibit 7. The Master finds that this refers to the Third Agreement and Hamed’s breach. In another sentence of that paragraph, Hannan says that he told Mr. Yusuf precisely the opposite – to wit, that “the agreement covers everything, even what he doesn’t know about right now...”

32. When Mr. Hunnan cryptically states at the end of paragraph 19 that “there was no more agreement,” he appears to mean that the parties were unable to reach a more comprehensive agreement – a global agreement - regarding conveyance of the Second Jordan Property to cover

all misappropriations, whether discovered or not. This is what the other two Arab mediators stated more clearly in their respective affidavits. Mr. Khaled asserted that “By the time of the first meeting to mediate, there was an agreement in place between the Hameds and Fathi Yusuf that the Hameds would tu[r]n-over two (2) properties to Mr. Yusuf for what he had discovered so far.” Yusuf’s Trial Exhibit 17, Suleiman Khaled Affidavit, ¶ 6. Mr. Hussein likewise stated that “there was an agreement in place between the Hameds and Fathi Yusuf that the Hameds would transfer two (2) properties to Mr. Yusuf for what he had discovered so far.” Yusuf’s Trial Exhibit 18, Bakir Hussein Affidavit, ¶ 12. But Messrs. Khaled and Hussein also said that an agreement to transfer a third property to cover all misappropriations, even those that Mr. Yusuf had not yet discovered, was not reached by Hamed and Yusuf. *See* Trial Exhibit 17, ¶ 11; Trial Exhibit 18, ¶ 13.

CONCLUSIONS OF LAW

1. The Master has already found that Mohammed Hamed’s representation to Fathi Yusuf at the meeting at Hamed’s house that “there are no other misappropriation of funds by Hamed” other than those two that Yusuf brought to Hamed’s attention was false because immediately after that meeting “other misappropriation of funds were discovered.” Master’s May 3, 2020 Order, p. 33.

2. The Master has already concluded as a matter of law that Hamed’s representation was fraudulent, and that Yusuf was therefore justified in rescinding the Second Agreement, made at the meeting at Hamed’s house pursuant to which Hamed would convey his interest in the Jordan Property to Yusuf as compensation for the two items of misappropriation of partnership money that Yusuf had discovered to date. Master’s May 3, 2020 Order, p. 33.

3. Fathi Yusuf's offer to Hamed following rescission of the Second Agreement was essentially an offer to reinstate the First Agreement made by the parties at the meeting at Hamed's home under which Hamed would cause his interest in two properties to be conveyed to Yusuf.

4. The second property in Yusuf's offer made after rescission was the Collective Tutu Property – i.e., the 9.3 acres in Estate Tutu owned by Plessen Enterprises, Inc. ("Plessen") and the contiguous half-acre parcel that the partnership acquired and titled in the name of United Corporation as a necessary means of access to the 9.3-acre parcel on which they intended to relocate the Plaza Extra Tutu Park store. Yusuf's offer was that Hamed would cause his and his family's interest in the Jordan Property and the Collective Tutu Property to be conveyed to Yusuf in exchange for the misappropriations that Yusuf had discovered to date.

5. In determining whether Hamed agreed to the offer to cause his and his family's interest in the Jordan Property and the Collective Tutu Property to be conveyed to Fathi Yusuf, the Master must determine whether Hamed objectively manifested his assent to that offer. *See Chitolie v. Government of United States Virgin Islands*, 2016 WL 11723614m *7 (V.I.Super., 2016) ("Whether the parties have made an agreement is determined by examining the parties' overt acts to find objective manifestations of mutual assent"); *Allen v. St. Luce*, 2013 WL 12460416, *3 (V.I. Super., 2013) ("The parties' objective manifestations control in deciding whether they formed a contract by mutual assent"); *Roy v. Poleon*, 2016 WL 11723579, *3 (V.I.Super., 2016) ("It is well established that the parties' objective manifestations control in deciding whether they formed a contract by mutual assent").

6. The Master concludes as a matter of law that, when Waleed Hamed communicated Fathi Yusuf's offer to his father, Mohammad Hamed objectively manifested his assent to Yusuf's offer to cause his and his family's interest in the Jordan Property and the Collective Tutu Property

to be conveyed to Yusuf in exchange for the misappropriations that Yusuf had discovered to date. The Master also concludes as a matter of law that when Waleed Hamed related to Fathi Yusuf his father's response to that offer, Waleed, as Mohammad Hamed's agent, objectively manifested his assent to Yusuf's offer.

7. The Master accordingly finds that, following Yusuf's rescission of the Second Agreement under which Mohammad Hamed would transfer just his interest in the Jordan Property, Mohammad Hamed and Fathi Yusuf reached a binding agreement (the Third Agreement) under which Hamed would cause his and his family's interest in the Jordan Property and the Collective Tutu Property to be conveyed to Yusuf, in exchange only for the items of misappropriation of partnership funds discovered to date (the \$2 million and the \$1.4 million).

8. The Master also concludes as a matter of law that while Yusuf offered to resolve all claims of misappropriation by Hamed, whether discovered or not, by having Hamed convey his interest in the Second Jordan Property, no such agreement was ever reached.

9. Mohammad Hamed partially performed the Third Agreement he made with Fathi Yusuf by appearing with him at a lawyer's office in Amman, Jordan and executing an instrument on July 12, 2011 which effectuated Hamed's conveyance of his interest in the Jordan Property to Fathi Yusuf. *See* Hamed's Trial Exhibit, 4, translated Deed dated July 12, 2011.

10. Mohammad Hamed breached and repudiated his obligation in the Third Agreement to convey the Collective Tutu Property by refusing to cause his and his family's interest in the Collective Tutu Property to be conveyed to Fathi Yusuf. Mohammad Hamed's refusal to honor that obligation was communicated by Waleed Hamed to Fathi Yusuf after Yusuf returned to St. Croix following the meeting in Jordan in which Mohammed Hamed executed the instrument marked as Hamed's Trial Exhibit 4. Hamed's refusal to honor his obligation regarding the

Collective Tutu Property was reiterated in the mediation sessions conducted by Arab members of the community.

11. Hamed has not raised any statute of frauds issue (and has therefore waived that issue) with respect to enforceability of the agreement by which Hamed was to cause his and his family's interest in the Jordan Property and the Collective Tutu Property to be conveyed to Yusuf. But even if he had raised that issue, this agreement would be taken out of the statute of frauds by the part performance doctrine, inasmuch as Hamed did perform his obligation to convey his interest in the Jordan Property to Fathi Yusuf, and Hamed has received a benefit in the form of Fathi Yusuf's relinquishment of claims for the three aforementioned instances of misappropriation discovered by Yusuf. See *Hamed v. Yusuf*, 58 V.I. 117, 131 (V.I. Super. 2013) ("if a party can show that part of an oral agreement was performed, the oral contract is taken out of the statute of frauds and becomes binding").

12. Specific performance is the usual remedy for breach of a promise to convey real estate. See *In re Est. of Todman*, 48 V.I. 166, 176 (Super. Ct. 2006) ("There is a virtual presumption, because of the uniqueness of land and the consequent inadequacy of monetary damages, that specific performance is the buyer's appropriate remedy for the vendor's breach of the contract to convey"); *Martin v. Banco Popular de Puerto Rico*, 51 V.I. 895, 913-914 (D.V.I. May 20, 2009), *aff'd*, 379 F. App'x 185 (3d Cir. 2010) ("Contracts for the sale of land have traditionally been accorded a special place in the law of specific performance" because "a specific tract of land has long been regarded as unique and impossible of duplication by the use of any amount of money") (citation omitted).

13. The Master has previously recognized "the significant discretion he has in fashioning equitable remedies..." as part of his resolution of claims in this case. Master's July 13,

2021 Memorandum Opinion, p. 16. The Master accordingly has the authority to order the equitable remedy of specific performance for a partner's breach of contract to convey land to the other partner.

14. With respect to the half-acre portion of the Collective Tutu Property that is titled in the name of United, the Master orders that Hamed specifically perform his obligation to convey his interest in that half-acre parcel by having Waleed Hamed execute, within 14 days of this Order a document in which he states that he is "hereby transferring and conveying all of his interests as a partner in the half-acre parcel in Estate Tutu titled in the name of United Corporation." Further, the half-acre parcel shall not be considered Partnership property subject to division in this matter, and Hamed's claim H-142 is therefore denied.

15. With respect to the 9.3 acre portion of the Collective Tutu Property that is titled in the name of Plessen, the Master orders specific performance of the Hamed's obligation to cause his and his family's interest in that parcel to be conveyed to Fathi Yusuf by ordering that within 14 days of this order, Waleed Hamed and Fathi Yusuf, as principals of Plessen, shall execute a deed on behalf of Plessen which conveys the 9.3 acre parcel to Fathi Yusuf. The Master further orders that the parties report to the Master when the specific performance ordered regarding the Collective Tutu Property has been undertaken and complied with.

DONE and so ORDERED this ____ day of November, 2021.

EDGAR D. ROSS
Special Master

E-X-H-I-B-I-T-S

<u>DEFENDANT'S EXHIBITS</u>	<u>ID</u>	<u>ADM</u>
No. 6 (F) - Excerpt of Deposition of Waleed Hamed	53	79
No. 3 (C) - Excerpt of Deposition of Fathi Yusuf	97	-
No. 2 (B) - Fathi Yusuf's Answers to Waleed Hamed's First Set of Interrogatories, November 20, 2013	101	101
No. 17 - Affidavit of Suleiman Khaled, May 31, 2014	122	122
No. 18 - Affidavit of Bakir Hussein August 10, 2014	122	122

SUZETTE V. DESCARTES, Registered Merit Reporter

1 This is in reference to the Claim
2 H-142, a Half Acre in Estate Tutu, St. Thomas.
3 Are you ready to proceed?
4 ATTORNEY HOLT: Yes, Your Honor.
5 THE COURT: Any opening
6 statements?
7 ATTORNEY HOLT: Well, I would
8 like to say a couple of housekeeping matters.
9 THE COURT: You may.
10 ATTORNEY HOLT: The parties have
11 stipulated that three affidavits of individuals
12 who attended certain meetings, and have been
13 produced in this case, can be used in lieu of
14 their appearing live and testifying. So you
15 will have those three affidavits submitted to
16 you in lieu of those witnesses actually
17 testifying, and that's a stipulation reached by
18 counsel.
19 Additionally, prior to the hearing, we
20 filed two requests to take judicial notice. One
21 of them --
22 THE COURT: Three.
23 ATTORNEY HOLT: Huh?
24 THE COURT: There were three.
25 ATTORNEY HOLT: Actually, we

SUZETTE V. DESCARTES, Registered Merit Reporter

1 (WHEREUPON, hearing commenced.)
2 THE COURT: In the matter of
3 Waleed Hamed versus Fathi Yusuf, et al.,
4 Case No. SX-2012-CV-370, which is also related
5 with three other -- four other cases.
6 Are the parties ready?
7 ATTORNEY HOLT: Yes, Your Honor.
8 THE COURT: For the record, would
9 you introduce yourself and your client? We'll
10 start with the plaintiff.
11 ATTORNEY HOLT: Yes, Your Honor.
12 I'm Joel Holt, and I represent the plaintiff,
13 Mr. Hamed. This is Waleed Hamed, "Wally" Hamed
14 at counsel's table with me.
15 ATTORNEY PERRELL: Good morning,
16 everyone. My name is Charlotte Perrell. I,
17 along with my co-counsel, Stefan Herpel, are
18 representing Mr. Fathi Yusuf in this matter, as
19 well as all of the defendants in this case.
20 THE COURT: And Mr. Fathi Yusuf
21 is here present?
22 ATTORNEY PERRELL: Yes.
23 ATTORNEY HOLT: And, Your Honor,
24 Attorney Carl Hartmann is in attendance by Zoom.
25 THE COURT: Yes.

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1 filed two separate requests for a total of four
2 items. We emailed them this morning.
3 ATTORNEY PERRELL: Oh, okay.
4 ATTORNEY HOLT: The first one --
5 the first two I would like to address at the
6 beginning of the hearing.
7 THE COURT: You may.
8 ATTORNEY HOLT: One, is that you
9 have already found that the property in
10 question, Parcel No. 2-4 Remainder, Estate
11 Charlotte Amalie, is partnership property.
12 And two, you've already found that it's
13 undisputed that while there was a meeting to
14 discuss the properties, essentially, in March of
15 2011, where additionally discussed about giving
16 two properties and only one property was given,
17 that, in fact, no meeting of the minds ever
18 occurred at that hearing.
19 That's your order dated May 3, 2020,
20 pages 23 to 30. We would ask that the Court
21 take judicial notice of those two facts based on
22 your orders.
23 ATTORNEY PERRELL: Your Honor --
24 THE COURT: Yes.
25 ATTORNEY PERRELL: -- Charlotte

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1 of resistance.

2 And with regard to the issue as to the
3 exhibits, again, if the Court is going to be
4 going ahead and simply admitting its entire
5 May 3, 2020 order, I think that takes care of
6 the findings that the Court may even need those
7 affidavits, and so forth, and we certainly
8 acknowledge that.

9 THE COURT: Very well.

10 ATTORNEY HOLT: So, Your Honor,
11 we only have one witness who we're going to
12 call, that's Waleed Hamed. I think just to give
13 the Court some guidance, I don't think that the
14 testimony will be long, but we're going to ask,
15 if you could, to have a set of the exhibits in
16 front of him so I don't have to keep handing
17 them up, and then we'll move them in evidence
18 and admit, if that's okay.

19 THE COURT: You may proceed.

20 ATTORNEY PERRELL: And, Your
21 Honor, I just wanted to acknowledge that we have
22 our set of exhibits simply sitting there, again,
23 for the convenience of the witnesses.

24 THE COURT: Mr. Hamed, please
25 stand and raise your right hand.

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1 A. Yeah, we have several
2 corporations that own our property.

3 Q. Okay. And if you could look at
4 Exhibit No. 1, and if you can just show the
5 Court.

6 (Plaintiff's Exhibit No. 1 tendered.)

7 You're familiar with the property in
8 St. Thomas that was purchased called the Plessen
9 property?

10 A. Yes.

11 Q. If you could, since that exhibit
12 is so small, if you could just -- this is an
13 aerial photograph of the area.

14 (Blow up of Plaintiff's Exhibit
15 No. 1.)

16 First of all, I take it St. Croix is
17 south, going that way (pointing)?

18 A. Yes.

19 Q. And this big white (pointing) --

20 A. That's Tutu Park Mall.

21 Q. And that's where the Plaza is?

22 A. Yes.

23 Q. Okay. And then in looking at
24 this map, can you point us to the acreage that
25 is called the Plessen property?

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1 **WALEED "WALLY" HAMED,**
2 **after having been first duly sworn, testified as**
3 **follows:**

4 THE COURT: You may proceed.

5 DIRECT EXAMINATION

6 BY ATTORNEY HOLT:

7 Q. Can you state your name for the
8 record, please?

9 A. Waleed Hamed, also known as
10 Wally.

11 Q. Could you tell the Court who your
12 father is?

13 A. Mohammad Hamed.

14 Q. And he's deceased, correct?

15 A. Yes, Sir.

16 Q. And are you aware of a
17 partnership relationship that he had with
18 Mr. Yusuf --

19 A. Yes.

20 Q. -- for a long time?

21 A. Yes.

22 Q. I'm showing you -- in addition to
23 having an interest within the partnership, were
24 there other businesses that the two families
25 also owned?

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1 A. This is the Plessen property
2 right here (pointing).

3 Q. And when this property was
4 acquired, was there any access to this property?

5 A. There was access on, I guess that
6 would be the eastern side. This road right here
7 (pointing).

8 Q. Okay. And did there come a time
9 that you sought to have the property rezoned?

10 A. Yes.

11 Q. And you do that in front of the
12 Legislature?

13 A. Yes, we did.

14 Q. And did the Legislature make
15 certain requirements of your family in order to
16 rezone that property?

17 A. They wouldn't rezone it. They
18 had problems with the road not being sufficient
19 to take the nine and a half acres, or the
20 Plessen property. They wanted additional
21 entrances, or at least to accommodate the
22 traffic.

23 Q. Okay. And then showing you
24 Exhibit No. 2, this is kind of a blow up of the
25 area we just showed.

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1 (Blow up of Plaintiff's Exhibit
 2 No. 2.)
 3 First of all, can you show me the
 4 original Plessen property?
 5 A. Yes, right here (pointing).
 6 Q. 9.4 acres?
 7 A. Yes.
 8 Q. I've used the term "Plessen", who
 9 is that owned by?
 10 A. Plessen is owned by the Hamed
 11 family and the Yusuf family. The Hamed family
 12 owns 50 percent of the property, and each one of
 13 the sons and Mr. Hamed owns 10 percent of the
 14 50 percent.
 15 Q. Does a corporation actually own
 16 that property?
 17 A. Yes, Plessen Enterprises.
 18 Q. And the Hamed family owns 50
 19 percent of the stock?
 20 A. Yes.
 21 Q. And the Yusuf family owns the
 22 other 50 percent?
 23 A. Yes.
 24 Q. And as far as the Hamed interest
 25 is concerned, do the father and the four

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1 Q. And that's a partnership?
 2 A. One of the partnerships, yes.
 3 Q. Okay. And then, if I could just
 4 briefly go a little bit more --
 5 ATTORNEY FERRELL: Objection as
 6 to timeframe. You said it's United, but it's a
 7 partnership. Objection as to timeframe.
 8 BY ATTORNEY HOLT:
 9 Q. Correct. At the time that you
 10 purchased it, it was purchased by the
 11 partnership?
 12 A. Yes, it was.
 13 Q. Today there's a dispute as to
 14 whether or not the partnership still owns it;
 15 correct?
 16 A. Yes.
 17 Q. And so, in looking at this a
 18 little bit better, can you show the Court, first
 19 of all, where is the access from the highway to
 20 give access?
 21 A. Access is right here (pointing).
 22 This is the main highway that connects downtown,
 23 St. Thomas, and then it goes into the mall right
 24 over on this side (indicating).
 25 Q. Okay.

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1 children own it equally or do you each own your
 2 own shares?
 3 A. We all equally, 10 percent.
 4 Q. You each own 10 percent?
 5 A. Yes.
 6 Q. So you own them separately?
 7 A. Yes.
 8 Q. Okay. Then showing you this
 9 yellow piece right here (pointing), can you tell
 10 me what that is?
 11 A. That piece of property was
 12 acquired to give access to the nine and a half
 13 acres to the main highway.
 14 Q. And that's the piece that the
 15 Legislature wanted you to acquire, or they
 16 wanted you to get extra access --
 17 A. Yes, that's when we ventured out
 18 there and we bought the piece of property to
 19 give more access to that nine and a half acres.
 20 Q. And that's .5 acres?
 21 A. Yes.
 22 Q. And who is that property tied
 23 with?
 24 A. It's tied to the United
 25 Corporation.

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1 A. And this would give us more
 2 access over on this side (indicating).
 3 Q. Within the original 9.4 acres, is
 4 there any activity going on there currently, any
 5 tenants, or anything?
 6 A. There's tenants on this half acre
 7 that's been there for a long time.
 8 Q. There's no tenants on this
 9 (pointing)?
 10 A. No.
 11 Q. And what was the original plan
 12 with this property?
 13 A. This is really to relocate the
 14 Tutu Park store, Plaza Tutu Park store into this
 15 location.
 16 Q. So you would no longer be a
 17 tenant of the Tutu Park Mall?
 18 A. That's correct.
 19 Q. And of the tenants over there,
 20 are there tenants who pay rent?
 21 A. Yes.
 22 Q. And who collects and keeps it --
 23 at the time that you purchased it up until,
 24 let's say 2011, who collected the rent?
 25 A. Najeh Yusuf.

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1 Q. And Najeh Yusuf then deposited
 2 the money where?
 3 A. Nejah would collect it and it
 4 would be put down in one place until, you know,
 5 every five weeks, and the monies would be
 6 deposited in the Plaza Extra Tutu Park store
 7 accounts.
 8 Q. And that's --
 9 A. The Tutu partnership.
 10 Q. The partnership. Okay. All
 11 right.
 12 In showing you Exhibit No. 3, if you
 13 could, on your pile, can you just tell me what
 14 that is?
 15 (Plaintiff's Exhibit No. 3 tendered.)
 16 A. That's Act 6914 that the
 17 Legislature granted us a zoning change on the
 18 nine and a half acres.
 19 Q. And that's when the Legislature
 20 granted the rezone?
 21 A. Yes.
 22 Q. And did you purchase the half
 23 acre parcel before the rezoning changed?
 24 A. I believe so.
 25 Q. Now, in preparation for your

1 Your Honor. The demonstrative document really
 2 suggests certain answers and responses. I think
 3 the facts are not in evidence yet, or at least
 4 the testimony of the witness. I think it's
 5 inappropriate to show him, in essence, the
 6 answer.
 7 BY ATTORNEY HOLT:
 8 Q. Okay. Do you recall in March of
 9 2011 there being a meeting at someone's house?
 10 A. There was a meeting at my dad's
 11 house, yes.
 12 Q. Here on St. Croix?
 13 A. Yes.
 14 Q. And who was present at that
 15 meeting?
 16 A. I was present, my dad, and Fathi.
 17 Q. And who were negotiating? Who
 18 was talking?
 19 A. Fathi came over to -- came over
 20 to my father so he can negotiate what was Fathi
 21 refusing us of to really make peace and get this
 22 whole thing out of the way.
 23 Q. Okay. And were you involved in
 24 those discussions?
 25 A. No, but I was present.

1 testimony today, did you also prepare just kind
 2 of a graphic giving critical timelines of the
 3 issues we're dealing with today?
 4 A. Yes.
 5 Q. And you're aware of the fact that
 6 -- well, first of all, that the criminal case
 7 was finalized in February of 2010, correct?
 8 A. Yes, it has.
 9 Q. And after the criminal case was
 10 finalized, did there come a time where there
 11 were some disputes between your father and
 12 Mr. Yusuf over certain things?
 13 A. Yes.
 14 Q. And generally speaking, what were
 15 those disputes?
 16 A. Fathi started with accusations
 17 that my father stole millions of dollars, that I
 18 stole millions of dollars.
 19 Q. As a result of conversations,
 20 were there meetings to try to see if it can be
 21 resolved?
 22 A. There were meetings, yes.
 23 Q. And directing your attention to
 24 March of 2011 --
 25 ATTORNEY PERRELL: Objection,

1 Q. And can you tell the Court then,
 2 did your father make any offers to Mr. Yusuf?
 3 A. There was offers that Fathi --
 4 that my father offered to Fathi two pieces of
 5 property, and Fathi reneged and said, *No, I will*
 6 *only take one.*
 7 Q. I take it at the outset that
 8 Mr. Yusuf had asked for the two pieces of
 9 property?
 10 A. Yes.
 11 Q. And so your father offered to
 12 give those two pieces of property?
 13 A. Yes.
 14 Q. And as a result, Mr. Yusuf
 15 decided that he only wanted to take one of
 16 those?
 17 A. Yes. He said, *You honored me and*
 18 *for the peace and for the time that we spent*
 19 *with each other all these years, we will make*
 20 *peace. We will sell the stores and everybody go*
 21 *their separate ways, everybody would stop doing*
 22 *what they're doing.* And he agreed on this
 23 thing, once he give me the two pieces. Then he
 24 said, *No, I will only take one piece.* They
 25 shook hands and they left for the day.

1 ATTORNEY PERRELL: The only
2 objection, Your Honor, is that I don't believe
3 that a proper foundation was laid for Exhibits 5
4 and 6, so those would be the objections to 5 and
5 6, but no objections to 1 through 4.

6 ATTORNEY HOLT: Would you like me
7 to establish a foundation?

8 THE COURT: You may.

9 BY ATTORNEY HOLT:

10 Q. Look at Exhibits No. 5 and 6. Do
11 you recognize what those records are?

12 A. Yes, they're balance sheets.

13 Q. And those are account sheets --
14 well, the records for the partnership, those are
15 records that you have access to in the normal
16 course of business?

17 A. Yes, Sir.

18 Q. And you would be familiar with
19 those records?

20 A. Yes.

21 Q. And the information that you
22 testified about regarding the deposit of rents
23 up until 2014 and the payment of taxes up to
24 2014 by the partnership, can you tell me whether
25 or not that's information that you have

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1 ATTORNEY PERRELL: Your Honor,
2 may I remain seated or would you prefer --

3 THE COURT: You may.

4 ATTORNEY PERRELL: Thank you,
5 Your Honor. I appreciate that.

6 CROSS-EXAMINATION

7 BY ATTORNEY FERRELL:

8 Q. Mr. Hamed, good afternoon. We've
9 met before. Good to see you again.

10 A. Good afternoon.

11 Q. I have a couple of questions
12 regarding the testimony that you have provided.
13 Let's, first of all, go back to the meeting that
14 occurred at the home of your father in 2010 or
15 '11. Do you recall that testimony?

16 A. Yes.

17 Q. Right. And at the time of that
18 meeting you indicated that two properties were
19 offered by your father to Mr. Yusuf for
20 Mr. Yusuf's claim that there had been
21 misappropriations, correct?

22 A. Yes.

23 Q. And those two properties were one
24 property in Jordan; is that correct?

25 A. Yes.

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1 knowledge of?

2 A. Yes, I do.

3 ATTORNEY HOLT: Your Honor, we
4 will move 5 in, and we don't need to move 6 in.

5 ATTORNEY PERRELL: Same
6 objection, Your Honor. He's not necessarily --
7 the partnership really had not even been
8 established. He has no familiarity necessarily
9 that he's ever seen these documents before, and
10 it is also subject to a bi-monthly report that
11 had corrected certain issues relating to this
12 that was filed by the comptroller for the
13 partnership, John Gaffney, in this case. So I
14 would object that he's not laid the proper
15 foundation for these documents.

16 THE COURT: I will admit them and
17 give it whatever weight it deserves based on all
18 the evidence.

19 (Plaintiff's Exhibit Nos. 1, 2,
20 3, 4, 5 and 6 admitted into
21 evidence.)

22 ATTORNEY PERRELL: Thank you,
23 Your Honor.

24 ATTORNEY HOLT: Thank you.

25 THE COURT: You may cross.

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1 Q. And that one property in Jordan
2 was ultimately transferred, correct?

3 A. They had an agreement on it.

4 Q. Okay. That's the one that was
5 transferred. I'm just trying to clarify which
6 Jordan property you were talking about.

7 A. They had an agreement, yes.

8 Q. Okay. And the Jordan property
9 that was transferred that you were talking about
10 that day at the house is the Jordan property
11 that was the subject of Exhibit 4; is that
12 right?

13 A. Yes.

14 Q. The other piece of property that
15 your father was offering to Mr. Yusuf, wasn't
16 that the Tutu property that was both the half
17 acre and the 9.4 that you've identified?

18 A. Specifically, they were talking
19 about the Tutu property.

20 Q. Okay.

21 A. Whether it was both or one, it
22 was specifically the Tutu property.

23 Q. Okay. And so, was it common for
24 your family to refer to the Tutu property as the
25 9.4 and the half acre together as one, because

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1 they were together. Is that the way you
2 referred to them?

3 A. I would assume, but -- we
4 referred that is the nine and a half acres and
5 the half acre, specifically said, because when
6 Fathi requested -- let me correct that. My
7 father didn't offer. Fathi requested the two
8 pieces of property, and then Fathi refused the
9 two pieces of property and only take one.

10 Q. Okay.

11 THE COURT: Mr. Hamed, please
12 answer the question.

13 BY ATTORNEY PERRELL:

14 Q. I'm just trying to identify.
15 We've already talked about the Jordan one was
16 the one. I'm trying to understand, what does
17 the other one include? The other one includes
18 what you understood was the Tutu property,
19 correct?

20 A. Yes, Ma'am.

21 Q. And do you know whether when the
22 request and the -- at least preliminary
23 agreement from your father to give that, whether
24 the intention was for it to be both the 9.4 and
25 the half acre together as one?

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1 the collective Tutu property, correct?

2 ATTORNEY HOLT: Object to the
3 form. First of all, he didn't testify he
4 agreed, he say he offered. They never reached
5 the agreement. So I object to the form.

6 And secondly -- I don't remember my
7 second objection. He's already testified he
8 doesn't know if the two were included. So her
9 question assumes that they were. She's assuming
10 facts not in evidence.

11 THE COURT: No, the witness is
12 testifying as to his recollection.

13 ATTORNEY HOLT: Okay.

14 THE COURT: I will listen to the
15 responses and analyze the question when they
16 tell me what the Court can find, reasonable and
17 credible testimony.

18 ATTORNEY PERRELL: Thank you,
19 Your Honor.

20 BY ATTORNEY PERRELL:

21 Q. You can answer the question, but
22 I'm not going to be able to remember to repeat
23 it back.

24 So Miss Court Reporter, if you could
25 reread the question. Thank you.

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1 A. I'm not too sure what the
2 intention was, but I know it's the Tutu Park
3 property, which we look at the larger, which is
4 the nine and a half acres.

5 Q. Okay. And isn't it true,
6 however, that the half acre was purchased for
7 the express purpose in providing access to the
8 9.4 acre, correct?

9 A. Yes. Yes.

10 Q. Right. And wasn't it also true
11 that the half acre, really, the whole reason to
12 have the half acre was so that you could rezone
13 all the property because it would provide
14 greater access and you could rezone it
15 commercial?

16 A. Yes, Ma'am.

17 Q. Okay. So there would be no
18 reason to ever separate those two properties at
19 some point in the future if the parties were to
20 ever sell them off, correct?

21 A. I would assume not.

22 Q. Okay. And so, it's your
23 recollection, having been present at the home
24 meeting, that your father agreed to do both the
25 Jordan property and also what I'm going to call

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1 (Last question read back by the
2 Court Reporter as follows:)

3 Question: Okay. And so, it's
4 your recollection, having been present at
5 the home meeting, that your father agreed
6 to do both the Jordan property and also
7 what I'm going to call the collective Tutu
8 property, correct?

9 A. My recollection is Fathi Yusuf
10 asked for two pieces of property, my father gave
11 him two pieces of property. Fathi then, same 30
12 seconds came back and said, No, only one piece,
13 I will accept one piece.

14 THE COURT: But the question is,
15 Mr. Hamed, the second piece of property, what
16 was that, based on your understanding?

17 THE WITNESS: Yes.

18 THE COURT: Was what?

19 THE WITNESS: Was the Tutu Park
20 property.

21 THE COURT: And what was the Tutu
22 Park property? What did it consist of?

23 THE WITNESS: I really, really
24 don't know if it's meant for those two pieces or
25 just refer to it collectively as the Tutu Park

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1 property. It wasn't specifically said half an
2 acre, nine and a half acres.

3 BY ATTORNEY PERRELL:

4 Q. Okay. And my next question was,
5 did you ever have any reason for those two
6 properties, once they had both been acquired, to
7 ever separate them if you were to ever sell
8 them, for example?

9 A. I don't know what's going to
10 happen down the road. If something could
11 happen, maybe if somebody come in and want to
12 pay me big money for it, it's possible.

13 Q. Okay. Let me ask you this, is
14 the 9.4 acre property more valuable with the
15 also use of the half acre property?

16 A. I really -- if I tell you, I'm
17 assuming. I'm not sure. I mean, just because
18 of real estate, the market, how it will be used.

19 Q. Isn't it true, though, that the
20 whole reason for -- you testified earlier, the
21 whole reason for even acquiring that half acre
22 was because the half acre was going to provide
23 additional access for the 9.4, and that's
24 something that the Legislature was concerned
25 about when determining whether to properly

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1 form of that question, Your Honor.

2 THE COURT: Yes. Strike "its own
3 benefit."

4 ATTORNEY PERRELL: Okay.

5 BY ATTORNEY PERRELL:

6 Q. Just to clarify, what was the
7 purpose of purchasing that half acre?

8 A. It was for the purpose to really
9 have access to the highway, like you stated
10 before, for the nine and a half acres.

11 Q. All right. So, I think we've
12 clarified the properties. Let's talk about the
13 scope of the arrangement. At that time,
14 Mr. Yusuf had indicated to you -- or indicated
15 to Mr. Hamed there were certain
16 misappropriations that he claimed he had filed;
17 is that accurate?

18 A. Yes, he claimed, yes.

19 Q. Right. And he had dollar values
20 on those amounts, did he not?

21 A. I'm sorry?

22 Q. He had a dollar value on those
23 amounts, correct?

24 A. That was always changing.

25 Q. Okay. But he had certain

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1 rezone it as commercial, correct?

2 A. That's true, but I can explain.
3 We had plans for that property. We had plans to
4 put a big store, to move out of the Tutu Park
5 store.

6 Q. Right. And you had to rezone the
7 9.4 to do that?

8 A. Yes, Ma'am.

9 Q. And in the process of attempting
10 to rezone, wasn't an issue that was raised by
11 the Legislature the concerns about having the
12 entrance off of only the one road for the 9.4
13 and that it might be a traffic problem because
14 it has a blind curve and so forth?

15 A. Yes, Ma'am.

16 Q. Okay. And that was the specific
17 reason why the family went and purchased the
18 half acre, correct?

19 A. Yes.

20 Q. Okay. In other words, the family
21 wasn't looking to purchase the half acre for its
22 own benefit. It was looking to purchase the
23 half acre to be a benefit to the 9.4 already
24 owned?

25 ATTORNEY HOLT: I object to the

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1 dollars, like a \$2 million and maybe a 1.4 as
2 well, correct?

3 A. Yes, Ma'am.

4 Q. And so, do you recall Mr. Yusuf
5 ever saying, these two properties, when he was
6 asking for them, these two properties for what I
7 have discovered so far?

8 A. Absolutely not.

9 Q. Okay.

10 A. We shook hands -- you're going to
11 stop me, Judge?

12 Q. You don't recall him saying that;
13 is that correct?

14 A. He did not say that.

15 Q. Okay. So, a couple of hours
16 later Mr. Yusuf goes back to the store, correct?

17 A. I won't say a couple hours,
18 probably later on.

19 Q. I'm sorry?

20 A. Later on.

21 Q. Okay. Within the same day; is
22 that fair?

23 A. Yes, Ma'am.

24 Q. Okay. So within the same day

25 Mr. Yusuf goes back to the store and then he has

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1 convey the message that Mr. Yusuf had to your
 2 father either that day or shortly thereafter?
 3 A. Yes, I did.
 4 Q. And your testimony earlier is
 5 that he had no response?
 6 A. If I remember correctly, he had
 7 no response.
 8 Q. Okay. Do you recall your earlier
 9 deposition testimony in this matter given in
 10 January of 2020? Do you recall that you gave a
 11 deposition in this case about these issues in
 12 2020?
 13 A. I guess so, but I'm not sure what
 14 documents are you referring to.
 15 Q. Okay. I'd like to ask for you to
 16 look at Exhibit 6.
 17 (Defendant's Exhibit No. 6 tendered.)
 18 I'd like you to look at the first boxed
 19 bracket beginning at line 4 through 16. I'm
 20 sorry, page 158, lines 4 through 16.
 21 A. 158?
 22 Q. Yes.
 23 A. Yes.
 24 Q. Isn't it true that I asked you
 25 the question, at line 10: *So did Mr. Yusuf say*

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1 said *Okay* at that time for whatever the context
 2 of it. For me, I think the context of it today
 3 is -- my understanding is if my father agree to
 4 it. My thing is, I told my dad. I told Fathi
 5 that my father said, *Okay*.
 6 Q. Did he say, *Okay* --
 7 A. Did he respond, *Okay*, he can have
 8 it? *Okay*, it's his? Or, *Okay*, we agree to the
 9 agreement? Nothing happen like that I remember.
 10 All I remember is, yes, I did tell my dad, and
 11 my dad said, *Okay*.
 12 Q. And your dad said, *Okay*, meaning
 13 that he agreed?
 14 A. I don't know what he meant, but
 15 that's what my understanding is. I don't know
 16 what my dad meant.
 17 Q. So when you asked your father,
 18 you don't know what he meant?
 19 A. He said, *Okay*. He said --
 20 Q. *Okay*.
 21 A. -- whether he meant it's okay,
 22 it's okay I refer to whatever Fathi wants or
 23 what I give Fathi, whatever. My thing is, he
 24 didn't give me a response, okay, go with it,
 25 that's fine.

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1 to go back and talk to your father about that?
 2 Do you see that question?
 3 A. Yes.
 4 Q. And your answer was: *He told me*
 5 *to go back and tell him*.
 6 Is that accurate?
 7 A. Yes.
 8 Q. That's what you testified today,
 9 right?
 10 And then my question was: *And did you*
 11 *do that*?
 12 And you see your answer: *Yeah, I told*
 13 *him*. Correct?
 14 A. Yes.
 15 Q. All right. And then my next
 16 question was: *Okay. And what did your father*
 17 *say*?
 18 And your answer was: *He said, Okay*.
 19 A. Yes.
 20 Q. All right. So today you're
 21 saying he had no response, but in 2020 you said
 22 his answer was, *Okay*.
 23 A. Thank you for clearing me up. I
 24 mean, it's been a while, it's been a lot of
 25 things going on, and if I reference to *Okay*, I

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1 Q. *Okay*. Your early testimony was
 2 that he said, *Okay*, now your testimony today is
 3 that he did not respond, but he did respond and
 4 he said, *Okay*; isn't that accurate?
 5 A. Well, I stand corrected. He
 6 said, *Okay*.
 7 Q. All right. So, did you come back
 8 and have a subsequent conversation with
 9 Mr. Yusuf?
 10 A. I don't recall if I did or not.
 11 Q. *Okay*.
 12 A. We've always talked about --
 13 Q. So just to refocus, after you had
 14 this conversation with your dad, did you have a
 15 conversation shortly thereafter with Mr. Yusuf
 16 where Mr. Yusuf asked you, *What did your father*
 17 *said* -- oh no, he asked you, *Did you talk to*
 18 *your father*?
 19 A. I probably did, yes.
 20 Q. *Okay*. And did you tell Mr. Yusuf
 21 that your father said, *Yes*?
 22 A. I'm not sure if I said, *Yes*, or I
 23 said, *Okay*, but I'm pretty sure he said
 24 something.
 25 Q. *Okay*. And at that point, did

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1 Mr. Yusuf follow up with any further questions
2 of you?
3 A. I don't recall exactly.
4 Q. Okay. So, you never told
5 Mr. Yusuf that your father said, *No*; isn't that
6 correct?
7 A. I don't -- no, I don't remember
8 my dad saying, *No*.
9 Q. Okay. All right. And you're not
10 aware of your father ever saying to Mr. Yusuf,
11 *No*?
12 A. I don't recall that, no.
13 Q. Okay. And so, when they traveled
14 to Jordan and the Jordan property was
15 transferred, you're not aware of anyone
16 indicating that, no, they were only going to
17 transfer the Jordan property and that was it?
18 Are you aware of anybody having that
19 conversation with Mr. Yusuf in Jordan?
20 A. I wasn't there, so I don't know.
21 Q. Okay. A couple months after
22 Jordan when Mr. Yusuf returns, he comes to you,
23 and he says, *Okay, when are we going to start*
24 *transferring the 9.3 -- the 9.4 property*; isn't
25 that correct?

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1 A. Yes, Ma'am.
2 Q. Okay. Now, isn't it true that
3 the parties never ultimately came to a
4 resolution about any third property, correct?
5 A. There was no resolution for the
6 second or the third or the fourth or the fifth
7 because Fathi never agreed to the first one.
8 When we came back and we sat down again, I
9 believe in either September or October of that
10 same year, Fathi came back from Jordan, they
11 forced me to honor the agreement that he had
12 with my dad, and I was forced to go ahead and
13 honor that at the end of the night because of
14 the pressure they put on me --
15 Q. Right.
16 A. -- so we could be done because we
17 had an agreement earlier in the year. Fathi
18 started accusing us of some other stuff. We
19 thought we had an agreement, we're done, we're
20 gonna finish with each other, but Fathi had
21 other ideas. Fathi was just trying to nibble,
22 nibble, nibble so he can take as much as he can.
23 So we never had an agreement to begin with.
24 Why would these people force me in
25 September to agree on an agreement that we had

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1 A. When Fathi came, from my
2 recollection, he came with new accusations.
3 After Fathi came back from Jordan, he started
4 with new accusations, *Well, you need to give me*
5 *more property because I found more things*. And
6 I said, *Wait a minute, didn't we have an*
7 *agreement? Didn't you have an agreement with my*
8 *dad? And then all of a sudden you want more*
9 *property? I thought we were done*.
10 Q. Right. And the agreement was to
11 transfer both the Jordan property and the Tutu
12 property, correct?
13 A. Yes, Ma'am.
14 Q. Okay. And when you say the Tutu
15 property, it's the collective Tutu property,
16 correct?
17 A. Well, the assumption is, but we
18 refer to it as Tutu Park property.
19 Q. And isn't it true that the half
20 acre of the Tutu property was already in
21 United's name at the time that all of these
22 discussions were taking place?
23 A. I'm not quite sure, but possibly.
24 Q. Okay. You know the 9.4, though,
25 was in the name of Plessen, correct?

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1 if Fathi had honored the agreement in March?
2 Why would they come back and say you have to
3 give him what your father offered in March if we
4 had an agreement?
5 Q. Okay. Let me ask you this, with
6 regard to the -- with regard to a third
7 property, there was never an agreement -- you
8 never agreed -- at this point you're
9 negotiating, right, after Jordan and so forth
10 because your father is ill, you never agreed, on
11 behalf of Hamed, to do any kind of a third
12 property transfer, correct?
13 A. We never transferred the second,
14 third, fourth. We never agreed. All those were
15 discussions.
16 Q. All right. Let me ask you this,
17 what was the third property that was part of the
18 discussions that you all were having?
19 A. Fathi, he was shooting left and
20 right with different properties. I mean, he was
21 telling us about some other property in Jordan,
22 he was telling us about some other property in
23 St. Croix. And it was just like we just went
24 around in circles with him, and we thought we
25 had an agreement, we were finished, but he

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1 revisit the whole thing, but can you tell us, to
2 your recollection, what happened and what was
3 discussed at that meeting?

4 A. Well, what I find at that time,
5 it was \$2 million went to Jordan, and a million
6 four was transferred to Plessen Enterprise.
7 Plessen was newly established, had no license,
8 and then Wally told me we receive one million
9 four from St. Martin, and I say put it to
10 Plessen. And then he called me five minutes
11 later in St. Thomas and he said the bank will
12 not allow us to proceed with Plessen. I said,
13 well, put it in United, and I call it that. I
14 never check.

15 When I see that, it remind me we
16 receive the one million four. I went through
17 all the deposits for United, all the deposits
18 for Plessen, it was not any deposit for the one
19 million four, it been transferred from
20 St. Martin to St. Thomas -- to St. Croix.

21 Q. Okay.

22 A. So when I went to Mr. Mohammed
23 Hamed, and his son was present, I ask him for
24 two particular items that I find; a \$2 million
25 from bank document, and the one million four it

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1 Hamed, he said, *What do you want?* I said, *Give*
2 *me the property, such and such a property in*
3 *Jordan, and give me the two property in, you*
4 *know, we normally call it one, the 9.30 and the*
5 *half acre in Tutu Park.* He said, *You can have*
6 *it.*

7 Q. Okay.

8 A. I can see the man very shameful,
9 I could see the man shows me that he's sorry for
10 what he did, so I myself decided to tell him
11 I'll take only one.

12 Q. Okay. Which one did you say you
13 would take?

14 A. The 9.30 -- I mean the -- sorry,
15 the Jordan property.

16 Q. Okay. All right. So, when you
17 left that day, you discussed two properties?

18 A. Yes.

19 Q. You ultimately decided on one,
20 correct?

21 A. Yes.

22 Q. Okay. And when you say the two
23 properties, when you were saying Tutu, what
24 properties were you discussing when you were
25 talking about the Tutu property? What did you

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1 remind me came in, but I never -- I was trusting
2 Mohammad so much that I never went through it
3 until I find out the man is a big thief.

4 Q. Mr. Yusuf, so what did you -- did
5 you discuss how to resolve those issues that you
6 found?

7 A. Nothing else, just these two
8 items. Just these two items. How can I settle
9 in a business, an operation of roughly over
10 \$30 million of money, and I was in St. Thomas
11 for 20 years, multiply 20 years by 30 million,
12 it add up to hundreds of millions, and all my --
13 I trust Wally. If I didn't trust Wally --

14 ATTORNEY HOLT: Your Honor, I
15 object. It's not responsive.

16 A. -- it would be a different story.

17 THE COURT: Sustained.

18 BY ATTORNEY FERRELL:

19 Q. Mr. Yusuf, I understand. I just
20 need you to focus on the question, okay?

21 A. Yes.

22 Q. So the question asked is, of the
23 two things you just described, did you and
24 Mr. Hamed discuss how to resolve that?

25 A. When I approached Mr. Mohammad

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1 mean?

2 A. Tutu is the two properties. We
3 always call it one because we bought the 9.30
4 for the purpose of building a supermarket, we
5 bought it as a farm land. We paid a very good
6 price for it. We went to the Legislature
7 looking to rezone it. The Legislature object
8 the rezoning, they want to use it farming,
9 because we don't have the proper access and
10 entrance because it's too much curve and it's
11 down the hill, people sometimes go there
12 speeding, they find it's dangerous. They say,
13 if you find another exit and entrance, we will
14 look into your request again.

15 Then I went around to the neighborhood
16 and I found that piece of property. I bought
17 it. The man asked for -- whatever he asked I
18 give him for it, I believe it's 350, and I am
19 not -- I don't need to buy properties. I have
20 -- me and Mohammad have 1,200 acre of land in
21 the Virgin Islands -- excuse me, please allow me
22 to finish.

23 I even told the owner of the half acre,
24 just turn it to us and you can keep collecting
25 rent for yourself, we don't need the rent.

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1 Whatever you want, just take it, because I
2 needed the entrance to the highway. I went to
3 the Legislature, resubmit my application, they
4 said -- the Legislature said, now you have our
5 approval, and that's how I got it.

6 Q. Okay. And so, after you leave
7 Mohammad Hamed's house that day, did you come
8 back to the store?

9 A. I did not stay too long by
10 Mr. Mohammad Hamed home, maybe less than one
11 hour because, really, we were family, but it was
12 no pleasure. So as soon as I finished, I went
13 to my store, enter my office, same document
14 Mohammad had it right on my desk. I went
15 through it and I found a check for 84,000 -- 80
16 or 84,000 Jordan dinar. The dollar is only 70
17 percent of that currency. That translate about
18 120, \$126,000. He says, my father bought an
19 olive farm and he pay for it at a good price.

20 When that happened, I think three, four
21 years earlier, when he bought it -- excuse me,
22 when he bought it, I asked him how much did you
23 pay for it? He says \$20,000. And when I --
24 later, about a year later or two years later, we
25 talked about it again. He say I paid 20, but

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1 your father that's what I want.

2 Q. Okay.

3 A. I change my mind because the
4 man -- your father was not truthful to me.

5 Q. Okay. And then when was the next
6 time you spoke to Wally?

7 A. The very next time I saw him, I
8 think the second day early in the morning, *Did*
9 *you talk to your father?* He said, Yes.
10 *Everything is okay?* He said, Yes. That's it.

11 Q. Okay. And from that
12 conversation, did you understand that there was
13 an agreement as to the two properties?

14 A. Yes.

15 Q. Okay. And when you say the two
16 properties, you mean the Jordan property and the
17 Tutu collectively?

18 A. And the two Tutu Park, yes.

19 Q. Okay. And did you understand
20 that you could continue to investigate whether
21 there had been any other issues or problems with
22 the Hamed's?

23 A. Naturally. I only discussed it
24 -- what I discovered, excluding the property,
25 the farms, 120, because he told me 20, and I

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1 now I will not sell it for a hundred.

2 Q. Mr. Yusuf, I'm not trying to cut
3 you off, but I think we need to just -- I'm
4 trying to focus here.

5 You went back to the store, you found
6 some documents that seems contradictory to what
7 you knew. Is that fair?

8 A. Yes. Unfortunately, I find that
9 Mr. Mohammad is still lying to me.

10 Q. Okay. What did you do about it?
11 What was the next thing?

12 A. I immediately look for Wally and
13 tell him, *Wally, this, your father lied to me on*
14 *this. Tell him I will take the two property.*

15 Q. Okay. And when you said the two
16 properties, what did you mean?

17 A. The same two properties in
18 St. Thomas.

19 Q. Okay.

20 A. That is already, you know, is the
21 two property, the one in St. Thomas and the one
22 in Jordan.

23 Q. Okay. And did you tell him to do
24 anything?

25 A. I tell him make sure you tell

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1 trusted him. I could find out 120, he still owe
2 me a hundred more, but still made me angry to
3 back off on my promise. He caused that.

4 Q. Okay. But when you conveyed this
5 to Wally Hamed and when Wally Hamed came back to
6 you and said, *Yes, I told my father.* You
7 understood that that was just for what you --
8 what did you understand was the amounts of the
9 resolution?

10 A. The resolution was two million in
11 the bank and the 1.4. It was not a lump sum
12 package.

13 Q. Okay. Were you also agreeing at
14 that time to sell the stores and completely
15 deal--

16 A. As soon as I find out, I really
17 want to sell out.

18 Q. Okay. But did you agree that
19 those two properties would be for every dispute
20 between you?

21 A. No, I never expected that.

22 Q. Okay. All right. And so, did
23 Wally ever tell you, *My father does not agree to*
24 *the two properties?*

25 A. He have never told me. I told

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1 him, when I think we check the one in Jordan, I
2 told him, *When are you going to transfer the*
3 *property in Tutu Park?* He said, *We're not going*
4 *to do it.*

5 Q. All right.

6 A. I said, *Okay.* I find out in
7 Jordan.

8 Q. Was that the first time when
9 Wally told you, *We're not going to do it?*

10 A. Yes. And then I looked for
11 people, and we agreed he will give it up, and we
12 went home.

13 Q. Okay.

14 A. Fifteen minutes after I reach
15 home, I want to double check. I will still
16 going to keep searching. He told me, *No, no,*
17 *no, no, it's not the agreement.* I said, *What do*
18 *you mean not the agreement? What do I gain*
19 *then? This man is giving me that long time ago.*
20 *If he give me the third property in Jordan, I*
21 *will guarantee you I will never search anymore.*

22 Q. Okay. What was the third
23 property --

24 A. May I explain to the Judge?

25 Q. Hang on. What was the third

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1 still look for more? By the time you went to
2 Jordan, is that what you understood or no?

3 ATTORNEY HOLT: Object to the
4 question as leading.

5 THE COURT: Just a minute.

6 ATTORNEY HOLT: Object to the
7 question as leading.

8 THE COURT: The question is
9 leading.

10 BY ATTORNEY FERRELL:

11 Q. Mr. Yusuf, when you went to
12 Jordan, what did you understand the deal was
13 when you went to Jordan?

14 A. I understand I get paid or I
15 settle on what I discovered. What I discovered
16 at that time is one million four and \$2 million.

17 Q. And what was the settlement for
18 what you had discovered at that time? What was
19 the settlement agreement?

20 A. The property in Jordan and the
21 one in Tutu Park.

22 Q. Okay. And the one in Tutu Park,
23 was it both the 9.4 and the half acre?

24 A. Yes.

25 Q. Okay. And when you went to

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1 property in Jordan?

2 A. The third property in Jordan I
3 bought for \$3 million. I have an offer to sell
4 it for \$42 million and I turn it down.

5 Q. Okay. So, Mr. Yusuf, you never
6 -- did you ever reach an agreement as to the
7 third property?

8 A. No.

9 Q. Okay.

10 A. No. Wally issue is that if we
11 give him the third property, he still going to
12 keep asking. I said, *No.* I believe, I honestly
13 believe, from my life, my experience of my
14 capability, I never miss more than 2 percent in
15 my estimate. I honestly believe Wally have
16 steal me at least 55 to \$58 million in this 20
17 years.

18 Q. All right. So, Mr. Yusuf, did
19 you understand, when you went to Jordan, that
20 you already had a deal with Mr. --

21 ATTORNEY HOLT: I'm sorry, finish
22 the question.

23 Q. Did you understand that you had a
24 deal with Mr. Hamed to transfer the Jordan
25 property and the Tutu property and you could

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1 Jordan, did Mr. Hamed ever say to you, *I'm not*
2 *going to transfer the Tutu Park property to you?*

3 A. No, no, no, no, he never
4 mentioned that.

5 Q. Okay. And did anybody on the
6 Hamed side, while you were in Jordan, ever say,
7 *We're not going to transfer the Tutu Park*
8 *property to you?*

9 A. Wally had stated in St. Croix,
10 not in Jordan.

11 Q. Okay. All right. And that was
12 after you got back from Jordan?

13 A. Yes. When I request to transfer
14 it, he had refused to transfer it.

15 Q. Okay. After Wally refused to
16 transfer it, did you have meetings with other
17 people in your community?

18 A. Yes.

19 Q. All right. And did you, during
20 those meetings, try to enforce the agreement
21 that you understood and to also try to maybe
22 resolve everything?

23 A. I was trying to get what he had
24 refused to give me after he --

25 COURT REPORTER: Excuse me. I

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1 you would agree to allow those to be introduced,
 2 (Defendant's Exhibit No. 2.)
 3 ATTORNEY HOLT: I'm sorry. Part
 4 of the same interrogatory you said?
 5 ATTORNEY PERRELL: Yes.
 6 ATTORNEY HOLT: It's part of the
 7 same interrogatory, this is Exhibit 2?
 8 ATTORNEY PERRELL: Yes.
 9 ATTORNEY HOLT: I don't think I
 10 have an objection to 2. Let me just make sure.
 11 I have no objection.
 12 ATTORNEY PERRELL: Your Honor, we
 13 would like to move into evidence Exhibit No. 2,
 14 which is also tabbed as Exhibit B.
 15 THE COURT: No objection, it will
 16 be admitted by stipulation. It's admitted
 17 without objection.
 18 (Defendant's Exhibit No. 2 is
 19 admitted into evidence.)
 20 ATTORNEY HOLT: Excuse me?
 21 THE COURT: Without objection, it
 22 will be admitted.
 23 BY ATTORNEY PERRELL:
 24 Q. Now, Mr. Yusuf --
 25 A. Yes.

1 again, I apologize. It's somewhat
 2 unconventional, but here's the issue. The issue
 3 has been, and even the testimony provided by
 4 Mr. Hamed is that Mr. Yusuf is always changing
 5 the deal and always changing things. And the
 6 reason for offering this sworn testimony from
 7 2014 and then interrogatory responses and then,
 8 also, I was going to offer the 2020, to
 9 demonstrate that Mr. Yusuf's understanding of
 10 the scenario of what happened, the arrangements
 11 and so forth, has been consistent all the way
 12 through, that there hasn't been an
 13 inconsistency.
 14 ATTORNEY HOLT: He can testify to
 15 that. But secondly, litigation consistency and
 16 what happened back in a 2003 litigation is two
 17 different things.
 18 THE COURT: The attempt to prove
 19 consistency in prior testimony is not
 20 admissible. It's his testimony in this case
 21 before this Judge.
 22 ATTORNEY PERRELL: Okay.
 23 THE COURT: And if it's
 24 challenged, it will be by an inconsistency, not
 25 by consistency.

1 Q. -- in this case --
 2 A. Yes.
 3 Q. -- are you asking to get the
 4 \$2 million and the \$1.4 million that was part of
 5 what you understood those properties before --
 6 are you asking for that in this case?
 7 A. No. I consider that is already
 8 settled with these properties.
 9 Q. Okay. Mr. Yusuf, have you read
 10 -- I'm sorry. Have you read the deposition
 11 testimony that you gave in 2014 relating to this
 12 case?
 13 A. Some of it.
 14 Q. Okay. You testified a moment ago
 15 that the testimony you gave before had some
 16 greater detail than what you've described here.
 17 Do you recall that?
 18 A. I would say so, yes.
 19 Q. Let me ask you to look at Exhibit
 20 No. 3.
 21 ATTORNEY HOLT: Your Honor, once
 22 again, you can't use deposition testimony unless
 23 she's impeaching him, so I don't understand the
 24 purpose of the proffer.
 25 ATTORNEY PERRELL: Your Honor,

1 ATTORNEY PERRELL: Understood
 2 Your Honor. All right.
 3 BY ATTORNEY PERRELL:
 4 Q. Mr. Yusuf --
 5 A. Yes.
 6 Q. -- in front of you is an exhibit
 7 marked by the other side and admitted as Exhibit
 8 No. 4. It's in those pile of documents --
 9 ATTORNEY HOLT: May I approach?
 10 THE COURT: Yes.
 11 A. This is -- yeah, this is the
 12 property in Jordan.
 13 Q. Okay. And you were present for
 14 when the transfer occurred; is that correct?
 15 A. Yes.
 16 Q. And have the Hamed's challenged
 17 this transfer of property?
 18 A. No. No. The lawyer ask him, he
 19 ask him about it, and he said, Yes, I want to
 20 transfer it, and he signs it and his son signs
 21 it in his signature as a witness.
 22 Q. After it was transferred, have
 23 the Hamed's claimed that the transfer should not
 24 go forward? After this happened, after the
 25 transfer in your meeting in Jordan, have the

1 Hamed's later challenged that?
 2 A. Up to now they challenge it.
 3 ATTORNEY PERRELL: All right.
 4 Mr. Yusuf, I don't have any further questions.
 5 I think Attorney Holt is going to ask you some
 6 questions.

CROSS-EXAMINATION

BY ATTORNEY HOLT:

9 Q. Mr. Yusuf --
 10 A. Yes.
 11 Q. -- first of all, we're talking
 12 about the two properties in St. Thomas; one is
 13 9.4 acres and one is 1.5 acres, correct?
 14 A. There's no 1.5. It's less than
 15 one.
 16 THE COURT: It's .5 acres.
 17 ATTORNEY HOLT: Okay. Your
 18 Honor, if I may?
 19 THE COURT: Yes.
 20 (Blow up of Plaintiff's Exhibit
 21 No. 2.)

BY ATTORNEY HOLT:

23 Q. So, in St. Thomas there's one
 24 parcel that's 9.438 acres, correct?
 25 A. Yes, this is one.

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1 each of his children own 10 percent?
 2 A. I understand himself and his
 3 children is 10, 10, 10. No, we are six. Me and
 4 my wife and five children, we are six. I don't
 5 know how we have it.

6 Q. Okay. And then the piece of
 7 property that's over here (pointing), the
 8 .536 --

9 A. I don't know what that piece of
 10 property amount. I don't think that property.
 11 I don't think --

12 Q. Let me ask the question first,
 13 okay?

14 A. Sure.

15 Q. Okay. The .536 parcel --

16 A. What is that?

17 Q. The .536 parcel that was bought
 18 to access the Plessen property, that wasn't put
 19 in the name of Plessen Corporation, was it?

20 A. Wait a minute. I honestly don't
 21 know. All I know is we bought a half acre,
 22 approximately a half acre, maybe the .536.

23 Q. And do you understand that this
 24 is owned by the partnership?

25 ATTORNEY PERRELL: Objection.

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1 Q. And there's another part that's
 2 .536 acres, correct?
 3 A. Yes.
 4 Q. And this parcel (pointing) was
 5 bought first, correct?
 6 A. Excuse me?
 7 Q. This property (pointing) was
 8 purchased first, wasn't it?
 9 A. Yes.
 10 Q. And it was placed in the name of
 11 a corporation, Plessen Enterprises, Inc.?
 12 A. Yes.
 13 Q. And your family owns half of that
 14 corporation?
 15 A. Yes.
 16 Q. And how is the ownership broken
 17 down?
 18 A. They own 50 percent, we own 50
 19 percent.
 20 Q. Yeah, but in your 50 percent --
 21 A. I don't know.
 22 Q. You don't know?
 23 A. I don't know.
 24 Q. You understand that in the other
 25 50 percent that Mr. Hamed owns 10 percent and

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1 Objection. Objection. Wait, Mr. Yusuf.
 2 Objection.

3 Q. I'll rephrase it.

4 Do you understand that this was
 5 purchased by the partnership and then owned by
 6 the partnership at least until 2012; do you
 7 understand that?

8 A. We bought the both property in
 9 the name of the partnership. That Plessen, and
 10 again, we brought in Plessen, and then after I
 11 said, *No, after the rain, you have to put it*
 12 *back in United.* Then United still partnership
 13 until Mohammad Hamed give it up.

14 Q. So these two properties aren't in
 15 the same name, are they?

16 A. I don't know. I don't know if
 17 that .536 is a property that I own or my
 18 neighbor.

19 Q. Okay.

20 A. All I know is we have half acre
 21 for entrance purposes.

22 Q. All right.

23 A. That's all we know.

24 Q. And if Mr. Mohammad Hamed only
 25 owns 10 percent of Plessen, how can he give that

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1 Q. So, Mr. Hannun says:
 2 Later that night, before 24 hours past,
 3 Mr. Yusuf called and asked, if I find
 4 anything else, can he ask for it, and I
 5 said no the agreement covers everything,
 6 even what he doesn't know about right now,
 7 and Mr. Yusuf said no, that the agreement
 8 was for what he knew now, and not for
 9 everything else he finds. Then there was
 10 no more agreement.
 11 Is that what happened?
 12 A. I don't know who told you that.
 13 Q. So that's not correct?
 14 A. I don't know who told you that.
 15 I never say that. I just want to confirm I am
 16 going to continue search.
 17 Q. Okay. So after --
 18 A. I told you already, the man run a
 19 business for 20 years --
 20 Q. All right. So --
 21 A. -- and I tell you what is the
 22 property for, a million four and two million.
 23 Q. So here's my question, after the
 24 meeting where Mr. Hannun was present, and Wally
 25 agreed to give two properties, it's your

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1 REDIRECT EXAMINATION
 2 BY ATTORNEY PERRELL:
 3 Q. So, Mr. Yusuf, just a couple
 4 follow-up questions. Attorney Holt asked you if
 5 this deal that you've described was in writing.
 6 Was the partnership deal in writing?
 7 A. No, the whole Plaza Extra is not
 8 in writing.
 9 Q. Okay.
 10 A. It's only shake hand.
 11 Q. All right. So, when Waleed Hamed
 12 came back to you and you asked him, *Did you*
 13 *speak to your father?* At what point in time did
 14 you believe that that half acre, the little out
 15 parcel, the half acre in Tutu was no longer
 16 partnership property?
 17 A. From the time we had that meeting
 18 and I went home and, you know, because I felt
 19 sorry for him, when I realize the man was lying
 20 to me, he don't mind his age, he don't mind the
 21 way he look, but he still is not perfect, that I
 22 draw my word because he don't deserve it.
 23 Q. Okay. So when did that --
 24 A. From that day, the property is
 25 mine.

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1 testimony that you could still continue to look
 2 for more properties?
 3 A. Yes, because he give it to me for
 4 what I show him I want, the two million and the
 5 1.4.
 6 Q. And was there ever an agreement
 7 signed on that? Was there ever anything signed
 8 on that?
 9 A. No, we don't sign.
 10 Q. And was the property in
 11 St. Thomas ever conveyed?
 12 A. That's what I requested, the
 13 property in St. Thomas to be transferred to me
 14 and they said, *No*.
 15 ATTORNEY HOLT: Your Honor, may I
 16 have just a short break, I think I'm probably
 17 wrapping up.
 18 THE COURT: Yes, you may. Ten
 19 minute recess.
 20 (Recess had.)
 21 * * *
 22 (After the recess.)
 23 ATTORNEY HOLT: I have no more
 24 questions.
 25 ATTORNEY PERRELL: Just a couple.

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1 Q. Okay. And was there any
 2 paperwork that needed to happen for that half
 3 acre to go from being considered partnership to
 4 now being something that is owned by you or
 5 something that you have access to individually?
 6 ATTORNEY HOLT: Objection. Calls
 7 for a legal conclusion.
 8 A. In that case --
 9 THE COURT: He may answer it.
 10 A. In that case, I don't need
 11 anything because the property is already in the
 12 name of United.
 13 Q. Okay.
 14 A. All I want to discover if they no
 15 longer have anything in it.
 16 ATTORNEY PERRELL: Okay. All
 17 right. I have no further questions, Mr. Yusuf.
 18 I think we are done.
 19 I would like to offer in a couple of
 20 affidavits that we had already stipulated to,
 21 but I have no further questions for Mr. Yusuf,
 22 so you're good.
 23 THE WITNESS: I could leave now?
 24 THE COURT: No, Attorney Holt
 25 wants to ask you some more questions.

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