

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

MOHAMMAD HAMED, by his )  
Authorized Agent WALEED HAMED, ) Civil No. SX-12-CV-370  
)  
Plaintiff/Counterclaim Defendant, ) ACTION FOR INJUNCTIVE  
) RELIEF, DECLARATORY  
vs. ) JUDGMENT, PARTNERSHIP  
) DISSOLUTION, WIND UP,  
FATHI YUSUF and UNITED CORPORATION, ) and ACCOUNTING  
)  
Defendants/Counterclaimants, )  
)  
vs. )  
)  
WALEED HAMED, WAHEED HAMED, )  
MUFEED HAMED, HISHAM HAMED, )  
and PLESSEN ENTERPRISES, INC., )  
)  
Counterclaim Defendants. )  
)  

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WALEED HAMED, as Executor of the ) Consolidated With  
Estate of MOHAMMAD HAMED, )  
Plaintiff, ) Civil No. SX-14-CV-287  
)  
vs. ) ACTION FOR DAMAGES and  
) DECLARATORY JUDGMENT  
)  
UNITED CORPORATION, )  
)  
Defendant. )  
)  

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MOHAMMAD HAMED, ) Consolidated With  
Plaintiff, ) Civil No. SX-14-CV-278  
)  
vs. ) ACTION FOR DEBT and  
) CONVERSION  
FATHI YUSUF, )  
)  
Defendant. )  
)  

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YVONNE SAMUEL-SETORIE, RPR  
ELITE REPORTING SERVICES, INC.  
P.O. Box 5619  
Christiansted, VI 00823

## HEARING

Before: EDGAR D. ROSS, Special Master

Date: March 1, 2023

Time: 10:25 a.m. - 1:13 p.m.

Held at: Dudley Newman Feuerzeig LLP  
1131 King Street, Suite 204  
Christiansted, St Croix 00820

1        A-P-P-E-A-R-A-N-C-E-S:

2  
3        LAW OFFICE OF JOEL H. HOLT, P.C.  
4        Attorney for Waleed Hamed, Waheed Hamed,  
5        Mufeed Hamed, Hisham Hamed, and  
6        Plessen Enterprises, Inc.  
7        2132 Company Street  
8        Christiansted, VI 00820

9        BY:    JOEL H. HOLT, ESQ.

10       - and -

11       CARL J. HARTMANN III  
12       5000 Estate Coakley Bay, #L-6  
13       Christiansted, VI 00820

14

15       Dudley Newman Feuerzeig LLP  
16       Attorneys for Fathi Yusuf and  
17       United Corporation  
18       1000 Frederiksberg Gade  
19       St. Thomas, VI 00802-6736

20       BY:    CHARLOTTE K. PERRELL, ESQ.

21       - and -

22       BY:    STEFAN HERPEL, ESQ.

23

24       Also Present:  
25       Mufeed Hamed  
26       Waleed Hamed  
27       Fathi Yusuf  
28       Maher "Mike" Yusuf  
29       John Gaffney  
30       Alice Kuo, Law Clerk

31

32

33

34

35

I-N-D-E-XPageBRACEY ALEXANDER

Direct Examination by Mr. Holt 7

Cross-Examination by Ms. Perrell 16

Redirect Examination by Mr. Holt 26

MUFEEED HAMED

Direct Examination by Mr. Holt 26

Cross-Examination by Ms. Perrell 29

Redirect Examination by Mr. Holt 37

Recross-Examination by Ms. Perrell 37

JOHN GAFFNEY

Direct Examination by Ms. Perrell 43

Cross-Examination by Mr. Holt 74

Redirect Examination by Ms. Perrell 80

Recross-Examination by Mr. Holt 81

FATHI YUSUF

Direct Examination by Mr. Herpel 83

Cross-Examination by Mr. Holt 98

I-N-D-E-XE-X-H-I-B-I-T-S

<u>Plaintiff's</u>	<u>Page</u>
1 Engagement Report Excerpt	7
2 Supplemental Responses to Hamed's Discovery	11
3 Document Titled "Exhibit 3-Variance Between Our Report and Gaffney Calculation"	12
4 Calculations	14
<u>Defendants'</u>	
B-1 - B-3 Responses to Hamed's Discovery	51
C Document Titled "50/50 Distribution of Credit Card Payments Calculation and Credit Card Point Valuation Calculations"	61

P-R-O-C-E-E-D-I-N-G-S

1  
2  
3 MR. HOLT: Your Honor, are you ready for us to  
4 proceed?

5 THE SPECIAL MASTER: You may.

6 MR. HOLT: We call our first witness,  
7 Bracey Alexander.

8 Do you want to swear him in?

9 THE SPECIAL MASTER: First of all, I think we  
10 should put on the record all parties present.

11 MR. HOLT: For the record, Joel Holt on behalf  
12 of the Hamed family.

13 THE SPECIAL MASTER: And?

14 MR. HOLT: With me are Waleed Hamed and  
15 Mufeed Hamed.

16 MS. PERRELL: Good morning. Charlotte Perrell  
17 and Stefan Herpel on behalf of United Corporation and  
18 Fathi Yusuf. I have with me Mr. Fathi Yusuf, I also  
19 have Mike Yusuf, and then John Gaffney is here also  
20 accounting for the partnership.

21 THE SPECIAL MASTER: Very well.

22 (BRACEY ALEXANDER,  
23 having been called as a witness, was duly sworn, was  
24 examined and testified as follows:)

25 THE SPECIAL MASTER: Please state your name

1 for the record.

2 THE WITNESS: Bracey Alexander.

3 THE SPECIAL MASTER: You may proceed,  
4 Attorney.

5 DIRECT EXAMINATION

6 BY MR. HOLT:

7 Q. Mr. Alexander, can you tell me where you reside?

8 A. Miami, Florida.

9 Q. And if someone asked you what you did for a  
10 living, what would you tell them?

11 A. I'm a certified public accountant.

12 Q. Were you hired by the Hamed family to do certain  
13 accounting tasks related to the Hamed-Yusuf partnership?

14 A. Yes, I was.

15 Q. Can you tell me whether or not you did a report  
16 on the various accounting issues that were submitted to the  
17 Hameds?

18 A. Yes.

19 Q. And were you the person who did the work and  
20 signed the report?

21 A. Yes, I was.

22 (Engagement Report Excerpt was previously marked  
23 as Exhibit 1 for identification.)

24 BY MR. HOLT:

25 Q. I think in front of you you have as Exhibit 1,

1 which we've already marked as your Engagement Report. Do  
2 you have that with you?

3 A. Yeah, I do. Yes.

4 Q. Can you tell me what Exhibit No. 1 is?

5 A. Exhibit 1 is an excerpt from the report that I  
6 have prepared.

7 Q. Can you tell me what item that report addresses?

8 A. It addresses the credit card points and balance.

9 Q. And your firm was asked to do that calculation?

10 A. Correct. We were looking to -- into the  
11 disparity between the credit card points between Hamed and  
12 the Yusuf family based on the credit card usage.

13 Q. And can you tell me what you did, if anything, in  
14 order to ascertain whether there was any disparity between  
15 the points in question?

16 A. Yes. We interviewed with John Gaffney and with  
17 the Hameds regarding the use of the personal credit cards  
18 to pay for the purchases of partnership and the points that  
19 were earned. We also provided John Gaffney with a query  
20 dated February 15, 2016, requesting the detail of the  
21 credit card payments for purchases between 2012 and 2015  
22 and the statements of the credit card showing the points  
23 earned on those purchases. And, in addition, we looked at  
24 the accounting records, the general ledger that was  
25 provided from John Gaffney.

1 Q. And the request and his response are attached to  
2 your report as Exhibit No. 1?

3 A. Correct. Correct.

4 Q. Can you tell me whether or not you reached a  
5 calculation of the difference between the points charged by  
6 the Yusuf family and the Hamed family?

7 A. I did.

8 Q. And can you tell us what your opinion was after  
9 doing the work in question?

10 A. We were advised that the credit card points  
11 earned on purchases on behalf of the partnership using  
12 personal credit card belonged to the partnership and should  
13 be split between the Hameds and the Yusufs. We noted that  
14 the accounting records -- we noted in the accounting  
15 records that reimbursement for the purchases used in the  
16 credit cards. However, we didn't find any evidence that  
17 the credit card points were reimbursed to the company.

18 Q. Once you determined they weren't reimbursed to  
19 the company, did you have to do a calculation for the  
20 disparity between what was -- the Hamed family charged and  
21 the Yusuf family charged?

22 A. Yes. The total amount that we identified as  
23 reimbursement to the Yusufs for purchases paid on behalf of  
24 the partnership using personal credit cards was  
25 approximately 32 million. And that was from 2013 to 2015.

1 And we identified similar for the Hamed family, purchases  
2 paid on behalf of the partnership using personal credit  
3 cards of approximately 15 million. And that was from 2013  
4 to 2015 as well.

5 Q. And did this involve all the stores or just one  
6 store?

7 A. This was just Plaza East. We were not provided  
8 the same detail for the other stores.

9 Q. And what was then the difference between those  
10 two numbers?

11 A. The difference that we calculated as shown in our  
12 report is 16,849,384.60.

13 Q. 18 million -- can you say that again?

14 A. 16,849,384.

15 Q. And were you able to come up with a figure that  
16 would place a dollar value on this point differential?

17 A. Yes.

18 Q. And what figure did you come up with in your  
19 report?

20 A. We determined that 2.5 percent would be a  
21 reasonable figure.

22 Q. And all that's contained in the report that you  
23 issued in 2016?

24 A. Correct.

25 Q. And that's Exhibit No. 1?

1 A. Correct.

2 (Supplemental Responses to Hamed's Discovery were  
3 previously marked as Exhibit 2 for identification.)

4 BY MR. HOLT:

5 Q. All right. Now, showing you Exhibit No. 2. I  
6 take it you have that document with you as well?

7 A. Yes, I do.

8 Q. And what is Exhibit No. 2?

9 A. Exhibit No. 2 is a report -- hold on a second.  
10 Sorry. One second. Okay.

11 Exhibit No. 2 was the report that was prepared by  
12 John Gaffney.

13 Q. And did you look at his figures for the east  
14 store and compared them to your figures for the east store?

15 A. Correct.

16 Q. Were there any differences in those two figures?

17 A. Yeah, we noticed primarily two differences.

18 Q. What's the first difference?

19 A. There was a significant difference between the  
20 way John Gaffney totaled up the credit card charges per  
21 credit card compared to how we totaled up the charges.  
22 When we totaled the charges, we included both debits and  
23 credits. Whereas John, when he totaled, he only included  
24 one amount.

25 Q. If you only used the one amount that he used,

1 what would that do to your figure of \$16,849,000?

2 A. We agreed with that calculation that John did,  
3 and we think that we should cut it in half, cut down the  
4 amount that we previously stated from 16 million to  
5 approximately 8 million.

6 Q. What's that exact number?

7 A. 8,424,692.30.

8 Q. What is the difference between your report and  
9 Mr. Gaffney's report?

10 A. When I reviewed Mr. Gaffney's report, it  
11 included --

12 THE SPECIAL MASTER: Would you please repeat.

13 BY MR. HOLT:

14 Q. Just repeat your answer. What was the second  
15 difference?

16 A. The second difference with the Gaffney report,  
17 included some accounts that we did not include.

18 Q. Did it exclude any accounts that you had  
19 included?

20 A. Correct. There were accounts that were excluded  
21 from his report that we had in our report, as well as there  
22 were some accounts included in his report that we didn't  
23 have in our report.

24 (Document Titled "Exhibit 3-Variance Between Our  
25 Report and Gaffney Calculation" was previously marked as

1 Exhibit 3 for identification.)

2 BY MR. HOLT:

3 Q. Showing you Exhibit No. 3. I believe you have  
4 that with you. Is that a list of what you came up with of  
5 his exclusions and inclusions?

6 A. Correct.

7 Q. And did you feel like you should make an  
8 adjustment for the six items that you came up with be  
9 excluded?

10 A. No, we did not think that we needed to make an  
11 adjustment for this. Nothing was provided that showed that  
12 this information was accurate or why there was a change  
13 from the information that was previously provided; so we  
14 didn't include this or change our calculation.

15 Q. And then on his report that included credit cards  
16 that you did not include, did you make an adjustment for  
17 that number?

18 A. No.

19 Q. And again, for the same reason?

20 A. Correct, for the same reason.

21 Q. And so did you also do anything to verify the  
22 2.5 percent figure that you had come up with in 2016 for  
23 the value of the credit card points?

24 A. Yes. I looked at similar information as I did in  
25 2016 when he gave the opinion on the 2.5. So basically,

1 just doing research, googling credit card rewards and  
2 taking an average of very different points from very  
3 different cards and in determining, you know, what would be  
4 reasonable from that.

5 Q. And did you come up with a figure that would be  
6 today if you use that same valuation -- the same types of  
7 credits cards I should say?

8 A. Yes. The figure that I came up with today was  
9 about 1.5 percent.

10 (Calculations were previously marked as Exhibit 4  
11 for identification.)

12 BY MR. HOLT:

13 Q. Do you have Exhibit 4 in front you that has the  
14 calculation you used?

15 A. Yes.

16 Q. Now, did you make any adjustment to your figures  
17 based upon this lower figure, 1.4 percent?

18 A. No. When we gave our opinion in 2016, it was  
19 based on the information that was available. Although, you  
20 know, when we look today, we do see different amounts.  
21 Back when we performed the same or similar procedure for  
22 2016, that was the amount that we came up with; so that was  
23 our opinion.

24 Q. And what would account for the difference between  
25 2016 and today?

1           A.    You know, just general rewards are not the same  
2           that they were back then, changes in economy, inflation,  
3           you know, just economic conditions have changed where  
4           credit cards and vendors are not offering the same rewards  
5           as they previously were.

6           Q.    So what would be the final amount you concluded  
7           is due Hamed from Yusuf's to even up the disparity in the  
8           credit cards for the Plaza East store?

9           A.    So I would calculate it at the 2.5 percent times  
10          the 8,424,692, the disparity between the two families, and  
11          then with a total calculation of 210,617.30.

12          Q.    Did you also in looking at Exhibit No. 2 see the  
13          figures that Mr. Gaffney used for the Plaza West store?

14          A.    Yes, I did.

15          Q.    Did you have any problems with that calculation?

16          A.    No, I didn't.

17          Q.    And why not?

18          A.    Well, we did not do any calculations since the  
19          data was previously provided; so we cannot -- I cannot  
20          disagree with it.

21          Q.    The data of the West store wasn't provided to  
22          you. Is that what you're saying?

23          A.    Yes.

24          Q.    Was the data for the Tutu store in St. Thomas  
25          provided to you?

1 A. No.

2 MR. HOLT: So that's all the questions I have.  
3 I don't know if you want to try to adjust things.

4 I don't know if you have any cross-examination.

5 MS. PERRELL: I do.

6 MR. HOLT: I don't know if that technical  
7 problem should cause you any, but you could try.

8 MS. PERRELL: Let's proceed.

9 Let me fix this technical issue first.

10 (Off the record.)

11 CROSS-EXAMINATION

12 BY MS. PERRELL:

13 Q. I'm sorry. I didn't catch your last name. What  
14 is your last name?

15 A. Alexander.

16 Q. Mr. Alexander, I apologize for that.

17 My question to you is this: With regard to the  
18 various credit cards that were used in the Plaza Extra  
19 stores, do you know if all of the credit cards that were  
20 used have points associated with them?

21 A. No, I don't know.

22 Q. So is it possible that some of the cards don't  
23 even generate miles or points?

24 A. Yes, it's possible.

25 Q. Okay. You state here -- first of all, your

1 report, your analysis is very limited to page 29; is that  
2 correct?

3 A. Can you repeat that? You broke up a little bit.

4 Q. Sorry. The analysis that you provided is listed  
5 at page 29 of the report; is that correct?

6 A. Correct.

7 Q. And you've admitted in your earlier testimony  
8 that in your current research --

9 MS. PERRELL: We lost him.

10 (Off the record due to disconnection.)

11 MS. PERRELL: Your Honor, can we take a quick  
12 break?

13 THE SPECIAL MASTER: You may.

14 (A recess was taken at this time.)

15 MS. PERRELL: Your Honor, are we ready to  
16 proceed?

17 THE SPECIAL MASTER: Everyone is here. You  
18 may proceed.

19 MS. PERRELL: Thank you, everybody. Sorry for  
20 the technology glitches. We will go as long as we  
21 can.

22 BY MS. PERRELL:

23 Q. Mr. Alexander, I was asking you shortly before we  
24 had the issues that your research has revealed that you  
25 believe that the appropriate valuation for credit card

1 points in this situation is 1 -- I'm sorry, is 2.5 percent;  
2 correct?

3 A. Correct.

4 Q. Even though you've already testified that your  
5 research into that issue it actually reveals an average of  
6 only 1.5 -- 1.45; is that correct?

7 A. The research that I did is as of today. When we  
8 issued our opinion in 2016, it was 2.5 based on the  
9 information that was available then. So my opinion is  
10 still that it's 2.5, just bringing in what the current rate  
11 is to date.

12 Q. And just to go back, because I know we had some  
13 glitches a minute ago. You did not determine whether all  
14 of the credit cards that were used in the business actually  
15 generated points or miles; is that correct?

16 A. No, I did not.

17 Q. And did you undertake to determine whether or not  
18 the Hamed family members had the same credit lines and  
19 access to credit as the Yusuf family members?

20 A. We requested information to -- we requested  
21 information from John Gaffney to provide us with those  
22 credit card statements that would provide that information,  
23 and we didn't receive it. So, no, we didn't confirm the  
24 credit lines because the only information that we were  
25 provided were records of payments made to those credit

1 cards.

2 Q. Right. But you were hired by the Hamed family;  
3 correct?

4 A. Correct.

5 Q. And you could have inquired from the Hamed family  
6 what their credit lines were during this period; correct?

7 MS. PERRELL: Did we lose him?

8 BY MS. PERRELL:

9 Q. We lost you for a moment. Can you hear us?

10 A. Sorry. Yes, I can.

11 Q. I'll go back. You were hired by the Hamed family  
12 to do this analysis; correct?

13 A. Correct.

14 Q. And you could have inquired of the Hamed family  
15 members that were having their credit cards used what their  
16 credit limits were, couldn't you?

17 A. Correct, I could have.

18 Q. But you didn't do that inquiry; correct?

19 A. Well, knowing the credit limit, I don't  
20 understand how that would tell us the amount of points that  
21 were earned.

22 Q. Are you familiar with whether credit cards were  
23 used based on credit limits, or what was the basis for  
24 using one particular card over another in the stores?

25 A. Could you repeat your question, please?

1 Q. Sure. Are you familiar with the reasons why  
2 certain cards were used versus others and whether that had  
3 to do with credit limits?

4 A. My understanding was the credit cards were used  
5 by both families to earn points.

6 Q. But you don't know why one credit card versus  
7 another credit card may have been used for any particular  
8 payment; correct?

9 A. No, I don't have information as far as each  
10 individual payment why one person used a credit card or the  
11 other person used it. No, I don't have that information.

12 Q. And would you agree with me that if the Hamed  
13 credit limits were not as extensive as the Yusuf family  
14 credit limits, that then credit card miles shouldn't be  
15 necessarily divided evenly; they should be divided  
16 according to those credit limits?

17 MR. HOLT: Objection. It calls for a legal  
18 opinion. The Special Master has to decide. Well,  
19 your entitled amount is up to the Master, not to him.

20 MS. PERRELL: Well, he has made an opinion as  
21 to whether or not credit card miles should be divided  
22 evenly. So my --

23 MR. HOLT: No, he didn't. He's asked to  
24 explain a disparity. He's not saying they should be  
25 divided one way or the other. He just did a

1 calculation.

2 THE SPECIAL MASTER: That's his testimony.

3 MS. PERRELL: His testimony is that he did a  
4 calculation, not that it should be a certain way?

5 THE SPECIAL MASTER: He testified that he was  
6 informed.

7 MS. PERRELL: Okay.

8 BY MS. PERRELL:

9 Q. How were you informed -- who informed you that  
10 the credit cards were supposed to be divided evenly that  
11 you then used to do the calculation?

12 A. This was based on the claim that was presented to  
13 us for us to investigate. We were investigating just the  
14 disparity between two credit cards. So our task was just  
15 to compare how much payments were made to each credit card  
16 and then determine if there was a difference between those  
17 two. We were not tasked with anything else other than  
18 that.

19 Q. Okay. And so you don't know when you made that  
20 calculation whether the reason for the disparity had to do  
21 with limits or not; is that correct?

22 A. Correct, I didn't know, you know -- correct.

23 Q. In your analysis did you do a line item of what  
24 was included -- and you say in John Gaffney's report, which  
25 your -- I think you've mislabeled it. But in Exhibit 2,

1 there's numbers that are provided on behalf of the Yusufs.

2 Have you done an analysis to demonstrate the  
3 line-by-line differences between the number -- the values  
4 that come up here on Exhibit 2 and your analysis?

5 A. No, I did not do a line-by-line analysis.

6 Q. Your report indicates here from 2013 through  
7 2015. Are you including all of 2015 in your report?

8 A. I'd have to take a look back at the report.  
9 There were specified date ranges, and I can't tell you  
10 exactly that it was all the way through 2015. I don't have  
11 a full report with me right now, but if I can look back at  
12 the full report, I can be able to tell you the date ranges  
13 exactly.

14 Q. As we sit here today though, you're not able to  
15 testify as to whether your numbers include all of 2015 or  
16 some other limited date range in '15; is that correct?

17 A. If I can have a moment to take a look at the  
18 report, I can let you know.

19 Q. Okay. Well, is that report part of what's  
20 attached as Exhibit 1?

21 A. Yes, the report came -- Exhibit 1 came out of the  
22 report.

23 Q. And just to be clear, this report was prepared in  
24 2008 -- I'm sorry, 2016, and the -- was this simply a  
25 preliminary analysis that you did?

1           A.    No.  We provided an opinion.

2           Q.    In this document here that is attached to  
3 Exhibit 1, the Table Content page says "Scope of Work,"  
4 which the third Bates-numbered page in.  But that's not  
5 actually included in the report provided here; is that  
6 correct?

7           A.    Correct.  This is just an excerpt from that  
8 report.

9           Q.    So we don't really know the scope of the  
10 engagement here; is that correct?

11          A.    If you have the entire report, you would.  I'm  
12 not sure how much information was provided to you.  The  
13 entire report, if you have it, would show, you know,  
14 everything that we did.  And this exhibit is only an  
15 excerpt.  So within the excerpt, there's information that  
16 has been excluded from the entire report.

17          Q.    Okay.  Are you aware as to whether or not  
18 historically the partnership divided or allocated credit  
19 card points as between the family members?

20          A.    It was my understanding that the partners within  
21 the partnership would share in the card points equally.

22          Q.    How did you come to that understanding?

23          A.    Based on conversations.

24          Q.    Okay.  So it's your understanding that -- did  
25 they use some kind of an allocation at the end of each

1 year? How is that done?

2 A. Between the partners or the families, they will  
3 alternate between making payments.

4 Q. What do you mean by that, they would alternate  
5 between making payments?

6 A. One person or one family member would make a  
7 payment using their personal card versus the next time  
8 another family or another member would make a payment.

9 Q. So that goes back to my earlier question, but  
10 you're not aware of who necessarily had what credit limits  
11 and as to which credit card was used for a particular  
12 payment; is that correct?

13 A. That's correct.

14 Q. All right. So you're making an assumption either  
15 based upon what you were told or you made the assumption  
16 that those were equally split; is that correct?

17 A. I'm not assuming that they were equally split.

18 Q. Are you aware that Willie Hamed was in charge of  
19 a lot of the financial responsibilities with regard to the  
20 St. Thomas Tutu store?

21 A. Could you repeat that?

22 Q. Are you aware that Willie Hamed was in charge of  
23 a lot of the financial aspects of the Tutu store, the  
24 St. Thomas store?

25 A. Yes.

1 Q. And you indicated that you didn't receive any  
2 information relating to the Tutu store.

3 Did you ask Willie Hamed to provide any of the  
4 financial information from the Tutu store?

5 A. We put in the request, which I believe all the  
6 requests were going through John Gaffney. I'm not sure if  
7 that request would have went to Gaffney and should have  
8 went to Wally or whatnot, you know, we just put in the  
9 request for the information.

10 Q. No, I understand. But I'm just saying, but after  
11 you said you didn't receive that information, was there any  
12 attempt either by you or on behalf of the Hamed family to  
13 inquire of Willie Hamed as to the financial information you  
14 were asking for related to the Tutu store?

15 A. No.

16 Q. Are you aware after 2013 who was handling a lot  
17 of the financial aspects at the St. Thomas -- excuse me, at  
18 the Plaza East store, which family member?

19 A. You said am I aware of who was handling the  
20 majority of the financial --

21 Q. Issues at the Plaza Extra East store.

22 A. Uhm, no.

23 MS. PERRELL: I don't think I have any more  
24 questions. Thank you for your time.

25 MR. HOLT: Just a few.

## REDIRECT EXAMINATION

1  
2 BY MR. HOLT:

3 Q. So you asked for information, which is included  
4 in your request, and you received information from  
5 John Gaffney. That's what you analyzed?

6 A. Correct.

7 MR. HOLT: No other questions.

8 MS. PERRELL: I have nothing further.

9 THE SPECIAL MASTER: Thank you, Mr. Alexander.

10 MR. HOLT: You can sign off, Mr. Alexander.

11 Thanks for much for attending.

12 THE WITNESS: Thank you.

13 MR. HOLT: We call Mufeed Hamed.

14 (MUFEED HAMED,

15 having been called as a witness, was duly sworn, was  
16 examined and testified as follows:)

## DIRECT EXAMINATION

17  
18 BY MR. HOLT:

19 Q. Prior to 2012 were credit cards point split  
20 equally between the Hamed and Yusuf families?

21 A. Yes.

22 Q. Why did the Hameds begin to believe there might  
23 be some disparity between this allocation after 2012?

24 A. We got locked out.

25 Q. And after that was there ever a truing up of the

1 credit card amounts -- the points?

2 A. No.

3 Q. And Mr. Bracey Alexander was hired to look into  
4 that?

5 A. Correct.

6 Q. Showing you Exhibit No. 3, these are the items  
7 that Mr. Alexander said were either excluded from what he  
8 used or added into what he didn't use. Look at the top  
9 number. Do you see the six numbers at the top?

10 A. Yes.

11 Q. This says these were -- "John Gaffney excludes  
12 the following cards included in his report."

13 Do you see that?

14 A. Yes.

15 Q. Do the first two cards BP, do those get points?

16 A. They get miles or points.

17 Q. And the Citi Yusuf, does that get points?

18 A. Miles or points.

19 Q. And Discover card?

20 A. Yes.

21 Q. How about the two Scotia cards?

22 A. No.

23 Q. Is there any other cards besides Scotia that  
24 don't get points?

25 A. No.

1 Q. And then down at the bottom it says "John Gaffney  
2 includes the following cards not included in our report."

3 Do you see these?

4 A. Yes, I see.

5 Q. And first two are BJ Wholesale.

6 Did BJ Wholesale, did it give points to the Hamed  
7 family?

8 A. No.

9 Q. Can you explain?

10 A. The BJ's Wholesale Club is -- the account was  
11 under the Plaza Extra name but under my social security. I  
12 guaranteed it. So when the rebates came in or the points  
13 or whatever came back in, they came to the store's name,  
14 and it went back into the store.

15 Q. So you did not receive it?

16 A. No.

17 Q. The store received it?

18 A. Yes.

19 Q. And then looking down at Sam's Discover cards,  
20 would that be the same situation?

21 A. Correct.

22 Q. So you didn't -- no Hamed received those points?

23 A. No. In the store's name.

24 Q. And then the last three, it says AMEX 24,000. Do  
25 you know if that's Hamed card?

1 A. There's not enough information on that.

2 Q. Then one says 8606.

3 A. That does not -- no information there on that.

4 Q. And then there's a hundred thousand dollars that  
5 says that the Hameds got points for this hundred thousand  
6 dollar charge. Is that possible?

7 A. No.

8 Q. And that's because they don't give points;  
9 correct?

10 A. Correct.

11 Q. And that was still allocated to the Hamed family?

12 A. Correct. Based on that, yes.

13 MR. HOLT: No other questions.

14 CROSS-EXAMINATION

15 BY MS. PERRELL:

16 Q. Let me ask you about Exhibit No. 3. From where  
17 are these numbers coming from?

18 A. It says John Gaffney.

19 Q. I know. But have you looked at it? Have you  
20 looked at John Gaffney's -- the --

21 A. No, I haven't.

22 Q. You haven't looked at the ledger sheet that shows  
23 the payments?

24 A. No.

25 Q. So this is somebody's compilation; correct?

1 A. Correct.

2 Q. So you haven't actually gone and independently  
3 verify what is on Exhibit 3; is that right?

4 A. No, I haven't.

5 Q. And then what store did you preliminarily work  
6 at?

7 A. The store in Sion Farm.

8 Q. West?

9 A. East.

10 Q. Did you ever inquire as to use of credit cards  
11 after 2013, as to why Hameds were not using credit cards  
12 after 2013?

13 A. We were locked out.

14 Q. When you say "locked out," how were you locked  
15 out?

16 A. We were taken off of the accounts.

17 Q. You were not taken off of your own credit card  
18 accounts; correct?

19 A. Correct.

20 Q. So isn't true that the ladies in the office, the  
21 accounting ladies that are the accounts payable ladies,  
22 aren't those in fact the people that make the decision as  
23 to which credit cards to use to make payments?

24 A. No. No, they were under direction from the  
25 Yusufs.

1 Q. But isn't it true that it's the ladies in  
2 accounts payable that are the ones that are managing and  
3 dealing with issues associated with if an invoice comes in  
4 and it needs to be paid, whether to pay it with a credit  
5 card?

6 A. Of course they did the leg work, yes.

7 Q. Okay. All right.

8 And so are your credit -- what is your credit limit,  
9 and what was it in 2013?

10 A. I can't recall.

11 Q. You can't recall. Okay.

12 Was your credit limit the same as let's say  
13 Mike Yusuf's credit limit in 2013?

14 A. I don't know what his credit limit is.

15 Q. What was your credit limit in 2013?

16 A. Again, I can't recall.

17 Q. Was it 20,000?

18 A. I can't recall.

19 Q. You have no idea what your credit card limit was?

20 A. I can't recall.

21 Q. Do you know what Wally's credit card limit was in  
22 2013?

23 A. I don't know.

24 Q. What about any of your brothers in 2013?

25 A. Again, I don't know.

1 Q. You don't know.

2 And what about would that be the same for '14 and '15  
3 as well, you don't know your limit or their limit?

4 A. Correct.

5 Q. And likewise, you don't know the Yusuf's limits  
6 either; correct?

7 A. Correct.

8 Q. You're familiar with the payment of let's say  
9 BJ's and the loading of the vans when inventory is  
10 purchased; correct?

11 Are you familiar with how payment is made to let's say  
12 BJ's when inventory is loaded onto a trailer?

13 A. You mean when we make purchases?

14 Q. Yes. Are you familiar with this process?

15 A. Correct.

16 Q. And so are you familiar that an order goes in,  
17 and then as it's loaded, there may be some discrepancies,  
18 either something is out of stock or there's some more  
19 room available on the trailer at the time it is actually  
20 loaded?

21 A. Not exactly, no. They're pre -- the container --  
22 the orders are sent in, and prior to shipping it has to be  
23 paid, prepaid.

24 Q. Right. I know that.

25 What I'm saying, though, isn't it possible that the

1 payments for the shipment you anticipate it's going to be  
2 x, but then you either add some additional items to it or  
3 whatever because you have extra room; is that correct?

4 A. There may be some instances of that, yes.

5 Q. And so isn't it beneficial for the business to be  
6 able to pay with a credit card, because then you'd have the  
7 ability to take advantage of that change at the last minute  
8 adding more product and so forth?

9 A. Yes.

10 Q. And are you aware as to whether or not BJ's would  
11 accept three or four credit cards, for example, to pay for  
12 a particular trailer?

13 A. Yes.

14 Q. Are you aware of whether they would prefer to  
15 have one credit card pay for a particular trailer?

16 A. That's up to them. They would prefer.

17 Q. Did you ever inquire to the Yusufs to make sure  
18 that the accounts payable folks would be sure and tap the  
19 Hamed cards first before they tap the Yusufs' cards?

20 A. I'm sorry. Could you repeat that?

21 Q. Were you ever aware -- let me ask you this: Did  
22 you ever make the accounts payable folks use your or Hamed  
23 credit cards before Yusuf cards?

24 A. If I ever?

25 Q. Asked the ladies in accounts payable to --

1 A. To use my credit card?

2 Q. Or a Hamed credit card before a Yusuf card?

3 A. No.

4 Q. Okay. You didn't ask them to do that?

5 A. No.

6 Q. So you were concerned about not being able to  
7 have your credit cards being used, but yet you never  
8 inquired of the accounts payable folks to actually use your  
9 card first?

10 A. Because everything was done 50/50. Everything --  
11 everything was done from the beginning, throughout the  
12 years, throughout the process, until the lockout,  
13 everything was done 50/50.

14 When Yusuf Yusuf came back from college, he was  
15 getting paid the same as I was, and I was in -- I had five  
16 years ahead of him. So everything was fair. Everything  
17 came in. Their family with our family 50/50. And there  
18 was no question about it.

19 Q. Isn't it true that Mr. Yusuf gave credit card  
20 points that he had acquired for payments that were made on  
21 behalf to various members of the Hamed family for travel,  
22 for example?

23 A. I don't know what Mr. Yusuf did.

24 Q. So you're not aware of that?

25 A. No. I know that I -- I -- I used miles from

1 NejeH Yusuf.

2 Q. So NejeH would provide you miles as well?

3 A. Yes. So there was always when there was -- we  
4 needed it, we would get it.

5 Q. Okay.

6 A. That's years ago prior to the issues.

7 Q. What I'm trying to understand is if you were  
8 concerned that your credit cards weren't being used when  
9 the dispute arose --

10 A. When the -- sorry. Go ahead.

11 Q. When the dispute arose, you didn't make any  
12 efforts to inquire of the accounts payable ladies to make  
13 sure and use your cards first, did you?

14 A. So just to give you a perspective, it was a  
15 hostile environment. It was to the point where police was  
16 called; we were locked out; we were taken off the accounts.  
17 Everything was in a terrible state. So getting anything  
18 done at the time was very difficult.

19 Q. Okay. So just to be clear, though, you didn't  
20 inquire of the accounts payable folks to make payments for  
21 various expenses using Hamed cards first; correct?

22 A. So, again --

23 Q. After the dispute.

24 A. After the dispute there's a lot of information  
25 that was withheld from me; so it was difficult for me to

1 find out what I needed to make -- to get my -- to raise  
2 that level of concern. But I knew there were trucks coming  
3 in, there was products coming in, and I see my credit card  
4 statements. They were not being used.

5 Q. Okay. And you didn't ask them to use yours or  
6 inquire about it; correct?

7 A. Again --

8 Q. Yes or no?

9 A. I can't recall.

10 Q. Okay. Were you making orders for BJ's and Sam's  
11 as part of your responsibilities and duties?

12 A. Yes, I was.

13 Q. So you were aware that the orders were going out;  
14 correct?

15 A. Correct.

16 Q. At the end of the year, say before the dispute,  
17 was there ever a time when the Yusuf and Hamed family would  
18 sit down and divide up credit card points and credit card  
19 miles?

20 A. No.

21 Q. So was there ever an attempt at that point in  
22 time prior to the dispute to ever equalize the credit card  
23 points?

24 A. There should have been.

25 Q. But was there?

1 A. No.

2 MS. PERRELL: I have no more questions. Thank  
3 you.

4 THE SPECIAL MASTER: Attorney Holt.

5 MR. HOLT: Yes, just briefly.

6 REDIRECT EXAMINATION

7 BY MR. HOLT:

8 Q. When you used your personal credit card for your  
9 personal items when you were locked out -- so you couldn't  
10 buy company items; you bought your own items. -- did the  
11 store reimburse you for those credit card expenses?

12 A. No.

13 MR. HOLT: No other questions.

14 RECROSS-EXAMINATION

15 BY MS. PERRELL:

16 Q. Just to follow up on his point with regard to  
17 personal items. Who paid the annual fees on the credit  
18 cards, you personally or was that --

19 A. I did.

20 Q. You paid them?

21 A. Uh-huh.

22 Q. On every card?

23 A. On my card, yes. On the BJ's and Sam's, it was  
24 the store cards.

25 Q. I'm sorry?

1           A.    The BJ's and Sam's, some of the cards were paid  
2 by the store; some were paid by me.

3           Q.    And then with regard to the other Hamed family  
4 members, do you know who paid their annual fees --

5           A.    No, I don't know.

6           MS. PERRELL:       No further questions.

7           MR. HOLT:         No questions.

8           THE SPECIAL MASTER:       Thank you.

9           MR. HOLT:         We have nothing else.  That's our  
10 case.

11           You know, I just want -- I'm sorry.  I want to  
12 move in Exhibits 1, 2, 3, and 4.  And if there's no  
13 objection, that's it.  Otherwise, I got to have  
14 Mr. Gaffney verify the information.

15           MS. PERRELL:       We would object to the entry of  
16 Exhibit 1.  Exhibit 1 is not what we would consider to  
17 be a full and complete expert report.  It has a very  
18 limited analysis at literally page 29 for a couple  
19 paragraphs.

20           Based upon the testimony of the witness, we  
21 believe that he hasn't done any kind of thorough  
22 analysis.  And he was given a few information that he  
23 never verified, and he indicated that it wasn't  
24 accurate.  He also indicated that the 2.5 percent  
25 based upon his review is not accurate as well.

1           So from our perspective, we feel like this report  
2           is not sufficient and shouldn't be entered. And the  
3           time frame, with the regard to the time frame, he  
4           couldn't identify whether it was -- what time frame in  
5           2015; so we think that that calls into question the  
6           validity of this particular report.

7           MR. HOLT:        I think objection goes more to his  
8           whole testimony, which he's already testified to,  
9           which will go to the weight that you would give it.  
10          The report is just what he did to get there and has  
11          the attachments to it to show what he did to do his  
12          work. I think it should be admitted for what it's  
13          worth, and the court could give its opinion.

14          THE SPECIAL MASTER:        Objection overruled.

15          MS. PERRELL:        I'm sorry, which exhibits are  
16          you moving in, 1?

17          MR. HOLT:        2, 3, and 4.

18          I can ask Gaffney about it. I'll just ask him  
19          about it. These are just his summary. So I just want  
20          him to verify these are his summaries. 2 and 5  
21          actually.

22          MS. PERRELL:        I thought you were only doing 1,  
23          2, 3, and 4. That's what I am trying to understand,  
24          what you are introducing in?

25          MR. HOLT:        1, 2, 3, and 4. And I just said I

1 have no more witnesses if you're going to stipulate to  
2 No. 2. You can argue 3 and 4 later.

3 MS. PERRELL: With regard to 2, obviously we  
4 don't have a problem with 2. That's ours.

5 MR. HOLT: And the same as 5. It's basically  
6 similar to 2. It's just subsequently dated report.

7 MS. PERRELL: This is our discovery  
8 responses, so...

9 MR. HOLT: So no objections?

10 MS. PERRELL: I don't have an objection to 5.

11 MR. HOLT: I don't have any questions for  
12 Mr. Gaffney then for once. And we rest.

13 MS. PERRELL: I do have an issue with  
14 Exhibit 3, Your Honor. I would indicate that there's  
15 no dates or any information that provides any real  
16 guidance as to Exhibit 3. The witness that was  
17 inquired about Exhibit 3 said he didn't go and verify  
18 the information that is allegedly contained in there,  
19 and so we believe that Exhibit 3 is not appropriate to  
20 be introduced.

21 MR. HOLT: Exhibit 3 was actually testified to  
22 by Mr. Alexander. And he just said he looked at  
23 Mr. Gaffney's work, and then highlighted the items  
24 that Mr. Gaffney took out from his calculations, and  
25 then looked at other items that Mr. Gaffney added into

1 the same calculations.

2 MS. PERRELL: And then he said he didn't  
3 change any of his report based to that.

4 MR. HOLT: Correct. He's just showing that  
5 for some of the disparity between the two.

6 MS. PERRELL: But if he didn't change any of  
7 his report, then obviously this wasn't anything  
8 substantive related to his report, which I think is an  
9 issue with this report. But from my perspective then,  
10 there's no value associated with this particular  
11 document, and it hasn't been really verified and,  
12 therefore, not material.

13 MR. HOLT: We say it's material because it  
14 tries to explain the difference between the figures  
15 Mr. Gaffney's given in Exhibits 2 and 5 and his  
16 figures. There's this great disparity he looked at to  
17 give that analysis. So that's what it's relevant  
18 material to, not his report.

19 He had said there were two significant  
20 differences in his report and Mr. Gaffney's. One was  
21 an issue that he conceded and adjusted. And the other  
22 one was he said that these items were either included  
23 by Gaffney in his calculations, which Mr. Bracey  
24 didn't include or excluded. And Mr. Mufeed Hamed  
25 explains why they shouldn't even remain included

1 because they aren't credit cards, or whether they  
2 weren't properly charged, the Hameds, because those  
3 six cards didn't earn points.

4 So they are relevant to undermining the figures  
5 Mr. Gaffney gave. Explain the difference between the  
6 two reports and go with Mr. Gaffney's figures on the  
7 East store.

8 THE SPECIAL MASTER: As to Exhibit 3, the  
9 court will admit it.

10 MR. HOLT: I don't need Exhibit 4 to go in.  
11 He did the calculation just to show --

12 MS. PERRELL: I have no objection to 4.

13 MR. HOLT: 1, 2, 3, 4, and 5 in. We rest.

14 MS. PERRELL: My folks have left the room, can  
15 I find out what happened?

16 THE SPECIAL MASTER: Yes.

17 MR. HOLT: Take a break?

18 MS. PERRELL: Sure. If the judge --

19 THE SPECIAL MASTER: Ten minute recess.

20 (A recess was taken at this time.)

21 THE SPECIAL MASTER: Recess is over. You may  
22 proceed.

23 MS. PERRELL: Thank you, Your Honor.

24 Good morning. We would like to call John Gaffney  
25 to the stand.

1 (JOHN GAFFNEY,

2 having been called as a witness, was duly sworn, was  
3 examined and testified as follows:)

4 DIRECT EXAMINATION

5 BY MS. PERRELL:

6 Q. State your name for the record.

7 A. John Gaffney.

8 Q. And I think everyone here knows this, but just  
9 for the record as well, what was your role vis-a-vis the  
10 Plaza Extra stores from 2013 to 2015?

11 A. Well, initially my role was to install an  
12 accounting system complete with internal controls. And  
13 that included training the personnel and then upkeep.

14 Q. Were you familiar with the use of personal credit  
15 cards by various members of the Hamed and the Yusuf family  
16 to pay for various business expenses?

17 A. Yes.

18 Q. And can you explain how that process occurred?

19 A. After 2013? After the conversion or before?

20 Q. After the conversion. First of all, what do you  
21 mean by conversion?

22 A. Well, the conversion, the accounting conversion.  
23 Essentially, what we did was we converted the accounting  
24 records as of January 1, 2013, to comply with the  
25 Department of Justice, the plea agreement order to

1 establish an accounting system with internal controls.

2 Q. So after 2013 can you explain the process for the  
3 use of the credit cards for business expenses?

4 A. Yes. There were a limited number of things that  
5 the credit cards were actually used for. Gross receipts  
6 taxes, they were used for the quarterly estimated tax  
7 payments. They were also used for some vendors, namely  
8 BJ's, Sam's. What's the other common one? Sam's, BJ's.

9 They weren't used for places like Hunter Foods or AG,  
10 which we had the high volume purchases from. But they were  
11 used for in particular for BJ's, Sam's Club, and stuff like  
12 that, because there was a benefit to using credit cards for  
13 them.

14 Q. What was that benefit?

15 A. The benefit was like if something with an order  
16 with Sam's, you know, they'd be -- they might be placed the  
17 order and, as was pointed out previously, sometimes they  
18 might be out of stock, and so they might be left with some  
19 room in a container, and it cost the same amount to  
20 transport a container with \$30,000 of product in it or  
21 \$60,000. So what would happen was use of the credit card  
22 gave us the advantage of being able to fill up the empty  
23 space of the container to maximize the benefit, which, of  
24 course, translates into greater profit.

25 Q. Before you go to another example, if you didn't

1 have the access to the credit cards for let's say that  
2 scenario, what would have been the payment process?

3 A. We would have had to pay in advance through  
4 either a wire. That was really the only option that we had  
5 available to us.

6 Q. And if you paid in advance through the wire,  
7 would you have been able to take advantage of this capacity  
8 issue --

9 A. No. It would have been much more difficult.  
10 Much more difficult.

11 Q. Okay. All right.

12 Other examples of the benefit of using the credit  
13 card.

14 A. Uhm, the nice thing about using the credit card  
15 was of course in that little, you know, there's -- as I  
16 understand it, there's about a two-hour window of  
17 opportunity where, you know, Tropical tells us, for  
18 instance, that, okay, we've got two hours, and we can fill  
19 it up. And we might have something staged with -- let's  
20 say there was heavy weight in there, and they say we can  
21 only put something very light in there; so we might fill it  
22 up with paper goods on the top of it.

23 And the advantage was also with that credit card, was  
24 once it was paid, that was -- we were done. Our records  
25 reconciled to their records. So, in other words, we were

1 charged \$36,000.50, and our credit card was 36,000 -- yeah,  
2 \$36,000.50. So it was done. We never had any issues --  
3 ongoing issues related to credits and debits for  
4 overpayment.

5 Q. With regard to the determining which credit cards  
6 were used, are you familiar with why a particular card was  
7 used over another card?

8 A. It obviously had a lot to do with, you know,  
9 credit limits. For instance, when you go down to pay a  
10 \$200,000 gross receipts tax return, nobody had a credit  
11 card that can do that in one transaction. So typically  
12 gross receipts taxes were paid using five credit cards.

13 Q. Are you --

14 A. Go ahead.

15 Q. I didn't mean to interrupt you.

16 Are you familiar with the credit limits of the Yusuf  
17 family members and the Hamed family members during this  
18 timeline?

19 A. More or less. Most of it was verbally learned.  
20 So, in other words, if I might go up to one of the Yusufs  
21 and go, you know, how much of a credit line you have on  
22 that card, and they'd go, oh, that card's got \$75,000.

23 To some extent I had similar conversations, especially  
24 early on, in trying to -- in understanding the credit  
25 limits that the Hameds had, particularly West, because I

1 was at West for the first few years that I was here, and so  
2 I had a lot of interaction with Hisham.

3 Q. And of the various limits between the two  
4 families, who had the highest credit limit?

5 A. During my time the -- as far as I knew, the  
6 Yusufs had the higher credit limits. That was particularly  
7 true over at Plaza West. To be honest with you, I don't  
8 know what it was over at Plaza St. Thomas. I had a little  
9 bit of an inkling of what it might be over at Plaza East,  
10 but mostly Plaza West is where I had the, you know,  
11 firsthand knowledge.

12 Q. With regard to which card would get used, what  
13 was the process of determining which card would be used for  
14 any particular expense?

15 A. Our accounts payable clerk was Lisette Lima, and  
16 she actually had a copy of all of the credit cards for both  
17 the Yusufs and the Hameds, and more or less she determined  
18 which ones to use.

19 Q. Okay.

20 A. And the -- I don't -- I mean, I do recall some  
21 conversations where Mike even said use Hisham's, you know,  
22 as a first stop, you know. So I didn't particularly see --  
23 during the years that I was at Plaza West, I didn't  
24 particularly see any kind of attempt to exclude him from --  
25 you know, from using the credit card, his credit card.

1 Q. And did Mr. Yusuf ever tell you to use Yusuf  
2 cards to the exclusion of the Hamed cards?

3 A. Never.

4 Q. Just to be clear, when did you start -- just so  
5 that I'm clear, the timeline was January of '13 is what --

6 A. I actually came on board in the middle of  
7 October 2012.

8 Q. With regard to the payment of the cards, did you  
9 set up -- how did you track -- let me ask you this: How  
10 did Plaza -- how did you set it up for Plaza to reimburse  
11 the individuals for the payments or for the expenses that  
12 were charged on their credit cards?

13 A. Okay, this gets a little bit complicated, but I'm  
14 going to try --

15 Q. Try to keep it lawyer level.

16 A. Yeah. I'm going to try and keep it -- I put in a  
17 single control account as regards credit card payments.  
18 And that control account was 299 or 29,900 goes to credit  
19 card or the general ledger account for it, and it was  
20 called Suspense. And the rule was, if I had to train the  
21 personnel, the Suspense account balance had to be zero at  
22 the end of every day.

23 Basically -- for instance, if we went to go pay gross  
24 receipts taxes for \$200,000, there would be an entry  
25 recording the gross receipts taxes into the vendor account

1 for VIBIR, and then that \$200,000 would show up as a credit  
2 in Suspense.

3 Then the payment of it, which might be divided by five  
4 credit cards adding up to \$200,000, those five cards would  
5 show up as debits, and the debits and the credits would  
6 offset to zero. And that would be an indication that the  
7 -- that clerk did all of the work necessary to record the  
8 transactions.

9 Q. Okay.

10 A. The advantage of this method, number one, aside  
11 from the internal control that it introduced, the advantage  
12 was when you looked at the general ledger detail, you never  
13 saw an entry in, let's say, gross receipts tax expense --  
14 you never saw an entry in gross receipts tax expense that  
15 said Banco Popular Visa. You only saw entries in that  
16 account that read VIBIR.

17 And that was something that was lacking before,  
18 because -- I want to backtrack, because I think it's  
19 important to note why we did that. Previously what  
20 happened was, as an example, we'd set up Tropical as a  
21 vendor, and we'd set up that ID, and then Tropical -- you  
22 know, they post entries to Tropical which were the charges.  
23 Then what would happen is, somebody would come along and  
24 pay Tropical with a credit card, and then as a convenience,  
25 they would change all of the data inside the Tropical

1 vendor account, they change it all to the necessary credit  
2 card, and then what they do is then they would issue a  
3 check.

4 And so what would happen is in the general ledger that  
5 Tropical purchase, that Tropical purchase actually showed  
6 up by whatever credit card was entered into the system.  
7 That's how it looked in the general ledger; so it was very  
8 confusing.

9 Now, the other thing that happened was that credit  
10 card might be in the system for three months, and then  
11 maybe it was canceled or something happened, but then it  
12 was replaced by another credit card. And once they changed  
13 that information a second time, what happened was the audit  
14 trail for the previous credit card in the books is  
15 completely lost, completely lost, except for the hard  
16 copies which gets filed off in some archive location. And  
17 it would be practically impossible from an audit  
18 perspective to be able to verify, you know, which credit  
19 card paid what.

20 Q. Okay.

21 A. Anyway, this avoided that by having two --  
22 basically, I established a stable vendor account for not  
23 only the vendor, in this case, VIBIR in my example or  
24 Tropical, and then I established a stable vendor account  
25 for the credit card.

1 Q. Okay. And did you provide that information as  
2 part of documents that -- in an Excel spreadsheet?

3 A. Yes.

4 Q. Let me hand you what's been marked --

5 MS. PERRELL: I am just going to keep the same  
6 designation that we had during your only filings in  
7 our brief, B-1, 2, and 3.

8 (Responses to Hamed's Discovery were previously  
9 marked as Exhibits B-1, B-2, and B-3 for  
10 identification.)

11 BY MS. PERRELL:

12 Q. I ask you to look at that exhibit. It's a  
13 cumulative exhibit, B-1, B-2, and B-3. And what I'd like  
14 you to do is turn to pages starting at the very bottom  
15 where it says FY 16670. Only a few pages in.

16 A. What were the pages in?

17 Q. 16670 Bates number.

18 A. Okay.

19 Q. Take a look at this document and then the  
20 documents behind it, and ask if you can identify what these  
21 documents are?

22 A. I'm trying to find some numbers that match.

23 Q. Well, let me just ask you this: Are these a PDF  
24 printout of the Excel spreadsheets that you have provided  
25 as to the expense account you were discussing?

1 A. Yes.

2 Q. Is the front page a summary that you prepared as  
3 to for each different store as to the amounts that were in  
4 this documentation behind it?

5 A. Yes.

6 Q. So the first one on 6670, that is for Plaza East;  
7 is that right?

8 A. That's correct, yes.

9 Q. And then if you turn to page, about halfway  
10 through this pack, 16761.

11 A. Okay, yeah.

12 Q. And is this the summary of the information, same  
13 Suspense account that you're talking about for Plaza Extra  
14 West?

15 A. Correct.

16 Q. And the documents that follow that are the  
17 supporting information; is that right?

18 A. That's correct.

19 Q. And then beginning on page --

20 A. It's on the back side of that.

21 Q. 16 -- 16851. Is that the sheet, the summary  
22 sheet that you prepared for Plaza Extra, St. Thomas?

23 A. Yes.

24 MR. HOLT: I'm sorry. What number did you  
25 say?

1 MS. PERRELL: 16851. It's on the back side of  
2 a document, so you might --

3 BY MS. PERRELL:

4 Q. Just to reask the question: 16851 is the summary  
5 sheet of the information that you discussed in the Suspense  
6 account, and this document following it are the support for  
7 that; is that correct?

8 A. Correct.

9 Q. So let me go back to the first one. The first  
10 one, which is page 16670, you have a delineation here  
11 between Yusuf Hamed and unknown. Can you explain that,  
12 please?

13 A. At Plaza East, you know, we made sure that the  
14 vendor account, the vendor master file contained who owned  
15 the card.

16 Q. When you say that, can you show us an example, or  
17 what are you pointing to when you say that?

18 A. Okay. Oh darn.

19 Q. What about --

20 A. Let me find it because --

21 Q. I got you. Page 16672. Take a look at page  
22 16672.

23 A. I truncated the transaction description. In some  
24 cases it cuts off --

25 Q. 16772, about midway down the page, it says

1 "Fathi Yusuf." Do you see his name --

2 A. Yeah.

3 Q. -- kind of broken in there?

4 A. Yeah.

5 Q. Can you explain the payments made there,  
6 Fathi Yusuf, and the charges incurred?

7 A. Well, in that particular case, unfortunately,  
8 this really doesn't have anything to do with credit card  
9 uses.

10 Q. Wonderful.

11 A. It's the use of the expense account in order to  
12 offset a void check, that's all.

13 Q. So with regard to --

14 A. But if you give me a minute, I'm sure that I can  
15 find a -- where the vendor -- well, see when you get --  
16 like if you go to page 7, FY 016676.

17 Q. Got it.

18 A. If you look at the very top line, it says "BJ's  
19 Wholesale Club paid with Yu," which is going to be Yusuf.

20 Q. Okay.

21 A. And then you look at the Banco Popular Advantage,  
22 the doggone thing is that -- it tells you what's being paid  
23 with that.

24 Q. Okay.

25 A. And of course --

1 Q. And then if you go down where it says  
2 "Tropical Shipping paid with" and it says "Mafi," you see  
3 that, midway down, "11,000"?

4 A. On that same page?

5 Q. Yeah. A third of the way, 11,053?

6 A. Am I on the right page? Here says page 7.

7 Q. Yes. "Tropical Shipping paid with Mafi C/C  
8 11,000." It's the first entry on the credit amount --  
9 second entry.

10 A. I'm blind. You said 11 -- oh, okay.

11 All right, "paid with." Actually, oh, yeah. Yeah.  
12 "Tropical Shipping paid with Mafi credit card."

13 Q. Yeah.

14 A. Paid with Wally's credit card.

15 Q. So what I'm trying to understand is, are these  
16 descriptions -- explain to us what were you discussing with  
17 regard to the charge made and then the payments made.

18 A. Right. Whenever a Tropical Shipping invoice was  
19 paid with a credit card, the girls were under the  
20 instruction to indicate how it was paid, with whose credit  
21 card. And that way in the Suspense account we could match  
22 them up to ensure that at the end of every day it was a  
23 zero, the balance was zero in Suspense.

24 Q. So here, for example, there's a list of them that  
25 indicate Mafi's credit card and then Wally's credit card;

1 is that correct?

2 A. That's correct.

3 Q. Going back to the summary page, which is on page  
4 16670, did you go through these accounts and isolate what  
5 you knew to be a Yusuf and knew to be a Hamed and then  
6 differentiate them on the summary?

7 A. Yes. Essentially each tab in my Excel analysis  
8 was a certain credit card.

9 Q. Okay.

10 A. And so that activity was then -- yeah.

11 Q. And then there are some that are unknown. Are  
12 they unknown -- why would they be unknown?

13 A. I couldn't tell who owned the credit card. There  
14 were occasional instances where that happened. It could  
15 have been -- yeah, I don't know.

16 Q. Okay.

17 A. It could have been anything.

18 Q. I'm just going to walk you through. I want to  
19 get this entered in evidence.

20 So with regard to Plaza Extra East for the period of  
21 time January 1, 2013, through March of 2015, was your  
22 analysis that credit card payments made by the Yusufs  
23 equalled or -- what was your analysis as to what the credit  
24 card payments to the Yusufs equalled at this time?

25 A. \$8,081,777.12.

1 Q. And what was your understanding and analysis as  
2 to what was paid on Hamed credit cards for that period?

3 A. \$6,375,102.62.

4 Q. And what was your understanding of payments that  
5 were made but you're not sure which card was the source of  
6 the payment?

7 A. 118,320.79.

8 Q. And vis-a-vis the St. Thomas Plaza West store?

9 MR. HOLT: St. Croix West.

10 BY MS. PERRELL:

11 Q. Sorry. St. Croix West. My apologies. That's on  
12 page 16761. Did you perform the same analysis with regard  
13 to the West store --

14 A. Yes.

15 Q. -- during the same period?

16 A. Yes.

17 Q. And what was your analysis as to the cards used  
18 by the Yusuf family during that period for payments?

19 A. For the Yusufs it was 12,695,951.83.

20 Q. And what was your analysis as to the Hamed  
21 payments during that time?

22 A. 3,820,393.48.

23 Q. And what was your analysis of payments that were  
24 made by one of the families but you're not sure which  
25 during that time frame at West?

1           A.    1,754,350.08.

2           Q.    And lastly, with regard to the St. Thomas store,  
3           which is at Bates No. 16851 -- first of all, let me ask you  
4           this:  What was the total number paid on credit card  
5           expenses at the St. Thomas store during this timeline?

6           A.    According to this, it's \$10,142,701.37.

7           Q.    I noticed on this particular summary you have no  
8           allocation between Yusuf and Hamed.  Why is that?

9           A.    The accounts payable clerk over there -- and I --  
10           unfortunately, I can't remember like a specific day or  
11           time, but I remember that they had a practice of not  
12           putting the owner of the card in the electronic record.  So  
13           in other words, they might put a credit card number, and  
14           sometimes they might even have the vendor include the last  
15           four digits of the credit card number.  And within the  
16           electronic record there would be the credit card number  
17           but --

18           And I vaguely, unfortunately, I don't have a specific  
19           conversation, but I remember when I talked to her about it,  
20           she said that Willie felt that it was a security issue to  
21           put the credit card owner with all that information in  
22           there, that if somebody got a hold of it, it could lead to  
23           something.

24           So consequently, I didn't have that as part of the  
25           master file, and I couldn't determine -- you know, I had a

1 list of credit cards that were discreet to me. And even  
2 when I asked around, when I was trying to do this, I was  
3 trying to see if anybody had any recollection or  
4 familiarity with a credit card number, and I just got blank  
5 stares by the time that I did this.

6 Q. So based on the accounting information that was  
7 put into the system, that information wasn't available?

8 A. Yes.

9 Q. It was not -- is the reason that information  
10 wasn't available to you for, you know, some reason that the  
11 Yusufs said don't include that or anything along those  
12 lines?

13 A. No, I don't think there was anything nefarious at  
14 all about it. Even by excluding the owner name, I think it  
15 was just -- I think maybe Willie believed it was a  
16 legitimate excuse not to have, you know, somebody's name in  
17 there.

18 Q. And with regard to payments for the  
19 reimbursements, how was it that the store would pay the  
20 actual reimbursement? Did you recover credit card  
21 statements, or did you just pay -- how did you do that?

22 A. We never used statements. We only used the  
23 credit card slips attached to the voucher. In the case of  
24 the VIBIR gross receipts tax returns, we have a copy of the  
25 gross receipts tax return date stamped, and then we have

1 the three or four or five credit card slips that would be  
2 attached to it, and that's how they were reimbursed.

3 Q. So then they would pay the credit card directly?

4 A. Yes.

5 Q. For the specific amount?

6 A. That's correct.

7 Q. So it wasn't a practice to acquire credit card  
8 statements?

9 A. Correct.

10 Q. From your perspective when you were setting this  
11 system up, did it matter to you whose credit card was being  
12 used?

13 A. Uhm, no. Technically it didn't matter at all. I  
14 preferred to have the owner of the card, just because it  
15 aids the audit trail process, because I often think in  
16 terms of what will happen if somebody asks me about this  
17 transaction five years from now.

18 And I always emphasized with all of the accounting  
19 personnel that when you're putting information in the  
20 accounting system, the single most important fact is who,  
21 it's not what. You're getting paid interest income on a  
22 savings account; it does no good to put in the description  
23 interest income because it's already in the chart of  
24 accounts interest income. So if it's interest income, it's  
25 Scotia bank.

1 Q. Okay. With regard to the totals, is it fair to  
2 say that the total credit card expenditures are if you were  
3 to add up all the numbers for the East, the West, and  
4 St. Thomas, they were both paid by the Hameds, Yusufs, and  
5 the unknown, that that's the total credit card payments  
6 that were incurred during this time frame?

7 A. Yes. Yes.

8 MS. PERRELL: I didn't get a sticker on this.  
9 Let's make this Exhibit C.

10 (Document Titled "50/50 Distribution of Credit  
11 Card Payments Calculation and Credit Card Point  
12 Valuation Calculations" was marked as Exhibit C for  
13 identification.)

14 BY MS. PERRELL:

15 Q. I am going to hand you what's been marked as  
16 Exhibit C.

17 Mr. Gaffney, I hand you what's been marked as  
18 Exhibit C and just ask if you can walk us through and make  
19 sure that these are the numbers that you've already  
20 identified today. All right?

21 A. Okay.

22 Q. So in the first column, we have Yusuf, and it  
23 says "East store 8,081,771."

24 Is that what you testified to a few moments ago?

25 A. Well, of course it's \$6 off. 777, yeah. But

1 yes.

2 Q. With regard to the unknown for the East store, is  
3 that correct, \$118,320?

4 A. Yes.

5 Q. And with regard to the Hamed accounts,  
6 6,375,102.62?

7 A. Just a few cents off.

8 Q. With regard to the West and the St. Thomas  
9 stores, could you please review and confirm whether -- I  
10 won't bore everybody going through every single number.  
11 Are those correct?

12 A. Yes, they are.

13 Q. And are you familiar with during the timeline  
14 2013, 2014, and then for a couple of months in '15, whether  
15 or not there was any practice or time frame or coordination  
16 of any kind that's equalizing miles or points as between  
17 the family members that were incurred as a result of these  
18 credit card expenditures?

19 A. The -- I can speak mostly about Plaza West,  
20 because during that time I spent most of my time at  
21 Plaza West. Lisette, who was the accounts payable clerk,  
22 basically had everybody's credit card information, and so  
23 she selected based on available credit. And that was the  
24 process.

25 At a point -- at some point, I can't remember exactly

1 when it was -- I recall a conversation where Mafa -- where  
2 Hisham complained about that they didn't use his credit  
3 card or something. And I remember Mike standing right  
4 there and saying, Lisette, use his credit card first.  
5 Whenever you can, just use it first. So I didn't detect --  
6 that's what I -- that's what I observed with my -- myself  
7 at Plaza West.

8 At Plaza East, what I recall was in the early days, I  
9 didn't recall a lot of credit card activity with  
10 necessarily the Yusufs other than -- and then when I  
11 inquired about it with Yusuf -- because he was young at the  
12 time -- he was saying, Well, they only let me use it for  
13 property tax payments.

14 Q. Yusuf Yusuf?

15 A. Yusuf Yusuf.

16 They only let me use my credit card for property tax  
17 payments, otherwise they use the Hamed cards. But then I  
18 was aware of the fact that he was fighting to use his card  
19 more. It became more of that over the next year or so.

20 Q. But was there ever a point in time -- that's what  
21 I'm trying to get to. -- like at the end of the year where  
22 there was some, oop, okay, let's determine who's incurred  
23 what credit miles and so forth, and we need to settle that  
24 out? Was that anything that you were ever aware of or  
25 coordinated?

1           A.    Never.

2           Q.    Let me go back and ask you a little bit with  
3 regard -- let me back up.  I got my second set of ears  
4 here.

5           Was it ever requested that there be some kind of  
6 settling up or truing up of credit card miles during this  
7 time frame?

8           A.    Never.

9           Q.    Let me back up a little bit with regard to the  
10 BJ, Costco, and let's say Sam's Club's payments.  Were you  
11 familiar with when those payments were made via a credit  
12 card, whether or not the preference was for one card or  
13 multiple cards?

14          A.    They were often paid with multiple cards.  And  
15 the process was just the same.  It was usually a matter of  
16 the accounts payable clerk looking at what cards were  
17 available, what was open, still open on them, and then just  
18 using.  I don't particularly -- I never particularly saw  
19 any preference issued.

20          Q.    So they didn't prefer one card at a time?

21          A.    The only reason they would have done that is, for  
22 instance, a card that might have had a \$99,000 credit line  
23 that they knew they can always get to.

24          Q.    Let me go back to Exhibit C here.

25          A.    Okay.

1 Q. So you would agree with me that the total credit  
2 card miles spent -- excuse me, payments made was adding the  
3 Yusuf column, the unknown column, and the Hamed column,  
4 correct, for that time frame?

5 A. Yeah. I guess I have to trust the Excel  
6 computation there.

7 Q. And then if one was to do a -- if you can look at  
8 that, either add it up on your own or whatever, doesn't  
9 that equal the \$43,348 and --

10 A. 43 million.

11 Q. Yeah. Sorry.

12 A. Yeah, that -- I can see that.

13 Q. And then if we were to equalize the payments,  
14 wouldn't that also mean that each party would receive  
15 21 million?

16 A. Yes. Overall numbers, yes.

17 Q. And then would you also agree with me that taking  
18 the 21 million, which was equal number and subtracting what  
19 we know the parties had paid, would yield what number would  
20 be needed to create the equality?

21 A. Let me consume this.

22 Okay, yes, I get it. Yes. Okay, yeah.

23 Q. And so if we were to take the total value, divide  
24 it in half, and then subtract out what each of the two  
25 families had paid, isn't it true that the Yusuf family

1 would need to be allocated 896,000 in credit -- in payments  
2 and that the Hameds would need to be allocated 11 million  
3 in payments?

4 A. Yeah.

5 Q. Let me ask you this: Have you undertaken to  
6 determine the valuation of credit card miles?

7 A. I have just had done over a period of time spotty  
8 checks, and I -- the calculations that I came up were --

9 Q. Were what?

10 A. Were basically 1 cent. Unfortunately, I never  
11 made a formal process out of it. I remember one time  
12 seeing 1.4 cents. I also remember a lot of times where I  
13 saw .9, .954 percent.

14 Q. How did you go about this process?

15 A. I just simply -- because I travel back and forth  
16 a lot, I used to just be curious about it, because  
17 sometimes I used my own miles, and other times -- in fact,  
18 there was a period of time where I used the Yusufs' miles,  
19 but I would -- there'd be other times where I'd actually  
20 pay for it. And a lot of times I was looking at and  
21 comparing which was the most beneficial. And I was  
22 surprised how many times I came up with one penny.

23 Q. Was that consistent with any independent research  
24 that you did as well?

25 A. Essentially what I did was I at the

1 American Airlines -- I always flew American; so at the  
2 American Airlines website, the first thing I do is I check  
3 the flight, and I check how much the dollar cost is, and  
4 then I'd note that and then I go back in and check the  
5 milage cost for it; and I divide the miles into cost. And  
6 lo and behold it was almost always one penny. That was  
7 just over a period of time that I did that very informally.  
8 I didn't do it for any other reason other than I just  
9 wanted to understand it myself.

10 Q. Understood.

11 Let me ask you this: With some of the cards that were  
12 used, some of the cards were -- from the Yusuf and Hamed  
13 families were with Banco; is that correct?

14 A. Yes.

15 Q. Banco Popular locally; is that right?

16 A. Correct.

17 Q. And were other cards what I would call nonlocal  
18 cards?

19 A. Yes.

20 Q. And what would have been the advantage or  
21 disadvantage to using a local card versus a card that was  
22 not local?

23 A. Well, sometimes the need to pay things by credit  
24 card would reach a point where you'd have to pay a credit  
25 card off early before a statement cut off date. And so

1 what would often happen is, you know, a bill might get paid  
2 today that would use up the available credit line; and then  
3 three days from now, somebody says we got to get the gross  
4 receipts tax paid or something like that. And then we go,  
5 okay, we got to clear this credit card, and then there  
6 would be a payment, and then it would be just run down to  
7 the bank and post it. And usually it was a 24 hour process  
8 at best.

9 Q. In those scenarios would using Banco cards be  
10 more advantageous because of the availability to track it  
11 quicker?

12 A. Yes.

13 Q. And then do you know if the Hameds had Banco  
14 cards?

15 A. You know, I don't recall specifically. It seems  
16 to me that there were a number of cards where we sent off  
17 payments, but I don't remember specifically if the Hameds  
18 had any Banco cards.

19 Q. Did the Yusufs have Banco cards?

20 A. The Yusufs definitely did, yes.

21 Q. If Plaza did not have the flexibility of using  
22 these personal credit cards with these pretty significant  
23 limits, whether it be Hamed or Yusuf, would there have been  
24 a cost to Plaza to receive some kind of a credit facility  
25 or some other ability to gain credit?

1           MR. HOLT:       Just for the record, I am going to  
2           object, because we repeatedly asked for expert  
3           reports. We never received such expert reports, and  
4           now we're getting into expert opinion about a cost  
5           that doesn't really exist but apparently he must opine  
6           on.

7           For the record, I'd object to any questions about  
8           what the cost to credit would be, 'cause that's not  
9           the issue. The question is what are the credit card  
10          amount is.

11          MS. PERRELL:       I would argue, Your Honor, that  
12          Mr. Gaffney has been the accountant for the Plaza  
13          partnership and for United and has the ability to be  
14          able to testify that if he didn't have use of the  
15          credit card, which is clearly a benefit, he's already  
16          testified it's the benefit that the business received,  
17          that he's aware of that they received. I think he  
18          would also be able to testify to a cost they didn't  
19          have that back then.

20          MR. HOLT:        I'm sorry, if I may?

21          THE SPECIAL MASTER:       Go ahead.

22          MR. HOLT:        If the company saved a benefit,  
23          then you need an expert opinion to try to explain  
24          that. And then it will just be a saving they never  
25          really got because they didn't use that benefit. All

1           this is irrelevant to the question of what is the  
2           number of points the different credit cards have.  
3           That's what the allocation is.  If using credit cards  
4           save them some kind of credit cost somewhere else,  
5           that's not relevant to this issue.  We object to him  
6           testifying about any of these issues.

7           THE SPECIAL MASTER:        I am going to permit the  
8           testimony, like I did with some of your testimony,  
9           give it whatever weight it deserves.

10          MR. HOLT:        I'm just saying I see figures on  
11          here that we have never been sent.  We have repeatedly  
12          asked you in motions to compel them to give us expert  
13          reports, which you haven't received.  I understand  
14          your ruling.  I just want to make sure that I'm not  
15          waiving any objections here to the belated efforts to  
16          turn around and add a new issue in with new accounting  
17          information which we hadn't have time to respond to.

18          THE SPECIAL MASTER:        I understand.

19          BY MS. PERRELL:

20           Q.    So would there have been a cost associated with  
21           securing credit if we didn't have or the Plaza stores  
22           didn't have the ability to use everyone's personal credit  
23           cards and credit limits?

24           A.    Yeah.  I can't say that I particularly quantified  
25           it, but, you know, there could be a cost like that.  The

1 primary benefit that I saw, I mean, if I might use as an  
2 example, you fill up a container full of water, and water  
3 has a lot of weight, and because there might be a weight  
4 restriction on that container, there might be left a lot of  
5 open space. Well, you fill the open space with paper  
6 towels, and what happens is you utilize that space, and you  
7 actually are shipping more product at the same cost. So,  
8 in other words, the shipping cost is allocated over a  
9 greater volume of a dollar volume of products.

10 So I always saw that as a benefit, and I totally  
11 understood that when -- especially with their deals with  
12 Sam's Club, BJ's and so forth. We didn't -- we didn't have  
13 that issue with some of the other vendors because the  
14 vendors didn't except credit card payments, but in those  
15 cases, we had credit lines with them.

16 So the answer is that we avoided wire costs using a  
17 credit card. I often wondered why the Sam's and BJ's  
18 accepted credit cards because they'd incurred a cost. I've  
19 learned that they were very much aware, their personnel  
20 were very much aware of the fact that they incurred that,  
21 but that was their cost. We actually saved, you know, the  
22 occasional wire fees and so forth.

23 So, yeah, there are some costs like that. I believe  
24 that the allocation of freight cost, for instance, is a  
25 contributing factor to the profitability which is

1 essentially contributive to all the assets of the company.

2 MS. PERRELL: Your Honor, if I may.

3 THE SPECIAL MASTER: Yes.

4 (Off the record.)

5 BY MS. PERRELL:

6 Q. What would be the benefit of using credit cards  
7 to pay, for example, the taxes and the -- the gross  
8 receipts tax, quarterly taxes and so forth?

9 A. Well, the mileage is a consideration. The  
10 mileage is a consideration for sure. You know, there could  
11 be a time when maybe cash was strained. I can't -- I'm  
12 trying to think back of, you know, cash availability, be it  
13 gross receipts taxes with, you know -- for a long time we  
14 did pay gross receipts taxes by check. And, you know, the  
15 availability to use credit cards was allowed. Basically  
16 the benefit was mileage.

17 Q. And during your time there, were you ever advised  
18 that -- that there was going to be or a need to ensure that  
19 the credit miles were equalized?

20 A. Yeah.

21 Q. And during your time other than the conversation  
22 that you had with -- I forget which Hamed you mentioned.

23 A. Willie? Or in St. Thomas? Hamed -- or Hisham.

24 Q. Yes. Other than that were you in the  
25 conversation where he said why isn't my card being used and

1 so forth, was there ever any issue raised to you about the  
2 need to equalize the credit card payments?

3 A. The only one that comes to mind is at Plaza East  
4 when I first started spending time over at Plaza East, I  
5 was aware of the fact that Yusuf used his credit card to  
6 pay for property taxes.

7 Q. Yusuf Yusuf?

8 A. Yusuf Yusuf used his card to pay property taxes.

9 And at one time he mentioned that that's all Wally  
10 would allow him to use it for.

11 And then what happened was at some point I saw  
12 fighting starting to occur. And evidently some of that  
13 pertained to he wanted to start being able to use his  
14 credit card more.

15 Q. And this was Yusuf Yusuf?

16 A. And that was Yusuf Yusuf.

17 Q. And other than those two scenarios, Mr. Yusuf  
18 never told you to do anything to equalize cards or to not  
19 use Hamed cards?

20 A. No. And I never even saw that over in St. Thomas  
21 either. I mean, you know, I never saw anything. What  
22 happened was Nejeah always told me that when he went over  
23 there he worked for Willie.

24 MS. PERRELL: I don't have any more questions.

25 Thank you.

## CROSS-EXAMINATION

1  
2 BY MR. HOLT:

3 Q. I am going to try to be efficient.

4 Exhibit No. 2 is a response to discovery where certain  
5 numbers were listed, which you testified to from the  
6 information you gave. And in Exhibit No. 2, there's no  
7 allocation of one penny per point.

8 And then in September we received a supplemental  
9 response, and in that response we are told that these  
10 points are typically evaluated at 1 cent points. You see  
11 that addition there?

12 A. Yes.

13 Q. Is that information that you provided?

14 A. No.

15 Q. Do you know where that information came from?

16 A. I don't. But I will tell you that I have on the  
17 internet, it seems to me that I've seen some reference to  
18 people saying, yeah, the mileage -- a lot of people  
19 considered that miles are worth a penny.

20 Q. You talked about a calculation you did when you  
21 would buy a ticket, you looked at the miles, the ticket  
22 cost and you sometimes came up with a figure of about a  
23 penny amount?

24 A. Yes.

25 Q. How long have you been doing that?

1           A.    I'd say -- I did it probably two or three years  
2 ago the first time.  And I did it as recently as this year,  
3 just because I was curious because the subject came up.

4           Q.    So that would be starting somewhere around 2020?

5           A.    Yeah, I would say that's the first time that I  
6 did a calculation to see, because I was always curious how  
7 they determined their number of miles or how American  
8 determined their number of miles for booking flights,  
9 because in some cases I found advantages to using miles,  
10 you got a better flight.

11          Q.    In Exhibit No. 4, you see the figure that  
12 American Airlines give for its points?

13          A.    2.04, yeah.

14          Q.    It's 2.04; correct?

15          A.    Yes.

16          Q.    That's twice what you were giving?

17          A.    Yes.

18          Q.    You didn't do this calculation back in 2016, did  
19 you?

20          A.    I don't recall doing it in 2016.

21          Q.    Really other than your American Airlines  
22 computation, you really haven't sat down and done a study  
23 of this figure?

24          A.    No.

25          Q.    Now, going to Exhibit No. -- I'm not sure what

1 the exhibit numbers are.

2 MR. HOLT: What is the exhibit number of  
3 your --

4 MS. PERRELL: It's exhibit B-1, 2, and 3. I  
5 used the same as it was when we submitted this.

6 BY MR. HOLT:

7 Q. Looking at page 16670, which I take it would be  
8 part of B-1. You see this?

9 A. Yeah.

10 Q. And then over on the left you have tabs for these  
11 things?

12 A. Right.

13 Q. So let's just go down to this figure \$1 million.  
14 You see that?

15 A. Yes.

16 Q. Since I had never seen this before, I went back  
17 and came up with something that says Discover Sam's card,  
18 which again has several pages, and then it ends with the  
19 calculation of 1 million -- see that \$1,001,000?

20 A. Yeah.

21 Q. So would that be the schedule for that?

22 MS. PERRELL: What pages are you on?

23 THE WITNESS: Actually page 85, 84.

24 MR. HOLT: It's page 750. It's page 751 to  
25 page 753.

1 BY MR. HOLT:

2 Q. You see that? Two-sided pages.

3 It really would be starting here, because this has the  
4 total. It would be 751, 752, 753; right?

5 A. Right.

6 Q. And that comes up to that \$1 million. You see  
7 that?

8 A. Yes.

9 Q. And then that correlates over here to a million  
10 dollars that you've allocated to the Hameds; is that  
11 correct?

12 A. Yes.

13 Q. You heard Mufeed Hamed testify this morning? Did  
14 you hear him testify this morning?

15 A. Yes.

16 Q. And did you hear him testify that while he  
17 guaranteed this card, that he never received any miles from  
18 this, but all the miles went to the partnership? Did you  
19 hear that testimony?

20 A. Yes.

21 Q. And you don't have any reason to disagree with  
22 that, do you?

23 A. No.

24 Q. So if that's the case, then that number comes off  
25 of this figure; correct?

1           A.    Not necessarily.  If I could drill down into the  
2 vendor record for that.  You know, I heard his testimony  
3 that it was -- that it was a company card.  But I'd be  
4 curious to see what the vendor statements shows.

5           Q.    You are not going to testify today that he  
6 actually received this million dollars, are you?

7           A.    I had reason to believe that when I did.  If I  
8 had my laptop here, where I can actually drill down into it  
9 to see, you know, more information from the vendor.  But  
10 this is the vendor.  This is the vendor data.  Let's see.

11           Unfortunately, I can only make an educated guess at  
12 it, but I must have had a reason to actually put it in the  
13 Hamed column because it must have had his name associated  
14 with it.

15           Q.    And he explained that he guaranteed the card;  
16 correct?  So his name was associated with it; correct?

17           A.    Then the card would have been in his name, which  
18 is the reason I would have put it there.  Not necessarily  
19 in the name of Plaza Extra.

20           Q.    But there's nothing on here that indicates that  
21 Sam's Club sent any miles -- Sam's Club gave him any points  
22 for these charges?

23           A.    No, there is nothing on here that would indicate  
24 that.  No.

25           Q.    I don't know how I'm going to find it.  But if I

1 did the same thing for the BJ Wholesale Warehouses, which  
2 are 21 and 22, do you know how these tabs break down?  
3 Would you know how to find --

4 A. I think it's just all in sequential order. So if  
5 that million dollars is down here, you would expect that it  
6 would be somewhere up higher. If I had my laptop, I can  
7 just click on the tab.

8 See where that 1 million here is. See where the  
9 1,000,480 is.

10 Didn't you say you wanted to get to --

11 Q. I wanted to get to the 275 --

12 A. That's farther down.

13 Q. So the 275 would be pages 41 and 42; is that  
14 correct?

15 A. Yes.

16 Q. Is there anything indicating that card belongs to  
17 any of the Hameds?

18 A. Nothing shows here, no.

19 Q. Excuse me?

20 A. Nothing shows on this printout.

21 MS. PERRELL: What page are you on?

22 MR. HOLT: 16741 to 16742.

23 BY MR. HOLT:

24 Q. And then on the next two we have, we have 16 --  
25 there it is. 743 to 16744 it comes out to the \$313,000

1 number. You see that? That's BJ Wholesalers as well?

2 A. Uh-huh.

3 Q. There's nothing on there that indicates that that  
4 belongs to --

5 A. If you noticed that the vendor data is truncated,  
6 so I could fit the information on the page. That  
7 information --

8 Q. It's not on this page?

9 A. It's not on this page. It's not on the printed  
10 page. Unfortunately, I couldn't.

11 Q. Mufeed Hamed testified that he didn't receive  
12 these points, the store did. Do you have any reason to  
13 disagree with that testimony?

14 A. No, I have no reason to disagree, but I would  
15 only add that the same thing could be true if it was  
16 included in the Yusufs' cards.

17 MR. HOLT: That is all the questions that I  
18 have.

19 MS. PERRELL: Just a couple quick follow-ups.

20 THE SPECIAL MASTER: You may.

21 REDIRECT EXAMINATION

22 BY MS. PERRELL:

23 Q. With regard to the numbers that he had just  
24 indicated to before, like with BJ's business card on  
25 Bates No. 41 and 42, and then also the same for the 16743

1 and 744, at the time that you prepared the list, was there  
2 something to indicate to you that it should have been a  
3 Hamed charge?

4 A. Yes, I would have definitely classified it as a  
5 Hamed if the owner of the card said Hamed. I would have  
6 classified it as Yusuf if the owner of the card said Yusuf.

7 Honestly, when -- I was just putting together a detail  
8 of all of the credit card usage without regard to knowing  
9 whether or not they were points, miles. I just put  
10 together all of the credit card usage.

11 Q. And to the extent that it had someone's name  
12 associated with it, you put it in that column?

13 A. Exactly. In other words, who kept that credit  
14 card in their pocket.

15 Q. Got it.

16 MS. PERRELL: Okay. I don't have any further  
17 questions.

18 RE-CROSS-EXAMINATION

19 BY MR. HOLT:

20 Q. I guess I'd come back to that just because the  
21 card was in someone's name, that you don't know if they  
22 actually got the points or someone else did?

23 A. Yeah. In fact, there were a lot of these things  
24 that I didn't know whether or not they were paid with miles  
25 or points on either side. I had no way of determining

1 that, because, as I said, we never really had privy to  
2 statements.

3 The few instances where somebody tried to get us to  
4 pay something by statements, I cautioned them, and I said,  
5 no, we need the vendor invoice. We need to reimburse the  
6 vendor. I am not interested in paying somebody's credit  
7 card. And, you know, I had a couple of battles with that  
8 to try to get the rules in.

9 MR. HOLT: I have no other questions. All I'm  
10 going to try to do is make sure I extract the evidence  
11 from wherever you -- these are exhibits.

12 No other questions.

13 MS. PERRELL: I have nothing further on this  
14 witness, Your Honor.

15 THE SPECIAL MASTER: You may be excused. Call  
16 your next witness.

17 MS. PERRELL: Your Honor, if it's possible  
18 that we can take a quick break? I think we might be  
19 able to truncate some things.

20 THE SPECIAL MASTER: Take a five minute break.

21 MS. PERRELL: I'd like to move in Exhibit B-1,  
22 2, 3, which is a collective exhibit, and also  
23 Exhibit C.

24 MR. HOLT: We object to Exhibit C, Your Honor.  
25 This is a summary where we didn't even get to the

1 testimony at the bottom. We object to C. It has  
2 information that's not in evidence. We have no  
3 problem if they want to put in that part of it, but  
4 this down here is not in evidence. So we object to  
5 that exhibit coming in.

6 MS. PERRELL: I believe he testified as to the  
7 value and the benefit, but if not --

8 THE SPECIAL MASTER: He did testify somewhat  
9 as to the --

10 MR. HOLT: But he didn't give any number. I  
11 mean, that has numbers in it. I would have  
12 cross-examined if he had given a number. He didn't  
13 give a number. So that has information --

14 THE SPECIAL MASTER: I would admit it over  
15 your objection.

16 (A recess was taken at this time.)

17 MS. PERRELL: We have one, possibly two, but  
18 one more witness.

19 MR. HERPEL: Your Honor, I will be calling  
20 Mr. Fathi Yusuf as a witness.

21 (FATHI YUSUF,  
22 having been called as a witness, was duly sworn, was  
23 examined and testified as follows:)

24 DIRECT EXAMINATION

25 BY MR. HERPEL:

1 Q. Mr. Yusuf, would you state your full name for the  
2 record, please?

3 A. Fathi, F-a-t-h-i, second name is Yusuf,  
4 Y-u-s-u-f.

5 Q. Mr. Yusuf, did you ever have an agreement with  
6 Mohammad Hamed that all points earned from credit card  
7 purchases for business purposes would be shared equally?

8 A. No.

9 Q. Did you ever have an agreement that they would be  
10 treated as partnership property?

11 A. No.

12 Q. Did you and any of the Hameds ever sit down  
13 periodically to try to reconcile or equalize --

14 A. No.

15 Q. -- credit card points?

16 A. No.

17 Q. Mr. Yusuf, which vendors accept credit cards for  
18 payment?

19 A. Very, very few vendors. Very, very few, and some  
20 of them was accepting it, and now they no longer accept it.  
21 That's the policy. Not from us but the entire company  
22 policy. But the major one is three club stores, Costco,  
23 Sam's, and BJ. And these people commodity represent  
24 between 13 to 14 percent of our sales.

25 Q. And why is it important to make purchases of

1 store inventory by credit card from those vendors?

2 A. We can use otherwise, but we will lose the  
3 account with the suppliers.

4 Q. And why are those vendors important, those three  
5 that you identified?

6 A. Let me explain to you, please. They give us  
7 their product list weekly, and we have to fill whatever we  
8 needed to purchase. And unfortunate, there is no  
9 measurement and no weight on what we order; so no such  
10 calculation.

11 From experience, we order the best we can, the maximum  
12 we can to put on the trailer, because the trailer, it  
13 doesn't go by weight. It have a maximum weight 50, 55,000,  
14 and they have a standard queue 2790. I think it's 2790.  
15 Now, our instruction to each one of these suppliers, please  
16 ship my -- do not ship to me unless my container is  
17 absolutely full.

18 Now, these people, they take our order; they put it in  
19 the container. They have two hours. Tropical, they give  
20 us two hours to release the trailer full; otherwise, the  
21 driver will go back. So they say, well, you have room in  
22 your trailer. You need to add in -- I don't have much  
23 time. The driver is waiting. We say how heavy it is? He  
24 tell us 30,000 pound, 35,000 pound. We know we have 15,000  
25 pound more. So we -- and he tell us how many pallets.

1           Now, we figure out what commodity should we put to  
2 keep the situation acceptable weight-wise and fit it in  
3 inside. And we had to do it, and say, okay, that's enough.  
4 Then they know how much we put in the trailer. They charge  
5 our card.

6           If our card ever denied, we in trouble. We will  
7 absolutely lose that suppliers because we force them to  
8 restock the load. Their sales in the -- a lil over  
9 \$15 billion. So literally the customer give them hard  
10 time. So that's how we go.

11           Our product comes now the way we want it. Same price  
12 is 4,000 or 5,000 or 3,500. It's better to divide it. If  
13 you spending that \$3,500, it's much better to spend it in a  
14 \$60,000 invoice, not 18,000. So if the value is -- if your  
15 percentage became too high, right there you can't sell the  
16 product.

17           Q. Mr. Yusuf, let me ask you too, what is the value  
18 pack item?

19           A. Value pack is a magnet item to us, to our  
20 customer.

21           Q. Is it the same size?

22           A. When I say magnet, that's the one who bring  
23 customer from a long distance, because they bring it from a  
24 long distance -- I learn that from Cost.U.Less. He were  
25 bringing me the customer in St. Thomas from west of the

1 airport. But you see the customers now, he never buy no --  
2 hardly any customer buy more than two to three item value  
3 pack, and there's many reason why.

4 Q. Is a value pack the same size as ordinary  
5 inventory or different size?

6 A. No, not the same size. It's selling paper towel  
7 by 36 roll or 48 roll or 96 roll. Paper towel more or less  
8 the same.

9 Q. Which vendors offer value pack?

10 A. These three club stores, Sam's, BJ, and Costco.

11 Q. What would happen if you didn't have credit card  
12 availability to pay for value pack items from those three  
13 stores?

14 A. I have no choice but to send the money transfer,  
15 but never reach the same day in two hours. Then the driver  
16 will have to go back. And if it go back, as I say, they  
17 will kick me out. So it was really serving both people,  
18 both.

19 And even, you know, I don't want to elaborate on  
20 something else, but it's to their advantage, our advantage  
21 to use the credit card. And if we don't have the credit  
22 card, I say we can't get club back. This is the only three  
23 people carry the club pack. If we --

24 Q. The value pack?

25 A. Excuse me. Yeah. Call it club or value pack.

1           If I want, let's say Goya, if I go to Goya and say,  
2 listen, I need this value pack, he charge me more. By the  
3 case it's \$13. I want it six-pack or 12-pack, by the case,  
4 sometime I have 48 pieces, he will charge me 50 cents to 75  
5 cents or sometimes a dollar higher. But this is designed  
6 to the club bag people, not to individual. You had to be a  
7 club bag to get a good --

8           Q.    And without the value pack, what would happen to  
9 Plaza Extra?

10          A.    I have to close down.

11          Q.    Why?

12          A.    I tell you why. I tell you this is the magnet  
13 bringing the customer from a long distance.

14                My store have expense. I'm doing like \$50 million  
15 every year, and my expenses is about 30 percent. If I sell  
16 30 million, I close before the year finish because my  
17 expense is high. Employees, like bills, rent, everything  
18 is high. I had to get as much maximum as I can to survive.

19                After I make 35 or 40 percent gross, I end up going  
20 home with 5 percent or 4 percent. No more. All goes  
21 expenses, and that's the only way. But the thing is, is  
22 the value pack is the one bringing customer to the store.  
23 I don't like value pack, honestly, because it's taking a  
24 lot of space, but without it, I cannot survive. No  
25 customer will buy more than three.

1 Q. Let me ask you now turn to the Yusuf credit cards  
2 to pay estimated income taxes and gross receipts taxes.  
3 What is the benefit of using credit cards for that purpose?

4 A. It depends who you want to use it for. Let's say  
5 we want to use for the Internal Revenue Service. Sometime  
6 we have a quarterly report or a gross receipts. If it's a  
7 quarterly report, sometime I have to come up with \$400,000.  
8 I don't have \$400,000. But if we know this coming up  
9 April 15th, we prepare ourself two, three weeks ahead of  
10 time, our credit card is empty. You know, then we take it.

11 I have, by the way, three credit cards. One have 100,  
12 the second one is 80, and the third one is 79. I have a  
13 total three card. I don't have any other card, and I don't  
14 wish to have more, because I have enough for me. But  
15 without these card I can't survive.

16 Q. What would happen if you didn't have the credit  
17 card to pay the estimated tax or the quarterly payment of  
18 3 --

19 A. If I don't pay on time, I would be charged  
20 5 percent minimum.

21 Q. As a penalty?

22 A. If I'm late one day, Internal Revenue will charge  
23 me 5 percent. But I never late because I don't want to be  
24 hit with that 5 percent. I go and pay bill, I get stamp,  
25 then I have time, three to four weeks to pay my bill.

1 Q. Now, you heard Mr. Gaffney talk about various  
2 benefits of use of credit cards, and you discussed at least  
3 two of them right now. Is there anything that he didn't  
4 say and that you haven't already said about the benefit of  
5 credit card that you'd like to tell the Special Master?

6 A. The credit card is really the key for the  
7 businessman to have. And it's not expensive. The credit  
8 card goes from less than 1 percent charge to 7 percent. I  
9 don't think these club stores be in even 1 percent. It  
10 would be 75 percent.

11 Q. You mean paying the bank, the issuing bank?

12 A. Yeah. They honor it but they charging 4.75.  
13 Now, if he comes, a salesman, to a gas station, he going to  
14 charge them 5 percent. If he move to another business  
15 where it's a restaurant, he charge 7 percent. I have a  
16 \$50 million business. I can prove it. I am paying less  
17 than 2 percent. I'm paying about 1.7.

18 How you going -- the man says is worth 2 1/2 percent,  
19 from where? The credit card people only charge --  
20 supermarket is here, and I have the record how much we  
21 made.

22 And, by the way, Your Honor, the higher it is, the  
23 better for me, because the agreement with Mohammad Hamed is  
24 anybody could use his credit card, and they normally get  
25 the miles. Now, these people come up with the story. We

1 was a family. No doubt. These people is my family, but  
2 unfortunate, they turn to be my biggest enemy.

3 Okay, if you my enemy, why should I issue my -- use my  
4 credit card to give you benefit? You need to pay me. That  
5 my credit card. That's not the business credit card.

6 Q. Let me turn to a similar related subject. Are  
7 you able to quantify in percentage terms the value to the  
8 business of the benefit of using credit cards for each mile  
9 expended?

10 MR. HOLT: Just for the record, I am going to  
11 object again. This is expert testimony.

12 THE SPECIAL MASTER: He may answer. But it  
13 is.

14 BY MR. HERPEL:

15 Q. Are you able to quantify in percentage terms the  
16 value of the benefit to the business from each dollar of  
17 credit card --

18 A. No, I am not. I'm not qualified. But all I  
19 could tell you, I am not obligated to use my personal  
20 credit card to service Plaza Extra. If I have to pay for  
21 what I use, then it costing me money. Then I have to  
22 charge them, plus profit. You charge me 3 percent. I  
23 charge him 4 1/2.

24 Q. You mean if the points have to be equalized,  
25 then you will have to pay --

1           A.    It should never come in the picture, because I am  
2 not here to benefit my enemy free. I do it because I am  
3 obligated to do my job honest, whether we enemy or family.  
4 But if I have to pay for it, come on, boss, this is my  
5 private credit card. You have no right to use it or take  
6 advantage of it. And if it wasn't my credit card with a  
7 high limit, Plaza Extra would not be operating.

8           Q.    Let me turn to a different subject. You talked  
9 about your own credit line, and that was the credit line at  
10 the time in question, 2013 to 2015, on the credit cards?

11          A.    Yes.

12          Q.    The 100,000, 80, and 79?

13          A.    And 79, yes.

14          Q.    Did you and your sons collectively have more  
15 credit availability than the Hameds or less?

16          A.    Honestly, I have no idea. We never looked at  
17 that. None of us was looking at that.

18                Unfortunately, I want to comment on something that he  
19 say, we been blocking him. How I could be blocking him and  
20 you charge 6 million and 8 million?

21          Q.    Blocking him out you're saying?

22          A.    Yeah. That's what he say just now in the front  
23 of me. That is absolutely not true. And the credit card  
24 -- anyhow, the credit card I use it to travel. I never  
25 said --

1 Q. For business travel or --

2 A. Business travel. Sometime they use my card to  
3 travel.

4 Q. For business or personal?

5 A. For business. Even for -- for nonbusiness  
6 sometime they ask. Their father and mother used to go home  
7 every year, and they used to ask me, and I have it, they  
8 could use my card. That was nothing.

9 Card is not for sale. We never sold our card. If you  
10 can prove I sold one card for a penny, I'm willing -- I'll  
11 give you my store. I don't give -- I don't sell card. The  
12 miles I have, it was not sold. It was used for -- either  
13 given to an employee or given to a poor person, or the  
14 majority, the majority of it is being used by the whole  
15 partnership.

16 If you want to travel to go to Miami to a show and you  
17 have nothing -- most likely we dealing with somebody now,  
18 he providing the travel expense. But before him we used to  
19 come up with our expense, not our supplier. That's before  
20 five years.

21 Q. Now, Mr. Yusuf, you mentioned just now you gave  
22 it to employees, miles?

23 A. Yeah.

24 Q. And why would you do that?

25 A. Serving -- it cost me no money. I tell him,

1 look, you pay whatever American Airlines charge me, and I  
2 don't want nothing for the miles. This charge -- normally  
3 charge me 15, 20 dollars landing and take off. I don't  
4 give that away. I give it to them.

5 I have an employee -- let me tell you something,  
6 Attorney Holt. -- we were talking and bagging ice. I tell  
7 him how long -- You ever went to your country where your  
8 mother come from?

9 He say, No.

10 I say, What you mean? You is over 20 years of age.

11 He says, Even me and my brother, we don't know our  
12 family.

13 Where your mother come from?

14 He say, From Greece.

15 I say, Why you can't see your family?

16 He say, We don't have no money.

17 I told him, Tell your mother if she want to go to  
18 Greece and I will put the ticket, I will do it.

19 He come back the next day, and say, Boss, she say I  
20 will go and my older brother and my mother to Greece.

21 The guy is no longer working for me. He working for  
22 Limetree. His mother right now is working with Home Depot.  
23 I did not charge. Come on.

24 Now, if I have to pay for miles, if I know I'm  
25 responsible to pay miles, would I give my miles away?

1 Would I send three people to Athens? 'Cause it's never in  
2 mind to pay miles. This is the Hamed family, unfortunate,  
3 come up with this story. If they want to charge me, then  
4 pay me for using my card, 'cause you getting benefit.

5 By using my card, I keep the stores is operating with  
6 the same suppliers. Even the bank is here, you pay 125 to  
7 transfer, but it's no guarantee it will reach the same day.  
8 Sometimes it split and would not reach before two days and  
9 the driver is waiting. They have to have the money within  
10 two hours, or other solution, you have to put cash money in  
11 advance on account.

12 Q. Let me turn to something else, Mr. Yusuf. You  
13 said that if the -- if you were charged let's say 1 1/2  
14 cents per mile as part of the resolution of this, what  
15 would you expect --

16 A. I insisted markup for me. I had to charge at  
17 least 35 percent. Isn't the mile cost me to hire you to  
18 come and defend me? Come on.

19 Q. Now, I want to point out too -- and I'll just  
20 represent that the data that's in our interrogatory answers  
21 shows that for the East and West stores for the time and  
22 period in question, that the Yusufs accounted for about  
23 66 percent of credit card purchases and the Hameds  
24 33 percent.

25 Do you know why there was that difference?

1           A.     Because we have a lot -- a larger line of credit,  
2     and we are all -- me and my son, we are using local bank.  
3     If I want my card to be clear by tomorrow, before the bank  
4     close today, I make sure I clean up all my cards.

5           Q.     That's Banco Popular?

6           A.     Yes.   In the morning by 8 o'clock, my account is  
7     clear, zero.

8           Q.     Weren't the Hameds using Banco Popular?

9           A.     Most of them is their credit cards is overseas.

10          Q.     You mean mainland U.S.?

11          A.     I don't know where it is.   I don't know.   But  
12     what I don't think they did have the limit we have.

13          Q.     Did you ever direct the accounting staff at  
14     either -- any of the three stores to use Yusuf family  
15     credit cards rather than Hamed cards to make purchases or  
16     pay taxes?

17          A.     I answer your question.   I have authority, but I  
18     have never used it.   Never.   I never went to a girl and  
19     says -- I never say who should be and who don't be.

20          Q.     And that's either before the lawsuit --

21          A.     Before the lawsuit or after the lawsuit.   I have  
22     a duty to be honest in the business until we say bye-bye.  
23     Even though we don't like each other; we hate each other.  
24     I say that in front of them.   Unfortunate, that's how it  
25     turn.

1           Would I give you my credit to make more money? Not  
2 me. But if I'm forced, pay me. Now it's going to cost me  
3 money. Pay me -- refund me what I pay and my lawyer fee.

4           Q. Now, Mr. Yusuf, do you know why the accounting  
5 system at Plaza West and East allowed us to determine  
6 whether a Hamed family member or Yusuf family member made a  
7 credit card purchase but the Tutu accounting system does  
8 not? Do you know that?

9           A. I heard of it. Look, I give you an example --

10          Q. When you say you heard of it --

11          A. Whenever something I want to find out, the first  
12 thing they do, they crash my computer. The first thing  
13 they do, they crash my computer. Come on. They are the  
14 one who was running the show.

15          Q. Did you have any role in setting up -- when you  
16 say they are running the show, who is the they?

17          A. All of them.

18          Q. All of who?

19          A. Look, I work with these people in very good clean  
20 heart. I work with them very clean heart. No -- nothing  
21 in mind, no setup. I have nothing in mind. Unfortunate,  
22 now I find out these people, they was prepared from the day  
23 one to do what they doing now, and this is unfortunate.

24          Q. Let me go back to the subject. Are you in any  
25 way responsible for how the Tutu Park accounting system did

1 or did not allow determination of which person spent a  
2 credit card -- made a credit card purchase?

3 A. I tell you I never interfere with that. But all  
4 I tell you, sometime when I said something, the computer  
5 crash. The computer crash.

6 MR. HERPEL: I have nothing further.

7 CROSS-EXAMINATION

8 BY MR. HOLT:

9 Q. I just have one question. So you agree that the  
10 Yusufs charged 60 percent -- let me rephrase.

11 Of the 100 percent of the credit cards, 60 percent of  
12 the charges are Yusufs and 33 percent are Hameds?

13 A. Whatever it is. But it was not charged because  
14 they had --

15 MR. HERPEL: The data shows for the East and  
16 West stores. For the Tutu was undetermined.

17 MR. HOLT: Okay. I am just trying to -- you  
18 just asked a question. I am just trying to clarify.

19 No other questions.

20 THE SPECIAL MASTER: Thank you very much.

21 Any other witness?

22 MR. HERPEL: Joel, that was an average of the  
23 two stores.

24 MS. PERRELL: We don't have any other  
25 witnesses.

1           No other witnesses, Your Honor.

2           THE SPECIAL MASTER:       Question to the  
3 attorneys. Do we have any more claims to be heard or  
4 have they all settled?

5           MR. HOLT:           There's lots of claims to be heard.

6           MS. PERRELL:        I have to look.

7           MR. HOLT:           I have to ask Carl Hartman that  
8 question. He tells me when they're ready.

9           MS. PERRELL:        I'll look, Your Honor. I know  
10 that some of them we have resolved. So let me take  
11 another swipe at it and look. I know we had the  
12 findings of fact and this one to get ready for; so  
13 I'll double-check and let everybody know.

14           THE SPECIAL MASTER:       I'm ready to file final  
15 report and recommendations.

16           MS. PERRELL:        Let us see where we are.

17

18           (Time noted 1:13 p.m.)

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