

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

**HISHAM HAMED, on behalf of himself
and derivatively, on behalf of SIXTEEN
PLUS CORPORATION,**

Plaintiffs,

v.

**FATHI YUSUF, ISAM YOUSUF,
JAMIL YOUSUF, and
MANAL YOUSEF**

Defendants,

and

SIXTEEN PLUS CORPORATION,

a nominal defendant.

Case No.: 2016-SX-CV-650

**DERIVATIVE SHAREHOLDER
SUIT, ACTION FOR DAMAGES,
CICO RELIEF, EQUITABLE
RELIEF AND INJUNCTION**

JURY TRIAL DEMANDED

**REVISED FIRST SUPPLEMENTAL COMPLAINT
PER THE COURT'S ORDER OF MAY 9, 2024**

The Plaintiffs, by counsel, hereby allege as the basis of their FIRST SUPPLEMENTAL COMPLAINT against the Defendants as follows:

JURISDICTION AND PARTIES

1. This Court has jurisdiction pursuant to 4 V.I.C. §76 and 14 V.I.C. §607. On May 9, 2024, the Court (Ross, S.M) ordered plaintiff Hamed as follows with regard to the original complaint, filed October 31, 2016 and proposed amendments and supplemetations:

ORDERED that HH's July 26, 2017 motion to amend the FAC and HH's December 19, 2022 motion to amend the FAC are

GRANTED, however the proposed second amended complaints attached thereto **ARE NOT ACCEPTED**.

It is further:

ORDERED that HH's February 28, 2023 motion for leave to file a supplemental complaint is **GRANTED**, however the proposed second amended and supplemental complaint attached thereto **IS NOT ACCEPTED**. It is further:

ORDERED that **within thirty (30) days from the date of entry of this Order**. HH shall FILE

- i. A **NEW PROPOSED SECOND AMENDMENT COMPLAINT** to "eliminate[] two counts Count II (Conversion) and Count V (Civil Conspiracy) against each Defendant [and] correct[] the caption to correct the spelling of the name of the Jamil Yousef to Jamil Yousuf" and to add MY as a defendant, with the factual allegations added therein confined to events that occurred **BEFORE** the action was commenced, and
- ii. **A SEPARATE SUPPLEMENTAL COMPLAINT** with the factual allegations therein confined to events that occurred **AFTER** the action was commenced.

Separate redlines to the original complaint and the supplemental complaint will be filed separately.

2. Individual Plaintiff Hisham Hamed, ("Hamed") is still an adult resident of St. Croix and is now and at all times relevant to this Complaint has been an owner of stock in nominal defendant Sixteen Plus Corporation ("Sixteen Plus").
3. Defendant Fathi Yusuf is still an adult resident of St. Croix who was at all times relevant to this Complaint (and still is) a shareholder, officer and director of Sixteen Plus.
4. The Defendant Isam Yousuf is still an adult resident of St. Martin and has been at all times relative hereto.

5. The Defendant Jamil Yousef is an adult resident of St. Martin and has been at all times relative hereto.
6. Upon information and belief the Defendant Manal Yousef is still an adult resident of either Palestine (West Bank) or St. Martin.
7. The Individual Plaintiff supplements his shareholder's derivative action on behalf of Sixteen Plus Corporation ("Sixteen Plus"), a Virgin Islands corporation that was formed in February of 1997, which is joined as a nominal defendant, as the cause of action belongs to the corporation, but its Board of Directors is still such that the Board cannot be reasonably expected to be able to act to protect its interests to bring suit in the name of the corporation.
8. Individual Plaintiff Hamed was at all times relevant to this Supplemental Complaint (and still is) a shareholder of Sixteen Plus, as he was an initial shareholder when the corporation was formed and has continuously remained a shareholder during all times relevant.
9. The Plaintiff can bring the derivative claim on behalf of the corporation pursuant to Rule 23.1 of the Rules of Civil Procedure, which is applicable to this cause of action. He can file the Supplemental Complaint pursuant to the referenced order of the Court and Rule 15(d).
10. The Board of Directors of Sixteen Plus still consists of two directors, Fathi Yusuf, a named defendant, and Waleed Hamed. An original third director voluntarily withdrew from the Board before the acts complained of here when he sold all of his stock in the corporation to the Hameds and Yusufs.

11. Fathi Yusuf and Waleed Hamed and their families are still in intractable litigation in several other matters. Both have acknowledged this to be the case, and have filed papers in other proceedings before the Superior Court attesting to this. Moreover, the Superior Court (Willocks, J.) has entered an Order stating that the Hamed and Yusuf families could file a derivative action as to another jointly controlled corporation for the same reason. See Ex. A to the Revised 2nd Amended Complaint.
12. Thus, Plaintiff Hamed has not made a demand on the Board of Directors, as it would be futile to make a demand on them to bring this suit on behalf of Sixteen Plus. As was true in the same situation before Judge Willocks (regarding a similar 50/50 Hamed/Yusuf Corporation, Plessen Enterprises, in SX-13-CV-370) there would be no reasonable expectation that Fathi Yusuf would agree to have Sixteen Plus sue him for embezzlement, fraud and a violation of Section 605 of Title 14 of the Virgin Islands Code

NEW FACTS

13. On December 18, 2022, Hisham Hamed (“Hamed”) filed a *Motion to Amend his First Amended Complaint* (“FAC”) seeking to join Manal Yousef (“Manal”) as a defendant. Following a mutually agreed extension, on January 23, 2023,
14. Fathi Yusuf (“Yusuf”) filed his timely opposition.
15. On February 6, 2023, Hamed filed his *Reply to Fathi Yusuf’s Opposition to Hamed’s Motion to Amend His First Amended Complaint (to Join Manal Yousef as a Defendant)*.
16. On July 27, 2015, Fathi Yusuf filed ST-2015-CV-000344 (“344 action”) on St. Thomas—against “Sixteen Plus Corporation....Mohammad A. Hamed, Waleed M.

Hamed, Waheed M. Hamed, Mufeed M. Hamed, and Hisham M. Hamed”. He sought:

3. An order dissolving...Sixteen Plus and directing the windup of the corporation[]; [and]
4. An order appointing a receiver for...Sixteen Plus to sell the real estate holdings of both corporations. . .

17. That 344 action was the first of several “Diamond Keturah” cases filed by various parties—and asked the court to dissolve Sixteen Plus in an attempt to trigger the foreclosure of what Hamed alleges is a sham note and mortgage.

18. In response, on February 12, 2016, Sixteen Plus Corporation filed a declaratory judgment action against Manal Yousef, seeking to void the sham note and mortgage (from Sixteen Plus to Manal) on the Diamond Keturah land. It was alleged that the sole consideration for the purchase of the land came from Sixteen Plus itself, and that Manal was nothing more than a ‘straw-man’ in a tax avoidance scheme. SX-2016-CV-00065 (“65 action”).

19. Hisham Hamed, being shareholder of Sixteen Plus who was not involved during that time period--in the funds “transfers”, note, mortgage or purchase of the land--learned a great deal from those pleadings about: (1) the origination of the note and (2) mortgage, as well as (3) the conspiracy between Yusuf and his family members to try to take the Diamond Keturah land. He filed the original complaint here (“650 action”) on October 31, 2016.

20. On November 11, 2016, Yusuf’s St. Thomas (344) action was dismissed on a joint application of the parties.

21. Just over a month later, Hamed's First *Amended* Complaint ("FAC") was filed, on December 23, 2016.

22. Thus, all factual allegations in this action technically ended with the filing of the original complaint, on October 31, 2016.

23. Thereafter, the alleged conspirators, along with Manal Yusuf did many post-complaint acts in furtherance of the CICO conspiracy, as follows.

24. Manal Yousef filed a knowingly false USVI action in 2017 and continues to press it.

25. Having contested USVI jurisdiction in her answer, as a matter of both fact and law, on September 31, 2017, Manal Yousef instead filed a foreclosure action against Sixteen Plus on St. Croix. SX-2017-CV-00342 ("342 action") asserting the direct opposite. In it she made the following statements relevant to this action:

i. At paragraph 6, she falsely stated that \$4,500,000.00 was given by her to Sixteen Plus.

ii. At paragraph 9, she falsely stated that "[t]he defendant Sixteen Plus made three (3) payments of interest only to her in the amounts of \$360,000.00 each in 1998, 1999, and 2000.

26. At paragraph 1, Hamed also learned that Manal was, and had been at times relevant to this amendment, a resident of Ramallah, West Bank, Palestine, not St. Martin.

27. It is also clear that the bringing and continued prosecution of Manal's 342 action are substantial parts of the conspiracy and—Hamed alleges based on substantial post-complaint discovery testimony that she has no bank accounts or significant funds.

28. Upon information and belief she is being financed and directed by the other defendants herein. As one example, Manal's counsel has stated in filed documents

that she has given him no funds. Yet costs, filing fees and the like have been paid not only in this case, but also in the two parallel foreclosure cases (65 and 342) where the other defendants (Isam and Jamil) are not parties.

29. Manal also gave many and significant false discovery responses UNDER OATH in furtherance of the conspiracy. Manal's many false discovery responses fall into two groups: (1) untruths, and (2) calculated evasions. The following are just some examples::

1. In a new act in furtherance of the conspiracy, she continues to allege (and the defendants very much rely on the fact) that she has received that million dollars in interest, but recently has begun to refuse to provide the basics that would allow that income and resultant assets to be investigated:
 - i. She has refused her address, which prevents Hamed from investigating ownership status, value and credit basics. See Exhibit 1 to Hamed's original Motion to Amend (Atty. Hymes: "You indicated to me that you required a description of the present address for my client so that you may serve her with process. I will not provide you with that address. If you need to serve her with process, it may be done through me.")
 - ii. Although the "gifts" she presently alleges she received from her father are the central factual issue here (also relied on heavily by the other conspirators) she has refused to provide any banking information directly related to the alleged interest she received. See Exhibit 1 to Hamed's original Motion to Amend, Letter to Atty Hartmann, dated November 7, 2022 ("Access to the financial records of Island Appliances and my clients will not be granted. **Your clients have denied making any payments of interest. Therefore, they have no reason to look in bank accounts for those funds.**") (Emphasis added.)¹

¹ It is completely baffling as to why, when Manal concedes that Hamed contests the issue of any such interest payments, she would deny the existence of and access to her bank records for that period.) In the absence of *any* supporting documents or tax records about a million dollars in cash (from either Isam or Manal) regarding interest payments—as she alleges only recently—it would seek contemporaneous bank records would be of highest importance. Her refusal in November 2022 is another current act in furtherance as well.

- iii. She has, recently, newly asserted a preposterous story to explain when she has no documents or proof of receiving a million dollars in untaxed income—and at the same time stated she has no bank or other accounts of any type.
30. Manal has also engaged in dilatory acts to prevent or slow down the discovery of her agent's bank accounts on St. Martin. This has the possible effect that between the time of the original discovery and now, those critical documents have been destroyed by third persons or entities.
31. She and the other defendants represented by Attorney Hymes have refused to make payment to Attorney Hymes.
32. She has not contacted Attorney Hymes or the Court as necessary.
33. Her agent for this litigation, Jamil Yousuf, and the other defendants represented by Attorney Hymes have refused to make some or all payment to Attorney Hymes.
34. She has refused to direct her agent Isam Yousuf, to turn over financial records on St. Martin as require by the Rules applicable to discovery and Requests for the Production of Documents—despite requests for her to do so.

COUNT I - CICO

35. Plaintiffs repeat and reallege all preceding paragraphs, which are incorporated herein by reference.
36. Section 605 of Title 14 of the Virgin Islands Code provides in part as follows:
- a. It is unlawful for any person employed by, or associated with, any enterprise, as that term is defined herein, to conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of criminal activity.
 - b. It is unlawful for any person, through a pattern of criminal activity, to acquire or maintain, directly or indirectly, any interest in, or control of, any enterprise or real property.

- c. It is unlawful for any person who has received any proceeds derived, directly or indirectly, from a pattern of criminal activity in which he participated as a principal, to use or invest, directly or indirectly, any part of the proceeds thereof, or any proceeds derived from the investment or use of any of those proceeds, in the acquisition of any title to, or any right, interest, or equity in, real property, or in the establishment or operation of any enterprise. . . .

37. Pursuant to 14 V.I.C. §607(a), any aggrieved party may institute civil proceedings against any persons to obtain relief from a violation of §605.

38. Sixteen Plus and its shareholders are such aggrieved parties under subsection in that:

- a. All Defendants are “person[s]” who through a pattern of criminal activity set forth in paragraphs 55 through 79, have “acquire[d]. . . directly or indirectly” an “interest in” the Land which is “real property” within the meaning of the statute.
- b. All Defendants are “person[s] who have received. . .proceeds derived, directly or indirectly, from a pattern of criminal activity in which [they] participated as. . .principal[s], to use or invest, directly or indirectly,. . .part of the proceeds thereof. . .in the acquisition of. . .[a] right, interest, or equity in” the Land, which is real property as set forth above.

39. Defendants acted in concert with one another in conspiring together in a pattern of activities to embezzle funds from and criminally defraud Sixteen Plus and its shareholders, which is expressly prohibited by 14 V.I.C. §834, causing damages to Sixteen Plus and its shareholders.

40. Defendants conspired together within the statutory limitations period to accomplish this goal by using unlawful means, including the use of knowingly false court filings in two different cases, tax and corporate filings, use of the mail and wires -- and by perjured testimony in violation of 14 V.I.C. §1541 and §1548.

41. This was criminal activity as defined by Title 14, Chapter 41 (giving false statements), Chapter 75 (obstruction of justice) and Chapter 77 (perjury) as well as various reporting, wire fraud and other crimes.
42. Such criminal conduct by the Defendants was undertaken in a years long pattern as set forth in Chapter 30 of Title 14 of the Virgin Islands Code, as the Defendants acted in concert as a group in association with one another in carrying out their goal of embezzling funds from and otherwise defrauding Sixteen Plus and its shareholders, with each of the named Defendants being a Principal in this enterprise within the statutory limitations period. Indeed, the criminal enterprise is still on-going.
43. These were not isolated acts, and were all done with the intent to embezzle from, defraud and otherwise injure Sixteen Plus, file tax and corporate information with the USVI government and give perjured documents and testimony to the Courts of the Virgin Islands.
44. Pursuant to 14 V.I.C. §605, it is unlawful for the Defendants to engage in such a criminal activity, as was done here.
45. Sixteen Plus has been injured by this criminal activity targeting the enterprise, already subjecting its real property to a sham mortgage in a present value in the millions of dollars and by loss of value from the time the Land could have been sold or could now be sold for peak value.
46. As such, Sixteen Plus is entitled to all civil remedies permitted an aggrieved party by 14 V.I.C. § 607, **including statutory treble damages**, for all damages caused by Defendants' unlawful criminal enterprise.

COUNT II (Yusuf Only) – BREACH OF FIDUCIARY DUTIES

47. Plaintiffs repeat and reallege all preceding paragraphs, which are incorporated herein by reference.

48. The acts alleged herein constitutes breach of fiduciary duty and self-dealing by Fathi Yusuf, an officer and director of the corporation, in that:

- a. Fathi Yusuf is and has been a director of Sixteen Plus,
- b. In that capacity, he negotiated the note and mortgage with Manal Yousef for the purpose of protecting the corporation's principal asset, the Land, for the benefit of Sixteen Plus.
- c. He later obtained a power of attorney from Manal Yousef giving himself control of and all rights in those assets, and denying them to the corporation.
- d. He did this without (1) offering the power of attorney or (2) disclosing it to Sixteen Plus,
- e. In violation of his duty as an officer and the negotiating official to do so,
- f. And has taken those benefits as his own

49. The corporation has been injured thereby.

50. The corporation will be further injured if equitable relief in the form of a disgorgement order and injunction are not entered to stop the corporation's officer from further acting against the interest of the corporation by use of information, documents and position so obtained.

COUNT III (Yusuf Only) – USURPING OF CORPORATE OPPORTUNITY

51. Plaintiffs repeat and reallege all preceding paragraphs, which are incorporated herein by reference.

52. The acts alleged herein in paragraph 96 constitutes usurping of a corporate opportunity by Fathi Yusuf, an officer of the corporation acting in that capacity in dealing with Manal Yousef.

53. The corporation has been injured thereby.

54. The corporation will be further injured if equitable relief in the form of a disgorgement order and injunction are not entered to stop the corporation's officer from further acting against the interest of the corporation by use of information, documents and position so obtained.

COUNT IV – TORT OF OUTRAGE

55. Plaintiffs repeat and reallege all preceding paragraphs, which are incorporated herein by reference.

56. The actions of the Defendants were intentional, wanton, extreme and outrageous.

57. The actions of the Defendants were culpable and not justifiable under the circumstances.

58. The actions of the Defendants caused injury to Sixteen Plus.

59. As such, the Defendants are liable for said injuries suffered by Sixteen Plus as a result of their intentional and unjustifiable misconduct.

WHEREFORE, the Plaintiffs seek:

- A. an award of compensatory damages of multiple loses of the sale of the Land at the highest and best sales value of \$30 million as stated by Fathi Yusuf, including treble damages where permitted by law,
- B. equitable orders with regard to the acts.

- C. consequential damages against the Defendants, jointly and severally, in an amount as determined by the trier of fact, along with any other relief the Court deems appropriate,
- D. Punitive damages if warranted by the facts and applicable law.
- E. Any and all other damages, fees, costs or other relief the Court may deem appropriate.

A TRIAL BY JURY IS DEMANDED AS TO ALL ISSUES

Dated: May 11, 2024

/s/ Carl J. Hartmann III
Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
2940 Brookwind Dr,
Holland, MI 49424
Email: carl@carlhartmann.com

Joel H. Holt, Esq. (Bar # 6)
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709
Fax: (340) 773-8677

Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
2940 Brookwind Dr,
Holland, MI 49424
Email: carl@carlhartmann.com

CERTIFICATION

Counsel hereby certifies that he has affixed his signature hereto pursuant to the requirements of 14 V.I.C. §607(d) and sent a true copy of the original complaint to the Attorney General as required by § 607(f). See Exhibit 1 thereto.

Dated: May 11, 2024

/s/ Carl J. Hartmann III
Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
2940 Brookwind Dr,
Holland, MI 49424
Email: carl@carlhartmann.com

CERTIFICATE OF SERVICE

I hereby certify that on this 11h day of May, 2024, I served a copy of the foregoing by the Court's E-File System and email, as agreed by the parties, on:

Charlotte Perrell
Stephen Herpel
Counsel for Defendant Fathi Yusuf

James Hymes
Counsel for Defendants
Manal Yousef
Jamil Yousuf
Isam Yousuf

Kevin Rames
Counsel for Nominal Defendant
Sixteen Plus Corporation

/s/ Carl J. Hartmann III