

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

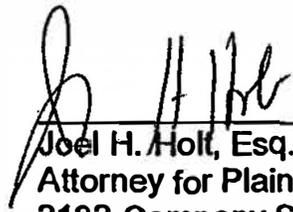
MOHAMMAD HAMED By His Authorized Agent WALEED HAMED)	
)	
Plaintiff,)	CIVIL NO. SX-12-CV-370
v.)	
)	
FATHI YUSUF AND UNITED CORPORATION)	ACTION FOR DAMAGES
)	INJUNCTIVE AND
)	DECLARATORY RELIEF
Defendant.)	JURY TRIAL DEMANDED
)	

**MOTION FOR A TEMPORARY RESTRAINING ORDER
AND/OR A PRELIMINARY INJUNCTION**

Comes now the plaintiff, Mohammad Hamed ("Hamed"), and respectfully requests this Court to enter a Temporary Restraining Order or a Preliminary Injunction against both defendants pursuant to Rule 65 of the Rules of Civil Procedure, which is applicable to this Court. The basis for the motion is set forth in the attached memorandum, which is incorporated herein by reference. For the reasons set forth therein, it is respectfully submitted that the relief sought be granted forthwith.

A copy of this motion and the accompanying pleadings is being served in the defendants by a process server. The plaintiff will provide the Court with notice of service as soon as it is served.

Dated: September 18, 2012



Joel H. Holt, Esq.
Attorney for Plaintiff
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St. Croix, VI 00820
(340) 773-8709
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**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MOHAMMAD HAMED By His Authorized Agent WALEED HAMED)

Plaintiff,)

v.)

FATHI YUSUF AND UNITED CORPORATION)

Defendant.)

CIVIL NO. SX-12-CV- 370

**ACTION FOR DAMAGES
INJUNCTIVE AND
DECLARATORY RELIEF
JURY TRIAL DEMANDED**

**MEMORANDUM IN SUPPORT OF MOTION FOR A TEMPORARY RESTRAINING
ORDER AND/OR A PRELIMINARY INJUNCTION**

Comes now the plaintiff, Mohammed Hamed ("Hamed"), and respectfully requests that this Court enter a temporary restraining order pursuant to Rule 65(b), or a preliminary injunction, pursuant to Rule 65(a).¹ The plaintiff will first review the applicable facts and then will apply the applicable law to these facts so that this Court can understand why the plaintiff is entitled to Rule 65 relief at this time.

I. Factual Background

The facts giving rise to this motion are all verified in the attached affidavits of Mohammad Hamed (Exhibit 1) and Waleed Hamed (Exhibit 2). These affidavits explain the creation of the partnership in dispute in this case as well as the factual issues leading to the need for injunctive protection under Rule 65, as follows:

1. Mohammad Hamed, entered into a partnership with Fathi Yusuf in the 1980's to operate a supermarket known as Plaza Extra, located in the United Shopping Center located on the east end of St. Croix.

¹ The only difference between issuing a TRO and a preliminary injunction is that a TRO can be issued without notice to the opposing party. In this case, the defendants are being served with copies of the TRO/preliminary injunction pleadings immediately, so this matter should be able to just proceed as a preliminary injunction.

2. The partnership has since expanded to two other locations in the Virgin Islands, operating the Plaza Extra supermarket on the west end of St. Croix at Estate Plessen (Grove Place) and the Plaza Extra supermarket on St. Thomas located at the Tutu Park Mall.
3. The partnership between Hamed and Yusuf currently operates the same three Plaza supermarket locations, currently employing in excess of 600 employees in the three stores.
4. Since its formation, the three Plaza Extra supermarkets have been managed jointly by Mohammad Hamed and Fathi Yusuf, operating as a partnership with separate accounting records and separate bank accounts for each of the three stores. These separate bank accounts for each store are in the name of United Corporation (United).
5. The bank accounts for the three Plaza Extra supermarkets have always been accessible equally to Mohammad Hamed and Fathi Yusuf, with the parties ultimately agreeing in 2010 that one family member from each of the Hamed and Yusuf families will sign each check written on the bank accounts for these three Plaza Extra supermarkets.
6. United also owns a shopping center. The bank accounts for United's shopping center operations, which are unrelated to the three Plaza Extra supermarkets, are maintained separately by Fathi Yusuf and United. Mohammad Hamed does not have access to these separate bank accounts used by United for its shopping center (and other businesses) unrelated to the three Plaza Extra supermarkets.
7. At all times relative hereto, the Hamed and Yusuf partnership profits from the Plaza Extra stores have always been held in banking and brokerage accounts completely separate from the profits of United's other unrelated businesses, even though the banking and brokerage accounts holding the profits from the Hamed and Yusuf partnership are in United's name as well.
8. At all times relative hereto, Mohammad Hamed and Fathi Yusuf have equally shared the profits distributed from the three Plaza supermarkets.
9. Mohammad Hamed and Fathi Yusuf have also maintained records of any withdrawals from the partnership account to each of them (and their respective family members), to make sure there would always be an equal (50/50) amount of these withdrawals for each partner's family members.
10. Mohammad Hamed has authorized his son, Waleed Hamed a/k/a Wally Hamed to act on his behalf regarding the partnership with Fathi Yusuf.

11. Fathi Yusuf has repeatedly confirmed the existence of this partnership between himself and Mohammed Hamed. See deposition excerpts in Exhibit A attached to Wally Hamed's affidavit (Exhibit 2).
12. On February 10, 2012, Fathi Yusuf's attorney, Nizar DeWood ("DeWood"), informed Wally Hamed that Fathi Yusuf wanted to dissolve the partnership, which he followed up with in a subsequent letter, announcing that Mr. Yusuf was ready to proceed with dissolving the partnership, describing the partnership assets to be divided as follows See Group Exhibit B attached to Wally Hamed's affidavit (Exhibit 2):

As it stands, the partnership has three major assets: Plaza Extra - West (Grove Place, including the real property), Plaza Extra - East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas).

The letter went on to note that the dissolution would result in each of them retaining different stores in the partnership dissolution.

13. DeWood then sent a proposed partnership dissolution agreement on behalf of Fathi Yusuf on March 13, 2012, to Hamed, with a proposal to dissolve the partnership. That document then went on to state in part as follows See Exhibit C attached to Wally Hamed's affidavit (Exhibit 2):

WHEREAS, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

WHEREAS, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

WHEREAS, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership;

WHEREAS, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

That document then described the partnership assets as follows:

Section 1.1: Assets of the Partnership

1. PLAZA EXTRA EAST- Estate Sion Farm. St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA - Tutu Park. St. Thomas

14. To date no agreement has been reached regarding the division of these partnership assets.
15. As these discussions progressed, Fathi Yusuf has engaged in and continues to engage in numerous acts in breach of his fiduciary obligations as a partner in his partnership with Hamed, all of which are designed to undermine the partnership's operations, jeopardizing their continued success and existence. These acts include but are not limited to the following acts:
 - a) Threatening to terminate the Hamed family employees in the three Plaza Extra stores;
 - b) Attempting to discredit the operations of these three stores by making defamatory statements about Hamed and his family members to third parties, including suppliers for the three stores, which are completely untrue;
 - c) Attempting to unilaterally change how the stores have operated by threatening to impose new and unreasonable restrictions on the operations of these three stores, all of which are aimed at undermining Hamed's partnership interest in the three stores.
 - d) Threatening to close down the Plaza Extra Supermarkets;
 - e) Threatening the Hamed family members working in the Plaza Extra supermarkets with physical harm, trying to intimidate them into leaving the stores;
 - f) Unilaterally canceling orders placed with vendors and not ordering new inventory for the three Plaza Extra supermarkets;
 - g) Giving false information to third parties, including suppliers of the three Plaza Extra Supermarkets, regarding its future operations, jeopardizing the goodwill of the three Plaza Extra supermarkets; and
 - h) Spending funds from the bank accounts of the three Plaza Extra supermarkets to support his other personal business interests unrelated to the three Plaza Extra supermarkets.
16. Finally, on or about August 20, 2012, Fathi Yusuf indicated he wanted to withdraw \$2.7 million from the partnership, which Mohammad Hamed refused to agree to. See Exhibit D attached to Wally Hamed's affidavit (Exhibit 2).
17. Thereafter, Yusuf unilaterally and wrongfully converted \$2.7 million from the Plaza Extra supermarket accounts used to operate the partnership's three stores, placing the funds in a separate United bank account controlled only by him. See Exhibit D attached to Wally Hamed's affidavit (Exhibit 2).
18. Said conversion essentially looted the funds used to operate the three Plaza Extra supermarkets, which was a willful and wanton breach of the partnership agreement between Mr. Hamed and Mr. Yusuf.
19. Despite repeated demands, Fathi Yusuf has not returned these funds to the Plaza Extra bank accounts from which they were withdrawn.

20. If the partnership's operations are not secured immediately, the continued operation of the three Plaza Extra stores will be in jeopardy, as well as the continued employment of its 600 plus employees, resulting in irreparable harm to these partnership assets. Indeed, Plaza Extra is in serious jeopardy of losing customers to other stores, losing employees due to moral problems, losing suppliers, and otherwise losing its goodwill, which it has built up over past 25 years.
21. The Hamed family has operated this partnership for over 25 years and wants to continue these businesses into the future for its current family members.
22. Yusuf has extensive investments overseas, so that he could easily transfer these funds improperly removed by him to someplace outside the jurisdiction of this Court if the relief sought is not granted.

With these facts in mind, it is now appropriate to address the Rule 65 standard under which relief is being sought in this motion.

II. The Rule 65 Standard

As recently noted by the V.I. Supreme Court in *Petrus v. Queen Charlotte Corp.*, S. Ct. Civ. 2011-0083 at *7 (Sup. Ct. 2012):

Before the Superior Court may grant a motion for a preliminary injunction, it must consider:

(1) whether the movant has shown a reasonable probability of success on the merits; (2) whether the movant will be irreparably injured by denial of the relief; (3) whether granting preliminary relief will result in even greater harm to the nonmoving party; and (4) whether granting the preliminary relief will be in the public interest.

With this standard in mind, the plaintiff will now explain why entry of the Rule 65 relief is warranted as to the following two matters based on these four criteria:

- 1) Injunctive Relief enjoining the defendants from interfering with Hamed's partnership rights in his partnership with Yusuf in operating of the three Plaza Extra supermarkets located on St. Croix and St. Thomas;
- 2) Injunctive Relief enjoining Yusuf from withdrawing any funds from any partnership bank accounts or brokerage accounts without the consent of Hamed and directing both defendants to immediately return the \$2.7 million improperly withdrawn from the bank accounts of the three Plaza supermarket accounts by Yusuf.

III. The Plaintiff Is Entitled to Rule 65 Relief

For the sake of clarity, the plaintiff will address the facts in the four areas listed in *Petrus, supra*. Based on the foregoing analysis, it is respectfully submitted that the relief sought should be granted.

A. The plaintiff has a reasonable probability of success on the merits.

It is undisputed that there is a partnership between the plaintiff and Fathi Yusuf regarding the operation of the three Plaza Extra supermarkets in question. Indeed, Yusuf has repeatedly recognized the existence of this partnership, both in his statements under oath as well in the various statements made by his counsel in attempting to dissolve the partnership. Likewise, Hamed and Yusuf have shared the profits distributed from these three Plaza Extra supermarkets since the mid-1980's.

Regarding the formation of a partnership, 26 V.I.C. § 22 provides in part as follows:

§ 22. Formation of partnership

- (a) Except as otherwise provided in subsection (b) of this section, the association of two or more persons to carry on as co-owners of a business for profit forms a partnership, whether or not the persons intend to form a partnership.
- ...
- (c) In determining whether a partnership is formed, the following rules apply:
 - (3) A person who receives a share of the profits of a business is presumed to be a partner in the business ...

Based in the applicable law and the undisputed facts before this Court, It is respectfully submitted that Hamed has demonstrated that a partnership exists, so he will prevail on this issue.

Additionally, regarding the first request for injunctive relief in this motion -- enjoining the defendants from interfering with Hamed's partnership rights in operating of the three Plaza Extra supermarkets -- 26 V.I.C. § 71 provides in part as follows:

§ 71. Partner's rights and duties

...

(f) Each partner has equal rights in the management and conduct of the partnership business. (Emphasis added).

Thus, based on this statutory section, Hamed will certainly prevail on this point as well, satisfying the requirement of showing he has a reasonable probability of success on the merits regarding his right to fully participate in the management and conduct of the three Plaza Extra supermarkets.

Regarding the second request for injunctive relief in this motion -- enjoining Yusuf from withdrawing any funds from any partnership bank/brokerage accounts and directing the immediate return the \$2.7 million improperly withdrawn from the Plaza Extra supermarket accounts by Yusuf-- 26 V.I.C. § 71 provides further in part as follows:

§ 71. Partner's rights and duties

...

(a) Each partner is entitled to an equal share of the partnership profits . . . (Emphasis added).

Thus, based on this statutory section, Hamed will prevail on this point as well at trial, requiring all partnership profits to be distributed on a 50/50 basis, satisfying the requirement of showing he has a reasonable probability of success on the merits regarding this claim.

As such, the plaintiff has satisfied this important prong in seeking Rule 65 relief, warranting the entry of an injunction (1) to protect his partnership rights in the participating in the daily operations of the three Plaza Extra supermarkets and (2) to

enjoin the defendants from improperly removing funds from the partnership bank/brokerage accounts.

B. The plaintiff will be irreparably injured by denial of the relief.

The record in this case also demonstrates that the plaintiff will be irreparably harmed if the requested Rule 65 relief is not granted.

First, the record demonstrates that Yusuf has already engaged in numerous acts to try to interfere with Hamed's statutory right to participate in the operation of the three Plaza Extra stores, jeopardizing the success of these three Plaza Extra stores and threatening their very existence. See Exhibit 2 at #18-#19.

Second, Yusuf has already unilaterally removed \$2.7 million from the three Plaza Extra supermarket accounts. See Exhibit 2 at #19-#20. As noted by Wally Hamed's affidavit (See Exhibit 2 at #21 and #22):

21. If the partnership's operations are not secured immediately, the continued operation of the three Plaza stores will be in jeopardy, as well as the continued employment of its 600 plus employees, resulting in irreparable harm to these partnership assets.

22. Indeed, Plaza is in serious jeopardy of losing customers to other stores, destroying its good will built up over the years. (Emphasis added).

As Hamed further noted (See Exhibit 2 at #23):

23. The Hamed family has operated this partnership for over 25 years and wants to continue these businesses into the future for its current family members.

Thus, the threat to the continued operation of the three Plaza Extra supermarkets warrants a finding of irreparable harm in support of the request for injunctive relief.

As noted in *Anderson v. Davila*, 125 F.3d 148 (3rd Cir. 1997):

To show irreparable harm, the party seeking injunctive relief must at least demonstrate "that there exists some cognizable danger of recurrent violation" of his legal rights. *Id.* at 164.

In this case, Yusuf's repeated violations of Hamed's statutory rights under Title 26 of the V.I. Code, which erupted when the partnership dissolution negotiations began, warrant a finding of irreparable harm under the *Anderson* standard. Indeed, this conduct is not only going on at the current time, but it has become even more serious as time passes.

Likewise, the threatened harm to the goodwill and loss of customers of Plaza Extra also warrants a finding of irreparable harm. As noted in *Multi-Channel TV Cable Company v. Charlottesville Quality Cable Operating Company*, 22 F.3d 546 (4th Cir. 1994):

When the failure to grant preliminary relief creates the possibility of permanent loss of customers to a competitor or the loss of goodwill, the irreparable injury prong is satisfied. *Id.* at 552.

Likewise, the fact that the Hamed family has operated these three supermarkets for over 25 years along with the fact that they want to keep these successful stores in the family business in the future for new family members also warrants a finding of irreparable harm. As the court held in *Semmes Motors, Inc. v. Ford Motor Company*, 429 F.2d 1197 (U.S.C.A. 1970):

But the right to continue a business in which William Semmes had engaged for twenty years and into which his son had recently entered is not measurable entirely in monetary terms; the Semmes want to sell automobiles, not to live on the income from a damages award.

Indeed, courts have found irreparable harm in numerous other cases where the facts are similar to those in this case. See, e.g., *Bryne v. Calastro*, 205 Fed. Appx. 10, 16 (3rd Cir. 2006)(allegations of financial misconduct constitute irreparable harm); *Kendall v. Russell*, 2008 WL 219762 at *13 (D.V.I. 2008) (harm to reputation constitutes irreparable harm).

Finally, the Third Circuit has repeatedly held irreparable harm may be found where there is a request for injunctive relief to freeze assets if it appears those assets may be removed if such relief is not granted. *See, e.g., Elliott v. Kiesewetter*, 98 F. 3d 47, 58 (3rd Cir. 1996); *Hoxworth v. Blinder, Robinson & Co., Inc.*, 903 F.2d 186, 205 (3rd Cir. 1990). In this regard, Yusuf has extensive investments overseas, so that he could easily remove these significant assets beyond the jurisdiction of this Court if the relief sought is not granted. See Exhibit 2 at #23.

In summary, the plaintiff has certainly provided sufficient facts for this Court to find that there will be irreparable harm unless the two specific requests for Rule 65 relief are not granted.

C. The granting preliminary relief will not result in an even greater harm to the nonmoving party.

There is no harm to the defendants in granting the relief sought for several reasons. First, the defendants are not being asked to do anything other than honor the partnership obligations that have existed for over 25 years, preserving the status quo until this Court can sort out the claims being asserted by the plaintiff. Second, the entry of the relief sought does not deprive the defendants of any of his respective partnership rights pending the resolution of this case. Thus, this Rule 65 factor weighs in favor of granting the relief sought.

D. Granting the preliminary relief will be in the public interest.

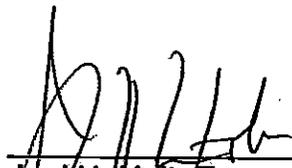
There is no doubt that the continued operation of these three large supermarkets servicing the Virgin Islands, with the continued employment of over 600 people, is in the public interest. Thus, this prong has also been met, warranting the entry of injunctive relief as requested.

IV. Conclusion

For the reasons set forth herein, it is respectfully submitted that the plaintiff has met the required burden of Rule 65, so that a temporary restraining order or preliminary injunction should be issued as to the following matters:

- 1) Injunctive Relief enjoining the defendants from interfering with Hamed's partnership rights in his partnership with Yusuf in operating of the three Plaza Extra supermarkets located on St. Croix and St. Thomas;
- 2) Injunctive Relief enjoining Yusuf from withdrawing any funds from any partnership bank accounts or brokerage accounts without the consent of Hamed and directing both defendants to immediately return the \$2.7 million improperly withdrawn from the bank accounts of the three Plaza Extra supermarket accounts by Yusuf.

Dated: September 18, 2012



Joel H. Holt, Esq.
Attorney for Plaintiff
2132 Company Street
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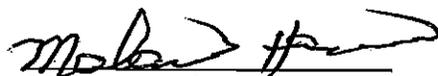
ACTION FOR DAMAGES
INJUNCTIVE AND
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JURY TRIAL DEMANDED

AFFIDAVIT OF MOHAMMAD HAMED

Mohammed Hamed, duly sworn, hereby avers as follows:

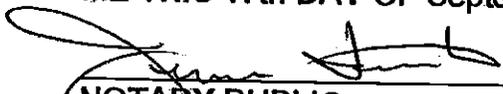
1. I am an adult resident of St. Croix and am personally knowledgeable about each fact set forth in this affidavit.
2. In the 1980's, I entered into a partnership with Fahti Yusuf in the 1980's to operate a supermarket known as Plaza Extra, located in the United Shopping Center located on the east end of St. Croix. The partnership has since expanded to tow other locations in the Virgin Islands, operating the Plaza Extra supermarket on the west end of St. Croix at Estate Plessen (Grove Place) and the Plaza Extra supermarket on St. Thomas located at the Tutu Park Mall.
3. Since the formation of this partnership, I have always shared equally with Fathi Yusuf in the 50/50 distribution of profits by the partnership.
4. I have given my son, Waleed Hamed, a power of attorney to act on my behalf in all aspects of the Plaza partnership business I have with Fathi Yusuf.
5. I have reviewed the affidavit signed by my son, Waleed Hamed, in support of the request for a temporary restraining order filed in this case. All of the statements contained in his affidavit are true and correct to the best of my knowledge.

Dated: September 17 , 2012


Mohammad Hamed



SWORN AND SUBSCRIBED TO BEFORE
ME THIS 17th DAY OF September, 2012



NOTARY PUBLIC

NOTARY PUBLIC
JERRI FARRANTE
Commission Exp: August 26, 2015
NP 078-11

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

**MOHAMMAD HAMED By His Authorized
Agent WALEED HAMED**

Plaintiff,

v.

FATHI YUSUF AND UNITED CORPORATION

Defendant.

CIVIL NO. SX-12-CV-370

**ACTION FOR DAMAGES
INJUNCTIVE AND
DECLARATORY RELIEF
JURY TRIAL DEMANDED**

AFFIDAVIT OF WALEED HAMED A/K/A WALLY HAMED

Waleed Hamed, a/k/a Wally Hamed, duly sworn, hereby avers as follows:

1. I am an adult resident of St. Croix and am personally knowledgeable about each fact set forth in this affidavit.
2. I am also known by most people as Wally Hamed.
3. My father, Mohammad Hamed, entered into a partnership with Fathi Yusuf in the 1980's to operate a supermarket known as Plaza Extra, located in the United Shopping Center located on the east end of St. Croix.
4. The partnership has since expanded to two other locations in the Virgin Islands, operating the Plaza Extra supermarket on the west end of St. Croix at Estate Plessen (Grove Place) and the Plaza Extra supermarket on St. Thomas located at the Tutu Park Mall.
5. My father has given me a power of attorney to act on his behalf in all aspects of the Plaza partnership business he has with Fathi Yusuf.
6. The partnership between Hamed and Yusuf currently operates the same three Plaza supermarket locations, currently employing in excess of 600 employees in the three stores.
7. Since its formation, the three Plaza Extra supermarkets have been managed jointly by my father with Fathi Yusuf, operating as a partnership with separate accounting records and separate bank accounts for each of the three stores, even though the partnership utilized the corporate entity of United Corporation ("United") for the reporting of tax obligations.

<small>Burroughs No. 5208</small>	EXHIBIT 2
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Affidavit of Waleed Hamed
Page 2

8. United owns additional assets other than the three Plaza supermarkets that my father does not have an interest in.
9. The bank accounts for the three Plaza Extra supermarkets, placed in the name of United, have always been accessible equally to my father and Fathi Yusuf, with the parties agreeing in 2010 that one family member from each of the Hamed and Yusuf families will sign each check written on these bank accounts. The current bank accounts for each of the three Plaza stores are:

St. Thomas Plaza Extra Store:

Operating Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Payroll Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Telecheck Acct:	04xxxxxxxx	Bank of Nova Scotia (BNS)
Credit Card Acct:	1xxxxxxx	Banco Popular

St. Croix Plaza Extra – WEST

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
TeleCheck Acct:	05xxxxxxxxxx	Bank of Nova Scotia (BNS)

St. Croix Plaza Extra – EAST

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
Telecheck Acct:	58xxxxxxxxxx	Bank of Nova Scotia (BNS)

10. The accounts for United's shopping center operations and business operations that are unrelated to the three Plaza Extra supermarket stores are maintained separately by Fathi Yusuf and United. My father does not have access to these separate bank accounts used by United for its shopping center and other businesses unrelated to the three Plaza Extra supermarkets.
11. At all times relative hereto, the Hamed and Yusuf partnership profits from the Plaza Extra stores have always been held in banking and brokerage accounts completely separate from the profits of United's other unrelated businesses, even though the banking and brokerage accounts holding the profits from the Hamed and Yusuf partnership are in United's name as well. The current brokerage accounts holding these profits, well in excess of several million dollars, are:

Popular Securities

PSx-xxxx22

PSx-xxxx63

PSx-xxxx60
PSx-xxxx79
PSx-xxxx01
PSx-xxxx10
PSx-xxxx28
PSx-xxxx36

Merrill Lynch
14X-XXXXX

12. At all times relative hereto, my father and Fathi Yusuf have equally shared the profits distributed from the three Plaza supermarkets.
13. In this regard, my father and Fathi Yusuf have also maintained records of all withdrawals from the partnership account to each of them (and their respective family members), to make sure there would always be an equal (50/50) amount of these withdrawals for each partner's family members.
14. Fathi Yusuf has repeatedly confirmed the existence of this partnership between himself and my father, including statements made under oath. See Exhibit A.
15. On February 10, 2012, Fathi Yusuf's attorney, Nizar DeWood ("DeWood"), informed me, as the agent for my father, that Fathi Yusuf wanted to dissolve the partnership, which he again mentioned in a follow up letter. See Group Exhibit B The letter stated that Mr. Yusuf was ready to proceed with dissolving the partnership, describing the partnership assets to be divided as follows:

As it stands, the partnership has three major assets: Plaza Extra - West (Grove Place, including the real property), Plaza Extra - East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas).

The letter then discussed each partner getting their own store from the partnership.

16. DeWood then sent a proposed partnership dissolution agreement on behalf of Fathi Yusuf on March 13, 2012, to me, regarding Yusuf's request to dissolve the partnership. That document (See Exhibit C) then went on to state in part as follows:

WHEREAS, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

WHEREAS, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

WHEREAS, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership;

WHEREAS, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

That document then described the partnership assets as follows:

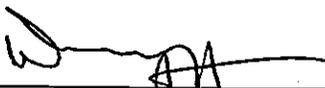
Section 1.1: Assets of the Partnership

1. PLAZA EXTRA EAST- Estate Sion Farm. St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA - Tutu Park. St. Thomas

17. All interested parties subsequently met on numerous occasions to try to address the division of the partnership assets, including the three Plaza Extra Stores and the partnership profits held in the various bank and brokerage accounts. However, to date no agreement has been reached regarding the division of these partnership assets.
18. As these discussions progressed, Fathi Yusuf began to engage in, and continues to engage in, numerous acts in breach of his obligations as a partner in his partnership with Hamed. These acts are clearly designed to undermine the partnership's operations, jeopardizing their continued success and existence. These acts include but are not limited to the following acts:
 - a) Threatening to terminate the Hamed family employees in the three Plaza Extra stores;
 - b) Attempting to discredit the operations of these three stores by making defamatory statements about Hamed and his family members to third parties, including suppliers for the three stores, which are completely untrue;
 - c) Attempting to unilaterally change how the stores have operated by threatening to impose new and unreasonable restrictions on the operations of these three stores, all of which are aimed at undermining Hamed's partnership interest in the three stores.
 - d) Threatening to close down the Plaza Supermarkets;
 - e) Threatening the Hamed family members working in the Plaza supermarkets with physical harm, trying to intimidate them into leaving the stores;
 - f) Unilaterally canceling orders placed with vendors and not ordering new inventory for the three Plaza supermarkets;

- g) Giving false information to third parties, including suppliers of the three Plaza Supermarkets, regarding its future operations, jeopardizing the good will of the Three Plaza supermarkets; and
 - h) Spending funds from the bank accounts of the three Plaza supermarkets to support his other personal business interests unrelated to the three Plaza supermarkets.
19. Finally, on or about August 20, 2012, Fathi Yusuf indicated he wanted to withdraw \$2.7 million from the partnership, which my father (through me) refused to agree to. See Exhibit D. Thereafter, Yusuf unilaterally and wrongfully converted \$2.7 million from the Plaza Extra supermarket accounts used to operate the partnership's three stores, placing the funds in a separate United account controlled only by him. Said conversion was a willful and wanton breach of the partnership agreement between my father and Mr. Yusuf. See Exhibit E.
20. Despite repeated demands, Fathi Yusuf has not returned these funds to the Plaza Extra bank accounts from which they were withdrawn.
21. If the partnership's operations are not secured immediately, the continued operation of the three Plaza stores will be in jeopardy, as well as the continued employment of its 600 plus employees, resulting in irreparable harm to these partnership assets.
22. Indeed, Plaza is in serious jeopardy of losing customers to other stores, losing employees due to moral problems, losing supplies, and otherwise losing its goodwill, which it has built up over past 25 years.
23. The Hamed family has operated this partnership for over 25 years and wants to continue these businesses into the future for its current family members.
24. Yusuf has extensive investments overseas, so that he can easily remove these significant assets beyond the jurisdiction of this Court if the relief sought is not granted, as he has done with other profits received by him over the past 25 years.

Dated: September 18, 2012



Waleed Hamed a/k/a Wally Hamed

SWORN AND SUBSCRIBED TO BEFORE
ME THIS 18th DAY OF September, 2012



NOTARY PUBLIC

NOTARY PUBLIC
JERRI FARRANTE
Commission Exp: August 26, 2015
NP 078-11

EXHIBIT A

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

AHMAD IDHEILEH,

Plaintiff,

vs.

UNITED CORPORATION and
FATHI YUSUF, Individually,

Defendants.

Case No. 156/1997

THE ORAL DEPOSITION OF FATHI YUSUF

was taken on the 2nd day of February 2000, at the Offices of
Caribbean Scribes, 2132 Company St., Ste. 3, Christiansted,
St. Croix, U.S. Virgin Islands, between the hours of
1:05 p.m. and 4:05 p.m. pursuant to Notice and Federal Rules
of Civil Procedure.

Reported by:

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

Stenberg No. 5205

EXHIBIT

A

Cheryl L. Haase
(340) 773-8161

COPY

1 FATHI YUSUF,

2 Called as a witness, having been first duly sworn,

3 Testified on his oath as follows:

4 DIRECT EXAMINATION

5 BY MR. ADAMS:

6 Q. Good afternoon, Mr. Yusuf.

7 A. Good afternoon, sir.

8 Q. As you are aware, we are here today to take your
9 deposition in the matter of Ahmad Idheileh v.

10 United Corporation and yourself.

11 A. Yes.

12 Q. In that light, sir, I would like to ask you a few
13 questions. And maybe to begin, if we could get a little
14 background history on your relationship with Mr. Idheileh.

15 When did you and Mr. Idheileh first meet, if
16 you can recall?

17 A. We met, I don't know, about twenty, twenty-five
18 years ago. I don't remember exactly.

19 Q. And at that time what was the relationship like
20 before you entered into the business venture?

21 A. Just like an ordinary Arab, just like we came a
22 little bit earlier before. That's all.

23 Q. So you would say it was a very amicable and
24 friendly relationship?

25 A. At the first maybe five or ten years, it was no

FATHI YUSUF -- DIRECT

1 A. I personally own 50 percent of Plaza Extra in
2 1986. I own United Shopping Plaza. I'm a member of
3 United Corporation, who owns United Shopping Plaza. I build
4 that store, I was struggling for a loan. The whole island
5 know what I went through. I said I'm going to build this
6 building no matter what, and hold the supermarket for my
7 personal use.

8 It took me three years. I give an offer to
9 two nephew of mine and my brother-in-law, Mr. Hamed, if they
10 would like to join me in building up this store together, and
11 we should not have any problem, if I finish build up the
12 building, we should have no problem whatsoever to go to the
13 bank and the bank will grant us the loan to operate the
14 supermarket. Okay?

15 During construction -- I'm going to go a
16 little bit back to tell you what is my background. During
17 construction, I was struggling for loan. And at that time
18 Banco Popular, I remember, came into the Virgin Islands and
19 took over the majority of interest of First National
20 Citibank. They buy all their customers, and they was very
21 hungry to do business in the island because they have
22 expenses to face and they like to issue loan as fast as
23 possible to cover their expenses.

24 Excuse me. Can I have water please if you
25 don't mind?

FATHI YUSUF -- DIRECT

1 MS. VAZZANA: Sure.

2 A. I have a problem getting a loan. Finally, I been
3 promised verbally from Nova Scotia in the past, and when my
4 steel came in, the way the steel came in unfabricated, they
5 deny me any loan.

6 THE REPORTER: Unfabricated?

7 THE WITNESS: Unfabricated. It's raw steel.

8 At that time I don't have no money to buy
9 fabricated steel, so I went to the mill in Houston and I
10 bought unfabricated steel. And when the bank comes in, when
11 the steel comes in and the bank sees it, they says, How you
12 want me to loan money against this steel? How you going to
13 put it up? You have no experience.

14 I explain to them how I would put it up. They
15 say, Show me your plan. I show them my plan. Granted the
16 man who did the plan with me at that time is with the chief
17 building permit at Public Work. He just give me a plan with
18 not too much specification, because I have no intention to
19 give it on bid. My intention is I don't have enough money, I
20 will put this building together.

21 So what I have is a plan approved by Public
22 Works with not too much specification on it, and the bank
23 saw, asked me how could I build the building? I explain to
24 them and they say, We don't do business that way. They say,
25 I'm sorry. That's all I have.

FATHI YUSUF -- DIRECT

1 So I left Nova Scotia, struggling, left them
2 not to get a loan, but did not close my account. I struggle
3 all over looking to get a loan. I went to all local banks at
4 that time, and everybody says, I'm sorry, we can't help you.
5 So I find it is a golden opportunity for me to go to Banco
6 Popular.

7 So I went to the manager there, I explained to
8 him my story what Scotia did to me and so he say, I will come
9 to the site.

10 When he come to the site where I'm building,
11 he says, How you going to put this building together?
12 Where's your plan? I show it to him. It's almost zero, the
13 specification. Just numbers for me, columns, but the column
14 doesn't say what thick, what wide. It just give me the
15 height.

16 So the bank, he says, Mr. Yusuf, I'm sorry.
17 We don't do business that way. We have to have somebody
18 professional plan with full specification. I could see your
19 plan approved, I could see the steel here, but it's -- you
20 don't have the proper material or record to take to my board
21 of director to approve a loan in the millions.

22 So I understood. My answer to that gentleman
23 was, unfortunate because of my financial situation, I have to
24 choose this route. But I promise you, as a man, I will put
25 that building together. The man told me at that time, I

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(340) 773-8161

FATHI YUSUF -- DIRECT

1 don't see how you going to put it up. I say, Don't worry,
2 man. I'll put it together.

3 He promised me at that time, Mr. Yusuf, I
4 promise you if you are able to put this steel, turn it into a
5 shopping center, as soon as you finish, come. I will give
6 you all the money you need for the supermarket. I says,
7 Thank you very much, sir.

8 I know I was at fault. I was not prepared,
9 you know. I don't have nothing saleable to a bank. So I
10 rely on my brother for financing, a brother of mine who's in
11 Kuwait.

12 And go back a little bit, before I was looking
13 for financing, my brother was asking me if he could join me
14 as partner. I said no, I really want to put something for my
15 children to secure their future and see if the bank give me,
16 fine. I'm sure I could get it.

17 After I fail, I called my brother, I said, Are
18 you still interested? He said yes. He did it for two
19 reason. He did it to help me as a brother because he don't
20 want to see me go bankrupt. And at the same time he want to
21 make sure that he maybe could make some money.

22 Q. Uh-huh.

23 A. And my brother, we knows each other very well.
24 He have a lot of confidence in me. He say if I will do
25 something, I'll do it. Then my brother start to send me

FATHI YUSUF -- DIRECT

1 money.

2 Because of my ignorant in expertise, I
3 underestimate to my brother. I told him, Oh, I think I could
4 put this building for a million-and-a-half. The
5 million-and-a-half run out, so my brother says, Hey, you told
6 me that amount you'll have a shopping center, and I see
7 you're too far out.

8 I say, Brother, all I could tell you is all
9 your money and my money is going into the building. If I
10 underestimating, this is nothing but a matter of ignorance.
11 It's not a matter of trust. He say, I know you, you don't
12 keep my money.

13 So what we did with my brother, I was supposed
14 to do 60 percent for me, 40 percent for my brother. As the
15 number I gave him used, he says, Look, I enter with you to
16 give me forty and you sixty. I will give you more money if
17 you would give me 50 percent.

18 Q. So that's how you ended up with 50 percent.

19 A. I would give you -- I will, if you would give me
20 50/50, I'll send you more money to finish the building.

21 I say, Look, man. Your children and my
22 children are the same. You's my brother. I'm not going
23 to -- you'll get fifty, right? I told him that on the phone.

24 He send. His money finish. I asked him for
25 the last 300,000. I could finish the shopping center with

FATHI YUSUF -- DIRECT

1 the last 300,000. My brother denied he don't have any more
2 money to give me. I should go and look somewhere else.

3 I know my brother have, but my brother, with
4 respect to him, a man don't like to go with tough decision,
5 so he deny me that he have any more money. And I was
6 struggling going to the bank to get some loan. But at the
7 same time, really, I don't want to mortgage a whole shopping
8 center with five-and-a-half acre for about three hundred
9 thousand dollars. I don't want to hook myself.

10 So while I was building, Sunshine Supermarket
11 opened. Okay? And it happened that somebody part owner on
12 Sunshine spread the word around or mention some word how much
13 they sold as their grand opening. So I have two nephew, one
14 my brother's side and one from my sister's side, and I have
15 my brother-in-law is Mr. Mohammed Hamed. I know the three of
16 them have money, and I know and they know that I don't have
17 the money.

18 They says, Uncle, I don't think we should stay
19 in the furniture business. I think we should open up a
20 supermarket. I says, Well, if you want, you guys bring me
21 the money, I finish the building and I can assure you that a
22 loan will come.

23 So I have a brother, Sam, I remember he gave
24 me I don't remember exactly, 245,000. My daughter -- my
25 sister son, the one who was translating this morning, think

1 he gave me about 275,000, and to be 25 percent each,
2 25 percent for my sister son, 25 percent for my brother son,
3 25 percent for me.

4 But before I continue, I'm going to -- I would
5 like to go back a little bit more to clear something. When I
6 was in the financial difficulty, when I was in financial
7 difficulty, my brother-in-law, he knew. I shouldn't -- he
8 start to bring me money. Okay? He own a grocery, Mohammed
9 Hamed, while I was building, and he have some cash. He knew
10 I'm tight.

11 He start to bring me money. Bring me I think
12 5,000, 10,000. I took it. After that I say, Look, we
13 family, we want to stay family. I can't take no money from
14 you because I don't see how I could pay you back. So he
15 insisted, Take the money. If you can afford to, maybe pay
16 me. And if you can't, forget about it. Okay. He kept
17 giving me. I tell him, Under this condition I will take it.
18 I will take it.

19 He kept giving me until \$200,000. Every
20 dollar he make profit, he give it to me. He win the lottery
21 twice, he gave it to me. All right? That time the man have
22 a little grocery, they call Estate Carlton Grocery. Very
23 small, less than 1,000 square foot, but he was a very hard
24 worker with his children. And it was, you know, just like a
25 convenience mom-and-pop stores. He was covering expenses and

FATHI YUSUF -- DIRECT

1 saving money.

2 I say, Brother-in-law, you want to be a
3 partner too? He said, Why not? You know, as a family, we
4 sit down. Says, How much more can you raise? Say, I could
5 raise 200,000 more. I said, Okay. Sell your grocery. I'll
6 take the two hundred, four hundred. You will become
7 25 percent partner.

8 So we end up I'm 25 percent, my two nephew 25
9 each, and my brother-in-law, Mohammed Hamed, 25 percent. I
10 don't recall the year, could be '83 or '84, but at least
11 thanks God in the year that Sunshine Supermarket opened,
12 because his supermarket is the one who carries these two
13 young men and my brother to go into the supermarket with me.
14 So I have their money, I finish the building.

15 We call the refrigeration manufacturer, not to
16 waste time. We book an order for our refrigeration, and we
17 committed to it. And from their money I have paid \$100,000
18 deposit on the equipment. I was so sure the gentleman at
19 Banco Popular, he promised me, you know. Everything were
20 look to go me encouraging. And especially at that time I'm
21 sure anybody in St. Croix in the past twenty, thirty years,
22 he knew that that building will never go up. Only maybe six
23 people in St. Croix at that time says I might be able to put
24 it up. But 99.9 of St. Croix resident, they were looking at
25 me as a fool.

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FATHI YUSUF -- DIRECT

1 But I was confident in myself. I have, when I
2 determine something, I have strong determination and I'm not
3 afraid to work. So as I hit the bank and says, Hey, you got
4 away with the building, how I know you going to make it in
5 supermarket? You have no experience in the supermarket. How
6 could you make it?

7 I say, Look, man, you promised me. And then
8 look, my friend, I'm not trying to learn how to drive. I am
9 a driver. I'm a retailer. If you move me from clothing,
10 shoes, furniture to supermarket, it will take me no time to
11 learn, because the retailing business is already in my blood,
12 just like a driver. He drive a small standard car or a small
13 pickup, it wouldn't take him no too long to drive a trailer
14 tractor, because he know the basic of the traffic, where to
15 stop, where to yield, where to speed, which gear to change.

16 And I told him, trying to convince the bank
17 manager, Don't worry, man. I could be like a driver
18 switching from driving a pickup, I could drive a trailer load
19 easy in two weeks. It's completely different to somebody
20 that never knows how to drive. You want to bring him from
21 never knows how to drive, it could be, never being in a car,
22 and you may want him to drive a trailer. I'm not that type
23 of person.

24 This is one of the ways I was convincing the
25 bank manager. Unfortunate at that time, I was talking to the

1 man and he look at me, he underestimate. It came to an
2 extent, I tell him, Look, sir. I respect your profession.
3 You're the bank manager. I respect that. And I want you to
4 respect my profession. I'm a retailer. Everybody have a way
5 of making a living. Oh, I been denied.

6 Then, but when I been denied, I have to tell
7 my partner what's going on. I been entrusted to handle the
8 job perfect, and I am obligated to report to my partner to
9 anything that happened. I told my nephews and I told my
10 partner, Hey, I can't get a loan, but I'm not giving up.

11 So two, three days later my two nephews split,
12 say, We don't want to be with you no more, and we want our
13 money. I say I don't have no money to pay you. The money's
14 there, but if you want to leave because I default, you free
15 to leave.

16 How we going to get paid?

17 I says, Shopping center is 50 percent owned by
18 you uncle and 50 percent by me. I have to feed my children
19 first, and whatever left over, I'll be more than happy to
20 give it to you. Okay. What do you want us -- what do you
21 want to pay us for rent of our money?

22 We come to an agreement, I pay them 12 percent
23 on their money, and 150,000 default because I don't fulfill
24 my commitment. I accepted that. We wait until my partner,
25 which is my brother, came. He's an older man. And we came

1 two partner left, Mr. Hamed. You know, these two guys, they
2 left, my two nephew, they was your partner and my partner. I
3 give you a choice. If you pay penalty with me and pay the
4 interest with me, whatever they left is for me and you. But
5 if I must pay them the one-fifty penalty and pay them
6 12 percent, then Plaza Extra Supermarket will stay
7 three-quarter for Yusuf and only one-quarter for you.

8 He says, Do whatever you think is right. I
9 tell him, You want my advice? I be honest with you. You
10 better off take 50 percent. So he took the 50 percent.

11 Q. Not to cut you short, Mr. Yusuf, but we have to
12 play with time, and I appreciate the history as far as
13 Plaza Extra St. Croix and United Corporation, but I want to
14 focus primarily right now on your relationship with
15 Mr. Idheileh.

16 There came a time that the two of you entered
17 into talks about Plaza Extra on St. Thomas?

18 A. May I interrupt you, sir? I cannot build a roof
19 before a foundation. The problem is you ask me who I am,
20 where I come from. I am explaining myself. I want to show
21 to you and the court that Mohammed Hamed is way before
22 Plaza Extra was opened with me, he was my partner. And
23 Mr. Idheileh, he himself knows, because the money he lend me
24 when I open up Plaza Extra, he was getting paid from Wally.

25 I'm a person, if I run a business, I want to

1 stay clean. You know what I mean, clean? I'm the final
2 decision man. I don't give that to anybody. Excuse me. But
3 when it come to money, I don't touch.

4 When I open up Plaza Extra Supermarket, who
5 was in charge of the money at that time is Wally Hamed. When
6 this gentleman, Mr. Idheileh, lend me his money as a friend,
7 I have never signed for him. Who paid him? I never pay him
8 back. My partner's son is the one who pay him back. And he
9 knew, because he come to my office once or twice a week. And
10 he's not the only one knew. Every single Arab in the Virgin
11 Islands knew that Mr. Mohammed Hamed is my partner, way
12 before Plaza Extra was opened.

13 Now, should I ask him or continue?

14 MS. VAZZANA: He's ready to give you a next
15 question.

16 Q. (Mr. Adams) My question to you, sir, is there
17 came a point in time that you and Idheileh started to, or
18 started to have some discussions about Plaza Extra on
19 St. Thomas, is that correct?

20 A. Repeat the question please.

21 Q. There came a point in time that you and
22 plaintiff, Mr. Idheileh, entered into negotiation about a
23 partnership, entering into a partnership with Plaza Extra on
24 St. Thomas, is that correct?

25 A. I can answer that if I could explain it.

EXHIBIT B

From: Nizar DeWood <dewoodlaw@gmail.com>
Date: February 10, 2012 10:59:39 AM EST # 1-5 Filed: 10/04/12 Page 35 of 52
To: "Wally Hamed" <wallyhstx@yahoo.com>
Subject: Powers of Attorney - Dissolution of Partnership

Hello Wally,

I wish to confirm our discussions in the following two matters: 1) Power of Attorneys to verify and audit financial information currently in dispute, 2) Partnership Dissolution.

<!--[if supportLists]-->I. <!--[endif]-->Power of Attorney
As agreed between you and Mr. Yusuf, the Power of Attorney will be required for each of you, your father, brothers, wife, and adult children. This power of attorney will be limited to obtaining any and all information regarding bank and investment accounts that may have been opened, closed, used for wire transfers, and opened on behalf of other third parties. The banks that will be covered will include the Virgin Islands, St. Maarten, New York, and the Middle East.

Any and all information obtained will be held in confidence by my office, and will be used for the sole purpose of financial verification.

<!--[if supportLists]-->II. <!--[endif]-->Dissolution of Partnership (Yusuf & Hamed)

I will be sending a formal notice of partnership dissolution notice, with a list of to-dos that will be required to complete an orderly dissolution. See attached email. I understand that you and Mr. Yusuf are still discussing various terms and aspects of the dissolution. I will await the final decision made. 

Your mailing address to address all originals will be:

Mohammad Hamed
Walid Hamed
PO 763
Christiansted, VI 00821

Thank you.

Nizar A. DeWood, Esq.

The DeWood Law Firm
3070 Kronprindsens Gade, Suite 208
St. Thomas, V.I. 00802
T. (340) 774-0405
F. (888) 398-8428

Blumberg No. 6200

EXHIBIT

B

THE DEWOOD LAW FIRM

3070 Kronprindsens Gade, Suite 208
St. Thomas, V.I. 00802
T. (340) 774-0405
F. (888) 398-8428
info@dewood-law.com

**Mohammad Hamed
c/o Walid Hamed
PO Box 763
Christiansted, V.I. 00821**

VIA EMAIL ONLY

Re: **Dissolution of Partnership
Yusuf & Hamed**

Dear Mr. Hamed,

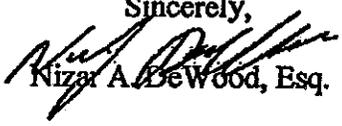
This letter is to confirm the parties' desire to dissolve the above referenced partnership. Partnership dissolution will involve appropriate planning to properly account for each of the partner's interest in the partnership, and a well-executed agreement memorializing the understanding of the parties.

As it stands, the partnership has three major assets: Plaza Extra – West (Grove Place, including the real property), Plaza Extra – East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas). I have been advised that there are ongoing discussions between you, as your father's fully authorized agent, and Mr. Yusuf regarding which of the stores each partner will retain upon dissolution. Accordingly, I will await the final decision that you and Mr. Yusuf may reach.

Additionally, as Mr. Yusuf has indicated, he remains resolute about the rental terms of the Plaza Extra – East. Unless the parties arrive at a different understanding, I will assume that Mr. Yusuf will not agree to continue the lease beyond June 30th, 2012 on that property.

I look forward to hearing from you. Thank you.

Sincerely,


Nizar A. DeWood, Esq.

cc: Fathi Yusuf

EXHIBIT C

Case: 12-cv-00000-DeWood Filed: 10/04/12 Page 38 of 52
From: "Nizar DeWood" <dewoodlaw@gmail.com>
Date: March 13, 2012 12:41:36 PM EDT
To: "Wally Hamed" <wallyhstx@yahoo.com>
Subject: Partnership dissolution agreement

Salam Wally,

Please find the attached proposed Partnership Dissolution Agreement. I look forward to hearing from you at your earliest convenience. ↙

Thank you.

Nizar A. DeWood, Esq.

The DeWood Law Firm
3070 Kronprindsens Gade, Suite 208
St. Thomas, V.I. 00802
T. (340) 774-0405
F. (888) 398-8428

Bloomberg No. 6208

EXHIBIT
C

PROPOSED PARTNERSHIP DISSOLUTION AGREEMENT

THIS AGREEMENT, dated this ____ day of March 2012, is by and between **FATHI YUSUF** and **MOHAMMAD HAMED** (collectively called "Partners"), formerly partners of a partnership known informally as *Yusuf & Hamed* (the "Partnership").

WHEREAS, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

WHEREAS, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

WHEREAS, serious dispute and disagreement between the partners relating to financial matters of the partnership, resulting in the partners unable to continue as partners; and

WHEREAS, Fathi Yusuf (the "Withdrawing Partner") has withdrawn from the Partnership by written notice dated February, 2012, for withdrawal as of February 10th, 2012 (the "Withdrawal Notice"); and

WHEREAS, the Partners desire to dissolve the partnership by way of liquidation and distribution of its assets, unless each partner submits in writing a buyout offer for each of the three major assets constituting the partnership, as herein shown in Section 1 of this agreement; and

WHEREAS, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership; and

WHEREAS, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises, and conditions contained herein, the parties agree as follows:

SECTION 1. ASSETS SUBJECT TO LIQUIDATION

The Partners agree that the following three on-going businesses constitute the assets of the Partnership.

Section 1.1: Assets of the Partnership

1. PLAZA EXTRA EAST- Estate Sion Farm, St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA -- Tutu Park, St. Thomas

Section 1.2. Dissolution of Partnership.

The Partnership shall be dissolved effective as of the date specified in the Withdrawal Notice, and the business of the Partnership shall cease effective February 10th, 2012. Any continuing operation shall be for the sole purpose of winding down the partnership. The parties agree that the Withdrawal Notice is effective to dissolve the Partnership and is not a breach of the partnership relationship. The parties agree to the following buyouts of the assets listed in Section 1.1.

Section 1.3 FIRST PARTNERSHIP ASSET: Plaza Extra East – Sion Farm, St. Croix

Partner Fathi Yusuf ("Partner Yusuf") has orally terminated the lease agreement for Plaza Extra East in September 2010. A written confirmatory termination letter was mailed on January 20th, 2012. Partner Yusuf shall make the following buy-out offer:

1. Acquire the assets & fixtures - \$250,000 (50% of Partner Hamed's interest)
2. Acquire Inventory based on cost (50% of Partner Hamed's Interest).
3. The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.

Should the foregoing terms of the buyout offer set forth in paragraphs 1 to 3 above is rejected, the assets, fixtures, and inventory of Plaza Extra – East shall be liquidated and the

premises turned over to Partner Yusuf immediately. Partner Yusuf, by virtue of his ownership of the premises, will hereby enforce the new rental rate of \$200,000 per month commencing January 31, 2012 until March 31st, 2012. Thereafter, the monthly rental rate shall increase to \$250,000 per month until June 30th, 2012. After such date, the tenancy shall terminate forthwith without further notice. Failure to vacate the premises by June 30th, 2012 shall result in an action for unlawful detainer be filed in the Superior Court of the Virgin Islands.

Section 1.4 SECOND PARTNERSHIP ASSET: Plaza Extra West – Grove Place, St. Croix

Partner Yusuf hereby makes the following buy-out offer:

1. Acquire the assets & fixtures - \$375,000 (50% of Partner Hamed's interest).
2. Acquire Inventory based on cost (50% of Partner Hamed's Interest).
3. Acquire Lease for the premises for a term of 20 years, with an option to terminate lease subject to a SIX (6) months written notice. Rent is hereby offered for \$24,000 a month. Property tax assessments shall be paid in half by each partner.
4. The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.
5. All inventory, improvements, and fixtures will be transferred by a Bill of Sale, with the applicable UCC-4 Bulk Transfer notices according to the terms set out in Exhibit B of this Agreement at the time of closing.

Section 1.5

THIRD PARTNERSHIP ASSET: Plaza Extra – Tutu Park, St. Thomas

1.5.1 Unless Partner Hamed makes a written offer for the purchase of Plaza Extra – Tutu Park, St. Thomas, said business shall be liquidated with its assets, inventory, and fixtures sold at fair market value. The lease for this asset shall expire on October 27th, 2018, and is in the name of United Corporation only. Should Partner Hamed wishes to make an offer for the purchase of Partner Yusuf's partnership interest in Plaza Extra Tutu Park, St. Thomas, Partner Hamed shall do so in writing within 14 days.

1.5.2 Should Partner Hamed refuse to offer to purchase said asset, Partner Yusuf hereby makes the following written offer of purchase:

- i) Partner Hamed's fifty (50%) interest in Inventory at actual cost plus freight and insurance to be determined at time of closing.
- ii) Equipment and fixture at \$250,000 (50% interest of Partner Hamed).
- iii) The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.
- iv) Partner Yusuf agrees to pay \$1,000,000 a year to Partner Hamed until the expiration of the lease on October 27th, 2018 for a total lease amount of \$6,500,000. Partner Yusuf will also assume all obligations under the lease currently existing in the name of United Corporation, and guaranteed personally by Partner Yusuf.

1.5.3 Rejection of Offer: Should Partner Hamed reject the terms of the offer provided in section 1.5.2, Partner Hamed may acquire the Plaza Extra – Tutu Park, St. Thomas within 14 days of date of this agreement on the same aforementioned terms.

SECTION 2.0

PARTNERSHIP CONTRIBUTIONS

The parties agree to address the following outstanding partner and partnership obligations

	<u>Description of Partnership Obligation</u>	<u>Agreed Upon Course of Action to Resolve Dispute</u>
1.	Rent (for the period of May 5th, 2004 to Dec. 31st, 2011). Partnership Yusuf & Hamed owe rent arrears of \$5,408,806.74 to Partner Yusuf as owner and landlord of the property upon which Plaza Extra East is located.	The parties agree that said amount was paid on February 13 th , 2012 by way of check drawn on the account of United Corporation. Accordingly, the rental arrears for the period of (May 5 th , 2004 to Dec. 31 st , 2011) are now satisfied.
2.	Other Outstanding Rent (Pre 2004). The partners shall discuss and calculate the rent owing to Partner Yusuf for an approximate period of 10 years, for the 10 years prior to May 5 th , 2004.	The rental term and rent amount due will be determined upon the return of the partnership records from the U.S. Government.

SECTION 3.0

OTHER FINANCIAL DISPUTES

The parties acknowledge that serious financial disputes have arisen between the parties. Specifically, Partner Yusuf desires a full accounting of certain disputes with Partner Hamed and his agent Waleed Hamed and Waheed Hamed, and all of their spouses, children, assigns, and agents.

The parties agree that the following items of financial disputes will be negotiated, investigated, and resolved in good faith by the parties.

	<u>Description of Financial Dispute</u>	<u>Agreed Upon Course of Action to Resolve Dispute</u>
1.	<p>Partner Yusuf alleges that Two Million Dollars (\$2,000,000) was transferred from Banque Francaise Commerciale in St. Maarten to Arab Bank, Ltd., specifically to an Arab Bank Branch in the West Bank, Palestine. Partner Hamed disputes this allegation. Partner Yusuf's allegation arises out of facts obtained during a criminal investigation by the Federal Bureau of Investigation that concludes there was a transfer of \$2,000,000 to the benefit of Partner Hamed.</p> <p>Partner Yusuf desires full accounting and verification of all financial discrepancies, and irregularities currently existing, or that may arise during the dissolution of the partnership.</p> <p>The parties hereby agree to negotiate and resolve this matter fully and in good faith.</p>	<p>1) Partner Hamed agrees to execute a special power of attorney authorizing the DeWood Law Firm, its attorney, agents, and assigns, to obtain <u>ALL</u> bank account information for any bank account that may have been opened, including but not limited to the following banks:</p> <ol style="list-style-type: none"> 1. Arab Bank, Ltd (Worldwide branches) 2. Banque Francaise Commerciale in St. Maarten. 3. Cairo-Amman Bank (worldwide branches) 4. Bank of Nova Scotia (worldwide branches) 5. Merrill Lynch Investments 6. First Bank (formerly known as VI Community Bank) 7. Any other Bank either party determines to be relevant for purpose of inquiry, investigation, and full accounting.

2. Notice to Withdraw. Partners agree to give actual notice of the dissolution of the Partnership to all creditors who have extended credit to the Partnership prior to dissolution

3. Determination and Distribution of Capital Account. The Partnership will cause to be prepared financial statements as of the date specified in the Withdrawal Notice, including a balance sheet specifying the assets, liabilities, and equity accounts, and an income statement for the portion of the year then ended. The financial statements will also detail all accounts payable and accounts receivable of the Partnership. The cost of obtaining such financial statements shall be borne by the Partnership, and the expense of preparation of such financial statements shall be reflected in income or loss as of the date specified in the Withdrawal Notice.

The capital account of the Withdrawing Partner will include the Withdrawing Partner's actual equity account plus the Withdrawing Partner's share of income or minus the Withdrawing Partner's share of loss according to the Sharing Ratio as of the date of the financial statements. The parties agree that these financial statements will conclusively reflect the accounts of the Partnership. The capital account of the Withdrawing Partner shall be distributed to the Withdrawing Partner in cash within 30 days following the date specified in the Withdrawal Notice.

5. Loans. The Partnership has no loans outstanding other than Accounts Payable with inventory suppliers.

6. Ledgers and Files. The Partnership shall, at the Partnership's expense, copy all ledgers and files of the Partnership for the Withdrawing Partner's use upon the reasonable written request by the Withdrawing Partner which specifies the ledgers and files and is delivered to the Partnership at least 10 days before the date specified in the Withdrawal Notice.

7. Full Disclosure and Access to Records. All parties agree to fully disclose all facts which relate to the operation of the Partnership and warrant and represent that all material facts concerning the financial condition and operation of the Partnership have been fully disclosed to each other. All parties shall have full access to the books and records of the Partnership, including client files, for purposes of verifying information furnished under this Agreement until this Agreement.

8. Assets and Liabilities of the Partnership. Upon payment of the amounts due to the Withdrawing Partner hereunder, all assets and liabilities of the Partnership as they exist on the financial statements dated as of the date specified in the Withdrawal Notice shall belong to the remaining Partners, and the Withdrawing Partner shall claim no right, title, or interest therein.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

Fathi Yusuf, Partner

Mohammad Hamed, Partner

EXHIBIT D

UNITED CORPORATION
d/b/a PLAZA EXTRA SUPERMARKET
4C & 4D Sion Farm
Christiansted, VI 00820

BY HAND DELIVERY

*Received by
8/16/2012*

Date: August 15, 2012

Mohammed Hamed
By and through Waleed Hamed
Plaza Extra Supermarket
Sion Farm Store
Christiansted, V.I. 00820

Re: Notice of Withdrawal

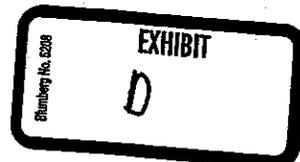
Dear Mr. Hamed,

The amount of \$2,784,706.25 will be withdrawn from United's operating account effective August 15th, 2012. This amount equals the proceeds you previously withdrew through your agent Waleed Hamed. To ensure full accuracy, attached are the receipts you requested during mediation demonstrating the \$1,095,381.75 of withdrawals. The below itemized amounts are not in dispute.

Past Confirmed Withdrawals	\$1,600,000.00
Additional Withdrawals per the attached requested receipts	\$1,095,381.75
Fifty percent (50%) of St. Maarten Bank Account	\$44,355.50
Fifty percent (50%) of Cairo Amman Bank	\$44,696.00

Should you have any concerns about these amounts, please provide the basis for your concerns in writing. Thank you.

Yours
Fathi Yusuf
for Fathi Yusuf



**Waleed Hamed
Plaza Extra
4C 4D Estate Sion Farm
Christiansted, VI 00821**

BY HAND DELIVERY

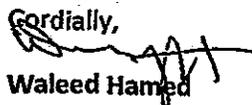
Date: Thursday, August 16, 2012

**Fathi Yusuf
Plaza Extra Supermarket
4605 TuTu Park Mall Ste 200
St.Thomas, VI 00805**

Dear Mr. Yusuf:

In response to your August 15th letter re "Notice of Withdrawal", these figures have not been agreed to. Indeed, there were no attachments as indicated and there are numerous other funds that have to be included in any such calculations before any disbursements can be made. For example, all withdrawal receipts have to be reviewed before any withdrawals are paid, no mention or indication of the amounts that the Yusuf family has previously withdrawn, By way of another example, the \$800,000 plus due the Hamed family for the sale of the condo property in St. Thomas would have to be included. In short, while these are just a few examples, no withdrawals will be issued until a full accounting is done and agreed to in writing.

Cordially,


Waleed Hamed

Confidential
Print Name

Thank you.

Accordingly, the amount requested will be withdrawn.

Your response letter, through your agent, Waheed Hamed, does not deny the validity of any of the amounts stated as owing and outstanding to United Corporation. Your letter requests that an accounting be done for other matters, which is a separate issue. Please reduce to writing those other matters you contend are owed, and provide the supporting documentation.

Re: Set-Off

Dear Mohammed Hamed,

Mohammed Hamed
By Waheed Hamed

HAND DELIVERY

Date: August 22, 2012

UNITED CORPORATION
4-C & 4-D Estate Stn. Farm
P.O. Box 763
Christiansburg, VT 00820

Fathi Yusuf
Plaza Extra Supermarket
4605 TuTu Park Mall Ste 200
St Thomas, VI 00805

Saturday, August 25, 2012

Dear Mr. Yusuf:

Your suggestion that the Hamed family agreed to your calculations of any sums due you is incorrect. The Hamed family disputes those calculations and insists on a full accounting.

Moreover, any unilateral withdrawal of funds by you would violate the Court's Order currently in place. It would also violate the agreement between our families. If you attempt to take any funds as threatened, we will instruct our counsel to advise the District Court Judge of this violation of its Order, as well as to take any other appropriate action he deems appropriate .

Cordially,
Waleed Hamed

W. M. Hamed

Confidentiality Notice: The information contained in and transmitted with this communication is strictly confidential, is intended only for the use of the intended recipient. If you are not the intended recipient, you are hereby notified that any use of the information contained in or transmitted with the communication or dissemination, distribution, or copying of this communication is strictly prohibited by law. If you have received this communication in error, immediately return this communication to the sender and delete the original message and any copy of it in your possession.

UNITED CORPORATION D/B/A
PLAZA EXTRA

2057 14140
PO BOX 733
CHRISTIANSTED, USVI 00821-0733

1154

101406216

DATE: 8/15th / 2012



United Corporation

\$ 2,784,700.25

Two million Seven Hundred Eighty-Four Thousand Seven Hundred Six Dollars & ²⁵/₁₀₀ Dollars

Scotiabank
THE BANK OF NOVA SCOTIA
Financial Institutions

[Handwritten Signature]

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