## IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

MOHAMMAD HAMED; ET AL	Plaintiff )	CASE NO.  ACTION FOR	DAMAGES: ET AL.
			DAMAGES; ET AL
Vs.	) ) )		
FATHI YUSUF; ET AL	) <u>)</u> <u>Defendant</u> )		

## NOTICE OF ENTRY OF JUDGMENT/ORDER

TO:	JUEL H. HULT, ESQ.; CARL HARTMANN III,	_ Esquire			
	NIZAR A. DEWOOD, ESQ.; GREGORY H. HODGES,	Esquire			
	MARK W. ECKARD, ESQ.; JEFFREY B.C. MOORHEAD,	_ Esquire			
	Please take notice that on AUGUST	28, 2014			Order was
enter	ed by this Court in the above-entitled mat	ter.			
Date	1: August 29, 2014				
				ESTRELLA H. GEORG	E (ACTING)
				Clerk of the Superi	or Court
					12
		В	y: .	IRIS D. CINTR	ON
			-	COURT CLERI	

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

MOHAMMED HAMED by his authorized agent
WALEED HAMED,

Plaintiff/Counterclaim Defendant,

v.

FATHI YUSUF and UNITED CORPORATON,

Defendants/Counterclaimants

v.

WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.

Counterclaim Defendants.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES, etc.

## **ORDER**

THIS MATTER is before the Court on Defendant/Counterclaimants' Motion to Appoint a Master for Judicial Supervision of Partnership Winding Up, or in the alternative to Appoint Receiver to Wind Up Partnership ("Motion re Master"), filed April 7, 2014; Plaintiff's Response thereto, filed April 30, 2014; Defendants' Reply, filed May 19, 2014; Plaintiff's Surreply, filed May 27, 2014; and Defendants' Response to Surreply re Dissolution Plans, filed June 16, 2014.

Also before the Court is Plaintiff's Motion for Appointment of David Ridgway as Master for Winding Up ("Motion re Ridgway"), filed June 2, 2014; Defendants' Opposition, filed June 19, 2014; Plaintiff's Reply, filed June 23, 2014; Defendants' Motion for Appointment of Joyce Wensel-Bailey, C.P.A. as Master for Winding Up ("Motion re Wensel-Bailey"), filed June 19, 2014; and Plaintiff's Opposition, filed June 23, 2014. For the reasons that follow, the Court will grant, in part, Defendants' Motion re Master; will deny Plaintiff's Motion re Ridgway; and will

deny Defendants' Motion re Wensel-Bailey and order the parties to confer and jointly select a master from the list of proposed masters included below.

It is a well-recognized inherent power of the Court to appoint a judicial master in resolving certain complex matters. See Prudential Ins. Co. of America v. U.S. Gypsum Co. 991 F.2d 1080, 1084 (3d. Cir 1993). The Federal Rules of Civil Procedure directly address the appointment of a masters as follows: "Unless a statute provides otherwise, a court may appoint a master only to:

(A) perform duties consented to by the parties..." FED. R. CIV. P. 53(a)(1), applicable per Super. Ct. R. 7.

The master must be a neutral party, free from any "relationships to the parties...or court..." FED. R. CIV. P. 53(a)(2). "Before appointing a master, the court must give the parties notice and an opportunity to be heard. Any party may suggest candidates for appointment." FED. R. CIV. P. 53(b)(1).

In this case, the parties have consented to have a master appointed to perform certain duties regarding the wind-up of the Hamed-Yusuf Partnership. The parties have presented their respective candidates for master: Plaintiff proposes David Ridgway; and Defendants propose Joyce Wensel-Bailey.

The Court has determined not to select either of these candidates, and presents to the parties several potential masters who have indicated a willingness to accept an appointment to serve as special master in this case to oversee the winding up of the Hamed-Yusuf Partnership. The parties will have the opportunity to confer and agree to the appointment of one of the potential masters from the list below. Within 14 days of entry of this Order, the parties shall stipulate to the selection of master and advise the Court in writing. If the parties fail to reach an agreement, each party shall

separately indicate its choice of master from the list below in order of preference. The Court will

consider the parties' submissions and sua sponte appoint a master from the list below.

The Court finds that each the following three individuals is qualified to serve as master and

each has indicated a willingness to serve as such:

1) Hon. James S. Carroll

2) Attorney Ellen G. Donovan

3) Hon. Edgar D. Ross

Upon the parties stipulation to a master (or in the event of the parties' failure to agree, their

separate filings of preferences), the Court will enter an appropriate Order appointing the master,

whose services will promptly commence with a review of selected documentation from the Court's

files of the case. While the master's review is ongoing, the Court will present the parties with a

proposed wind-up plan for the Partnership and solicit comments, objections and recommendations.

After considering the parties' filings, the Court will adopt the final wind-up plan to be overseen

by the master.

The master will be compensated at an appropriate rate (which may be jointly proposed by

the parties) and interim payments for services will be made on a monthly basis or as the master

and the parties otherwise agree.

In consideration of the foregoing, it is hereby

ORDERED that Defendants' Motion to Appoint a Master for Judicial Supervision of

Partnership Winding Up is GRANTED, in part. It is further

Mohammad Hamed, by Waleed named v. Fathi Yusuf and United Corporation; Sx-12-CV-370

Order

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ORDERED that Plaintiff's Motion for Appointment of David Ridgway as Master for

Winding Up is DENIED. It is further

ORDERED that Defendants' Motion for Appointment of Joyce Wensel-Bailey, C.P.A. as

Master for Winding Up is DENIED. It is further

ORDERED that the parties shall confer and shall jointly select a master from the list

provided above and advise the Court of their mutual selection within 14 days following entry of

this Order. It is further

ORDERED that in the event that the parties are unable to mutually agree on the

appointment of a master, each party shall separately advise the Court in writing of its sections for

master from the list above, in order of preference.

DATED: August 28, 2014.

DOUGLAS A. BRADY

Judge of the Superior Court

ATTEST:

ESTRELLA GEORGE

Acting Clerk of the Court

D.,,.

Court Clerk Supervisor