

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

FAHTI YUSUF.)	
)	
<i>Appellant/Defendant,</i>)	
)	
vs.)	S. Ct. Civ. NO. 2015-0001
)	
MOHAMMED HAMED, WALEED)	
HAMED, WAHEED HAMED,)	
MUFEED HAMED, HISHAM HAMED,)	
and PLESSEN ENTERPRISES, INC.,)	
)	
<i>Appellees.</i>)	
_____)	

**JOINT OPPOSITION BY HAMED APPELLEES TO APPELLANT’S
MOTION TO CONSOLIDATE**

The Hamed Appellees¹ hereby jointly oppose Appellant’s *Motion To Consolidate* this appeal with the appeal in S. Ct. Civ. No. 2015-0009. The fact that there are two notices of appeal arising from the same active, ongoing case below (*Hamed v Yusuf et al.*, Superior Court Civil No. SX-12-CV-370) highlights why it is respectfully submitted that these appeals should not be consolidated---there is no appellate jurisdiction over either appeal pursuant to 4 V.I.C. § 33.

The Notice of Appeal filed in this action appeals two Memorandum Opinions and Orders entered on July 22, 2014, and December 5, 2014 (collectively referred to as “Opinions”). Appellant asserts jurisdiction pursuant to 4 V.I.C. §33(b)(1) and (2). However, subsection (b)(1) deals with issues related to injunctive relief, while subsection (b)(2) deals with order appointing receivers and the administration of the receivership, neither of which were the subject of the Opinions being appealed.

¹ The Hamed Appellees are Mohammed Hamed, Waleed Hamed, Waheed Hamed, Mufeed Hamed and Hisham Hamed.

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The Notice of Appeal in S. Ct. Civ. No. 2015-0009 appeals a portion of the *Order Adopting Final Wind Up Plan* (“Liquidation Order”) entered by Judge Brady on January 7, 2015. In attempting to invoke this Court’s jurisdiction, the Appellant again cites 4 V.I.C. §33(b)(1) and (2) as well as referring to the collateral order doctrine recognized by this Court in *Hard Rock Café v. Lee*, 54 V.I. 622, 628-30 (V.I. 2011). Again, the Liquidation Order does not involve injunctive or receivership issues as identified in §33(b)(1) and (2), nor does it involve the type of collateral order discussed in *Hard Rock Café*.

The two Opinions being appealed in this case as well as the Liquidation Order being appealed in the 2015-00009 are attached as Exhibits A, B and C to assist the Court.

Moreover, neither of the matters being appealed are final orders, as reflected in the Superior Court record transmitted to this Court. There is extensive, on-going activity in the case below, with numerous issues left to resolve, including multiple motions. Moreover, an evidentiary hearing is still needed on other pending claims between the parties. A list of pending motions and other open issues can be provided if requested.

With this comment in mind, the Hamed Appellees do not believe consolidation is appropriate, as the jurisdictional questions for the two appeals appear to be completely independent of one another. While these jurisdictional issues need not be fully addressed here, there is ample authority explaining why these Orders are not appealable. See, e.g., *Pressman-Gutman Co., Inc. v. First National Bank et al.*, 459 F. 2d 383, 392-393 (3rd Cir. 2006) (“injunction” for the purposes of an interlocutory appeal

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is an order (1) directed to a party (2) enforceable by contempt and (3) designed to accord or protect some right,, which should be construed narrowly so as to not swallow the final-judgment rule, while interlocutory appeals related to receiverships are narrowly construed to “(1) orders appointing a receiver, (2) orders refusing to wind up a receivership and (3) orders refusing to take steps to accomplish the purposes of winding up a receivership.”).

All counsel for the Hamed Appellees have authorized Joel H. Holt to file this response on their behalf (as counsel to the various Hamed Appellees) using their electronic signatures.

Dated: February 2nd, 2015

/s/Joel H. Holt

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02/02/2015

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of February, 2015, I served a copy of the foregoing pursuant to this Court's electronic filing system on counsel for the Appellant:

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