

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

MOHAMMAD HAMED , by his authorized agent WALEED HAMED ,)	
)	
<i>Plaintiff/Counterclaim Defendant</i> ,)	
)	
vs.)	CIVIL NO. SX-12-CV-370
)	
FATHI YUSUF and UNITED CORPORATION ,)	
)	ACTION FOR DAMAGES, INJUNCTIVE RELIEF AND DECLARATORY RELIEF
<i>Defendants/Counterclaimants</i> ,)	
)	
vs.)	JURY TRIAL DEMANDED
)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC. ,)	
)	
<i>Counterclaim Defendants.</i>)	
)	

**PLAINTIFF’S MOTION TO DISQUALIFY DUDLEY, TOPPER AND FEUERZEIG
FROM ANY FURTHER INVOLVEMENT IN THESE PROCEEDINGS**

The law firm of Dudley, Topper and Feuerzeig LLP (“DTF”) has represented the Defendants in this case, Fathi Yusuf and United Corporation, for the past several years. However, on December 24, 2015, counsel for the Plaintiff was informed for the first time that DTF entered into representation of Fathi Yusuf in his role as the Liquidating Partner of the partnership so that DTF now also represents the partnership. See Hodges’ Email to Judge Edgar Ross attached as **Exhibit 1**. That email had a bill attached for services rendered, seeking payment of these fees from the partnership assets from February, 2015 through November 30, 2015.

It is respectfully submitted that DTF’s representation of the partnership requires it to be disqualified from continuing to represent the Defendants herein.

I. Violation of Ethical Rules by Representation of Conflicted Parties

It is undisputed that a lawyer cannot represent potentially adverse interests in the same transaction. In this regard, in *King v. Appleton*, 61 V.I. 339, 354, S. Ct. Civ. No. 2012–0138, 2014 WL 4968290, at *6 (V.I. Oct. 6, 2014) the V.I. Supreme Court stated the following regarding representing all parties in a matter:

The Superior Court also took issue with what it characterized as “unethical” behavior by King, who serves as trustee while simultaneously acting as counsel for both the settlor and the beneficiary. We share the Superior Court’s concern. The Virgin Islands Rules of Professional Conduct—like the Model Rules of Professional Conduct in force before February 1, 2014, see Prom. Order No. 2013–0001 (V.I. Dec. 23, 2013)—state that a concurrent conflict of interest exists where “there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.” V.I. Rule Prof’l Conduct R. 211.1.7(a)(2); see *In re Maynard*, 60 V.I. 444, 449 (V.I. 2014) (“[A] concurrent conflict of interest exists, so as to preclude representation, ‘if ... there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.’ ”, quoting Model Rules Prof’l Conduct R. 1.7(a)(2)).

The *King* Court then went on to hold:

It seems clear that serving as trustee, while simultaneously representing the interests of beneficiary Liburd and settlor Harrigan, could give rise to such a “significant risk” of material limitation of King’s representation of one of these clients due to his concurrent responsibilities to them both or his own personal interest in this matter. *Id.*¹

Thus, the law is clear: DTF cannot represent the Defendants and the Partnership.

¹ Such conflicts can be waived in writing, as the *King* Court noted:

Nonetheless, an attorney may continue representation despite this concurrent conflict if—among other things—“**each affected client gives informed consent, confirmed in writing.**” V.I. Rules Prof’l Conduct R. 211.1.7(b)(4); see Model Rules Prof’l Conduct R. 1.7(b)(4) (outlining identical requirements regarding concurrent conflicts). *Id.* (Emphasis Added).

However, there is no such written waiver here.

To disqualify counsel because of this conflict requires nothing more than showing that counsel is attempting to represent potentially adverse parties. However, in this case, DTF's bill includes work done for the partnership that is directly adverse to the partnership's interests.

In this regard, there is a .57 acre lot in St. Thomas that is in the name of DTF's client, United Corporation, that belongs to the partnership, Parcel No.2-4 Rem. Estate Charlotte Amalie. It was purchased by Plessen Corporation for \$350,000 in 2006, which United Corporation had loaned to it, secured by a mortgage. When asked about this small parcel in his deposition earlier in this action, Fathi Yusuf unequivocally stated in part as follows (See **Exhibit 2** at pp. 80-81):

Q. And the Tutu Park property, is that also called Ft. Milner, as well?

A. Yeah, it's Ft. Milner or Tut. Its' Ft. Milner, I believe.

Q. Okay. And one is a 9-acre parcel?

A. 9.31

Q. Then the other one is like a half-acre parcel?

A. It's about .53, if I recall.

...

Q. Okay. So, and what I'm trying to get at is there's a half-acre piece in United, that's in the name of United.

A. Yes.

...

Q. Okay. And both of those, the smaller piece and the bigger piece, were purchased with money from the supermarket, so they're 50/50.

A. That's correct. (Emphasis added.)

Notwithstanding this testimony, Yusuf failed to identify this property as partnership property in the Liquidating Partner's July 31st report to this Court, prompting Hamed to file an objection to that report because of his omission. See **Exhibit 3**.

At first, DTF derided Hamed for even raising the issue of the ½ acre, stating in a response to counsel's letter on this issue that United was not asserting any claim to this property. See Group **Exhibit 4**. However, in the Liquidating Partner's November

30th report, Yusuf reversed his position, now claiming the property did belong to United and not to the partnership. See Exhibit 5.

Thus, DTF has filed pleadings and sent correspondence that has taken both sides of the issue at different times for different parties. While this Court need not resolve this ownership issue in addressing this motion, DTF's invoice (**Exhibit 1**) contains specific entries that demonstrate that it was billing the partnership for the work it did, reversing itself on the partnership's interest in this land, and subsequently claiming that the partnership (its client!) had no interest and refusing to list the property as a contested asset:

10/05/15	reply to 9/29 letter from Holt re partnership assets; email FY re same; teleconference with FY re draft reply to Holt.
10/20/15	Draft, review, and revise list of remaining partnership property to be liquidated and pending motions affecting partnership property.
10/21/15	Review letter from Holt re disputed land; email FY re same.
11/17/15	Draft fifth by-monthly report. Conference with CKP re pending litigation and claims reserve.
11/19/15	Review and revise fifth bi-monthly report, email to Gaffney and CKP re same.
11/23/15	Email to Gaffney re fifth bi-monthly report

Of course, this work, which DTF has represented was done "for" the partnership, really was done to serve Yusuf and United, not the partnership. Otherwise DTF never would have submitted pleadings (being charged to the partnership) that benefited Yusuf and United as opposed to the partnership. In short, DTF is acting directly contrary to its "client", the partnership, and for the benefit of DTF's other two clients, Yusuf and United.

A full analysis of this billing demonstrates numerous other instances where DTF acted contrary to the interests of the partnership. However, the simple fact is that the Supreme Court's admonition in *King* against representing potentially conflicting interests

does not require a showing of any specific acts of favoring one client over the other, even though such conduct exists here. Indeed, as noted in the Motion To Remove The Liquidating Partner, filed simultaneously with this motion, DTF's representation of the Defendants has been in complete conflict of the best interests of the partnership.

In short, under *King*, absent informed consent in writing **from all affected parties**, DTF violated the applicable rules of professional conduct by representing the partnership while representing Yusuf and United at the same time.

II. Disqualification from Further Representation for Conflict with Prior Client -- Model Rules of Prof'l Conduct R. 1.9(a) (1987)

This taint cannot be cured, as the continued involvement of DTF on behalf of just the two Defendants would result in it litigating against a former client, the partnership. The *Model Rules of Professional Conduct* promulgated by the American Bar Association (ABA) govern the conduct of members of the Virgin Islands Bar Association. *In re Drue*, 57 V.I. 517, S. Ct. Civ. No. 2012-0051, 2012 WL 4767278, at *3 (V.I. Sept. 18, 2012). In *Illaraza v. Hovenssa LLC*, No. CV-07-125 and No. CV-08-59, 2014 WL 4746774, at *2 (D.V.I. Sept. 24, 2014), the District Court applied the Model Rules in disqualifying counsel from representing a party against a former client, noting the following regarding Model Rule of Prof'l Conduct 1.9(a):

On May 4, 2011, Magistrate Judge George W. Cannon, Jr. issued an order granting ACI's motion. *Illaraza v. HOVENSA, LLC*, Nos. 07-125 & 08-59 (D.V.I. May 4, 2011). He disqualified Ms. Rohn and her firm from representing either or both plaintiffs "in the above-captioned matter." *Id.* The Magistrate Judge reasoned that Ms. Rohn had run afoul of Rule 1.9(a) of the Model Rules of Professional Conduct, which states:

A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are

materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

This rule clearly applies here. Thus, DTF must be disqualified from proceeding further in this case.

Dated: January 29, 2016



Joel H. Holt, Esq.
Counsel for Mohammad Hamed
2132 Company Street,
Christiansted, VI 00820
(340) 773-8709
Email: holtvi@aol.com

Carl J. Hartmann III, Esq.
Counsel for Waheed Hamed
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
(340) 719-8941
Email: carl@carlhartmann.com

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January, 2016, I served a copy of the foregoing Memorandum by email, as agreed by the parties, on:


Hon. Edgar Ross
Special Master
edgarrossjudge@hotmail.com

Nizar A. DeWood
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820
dewood@gmail.com

Gregory H. Hodges
Law House, 10000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00802
ghodges@dtflaw.com

Mark W. Eckard
5030 Anchor Way
Christiansted, VI 00820
mark@markeckard.com

Jeffrey B. C. Moorhead
CRT Brow Building
1132 King Street, Suite 3
Christiansted, VI 00820
jeffreymlaw@yahoo.com



From: Edgar Ross <edgarrossjudge@hotmail.com>

To: JOEL HOLT <holtvi@aol.com>

Subject: Fwd: Attorneys' Fees Charged To Fathi Yusuf That Should Be Reimbursed By The Partnership

Date: Thu, Dec 24, 2015 12:01 pm

Attachments: 16B1242-MATTER LEDGER REPORT.PDF (677K)

Sent via the Samsung GALAXY S@4, an AT&T 4G LTE smartphone

----- Original message -----

From: "Gregory H. Hodges" <ghodges@dtflaw.com>

Date: 12/24/2015 10:47 AM (GMT-04:00)

To: 'Edgar Ross' <edgarrossjudge@hotmail.com>

Cc: Fathi Yusuf <fathiyusuf@yahoo.com>, 'Nizar DeWood' <nizar@dewood-law.com>

Subject: RE: Attorneys' Fees Charged To Fathi Yusuf That Should Be Reimbursed By The Partnership

Season's Greetings Judge Ross,

In the course of performing his duties as Liquidating Partner, Mr. Yusuf has incurred attorneys' fees charged by Dudley, Topper and Feuerzeig, LLP ("DTF"). As you know, pursuant to section 4 of the "Final Wind Up Plan of the Plaza Extra Partnership" (the "Plan"), the "Liquidating Partner shall have ... full power and authority to ... engage legal, accounting and other professional services...." Since the entry of the Order approving the Plan in early January of this year, DTF has billed Mr. Yusuf for services related to his duties as Liquidating Partner. Attached is DTF's Matter Ledger Report in which the DTF services rendered in connection with Mr. Yusuf's Liquidating Partner duties have been segregated from the DTF services generally provided to Mr. Yusuf in the pending litigation against the Hameds. As reflected in the attached Matter Ledger Report, the DTF fees through 11/30/15 that relate to the Liquidating Partner's duties total \$57,605. As Liquidating Partner, Mr. Yusuf submits that the Partnership should pay this amount to DTF.

If you have any questions or would like any further information concerning this request, please let me know.

Regards,

Greg

Gregory H. Hodges
Dudley, Topper and Feuerzeig, LLP
Law House, 1000 Frederiksberg Gade
St. Thomas, VI 00802
Direct: (340) 715-4405
Fax: (340) 715-4400
Web: www.DTFLaw.com

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MATTER LEDGER REPORT

Client 6254 Yusuf, Fahti
 Matter 1 adv. Hamed, Mohammad (Time Related to Liquidating Partner Duties)

Code	Name	Date	Rate	Hours	\$ Value	Ref #	Text
GHH	Gregory H. Hodges	02/06/15	400.00	2.10	840.00	15M3190	Prepare for and attend conference with Ross, et.al. re status and course of action re accounts; teleconference with Gaffney and G. Dudley re updated BS; review updated BS and email to Holt re same
GHH	Gregory H. Hodges	02/20/15	400.00	0.30	120.00	15N3720	Teleconference with Gaffney re course of action re 2014 tax return.
GHH	Gregory H. Hodges	02/23/15	400.00	0.90	360.00	15N5053	Review and respond to multiple emails from Holt, Ross, and Grey re status and course of action re bank accounts, inventories, liquidation of store, etc.
GHTD	George H.T. Dudley	02/23/15	425.00	0.70	297.50	15N7590	Review emails from E. Ross and J. Holt re dissolution process; review Ross email re United's name being on the liquidation accounts; conference with G. Hodges re Ross's email.
GHH	Gregory H. Hodges	03/03/15	400.00	0.60	240.00	15O1489	Review emails from Ross re new accounts; teleconference with Gaffney re store transfers.
GHH	Gregory H. Hodges	03/05/15	400.00	1.50	600.00	15O6079	Review master's order; conference with G. Dudley re same; teleconference with Ross re same.
GHTD	George H.T. Dudley	03/05/15	425.00	1.50	637.50	15O9310	Review Master's Order; conference with GHH re Order; conference call with GHH and Judge Ross re Order, implications and consequences of same and need for a similar order re Plaza East.
GHH	Gregory H. Hodges	03/24/15	400.00	3.10	1,240.00	15P8754	Begin draft of first bi-monthly report.
CKP	Charlotte K. Perrell	03/25/15	295.00	1.50	442.50	15P8863	Review Beckstedt's List of Pending Cases and compare with our prior list, email to Beckstedt to confirm discrepancies; update our list and consolidate with Beckstedt's information.
GHH	Gregory H. Hodges	03/25/15	400.00	2.00	800.00	15Q0505	Complete draft of and revise first bi-monthly report; email exchange with C. Perrell re Exhibit C-1 to same.
GHH	Gregory H. Hodges	03/26/15	400.00	0.80	320.00	15Q0950	Conference with C. Perrell re updated list of pending litigation against United; review and revise same; review and revise bi-monthly report.
GHH	Gregory H. Hodges	03/30/15	400.00	0.60	240.00	15Q4187	Email Gaffney re bi-monthly report; teleconference with Gaffney and MY re same; finalize and file first bi-monthly report.
GHH	Gregory H. Hodges	05/19/15	400.00	0.40	160.00	15U2705	Review emails from Holt and Dema re payment of Dema fees; email and teleconference with FY re same; email to Holt and Dema re same.

GHH	Gregory H. Hodges	05/20/15	400.00	1.80	720.00	15U3520	Multiple email exchanges with Gaffney re status and course of action re various accounting issues.
GHH	Gregory H. Hodges	05/21/15	400.00	1.20	480.00	15U4731	Conference with G. Dudley re status and course of action re bank account/accounting issues; email exchanges with Gaffney re same; teleconference with Gaffney re same.
GHTD	George H.T. Dudley	05/21/15	425.00	0.70	297.50	15U8894	Conference with G. Hodges re materials to be included in next bi-monthly report of liquidating partner filed with Court; conference call with G. Hodges and J. Gaffney re financial records.
GHH	Gregory H. Hodges	05/22/15	400.00	0.70	280.00	15U5833	Email exchange with CJH re bi-monthly report; email Gaffney re same.
GHTD	George H.T. Dudley	05/22/15	425.00	1.90	807.50	15V2286	Review financial information prepared by J. Gaffney; conference with G. Hodges re financial information provided by Gaffney and what is to be included in liquidating partners bi-monthly report; conference call with Gaffney re matter.
GHH	Gregory H. Hodges	05/26/15	400.00	0.50	200.00	15U6784	Email exchange with MY and Holt re Shevlin letter re stock split; review Shevlin's 4/10/15 letter.
GHH	Gregory H. Hodges	05/26/15	400.00	2.40	960.00	15U7428	Draft second bi-monthly report; conference with G. Dudley re same.
GHH	Gregory H. Hodges	05/27/15	400.00	3.80	1,520.00	15U7888	Review and revise second bi-monthly report; email to client group and Gaffney re same; teleconferences with FY re accounting re inflows/outflows from CRA, LEA, and other operation accounts; conference with G. Dudley re draft bi-monthly report; email exchanges with Gaffney re same.
GHTD	George H.T. Dudley	05/27/15	425.00	1.60	680.00	15V3847	Review and edit draft of second bi-monthly report; conference with GHH re financial info to be included with report and related issues; review emails from J. Gaffney re matter.
GHH	Gregory H. Hodges	05/28/15	400.00	2.30	920.00	15U9594	Review and revise draft second bi-monthly report; email exchange with Gaffney re same; conference with G. Dudley re same.
GHTD	George H.T. Dudley	05/28/15	425.00	1.20	510.00	15V4181	Review draft report; review emails from J. Gaffney re financial records; conference with G. Hodges re Gaffney email and information to be provided to Holt et al.; conference call with G. Hodges and J. Gaffney.
GHH	Gregory H. Hodges	05/29/15	400.00	0.90	360.00	15V0150	Teleconference with Gaffney re draft report; review and revise draft bi-monthly report; email client group re same.
GHH	Gregory H. Hodges	06/01/15	400.00	5.30	2,120.00	15V1844	Review emails from Gaffney with financial information to be provided to Master and Hamed; email exchanges with Gaffney re same; teleconference with Gaffney and FY re same; final revisions to report; email to Ross and Holt re same; review and reply to email from CJH re pre-transfer AP information.
GHTD	George H.T. Dudley	06/01/15	425.00	1.30	552.50	15V4258	Review additional comments from J. Gaffney on second bi-monthly report; conference with GHH re Gaffney comments; review email from GHH to E. Ross et al. transmitting reports; conference with GHH re filing same with Superior Court; review attachments to email.

GHH	Gregory H. Hodges	06/02/15	400.00	1.30	520.00	15V2216	Review emails from CJH re alleged reporting deficiencies; review email from Gaffney re APs; teleconference with FY re \$19K refund and APs; review Gaffney email re same.
GHH	Gregory H. Hodges	06/05/15	400.00	1.70	680.00	15V5962	Email exchanges with CJH re second report and course of action; teleconference with Gaffney re same; email exchange with Gaffney re same.
GHTD	George H.T. Dudley	06/05/15	425.00	0.20	85.00	15W0634	Review C. Hartmann further emails re demand for additional financial information; conference with G. Hodges re Hartman's demand.
GHTD	George H.T. Dudley	07/02/15	425.00	0.70	297.50	15Y4994	Conference with GHH re 2014 tax return and next report from liquidating partner.
GHH	Gregory H. Hodges	07/08/15	400.00	0.40	160.00	15Y3180	Teleconference with Gaffney re status of store transfers due after June 15 and reconciliation of actual expenses of liquidation with projected expenses
GHH	Gregory H. Hodges	07/13/15	400.00	2.10	840.00	15Y6317	Draft third bi-monthly report of Liquidating Partner.
GHH	Gregory H. Hodges	07/14/15	400.00	1.10	440.00	15Y7564	Review email from Holt re Isaac mediation; email to and teleconference with FY and NY re course of action re same; email NY re same; teleconference with C. Beckstedt re same.
GHH	Gregory H. Hodges	07/15/15	400.00	1.60	640.00	15Y8808	Conference with G. Dudley re 3d bi-monthly report; further revise draft of same; email FY/Gaffney re same; email exchanges with CJH re same; email from CB re settlement of Isaac matter; review and revise list of pending cases and bi-monthly report re same.
GHTD	George H.T. Dudley	07/15/15	425.00	0.50	212.50	15Z1914	Review 3d Bi-Monthly Report to Court; conference with GHH re edits to report.
GHTD	George H.T. Dudley	07/15/15	425.00	0.20	85.00	15Z2612	Review email from J. Bailey re non-payment of rent for office in Buccaneer Mall; review J. Holt email re same; review J. Gaffney email re same.
GHTD	George H.T. Dudley	07/15/15	425.00	0.20	85.00	15Z4031	Conference with GHH re latest emails from C. Hartmann complaining about delayed reconciliation of actual vs. budgeted expenses for liquidation/windup of plaza partnership.
GHH	Gregory H. Hodges	07/16/15	400.00	0.50	200.00	15Y9696	Review emails from Gaffney re tax returns and information re receipts/disbursements.
GHTD	George H.T. Dudley	07/16/15	425.00	0.50	212.50	15Z4042	Several emails with GHH and J. Gaffney re 3d Report by Liquidating Partner.
GHH	Gregory H. Hodges	07/17/15	400.00	1.50	600.00	15Z0680	Review and revise draft third bi-monthly report; email to Gaffney/FY re sharing information; review emails from Gaffney to Ross/Holt re receipts/disbursements; email exchange with Gaffney re same.
GHTD	George H.T. Dudley	07/17/15	425.00	1.20	510.00	15Z5662	Review emails and attachments from J. Gaffney re STT Bank Reconciliations; conference with GHH re same and advisability of providing to Holt, et al.; edit transmittal email to be used by Gaffney.
GHH	Gregory H. Hodges	07/18/15	400.00	1.20	480.00	15Z1136	Review emails from Gaffney re Hartmann claims re salaries; review file re same; email to Hartmann re same.

GHTD	George H.T. Dudley	07/18/15	425.00	0.40	170.00	15Z6662	Review C. Hartmann email to GHH re payment of Hamed and Yusuf sons until proper notice of termination is provided; conference with GHH re matter; review GHH email to C. Hartmann re payment of F. Yusuf as liquidating partner.
GHTD	George H.T. Dudley	07/19/15	425.00	0.20	85.00	15Z5670	Review J. Gaffney email with attached notice from the IRS re Unemployment Taxes due for 2012 in the amount of \$280,000; conference with GHH re matter.
GHH	Gregory H. Hodges	07/20/15	400.00	1.20	480.00	15Z2139	Review emails from CJH re salary and accounting issues; reply to same; email exchange with Gaffney re same and course of action re meetings with Judge Ross; teleconference with FY and NAD re same.
GHTD	George H.T. Dudley	07/20/15	425.00	0.90	382.50	15Z5670	Review Plaza Extra monthly income statements and related financial information received from J. Gaffney
GHH	Gregory H. Hodges	07/21/15	400.00	2.70	1,080.00	15Z3490	Review emails from Gaffney re accounting info through 6/30/15; teleconference with Gaffney and G. Dudley re same; review email from CB re pending cases and reserves; conference with G. Dudley re reserves.
GHTD	George H.T. Dudley	07/21/15	425.00	2.50	1,062.50	15Z5776	Review materials received from J. Gaffney re accountings; conference with GHH re matter; conference call with GHH and J. Gaffney re matter; review GHH email to Gaffney authorizing release of info to J. Holt and Magistrate.
GHH	Gregory H. Hodges	07/22/15	400.00	2.20	880.00	15Z4635	Review and revise third bi-monthly report; email to G. Dudley re same; review and reply to emails from Gaffney and CPA monitors (Kaufman Rossin) re various orders in partnership case.
GHH	Gregory H. Hodges	07/23/15	400.00	0.20	80.00	15Z4700	Review email from CB re status and course of action re Hippolyte v. United.
GHH	Gregory H. Hodges	07/23/15	400.00	2.10	840.00	15Z5161	Review G. Dudley comments to draft third bi-monthly report; review and revise same; emails to Gaffney and FY re same; review emails from Gaffney re financial information supporting LP report and to be shared with Holt et al; reply to same; further revise report re timing of LP accounting and n.2 re BNS account.
GHTD	George H.T. Dudley	07/23/15	425.00	1.80	765.00	15Z9523	Review financial info prepared by J. Gaffney; conference with GHH and conference call with Gaffney re payment made to F. Yusuf for difference in value between East and West; edit draft of third bi-monthly report.
GHH	Gregory H. Hodges	07/24/15	400.00	0.80	320.00	15Z6188	Conference with G. Dudley and Gaffney re financial information to be provided to Holt.
GHTD	George H.T. Dudley	07/24/15	425.00	2.80	1,190.00	1600433	Review financial information sent by J. Gaffney; conference call with GHH and Gaffney re questions on statements and required revisions to same.
GHTD	George H.T. Dudley	07/27/15	425.00	0.80	340.00	1600457	Review J. Gaffney's email and attached revised financials to be supplied to J. Holt; review GHH emails re same.

GHTD	George H.T. Dudley	08/13/15	425.00	0.40	170.00	1617830	Review email with attached Topa invoice from J. Bailey; conference with CKP re additional time and need for continued occupancy of rented space; review J. Holt email re Topa invoice.
GHH	Gregory H. Hodges	08/24/15	400.00	0.40	160.00	1618453	Review motion to clarify and objection to 3rd report filed by Holt.
GHH	Gregory H. Hodges	08/25/15	400.00	1.40	560.00	1619065	Review Bailey email re rent and forward to client group; review file and begin outlining responses to motion to clarify and objection to report.
GHH	Gregory H. Hodges	08/26/15	400.00	3.40	1,360.00	1620830	Continue drafting opposition to motion to clarify and response to objection to bi-monthly reports.
GHTD	George H.T. Dudley	08/26/15	425.00	0.80	340.00	1625193	Review J. Gaffney email to J. Bailey re rent payments; conference with GHH re status of case; review J. Bailey reply email to Gaffney; review Gaffney email and attached spreadsheets for Plaza West; conference with GHH re Gaffney email; review GHH email to Gaffney re need for a conference call to discuss issues.
GHH	Gregory H. Hodges	09/01/15	400.00	1.10	440.00	1623815	Final revisions to response to objection to bi-monthly reports; emails to client group re same; teleconference with FY re same.
GHH	Gregory H. Hodges	09/21/15	400.00	2.40	960.00	1638162	Review Holt email re Tutu Park real property taxes and course of action re same; conference with G. Dudley re same; draft reply to Holt email after reviewing 1/7/15 order, plan, and master's orders re Tutu Park.
GHTD	George H.T. Dudley	09/21/15	425.00	0.70	297.50	1650063	Review email from Joel Holt re demand for payment of property taxes by Tutu Mall landlord for property taxes recently assessed by Tax Assessor based on Tax Assessor's earlier mistakes; conference with GHH re matter.
GHH	Gregory H. Hodges	09/22/15	400.00	3.00	1,200.00	1640232	Teleconference with FY re Tutu Park taxes; review draft letter re same; review and revise email to Holt re taxes; email to GHTD re same; conference with GHTD re course of action re accounting issues; email to Holt re taxes; teleconference with FY re email to Holt re course of action re taxes; draft 4th bi-monthly report.
GHH	Gregory H. Hodges	09/23/15	400.00	1.30	520.00	1640667	Review and revise 4th bi-monthly report; email to Gaffney re same.
GHH	Gregory H. Hodges	09/26/15	400.00	0.20	80.00	1643356	Review email from Russell re tax invoices.
GHH	Gregory H. Hodges	09/28/15	400.00	1.20	480.00	1644650	Teleconference with FY re Tutu Park taxes and course of action re same; email to Gaffney re 4th bi-monthly report; email to CKP re same; email to G. Dudley re Tutu park taxes.
GHTD	George H.T. Dudley	09/28/15	425.00	0.40	170.00	1653822	Conference with GHH re property tax reimbursement to Tutu Park and United to receive a proportionate share for Plaza East; review lease re matter.
GHH	Gregory H. Hodges	09/29/15	400.00	2.50	1,000.00	1645426	Email to Holt re Tutu Park taxes; email exchanges with Gaffney re accounting info for bi-monthly report; teleconference with Gaffney re reconciliation of actual expenses against projected; review and revise draft bi-monthly report.

GHH	Gregory H. Hodges	09/30/15	400.00	1.00	400.00	1646167	Review emails from Gaffney re financial information to be provided to Holt and Judge Ross; email exchange re same.
GHH	Gregory H. Hodges	09/30/15	400.00	1.20	480.00	1647375	Review financial information Gaffney intends to provide to Holt/Ross; email Gaffney re same; review and revise 4th bi-monthly report and file same; emails to Gaffney re covering letter for financial information provided to Holt.
GHH	Gregory H. Hodges	10/01/15	400.00	1.30	520.00	1648029	Teleconference with FY re 4th bi-monthly report; email to FY re course of action re payments to Tutu Park, Ltd; review and reply to email from Gaffney re financial info provided to Ross/Holt.
GHH	Gregory H. Hodges	10/01/15	400.00	1.00	400.00	1648982	Draft further stipulation re timing of accounting; email exchange with Holt re same; teleconference with FY re taxes for Tutu Park; teleconference with Russell re course of action re releases.
GHTD	George H.T. Dudley	10/01/15	425.00	0.40	170.00	1663364	Conference with GHH re property tax reimbursement and additional rent claimed by Tutu Park; review GHH email to F. Yusuf re matter.
GHTD	George H.T. Dudley	10/02/15	425.00	0.30	127.50	1664016	Review invoice for rent at Buccaneer Mall received from J. Bailey; review J. Holt email approving payment of same.
GHH	Gregory H. Hodges	10/05/15	400.00	1.60	640.00	1649662	Review email from Gaffney re course of action re payment of Tutu Park taxes; reply to 9/29 letter from Holt re partnership assets; email FY re same; teleconference with FY re draft reply to Holt.
GHH	Gregory H. Hodges	10/07/15	400.00	2.60	1,040.00	1652359	Review emails from Gaffney re GR figures for STT store to be shared with Judge Ross/Holt; reply to same; teleconferences with FY re percentage rent; review emails from Holt and Russell re same; reply to same; teleconference with Russell re same.
GHH	Gregory H. Hodges	10/15/15	400.00	0.30	120.00	1659497	Review email from Judge Ross re status and course of action re partnership liquidation; email client group re same
GHTD	George H.T. Dudley	10/15/15	425.00	0.40	170.00	1688696	Conference with GHH re email received from Ross requesting list of other properties/assets requiring attention of liquidating partner.
GHH	Gregory H. Hodges	10/16/15	400.00	0.70	280.00	1659940	Review financial information provided by Gaffney on 10/11/15 to address status/liquidation issues raised by Judge Ross in his 10/15 email.
GHH	Gregory H. Hodges	10/19/15	400.00	1.80	720.00	1661367	Email to FY re remaining partnership assets to liquidate/separate; teleconference with FY re same; review bi-monthly reports in order to draft list of remaining partnership property requested by Ross; review file to determine any pending motions that may affect partnership liquidation; email to attorney group re same; begin work on "list" Judge Ross wants filed by 10/23/15.
GHH	Gregory H. Hodges	10/20/15	400.00	1.50	600.00	1663367	Draft, review, and revise list of remaining partnership property to be liquidated and pending motions affecting partnership property.
GHH	Gregory H. Hodges	10/21/15	400.00	1.30	520.00	1663923	Review letter from Holt re disputed land; email FY re same; review and revise draft list in response to Judge Ross directive; email client group re same.
GHH	Gregory H. Hodges	10/22/15	400.00	1.00	400.00	1664622	Email exchange with LEB re 1/2 acre disputed parcel; review and revise draft list re disputed 1/2 acre; email to FY re same.
LEB	Leslie E. Bush	10/22/15	150.00	0.80	120.00	1664942	E-mail exchange with GHH re 2-4 Charlotte Amalie research.

GHH	Gregory H. Hodges	10/23/15	400.00	2.30	920.00	1666480	Teleconference with FY re 1/2 acre and course of action re same; review and finalize list of issues for Ross; email exchanges with Holt and Harthman re same and 1/2 acre.
GHTD	George H.T. Dudley	10/23/15	425.00	0.50	212.50	1671846	Conference with GHH re final accounting to be filed by liquidating partner and prepare for same by J. Gaffney; conference call with GHH and Gaffney to discuss contents of final accounting and preparation of same.
GHTD	George H.T. Dudley	10/26/15	425.00	0.20	85.00	1672077	Conference with GHH re liquidating partner accounting by J. Gaffney.
GHH	Gregory H. Hodges	10/27/15	400.00	0.30	120.00	1669732	Email exchange with Gaffney re partnership accounting due 11/16/15.
GHTD	George H.T. Dudley	10/28/15	425.00	0.20	85.00	1672364	Conference call with GHH and J. Gaffney re liquidating partner accounting to be filed with Court.
GHH	Gregory H. Hodges	11/03/15	400.00	0.20	80.00	1673950	Email Gaffney re status of partnership accounting.
GHH	Gregory H. Hodges	11/04/15	400.00	0.50	200.00	1675174	Email exchange with Gaffney re status of partnership accounting; conference with G. Dudley re same.
GHTD	George H.T. Dudley	11/04/15	425.00	0.20	85.00	1683074	Review J. Gaffney email; conference with GHH re timing of preparation of final accounting.
GHH	Gregory H. Hodges	11/05/15	400.00	1.00	400.00	1676347	Email to Gaffney re partnership accounting; review email from Gaffney re same; review draft balance sheet; email to G. Dudley re same.
GHH	Gregory H. Hodges	11/09/15	400.00	1.10	440.00	1678334	Conference with G. Dudley re draft balance sheets re liquidation process received from Gaffney; teleconference with Gaffney re course of action re revisions to same.
GHTD	George H.T. Dudley	11/09/15	425.00	1.10	467.50	1683099	Review partnership accounting prepared by J. Gaffney; conference with GHH re additional information needed with accounting to be filed with court; conference call with Gaffney and GHH re footnotes needed for accounting.
GHH	Gregory H. Hodges	11/11/15	400.00	2.50	1,000.00	1680841	Review Gaffney's revised financials for Partnership accounting; email to Gaffney re questions concerning same and notes to same; review Gaffney reply.
GHTD	George H.T. Dudley	11/11/15	425.00	0.80	340.00	1683395	Review draft of Gaffney's report; conference with GHH re edits to report to better explain numbers; review GHH email to J. Gaffney with questions re numbers in draft report.
GHH	Gregory H. Hodges	11/12/15	400.00	2.10	840.00	1681048	Conference with G. Dudley re Gaffney draft report; conference with G. Dudley and Gaffney re same; draft notice re submission of Partnership accounting.
GHTD	George H.T. Dudley	11/12/15	425.00	1.50	637.50	1686792	Conference call with J. Gaffney re partnership accounting and explanatory footnotes.
GHH	Gregory H. Hodges	11/13/15	400.00	1.80	720.00	1681764	Review and revise notice re service of accounting; review revised partnership accounting from Gaffney; reply to Gaffney re same; email to FY re course of action re same; email exchange with Gaffney re further updating the Partnership accounting with BPPR securities October statement.

GHTD	George H.T. Dudley	11/13/15	425.00	1.20	510.00	1686974	Review updated accounting report received from J. Gaffney; conference with G. Hodges re updated report, timing of filing of same.
GHH	Gregory H. Hodges	11/15/15	400.00	0.40	160.00	1682537	Review revised partnership accounting from Gaffney; email to Gaffney and FY re same.
GHTD	George H.T. Dudley	11/15/15	425.00	0.30	127.50	1688984	Review J. Gaffney email to G. Hodges re revisions to partnership accounting to reflect activities in the BP securities account; review accounting.
GHH	Gregory H. Hodges	11/16/15	400.00	1.30	520.00	1683086	Review and reply to email from Gaffney re accounting; conference with G. Dudley re same; email to FY re authorization to submit same; teleconference with FY re same; email to Ross/Holt re same.
GHTD	George H.T. Dudley	11/16/15	425.00	0.70	297.50	1696529	Review Gaffney's revised Partnership Account and draft of Notice of Service prepared by G. Hodges; conference with G. Hodges re Gaffney's accounting and draft notice.
GHH	Gregory H. Hodges	11/17/15	400.00	1.60	640.00	1686123	Draft fifth bi-monthly report; conference with CKP re pending litigation and claims reserve.
GHH	Gregory H. Hodges	11/19/15	400.00	0.80	320.00	1686526	Review and revise fifth bi-monthly report; email to Gaffney and CKP re same.
GHH	Gregory H. Hodges	11/23/15	400.00	0.50	200.00	689447	Email to Gaffney re fifth bi-monthly report and updated financial info needed; review Gaffney response.
GHH	Gregory H. Hodges	11/24/15	400.00	2.50	1,000.00	1689902	Review email from Gaffney regarding financial info to be provided with fifth bi-monthly report; conference with G. Dudley re same; reply to Gaffney re same; teleconference with Gaffney and G. Dudley re same; begin review of financial info sent by Gaffney to be referenced in the bi-monthly report; teleconference with FY re course of action re bi-monthly reports.
GHTD	George H.T. Dudley	11/24/15	425.00	1.30	552.50	1691983	Review G. Hodges email with September Report (through August) prepared by J. Gaffney and draft of latest report; conference with G. Hodges re discrepancies; conference call with G. Hodges and J. Gaffney re simply extending September Report to 10/31/15 and adding footnotes to explain any changes in numbers; review Gaffney emails with revised report.
GHH	Gregory H. Hodges	11/25/15	400.00	2.00	800.00	1690853	Complete review of the updated financial information that supports or is referenced in fifth bi-monthly report; finalize the report; email Gaffney re sending the updated financial information to Judge Ross and Holt.
GHTD	George H.T. Dudley	11/25/15	425.00	1.00	400.00	1694487	Review J. Gaffney proposed final liquidation accounting and comparison to budget; review emails between Gaffney and G. Hodges; conference with G. Hodges re final account and filing of same with Judge Ross.
CKP	Charlotte K. Perrell	11/25/15	295.00	0.30	88.50	16A1118	Correspondence to Carl Beckstedt for update as to status of United Litigation as to Bi-Monthly report.
GHTD	George H.T. Dudley	11/30/15	425.00	1.00	425.00	1697520	Review J. Gaffney emails re 10/31/15 budget comparison and details for partner distributions and supporting documents; conference with GHH re Gaffney emails.

CKP	Charlotte K. Perrell	11/30/15	295.00	0.20	59.00	16A1113	Coordinate for filing the Bi-Monthly report.
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Total Unbilled: 57,605.00

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

MOHAMMED HAMED by His Authorized)
Agent WALEED HAMED,)

Plaintiff/Counterclaim Defendant,)

vs.)

Case No. SX-12-CV-370

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

vs.)

WALEED HAMED, WAHEED HAMED, MUFEEED)
HAMED, HISHAM HAMED, and PLESSEN)
ENTERPRISES, INC.,)

Additional Counterclaim Defendants.)

THE VIDEOTAPED ORAL DEPOSITION OF FATHI YUSUF

was taken on the 2nd day of April, 2014, at the Law Offices
of Adam Hoover, 2006 Eastern Suburb, Christiansted,
St. Croix, U.S. Virgin Islands, between the hours of
9:17 a.m. and 4:16 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

FATHI YUSUF -- DIRECT

1 property?

2 A. No. I have a contract.

3 Q. So if I went over to Jordan and did a title
4 search -- I don't even know if they do that -- it would show
5 the property's still in both your names?

6 A. Yes.

7 Q. And the Tutu Park property, is that also called
8 Ft. Milner, as well?

9 A. Yeah, it's Ft. Milner or Tutu. It's Ft. Milner, I
10 believe.

11 Q. Okay. And one is a 9-acre parcel?

12 A. 9.31.

13 Q. Then the other one is like a half-acre parcel?

14 A. It's about .53, if I recall.

15 Q. Okay.

16 A. Not too sure exactly.

17 Q. And -- and both of those properties were supposed
18 to belong 50 percent to you and 50 percent to Hamed?

19 A. Up to the time he give me his word, it was 50/50.
20 After that, I would assume all is mine.

21 Q. Okay. So, and what I'm trying to get at is I know
22 there's a half-acre piece in United, that's in the name of
23 United?

24 A. Yes.

25 Q. But that was actually purchased with --

FATHI YUSUF -- DIRECT

1 **A.** This is part of the --

2 **Q.** Bigger piece?

3 **A.** -- of the one he pledge to settle the number I
4 give him at our first meeting.

5 **Q.** Okay. And both of those, the smaller piece and
6 the bigger piece, were purchased with money from the
7 supermarket, so they're 50/50.

8 **A.** That's correct.

9 **Q.** Okay. And, you know, you keep referring back to
10 the testimony yesterday of Mr. Mohammad Hamed.

11 Did you hear him say anything that you think
12 is incorrect or untruthful?

13 **A.** A lot, unfortunate. A lot of what he say, I don't
14 agree with.

15 **Q.** Okay. Let me come back to that.

16 All right. So getting back to the exhibit in
17 front of you, I'm just going to read you two more clauses
18 and then we'll be done with this one.

19 The third -- the third clause from the bottom
20 says, Whereas the partners have shared profits, losses,
21 deductions, credits and cash --

22 **A.** Excuse me. Where -- where it says that? What
23 page?

24 **Q.** The page you're on, right there.

25 **A.** This?

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

MOHAMMAD HAMED, by his
authorized agent **WALEED HAMED**,

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and
UNITED CORPORATION,

Defendants/Counterclaimants,

vs.

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

Counterclaim Defendants.

CIVIL NO. SX-12-CV-370

**ACTION FOR DAMAGES
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

**PLAINTIFF'S NOTICE OF OBJECTION TO LIQUIDATING PARTNER'S
BI-MONTHLY REPORTS**

In his July 31st report, the Liquidating Partner (Fathi Yusuf) admitted on page 5 that he had not previously provided the required bi-monthly accounting. The delivery of the voluminous accounting filings that was done in one large "document dump" hardly satisfies the obligations to provide meaningful, regular accounting information to Mohammad Hamed. Indeed, this conduct has prevented Hamed from doing his own accounting verification, which he has the right to do under the Liquidation Order, as noted in the August 14th filing asking this Court for more time to complete this task.

However, Hamed would be remiss if he did not also point out that the Liquidating Partner has failed to account for many items, including (1) debts that should be



attributed to him but which he has allocated to the partnership and (2) the identification of assets of the partnership that he has either claimed as his own or abandoned.

By way of example, the Liquidating Partner allocated the purchase cost of two new condensers for the Plaza East store to himself, as they were purchased after the value of the store's equipment had been agreed to. However, he failed to allocate the cost of shipping and installation of these condensers to himself. Instead, he charged these costs to the partnership, which was improper. Of course, this item will be one of the matters addressed in the "claims portion" of the liquidation process. That process will commence once Hamed has had time to review all of the accounting records to determine what other items were improperly charged to the partnership by the Liquidating Partner (to his own benefit).

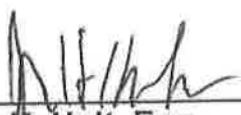
As for identifying assets, there are problems here as well. For example, in his July 31st Bi-monthly report, the Liquidating Partner fails to identify a significant partnership asset, a Merrill-Lynch account that has in excess of \$300,000 in it, all of which came from Plaza Extra funds. In this regard, the account was placed in the name of a third party, a relative of Mr. Yusuf, even though the deposits came through partnership funds. Apparently the Liquidating Partner thinks Hamed has forgotten about this account, which is a significant partnership asset.

By way of another example, on pages 3-4 of his July 31st report, the Liquidating Partner identifies a specific parcel of land in St. Thomas as partnership property, **but he then claims the land for himself in that same report!** Of course, when he was deposed prior to becoming the Liquidating Partner, Mr. Yusuf *admitted this parcel was purchased with partnership funds. See Exhibit 1.*

Again, these items will become part of the "claims portion" of this liquidation process if not corrected in the Liquidating Partner's final Bi-monthly accounting. However, Hamed wishes to note his objections on the record to this entire accounting now, even though the issues in dispute need not be resolved by the Court at this stage of the liquidation process.

However, once the "claims process" does begin, these items of "self dealing" will warrant this Court modifying its Order that the Liquidating Partner be paid from partnership funds, as at that juncture the only remaining part of the liquidation process will be the adversarial "claims process." Clearly the Liquidating Partner should not be paid for claiming disputed partnership assets for himself.

Dated: August 18, 2015



Joel H. Holt, Esq.
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
5000 Estate Coakley Bay,
Unit L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com
Tele: (340) 719-8941

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of August, 2015, I served a copy of the foregoing by email, as agreed by the parties, on:


Hon. Edgar Ross
Special Master
% edgarrossjudge@hotmail.com

Nizar A. DeWood
The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820
dewoodlaw@gmail.com

Gregory H. Hodges
Law House, 10000 Frederiksberg Gade
P.O. Box 756
ST.Thomas, VI00802
ghodges@dtflaw.com

Mark W. Eckard
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

Jeffrey B. C. Moorhead
CRT Brow Building
1132 King Street, Suite 3
Christiansted, VI 00820
email : jeffreymlaw @yahoo.com



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

MOHAMMED HAMED by His Authorized)
Agent WALEED HAMED,)
)
Plaintiff/Counterclaim Defendant,)
)
vs.) Case No. SX-12-CV-370
)
FATHI YUSUF and UNITED CORPORATION,)
)
Defendants/Counterclaimants,)
)
vs.)
)
WALEED HAMED, WAHEED HAMED, MUFEEED)
HAMED; HISHAM HAMED, and PLESSEN)
ENTERPRISES, INC.,)
)
Additional Counterclaim Defendants.)

THE VIDEOTAPED ORAL DEPOSITION OF FATHI YUSUF

was taken on the 2nd day of April, 2014, at the Law Offices
of Adam Hoover, 2006 Eastern Suburb, Christiansted,
St. Croix, U.S. Virgin Islands, between the hours of
9:17 a.m. and 4:16 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



FATHI YUSUF -- DIRECT

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FATHI YUSUF -- DIRECT

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JOEL H. HOLT, ESQ. P.C.

2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

Tele. (340) 773-8709
Fax (340) 773-8677
E-mail: holtvi@aol.com

September 29, 2015

Gregory Hodges
Stefan B. Herpel
Dudley, Topper and Feuerzeig
1000 Frederiksberg Gade – Box 756
St. Thomas, VI 00804

Nizar A. DeWood
The Dewood Law Firm
Eastern Suburb, Suite 101
Christiansted, VI 00820

Re: Tax returns for Sixteen Plus, Peters' Farm and Plessen

Dear Counsel:

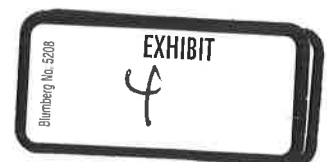
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

In this regard, this unilateral action is identical to Yusuf's unilateral decision regarding

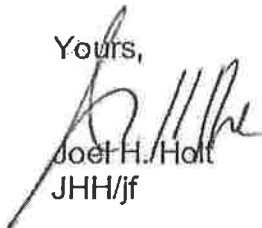


the parcel of land on St. Thomas that he now claims United owns, rather than the Partnership, contrary to his sworn statement in his deposition. [REDACTED]

[REDACTED]

Please get back to me at your earliest convenience on these points.

Yours,


Joel H. Holt
JHH/jf

DUDLEY, TOPPER AND FEUERZEIG, LLP

ATTORNEYS AT LAW

LAW HOUSE
1A FREDERIKSBERG CADE
CHARLOTTE AMALIE, ST. THOMAS
U.S. VIRGIN ISLANDS
00802

MAILING ADDRESS:
P.O. Box 756
ST. THOMAS, VI 00804
TELEPHONE: (340) 774-4422
TELEFAX: (340) 715-4400

GREGORY H. HODGES
DIRECT DIAL: (340) 715-4405
EMAIL: GHODGES@DTFLAW.COM

October 5, 2015

VIA EMAIL: holtvi@aol.com

Joel H. Holt, Esq.
Law Offices of Joel H. Holt
2132 Company Street, Suite 2
Christiansted, VI 00820

**Re: Tax Returns for Peter's Farm, Plessen Enterprises, and Sixteen Plus
Our File No. 6254-1-**


Dear Joel:

[REDACTED]

[REDACTED]

[REDACTED] your analogy of this nonexistent claim to a purported claim that United Corporation owns the 1/2 acre parcel of land on St. Thomas is also wrong. As the last two bi-monthly reports make crystal clear, that land is owned by Plessen. [REDACTED]

Sincerely,



Gregory H. Hodges

GHH:mjb

cc: Nizar A. DeWood, Esq.
Carl Hartmann, III, Esq.
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**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

MOHAMMAD HAMED , by his authorized agent WALEED HAMED ,)	CIVIL NO. SX-12-CV-370
)	
Plaintiff/Counterclaim Defendant,)	ACTION FOR DAMAGES, INJUNCTIVE RELIEF AND DECLARATORY RELIEF
)	
vs.)	
)	JURY TRIAL DEMANDED
FATHI YUSUF and UNITED CORPORATION ,)	
)	
Defendants/Counterclaimants,)	
)	
vs.)	
)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,)	
)	
Additional Counterclaim Defendants.)	
)	

LIQUIDATING PARTNER'S FIFTH BI-MONTHLY REPORT

Pursuant to this Court's "Final Wind Up Plan Of The Plaza Extra Partnership" entered on January 9, 2015 (the "Plan"), defendant/counterclaimant Fathi Yusuf ("Yusuf"), as the Liquidating Partner¹, respectfully submits this fifth bi-monthly report of the status of wind up efforts, as required by § 5 of the Plan.

Pursuant to the Court's "Order Adopting Final Wind Up Plan" dated January 7, 2015 and entered on January 9, 2015 (the "Wind Up Order"), the Court adopted the Plan. An Order entered on January 27, 2015 approving a stipulation of the parties provided, among other things, that the effective date of the Plan "shall be changed from ten (10) days following the date of the ... [Wind Up] Order to January 30, 2015."

On February 25, 2015, the Claims Reserve Account ("CRA") and the Liquidating Expense Account ("LEA") were established at Banco Popular de Puerto Rico. No disbursements have been made from the CRA or LEA without the approval of the Master. The Liquidating Partner has provided the Master and Hamed with copies of

¹ Capitalized terms not otherwise defined in this report shall have the meaning provided for i

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EXHIBIT
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ledgers, and reconciliations reflecting the inflows/outflows concerning these accounts from inception through October 31, 2015. Copies of the bank statements, ledgers, and reconciliations reflecting the inflows/outflows of the other bank accounts used jointly by the Partners in the operation of the three stores from May 1, 2015 through August 31, 2015 have previously been provided to the Master and Hamed.²

On March 5, 2015, the Master issued his "Master's Order Regarding Transfer of Ownership of Plaza Extra West." On March 6, 2015, the Master issued his "Master's Order Regarding Transfer of Ownership of Plaza Extra East." An accounting reconciling the difference in the inventory and equipment values involved in the transfer of Plaza Extra East and Plaza Extra West has occurred resulting in the payment of \$1,211,267.01 to Yusuf in July 2015.

The closed auction for Plaza Extra Tutu Park took place on April 30, 2015, pursuant to the Master's Order dated April 28, 2015. On April 30, 2015, the Master issued his "Master's Order Regarding Transfer Of Ownership Of Plaza Extra Tutu Park" (the "April 30 Master's Order"), pursuant to which that store was transferred to Hamed's designee, KAC357, Inc., for the price of \$4,050,000 plus \$220,000 in fees attributable to the Tutu Park Litigation (collectively, the "Tutu Park Purchase Price"), which has been paid.³

² These accounts used by all three stores remained open as an operational necessity with the consent of the Partners and the Master. Since these accounts were joint signatory accounts signed by representatives of both Partners, Hamed had uninterrupted, unfettered access to monitor these accounts. All checks drawn on these accounts have been signed by a representative of both Partners. All of these accounts, except one account at Scotiabank, were closed effective July 10, 2015 with all of the funds from those accounts transferred to the CRA. The one account was left open with a balance of \$1,000 for a few additional days because of pending document requests related to the 2014 Department of Justice review and Scotiabank needed an account to charge. After deducting fees, the \$895 balance in the account was transferred to the CRA.

³ Because the Tutu Park Purchase Price was paid to Yusuf using Partnership funds, Yusuf was in fact paid an equal amount from the CRA representing a matching distribution to him of the funds used by Hamed to purchase Plaza Extra Tutu Park.

Pursuant to the express provisions of the Wind Up Order (p.5), § 8(2) of the Plan, and the April 30 Master's Order (p.2), Hamed was obligated to obtain releases of the Partnership and Yusuf from any further leasehold obligations to Tutu Park, Ltd. when he assumed sole ownership and control of the Tutu Park store premises as of May 1, 2015. Despite repeated demands, Hamed has failed to provide the required releases that are a precondition to the valid transfer of the Tutu Park store. In the absence of such releases, the Tutu Park Store will require the further attention of the Liquidating Partner and the Court for separation. Further, at the closed auction for the Tutu Park store, the Partners agreed before the Master that the inventory to be included in the auction consisted of the inventory located under the roof of the store facilities. After the auction, Yusuf learned that Hamed or his designee, KAC357, Inc., took possession of 6 trailers of inventory located outside of the covered premises. Since the inventory contained in these 6 trailers was indisputably Partnership property, the Liquidating Partner needs to determine what was contained in these trailers and the value of such content. Yusuf is entitled to ½ of the value. The Liquidating Partner is working to resolve these issues as well as issues involving recent claims presented by Tutu Park, Ltd. concerning property taxes for the years 2012, 2013, and 2014.⁴

⁴ If the Liquidating Partner determines that the Partnership is responsible to Tutu Park, Ltd. for additional rent in the form of taxes or otherwise, the Partnership would be obligated to pay United comparable amounts since the rent for the Plaza Extra East store was pegged to the rent for the Tutu Park store, as recognized in this Court's Memorandum Opinion and Order entered on April 27, 2015.

To date, no Partnership Assets requiring liquidation beyond those described above have been identified by or to the Liquidating Partner.⁵ Hamed has inquired about the disposition of ½ acre of unimproved land located on St. Thomas that is allegedly owned by the Partnership and more particularly described as Parcel No. 2-4 Rem. Estate Charlotte Amalie, No. 3 New Quarter, St. Thomas, as shown on OLG Map. No. D9-7044-T002 (the “Land”). Yusuf submits that the Land has been erroneously carried on the balance sheet of the Partnership, because the record owner of the Land, pursuant to a Warranty Deed dated July 26, 2006 and recorded August 24, 2006, was Plessen Enterprises, Inc. (“Plessen”), a corporation jointly owned by the Hamed and Yusuf families. The Land was encumbered by a mortgage dated August 24, 2006 from Plessen to United in the face amount of \$330,000. Pursuant to a Deed In Lieu Of Foreclosure dated October 23, 2008 and recorded on March 24, 2009, Plessen conveyed the Land to United. Pursuant to a Release Of Mortgage dated October 23, 2008 and recorded on March 24, 2009, United released its mortgage covering the Land.⁶ Copies of the Deed In Lieu Of Foreclosure and Release Of Mortgage have been provided to the Master and Hamed. Accordingly, the Liquidating Partner does not intend to pursue liquidation of the Land or the mortgage since the Partnership has no continuing interest in either.⁷

An updated balance sheet was provided to counsel and the Master on February 6, 2015, as required by § 9, Step 4 of the Plan. Combined balance sheets and income statements for the

⁵ With the permission of the Master, a 2005 Toyota Camry owned by the Partnership and used primarily by NejeH Yusuf in connection with his co-management of Plaza Extra Tutu Park was purchased by United Corporation on May 1, 2015 for the sum of \$5,000.

⁶ The fourth bi-monthly report contained dated information. After that report was filed, counsel for the Liquidating Partner learned of the subsequent conveyance of the Land to United.

⁷ On August 18, 2015, Hamed filed a “Notice of Objection to Liquidating Partners Bi-Monthly Reports” (the “Objection”), which raised the issue of the Land, among other issues, but acknowledged that these issues would be addressed in the “claims portion” of the liquidation process. On September 3, 2015, Yusuf filed his Response to the Objection.

Partnership as of October 31, 2015 and supporting general ledger, cash reconciliation, accounts receivable aging, and accounts payable aging information (collectively, the "Financial Information") have been provided to the Master and Hamed with or prior to this report. John Gaffney, an accountant who has been engaged on behalf of and paid by the Partnership, has compiled the Financial Information, which the Liquidating Partner believes is generally reliable and historically accurate.⁸

The pending litigation identified in Exhibit C to the Plan was updated by the more detailed list attached as Exhibit C-1 to the first bi-monthly report. Since that updated Exhibit was prepared, the Allembert and Isaac claims have been settled. The Liquidating Partner is attempting to establish appropriate reserves for all pending litigation and any future litigation that may be filed within the two year statute of limitations period for personal injuries allegedly occurring prior to the transfer of the Plaza Extra Stores. Such reserves will be established out of the funds in the CRA.

Section 9, Step 2, of the Plan requires the Liquidating Partner to "submit to Hamed and the Master each month a reconciliation of actual expenditures against the projected expenses set forth in Exhibit A. Unless the Partners agree or the Master orders otherwise, the Liquidating Partner shall not exceed the funds deposited in the Liquidated Expense Account." That reconciliation was provided to the Master and Hamed with the third bi-monthly report. It reflected that the actual expenditures incurred through June 30, 2015 in winding up the Partnership and liquidating its assets were approximately \$4 million less than the projected expenses reflected in Exhibit A to the Plan. An updated reconciliation through August 31,

⁸ The submission of the Financial Information by the Liquidating Partner is not intended to impair or otherwise affect the right of either Partner to submit his proposed accounting and distribution plan contemplated by § 9, Step 6, of the Plan.

2015 was provided to the Master and Hamed with the filing of the fourth bi-monthly report reflecting a similar difference. An updated comparison through October 31, 2015 was provided to the Master and Hamed with the filing of this report.

On October 15, 2015, the Master requested counsel for the Partners to submit a list of (a) any Partnership Assets other than the Plaza Extra Stores that require the attention of the Liquidating Partner or the Court for separation; and (b) any pending motions that affect the disposition of Partnership Assets. Counsel for the Partners submitted such lists to the Master on October 23, 2015.

Pursuant to a "Further Stipulation Regarding Motion to Clarify Order of Liquidation" filed with the Court on October 5, 2015 and "So Ordered" on November 13, 2015, the Partners stipulated that the Liquidating Partner will provide the Master and Hamed with the Partnership accounting required by § 5 of the Plan on November 16, 2015, which was done, and the Partners will submit their proposed accounting and distribution plans contemplated by § 9, Step 6, of the Plan to each other and the Master by March 3, 2016.

Respectfully submitted this 30th day of November, 2015.

DUDLEY, TOPPER and FEUERZEIG, LLP

By: 

Gregory H. Hodges (V.I. Bar No. 174)
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4405
Telefax: (340) 715-4400
E-mail: ghodges@dtflaw.com

and

Nizar A. DeWood, Esq. (V.I. Bar No. 1177)
The DeWood Law Firm
2006 Eastern Suburbs, Suite 101
Christiansted, VI 00830
Telephone: (340) 773-3444
Telefax: (888) 398-8428
Email: info@dewood-law.com

Attorneys for Fathi Yusuf, Liquidating Partner

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of November, 2015, I caused the foregoing **Liquidating Partner's Fifth Bi-Monthly Report** to be served upon the following via e-mail:

Joel H. Holt, Esq.
LAW OFFICES OF JOEL H. HOLT
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
Email: jeffreymlaw@yahoo.com

The Honorable Edgar A. Ross
Email: edgarrossjudge@hotmail.com