

**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.)	
)	
FATHI YUSUF and UNITED CORPORATION ,)	JURY TRIAL DEMANDED
)	
Defendants/Counterclaimants,)	
)	
vs.)	
)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC. ,)	
)	
Additional Counterclaim Defendants.)	
)	

**REPLY TO PLAINTIFF'S NOTICE OF OBJECTION TO LIQUIDATING
PARTNER'S EIGHTH BI-MONTHLY REPORT**

Defendant/counterclaimant Fathi Yusuf ("Yusuf"), as the Liquidating Partner,¹ through his undersigned counsel, respectfully submits this Reply to "Plaintiff's Notice of Objection to Liquidating Partner's Eighth Bi-Monthly Report" filed by plaintiff/counterclaim defendant Mohammad Hamed ("Hamed") on June 17, 2016² (the "Objection").

The Objection concludes with the following paragraph:

While the partnership's accountant, Mr. Gaffney, is no longer being asked for more documents, despite being paid to assist the Partnership on a full time basis, Hamed's CPA's have withdrawn the request for documents at this time and simply asked him to answer 130 very

¹ Unless otherwise defined in this Reply, capitalized terms shall have the meaning provided for in this Court's "Final Wind Up Plan of the Plaza Extra Partnership" dated January 7, 2015 and entered on January 9, 2015 (the "Plan").

² On June 16, 2016, Hamed died. *See* Yusuf's Statement Noting Death of Mohammad Hamed filed on June 22, 2016. As a result of his death, any power of attorney given by Hamed to Waleed Hamed is terminated. *See* V.I. Code Ann. tit. 15, § 1265(a). Since no motion for substitution of a representative of the estate of Hamed has been filed to date, it is unclear on whose behalf counsel for Hamed is filing documents.

specific questions about the accounting methods and decisions. These (reduced) questions are required for a fundamental understanding of what decisions were made in generating the financials. It is estimated by the CPA's that these will take less than 40 hours (of the 160 + hours per month Mr. Gaffney is being paid by the Partnership) since the questions no longer have any extensive document requests.

Although counsel for Hamed sent the Master an email on June 23, 2016, one full week after his client's death,³ requesting the Master to forward these "130 very specific questions" to Mr. Gaffney along with an instruction that he respond to them at his convenience, *see* email attached as **Exhibit 1**, the Master has not yet forwarded them to Mr. Gaffney with the requested instruction. For the reasons set forth in this Reply, Yusuf submits these unauthorized discovery requests are entirely improper.

To the extent that the Master chooses to forward these discovery requests as sought by counsel for Hamed, Yusuf objects to each and every one of them to the extent that they clearly seek to interrogate Yusuf, through Mr. Gaffney, as opposed to simply seeking Mr. Gaffney's assistance in accessing and reviewing the existing Partnership information from January 2012 to date. As this Court is well aware, discovery has been stayed in this case and Hamed should not be allowed to use his "130 very specific questions" to essentially propound interrogatories on Yusuf, through Mr. Gaffney.

The Plan merely gave Hamed's accountants a right of access "to view all Partnership accounting information from January 2012 to present." *See* § 9, Step 4 of the Plan. It did not

³ Notwithstanding the death of his client, counsel continues to proceed as if his client has not died or as if a representative has already been appointed for the estate of his deceased client and that representative has been substituted in this case. Yusuf strongly objects to counsel's continued prosecution of this matter when he currently has no client to prosecute the matter.

give Hamed's accountants the right to propound "130 very specific questions" or to conduct such inquiries as they set fit to gain "a fundamental understanding of what decisions were made in generating the financials." In March of 2015, John Gaffney proposed to provide the access contemplated by the Plan by allowing Hamed's accountants to work on the premises with him and the original documents. *See* letter dated May 17, 2016 from John Gaffney to Joel Holt attached as Exhibit 3 to the Liquidating Partner's Eighth Bi-Monthly Report. Instead of accepting that proffered access, Hamed's accountants first propounded 81 "questions/request for info," which has now grown to "130 very specific questions." Mr. Gaffney's letter to Attorney Holt concludes with the sentence: "The Master has reviewed and approves the process I have recommended." That process – to have one of Hamed's accountants work on premises with Mr. Gaffney and the original records - is inconsistent with the process contemplated by the "130 very specific questions," which is another example of counsel for Hamed engaging in unauthorized discovery.

Moreover, the 130 questions do not "need" to be answered in order for Hamed's accountants to be "allowed to view all Partnership accounting information from January 2012 to present." Yusuf's experts never propounded any such questions to Mr. Gaffney. In fact, the amount of time Mr. Gaffney has spent compiling information for and answering questions from Yusuf's experts represents only a tiny fraction of the amount of time he has spent doing the same for Hamed's accountants. The Plan merely provides Hamed's accountants with a right of access, not inquisition rights. That access was offered to Hamed's accountants more than 15 months ago and they have squandered that opportunity. If Hamed's accountants claim

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a need to review accounting information during the applicable period, they should be ordered to immediately accept the offer of access made more than one year ago or be foreclosed from further demands on the limited resources of the Liquidating Partner.

For all of the foregoing reasons, Yusuf respectfully requests this Court to overrule Hamed's Objection to the eighth bi-monthly report and provide such further relief as is just and proper under the circumstances.

Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

DATED: July 1, 2016

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of July, 2016, I caused the foregoing **Reply To Plaintiff's Notice Of Objection To Liquidating Partner's Eight Bi-Monthly Report** to be served upon the following via e-mail:

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Michele Barber

From: Joel Holt <holtvi@aol.com>
Sent: Thursday, June 23, 2016 2:18 PM
To: edgarrossjudge@hotmail.com
Cc: Gregory H. Hodges; dewoodlaw@gmail.com; dewoodlaw@me.com; carl@carlhartmann.com
Subject: Plaza
Attachments: REVISED FINAL - All Request to J Gaffney re items.docx; 242-a--Expenditures by Negeh from large STT safe-2.pdf; 340-a--Rent collected by Negeh from Triumphant Church-2.pdf; 358-a--Gift certificates from STT Tutu-2.pdf

Dear Judge Ross:

As we have agreed, since we are independently pursuing the bank and vendor records, we have removed the document demands to Gaffney. Attached is a revised set of our CPA's questions which remove those demands. This will, hopefully, end the complaints about the burden on his time. The questions themselves should be answerable in under one week according to our CPA's and are necessary to their doing the review the Court has allowed. Please forward them to Mr. Gaffney and ask that he respond to them at his convenience, as he is being paid full-time to do such work for the Partnership.

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