

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 and Counterclaimants.*

vs.

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

*Counterclaim Defendants.*

Case No.: SX-2012-cv-370

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

JURY TRIAL DEMANDED

**MOHAMMAD HAMED**,

*Plaintiff,*

vs.

**FATHI YUSUF**,

*Defendant.*

Case No.: SX-2014-CV-278

**ACTION FOR DEBT AND  
CONVERSION**

JURY TRIAL DEMANDED

**NOTICE OF HAMED'S FIRST SUPPLEMENTAL CLAIMS  
OCCASIONED BY YUSUF'S DISCLOSURES IN HIS CLAIMS**

Pursuant to the direction of the Special Master, on September 30, 2016, the parties each filed their respective partnership claims. Included in Yusuf's claims were expert reports and admissions about other transactions. His disclosures require supplementation of Hamed's claims.

## FACTS

1. *Exhibit P* to Yusuf's claims is an expert report of *Integra Realty Resources* ("Integra Valuation Report"). At page 36 of the Integra Valuation Report, Yusuf, through his experts, admits:

Balance Sheet Adjustments We have made the following adjustments to the subject company's [Plaza Extra West] balance sheet:

7. Inventory was adjusted downward by \$1,660,000 due to unrecorded inventory transfers to other stores.

Hamed was charged for the Plaza West Store inventory by way of the adjustments for the Yusuf's taking the Plaza Extra East Store. He was not given the credit for the \$1,600,000 that Yusuf clearly knows of and admits to. Thus, Hamed makes a claim for "unrecorded inventory transfers" in the amount of \$1,600,000.

2. In Yusuf's main filing titled "Yusuf's Accounting Claims and Proposed Distribution Plan" at page 11, footnote 13, under the heading "V. Y&S and R&F Stock Sale Proceeds Distribution" Yusuf makes the following admission and concession:

Although no claims have ever been pled in this case or SX-2014-CY-278 concerning the \$600,000 in proceeds from Yusuf's sale of his 1,000 shares of stock in R&F pursuant to an agreement dated January 15, 2001 with Hakima Salem, Yusuf is prepared to include these proceeds in his accounting.

Hamed takes Yusuf at his word and makes a claim for "\$600,000 in proceeds from Yusuf's sale of his 1,000 shares of stock in R&F pursuant to an agreement dated January 15, 2001 with Hakima Salem."

## LAW

The most fundamental, bedrock principle of the *Revised Uniform Partnership Act* (“RUPA”)<sup>1</sup> is that when a partnership comes to an end, the dissolving partner MUST “make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account”. 26 V.1.C. S 177(b) (Settlement of Accounts and Contributions Among Partners). To do this it is the dissolution partner's statutory burden to prove that he has been *completely frank and honest with his partner, and has made full disclosure of the accounts with the initial contributions, all credits to the partner's account* and all debits. In *Laurence v. Flashner*, the court stated the rule:

The Uniform Partnership Act provides that a partner has a right to have an accounting as to his interest when he leaves the partnership. (Ill.Rev.Stat.1987, ch. 106½, par. 43.) **An accounting is a statement of receipts and disbursements which should show all of the detailed financial transactions of the business** including a listing of the **original contributions and current assets and liabilities of the partnership.** [citations omitted] \* \* \* In an action for an accounting, the defendant has the burden to prove that he has been completely frank and honest with his partner, and has made full disclosure. (*Bakalis v. Bressler* (1953), 1 Ill.2d 72, 115 N.E.2d 323

*Id.* at 565 N.E.2d 146, 1990 WL 186700 (Ill. App. Ct. 1990) (Emphasis added.)

In its *Winding Up Order*, at pages 4-5, Section 4, the Court ordered exactly such a “full accounting” here, as RUPA requires:

Pursuant to the Act, the Liquidating Partner shall have authority to wind up the Partnership business, including full power and authority to sell and transfer Partnership Assets, engage legal, accounting and other professional services, sign and submit tax matters, execute and record a statement of dissolution of Partnership, pay and settle Debts, and marshal Partnership Assets for equal distribution to the Partners **following** [1] payment of all Debts and **[2] a full accounting by the Partners**, pursuant to agreement of the Partners or by order of the Court.

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<sup>1</sup> *Revised Uniform Partnership Act* (“RUPA”) as enacted in the VI, 26 V.I.C. §§ 1 et seq.

## ARGUMENT

RUPA absolutely and unequivocally requires a complete accounting of a partner's share. In addition, the Court specifically ordered such a full accounting of the partnership. All applicable case law states that before a court can distribute final shares, such a partnership accounting must be submitted by the dissolution partner so that the non-accounting partner can review and dispute that share computation. Full disclosure must be made in a god faith and honest manner. Then, the non-accounting partner has the right to challenge any such disclosures.

## CONCLUSION

The two claims set forth should be added to Hamed's claims.

**Dated:** October 6, 2016



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of October, 2016, I served a copy of the foregoing by email, as agreed by the parties, on:

**Hon. Edgar Ross**  
Special Master  
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