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IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

MOHAMMAD HAMED, by his)	SX-12-CV-370
authorized agent WALEED)	
HAMED,)	
)	
Plaintiff/Counterclaim Defendant,)	
)	
v.)	
)	
FATHI YUSUF and UNITED)	
CORPORATION,)	
)	
Defendants/Counterclaimants,)	
)	
v.)	
)	
WALEED HAMED, WAHEED HAMED,)	
MUFEEED HAMED, HISHAM HAMED, and)	
PLESSEN ENTERPRISES, INC.,)	
)	
Additional Counterclaim Defendants.))	
_____)	

December 15, 2017
Kingshill, St. Croix

The above-entitled action came on for Status Hearing before the Special Master in Courtroom Number 211.

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TRACY BINDER, RPR
Official Court Reporter
(340) 778-9750 Ext. 7151

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A P P E A R A N C E S:

For the Plaintiff:

JOEL H. HOLT, ESQ.
Law Offices of Joel H. Holt
2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820
Phone: (340) 773-8709
Email: holtvi@aol.com

For the Defendants:

GREGORY H. HODGES, ESQ.
STEFAN HERPEL, ESQ.
Dudley, Topper, and Feuerzeig, LLP
1000 Fredericksberg Gade
St. Thomas
U.S. Virgin Islands 00804
Phone: (340) 774-4422
Email: ghodges@dtflaw.com

For the Counterclaim Defendants (Hameds):

MARK W. ECKARD, ESQ.
P.O. Box 24849
Christiansted, St. Croix
U.S. Virgin Islands 00824
Phone: (340) 514-2690
Email: mark@markeckard.com

For Counterclaim Defendant Plessen Enterprises:

JEFFREY B.C. MOORHEAD, ESQ.
Jeffrey B.C. Moorhead, PC
C.R.T. Brow Building
1132 (48) King Street, Suite 3
Christiansted, St. Croix
U.S. Virgin Islands 00820
Phone: (340) 773-2539
Email: jeffreymlaw@yahoo.com

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(The following proceedings commenced at
9:40 a.m.)

SPECIAL MASTER: Good morning, everyone. This is the time scheduled for the mandated meeting of the parties so we can set the ground rules for going forward and see what arrangements and agreements we can have on the issues that are present. I know that all the attorneys were notified to be here, and there's some attorneys who are peripherally in the case. If those attorneys want to stay for the whole hearing, it's fine. If not, they can at this time indicate to the Court, put their name on the record and indicate what issues the Master has to decide that involve them so we can address those first and then we get to the major issues.

Since we're now having a record at the request of the parties, when you speak, please identify yourself and the party you represent so that the record can be as complete as possible. If any one of the peripheral attorneys want to speak first, you may.

MR. MOORHEAD: Good morning, Judge. Jeffrey Moorhead for the record purposes, and Plessen

1 Enterprises in 370 of 12. My client was part of
2 the caption for the status, but I think all of the
3 issues have -- I'm pretty sure all the issues deal
4 with the other major parties, so unless -- I don't
5 think my presence is necessary, but I was here just
6 in case. With Your Master's permission --

7 SPECIAL MASTER: If any of the other attorneys
8 or parties disagree with the statement, please
9 indicate such. If not, I'll excuse him.

10 (No response.)

11 SPECIAL MASTER: And you'll be excused,
12 Attorney Moorhead, and you should not respond to
13 further meetings of the group, unless it's directly
14 involving you.

15 MR. MOORHEAD: Thank you, Your Honor.

16 SPECIAL MASTER: Thank you. Anyone else?

17 (No response.)

18 Now, I issued an order based on the suggestion
19 submitted by one of the parties, the Hameds in
20 particular, as to some of the issues that were
21 pending and some that were undecided, and I note
22 that the Yusufs have filed a document, a
23 memorandum, indicating that some of the items that
24 were contemplated to be not disputed, as such, or
25 limited dispute, is not correct.

1 Attorney Hodges?

2 MR. HODGES: Your Honor, would you like me to
3 stand?

4 SPECIAL MASTER: You don't have to.

5 MR. HODGES: Thank you, Your Honor. We --
6 effectively, all the issues are disputed. The
7 issue was whether or not discovery was required for
8 some of them. And based on Attorney Holt's
9 response to our bench memo that was filed
10 yesterday, it appears that we agree what should be
11 briefed that requires no discovery and what does
12 require discovery. So I think -- as I understand
13 Items 1 and 5 of his response yesterday, he agrees
14 with the statement in our bench memorandum in the
15 concluding paragraph that Items 2, 3, 5, 10, and 12
16 listed on Page 1 of your order should be removed,
17 and that items --

18 SPECIAL MASTER: Which items are those?

19 MR. HODGES: Okay. That would be -- Item 2 is
20 past partnership withdrawals - receipts; Item 3 is
21 Hamed partnership interest and sale of the Dorothea
22 property; Item 5 is invoices from David Jackson,
23 CPA, for tax work done for the partnership; Item 10
24 is Wally Hamed's payments of accounting and
25 attorney's fees in the criminal case; and Item 12

1 is attorney and accounting fees paid by the
2 partnership for the criminal case. Those matters,
3 as I understand his response, we agree should be
4 removed from the list in your order because further
5 discovery is required. All the other items we
6 agree we can brief and no further discovery is
7 required.

8 SPECIAL MASTER: If I recall correctly,
9 weren't the items listed in my order a review of
10 the liquidating partner's decision that I approved
11 and I permitted?

12 MR. HOLT: Some.

13 MR. HODGES: Some of those. Some of those.

14 SPECIAL MASTER: Oh. All right. You're
15 correct. So the ones that you don't dispute are
16 the ones which is, in essence, a review of the
17 liquidating partner's decision.

18 MR. HODGES: And the additional rent from day
19 one. We don't think that --

20 SPECIAL MASTER: Yeah -- well --

21 MR. HODGES: So, in other words, Your Honor,
22 what we're -- I think we agree --

23 SPECIAL MASTER: Oh, I understand what you're
24 saying.

25 MR. HODGES: -- is that items -- and I'm

1 referring to the items on Page 1 of your order --
2 Items 1, 4, 6 through 9, and 11 should remain for
3 briefing only, and the others should be removed,
4 because discovery will be required.

5 SPECIAL MASTER: I had identified 4, 5, 6, 7,
6 8, 9, and 11 as the decisions of the liquidating
7 partner.

8 MR. HODGES: Not 5, Your Honor. 5 had --
9 we -- the liquidating partner did not retain David
10 Jackson and did not authorize payment of David
11 Jackson.

12 SPECIAL MASTER: Liquidating partner denied
13 payment and I agreed with his decision, so I
14 thought that's what --

15 MR. HODGES: Oh, I was not aware of that. I'm
16 sorry, Your Honor.

17 MR. HOLT: I'm not aware of that either.

18 SPECIAL MASTER: Well, that's why it wasn't
19 paid. The liquidating partner, having received the
20 invoices from David Jackson, refused to pay them.
21 That's how I know of the invoices.

22 MR. HOLT: All right. But --

23 SPECIAL MASTER: But if you want -- I
24 understand what you're saying.

25 MR. HOLT: Okay.

1 SPECIAL MASTER: Yeah. But it is those items
2 that he affirmatively approved, that is, he agreed
3 to pay, are the ones that can have limited
4 briefing. The others require discovery.

5 MR. HODGES: Yes, Your Honor. And if I may, I
6 note that I didn't raise this in my bench memo, I
7 didn't think it was that important, but in Attorney
8 Holt's motion for hearing, he had suggested a
9 five-page limit on the brief. Your Honor made it
10 two pages. And although I haven't started on
11 preparing it yet, just, you know, so that we don't
12 have to come back and beg for another three pages,
13 could we agree that it should be a five-page limit?

14 SPECIAL MASTER: Whatever you all agree upon,
15 I have no objection. This is not for me to set the
16 limits of the agreement. I want the parties to try
17 to agree on what they want to do in terms of
18 presenting the facts to me. I will do whatever the
19 parties feel comfortable in doing.

20 But as you know from my past practices, when
21 you tell me five days, you have five days. I don't
22 extend it. Unless another hurricane or something
23 like that comes. But I don't intend to be here for
24 the next two years in this case. And I want to see
25 that we establish a timeline for all the issues so

1 that we can look from now and expect a final date
2 or await decisions on the issues.

3 The purpose of calling you here today is to
4 see if the parties can reach some agreement on all
5 the issues and present it to the Court. Before we
6 had a reporter, I intended to ask the parties to
7 submit to me what they believe to be the time frame
8 for discoveries and addressing all the issues you
9 may have, a stipulation that I would approve. But
10 we can put it in the record and I will incorporate
11 it in an order.

12 So who wants to go first in identifying those
13 issues we can agree upon, and their limited time
14 frame, notwithstanding my order?

15 Go ahead.

16 MR. HOLT: Your Honor, Joel Holt for
17 plaintiff. First off, when they say they want to
18 do discovery on an item, we take the position that
19 we don't have veto power over that, so that's why
20 we just agreed to take them off the list. It isn't
21 like we necessarily believe it's needed, but if
22 they say it's needed, we can't veto that.

23 So it would seem to me that the items that we
24 can brief by January 12 would be 1, 4, 6, 7, 8, 9,
25 and 11, since those are the items that we suggested

1 you put on here and they have now agreed should be
2 briefed.

3 I don't have a problem with five pages. Most
4 of these will not take five pages to write,
5 although some of them will have attachments because
6 you'll have to show where the payment was made or
7 something. I would think on Items 1 and 4, which
8 are the rent payments, that they should file a
9 brief and I should have five days to respond,
10 because that's their burden. And on Issues 6, 7,
11 8, 9, and 11, I should file first and let them
12 respond, just because those are items that we put
13 on the list.

14 MR. HODGES: Did I hear you correctly, you
15 only identified 1 for me?

16 MR. HOLT: 4.

17 MR. HODGES: 1 and 4? Okay. Yeah, I have no
18 problem with that, Your Honor.

19 SPECIAL MASTER: 1, 4, 6, 7, 9, and 11; right?

20 MR. HOLT: And he'll file first on 1 and 4,
21 and I'll file first on 6, 7, 8, 9, and 11.

22 SPECIAL MASTER: How much time from today's
23 date do you need?

24 MR. HOLT: Excuse me?

25 SPECIAL MASTER: How much time from today's

1 date? Are you going to use the same --

2 MR. HOLT: I was thinking the January 12th
3 date, but I'm --

4 MR. HODGES: That would be appreciated, Your
5 Honor.

6 SPECIAL MASTER: So that the party with the
7 burden shall file by the January 12th date. And
8 how many days to respond?

9 MR. HOLT: I said five, but why don't we say
10 five working days, because there is a holiday in
11 there, and we'll just figure that.

12 MR. HODGES: I think five working days is
13 fine, Your Honor.

14 SPECIAL MASTER: Is that fine?

15 MR. HODGES: Yes.

16 MR. HOLT: Your Honor, when you issued that
17 order and you pulled these items out, I think we've
18 kind of resolved that, but in our motion for the
19 hearing, we actually listed a series of items that
20 we thought could be argued without any briefing.
21 And we think that those need to be addressed, and
22 obviously we don't expect you to address them
23 today, but, you know, on our part, we really felt
24 like there were two claims for us that could be
25 addressed and that there were a series of their

1 claims that were ready to be addressed.

2 And they dealt with, really, with the -- on
3 our side, the two conceptual issues: the 2.7
4 million, and the 504,000 that we think Judge Brady
5 already found were improperly taken. Obviously
6 there's not going to be payment now, just there's
7 no reason not to resolve those and then ultimately
8 they will be processed all the way through.

9 And then for their claims, we felt that we
10 identified as a list of their claims that were
11 claimed by them which are barred under Judge
12 Brady's order. And they have come back and
13 disagreed with that, but we think that's a
14 threshold question that needs to be addressed. We
15 think that any claims that predate 2006, they have
16 a series of claims that are barred, and they have
17 come back and said they don't think they are. We
18 think we need to figure out how that's going to
19 work.

20 MR. HODGES: Short answer to that, Your Honor,
21 is that what I refer to in my bench memo or at
22 least Exhibit A to the bench memo is the limitation
23 order, Judge Brady's July 21, 2017, order that
24 limited accounting claims between the partners to
25 transactions that occurred on or before September

1 17, 2006. That applies to the partners. They're
2 attempting to transport that ruling onto a claim of
3 United's for debt, and it's simply -- it doesn't
4 apply. And what makes it so clear that it doesn't
5 apply is what I refer to as the rent order where
6 Judge Brady expressly found that the statute of
7 limitations on United's rent claim that dated back
8 to 2004 was cold because of the acknowledgment of
9 debt doctrine or the partial payment doctrine. So
10 there's not much to be said. I mean, we can file a
11 brief about that, but, you know, debt claims of
12 third parties are not affected by the limitation
13 order, period.

14 MR. HOLT: Yeah, but the statute of
15 limitations motion he's talking about dealt with
16 the rent on the shopping -- on the store, and the
17 Court expressly reserved ruling on all of the other
18 rent claims. He didn't say they apply to them. So
19 you've got the rent from Bays 5 and 8 which weren't
20 part of the store, and then you've got the interest
21 on -- we went through it -- on Bays 5 and 8 where
22 they're claiming interest for time prior to that.

23 And then you're talking about gross receipts
24 taxes, the black book -- the black book was a
25 partnership book. It wasn't a book between United

1 and them, it was a book between the partners. The
2 ledger balances owed were loans between the
3 partners. The water revenues, that was a
4 partnership operation. And, you know, all of those
5 are not claims of United, those are claims between
6 the partners, and they're time-barred, and we think
7 we need a ruling on that. And we think the rent
8 claims are also barred. The judge found that the
9 rent claims for the actual store weren't barred,
10 and we're bound by that, and that's not even before
11 you, although there's an interest component of that
12 before you. But on all of these other claims, I
13 mean, they're time-barred just under the normal
14 statute, and we think they're also barred under the
15 order because they aren't related to the rent for
16 that store. And we need to get -- Judge Brady's
17 order gave us some definition going forward. We
18 need some clarity on that.

19 SPECIAL MASTER: Well, it's obvious that the
20 parties don't agree on what the order meant or
21 its -- its scope. So then I will give the parties
22 a reasonable time in which to file whatever
23 documents, whether a brief or other documents in
24 support of their position.

25 So if you can identify those issues, Attorney

1 Hodges, that you believe that the order doesn't
2 apply to, you think they're outside the scope of
3 the order, and Attorney Holt can respond. How much
4 time would you need to do that? I mean, you have
5 identified some of them already. Are there any
6 more?

7 MR. HODGES: No. I mean, he's the one that's
8 claiming that the limitation order affects the
9 claims -- what I say are the claims of United. He
10 says the water revenues are not a United claim,
11 it's a partnership claim; I can't disagree with
12 that more. He claims the water revenue is a
13 partnership claim; I can't disagree with that more.
14 That's United's roof that collects that water. So,
15 you know, the --

16 But he also has his claims. I think he's
17 suggesting that there's no further -- nothing
18 further needs to be done on the 2.7 million that he
19 refers to, which is, you know -- respectfully, Your
20 Honor, it's already on Mr. Yusuf's side of the
21 ledger, so to speak, in the BDO report. We
22 acknowledged he withdrew those funds. That's not
23 in dispute. The accounting effect of that is what
24 is in dispute, so that can't be ruled on without
25 discovery. And they pretty much acknowledge it in

1 their response to our bench memo. The \$504,000,
2 ask Joel -- or Attorney Holt to point you to a
3 finding from Judge Brady that says Mr. Yusuf owes
4 504,591. He can't do it. I mean, it's just not
5 there.

6 SPECIAL MASTER: I would suspect that if he
7 has such a reference, he'll do it in the response
8 brief or whatever documents he files. I don't
9 intend to try to make a decision today.

10 MR. HODGES: I appreciate that.

11 SPECIAL MASTER: I'm just trying to get the
12 parties to at least present in writing, for the
13 record, their positions so a decision can be made.

14 MR. HOLT: But, Your Honor -- I'm sorry, are
15 you finished?

16 MR. HODGES: Yeah.

17 MR. HOLT: If I may. For example, the 2.7,
18 they admit it's owed, so it should be found as a
19 claim. Now, they want to argue there's an offset
20 through the BDO report, but that doesn't change
21 the fact it's a claim submitted to be paid.

22 The BDO report, you know, Judge Brady
23 basically said, you know, that because of all the
24 missing documents, it had no effect, and he said
25 that again in his motion for reconsideration. And

1 today, that's a good point. I mean, maybe we
2 should file a motion to strike the Integra claim
3 and a motion to strike the BDO claim.

4 SPECIAL MASTER: That's what I'm suggesting.

5 MR. HOLT: And, you know, I don't mind taking
6 a lead on the things that he says -- if I think
7 it's barred by the order, I'll take the lead and
8 say why I think it's barred by the order. I don't
9 mind. If he wants to say it's not barred by the
10 order, then he can respond. But I don't mind
11 taking the lead on that.

12 But I do want to make one thing clear. You
13 know, they talk about Plot 4H is in the name of
14 United. It is in the name of United, but when the
15 Court did the windup order, it specifically held
16 back any decision on Plot 4H. If something being
17 in the name of United would end this case, then we
18 would have never gotten this far, because Plaza,
19 the store, was in the name of United. The store
20 out west is in the name of United. Everything is
21 in the name of United. What the Court found is the
22 corporate form was really a partnership. So when
23 you get to Plot 4H, the fact that it's in the name
24 of United doesn't mean it's not a partnership
25 asset. The fact that there's a piece of property

1 in St. Thomas in the name of United doesn't mean
2 it's not a partnership asset. You see, those are
3 still claims, and you get to decide them, of
4 course, but just because something is in the name
5 of United Corporation doesn't mean that -- and it
6 was in the name before 2006 -- doesn't mean it's
7 not litigated, because that's what this whole thing
8 is about is United Corporation is really the
9 partnership.

10 SPECIAL MASTER: What I'm suggesting is that
11 as to both parties, if you think that an issue
12 needs to be decided by the Master preliminarily to
13 determine the validity of what may be considered
14 the claim, file the appropriate motion so a ruling
15 can be had early enough so that the matter can
16 proceed.

17 MR. HOLT: Okay.

18 MR. HODGES: May I just comment briefly to
19 what Attorney Holt just said?

20 SPECIAL MASTER: Yes.

21 MR. HODGES: I understand that a lot -- the
22 partnership business was conducted under the name
23 of United for many years. But Judge Brady, in
24 Section 8, Subsection 1 of his plan, said, "For
25 purposes of winding up the partnership, Plot 4H,

1 Estate Sion Farm, shall not be considered
2 partnership property and is not subject to division
3 under this plan without prejudice to any accounting
4 claim that may be presented by Hamed." Okay. So
5 the accounting claim, the limitation order says all
6 accounting claims that predate September 17, 2006,
7 are out. Who can tell me that a claim that the
8 partnership really owns that property didn't arise
9 before 2006, since the property was in the name of
10 United since 1992?

11 SPECIAL MASTER: That is your position.

12 MR. HODGES: That's our position.

13 SPECIAL MASTER: And I think Attorney Holt has
14 a different position.

15 MR. HOLT: Right.

16 SPECIAL MASTER: What I'm trying to suggest is
17 that you file the appropriate motion before the
18 Court so the issue can be decided.

19 MR. HODGES: Okay. So as I understand what
20 Your Honor is suggesting, all of the -- he has 165
21 claims, whereas we have, if you put aside the debt
22 claims, we have a handful of claims. What you're
23 suggesting, I think, is we would move to strike
24 whatever claims we submit are improper? Because
25 when we talk about discovery, a lot of those claims

1 aren't even really claims, Your Honor.

2 And I'm happy to go through Exhibit 3 of his
3 motion where you can -- it's just page after page,
4 literally. I counted 125 of those 165 claims are
5 what I call maybe claims. They're claims that --
6 where he says unclear, need five- to ten-minute
7 depo of John Gaffney. Those aren't claims. Those
8 are requests for explanation of what Gaffney put on
9 the general ledger.

10 And if a party is going to be entitled to
11 discovery based on a maybe claim, that's going to
12 be a serious problem here. Because, you know, the
13 rules do say, unless the Court orders otherwise,
14 that interrogatories are limited to 25. If
15 we're -- if we take his 125 maybe claims and have
16 only one interrogatory for those claims, and five-
17 to ten-minute deposition, as he suggests, for each
18 claim, we're talking about 125 interrogatories and
19 anywhere from 8 hours to 21 hours of deposition
20 time. It will be mindboggling.

21 So I think it is important for us to, at least
22 before we get -- you know, engage in the full
23 panoply of discovery, determine what claims ought
24 to be tossed out or not so that we can pare down
25 that process.

1 SPECIAL MASTER: And that's why I'm suggesting
2 that you file an appropriate motion before the
3 Master so a decision can be had.

4 MR. HOLT: If I can just briefly respond.

5 SPECIAL MASTER: Yes.

6 MR. HOLT: Discovery may clear up some of
7 those claims and they will be withdrawn, but, for
8 example, there will be an accounting entry, 425,000
9 miscellaneous labor, and we don't want to accept
10 that as a charge unless we know what it is. If it
11 was labor used to build someone's house during the
12 windup period, then it's not part of the charge.
13 If it's -- if like there's a professional fee in
14 there, if that was money paid to BDO, then that's
15 not a proper charge. That's their accounting, not
16 us. It may not be there, it may actually be a
17 perfectly legitimate charge, in which case it goes
18 away.

19 And that, of course, is why we tried early on
20 to have that meeting with John Gaffney, because a
21 lot of these may drop quickly. But that meeting
22 didn't take place, so they've become claims. We
23 don't -- we don't -- we contest them. But I will
24 agree, of the 165, you might have 80 or 90
25 disappear once somebody says, no, that was spent on

1 this. Or it becomes clear, he says, well, that was
2 spent on this and we don't like it, and therefore
3 at least we can say, well, they paid BDO so we
4 think you got a signed document. In other words,
5 it won't then track down to much larger discovery
6 because now we'll just argue about whether or not
7 that was a proper payment. So, yeah, a lot of them
8 may disappear. We agree with that.

9 SPECIAL MASTER: It's up to the parties to
10 move the case by filing the appropriate motion
11 before the Master so that a decision can be had
12 and we at least know where we stand as to all the
13 different issues, and then you take a step after
14 the ruling of the Master. But if we try to resolve
15 it by discussion, we're not going to do it. We're
16 not going to do it.

17 MR. HODGES: I think we can agree on that,
18 Your Honor.

19 SPECIAL MASTER: Well -- so therefore, file
20 whatever you think is appropriate to bring the
21 issue to a head.

22 MR. HODGES: Do I understand Attorney Holt's
23 offer just a moment ago that, in effect, he'll take
24 the lead on briefing all of the claims he wants to
25 brief in Exhibit 1 to the motion for hearing?

1 MR. HOLT: In Exhibit 1?

2 MR. HODGES: Yeah. Those are all the debt
3 claims that you claim are barred, and your 2.7 and
4 504,000.

5 MR. HOLT: And we'll also do one as to Integra
6 and BDO.

7 MR. HODGES: Okay. Well -- so you're going to
8 take the lead on that and we'll respond. Okay.

9 SPECIAL MASTER: Okay. Anything else?

10 MR. HOLT: And then -- so that's how that will
11 handle. And then we know on the second two, we
12 just went over these claims, on how we're going to
13 brief that by January 12th, each party. So then
14 the third thing comes back to discovery. I mean,
15 how we going to deal with discovery on the claims
16 that we now agree we need to discover? Do we wait
17 until you set forth the scope of claims and begin
18 discovery or do we begin some discovery now?

19 SPECIAL MASTER: What do the parties believe
20 is the best course of conduct?

21 MR. HODGES: I'm sorry. I didn't hear that
22 last part.

23 SPECIAL MASTER: My statement or his?

24 MR. HODGES: No. His statement.

25 MR. HOLT: I said we need to decide how to

1 proceed on discovery. We proposed a plan for each
2 claim, so -- you objected to the plan, but -- I'm
3 sorry, Yusuf objected to the plan, but they didn't
4 come up with an accounting of their own. But I
5 don't see why we don't try to begin some
6 discovery.

7 MR. HODGES: I agree. I think --

8 SPECIAL MASTER: But some of the discovery
9 would depend upon some preliminary motions.

10 MR. HOLT: Some of it will.

11 SPECIAL MASTER: Yes.

12 MR. HODGES: That's true. Your Honor, I would
13 suggest -- and Attorney Holt and our office have, I
14 believe, actually at least in one case, maybe more,
15 agreed on a discovery schedule. And if we can't
16 agree on it, I would say that we submit our
17 proposed discovery schedules to you. And that's
18 exactly what we did in another case. And the
19 judge -- I can't remember whether he mixed and
20 matched or accepted one schedule over the other,
21 but I think, you know, it makes better sense and
22 better use of your time if we present you with
23 something, either a stipulated discovery schedule
24 or our competing discovery schedules so you can
25 have something in writing to look at and decide for

1 yourself.

2 SPECIAL MASTER: Can you do it by the 12th of
3 January?

4 MR. HODGES: I don't see why not.

5 MR. HOLT: Sounds fine, Your Honor.

6 SPECIAL MASTER: Okay. Either a joint
7 stipulation or the parties' position on discovery
8 and submit it by the 12th.

9 MR. HOLT: Okay.

10 SPECIAL MASTER: Anything else?

11 MR. HOLT: This is really a housekeeping
12 matter, but I would like to just have a standing
13 request to always ask for the transcript and the
14 parties will split the cost. That way we don't
15 have to contact you after each one and ask for
16 it.

17 SPECIAL MASTER: Okay. Because all hearings
18 may not be here.

19 MR. HOLT: Right.

20 SPECIAL MASTER: I did it today because of the
21 number of people I expected to attend. But I don't
22 plan to put on a suit and a tie every time we have
23 to meet. You know, we can meet at someone's office
24 or a neutral place. But we can always hire a
25 reporter to take the -- once we set it up, we'll

1 just hire a reporter and the parties pay the
2 cost.

3 MR. HOLT: All right.

4 SPECIAL MASTER: Anything else? The other
5 attorneys here besides Holt and Hodges, you want to
6 put your name on the record?

7 MR. ECKARD: Sure. Thank you, Your Honor.
8 Mark Eckard for counterclaim defendants Waleed
9 Hamed, Waheed Hamed, Mufeed Hamed, and Hisham
10 Hamed.

11 SPECIAL MASTER: We're just putting the
12 attorneys who are present names on the record,
13 other than Holt and Hodges who have been introduced
14 already.

15 MR. HERPEL: Good morning, Your Honor. Stefan
16 Herpel on behalf of Yusuf.

17 MR. HODGES: You want the parties to be
18 identified?

19 SPECIAL MASTER: No, not necessarily.

20 MR. HODGES: Okay.

21 SPECIAL MASTER: I just wanted the attorneys,
22 because the attorneys represent the parties, so
23 that if there's a question whether or not you were
24 present at the hearing, at least the record will
25 reflect that you were here.

1 MR. ECKARD: Thank you, Your Honor.

2 MR. HODGES: Your Honor, there's going to be
3 an issue, I think, that we probably ought to get
4 you thinking about right now.

5 As you recall, back in I think it was May or
6 June of last year, there was this kind of dust up
7 about whether or not Mr. Gaffney was going to
8 respond to 125 questions or -- I can't remember the
9 exact number, but a bunch of questions from -- that
10 were prepared by the plaintiffs' CPAs.

11 Ultimately -- he answered some of them, but he
12 didn't answer all of them. Basically, you know,
13 the position taken was that the plan or the order
14 approving the plan required access to information
15 and didn't require Mr. Gaffney to spoon-feed the
16 information to them, at least that was our
17 position.

18 At the time, the partnership was paying him
19 for doing whatever work was necessary to compile
20 information, to answer questions and things like
21 that. So Mr. Yusuf was paying 50 percent of the
22 time he was spending working with their CPAs. And
23 I don't know if you recall the declaration that
24 Mr. Gaffney submitted in support of our opposition
25 to the motion to terminate the Master, but he said

1 that he spent at least 50 times more time answering
2 questions from their side and providing information
3 than he did with us. And as Your Honor knows, I
4 don't remember the month, but at some point in time
5 the partnership stopped paying Mr. Gaffney, and it
6 stopped paying Mr. Yusuf's salary as well.

7 So the idea that -- if there are -- you know,
8 the idea is that they're going to submit an
9 interrogatory to Mr. Yusuf about an accounting
10 issue and it is clear that he's not going to be
11 able to answer that, that Mr. Gaffney will have to
12 answer that, and since the partnership is not
13 paying him now, the question of the time he spends
14 in compiling information and answering questions is
15 going to be a serious question, because as he said
16 in that declaration -- and the declaration, just
17 for the record, let me identify it so you can find
18 it if you want, or I can hand it up to Your Honor,
19 if you want -- the declaration was Exhibit C to the
20 defendants' opposition to motion to terminate
21 Master, which was filed on April 3, 2017.

22 But the issue that we're going to have to
23 address is, you know, Mr. Gaffney is going to have
24 to answer all these questions. There is no doubt
25 about it. And so the issue is going to be who is

1 going to pay for the time he spends in answering
2 those questions. And I would respectfully submit
3 that the plaintiffs ought to have to pay that in
4 full. But I'm -- unless they agree to that, that's
5 going to be a decision that you're going to have to
6 make at some point in time.

7 SPECIAL MASTER: Okay.

8 MR. HOLT: I don't think plaintiff should have
9 to pay. I think the partnership should pay. It's
10 really clearing up this partnership account, which
11 may or may not make it a claim. It may moot it.

12 SPECIAL MASTER: Well, see if you can agree on
13 a course of conduct, if not, just file an objection
14 or whatever and bring it before me at the
15 appropriate time.

16 MR. HODGES: Okay.

17 SPECIAL MASTER: I'm in a different position
18 now than when I was supervising the liquidating
19 partner. My job at the time was to look at the
20 liquidating partner's conduct and approve or
21 disapprove of his conduct. It wasn't an
22 adversarial role as it is now. I'm in an
23 adjudicatory position. So the issue should be
24 brought to me with notice to the other parties.

25 And I would state for the record that one of

1 the reasons I identified decisions of the
2 liquidating partner that I approved for discussions
3 and gave the Hameds an opportunity to respond is
4 because I believed that because they were not a
5 part of the decision-making process at the time, in
6 all fairness, they should be given an opportunity
7 to present whatever evidence they have that would
8 show that the liquidating partner was improper in
9 its decisions. And that's one of the reasons I
10 listed those items for the parties to submit
11 additional evidence. And that's so that the Hameds
12 would feel at least that they were heard fully and
13 not that the liquidating partner, as happened, made
14 a decision without consulting them. And he didn't
15 have to consult them, under the rules. The
16 liquidating partner does not have to consult the
17 other partner in making decisions. But the other
18 partner has a right to object.

19 Anything else?

20 MR. HOLT: No, Your Honor.

21 MR. HODGES: Thank you, Your Honor.

22 SPECIAL MASTER: Gentlemen, I intend to wrap
23 up this case as quickly as possible.

24 MR. HODGES: Thank you, Your Honor.

25 SPECIAL MASTER: And I can promise you that

1 with your consent to have hired Ms. Kuo as the law
2 clerk, she's no longer affiliated with the Court
3 now, she's just working part time for us so that I
4 think we can get out decisions quickly. And I
5 don't intend to hold up the case. I don't like
6 postponements. If you agree to do something in a
7 certain period of time, do it. And I will try to
8 be as speedy in my response as possible. And
9 hopefully sometime in the near future, we can
10 terminate -- or at least my role in this whole
11 case, and let it go wherever it goes. Either to
12 the records room or to some higher body.

13 Thank you very much for coming here.

14 MR. HODGES: Thank you, Your Honor.

15 MR. ECKARD: Thank you, Your Honor.

16 SPECIAL MASTER: And I'm glad to see my
17 friends from St. Thomas are here bright and
18 healthy. Thank you all.

19 (The proceedings concluded at 10:30 a.m.)
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CERTIFICATE OF REPORTER

I, TRACY BINDER, Registered Professional Reporter,
Official Court Reporter, of the Superior Court of the
Virgin Islands, Division of St. Croix, do hereby certify
that I reported by machine shorthand, in my official
capacity, the status hearing before the Special Master,
in the case of *Mohammad Hamed v. Fathi Yusuf and United
Corporation, et al, SX-12-CV-370*, in said Court, on the
15th day of December, 2017.

I FURTHER CERTIFY that the foregoing 32 pages are a
true and accurate computer-aided transcription of my
stenotype notes of said proceedings.

I HAVE HEREUNTO subscribed my name, this 20th day
of December, 2017.

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REGISTERED PROFESSIONAL REPORTER
Official Court Reporter

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