

filed.¹

Moreover, since the initial TRO request, the defendants have also illegally removed funds from segregated grocery accounts. They have changed banking account access and mailings to hide such improper illegal transactions. They have refused to pay valid supplier amounts -- and interfered with ordering. They have hired mysterious new "financial employees" who they have improperly put on the grocery payroll -- but who work on litigation in locked offices. Thus, for the reasons set forth herein, it is requested that this Court grant TRO relief on an emergency basis to avoid irreparable harm to the current operations of the Plaza Extra supermarkets.

II. Facts

The history of the relevant proceedings in this case is fairly simple.² The facts

¹ This employee, who is married with 2 children is a critical employee, as she is the Office Manager/Payroll/Human Resources for the Plaza East store.

² The relevant procedural history with regard to this TRO motion is as follows:

On or about September 17, 2012, plaintiff Mohammad Hamed filed the complaint and on September 18, 2012, also filed a motion for a temporary restraining order and/or a preliminary injunction -- and an accompanying memorandum in support. (Collectively, the "TRO Motion").

On October 4, 2012, defendants removed the case to the District Court of the Virgin Islands, and then on October 10, 2012, filed their opposition to the Motion for TRO.

On October 19, 2012, amended his complaint by right. That is now the operative complaint in this action.

On October 22, 2012, plaintiff Hamed filed his reply to the motion for TRO.

On November 12, 2012, plaintiff Hamed filed a motion and memorandum in support for partial summary judgment as to Count I of the amended complaint -- because defendants had admitted, either in pleadings or in prior sworn testimony that an agreement to split profits on a 50/50 basis did exist and that there was an oral agreement between the parties, which motion further supports the TRO request on the TRO prong regarding the likelihood of success on the merits of the case.

On November 16, 2012, the District Court issued an opinion and order remanding the action to this Court.

regarding the extraordinary strength of plaintiff's underlying case are set forth in detail in plaintiff Hamed's memorandum in support of his motion for partial summary judgment. That motion is based solely on admissions of defendants in their pleadings here or in sworn testimony -- no supporting affidavits or materials other than the record are relied upon. The facts related to the TRO pleadings are equally clear, as the basic facts relating to the original motion for TRO are set forth in plaintiff's original supporting memorandum and reply. To make the requested relief clearer, in that reply, plaintiff Hamed suggested simple, direct wording for the TRO as follows:

- 1) Injunctive Relief enjoining the defendants from changing operations or accounts in the grocery operations, a *status quo* order;
- 2) Injunctive Relief enjoining Yusuf from withdrawing funds from any of the segregated (listed) "supermarket accounts" (operational or brokerage) without the agreement of Hamed or, in the alternative, a special master to be appointed by the Court -- and directing both defendants to immediately return the \$2.7 million and any other funds improperly withdrawn from those accounts by Yusuf.

Since the filing of the motion, Yusuf has engaged in numerous acts that now have arisen to the level of requiring emergency relief as follows:

- 1. Threats to close the store as a means of intimidating employees-**Yusuf has personally threatened that because of this litigation he may be "closing the stores" altogether. He has said this directly to employees and others. **Exhibit 1.** Rumors of this are devastating.
- 2. Refusal to pay valid supplier amounts & interference with ordering-**Yusuf has personally blocked payments to suppliers, refused to pay -- and interfered with ordering. **Exhibit 1.** Rumors of this are devastating.
- 3. Hiding Banking Information and the Removal of Segregated Funds-**In just the recent past, defendants have re-directed bank statements -- so it is not possible to say what has gone on since plaintiff Hamed learned of three checks. **Exhibit 1.** But as can be seen from what plaintiff has been able to obtain, almost \$150,000 has been removed from the segregated grocery accounts for non-grocery personal obligations of Yusuf. **Exhibit 1** (*Checks Drawn in 29 Days by F. Yusuf from Segregated "Grocery Operations"*)

Accounts and Paid to Fuerst Ittleman as Attorney Fees from October 19 to November 16, 2012 totaling \$143,33.21.) It is impossible to say what else is going on.

4. **New "financial employees"**-On October 22, 2012, a relative of Yusuf's showed up at one of the stores and told the manager that "he is going to be our new comptroller." For years the three stores ran with one comptroller. Since that time new employees have been hired without joint agreement, put to work on secret projects at Yusuf's direction (apparently litigation related) and are charged to grocery accounts. Suddenly there was (allegedly) a comptroller in St. Thomas working weekends and an "assistant comptroller" working full-time plus "accounting people" in St. Croix. **Exhibit 1.**

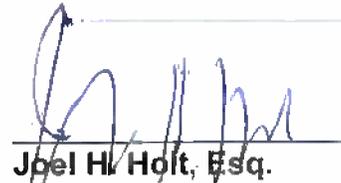
5. **Attempting to terminate employees for vindictive reasons-** On January 8, 2013, a 15-year employee of the grocery operations, Wadda Charriez, was confronted by Yusuf. He told her "[the Hameds] bought you out" so he was going to fire her on a trumped up allegation. He then terminated her on a totally trumped up allegation regarding a common practice. More to the point - there could not be a more "high visibility" act of intimidation. **See Exhibit 1.**

In short, the defendants have crossed the Rubicon -- they are out of control. Thus, the applicable legal principles are set forth in plaintiff's TRO Motion (and Reply) warrant an emergency TRO now to avoid further harm.

In summary, the defendants are stalling for time -- and while doing so they are looting funds, hiring allies, firing and intimidating witnesses and trying to damage the operations of the store and their reputations.

The "status quo order" should return the parties to the date it was sought -- the funds should be replaced, new "employees" removed, and the other items remedied. The operations should return to how they have run for more than 25 years pending litigation -- otherwise there will be nothing left to save.

Dated: January 9, 2013



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Counsel for Plaintiff
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(340) 773-8709

Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
5000 Estate Coakley Bay,
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(340) 719-8941

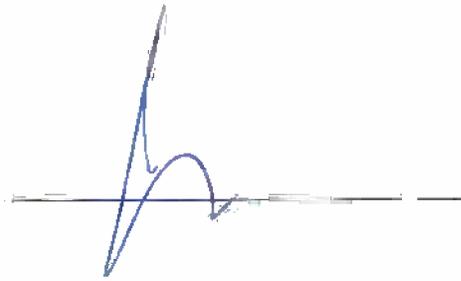
CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January, 2013, I served a copy of the foregoing motion by hand on:

Nizar A. DeWood
The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820
340-773-3444

And by email and mail on:

Joseph A. DiRuzzo, III
Fuerst Ittleman David & Joseph, PL
1001 Brickell Bay Drive, 32nd. Fl.
Miami, FL 33131
305-350-5690



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

MOHAMMAD HAMED,)	
)	
Plaintiff,)	CIVIL NO. SX-12-CV- 370
v.)	
)	
FATHI YUSUF and UNITED CORPORATION,)	ACTION FOR DAMAGES
)	INJUNCTIVE AND
Defendants.)	DECLARATORY RELIEF
)	JURY TRIAL DEMANDED

**DECLARATION OF WALEED HAMED IN SUPPORT OF
PLAINTIFF'S EMERGENCY MOTION AND MEMORANDUM
TO RENEW APPLICATION FOR TRO**

I, Waleed Hamed, declare, pursuant to 28 U.S.C. Section 1746, as follows:

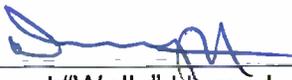
1. On January 8, 2013, a 15-year employee of the grocery operations, Wadda Charriez, was confronted by Yusuf. It was reported to me that he told her "[the Hameds] bought you" so he was going to fire her on a trumped up allegation. He then tried to terminate her, but since he is not the store manager, she was told to return to work today. Yusuf has now threatened her again and has threatened to call the police, which is an on-going scene as this declaration is being signed.
2. Wadda Charriez is not a low-level employee. She is married with 2 children, and is Office Manager/Payroll/Human Resources. She is an office manager who is critical to operations.
3. Yusuf has personally threatened that because of this litigation he may be "closing the stores" altogether. He has said this directly to employees and others.
4. Yusuf has personally blocked payments to suppliers, refused to pay -- and interfered with ordering. He has also paid his own lawyers from the supermarket accounts after the manager refused to sign these checks which are for his personal use, not for any business purpose of the supermarkets, copies of which are attached.
5. On October 22, 2012, a relative of Yusuf's showed up at one of the stores and told the manager that "he is going to be our new comptroller." For years the three stores ran with one comptroller. Since that time new employees have been hired without joint

agreement, put to work on secret projects at Yusuf's direction (apparently litigation related) and are charged to grocery accounts. Suddenly there was (allegedly) a comptroller in St. Thomas working weekends and an "assistant comptroller" working full-time plus "accounting people" in St. Croix.

6. The defendants are clearly out of control and are threatening the existence of the Plaza Extra supermarket operations.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 9, 2013.



Waleed "Wally" Hamed

Checks Drawn in 29 Days by F. Yusuf from Segregated "Grocery Operations Accounts" Paid to Fuerst Ittleman as Attorney Fees from October 19 to November 16, 2012

Total = \$143,333.21

11/16/2012 \$99,254.45

10/19/2012 \$29,011.50

10/19/2012 \$15,067.26

4195
BANK OF AMERICA

BANCO POPULAR DE PUERTO RICO
101-007216

UNITED CORPORATION
USA PLAZA EXTRA
(940) 715-1870
PO BOX 3649
ST CROIX, VI 00851

DATE
Nov 16, 2012

AMOUNT
\$ 99,254.45

Ninety-Nine Thousand Two Hundred Fifty-Four and 45/100 Dollars
FUERST ITTLEMAN DAVID & JOSEPH, PL
1001 BRICKELL BAY DRIVE
32ND FLOOR
MIAMI, FL 33131

MEMO: 1910255259

3977
BANK OF AMERICA

DATE
Oct 19, 2012

AMOUNT
\$ 29,011.50

Twenty-Nine Thousand Eleven and 50/100 Dollars
FUERST ITTLEMAN DAVID & JOSEPH, PL
1001 BRICKELL BAY DRIVE
32ND FLOOR
MIAMI, FL 33131

MEMO: 1910255259

3979
BANK OF AMERICA

BANCO POPULAR DE PUERTO RICO
101-007216

UNITED CORPORATION
USA PLAZA EXTRA
(940) 715-1870
PO BOX 3649
ST CROIX, VI 00851

DATE
Oct 19, 2012

AMOUNT
\$ 15,067.26

Fifteen Thousand Sixty-Seven and 26/100 Dollars
FUERST ITTLEMAN DAVID & JOSEPH, PL
1001 BRICKELL BAY DRIVE
32ND FLOOR
MIAMI, FL 33131

MEMO: 1910255259

3979
BANK OF AMERICA

BANCO POPULAR DE PUERTO RICO
101-007216

UNITED CORPORATION
USA PLAZA EXTRA
(940) 715-1870
PO BOX 3649
ST CROIX, VI 00851

DATE
Oct 19, 2012

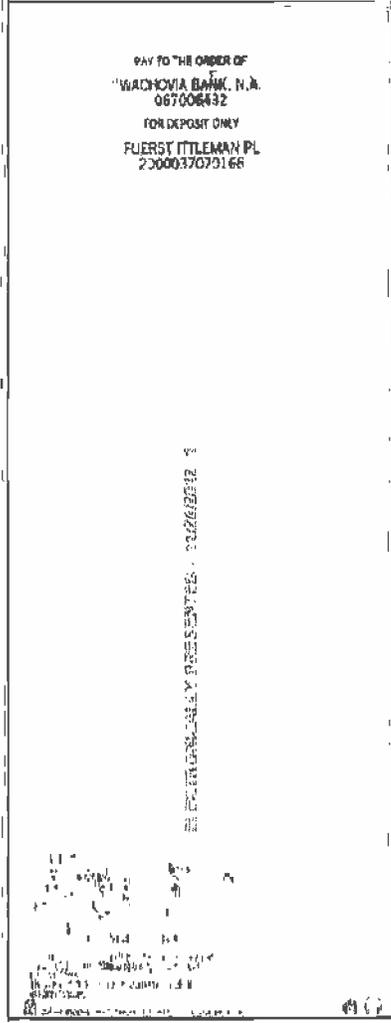
AMOUNT
\$ 15,067.26

Fifteen Thousand Sixty-Seven and 26/100 Dollars
FUERST ITTLEMAN DAVID & JOSEPH, PL
1001 BRICKELL BAY DRIVE
32ND FLOOR
MIAMI, FL 33131

MEMO: 1910255259

CHECK 4195

Dated: Friday, November 16, 2012
Amount: \$99,254.45
Cleared: Sunday, November 25, 2012
Depository: Fuerst Ittleman PL
Account: Wachovia Bank N.A.
2000037070166



4195
BANK OF AMERICA

UNITED CORPORATION
DEA PLAZA EXTRA
STATION 719-1670
PO BOX 3049
ST CROIX, VI 00851

AMICO POPULAR DE PUERTO RICO
101-557216

DATE: Nov 16, 2012
AMOUNT: \$ 99,254.45

Ninety-Nine Thousand Two Hundred Fifty-Four and 45/100 Dollars
FUERST ITTLEMAN DAVID & JOSEPH, PL
1001 BRICKELL BAY DRIVE
32ND FLOOR
MIAMI, FL 33131

MEMO: #001,195# #021606674# 191#256269#

PAY TO THE ORDER OF: Fuerst Ittleman PL

AUTHORIZED SIGNATURE: [Signature]

CHECK 3977

Dated: Friday, October 19, 2012
Amount: \$99,254.45
Cleared: Sunday, October 28, 2012
Depository: Fuerst Ittleman PL
Account: Wachovia Bank N.A.
2000037070166

ELECTRONICALLY PRESENTED - #02828211

PAY TO THE ORDER OF
WACHOVIA BANK, N.A.
057006432
FOR DEPOSIT ONLY
FUERST ITTLEMAN PL
2000037070166

3977
BANCO POPULAR DE PUERTO RICO
101-687216

DATE
Oct 19, 2012

AMOUNT
\$ 29,011.50

UNAUTHORIZED SIGNATURE

UNited CORPORATION
DBA PLAZA EXTRA
(340) 719-1870
PO BOX 3649
ST CROIX, VI 00851

Twenty-Nine Thousand Eleven and 50/100 Dollars
FUERST ITTLEMAN DAVID & JOSEPH, PL
1001 BRICKELL BAY DRIVE
32ND FLOOR
MIAMI, FL 33131

MEMO:
#003977# 2021606674: 1910256269

PAY TO THE ORDER OF:

CHECK 3979

Dated: Friday, October 19, 2012
Amount: \$15,067.26
Cleared: Sunday, October 28, 2012
Depository: Fuerst Ittleman PL
Account: Wachovia Bank N.A.
2000037070166

ELECTRONICALLY PRESENTED - 02462822 1

PAY TO THE ORDER OF
WACHOVIA BANK, N.A.
067006432
FOR DEPOSIT ONLY
FUERST ITTLEMAN PL
2000037070166

3979

BANCO POPULAR DE PUERTO RICO
701-967/216

UNITE CORPORATION
DBA PLAZA EXTRA
(340) 719-1870
PO BOX 3646
ST CROIX, VI 00851

DATE
Oct 19, 2012

AMOUNT
\$ 15,067.26

MEMO:
Fifteen Thousand Sixty-Seven and 26/100 Dollars
FUERST ITTLEMAN DAVID & JOSEPH, PL
1001 BRICKELL BAY DRIVE
32ND FLOOR
MIAMI, FL 33131

Signature: *Fuerst Ittleman*
AUTHORIZED SIGNATURE

MEMO: ⑆003979⑆ ⑆021606674⑆ 1910256269⑆

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