

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

MOHAMMAD HAMED, by his ) Case No.1:12-cv-99  
authorized agent, WALEED HAMED, )  
)  
Plaintiff, )  
)  
v. )  
)  
FATHI YUSUF and UNITED CORPORATION, )  
)  
Defendants. )  
\_\_\_\_\_ )

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that:

Defendants, FATHI YUSUF and UNITED CORPORATION (collectively, “Defendants”), pursuant to 28 U.S.C. §§ 1446, hereby give notice of the removal of this action from the Superior Court of the Virgin Islands, St. Croix Division, to the District Court of the Virgin Islands, St. Croix Division. In support of this Notice of Removal, Defendants state as follows:

1. On or about September 17, 2012, Plaintiff Mohammad Hamed (“Plaintiff”), by his authorized agent, filed a civil complaint (the “Complaint”) in the Superior Court of the Virgin Islands, St. Croix Division, styled *MOHAMMAD HAMED By His Authorized Agent WALEED HAMED v. FATHI YUSUF & UNITED CORPORATION*, Case No. SX-12-CV-370, which case was assigned to the Honorable Julio A. Brady (the “State Court Action”).

2. On or about September 18, 2012, Plaintiff also filed a Motion for a Temporary Restraining Order and/or a Preliminary Injunction and an accompanying Memorandum in Support of Motion for a Temporary Restraining Order and/or a Preliminary Injunction (collectively, the “TRO Motion”).

3. Defendants were served with Summonses and copies of the Complaint and TRO Motion on September 18, 2012.

4. Defendants promptly engaged the undersigned counsel and, on or about September 28, 2012, filed a Motion to Proceed on Plaintiff's Motion for a Temporary Restraining Order and/or a Preliminary Injunction as a Motion for Preliminary Injunction and for Enlargement of Time to Respond to Same.

5. On or about October 2, 2012, Plaintiff filed his Reply to Defendant's Motion to proceed as a preliminary injunction.

6. No process, pleadings or orders have been filed in the State Court Action since Plaintiff's October 2, 2012 Reply.

7. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders served upon Defendants in the State Court Action to date are separately attached hereto, namely:

- (a) Superior Court Summons dated September 17, 2012;
- (b) Superior Court Docketing Letter and Notice of Judge Assignment dated September 17, 2012;
- (c) Complaint dated September 17, 2012;
- (d) Motion for a Temporary Restraining Order and/or a Preliminary Injunction dated September 18, 2012;
- (e) Memorandum in Support of Motion for a Temporary Restraining Order and/or a Preliminary Injunction dated September 18, 2012;
- (f) Notice of Service of Motion for a Temporary Restraining Order and/or a Preliminary Injunction dated September 19, 2012;
- (g) Notice of Filing Proposed Order for Temporary Restraining Order and/or a Preliminary Injunction dated September 20, 2012;
- (h) Notice of Appearance by Joseph A. DiRuzzo, III dated September 21, 2012;

(i) Defendants' Motion to Proceed on Plaintiff's Motion for a Temporary Restraining Order and/or a Preliminary Injunction as a Motion for Preliminary Injunction and for Enlargement of Time to Respond to Same dated September 28, 2012; and

(j) Plaintiff's Reply to Defendant's Motion for Enlargement of Time dated October 2, 2012.

8. This Notice of Removal is timely, as Defendants were served the Complaint on September 18, 2012. *See* 28 U.S.C. § 1446(b).

9. The underlying action, which is ostensibly brought pursuant to the partnership provisions of the Virgin Islands Code, Title 26, is premised on the naked assertion that, "[i]n the mid-1980's, Hamed and Yusef formed a partnership to operate" three commercial supermarket businesses, which are located on properties owned and/or operated by Defendant United Corporation. (Complaint ¶¶ 5-6).

10. Among other legal and factual defects, the Complaint does not attach or reference a single tax return, corporate declaration, or other public document supporting the existence of any partnership or partnership agreement.

11. Nevertheless, Plaintiff alleges that "Yusef has engaged in and continues to engage in numerous acts in breach of his obligations as [an alleged] partner in [the alleged] partnership with Hamed," including an alleged wrongful conversion of \$2.7 million from certain commercial accounts at issue. (Complaint ¶¶ 19-20).

12. Plaintiff seeks, "pursuant to 26 V.I.C. § 75, . . . legal and equitable relief as deemed appropriate to protect and preserve [his alleged] partnership rights," "including the return of funds to the partnership [allegedly] improperly taken or spent by Yusuf to date in violation of the agreement between the parties" and "compensatory damages for all [alleged] financial losses inflicted

by Yusuf on the partnership and/or his partnership interest as well as punitive damages against Yusuf for his [alleged] willful and wanton misconduct.” (Complaint ¶¶ 26-28).

13. Plaintiff also seeks “a judicial determination under 26 V.I.C. § 121(5) that it is not practicable to continue the [alleged] partnership . . .” (Complaint ¶ 31).

14. Significantly, the Complaint refers to a federal criminal action in the District Court of the Virgin Islands, St. Croix Division, styled *UNITED STATES OF AMERICA and GOVERNMENT OF THE VIRGIN ISLANDS v. FATHI YUSUF MOHAMAD YUSUF, WALEED MOHAMMAD HAMED, WAHEED MOHAMMAD, MAHER FATHI YUSUF, NEJEH FATHI YUSUF, ISAM YUSUF and UNITED CORPORATION*, Case No. 2005-15F/B, which case was assigned to and is currently pending before the Honorable Wilma A. Lewis (the “Federal Court Criminal Action”). (Complaint ¶¶ 8, 10).

15. As alleged in the Complaint, the “parties” are currently prohibited from removing funds from United Corporation’s accounts at issue pursuant to an Order entered in the Federal Court Criminal Action. (Complaint ¶¶ 8, 10).

16. Fathi Yusuf and United Corporation, who are the defendants in the present action, together with Waleed Hamed, who is the plaintiff’s “authorized agent” in this action, are co-defendants in the Federal Court Criminal Action.

17. Indeed, on or about February 26, 2010, in the Federal Court Criminal Action, United Corporation, its attorneys, the individual defendants in that action, the United States Department of Justice, Tax Division, and the United States Attorney for the District of the Virgin Islands entered into a Plea Agreement (the “Plea Agreement,” which is DE # 1248 in the Federal Court Criminal Action and is attached as Exhibit “A” hereto).

18. As reflected in the Plea Agreement, United Corporation agreed to plead guilty in the Federal Court Criminal Action to a violation of “Title 33, Virgin Islands Code, Section 1525(2)” relating to the filing of a corporate income tax return on Form 1120S for the year 2001 and the underreporting of gross income. (Plea Agreement at 2-4).

19. In turn, the “Government” (defined in the Plea Agreement collectively as “the Department of Justice, Tax Division, and the United States Attorney for the District of the Virgin Islands”) agreed, in relevant part, to “dismiss all counts of the Indictment with prejudice against [the individual defendants]” and “not to file any additional criminal charges against United [Corporation] or any of the individual defendants for conduct arising out of the facts alleged in the Indictment.” (Plea Agreement at 1-2).

20. The United States Department of Justice of the Virgin Islands also agreed in the Plea Agreement “that it will file no criminal charges against United [Corporation] or any of the individual defendants for any conduct arising out of the facts alleged in the Indictment.” (Plea Agreement at 2).

21. As a further condition of the Plea Agreement, the defendants in the Federal Court Criminal Action, including Plaintiff Mohammad Hamed’s authorized agent and Defendants Fathi Yusuf and United Corporation here, agreed, prior to sentencing, which has not occurred yet, to file “complete and accurate” corporate and individual income tax returns and reporting documents for the years 2002, 2003, 2004, 2005, 2006, 2007 and 2008, and to pay in full the amounts due upon the returns for those years. (Plea Agreement at 11).

22. Related to the filing of such tax returns, the Plea Agreement identifies “restitution numbers for tax loss” derived from United Corporation’s gross receipts for the years 1996-2001,

United Corporation's corporate income taxes for the years 1996-1998, and the individual income taxes of United Corporation's shareholders for the years 1999-2001. (Plea Agreement, Exhibit 1).

23. At bottom, the Plea Agreement is undisputedly based on the representations by the defendants in the Federal Court Criminal Action, and their counsel, to the Government that United Corporation exists and has always existed as a corporation, not a partnership; and that, related to the corporate and individual income tax returns at issue in that action, no partnership exists or ever existed during the relevant tax periods.

24. Among other important provisions, the Plea Agreement also contains a waiver of United Corporation's appellate rights and ability to "collaterally attack" any conviction and sentence in the Federal Court Criminal Action, an integration clause, and a "no oral modification" clause requiring that any modification of the Plea Agreement be signed in writing "by the Government, United [Corporation], the individual defendants, and [United Corporation]'s shareholders." (Plea Agreement at 10, 12).

25. At all times relevant to the allegations in the Complaint, Plaintiff, by his authorized agent and otherwise, was aware of the Federal Court Criminal Action, including the representations made therein and the execution of the Plea Agreement.

26. Clearly, the present allegations of a supposed "partnership" relating to United Corporation's ownership, operations and tax status, as alleged in the Complaint, are anathema to the Plea Agreement and seek to implode the Federal Court Criminal Action and otherwise turn it on its head.<sup>1</sup>

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<sup>1</sup> A meaningful review of the Complaint reveals that Plaintiff has manipulated his pleading to avoid presenting the obvious federal questions addressed in this Notice of Removal and thus avoid federal jurisdiction. Indeed, shortly before filing the Complaint, Plaintiff, through his counsel, transmitted to the United States Department of Justice a self-serving letter expressing "certain concerns" and claimed "confusion" regarding the representations made by certain defendants in the Federal Court

27. The present allegations, on their face, thus necessarily raise substantial and significant federal issues, which sensibly belong in federal court, including, at a minimum, the interpretation of the Internal Revenue Code, the Treasury Regulations thereunder, and the federal criminal statutes at issue in the Federal Court Criminal Action.

28. Accordingly, under 28 U.S.C. §§ 1331 and 1441, this Court has original jurisdiction over the present claims and the action is properly removed thereto. *See, e.g., Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing*, 545 U.S. 308 (2005) (upholding federal jurisdiction in a state-law action turning on the interpretation of a federal tax law).

29. In addition, under the Supremacy Clause of the United States Constitution, the claims in this action are completely preempted by federal law, as the interpretation of federal tax law and federal criminal statutes are plainly federal in character and within the sole province of the federal courts. U.S.C.A. Const. Art. VI, cl. 2.

30. Indeed, because the allegations in the Complaint necessarily implicate the income tax laws applicable to the Virgin Islands, as the Government of the Virgin Islands is a party in the Federal Court Criminal Action and otherwise, this Court has exclusive jurisdiction over this action. *See* 48 U.S.C. § 1612(a) (providing that “[t]he District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands”); *see also Birdman v. Office of the Governor*, 677 F.3d 167 (3d

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Criminal Action, and the defendants’ counsel, to the Government regarding the alleged “partnership” (or lack thereof) between “Mr. Yusuf and Mr. Hamed,” and indicating the representations were “misleading.” (*See* Aug. 31, 2012 Letter from Joel H. Holt, Esq., to Lori Hendrickson, Assistant United States Attorney (attached as Exhibit “B” hereto)). The August 31, 2012 letter demonstrates Plaintiff’s true intentions in bringing the Complaint in State court – *i.e.*, to attempt an end-run around the Federal court’s proper jurisdiction and thereby both, for his part, somehow evade the “misleading” representations and falsehoods Plaintiff directly and/or indirectly made to the Government and the court in the Federal Court Criminal Action and, on Defendant Fathi Yusuf’s and United Corporation’s part, somehow enjoin their actions and representations in that federal action. Plaintiff’s such tactics are disingenuous and disturbing.

Cir. 2012) (holding that the District Court of the Virgin Islands’ “exclusive jurisdiction” under 48 U.S.C. § 1612(a) over the “income tax laws applicable to the Virgin Islands” is vis-à-vis the court created under Virgin Islands local law, *i.e.*, the Virgin Islands Superior Court and Virgin Islands Supreme Court)).

31. An additional and separate basis for removal jurisdiction is the federal officer removal statute, 28 U.S.C § 1442, which allows removal when “[t]he United States or any agency thereof or any officer (*or any person acting under that officer*) of the United States or of any agency thereof, [is] sued in an official or individual capacity for any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.” 28 U.S.C. § 1442(a)(1) (emphasis added). *See also Jamison v. Wiley*, 14 F.3d 222, 238 (4th Cir. 1994) (observing that removal under § 1442 is not constrained by the well-pleaded complaint rule, but is appropriate “when [the defendant acting under a federal officer] can allege a colorable federal defense to [an] action”) (internal quotation marks omitted).

32. This statute applies to claims, as here, arising out of a private party’s “effort to *assist*, or to help *carry out*, the duties or tasks of the federal superior.” *Watson v. Philip Morris Cos.*, 551 U.S. 142, 152 (2007) (original emphasis).

33. Specifically, Defendants Fathi Yusuf and United Corporation here, as co-defendants in the Federal Court Criminal Action, easily fall within § 1442(a)(1)’s scope, because they are subject to a binding agreement with the Government, *i.e.*, the Plea Agreement; they will be asserting colorable federal defenses based on that agreement, including under the waiver, integration and “no oral modification” clauses therein; and there is a causal nexus between Defendants’ actions as alleged in the Complaint, which actions were and are informed by the Government’s directions in



the Federal Court Criminal Action and the Plea Agreement, and Plaintiff's present claims. *See, e.g., Jamison*, 14 F.3d at 238-39 (finding that state-law tort action was properly removed under § 1442(a)(1) where defendant sufficiently alleged a colorable federal defense of immunity) (cautioning that a defendant need not prove that it will actually prevail on its colorable federal defense, and that “[n]othing in the federal removal statute authorizes the remand of a case that has been properly removed under § 1442(a)(1) on the ground that the [alleged colorable federal defense] is later rejected”) (citation omitted).

34. Lastly, pursuant to the bases of original jurisdiction set forth above, this Court has supplemental jurisdiction over all the claims set forth in the Complaint, because the claims “are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a).

35. Upon filing this Notice of Removal, Defendants, by and through their undersigned counsel, will promptly give written notice thereof to Plaintiff, through his counsel, and will file a copy of this Notice of Removal with the Clerk of the Superior Court of the Virgin Islands, St. Croix Division. *See* 28 U.S.C. § 1446(d) (directing the State court, upon receipt of the notice, to “effect the removal and . . . proceed no further unless and until the case is remanded”).

**WHEREFORE**, Defendants Fathi Yusuf and United Corporation pray that this action proceed in this Court as an action properly removed thereto.

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Respectfully submitted,

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Joseph A. DiRuzzo, III  
USVI Bar # 1114; FL Bar # 0619175  
FUERST ITTLEMAN DAVID & JOSEPH, PL  
1001 Brickell Bay Drive, 32<sup>nd</sup> Floor  
Miami, Florida 33131  
305.350.5690 (O)  
305.371.8989 (F)  
[jdiruzzo@fuerstlaw.com](mailto:jdiruzzo@fuerstlaw.com)

Dated October 4, 2012

**CERTIFICATE OF SERVICE**

I hereby certify that, on October 4, 2012, a true and accurate copy of the foregoing document was served via USPS and email to the following: Joel H. Holt, Esq., 2132 Company St., St. Croix, VI 00820, [holtvi@aol.com](mailto:holtvi@aol.com).

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Joseph A. DiRuzzo, III

# SUMMONS

(Civil Action Original)

SUPERIOR COURT OF THE VIRGIN ISLANDS

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

MOHAMMAD HAMED By His Authorized  
Agent WALEED HAMED

Plaintiff,

v.

FATHI YUSUF AND UNITED CORPORATION

Defendant..

CIVIL NO. SX-12-CV 370

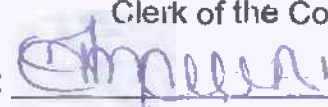
ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

TO: FATHI YUSUF  
4C & 4D Estate Sion Farm  
Christiansted, St. Croix 00820  
340-778-6240

Within the time limited by law (see note below) you are hereby required to appear before this Court and answer to a complaint filed against you in this action and in case of your failure to appear or answer, judgment by default will be taken against you as demanded in the Complaint for damages.

Witness my hand and Seal of this Court this 17th day of September, 2012.

  
\_\_\_\_\_  
Joel H. Holt  
Attorney for the Plaintiff:  
Joel H. Holt  
2132 Company Street, Suite 2  
Christiansted, VI 00820

VENETIA VELAZQUEZ  
Clerk of the Court  
By:   
\_\_\_\_\_  
Deputy Clerk

NOTE: The defendant, if served personally, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the plaintiff's attorney within twenty (20) days after service of this summons, excluding the date of service. The defendant, if served by publication or by personal service outside of the jurisdiction, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the attorney for the plaintiff within thirty (30) days after the completion of the period of publication or personal service outside of the jurisdiction.

**Superior Court of the Virgin Islands  
Division of St. Croix**



OFFICE OF THE CLERK  
(340) 778-9750

Date: September 17, 2012

Plaintiff s/Attorney's name JOEL H. HOLT, ESQ.

Address 2132 COMPANY STREET, STE. 2 C'STED VI 00820

Address \_\_\_\_\_

**DOCKETING LETTER AND NOTICE OF JUDGE ASSIGNMENT**

Dear ATTORNEY HOLT

The Court is in receipt of your **CIVIL / CRIMINAL / FAMILY / PROBATE** filing, which was docketed on SEPTEMBER 12, 2012 and assigned Case Number SX-12-CV-370

The Judge / Magistrate Assigned to your case is the Honorable JUDGE JULIO A. BRADY

If there is a fee associated with your filing, such fee must be filed along with your petition/complaint, or within **five (5) days** thereafter. Failure to pay the required fee may result in your petition / complaint being dismissed for failure to prosecute.

If you have any questions or concerns, you may contact the Office of the Clerk of the Court at (340) 778-9750 (St. Croix) or 774-6680 (St. Thomas-St. John).

Sincerely,  
Venetia Velazquez, Esq.  
Clerk of the Court

  
BY: TAMARA M. ALLEN

Cc: FATHI YUSUF & UNITED CORPORATION, Defendant  
Case File

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

MOHAMMAD HAMED By His Authorized  
Agent WALEED HAMED

Plaintiff,

v.

FATHI YUSUF AND UNITED CORPORATION

Defendant.

SEP 17 10 22

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

COMPLAINT

Comes now, the Plaintiff, Mohammad Hamed, by his authorized agent, Waleed Hamed, and hereby files this Complaint against Fathi Yusuf and the United Corporation,, alleging as follows:

1. This Court has jurisdiction over this matter pursuant to Title 4 V.I.C. §76(a) and 5 V.I.C. §1261.
2. Plaintiff, Mohammad Hamed ("Hamed") and his authorized agent Waleed Hamed (a/k/a Wally Hamed) are both adult residents of St. Croix, United States Virgin Islands. The acts referenced herein attributable to Mohammad Hamed are to acts done either directly by Mohammad Hamed or through his family members acting as his authorized agent, hereinafter collectively referred to as "Hamed."
3. Defendant Fathi Yusuf is a resident of the St. Croix, United States Virgin Islands. The acts referenced herein attributable to Fathi Yusuf are to acts done either directly by Fathi Yusuf or through his family members acting as his authorized agent, hereinafter collectively referred to as "Yusuf."
4. The defendant, United Corporation ("United") is a Virgin Islands Corporation.

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5. In the mid-1980's, Hamed and Yusuf formed a partnership to operate a grocery supermarket on the east side of St. Croix, named Plaza Extra, which was located in a shopping center operated by United.
6. The partnership between Hamed and Yusuf subsequently expanded to two other supermarket locations, one in the west end to St. Croix and one in St. Thomas, both of which also operated under the name Plaza Extra. The partners generally refer to these three stores as Plaza Extra East (Sion Farm, St. Croix), Plaza Extra West (Plesson/Grove, St. Croix) and Plaza Extra St. Thomas (Tutu Park, St. Thomas). The Plaza supermarkets have grown in size, currently employing in excess of 600 employees in the three stores.
7. At all times relative hereto, the three Plaza Extra supermarkets have been managed jointly by Hamed and Yusuf, operating as a partnership with separate accounting records and separate bank accounts for each store, even though the partnership utilized the corporate entity of United for the reporting of tax obligations.
8. The bank accounts for the three Plaza Extra supermarkets have always been accessible equally to Hamed and Yusuf, with the parties agreeing that one family member from each of the Hamed and Yusuf families will sign each check written on these bank accounts. The parties are currently prohibited from removing funds from these accounts other than to operate the three Plaza supermarkets because of an Order entered by the District Court of the Virgin Islands in the

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criminal matter entitled, *USA v. United Corporation et al.*, District Court Criminal No. 2005-15. The current bank accounts for each of the three Plaza stores are:

**St. Thomas Plaza Extra Store:**

Operating Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Payroll Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Telecheck Acct:	04xxxxxxx	Bank of Nova Scotia (BNS)
Credit Card Acct:	1xxxxxxx	Banco Popular

**St. Croix Plaza Extra – WEST**

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
TeleCheck Acct:	05xxxxxxxxxx	Bank of Nova Scotia (BNS)

**St. Croix Plaza Extra – EAST**

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
Telecheck Acct:	58xxxxxxxxxx	Bank of Nova Scotia (BNS)

9. United has always had separate accounting records and separate bank accounts for its shopping center and business operations that were unrelated to the three Plaza Extra supermarket stores. Hamed does not have access to these separate bank accounts used by United for its shopping center and other businesses unrelated to the three Plaza Extra supermarkets.
10. At all times relative hereto, the Hamed and Yusuf partnership profits from the Plaza Extra stores have always been held in banking and brokerage accounts completely separate from the profits of United's other unrelated businesses, even though the banking and brokerage accounts holding the profits from the Hamed and Yusuf partnership are in United's name as well. The parties are currently prohibited from removing funds from these accounts because of the same Order

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entered by the District Court of the Virgin Islands in *USA v. United Corporation et al.*, District Court Criminal No. 2005-15. The current brokerage accounts holding these profits are:

Popular Securities

PSx-xxxx22

PSx-xxxx63

PSx-xxxx60

PSx-xxxx79

PSx-xxxx01

PSx-xxxx10

PSx-xxxx28

PSx-xxxx36

11. At all times relative hereto, Hamed and Yusuf have equally shared the profits distributed from the three Plaza supermarkets.
12. From time to time, Hamed and Yusuf have used these profits to buy other businesses and real property, always owning these jointly held assets on a 50/50 basis.
13. In this regard, Hamed and Yusuf have also maintained records of withdrawals from the partnership account to each of them (and their respective family members), to make sure there would always be an equal (50/50) amount of these withdrawals for each partner's family members.
14. Yusuf has repeatedly confirmed the existence of this partnership between himself and Hamed, including statements made under oath.
15. On February 10, 2012, Yusuf's attorney, Nizar DeWood ("DeWood"), informed Hamed (through his agent Wally Hamed) that Yusuf wanted to dissolve the partnership. See Exhibit A.



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16. On February 12, 2012, (See Exhibit B) DeWood sent a letter on Yusuf's behalf to Hamed announcing that Yusuf was ready to proceed with dissolving the partnership, describing the partnership assets to be divided as follows:

As it stands, the partnership has three major assets: Plaza Extra - West (Grove Place, including the real property), Plaza Extra - East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas).

17. DeWood then sent a proposed partnership dissolution agreement on behalf of Yusuf on March 13, 2012, to Wally Hamed, regarding the proposed dissolution of the partnership. That document (See Exhibit C) then went on to state in part as follows:

WHEREAS, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

WHEREAS, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

. . . . .  
WHEREAS, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership;

WHEREAS, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

That document then described the partnership assets as follows:

Section 1.1: Assets of the Partnership

1. PLAZA EXTRA EAST- Estate Sion Farm. St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA - Tutu Park. St. Thomas

18. The parties thereafter met on numerous occasions to try to address the division of the partnership assets, including the three Plaza Extra Stores and the

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partnership profits held in the various bank and brokerage accounts. However, to date no agreement has been reached regarding the division of these partnership assets.

19. In the interim time period, Yusuf has engaged in and continues to engage in numerous acts in breach of his obligations as a partner in his partnership with Hamed, all of which are designed to undermine the partnership's operations and success, including but not limited to the following acts:

- a) Threatening to terminate the Hamed family employees in the three Plaza Extra stores;
- b) Threatening to have United evict the Plaza Extra store located in the United shopping center on the east side of St. Croix (See Group Exhibit D), including the threat of using self help to remove the partnership from the premises without using judicial process;
- c) Attempting to have United impose excessive rent obligations on this store (See Group Exhibit D);
- d) Failing to recognize Plaza Extra's rights in the premises where its Plaza store in the United Shopping Center is located, as the store was damaged by fire in 1992 and was rebuilt entirely with insurance funds from the Plaza supermarket and not from United, including using said partnership funds for the purchase of additional adjacent land for use by the supermarket;

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- e) Attempting to discredit the operations of these three stores by making defamatory statements about Hamed and his family members to third parties, including suppliers for the three stores, which are completely untrue;
- f) Attempting to unilaterally change how the stores have operated by threatening to impose new and unreasonable restrictions on the operations of these three stores, all of which are aimed at undermining Hamed's partnership interest in the three stores.
- g) Refusing to pay valid obligations owed by the partnership, including but not limited to attorney's fees incurred in litigation in the pending District Court criminal case, in an effort to undermine the partnership's operations;
- h) Threatening to close down the Plaza Supermarkets;
- i) Threatening the Hamed family members working in the Plaza supermarkets with physical harm, trying to intimidate them into leaving the stores;
- j) Giving false information to third parties, including suppliers of the three Plaza Supermarkets, regarding its future operations, jeopardizing the good will of the Three Plaza supermarkets;
- k) Unilaterally canceling orders placed with vendors and not ordering new inventory for the three Plaza supermarkets; and
- l) Spending funds from the bank accounts of the three Plaza supermarkets to support his other personal business interests unrelated to the three Plaza supermarkets.

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20. Finally, on or about August 20, 2012, Yusuf unilaterally and wrongfully converted \$2.7 million from the Plaza Extra supermarket accounts used to operate the partnership's three stores, placing the funds in a separate United account controlled only by him. Said conversion was a willful and wanton breach of the partnership agreement between Hamed and Yusuf.
21. Despite repeated demands, he has not returned these funds to the Plaza Extra bank accounts from which they were withdrawn, which not only violates the partnership agreement, but also threatens the financial viability of these three Plaza supermarkets and the employment of its 600 employees.
22. Upon information and belief, Yusuf has used these funds to purchase other assets in United's name, such as real property on St. Croix recently purchased for \$1.7 million. See Exhibit E.
23. The acts in question were designed in part to take advantage of Hamed's failing health to force him out of the partnership and deny him his rightful partnership assets and profits.

#### COUNT I

24. All preceding allegations are realleged and incorporated herein by reference.
25. The foregoing acts all violate the partnership rights of Hamed as well as the terms of the partnership agreement between Yusuf and Hamed.
26. As such, pursuant to 26 V.I.C. § 75, Hamed is entitled to legal and equitable relief as deemed appropriate to protect and preserve his partnership rights.

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27. In this regard Hamed is entitled to declaratory relief as to his rights as well as injunctive relief to protect those rights, including the return of funds to the partnership improperly taken or spent by Yusuf to date in violation of the agreement between the parties.

28. Hamed is also entitled to compensatory damages for all financial losses inflicted by Yusuf on the partnership and/or his partnership interest as well as punitive damages against Yusuf for his willful and wanton misconduct.

#### COUNT II

29. All preceding allegations are realleged and incorporated herein by reference.

30. The foregoing acts by Yusuf also constitute intentional misconduct, or reckless and grossly negligent conduct, which has adversely and materially affected the partnership between Hamed and Yusuf regarding the three Plaza supermarkets.

31. As such, Hamed is also entitled to a judicial determination under 26 V.I.C. § 121(5) that it is not practicable to continue the partnership with Yusuf so that Yusuf's partnership interests should be disassociated from the business, allowing Hamed to continue the partnership business without him pursuant to the provisions of 26 V.I.C. §§ 122-123 and Subchapter VII of Title 26.

WHEREFORE, the Plaintiff seeks the following relief from this Court as follows:

- 1) Declaratory Relief against both defendants to establish Hamed's rights under his partnership with Yusuf, including his rights regarding the operation of the three Plaza Extra supermarkets and the withdrawal of funds from the partnership accounts associated with these three Plaza supermarkets;
- 2) Injunctive Relief enjoining the defendants from interfering with Hamed's partnership rights, including enjoining Yusuf from interfering with the operations of the three Plaza Extra supermarkets and enjoining Yusuf from withdrawing any

Complaint  
Page 10

funds from any partnership bank accounts or brokerage accounts without the consent of Hamed;

- 3) Declaratory Relief and Injunctive Relief against both defendants requiring the immediate return of of all funds improperly withdrawn from the bank accounts of the three Plaza supermarket accounts by Yusuf, including but not limited to the \$2.7 million recently removed by Yusuf to an account to which Hamed does not have access;
- 4) Declaratory Relief and Injunctive Relief against both defendants regarding the property rights of the Plaza Extra store located at the United Shopping Center on the east side of St. Croix.
- 5) Declaratory Relief as to the partnership's rights in any businesses and/or assets purchased by United using partnership assets or obtained without providing the partnership the opportunity to participate in the ownership of these newly acquired businesses and/or assets;
- 6) An award of compensatory damages against the defendants, jointly and severally, as determined by the trier of fact;
- 7) A judicial determination under 26 V.I.C. § 121(5) that it is not practicable to continue the partnership with Yusuf so that Yusuf's partnership interests should be disassociated from the business, allowing Hamed to continue the partnership business without him pursuant to the provisions of 26 V.I.C. §§ 122-123 and Subchapter VII of Title 26.
- 8) An award of prejudgment interest at the statutory rate of 9%;
- 9) An award of punitive damages against Yusuf as determined by the trier of fact;
- 10) An award of attorney's fees and costs against both defendants; and
- 11) Any other relief the Court deems appropriate as warranted by the facts and the applicable law.

**A TRIAL BY JURY IS DEMANDED AS TO ALL ISSUES TRIABLE BY A JURY**

Complaint  
Page 11

Dated: September 17, 2012



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Joel H. Holt, Esq.  
2132 Company Street  
St. Croix, VI 00820  
(340) 773-8709  
holtvi@aol.com

**EXHIBIT A**



From: Nizar DeWood <nwoodlaw@gmail.com>  
Date: February 10, 2012 10:58:39 AM EST  
To: "Wally Hamed" <wallyhstx@yahoo.com>  
Subject: Powers of Attorney - Dissolution of Partnership

Hello Wally,

I wish to confirm our discussions in the following two matters: 1) Power of Attorneys to verify and audit financial information currently in dispute, 2) Partnership Dissolution.

<!--[if supportLists]-->I. <!--[endif]-->Power of Attorney

As agreed between you and Mr. Yusuf, the Power of Attorney will be required for each of you, your father, brothers, wife, and adult children. This power of attorney will be limited to obtaining any and all information regarding bank and investment accounts that may have been opened, closed, used for wire transfers, and opened on behalf of other third parties.

The banks that will be covered will include the Virgin Islands, St. Maarten, New York, and the Middle East.

Any and all information obtained will be held in confidence by my office, and will be used for the sole purpose of financial verification.

<!--[if supportLists]-->II. <!--[endif]-->Dissolution of Partnership (Yusuf & Hamed)

I will be sending a formal notice of partnership dissolution notice, with a list of to-dos that will be required to complete an orderly dissolution. See attached email. I understand that you and Mr. Yusuf are still discussing various terms and aspects of the dissolution. I will await the final decision made. ↙

Your mailing address to address all originals will be:

Mohammad Hamed  
Walid Hamed  
PO 763  
Christiansted, VI 00821

Thank you.

Nizar A. DeWood, Esq.

The DeWood Law Firm  
3070 Kronprindsens Gade, Suite 208  
St. Thomas, V.I. 00802  
T. (340) 774-0405  
F. (888) 398-8428



# EXHIBIT B

**THE DEWOOD LAW FIRM**

3070 Kronprindsens Gade, Suite 208  
St. Thomas, V.I. 00802  
T. (340) 774-0405  
F. (888) 398-8428  
[info@dewood-law.com](mailto:info@dewood-law.com)

Mohammad Hamed  
c/o Walid Hamed  
PO Box 763  
Christiansted, V.I. 00821

VIA EMAIL ONLY

Re: Dissolution of Partnership  
Yusuf & Hamed

Dear Mr. Hamed,

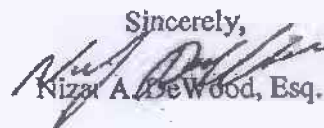
This letter is to confirm the parties' desire to dissolve the above referenced partnership. Partnership dissolution will involve appropriate planning to properly account for each of the partner's interest in the partnership, and a well-executed agreement memorializing the understanding of the parties.

As it stands, the partnership has three major assets: Plaza Extra – West (Grove Place, including the real property), Plaza Extra – East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas). I have been advised that there are ongoing discussions between you, as your father's fully authorized agent, and Mr. Yusuf regarding which of the stores each partner will retain upon dissolution. Accordingly, I will await the final decision that you and Mr. Yusuf may reach.

Additionally, as Mr. Yusuf has indicated, he remains resolute about the rental terms of the Plaza Extra – East. Unless the parties arrive at a different understanding, I will assume that Mr. Yusuf will not agree to continue the lease beyond June 30<sup>th</sup>, 2012 on that property.

I look forward to hearing from you. Thank you.

Sincerely,

  
Nizat A. DeWood, Esq.

cc: Fathi Yusuf



# EXHIBIT C

From: "Nizar DeWood" <dewoodlaw@gmail.com>  
Date: March 13, 2012 12:41:36 PM EDT  
To: "Wally Hamed" <wallyhsbx@yahoo.com>  
Subject: Partnership dissolution agreement

Salam Wally,

Please find the attached proposed Partnership Dissolution Agreement. I look forward to hearing from you at your earliest convenience. ↙

Thank you.

Nizar A. DeWood, Esq.

The DeWood Law Firm  
3070 Kronprindsens Gade, Suite 208  
St. Thomas, V.I. 00802  
T. (340) 774-0405  
F. (888) 398-8428



**PROPOSED PARTNERSHIP  
DISSOLUTION AGREEMENT**

**THIS AGREEMENT**, dated this \_\_\_\_ day of March 2012, is by and between **FATHI YUSUF** and **MOHAMMAD HAMED** (collectively called "Partners"), formerly partners of a partnership known informally as *Yusuf & Hamed* (the "Partnership").

**WHEREAS**, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

**WHEREAS**, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

**WHEREAS**, serious dispute and disagreement between the partners relating to financial matters of the partnership, resulting in the partners unable to continue as partners; and

**WHEREAS**, Fathi Yusuf (the "Withdrawing Partner") has withdrawn from the Partnership by written notice dated February, 2012, for withdrawal as of February 10<sup>th</sup>, 2012 (the "Withdrawal Notice"); and

**WHEREAS**, the Partners desire to dissolve the partnership by way of liquidation and distribution of its assets, unless each partner submits in writing a buyout offer for each of the three major assets constituting the partnership, as herein shown in Section 1 of this agreement; and

**WHEREAS**, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership; and

**WHEREAS**, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, and conditions contained herein, the parties agree as follows:

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**THE DEWOOD LAW FIRM**

3070 Kronprindsens Gade, Suite 208 St. Thomas, V.I. 00802 T. (340) 774-0405 F. (888) 398-8428

Yusuf & Hamed: Partnership Dissolution Agreement

Page 1 of 8

20

20

## SECTION 1. ASSETS SUBJECT TO LIQUIDATION

The Partners agree that the following three on-going businesses constitute the assets of the Partnership.

### Section 1.1: Assets of the Partnership

1. **PLAZA EXTRA EAST- Estate Sion Farm, St. Croix**
2. **PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)**
3. **PLAZA EXTRA – Tutu Park, St. Thomas.**

### Section 1.2. Dissolution of Partnership.

The Partnership shall be dissolved effective as of the date specified in the Withdrawal Notice, and the business of the Partnership shall cease effective February 10<sup>th</sup>, 2012. Any continuing operation shall be for the sole purpose of winding down the partnership. The parties agree that the Withdrawal Notice is effective to dissolve the Partnership and is not a breach of the partnership relationship. The parties agree to the following buyouts of the assets listed in Section 1.1.

### Section 1.3 FIRST PARTNERSHIP ASSET: Plaza Extra East – Sion Farm, St. Croix

Partner Fathi Yusuf (“Partner Yusuf”) has orally terminated the lease agreement for Plaza Extra East in September 2010. A written confirmatory termination letter was mailed on January 20<sup>th</sup>, 2012. Partner Yusuf shall make the following buy-out offer:

1. Acquire the assets & fixtures - \$250,000 (50% of Partner Hamed’s interest)
2. Acquire Inventory based on cost (50% of Partner Hamed’s Interest).
3. The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.

Should the foregoing terms of the buyout offer set forth in paragraphs 1 to 3 above is rejected, the assets, fixtures, and inventory of Plaza Extra – East shall be liquidated and the

premises turned over to Partner Yusuf immediately. Partner Yusuf, by virtue of his ownership of the premises, will hereby enforce the new rental rate of \$200,000 per month commencing January 31, 2012 until March 31<sup>st</sup>, 2012. Thereafter, the monthly rental rate shall increase to \$250,000 per month until June 30<sup>th</sup>, 2012. After such date, the tenancy shall terminate forthwith without further notice. Failure to vacate the premises by June 30<sup>th</sup>, 2012 shall result in an action for unlawful detainer be filed in the Superior Court of the Virgin Islands.

**Section 1.4 SECOND PARTNERSHIP ASSET: Plaza Extra West – Grove Place, St. Croix**

Partner Yusuf hereby makes the following buy-out offer:

1. Acquire the assets & fixtures - \$375,000 (50% of Partner Hamed's interest).
2. Acquire Inventory based on cost (50% of Partner Hamed's Interest).
3. Acquire Lease for the premises for a term of 20 years, with an option to terminate lease subject to a SIX (6) months written notice. Rent is hereby offered for \$24,000 a month. Property tax assessments shall be paid in half by each partner.
4. The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.
5. All inventory, improvements, and fixtures will be transferred by a Bill of Sale, with the applicable UCC-4 Bulk Transfer notices according to the terms set out in Exhibit B of this Agreement at the time of closing.

**Section 1.5**

**THIRD PARTNERSHIP ASSET: Plaza Extra – Tutu Park, St. Thomas**

1.5.1 Unless Partner Hamed makes a written offer for the purchase of Plaza Extra – Tutu Park, St. Thomas, said business shall be liquidated with its assets, inventory, and fixtures sold at fair market value. The lease for this asset shall expire on October 27<sup>th</sup>, 2018, and is in the name of United Corporation only. Should Partner Hamed wishes to make an offer for the purchase of Partner Yusuf's partnership interest in Plaza Extra Tutu Park, St. Thomas, Partner Hamed shall do so in writing within 14 days.



1.5.2 Should Partner Hamed refuse to offer to purchase said asset, Partner Yusuf hereby makes the following written offer of purchase:

- i) Partner Hamed's fifty (50%) interest in Inventory at actual cost plus freight and insurance to be determined at time of closing.
- ii) Equipment and fixture at \$250,000 (50% interest of Partner Hamed).
- iii) The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.
- iv) Partner Yusuf agrees to pay \$1,000,000 a year to Partner Hamed until the expiration of the lease on October 27<sup>th</sup>, 2018 for a total lease amount of \$6,500,000. Partner Yusuf will also assume all obligations under the lease currently existing in the name of United Corporation, and guaranteed personally by Partner Yusuf.

1.5.3 Rejection of Offer: Should Partner Hamed reject the terms of the offer provided in section 1.5.2, Partner Hamed may acquire the Plaza Extra – Tutu Park, St. Thomas within 14 days of date of this agreement on the same aforementioned terms.

**SECTION 2.0**

**PARTNERSHIP CONTRIBUTIONS**

The parties agree to address the following outstanding partner and partnership obligations

	<u>Description of Partnership Obligation</u>	<u>Agreed Upon Course of Action to Resolve Dispute</u>
1.	Rent (for the period of May 5 <sup>th</sup> , 2004 to Dec. 31st, 2011). Partnership Yusuf & Hamed owe rent arrears of \$5,408,806.74 to Partner Yusuf as owner and landlord of the property upon which Plaza Extra East is located.	The parties agree that said amount was paid on February 13 <sup>th</sup> , 2012 by way of check drawn on the account of United Corporation. Accordingly, the rental arrears for the period of (May 5 <sup>th</sup> , 2004 to Dec. 31 <sup>st</sup> , 2011) are now satisfied.
2.	Other Outstanding Rent (Pre 2004). The partners shall discuss and calculate the rent owing to Partner Yusuf for an approximate period of 10 years, for the 10 years prior to May 5 <sup>th</sup> , 2004.	The rental term and rent amount due will be determined upon the return of the partnership records from the U.S. Government.

**SECTION 3.0**

**OTHER FINANCIAL DISPUTES**

The parties acknowledge that serious financial disputes have arisen between the parties. Specifically, Partner Yusuf desires a full accounting of certain disputes with Partner Hamed and his agent Waleed Hamed and Waheed Hamed, and all of their spouses, children, assigns, and agents.

00

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The parties agree that the following items of financial disputes will be negotiated, investigated, and resolved in good faith by the parties.

	<u>Description of Financial Dispute</u>	<u>Agreed Upon Course of Action to Resolve Dispute</u>
1.	<p>Partner Yusuf alleges that Two Million Dollars (\$2,000,000) was transferred from Banque Francaise Commerciale in St. Maarten to Arab Bank, Ltd., specifically to an Arab Bank Branch in the West Bank, Palestine. Partner Hamed disputes this allegation. Partner Yusuf's allegation arises out of facts obtained during a criminal investigation by the Federal Bureau of Investigation that concludes there was a transfer of \$2,000,000 to the benefit of Partner Hamed.</p> <p>Partner Yusuf desires full accounting and verification of all financial discrepancies, and irregularities currently existing, or that may arise during the dissolution of the partnership.</p> <p>The parties hereby agree to negotiate and resolve this matter fully and in good faith.</p>	<p>I) Partner Hamed agrees to execute a special power of attorney authorizing the DeWood Law Firm, its attorney, agents, and assigns, to obtain <u>ALL</u> bank account information for any bank account that may have been opened, including but not limited to the following banks:</p> <ol style="list-style-type: none"> <li>1. Arab Bank, Ltd (Worldwide branches)</li> <li>2. Banque Francaise Commerciale in St. Maarten.</li> <li>3. Cairo-Amman Bank (worldwide branches)</li> <li>4. Bank of Nova Scotia (worldwide branches)</li> <li>5. Merrill Lynch Investments</li> <li>6. First Bank (formerly known as VI Community Bank)</li> <li>7. Any other Bank either party determines to be relevant for purpose of inquiry, investigation, and full accounting.</li> </ol>

2. Notice to Withdraw. Partners agree to give actual notice of the dissolution of the Partnership to all creditors who have extended credit to the Partnership prior to dissolution

**3. Determination and Distribution of Capital Account.** The Partnership will cause to be prepared financial statements as of the date specified in the Withdrawal Notice, including a balance sheet specifying the assets, liabilities, and equity accounts, and an income statement for the portion of the year then ended. The financial statements will also detail all accounts payable and accounts receivable of the Partnership. The cost of obtaining such financial statements shall be borne by the Partnership, and the expense of preparation of such financial statements shall be reflected in income or loss as of the date specified in the Withdrawal Notice.

The capital account of the Withdrawing Partner will include the Withdrawing Partner's actual equity account plus the Withdrawing Partner's share of income or minus the Withdrawing Partner's share of loss according to the Sharing Ratio as of the date of the financial statements. The parties agree that these financial statements will conclusively reflect the accounts of the Partnership. The capital account of the Withdrawing Partner shall be distributed to the Withdrawing Partner in cash within 30 days following the date specified in the Withdrawal Notice.

**5. Loans.** The Partnership has no loans outstanding other than Accounts Payable with inventory suppliers.

**6. Ledgers and Files.** The Partnership shall, at the Partnership's expense, copy all ledgers and files of the Partnership for the Withdrawing Partner's use upon the reasonable written request by the Withdrawing Partner which specifies the ledgers and files and is delivered to the Partnership at least 10 days before the date specified in the Withdrawal Notice.

**7. Full Disclosure and Access to Records.** All parties agree to fully disclose all facts which relate to the operation of the Partnership and warrant and represent that all material facts concerning the financial condition and operation of the Partnership have been fully disclosed to each other. All parties shall have full access to the books and records of the Partnership, including client files, for purposes of verifying information furnished under this Agreement until this Agreement.

**8. Assets and Liabilities of the Partnership.** Upon payment of the amounts due to the Withdrawing Partner hereunder, all assets and liabilities of the Partnership as they exist on the financial statements dated as of the date specified in the Withdrawal Notice shall belong to the remaining Partners, and the Withdrawing Partner shall claim no right, title, or interest therein.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

\_\_\_\_\_  
Rathi Yusuf, Partner

\_\_\_\_\_  
Mohammad Hamed, Partner

# EXHIBIT D

UNITED CORPORATION

4C & 4D Sion Farm

St. Croix, USVI 00821

Phone (340) 776-6240

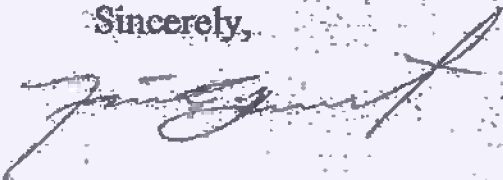
January 12, 2012

Mr. Mohamed Hamed,

During the month of September 2009, I had a discussion with your son Wally, and within two days I repeat the same request while you were present that United Corporation would like to have its location back. Unfortunately, up to now, I have not seen that you give up the keys.

Therefore as of January 1, 2012 the rent will be \$200,000.00 per month, only for the coming three months. If you do not give up the keys before the three months, it will be \$250,000.00 per month until further notice.

Sincerely,



Fathi Yusuf



01/13/2012 02:07

3407

PLAZA EXTRA ST

PAGE 01/01

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

January 13, 2012

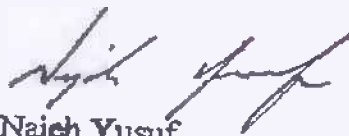
Mr. Mohamed Hamed,

Based on my father's phone call this morning, yesterday's letter (Jan 12, 2012) should read as follows; "During the month of September 2010 (not 2009)... I had a discussion with your son Wally, and within two days I repeat the same request while you were present that United Corporation would like to have its location back. Unfortunately, up to now, I have not seen that you give up the keys".

"Therefore as of January 1, 2012 the rent will be \$200,000.00 per month, only for the coming three months. If you do not give up the keys before the three months, it will be \$250,000.00 per month until further notice".

I am sorry for the error, he was hurrying to catch a plane.

Sincerely,



Najeh Yusuf  
for Fathi Yusuf

CC: Wally Hamed



United Corporation  
4-C & 4-D Estate Sion Farm  
P.O. Box 763  
Christiansted, VI 00820

Date: January 19, 2012

**\*\*VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED\*\***

Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, V.I. 00820

Re: - NOTICE & CONFIRMATION OF INCREASED RENT FOR PLAZA EXTRA –  
SION FARM – FOR THE PERIOD OF JANUARY 1, 2012 THROUGH JUNE 30,  
2012.  
  
- NOTICE OF LEASE TERMINATION FOR PLAZA EXTRA – SION FARM  
AS OF JUNE 30<sup>TH</sup>, 2012.

Dear Mr. Hamed,

This notice is to confirm the increased rent for the above referenced premises. As you will know, I have given both you and your son Waleed Hamed oral notice in September 2010 to vacate the premises. At that time, I have advised you that the rent will increase to Two Hundred Thousand Dollars (\$200,000.00) per month for each of the first three months of January, February, and March, 2012. Thereafter, the rent shall increase to Two Hundred & Fifty Thousand Dollars (\$250,000.00) each month commencing April 1, 2012 through June 30<sup>th</sup>, 2012. The last date for this lease is June 30<sup>th</sup>, 2012. There will be no additional extensions of tenancy to Plaza Extra – Sion Farm.

An orderly inspection will be done to evaluate the condition of the premises. Kindly, advise as to when you are available to conduct an inspection, and to inventory all fixtures and improvements that will remain on the premises. Should you have any concerns regarding this notice, or any other matters concerning this lease, please ensure that same be made in writing,

and delivered by way of certified mail, return receipt requested to the address above. Thank you for your prompt attention in this matter.

Sincerely,

United Corporation

By: 

Fathi Yusuf, CEO

**UNITED CORPORATION**  
**4C & 4D Sion Farm**  
**St Croix, USVI 00821**  
Phone (340) 778-6240

April 4, 2012

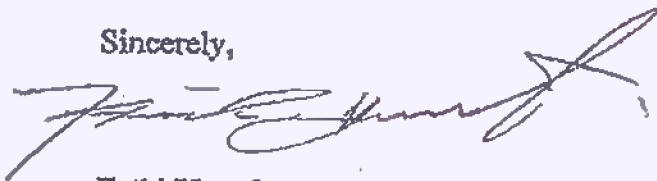
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00820

Re: Notice of Increased Rent commencing April 1, 2012

Mr. Mohamed Hamed,

Please note that according to my letter dated January 19, 2012 the rent of Plaza Extra East starting April 1, 2012 has now increased to \$250,000.00 per month. Please forward me the rent due from January 1, 2012 through April 1, 2012 for a total of \$850,000.00 immediately. If I do not receive this amount by the end of April 2012, I will add interest at a rate of 12% starting May 1, 2012. This will be my last notice to you of back rent due.

Sincerely,



Fathi Yusuf

CC: Wally Hamed

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

May 4, 2012

Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of May 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through April 1, 2012	Balance Due	\$850,000.00
ADD: 1% interest on outstanding Balance		<u>\$ 8,500.00</u>
	Amount Due	\$858,500.00
May 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due May 1, 2012	<u><b>\$1,108,500.00</b></u>

Please forward a check immediately.

Sincerely,



Najeh Yusuf for Fathi Yusuf

CC: Wally Hamed

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

June 1, 2012

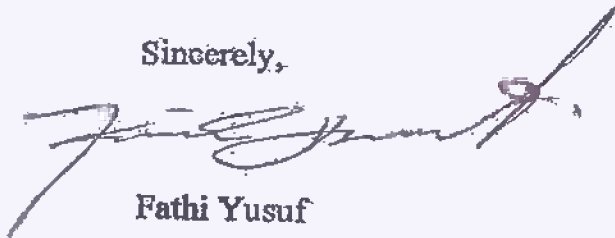
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of June 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through May 1, 2012	Balance Due	\$1,108,500.00
ADD: 1% interest on outstanding Balance		<u>\$ 11,085.00</u>
	Amount Due	\$1,119,585.00
June 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due June 1, 2012	<u>\$1,369,585.00</u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

CC: Wally Hamed

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

July 1, 2012

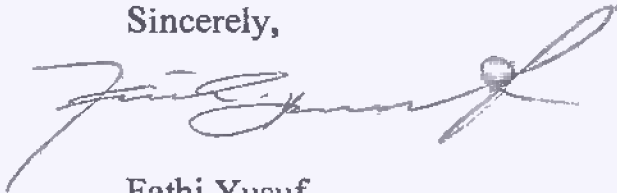
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of July 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through June 1, 2012	Balance Due	\$1,369,585.00
ADD: 1% interest on outstanding Balance		<u>\$ 13,695.85</u>
	Amount Due	\$1,383,280.85
July 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due July 1, 2012	<u>\$1,633,280.85</u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

CC: Wally Hamed

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

August 1, 2012

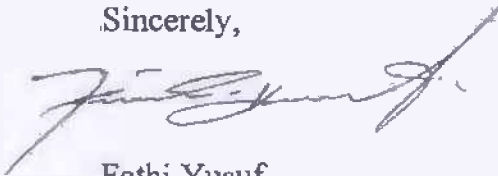
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of August 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through July 31, 2012	Balance Due	\$1,633,280.85
ADD: 1% interest on outstanding Balance		<u>\$ 16,332.81</u>
	Amount Due	\$1,649,613.66
August 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due August 1, 2012	<u><b>\$1,899,613.66</b></u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf

CC: Wally Hamed

UNITED CORPORATION  
4C & 4D Sion Farm  
St Croix, USVI 00821  
Phone (340) 778-6240

September 1, 2012

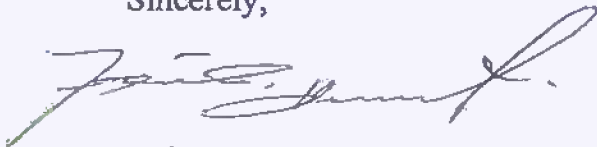
Mohammad Abdul Qader Hamed  
Plaza Extra Supermarket  
4-C & 4-D Estate Sion Farm  
Christiansted, VI 00821

**Statement of Rent due for Plaza Extra – East as of September 1, 2012**

Rent due for Plaza Extra – East, January 1, 2012 through Aug. 31, 2012	Balance Due	\$1,899,613.66
ADD: 1% interest on outstanding Balance		<u>\$ 18,996.14</u>
	Amount Due	\$1,918,609.80
September 2012 Rent currently due:		<u>\$250,000.00</u>
	Total Balance due September 1, 2012	<u>\$2,168,609.80</u>

Please forward a check immediately.

Sincerely,



Fathi Yusuf



# EXHIBIT E

Doc# 2012002041

# 25695  
only De Ksted  
1894879 069698

WARRANTY DEED

INDENTURE made this 18th day of May, 2012, by and between Robert L. Merwin, Co-Trustee of the M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by First Amendment dated December 30, 1972, hereinafter referred to as "Grantor", and United Corporation, a U.S. Virgin Islands corporation of P.O. 763, Christiansted, VI 00821, hereinafter referred to as "Grantee".

WITNESSETH that in consideration of Ten Dollars (\$10.00) and other good and valuable consideration to him in hand paid, receipt of which is hereby acknowledged, Grantor does hereby grant and convey unto Grantee, its successors and assigns, the following described real property situated in St. Croix, U.S. Virgin Islands, to wit:

Rem. Matr. Plot No. 9 Estate Grange, Company Quarter, consisting of 80.7119 U.S. acres, more or less, as more fully shown on OLG Drawing No. A9-80-C012 dated May 15, 2012; and

Road Plot No. 70 Estate Grange, Company Quarter, consisting of 10.298 U.S. acres, more or less, as more fully shown on OLG Drawing No. A9-80-C012 dated May 15, 2012; and

Together with all of Grantor's right, if any, to the easements and water rights reserved in that certain Deed dated April 20, 1995 on No. 1 Estate Hermon Hill, recorded on November 6, 1995 at PC 558, page 215, Doc. No. 5810 (the Covenants and Warranties in the last paragraph of this deed do not apply to these easements and water rights)

TOGETHER with all the tenements, hereditaments, buildings, and appurtenances thereunto belonging.

SUBJECT, HOWEVER, to the following (the "Permitted Exceptions"):

- a) The standard exclusions from coverage set forth in an ALTA owner's policy - 6-17-06;
- b) The lien of all taxes, special assessments or reassessments, which are not shown as existing liens by the records in the Office of the Tax Assessor for St. Croix, Virgin Islands, not any taxes or bills for the year 2010 or thereafter, not yet submitted, due or payable;
- c) Any lien which may heretofore or hereafter attach pursuant to the provisions of Title 19, §1538 of the Virgin Islands Code, with regard to municipal sewer charges, not yet due and payable, as may be applicable;

*Althea L. Pedro*  
Recorder

1,712.00  
4.00  
31,000.00

Doc# 2012002041  
Book# 1308  
Pages: 87  
Filed & Recorded  
05/25/2012 2:40PM  
ALTHEA PEDRO  
RECORDER OF DEEDS  
ST. CROIX  
RECORDING FEE  
PER PAGE FEE  
DEED DOC STAMP



Warranty Deed

Robert L. Merwin, Co-Trustee of the M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by First Amendment dated December 30, 1972, to United Corporation

Page 2

d) Virgin Islands Zoning, Coastal Zone Management, Conservation, or Building laws and regulations, ordinances or common law applicable or relating to the use and occupancy of the premises;

e) Title to any filled in land, littoral rights, riparian rights, or other rights not shown in the public records;

TO HAVE AND TO HOLD the said described real property unto United Corporation, its successors and assigns, in fee simple forever.

GRANTOR COVENANTS AND WARRANTIES that he is lawfully seised of said premises in fee simple and has good right to convey same; that Grantee shall quietly enjoy said premises; that the premises are free from encumbrances except as herein provided; that Grantor will execute or procure any further necessary assurances of title to said premises; and that Grantor will forever warrant and defend the title in said premises. The Trustee, for himself, his heirs, representatives, successors and assigns states that he is the lawful Co-Trustee of the M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by First Amendment dated December 30, 1972 and, as such, has the power to convey as aforesaid. The Trustee further covenants that he has in all respects made this conveyance pursuant to the authority granted by the Trust; provided, however, that Grantor has executed this Trustee's Deed in his capacity as Trustee of the Trust and that the liability of the Grantor under this covenant and general warranty shall be limited to the assets of the Trust.

WITNESSES:

M.K. Armstrong Trust  
u/d/t dated May 12, 1969  
as amended by First Amendment,  
dated December 30, 1972

Rebecca Merwin  
[Signature]

[Signature]  
Robert L. Merwin, Co-Trustee  
Dated: 5/18/2012

Warranty Deed

Robert L. Merwin, Co-Trustee of the M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by First Amendment dated December 30, 1972, to United Corporation  
Page 3

**ACKNOWLEDGMENT**

TERRITORY OF THE VIRGIN ISLANDS )  
JUDICIAL DIVISION OF ST. CROIX ) SS:

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of May, 2012 by Robert L. Merwin, Co-Trustee M.K. Armstrong Trust u/d/t dated May 12, 1969 as amended by First Amendment dated December 30, 1972

GERALD T GRONER  
Notary Public  
St. Croix, U.S. Virgin Islands  
LNP-022-11  
My Commission Expires November 10, 2015

Notary Public  
Name: \_\_\_\_\_  
Notary No. \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

**CERTIFICATE OF VALUE**

IT IS HEREBY CERTIFIED that the value of the property described in the foregoing deed, for recording and transfer stamp tax purposes, does not exceed the sum of \$ 1,700,000.00. The 2009 property tax assessment of the property is \$969,549.10 by allocation.

  
Robert L Merwin, Trustee

**CERTIFICATE OF PUBLIC SURVEYOR**

IT IS HEREBY CERTIFIED that, according to the records in the office of the Public Surveyor, the property described in the foregoing Warranty Deed has undergone no changes with respect to boundary and area.

DATE: MAY 24 2012  
FEES \$ 940<sup>00</sup>

  
SURVEY & DEEDS SECTION  
MARGARET F. ACOSTA  
SPECIAL ASSISTANT

Doc# 2012002041  
Book: 1308  
Pages: 57  
Filed & Recorded  
05/25/2012 2:48PM  
ALTHEA PEDRO  
RECORDER OF DEEDS  
ST CROIX  
RECORDING FEE \$ 1,712.00  
PER PAGE FEE \$ 4.00  
DEED DOC STAMP \$ 51,000.00  
Recorder



GOVERNMENT OF  
THE UNITED STATES VIRGIN ISLANDS

**OFFICE OF THE LIEUTENANT GOVERNOR  
DIVISION OF REAL PROPERTY TAX**

1105 King Street • Christened, Virgin Islands 00820 • 340.773.6441 • Fax 340.773.0330  
18 Kongens Gade • Charlotte Amalie, Virgin Islands 00802 • 340.774.2111 • Fax 340.774.6953

**REAL PROPERTY TAX CLEARANCE LETTER**

**TO:** Office of the Recorder of Deeds

**FROM:** Office of the Tax Collector

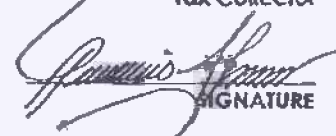
In accordance with Title 28, Section 121, as amended, this shall certify that there are no outstanding Real Property Tax obligations for the following:

<b>PARCEL NUMBER</b>	2-06800-0204-00
<b>LEGAL DESCRIPTION</b>	REM ESTATE GRANGE
<b>OWNER'S NAME</b>	ARMSTRONG, MALCOLM & OTHERS

Taxes have been researched up to and including 2009.

CERTIFIED TRUE AND CORRECT BY

Valencio Jackson  
Tax Collector



SIGNATURE

May 22, 2012  
DATE

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

MOHAMMAD HAMED By His Authorized  
Agent WALEED HAMED )

Plaintiff, )

v. )

FATHI YUSUF AND UNITED CORPORATION )

Defendant. )

CIVIL NO. SX-12-CV-370

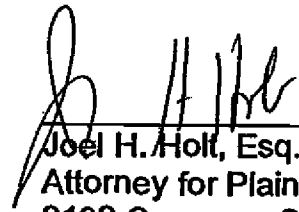
ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

MOTION FOR A TEMPORARY RESTRAINING ORDER  
AND/OR A PRELIMINARY INJUNCTION

Comes now the plaintiff, Mohammad Hamed ("Hamed"), and respectfully requests this Court to enter a Temporary Restraining Order or a Preliminary Injunction against both defendants pursuant to Rule 65 of the Rules of Civil Procedure, which is applicable to this Court. The basis for the motion is set forth in the attached memorandum, which is incorporated herein by reference. For the reasons set forth therein, it is respectfully submitted that the relief sought be granted forthwith.

A copy of this motion and the accompanying pleadings is being served in the defendants by a process server. The plaintiff will provide the Court with notice of service as soon as it is served.

Dated: September 18 , 2012



Joel H. Holt, Esq.  
Attorney for Plaintiff  
2132 Company Street  
St. Croix, VI 00820  
(340) 773-8709  
holtvi@aol.com

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

MOHAMMAD HAMED By His Authorized )  
Agent WALEED HAMED )

Plaintiff, )

v. )

FATHI YUSUF AND UNITED CORPORATION )

Defendant. )

CIVIL NO. SX-12-CV- 370

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

**MEMORANDUM IN SUPPORT OF MOTION FOR A TEMPORARY RESTRAINING  
ORDER AND/OR A PRELIMINARY INJUNCTION**

Comes now the plaintiff, Mohammed Hamed ("Hamed"), and respectfully requests that this Court enter a temporary restraining order pursuant to Rule 65(b), or a preliminary injunction, pursuant to Rule 65(a).<sup>1</sup> The plaintiff will first review the applicable facts and then will apply the applicable law to these facts so that this Court can understand why the plaintiff is entitled to Rule 65 relief at this time.

**I. Factual Background**

The facts giving rise to this motion are all verified in the attached affidavits of Mohammad Hamed (Exhibit 1) and Waleed Hamed (Exhibit 2). These affidavits explain the creation of the partnership in dispute in this case as well as the factual issues leading to the need for injunctive protection under Rule 65, as follows:

1. Mohammad Hamed, entered into a partnership with Fathi Yusuf in the 1980's to operate a supermarket known as Plaza Extra, located in the United Shopping Center located on the east end of St. Croix.

---

<sup>1</sup> The only difference between issuing a TRO and a preliminary injunction is that a TRO can be issued without notice to the opposing party. In this case, the defendants are being served with copies of the TRO/preliminary injunction pleadings immediately, so this matter should be able to just proceed as a preliminary injunction.

2. The partnership has since expanded to two other locations in the Virgin Islands, operating the Plaza Extra supermarket on the west end of St. Croix at Estate Plessen (Grove Place) and the Plaza Extra supermarket on St. Thomas located at the Tutu Park Mall.
3. The partnership between Hamed and Yusuf currently operates the same three Plaza supermarket locations, currently employing in excess of 600 employees in the three stores.
4. Since its formation, the three Plaza Extra supermarkets have been managed jointly by Mohammad Hamed and Fathi Yusuf, operating as a partnership with separate accounting records and separate bank accounts for each of the three stores. These separate bank accounts for each store are in the name of United Corporation (United).
5. The bank accounts for the three Plaza Extra supermarkets have always been accessible equally to Mohammad Hamed and Fathi Yusuf, with the parties ultimately agreeing in 2010 that one family member from each of the Hamed and Yusuf families will sign each check written on the bank accounts for these three Plaza Extra supermarkets.
6. United also owns a shopping center. The bank accounts for United's shopping center operations, which are unrelated to the three Plaza Extra supermarkets, are maintained separately by Fathi Yusuf and United. Mohammad Hamed does not have access to these separate bank accounts used by United for its shopping center (and other businesses) unrelated to the three Plaza Extra supermarkets.
7. At all times relative hereto, the Hamed and Yusuf partnership profits from the Plaza Extra stores have always been held in banking and brokerage accounts completely separate from the profits of United's other unrelated businesses, even though the banking and brokerage accounts holding the profits from the Hamed and Yusuf partnership are in United's name as well.
8. At all times relative hereto, Mohammad Hamed and Fathi Yusuf have equally shared the profits distributed from the three Plaza supermarkets.
9. Mohammad Hamed and Fathi Yusuf have also maintained records of any withdrawals from the partnership account to each of them (and their respective family members), to make sure there would always be an equal (50/50) amount of these withdrawals for each partner's family members.
10. Mohammad Hamed has authorized his son, Waleed Hamed a/k/a Wally Hamed to act on his behalf regarding the partnership with Fathi Yusuf.



11. Fathi Yusuf has repeatedly confirmed the existence of this partnership between himself and Mohammed Hamed. See deposition excerpts in Exhibit A attached to Wally Hamed's affidavit (Exhibit 2).
12. On February 10, 2012, Fathi Yusuf's attorney, Nizar DeWood ("DeWood"), informed Wally Hamed that Fathi Yusuf wanted to dissolve the partnership, which he followed up with in a subsequent letter, announcing that Mr. Yusuf was ready to proceed with dissolving the partnership, describing the partnership assets to be divided as follows See Group Exhibit B attached to Wally Hamed's affidavit (Exhibit 2):

As it stands, the partnership has three major assets: Plaza Extra - West (Grove Place, including the real property), Plaza Extra - East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas).

The letter went on to note that the dissolution would result in each of them retaining different stores in the partnership dissolution.

13. DeWood then sent a proposed partnership dissolution agreement on behalf of Fathi Yusuf on March 13, 2012, to Hamed, with a proposal to dissolve the partnership. That document then went on to state in part as follows See Exhibit C attached to Wally Hamed's affidavit (Exhibit 2):

WHEREAS, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

WHEREAS, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

WHEREAS, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership;

WHEREAS, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

That document then described the partnership assets as follows:

Section 1.1: Assets of the Partnership

1. PLAZA EXTRA EAST- Estate Sion Farm. St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA - Tutu Park. St. Thomas

14. To date no agreement has been reached regarding the division of these partnership assets.
15. As these discussions progressed, Fathi Yusuf has engaged in and continues to engage in numerous acts in breach of his fiduciary obligations as a partner in his partnership with Hamed, all of which are designed to undermine the partnership's operations, jeopardizing their continued success and existence. These acts include but are not limited to the following acts:
  - a) Threatening to terminate the Hamed family employees in the three Plaza Extra stores;
  - b) Attempting to discredit the operations of these three stores by making defamatory statements about Hamed and his family members to third parties, including suppliers for the three stores, which are completely untrue;
  - c) Attempting to unilaterally change how the stores have operated by threatening to impose new and unreasonable restrictions on the operations of these three stores, all of which are aimed at undermining Hamed's partnership interest in the three stores.
  - d) Threatening to close down the Plaza Extra Supermarkets;
  - e) Threatening the Hamed family members working in the Plaza Extra supermarkets with physical harm, trying to intimidate them into leaving the stores;
  - f) Unilaterally canceling orders placed with vendors and not ordering new inventory for the three Plaza Extra supermarkets;
  - g) Giving false information to third parties, including suppliers of the three Plaza Extra Supermarkets, regarding its future operations, jeopardizing the goodwill of the three Plaza Extra supermarkets; and
  - h) Spending funds from the bank accounts of the three Plaza Extra supermarkets to support his other personal business interests unrelated to the three Plaza Extra supermarkets.
16. Finally, on or about August 20, 2012, Fathi Yusuf indicated he wanted to withdraw \$2.7 million from the partnership, which Mohammad Hamed refused to agree to. See Exhibit D attached to Wally Hamed's affidavit (Exhibit 2).
17. Thereafter, Yusuf unilaterally and wrongfully converted \$2.7 million from the Plaza Extra supermarket accounts used to operate the partnership's three stores, placing the funds in a separate United bank account controlled only by him. See Exhibit D attached to Wally Hamed's affidavit (Exhibit 2).
18. Said conversion essentially looted the funds used to operate the three Plaza Extra supermarkets, which was a willful and wanton breach of the partnership agreement between Mr. Hamed and Mr. Yusuf.
19. Despite repeated demands, Fathi Yusuf has not returned these funds to the Plaza Extra bank accounts from which they were withdrawn.

20. If the partnership's operations are not secured immediately, the continued operation of the three Plaza Extra stores will be in jeopardy, as well as the continued employment of its 600 plus employees, resulting in irreparable harm to these partnership assets. Indeed, Plaza Extra is in serious jeopardy of losing customers to other stores, losing employees due to moral problems, losing suppliers, and otherwise losing its goodwill, which it has built up over past 25 years.
21. The Hamed family has operated this partnership for over 25 years and wants to continue these businesses into the future for its current family members.
22. Yusuf has extensive investments overseas, so that he could easily transfer these funds improperly removed by him to someplace outside the jurisdiction of this Court if the relief sought is not granted.

With these facts in mind, it is now appropriate to address the Rule 65 standard under which relief is being sought in this motion.

## II. The Rule 65 Standard

As recently noted by the V.I. Supreme Court in *Petrus v. Queen Charlotte Corp.*, S. Ct. Civ. 2011-0083 at \*7 (Sup. Ct. 2012):

Before the Superior Court may grant a motion for a preliminary injunction, it must consider:

- (1) whether the movant has shown a reasonable probability of success on the merits; (2) whether the movant will be irreparably injured by denial of the relief; (3) whether granting preliminary relief will result in even greater harm to the nonmoving party; and (4) whether granting the preliminary relief will be in the public interest.

With this standard in mind, the plaintiff will now explain why entry of the Rule 65 relief is warranted as to the following two matters based on these four criteria:

- 1) Injunctive Relief enjoining the defendants from interfering with Hamed's partnership rights in his partnership with Yusuf in operating of the three Plaza Extra supermarkets located on St. Croix and St. Thomas;
- 2) Injunctive Relief enjoining Yusuf from withdrawing any funds from any partnership bank accounts or brokerage accounts without the consent of Hamed and directing both defendants to immediately return the \$2.7 million improperly withdrawn from the bank accounts of the three Plaza supermarket accounts by Yusuf.

**III. The Plaintiff Is Entitled to Rule 65 Relief**

For the sake of clarity, the plaintiff will address the facts in the four areas listed in *Petrus, supra*. Based on the foregoing analysis, it is respectfully submitted that the relief sought should be granted.

**A. The plaintiff has a reasonable probability of success on the merits.**

It is undisputed that there is a partnership between the plaintiff and Fathi Yusuf regarding the operation of the three Plaza Extra supermarkets in question. Indeed, Yusuf has repeatedly recognized the existence of this partnership, both in his statements under oath as well in the various statements made by his counsel in attempting to dissolve the partnership. Likewise, Hamed and Yusuf have shared the profits distributed from these three Plaza Extra supermarkets since the mid-1980's.

Regarding the formation of a partnership, 26 V.I.C. § 22 provides in part as follows:

**§ 22. Formation of partnership**

(a) Except as otherwise provided in subsection (b) of this section, the association of two or more persons to carry on as co-owners of a business for profit forms a partnership, whether or not the persons intend to form a partnership.

...  
(c) In determining whether a partnership is formed, the following rules apply:

...  
(3) A person who receives a share of the profits of a business is presumed to be a partner in the business ...

Based in the applicable law and the undisputed facts before this Court, It is respectfully submitted that Hamed has demonstrated that a partnership exists, so he will prevail on this issue.

Additionally, regarding the first request for injunctive relief in this motion -- enjoining the defendants from interfering with Hamed's partnership rights in operating of the three Plaza Extra supermarkets -- 26 V.I.C. § 71 provides in part as follows:

**§ 71. Partner's rights and duties**

...

**(f) Each partner has equal rights in the management and conduct of the partnership business. (Emphasis added).**

Thus, based on this statutory section, Hamed will certainly prevail on this point as well, satisfying the requirement of showing he has a reasonable probability of success on the merits regarding his right to fully participate in the management and conduct of the three Plaza Extra supermarkets.

Regarding the second request for injunctive relief in this motion -- enjoining Yusuf from withdrawing any funds from any partnership bank/brokerage accounts and directing the immediate return the \$2.7 million improperly withdrawn from the Plaza Extra supermarket accounts by Yusuf-- 26 V.I.C. § 71 provides further in part as follows:

**§ 71. Partner's rights and duties**

...

**(a) Each partner is entitled to an equal share of the partnership profits . . . (Emphasis added).**

Thus, based on this statutory section, Hamed will prevail on this point as well at trial, requiring all partnership profits to be distributed on a 50/50 basis, satisfying the requirement of showing he has a reasonable probability of success on the merits regarding this claim.

As such, the plaintiff has satisfied this important prong in seeking Rule 65 relief, warranting the entry of an injunction (1) to protect his partnership rights in the participating in the daily operations of the three Plaza Extra supermarkets and (2) to

enjoin the defendants from improperly removing funds from the partnership bank/brokerage accounts.

**B. The plaintiff will be irreparably injured by denial of the relief.**

The record in this case also demonstrates that the plaintiff will be irreparably harmed if the requested Rule 65 relief is not granted.

First, the record demonstrates that Yusuf has already engaged in numerous acts to try to interfere with Hamed's statutory right to participate in the operation of the three Plaza Extra stores, jeopardizing the success of these three Plaza Extra stores and threatening their very existence. See Exhibit 2 at #18-#19.

Second, Yusuf has already unilaterally removed \$2.7 million from the three Plaza Extra supermarket accounts. See Exhibit 2 at #19-#20. As noted by Wally Hamed's affidavit (See Exhibit 2 at #21 and #22):

**21. If the partnership's operations are not secured immediately, the continued operation of the three Plaza stores will be in jeopardy, as well as the continued employment of its 600 plus employees, resulting in irreparable harm to these partnership assets.**

**22. Indeed, Plaza is in serious jeopardy of losing customers to other stores, destroying its good will built up over the years. (Emphasis added).**

As Hamed further noted (See Exhibit 2 at #23):

**23. The Hamed family has operated this partnership for over 25 years and wants to continue these businesses into the future for its current family members.**

Thus, the threat to the continued operation of the three Plaza Extra supermarkets warrants a finding of irreparable harm in support of the request for injunctive relief.

As noted in *Anderson v. Davila*, 125 F.3d 148 (3<sup>rd</sup> Cir. 1997):

To show irreparable harm, the party seeking injunctive relief must at least demonstrate "that there exists some cognizable danger of recurrent violation" of his legal rights. *Id.* at 164.

In this case, Yusuf's repeated violations of Hamed's statutory rights under Title 26 of the V.I. Code, which erupted when the partnership dissolution negotiations began, warrant a finding of irreparable harm under the *Anderson* standard. Indeed, this conduct is not only going on at the current time, but it has become even more serious as time passes.

Likewise, the threatened harm to the goodwill and loss of customers of Plaza Extra also warrants a finding of irreparable harm. As noted in *Multi-Channel TV Cable Company v. Charlottesville Quality Cable Operating Company*, 22 F.3d 546 (4<sup>th</sup> Cir. 1994):

When the failure to grant preliminary relief creates the possibility of permanent loss of customers to a competitor or the loss of goodwill, the irreparable injury prong is satisfied. *Id.* at 552.

Likewise, the fact that the Hamed family has operated these three supermarkets for over 25 years along with the fact that they want to keep these successful stores in the family business in the future for new family members also warrants a finding of irreparable harm. As the court held in *Semmes Motors, Inc. v. Ford Motor Company*, 429 F.2d 1197 (U.S.C.A. 1970):

But the right to continue a business in which William Semmes had engaged for twenty years and into which his son had recently entered is not measurable entirely in monetary terms; the Semmes want to sell automobiles, not to live on the income from a damages award.

Indeed, courts have found irreparable harm in numerous other cases where the facts are similar to those in this case. See, e.g., *Bryne v. Calastro*, 205 Fed. Appx. 10, 16 (3<sup>rd</sup> Cir. 2006)(allegations of financial misconduct constitute irreparable harm); *Kendall v. Russell*, 2008 WL 219762 at \*13 (D.V.I. 2008) (harm to reputation constitutes irreparable harm).

Finally, the Third Circuit has repeatedly held irreparable harm may be found where there is a request for injunctive relief to freeze assets if it appears those assets may be removed if such relief is not granted. *See, e.g., Elliott v. Kiesewetter*, 98 F. 3d 47, 58 (3<sup>rd</sup> Cir. 1996); *Hoxworth v. Blinder, Robinson & Co., Inc.*, 903 F.2d 186, 205 (3<sup>rd</sup> Cir. 1990). In this regard, Yusuf has extensive investments overseas, so that he could easily remove these significant assets beyond the jurisdiction of this Court if the relief sought is not granted. See Exhibit 2 at #23.

In summary, the plaintiff has certainly provided sufficient facts for this Court to find that there will be irreparable harm unless the two specific requests for Rule 65 relief are not granted.

**C. The granting preliminary relief will not result in an even greater harm to the nonmoving party.**

There is no harm to the defendants in granting the relief sought for several reasons. First, the defendants are not being asked to do anything other than honor the partnership obligations that have existed for over 25 years, preserving the status quo until this Court can sort out the claims being asserted by the plaintiff. Second, the entry of the relief sought does not deprive the defendants of any of his respective partnership rights pending the resolution of this case. Thus, this Rule 65 factor weighs in favor of granting the relief sought.

**D. Granting the preliminary relief will be in the public interest.**

There is no doubt that the continued operation of these three large supermarkets servicing the Virgin Islands, with the continued employment of over 600 people, is in the public interest. Thus, this prong has also been met, warranting the entry of injunctive relief as requested.

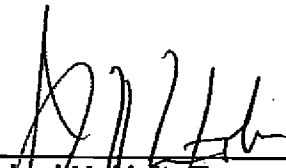


#### IV. Conclusion

For the reasons set forth herein, it is respectfully submitted that the plaintiff has met the required burden of Rule 65, so that a temporary restraining order or preliminary injunction should be issued as to the following matters:

- 1) Injunctive Relief enjoining the defendants from interfering with Hamed's partnership rights in his partnership with Yusuf in operating of the three Plaza Extra supermarkets located on St. Croix and St. Thomas;
- 2) Injunctive Relief enjoining Yusuf from withdrawing any funds from any partnership bank accounts or brokerage accounts without the consent of Hamed and directing both defendants to immediately return the \$2.7 million improperly withdrawn from the bank accounts of the three Plaza Extra supermarket accounts by Yusuf.

Dated: September 18, 2012

  
\_\_\_\_\_  
Joel H. Holt, Esq.  
Attorney for Plaintiff  
2132 Company Street  
St. Croix, VI 00820  
(340) 773-8709  
holtvi@aol.com

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

MOHAMMAD HAMED By His Authorized Agent WALEED HAMED )

Plaintiff, )

v. )

FATHI YUSUF AND UNITED CORPORATION )

Defendant. )

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

AFFIDAVIT OF MOHAMMAD HAMED

Mohammed Hamed, duly sworn, hereby avers as follows:

1. I am an adult resident of St. Croix and am personally knowledgeable about each fact set forth in this affidavit.
2. In the 1980's, I entered into a partnership with Fahti Yusuf in the 1980's to operate a supermarket known as Plaza Extra, located in the United Shopping Center located on the east end of St. Croix. The partnership has since expanded to tow other locations in the Virgin Islands, operating the Plaza Extra supermarket on the west end of St. Croix at Estate Plessen (Grove Place) and the Plaza Extra supermarket on St. Thomas located at the Tutu Park Mall.
3. Since the formation of this partnership, I have always shared equally with Fathi Yusuf in the 50/50 distribution of profits by the partnership.
4. I have given my son, Waleed Hamed, a power of attorney to act on my behalf in all aspects of the Plaza partnership business I have with Fathi Yusuf.
5. I have reviewed the affidavit signed by my son, Waleed Hamed, in support of the request for a temporary restraining order filed in this case. All of the statements contained in his affidavit are true and correct to the best of my knowledge.


Dated: September 17 , 2012

  
Mohammad Hamed



Affidavit of Mohammad Hamed  
Page 2

SWORN AND SUBSCRIBED TO BEFORE  
ME THIS 17th DAY OF September, 2012

  
\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
NOTARY PUBLIC  
JERRI FARRANTE  
Commission Exp: August 26, 2015  
NP 078-11

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

MOHAMMAD HAMED By His Authorized Agent WALEED HAMED

Plaintiff,

v.

FATHI YUSUF AND UNITED CORPORATION

Defendant.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

AFFIDAVIT OF WALEED HAMED A/K/A WALLY HAMED

Waleed Hamed, a/k/a Wally Hamed, duly sworn, hereby avers as follows:

1. I am an adult resident of St. Croix and am personally knowledgeable about each fact set forth in this affidavit.
2. I am also known by most people as Wally Hamed.
3. My father, Mohammad Hamed, entered into a partnership with Fathi Yusuf in the 1980's to operate a supermarket known as Plaza Extra, located in the United Shopping Center located on the east end of St. Croix.
4. The partnership has since expanded to two other locations in the Virgin Islands, operating the Plaza Extra supermarket on the west end of St. Croix at Estate Plessen (Grove Place) and the Plaza Extra supermarket on St. Thomas located at the Tutu Park Mall.
5. My father has given me a power of attorney to act on his behalf in all aspects of the Plaza partnership business he has with Fathi Yusuf.
6. The partnership between Hamed and Yusuf currently operates the same three Plaza supermarket locations, currently employing in excess of 600 employees in the three stores.
7. Since its formation, the three Plaza Extra supermarkets have been managed jointly by my father with Fathi Yusuf, operating as a partnership with separate accounting records and separate bank accounts for each of the three stores, even though the partnership utilized the corporate entity of United Corporation ("United") for the reporting of tax obligations.

**Affidavit of Waleed Hamed  
Page 2**

- 8. United owns additional assets other than the three Plaza supermarkets that my father does not have an interest in.
- 9. The bank accounts for the three Plaza Extra supermarkets, placed in the name of United, have always been accessible equally to my father and Fathi Yusuf, with the parties agreeing in 2010 that one family member from each of the Hamed and Yusuf families will sign each check written on these bank accounts. The current bank accounts for each of the three Plaza stores are:

**St. Thomas Plaza Extra Store:**

Operating Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Payroll Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Telecheck Acct:	04xxxxxxx	Bank of Nova Scotia (BNS)
Credit Card Acct:	1xxxxxxx	Banco Popular

**St. Croix Plaza Extra -- WEST**

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
TeleCheck Acct:	05xxxxxxxxxx	Bank of Nova Scotia (BNS)

**St. Croix Plaza Extra -- EAST**

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
Telecheck Acct:	58xxxxxxxxxx	Bank of Nova Scotia (BNS)

- 10. The accounts for United's shopping center operations and business operations that are unrelated to the three Plaza Extra supermarket stores are maintained separately by Fathi Yusuf and United. My father does not have access to these separate bank accounts used by United for its shopping center and other businesses unrelated to the three Plaza Extra supermarkets.
- 11. At all times relative hereto, the Hamed and Yusuf partnership profits from the Plaza Extra stores have always been held in banking and brokerage accounts completely separate from the profits of United's other unrelated businesses, even though the banking and brokerage accounts holding the profits from the Hamed and Yusuf partnership are in United's name as well. The current brokerage accounts holding these profits, well in excess of several million dollars, are:

**Popular Securities**

PSx-xxxx22  
PSx-xxxx63

PSx-xxxx60  
PSx-xxxx79  
PSx-xxxx01  
PSx-xxxx10  
PSx-xxxx28  
PSx-xxxx36

Merrill Lynch  
14X-XXXXX

12. At all times relative hereto, my father and Fathi Yusuf have equally shared the profits distributed from the three Plaza supermarkets.
13. In this regard, my father and Fathi Yusuf have also maintained records of all withdrawals from the partnership account to each of them (and their respective family members), to make sure there would always be an equal (50/50) amount of these withdrawals for each partner's family members.
14. Fathi Yusuf has repeatedly confirmed the existence of this partnership between himself and my father, including statements made under oath. See Exhibit A.
15. On February 10, 2012, Fathi Yusuf's attorney, Nizar DeWood ("DeWood"), informed me, as the agent for my father, that Fathi Yusuf wanted to dissolve the partnership, which he again mentioned in a follow up letter. See Group Exhibit B The letter stated that Mr. Yusuf was ready to proceed with dissolving the partnership, describing the partnership assets to be divided as follows:

As it stands, the partnership has three major assets: Plaza Extra - West (Grove Place, including the real property), Plaza Extra - East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas).

The letter then discussed each partner getting their own store from the partnership.
16. DeWood then sent a proposed partnership dissolution agreement on behalf of Fathi Yusuf on March 13, 2012, to me, regarding Yusuf's request to dissolve the partnership. That document (See Exhibit C) then went on to state in part as follows:

WHEREAS, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

WHEREAS, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

.....  
WHEREAS, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership;

WHEREAS, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

That document then described the partnership assets as follows:

**Section 1.1: Assets of the Partnership**

1. PLAZA EXTRA EAST- Estate Sion Farm. St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA - Tutu Park. St. Thomas

17. All interested parties subsequently met on numerous occasions to try to address the division of the partnership assets, including the three Plaza Extra Stores and the partnership profits held in the various bank and brokerage accounts. However, to date no agreement has been reached regarding the division of these partnership assets.
18. As these discussions progressed, Fathi Yusuf began to engage in, and continues to engage in, numerous acts in breach of his obligations as a partner in his partnership with Hamed. These acts are clearly designed to undermine the partnership's operations, jeopardizing their continued success and existence. These acts include but are not limited to the following acts:
  - a) Threatening to terminate the Hamed family employees in the three Plaza Extra stores;
  - b) Attempting to discredit the operations of these three stores by making defamatory statements about Hamed and his family members to third parties, including suppliers for the three stores, which are completely untrue;
  - c) Attempting to unilaterally change how the stores have operated by threatening to impose new and unreasonable restrictions on the operations of these three stores, all of which are aimed at undermining Hamed's partnership interest in the three stores.
  - d) Threatening to close down the Plaza Supermarkets;
  - e) Threatening the Hamed family members working in the Plaza supermarkets with physical harm, trying to intimidate them into leaving the stores;
  - f) Unilaterally canceling orders placed with vendors and not ordering new inventory for the three Plaza supermarkets;

- g) Giving false information to third parties, including suppliers of the three Plaza Supermarkets, regarding its future operations, jeopardizing the good will of the Three Plaza supermarkets; and
  - h) Spending funds from the bank accounts of the three Plaza supermarkets to support his other personal business interests unrelated to the three Plaza supermarkets.
19. Finally, on or about August 20, 2012, Fathi Yusuf indicated he wanted to withdraw \$2.7 million from the partnership, which my father (through me) refused to agree to. See Exhibit D. Thereafter, Yusuf unilaterally and wrongfully converted \$2.7 million from the Plaza Extra supermarket accounts used to operate the partnership's three stores, placing the funds in a separate United account controlled only by him. Said conversion was a willful and wanton breach of the partnership agreement between my father and Mr. Yusuf. See Exhibit E.
20. Despite repeated demands, Fathi Yusuf has not returned these funds to the Plaza Extra bank accounts from which they were withdrawn.
21. If the partnership's operations are not secured immediately, the continued operation of the three Plaza stores will be in jeopardy, as well as the continued employment of its 600 plus employees, resulting in irreparable harm to these partnership assets.
22. Indeed, Plaza is in serious jeopardy of losing customers to other stores, losing employees due to moral problems, losing supplies, and otherwise losing its goodwill, which it has built up over past 25 years.
23. The Hamed family has operated this partnership for over 25 years and wants to continue these businesses into the future for its current family members.
24. Yusuf has extensive investments overseas, so that he can easily remove these significant assets beyond the jurisdiction of this Court if the relief sought is not granted, as he has done with other profits received by him over the past 25 years.

Dated: September 18, 2012

  
\_\_\_\_\_  
Waleed Hamed a/k/a Wally Hamed

SWORN AND SUBSCRIBED TO BEFORE  
ME THIS 18<sup>th</sup> DAY OF September, 2012

  
\_\_\_\_\_  
NOTARY PUBLIC

NOTARY PUBLIC  
JERRI FARRANTE  
Commission Exp: August 26, 2015  
NP 078-11



**EXHIBIT A**

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

AHMAD IDHEILEH,

Plaintiff,

vs.

UNITED CORPORATION and  
FATHI YUSUF, Individually,

Defendants.

Case No. 156/1997

THE ORAL DEPOSITION OF FATHI YUSUF

was taken on the 2nd day of February 2000, at the Offices of  
Caribbean Scribes, 2132 Company St., Ste. 3, Christiansted,  
St. Croix, U.S. Virgin Islands, between the hours of  
1:05 p.m. and 4:05 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

EXHIBIT  
A

Cheryl L. Haase  
(340) 773-8161

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FATHI YUSUF,

Called as a witness, having been first duly sworn,

Testified on his oath as follows:

DIRECT EXAMINATION

BY MR. ADAMS:

Q. Good afternoon, Mr. Yusuf.

A. Good afternoon, sir.

Q. As you are aware, we are here today to take your deposition in the matter of Ahmad Idheileh v.

United Corporation and yourself.

A. Yes.

Q. In that light, sir, I would like to ask you a few questions. And maybe to begin, if we could get a little background history on your relationship with Mr. Idheileh.

When did you and Mr. Idheileh first meet, if you can recall?

A. We met, I don't know, about twenty, twenty-five years ago. I don't remember exactly.

Q. And at that time what was the relationship like before you entered into the business venture?

A. Just like an ordinary Arab, just like we came a little bit earlier before. That's all.

Q. So you would say it was a very amicable and friendly relationship?

A. At the first maybe five or ten years, it was no

FATHI YUSUF -- DIRECT

1           A. I personally own 50 percent of Plaza Extra in  
2 1986. I own United Shopping Plaza. I'm a member of  
3 United Corporation, who owns United Shopping Plaza. I build  
4 that store, I was struggling for a loan. The whole island  
5 know what I went through. I said I'm going to build this  
6 building no matter what, and hold the supermarket for my  
7 personal use.

8                       It took me three years. I give an offer to  
9 two nephew of mine and my brother-in-law, Mr. Hamed, if they  
10 would like to join me in building up this store together, and  
11 we should not have any problem, if I finish build up the  
12 building, we should have no problem whatsoever to go to the  
13 bank and the bank will grant us the loan to operate the  
14 supermarket. Okay?

15                      During construction -- I'm going to go a  
16 little bit back to tell you what is my background. During  
17 construction, I was struggling for loan. And at that time  
18 Banco Popular, I remember, came into the Virgin Islands and  
19 took over the majority of interest of First National  
20 Citibank. They buy all their customers, and they was very  
21 hungry to do business in the island because they have  
22 expenses to face and they like to issue loan as fast as  
23 possible to cover their expenses.

24                      Excuse me. Can I have water please if you  
25 don't mind?

Cheryl L. Haase  
(340) 773-8161

FATHI YUSUF -- DIRECT

1 MS. VAZZANA: Sure.

2 A. I have a problem getting a loan. Finally, I been  
3 promised verbally from Nova Scotia in the past, and when my  
4 steel came in, the way the steel came in unfabricated, they  
5 deny me any loan.

6 THE REPORTER: Unfabricated?

7 THE WITNESS: Unfabricated. It's raw steel.

8 At that time I don't have no money to buy  
9 fabricated steel, so I went to the mill in Houston and I  
10 bought unfabricated steel. And when the bank comes in, when  
11 the steel comes in and the bank sees it, they says, How you  
12 want me to loan money against this steel? How you going to  
13 put it up? You have no experience.

14 I explain to them how I would put it up. They  
15 say, Show me your plan. I show them my plan. Granted the  
16 man who did the plan with me at that time is with the chief  
17 building permit at Public Work. He just give me a plan with  
18 not too much specification, because I have no intention to  
19 give it on bid. My intention is I don't have enough money, I  
20 will put this building together.

21 So what I have is a plan approved by Public  
22 Works with not too much specification on it, and the bank  
23 saw, asked me how could I build the building? I explain to  
24 them and they say, We don't do business that way. They say,  
25 I'm sorry. That's all I have.

FATHI YUSUF -- DIRECT

1                   So I left Nova Scotia, struggling, left them  
2 not to get a loan, but did not close my account. I struggle  
3 all over looking to get a loan. I went to all local banks at  
4 that time, and everybody says, I'm sorry, we can't help you.  
5 So I find it is a golden opportunity for me to go to Banco  
6 Popular.

7                   So I went to the manager there, I explained to  
8 him my story what Scotia did to me and so he say, I will come  
9 to the site.

10                   When he come to the site where I'm building,  
11 he says, How you going to put this building together?  
12 Where's your plan? I show it to him. It's almost zero, the  
13 specification. Just numbers for me, columns, but the column  
14 doesn't say what thick, what wide. It just give me the  
15 height.

16                   So the bank, he says, Mr. Yusuf, I'm sorry.  
17 We don't do business that way. We have to have somebody  
18 professional plan with full specification. I could see your  
19 plan approved, I could see the steel here, but it's -- you  
20 don't have the proper material or record to take to my board  
21 of director to approve a loan in the millions.

22                   So I understood. My answer to that gentleman  
23 was, unfortunate because of my financial situation, I have to  
24 choose this route. But I promise you, as a man, I will put  
25 that building together. The man told me at that time, I

FATHI YUSUF -- DIRECT

1 don't see how you going to put it up. I say, Don't worry,  
2 man. I'll put it together.

3 He promised me at that time, Mr. Yusuf, I  
4 promise you if you are able to put this steel, turn it into a  
5 shopping center, as soon as you finish, come. I will give  
6 you all the money you need for the supermarket. I says,  
7 Thank you very much, sir.

8 I know I was at fault. I was not prepared,  
9 you know. I don't have nothing saleable to a bank. So I  
10 rely on my brother for financing, a brother of mine who's in  
11 Kuwait.

12 And go back a little bit, before I was looking  
13 for financing, my brother was asking me if he could join me  
14 as partner. I said no, I really want to put something for my  
15 children to secure their future and see if the bank give me,  
16 fine. I'm sure I could get it.

17 After I fail, I called my brother, I said, Are  
18 you still interested? He said yes. He did it for two  
19 reason. He did it to help me as a brother because he don't  
20 want to see me go bankrupt. And at the same time he want to  
21 make sure that he maybe could make some money.

22 Q. Uh-huh.

23 A. And my brother, we knows each other very well.  
24 He have a lot of confidence in me. He say if I will do  
25 something, I'll do it. Then my brother start to send me

FATHI YUSUF -- DIRECT

1 money.

2 Because of my ignorant in expertise, I  
3 underestimate to my brother. I told him, Oh, I think I could  
4 put this building for a million-and-a-half. The  
5 million-and-a-half run out, so my brother says, Hey, you told  
6 me that amount you'll have a shopping center, and I see  
7 you're too far out.

8 I say, Brother, all I could tell you is all  
9 your money and my money is going into the building. If I  
10 underestimating, this is nothing but a matter of ignorance.  
11 It's not a matter of trust. He say, I know you, you don't  
12 keep my money.

13 So what we did with my brother, I was supposed  
14 to do 60 percent for me, 40 percent for my brother. As the  
15 number I gave him used, he says, Look, I enter with you to  
16 give me forty and you sixty. I will give you more money if  
17 you would give me 50 percent.

18 Q. So that's how you ended up with 50 percent.

19 A. I would give you -- I will, if you would give me  
20 50/50, I'll send you more money to finish the building.

21 I say, Look, man. Your children and my  
22 children are the same. You's my brother. I'm not going  
23 to -- you'll get fifty, right? I told him that on the phone.

24 He send. His money finish. I asked him for  
25 the last 300,000. I could finish the shopping center with



FATHI YUSUF -- DIRECT

1 the last 300,000. My brother denied he don't have any more  
2 money to give me. I should go and look somewhere else.

3 I know my brother have, but my brother, with  
4 respect to him, a man don't like to go with tough decision,  
5 so he deny me that he have any more money. And I was  
6 struggling going to the bank to get some loan. But at the  
7 same time, really, I don't want to mortgage a whole shopping  
8 center with five-and-a-half acre for about three hundred  
9 thousand dollars. I don't want to hook myself.

10 So while I was building, Sunshine Supermarket  
11 opened. Okay? And it happened that somebody part owner on  
12 Sunshine spread the word around or mention some word how much  
13 they sold as their grand opening. So I have two nephew, one  
14 my brother's side and one from my sister's side, and I have  
15 my brother-in-law is Mr. Mohammed Hamed. I know the three of  
16 them have money, and I know and they know that I don't have  
17 the money.

18 They says, Uncle, I don't think we should stay  
19 in the furniture business. I think we should open up a  
20 supermarket. I says, Well, if you want, you guys bring me  
21 the money, I finish the building and I can assure you that a  
22 loan will come.

23 So I have a brother, Sam, I remember he gave  
24 me I don't remember exactly, 245,000. My daughter -- my  
25 sister son, the one who was translating this morning, think

FATHI YUSUF -- DIRECT

1 he gave me about 275,000, and to be 25 percent each,  
2 25 percent for my sister son, 25 percent for my brother son,  
3 25 percent for me.

4 But before I continue, I'm going to -- I would  
5 like to go back a little bit more to clear something. When I  
6 was in the financial difficulty, when I was in financial  
7 difficulty, my brother-in-law, he knew. I shouldn't -- he  
8 start to bring me money. Okay? He own a grocery, Mohammed  
9 Hamed, while I was building, and he have some cash. He knew  
10 I'm tight.

11 He start to bring me money. Bring me I think  
12 5,000, 10,000. I took it. After that I say, Look, we  
13 family, we want to stay family. I can't take no money from  
14 you because I don't see how I could pay you back. So he  
15 insisted, Take the money. If you can afford to, maybe pay  
16 me. And if you can't, forget about it. Okay. He kept  
17 giving me. I tell him, Under this condition I will take it.  
18 I will take it.

19 He kept giving me until \$200,000. Every  
20 dollar he make profit, he give it to me. He win the lottery  
21 twice, he gave it to me. All right? That time the man have  
22 a little grocery, they call Estate Carlton Grocery. Very  
23 small, less than 1,000 square foot, but he was a very hard  
24 worker with his children. And it was, you know, just like a  
25 convenience mom-and-pop stores. He was covering expenses and

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FATHI YUSUF -- DIRECT

1 saving money.

2 I say, Brother-in-law, you want to be a  
3 partner too? He said, Why not? You know, as a family, we  
4 sit down. Says, How much more can you raise? Say, I could  
5 raise 200,000 more. I said, Okay. Sell your grocery. I'll  
6 take the two hundred, four hundred. You will become  
7 25 percent partner.

8 So we end up I'm 25 percent, my two nephew 25  
9 each, and my brother-in-law, Mohammed Hamed, 25 percent. I  
10 don't recall the year, could be '83 or '84, but at least  
11 thanks God in the year that Sunshine Supermarket opened,  
12 because his supermarket is the one who carries these two  
13 young men and my brother to go into the supermarket with me.  
14 So I have their money, I finish the building.

15 We call the refrigeration manufacturer, not to  
16 waste time. We book an order for our refrigeration, and we  
17 committed to it. And from their money I have paid \$100,000  
18 deposit on the equipment. I was so sure the gentleman at  
19 Banco Popular, he promised me, you know. Everything were  
20 look to go me encouraging. And especially at that time I'm  
21 sure anybody in St. Croix in the past twenty, thirty years,  
22 he knew that that building will never go up. Only maybe six  
23 people in St. Croix at that time says I might be able to put  
24 it up. But 99.9 of St. Croix resident, they were looking at  
25 me as a fool.

Cheryl L. Haase

1                   But I was confident in myself. I have, when I  
2 determine something, I have strong determination and I'm not  
3 afraid to work. So as I hit the bank and says, Hey, you got  
4 away with the building, how I know you going to make it in  
5 supermarket? You have no experience in the supermarket. How  
6 could you make it?

7                   I say, Look, man, you promised me. And then  
8 look, my friend, I'm not trying to learn how to drive. I am  
9 a driver. I'm a retailer. If you move me from clothing,  
10 shoes, furniture to supermarket, it will take me no time to  
11 learn, because the retailing business is already in my blood,  
12 just like a driver. He drive a small standard car or a small  
13 pickup, it wouldn't take him no too long to drive a trailer  
14 tractor, because he know the basic of the traffic, where to  
15 stop, where to yield, where to speed, which gear to change.

16                   And I told him, trying to convince the bank  
17 manager, Don't worry, man. I could be like a driver  
18 switching from driving a pickup, I could drive a trailer load  
19 easy in two weeks. It's completely different to somebody  
20 that never knows how to drive. You want to bring him from  
21 never knows how to drive, it could be, never being in a car,  
22 and you may want him to drive a trailer. I'm not that type  
23 of person.

24                   This is one of the ways I was convincing the  
25 bank manager. Unfortunate at that time, I was talking to the

1 man and he look at me, he underestimate. It came to an  
2 extent, I tell him, Look, sir. I respect your profession.  
3 You're the bank manager. I respect that. And I want you to  
4 respect my profession. I'm a retailer. Everybody have a way  
5 of making a living. Oh, I been denied.

6 Then, but when I been denied, I have to tell  
7 my partner what's going on. I been entrusted to handle the  
8 job perfect, and I am obligated to report to my partner to  
9 anything that happened. I told my nephews and I told my  
10 partner, Hey, I can't get a loan, but I'm not giving up.

11 So two, three days later my two nephews split,  
12 say, We don't want to be with you no more, and we want our  
13 money. I say I don't have no money to pay you. The money's  
14 there, but if you want to leave because I default, you free  
15 to leave.

16 How we going to get paid?

17 I says, Shopping center is 50 percent owned by  
18 you uncle and 50 percent by me. I have to feed my children  
19 first, and whatever left over, I'll be more than happy to  
20 give it to you. Okay. What do you want us -- what do you  
21 want to pay us for rent of our money?

22 We come to an agreement, I pay them 12 percent  
23 on their money, and 150,000 default because I don't fulfill  
24 my commitment. I accepted that. We wait until my partner,  
25 which is my brother, came. He's an older man. And we came

FATHI YUSUF -- DIRECT

1 two partner left, Mr. Hamed. You know, these two guys, they  
2 left, my two nephew, they was your partner and my partner. I  
3 give you a choice. If you pay penalty with me and pay the  
4 interest with me, whatever they left is for me and you. But  
5 if I must pay them the one-fifty penalty and pay them  
6 12 percent, then Plaza Extra Supermarket will stay  
7 three-quarter for Yusuf and only one-quarter for you.

8 He says, Do whatever you think is right. I  
9 tell him, You want my advice? I be honest with you. You  
10 better off take 50 percent. So he took the 50 percent.

11 Q. Not to cut you short, Mr. Yusuf, but we have to  
12 play with time, and I appreciate the history as far as  
13 Plaza Extra St. Croix and United Corporation, but I want to  
14 focus primarily right now on your relationship with  
15 Mr. Idheileh.

16 There came a time that the two of you entered  
17 into talks about Plaza Extra on St. Thomas?

18 A. May I interrupt you, sir? I cannot build a roof  
19 before a foundation. The problem is you ask me who I am,  
20 where I come from. I am explaining myself. I want to show  
21 to you and the court that Mohammed Hamed is way before  
22 Plaza Extra was opened with me, he was my partner. And  
23 Mr. Idheileh, he himself knows, because the money he lend me  
24 when I open up Plaza Extra, he was getting paid from Wally.

25 I'm a person, if I run a business, I want to

Cheryl L. Haase

1 stay clean. You know what I mean, clean? I'm the final  
2 decision man. I don't give that to anybody. Excuse me. But  
3 when it come to money, I don't touch.

4 When I open up Plaza Extra Supermarket, who  
5 was in charge of the money at that time is Wally Hamed. When  
6 this gentleman, Mr. Idheileh, lend me his money as a friend,  
7 I have never signed for him. Who paid him? I never pay him  
8 back. My partner's son is the one who pay him back. And he  
9 knew, because he come to my office once or twice a week. And  
10 he's not the only one knew. Every single Arab in the Virgin  
11 Islands knew that Mr. Mohammed Hamed is my partner, way  
12 before Plaza Extra was opened.

13 Now, should I ask him or continue?

14 MS. VAZZANA: He's ready to give you a next  
15 question.

16 Q. (Mr. Adams) My question to you, sir, is there  
17 came a point in time that you and Idheileh started to, or  
18 started to have some discussions about Plaza Extra on  
19 St. Thomas, is that correct?

20 A. Repeat the question please.

21 Q. There came a point in time that you and  
22 plaintiff, Mr. Idheileh, entered into negotiation about a  
23 partnership, entering into a partnership with Plaza Extra on  
24 St. Thomas, is that correct?

25 A. I can answer that if I could explain it.

# **EXHIBIT B**




Hello Wally,

I wish to confirm our discussions in the following two matters: 1) Power of Attorneys to verify and audit financial information currently in dispute, 2) Partnership Dissolution.

<!--[if supportLists]-->I. <!--[endif]-->Power of Attorney  
As agreed between you and Mr. Yusuf, the Power of Attorney will be required for each of you, your father, brothers, wife, and adult children. This power of attorney will be limited to obtaining any and all information regarding bank and investment accounts that may have been opened, closed, used for wire transfers, and opened on behalf of other third parties. The banks that will be covered will include the Virgin Islands, St. Maarten, New York, and the Middle East.

Any and all information obtained will be held in confidence by my office, and will be used for the sole purpose of financial verification.

<!--[if supportLists]-->II. <!--[endif]-->Dissolution of Partnership (Yusuf & Hamed)

I will be sending a formal notice of partnership dissolution notice, with a list of to-dos that will be required to complete an orderly dissolution. See attached email. I understand that you and Mr. Yusuf are still discussing various terms and aspects of the dissolution. I will await the final decision made. 

Your mailing address to address all originals will be:

Mohammad Hamed  
Walid Hamed  
PO 763  
Christiansted, VI 00821

Thank you.

Nizar A. DeWood, Esq.

The DeWood Law Firm  
3070 Kronprindsens Gade, Suite 208  
St. Thomas, V.I. 00802  
T. (340) 774-0405  
F. (888) 398-8428

**THE DEWOOD LAW FIRM**

3070 Kronprindsens Gade, Suite 208  
St. Thomas, V.I. 00802  
T. (340) 774-0405  
F. (888) 398-8428  
*info@dewood-law.com*

**Mohammad Hamed  
c/o Walid Hamed  
PO Box 763  
Christiansted, V.I. 00821**

VIA EMAIL ONLY

**Re: Dissolution of Partnership  
Yusuf & Hamed**

Dear Mr. Hamed,

This letter is to confirm the parties' desire to dissolve the above referenced partnership. Partnership dissolution will involve appropriate planning to properly account for each of the partner's interest in the partnership, and a well-executed agreement memorializing the understanding of the parties.

As it stands, the partnership has three major assets: Plaza Extra – West (Grove Place, including the real property), Plaza Extra – East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas). I have been advised that there are ongoing discussions between you, as your father's fully authorized agent, and Mr. Yusuf regarding which of the stores each partner will retain upon dissolution. Accordingly, I will await the final decision that you and Mr. Yusuf may reach.

Additionally, as Mr. Yusuf has indicated, he remains resolute about the rental terms of the Plaza Extra – East. Unless the parties arrive at a different understanding, I will assume that Mr. Yusuf will not agree to continue the lease beyond June 30<sup>th</sup>, 2012 on that property.

I look forward to hearing from you. Thank you.

Sincerely,

  
Nizar A. DeWood, Esq.

cc: Fathi Yusuf

# EXHIBIT C

From: "Nizar DeWood" <dewoodlaw@gmail.com>  
Date: March 13, 2012 12:41:36 PM EDT  
To: "Wally Hamed" <wallyhstx@yahoo.com> -  
Subject: Partnership dissolution agreement

Salam Wally,

Please find the attached proposed Partnership Dissolution Agreement. I look forward to hearing from you at your earliest convenience. ↙

Thank you.

Nizar A. DeWood, Esq.  
The DeWood Law Firm  
3070 Kronprindsens Gade, Suite 208  
St. Thomas, V.I. 00802  
T. (340) 774-0405  
F. (888) 398-8428



## **PROPOSED PARTNERSHIP DISSOLUTION AGREEMENT**

**THIS AGREEMENT**, dated this \_\_\_\_ day of March 2012, is by and between **FATHI YUSUF** and **MOHAMMAD HAMED** (collectively called "Partners"), formerly partners of a partnership known informally as *Yusuf & Hamed* (the "Partnership").

**WHEREAS**, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

**WHEREAS**, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

**WHEREAS**, serious dispute and disagreement between the partners relating to financial matters of the partnership, resulting in the partners unable to continue as partners; and

**WHEREAS**, Fathi Yusuf (the "Withdrawing Partner") has withdrawn from the Partnership by written notice dated February, 2012, for withdrawal as of February 10<sup>th</sup>, 2012 (the "Withdrawal Notice"); and

**WHEREAS**, the Partners desire to dissolve the partnership by way of liquidation and distribution of its assets, unless each partner submits in writing a buyout offer for each of the three major assets constituting the partnership, as herein shown in Section 1 of this agreement; and

**WHEREAS**, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership; and

**WHEREAS**, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, and conditions contained herein, the parties agree as follows:

## SECTION 1. ASSETS SUBJECT TO LIQUIDATION

The Partners agree that the following three on-going businesses constitute the assets of the Partnership.

### Section 1.1: Assets of the Partnership

1. **PLAZA EXTRA EAST- Estate Sion Farm, St. Croix**
2. **PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)**
3. **PLAZA EXTRA -- Tutu Park, St. Thomas**

### Section 1.2. Dissolution of Partnership.

The Partnership shall be dissolved effective as of the date specified in the Withdrawal Notice, and the business of the Partnership shall cease effective February 10<sup>th</sup>, 2012. Any continuing operation shall be for the sole purpose of winding down the partnership. The parties agree that the Withdrawal Notice is effective to dissolve the Partnership and is not a breach of the partnership relationship. The parties agree to the following buyouts of the assets listed in Section 1.1.

### Section 1.3 FIRST PARTNERSHIP ASSET: Plaza Extra East -- Sion Farm, St. Croix

Partner Fathi Yusuf ("Partner Yusuf") has orally terminated the lease agreement for Plaza Extra East in September 2010. A written confirmatory termination letter was mailed on January 20<sup>th</sup>, 2012. Partner Yusuf shall make the following buy-out offer:

1. Acquire the assets & fixtures - \$250,000 (50% of Partner Hamed's interest)
2. Acquire Inventory based on cost (50% of Partner Hamed's Interest).
3. The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.

Should the foregoing terms of the buyout offer set forth in paragraphs 1 to 3 above is rejected, the assets, fixtures, and inventory of Plaza Extra -- East shall be liquidated and the

premises turned over to Partner Yusuf immediately. Partner Yusuf, by virtue of his ownership of the premises, will hereby enforce the new rental rate of \$200,000 per month commencing January 31, 2012 until March 31<sup>st</sup>, 2012. Thereafter, the monthly rental rate shall increase to \$250,000 per month until June 30<sup>th</sup>, 2012. After such date, the tenancy shall terminate forthwith without further notice. Failure to vacate the premises by June 30<sup>th</sup>, 2012 shall result in an action for unlawful detainer be filed in the Superior Court of the Virgin Islands.

**Section 1.4 SECOND PARTNERSHIP ASSET: Plaza Extra West – Grove Place, St. Croix**

Partner Yusuf hereby makes the following buy-out offer:

1. Acquire the assets & fixtures - \$375,000 (50% of Partner Hamed's interest).
2. Acquire Inventory based on cost (50% of Partner Hamed's Interest).
3. Acquire Lease for the premises for a term of 20 years, with an option to terminate lease subject to a SIX (6) months written notice. Rent is hereby offered for \$24,000 a month. Property tax assessments shall be paid in half by each partner.
4. The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.
5. All inventory, improvements, and fixtures will be transferred by a Bill of Sale, with the applicable UCC-4 Bulk Transfer notices according to the terms set out in Exhibit B of this Agreement at the time of closing.

**Section 1.5**

**THIRD PARTNERSHIP ASSET: Plaza Extra – Tutu Park, St. Thomas**

**1.5.1** Unless Partner Hamed makes a written offer for the purchase of Plaza Extra – Tutu Park, St. Thomas, said business shall be liquidated with its assets, inventory, and fixtures sold at fair market value. The lease for this asset shall expire on October 27<sup>th</sup>, 2018, and is in the name of United Corporation only. Should Partner Hamed wishes to make an offer for the purchase of Partner Yusuf's partnership interest in Plaza Extra Tutu Park, St. Thomas, Partner Hamed shall do so in writing within 14 days.

1.5.2 Should Partner Hamed refuse to offer to purchase said asset, Partner Yusuf hereby makes the following written offer of purchase:

- i) Partner Hamed's fifty (50%) interest in Inventory at actual cost plus freight and insurance to be determined at time of closing.
- ii) Equipment and fixture at \$250,000 (50% interest of Partner Hamed).
- iii) The parties agree that the equipment and fixtures is in proper working condition during the first six months from the date of closing. Should any equipment experience a breakdown during the first six months of closing, both parties shall bear the cost of the repairs equally.
- iv) Partner Yusuf agrees to pay \$1,000,000 a year to Partner Hamed until the expiration of the lease on October 27<sup>th</sup>, 2018 for a total lease amount of \$6,500,000. Partner Yusuf will also assume all obligations under the lease currently existing in the name of United Corporation, and guaranteed personally by Partner Yusuf.

1.5.3 Rejection of Offer: Should Partner Hamed reject the terms of the offer provided in section 1.5.2, Partner Hamed may acquire the Plaza Extra – Tutu Park, St. Thomas within 14 days of date of this agreement on the same aforementioned terms.



**SECTION 2.0**

**PARTNERSHIP CONTRIBUTIONS**

The parties agree to address the following outstanding partner and partnership obligations

	<u>Description of Partnership Obligation</u>	<u>Agreed Upon Course of Action to Resolve Dispute</u>
1.	<b>Rent (for the period of May 5<sup>th</sup>, 2004 to Dec. 31st, 2011).</b> Partnership Yusuf & Hamed owe rent arrears of \$5,408,806.74 to Partner Yusuf as owner and landlord of the property upon which Plaza Extra East is located.	The parties agree that said amount was paid on February 13 <sup>th</sup> , 2012 by way of check drawn on the account of United Corporation. Accordingly, the rental arrears for the period of (May 5 <sup>th</sup> , 2004 to Dec. 31 <sup>st</sup> , 2011) are now satisfied.
2.	<b>Other Outstanding Rent (Pre 2004).</b> The partners shall discuss and calculate the rent owing to Partner Yusuf for an approximate period of 10 years, for the 10 years prior to May 5 <sup>th</sup> , 2004.	The rental term and rent amount due will be determined upon the return of the partnership records from the U.S. Government.

**SECTION 3.0**

**OTHER FINANCIAL DISPUTES**

The parties acknowledge that serious financial disputes have arisen between the parties. Specifically, Partner Yusuf desires a full accounting of certain disputes with Partner Hamed and his agent Waleed Hamed and Waheed Hamed, and all of their spouses, children, assigns, and agents.

The parties agree that the following items of financial disputes will be negotiated, investigated, and resolved in good faith by the parties.

	<u>Description of Financial Dispute</u>	<u>Agreed Upon Course of Action to Resolve Dispute</u>
1.	<p>Partner Yusuf alleges that Two Million Dollars (\$2,000,000) was transferred from Banque Francaise Commerciale in St. Maarten to Arab Bank, Ltd., specifically to an Arab Bank Branch in the West Bank, Palestine. Partner Hamed disputes this allegation. Partner Yusuf's allegation arises out of facts obtained during a criminal investigation by the Federal Bureau of Investigation that concludes there was a transfer of \$2,000,000 to the benefit of Partner Hamed.</p> <p>Partner Yusuf desires full accounting and verification of all financial discrepancies, and irregularities currently existing, or that may arise during the dissolution of the partnership.</p> <p>The parties hereby agree to negotiate and resolve this matter fully and in good faith.</p>	<p>1) Partner Hamed agrees to execute a special power of attorney authorizing the DeWood Law Firm, its attorney, agents, and assigns, to obtain <u>ALL</u> bank account information for any bank account that may have been opened, including but not limited to the following banks:</p> <ol style="list-style-type: none"> <li>1. Arab Bank, Ltd (Worldwide branches)</li> <li>2. Banque Francaise Commerciale in St. Maarten.</li> <li>3. Cairo-Amman Bank (worldwide branches)</li> <li>4. Bank of Nova Scotia (worldwide branches)</li> <li>5. Merrill Lynch Investments</li> <li>6. First Bank (formerly known as VI Community Bank)</li> <li>7. Any other Bank either party determines to be relevant for purpose of inquiry, investigation, and full accounting.</li> </ol>

**2. Notice to Withdraw.** Partners agree to give actual notice of the dissolution of the Partnership to all creditors who have extended credit to the Partnership prior to dissolution

**3. Determination and Distribution of Capital Account.** The Partnership will cause to be prepared financial statements as of the date specified in the Withdrawal Notice, including a balance sheet specifying the assets, liabilities, and equity accounts, and an income statement for the portion of the year then ended. The financial statements will also detail all accounts payable and accounts receivable of the Partnership. The cost of obtaining such financial statements shall be borne by the Partnership, and the expense of preparation of such financial statements shall be reflected in income or loss as of the date specified in the Withdrawal Notice.

The capital account of the Withdrawing Partner will include the Withdrawing Partner's actual equity account plus the Withdrawing Partner's share of income or minus the Withdrawing Partner's share of loss according to the Sharing Ratio as of the date of the financial statements. The parties agree that these financial statements will conclusively reflect the accounts of the Partnership. The capital account of the Withdrawing Partner shall be distributed to the Withdrawing Partner in cash within 30 days following the date specified in the Withdrawal Notice.

**5. Loans.** The Partnership has no loans outstanding other than Accounts Payable with inventory suppliers.

**6. Ledgers and Files.** The Partnership shall, at the Partnership's expense, copy all ledgers and files of the Partnership for the Withdrawing Partner's use upon the reasonable written request by the Withdrawing Partner which specifies the ledgers and files and is delivered to the Partnership at least 10 days before the date specified in the Withdrawal Notice.

**7. Full Disclosure and Access to Records.** All parties agree to fully disclose all facts which relate to the operation of the Partnership and warrant and represent that all material facts concerning the financial condition and operation of the Partnership have been fully disclosed to each other. All parties shall have full access to the books and records of the Partnership, including client files, for purposes of verifying information furnished under this Agreement until this Agreement.

**8. Assets and Liabilities of the Partnership.** Upon payment of the amounts due to the Withdrawing Partner hereunder, all assets and liabilities of the Partnership as they exist on the financial statements dated as of the date specified in the Withdrawal Notice shall belong to the remaining Partners, and the Withdrawing Partner shall claim no right, title, or interest therein.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the day and year first written above.

\_\_\_\_\_  
**Fathi Yusuf, Partner**

\_\_\_\_\_  
**Mohammad Hamed, Partner**

# EXHIBIT D

**UNITED CORPORATION**  
**d/b/a PLAZA EXTRA SUPERMARKET**  
**4C & 4D Sion Farm**  
**Christiansted, VI 00820**

**BY HAND DELIVERY**

*Received by*  
*8/16/2012*

Date: August 15, 2012

**Mohammed Hamed**  
**By and through Waleed Hamed**  
**Plaza Extra Supermarket**  
**Sion Farm Store**  
**Christiansted, V.I. 00820**

**Re: Notice of Withdrawal**

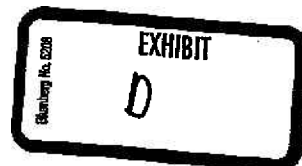
Dear Mr. Hamed,

The amount of \$2,784,706.25 will be withdrawn from United's operating account effective August 15<sup>th</sup>, 2012. This amount equals the proceeds you previously withdrew through your agent Waleed Hamed. To ensure full accuracy, attached are the receipts you requested during mediation demonstrating the \$1,095,381.75 of withdrawals. The below itemized amounts are not in dispute.

Past Confirmed Withdrawals .....	\$1,600,000.00
Additional Withdrawals per the attached requested receipts .....	\$1,095,381.75
Fifty percent (50%) of St. Maarten Bank Account .....	\$44,355.50
Fifty percent (50%) of Cairo Amman Bank .....	\$44,696.00

Should you have any concerns about these amounts, please provide the basis for your concerns in writing. Thank you.

Yours  
*[Signature]*  
for Fathi Yusuf



**Waleed Hamed  
Plaza Extra  
4C 4D Estate Sion Farm  
Christiansted, VI 00821**

**BY HAND DELIVERY**

Date: Thursday, August 16, 2012

**Fathi Yusuf  
Plaza Extra Supermarket  
4605 TuTu Park Mall Ste 200  
St.Thomas, VI 00805**

Dear Mr. Yusuf:

In response to your August 15th letter re "Notice of Withdrawal", these figures have not been agreed to. Indeed, there were no attachments as indicated and there are numerous other funds that have to be included in any such calculations before any disbursements can be made. For example, all withdrawal receipts have to be reviewed before any withdrawals are paid, no mention or indication of the amounts that the Yusuf family has previously withdrawn, By way of another example, the \$800,000 plus due the Hamed family for the sale of the condo property in St. Thomas would have to be included. In short, while these are just a few examples, no withdrawals will be issued until a full accounting is done and agreed to in writing.

Cordially,

  
Waleed Hamed

~~Confidential~~  
~~Private~~

Thank you

Accordingly, the amount requested will be withdrawn.

Your response letter, through your agent, Walid Hamed, does not deny the validity of any of the amounts stated as owing and outstanding to United Corporation. Your letter requests that an accounting be done for other matters, which is a separate issue. Please reduce to writing those other matters you contend are owed, and provide the supporting documentation.

RE: SET-OFF

Dear Mohammed Hamed,

Mohammed Hamed  
By Walid Hamed

HAND DELIVERY

Date: August 22, 2012

UNITED CORPORATION  
4-C & 4-D Estate, Zion, Palm  
P.O. Box 763  
Christiansburg, VA 00820



**Fathi Yusuf**  
Plaza Extra Supermarket  
4605 TuTu Park Mall Ste 200  
St Thomas, VI 00805

Saturday, August 25, 2012

Dear Mr. Yusuf:

Your suggestion that the Hamed family agreed to your calculations of any sums due you is incorrect. The Hamed family disputes those calculations and insists on a full accounting.

Moreover, any unilateral withdrawal of funds by you would violate the Court's Order currently in place. It would also violate the agreement between our families. If you attempt to take any funds as threatened, we will instruct our counsel to advise the District Court Judge of this violation of its Order, as well as to take any other appropriate action he deems appropriate .

Cordially,  
Waleed Hamed

W. M. Hamed

**Confidentiality Notice:** The information contained in and transmitted with this communication is strictly confidential, is intended only for the use of the intended recipient. If you are not the intended recipient, you are hereby notified that any use of the information contained in or transmitted with the communication or dissemination, distribution, or copying of this communication is strictly prohibited by law. If you have received this communication in error, immediately return this communication to the sender and delete the original message and any copy of it in your possession.

UNITED CORPORATION D/B/A  
PLAZA EXTRA

3057 14140  
PO BOX 755  
CHRISTIANSTED, USVI 00821-0755

1154

101-806216

Date: 8/15<sup>th</sup> / 2012



United Corporation

\$ 2,784,700.25

Two million Seven Hundred Eighty-Four Thousand Seven Hundred Six Dollars & <sup>25</sup>/<sub>100</sub> Dollars

Scotiabank  
THE BANK OF NOVA SCOTIA  
Financial Institutions

*[Handwritten Signature]*

⑆001154⑆ ⑆021006084⑆ 058-00080413⑆

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

MOHAMMAD HAMED By His Authorized  
Agent WALEED HAMED

Plaintiff,

v.

FATHI YUSUF AND UNITED CORPORATION

Defendant.


CIVIL NO. SX-12-CV-

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

NOTICE OF SERVICE OF MOTION FOR TEMPORARY RESTRAINING  
ORDER AND/OR A PRELIMINARY INJUNCTION

Comes now the plaintiff, Mohammed Hamed ("Hamed"), and hereby gives notice the compliant and motion for a temporary restraining order and/or preliminary injunction (with all associated pleadings/exhibits) were hand served by a process server on Fathi Yusuf on September 18, 2012. See Exhibit A.

Dated: September 19, 2012

  
\_\_\_\_\_  
Joel H. Holt, Esq.  
Attorney for Plaintiff  
2132 Company Street  
St. Croix, VI 00820  
(340) 773-8709  
holtvi@aol.com

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

MOHAMMAD HAMED By His Authorized  
Agent WALEED HAMED )

Plaintiff, )

v. )

FATHI YUSUF AND UNITED CORPORATION )

Defendant. )

CIVIL NO. SX-12-CV-

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

DECLARATION OF FELIPE TORRES

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

1. I am an adult resident of St. Croix and am personally knowledgeable about the facts set forth herein.
2. I am an authorized process server for this Court.
3. On September 18, 2012, I served the complaint in this matter on Fathi Yusuf in his individual capacity and in his capacity as the registered agent for United Corporation. The return of service is attached.
4. I also served him with the motion for a temporary restraining order and/or preliminary injunction with the accompanying pleadings and exhibits filed in this case at the same time on September 18, 2012.
5. I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 19, 2012

  
Felipe Torres, Jr.



SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

MOHAMMAD NAMED BY HIS AUTHORIZED AGENT WALCED NAMED

CASE NO: SX-12-CV-370

v.

FATHI YUSUF AND UNITED CORPORATION

ACTION FOR: DAMAGES, INJUNCTIVE AND DECLARATORY RELIEF

TERRITORY OF THE VIRGIN ISLANDS ) DISTRICT OF ST. CROIX ) SS:

I, FELIPE TORRES, JR., being duly sworn according t law upon my oath depose and state:

1. That I am a citizen of the United States and a resident of St. Croix, Virgin Islands and I am a process server duly appointed by the Court of the Virgin Islands.

2. That I received copies of ( X ) summons and complaint, ( ) subpoena, ( ) citation, ( ) letters, ( ) order, ( ) request for admission, ( ) request for production, ( X ) other

TRO

in the above matter and served the same as follows:

RECEIVED: SEPTEMBER 17 2012

SERVED: SEPTEMBER 18 2012

PERSON SERVED: FATHI YUSUF

PLACE SERVED: PLAZA XTRA, UNITED SHOPPING PL

3. That such service was personally made by delivering to and leaving with the person, who was properly identified to be the person mentioned and described in said process or authorized according to law to receive such process true copies of the above-mentioned document(s).

4. That I made diligent search and inquiry in St. Croix for the person to be served but have been unable to find or learn of the whereabouts of the person and thus have been unable to serve process on the said person. Locations endeavors are:

FELIPE TORRES, JR.

SUBSCRIBED AND SWORN to before me this 19 day of September 2012

[Signature]

Notary Public

Name: [Signature]

Notary No:

Commission Expires: [Signature]

Fee:

VIRGIN ISLANDS  
**SUMMONS**

(Civil Action Original)

SUPERIOR COURT OF THE VIRGIN ISLANDS  
12 SEP 17 10 22

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

**MOHAMMAD HAMED By His Authorized  
Agent WALEED HAMED** )

Plaintiff, )

v. )

**FATHI YUSUF AND UNITED CORPORATION** )

Defendant. )

CIVIL NO. SX-12-CV-370

**ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED**

**TO: FATHI YUSUF  
4C & 4D Estate Sion Farm  
Christiansted, St. Croix 00820  
340-778-6240**


Within the time limited by law (see note below) you are hereby required to appear before this Court and answer to a complaint filed against you in this action and in case of your failure to appear or answer, judgment by default will be taken against you as demanded in the Complaint for damages.

Witness my hand and Seal of this Court this 17th day of September, 2012.

**VENETIA VELAZQUEZ  
Clerk of the Court**

By: 

Deputy Clerk

  
\_\_\_\_\_  
**Joel H. Holt  
Attorney for the Plaintiff:  
Joel H. Holt  
2132 Company Street, Suite 2  
Christiansted, VI 00820**

**NOTE:** The defendant, if served personally, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the plaintiff's attorney within twenty (20) days after service of this summons, excluding the date of service. The defendant, if served by publication or by personal service outside of the jurisdiction, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the attorney for the plaintiff within thirty (30) days after the completion of the period of publication or personal service outside of the jurisdiction.

FATHI YUSUF 9-18-12 ALAZA YUSUF UNITED CORPORATION 10122A 4001 SION FARM

SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

MOHAMMAZ HAMED By His  
AUTHORIZED AGENT WALEED HAMED  
v.  
FATHI YUSUF AND UNITED  
CORPORATION

CASE NO: SX-12-CV-370  
ACTION FOR: DAMAGES, INJUNCTIVE AND  
DECLARATORY RELIEF

TERRITORY OF THE VIRGIN ISLANDS )  
DISTRICT OF ST. CROIX ) SS:

I, FELIPE TORRES, JR., being duly sworn according t law upon my oath depose and state:


- 1. That I am a citizen of the United States and a resident of St. Croix, Virgin Islands and I am a process server duly appointed by the Court of the Virgin Islands.
- 2. That I received copies of ( X ) summons and complaint, ( ) subpoena, ( ) citation, ( ) letters, ( ) order, ( ) request for admission, ( ) request for production, ( ) other

RECEIVED: SEPTEMBER 17 2012 In the above matter and served the same as follows:  
SERVED: SEPTEMBER 18 2012

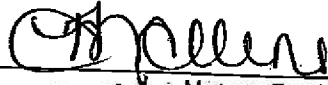
PERSON SERVED: FATHI YUSUF RESIDENT PLACE SERVED: PLAZA XINA, UNITED SHOPPING MALL  
AGENT FOR UNITED CORPORATION

3. That such service was personally made by delivering to and leaving with the person, who was properly identified to be the person mentioned and described in said process or authorized according to law to receive such process true copies of the above-mentioned document(s).

4. That I made dilligent search and inquiry in St. Croix for the person to be served but have been unable to find or learn of the whereabouts of the person and thus have been unable to serve process on the said person. Locations endeavors are: \_\_\_\_\_

  
FELIPE TORRES, JR.

SUBSCRIBED AND SWORN to before me  
this 19 day of September 2012

  
Notary Public  
Name: AMANDA M. ALLEN  
Notary No: \_\_\_\_\_  
Commission Expires: 9.30.14

Fee: \_\_\_\_\_

# SUMMONS

(Civil Action Original)

SUPERIOR COURT OF THE VIRGIN ISLANDS

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

MOHAMMAD HAMED By His Authorized Agent WALEED HAMED )

Plaintiff, )

v. )

FATHI YUSUF AND UNITED CORPORATION )

Defendant. )

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

TO: FATHI YUSUF  
Resident Agent for UNITED CORPORATION  
4C & 4D Estate Sion Farm  
Christiansted, St. Croix 00820  
340-778-6240

Within the time limited by law (see note below) you are hereby required to appear before this Court and answer to a complaint filed against you in this action and in case of your failure to appear or answer, judgment by default will be taken against you as demanded in the Complaint for damages.

Witness my hand and Seal of this Court this 17th day of September, 2012.

VENETIA VELAZQUEZ  
Clerk of the Court

By: [Signature]

Deputy Clerk

[Signature]  
Joel H. Holt  
Attorney for the Plaintiff:  
Joel H. Holt  
2132 Company Street, Suite 2  
Christiansted, VI 00820

NOTE: The defendant, if served personally, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the plaintiff's attorney within twenty (20) days after service of this summons, excluding the date of service. The defendant, if served by publication or by personal service outside of the jurisdiction, is required to file his answer or other defense with the Clerk of this Court, and to serve a copy thereof upon the attorney for the plaintiff within thirty (30) days after the completion of the period of publication or personal service outside of the jurisdiction.

*Small handwritten notes at the bottom of the page.*



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

MOHAMMAD HAMED By His Authorized )  
Agent WALEED HAMED )

Plaintiff, )

v. )

FATHI YUSUF AND UNITED CORPORATION )

Defendant. )

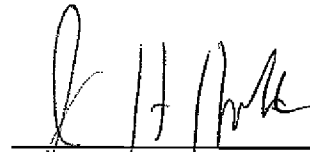
CIVIL NO. SX-12-CV-

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

NOTICE OF FILING PROPOSED ORDER FOR TEMPORARY RESTRAINING  
ORDER AND/OR A PRELIMINARY INJUNCTION

Comes now the plaintiff, Mohammed Hamed ("Hamed"), and hereby gives  
notice o filing a proposed Order for the pending motion for a temporary  
restraining order and/or preliminary injunction. See Exhibit A.

Dated: September 20 , 2012



Joel H. Holt, Esq.  
Attorney for Plaintiff  
2132 Company Street  
St. Croix, VI 00820  
(340) 773-8709  
holtvi@aol.com

# EXHIBIT A

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

<b>MOHAMMAD HAMED By His Authorized</b>	)	
<b>Agent WALEED HAMED</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CIVIL NO. SX-12-CV- 370</b>
<b>v.</b>	)	
	)	
<b>FATHI YUSUF AND UNITED CORPORATION</b>	)	<b>ACTION FOR DAMAGES</b>
	)	<b>INJUNCTIVE AND</b>
	)	<b>DECLARATORY RELIEF</b>
<b>Defendant.</b>	)	<b>JURY TRIAL DEMANDED</b>
	)	

**PRELIMINARY INJUNCTION ORDER**

This matter is before this Court on the Rule 65 motion of the plaintiff for a temporary restraining order, or alternatively for a preliminary injunction, against the defendants to enjoin the defendants as follows:

- 1) Injunctive Relief enjoining the defendants from interfering with Hamed's partnership rights in his partnership with Yusuf in operating the three Plaza Extra supermarkets located on St. Croix and St. Thomas;
- 2) Injunctive Relief enjoining Yusuf from withdrawing any funds from any partnership bank accounts or brokerage accounts without the consent of Hamed and directing both defendants to immediately return the \$2.7 million improperly withdrawn from the bank accounts of the three Plaza supermarket accounts by Yusuf.

As the defendant has received notice of this motion, the request will be treated as a Rule 65 (a) preliminary injunction.

In support of this motion, the plaintiff has submitted the affidavits of Mohammad Hamed and Waleed Hamed setting forth the factual basis for the relief sought. Upon consideration of the matters before the Court, the Rule 65 relief sought is hereby granted as the Court expressly finds as follows:

**Order  
Page 2**

- (1) There is a partnership between the plaintiff and the defendant regarding the three Plaza Extra stores located in the Virgin Islands;
- (2) The plaintiff is likely to prevail at a hearing on the merits regarding his right to fully participate in the operation of these three Plaza Extra stores as well as his right to 50% of the profits that have been or will be generated by these stores;
- (3) That the plaintiff will be irreparably harmed if the requested injunctive relief is not granted, as otherwise the plaintiff will continue to be exposed to the same recurring threats to his rights that have been occurring, as well as the loss of good will and customers, jeopardizing the business he has established for his family as well as jeopardizing the recovery of his share of the profits that the defendant may otherwise remove from the business and the jurisdiction;
- (4) That the entering said injunction will not result in any greater harm to the defendant, who is only being required to comply with the statutory provisions of the V.I. Code regarding the operation of a partnership;
- (5) That the public interest weighs in favor of granting the injunction as it insure the continued operation of these important businesses and the employment of its 600 plus employees.

With these findings in mind, the defendant, Fathi Yusuf and United Corporation, as well as their agents and employees, are hereby enjoined and directed as follows until further notice from this Court:

- 1) The defendants are enjoined from interfering with Mohammad Hamed's partnership rights in being allowed to fully participate in the business

Order  
Page 3

operations of the three Plaza Extra supermarkets located on St. Croix and St. Thomas, either through Hamed's direct actions or those of his agents;

- 2) Fathi Yusuf is enjoined from withdrawing any funds from any bank accounts or brokerage accounts holding partnership profits without the consent of Mohammed Hamed (or his authorized agents)
- 3) Both defendants are hereby directed to immediately return the \$2.7 million withdrawn from the bank accounts of the three Plaza supermarket accounts by Yusuf on or about August 20, 2012.

The plaintiff shall post a bond of \$10,000 as security for said Rule 65 injunction.

Dated:

\_\_\_\_\_  
Judge of the Superior Court

ATTEST: VENETIA VELAZQUEZ  
Clerk of the Court

BY: \_\_\_\_\_  
Deputy Clerk

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

MOHAMMAD HAMED By His Authorized  
Agent WALEED HAMEL  
Plaintiff,

CASE # SX 12-CV-370

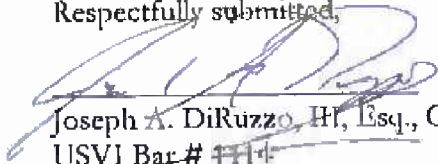
vs.

FATHI YUSUF & UNITED CORPORATION,  
Defendants.

NOTICE OF APPEARANCE

COMES NOW Defendants, FATHI YUSUF & UNITED CORPORATION, hereby give notice that the undersigned has appeared on behalf of FATHI YUSUF & UNITED CORPORATION to represent them in the above-styled case. All orders, notices, pleadings and other papers in the above-captioned matter should be directed to the undersigned counsel.

Respectfully submitted,



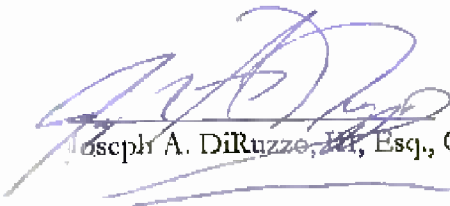
Joseph A. DiRuzzo, III, Esq., CPA  
USVI Bar # 1111  
FUERST ITTLEMAN DAVID & JOSEPH, P.A.  
1001 Brickell Bay Drive, 32<sup>nd</sup> Floor  
Miami, Florida 33131  
305.350.5690 (O)  
305.371.8989 (F)  
[jdiruzzo@fuerstlaw.com](mailto:jdiruzzo@fuerstlaw.com)

Dated Sept. 21, 2012

CERTIFICATE OF SERVICE

I hereby certify a true and accurate copy of the foregoing document was served via USPS to the following: Joel H. Holt, Esq., 2132 Company St., St. Croix, VI 00820, and via email: [holtvi@aol.com](mailto:holtvi@aol.com).

Respectfully submitted,



Joseph A. DiRuzzo, III, Esq., CPA

Dated Sept. 21, 2012

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

MOLIAMMAD HAMED, by his  
authorized agent, WALEED HAMED,

Plaintiff,

v.

FATHI YUSUF and UNITED CORPORATION,

Defendants:

CIVIL NO. SX-12-CV-370

**DEFENDANTS' MOTION TO PROCEED ON PLAINTIFF'S MOTION FOR A  
TEMPORARY RESTRAINING ORDER AND/OR A PRELIMINARY INJUNCTION AS  
A MOTION FOR PRELIMINARY INJUNCTION AND FOR ENLARGEMENT OF  
TIME TO RESPOND TO SAME**

Defendants Fathi Yusuf and United Corporation (collectively, "Defendants"), pursuant to Super. Ct. R. 7, Local Rule 7.1(e)(1) of the Local Rules of Civil Procedure of the District Court of the Virgin Islands, Rule 65 of the Federal Rules of Civil Procedure and otherwise, jointly request that this Court proceed on the Motion for a Temporary Restraining Order and/or a Preliminary Injunction (the "TRO Motion") filed by Plaintiff Mohammad Hamed as a motion for a preliminary injunction and grant Defendants an enlargement of seven days, *through and including October 9, 2012*, within which to respond to the TRO Motion. In support of this motion, Defendants state the following:

1. Plaintiff initiated this action, a commercial dispute, on or about September 17, 2012, the date of the Complaint.
2. Plaintiff also filed a Motion for a Temporary Restraining Order and/or a Preliminary Injunction and an accompanying Memorandum in Support of Motion for a Temporary Restraining Order and/or a Preliminary Injunction, both dated September 18, 2012 (collectively, the "TRO Motion").

CIVIL NO. SX-12-CV-370

3. Defendants were served the Complaint and TRO Motion on September 18, 2012. (Sept. 19, 2012 Notice of Service).

4. On September 20, 2012, Plaintiff filed a Proposed Order for Temporary Restraining Order and/or a Preliminary Injunction (the "Proposed TRO Order"). (Sept. 20, 2012 Notice of Filing).

5. Defendants promptly engaged the undersigned counsel, who entered an appearance in the matter on September 21, 2012. (Sept. 21, 2012 Notice of Appearance).

6. The Complaint, while both legally and factually deficient, is apparently premised on the naked assertion that, "[i]n the mid-1980's, Hamed and Yusef formed a partnership to operate" three commercial supermarket businesses, which are located on properties operated by United Corporation. (Complaint ¶¶ 5-6).

7. Plaintiff alleges that "Yusef has engaged in and continues to engage in numerous acts in breach of his obligations as [an alleged] partner in [the alleged] partnership with Hamed," including an alleged wrongful conversion of \$2.7 million from certain commercial accounts at issue. (Complaint ¶¶ 19-20). This alleged conduct, even if properly plead and proven, does not support injunctive relief.

8. Among other preliminary injunctive relief, Plaintiff requests that "Yusef [be enjoined] from withdrawing any funds from any [alleged] partnership bank accounts or brokerage accounts without the consent of Hamed—a stranger to the corporation—and directing both defendants to immediately return the \$2.7 million [allegedly] improperly withdrawn from the bank accounts of the three Plaza Extra supermarket accounts by Yusef." (TRO Motion at 11; see also Proposed TRO Order at 2-3).



CIVIL NO. SY-12-CV-370

9. Notwithstanding the allegations involving economic harms of, at a minimum, \$2.7 million dollars, Plaintiff incredibly proposes to post a bond of merely "\$10,000 as security" to compensate Defendants if they are incorrectly enjoined. (TRO Motion at 3).<sup>1</sup>

10. Defendants bitterly dispute the allegations in the Complaint, including the existence and scope of the alleged "partnership" that serves as the foundation of Plaintiff's Complaint and TRO Motion.

11. Defendants likewise believe that the Complaint and TRO Motion are legally and factually baseless.

12. As a threshold procedural matter, at issue is whether the Court should proceed on Plaintiff's TRO Motion as request for a temporary restraining order or a preliminary injunction.

13. "An injunction is an 'extraordinary remedy which should be granted only in limited circumstances.'" *Barclays Bus. Credit, Inc. v. Four Winds Plaza P'ship*, 938 F. Supp. 304, 307 (quoting *American Telephone & Tel. Co. v. Winback & Conserve Program, Inc.*, 42 F.3d 1421, 1426-27 (3d Cir., 1994) (citation omitted)).

14. "This proposition is particularly apt in motions for preliminary injunctions, when the motion comes before the facts are developed to a full extent through the normal course of discovery." *Barclays*, 938 F. Supp. at 307 (quoting *American Telephone*, 42 F.3d at 1427).

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<sup>1</sup> See Fed. R. Civ. P. 65(c) ("The court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained."). "An incorrect interlocutory order may harm defendant[s] and a bond provides a fund to use to compensate incorrectly enjoined defendants. Such protection is important in the preliminary injunction context, for because of attenuated procedure, an interlocutory order has a higher than usual chance of being wrong." *Hazenorth v. Blinder, Robinson & Co.*, 903 F.2d 186, 210 (3d Cir. 1990) (internal quotation and citation omitted).

CIVIL NO: SX-12-CV-370

15. Rule 65 of the Federal Rules of Civil Procedure governs preliminary injunctions and temporary restraining orders. See Fed. R. Civ. P. 65(a) (preliminary injunctions) and 65(b) (temporary restraining orders).

16. The primary difference is that a temporary restraining order may be issued "without written or oral notice to the adverse party or its attorney" and without affording the adverse party an opportunity to "be heard in opposition." Fed. R. Civ. P. 65(b)(1) (setting forth the requirements for the issuance of a temporary restraining order).

17. In the present action, although Plaintiff seeks "a temporary restraining order, pursuant to Rule 65(b), or a preliminary injunction, pursuant to Rule 65(a)," Plaintiff concedes that the matter should appropriately "just proceed as a preliminary injunction" under Rule 65(a). (TRO Motion at 1; see also Proposed TRO Order at 1).

18. Indeed, even assuming Plaintiff could satisfy the requirements for a temporary restraining order under Rule 65(b), which he cannot do, a temporary restraining order would be improper as Plaintiff has failed to "certify[] in writing . . . the reasons why [notice to Defendants] should not be required" prior to the issuance of any such relief or why Defendants should not "be heard in opposition" prior to any ruling in the matter. See Fed. R. Civ. P. 65(b)(1).

19. As a separate procedural matter, pursuant to Local Rule 7.1(e)(1) of the Local Rules of Civil Procedure of the District Court of the Virgin Islands, Defendants' response to the TRO Motion, assuming the Court proceeds on the motion as a motion for a preliminary injunction, is currently due on October 2, 2012. LRC 7.1(e)(1).

20. Defendants' counsel, as noted above, appeared in the matter on September 21, 2012, three days after service of process.

CIVIL NO. SX-12-CV-370

21. Defendants thus respectfully request an enlargement of one (1) week, through and including October 9, 2012, within which to prepare and finalize their joint response to the TRO Motion.

22. The enlargement of time is requested simply to afford Defendants, including United Corporation, which, as alleged, "currently employ[s] in excess of 600 employees" in the businesses at issue (Complaint ¶ 6), sufficient time to consult with their counsel, key corporate personnel, and witnesses, and to fully investigate Plaintiff's legal and factual claims.

23. The relief requested in this motion is made in good faith and not for any dilatory tactic.

24. Moreover, because "[a]n injunction is an 'extraordinary remedy which should be granted only in limited circumstances,'" *Bantley*, 938 F. Supp. at 307, and because "an interlocutory order has a higher than usual chance of being wrong," *Hoxworth*, 903 F.2d at 210, no party will be unduly prejudiced or harmed by the grant of this motion.

25. Undersigned counsel conferred on this motion with Plaintiff's counsel, who expressed no position as to proceeding on the TRO Motion as a preliminary injunction and who indicated that Plaintiff opposed the requested enlargement.

WHEREFORE, Defendants Fathi Yusuf and United Corporation respectfully request that this Court proceed on Plaintiff's Motion for a Temporary Restraining Order and/or a Preliminary Injunction as a motion for a preliminary injunction, and thereby afford Defendants an opportunity to be heard in opposition, and grant Defendants an enlargement through and including October 9, 2012, within which to file their joint response to the TRO Motion.

A proposed such Order is attached hereto.

//

CIVIL NO. SX-12-CV-370

Respectfully Submitted,

Dated Sept. 28, 2012

By:

  
Joseph A. DiRuzzo, III

USVI Bar #1114

FUERST ITTLEMAN DAVID & JOSEPH, P.L.C.

1001 Brickell Bay Drive, 32<sup>nd</sup> Floor

Miami, Florida 33131

305.350.5692 (O)

305.371.8989 (F)

[jdiruzzo@fuerstlaw.com](mailto:jdiruzzo@fuerstlaw.com)

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that, on September 28, 2012, a true and accurate copy of the foregoing document was served via USPS and email to the following: Joel H. Holt, Esq., 2132 Company St., St. Croix, VI 00820, holrvi@aol.com.

By:

  
Joseph A. DiRuzzo, III

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

MOHAMMAD HAMED, by his  
authorized agent, WALEED HAMED,  
  
Plaintiff,  
  
v.  
  
FATHI YUSUF and UNITED CORPORATION,  
  
Defendants.

---

CIVIL NO. SX-12-CV-370

**ORDER GRANTING DEFENDANTS' MOTION TO PROCEED ON PLAINTIFF'S  
MOTION FOR A TEMPORARY RESTRAINING ORDER AND/OR A PRELIMINARY  
INJUNCTION AS A MOTION FOR PRELIMINARY INJUNCTION AND FOR  
ENLARGEMENT OF TIME TO RESPOND TO SAME**

AND NOW, this matter is before the Court on Defendants' Motion to Proceed on Plaintiff's Motion for a Temporary Restraining Order and/or a Preliminary Injunction as a Motion for Preliminary Injunction and for Enlargement of Time to Respond to Same. Upon consideration of Defendants' Motion, and being otherwise fully advised in the premises, it is hereby,

**ORDERED AND ADJUDGED** that:

1. Plaintiff's Motion for a Temporary Restraining Order and/or a Preliminary Injunction shall proceed as a motion for a preliminary injunction.
2. Defendants shall file their response to Plaintiff's Motion for a Temporary Restraining Order and/or a Preliminary Injunction by October 9, 2012.

CIVIL NO. SX-12-CV-370

DONE AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Judge of the Superior Court

ATTEST: VENETIA VELAZQUEZ  
Clerk of the Court

By: \_\_\_\_\_  
Deputy Clerk

cc: Joel Holt, Esq.  
Joseph A. DiRuzzo, III, Esq.

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

MOHAMMAD HAMED By His Authorized )  
Agent WALEED HAMED )

Plaintiff, )

v. )

FATHI YUSUF AND UNITED CORPORATION )

Defendant. )

CIVIL NO. SX-12-CV- 370

ACTION FOR DAMAGES  
INJUNCTIVE AND  
DECLARATORY RELIEF  
JURY TRIAL DEMANDED

PLAINTIFF'S REPLY TO  
DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME

The plaintiff hereby opposes the motion for the enlargement of time to respond to the request for a temporary restraining order. The bulk of the request deals with procedural matters unrelated to the extension request, so only that point will be addressed by the plaintiff.

When the defendant requested additional time to respond to the motion, counsel for the plaintiff noted that his client would not agree to the extension request unless the \$2.7 million improperly removed from the partnership's bank account was returned. The defendant denied this request. See Group Exhibit A. As such, the same issues warranting the issuance of a temporary restraining order exist, so that the request for an extension should be denied with this matter be promptly set for a TRO hearing.

If the defendant shows up at the TRO hearing, then the Court can decide at that time whether to convert it into a preliminary injunction hearing.

Reply to Defendant's Motion for Enlargement of Time  
Page 2

Dated: October 2, 2012



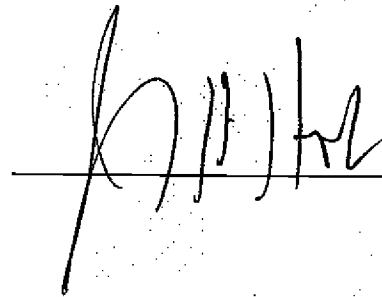
---

Joel H. Holt, Esq.  
Attorney for Plaintiff  
2132 Company Street  
St. Croix, VI 00820  
(340) 773-8709  
holtvi@aol.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 2<sup>nd</sup> day of October, I caused a true and exact copy of the foregoing to be served by mail and email to:

Joseph A. DiRuzzo, III  
Fuerst Ittleman David & Joseph, PL  
1001 Brickell Bay Drive, 32<sup>nd</sup> Fl.  
Miami, FL 33131  
[jdiruzzo@fuerstlaw.com](mailto:jdiruzzo@fuerstlaw.com)



---



Subj: **Hamed v. Yusuf and United**  
Date: 9/27/2012 7:52:00 P.M. Atlantic Standard Time  
From: [JDiRuzzo@fuerstlaw.com](mailto:JDiRuzzo@fuerstlaw.com)  
To: [Holtvi@aol.com](mailto:Holtvi@aol.com)  
CC: [FMassabki@fuerstlaw.com](mailto:FMassabki@fuerstlaw.com), [JaCorrea@fuerstlaw.com](mailto:JaCorrea@fuerstlaw.com)  
Joel,

I would like a one week extension from Oct 2<sup>nd</sup> to Oct 9<sup>th</sup> to file our response in opposition to the motion for a TRO. Also we are going to move to proceed on the motion for a TRO as a motion for preliminary injunction (because we obviously have notice). Please advise if you consent.

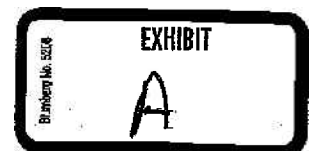
Also, going forward please cc both Frank and Jannese on all email correspondence.

Regards,

Joseph A. DiRuzzo, III, Esq., CPA  
FUERST ITTLEMAN DAVID & JOSEPH, PL  
1001 Brickell Bay Drive  
32nd Floor  
Miami, FL 33131  
305.350.5690 (o)  
305.371.8989 (f)  
[jdiruzzo@fuerstlaw.com](mailto:jdiruzzo@fuerstlaw.com)  
[www.fuerstlaw.com](http://www.fuerstlaw.com)

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Subj: **Re: Hamed v. Yusuf and United**  
Date: 9/28/2012 3:32:16 P.M. Atlantic Standard Time  
From: [Holtvi@aol.com](mailto:Holtvi@aol.com)  
To: [JDiRuzzo@fuerstlaw.com](mailto:JDiRuzzo@fuerstlaw.com)  
BCC: [wallyhstx@yahoo.com](mailto:wallyhstx@yahoo.com)

I have spoken with my clients about this and unless Mr. Yusuf is willing to return the \$2.7 million he removed from the Plaza accounts, they will not authorize anything that keeps this matter from proceeding as quickly as possible. I trust you understand.

Joel H. Holt  
2132 Company Street  
Christiansted, St. Croix  
Virgin Islands 00820

340-773-8709

In a message dated 9/27/2012 7:52:00 P.M. Atlantic Standard Time, [JDiRuzzo@fuerstlaw.com](mailto:JDiRuzzo@fuerstlaw.com) writes:

Joel,

I would like a one week extension from Oct 2<sup>nd</sup> to Oct 9<sup>th</sup> to file our response in opposition to the motion for a TRO. Also we are going to move to proceed on the motion for a TRO as a motion for preliminary injunction (because we obviously have notice). Please advise if you consent.

Also, going forward please cc both Frank and Jannese on all email correspondence.

Regards,

Joseph A. DiRuzzo, III, Esq., CPA  
FUERST ITTLEMAN DAVID & JOSEPH, PL  
1001 Brickell Bay Drive  
32nd Floor  
Miami, FL 33131  
305.350.5690 (o)  
305.371.8989 (f)  
[jdiruzzo@fuerstlaw.com](mailto:jdiruzzo@fuerstlaw.com)  
[www.fuerstlaw.com](http://www.fuerstlaw.com)

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Subj: RE: Hamed v. Yusuf and United  
Date: 9/28/2012 3:36:39 P.M. Atlantic Standard Time  
From: [JDiRuzzo@fuerstlaw.com](mailto:JDiRuzzo@fuerstlaw.com)  
To: [Holtvi@aol.com](mailto:Holtvi@aol.com)  
CC: [FMassabki@fuerstlaw.com](mailto:FMassabki@fuerstlaw.com), [JaCorrea@fuerstlaw.com](mailto:JaCorrea@fuerstlaw.com)  
Yes, I understand.

Joseph A. DiRuzzo, III, Esq., CPA  
FUERST ITTLEMAN DAVID & JOSEPH, PL  
1001 Brickell Bay Drive  
32nd Floor  
Miami, FL 33131  
305.350.5690 (o)  
305.371.8989 (f)  
[jdiruzzo@fuerstlaw.com](mailto:jdiruzzo@fuerstlaw.com)  
[www.fuerstlaw.com](http://www.fuerstlaw.com)

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TAX ADVICE DISCLOSURE and NOTICE OF CONFIDENTIALITY: Pursuant to Internal Revenue Service Circular 230, we are required to advise you that if there is any tax advice contained in this email, it was neither written nor intended by the sender or this firm to be used, and cannot be used, by the addressee, recipient, or any taxpayer, for the purpose of avoiding penalties that may be imposed by or under United States law, including but not limited to the Internal Revenue Code. Moreover, if any person intends to use or refers to any such tax advice in promoting, marketing or recommending a partnership or other entity, investment plan or arrangement, the regulations under Circular 230 require that we advise you as follows: (1) This writing is not intended or written to be used, and cannot be used, for the purpose of avoiding tax penalties that may be imposed on a taxpayer; (2) The taxpayer should seek other or additional advice based on the taxpayer's particular circumstances from an independent tax advisor.

---

**From:** [Holtvi@aol.com](mailto:Holtvi@aol.com) [<mailto:Holtvi@aol.com>]  
**Sent:** Friday, September 28, 2012 3:34 PM  
**To:** Joseph DiRuzzo  
**Cc:** Frank Massabki; Jannese Correa  
**Subject:** Re: Hamed v. Yusuf and United

Sorry-meant to send this to all three of you as requested-Original message: I have spoken with my clients about this and unless Mr. Yusuf is willing to return the \$2.7 million he removed from the Plaza accounts, they will not authorize anything that keeps this matter from proceeding as quickly as possible. I trust you understand.

Joel H. Holt  
2132 Company Street  
Christiansted, St. Croix  
Virgin Islands 00820

340-773-8709

Tuesday, October 02, 2012 AOL: Holtvi

Case  
Hamed v. Yusuf, et  
al.

Exhibit  
A

**IN THE DISTRICT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

UNITED STATES OF AMERICA, and  
GOVERNMENT OF THE VIRGIN ISLANDS,  
Plaintiffs,

vs.

FATHI YUSUF MOHAMAD YUSUF,  
aka Fathi Yusuf  
WALEED MOHAMMAD HAMED,  
aka Wally Hamed  
WAHEED MOHAMMAD HAMED,  
aka Willie Hamed  
MAHER FATHI YUSUF,  
aka Mike Yusuf  
NEJEH FATHI YUSUF  
ISAM YUSUF, and  
UNITED CORPORATION,  
dba Plaza Extra,  
Defendants.

CRIMINAL NO. 2005-15F/B

RECEIVED  
2010 FEB 26 PM 4:00  
DISTRICT OF THE  
VIRGIN ISLANDS  
ST. THOMAS, VI.

PLEA AGREEMENT

I.

INTRODUCTION

This agreement is entered into by and between defendant United Corporation, d/b/a Plaza Extra (hereinafter "United"), Thomas Alkon, Esquire, and Warren B. Cole, Esquire, Attorneys for United; Fathi Yusuf Mohamad Yusuf, Waleed Mohammad Hamed, Waheed Mohammad Hamed, Maher Fathi Yusuf, NejeH Fathi Yusuf, and the Department of Justice, Tax Division, and the United States Attorney for the District of the Virgin Islands (collectively referred to as the "Government").

The parties agree to the following terms:

A. United will plead guilty to Count Sixty of the Third Superseding Indictment, which charges willfully making and subscribing a 2001 U.S. Corporation Income Tax Return (Form 1120S), in violation of Title 33, Virgin Islands Code, Section 1525(2).

B. At the time that United enters its plea to the above-referenced count, the Government will dismiss all counts of the Indictment with prejudice against FATHI YUSUF MOHAMAD YUSUF, aka Fathi Yusuf, WALEED MOHAMMAD HAMED, aka Wally Hamed, WAHEED MOHAMMED HAMED, aka Willie Hamed, MAHER FATHI YUSUF, aka Mike Yusuf, ISAM MOHAMAD YOUSUF, aka Sam Yousuf, and NEJEH FATHI YUSUF (all collectively referred to as "individual defendants"), including the temporary restraining order and forfeiture allegations. The Government agrees not to file any additional criminal charges against United or any of the individual defendants for conduct arising out of the facts alleged in the Indictment. In accordance with paragraph VI. below, the Department of Justice of the Virgin Islands also agrees that it will file no criminal charges against United or any of the individual defendants for any conduct arising out of the facts alleged in the Indictment.

The Government agrees to dismiss with prejudice all remaining counts of the Indictment against United, including the temporary restraining order and forfeiture allegations, at the time of sentencing.

II.

NATURE OF THE OFFENSE

United agrees to plead guilty to Count Sixty of the Indictment, which charges a violation of Title 33, Virgin Islands Code, Section 1525(2). United acknowledges that the offense to which it is pleading has the following elements:

A. Elements

1. United aided, assisted, procured, counseled, advised, or caused the preparation and presentation of a return;
  2. The return was fraudulent or false as to a material matter;
- and
3. United acted willfully.

B. Elements Understood and Admitted.

United, through a representative empowered to accept this plea by virtue of a duly enacted resolution of its Board of Directors, has fully discussed the facts of this case with defense counsel. United committed each of the elements of the crime charged in Count Sixty of the Indictment and admits that there is a factual basis for a plea of guilty to the charge.

C. Factual Basis.

The parties agree that the following facts are true and undisputed:

On or about September 18, 2002, United willfully aided, assisted, procured, counseled, advised, or caused the preparation and presentation of a materially false corporate income tax return on Form 1120S for the year 2001 and filed such return with the Virgin Islands Bureau of Internal Revenue (VIBIR).

Specifically, United reported gross receipts or sales on line 1c as \$69,579,412, knowing that the true amount was approximately \$79,305,980.

III.

PENALTIES

A. United acknowledges that the maximum penalties for violation of Count Sixty are the following:

1. A maximum fine of \$5,000;
2. The Government may seek costs of prosecution, including but not limited to 1) costs incurred to produce discovery in the investigation and prosecution of this matter; 2) costs incurred by the United States Marshal's Service to monitor the operations of Defendant United pursuant to the Temporary Restraining Order, currently estimated at approximately \$1.5 million; and 3) costs related to witness appearance and travel fees in the investigation and prosecution of this matter. United reserves the right to object to the imposition of the aforementioned costs and to contest the amounts claimed by the Government.

3. Restitution in an amount that represents any and all unpaid gross receipts taxes, corporate income taxes, and individual income taxes owing to the VIBIR for the Indictment years 1996, 1997, 1998, 1999, 2000, and 2001. Said restitution is to be determined by the Court in accordance with the figures and ranges set forth in Exhibit 1, accepting as proven those figures stipulated by the parties. For those numbers still in dispute, the Court will determine the appropriate amount within the ranges proposed by the parties in Exhibit 1, following briefing, evidentiary presentation, and argument. In making its

determination, the Court may consider all relevant and material evidence presented by the parties without regard to the Federal Rules of Evidence, so long as such evidence is disclosed in advance to the opposing party. Prior to submitting restitution amounts for the Court's consideration in preparation for sentencing, the parties agree to negotiate in good-faith to arrive at a mutually acceptable amount.

4. A term of probation of one year, with conditions as set forth in paragraph VIII.E. United understands that failure to comply with any of the conditions of probation may result in the imposition of further penalties.

B. In addition to the statutory penalties for violation of Title 33, Virgin Islands Code, Section 1525(2), United shall pay a substantial monetary penalty within the range set forth in paragraph VIII.B., as determined by the Court following briefing and argument by the parties.

#### IV.

#### WAIVER OF TRIAL RIGHTS

United understands that this guilty plea waives all of the following rights:

- A. To plead not guilty and to require the Government to prove the elements of the crimes beyond a reasonable doubt;
- B. To a speedy and public trial by jury;
- C. To assistance of counsel at all stages of trial;
- D. To confront and cross-examine witnesses against United; and
- E. To present evidence and to have witnesses testify on United's behalf.



V.

UNITED'S REPRESENTATION THAT GUILTY PLEA IS KNOWING  
AND VOLUNTARY

United represents that:

- A. United has had a full opportunity to discuss all the facts and circumstances of this case with its counsel and has a clear understanding of the charges and the consequences of pleading guilty;
- B. No one has made any promises or offered any rewards in return for United's guilty plea, other than those contained in this Plea Agreement, in Exhibit 2, which contains the letter of understanding dated February 12, 2010 (this plea agreement controls in the event of any conflicts), or otherwise disclosed to the Court;
- C. No one has threatened United to induce this guilty plea; and
- D. United is pleading guilty because in truth and in fact United *is* guilty and for no other reason.

VI.

AGREEMENT LIMITED TO UNITED STATES ATTORNEY'S OFFICE FOR THE  
DISTRICT OF THE VIRGIN ISLANDS AND TAX DIVISION

This Plea Agreement is between United Corporation, the Individual Defendants, and the Government. This Agreement is not intended to bind any other federal, state, or local prosecuting, administrative, or regulatory authorities except to the extent specifically expressed herein. The Government will bring this Plea Agreement to the attention of other authorities if requested by United.

VII.

**PLEA AGREEMENT SUBJECT TO COURT APPROVAL**

Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the parties acknowledge and agree that United should be ordered to pay the fine, restitution, and monetary penalties contained within this Plea Agreement and should be sentenced to a term of probation of one year.

If the Court does not adopt the agreement of the parties pursuant to Rule 11(c)(1)(C), both United and the Government reserve the right to withdraw from this Plea Agreement.

VIII.

**PARTIES' SENTENCING RECOMMENDATIONS**

A. **Fine.** The parties agree that the maximum statutory fine of \$5,000 should be imposed.

B. **Monetary Penalty:** The parties propose that the monetary penalty to be imposed pursuant to paragraph III.B. above be imposed in an amount between \$250,000 to \$5,715,748.

C. **Costs of Prosecution:** The Government proposes that costs of prosecution be imposed as discussed above in paragraph III.A.2. United contests said number and the categories of costs to be awarded.

D. **Restitution.** The parties propose the restitution amounts and ranges as set forth in Exhibit 1, as referenced in paragraph III.A.3. above.

E. **Terms of Probation**

1. United agrees to a term of probation of one year and agrees to be monitored by an independent third party certified public accounting firm to

assure its compliance with the tax laws of the VIBIR. United agrees to cooperate with the independent third party in carrying out such party's obligations under this agreement. The selection of a certified public accounting firm as the independent third party will be expressly approved by the Government prior to the beginning of the term of probation. If the parties cannot reach agreement on a third party, the independent third party will be selected by the Court.

2. The independent third party shall make quarterly reports to the Government, the Court, and United of United's financial condition, results of business operations, tax filings, tax payments, and accounting for the disposition of all funds received.

3. United shall submit to:

(a) a reasonable number of regular or unannounced examinations of its books and records at appropriate business premises by the independent third party; and

(b) a periodic review of financial statements and tax returns of United.

4. United shall be required to notify the court or independent third party immediately upon learning of (a) any material adverse change in its business or financial condition or prospects, or (b) the commencement of any bankruptcy proceeding, major civil litigation, criminal prosecution, or administrative proceeding against United, or any investigation or formal inquiry by governmental authorities regarding United's financial operations.

5. United shall make periodic payments, as specified by the Court, in the following priority: (a) restitution; (b) fine; and (c) substantial monetary penalty. After sentencing, the Government agrees to release all liens, restraining orders, liens, or other encumbrances on property except to the extent necessary to assure valid security for the payments of all amounts referenced above. United shall develop and submit to the Court an effective compliance and ethics program consistent with §8B2.1 (Effective Compliance and Ethics Program) of the United States Sentencing Guidelines. United shall include in its submission a schedule for implementation of the compliance and ethics program.

6. Upon approval by the Court of the ethics program referred to above, United shall notify its owners, shareholders, directors, officers, and employees of its criminal behavior and its programs referred to above. Such notice shall be in a form prescribed by the Court.

7. United shall make periodic reports to the Government and to the Court at intervals and in a form specified by the Court, regarding the organization's progress in implementing the ethics program referred to above. Among other things, such reports shall disclose any criminal prosecution, civil litigation, or administrative proceeding commenced against United, or any investigation or formal inquiry by governmental authorities concerning United's financial operations of which United learned since its last report.

IX.

**UNITED WAIVES APPEAL AND COLLATERAL ATTACK**

In exchange for the Government's concessions in this Plea Agreement, United waives, to the full extent of the law, any right to appeal or collaterally attack the conviction and sentence, including any restitution order, except in the following circumstances: (i) the sentence exceeded the maximum statutory penalty; or (ii) the sentence violated the Eighth Amendment to the United States Constitution.

X.

**FURTHER CRIMES OR BREACH OF THE AGREEMENT WILL PERMIT THE GOVERNMENT TO RECOMMEND A HIGHER SENTENCE OR TO SET ASIDE THE PLEA**

This Plea Agreement is based on the understanding that United will commit no additional criminal conduct before sentencing. If United engages in additional criminal conduct between the time of execution of this agreement and the time of sentencing, or breaches any of the terms of any agreement with the Government, the Government will not be bound by the recommendations in this Plea Agreement and may recommend any lawful sentence.

XI.

**COOPERATION WITH INTERNAL REVENUE SERVICE AND VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE**

During the pendency of this matter, United, its shareholders, the individual defendants in this case, and certain related entities and individuals identified in various pleadings or motions in this case, upon the specific advice of their counsel in this matter, did not file tax returns and certain other reporting

documents to the United States or the United States Virgin Islands (USVI) on Fifth Amendment grounds. During the pendency of this matter, those same individuals and entities endeavored to work cooperatively with the U.S. Marshals Service and the USVI governments to pay over as deposits their best estimate of taxes owed on those returns.

Prior to sentencing, United agrees to cooperate with the Government and the VIBIR in filing complete and accurate corporate income tax returns and gross receipts returns for years 2002, 2003, 2004, 2005, 2006, 2007, and 2008 and in paying in full the amounts due thereupon. United agrees to comply with all current tax reporting and payment obligations between the execution of this agreement and sentencing. In addition, prior to the sentencing hearing in this matter, United's shareholders (FY 32.5%, FY 32.5%, SY 7%, ZY 7%, YY 7%, MY 7%, NY 7%), and the individual defendants shall file the outstanding returns and reporting documents and shall make full payments of the amounts due thereupon. United acknowledges that a special condition of probation will require that all corporate returns be filed, and all amounts due and owing under this agreement and all taxes due and owing for tax years 2002 through 2008 must be paid prior to the termination of the period of probation.

The Government agrees that no foreign bank account-related charges or discretionary penalties shall be applied with respect to United or any of the individual defendants so long as such reporting and regulatory compliance is made for each of the years 1996 through 2008 prior to sentencing.

XII.

**ENTIRE AGREEMENT**

The Plea Agreement and Exhibit 2 embody the entire agreement between the parties.

Upon the acceptance of the plea of guilty to Count Sixty by United in accordance with this agreement, the Government agrees to promptly move the Court for an Order dismissing the restraining orders against the individual defendants, except to the extent necessary to assure valid security for the payments of all amounts referenced in paragraph VIII., and shall move for entry of an order removing of record all notices of lis pendens or other encumbrances filed in connection with this case against all properties owned in whole or in part by any persons other than United. The parties agree to meet and confer to determine a schedule to remove pending lis pendens, liens, and other restrictions.

XIII.

**MODIFICATION OF AGREEMENT MUST BE IN WRITING**

No modification of the Plea Agreement shall be effective unless in writing signed by the Government, United, the individual defendants, and United's shareholders.

XIV.

**UNITED AND COUNSEL FULLY UNDERSTAND AGREEMENT**

By signing this Plea Agreement, United's representative certifies that he or she has been given lawful authority to enter into this Plea Agreement. United further certifies that its counsel has discussed the terms of this Plea Agreement

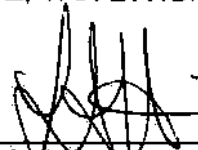
with appropriate officer and directors of United and that United fully understands its meanings and effect.

The Government agrees to the terms set forth in this Plea Agreement.

RONALD SHARPE  
UNITED STATES ATTORNEY


JOHN A. DICICCO  
ACTING ASSISTANT ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE, TAX DIVISION

Dated: 2/26/10

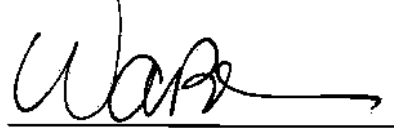
  
\_\_\_\_\_  
Mark F. Daly  
Lori A. Hendrickson  
Kevin C. Lombardi  
Trial Attorneys

The defendant United Corporation agrees to the terms set forth in this Plea Agreement.


Dated: 2, 26/10

  
\_\_\_\_\_  
Thomas Alkon, Esq.  
Attorney for Defendant United Corporation

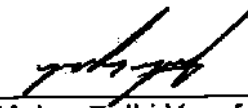
Dated: 2/26/10

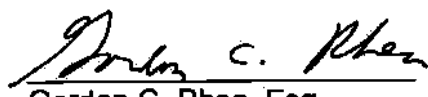
  
\_\_\_\_\_  
Warren B. Cole, Esq.  
Attorney for Defendant United Corporation


Dated: 2/26/10


  
\_\_\_\_\_  
Warren B. Cole, Esq.  
Attorney for Defendant's unindicted shareholders

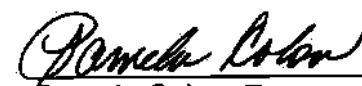


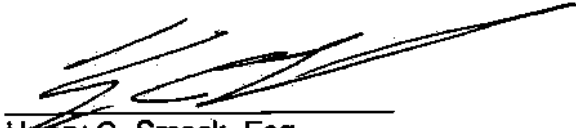
Dated: 2-26-10   
Maher Fathi Yusuf  
President, Defendant United Corporation

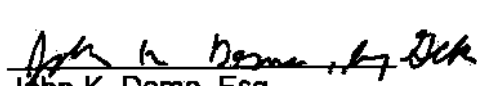
Dated: 2/26/10   
Gordon C. Rhea, Esq.  
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10   
Randall P. Andreozzi, Esq.  
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10   
Derek M. Hodge, Esq.  
Attorney for Defendant Nejeah Fathi Yusuf

Dated: 2/26/10   
Pamela Colon, Esq.  
Attorney for Defendant Waheed Mohammed Hamed

Dated: 2/26/10   
Henry C. Smock, Esq.  
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: 2/26/10   
John K. Dema, Esq.  
Attorney for Defendant Maher Fathi Yusuf

**EXHIBIT I - RESTITUTION NUMBERS FOR TAX LOSS**

<b>Description</b>	<b>Government</b>	<b>Defendant</b>
Gross Receipts Tax 1996	\$324,149.55	\$0.00
Gross Receipts Tax 1997	\$234,506.94	\$0.00
Gross Receipts Tax 1998	\$619,496.89	\$272,251.00
Gross Receipts Tax 1999	\$558,830.86	\$603,633.00
Gross Receipts Tax 2000	\$642,057.28	\$642,057.00
Gross Receipts Tax 2001	\$478,832.33	\$386,081.00
<b>TOTAL GROSS RECEIPTS TAXES</b>	<b>\$2,857,873.85</b>	<b>\$1,904,022.00</b>
Corporate Income Tax - 1996	\$2,214,307.41	\$0.00
Corporate Income Tax - 1997	\$2,360,868.66	\$427,011.00
Corporate Income Tax - 1998	\$3,993,535.34	\$488,323.00
<b>TOTAL CORPORATE INCOME TAX</b>	<b>\$8,568,711.41</b>	<b>\$915,334.00</b>
Individual Income Tax - 1999 - FY 32.5%	\$1,046,359.70	\$0.00
Individual Income Tax - 1999 - FY 32.5%	\$1,046,359.70	\$0.00
Individual Income Tax - 1999 - SY 7%	\$225,369.78	\$0.00
Individual Income Tax - 1999 - ZY 7%	\$225,369.78	\$0.00
Individual Income Tax - 1999 - YY 7%	\$225,369.78	\$0.00
Individual Income Tax - 1999 - MY 7%	\$225,369.78	\$0.00
Individual Income Tax - 1999 - NY 7%	\$225,369.78	\$0.00
<b>TOTAL INDIVIDUAL INCOME TAX - 1999</b>	<b>\$3,219,568.31</b>	<b>\$0.00</b>
Individual Income Tax - 2000 - FY 32.5%	\$1,458,473.19	\$0.00
Individual Income Tax - 2000 - FY 32.5%	\$1,458,473.19	\$0.00
Individual Income Tax - 2000 - SY 7%	\$314,132.69	\$0.00
Individual Income Tax - 2000 - ZY 7%	\$314,132.69	\$0.00
Individual Income Tax - 2000 - YY 7%	\$314,132.69	\$0.00
Individual Income Tax - 2000 - MY 7%	\$314,132.69	\$0.00
Individual Income Tax - 2000 - NY 7%	\$314,132.69	\$0.00
<b>TOTAL INDIVIDUAL INCOME TAX - 2000</b>	<b>\$4,487,609.81</b>	<b>\$0.00</b>
Individual Income Tax - 2001 - FY 32.5%	\$1,545,993.69	\$0.00
Individual Income Tax - 2001 - FY 32.5%	\$1,545,993.69	\$0.00

Individual Income Tax - 2001 - SY 7%	\$332,983.26	\$0.00
Individual Income Tax - 2001 - ZY 7%	\$332,983.26	\$0.00
Individual Income Tax - 2001 - YY 7%	\$332,983.26	\$0.00
Individual Income Tax - 2001 - MY 7%	\$332,983.26	\$0.00
Individual Income Tax - 2001 - NY 7%	\$332,983.26	\$0.00
<b>TOTAL INDIVIDUAL INCOME TAX - 2001</b>	<b>\$4,756,903.67</b>	<b>\$0.00</b>
<b>TOTAL ALL TAXES</b>	<b>\$23,890,667.04</b>	<b>\$2,819,356.00</b>

Exh: 617 2

February 12, 2010

Lori A. Hendrickson, Esq.  
US DOJ/Tax Division/N.Criminal Section  
601 D. Street NW, Room 7814  
Washington, DC 20004-2904

**Re: United States v. Fathi Yusuf, Crim. No. 05-0015**

Dear Ms. Hendrickson:

We write to memorialize the process and parameters that will culminate in a formal plea agreement in this case. The parties have agreed to the following terms:

- Defendant United Corporation (d.b.a. Plaza Extra) agrees to plead guilty to Count Sixty, filing a false 2001 Form 1120S, in violation of Title 33, Virgin Islands Code, Section 1525(2);
- The government agrees to dismiss the pending charges against the individual defendants immediately after defendant United Corporation's guilty plea has been entered in court by an authorized representative of defendant United Corporation, according to the terms of a signed plea agreement. The Government agrees not to prosecute United Corporation or any other individual or entity for any other crimes arising out of the conduct alleged in the Third Superseding Indictment;
- The government agrees to dismiss the remaining pending charges against United at the sentencing hearing;
- The parties agree to meet with each other and with representatives of the Virgin Islands Bureau of Internal Revenue (VIBIR) to try to reach agreement for restitution numbers for unpaid gross receipts taxes, corporate income taxes, and individual income taxes for the Indictment years 1996, 1997, 1998, 1999, 2000, and 2001. The numbers for which the parties are able to agree will be set forth in the plea agreement;
- If the parties are unable to reach agreement on any of the tax loss numbers for the Indictment years, they will set forth their own tax loss numbers for each year and for each particular tax, in a format identical to the attached chart. The parties agree that the final determination of the restitution amount for the unpaid gross receipts taxes, corporate income taxes, and individual income taxes for the Indictment years 1996, 1997, 1998, 1999, 2000, and 2001, will be made by Judge Finch after the

Letter of Agreement

February 12, 2010

Page 2 of 5

parties submit sentencing memoranda and present testimonial and documentary evidence at a hearing. The parties agree that Judge Finch will determine a liability based on the range of numbers asserted by the parties in the plea agreement.

- The determination of Judge Finch of the restitution by United Corporation shall be conclusive of all taxes due and owing to the Government of the Virgin Islands for years 1996, 1997, 1998, 1999, 2000, and 2001 with respect to all taxes of the shareholders of United Corporation, both indicted and non-indicted, and employees of United, including Waheed Hamed and Waleed Hamed, due on or for or on account of income earned by United Corporation during said years and upon payment all such tax liabilities shall be deemed satisfied in full.
- Defendant United Corporation agrees to a term of probation of one year, and agrees to be monitored by an independent third party certified public accounting firm during the term of probation to assure its compliance with the tax laws of the VIBIR. The selection of the independent third party will be expressly approved by the government prior to the beginning of the term of probation. If the parties cannot reach agreement on a third party, the independent third party will be selected by the Court;
- The government agrees not to prosecute United Corporation or individual defendants, or assert any civil or criminal accuracy related or reporting penalties, in years 2002, 2003, 2004, 2005, 2006, 2007, and 2008, provided that the individual defendants tender documentary proof that they have filed tax returns and paid tax due as set forth on those returns and as reviewed and accepted by the VIBIR;
- United, its shareholders, and the individual defendants referenced in the Indictment agree to cooperate with VIBIR to file full and complete tax returns for all post indictment years through present and to make full payment on any amounts due thereon. The Government agrees that no interest, penalties, or time and interest sensitive penalties should be imposed on the post-indictment returns so long as said returns are filed in accordance with this agreement. To the extent tax deposits already submitted exceed the amount owed on the post indictment returns as filed, such deposits should be reallocated to other tax periods or refunded to the particular tax payer. The VIBIR reserves the right to review the returns to be filed hereunder to determine whether they are accurate as filed.
- No foreign bank account-related charges or discretionary penalties shall be applied with respect to any of the individuals and entities so long as such reporting and regulatory compliance is made for the subject post-indictment years. (United States Department of Justice, and not VIBIR, has authorization over this provision).
- The parties agree that United will pay a \$5,000 fine and that the Government may seek a substantial monetary penalty. The parties will negotiate in good faith to determine the character of this penalty and will set forth a defined range from

Letter of Agreement  
February 12, 2010  
Page 3 of 5


which Judge Finch will make a final ruling. The parties agree that the Government may also seek reimbursement from United for the actual costs of prosecution, which will be set forth in the plea agreement. United reserves the right to contest the above mentioned penalties and prosecution costs.

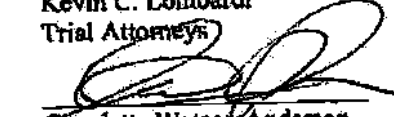
- Defendant United Corporation, the individual defendants, and the shareholders of United Corporation, all agree to file original individual income tax returns (or correcting amended returns, if appropriate) for the years 2002, 2003, 2004, 2005, 2006, 2007, and 2008, and provide any documentation or information requested by the VIBIR in order for the VIBIR to make their own independent review and assessment of the accuracy of such returns. Defendant United Corporation, the individual defendants, and the shareholders of United Corporation all agree to take these actions prior to the sentencing hearing;


The United States government and the United States Virgin Islands government agree to the terms set forth in this Letter of Agreement.

RONALD SHARPE  
UNITED STATES ATTORNEY

JOHN A. DICICCO  
ACTING ASSISTANT ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE  
TAX DIVISION

Dated: 2/12/2010  
  
Mark F. Daly  
Lori A. Hendrickson  
Kevin C. Lombardi  
Trial Attorneys

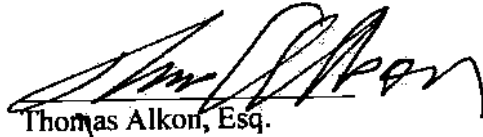
Dated: 2/15/10  
  
Claudette Watson Anderson  
Director  
Virgin Islands Bureau of Internal Revenue

Dated: 2/18/10  
  
Denise George  
Assistant Attorney General  
Virgin Islands Department of Justice  
Office of the Attorney General

The defendant United Corporation agrees to the terms set forth in this Letter of Agreement.

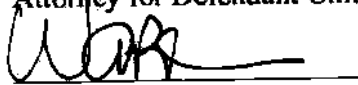
Letter of Agreement  
February 12, 2010  
Page 4 of 5

Dated: 2/26/10



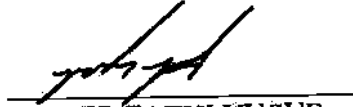
Thomas Alkon, Esq.  
Attorney for Defendant United Corporation

Dated: 2/26/10



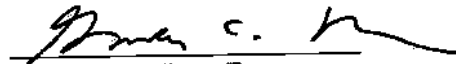
Warren B. Cole, Esq.  
Attorney for Defendant United Corporation

Dated: 2/26/10



MAHER FATHI YUSUF  
President, Defendant United Corporation

Dated: 2/26/10



Gordon C. Rhea, Esq.  
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10



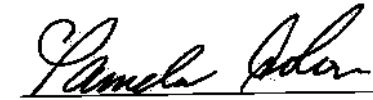
Randall P. Andreozzi, Esq.  
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10



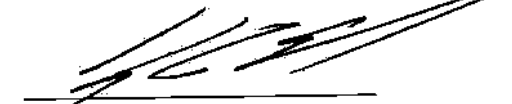
Derek M. Hodge, Esq.  
Attorney for Defendant Nejeah Fathi Yusuf

Dated: 2/26/10



Pamela Colon, Esq.  
Attorney for Defendant Waheed Mohammed Hamed

Dated: 2/26/10



Henry C. Smock, Esq.  
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: 2/26/10



John K. Dema, Esq.  
Attorney for Defendant Maher Fathi Yusuf

Case  
Hamed v. Yusuf et  
al  
  
Exhibit  
B

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August 31, 2012

Lori Hendrickson  
US DOJ/Tax Division/N. Criminal Section  
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Ben Franklin Station  
Washington, DC 20044

By Fax and Email to [Lori.A.Hendrickson@usdoj.gov](mailto:Lori.A.Hendrickson@usdoj.gov)

**Re: *United States of America v. Yusuf*  
Crim No. 2005-15 F/B**

Dear Attorney Hendrickson:

I am a lawyer in the Virgin Islands and was retained earlier this year by Mohammad Hamed. My task was to address the division of assets between Mr. Hamed and Fathi Yusuf involving the Plaza Extra supermarkets and other related assets.

It is my understanding that you are the prosecutor in the above captioned criminal case involving certain tax issues and other matters related to these same assets. Because of certain concerns I have about representations made in the criminal case, I have decided I need to raise these concerns with you. I will first give you some background on what I have learned since being retained in this matter.

I learned that relationship between Mr. Yusuf and Mr. Hamed was a partnership which that the parties desired to dissolve, so the assets could be distributed between them. In this regard, I was initially provided an email dated February 10, 2012 from Mr. Yusuf's lawyer to Mr. Hamed regarding Mr. Yusuf's desire to dissolve the partnership as well as a letter dated February 12, 2012, sent by the same lawyer on the same subject (copies of which are attached as **Exhibit A**). The letter stated in part as follows:

As it stands, the partnership has three major assets: Plaza Extra - West (Grove Place, including the real property), Plaza Extra - East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas).

I was then provided a proposed partnership dissolution agreement sent on March 13, 2012, to Mr. Hamed's son (who has a power of attorney for his father), which referenced



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the February 12, 2012, letter dissolving the partnership, which I have attached as **Exhibit B**. That document provided in part as follows:

WHEREAS, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

WHEREAS, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

WHEREAS, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership;

WHEREAS, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

That document then described the partnership assets as follows:

Section 1.1: Assets of the Partnership

1. PLAZA EXTRA EAST- Estate Sion Farm. St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA - Tutu Park. St. Thomas

Finally, I received an email from Mr. Yusuf's lawyer asking me to meet to discuss the dissolution of the partnership. **See Exhibit C**.

However, I was also told by the lawyers representing the various Yusuf and Hamed family members that representations had been made to you and to the Court that the assets did not belong to a partnership, but to United Corporation.

I found it curious that the parties were describing their relationship as a partnership, which owned certain partnership assets, while the lawyers stated otherwise. I soon learned that the lawyers were basing their statements primarily on the fact that United Corporation had always included the income, expenses, etc. from the three stores as part of the financial information included in the corporate tax returns of United Corporation, even though Mr. Yusuf and Mr. Hamed had always kept the accounting for these three stores separate from each other and from the other business interests of United.

However, it is clear that Mr. Yusuf and Mr. Hamed believe these stores are owned and operated as separate partnerships. For example, Fathi Yusuf has sent numerous letters just this year on behalf of United Corporation as the Landlord of the Plaza East store on St. Croix to the Mr. Hamed, discussing rent for the store as well as threatening to evict the store. **See Exhibit D**. If United Corporation owned the supermarket, it would not be sending rent demands and eviction letters to itself.

I decided to look into the matter further and found a deposition given by Fathi Yusuf some time ago, where he describes the creation of this partnership years ago, in which

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each party had a 50/50 interest. I have attached a brief excerpt of the sworn deposition in this deposition as **Exhibit E**.

Notwithstanding this confusion, I proceeded to try to negotiate a settlement, but I continually ran into the following problem—my clients would have to agree to the filing of tax returns that did not accurately reflect the true nature of the business relationship between the parties. In short, they would have to file returns to end the criminal case which do not accurately reflect the true nature of these businesses. Indeed, I found other discrepancies as well in working on these matters.

Thus, I have decided I need to bring this issue to your attention as I fear that misleading statements have been made that have now placed my clients at risk. I would like to discuss these matters with you as soon as possible to see if I have incorrectly understood the situation or if there is some way to address these concerns properly if I have correctly understood the situation. Can you please review this matter and get back to me at your earliest convenience.

Respectfully,

Joel H. Holt  
JHH/jf  
Enclosure