

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

WALEED HAMED and KAC357, INC.,)	
)	CIVIL NO. SX-16-CV-429
<i>Plaintiffs,</i>)	
v.)	
)	ACTION FOR DAMAGES
BANK OF NOVA SCOTIA,)	
d/b/a SCOTIABANK, FATHI YUSUF,)	
MAHER YUSUF, YUSUF YUSUF,)	
and UNITED CORPORATION,)	
)	
<i>Defendants.</i>)	JURY TRIAL DEMANDED
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**DEFENDANT BANK OF NOVA SCOTIA'S RESPONSES TO PLAINTIFF HAMED'S
FIRST REQUEST FOR ADMISSIONS
TO THE BANK OF NOVA SCOTIA**

Plaintiff Hamed, by counsel, propounds the following first Requests for Admissions pursuant to Rule 36 of the *Virgin Islands Rules of Civil Procedure* (V.I. R. CIV. P.) on Defendant BNS.

TERMS AND MEANINGS

“You” means the Bank of Nova Scotia, its counsel, managers and employees.

DEFINITIONS

None.

REQUESTS TO ADMIT

1. ADMIT or DENY that BNS has never received any document demonstrating that Mike Yusuf was made a director of Plessen by original corporate document, vote or written consent.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this request because it is not clear if “Mike Yusuf” is actually the same person as “Maher Yusuf” and because BNS is not able to interpret the meaning of “original corporate document, vote or written consent.” BNS

further objects to this request because it is unclear if "Plessen", as referred-to in this Request, is actually the same entity as "Plessen Enterprises, Inc."¹

Subject to said objection, denied. BNS has received documentation demonstrating that Maher Yusuf is or was a director of Plessen Enterprises, Inc.

2. ADMIT or DENY that BNS has never received any document legally demonstrating by corporate action that Mike Yusuf is now, or ever actually has been a director of Plessen.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this request because it is not clear if "Mike Yusuf" is actually the same person as "Maher Yusuf" and because BNS is not able to interpret the meaning of "legally demonstrating by corporate action." BNS further objects to this request because it is unclear if "Plessen", as referred-to in this Request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objection, denied. BNS has received documentation demonstrating that Maher Yusuf is or was a director of Plessen Enterprises, Inc.

3. ADMIT or DENY that Plessen opened a bank account with BNS in 1997.

BNS objects to this Request because it is unclear if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objection, admitted that BNS records reflect that Plessen Enterprises, Inc. opened a bank account with BNS during 1997.

4. ADMIT or DENY that at that time, in 1997, when the Plessen BNS account was opened, the only officers and directors of Plessen were Fathi Yusuf (Secretary-Treasurer), Mohammad Hamed (President) and Waleed Hamed. (Vice-President).

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request which calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request because it is unclear what "account"² the Plaintiffs' request refers-to or if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

¹ "You" is the only term defined in Plaintiffs' Requests.

² Again, "You" is the only term defined in Plaintiffs' Requests.

Subject to said objection, denied.

5. ADMIT or DENY that in the documents establishing the banking relationship between Plessen and BNS in 1997, there was no waiver of the right to a jury trial with regard to dealings between Plessen and BNS.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court, whereas this Request pertains solely to BNS's Motion To Strike the Plaintiffs' Jury Demand. BNS further objects to this Request because it is unclear what "banking relationship"³ the Plaintiffs' request refers-to or if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

6. ADMIT or DENY that in the contractual documents establishing the banking relationship in 1997, there was no waiver of any right of Plessen to make claims against BNS for tort or negligence.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request which calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to or if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objections, denied.

7. ADMIT or DENY that in the contractual documents establishing the banking relationship in 1997, there was no provision that BNS could unilaterally alter the contractual relationship between the parties by simply typing new contractual provisions onto the face of routine banking forms it supplied for use by customers such as Plessen.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request which calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to or if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objections, denied

³ Once again, "You" is the only term defined in Plaintiffs' Requests.

8. ADMIT or DENY that in the contractual documents establishing the banking relationship in 1997, there was no provision that "signors" on the account could, without Board approval or approval of the President of Plessen, agree to changes in the contractual relationship between the parties.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request which calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to or if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objections, BNS is unable to answer this question as-phrased since the "signors" referred-to in this Request may or may not be intended to include persons or entities which have/had the power to make the contractual changes alluded-to by this Request.

9. ADMIT or DENY that at the time the banking relationship was established in 1997, BNS required the submission of the Plessen corporate Articles and Bylaws which listed the officers of the corporation - and required updated copies thereafter. Plessen supplied those to BNS originally and as requested later.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request which calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to or if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objections, admitted that BNS files contain a copy of corporate articles and bylaws of Plessen Enterprises, Inc., bearing the dates of December 22, 1988 and April 30, 1997, respectively.

10. ADMIT or DENY that in the contractual documents establishing the banking relationship in 1997, there was no provision that BNS could unilaterally alter the contractual relationship between the parties by documents not signed by both parties, without consideration and without notice that the contractual relationship was being modified.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions and calls for BNS to make a

legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to and it is unclear if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objections, denied

11. ADMIT or DENY that at no time after the initial contractual documents establishing the banking relationship, did Plessen ever negotiate for any contractual modification of the right to a jury trial or waiver of any claims for tort or negligence as to dealings between Plessen and BNS which modification was: (1) identified as a modification of the contractual relationship, (2) signed by both Plessen and BNS and (3) altered the parties' positions for consideration.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. (*See e.g.*, V.I. R. Civ. P. 36, "*each request must be separately stated.*") BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to or it is unclear if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objections, denied

12. ADMIT or DENY that at no time after the initial contractual documents establishing the banking relationship, did Plessen ever enter into any contractual modification of the right to a jury trial or waiver of any claims for tort or negligence as to dealings between Plessen and BNS which modification was: (1) identified as a modification of the contractual relationship, (2) was signed by both Plessen and BNS and (3) altered the parties' positions for consideration.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. (*See e.g.*, V.I. R. Civ. P. 36, "*each request must be separately stated.*") BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to or if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objections, denied

13. ADMIT or DENY that at the time of the initial contractual documents establishing the banking relationship in 1997, there was a signature card created on April 23, 1997 (the "1997 Signature Card").

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to.

Subject to said objections, admitted that BNS records contain a signature card for Plessen Enterprises, Inc. which bears the date April 23, 1997.

14. ADMIT or DENY that three signors appeared on that 1997 Signature Card - one of whom was Waleed Hamed.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. (*See e.g.*, V.I. R. Civ. P. 36, "*each request must be separately stated.*") BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to. BNS further objects to this Request as vague and misleading because it applies the label invented by the Plaintiffs, to wit: "that 1997 Signature Card", AKA "the 1997 Signature Card".

Subject to said objections, admitted that BNS records contain a signature card for Plessen Enterprises, Inc. which bears the date April 23, 1997 and a handwritten signature marked "Waleed Hamed".

15. ADMIT or DENY that to transact on the Plessen account, the 1997 Signature Card required only one authorized signor's signature on a check, which could be any of the three authorized signatories.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request because it is unclear what

“banking relationship” the Plaintiffs’ request refers-to. BNS further objects to this Request as vague and misleading because it applies the label invented by the Plaintiffs, to wit: “the 1997 Signature Card”, and because it is unclear what the term “transact” means in this Request. BNS further objects to this Request because it is unclear if “Plessen”, as referred-to in this request, is actually the same entity as “Plessen Enterprises, Inc.”

Subject to said objections, admitted that BNS records contain a signature card for Plessen Enterprises, Inc. which bears the date April 23, 1997 and what appear to be 3 or more handwritten signatures.

16. ADMIT or DENY that Waleed Hamed was identified as an authorized signor on the 1997 Signature Card - and could negotiate a check on the account with his signature alone.

BNS objects to this Request because it is not authorized by the Court’s Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS’s Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer (“admit or deny”), and calls for BNS to make a legal conclusion and which involves information which is not under BNS’s control. BNS further objects to this Request because it is unclear what timeframe “could negotiate a check with his signature alone” or what “account” the Plaintiffs’ request refers-to. BNS further objects to this Request as vague and misleading because it applies the label invented by the Plaintiffs, to wit: “the 1997 Signature Card”, and because it is unclear what the term “transact”⁴ means in this Request.

Subject to said objections, admitted that BNS records contain a signature card for Plessen Enterprises, Inc. which bears the date April 23, 1997 and what appear to be 3 or more handwritten signatures, one of which is marked “Waleed Hamed”.

17. ADMIT or DENY that at some time after August 17, 2009, three forgeries of alleged BNS banking documents were created by members of the Yusuf family.

BNS objects to this Request because it is not authorized by the Court’s Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS’s Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer (“admit or deny”), and calls for BNS to make a legal conclusion and which involves information which is not under BNS’s control. “Forgery” is a crime comprised of separate legal elements, depending on the law controlling the question in particular circumstances, including both federal and local law, and creating liability for various persons based on the controlling law. BNS further objects to this Request as vague and misleading because it is unclear what the term “banking

⁴ Another undefined term used by the Plaintiffs.

documents”⁵ means in this Request and the “documents” which the Request refers to were not provided with the Request. (*See*, V.I. R. Civ. P. 36, “[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.”)

Subject to said objections, BNS is unable to answer this Request as-phrased.

ADMIT or DENY that The three forgeries were as follows:

18. --an obviously altered, undated paper signature card bearing the titles and signatures of United's officers, not Plessen's - with a phrase requiring two family signatures clearly typed in at another time, with another font,

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer (“admit or deny”), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. “Forgery” is a crime comprised of separate legal elements, depending on the law controlling the question in particular circumstances, including both federal and local law, and creating liability for various persons based on the controlling law. BNS further objects to this Request as vague and misleading because it is unclear what the term “banking documents”⁶ means in this Request and the “documents” which the Request refers to were not provided with the Request. (*See*, V.I. R. Civ. P. 36, “[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.”)

Subject to said objections, BNS is unable to answer this Request as-phrased.

19. --an undated information gathering form requiring two family signatures without a date on the final page that bears information related to United, not Plessen, and

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer (“admit or deny”), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. “Forgery” is a crime comprised of separate legal elements, depending on the law controlling the question in particular circumstances, including both federal and local law, and creating liability for various persons based on the controlling law. BNS further

⁵ Another undefined term used by the Plaintiffs.

⁶ Another undefined term used by the Plaintiffs.

objects to this Request as vague and misleading because it is unclear what the term "banking documents"⁷ means in this Request and the "documents" which the Request refers-to were not provided with the Request. (*See*, V.I. R. Civ. P. 36, "[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.")

Subject to said objections, BNS is unable to answer this Request as-phrased.

20. --the ONLY dated document related to the signature requirements, an allegedly dated information gathering form requiring two family signatures with a date on the final page 7 which the Yusuf have stated in Superior Court filings was in the bank's Plessen records as well.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. "Forgery" is a crime comprised of separate legal elements, depending on the law controlling the question in particular circumstances, including both federal and local law, and creating liability for various persons based on the controlling law. BNS further objects to this Request as vague and misleading because it is unclear what the term "banking documents"⁸ means in this Request and the "documents" which the Request refers-to were not provided with the Request. (*See*, V.I. R. Civ. P. 36, "[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.")

Subject to said objections, BNS is unable to answer this Request as-phrased.

21. ADMIT or DENY that at no time prior to March 27, 2013, did the computer-based retail signature card, or any other computer representation of the account signature card in the BNS computer system ever require "two signatures where one of the signatures had to be from the Hamed family and one had to be from the Yusuf family" with regard to the Plessen accounts.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request because it is unclear what "banking relationship" the Plaintiffs' request refers-to. BNS further objects to this Request as

⁷ Another undefined term used by the Plaintiffs.

⁸ Another undefined term used by the Plaintiffs.

vague and misleading because it applies the labels invented by the Plaintiffs, to wit: "the computer-based signature card" and "the account signature card". BNS further objects to this Request because it is unclear if "Plessen", as referred-to in this request, is actually the same entity as "Plessen Enterprises, Inc."

Subject to said objections, admitted that BNS records contain a signature card for Plessen Enterprises, Inc. which bears the date April 23, 1997 and what appear to be 3 or more handwritten signatures and BNS records contain a signature card for Plessen Enterprises, Inc. which is undated and bears the words "ANY TWO **One Hamed and One Yusuf".

22. ADMIT or DENY that Judge Brady stated in footnote 9, page 19 of his April 25, 2013 decision that:

With regard to the August 2012 diversion of more than \$2.7 million by Mahar Yusuf, president of United, to accounts inaccessible to Plaintiff, a real concern exists that continuing diversions will not be traceable as the Plaza Extra store have had no system of internal controls in existence and, to date accounting for the businesses is not completed beyond June 2012. . . .

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. Any statements made by this Court in separate, unrelated cases (as the Plaintiffs have represented) have nothing whatsoever to do with the Summary Judgment Motion now pending before this Court on behalf of BNS. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request as vague and misleading because the "decision" which the Request refers-to were not provided with the Request. (See, V.I. R. Civ. P. 36, "[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.")

Subject to said objections, BNS is unable to answer this Request except to state that the Plaintiffs have represented that Judge Brady made the referenced statements.

23. ADMIT or DENY that in 2013, Judge Brady made a finding of fact that Mike and Fathi Yusuf unilaterally moved \$2.7 from the jointly accessible partnership account for the Plaza Extra Supermarkets to an account that only the Yusufs could draw from.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. Any statements made by this Court in separate, unrelated cases (as the Plaintiffs have represented) have nothing whatsoever to do with

the Summary Judgment Motion now pending before this Court on behalf of BNS. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer (“admit or deny”), and calls for BNS to make a legal conclusion and which involves information which is not under BNS’s control. BNS further objects to this Request as vague and misleading because the “finding of fact” which the Request refers-to were not provided with the Request. (*See, V.I. R. Civ. P. 36, “[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.”*)

Subject to said objections, BNS is unable to answer this Request except to state that the Plaintiffs have represented that Judge Brady made the referenced statements.

24. ADMIT or DENY that BNS cleared the \$460,000 check and made payment.

BNS objects to this Request because it is not authorized by the Court’s Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS’s Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. Whether BNS cleared a check or not has nothing whatsoever to do with the Summary Judgment Motion now pending before this Court on behalf of BNS, because the Plaintiffs are not alleging that BNS was negligent in clearing a check, and instead are alleging that BNS was negligent in providing or withholding certain information from law enforcement. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer (“admit or deny”), and calls for BNS to make a legal conclusion and which involves information which is not under BNS’s control. BNS further objects to this Request as vague and misleading because the “check” which the Request refers-to was not provided with the Request. (*See, V.I. R. Civ. P. 36, “[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.”*)

Subject to said objections, admitted that BNS honored a \$460,000.00 check written on the Plessen Enterprises, Inc. checking account ending -012 during 2013.

25. ADMIT or DENY that there was no signature of a Yusuf family member on that \$460,000 check.

BNS objects to this Request because it is not authorized by the Court’s Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS’s Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. Whether BNS cleared a check or not has nothing whatsoever to do with the Summary Judgment Motion now pending before this Court on behalf of BNS, because the Plaintiffs are not alleging that BNS was negligent in clearing a check, and instead are alleging that BNS was negligent in providing or withholding certain information from law enforcement. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer (“admit or deny”), and calls for BNS to make a legal conclusion and which involves information which is not under BNS’s control.

BNS further objects to this Request as vague and misleading because the “check” which the Request refers-to was not provided with the Request. (*See, V.I. R. Civ. P. 36, “[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.”*)

Subject to said objections, admitted that BNS honored a \$460,000.00 check written on the Plessen Enterprises, Inc. checking account ending -012 during 2013 and BNS cannot determine to a legal certainty what family connections the check signers may have had.

26. ADMIT or DENY that Yusuf Yusuf has admitted in filings in the Superior Court that he met with one or more BNS employees between March 27, 2013 and May 17, 2013 to discuss the March 27, 2013 withdrawal.

BNS objects to this Request because it is not authorized by the Court’s Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS’s Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. This question is irrelevant with regard to BNS, given that the Plaintiffs’ own Request states that a separate party in this matter has already admitted it. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer (“admit or deny”), and calls for information which is not under BNS’s control. BNS further objects to this Request as vague and misleading because the “filings” which the Request refers-to were not provided with the Request. (*See, V.I. R. Civ. P. 36, “[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.”*)

Subject to said objections, BNS cannot admit or deny this Request as-phrased.

27. ADMIT or DENY that Mike Yusuf met with one or more bank employees between March 27, 2013 and May 17, 2013 to discuss the March 27, 2013 withdrawal.

BNS objects to this Request because it is not authorized by the Court’s Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS’s Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court.

Subject to said objections, admitted that BNS representative Yvette Clendinen had periodic contact with members of the Yusuf or Hamed families at BNS’s Sunny Isle Branch when they dropped-off or picked-up business information regarding businesses operated by the Yusufs and the Hameds. Said interactions included, but were not limited to, Mike Yusuf, Wally Hamed and Mike Hamed dropping-off updated identification information in approximately 2014 and Mike Yusuf dropping-off legal paperwork related to separate litigation involving the Hameds and Yusufs on April 3, 2014.

28. ADMIT or DENY that a copy of a printed document with the date May 10, 2013 was supplied by BNS to the Yusufs at that time - which showed that at the time of the \$460,000 withdrawal, the signature card in the retail signature system showed Waleed Hamed as one of three authorized signors.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. This question is irrelevant with regard to BNS, given that the Plaintiffs' own Request states that a separate party in this matter has already admitted it. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for information which is not under BNS's control. BNS further objects to this Request as vague and misleading because the "filings" which the Request refers-to were not provided with the Request. (*See, V.I. R. Civ. P. 36, "[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying."*)

Subject to said objections, admitted that BNS representative Yvette Clendinen had periodic contact with members of the Yusuf or Hamed families at BNS's Sunny Isle Branch when they dropped-off or picked-up business information regarding businesses operated by the Yusufs and the Hameds. Said interactions included, but were not limited to, Mike Yusuf, Wally Hamed and Mike Hamed dropping-off updated identification information in approximately 2014 and Mike Yusuf dropping-off legal paperwork related to separate litigation involving the Hameds and Yusufs on April 3, 2014.

29. ADMIT or DENY that there are files or other records given to or obtained by BNS from the VIPD or the VI AG from March 2013 to present that relate in any way to Plessen or the Hameds besides the Police report, the documents recited therein and the affidavit given.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS object to this request as vague and unduly burdensome because the Hameds and Plessen (assuming that term is intended by Plaintiffs to apply to Plessen Enterprises, Inc.) have multiple business dealings in the V.I. which could be within the scope of this Request within the last 5 years. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for information which is not under BNS's control. BNS further objects to this Request as vague and misleading because the "filings" which the Request refers-to were not provided with the Request. (*See, V.I. R. Civ. P. 36, "[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying."*)

Subject to said objections, admitted that BNS cooperated with the VIPD and the V.I. Attorney General's Office during its/their investigation underlying this matter.

30. ADMIT or DENY that when BNS produced the account documents for this Plessen bank account in another civil case pending before the Superior Court of the Virgin Islands on September 10, 2014, only the original 1997 and updated 2009 signature cards were produced. No undated signature cards or undated information gathering documents reflecting the need for two signatures, one from the Yusuf family and one from the Hamed family, to withdraw funds from the Plessen account, were produced.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS object to this request as vague and unduly burdensome because the "other civil case" referenced is not described, and it is well-known to the Plaintiffs that the Hameds, Yusufs and the businesses they control are engaged in multiple civil litigation matters, many of which have been ongoing for many years, and neither the terms "Plessen" or "account documents" are defined herein. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for information which is not under BNS's control. BNS further objects to this Request as vague and misleading because the "filings" which the Request refers-to were not provided with the Request. (*See, V.I. R. Civ. P. 36, "[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying."*)

Subject to said objections, admitted that BNS has cooperated with previous discovery requests from the Plaintiffs' attorneys Holt and Hartmann in at least one other civil matter involving some of the Plaintiffs in this matter.

31. ADMIT or DENY that the dated final page on that second information gathering form was added to the document by the Yusufs - and created the ONLY dated document reflecting the need for two family signatures.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request as vague and misleading because it is unclear what the term "second information gathering form"⁹ means in this Request and the "documents" which the Request refers-to were not provided with the Request. (*See, V.I. R. Civ. P. 36, "[a] request to admit the genuineness of a document must be accompanied by a copy*

⁹ Another undefined term used by the Plaintiffs.

of the document unless it is, or has been, otherwise furnished or made available for inspection and copying.”)

Subject to said objections, BNS is unable to answer this Request as-phrased.

32. ADMIT or DENY that that second, dated form has an additional "date" page inserted and the date on that inserted page is a clear alteration of the first such form -- typed in a different type font.

BNS objects to this Request because it is not authorized by the Court's Order of October 31, 2017, which allowed limited discovery in this matter solely with regard to BNS's Motion To Dismiss, as converted to a Motion For Summary Judgment by the Court. BNS objects to this Request because it is compound, contains multiple interdependent conditions but demands a single answer ("admit or deny"), and calls for BNS to make a legal conclusion and which involves information which is not under BNS's control. BNS further objects to this Request as vague and misleading because it is unclear what the term "second information gathering form"¹⁰ means in this Request and the terms "second, dated form" and "date page" and "first such form" which the Request refers to were not provided with the Request. (*See, V.I. R. Civ. P. 36, "[a] request to admit the genuineness of a document must be accompanied by a copy of the document unless it is, or has been, otherwise furnished or made available for inspection and copying."*)

Subject to said objections, BNS is unable to answer this Request as-phrased.

Dated: November 2, 2017

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¹⁰ Another undefined term used by the Plaintiffs.

CERTIFICATE OF SERVICE

I certify that this filing meets the applicable requirements regarding length and number of words. I also hereby certify that on this 2nd day of November, 2017, I served a copy of the foregoing by email, as agreed by the parties, on:

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I HEREBY CERTIFY THAT I HAVE READ THE FOREGOING, I UNDERSTAND IT, AND THE FACTS STATED HEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

DEEFENDANT BNS BY REPRESENTATIVE:

KAREN STAIR

BNS Senior Paralegal and Legal Officer

Dated: June 8, 2018



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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of June 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

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