

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

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

COMES NOW Defendant, Bank of Nova Scotia (BNS), by and through its undersigned attorneys, Nichols Newman Logan Grey & Lockwood, P.C., Charles E. Lockwood, Esq., and responds to Plaintiff Hamed's FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS TO THE BANK OF NOVA SCOTIA as follows:

The Plaintiffs, through counsel, propounds the following first request for production of documents pursuant to Rule 26(d)(2) and 34 of the *Virgin Islands Rules of Civil Procedure* (V.I. R. CIV. P.) on the Defendant, and requests the production of documents within thirty (30) days as per the Order of the Court dated October 31, 2017.

**INSTRUCTIONS**

In responding to these Requests for Production of Documents, the following instructions shall apply:

1. The obligations imposed by V.I. R. CIV. P. 26 and 34 are hereby incorporated, including, but not limited to, the duty to supplement imposed by V.I. R. CIV. P. 26(e).

2. If the Defendant lacks information to respond to a particular request for production, in whole or in part, Defendant shall state or identify: a) the currently available information; b) any currently unavailable information; c) the efforts Defendant has taken, or will take, to obtain the currently unavailable information; and d) when the Defendant expects to obtain this information. Further, if the Defendant believes that any other individual or entity may have information that responds to a specific request, in whole or in part, the Defendant shall provide the individual or entity's: a) name, address and telephone number and b) a brief description of the information the Defendant believes the entity or individual possesses.

3. Whenever in these requests for production the Defendant is directed to produce or "identify" a "document," the Defendant shall, besides providing the document itself (if asked to produce), state or identify the following: a) the date the document was prepared; b) the name, address and telephone number of each author or signatory; c) the name, address and telephone number of each recipient (both addressee and recipients of copies); d) the document type (e.g., letter, memorandum, report, etc.); e) the document title; f) the document's control number or Bates number; and g) the name, address and telephone number of the document's custodian.

4. If the Defendant no longer possesses any document the Defendant requests, the Defendant shall state or identify: a) the date the document was prepared; b) the name, address and telephone number of each author or signatory; c) the name, address and telephone number of each recipient; d) the document type (e.g., letter, memorandum, report, etc.); e) what was done with the document; f) the name, address and telephone number of each individual responsible for, or

otherwise involved with, transferring or disposing of the document; and g) reason(s) the document was disposed of or transferred; and h) the name, address and telephone of the document's custodian, if known.

5. If the Defendant believes any information the Defendant requests is privileged and/or protected, in whole or in part, the Defendant shall provide the following: a) the document's title; b) the document type (e.g., memorandum, letter, report, email etc.), c) the name, address and telephone number of each author or signatory; d) the name, address and telephone number of each recipient; e) the date the document was prepared; f) the privilege(s) and/or protection(s) the Defendant is asserting; g) the factual bases for the Defendant asserting the privilege(s) and/or protection(s); and h) a summary of the information the Defendant is not producing to enable a court of competent jurisdiction to rule whether the information is privileged and for protected.

6. If the Defendant redacts anything from a document it produces in response to these requests for production, the Defendant shall state or provide the following: a) a summary of the deleted information; b) the reason(s) for deleting the information; and c) the name, address and telephone number of each person responsible for, or otherwise involved with, deleting the information.

7. The Defendant shall respond to each of these requests for production to the fullest extent possible, and in good faith, preserving any valid objections the Defendant may have. The Defendant may further ask the Defendant's attorney to clarify or limit any request for production Defendant believes is vague or unduly burdensome.

8. Whenever these requests for production use any word in the plural, the Defendant shall understand the word to include the singular as necessary to make the request for production inclusive rather than exclusive. Further, whenever these requests for production use any word in

the singular, the Defendant shall understand the word to include the plural as necessary to make the request for production inclusive rather than exclusive.

9. Whenever these requests for production use any word in the masculine, the Defendant shall understand the word to include the feminine as necessary to make the request for production inclusive rather than exclusive. Further, whenever these requests for production use any word in the feminine, the Defendant shall understand the word to include the masculine as necessary to make the request for production inclusive rather than exclusive.

10. Verbs written in the present tense shall also be taken to mean and include the past. Verbs written in the past tense shall also be taken to mean and include the present.

11. Whenever these requests for production use the word "and" or the word "or," the Defendant shall understand the word conjunctively or disjunctively as necessary to make the request for production inclusive rather than exclusive.

12. The parties have consented, pursuant to V.I. R. CIV. P. 5(b)(2)(E), to electronic service of all documents in this action, including discovery requests and responses.

### TERMS AND MEANINGS

The terms used in this Discovery have the following meaning:

As used herein, the term "**document(s)**" is used in its broadest sense to include, by way of illustration only and not by way of limitation, all originals and non-identical copies of any writing or any other tangible thing or data compilation in the custody, possession or control of the Defendant - whether printed, typed, reproduced by any process, written or produced by hand, including any graphic matter however produced or reproduced, or produced by any other mechanical means and all data, either electronic, magnetic, chemical, mechanical, or other form

of data storage capable of being transformed into written or oral matter, including, but not limited to, CD-ROMs, DVDs, computer disks, Hard-drive computer storage mediums - including e-mails, letters, affidavits, filings, engineering studies and for tests, reports, agreements, communications, correspondence, permits, accounting records, business records, contracts, letters of agreements, telegrams, mailgrams, memoranda, summaries and/or records of personnel or telephone conversations, diaries, calendars, forecasts, photographs, tape recordings, facsimiles, models, statistical statements, graphs, charts, plans, drawings, service and/or pump data, logs, minutes or records of meetings, minutes or records of conferences, reports and /or summaries of interviews, reports, conversations, summaries of investigations, opinions or reports of consultants, topographical or geological maps or surveys, appraisals, records, reports or summaries of negotiations, drafts of any document, revisions of drafts of any document, purchase orders, invoices, receipts, original or preliminary notes, financial statements, accounting work papers, promissory notes, film, microfilm, microfiche, punch cards, slides, pictures, videotapes, moving pictures, computer programs, laboratory results, magnetic tapes or any other matter which is capable of being read, heard or seen with or without mechanical or electronic assistance.

**"Communication"** means any correspondence, contact, discussion, exchange, contract, or agreement between any two or more persons. Without limiting the foregoing, "communication" includes all documents, as defined above, telephone conversations, internet communications, e-mail, facsimile transmissions, voice mail, face-to-face conversations, meetings, and conferences.

## REQUESTS

GENERAL OBJECTIONS: BNS objects to the Plaintiffs' Requests because they are 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. These Requests have little or nothing to do with the legal and factual

grounds which entitle BNS to summary judgment in this matter. As further explained in BNS's responses below, the Plaintiffs are abusing the discovery permitted by the Court and attempting to engage in broad discovery which the Court has not authorized and which is unnecessary, time consuming, expensive and wasteful of judicial resources at this stage of the proceedings in this matter. Particularly unnecessary, time consuming, expensive and wasteful of judicial resources at this stage of the proceedings in this matter are Plaintiffs' multiple Requests which, as BNS further explains below, the Plaintiffs already have the answers-to and the supporting information and documentation, because Plaintiffs have been engaged-in related litigation with the Yusufs and other related defendants (but not BNS) for several years in multiple separate law suits. From said separate litigation, which has produced subpoenas to BNS from the parties to those separate law suits, and criminal matters, the Plaintiffs have gathered multiple documents and other forms of information which they are now asking BNS to re-investigate, re-produce and (together with this Court) reanalyze. Plaintiffs' Requests go far beyond the very limited discovery regarding summary judgment issues which this Court authorized in its Order of October 31, 2017.

The thousands of documents which the Plaintiffs have gathered from said separate matters were dumped on Defendant BNS on June 9, 2017 in this matter. For expediency, these documents will be referred to as "Plaintiffs' Documents Produced To BNS Herein June 9, 2017" and said reference will include the following Bates-numbers, which were placed on said documents by Plaintiffs:

FBIX210733-FBIX210772;FBIX210779-FBIX210784;FBIX234782-FBIX234787;FBIX234788-FBIX234791;FBIX234792-FBIX234795;FBIX234796-FBIX234800;FBIX234801-FBIX234805;FBIX234806-FBIX234808;FBIX234809-FBIX234810;FBIX234811-FBIX234813;FBIX234814-FBIX234818;FBIX234819-FBIX234825;FBIX234826-FBIX234827;FBIX234828-FBIX234829;FBIX234830-FBIX234832;FBIX234833-FBIX234834;FBIX234835-FBIX234837;FBIX234838-FBIX234841;FBIX234842-FBIX234851;FBIX234856;FBIX234860-FBIX234863;FBIX240947-FBIX241017;FBIX252487-FBIX252499;FBIX254453-FBIX254507;FBIX25526-FBIX25527;FBIX256003-FBIX256008;FBIX257026-FBIX257047;FBIX257048-FBIX257068;FBIX257085-FBIX257102;FBIX257122-FBIX257141;FBIX257142-FBIX257159;FBIX257160-FBIX257166;FBIX254190-FBIX257194;FBIX257195-FBIX257204;FBIX257205-FBIX257211;FBIX257212-FBIX257215;FBIX257218-FBIX257220;FBIX257221-FBIX257222;FBIX257238-FBIX257241;HAMD205557-AMD2505562;HAMD214653-HAMD214654;HAM214659-HAMD214660;HAMD214662-HAMD214666;HAMD214669-HAMD214669;HAMD214681-HAMD214682;HAMD214683-HAMD214684;HAMD214685-HAMD214686;HAMD214688-HAMD214690;HAMD214693-HAMD214693;HAMD214695-HAMD214704;HAMD214706-HAMD214708;HAMD214710-HAMD214714;HAMD214716-HAMD214726;HAMD214728-HAMD214741;HAMD214742-HAMD214773;HAMD214781-HAMD214781;HAMD214782-HAMD214799;HAMD214811-HAMD214813;HAMD214814-HAMD214814;HAMD214815-HJAMD214815;HAMD214816-214817;HAMD214818HAMD214820;HAMD214828-HAMD214832;HAMD214833-HAMD214837;HAMD214869-HAMD214876;HAMD214883-HAMD214957;HAMD214958-HAMD215021;HAMD215055-HAMD215074;HAMD215207-HAMD215267;HAMD225395-HAMD225395;HAMD225396-HAMD225396;HAMD225398-HAMD225398HAMD225406-HAMD225406;HAMD225415-HAMD225430;HAMD225431-

HAMD225446;HAMD225491-HAMD225508;HAMD225541-HAMD225541;HAMD225560-HAMD225563;HAMD225564-HAMD225569;HAMD225570-HAMD225580;HAMD225581-HAMD225583;HAMD225586-HAMD225586;HAMD225587-HAMD225588;HAMD225589-HAMD225593;HAMD225594-HAMD225597;HAMD225598-HAMD225601;HAMD225614-HAMD225615;HAMD225618-HAMD225619; HAMD225622-HAMD225625; HAMD225626-HAMD225629; HAMD225666-HAMD225668; HAMD225675-HAMD225679; HAMD225685-HAMD225687; HAMD225688-HAMD225692; HAMD225698-HAMD225702; HAMD225703-HAMD225704; HAMD225705-HAMD225705; HAMD225732-HAMD225735; HAMD225740-HAMD225750; HAMD225751-HAMD225751; HAMD225752-HAMD225756; HAMD225759-HAMD225766; HAMD225787-HAMD225793; HAMD225798-HAMD225803; HAMD225810-HAMD225812; HAMD225813-HAMD225815; HAMD225846-HAMD225863; HAMD225879-HAMD225880; HAMD225898-HAMD225907; HAMD225908-HAMD225908; HAMD225909-HAMD225910; HAMD225912-HAMD225934; HAMD225935-HAMD225943; HAMD225953-HAMD225969; HAMD226010-HAMD226027; HAMD226043-HAMD226047; HAMD226058-HAMD226069; HAMD226070-HAMD226072; HAMD226073-HAMD226074; HAMD226075-HAMD226077; HAMD226078-HAMD226082; HAMD226083-HAMD226099; HAMD226100-HAMD226101; HAMD226102-HAMD226103; HAMD226125-HAMD226126; HAMD226129-HAMD226130; HAMD226383-HAMD226400; HAMD226401-HAMD226416; HAMD226417-HAMD226432; HAMD226433-HAMD226435; HAMD226436-HAMD226437; HAMD226440-HAMD226441; HAMD226442-HAMD226445; HAMD226446-HAMD226456; HAMD226457-HAMD226459; HAMD226460-HAMD226462; HAMD226704-HAMD226707; HAMD226723-HAMD226723; HAMD226858-HAMD226859; HAMD226870-HAMD226876; HAMD226963-HAMD226978; HAMD227421-HAMD227429; HAMD227502-HAMD227503; HAMD241818-HAMD241819; HAMD242785-HAMD242788; HAMD268851-HAMD268861HAMD268870-HAMD268877; HAMD277434-HAMD277468; HAMD298925-HAMD298925; HAMD342354-HAMD342404;HAMD362529-HAMD362748; HAMD429777-HAMD429777; HAMD429781-HAMD429787; HAMD429813-HAMD429828; HAMD429853-HAMD429854; HAMD429911-HAMD429912; HAMD429914-HAMD429915; HAMD429916-HAMD429920; HAMD429916-HAMD429920; HAMD430012-HAMD430016; HAMD430038-HAMD430041; HAMD430062-HAMD430066; HAMD430075-HAMD430079HAMD430160-HAMD430166; HAMD430168-HAMD430168; HAMD430180-HAMD430185; HAMD430210-HAMD430227; HAMD430263-HAMD430279;HAMD430294-HAMD430316; HAMD430326-HAMD430332; HAMD430364-HAMD430368; HAMD430482-HAMD430483; HAMD430490-HAMD430491; HAMD430507-HAMD430508; HAMD430509-HAMD430510; HAMD430741-HAMD430741; HAMD430765-HAMD430782; HAMD430783-HAMD430798; HAMD430799-HAMD430814; HAMD430839-HAMD430841; HAMD430845-HAMD430846; HAMD431249-HAMD431251; HAMD435911-HAMD435911; HAMD435912-HAMD435912; HAMD435913-HAMD435913; HAMD435920-HAMD435920; HAMD435924-HAMD435924; HAMD435975-HAMD436006; HAMD436015-HAMD436032; HAMD436051-HAMD436053; HAMD436093-HAMD436099; HAMD436191-HAMD436254; HAMD436288-HAMD436307; HAMD436309-HAMD436327; HAMD437453-HAMD437453; HAMD438614-HAMD438671; HAMD445775-HAMD445775; HAMD445942-HAMD445942; HAMD469081-HAMD469155; HAMD551151-HAMD551370; HAMD562208-HAMD562218HAMD588470-HAMD588506; HAMD588547-HAMD588583; HAMD588622-HAMD588627; HAMD588675-HAMD588679; HAMD592229-HAMD592234; HAMD592237-HAMD592249; HAMD593708-HAMD593744; HAMD594294-HAMD594299; HAMD596053-

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PEOP100196; PEOP100414-PEOP100428; PEOP100429-PEOP100431; PEOP100432-  
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PEOP100566; PEOP100567-PEOP100624; PEOP100625-PEOP100626; PEOP100627-PEOP100628; PEOP100629-PEOP100629; PEOP100630-PEOP100631; PEOP100632-PEOP100632; PEOP100633-PEOP100633; PEOP100634-PEOP100635; PEOP100636-PEOP100636; PEOP100637-PEOP100638; PEOP100639-PEOP100640; PEOP100641-PEOP100642; PEOP100643-PEOP100649; PEOP100650-PEOP100651; PEOP100652-PEOP100653; PEOP100654-PEOP100655; PEOP100656-PEOP100657; PEOP100658-PEOP100659; PEOP100660-PEOP100661; PEOP100662-PEOP100662; PEOP100664-PEOP100664; PEOP100665-PEOP100672; PEOP100673-PEOP100673; PEOP100674-PEOP100675; PEOP100676-PEOP100686; SCOT501300-SCOT501941; SCOT501942-SCOT502058; SCOT502059-SCOT502201; YUSF239410-YUSF239414

1. Paragraph 6 of the Verified First Amended Complaint against the YUSUFS (not the BNS VFAC) ("VFAC") provides and the Yusufs denied:

6. Defendant Maher Yusuf is an adult resident of St. Croix. He is and at all times relevant to this Complaint has been the President, a director and a shareholder of United Corporation. The Superior Court determined **Maher Yusuf lied under oath in live testimony before the Court about what he had done with \$2.7 million of the funds he took out of the joint Partnership account.**

Produce any and all documents or other evidence that supports the proposition, ignoring the term "lied", that "Maher Yusuf did not make a factual misstatement with regard to what had been done with the \$2.7 million on the first day of that hearing," and that he was under oath what that testimony was given to the court.

Objections: 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 request has nothing to do with the legal and factual grounds which entitle BNS to summary judgment in this matter. This request is vague and calls for speculation on the part of BNS. As the Plaintiffs are well-aware, BNS was not a party to the case underlying the hearing referenced in this request, nor were any BNS representatives present at said hearing. BNS is in no position to evaluate anything Maher Yusuf may have said (or may not have said) at a hearing which BNS was not present-for, nor is BNS in any position to evaluate the correctness of this Court's opinion of what Maher Yusuf said at any such hearing, nor could BNS possibly produce documents regarding such statements or evaluating or supporting or debunking the truth or falsity of the Court's opinion of such statements. BNS further objects that this request, and all of the Plaintiff's similarly-phrased requests are grossly noncompliant with the V.I. Rules of Civil Procedure:

(b) Procedure.

(1) Contents of the Request. The request:

(A) must describe with reasonable particularity each item or category of items to be inspected;

- (B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and
- (C) may specify the form or forms in which electronically stored information is to be produced.

(V.I. R. Civ. P. 34.)

The Plaintiffs' request is neither reasonable nor specific and is instead indicative of Plaintiffs' abusive approach to discovery in this matter. The Plaintiffs merely repeat the allegations in their First Amended Complaint and dare BNS to challenge the Plaintiffs' allegations on proceedings and testimony which BNS was not even present-for, much less a party-to, and even the Court's conclusions regarding such matters.

Subject to said Objections and supplementation BNS responds as follows: None at this time.

## 2. Paragraphs 10-15 VFAC provide

- 11. In addition to being a shareholder, Plaintiff Hamed is now the Vice-President of Plessen, and has been at all times relevant to this case.
- 12. In 2013 and at all times relevant to the claims herein, Plaintiff Hamed's father, Mohammad Hamed, who passed away in 2016, was a shareholder, director and the President of Plessen.
- 13. In addition to being a shareholder, Fathi Yusuf is now and always has been the Secretary-Treasurer of Plessen.
- 14. No Yusuf is now or ever has been the President or Vice-President of Plessen.
- 15. The original three directors of Plessen, as they are listed in the formative corporate documents, were: Fathi Yusuf, Mohammad Hamed and Waleed Hamed.

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

Objections: 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 request has nothing to do with the legal and factual grounds which entitle BNS to summary judgment in this matter. This request is vague and calls for speculation on the part of BNS. As the Plaintiffs are well-aware, BNS only has the limited information about the subjects in this request which the parties to various agreements and relationships with BNS and their representatives provide to BNS.

BNS has no timeline or detailed information about any corporate structure, directors or officers besides what BNS has been given. BNS is not in a position to “prove or disprove”<sup>1</sup> when a person died, who held a particular corporate office at one time or another, who was a shareholder at one time or another, or any of the rest of the information in this request besides what BNS has received. This request is also irrelevant, vague, overbroad and places an undue burden on BNS as-phrased. BNS has a multitude of employees and representatives throughout the world. Fathi Yusuf, his sons and the business interests they represent, and their various representatives are also numerous and spread throughout the world. Their various legal representatives are myriad and represent said persons and entities in a variety of matters which bear no relationship to this matter. The same is true of the Hamed family members and “Plessen”.<sup>2</sup> BNS has no way of knowing whether one of its employees or representatives may possess information “proving or disproving” the referenced subjects about one of the Yusufs or their representatives, at some time in the past 5 years, about one of the persons or entities addressed in this request, nor is BNS obligated to search for any information which does not directly relate to the subject matter of this law suit, or to surmise how this vague request could lead to some such information, and doing either would be unduly burdensome on BNS. In addition, the Plaintiffs and their representatives have spoken with and subpoenaed information from BNS and the Yusufs and their various entities concerning the same subjects addressed in this request on numerous occasions in the past regarding these same subjects, as evidenced in the documents submitted by the Plaintiffs in discovery in this matter, which amount-to thousands of pages, which the Plaintiffs have gathered as part of the multiplicity of years-old law suits between the Plaintiffs, the Hameds and the Yusufs and their various entities.<sup>3</sup> Thus, the Plaintiffs are simply asking BNS to repeat what the Plaintiffs already know. The Plaintiffs’ discovery strategy is objectionable because it asks BNS and this Court to engage-in unnecessary, time consuming and expensive investigation of discovery which the Plaintiffs already have, and have-had years to investigate for themselves.

BNS further objects that this request, and all of the Plaintiff’s similarly-phrased requests are grossly noncompliant with the V.I. Rules of Civil Procedure:

(b) Procedure.

(1) Contents of the Request. The request:

- (A) must describe with reasonable particularity each item or category of items to be inspected;
- (B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and
- (C) may specify the form or forms in which electronically stored information is to be produced.

(V.I. R. Civ. P. 34.)

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<sup>1</sup> Words which place a completely inappropriate legal burden, which necessarily calls for a legal conclusion on the part of BNS, in the context of a request for production.

<sup>2</sup> No definition of what “Plessen” refers to is given by the Plaintiffs, contributing to the objections raised herein.

<sup>3</sup> Despite BNS’s requests to stay discovery in this matter from its inception, the Plaintiffs served several thousand pages of said discovery on BNS on June 9, 2017, in PDF form, which was obviously collected from other preexisting cases.

The Plaintiffs' request is neither reasonable nor specific and is instead indicative of Plaintiffs' abusive approach to discovery in this matter. The Plaintiffs merely repeat the allegations in their First Amended Complaint and dare BNS to challenge the Plaintiffs' allegations about corporate actions and other events which BNS has no way of knowing, much less producing information "proving or disproving" such actions or events.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

3. Paragraphs 16-20 of the VFAC provide

16. Fathi Yusuf has correctly asserted under oath in sworn, court-filed documents that until April of 2014 there had never been a meeting of the shareholders or directors of Plessen after the original formation meeting.

17. Thus, there was no such meeting altering the maximum number of directors (3) or the makeup of that Board.

18. There are no meeting minutes from any Plessen Board meeting altering the maximum number of directors (3) or the makeup of that Board.

19. There has never been a written consent of the directors of Plessen altering the maximum number of directors, which is three.

20. There has never been a written consent of the directors of Plessen altering the makeup of the Board of Directors.

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

Objections: 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 request has nothing to do with the legal and factual grounds which entitle BNS to summary judgment in this matter. This request is vague and calls for speculation on the part of BNS. As the Plaintiffs are well-aware, BNS is not a party-to the separate proceedings between the Plaintiffs, Hameds, Yusufs and/or their representatives and the entities which they control. BNS cannot provide information about subjects it has nothing about, nor can BNS determine what might contest or disprove such subjects. In addition, BNS only has the limited information about the subjects in this request which the parties to various agreements and relationships with BNS and their representatives provide to BNS. BNS has no timeline or detailed information about any corporate structure, directors or officers or corporate records besides what BNS has been given. BNS is not in a position to "prove

or disprove”<sup>4</sup> when or if a corporate meeting occurred, who held a particular corporate office at one time or another, who was a shareholder at one time or another, what the “maximum” number of corporate directors was, or any of the rest of the information in this request besides what BNS has received. This request is also irrelevant, vague, overbroad and places an undue burden on BNS as-phrased. BNS has a multitude of employees and representatives throughout the world. Fathi Yusuf, his sons and the business interests they represent, and their various representatives are also numerous and spread throughout the world. Their various legal representatives are myriad and represent said persons and entities in a variety of matters which bear no relationship to this matter. The same is true of the Hamed family members and “Plessen”.<sup>5</sup> BNS has no way of knowing whether one of its employees or representatives may possess information “contesting” or “disproving” the referenced subjects about one of the Yusufs or their representatives, about one of the persons or entities addressed in this request, nor is BNS obligated to search for any information which does not directly relate to the subject matter of this law suit, or to surmise how this vague request could lead to some such information, and doing either would be unduly burdensome on BNS. In addition, the Plaintiffs and their representatives have spoken with and subpoenaed information from BNS and the Yusufs and their various entities concerning the same subjects addressed in this request on numerous occasions in the past regarding these same subjects, as evidenced in the documents submitted by the Plaintiffs in discovery in this matter, which amount to thousands of pages, which the Plaintiffs have gathered as part of the multiplicity of years-old law suits between the Plaintiffs, the Hameds and the Yusufs and their various entities.<sup>6</sup> Thus, the Plaintiffs are simply asking BNS to repeat what the Plaintiffs already know. The Plaintiffs’ discovery strategy is objectionable because it asks BNS and this Court to engage-in unnecessary, time consuming and expensive investigation of discovery which the Plaintiffs already have, and have-had years to investigate for themselves.

BNS further objects that this request, and all of the Plaintiff’s similarly-phrased requests are grossly noncompliant with the V.I. Rules of Civil Procedure:

(b) Procedure.

(1) Contents of the Request. The request:

- (A) must describe with reasonable particularity each item or category of items to be inspected;
- (B) must specify a reasonable time, place, and manner for the inspection and for performing the related acts; and
- (C) may specify the form or forms in which electronically stored information is to be produced.

(V.I. R. Civ. P. 34.)

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<sup>4</sup> Words which place a completely inappropriate legal burden, which necessarily calls for a legal conclusion on the part of BNS, in the context of a request for production.

<sup>5</sup> No definition of what “Plessen” refers to is given by the Plaintiffs, contributing to the objections raised herein.

<sup>6</sup> Despite BNS’s requests to stay discovery in this matter from its inception, the Plaintiffs served several thousand pages of said discovery on BNS on June 9, 2017, in PDF form, which was obviously collected from other preexisting cases.

The Plaintiffs' request is neither reasonable nor specific and is instead indicative of Plaintiffs' abusive approach to discovery in this matter. The Plaintiffs merely repeat the allegations in their First Amended Complaint and dare BNS to challenge the Plaintiffs' allegations about corporate actions and other events which BNS has no way of knowing, much less producing information "contesting" or "disproving" such actions or events. This Request also fails to comply with the Rules and is an abuse of discovery because of its demand for BNS to anticipate documents and information which BNS may use to support a future motion for summary judgment.<sup>7</sup> As this Court is well aware, this matter is in its initial procedural phases. BNS cannot predict what legal issues may arise or what information or documents BNS might use or obtain to support such a future motion at this time. Nor, even if BNS could foresee all such information or documents would be BNS be required to: 1. Anticipate whether BNS's strategy would be best-served by using said information/documents in a summary judgment motion or not, or 2. Telegraphing BNS's future strategy in the matter to the Plaintiffs, particularly in the context of answering Plaintiffs' discovery requests.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents BNS/WH-00001-00484; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

4. Paragraphs 21-22 of the VFAC provide

21. Plessen opened a bank account with BNS in 1997.

22. At that time, in 1997, the only officers and directors of Plessen were Fathi Yusuf (Secretary-Treasurer), Mohammad Hamed (President) and Waleed Hamed. (Vice-President).

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 1-3 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents BNS/WH-00001-00484; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

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<sup>7</sup> In fact, this and the majority of the Plaintiffs' Requests herein actually call for BNS to speculate about what other Defendants will do with regard to summary judgment and provide information/documents based on that speculation about what other Defendants will do, which is likewise a gross abuse of the discovery this Court has allowed, particularly the limited, pre-summary-judgment discovery which these Requests are supposed-to address.

5. Paragraphs 23-25 of the VFAC provide

23. In the contractual 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.

24. 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.

25. 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.

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 1-3 above. In addition, BNS further objects to this request which is an inappropriate request for multiple admissions which also calls for BNS to make a variety of legal conclusions rather than simply providing information or documents.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

6. Paragraphs 26-27 of the VFAC provide

26. 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.

27. 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.

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

7. Paragraphs 28-30 of the VFAC provide

28. 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.

29. 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.

30. 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.

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

8. Paragraphs 31-34 of the VFAC provide

31. 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").



32. Three signors appeared on that 1997 Signature Card - one of whom was Waleed Hamed.

33. 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. See Exhibit 1 [of the VFAC].

34. Thus, 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.

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

9. Paragraphs 40-43 of the VFAC provide

40. At some time after August 17, 2009, three forgeries were created by members of the Yusuf family.

41. The three forgeries were as follows: 1) 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, 2) 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 3) 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. (These three items are referred to herein as the "Forged Plessen Banking Documents.")

42. The creation of these forgeries was part of the Yusuf/United Corporation attempt to steal the Hamed half of the Plaza Extra Supermarket Partnership assets, then valued in excess of \$50 million, and to run the Hameds out of competition in the grocery business.

43. The creation or alteration of the first two of these forgeries somehow and their insertion into BNS' Plessen business file was done on specific dates known to the Yusufs but intentionally hidden from Plaintiff, and with specific intent and malice -- for the specific purpose of maliciously prosecuting Plaintiff Hamed and causing his criminal arrest.

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

10. Paragraph 49 of the VFAC provides

49. 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.

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

11. Hamed alleges that in 2012, 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. Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

12. 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. . . .

Produce any and all documents or other evidence that disprove or in any way contest either the finding of (1) the unilateral diversion to "accounts inaccessible to Plaintiff" or that (2) the Court expressed that there was a "real concern... that continuing diversions will not be traceable"; or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 1-5 above. In addition, BNS objects that this Request calls for speculation and legal conclusions far beyond BNS's ability to respond and grossly abusive of the discovery process. BNS is not in a position to evaluate whether accounts, even accounts held by third parties (which is within the call of this Request) could be accessible to Plaintiff. Nor is BNS required to assess whether this Court's opinion that its concern is "real" or whether "continuing diversions will not be traceable" can be "disproved" or in any way "contested" as part of answering the Plaintiffs' Requests pursuant to V.I. R. Civ. P. 34.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

13. Paragraphs 52-54 of the VFAC provide, in part,

52. . . . Waleed Hamed, acting on the instructions of the President and in his . . . capacity as the Vice-President of Plessen. . . signed a check removing \$460,000 from the Plessen account.

53. BNS. . . cleared the \$460,000 check and made payment.

54. There was no signature of a Yusuf family member on that check.

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

14. Paragraphs 65-66 of the VFAC provide

65. 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.

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

Produce any and all documents or other evidence that disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response. **Also produce any documents that reflect on, mention, were generated at or given to any of them at any meetings between Mike Yusuf, Nejef Yusuf or Fathi Yusuf and BNS between March and September of 2013.**

BNS repeats and restates its Objections to Requests 2-5 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

15. Paragraphs 67-68 of the VFAC provide

67. At the request the Yusufs, at that time BNS reviewed the signature cards in the retail signature computer datafile, as follows:

- a. Five days after the Answer was filed, and after meeting with one or more of the Yusufs - on Friday May 10, 2013 at 11:47 a.m., internal records of BNS demonstrate that a bank employee went into the bank's computer system to review what was the valid signature card as of that date and printed out a record of having done so.
- b. The file designator shown on that printout shows that the BNS system was used to review its "Retail Signature Card" datafile.
- c. That the Valid Computer-based Signature Card as of March 27, 2013 reflected three signatures -- and no requirement of a signature from each of the two families.
- d. The program/viewer shown on that printout as having been used to

view that datafile is "BNS IAP."

e. The printer used to do the printout is shown as BNS's "hp deskjet 6122."

f. Both the computer time on-screen when the printout was done, and the printout date in the lower left corner of the document are the same: 11:47 a.m.

g. A paper copy of the screen print of the Valid Computer-based Signature Card as of March 27, 2013, was placed into the Plessen paper business file to reflect that such a search had been done on May 10th, 2016, and that it reflected the valid signature card as of that date.

68. A copy of that printed May 10, 2013 document was supplied by BNS to the Yusufus at that time - and the Yusufus were informed that it showed that at the time of the withdrawal the signature card in the retail signature system allowed Waleed Hamed to withdraw funds on a single signature.

Produce any and all documents or other evidence that prove, disprove or in any way support or contradict any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above. BNS further objects to this and all other Requests which not only lack any particularly but are also completely unreasonable in their multiple-compound format and therefore grossly abusive of the discovery Rules and specifically V.I. R. Civ. P. 34.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

16. Paragraphs 71-73 of the VFAC provide

71. . . . on May 17, 2013 - United's President, Mike Yusuf, and his prior counsel met with and filed a criminal report with the VI Police Department alleging embezzlement of the \$460,000 by Plaintiff Waleed Hamed.

72. The alleged embezzlement only concerned that March 27, 2013 Plessen BNS check in the amount of \$460,000, cleared by BNS.

73. The bases of the alleged embezzlement were (1) Mike Yusuf was a director of Plessen and (2) thus, the Hameds did not have a majority of the Plessen Board and that, therefore, (3) the Hameds lacked authority to withdraw the \$460,000 because the evenly divided (2-2) Plessen Board had not agreed to the withdrawal.

Produce any and all documents or other evidence that prove or disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above. In addition, BNS objects to this Request and all other Requests herein which specifically reference and make allegations concerning the Hameds' criminal matters, which BNS was not a party-to and therefore is not required to respond concerning the allegations-of or proceedings therein.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents BNS/WH-00001-00484; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

17. Paragraph 76 of the VFAC provides

76. On that same date, the police were also provided with a document from Consumer Affairs that falsely purported to reflect that Mike Yusuf was a director of Plessen. However, the information had been provided to Consumer Affairs by the Yusufs, and had been entered into the Consume Affairs USVI online website by the Yusufs - through a website for which only the Yusufs, not the Hameds had the password. Thus, the information supplied by the Yusufs and printed out on that form was also fraudulent.

Produce any and all documents or other evidence that prove or disprove or in any way contest any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response. **In addition, as this is a Plessen account, provide the website address, username and password for that online account with Consumer Affairs, as well as any document relating to its creation, use or present status.**

BNS repeats and restates its Objections to Requests 2-5 above. In addition, BNS objects to this Request and all Requests herein which call for speculation by BNS. The Plaintiffs specifically ask about multiple things they allege the Yusufs, who are unrelated third-parties, did and information they controlled. This information is specifically within the control of the Yusufs, as admitted by the Plaintiffs.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

18. Paragraphs 88-89 of the VFAC provide

88. Yusufs also withheld from the police the May 10, 2013 printout showing BNS' account signature card review. This was done to misrepresent the active

signature card -- with malice and the intent to both defraud and cause the arrest of Plaintiff Hamed.

89. In addition, the May 10, 2013 printout showing the account signature card check and the results was negligently withheld from the police investigator by BNS. This misrepresented the active signature card.

Produce any and all documents or other evidence that prove or disprove or in any way relate to any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above. In addition, BNS objects to this Request and all Requests herein which call for speculation by BNS. The Plaintiffs specifically ask about multiple things they allege the Yusufs, who are unrelated third-parties, did and information they controlled. This information is specifically within the control of the Yusufs, as admitted by the Plaintiffs.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

19. Provide all documents, files or other records given to or obtained from the VIPD or the VI AG from March 2013 to present, that relate in any way to Plessen or the Hameds.

BNS repeats and restates its Objections to Requests 2-5 above. In addition, BNS objects to this Request and all Requests herein which are vague, overbroad and call for speculation by BNS. This Request is not limited to BNS or any of BNS's representatives and includes documents and or information which, if they exist, would be unknown to BNS and would be under the control of third parties.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

20. Paragraphs 104-108 of the VFAC provide

104. However, when BNS had 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.

105. Similarly, on September 24, 2014, counsel for the Yusuf's also produced documents in a Superior Court civil action regarding the Plessen bank account. Those documents did not include any document with the two family signature requirement either.

106. The Yusufs have attested in court documents that the second, dated information gathering form supplied to police was created by BNS.

107. BNS has represented to Plaintiffs that this statement that BNS created the second, dated form is untrue, The second, dated information form, as altered with a new, dated final page was created by the Yusufs.

108. The Yusufs have attested in court documents that the second, dated information gathering form they supplied to police was supplied to them by BNS and was a valid bank record.

Produce any and all documents or other evidence that prove or disprove or in any way relate to any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above. In addition, BNS objects to this Request and all Requests herein which call for speculation by BNS. The Plaintiffs specifically ask about multiple things they allege the Yusufs, who are unrelated third-parties, as well as other unrelated third parties, did and information they controlled. This information is specifically within the control of the Yusufs, as admitted by the Plaintiffs. BNS further objects that this Request and Plaintiffs' various filings in this matter reference information which is within the ambit of V.I. R. Civ. P. 408 and inappropriately included in all of Plaintiffs' filings.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

21. Paragraphs 111-113 of the VFAC provide

111. 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.

112. 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 completely unique type font.

113. That second, dated information gathering form was intentionally and



maliciously created and supplied to the police by the Yusufs to defraud and procure the prosecution of Plaintiff Hamed. They also maliciously lied to the police as to the existence of that document in BNS files and that BNS had supplied the document.

Produce any and all documents or other evidence that prove or disprove or in any way relate to any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above. In addition, BNS objects to this Request and all Requests herein which call for speculation by BNS. The Plaintiffs specifically ask about multiple things they allege the Yusufs, who are unrelated third-parties, did and information they controlled. This information is specifically within the control of the Yusufs, as admitted by the Plaintiffs.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

22. Paragraphs 117, 120 and 123 of the VFAC provide

117. The Yusufs, acting individually and as officers and directors of United Corporation also used the arrest in notifications to several off-island commercial entities in an effort to interfere with KAC357, INC.'s grocery businesses which were competing with the Yusufs.

120. The Yusufs had stated to such off-island suppliers that the Hameds and KAC357, INC. were using embezzled funds to buy supplies from the off-island suppliers - which is an anathema in the retail business as suppliers may be subject to seizure of proceeds of crimes by the authorities.

123. The Yusufs made copies of the newspaper article they had solicited and gave them to employees and customers as well as to others in the community while making false, disparaging statements to those persons concerning the business and professional integrity of the Hameds and KAC357, Inc.

Produce any and all documents or other evidence that prove or disprove or in any way relate to any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response.

BNS repeats and restates its Objections to Requests 2-5 above. In addition, BNS objects to this Request and all Requests herein which call for speculation by BNS. The Plaintiffs specifically ask about multiple things they allege the Yusufs, who are unrelated third-parties, did and information

they controlled. This information is specifically within the control of the Yusufs, as admitted by the Plaintiffs.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH0-0001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

23. Paragraph 135 of the VFAC provides

135. Those Defendants have taken further actions up to the present, in concert, to continue and cover-up these actions.

Produce any and all documents or other evidence that prove or disprove or in any way relate to any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response. **Include but do not limit this to any document or evidence that reflects any contact or communication between the Yusufs and BNS, the VIPD or the VI AG, after the charges were brought against the Hameds.**

BNS repeats and restates its Objections to Requests 2-5 and 16 above. In addition, BNS objects to this Request and all Requests herein which call for speculation by BNS. The Plaintiffs specifically ask about multiple things they allege the Yusufs, who are unrelated third-parties, did and information they controlled. This information is specifically within the control of the Yusufs, as admitted by the Plaintiffs.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

24. Paragraphs 157-158 of the VFAC provide

157. Defendants made disparaging statements and circulated disparaging documents with the intent to harm Plaintiffs Hamed and KAC357, Inc. in their business and profession.

158. These were statements and actions intended to harm Plaintiffs' business and professional reputations by impugning their integrity with respect to their job performance and attack their competence and skill in carrying out their businesses.

Produce any and all documents or other evidence that prove or disprove or in any way relate to any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. If there are none, state "None" in response. **Include but do not limit this to any documents or communications by the Yusuf Defendants to any third party after the date of charges of the Hameds.**

BNS repeats and restates its Objections to Requests 2-5 above. In addition, BNS objects to this Request and all Requests herein which call for speculation by BNS. The Plaintiffs specifically ask about multiple things they allege the Yusufs, who are unrelated third-parties, did and information they controlled. This information is specifically within the control of the Yusufs, as admitted by the Plaintiffs.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

25. In the Yusuf Defendants' filing captioned "*Defendants, Fathi Yusuf, Maher Yusef, Yusuf Yusuf and United Corp.'s Motion to Dismiss Plaintiffs' First Amended Complaint*", which has been converted to their Motion for Summary Judgment ("YMSJ"), at page 3, the Yusufs make the following statement.

Further, in practice, beginning in mid-to-late 2011, all checks on the Plessen account were signed by one Hamed and one Yusuf.

Produce any and all documents or other evidence that prove or disprove or in any way relate to any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment.

BNS repeats and restates its Objections to Requests 2-5 above. In addition, BNS objects to this Request and all Requests herein which call for speculation by BNS. The Plaintiffs specifically ask about multiple things they allege the Yusufs, who are unrelated third-parties, did and information they controlled. This information is specifically within the control of the Yusufs, as admitted by the Plaintiffs. Further, this request is irrelevant and an abuse of discovery because it asks BNS to do the Plaintiffs' job – namely fight the Yusuf Defendant's Summary Judgment Motion – rather than asking BNS to provide documents and information within the scope of V.I. R. Civ. P. 26 or 34.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

26. In the YMSJ, at page 6, the Yusufs make the following statement.

Subsequently, the VIPD did a thorough and independent investigation of the allegations, including procuring bank records from both the Bank of Nova Scotia and Banco Popular, and made the independent decision to refer them to the Attorney General for prosecution.

Produce any and all documents or other evidence that prove or disprove or in any way relate to any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment. Include but not limit this to any information, documents or communications informing the Yusufs about the investigation, its progress or its independence or thoroughness.

BNS repeats and restates its Objections to Requests 2-5, 16 and 25 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

27. In the YMSJ, at page 11-12, the Yusufs make the following statement.

Plaintiffs' defamation claim also fails on this independent ground given that Plaintiffs have failed to specify which of the defendants made the allegedly defamatory statements, or to specify to whom the statements were made, merely alleging that "the Yusufs" made statements to "off-island commercial entities.

Produce any and all documents or other evidence as "to which of the defendants made the allegedly defamatory statements, [and] specify to whom the statements were made."

BNS repeats and restates its Objections to Requests 2-5, 16 and 25 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

28. Provide any records which reflect, mention or were created during any meetings between counsel for BNS and counsel for the Yusufs.

BNS repeats and restates its Objections to Requests 1-5 above.

Subject to said Objections and supplementation BNS responds as follows: See Bates-numbered documents **BNS/WH-00001-00484**; See also, Plaintiffs' Documents Produced To BNS Herein June 9, 2017.

29. In the Yusuf Defendants' filing captioned Defendants, Fathi Yusuf, Maher Yusef, Yusuf Yusuf and United Corp.'s Reply in Support of their Motion to Dismiss Plaintiffs' First Amended Complaint "FReply", at page 1, the Yusufs make the following statement

Produce any and all documents or other evidence that prove or disprove or in any way relate to any of these assertions, or which Defendants will or may use with regard to these facts in summary judgment.

BNS repeats and restates its Objections to Requests 2-5. In addition, BNS objects to this Request as incomprehensible as-phrased, since there is no "statement" included as-referenced.

Subject to said Objections and supplementation BNS responds as follows: None.

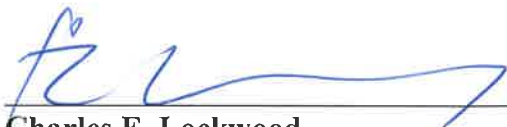
I HEREBY CERTIFY THAT I HAVE READ THE FOREGOING, I UNDERSTAND IT, AND THE FACTS STATED HEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

DEFENDANT BNS BY  
REPRESENTATIVE:

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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 U. S. Mail and email, as agreed by the parties, on:

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