

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

MOHAMMAD HAMED By His Authorized
Agent WALEED HAMED

Plaintiff,

vs.

FATHI YUSUF & UNITED CORPORATION,

Defendants,

YUSUF YUSUF, ZAYED YUSUF, &
ZEYAD YUSUF (f/k/a Syaid Yusuf)
Intervenors.

CASE # SX-12-CV-370

PETITION IN INTERVENTION - COMPLAINT FOR DECLARATORY JUDGMENT

COME NOW Intervenors, YUSUF YUSUF, ZAYED YUSUF, FAWZIA YUSUF, and ZEYAD YUSUF, (collectively "Intervenors") by and through their undersigned counsel, pursuant to Federal Rule of Civil Procedure 24, Petition this Court for the relief stated below:

Introduction

1. Intervenors bring this Petition in Intervention to settle a controversy concerning the alleged existence of a legal "partnership" between Fathi Yusuf and Mohammad Hamed, which allegation has been brought for the first time nearly 30 years *after* the purported "partnership" allegedly was formed. Intervenors seek to contest any allegation that there is, or was, a partnership, by seeking a declaration that (i) the Plaintiffs are either time barred from bringing this action or equitably estopped from belatedly asserting that there is a partnership; (ii) that Title 13 of the Virgin Islands Code

prevents the Plaintiffs from obtaining the relief they seek; and (iii) in the event that the finder of fact needs to resolve the factual issue as to whether there is/was a partnership, that no such partnership ever existed.

Parties

2. United Corporation is a Virgin Islands corporation with its principal place of business in St. Croix, United States Virgin Islands (“USVI”).

3. Mohammad Hamed is an individual and a resident of St. Croix.

4. Waleed Hamed is an individual, a resident of St. Croix, and the son of Mohammad Hamed.

5. Intervenor Yusuf Yusuf is an individual and a resident of St. Croix.

6. Intervenor Zayed Yusuf is an individual and a resident of St. Croix.

7. Intervenor Fawzia Yusuf is an individual and a resident of St. Croix.

8. Intervenor Zeyad Yusuf is an individual and a resident of St. Croix.

Jurisdiction and Venue

9. This Court has jurisdiction of this action under 4 V.I.C. § 76.

10. The declaratory relief requested herein is authorized by 4 V.I.C. § 76.

11. Venue is proper pursuant to 4 V.I.C. § 78 in the District of St. Croix because the alleged events giving rise to the instant dispute occurred, in part, in this District.

Factual Background

United Corporation

12. United Corporation was duly organized and incorporated as a corporation in the USVI on January 15, 1979, approximately 34 years ago, by Fathi Yusuf, Fawzia Yusuf, and Ahmad Yusuf. The Articles of Incorporation is attached as **Exhibit A**.

13. United Corporation always has been organized, maintained, and owned by the Yusuf family, including the Intervenors.

14. In relevant part, among other investments and businesses, United Corporation owns and operates a chain of three Plaza Extra Supermarket stores in St. Thomas and St. Croix, which are commonly referred to as “St. Thomas Plaza Extra,” “St. Croix Plaza Extra West” and “St. Croix Plaza Extra East” (collectively, the “Plaza Extra Supermarkets”).

15. United Corporation also is the sole owner of the trademark name “Plaza Extra,” which name United Corporation never has authorized or consented for use by any other individual or entity.

16. Since its inception in 1979, United Corporation has reported all of its tax obligations, and has filed all of its tax returns, as a *corporation* under either Subchapters “C” or “S” of the Internal Revenue Code (“IRC”) – and never as a *partnership* under any partnership designation of the IRC or otherwise.

The Criminal Action

17. In or around 2003, United Corporation, along with certain of its shareholders and non-shareholders, including Waleed Hamed, were indicted in a federal criminal action in this Court styled, *UNITED STATES OF AMERICA and GOVERNMENT OF THE VIRGIN ISLANDS v. FATHI YUSUF MOHAMAD YUSUF, WALEED MOHAMMAD HAMED, WAHEED MOHAMMAD, MAHER FATHI YUSUF, NEJEH FATHI YUSUF, ISAM YUSUF and UNITED CORPORATION*, Case No. 2005-15F/B, which is pending before the Honorable Wilma A. Lewis (the “Criminal Action”).

18. The United States of America and the Government of the Virgin Islands (collectively, the “Government”) generally alleged in the Criminal Action the violation of various criminal statutes and internal revenue tax regulations, including unpaid corporate income taxes and individual income taxes owing to the Government and the Virgin Islands Bureau of Internal Revenue (“VIBIR”) for the indictment years 1996 through 2001.

19. Certain matters in the Criminal Action were appealed to the Court of Appeals for the Third Circuit and the United States Supreme Court. See *United States v. Yusuf*, 461 F.3d 374 (3d Cir. 2006) (reversing suppression order and remanding action); *United States v. Yusuf*, 199 Fed. Appx. 127 (3d Cir. 2006) (vacating order releasing restrained assets and remanding action); *United States v. Yusuf*, 536 F.3d 178 (3d Cir. 2008) (vacating order dismissing money laundering counts and remanding action), *cert. denied*, 129 S. Ct. 2764 (2009).

20. The various pleadings and motions in the Criminal Action expressly identify Mohammad Hamed as an individual or entity related to United, United’s

shareholders and the individual defendants in that action. See, e.g., Supplement to Government's Motion for Reconsideration (Doc. # 1151 in the Criminal Action) at 3, attached hereto as **Exhibit B**.

21. At all times relevant during the Criminal Action, Mohammad Hamed and Waleed Hamed represented to this Court, the Third Circuit, the U.S. Supreme Court, the Government, the VIBIR, and the public in general that: United Corporation alone owned the Plaza Extra Supermarkets; all of United's shares were owned entirely by members of the Yusuf family, and not by any member of the Hamed family; and all tax obligations of United, United's shareholders, the individual defendants in the Criminal Action and any related entities and individuals corresponding to the Plaza Extra Supermarkets were properly calculated based on United's status as a "C" or "S" corporation, as opposed to as a partnership or otherwise.

The Plea Agreement, Letter Agreement, and Plea Agreement Addendum

22. On February 26, 2010, the Government, United Corporation, Waleed Hamed and the other defendants in the Criminal Action entered into a Plea Agreement (the "Plea Agreement") (Doc. # 1248 in the Criminal Action). A copy of the Plea Agreement is attached as **Exhibit C**.

23. Via a Letter Agreement dated February 12, 2010 (the "Letter Agreement"), which is attached as **Exhibit 2** to the Plea Agreement (at pages 17-20), the parties memorialized their agreement regarding the "parameters" of the formal plea. Letter Agreement at 1.

24. Specifically, United Corporation agreed to plead guilty to filing a false 2001 U.S. Corporation Income Tax Return (Form 1120S), in violation of Title 33, Virgin Islands Code, Section 1525(2). Plea Agreement at 2; Letter Agreement at 1.

25. Upon the entry of such plea, the Government agreed to dismiss with prejudice all counts of the indictment in the Criminal Action against Waleed Hamed and the other individual defendants in that action, and all remaining counts against United Corporation; and “agree[d] not to prosecute United Corporation or *any other individual or entity* for any other crimes arising out of the conduct alleged in the Third Superseding Indictment.” Plea Agreement at 2; Letter Agreement at 1 (emphasis added).

26. Waleed Hamed and the other parties in the Criminal Action further agreed that, in preparing and filing with the VIBIR a corporate income tax return on Form 1120S as an “S” corporation for the year 2001, United Corporation under-reported its gross receipts or sales by approximately \$10 million dollars. Plea Agreement at 3-4.

27. In addition, prior to sentencing in the Criminal Action, which has not occurred yet, United Corporation, Waleed Hamed and the other defendants in that action agreed to cooperate with the Government and the VIBIR in filing complete and accurate tax returns for the years 2002 through 2008. Plea Agreement at 11; Letter Agreement at 2-3.

28. The Plea Agreement also contains various additional standard contract provisions, including a merger clause and a “modification must be in writing” clause. (Plea Agreement at 12).

29. On October 1, 2010, the District Court accepted United Corporation's guilty plea under the Plea Agreement. See Acceptance of Plea of Guilty and Adjudication of Guilt (Doc. # 1289 in the Criminal Action, attached hereto as **Exhibit D**.

30. On February 7, 2011, the parties in the Criminal Action entered into a Plea Agreement Addendum (the "Plea Agreement Addendum"). See Doc. # 1304-1 in the Criminal Action, a copy of the Plea Agreement Addendum is attached as **Exhibit E**.

31. In relevant part, Waleed Hamed and the other defendants in the Criminal Action agreed in the Plea Agreement Addendum that United Corporation would pay, pursuant to various provisions of the Plea Agreement: \$5,000 in fines; \$10,000,000 (ten million dollars) to the VIBIR for restitution; and \$1,000,000 (one million dollars) as a substantial monetary penalty. Plea Agreement Addendum at 1.

The Closing Agreement

32. On or about July 19, 2011, pursuant to Section 7121 of the IRC, United Corporation and the VIBIR entered into a Closing Agreement on Final Determination Covering Specific Matters (the "Closing Agreement"). A copy of the Closing Agreement is attached as Exhibit F.

33. The Closing Agreement expressly provides that "all the governing principles for this civil tax liability closing agreement are set forth in the Plea Agreement . . . and the Plea Agreement Addendum, . . . the terms of which are incorporated by reference." *Id.* at 1.

34. Specifically, on behalf of "all the individual defendants and related individuals and entities in the various pleadings and motions in [the Criminal Action]," United Corporation and the VIBIR

agreed upon the amounts of taxes to be assessed and paid by United Corporation in full satisfaction of its civil tax and reporting liabilities and the civil tax and reporting liabilities of United Corporation, United's shareholders and all of the individual defendants and related individuals and entities identified in the various pleadings and motions in [the Criminal Action] for each of the years 1996 through 2001 as addressed with particularity in the Plea Agreement.

Id. at 2.

35. The Closing Agreement further provided that it “establish[ed] with finality the civil tax liabilities for the years 1996 through 2001,” and that

[p]erformance of the assessment and payment obligations of [the agreement] fully satisf[ied] all civil tax liabilities of [United Corporation], its individual shareholders, and all of the individual defendants *and related individuals* and entities identified in the various pleadings and motions in [the Criminal Action] for the 1996 through 2001 taxable years.

Id. at 1 (emphasis added), 3 (emphasis added).

36. Such “finality” and “full[] satisf[action] of all civil tax liabilities” for the taxable years 1996 through 2001 benefited not just United Corporation, “its individual shareholders, and all of the individual defendants” in the Criminal Action, but also “all . . . related individuals and entities identified in the various pleadings and motions” in that action, including *Mohammad Hamed* (a “related individual” who was identified “in the various pleadings and motions”) and *Waleed Hamed* (an “individual defendant”).

37. The VIBIR ultimately assessed against United Corporation a total tax assessment of \$10 million dollars, which, pursuant to the Closing Agreement, United Corporation was obligated to pay “within 10 days of the execution of” the agreement.

Id. at 2.

38. The assessment was based on three components: United Corporation's (a) corporate income tax for the taxable years 1996-1998 based on its status as a "C" corporation, as opposed to a partnership or any other such corporate designation; (b) individual income tax for the taxable years 1999-2001 based on its status as an "S" corporation, as opposed to a partnership or any other such corporate designation; and (c) gross receipts tax for the taxable years 1996-2001. *Id.*

39. United Corporation timely paid the \$10 million dollar assessment. (Closing Agreement at 7 (July 19, 2011 Letter from Henry Smock to Tamarah Parson-Small)).

40. By allowing United Corporation to plead guilty to a federal criminal violation and pay significant penalties and fines, including a \$10 million dollar assessment, Mohammad Hamed and Waleed Hamed – as a "related individual" and an "individual defendant" in the Criminal Action, respectively – each obtained the following substantial rights and benefits, among others:

- a. full satisfaction of their all civil tax liabilities for the tax years 1996 through 2001 (Closing Agreement at 3 (¶¶ 4, 8));
- b. release from any requirement or obligation to file their tax returns for the periods 1996 through 2001 (*id.* at 3 (¶ 5));
- c. release from any requirement or obligation to file their amended tax returns for the periods 1996 through 2001 (*id.*);
- d. final determination of their income tax liabilities (*id.* at 3 (¶ 7)); and
- e. final determination of their gross receipts tax liabilities *id.*

41. United Corporation, as the designated “Taxpayer” in the Closing Agreement, likewise received the foregoing rights and benefits, among others. *Id.* at 2-3.

The Alleged “Partnership”

42. On or about September 17, 2012, after United’s payment of the \$10 million dollar assessment, and after Mohammad Hamed’s and Waleed Hamed’s receipt of the benefits afforded under the Closing Agreement, Mohammad Hamed, by his “authorized agent” Waleed Hamed, filed the instant case.

43. The Hameds’ disjointed and ever-shifting allegations in the Civil Action are highlighted in a Comparison Document (District Court Doc. # 17), comparing the Complaint with the First Amended Complaint.

44. At bottom, the Hameds’ claims, which are ostensibly brought pursuant to the partnership provisions of the Virgin Islands Code, Title 26, are premised on the naked allegation that, during some unspecified “time period,” “Mohammad Hamed and [Fathi] Yusuf agreed to enter into a 50/50 partnership . . . to [allegedly] create, fund and operate [a] new grocery supermarket business, which they [allegedly] named Plaza Extra Supermarket” and is comprised of the three Plaza Extra Supermarket stores identified above, *i.e.*, St. Thomas Plaza Extra, St. Croix Plaza Extra West, and St. Croix Plaza Extra East. District Court Doc. # 17 (Comparison Doc. ¶ 9).

45. The Hameds’ prior sworn testimony is equally indefinite about the details of this alleged legal “partnership.” See, e.g., Sept. 17, 2012 Affidavit of Mohammad Hamed (“M. Hamed Aff.”) ¶ 2 (averring that the “partnership” apparently was entered

into “in the 1980’s”); Sept. 18, 2012 Affidavit of Waleed Hamed “W. Hamed Aff.” ¶ 3 (same).

46. The Defendants in this case, and the Intervenors, deny that the Plaintiffs are entitled to any relief in that action and deny the existence of the alleged legal “partnership” between Mohammad Hamed and Fathi Yusuf.

The Current Dispute

47. The merits of the alleged legal “partnership” ultimately will be addressed and resolved in this case.

48. However, it is undisputed that:

- a. United Corporation owns the property on which St. Croix Plaza Extra East is located see W. Hamed Aff. ¶ 3; M. Hamed Aff. ¶ 5;
- b. United Corporation is the account holder of the bank accounts for the Plaza Extra Supermarkets see W. Hamed Aff. ¶ 9; M. Hamed Aff. ¶ 5;
- c. United Corporation is the account holder of the banking and brokerage accounts holding the profits from the Plaza Extra Supermarkets see W. Hamed Aff. ¶ 11; M. Hamed Aff. ¶ 5; and
- d. United Corporation serves as the corporate entity through which the Plaza Extra Supermarkets have reported their tax obligations see W. Hamed Aff. ¶ 7; M. Hamed Aff. ¶ 5.

49. Yet despite these undisputed facts, the Plaintiffs aver that United Corporation is somehow a partnership with only two partners, viz. Fathi Yusuf and Mohammed Hamed.

50. Thus, the Hameds’ belated assertion of an alleged legal “partnership” relating to the United Corporation, not only exposes the Intervenors to a risk that their respective investments in the stock of United Corporation will be diluted by 50%, but

also jeopardizes the Intervenors' respective rights under the Closing Agreement, including, but not limited to, its right to full satisfaction of all tax liabilities for the tax years 1996 through 2001 and for its other reporting requirements under the Plea Agreement.

51. Furthermore, the Plaintiffs' "partnership" action is nothing more than a thinly veiled shareholder dilution action that runs in contravention to the enumerated provision of Title 13, Chapter 1, of the Virgin Islands Code.

Claim for Relief – Declaratory Judgment

52. Intervenors incorporate paragraphs 1 through 51 above as if fully set forth herein.

53. An actual controversy exists here between the Plaintiffs, the Defendants, and the Intervenors.

54. The controversy includes genuine and opposing interests regarding an alleged legal "partnership" between United Corporation's primary shareholder and Mohammad Hamed with respect to the Plaza Extra Supermarkets.

55. The controversy is direct and substantial, implicating the finality of an internal revenue closing agreement, and a federal plea agreement incorporated therein, as well as tax liabilities allegedly dating as far back as the "1980's."

56. A judicial declaration will be final and conclusive; and will serve a useful purpose in clarifying and settling the uncertain legal relations at issue.

57. Intervenors therefore are entitled to a declaratory judgment regarding the alleged partnership and any attendant impact on their ownership interests in United Corporation.

58. The Intervenors therefore seeks a declaratory judgment confirming the following:

- a. that the Plaintiff is time barred from bring this action (or any further actions);
- b. that the Plaintiff is equitably estopped from asserting that he has a partnership interest in United Corporation;
- c. that the Intervenors' respective ownership percentages in United Corporation are unaffected by any relief the Plaintiff may be able to obtain from the named Defendants;
- d. that the Intervenors' indirect financial interest in United Corporation are unaffected by any relief that the Plaintiff may be able to obtain from the named Defendants;
- e. and in the event that a merits based decision is rendered, that the Plaintiff is not a partner in United Corporation.

WHEREFORE, Intervenors pray that the Court enter a declaratory judgment confirming the following:

- a. that the Plaintiffs are time barred from bringing this action (or any further actions);
- b. that the Plaintiffs are equitably estopped from asserting that Mohammed Hamed has a partnership interest in United Corporation;
- c. that Title 13 of the Virgin Islands Code prevents the Plaintiff from obtaining the relief they seek;
- d. that the Intervenors' respective ownership percentages in United Corporation are unaffected by any relief the Plaintiffs may be able to obtain from the named Defendants;

e. that the Intervenors' indirect financial interest in United Corporation are unaffected by any relief that the Plaintiffs may be able to obtain from the named Defendants;

f. and in the event that a merits based decision is rendered, that Mohammed Hamed is not a partner in United Corporation.

Intervenors further pray that the Court:

a. award to the Intervenors their reasonable attorneys' fees, costs, and expenses in prosecuting this action; and

b. award such other appropriate relief as the interests of justice may require.

RESPECTFULLY SUBMITTED
LAW OFFICES OF K.G. CAMERON
Attorneys for Intervenors

Dated: January 24, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2013, a true and accurate copy of the foregoing was forwarded via email to the following:

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**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
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MOHAMMAD HAMED By His Authorized
Agent WALEED HAMED

Plaintiff,

CASE # SX-12-CV-370

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FATHI YUSUF & UNITED CORPORATION,

Defendants,

YUSUF YUSUF, ZAYED YUSUF, &
ZEYAD YUSUF (f/k/a Syaid Yusuf)

Intervenors.

**MOTION FOR LEAVE TO INTERVENE AND MEMORANDUM OF LAW IN SUPPORT
OF THE MAJORITY SHAREHOLDERS' MOTION FOR LEAVE TO INTERVENE**

COME NOW Intervenors, YUSUF YUSUF, ZAYED YUSUF, FAWZIA YUSUF, and ZEYAD YUSUF, (collectively "Majority Shareholders" or "Movants") by and through their undersigned counsel, pursuant to Federal Rule of Civil Procedure 24 file this Motion for Leave to Intervene with Memorandum in Support to Intervene. In support thereof the Movants state as follows:

I. INTRODUCTION

The Plaintiff has commenced this action because he believes that he is entitled to 50% of United Corporation because, somehow, it is a "partnership" and conveniently forgetting that United Corporation is, in fact, a *de jure*, legal entity with corporate shareholders—the majority of which are comprised of the Movants. The Plaintiff seeks as relief, *inter alia*, "a judicial determination that the Partnership funds and property held by United Corporation which belong to the plaintiff are subject to a constructive trust in

favor of the plaintiff, which must be distributed to the plaintiff forthwith.” Amended Complaint, at p. 16 ¶10.

The Plaintiffs have engineered a *de facto* shareholder dilution lawsuit, where the ultimate result, if successful, is that the non-named majority corporate shareholders of United Corporation will have their respective shares diluted by 50%. The instant Motion for Leave to Intervene is being filed in order to protect the legal and economic interest of the non-named majority shareholders of United Corporation.

By way of background, the original Complaint referred to a federal criminal action in the District Court of the Virgin Islands, St. Croix Division, styled *United States, et al., v. United Corporation, et al.*, case no. 1:05-cr-15 (D.V.I.) which case was assigned to and is currently pending before the Honorable Wilma A. Lewis (the “criminal case”). (Complaint ¶¶ 8, 10). Fathi Yusuf and United Corporation, who are the Defendants in the present action, together with Waleed Hamed, who is the Plaintiff’s “authorized agent” in this action, are Co-Defendants in the criminal case. YUSUF YUSUF, ZAYED YUSUF, FAWZIA YUSUF, and ZEYAD YUSUF are shareholders of United Corporation and were not indicted in the criminal case and have not been named in the instant case.

On February 26, 2010, in the criminal case, United Corporation, its attorneys, the individual criminal defendants in that action, and the Government entered into a Plea Agreement (the “Plea Agreement,” which is DE # 1248 in the criminal case and is attached as **Exhibit “A”** hereto).

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

year 2001 and the underreporting of gross income. (Plea Agreement at 2-4). In turn, the Government agreed, in relevant part, to “dismiss all counts of the Indictment with prejudice against [the individual defendants]” and “not to file any additional criminal charges against United [Corporation] or any of the individual defendants for conduct arising out of the facts alleged in the Indictment.” (Plea Agreement at 1-2).

The Plea Agreement states: “In addition, prior to the sentencing hearing in this matter United’s shareholders (FY 32.5%, FY 32.5%, SY 7%, ZY 7%, YY 7%, MY7%, NY 7%)¹, and the individual defendants *shall file the outstanding returns and reporting documents and shall make full payments of the amounts due thereupon.*” (Plea Agreement at p. 11, emphasis added). Related to the filing of such tax returns, the Plea Agreement identifies “restitution numbers for tax loss” derived from United Corporation’s gross receipts for the years 1996-2001, United Corporation’s corporate income taxes for the years 1996-1998, *and the individual income taxes of Untied Corporation’s shareholders for the years 1999-2001.* (Plea Agreement at p. 15 (Restitution Numbers for Tax Loss, emphasis added)).

The Plea Agreement is based on the representations by the criminal defendants (and their counsel) in the criminal case to the Government that United Corporation exists and has always existed as a *de jure* corporation, not a partnership; and that, related to the corporate and individual income tax returns at issue in that action, no partnership exists or ever existed during the relevant tax periods.

¹ The individual shareholders are identified as Fathi Yusef, Maher Yusef, Yusef Yusef, Zayed Yusef, Fawzia Yusef and Zeyad Yusef. Neither Mohamed Hamed nor Waleed Hamed were indicated as shareholders in the Criminal Action.

For the reasons detailed below the Motion for Leave to Intervene should be granted both as of right, and permissibly..

II. THE MOVANTS ARE ENTITLED TO INTERVENE AS A MATTER OF RIGHT

Rule 24(a)(2) governs motions for intervention as of right. The Rule provides:

On timely motion, the court must permit anyone to intervene who ... claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

Fed. R. Civ. P. 24(a)(2). Further "liberal intervention is desirable to dispose of as much of a controversy 'involving *as many apparently concerned persons* as is compatible with efficiency and due process.'" *Feller v. Brock*, 802F.2d 722, 729 (4th Cir. 1986) (emphasis supplied) quoting *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967).

Under the Third Circuit's precedent, an applicant must be granted leave to intervene if (1) it has a sufficient interest in the action; (2) the action potentially threatens to impair that interest; (3) the applicant is not adequately represented by existing parties to the action; and (4) the motion to intervene is timely. *See Kleissler v. U.S. Forest Service*, 157 F.3d 964, 969 (3d Cir. 1998); *see also Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 731 (D.C. Cir. 2003) (same). Additionally, Third Circuit case law forbids "mechanical[ly]" applying this Rule to cover only those "legally bound" by the judgment. *Kleissler.*, 157 F.3d at 970 (3d Cir. 1998); *accord Liberty Mut. Ins. Co. v. Treesdale, Inc.*, 419 F.3d 216, 225 (3d Cir. 2005).

The Majority Shareholders each meet each of these requirements. Each Majority Shareholder has a respective concrete interest in this case sufficient to satisfy both Article III and Rule 24(a)(2); that interest may be impaired by this action; the existing parties cannot adequately represent Movants' interests; and the application for intervention is timely. Movants are therefore entitled to intervene as of right under Rule 24(a)(2). Each of the factors will be address in turn.

A. The Majority Shareholders Have a Cognizable Interest in the Subject of the Action

Movants come to their own aid, and in doing so, possess precisely the kind of interest found sufficient to establish both standing to sue and right of intervention. The Movants comprise the majority shareholders of United Corporation.² Movants have a direct property interest in their shares of United Corporation, have a direct economic interest in the value of these shares, have a direct interest in the corporate governance of United Corporation, have a direct economic interest in the income stream these shares provide, a direct economic interest of the value of these shares, and have an indirect property interest in the assets held by United Corporation.

In *Kleissler*, the Third Circuit held that "the polestar for evaluating a claim for intervention is always whether the proposed intervenor's interest is direct or remote." 157 F.3d at 972. Thus, although merely opposing another's legal position is not a sufficient interest, *Donaldson v. United States*, 400 U.S. 517, 531 (1971), a *direct interest is sufficient*. In that case, the Third Circuit held that particular school districts had a direct interest sufficient to intervene in a suit by environmentalists to restrict

² The Movants represent 53.5% of the issued and outstanding shares of United Corporation.

logging, when state law provided that a portion of the timber revenue would go to those districts. *Kleissler*, 157 F.3d at 972.³

Movants have a concrete interest in the ongoing litigation as they are the individuals, that if the Plaintiffs obtain the relief they seek, will have their shares diluted by 50% and will suffer an attendant economic (both direct and indirect) harm. Simply stated, who would have more of an interest in the litigation than those that will ultimately suffer the negative economic consequences?

B. Absent Intervention, the Unindicted Shareholders' Interests Could Be Greatly Impaired

An intervenor's interest must also be "directly affected in a substantially concrete fashion by the relief sought." *Kleissler*, 157 F.3d at 972. It is incontrovertible that Movants' interests will be impaired by this action. In determining whether a movant's interests will be impaired, courts look to the practical consequences of denying intervention. As the Advisory Committee Notes to the 1966 amendments to Rule 24(a) explain, "[i]f an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene." *See also Cascade Natural Gas Corp. v. El Paso Natural Gas Co.*, 386 U.S. 129, 134 n.3 (1967) (quoting Advisory Committee Notes to 1966 Amendments).

In short, there can be little doubt that an unfavorable ruling would greatly impair the Movants' interests. Because the very purpose of Rule 24's "interest" test is to be "a

³ "The standing inquiry is repetitive in the case of intervention as of right because an intervenor" who has Article III standing will also satisfy Rule 24(a)'s interest requirement. *See Akiachak Native Cmty. v. U.S. Dep't of Interior*, 584 F. Supp. 2d 1, 7 (D.D.C. 2008) (citing *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003)).

practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process” intervention should not be denied merely because that may vindicate their interests in some later, albeit more burdensome, litigation.”⁴ *Natural Resources Defense Council v. Costle*, 561 F.2d 904, 910-11 (D.C. Cir. 1977).

C. The Existing Parties Do Not Adequately Represent the Unindicted Shareholders’ Interests

The Movants are also not adequately represented in this action. The U.S. Supreme Court has held that the burden of making this showing is “minimal”; the movant must simply show that representation “may be” inadequate. *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538, n.10 (1972). Intervention should therefore be permitted “unless it is **clear** that the [existing] party will provide adequate representation for the absentee.” 7C Charles Alan Wright et al., *Federal Practice and Procedure* § 1909 (3d ed. 2007)(emphasis added). “Although there may be a partial congruence of interests that does not guarantee the adequacy of representation.” *Fund for Animals, Inc. v. Norton* 322 F.3d 728, 737 (D.C. Cir. 2003)

In this case, neither of the named defendants adequately represents the Movants’ interests. Fathi Yusuf does not adequately represent the Movants’ interest, as absent Movants’ intervention in this case, his personal interests (which are coextensive, but not coterminous, with the unindicted shareholders’ interests) will impair the Movants’ interests. That is to say Fathi Yusuf has his interest in his minority ownership in his shares of United Corporation, but Fathi Yusuf does not have an interest in the other

⁴ For example, such as a derivate shareholder lawsuit.

remaining majority shareholder's stock. Indeed, this is particularly significant since a resolution of the case could result in a situation where the Movants, who cumulatively own a majority of United Corporation, could be reduced to a minority position.

Further, United Corporation does not adequately represent the Movants' interest as United Corporation is a party to the criminal case, and is the only party in the criminal case that will be subject to criminal liability. As both United Corporation and Fathi Yusuf have criminal exposure in the criminal case their interests differ from the Majority Shareholders who have no exposure in the criminal case.

D. The Motion to Intervene Is Timely

Finally, this Motion is timely. [T]imeliness is "determined by the totality of the circumstances" including the time elapsed since the inception of the suit, the purpose for which intervention is sought, the need for intervention as a means of preserving the applicant's rights, and the probability of prejudice to those already parties in the case. *United States v. Alcan Aluminum, Inc.*, 25 F.3d 1174, 1181 (3d Cir. 1994)). Among the factors to be considered are: (1) the stage of the proceeding; (2) the prejudice that delay may cause the parties; and (3) the reason for the delay. *Mountain Top Condo. Ass'n v. Dave Stabbert Master Builder, Inc.*, 72 F.3d 361, 369 (3d Cir. 1995); see also *NAACP v. New York*, 413 U.S. 345, 366 (1973) (noting that courts analyzing timeliness under Rule 24 look at the length of time the intervenors knew of their interest in the case and the prejudice to the intervenor if the motion is denied, among other things). The critical factor is whether any delay in moving for intervention will prejudice the existing parties to the case. *Id.* Additionally, "[e]ven though the timeliness requirement applies to . . . intervention of right," a court should be particularly "reluctant to dismiss such a request

for intervention [of right] as untimely.” 7C Wright et al., § 1916; *see also Acree v. Republic of Iraq*, 370 F.3d 41 (D.C. Cir. 2004) (reversing district court’s denial of United States’ motion to intervene where motion came after the court had already entered judgment in the case but case had undeniable impact on government’s interest).

In the totality of the circumstances in this case, the Motion is timely, as no motions have been ruled on and there have yet to be any Rule 26 discovery and no hearings have been held. Simply put, this case is in its infancy.

III. IN THE ALTERNATIVE, MOVANTS SHOULD BE ALLOWED PERMISSIVE INTERVENTION

If this Court determines that intervention of right is not appropriate, Movants respectfully requests that the Court grant permissive intervention under Rule 24(b). The Rule provides:

On timely motion, the court may permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact. . . . In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties’ rights.

Fed. R. Civ. P. 24(b).

Thus, permissive intervention under Fed. R. Civ. P. 24(b) is appropriate where a party’s claim or defense and the main action have a question of law or fact in common and intervention will not unduly prejudice or delay the adjudication of the rights of the original parties.⁵ Additionally, the requirements for permissive intervention are to be

⁵ But Rule 24(b) “plainly dispenses with any requirement that the intervenor shall have a direct personal or pecuniary interest in the subject of the litigation.” *SEC v. United States Realty & Improvement Co.*, 310 U.S. 434, 459 (1940).

construed liberally, with all doubts resolved in favor of permitting intervention. See *EEOC v. Nat'l Children's Ctr., Inc.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998).

As discussed above, Movants have both direct and indirect interest in United Corporation. It cannot be disputed that there are common questions of law and fact as to whether United Corporation, a *de jure* corporation is somehow a partnership. Moreover, as stated above, Movants' participation will not unduly delay the proceedings nor prejudice the adjudication of the rights of the original parties. Accordingly, to the extent that mandatory intervention is not available to the Movants, permissive intervention is. This Court would be well within its discretion to allow the Movants to participate as a party in the instant case.

IV. CONCLUSION

This Court should permit Movants to intervene as they have satisfied the legal standards for both mandatory and permissible intervention under Rule 24.

WHEREFORE, for the foregoing reasons, this Court should grant the intervention of right under Rule 24(a)(2) or, in the alternative, permissive intervention under Rule 24(b).

RESPECTFULLY SUBMITTED
LAW OFFICES OF K.G. CAMERON
Attorneys for Intervenors

Dated: January 24, 2013

By: 
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V.I. Bar No. 683
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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2013, a true and accurate copy of the foregoing was forwarded via email to the following:

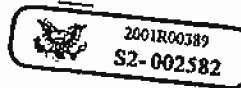
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ARTICLES OF CORPORATION
(United Corporation)



Case
Hamed v. United,
et al

Exhibit
A

Columbia, or of any territory, dependency, colony, or possession of the United States of America, or of any foreign government, a corporation or corporations for the purpose of transacting, promoting or carrying on any or all of the objects or purposes for which the corporation is organized, and to dissolve, wind up, liquidate, merge or consolidate any such corporation or corporations or to cause the same to be dissolved, wound up, liquidated, merged or consolidated.

(l) To conduct its business in any and all of its branches and maintain offices both within and without the Virgin Islands of the United States, in any and all States of the United States of America, in the District of Columbia, in any and all territories or possessions of the United States of America, and in foreign countries.

(m) To such extent as a corporation organized under the General Corporation Law of the Virgin Islands of the United States may now or hereafter lawfully do, to do, either as principal or agent and either alone or in connection with one or more persons, firms, associations, corporations or governments, all and everything necessary, suitable, convenient or proper for, or in connection with, or incident to, the accomplishment of any of the purposes or the attainment of any one or more of the objects herein enumerated or designed directly or indirectly to promote the interests of the corporation or to enhance the value of its properties; and in general to do any and all things and exercise any and all powers, rights and privileges which a corporation may now or hereafter be organized to do or to exercise under the aforesaid General Corporation Law or under any act amendatory thereof, supplemental thereto or substituted therefor.

The foregoing provisions of this Article SECOND shall be construed both as purposes and powers and each as independent purposes and powers. The foregoing enumeration of specific purposes and powers shall not be held to limit or restrict in any manner the purposes and powers of the corporation, and the purposes and powers herein specified shall, except when otherwise provided in this Article SECOND, be in no wise limited or restricted by reference to, or inference from, the terms of any provision of this or any other Article of these Articles of Incorporation; provided that nothing herein contained shall be construed as authorizing the corporation to carry on any business or exercise any power in the Virgin Islands of the United States or in any country, state, territory, dependency, colony, or possession which under the laws thereof the corporation may not lawfully carry on or exercise.

THIRD: The total number of shares of capital stock which the corporation shall have authority to issue is ONE THOUSAND (1,000), having no par value, and all of a single class to be designated Common Stock.

FOURTH: The minimum amount of capital with which the corporation will commence business is ONE THOUSAND (\$1,000.00) DOLLARS.

FIFTH: The town and street address of the principal office or place of business of the corporation is: United Shopping Plaza, 4C and 4D Estate Sion Farm, Christiansted, St. Croix, V.I.

SIXTH: The period for which the corporation shall exist is unlimited.

The Resident Agent of the corporation is Fathi Yusuf and his address is 11 & 12 Western Suburb, Christiansted, St. Croix, Virgin Islands.

ARTICLES OF INCORPORATION
(United Corporation)



SEVENTH: The By-Laws of the corporation shall set the number of directors thereof, which shall not be less than three.

EIGHTH: The names and addresses of the first Board of Directors of this corporation who shall hold office until their successors are elected and qualified shall be:

<u>NAME</u>	<u>ADDRESS</u>
AHMAD YOUSEF	P. O. Box 4145 Kuwait, Kuwait
FATHI YUSUF	P.O. Box 763 11 & 12 Western Suburb Christiansted, St. Croix, V.I.
FAWZIA YUSUF	P.O. Box 763 11 & 12 Western Suburb Christiansted, St. Croix, V. I.

NINTH: The names of each of the officers of this corporation who shall hold office until their successors are elected shall be:

<u>NAME</u>	<u>OFFICE</u>
AHMAD. YOUSEF	President
FATHI YUSUF	Secretary - Treasurer
FAWZIA YUSUF	Vice-President

TENTH: The names and places of residence of the undersigned incorporators, being all of the persons forming the corporation are:

<u>NAME</u>	<u>ADDRESS</u>
AHMAD YOUSEF	P.O. Box 4145 Kuwait, Kuwait
FATHI YUSUF	11 & 12 Western Suburb Christiansted, St. Croix U.S. Virgin Islands
FAWZIA YUSUF	11 & 12 Western Suburb Christiansted, St. Croix U.S. Virgin Islands

ARTICLES OF INCORPORATION
(United Corporation)



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ELEVENTH: For the management of the business and the conduct of the affairs of the corporation, and in further definition, limitation and regulation of the powers of the corporation and of its directors and stockholders, it is further provided:

(a) The number of directors of the corporation set in the By-Laws of the corporation may from time to time be increased, or decreased to not less than three, in such manner as may be prescribed by the By-Laws. Subject to the then applicable provisions of the By-Laws, the election of directors need not be by ballot and directors need not be stockholders.

(b) In furtherance and not in limitation of the powers conferred by the laws of the Virgin Islands of the United States, the Board of Directors is expressly authorized and empowered:

(i) To make, alter, amend, and repeal By-Laws for the management of the affairs of the corporation not inconsistent with law, subject to the right of a majority of the stockholders to amend, repeal, alter or modify such By-Laws at any regular meeting or at any special meeting called for such purpose.

(ii) Subject to the then applicable provisions of the By-Laws then in effect, to determine, from time to time, whether and to what extent and at what times and places and under what conditions and regulations the accounts and books of the corporation, or any of them, shall be open to the inspection of the stockholders, and no stockholders shall have any right to inspect any account or book or document of the corporation, except as conferred by the laws of the Virgin Islands of the United States, unless and until authorized so to do by resolution of the Board of Directors or of the stockholders of the corporation.

(iii) Without the assent or vote of the stockholders, to authorize and issue obligations of the corporation, secured or unsecured, to include therein such provisions as to redeemability, convertibility or otherwise, as the Board of Directors in its sole discretion may determine, and to authorize the mortgaging or pledging, as security therefor, of any property of the corporation, real or personal, including after-acquired property, to the extent permitted by law.

(iv) To determine whether any, and if any, what part of the corporate funds legally available therefor shall be declared in dividends and paid to the stockholders, and to direct and determine the use and disposition of any such funds.

(v) To set apart out of the funds of the corporation available for dividends a reserve or reserves for any proper purpose and to abolish or reduce the amount of any such reserve in the manner in which it was created.

(vi) To fix from time to time the amount of earnings of the corporation to be reserved as working capital or for any other lawful purpose.

(vii) To establish and amend pension, bonus, profit-sharing or other types of incentive or compensation plans for

ARTICLES OF INCORPORATION
(United Corporation)

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the employees (including officers and directors) of the corporation and to fix the amount of funds legally available therefor and to determine, or establish procedures for determining, the persons to participate in any such plans and the amounts of their respective participations.

(c) In addition to the powers and authorities hereinafter conferred upon it, the Board of Directors may exercise all such powers and do all such acts and things as may be exercised or done by the corporation, subject, nevertheless, to the provisions of the laws of the Virgin Islands of the United States, of the Articles of Incorporation, and of the By-Laws of the corporation.

(d) Any director or any officer elected or appointed by the stockholders or by the Board of Directors may be removed at any time in such manner as shall be provided in the By-Laws of the corporation.

(e) No contract or other transaction between the corporation and any other corporation and no other act of the corporation shall, in the absence of fraud, in any way be affected or invalidated by the fact that any of the directors of the corporation are pecuniarily or otherwise interested in, or are directors or officers of, such other corporation. Any directors of the corporation individually or any firm or association of which any director may be member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the corporation, provided that the fact that he individually or such firm or association is so interested shall be disclosed or shall have been known to the Board of Directors or a majority of such members thereof as shall be present at any meeting of the Board of Directors at which action upon such contract or transaction shall be taken. Any director of the corporation who is also a director or officer of such other corporation or who is so interested may be counted in determining the existence of a quorum at any meeting of the Board of Directors which shall authorize any such contract or transaction, and may vote thereat to authorize any such contract or transaction, with like force and effect as if he were not such director or officer of such other corporation or not so interested. Any director of the corporation may vote upon any contract or other transaction between the corporation and any parent, subsidiary or affiliated corporation without regard to the fact that he is also a director of such parent, subsidiary or affiliated corporation.

(f) Any contract, transaction or act of the corporation or of the directors which shall be ratified by a majority of a quorum of the stockholders of the corporation at any annual meeting or at any special meeting called for such purpose, shall, insofar as permitted by law, be as valid and as binding as though ratified by every stockholder of the corporation; provided, however, that any failure of the stockholders to approve or ratify any such contract, transaction or act, when and if submitted, shall not be deemed in any way to invalidate the same or deprive the corporation, its directors, officers or employees, of its or their right to proceed with such contract, transaction or act.

(g) Subject to any limitation in the By-Laws, the members of the Board of Directors shall be entitled to reasona-



ARTICLES OF INCORPORATION
(United Corporation)

ble fees, salaries or other compensation for their services and to reimbursement for their expenses as such members. Nothing contained herein shall preclude any director from serving the corporation, or any subsidiary or affiliated corporation, in any other capacity and receiving proper compensation therefor.

(h) If the By-Laws so provide, the stockholders and Board of Directors of the corporation shall have the power to hold their meetings, to have an office or offices and to keep the books of the corporation, subject to the provisions of the laws of the Virgin Islands of the United States, within or without said Islands at such place or places as may from time to time be designated by them.

(i) Any person who shall have acted at any time as a director or officer of the corporation or served at its request as a director or officer of another corporation in which it then owned shares of capital stock or of which it was then a creditor shall be entitled to be indemnified by this corporation against all expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been a director or officer of this corporation, or of such other corporation, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty. Such indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled, under any By-Law, agreement, vote of stockholders or otherwise.

(j) The shares of stock which the corporation shall have authority to issue may be issued by the corporation from time to time for such consideration as may be fixed from time to time by the Board of Directors; and any and all shares so issued, the consideration for which so fixed has been paid or delivered, shall be fully paid stock and shall not be liable to any further call or assessment thereon, and the holders of such shares shall not be liable for any further payments in respect of such shares. No holder of shares of stock of the corporation shall have any preemptive or preferential right of subscription to any shares of stock of the corporation, issued or sold, nor any right of subscription to any thereof other than such, if any, as the Board of Directors of the corporation in its discretion may from time to time determine and at such price and upon such terms and conditions as the Board of Directors may issue stock of the corporation or obligations convertible into such stock or optional rights to purchase or subscribe, or both, to such stock without offering such issue, either in whole or in part, to the stockholders of the corporation. The acceptance of stock in the corporation shall be a waiver of any such preemptive or preferential right which in the absence of this provision might otherwise be asserted by stockholders of the corporation or any of them.

TWELFTH: From time to time any of the provisions of these Articles of Incorporation may be amended, altered or repealed, and other provisions then authorized or permitted by the laws of the Virgin Islands of the United States may be added or inserted in the manner then prescribed or permitted by said laws. All rights at any time conferred upon the stock-



ARTICLES OF INCORPORATION
United Corporation

holders of this corporation by these Articles of Incorporation and granted subject to the provisions of this Article TWELFTH.

IN WITNESS WHEREOF, we, the undersigned, being all of the incorporators hereinbefore named, for the purposes aforesaid, have signed, sealed and acknowledged these Articles of Incorporation in triplicate, hereby declaring and certifying that the facts therein stated are true, this 15 day of January, 1979.



Ahmad Yousef
AHMAD YOUSEF

Fathi Yusuf
FATHI YUSUF

Fawzia Yusuf
FAWZIA YUSUF

ACKNOWLEDGMENT

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

On this 15 day of January, 1979, before me personally came and appeared AHMAD YOUSEF, FATHI YUSUF, and FAWZIA YUSUF, to me known and known to me to be the persons whose names are subscribed to the foregoing Articles of Incorporation, and they did severally acknowledge that they signed, sealed and delivered the same as their voluntary act and deed, for the purposes therein states, and that the facts therein are truly set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

CERTIFICATION
Certified to be a true and correct copy
[Signature]
DEWEY M. HODGE
Lieutenant Governor

CK # 2682 = 75.0
3/2/19 - 3/1/31

ARTICLES OF INCORPORATION
OF
UNITED CORPORATION
(A Virgin Islands Corporation)



We, the undersigned, being natural persons of lawful age, do hereby unite together by these Articles of Incorporation to form a stock corporation for the purposes hereinafter mentioned, under the laws of the Virgin Islands of the United States and by virtue of Chapter One of Title 13 of the Virgin Islands Code, and to that end we do, by this our certificate, set forth:

FIRST: The name of the corporation is
UNITED CORPORATION

SECOND: The purposes for which the corporation is formed are:

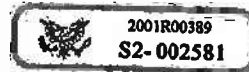
(a) To acquire by purchase or lease, or otherwise, lands and interests in lands, and to own, hold, improve, develop, and manage any real estate so acquired and to erect or cause to be erected on any lands owned, held, or occupied by the Corporation, buildings, or other structures with their appurtenances, to rebuild, enlarge, alter, or improve any buildings or other structures now or hereafter erected on any lands so owned, held, or occupied, and to mortgage, sell, lease or otherwise dispose of any lands or interests in lands and in buildings or other structures and any stores, shops, suites, rooms or parts of any buildings or other structures at any time owned or held by the Corporation;

(b) To build, erect, construct, lease, or otherwise acquire, manage, occupy, maintain, and operate buildings for hotel purposes, dwelling houses, apartment houses, office buildings, and business structures of all kinds for the accommodation of the public and of individuals, including shopping centers.

(c) To buy, sell, trade, manufacture, deal in and deal with goods, wares, utilities, including water, and merchandise of every kind and nature, and to carry on such business as manufacturers, wholesalers, retailers, importers, exporters, and as representatives of manufacturers and producers of such goods, wares and merchandise or of any agency of such manufacturers.

(d) To purchase or otherwise acquire, and to hold, mortgage, pledge, sell, exchange or otherwise dispose of securities (which term for the purpose of this Article SECOND includes, without limitation of the generality thereof, any shares of stock, bonds, debentures, notes, mortgages or other obligations and any certificates, receipts or other instruments representing rights to receive, purchase or subscribe for the same, or representing any other rights or interests therein or in any property or assets) created or issued by any one or more persons, firms, associations, corporations or governments; to make payment therefor in any lawful manner; and to exercise as the owner or holder of any securities any and all rights, powers and privileges in respect thereof; and to make, enter into, perform and carry out contracts of every kind and description with any person, firm, association, corporation or government.

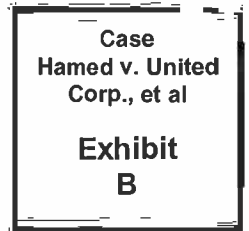
ARTICLES OF INCORPORATION
(United Corporation)



- 2 -

- (e) To acquire by purchase, exchange or otherwise, all or any part of, or any interest in, the properties, assets, business and good will of any one or more persons, firms, associations, corporations or governments heretofore or hereafter engaged in any business, for which a corporation may now or hereafter be organized under the laws of the Virgin Islands or the United States; to pay for the same in cash, property or its own or other securities; to hold, operate, reorganize, liquidate, sell or in any manner dispose of the whole or any part thereof; and in connection therewith, to assume or guarantee performance of any liabilities, obligation, or contracts of such persons, firms, associations, corporations, or governments, and to conduct the whole or any part of any business thus acquired.
- (f) To lend its uninvested funds from time to time to such extent, to any one or more persons, firms, associations, corporations or governments, and on such terms and on such security, if any, as the Board of Directors of the corporation may determine.
- (g) To endorse or guarantee the payment of principal, interest or dividends upon, and to guarantee the performance of sinking fund or other obligations of, any securities, and to guarantee in any way permitted by law the performance of any of the contracts or other undertakings in which the corporation may otherwise be or become interested, of any one or more persons, firms, associations, corporations or governments.
- (h) To borrow money from time to time as the Board of Directors of the corporation may determine and without limit as to the amounts, on such terms and conditions, for such purposes and for such prices, now or hereafter permitted by these Articles of Incorporations, as the Board of Directors of the corporation may determine; and to secure such securities by mortgage upon, or the pledge of, or the conveyance or assignment in trust of, the whole or any part of the properties, assets, business and good will of the corporation, then owned or thereafter acquired.
- (i) To draw, make, accept, endorse, discount, execute, and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures, and other negotiable or transferable instruments and evidences of indebtedness whether secured by mortgage or otherwise, as well as to secure the same by mortgage or otherwise.
- (j) To purchase, hold, cancel, reissue, sell, exchange, transfer or otherwise deal in its own securities from time to time to such an extent and in such manner and upon such terms as the Board of Directors of the corporation shall determine; provided, that the corporation shall not use its funds or property for the purchase of shares of its own capital stock when such use would cause any impairment of its capital, except to the extent permitted by law; and provided further that shares of its own capital stock belonging to the corporation, shall not be voted upon directly or indirectly.
- (k) To organize or cause to be organized under the laws of the Virgin Islands of the United States, or of any State of the United States of America, or of the District of

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



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

v.

FATHI YUSUF MOHAMAD YUSUF,
aka Fathi Yusuf,
WALEED MOHAMMAD HAMED,
aka Wally Hamed,
WAHEED MOHAMMED HAMED,
aka Willie Hamed,
MAHER FATHI YUSUF,
aka Mike Yusuf,
ISAM MOHAMAD YOUSUF,
aka Sam Yousuf,
NEJEH FATHI YUSUF, and
UNITED CORPORATION
d/b/a Plaza Extra,
Defendants.

CRIMINAL NO. 2005-015

SUPPLEMENT TO GOVERNMENT'S MOTION FOR RECONSIDERATION

The United States of America and the Government of the Virgin Islands, by and through undersigned counsel, file this memorandum and the exhibit to supplement the Government's Motion for Reconsideration (No. 1007 - Dec. 6, 2008). The exhibit, a transcript of the deposition testimony of defendant Fathi Yusuf in a civil action before the then-Territorial Court, Idheileh v. United Corporation, Case No. 156/1997, provides evidence that the individuals identified as shareholders on United Corporation may not actually own any part of the company. Instead, by Mr. Yusuf's own admissions, it appears that the shares and their holders reported on the books and records of United may not bear any relation to the actual ownership of the corporation. Given the

uncertainty regarding the true ownership of the company, any distribution of United's profits must wait until a post-conviction hearing when the true ownership of the company can be determined.

DISCUSSION

The civil action from which the attached transcript is taken concerns a joint venture entered into between United Corporation and Mr. Idheileh. As the deposition transcript shows, much of defendant Fathi Yusuf's testimony was consumed with an attempt to identify the actual owners of United Corporation. Mr. Yusuf began with a lengthy history of United Corporation and its various shareholders. See Exhibit A. In 1983 or 84, Mr Yusuf owned 25% of the corporation, Mohamed Hamed, his brother-in-law, owned 25%, and the remaining 50% was owned by Mr. Yusuf's two nephews. Ex. A, p. 15. It appears that at some point the two nephews were bought out and Mr. Yusuf and Mr. Hamed each owned 50% of United. Id., pp. 18-20. Such statements were not the product of trickery. When asked by his own attorney about the ownership of United Corporation Mr. Yusuf stated as follows:

Q: Okay. Okay. You were asked by Attorney Adams, when it says United Corporation in this Joint Venture Agreement, in talking about Plaza Extra, talking about the supermarket on St. Thomas, who owned or who was partners in United Corporation Plaza Extra at the time before you entered into that Joint Venture Agreement?

A. It's always, since 1984, Mohammed Hamed.

Q: Okay. So when it says United Corporation –

A. It's really meant me and Mr. Mohammed Hamed.

Id., p. 69.

The books and records did not reflect that Mohamed Hamed owned any interest in United. Such an omission was not an oversight. In Mr. Yusuf's own words:

But I want you please to be aware that my partner's with me since 1984, and up to now his name is not in my corporation. And that -- excuse me and that prove my honesty. Because if I was not honest, my brother-in-law will not let me control his 50 percent. And I know very well, my wife knows, my children knows, that whatever Plaza Extra owns in assets, in receivable or payable, we have a 50 percent partner.

Id., p. 23. Indeed, although Mr. Hamed is a 50% partner in United, he was not a director, officer or even considered a shareholder. Id., pp. 24-25, 26.

At some point, it appears that defendant Waleed Hamed also received an interest in either United Corporation or the assets held by United. For example:

Q. Did there come a time that you indicated to Mr. Idheileh that [Waleed Hamed] was going to be a partner in the St. Thomas store?

A. Wally father partner in Plaza Extra since 1984. Mr. Idheileh, I swear to that, he's aware of that.

Q. But is that stated in the joint Venture Agreement?

A. Excuse me?

Q. Is that stated in the Joint --

A. I could no way signed this with Mr. Idheileh without Wally and his father approval. I already stated that.

Q. And again, I'm going to ask you, sir,

A. Sure, no problem.

Q. -- does Wally's name or his father appear on that Joint Venture Agreement?

A. No, sir.

Id., p. 49. As with his father's ownership interest, Waleed Hamed was not formally documented as an owner of United or any of its assets even though Mr. Yusuf freely conceded it. Id., p. 57 (describing Waleed Hamed as a "partner" in the grocery business).

By Fathi Yusuf's own admission, there was at least one and possibly two partners in United Corporation who's interests are not – and would not – be reflected on corporate the books and records. Indeed, he stated that his wife and children, the putative shareholders of the corporation would know and admit that “whatever Plaza Extra owns in assets, in receivable or payable, we have a 50 percent partner.” Given those admissions, there exists an issue of fact over the true ownership of United Corporation. It is a question of fact that cannot be resolved by resort to an examination of the books and records of the corporation but must be resolved at a post-conviction hearing.

CONCLUSION

For the reasons stated above as well as in the Government's Motion for Reconsideration, the Court should reconsider its November 26, 2008 Order and deny the Motion for Release of Additional Funds in full.

Respectfully Submitted,

PAUL A. MURPHY
UNITED STATES ATTORNEY

/s/ Mark F. Daly
ALPHONSO ANDREWS
Assistant U.S. Attorney
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U.S. Department of Justice
P.O. Box 972
Washington, D.C. 20044
Tel: (202) 514-5150
Fax: (202) 616-1786

Dated: July 13, 2009

CERTIFICATE OF SERVICE

I, Mark F. Daly, certify that on this the 13th day of July, 2009 the foregoing pleading, the SUPPLEMENT TO GOVERNMENT'S MOTION FOR RECONSIDERATION, was filed and served on the parties through the Court's ECF system.

/s/ Mark F. Daly
MARK F. DALY

Case
Hamed v. United
Corp., et al

Exhibit
C

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

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

vs.

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

CRIMINAL NO. 2005-15F/B

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

PLEA AGREEMENT

I.

INTRODUCTION

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

The parties agree to the following terms:

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

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

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

II.

NATURE OF THE OFFENSE

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

A. Elements

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

B. Elements Understood and Admitted.

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

C. Factual Basis.

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

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

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

III.

PENALTIES

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

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

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

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

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

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

IV.

WAIVER OF TRIAL RIGHTS

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

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

V.

UNITED'S REPRESENTATION THAT GUILTY PLEA IS KNOWING
AND VOLUNTARY

United represents that:

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

VI.

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

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

VII.

PLEA AGREEMENT SUBJECT TO COURT APPROVAL

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

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

VIII.

PARTIES' SENTENCING RECOMMENDATIONS

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

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

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

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

E. Terms of Probation

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

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

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

3. United shall submit to:

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

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

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

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

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

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

IX.

UNITED WAIVES APPEAL AND COLLATERAL ATTACK

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

X.

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

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

XI.

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

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

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

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

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

XII.

ENTIRE AGREEMENT

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

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

XIII.

MODIFICATION OF AGREEMENT MUST BE IN WRITING

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

XIV.

UNITED AND COUNSEL FULLY UNDERSTAND AGREEMENT

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

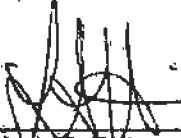
with appropriate officer and directors of United and that United fully understands its meanings and effect.

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

RONALD SHARPE
UNITED STATES ATTORNEY

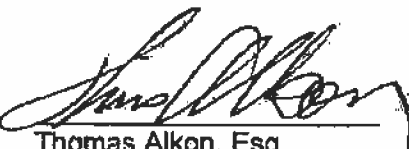
JOHN A. DICICCO
ACTING ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE, TAX DIVISION

Dated: 2/26/10

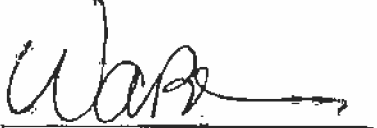


Mark F. Daly
Lori A. Hendrickson
Kevin C. Lombardi
Trial Attorneys

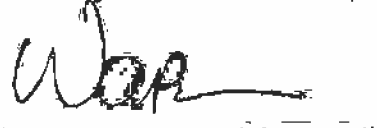
The defendant United Corporation agrees to the terms set forth in this Plea Agreement.

Dated: 2, 26/10 

Thomas Alkon, Esq.
Attorney for Defendant United Corporation

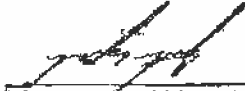
Dated: 2/26/10 

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

Dated: 2/26/10 

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

Dated: 2-26-10



Maher Fathi Yusuf
President, Defendant United Corporation

Dated: 2/26/10



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

Dated: 2/26/10



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

Dated: 2/26/10



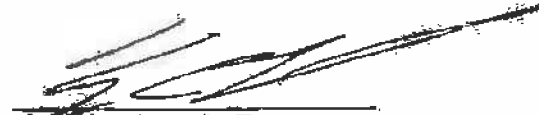
Derek M. Hodge, Esq.
Attorney for Defendant Nejeih Fathi Yusuf

Dated: 2/26/10



Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: 2/26/10



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

Dated: 2/26/10



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

EXHIBIT 1 - RESTITUTION NUMBERS FOR TAX LOSS

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

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

Exh: 617 2

February 12, 2010

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

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

Dear Ms. Hendrickson:

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

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

Letter of Agreement

February 12, 2010

Page 2 of 5

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

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

Letter of Agreement
February 12, 2010
Page 3 of 5

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

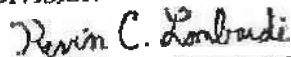
- Defendant United Corporation, the individual defendants, and the shareholders of United Corporation, all agree to file original individual income tax returns (or correcting amended returns, if appropriate) for the years 2002, 2003, 2004, 2005, 2006, 2007, and 2008, and provide any documentation or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

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

RONALD SHARPE
UNITED STATES ATTORNEY


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

Dated: 2/12/2010



Kevin C. Lombardi

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

Dated: 2/15/10


Claudette Watson Anderson
Director
Virgin Islands Bureau of Internal Revenue


Dated: 2/18/10


Denise George Conley
Assistant Attorney General
Virgin Islands Department of Justice
Office of the Attorney General


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

Letter of Agreement
February 12, 2010
Page 4 of 5

Dated: 2/26/10


Thomas Alkon, Esq.
Attorney for Defendant United Corporation

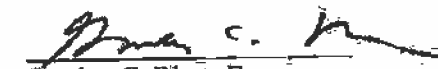
Dated: 2/26/10


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

Dated: 2/26/10


MAHER FATHI YUSUF
President, Defendant United Corporation


Dated: 2/26/10


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


Dated: 2/26/10


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

Dated: 2/26/10


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

Dated: 2/26/10


Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: 2/26/10


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

Dated: 2/26/10


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

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

Case
Hamed v. United
Corp., et al

Exhibit
D

UNITED STATES OF AMERICA and)
GOVERNMENT OF THE VIRGIN)
ISLANDS,)
)
Plaintiffs,)
v)
)
UNITED CORPORATION, dba Plaza)
Extra Supermarkets,)
)
Defendant.)
_____)

CRIM NO. 2005-0015F/B

**ACCEPTANCE OF PLEA OF GUILTY
AND ADJUDICATION OF GUILT**

Pursuant to the Report of Recommendation of the United States Magistrate Judge, to which there has been no timely objection, the plea of guilty of the Defendant United Corporation to Count 60 of the Third Superseding Indictment - Willfully Making & Subscribing a 2001 U.S. Corporation Income Tax Return (Form 1120S) - is accepted and the Defendant is adjudged guilty of such offense. A sentencing hearing will be scheduled and conducted pursuant to separate notice and in accordance with the procedure previously ordered by the Court.

IT IS SO ORDERED.

ENTERED:

DATED: October 1, 2010

_____/s/_____
RAYMOND L. FINCH
SENIOR U.S. DISTRICT JUDGE

Case
Hamed v. United
Corp., et al

Exhibit
E

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

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

vs.

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

CRIMINAL NO. 2005-15F/B

PLEA AGREEMENT-ADDENDUM

The parties agree to the following:

- 1) United will pay a \$5,000 fine, as set forth in Paragraphs III.A.1 and VIII.A;
- 2) United will pay \$10 million to the VIBIR for restitution, as set forth in Paragraphs III.A.3 and VIII.D;
- 3) United will pay \$1 million as a substantial monetary penalty, as set forth in Paragraphs III.A.2, III.B, VIII.B, and VIII.C.

In consideration of the settlement herein, United, the individual defendants, and United's shareholders, and their heirs, executors, administrators, or assigns do hereby stipulate and agree to pay the agreed upon

sums, and to waive and release any and all claims, demands, rights, and causes of action of whatsoever kind and nature, whether sounding in tort, contract, or any other theory of legal liability, including any claims for fees, interest, costs, and expenses, arising from, and by reason of, any and all known and unknown, foreseen and unforeseen, bodily and personal injuries, death, or damage to property, and the consequences thereof, which United, the individual defendants, and United's shareholders, or their heirs, executors, administrators, or assigns may have or hereafter acquire against the United States, its agents, servants, and employees on account of the same subject matter that gave rise to the above-captioned action. United, the individual defendants, and United's shareholders, and their heirs, executors, administrators, and assigns do hereby further agree to reimburse, indemnify, and hold harmless the United States and its agents, servants, and employees from and against any and all such claims, causes of action, liens, rights, or subrogated or contribution interests incident to, or resulting or arising from, the acts or omissions that gave rise to the above-captioned action. Provided, however, that the duties to reimburse, indemnify and hold harmless the United States and its agents as set forth in the preceding sentence shall be strictly limited to claims made by United, the individual defendants, United's shareholders, or their executors, administrators, assigns, or their family members.

**UNITED AND COUNSEL FULLY UNDERSTAND PLEA AGREEMENT-
ADDENDUM**

By signing this Plea Agreement-Addendum, United's representative certifies that he has been given lawful authority to enter into this Plea Agreement-

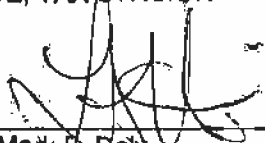
Addendum. United further certifies that its counsel has discussed the terms of this Plea Agreement- Addendum with appropriate officers, directors, and shareholders of United and that United fully understands its meanings and effect.

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

RONALD SHARPE
UNITED STATES ATTORNEY

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


Dated: 2/2/2011



Mark P. Daly
Lori A. Hendrickson
Kevin C. Lombardi
Trial Attorneys


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

Dated: 1/20/11




Thomas Akon, Esq.
Attorney for Defendant United Corporation

Dated: 1/20/11



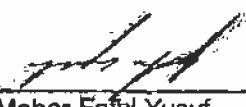
Warren B. Cole, Esq.
Attorney for Defendant United Corporation

Dated: 1/20/11



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

Dated: _____



Maher Fathi Yusuf
President, Defendant United Corporation

Dated: _____

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

Dated: _____

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

Dated: _____

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

Dated: _____

Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

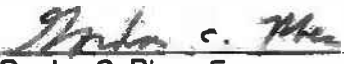
Dated: _____

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

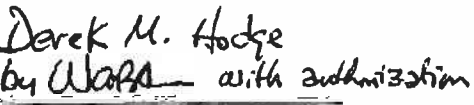
Dated: _____

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

Dated: _____
Maher Fathi Yusuf
President, Defendant United Corporation

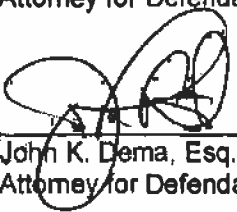
Dated: 1/20/2011 
Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

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

Dated: 2/2/11 
Derek M. Hodge, Esq.
Attorney for Defendant Nejeh Fathi Yusuf


Dated: _____
Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

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

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

Dated: _____
Maheer Fathi Yusuf
President, Defendant United Corporation

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

Dated: 1/24/11 
Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

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

Dated: _____
Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

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


Dated: _____
John K. Dema, Esq.
Attorney for Defendant Maheer Fathi Yusuf

Dated: _____
Maher Fathi Yusuf
President, Defendant United Corporation

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

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

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

Dated: 2/1/11 _____

Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

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

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

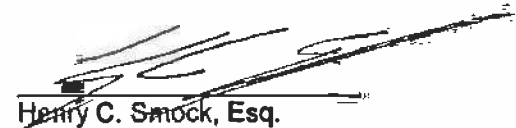
Dated: _____
Maher Fathi Yusuf
President, Defendant United Corporation

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

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

Dated: _____
Derek M. Hodge, Esq.
Attorney for Defendant Neje Fathi Yusuf

Dated: _____
Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: 1-25-11

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

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



**GOVERNMENT OF
THE VIRGIN ISLANDS OF THE UNITED STATES**

-----0-----

VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE



**Case
Hamed v. United
Corp., et al**

**Exhibit
F**

9601 Estate Thomas
St. Thomas VI 00802
Phone: (340) 715-1040
Fax: (340) 714-9345

4008 Estate Diamond Plot 7 B
Christiansted VI 00820-4421
Phone: (340) 773-1040
Fax: (340) 773-1006

Form 906 : Closing Agreement on Final Determination Covering Specific Matters

Under section 7121 of the Internal Revenue Code, as applicable to the Virgin Islands under the mirror code, United Corporation, ("Taxpayer"), and the Director of the Virgin Islands Bureau of Internal Revenue ("Director"), make the following agreement:

WHEREAS, Taxpayer is among the named defendants in Criminal Action No. 2005-15F/B, in the United States District Court for the District of the Virgin Islands, Division of St. Croix;

WHEREAS, all the governing principles for this civil tax liability closing agreement are set forth in the Plea Agreement for the above case, duly executed and filed as ECF Document # 1248 in Case: 1:05-cr-00015-RLF-GWB ("Plea Agreement"), and the Plea Agreement Addendum, duly executed and filed as ECF Document #1304-1, copies of which are appended to this closing agreement and the terms of which are incorporated by reference;

WHEREAS, Taxpayer and the Director, each with the advice and consent of their counsel, mutually seek through this agreement to establish with finality the civil tax liabilities for the years 1996 through 2001;

WHEREAS, it is desirable for income and gross receipts tax purposes to agree on the taxes to be assessed and paid by Taxpayer and its individual shareholders for the years 1996 through 2001;

WHEREAS, the Taxpayer has determined that the Agreement set forth herein is in its best interests;

WHEREAS, the Director, through authorized representatives and counsel, has determined that the Agreement set forth herein is also in its best interest by promoting the effective administration of United States Virgin Islands taxes;

WHEREAS, Taxpayer and Director have agreed upon the amounts of taxes to be assessed and paid by United Corporation in full satisfaction of its civil tax and reporting liabilities and the civil tax and reporting liabilities of United Corporation, United's shareholders and all of the individual defendants and related individuals and entities identified in the various pleadings and motions in Case No. 1:05-cr-00015-RLF-GWB for each of the years 1996 through 2001 as addressed with particularity in the Plea Agreement.

NOW IT IS HEREBY DETERMINED AND AGREED, for income and gross receipts tax purposes for each of the taxable years addressed in the Plea Agreement, that:

1. United Corporation consents to prompt assessment by the Director of income and gross receipts taxes for the following years and amounts.

Taxpayer	Type of Tax	Taxable Year(s)	Amount to be Assessed
United Corporation (C Corp)	Corporate Income Tax	1996-1998	\$915,334
United Corporation (S Corp)	Individual Income Tax	1999 – 2001	\$6,520,428
United Corporation	Gross Receipts Tax	1996-2001	\$2,564,238
Total assessment			\$10,000,000

2. United Corporation shall pay to the Director, within 10 days of the execution of this Closing Agreement, the full amount(s) of income and gross receipts taxes to be assessed. Amounts received by the Director prior to actual assessment of taxes shall be held in trust as an advance deposit to be applied to taxes to be assessed pursuant to this Agreement.
3. No interest or penalties shall be charged, assessed or deemed accrued by the Director on the Income and Gross Receipts taxes to be assessed.

4. Prompt assessment by the Director and timely payment by the Taxpayer of the above tax amounts (as detailed in Attachment A) shall fully satisfy the civil tax liabilities of Taxpayer, its individual shareholders, and all of the individual defendants and related individuals and entities identified in the various pleadings and motions in Case No. 1:05-cr-00015-RLF-GWB for tax years 1996 through 2001.
5. Taxpayer, its individual shareholders, and all of the individual defendants and related individuals and entities identified in the various pleadings and motions in Case No. 1:05-cr-00015-RLF-GWB, shall not be required or obligated to file any returns or amended returns for the periods 1996 through 2001.
6. By signing this agreement, Taxpayer and its shareholders, waive all restrictions on the assessment of the income and gross receipts tax liabilities specified in this Closing Agreement.
7. This Closing Agreement determines with finality the income and/or gross receipts tax liabilities for Taxpayer, its individual shareholders, and all of the individual defendants and related individuals and entities identified in the various pleadings and motions in Case No. 1:05-cr-00015-RLF-GWB for the 1996 through 2001 taxable years.
8. Performance of the assessment and payment obligations of this Closing Agreement fully satisfy all civil tax liabilities of Taxpayer, its individual shareholders, and all of the individual defendants and related individuals and entities identified in the various pleadings and motions in Case No. 1:05-cr-00015-RLF-GWB for the 1996 through 2001 taxable years.
9. This Closing Agreement contains the complete Agreement between the parties.

This agreement is final and conclusive.

By signing, the above parties certify that they have read and agreed to the terms of this document. Neither party shall be considered the drafter of this closing agreement, or any provision hereof, for the purpose of any rule of interpretation or construction that would or might cause any provision to be construed against the drafter.

This agreement must be signed and filed in triplicate. (All copies must have original signatures.)

The original and copies of the agreement must be identical.

The name of each Taxpayer must be stated accurately.

The agreement may relate to one or more years.

If an attorney or agent signs the agreement for the taxpayer, the power of attorney (or a copy) authorizing that person to sign must be attached to the Agreement. If the Agreement is made for a year when a Joint income tax return was filed by a husband and wife, it should be signed by or for both spouses. One spouse may sign as agent for the other if the document (or a copy) specifically authorizing that spouse to sign is attached to the agreement.

If the taxpayer is a corporation, the agreement must be dated and signed with the name of the corporation, the signature and title of an authorized officer or officers, or the signature of an authorized attorney or agent. It is not necessary that a copy of an enabling corporate resolution be attached. See 26 C.F.R. 601.504(b)(2)(ii) as to dissolved corporations.

By signing, the parties certify that they have read and agreed to the terms of this document.

United Corporation

Date:

By: Maher Fathi Yusuf
President – Duly Authorized

Date:

Fawzia Yusuf – Shareholder

Date:

Fathi Yusuf – Shareholder

Date

Syaid Yusuf – Shareholder

Date:

Zayed Yusuf – Shareholder

Date:

Yusuf Yusuf – Shareholder

Date:

Maher Yusuf – Shareholder

Date:

Nejeh Yusuf – Shareholder

Virgin Islands Bureau of Internal
Revenue

Date:

By:
Title:

SMOCK & MOOREHEAD

ATTORNEYS AT LAW

P.O. BOX 1498

NO. 11A NORRE GADE, KONGENS QTR.

CHARLOTTE AMALIE, ST. THOMAS

UNITED STATES VIRGIN ISLANDS 00804

HENRY C. SMOCK
SUSAN BRUCH MOOREHEAD

July 19, 2011

KYLE R. WALDNER

MONICA M. HOWARD

NAGESH V. TAMMARA

VIA HAND DELIVERY:

Tamarah Parson-Smalls, Esquire
VI Bureau of Internal Revenue
P.O. Box 306421
St. Thomas, Virgin Islands 00803

Re: Closing Agreement with United Corporation

Dear Attorney Smalls:

I am pleased to enclose with this letter the following:

1. Closing Agreement with the original signatures of Maher Fathi Yusuf, Fawzia Yusuf and Fathi Yusuf. Syaid Yusuf and Zayed Yusuf also signed and scanned their signatures. For the sake of good order, I am circulating three copies of the Agreement which will be executed again as originals and returned to me, which I will then forward to you. You and I have agreed that the delivery of the settlement check should not be delayed while these new originals are being circulated; and
2. Bank Manager's Check No. 024799 in the amount of Ten Million Dollars (\$10,000,000.00), payable to the Virgin Islands Internal Revenue.

Simultaneously with the delivery of these documents, you will deliver to me the Closing Agreement with the signature of the Director of the Bureau affixed.

Thank you as always for your courtesy and cooperation.

Sincerely,

Henry C. Smock

HCS:cad

Enclosure:

cc: Gordon Rhea, Esquire
Warren Bruce Cole, Esquire
Randall P. Andreozzi, Esquire

First Bank
Manager's Check
 Check No. 024799
 07/14/2011
 Date: 07/14/2011

Pay **Ten Million Dollars**

To The **VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE**
 Order of:

FDIC
 A MEMBER OF FIRST BANK
 WITH THE FIRST FLOOR
 YNS-5001-0100

Valid for Six Months After Issue Date
 Serial No. 721
 Issuer No. 09669

[Signature]

RECEIVED
 DISCLOSURE OFFICE
 JUL 19 2011
 VIRGIN ISLANDS BUREAU OF
 INTERNAL REVENUE ST. THOMAS VI
W/Remittance
JRS



GOVERNMENT OF

THE VIRGIN ISLANDS OF THE UNITED STATES



VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE

9601 Estate Thomas
St. Thomas VI 00802
Phone: (340) 715-1040
Fax: (340) 714-9345

4008 Estate Diamond Plot 7 B
Christiansted VI 00820-4421
Phone: (340) 773-1040
Fax: (340) 773-1006

Form 906 : Closing Agreement on Final Determination Covering Specific Matters

Under section 7121 of the Internal Revenue Code, as applicable to the Virgin Islands under the mirror code, United Corporation, ("Taxpayer"), and the Director of the Virgin Islands Bureau of Internal Revenue ("Director"), make the following agreement:

WHEREAS, Taxpayer is among the named defendants in Criminal Action No. 2005-15F/B, in the United States District Court for the District of the Virgin Islands, Division of St. Croix;

WHEREAS, all the governing principles for this civil tax liability closing agreement are set forth in the Plea Agreement for the above case, duly executed and filed as ECF Document # 1248 in Case: 1:05-cr-00015-RLF-GWB ("Plea Agreement"), and the Plea Agreement Addendum, duly executed and filed as ECF Document #1304-1, copies of which are appended to this closing agreement and the terms of which are incorporated by reference;

WHEREAS, Taxpayer and the Director, each with the advice and consent of their counsel, mutually seek through this agreement to establish with finality the civil tax liabilities for the years 1996 through 2001;

WHEREAS, it is desirable for income and gross receipts tax purposes to agree on the taxes to be assessed and paid by Taxpayer and its individual shareholders for the years 1996 through 2001;

VIRGIN ISLANDS BUREAU OF
INTERNAL REVENUE ST. THOMAS VI

RECEIVED
DISCLOSURE OFFICE - ST. THOMAS VI
JUL 19 2014
[Handwritten signature]

The original and copies of the agreement must be identical.

The name of each Taxpayer must be stated accurately.

The agreement may relate to one or more years.

If an attorney or agent signs the agreement for the taxpayer, the power of attorney (or a copy) authorizing that person to sign must be attached to the Agreement. If the Agreement is made for a year when a Joint income tax return was filed by a husband and wife, it should be signed by or for both spouses. One spouse may sign as agent for the other if the document (or a copy) specifically authorizing that spouse to sign is attached to the agreement.

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By signing, the parties certify that they have read and agreed to the terms of this document.

United Corporation

Date:


By: Maher Fathi Yusuf
President – Duly Authorized

Date:


Fawzia Yusuf – Shareholder

Date:


Fathi Yusuf – Shareholder

Date:


Syald Yusuf – Shareholder

Date:


Zayed Yusuf – Shareholder