

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS/ST. JOHN**

UNITED CORPORATION,

Plaintiff,

v.

WALEED HAMED,
(a/k/a Wally Hamed),

Defendant.

Case No.: SX-13-CV-3

ACTION FOR DAMAGES

JURY TRIAL DEMANDED

**DEFENDANT WALEED HAMED'S
FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS
TO PLAINTIFF UNITED**

Defendant Hamed, by counsel, propounds the following request for production of documents pursuant to Rule 34 of the Federal Rules of Civil Procedure as well as Local Rule 22 as both have been made applicable in this Court on Plaintiff United Corporation:

INSTRUCTIONS

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

1. The obligations imposed by Fed. R. Civ. P. 26 and 34 are hereby incorporated, including but not limited to, the duty to supplement imposed by Fed. R. Civ. P. 26(e).
2. These requests for production concern all information within United's custody and control.
3. If the Plaintiff lacks information to respond to a particular request for production, in whole or in part, Plaintiff shall state or identify: a) the currently available information; b) any currently unavailable information; c) the efforts Plaintiff has taken, or will take, to obtain the

currently unavailable information; and d) when the Plaintiff expects to obtain this information. Further, if the Plaintiff believes that any other individual or entity may have information that responds to a specific request, in whole or in part, the Plaintiff shall provide the individual or entity's: a) name, address and telephone number and b) a brief description of the information the Plaintiff believes the entity or individual possesses.

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

5. If the Plaintiff no longer possesses any document the Plaintiff requests, the Plaintiff shall state or identify: a) the date the document was prepared; b) the name, address and telephone number of each author or signatory; c) the name, address and telephone number of each recipient; d) the document type (*e.g.*, letter, memorandum, report, etc.); e) what was done with the document; f) the name, address and telephone number of each individual responsible for, or otherwise involved with, transferring or disposing of the document; and g) reason(s) the document was disposed of or transferred; and h) the name, address and telephone of the document's custodian, if known.

6. If the Plaintiff believes any information the Plaintiff requests is privileged and/or protected, in whole or in part, the Plaintiff shall provide the following: a) the document's title;

b) the document type (*e.g.*, memorandum, letter, report, email etc.), c) the name, address and telephone number of each author or signatory; d) the name, address and telephone number of each recipient; e) the date the document was prepared; f) the privilege(s) and/or protection(s) the Plaintiff is asserting; g) the factual bases for the Plaintiff asserting the privilege(s) and /or protection(s); and h) a summary of the information the Plaintiff is not producing to enable a court of competent jurisdiction to rule whether the information is privileged and/or protected.

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

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

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

10. Whenever these requests for production use any word in the masculine, the Plaintiff shall understand the word to include the feminine as necessary to make the request for

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

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

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

TERMS AND MEANINGS

The terms used in this Discovery have the following meaning:

As used herein, the term "**document(s)**" is used in its broadest sense to include, by way of illustration only and not by way of limitation, all originals and non-identical copies of any writing or any other tangible thing or data compilation in the custody, possession or control of the Plaintiff - whether printed, typed, reproduced by any process, written or produced by hand, including any graphic matter however produced or reproduced, or produced by any other mechanical means and all data, either electronic, magnetic, chemical, mechanical, or other form of data storage capable of being transformed into written or oral matter, including, but not limited to, CD-ROMs, DVDs, computer disks, Hard-drive computer storage mediums — including e-mails, letters, affidavits, filings, engineering studies and/or tests, reports, agreements, communications, correspondence, permits, accounting records, business records, contracts, letters of agreements, telegrams, mailgrams, memoranda, summaries and/or records of personnel or telephone conversations, diaries, calendars, forecasts, photographs, tape recordings,

facsimiles, models, statistical statements, graphs, charts, plans, drawings, service and/or pump data, logs, minutes or records of meetings, minutes or records of conferences, reports and/or summaries of interviews, reports, conversations, summaries of investigations, opinions or reports of consultants, topographical or geological maps or surveys, appraisals, records, reports or summaries of negotiations, drafts of any document, revisions of drafts of any document, purchase orders, invoices, receipts, original or preliminary notes, financial statements, accounting work papers, promissory notes, film, microfilm, microfiche, punch cards, slides, pictures, videotapes, moving pictures, computer programs, laboratory results, magnetic tapes or any other matter which is capable of being read, heard or seen with or without mechanical or electronic assistance.

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

"Relevant time period" means 1991 to the current date.

"United" or "United Corp" shall mean the Plaintiff United Corporation.

"Yusuf" shall mean Fathi Yusuf.

"Hamed" shall mean the Defendant Waleed Hamed a/k/a Wally Hamed.

REQUESTS:

1. All documents and other physical evidence supporting United's averment in paragraph 11 of the Complaint that:

11. Sometime in 1986, Plaintiff United, through its shareholder and then President, Fathi Yusuf, entered into an oral agreement, whereby Plaintiff United and Defendant Hamed's father, Mohammed Hamed, agreed to operate a grocery store business.

2. With regard to averments 18 and 19 of the Complaint, produce all documents that support these two averments, including the referenced tax returns and attachments (please note that it is not sufficient to state these documents are equally available to the defendant as he is entitled to see the actual documents you are relying upon):

18. During a search of the documents and files delivered by the U.S. Government, Plaintiff United reviewed documents comprising tax returns for Defendant Hamed. An examination of Defendant Hamed's tax returns revealed the following significant assets:

a. Tax Year 1992 (Stocks & Investments)	\$ 408,572.00
b. Tax Year 1993 (Stocks & Investments)	\$7 ,587,483.00

19. The detailed stock acquisitions, which were listed meticulously by date of acquisition, price and number of shares purchased, could only have been acquired by Defendant Hamed through his unlawful access to monies and other properties belonging *to* Plaintiff United . Defendant Hamed never held any other employment since 1986, other than through his employment with Plaintiff United.

3. With regard to averments 21 and 22 of the Complaint, produce the tax returns you reference for 1992 and 1993 (please note that it is not sufficient to state these documents are equally available to the defendant as he is entitled to see the actual documents you are relying upon).

4. Please provide copies of any documents or other tangible evidence that refer to the response allegedly given by Waleed Hamed, as referenced in averment 23 regarding “Hamdan Diamond.”

5. With regard to averments 25 and 26 of the Complaint, produce the tax returns you reference for 1991 through 1999 (please note that it is not sufficient to state these documents are equally available to the defendant as he is entitled to see the actual documents you are relying upon).

6. With regard to the averment 27(a) of the Complaint, produce all documents that show the loans approved by Waleed Hamed as well as all document supporting your contention that these loans were presumably repaid to Waleed Hamed, as alleged in paragraph 27 (a) as follows (please note that it is not sufficient to state these documents are equally available to the defendant as he is entitled to see the actual documents you are relying upon):

27. In October of 2011, a review of the U.S. Government records and files further revealed the following defalcation of funds:

a. Loans totaling \$430,500.00, approved by Defendant Hamed, presumably repaid to Defendant Waleed Hamed.

7. With regard to the averment 27(b) of the Complaint, produce all documents that show the payments in question as referenced in paragraph 27(b) as follows (please note that it is not sufficient to state these documents are equally available to the defendant as he is entitled to see the actual documents you are relying upon):

27. In October of 2011, a review of the U.S. Government records and files further revealed the following defalcation of funds:

....

b. Payments made with respect to the construction of Defendant Hamed's home amounting to \$481,000.00.

8. With regard to the averment 27(c) of the Complaint, produce the front and the back of the 6 checks that support the following averment in paragraph 27(c) (please note that it is not sufficient to state these documents are equally available to the defendant as he is entitled to see the actual documents you are relying upon):

27. In October of 2011, a review of the U.S. Government records and files further revealed the following defalcation of funds:

....

c. Six checks totaling \$135,000, drawn on the operating account of Plaintiff United's Plaza Extra supermarket, and made payable to "Waleed Hamed" personally.

9. With regard to the averments of paragraph 31 of the Complaint, produce the documents upon which the averment is based:

31. Defendant Waleed Hamed has breached the following duties (the list of duties violated by Defendant Hamed. . . .

a. Duty of Loyalty

b. Duty of good faith and candor;

c. Duty to manage the day-to-day operations of Plaintiff United's Plaza Extra supermarket for the benefit of United;

d. Duty of full disclosure of all matters affecting his employer Plaintiff United;

e. Duty to refrain from self-dealing, and/or general prohibition against the fiduciary using his relationship to benefit his personal interest; and

f. Duty to manage any funds, assets, and/or property belonging to Plaintiff United by virtue of its operation of the Plaza Extra Supermarket stores in accordance with applicable laws

10. With regard to the averments of paragraph 34 of the Complaint, produce the documents upon which the averment is based:

34. Defendant Hamed has engaged in systemic misappropriation of substantial and valuable assets of Plaintiff United causing substantial injury to Plaintiff United. As a result, Plaintiff United has sustained significant financial injury.

11. With regard to the averments of paragraph 37 of the Complaint, produce the documents upon which the averment is based:

37. Defendant Waleed Hamed has knowingly converted substantial funds and assets belonging to Plaintiff United.

12. With regard to the averments of paragraph 44 of the Complaint, produce the documents upon which the averment is based:

44. Defendant Hamed has breached his employment contractual agreement with Plaintiff United by mismanaging, misappropriating, and converting funds, monies, and other valuables to his personal use. As a result, Plaintiff United has sustained substantial financial damages.


13. With regard to the Relief requested in the Complaint, produce the documents that show the basis for the relief, the calculations of the amount and type of relief sought in the Complaint for the following alleged damages suffered by the Plaintiff:

- a. Actual damages
- b. Punitive damages
- c. Any accounting done by United of funds, assets, opportunities, and other valuables converted and or misappropriated by Defendant Waleed Hamed.
- d. Costs to date of all professional fees for the audit and investigation of this matter.

14. Please produce any and all documents which support the claims asserted against Waleed Hamed in the complaint which were not submitted in response to any of the preceding document requests.

ECKARD, P.C.

Dated: October 1, 2013

By: 

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Counsel to Waleed Hamed

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2013, a true and accurate copy of the foregoing was served by email, pursuant to the agreement of counsel, on Nizar A. DeWood, Esq., The DeWood Law Firm, at dewoodlaw@gmail.com.