

**Exhibit 3 - John Gaffney Testimony (Preliminary Injunction, 1/31/2013 and  
Deposition, 04/03/2014) and Responses to Interrogatories Regarding the State  
of United and Plaza Extras' Financials**

## **2. Exhibit B – January 31, 2013 Preliminary Injunction Hearing of John Gaffney:**

### **John Gaffney's Accounting Credentials**

Mr. Gaffney stated that he has spent approximately 15 to 20 years in public accounting.

(p. 65:21-22)

Q [DiRuzzo]. . . . And what about your professional experience? . . .

(p. 66:18-22)

Q . . . . And, sir, how many years have you spent in public accounting?

A Well, I've been in an out of private accounting, but I've spent probably about 15 to 20 years in public.

Mr. Gaffney noted that he spent 15 years in private accounting.

(p. 65:21-22)

Q [DiRuzzo]. . . . And what about your professional experience? . . .

(p. 66:23-24)

Q What about the private accounting?

A [John Gaffney] Private accounting another 15 years.

Mr. Gaffney stated that he was certified as a public accountant in 1975 in Florida. His license was active for six years.

(p. 65:21-22)

Q [DiRuzzo]. . . . And what about your professional experience? . . .

(p. 67:4-12)

Q And were you previously a certified public accountant?

A [John Gaffney] Yes, I was. I got certified in 1975.

Q And you held a license -- or what jurisdiction issued you that license as a certified public accountant?

A Florida.

Q And how long was that license active for?

A It was active for six years.

**John Gaffney's opinion of the result of an audit of United's Financials on January 31, 2013**

Mr. Gaffney stated that if a C.P.A. firm came into do an audit of the United financials, it probably would have cost \$500,000 and resulted in either a no opinion or an adverse opinion.

(p. 70:15-17)

Q [DiRuzzo]. . . . Now, sir, when you arrived and started working for United Corporation, what did you initially observe? . . .

(p. 81:20-25)

Q . . . Sir, are you familiar with the phrase or term "audit report"?

A [John Gaffney] Yes.

Q What is that?

A Well, the audit report usually is the entire set of financial statements that's accompanied by an

(p. 82:1-8)

opinion from the outside C.P.A. firm.

Q And are there -- is there more than one type of opinion from a C.P.A. firm?

A Yes.

Q And can you describe what those opinions are?

A Well, there is a no opinion. There is an adverse opinion. Then there is, of course, favorable opinion, which is what everybody seeks. . . .

(p. 82:18-25)

Q So when you came in to United Corporation and started the work, how would you characterize the ability or the type of opinion that a C.P.A. firm would be able to render?

A Well, having been recently, having gone through the process recently and having spent \$250,000 on an audit, I can honestly say that we could have probably spent a half million dollars and probably

(p. 83:1-2)

wound up with either a no opinion or an adverse opinion.

**Exhibit B - April 3, 2014 Deposition of John Gaffney, at page 25, line 15:**

**A.** Well, a decision was made early on to set up separate accounting departments in each location. Prior to my coming here, there was only one accounting department over in St. Thomas. **The operations of East and West**

**were rolled up in a series of about five journal entries in each location. They totally lacked controls. It was simply a bank analysis. They were being called bank reconciliations,** but they were nothing more than bank analysis, and the income was being posted according to the deposits being made to the bank. If a deposit didn't make it, go to the bank, it didn't get reported as income. ---page 26-- So, essentially, the decision was made to put in a -- an accounting system in all three locations that would have the same system of controls, and the -- the most major thing that was implemented was the interface between Point of Sale and Peachtree.

**Q.** So you said early on that you were brought in pursuant to a court order, or something like that, to try to fix what I think you described it as pretty much a -- a total mess. Would that be true?

**A.** Yeah, it was pretty -- it was a pretty good description that it was a pretty total mess before.

. . .continuing at page 26, line 20:

**Q.** Okay. And do you know where -- where the -- where the accounting records were before -- you've given me 2012 and 2013, is that correct?

**A.** Correct, yeah.

**Q.** Okay. And do you have any idea where the accounting records are for 2002 through 2011? ---page 27--

**A.** Well, I know that there are accounting records over in the warehouse at St. Thomas. I've been up there, --

**Q.** Uh-huh.

**A.** -- and I got tired of looking for things, **because I couldn't really get anything that was too cohesive. Now, when I first came here, I was aware of being able to get financial statements that dated back to about 2005 and '6, but there was a hard drive crash, I believe it was December 17th, and Margie portrayed to me that she lost all her backups and everything in the process.** We restored the accounting system from a backup that I had made on December 11th, after a great deal of effort to try and get that backup made.

**Q.** And for what year did you restore it?

**A.** Well, the -- my backup was made on December 11th, 2012, and what happened was the crash occurred on the 17th. I think by the 18th it was restored, and then we had to reconstruct that week's work. And I was in Miami, or I was in Florida at the time.

**Q.** I guess what I'm asking is, was it just 2012 financials, or did it go back? Would, for instance, 2006 be on it?

**A.** There is some, there is some data in there. There's some general ledger data that goes back beyond two years. Sage maintains two years of detail, -- ---page 28--

**Q.** Uh-huh.

**A.** -- but there are some comparative numbers that -- that go back beyond that. And in -- in the 2012 the backup that I gave you, that contains -- that contains all of that information. Nothing has changed, and that remains static right now, because once 2012 was closed, I've kept those, and I've -- I've been diligent about making sure that those records stay alive.

**Q. Those are comparison numbers. Those aren't the actual financial transactional records for years before that, is that correct?**

**A. Yeah.** I mean, if I might look in here.

**Q.** Certainly.

**A.** I think there's -- do you have the 2012s restored in here?

**Q.** Yep.

**A.** Okay. I don't see the 2012s in here.

**Q.** Well, I -- I didn't bring it today.

**A.** Okay.

**Q.** It was brought from the CPA, so it's possible --

**A.** Okay. It seems to me, if my memory's correct, it seems to me I'm able to get comparative information that goes back to at least 2010.

**Q.** Okay. ---page 29--

**A.** If I do some comparative financial statements, I can get it at least through back to 2010.

**Q.** And your recollection is that the financial records before 2010 are in a warehouse?

**A.** The -- I'm hoping that there are hard copies of most of the records in the warehouse at St. Thomas. I did look for a lot of them after the crash, **when I was trying to find things, but I -- I didn't have a great deal of success.**

**Q.** Okay.

**A.** And I did find a -- spotty old backups on computers, but -- and I had to get help from Sage to -- to break through them, because they had old passwords and whatnot on them. **But I didn't get anything cohesive**, like I -- I had one old backup at East, and it was, you know, as far as I was concerned, East and West were just using it to process payroll and/or accounts payable, and it was being used much like a word processor. There was no integrity when it came to general ledgers or anything like that, or anything that would feed into a financial statement.

### **Exhibit B - Responses to Requests for Documents of September 19, 2013.**

**11.** All documents showing the withdrawal of funds by any member of the Yusuf or Hamed families for the relevant time period from the funds generated by the three Plaza Extra Supermarkets, other than regular payroll checks.

#### **Response to Request No. 11:**

Documents are possibly in the possession of the U.S. Government.

**12.** All documents showing the accounting (or partial accounting) of funds withdrawn by any member of the Yusuf or Hamed families for the relevant time period from the funds generated by the three Plaza Extra Supermarkets, other than regular payroll checks.

#### **Response to Request No. 12:**

As testified by Maher Yusuf in the TRO, these documents were produced to Counsel for Plaintiff during informal Mediation. Other documents relating to this Request for Production of Document are possibly in possession of the U.S. Government, except for the August 26, 2013, Production of Documents (Bates #1 through Bates #111638) from the Criminal Case already provided on CDs.

### **Exhibit C - The 2/6/14 Hamed deficiency letter to Yusuf**

**Original Interrogatory 18.** Describe all financial and accounting systems or records which contain, include or otherwise reflect transactions involving Plaza Extra Supermarkets for the years 2003 present other than those provided to Plaintiff as Sage 50 backup files.

#### **ANSWER to ROG 18:**

Yusuf objects to Interrogatory No. 18 because it is overly broad and unduly burdensome. Further responding, Yusuf shows that the testimony of the current controller John Gaffney, as set forth at the Injunction Hearing, can provide a more accurate description of the accounting methods both computer and paper utilized by United as to the operations of the Plaza Extra Stores. Hence, Yusuf incorporates by reference the testimony of Mr. Gaffney as his response to this Interrogatory.

**ROG 24.** For the years 2003 to date, describe all bonus points, rebates or other valuable transfers to Fathi Yusuf or his sons in which they personally paid for food products or other purchases for Plaza Extra Supermarkets with their own personal credit cards and kept the points or monetary rebates.

**ANSWER to ROG 24:**

Responding Party objects to this interrogatory as overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Further responding, all miles, bonus points, rewards, etc., are the sole personal property of each cardholder.

**Deficiency**

This is an improper objection. Pursuant to Fed. R. Civ. P. 33(b)(3), "[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath," If an objection is made, "the grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure." Fed. R. Civ. P. 33(b)(4) (emphasis added). The purported "objections" are, therefore, not actually objections—as there is no specificity whatsoever. Further, if Defendant is claiming protection for a party or person from "annoyance, embarrassment, oppression, or undue burden or expense," the parties must confer to attempt to resolve the dispute without court action. If no resolution is achieved, the Defendant must make a motion under Fed. R. Civ. P. 26(c)(1) for a protective order.

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

MOHAMMED HAMED By His ) CIVIL NO. SX-12-CV-370  
Authorized Agent WALEED HAMED, )  
 ) ACTION FOR DAMAGES  
Plaintiff, ) INJUNCTIVE AND  
 ) DECLARATORY RELIEF  
v. )  
 )  
FATHI YUSUF and UNITED )  
CORPORATION, )  
 ) JURY TRIAL DEMANDED  
Defendants. )  
\_\_\_\_\_ )

Thursday, January 31, 2013  
Kingshill, VI 00850

The above-entitled action came on for Hearing on a  
TRO, before the Honorable DOUGLAS A. BRADY, Judge, in  
Courtroom Number 211, commencing at approximately  
9:12 a.m.

SANDRA HALL  
REGISTERED PROFESSIONAL REPORTER  
OFFICIAL COURT REPORTER II  
(340) 778-9750 EXT. 6701

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ON BEHALF OF THE DEFENDANT:

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***kglenda@cameronlawvi.com***

1 S-O-E-F-F-I-N-G.

2 **JOHN GAFFNEY,**

3 having been called as a witness, and having been first  
4 duly sworn by the clerk of the court, was examined and  
5 testified, as follows:

6 **DIRECT EXAMINATION**

7 BY MR. DIRUZZO:

8 Q Good morning, sir.

9 A Good morning.

10 Q Could you please state your name spelling your  
11 last name?

12 A John Gaffney. G-A-F-F-N-E-Y.

13 Q And, sir, what is your current job occupation?

14 A I work for United Corporation. I am kind of a  
15 controller.

16 Q Okay. Sir, why don't we start off with your  
17 education. Could you briefly tell us about your  
18 education?

19 A I have a BSBA in accounting from University of  
20 Florida, 1973.

21 Q Okay. And what about your professional  
22 experience?

23 A When I graduated, I went to work for a Big  
24 Eight accounting firm called Haskins & Sells.

25 Q And, sir, could you spell that for the court



1 ~~reporter?~~

2 A Haskins & Sells, H-A-S-K-I-N-S & S-E-L-L-S.  
3 Our international name was Delloitte Haskins & Sells  
4 and they merged.

5 Q And, sir, is that accounting firm currently  
6 known at Delloitte & Touche?

7 A Yes, it is.

8 Q Okay. And how long did you spend at Haskins &  
9 Sells?

10 A Three years in the audit department, three and  
11 a half years.

12 Q And after your tenure there, what did you do  
13 next?

14 A I went out and began a practice of my own in  
15 the late 70s.

16 Q And your practice consisted of?

17 ~~A It was primarily geared to tax work.~~

18 Q Okay. And, sir, how many years have you spent  
19 in public accounting?

20 A Well, I've been in an out of private  
21 accounting, but I've spent probably about 15 to 20  
22 years in public.

23 Q What about the private accounting?

24 A Private accounting another 15 years.

25 ~~Q And do you have experience as -- well, are you~~

1 ~~currently a certified public accountant?~~

2 A No. I let my license expire. I went inactive  
3 ~~in the mid 80s.~~

4 Q And were you previously a certified public  
5 accounting?

6 A Yes, I was. I got certified in 1975.

7 Q And you held a license -- or what jurisdiction  
8 issued you that license as a certified public  
9 accountant?

10 A Florida.

11 Q And how long was that license active for?

12 A It was active for six years.

13 ~~Q Sir, do you have any experience in retail~~  
14 ~~accounting?~~

15 A Yes, I do.

16 Q Why don't you tell us about that experience?

17 A For about ten years I was part owner of a  
18 retail operation in Florida. We had sixteen stores;  
19 fifteen stores in Florida, one in Georgia.

20 Q Okay. Now, sir, have you ever worked for a  
21 company known as Kazi Management?

22 A Yes, I have.

23 Q And what was your capacity? What were you  
24 doing for Kazi Management?

25 ~~A I was the director of finance for them.~~

1 ~~financial statements. Are you familiar with those?~~

2 A Yes.

3 Q And, sir, when a certified public accountant  
4 audits the management's financial statements, what do  
5 they do?

6 A Well, there is an awful lot of analytic review  
7 being done today. In earlier times there was an awful  
8 lot of selection that was done to verify things at, you  
9 know, to a source document. If, for instance, you  
10 wanted to verify the validity of a particular expense,  
11 you would actually make that selection beginning at the  
12 general ledger and drilling down into, let's say, the  
13 purchases journal. And then what you would do is you  
14 would examine the invoice for that purchase to  
15 determine the validity of it.

16 Income on the other hand was typically audited  
17 from the standpoint of determining where it begins, and  
18 it actually goes kind of opposite direction, but in a  
19 ~~store in a retail operation it's always the P.O.S.~~

20 Q Okay. Sir, are you familiar with the phrase  
21 or term "audit report"?

22 A Yes.

23 Q What is that?

24 A Well, the audit report usually is the entire  
25 set of financial statements that's accompanied by an

1 opinion from the outside C.P.A. firm.

2 Q And are there -- is there more than one type  
3 of opinion from a C.P.A. firm?

4 A Yes.

5 Q And can you describe what those opinions are?

6 A Well, there is a no opinion. There is an  
7 adverse opinion. Then there is, of course, favorable  
8 opinion, which is what everybody seeks.

9 ~~Q Okay. Let's talk about an adverse opinion.  
10 What is adverse opinion?~~

11 ~~A An adverse opinion is basically where a  
12 C.P.A. firms comes in, attempts to conduct work and  
13 can't form a conclusion as to the fair presentation of  
14 the financial statements.~~

15 ~~Q And what is no opinion?~~

16 ~~A A no opinion is there aren't sufficient books  
17 and records to even begin.~~

18 Q So when you came in to United Corporation and  
19 started the work, how would you characterize the  
20 ability or the type of opinion that a C.P.A. firm would  
21 be able to render?

22 A Well, having been recently, having gone  
23 through the process recently and having spent \$250,000  
24 on an audit, I can honestly say that we could have  
25 probably spent a half million dollars and probably

1 wound up with either a no opinion or an adverse  
2 opinion.

3 ~~Q Okay. Now, sir, with the work that you're~~  
4 ~~performing, what is the goal, the end game so to speak~~  
5 ~~of the work that the consulting with respect to audit~~  
6 ~~is?~~

7 A Well, aside from establishing a descent -- a  
8 good system of internal controls, it is to be able to  
9 generate financial statements with very, very good  
10 audit trails. Theoretically, I could see an audit, the  
11 price of audit coming from what I just mentioned down  
12 to \$50,000 with a good set of internal controls and  
13 also audit trails.

14 Q So you're estimating the cost savings of  
15 approximately 450,000 based on when the work that  
16 you're performing is completed?

17 A Yes.

18 Q Sir, have you ever been asked by -- well, let  
19 me go back. Are you familiar with any of the Hamed  
20 brothers?

21 A Yes.

22 Q And have you ever talked to them?

23 A Yes.

24 Q Okay. Have you ever been asked by them to --  
25 ~~for them -- or for you to deliver to them your work~~

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

MOHAMMED HAMED by His Authorized )  
Agent WALEED HAMED, )  
 )  
Plaintiff/Counterclaim Defendant, )  
 )  
vs. ) Case No. SX-12-CV-370  
 )  
FATHI YUSUF and UNITED CORPORATION, )  
 )  
Defendants/Counterclaimants, )  
 )  
vs. )  
 )  
WALEED HAMED, WAHEED HAMED, MUFEED )  
HAMED, HISHAM HAMED, and PLESSSEN )  
ENTERPRISES, INC., )  
 )  
Additional Counterclaim Defendants.)

**THE VIDEOTAPED ORAL DEPOSITION OF JOHN GAFFNEY**

was taken on the 3rd day of April, 2014, at the Law Offices  
of Adam Hoover, 2006 Eastern Suburb, Christiansted,  
St. Croix, U.S. Virgin Islands, between the hours of  
3:14 p.m. and 4:41 p.m., pursuant to Notice and Federal  
Rules of Civil Procedure.

---

Reported by:

Cheryl L. Haase  
Registered Professional Reporter  
Caribbean Scribes, Inc.  
2132 Company Street, Suite 3  
Christiansted, St. Croix U.S.V.I.  
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and

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By: Carl Hartmann, III

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**HAMD600254**

**APPEARANCES**1  
2  
3  
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24  
25**For Waleed Hamed:**

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**For Fathi Yusuf:**

Law Offices of  
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U.S. Virgin Islands 00820

By: K. Glenda Cameron

**Also Present:**

Josiah Wynans, Videographer  
Hatim Yusuf, Interpreter  
Kim Japinga  
Waleed Hamed  
Hisham Hamed  
Mufeed Hamed  
Maher Yusuf  
Fathi Yusuf

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1 ~~no way that when additional information is added after it's~~  
2 ~~been given to me, that additional information appears to me,~~  
3 ~~is there?~~

4 **A.** No, just only a new backup.

5 **Q.** Yeah. So every day that I use it for those thirty  
6 days, it's another day out of date?

7 **A.** Yeah. Oh, yeah. I see what you're saying.

8 **Q.** Yes.

9 **A.** Yes. Okay.

10 **Q.** Okay. Thank you.

11 **A.** Now I understand, yeah.

12 **Q.** Okay. And could you explain to me, you said the  
13 system uses three different data files. Could you explain  
14 ~~just basically what that's about?~~

15 **A.** Well, a decision was made early on to set up  
16 separate accounting departments in each location. Prior to  
17 my coming here, there was only one accounting department  
18 over in St. Thomas. The operations of East and West were  
19 rolled up in a series of about five journal entries in each  
20 location. They totally lacked controls. It was simply a  
21 bank analysis. They were being called bank reconciliations,  
22 but they were nothing more than bank analysis, and the  
23 income was being posted according to the deposits being made  
24 to the bank. If a deposit didn't make it, go to the bank,  
25 it didn't get reported as income.

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HAMD600277

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1           So, essentially, the decision was made to put  
2     in a -- an accounting system in all three locations that  
3     would have the same system of controls, and the -- the most  
4     major thing that was implemented was the interface between  
5     Point of Sale and Peachtree.

6           **Q.**    So you said early on that you were brought in  
7     pursuant to a court order, or something like that, to try to  
8     fix what I think you described it as pretty much a -- a  
9     total mess.

10           ~~Would that be true?~~

11           **A.**    Yeah, it was pretty -- it was a pretty good  
12     description that it was a pretty total mess before.

13           **Q.**    And you --

14           **A.**    I'm not saying that it was -- it didn't have any  
15     integrity. It did have integrity.

16           **Q.**    Uh-huh.

17           **A.**    It's just that it lacked controls.

18           **Q.**    Okay. And was it accurate?

19           ~~**A.**    I'd say fairly accurate.~~

20           **Q.**    Okay. And do you know where -- where the -- where  
21     the accounting records were before -- you've given me 2012  
22     and 2013, is that correct?

23           **A.**    Correct, yeah.

24           **Q.**    Okay. And do you have any idea where the  
25     accounting records are for 2002 through 2011?

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1           **A.**   Well, I know that there are accounting records  
2 over in the warehouse at St. Thomas. I've been up there, --

3           **Q.**   Uh-huh.

4           **A.**   -- and I got tired of looking for things, because  
5 I couldn't really get anything that was too cohesive.

6                         Now, when I first came here, I was aware of  
7 being able to get financial statements that dated back to  
8 about 2005 and '6, but there was a hard drive crash, I  
9 believe it was December 17th, and Margie portrayed to me  
10 that she lost all her backups and everything in the process.

11                         We restored the accounting system from a  
12 backup that I had made on December 11th, after a great deal  
13 of effort to try and get that backup made.

14           **Q.**   And for what year did you restore it?

15           **A.**   Well, the -- my backup was made on December 11th,  
16 2012, and what happened was the crash occurred on the 17th.  
17 I think by the 18th it was restored, and then we had to  
18 reconstruct that week's work. And I was in Miami, or I was  
19 in Florida at the time.

20           **Q.**   I guess what I'm asking is, was it just 2012  
21 financials, or did it go back? Would, for instance, 2006 be  
22 on it?

23           **A.**   There is some, there is some data in there.  
24 There's some general ledger data that goes back beyond two  
25 years. Sage maintains two years of detail, --

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1 Q. Uh-huh.

2 A. -- but there are some comparative numbers that --  
3 that go back beyond that.

4 And in -- in the 2012 the backup that I gave  
5 you, that contains -- that contains all of that information.  
6 Nothing has changed, and that remains static right now,  
7 because once 2012 was closed, I've kept those, and I've --  
8 I've been diligent about making sure that those records stay  
9 alive.

10 Q. Those are comparison numbers. Those aren't the  
11 actual financial transactional records for years before  
12 that, is that correct?

13 A. Yeah. I mean, if I might look in here.

14 Q. Certainly.

15 A. I think there's -- do you have the 2012s restored  
16 in here?

17 Q. Yep.

18 A. Okay. I don't see the 2012s in here.

19 Q. Well, I -- I didn't bring it today.

20 A. Okay.

21 Q. It was brought from the CPA, so it's possible --

22 A. Okay. It seems to me, if my memory's correct, it  
23 seems to me I'm able to get comparative information that  
24 goes back to at least 2010.

25 Q. Okay.

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1           **A.**    If I do some comparative financial statements, I  
2 can get it at least through back to 2010.

3           **Q.**    And your recollection is that the financial  
4 records before 2010 are in a warehouse?

5           **A.**    The -- I'm hoping that there are hard copies of  
6 most of the records in the warehouse at St. Thomas. I did  
7 look for a lot of them after the crash, when I was trying to  
8 find things, but I -- I didn't have a great deal of success.

9           **Q.**    Okay.

10          **A.**    And I did find a -- spotty old backups on  
11 computers, but -- and I had to get help from Sage to -- to  
12 break through them, because they had old passwords and  
13 whatnot on them. But I didn't get anything cohesive, like  
14 I -- I had one old backup at East, and it was, you know, as  
15 far as I was concerned, East and West were just using it to  
16 process payroll and/or accounts payable, and it was being  
17 used much like a word processor. There was no integrity  
18 when it came to general ledgers or anything like that, or  
19 anything that would feed into a financial statement.

20          ~~**Q.**    Okay. Now, in the -- let's use the 2013 year that~~  
21          ~~you supplied on January 5th, 2014.~~

22                    You said, sort of off the bat, it -- it  
23 lagged in certain areas, such as accounts payable and  
24 securities for a couple of months. Beyond that, is there  
25 any other major financial data related to the Plaza Extra

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February 5, 2014

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By Email Only

RE: Rule 37 Deficiencies: *Hamed v. Yusuf*, 2012-CV-370  
Corrected Responses to Plaintiff's Request for  
Production of Documents and Interrogatories

---

Dear Counsel:

My client received Defendant Yusuf's Corrected Responses to Plaintiff's Request for the Production of Documents on January 9, 2014 and Defendant Yusuf's Answers to Plaintiff's Interrogatories to Defendant: First Set, on December 27, 2013. ~~After reviewing the responses and objections, my client has identified the following deficiencies -- and requests an opportunity to confer to correct those deficiencies pursuant to Rule 37 during the second week of February 10, 2014. Would you please let me know what dates during that week work for a telephonic "meet and confer" on the following issues.~~

**General Objections to the Request for Production of Documents**

**General Objection 2.** Yusuf objects to each request to the extent it seeks the production of documents or information protected by the attorney-client, work product or other privileges. Only non-privileged documents, or ~~portions thereof, will be produced.~~

---

**ROG 16.** Since 1990, have you ever notified any brokerage firm or trader to close any account (whether in your name or not) because of losses in trading stocks, future options or other securities? If so, please state:

- a) the name of all such accounts and what firm held such accounts;
- b) the total losses incurred by you (please estimate if the exact amount is not known);
- c) the years in which the losses occurred;
- d) the name of the person or entity on each account;
- e) the person authorized to trade each such account.

**ANSWER to ROG 16:**

Yusuf objects to Interrogatory No. 16 in that it is compound, irrelevant, overly broad, burdensome, and calls for information not reasonably calculated to the discovery of admissible evidence.

**Deficiency**

This is an improper objection. Pursuant to Fed. R. Civ. P. 33(b)(3), "[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath," If an objection is made, "the grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure." Fed. R. Civ. P. 33(b)(4) (emphasis added). The purported "objections" are, therefore, not actually objections—as there is no specificity whatsoever. Further, if Defendant is claiming protection for a party or person from "annoyance, embarrassment, oppression, or undue burden or expense," the parties must confer to attempt to resolve the dispute without court action. If no resolution is achieved, the Defendant must make a motion under Fed. R. Civ. P. 26(c)(1) for a protective order.

**ROG 18.** Describe all financial and accounting systems or records which contain, include or otherwise reflect transactions involving Plaza Extra Supermarkets for the years 2003 present other than those provided to Plaintiff as Sage 50 backup files.

**ANSWER to ROG 18:**

Yusuf objects to Interrogatory No. 18 because it is overly broad and unduly burdensome. Further responding, Yusuf shows that the testimony of the current controller John Gaffney, as set forth at the Injunction Hearing, can provide a more accurate description of the accounting methods both computer and paper utilized by United as to the operations of the Plaza Extra Stores. Hence, Yusuf incorporates by reference the testimony of Mr. Gaffney as his response to this Interrogatory.

**ROG 24.** For the years 2003 to date, describe all bonus points, rebates or other valuable transfers to Fathi Yusuf or his sons in which they personally paid for food products or other purchases for Plaza Extra Supermarkets with their own personal credit cards and kept the points or monetary rebates.

**ANSWER to ROG 24:**

Responding Party objects to this interrogatory as overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Further responding, all miles, bonus points, rewards, etc., are the sole personal property of each cardholder.

**Deficiency**

This is an improper objection. Pursuant to Fed. R. Civ. P. 33(b)(3), "[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath," If an objection is made, "the grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure." Fed. R. Civ. P. 33(b)(4) (emphasis added). The purported "objections" are, therefore, not actually objections—as there is no specificity whatsoever. Further, if Defendant is claiming protection for a party or person from "annoyance, embarrassment, oppression, or undue burden or expense," the parties must confer to attempt to resolve the dispute without court action. If no resolution is achieved, the Defendant must make a motion under Fed. R. Civ. P. 26(c)(1) for a protective order.

Please let me know what day you are available to meet and confer during the week of

Sincerely,

A handwritten signature in cursive script, reading "Carl J. Hartmann", written over a horizontal line.

Carl J. Hartmann

cc: Joel H. Holt, Esq.