


First Requests For Production of Documents and to provide Mandatory Disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A), within ten (10) days of such Order; (2) awarding Yusuf his costs and attorneys' fees incurred in connection with the Motion, and; (3) granting such further relief as is just and proper.

Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: August 25, 2014

By:



Charlotte K. Perrell (V.I. Bar No. 1281)
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4422
Telefax: (340) 715-4400
E-mail: cperrell@dtflaw.com

and

Nizar A. DeWood, Esq. (V.I. Bar No. 1177)
The DeWood Law Firm
2006 Eastern Suburbs, Suite 101
Christiansted, VI 00830
Telephone: (340) 773-3444
Telefax: (888) 398-8428
Email: info@dewood-law.com

Attorneys for Fathi Yusuf and United Corporation

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade
P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756
(340) 774-4422

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of August, 2014, I caused the foregoing **DEFENDANT FATHI YUSUF'S MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS AND FOR SANCTIONS** to be served upon the following via e-mail:

Joel H. Holt, Esq.
LAW OFFICES OF JOEL H. HOLT
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
Email: jeffreymlaw@yahoo.com

Michele Barker

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**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St Thomas, U.S. V.I. 00804-0756

(340) 774-4422

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

MOHAMMAD HAMED, by his)
authorized agent **WALEED HAMED**,)

Plaintiff/Counterclaim Defendant,)

vs.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

vs.)

WALEED HAMED, WAHEED HAMED,)
MUFEED HAMED, HISHAM HAMED, and)
PLESSEN ENTERPRISES,)

Additional Counterclaim Defendants.)

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

JURY TRIAL DEMANDED

**MEMORANDUM IN SUPPORT OF MOTION TO COMPEL RESPONSES TO
DISCOVERY REQUESTS AND FOR SANCTIONS**

Defendant Fathi Yusuf ("Yusuf"), through his undersigned attorneys, respectfully submits this Memorandum in support of his Motion To Compel Responses to Discovery Requests And For Sanctions.

I. FACTUAL BACKGROUND

1. On Friday, May 23, 2014, Yusuf served upon each of the Counterclaim Defendants Waleed Hamed ("Waleed"), Mufeed Hamed ("Mufeed"), and Hisham Hamed ("Hisham")(collectively, the "Counterclaim Defendants"), his First Requests for Production of Documents (the "Request for Production"). See collective **Exhibit A** - First Requests for

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

Production to each of the Counterclaim Defendants. Yusuf filed a Notice of Service of the Requests for Production with the Court that same day.

2. The Counterclaim Defendants served their responses to the Requests for Production (the “Responses”) on Thursday, June 26, 2014. See, collective **Exhibit B** – Responses from each of the Counterclaim Defendants to the Requests for Production.

3. The Responses failed to produce a single responsive document to the Requests for Production. Instead, the Counterclaim Defendants provided a litany of “boilerplate,” non-specific objections.

4. On July 2, 2014, counsel for Yusuf sent a letter to the Counterclaim Defendants’ counsel identifying each issue and/or discovery request in dispute and Yusuf’s position regarding each issue along with relevant legal authority. Furthermore, Yusuf explained that he would seek to compel complete responses if the Counterclaim Defendants did not provide a supplement within ten (10) days and/or meet and confer with Yusuf. See Exhibit C - Letter dated July 2, 2014.

5. None of the Counterclaim Defendants supplemented their Responses.

6. On August 13, 2014, counsel for the Counterclaim Defendants and counsel for Yusuf participated in a telephonic conference in an attempt to resolve as many of the disputed issues as possible. However, the parties were unable to resolve any of their differences concerning insufficiency of the Counterclaim Defendants’ Responses to the Requests for Production. See Exhibit D – Stipulation per LRCi 37.2(a).

II. ARGUMENT

A. General Deficiencies In All Responses

The Counterclaim Defendants objected to virtually all of the Requests for Production on various grounds and have failed to produce a single responsive document. The objections were obstructionist and calculated to thwart the free flow of information in the discovery process. The objections are conclusory and unsupported. Thus, the objections are insufficient. See, e.g., Pulsecard, Inc. v. Discover Card Servs., 1995 U.S. Dist. LEXIS 13111 at *21-22 (D. Kan. 1995)(“The party opposing discovery cannot simply make conclusory allegations that the request is irrelevant, but must specifically show how each discovery request is irrelevant”). This is because “[o]bjections should be plain and specific enough so that the court can understand in what way the [discovery is] alleged to be objectionable.” Coregis Ins. Co. v. Baratta & Fenerty, Ltd., 187 F.R.D. 528, 530 (E.D. Pa. 1999); see also McLeod, Alexander, Powel & Apffel, P.C. v. Quarles, 894 F.2d 1482, 1485 (5th Cir. 1990) (objections that requests were overly broad, burdensome, oppressive, and irrelevant were insufficient to meet party's burden to explain why discovery requests were objectionable).

Boilerplate objections in response to a Rule 34 request for production of documents are widely rejected. McLeod, Alexander, Powel & Apffel, P.C. v. Quarles, 894 F.2d 1482, 1485 (5th Cir. 1990) (finding insufficient, objections to document requests on the grounds that they were overly broad, burdensome and oppressive); Sabol v. Brooks, 469 F. Supp. 2d 324, 328-29 (D.Md. 2006) (court found that an out-of-state nonparty ordered to appear for an examination in aid of judgment had violated Rule 34 when it objected to discovery on the grounds that it was overly broad, vague and sought information not reasonably calculated to lead to the discovery of

admissible evidence because it failed “to make particularized objections to document requests,” which constituted waiver of those objections); St. Paul Reins. Co., Ltd. v. Commercial Fin. Corp., 198 F.R.D. 508, 512 (N.D. Iowa 2000) (Boilerplate objections, including that a particular document request was oppressive, burdensome and harassing, were “[i]n every respect . . . textbook examples of what federal courts have routinely deemed to be improper objections.”); Momah v. Albert Einstein Med. Ctr., 164 F.R.D. 412, 417 (E.D. Pa.1996) (“Mere recitation of the familiar litany that an interrogatory or a document production request is ‘overly broad, burdensome, oppressive and irrelevant will not suffice.”). Id. at 528-29. Thus, because Counterclaim Defendants merely recite a familiar litany of objections as to the discovery requests, the Court should order them to respond to each of Yusuf’s request for production fully, completely, and in conformance with Fed. R. Civ. P. 34(b)(2).

Further, to the extent that the Counterclaim Defendants do not have any documents that are responsive to a particular request, each Counterclaim Defendant must provide Yusuf with a statement under oath that no responsive documents exist. See, e.g., 7 MOORE’S FEDERAL PRACTICE - Civil § 34.13 (“[W]hen a response to a production of documents is not a production or an objection, but an answer, the party must answer under oath. For example, when a party claims that all the requested documents have already been produced, it must state that fact under oath in response to the request”); Jensen v. Boston Ins. Co., 20 F.R.D. 619, 621 (D. Cal. 1957) (“If the documents sought are not in existence, it is incumbent upon the objecting party or parties to so state under oath and not by way of a general unverified allegation”); B & K Mech., Inc. v. Wiese, 2005 U.S. Dist. LEXIS 21005 at *14 (D. Kan. Sept. 21, 2005) (“when the records at issue are, by their nature, of a type that would normally be kept in the business of the producing party,

and within that party's control, then the court can presume that the records exist and are within the control of the party unless the party denies their existence under oath"); Vazquez-Fernandez v. Cambridge College, Inc., 269 F.R.D. 150, 154 (D.P.R. 2010) (same). This has not been done.

B. Specific Deficiencies

As virtually all of the Discovery Requests were objected to upon multiple grounds, the specific discovery requests at issue are categorized by type of objection or deficiency as follows:

- Objections that Requests were Overly Broad and Unduly Burdensome
- Objections as to Relevancy
- Objections that Requests were Overbroad as to Time Prior to 2006
- Objections as to Untimely Service of Requests for Production
- Objections as to Attorney-Client and Work Product Objections Without a Privilege Log
- Lack of Diligent Search and Oath
- No Stipulation Exists Excusing Production.

As evidenced by their failure to produce any documents and reliance on general objections, the Counterclaim Defendants' Responses can hardly be considered responsive at all. Indeed, as virtually all of the Discovery Requests were effectively unanswered and/or evaded by the Counterclaim Defendants, reference to the specific requests and Yusuf's position would be voluminous and exceed the page limits imposed by LRCi 7.1. Accordingly, rather than reiterate all the Discovery Requests in the body of this motion, Yusuf incorporates by reference his July 2, 2014 letter (attached as Exhibit C).

Even if Counterclaim Defendants no longer have possession of additional documents and have stored the documents or otherwise transferred them to third parties, they must still produce those responsive documents. Indeed, “[i]t is well established that ‘control’ under Fed. R. Civ. P. 34 is to be broadly construed so that a party may be obligated to produce documents requested even though it may not actually possess the documents. Thus, as long as the party has the legal right or ability to obtain the documents from another source on demand, that party is deemed to have ‘control.’” Poole v. Textron, Inc., 192 F.R.D. 494, 501 (D. Md. 2000); *see also*, Camden Iron & Metal, Inc. v. Marubeni America Corp., 138 F.R.D. 438, 441 (D.N.J. 1991); Alexander v. FBI, 194 F.R.D. 299, 301 (D.D.C. 2000). If Counterclaim Defendants claim that no responsive documents exist, they must submit a sworn statement to that effect.

C. Mandatory Disclosures

In addition to the discovery issues addressed above, as required by FED. R. CIV. P. 26(a)(1)(D), within thirty (30) days after being served or joined, new parties are required to submit their mandatory disclosures. Service of the Counterclaims and Amended Counterclaim was made on the Counterclaim Defendants in January and February of 2014. The Counterclaim Defendants’ disclosures were due in March, 2014. Such disclosures should provide much of the information sought in the Requests for Production, including “a copy-or a description by category and location-of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses...” FED. R. CIV. P. 26(a)(1)(D). This is yet another reason that the objections raised are without merit and demonstrate bad faith as such information is required to be disclosed. Although Yusuf has raised this issue, none of the Counterclaim Defendants have filed

their mandatory disclosures and, thus, have unnecessarily required the Court's intervention to compel disclosure of basic information that is required to be disclosed.

C. This Court should find that the Counterclaim Defendants' unjust refusal to provide responses requires the imposition of sanctions.

Pursuant to Fed. R. Civ. P. 37(a)(5)(A), "[i]f the motion [to compel] is granted — or if the disclosure or requested discovery is provided after the motion was filed — the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." See also Poulis v. State Farm Fire & Casualty Co., 747 F.2d 863, 869 (3d Cir. 1984) (stating that "the district court is specifically authorized to impose on an attorney those expenses, including attorneys' fees, caused by unjustified failure to comply with discovery orders or pretrial orders"); GMAC Bank v. HTFC Corp., 2008 U.S. Dist. LEXIS 15878 at *32 (E.D. Pa. 2008) ("Sanctions under Rule 37(a)(5)(A) have a compensatory purpose"). There is no question that the Counterclaim Defendants have not complied with Yusuf's Discovery Requests because their Responses are incomplete, non-responsive, and, in many instances, grounded on baseless objections. See, e.g., Richir v. Vill. of Fredonia, 2008 U.S. Dist. LEXIS 28028 at *12-13 (W.D.N.Y. Apr. 4, 2008) (awarding sanctions against Defendant because Plaintiff was required to file a motion to compel due to Defendant's incomplete responses). Yusuf has given the Counterclaim Defendants a significant amount of additional time to provide full and complete responses as well as to produce their required Mandatory Disclosures but no information has been forthcoming. Thus, for these reasons, this Court should order the Counterclaim Defendants to pay Yusuf's attorneys' fees and costs for making this motion.

CONCLUSION

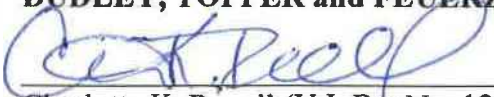
For all of the foregoing reasons, Yusuf respectfully requests that this Court enter an Order: (1) compelling each of the Counterclaim Defendants to provide complete, non-evasive discovery responses in compliance with Fed. R. Civ. P. 34 and to provide Mandatory Disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A), within ten (10) days of such Order; (2) awarding Yusuf his costs and attorneys' fees incurred in connection with his Motion, and; (3) granting such further relief as is just and proper.

Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: August 25, 2014

By:


Charlotte K. Perrell (V.I. Bar No. 1281)
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4422
Telefax: (340) 715-4400
E-mail: cperrell@dtflaw.com

and

Nizar A. DeWood, Esq. (V.I. Bar No. 1177)
The DeWood Law Firm
2006 Eastern Suburbs, Suite 101
Christiansted, VI 00830
Telephone: (340) 773-3444
Telefax: (888) 398-8428
Email: info@dewood-law.com

Attorneys for Fathi Yusuf and United Corporation

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St Thomas, U.S. V.I. 00804-0756

(340) 774-4422

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of August, 2014, I caused the foregoing **MEMORANDUM IN SUPPORT OF MOTION TO COMPEL RESPONSES TO DISCOVERY REQUESTS AND FOR SANCTIONS** to be served upon the following via e-mail:

Joel H. Holt, Esq.
LAW OFFICES OF JOEL H. HOLT
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
Email: jeffreymoorhead@yahoo.com

Michele Barts

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**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

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Plaintiff/Counterclaim Defendant,)

vs.)

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WALEED HAMED, WAHEED HAMED,)
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PLESSEN ENTERPRISES,)

Additional Counterclaim Defendants.)

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

JURY TRIAL DEMANDED

**FATHI YUSUF'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO
WALEED HAMED**

TO: Waleed Hamed, Additional Counterclaim Defendant
c/o **Mark W. Eckard, Esq.**
#1 Company Street
P.O. Box 24849
Christiansted VI 00824

Defendant/counterclaimant Fathi Yusuf, through his undersigned counsel, pursuant to Super. Ct. R. 39(a) and Fed. R. Civ. P. 34, hereby propounds the following Requests for Production of Documents to Additional Counterclaim Defendant Waleed Hamed to be answered separately and fully in writing within thirty (30) days from the date hereof.

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksborg Gade

P.O. Box 756

St Thomas, U.S. V.I. 00804-0756

(340) 774-4422



INSTRUCTIONS FOR ANSWERING

1. You are required, in responding to this request to obtain and furnish all information available (or available, upon demand) to you and any of your representatives, employees, agents, brokers, servants, or attorneys and to obtain and furnish all information that is in your possession or under your control, or in the possession or under the control of any of your representatives, employees, agents, servants or attorneys. In addition, "control" under Fed. R. Civ. P. 34 is broadly construed and, therefore, you are obligated to produce documents requested as long as you may have the legal right and/or ability to obtain the documents from another source on demand.
2. Each request which seeks information relating in any way to communications to, from, or within a business and/or corporate entity is hereby designated to demand, and should be construed to include, all communications by and between representatives, employees, agents and/or servants of the business and/or corporate entity.
3. Each request should be responded to separately. However, a document that is responsive to more than one request may, if the relevant portion is marked or indexed, be produced and referred to in a later response.
4. All documents produced shall be segregated and identified by the request to which they are primarily responsive. For any documents that are stored or maintained in files in the normal course of business, such documents shall be produced in such files, or in such a manner as to preserve and identify the file from which such documents were taken.
5. If you object to part of any request, please furnish documents responsive to the remainder of the request.
6. Each request refers to all documents that are either known by you to exist or that can be located or discovered by reasonably diligent efforts.
7. The documents produced in response to this request shall include all attachments, metadata, and enclosures.
8. The documents requested for production include those in the possession, custody, or control of you, your agents, representatives, or attorneys.
9. References to the singular include the plural.

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gate

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

10. The use of any tense of any verb shall be considered also to include within its meaning all other tenses of the verb so used.
11. Please note that you are under a continuing duty to seasonably supplement the production with documents obtained subsequent to the preparation and filing of a response to each request.
12. All documents called for by any request for which you claim a privilege or statutory authority as a ground for non-production shall be listed chronologically as follows:
 - a) The place, date and manner of recording or otherwise preparing the document;
 - b) The name and title of the sender;
 - c) The identity of each person or persons (other than stenographic or clerical assistants) participating in the preparation of the document;
 - d) The identity of each person to whom the contents of the document have been communicated by copy, exhibition, sketch, reading or substantial summarization, the dates of such communication, and the employer and title of such person at the time of the communication;
 - e) Type of document;
 - f) Subject matter (without revealing the relevant information for which privilege or statutory authority is claimed); and
 - g) Factual and legal basis for claim, privilege or specific statutory or regulatory authority which provides the claimed ground for non-production.
13. Each request to produce a document or documents shall be deemed to call for the production of the original document or documents to the extent that they are in, or subject to, directly or indirectly, the control of the party to whom this request is addressed. In addition, each request should be considered as including a request for separate production of all copies and, to the extent applicable, preliminary drafts of documents that differ in any respect from the original or final draft or from each other (e.g., by reason of differences in form or content or by reason of handwritten notes or comments having been added to one copy of a document but not on the original or other copies thereof).
14. All documents produced in response to this request shall be produced notwithstanding the fact that portions thereof may contain information not requested.
15. If any documents requested have been lost or destroyed, the documents so lost or destroyed shall be identified by author, date and subject matter.
16. Where exact information cannot be furnished, estimated information is to be supplied to the extent possible. Where estimation is used, it should be so indicated, and an

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AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

explanation should be given as to the basis on which the estimate was made and the reason exact information cannot be furnished.

17. With respect to any document requested which was once in your possession, custody or control, but no longer is, please indicate the date the document ceased to be in your possession, custody or control, the manner in which it ceased, and the name and address of its present custodian.
18. Unless otherwise indicated, each request is to be construed as encompassing all documents which pertain to the stated subject matter and to events which transpired giving rise to this litigation up to the present.
19. Foreign language (i.e. in a language other than English) documents must be produced if the meaning and/or definition of the words in the document may cause the document to be responsive to any request. If you are in possession of English and foreign language versions of the same document, all versions of the document must be produced.

DEFINITIONS

A. For the purpose of these Requests, the following words shall have the meaning indicated below:

- A. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these requests any information which might otherwise be construed to be outside their scope.
- B. "Any/All" shall both mean any and all as appropriate in order to bring within the scope of these requests information and documents which might otherwise be considered to be beyond their scope.
- C. "Communication" or "communications" means the written or oral transmittal of information (in the form of facts, ideas, inquiries or otherwise).
- D. "Company" or "entity" means any form of business whatever organized, including, without limitation, any corporation, sole proprietorship, partnership (general or limited), joint venture, association, group, government agency, firm or other business enterprise or legal entity which is not a natural person, and means both the singular and plural.
- E. "Criminal Case" means Case No. 1:05-CR-00015-RLF-GWB pending in the District Court of the Virgin Islands, Division of St. Croix.

- F. "Defendants" means Yusuf and United, collectively.
- G. "Define" when used with reference to a phrase or term, means (a) state the meaning of the phrase or term; and (b) identify each person known by you to have personal knowledge regarding the meaning of such phrase or term upon whose testimony you or Hamed presently intends to rely at trial.
- H. "Describe" means to explain fully by reference to underlying facts rather than conclusions of fact or law.
- I. "Document" means any handwritten, typewritten, printed, transcribed, impressed, recorded or other physical or tangible embodiment of a communication within the scope of Fed. R. Civ. P. 34(a)(1), however produced or reproduced, now or at any time in your possession, custody or control, including but not limited to: letters, notes, preliminary drafts (including metadata), reports, spreadsheets, emails, electronic messages and/or online chats (i.e. twitter, facebook, blog, message), text messages, memoranda, interoffice communications, analyses, minutes, contracts, agreements, cables, telegrams, statements, entries, affidavits, briefs, pleadings, decrees, transcriptions, recordings, diagrams, charts, photographs, and articles, and any copies, facsimiles or reproductions of the foregoing, no matter how or by whom prepared, and all drafts prepared in connection with the foregoing. Without limitation of the term "control" as used in the preceding sentence, a document is deemed to be in your control if you have the right to secure the document or a copy thereof from another person or public or private entity having actual physical possession thereof. If any document requested was in your possession or subject to your control, but is no longer, state what disposition was made of it, and the date or dates on which such disposition was made.
- J. "Hamed" means Mohammed Hamed and his present and former agents, attorneys, employees, representatives, affiliated companies, and any persons or entities associated or affiliated with him.
- K. "Identify" means as follows:
- (A) "Identify" and "identification" when used with reference to a natural person, means to state his or her (a) full name; (b) present business and/or residence address and telephone numbers; (c) present business affiliation, address, title or position; (d) if different from (c), the group, organization or business the person was representing at any time relevant to the answer to a specific request; and (e) home address. If this information is not known, furnish such information as was last known.

(B) "Identify" and "identification" when used with reference to a business entity, means to state its (a) full name; (b) form or organization (e.g., corporation, partnership); (c) place of incorporation; and (d) address of its principal place of business. If this information is not known, furnish such information as was last known.

(C) "Identify" and "identification" when used with reference to an act, action, activity, omission or event, means to state (a) the identity of persons who participated in such act, action, activity, omission, or event; (b) the date and place of such act, action, activity, omission, or event in detail; and (c) the identity of each person having knowledge of the act, action, activity, omission, or event.

(D) "Identify" and "identification" when used in reference to a document, means to state (a) the type of document or some other means of identifying it (e.g., letter, memorandum, report, etc.); (b) its subject matter; (c) the identity of its author(s), signer(s), and any person who participated in its preparation; (d) the identity of each addressee or recipient; (e) the identity of each person to whom copies were sent and each person by whom copies were received; (f) its title and date; and (g) its present location and the identity of its custodian (if any such document was, but is no longer in, the possession of or subject to your or Hamed's control, state what disposition was made of it).

(E) "Identify" and "Identification" when used with reference to a conversation, oral communication, discussion, oral statement or interview, means (a) state the date upon which it took place; (b) identify each person who participated in it, witnessed it and/or overheard it; (c) state what was said by each such person, including the issues and matters discussed; and (d) identify each document which describes or relates to it.

L. "Individual" or "Person" means any natural person, including without limitation, an officer, director, employee, agent, representative, distributor, supplier, independent contractor, licensee or franchisee, and it includes any corporation, sole proprietorship, partnership, joint venture, group, government agency and agent, firm or other business enterprise or legal entity, which is not a natural person, and means both the singular and the plural.

M. "Parties" means all parties to this litigation.

N. "Partners" means Yusuf and Hamed.

O. "Partnership" means the association of Yusuf and Hamed to carry on as co-owners the business of the Plaza Extra Stores.

DUDLEY, TOPPER
AND FEUERZEIG, LLP

1000 Frederiksberg Gate

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

- P. "Person" includes a corporation, partnership or other business associate or entity, natural person and any government or governmental body, commission, board or agency.
- Q. "Pertain to" or "pertaining to" means relates to, refers to, contains, concerns, describes, embodies, mentions, constitutes, constituting, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts or contradicts.
- R. "Plaza Extra Accounts" means any bank account in which money generated from the operation of the Plaza Extra Stores has been deposited.
- S. "Plaza Extra Stores" means the three supermarket stores commonly referred to as Plaza Extra – East, Plaza Extra – Tutu Park, and Plaza Extra – West.
- T. "Relating to" or "related to" means consisting of, referring to, describing, discussing, constituting, evidencing, containing, reflecting, mentioning, concerning, pertaining to, citing, summarizing, analyzing or bearing any logical or factual connection with the matter discussed.
- U. "United" means United Corporation and its present and former agents, attorneys, employees, representatives, and persons or entities associated or affiliated with it.
- V. "You" or "your" means Waleed Hamed and his present and former agents, attorneys, employees, representatives, and any persons or entities associated or affiliated with him.
- W. "Yusuf" means Fathi Yusuf and his present and former agents, attorneys, employees, representatives, and any persons or entities associated or affiliated with him.

As used in this demand for production, unless it is otherwise provided or the context requires a different meaning, words importing the singular include and apply to several persons or things; words importing the masculine gender include the feminine; words used in the present tense include the future.

Documents must be catalogued by number to correspond to the appropriate request.

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gate

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

Hamed v. Yusuf et al.

Case No. SX-12-CV-370

Yusuf's First Request for Production of Documents to Defendant Waleed Hamed

Page 8 of 14

Whenever you wish to object for any reason to a request, you shall state the nature of your objections, identify the subject matter to which your objection pertains, and cite the legal rule upon which you rely in effecting your objection.

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(340) 774-4422

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts, you and Hamed have or had at any bank or financial institution anywhere in the world from 1986 through the present, including but not limited to:
 - a. Banque Fracaise Commerciale Account No. 3878-91
 - b. Banque Fracaise Commerciale Account No. 3878-90
 - c. Scotia Bank Account No.00308313
 - d. VI Community Bank Account No. 6086
 - e. VI Community Bank Account No. 5817
 - f. Banco Popular 194-602753
 - g. Merrill Lynch 140-16184
 - h. Merrill Lynch 140-85240
 - i. Banco Popular Visa – Account ending in 2319
 - j. Banco Popular Visa – Account ending in 2204
 - k. Amex Gold Card – Account No. 3782-925489-33001
 - l. Cairo Amman Bank – Account No. 02 501 171878 00

2. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts in the name of any of your children, wife, parents, brothers, and any other third parties at any bank or financial institution anywhere in the world in which you or Hamed have or had any legal or equitable interest from January 1, 1986 to date.

3. Please produce all documents provided to your and Hamed's accountants from January 1, 1986 to date either for the preparation of tax returns, bookkeeping services, the preparation of financial statements, or loan applications.

4. Please produce all Tax Returns filed on your behalf from 1986 to present.

5. If you contend there were any errors made in any of your Tax Returns filed after 1986 please produce any and all documentation that demonstrates the errors in such returns and the actions you took to correct these errors.

6. Please produce deed(s), contract(s), lease(s), or other similar documentary evidence of your ownership of any interest (including leasehold interests) in real property, from January 1, 1986 to present (regardless if you have transferred, sold, or otherwise disposed of these assets).

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7. Please produce all statements from any brokerage or other accounts, including online based accounts, issued from January 1, 1986 to present pertaining to any stocks, bonds, stock options, debentures, mutual funds or other financial investments in which you or Hamed have or had any interest.
8. Please produce all documents relating to any cash withdrawn by the Partners from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.
9. Please produce all documents relating to any cash withdrawn by you or your brothers from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.
10. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to the Partners or to third parties on their behalves from January 1, 1986 to date including all documents relating to what was done with such funds.
11. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to you or your brothers or to third parties on you or your brothers behalves from January 1, 1986 to date including all documents relating to what was done with such funds.
12. Please produce all documents relating to any rent paid by or due from the Partnership for the Plaza Extra – East premises from January 1, 1986 to date including rent calculations, accounting records evidencing rent payments or rent due, claims or demands for rent, and rent payments.
13. Please produce all documents either supporting, undermining, or relating to any of the statements and information set forth in the letter from Yusuf to Hamed dated August 15, 2012 identified at FY004123-FY004210.
14. Please produce all documents relating to any documents removed from the Plaza Extra Stores prior to the FBI raid in 2001 including any documents pertaining to the destruction of receipts or other documents.
15. Please produce all documents relating to any claim Hamed may have with respect to stock losses allegedly caused by Yusuf including all documents reflecting checks deposited into any account used by Yusuf to generate such losses.
16. Please produce all documents relating to any claim Hamed may have with respect to expenses incurred in the Criminal Case including all documents reflecting checks issued from the Plaza Extra Accounts to pay such expenses.

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17. Please produce all documents relating to the acquisition, improvement, cost of construction, and market value of all real estate in which Hamed has or had an ownership interest from January 1, 1986 to date including documents pertaining to the source of funds for acquisition and improvement.
18. Please produce all documents relating to the "Black Book" and any pages missing from that document.
19. Please produce all documents the source of funds for the cash portion of the preliminary injunction bond posted in this case.
20. Please produce all documents relating to the source of funds for the acquisition and operation of the businesses known as Five Corners and and Five-H Holdings, Inc. including all documents pertaining to the organization, existence, and ownership of such businesses.
21. Please produce all documents relating to the use and disposition of the proceeds of a check dated March 27, 2013 in the amount of \$460,000 drawn on the account of Plessen Enterprises, Inc. and payable to you including all documents relating to the \$230,000 that was subsequently deposited with the Clerk of the Superior Court.
22. Please produce any financial statements prepared by or for you or Hamed from January 1, 1986 to date.
23. Please produce all documents relating to the acquisition, improvement, cost of construction, and market value of all real estate in which you have or had an ownership interest from January 1, 1986 to date including all documents pertaining to the source of funds for acquisition and improvement.
24. Please produce all documents reflecting payment of United's insurance and Gross Receipts Taxes from Plaza Extra Accounts from January 1, 1986 to date including checks issued for such payment.
25. Please produce all documents generated in or relating to the Criminal Case that pertain to your, Hamed's or your brothers' receipt of money in the form of cash, checks or wire transfers from the Plaza Extra Stores or the Plaza Extra Accounts from January 1, 1986 to date.
26. Please produce all documents relating to your gambling, gaming or betting activity and history anywhere in the world from January 1, 1986 to date including all documents pertaining to the source of the funds used for such activity.

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P.O. Box 756

St. Thomas, U.S.V.I. 00804-0756

(340) 774-4422

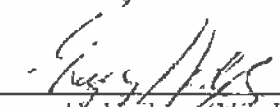
27. Please produce all documents relating to how proceeds or profits from the Plaza Extra Stores were distributed to you, Hamed and your family members from January 1, 1986 to date.
28. Please produce all documents relating to the removal, transfer, subsequent transfer and use of funds from any of the Plaza Extra Accounts by you, Hamed, and your family members, other than salaries or direct reimbursements of costs.
29. Please produce all documents relating to any claims or counterclaims you may have against Yusuf and United for any type of relief including, but not limited to, money damages.
30. Please produce all documents relating to all defenses or offsets you have or may have with regard to the claims of Yusuf and United.
31. Please produce all documents relating to all amounts which you, Hamed and your family members have taken from the Plaza Extra Stores or Plaza Extra Accounts beyond salaries from January 1, 1986 to date.
32. Please produce all documents relating to all funds removed by you, Hamed, or your family from the Plaza Extra Stores or Plaza Extra Accounts that were used to buy real estate or other assets, and list all assets purchased, form of ownership, the date of purchase and the percentile owners at that time and now.
33. Please produce all documents relating to all investigations, reports, studies, surveys, valuations or expert advise obtained by you, Hamed, and your family with regard to the Plaza Extra Stores from January 1, 2011 to date.
34. Please produce all documents relating to all witnesses you, Hamed, or your family have interviewed and may or will call at trial in this matter. Provide all witness statements, notes and information provided by them to you.
35. Please produce all accountings, valuations or other information pertaining to the valuation or division of the Plaza Extra Stores.
36. Please produce all records kept by you, Hamed, and your family for keeping track of withdrawals and amounts due to the Hameds or Yusufs from January 1, 1986 through December 31, 2003.
37. Please produce the financial documents for all accounts and transactions on those accounts for Sixteen Plus and Plessen Enterprises, Inc.
38. Please produce all documents supporting any claims of Hamed against United.

39. Please produce all documents supporting any claims of Hamed against Yusuf.
40. Please produce all documents relating to any defense you intend to assert with respect to the claims made against you in this case.
41. Please produce all documents relating to each exhibit you intend to introduce into evidence at the trial of this case.

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: May 23, 2014

By:



Gregory H. Hodges (V.I. Bar No. 174)
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4405
Telefax: (340) 715-4400
E-mail: ghodges@dtflaw.com

and

Nizar A. DeWood, Esq. (V.I. Bar No. 1177)
The DeWood Law Firm
2006 Eastern Suburbs, Suite 101
Christiansted, VI 00830
Telephone: (340) 773-3444
Telefax: (888) 398-8428
Email: info@dewood-law.com
Attorneys for Fathi Yusuf and United Corporation

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2014, I caused the foregoing Fathi Yusuf's First Requests For Production Of Documents To Waleed Hamed to be served upon the following via e-mail:

Joel H. Holt, Esq.
LAW OFFICES OF JOEL H. HOLT
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
Email: jeffreymlaw@yahoo.com

Michelle Banks

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

MOHAMMAD HAMED, by his
authorized agent WALEED HAMED,

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and UNITED CORPORATION,

Defendants/Counterclaimants,

vs.

WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED, and
PLESSEN ENTERPRISES,

Additional Counterclaim Defendants.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

JURY TRIAL DEMANDED

FATHI YUSUF'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO
MUFEED HAMED,

TO: Mufeed Hamed, Additional Counterclaim Defendant
c/o Mark W. Eckard, Esq.
Eckard, P:C.
P.O. Box 24849
Christiansted, VI 00824

Defendant/counterclaimant Fathi Yusuf, through his undersigned counsel, pursuant to Super. Ct. R. 39(a) and Fed. R. Civ. P. 34, hereby propounds the following Requests for Production of Documents to Additional Counterclaim Defendant Mufeed Hamed to be answered separately and fully in writing within thirty (30) days from the date hereof.

INSTRUCTIONS FOR ANSWERING

1. You are required, in responding to this request to obtain and furnish all information available (or available, upon demand) to you and any of your representatives, employees, agents, brokers, servants, or attorneys and to obtain and furnish all information that is in your possession or under your control, or in the possession or under the control of any of your representatives, employees, agents, servants or attorneys. In addition, "control" under Fed. R. Civ. P. 34 is broadly construed and, therefore, you are obligated to produce documents requested as long as you may have the legal right and/or ability to obtain the documents from another source on demand.
2. Each request which seeks information relating in any way to communications to, from, or within a business and/or corporate entity is hereby designated to demand, and should be construed to include, all communications by and between representatives, employees, agents and/or servants of the business and/or corporate entity.
3. Each request should be responded to separately. However, a document that is responsive to more than one request may, if the relevant portion is marked or indexed, be produced and referred to in a later response.
4. All documents produced shall be segregated and identified by the request to which they are primarily responsive. For any documents that are stored or maintained in files in the normal course of business, such documents shall be produced in such files, or in such a manner as to preserve and identify the file from which such documents were taken.
5. If you object to part of any request, please furnish documents responsive to the remainder of the request.
6. Each request refers to all documents that are either known by you to exist or that can be located or discovered by reasonably diligent efforts.
7. The documents produced in response to this request shall include all attachments, metadata, and enclosures.
8. The documents requested for production include those in the possession, custody, or control of you, your agents, representatives, or attorneys.
9. References to the singular include the plural.

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AND FEUERZEIG, LLP**

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10. The use of any tense of any verb shall be considered also to include within its meaning all other tenses of the verb so used.
11. Please note that you are under a continuing duty to seasonably supplement the production with documents obtained subsequent to the preparation and filing of a response to each request.
12. All documents called for by any request for which you claim a privilege or statutory authority as a ground for non-production shall be listed chronologically as follows:
 - a) The place, date and manner of recording or otherwise preparing the document;
 - b) The name and title of the sender;
 - c) The identity of each person or persons (other than stenographic or clerical assistants) participating in the preparation of the document;
 - d) The identity of each person to whom the contents of the document have been communicated by copy, exhibition, sketch, reading or substantial summarization, the dates of such communication, and the employer and title of such person at the time of the communication;
 - e) Type of document;
 - f) Subject matter (without revealing the relevant information for which privilege or statutory authority is claimed); and
 - g) Factual and legal basis for claim, privilege or specific statutory or regulatory authority which provides the claimed ground for non-production.
13. Each request to produce a document or documents shall be deemed to call for the production of the original document or documents to the extent that they are in, or subject to, directly or indirectly, the control of the party to whom this request is addressed. In addition, each request should be considered as including a request for separate production of all copies and, to the extent applicable, preliminary drafts of documents that differ in any respect from the original or final draft or from each other (e.g., by reason of differences in form or content or by reason of handwritten notes or comments having been added to one copy of a document but not on the original or other copies thereof).
14. All documents produced in response to this request shall be produced notwithstanding the fact that portions thereof may contain information not requested.
15. If any documents requested have been lost or destroyed, the documents so lost or destroyed shall be identified by author, date and subject matter.
16. Where exact information cannot be furnished, estimated information is to be supplied to the extent possible. Where estimation is used, it should be so indicated, and an

DUDLEY, TOPPER
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explanation should be given as to the basis on which the estimate was made and the reason exact information cannot be furnished.

17. With respect to any document requested which was once in your possession, custody or control, but no longer is, please indicate the date the document ceased to be in your possession, custody or control, the manner in which it ceased, and the name and address of its present custodian.
18. Unless otherwise indicated, each request is to be construed as encompassing all documents which pertain to the stated subject matter and to events which transpired giving rise to this litigation up to the present.
19. Foreign language (i.e. in a language other than English) documents must be produced if the meaning and/or definition of the words in the document may cause the document to be responsive to any request. If you are in possession of English and foreign language versions of the same document, all versions of the document must be produced.

DEFINITIONS

A. For the purpose of these Requests, the following words shall have the meaning indicated below:

- A. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these requests any information which might otherwise be construed to be outside their scope.
- B. "Any/All" shall both mean any and all as appropriate in order to bring within the scope of these requests information and documents which might otherwise be considered to be beyond their scope.
- C. "Communication" or "communications" means the written or oral transmittal of information (in the form of facts, ideas, inquiries or otherwise).
- D. "Company" or "entity" means any form of business whatever organized, including, without limitation, any corporation, sole proprietorship, partnership (general or limited), joint venture, association, group, government agency, firm or other business enterprise or legal entity which is not a natural person, and means both the singular and plural.
- E. "Criminal Case" means Case No. 1:05-CR-00015-RLF-GWB pending in the District Court of the Virgin Islands, Division of St. Croix.

- F. "Defendants" means Yusuf and United, collectively.
- G. "Define" when used with reference to a phrase or term, means (a) state the meaning of the phrase or term; and (b) identify each person known by you to have personal knowledge regarding the meaning of such phrase or term upon whose testimony you or Hamed presently intends to rely at trial.
- H. "Describe" means to explain fully by reference to underlying facts rather than conclusions of fact or law.
- I. "Document" means any handwritten, typewritten, printed, transcribed, impressed, recorded or other physical or tangible embodiment of a communication within the scope of Fed. R. Civ. P. 34(a)(1), however produced or reproduced, now or at any time in your possession, custody or control, including but not limited to: letters, notes, preliminary drafts (including metadata), reports, spreadsheets, emails, electronic messages and/or online chats (i.e. twitter, facebook, blog, message), text messages, memoranda, interoffice communications, analyses, minutes, contracts, agreements, cables, telegrams, statements, entries, affidavits, briefs, pleadings, decrees, transcriptions, recordings, diagrams, charts, photographs, and articles, and any copies, facsimiles or reproductions of the foregoing, no matter how or by whom prepared, and all drafts prepared in connection with the foregoing. Without limitation of the term "control" as used in the preceding sentence, a document is deemed to be in your control if you have the right to secure the document or a copy thereof from another person or public or private entity having actual physical possession thereof. If any document requested was in your possession or subject to your control, but is no longer, state what disposition was made of it, and the date or dates on which such disposition was made.
- J. "Hamed" means Mohammed Hamed and his present and former agents, attorneys, employees, representatives, affiliated companies, and any persons or entities associated or affiliated with him.
- K. "Identify" means as follows:
- (A) "Identify" and "identification" when used with reference to a natural person, means to state his or her (a) full name; (b) present business and/or residence address and telephone numbers; (c) present business affiliation, address, title or position; (d) if different from (c), the group, organization or business the person was representing at any time relevant to the answer to a specific request; and (e) home address. If this information is not known, furnish such information as was last known.

(B) "Identify" and "identification" when used with reference to a business entity, means to state its (a) full name; (b) form or organization (e.g., corporation, partnership); (c) place of incorporation; and (d) address of its principal place of business. If this information is not known, furnish such information as was last known.

(C) "Identify" and "identification" when used with reference to an act, action, activity, omission or event, means to state (a) the identity of persons who participated in such act, action, activity, omission, or event; (b) the date and place of such act, action, activity, omission, or event in detail; and (c) the identity of each person having knowledge of the act, action, activity, omission, or event.

(D) "Identify" and "identification" when used in reference to a document, means to state (a) the type of document or some other means of identifying it (e.g., letter, memorandum, report, etc.); (b) its subject matter; (c) the identity of its author(s), signer(s), and any person who participated in its preparation; (d) the identity of each addressee or recipient; (e) the identity of each person to whom copies were sent and each person by whom copies were received; (f) its title and date; and (g) its present location and the identity of its custodian (if any such document was, but is no longer in, the possession of or subject to your or Hamed's control, state what disposition was made of it).

(E) "Identify" and "Identification" when used with reference to a conversation, oral communication, discussion, oral statement or interview, means (a) state the date upon which it took place; (b) identify each person who participated in it, witnessed it and/or overheard it; (c) state what was said by each such person, including the issues and matters discussed; and (d) identify each document which describes or relates to it.

- L. "Individual" or "Person" means any natural person, including without limitation, an officer, director, employee, agent, representative, distributor, supplier, independent contractor, licensee or franchisee, and it includes any corporation, sole proprietorship, partnership, joint venture, group, government agency and agent, firm or other business enterprise or legal entity, which is not a natural person, and means both the singular and the plural.
- M. "Parties" means all parties to this litigation.
- N. "Partners" means Yusuf and Hamed.
- O. "Partnership" means the association of Yusuf and Hamed to carry on as co-owners the business of the Plaza Extra Stores.

- P. "Person" includes a corporation, partnership or other business associate or entity, natural person and any government or governmental body, commission, board or agency.
- Q. "Pertain to" or "pertaining to" means relates to, refers to, contains, concerns, describes, embodies, mentions, constitutes, constituting, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts or contradicts.
- R. "Plaza Extra Accounts" means any bank account in which money generated from the operation of the Plaza Extra Stores has been deposited.
- S. "Plaza Extra Stores" means the three supermarket stores commonly referred to as Plaza Extra – East, Plaza Extra – Tutu Park, and Plaza Extra – West.
- T. "Relating to" or "related to" means consisting of, referring to, describing, discussing, constituting, evidencing, containing, reflecting, mentioning, concerning, pertaining to, citing, summarizing, analyzing or bearing any logical or factual connection with the matter discussed.
- U. "United" means United Corporation and its present and former agents, attorneys, employees, representatives, and persons or entities associated or affiliated with it.
- V. "You" or "your" means Mufeed Hamed and his present and former agents, attorneys, employees, representatives, and any persons or entities associated or affiliated with him.
- W. "Yusuf" means Fathi Yusuf and his present and former agents, attorneys, employees, representatives, and any persons or entities associated or affiliated with him.

As used in this demand for production, unless it is otherwise provided or the context requires a different meaning, words importing the singular include and apply to several persons or things; words importing the masculine gender include the feminine; words used in the present tense include the future.

Documents must be catalogued by number to correspond to the appropriate request.

Hamed v. Yusuf et al.

Case No. SX-12-CV-370

Yusuf's First Request for Production of Documents to Defendant Waleed Hamed

Page 8 of 13

Whenever you wish to object for any reason to a request, you shall state the nature of your objections, identify the subject matter to which your objection pertains, and cite the legal rule upon which you rely in effecting your objection.

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

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REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts, you and Hamed have or had at any bank or financial institution anywhere in the world from 1986 through the present, including but not limited to:
 - a. Banco Popular Account No. 191-045535
 - b. Scotiabank Account No. 45609811
 - c. Banco Popular Visa, Account No. ending 3230
 - d. Visa Account No. ending 1263
 - e. Visa Account No. ending 4662
 - f. Amex Gold Card Account No. 330001
2. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts in the name of any of your children, wife, parents, brothers, and any other third parties at any bank or financial institution anywhere in the world in which you or Hamed have or had any legal or equitable interest from January 1, 1986 to date.
3. Please produce all documents provided to your and Hamed's accountants from January 1, 1986 to date either for the preparation of tax returns, bookkeeping services, the preparation of financial statements, or loan applications.
4. Please produce all Tax Returns filed on your behalf from 1986 to present.
5. If you contend there were any errors made in any of your Tax Returns filed after 1986 please produce any and all documentation that demonstrates the errors in such returns and the actions you took to correct these errors.
6. Please produce deed(s), contract(s), lease(s), or other similar documentary evidence of your ownership of any interest (including leasehold interests) in real property, from January 1, 1986 to present (regardless if you have transferred, sold, or otherwise disposed of these assets).
7. Please produce all statements from any brokerage or other accounts, including online based accounts, issued from January 1, 1986 to present pertaining to any stocks, bonds, stock options, debentures, mutual funds or other financial investments in which you or Hamed have or had any interest.

**DUDLEY, TOPPER
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8. Please produce all documents relating to any cash withdrawn by the Partners from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.
9. Please produce all documents relating to any cash withdrawn by you or your brothers from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.
10. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to the Partners or to third parties on their behalves from January 1, 1986 to date including all documents relating to what was done with such funds.
11. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to you or your brothers or to third parties on you or your brothers behalves from January 1, 1986 to date including all documents relating to what was done with such funds.
12. Please produce all documents relating to any rent paid by or due from the Partnership for the Plaza Extra – East premises from January 1, 1986 to date including rent calculations, accounting records evidencing rent payments or rent due, claims or demands for rent, and rent payments.
13. Please produce all documents either supporting, undermining, or relating to any of the statements and information set forth in the letter from Yusuf to Hamed dated August 15, 2012 identified at FY004123-FY004210.
14. Please produce all documents relating to any documents removed from the Plaza Extra Stores prior to the FBI raid in 2001 including any documents pertaining to the destruction of receipts or other documents.
15. Please produce all documents relating to the “Black Book” and any pages missing from that document.
16. Please produce all documents the source of funds for the cash portion of the preliminary injunction bond posted in this case.
17. Please produce all documents relating to the source of funds for the acquisition and operation of the businesses known as Five Corners and Five-H Holdings, Inc. including all documents pertaining to the organization, existence, and ownership of such businesses.
18. Please produce any financial statements prepared by or for you from January 1, 1986 to date.

19. Please produce all documents relating to the acquisition, improvement, cost of construction, and market value of all real estate in which you have or had an ownership interest from January 1, 1986 to date including all documents pertaining to the source of funds for acquisition and improvement.
20. Please produce all documents generated in or relating to the Criminal Case that pertain to your, Hamed's or your brothers' receipt of money in the form of cash, checks or wire transfers from the Plaza Extra Stores or the Plaza Extra Accounts from January 1, 1986 to date.
21. Please produce all documents relating to how proceeds or profits from the Plaza Extra Stores were distributed to you, Hamed and your family members from January 1, 1986 to date.
22. Please produce all documents relating to the removal, transfer, subsequent transfer and use of funds from any of the Plaza Extra Accounts by you, Hamed, and your family members, other than salaries or direct reimbursements of costs.
23. Please produce all documents relating to any claims or counterclaims you may have against Yusuf and United for any type of relief including, but not limited to, money damages.
24. Please produce all documents relating to all defenses or offsets you have or may have with regard to the claims of Yusuf and United.
25. Please produce all documents relating to all amounts which you, Hamed and your family members have taken from the Plaza Extra Stores or Plaza Extra Accounts beyond salaries from January 1, 1986 to date.
26. Please produce all documents relating to all funds removed by you, Hamed, or your family from the Plaza Extra Stores or Plaza Extra Accounts that were used to buy real estate or other assets, and list all assets purchased, form of ownership, the date of purchase and the percentile owners at that time and now.
27. Please produce all documents relating to all investigations, reports, studies, surveys, valuations or expert advise obtained by you, Hamed, and your family with regard to the Plaza Extra Stores from January 1, 2011 to date.
28. Please produce all documents relating to all witnesses you, Hamed, or your family have interviewed and may or will call at trial in this matter. Provide all witness statements, notes and information provided by them to you.

29. Please produce all accountings, valuations or other information pertaining to the valuation or division of the Plaza Extra Stores.
30. Please produce all records kept by you, Hamed, and your family for keeping track of withdrawals and amounts due to the Hameds or Yusufs from January 1, 1986 through December 31, 2003.
31. Please produce the financial documents for all accounts and transactions on those accounts for Sixteen Plus and Plessen Enterprises, Inc.
32. Please produce all documents supporting any claims of Hamed against United.
33. Please produce all documents supporting any claims of Hamed against Yusuf.
34. Please produce all documents relating to any defense you intend to assert with respect to the claims made against you in this case.
35. Please produce all documents relating to each exhibit you intend to introduce into evidence at the trial of this case.

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: May 23, 2014

By: 

Gregory H. Hodges (V.I. Bar No. 174)
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4405
Telefax: (340) 715-4400
E-mail: ghodges@dtflaw.com

and

Nizar A. DeWood, Esq. (V.I. Bar No. 1177)
The DeWood Law Firm
2006 Eastern Suburbs, Suite 101
Christiansted, VI 00830
Telephone: (340) 773-3444
Telefax: (888) 398-8428
Email: info@dewood-law.com
Attorneys for Fathi Yusuf and United Corporation

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade
P.O. Box 756

St. Thomas, U.S. Vi. 00804-0756
(340) 774-4422

Hamed v. Yusuf et al.

Case No. SX-12-CV-370

Yusuf's First Request for Production of Documents to Defendant Waleed Hamed

Page 13 of 13

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2014, I caused the foregoing Fathi Yusuf's First Requests For Production Of Documents To Mufeed Hamed to be served upon the following via e-mail:

Joel H. Holt, Esq.
LAW OFFICES OF JOEL H. HOLT
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
Email: jeffreymlaw@yahoo.com

Michelle Barker

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**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksborg Gade
P.O. Box 756

St. Thomas, U.S. VI. 00804-0756
(340) 774-4422

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

MOHAMMAD HAMED, by his)
authorized agent WALEED HAMED,)

Plaintiff/Counterclaim Defendant,)

vs.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

vs.)

WALEED HAMED, WAHEED HAMED,)
MUFEEED HAMED, HISHAM HAMED, and)
PLESSEN ENTERPRISES,)

Additional Counterclaim Defendants.)

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

JURY TRIAL DEMANDED

FATHI YUSUF'S FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO
HISHAM HAMED

TO: Hisham Hamed, Additional Counterclaim Defendant
c/o Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824

Defendant/counterclaimant Fathi Yusuf, through his undersigned counsel, pursuant to Super. Ct. R. 39(a) and Fed. R. Civ. P. 34, hereby propounds the following Requests for Production of Documents to Additional Counterclaim Defendant Hisham Hamed to be answered separately and fully in writing within thirty (30) days from the date hereof.

DUDLEY, TOPPER
AND FEUERZEIG, LLP
1000. Frederiksborg Gade
P.O. Box 758
St. Thomas, U.S. V.I. 00804-0756
(340) 774-4422

INSTRUCTIONS FOR ANSWERING

1. You are required, in responding to this request to obtain and furnish all information available (or available, upon demand) to you and any of your representatives, employees, agents, brokers, servants, or attorneys and to obtain and furnish all information that is in your possession or under your control, or in the possession or under the control of any of your representatives, employees, agents, servants or attorneys. In addition, "control" under Fed. R. Civ. P. 34 is broadly construed and, therefore, you are obligated to produce documents requested as long as you may have the legal right and/or ability to obtain the documents from another source on demand.
2. Each request which seeks information relating in any way to communications to, from, or within a business and/or corporate entity is hereby designated to demand, and should be construed to include, all communications by and between representatives, employees, agents and/or servants of the business and/or corporate entity.
3. Each request should be responded to separately. However, a document that is responsive to more than one request may, if the relevant portion is marked or indexed, be produced and referred to in a later response.
4. All documents produced shall be segregated and identified by the request to which they are primarily responsive. For any documents that are stored or maintained in files in the normal course of business, such documents shall be produced in such files, or in such a manner as to preserve and identify the file from which such documents were taken.
5. If you object to part of any request, please furnish documents responsive to the remainder of the request.
6. Each request refers to all documents that are either known by you to exist or that can be located or discovered by reasonably diligent efforts.
7. The documents produced in response to this request shall include all attachments, metadata, and enclosures.
8. The documents requested for production include those in the possession, custody, or control of you, your agents, representatives, or attorneys.
9. References to the singular include the plural.

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gate

P.O. Box 758

St. Thomas, U.S. V.I. 00804-0758

(340) 774-4422

10. The use of any tense of any verb shall be considered also to include within its meaning all other tenses of the verb so used.
11. Please note that you are under a continuing duty to seasonably supplement the production with documents obtained subsequent to the preparation and filing of a response to each request.
12. All documents called for by any request for which you claim a privilege or statutory authority as a ground for non-production shall be listed chronologically as follows:
 - a) The place, date and manner of recording or otherwise preparing the document;
 - b) The name and title of the sender;
 - c) The identity of each person or persons (other than stenographic or clerical assistants) participating in the preparation of the document;
 - d) The identity of each person to whom the contents of the document have been communicated by copy, exhibition, sketch, reading or substantial summarization, the dates of such communication, and the employer and title of such person at the time of the communication;
 - e) Type of document;
 - f) Subject matter (without revealing the relevant information for which privilege or statutory authority is claimed); and
 - g) Factual and legal basis for claim, privilege or specific statutory or regulatory authority which provides the claimed ground for non-production.
13. Each request to produce a document or documents shall be deemed to call for the production of the original document or documents to the extent that they are in, or subject to, directly or indirectly, the control of the party to whom this request is addressed. In addition, each request should be considered as including a request for separate production of all copies and, to the extent applicable, preliminary drafts of documents that differ in any respect from the original or final draft or from each other (e.g., by reason of differences in form or content or by reason of handwritten notes or comments having been added to one copy of a document but not on the original or other copies thereof).
14. All documents produced in response to this request shall be produced notwithstanding the fact that portions thereof may contain information not requested.
15. If any documents requested have been lost or destroyed, the documents so lost or destroyed shall be identified by author, date and subject matter.
16. Where exact information cannot be furnished, estimated information is to be supplied to the extent possible. Where estimation is used, it should be so indicated, and an

explanation should be given as to the basis on which the estimate was made and the reason exact information cannot be furnished.

17. With respect to any document requested which was once in your possession, custody or control, but no longer is, please indicate the date the document ceased to be in your possession, custody or control, the manner in which it ceased, and the name and address of its present custodian.
18. Unless otherwise indicated, each request is to be construed as encompassing all documents which pertain to the stated subject matter and to events which transpired giving rise to this litigation up to the present.
19. Foreign language (i.e. in a language other than English) documents must be produced if the meaning and/or definition of the words in the document may cause the document to be responsive to any request. If you are in possession of English and foreign language versions of the same document, all versions of the document must be produced.

DEFINITIONS

A. For the purpose of these Requests, the following words shall have the meaning indicated below:

- A. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these requests any information which might otherwise be construed to be outside their scope.
- B. "Any/All" shall both mean any and all as appropriate in order to bring within the scope of these requests information and documents which might otherwise be considered to be beyond their scope.
- C. "Communication" or "communications" means the written or oral transmittal of information (in the form of facts, ideas, inquiries or otherwise).
- D. "Company" or "entity" means any form of business whatever organized, including, without limitation, any corporation, sole proprietorship, partnership (general or limited), joint venture, association, group, government agency, firm or other business enterprise or legal entity which is not a natural person, and means both the singular and plural.
- E. "Criminal Case" means Case No. 1:05-CR-00015-RLF-GWB pending in the District Court of the Virgin Islands, Division of St. Croix.

- F. "Defendants" means Yusuf and United, collectively.
- G. "Define" when used with reference to a phrase or term, means (a) state the meaning of the phrase or term; and (b) identify each person known by you to have personal knowledge regarding the meaning of such phrase or term upon whose testimony you or Hamed presently intends to rely at trial.
- H. "Describe" means to explain fully by reference to underlying facts rather than conclusions of fact or law.
- I. "Document" means any handwritten, typewritten, printed, transcribed, impressed, recorded or other physical or tangible embodiment of a communication within the scope of Fed. R. Civ. P. 34(a)(1), however produced or reproduced, now or at any time in your possession, custody or control, including but not limited to: letters, notes, preliminary drafts (including metadata), reports, spreadsheets, emails, electronic messages and/or online chats (i.e. twitter, facebook, blog, message), text messages, memoranda, interoffice communications, analyses, minutes, contracts, agreements, cables, telegrams, statements, entries, affidavits, briefs, pleadings, decrees, transcriptions, recordings, diagrams, charts, photographs, and articles, and any copies, facsimiles or reproductions of the foregoing, no matter how or by whom prepared, and all drafts prepared in connection with the foregoing. Without limitation of the term "control" as used in the preceding sentence, a document is deemed to be in your control if you have the right to secure the document or a copy thereof from another person or public or private entity having actual physical possession thereof. If any document requested was in your possession or subject to your control, but is no longer, state what disposition was made of it, and the date or dates on which such disposition was made.
- J. "Hamed" means Mohammed Hamed and his present and former agents, attorneys, employees, representatives, affiliated companies, and any persons or entities associated or affiliated with him.
- K. "Identify" means as follows:
- (A) "Identify" and "identification" when used with reference to a natural person, means to state his or her (a) full name; (b) present business and/or residence address and telephone numbers; (c) present business affiliation, address, title or position; (d) if different from (c), the group, organization or business the person was representing at any time relevant to the answer to a specific request; and (e) home address. If this information is not known, furnish such information as was last known.

(B) "Identify" and "identification" when used with reference to a business entity, means to state its (a) full name; (b) form or organization (e.g., corporation, partnership); (c) place of incorporation; and (d) address of its principal place of business. If this information is not known, furnish such information as was last known.

(C) "Identify" and "identification" when used with reference to an act, action, activity, omission or event, means to state (a) the identity of persons who participated in such act, action, activity, omission, or event; (b) the date and place of such act, action, activity, omission, or event in detail; and (c) the identity of each person having knowledge of the act, action, activity, omission, or event.

(D) "Identify" and "identification" when used in reference to a document, means to state (a) the type of document or some other means of identifying it (e.g., letter, memorandum, report, etc.); (b) its subject matter; (c) the identity of its author(s), signer(s), and any person who participated in its preparation; (d) the identity of each addressee or recipient; (e) the identity of each person to whom copies were sent and each person by whom copies were received; (f) its title and date; and (g) its present location and the identity of its custodian (if any such document was, but is no longer in, the possession of or subject to your or Hamed's control, state what disposition was made of it):

(E) "Identify" and "Identification" when used with reference to a conversation, oral communication, discussion, oral statement or interview, means (a) state the date upon which it took place; (b) identify each person who participated in it, witnessed it and/or overheard it; (c) state what was said by each such person, including the issues and matters discussed; and (d) identify each document which describes or relates to it.

L. "Individual" or "Person" means any natural person, including without limitation, an officer, director, employee, agent, representative, distributor, supplier, independent contractor, licensee or franchisee, and it includes any corporation, sole proprietorship, partnership, joint venture, group, government agency and agent, firm or other business enterprise or legal entity, which is not a natural person, and means both the singular and the plural.

M. "Parties" means all parties to this litigation.

N. "Partners" means Yusuf and Hamed.

O. "Partnership" means the association of Yusuf and Hamed to carry on as co-owners the business of the Plaza Extra Stores.

- P. "Person" includes a corporation, partnership or other business associate or entity, natural person and any government or governmental body, commission, board or agency.
- Q. "Pertain to" or "pertaining to" means relates to, refers to, contains, concerns, describes, embodies, mentions, constitutes, constituting, supports, corroborates, demonstrates, proves, evidences, shows, refutes, disputes, rebuts, controverts or contradicts.
- R. "Plaza Extra Accounts" means any bank account in which money generated from the operation of the Plaza Extra Stores has been deposited.
- S. "Plaza Extra Stores" means the three supermarket stores commonly referred to as Plaza Extra – East, Plaza Extra – Tutu Park, and Plaza Extra – West.
- T. "Relating to" or "related to" means consisting of, referring to, describing, discussing, constituting, evidencing, containing, reflecting, mentioning, concerning, pertaining to, citing, summarizing, analyzing or bearing any logical or factual connection with the matter discussed.
- U. "United" means United Corporation and its present and former agents, attorneys, employees, representatives, and persons or entities associated or affiliated with it.
- V. "You" or "your" means Hisham Hamed and his present and former agents, attorneys, employees, representatives, and any persons or entities associated or affiliated with him.
- W. "Yusuf" means Fathi Yusuf and his present and former agents, attorneys, employees, representatives, and any persons or entities associated or affiliated with him.

As used in this demand for production, unless it is otherwise provided or the context requires a different meaning, words importing the singular include and apply to several persons or things; words importing the masculine gender include the feminine; words used in the present tense include the future.

Documents must be catalogued by number to correspond to the appropriate request.

DUDLEY, TOPPER
AND FEUERZEIG, LLP

1000 Frederiksberg Gate

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

Whenever you wish to object for any reason to a request, you shall state the nature of your objections, identify the subject matter to which your objection pertains, and cite the legal rule upon which you rely in effecting your objection.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts, you and Hamed have or had at any bank or financial institution anywhere in the world from 1986 through the present, including but not limited to:
 - a. Scotiabank Account No. 04455152125
 - b. Charles Schwab Account No. 4062-0039
2. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts in the name of any of your children, wife, parents, brothers, and any other third parties at any bank or financial institution anywhere in the world in which you or Hamed have or had any legal or equitable interest from January 1, 1986 to date.
3. Please produce all documents provided to your and Hamed's accountants from January 1, 1986 to date either for the preparation of tax returns, bookkeeping services, the preparation of financial statements, or loan applications.
4. Please produce all Tax Returns filed on your behalf from 1986 to present.
5. If you contend there were any errors made in any of your Tax Returns filed after 1986 please produce any and all documentation that demonstrates the errors in such returns and the actions you took to correct these errors.
6. Please produce deed(s), contract(s), lease(s), or other similar documentary evidence of your ownership of any interest (including leasehold interests) in real property, from January 1, 1986 to present (regardless if you have transferred, sold, or otherwise disposed of these assets).
7. Please produce all statements from any brokerage or other accounts, including online based accounts, issued from January 1, 1986 to present pertaining to any stocks, bonds, stock options, debentures, mutual funds or other financial investments in which you or Hamed have or had any interest.
8. Please produce all documents relating to any cash withdrawn by the Partners from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.

DUDLEY, TOPPER
AND FEUERZEIG, LLP

1000 Frederiksberg Gate

P.O. Box 758

St. Thomas, U.S.V.I. 00804-0758

(340) 774-4422

9. Please produce all documents relating to any cash withdrawn by you or your brothers from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.
10. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to the Partners or to third parties on their behalves from January 1, 1986 to date including all documents relating to what was done with such funds.
11. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to you or your brothers or to third parties on you or your brothers behalves from January 1, 1986 to date including all documents relating to what was done with such funds.
12. Please produce all documents relating to any rent paid by or due from the Partnership for the Plaza Extra – East premises from January 1, 1986 to date including rent calculations, accounting records evidencing rent payments or rent due, claims or demands for rent, and rent payments.
13. Please produce all documents either supporting, undermining, or relating to any of the statements and information set forth in the letter from Yusuf to Hamed dated August 15, 2012 identified at FY004123-FY004210. _____
14. Please produce all documents relating to any documents removed from the Plaza Extra Stores prior to the FBI raid in 2001 including any documents pertaining to the destruction of receipts or other documents.
15. Please produce all documents relating to the “Black Book” and any pages missing from that document.
16. Please produce all documents the source of funds for the cash portion of the preliminary injunction bond posted in this case.
17. Please produce all documents relating to the source of funds for the acquisition and operation of the businesses known as Five Corners and Five-H Holdings, Inc. including all documents pertaining to the organization, existence, and ownership of such businesses.
18. Please produce any financial statements prepared by or for you from January 1, 1986 to date.
19. Please produce all documents relating to the acquisition, improvement, cost of construction, and market value of all real estate in which you have or had an ownership interest from

DUDLEY, TOPPER
AND FEUERZEIG, LLP

1000 Frederiksborg Circle

P.O. Box 786

St. Thomas, U.S. VI., 00804-0786

(340) 774-4422

January 1, 1986 to date including all documents pertaining to the source of funds for acquisition and improvement.

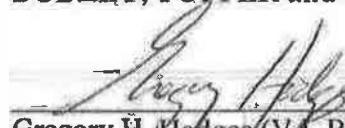
20. Please produce all documents generated in or relating to the Criminal Case that pertain to your, Hamed's or your brothers' receipt of money in the form of cash, checks or wire transfers from the Plaza Extra Stores or the Plaza Extra Accounts from January 1, 1986 to date.
21. Please produce all documents relating to how proceeds or profits from the Plaza Extra Stores were distributed to you, Hamed and your family members from January 1, 1986 to date.
22. Please produce all documents relating to the removal, transfer, subsequent transfer and use of funds from any of the Plaza Extra Accounts by you, Hamed, and your family members, other than salaries or direct reimbursements of costs.
23. Please produce all documents relating to any claims or counterclaims you may have against Yusuf and United for any type of relief including, but not limited to, money damages.
24. Please produce all documents relating to all defenses or offsets you have or may have with regard to the claims of Yusuf and United.
25. Please produce all documents relating to all amounts which you, Hamed and your family members have taken from the Plaza Extra Stores or Plaza Extra Accounts beyond salaries from January 1, 1986 to date.
26. Please produce all documents relating to all funds removed by you, Hamed, or your family from the Plaza Extra Stores or Plaza Extra Accounts that were used to buy real estate or other assets, and list all assets purchased, form of ownership, the date of purchase and the percentile owners at that time and now.
27. Please produce all documents relating to all investigations, reports, studies, surveys, valuations or expert advise obtained by you, Hamed, and your family with regard to the Plaza Extra Stores from January 1, 2011 to date.
28. Please produce all documents relating to all witnesses you, Hamed, or your family have interviewed and may or will call at trial in this matter. Provide all witness statements, notes and information provided by them to you.
29. Please produce all accountings, valuations or other information pertaining to the valuation or division of the Plaza Extra Stores.

30. Please produce all records kept by you, Hamed, and your family for keeping track of withdrawals and amounts due to the Hameds or Yusufs from January 1, 1986 through December 31, 2003.
31. Please produce the financial documents for all accounts and transactions on those accounts for Sixteen Plus and Plessen Enterprises, Inc.
32. Please produce all documents supporting any claims of Hamed against United.
33. Please produce all documents supporting any claims of Hamed against Yusuf.
34. Please produce all documents relating to any defense you intend to assert with respect to the claims made against you in this case.
35. Please produce all documents relating to each exhibit you intend to introduce into evidence at the trial of this case.

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: May 23, 2014

By:


Gregory H. Hodges (V.I. Bar No. 174)
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4405
Telefax: (340) 715-4400
E-mail: ghodges@dtflaw.com

and

Nizar A. DeWood, Esq. (V.I. Bar No. 1177)
The DeWood Law Firm
2006 Eastern Suburbs, Suite 101
Christiansted, VI 00830
Telephone: (340) 773-3444
Telefax: (888) 398-8428
Email: info@dewood-law.com
Attorneys for Fathi Yusuf and United Corporation

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade
P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

Hamed v. Yusuf et al.

Case No. SX-12-CV-370

Yusuf's First Request for Production of Documents to Defendant Waleed Hamed

Page 13 of 13

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2014, I caused the foregoing Fathi Yusuf's First Requests For Production Of Documents To Hisham Hamed to be served upon the following via e-mail:

Joel H. Holt, Esq.
LAW OFFICES OF JOEL H. HOLT
2132 Company Street
Christiansted, V.I. 00820
Email: holtvi@aol.com

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, VI 00820
Email: jeffreymlaw@yahoo.com

Michelle Barb

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**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksborg Gade
P.O. Box 758

St. Thomas, U.S. V.I. 00804-0758
(340) 774-4422

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

MOHAMMAD HAMED, by his)
authorized agent **WALEED HAMED**,)
)
Plaintiff/Counterclaim Defendant,)

vs.)

CIVIL NO. SX-12-CV-370

FATHI YUSUF and)
UNITED CORPORATION,)
)
Defendants/Counterclaimants,)

vs.)

**ACTION FOR DAMAGES
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

WALEED HAMED, WAHEED)
HAMED, MUFEED HAMED,)
HISHAM HAMED,)
and **PLESSEN ENTERPRISES, INC.**,)
)
Counterclaim Defendants.)

JURY TRIAL DEMANDED

**COUNTERCLAIM DEFENDANT WALEED HAMED'S
RESPONSES TO DEFENDANTS'
REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

Waleed Hamed ("Counterclaim Defendant") hereby responds to Counterclaimants' Rule 34 Request dated May 23, 2014, answering for himself personally and not in any representative capacity, as follows:

1. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts, you and Hamed have or had at any bank or financial institution anywhere in the world from 1986 through the present, including but not limited to:

- a. Chase Account No. 721-047688*
- b. Scotia Bank Account No. 34622*
- c. Banco Popular 17886-5*
- d. Raymond James & Assoc. Account No. 6084*
- e. Raymond James & Assoc. Account No. 1124*
- f. Raymond James & Assoc. Account No. 0982*



- g. Raymond James & Assoc. Account No. 6098*
- h. Amex Gold Card (Waheed) 3782-925489-33001*
- t. Amex Gold Card (Firyal) 3782-925489-33001*

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

2. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts in the name of any of your children, wife, parents, brothers, and any other third parties at any bank or financial institution anywhere in the world in which you or Hamed have or had any legal or equitable interest from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

3. Please produce all documents provided to your and Hamed's accountants from January 1, 1986 to date either for the preparation of tax returns, bookkeeping services, the preparation of financial statements, or loan applications.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may exist in the criminal case files that have been equally available to you since 2003.

4. Please produce all Tax Returns filed on your behalf from 1986 to present.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Counterclaim Defendant objects to the production of such documents on the basis of harassment -- as all transactions at Plaza Extra Supermarkets after 2006 were done under the supervision of the Court. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

5. If you contend there were any errors made in any of your Tax Returns filed after 1986 please produce any and all documentation that demonstrates the errors in such returns and the actions you took to correct these errors.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant as well.

6. Please produce deed(s), contract(s), lease(s), or other similar documentary evidence of your ownership of any interest (including leasehold interests) in real property, from January 1, 1986 to present (regardless if you have transferred, sold, or otherwise disposed of these assets).

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Subject to these objections, none exist to Counterclaim Defendant's knowledge and certainly no such documents are in Counterclaim Defendant's possession other than the deed on my personal residence and adjoining property, which is equally available to you to obtain.

7. Please produce all statements from any brokerage or other accounts, including online based accounts, issued from January 1, 1986 to present pertaining to any stocks, bonds, stock options, debentures, mutual funds or other financial investments in which you or Hamed have or had any interest.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant as well. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally, Object as seeking information that is not relevant and not likely to lead to relevant evidence.

8. Please produce all documents relating to any cash withdrawn by the Partners from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object as seeking information that is not relevant and not likely to lead to relevant evidence, particularly prior to 2006. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

9. Please produce all documents relating to any cash withdrawn by you or your brothers from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

10. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to the Partners or to third parties on their behalves from January 1, 1986 to date including all documents relating to what was done with such funds.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

11. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to you or your brothers or to third parties on you or your brothers behalves from January 1, 1986 to date including all documents relating to what was done with such funds.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

12. Please produce all documents relating to any rent paid by or due from the Partnership for the Plaza Extra - East premises from January 1, 1986 to date including rent calculations, accounting records evidencing rent payments or rent due, claims or demands for rent, and rent payments.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Object to any materials prior to 2006 as being irrelevant. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

13. Please produce all documents either supporting, undermining, or relating to any of the statements and information set forth in the letter from Yusuf to Hamed dated August 15, 2012 identified at FY004123-FY004210.

None in Counterclaim Defendant's possession.

14. Please produce all documents relating to any documents removed from the Plaza Extra Stores prior to the FBI raid in 2001 including any documents pertaining to the destruction of receipts or other documents.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Object to any materials prior to 2006 as being irrelevant. Finally object as the request as stated is confusing and not intelligible as worded.

15. Please produce all documents relating to the "Black Book" and any pages missing from that document.

Object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Object to any materials prior to 2006 as being irrelevant.

16. Please produce all documents the source of funds for the cash portion of the preliminary injunction bond posted in this case.

Object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

17. Please produce all documents relating to the source of funds for the acquisition and operation of the businesses known as Five Comers and Five-H Holdings, Inc. including all documents pertaining to the organization, existence, and ownership of such businesses .

Object as seeking information that is not relevant and not likely to lead to relevant evidence.

18. Please produce any financial statements prepared by or for you from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

19. Please produce all documents relating to the acquisition, improvement, cost of construction, and market value of all real estate in which you have or had an ownership interest from January 1, 1986 to date including all documents pertaining to the source of funds for acquisition and improvement.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

20. Please produce all documents generated in or relating to the Criminal Case that pertain to your, Hamed's or your brothers' receipt of money in the form of cash, checks or wire transfers from the Plaza Extra Stores or the Plaza Extra Accounts from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

21. Please produce all documents relating to how proceeds or profits from the Plaza Extra Stores were distributed to you, Hamed and your family members from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

22. Please produce all documents relating to the removal, transfer, subsequent transfer and use of funds from any of the Plaza Extra Accounts by you, Hamed, and your family members, other than salaries or direct reimbursements of costs.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

23. Please produce all documents relating to any claims or counterclaims you may have against Yusuf and United for any type of relief including, but not limited to, money damages.

Object as seeking information that is not relevant and not likely to lead to relevant evidence, as no such counterclaims have been filed by Counterclaim Defendant at this juncture. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

24. Please produce all documents relating to all defenses or offsets you have or may have with regard to the claims of Yusuf and United.

Response: Object to as unduly burdensome, unduly harassing and not intelligible as worded, as Counterclaimants have not identified any claims they have against Counterclaim Defendant. Once that is done, this response will be supplemented. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

25. Please produce all documents relating to all amounts which you, Hamed and your family members have taken from the Plaza Extra Stores or Plaza Extra Accounts beyond salaries from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

26. Please produce all documents relating to all funds removed by you, Hamed, or your family from the Plaza Extra Stores or Plaza Extra Accounts that were used to buy real estate or other assets, and list all assets purchased, form of ownership, the date of purchase and the percentile owners at that time and now.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

27. Please produce all documents relating to all investigations, reports, studies, surveys, valuations or expert advise [sic.] obtained by you, Hamed, and your family with regard to the Plaza Extra Stores from January 1, 2011 to date.

Counterclaim Defendant objects to this specific discovery requests to the extent it seeks information beyond that permitted under Rule 26 (a)(2) of the Federal Rules of Civil Procedure, as well as to the extent it seeks information specifically protected from disclosure pursuant to Rule 26(b)(4)(B),(C)and (D). When Counterclaim Defendant has received expert reports that are discoverable under Rule 26, they will be produced pursuant to the scheduling order as required by Rule 26(a)(2)(D) along with all other required information under Rule 26 (a)(2)(B).

28. Please produce all documents relating to all witnesses you, Hamed, or your family have interviewed and may or will call at trial in this matter. Provide all witness statements, notes and information provided by them to you.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34.

29. Please produce all accountings, valuations or other information pertaining to the valuation or division of the Plaza Extra Stores.

This request is objected to as calling for expert reports that are only discoverable through the limitations of Rule 26 and not by a Rule 34 request. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

30. Please produce all records kept by you, Hamed, and your family for keeping track of withdrawals and amounts due to the Hameds or Yusufs from January 1, 1986 through December 31, 2003.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also Object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

31. Please produce the financial documents for all accounts and transactions on those accounts for Sixteen Plus and Plessen Enterprises, Inc.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

32. *Please produce all documents supporting any claims of Hamed against United.*

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34. Also, object to as that request is not a proper request to this Counterclaim Defendant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

33. *Please produce all documents supporting any claims of Hamed against Yusuf.*

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34. Also, Object to as that request is not a proper request to this Counterclaim Defendant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

34. *Please produce all documents relating to any defense you intend to assert with respect to the claims made against you in this case.*

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34.

35. *Please produce all documents relating to each exhibit you intend to introduce into evidence at the .trial of this case.*

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

Respectfully submitted,

ECKARD, PC

Dated: June 25, 2014

By: /s/ Mark W. Eckard
Mark W. Eckard, Esquire
P.O. Box 24849
Christiansted, VI 00824
Telephone: (340) 514-2690
Email: mark@markeckard.com

Counsel to Waleed Hamed

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June, 2014, I served a copy of the foregoing Motion by email, as agreed by the parties, on:

Nizar A. DeWood
The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820
dewoodlaw@gmail.com

Gregory H. Hodges
Law House, 10000 Frederiksberg Gade
P.O. Box 756
ST.Thomas, VI00802
ghodges@dtflaw.com

Jeffrey B. C. Moorhead
1132 King Street
Christiansted, VI 00820
jeffreymlaw@yahoo.com

Carl J. Hartmann III, Esq.
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Telephone: (340) 719-8941
Email: carl@carlhartmann.com

/s/ Mark W. Eckard

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

MOHAMMAD HAMED, by his)
authorized agent **WALEED HAMED**,)

Plaintiff/Counterclaim Defendant,)

vs.)

FATHI YUSUF and)
UNITED CORPORATION,)

Defendants/Counterclaimants,)

vs.)

WALEED HAMED, **WAHEED**)
HAMED, **MUFEED HAMED**,)
HISHAM HAMED,)
and **PLESSEN ENTERPRISES, INC.**,)

Counterclaim Defendants.)

CIVIL NO. SX-12-CV-370

**ACTION FOR DAMAGES
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

**COUNTERCLAIM DEFENDANT MUFEED HAMED'S
RESPONSES TO DEFENDANTS'
REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

Mufeed Hamed (“Counterclaim Defendant”) hereby responds to Counterclaimants’

Rule 34 Request dated May 23, 2014 as follows:

1. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts, you and Hamed have or had at any bank or financial institution anywhere in the world from 1986 through the present, including but not limited to:

- a. Chase Account No. 721-047688*
- b. Scotia Bank Account No. 34622*
- c. Banco Popular 17886-5*
- d. Raymond James & Assoc. Account No. 6084*
- e. Raymond James & Assoc. Account No. 1124*
- f. Raymond James & Assoc. Account No. 0982*
- g. Raymond James & Assoc. Account No. 6098*
- h. Amex Gold Card (Waheed) 3782-925489-33001*

t. Amex Gold Card (Firyal) 3782-925489-33001

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

2. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts in the name of any of your children, wife, parents, brothers, and any other third parties at any bank or financial institution anywhere in the world in which you or Hamed have or had any legal or equitable interest from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

3. Please produce all documents provided to your and Hamed's accountants from January 1, 1986 to date either for the preparation of tax returns, bookkeeping services, the preparation of financial statements, or loan applications.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may exist in the criminal case files that have been equally available to you since 2003.

4. Please produce all Tax Returns filed on your behalf from 1986 to present.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Counterclaim Defendant objects to the production of such documents on the basis of harassment -- as all transactions at Plaza Extra Supermarkets after 2006 were done under the supervision of the Court. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

5. If you contend there were any errors made in any of your Tax Returns filed after 1986 please produce any and all documentation that demonstrates the errors in such returns and the actions you took to correct these errors.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant as well.

6. Please produce deed(s), contract(s), lease(s), or other similar documentary evidence of your ownership of any interest (including leasehold interests) in real property, from January 1, 1986 to present (regardless if you have transferred, sold, or otherwise disposed of these assets).

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

7. Please produce all statements from any brokerage or other accounts, including online based accounts, issued from January 1, 1986 to present pertaining to any stocks, bonds, stock options, debentures, mutual funds or other financial investments in which you or Hamed have or had any interest.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant as well. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally, Object as seeking information that is not relevant and not likely to lead to relevant evidence.

8. Please produce all documents relating to any cash withdrawn by the Partners from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object as seeking information that is not relevant and not likely to lead to relevant evidence, particularly prior to 2006. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

9. Please produce all documents relating to any cash withdrawn by you or your brothers from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood,

documents may also exist in the criminal case files that have been equally available to you since 2003.

10. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to the Partners or to third parties on their behalves from January 1, 1986 to date including all documents relating to what was done with such funds.

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Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

12. Please produce all documents relating to any rent paid by or due from the Partnership for the Plaza Extra - East premises from January 1, 1986 to date including rent calculations, accounting records evidencing rent payments or rent due, claims or demands for rent, and rent payments.

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13. Please produce all documents either supporting, undermining, or relating to any of the statements and information set forth in the letter from Yusuf to Hamed dated August 15, 2012 identified at FY004123-FY004210.

None in Counterclaim Defendant's possession.

14. Please produce all documents relating to any documents removed from the Plaza Extra Stores prior to the FBI raid in 2001 including any documents pertaining to the destruction of receipts or other documents.

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16. Please produce all documents the source of funds for the cash portion of the preliminary injunction bond posted in this case.

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18. Please produce any financial statements prepared by or for you from January 1, 1986 to date.

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Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

26. Please produce all documents relating to all funds removed by you, Hamed, or your family from the Plaza Extra Stores or Plaza Extra Accounts that were used to buy real estate or other assets, and list all assets purchased, form of ownership, the date of purchase and the percentile owners at that time and now.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

27. Please produce all documents relating to all investigations, reports, studies, surveys, valuations or expert advise [sic.] obtained by you, Hamed, and your family with regard to the Plaza Extra Stores from January 1, 2011 to date.

This request is objected to as calling for expert reports that are only discoverable through the limitations of Rule 26 and not by a Rule 34 request. Also object to the untimely service of the

request -- which will not be answered until the motion presently before the Court on the issue has been decided.

28. Please produce all documents relating to all witnesses you, Hamed, or your family have interviewed and may or will call at trial in this matter. Provide all witness statements, notes and information provided by them to you.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34.

29. Please produce all accountings, valuations or other information pertaining to the valuation or division of the Plaza Extra Stores.

This request is objected to as calling for expert reports that are only discoverable through the limitations of Rule 26 and not by a Rule 34 request. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

30. Please produce all records kept by you, Hamed, and your family for keeping track of withdrawals and amounts due to the Hameds or Yusufs from January 1, 1986 through December 31, 2003.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may also exist in the criminal case files that have been equally available to you since 2003.

31. Please produce the financial documents for all accounts and transactions on those accounts for Sixteen Plus and Plessen Enterprises, Inc.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also Object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

32. Please produce all documents supporting any claims of Hamed against United.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34. Also, Object to as that request is not a proper request to this Counterclaim Defendant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

33. Please produce all documents supporting any claims of Hamed against Yusuf.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34. Also, Object to as that request is not a proper request to this Counterclaim Defendant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

34. Please produce all documents relating to any defense you intend to assert with respect to the claims made against you in this case.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34.

35 Please produce all documents relating to each exhibit you intend to introduce into evidence at the .trial of this case.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

Respectfully submitted,

ECKARD, PC

Dated: June 25, 2014

By: /s/ Mark W. Eckard

Mark W. Eckard, Esquire
P.O. Box 24849
Christiansted, VI 00824
Telephone: (340) 514-2690
Email: mark@markeckard.com

Counsel to Mufeed Hamed

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June, 2014, I served a copy of the foregoing by email, as agreed by the parties, on:

Nizar A. DeWood
The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820
dewoodlaw@gmail.com

Gregory H. Hodges
Law House, 10000 Frederiksberg Gade
P.O. Box 756
ST.Thomas, VI00802
ghodges@dtflaw.com

Jeffrey B. C. Moorhead
1132 King Street
Christiansted, VI 00820
jeffreymlaw@yahoo.com

Carl J. Hartmann III, Esq.
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Telephone: (340) 719-8941
Email: carl@carlhartmann.com

/s/ Mark W. Eckard

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

MOHAMMAD HAMED , by his authorized agent WALEED HAMED ,)	
)	
<i>Plaintiff/Counterclaim Defendant</i> ,)	
)	
vs.)	CIVIL NO. SX-12-CV-370
)	
FATHI YUSUF and UNITED CORPORATION ,)	
)	
<i>Defendants/Counterclaimants</i> ,)	
)	
vs.)	ACTION FOR DAMAGES INJUNCTIVE RELIEF AND DECLARATORY RELIEF
)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC. ,)	
)	JURY TRIAL DEMANDED
)	
<i>Counterclaim Defendants.</i>)	
)	

**COUNTERCLAIM DEFENDANT HISHAM HAMED'S
RESPONSES TO DEFENDANTS'
REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

Hisham Hamed ("Counterclaim Defendant") hereby responds to Counterclaimants'

Rule 34 Request dated May 23, 2014 as follows:

1. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts, you and Hamed have or had at any bank or financial institution anywhere in the world from 1986 through the present, including but not limited to:

- a. Chase Account No. 721-047688*
- b. Scotia Bank Account No. 34622*
- c. Banco Popular 17886-5*
- d. Raymond James & Assoc. Account No. 6084*
- e. Raymond James & Assoc. Account No. 1124*
- f. Raymond James & Assoc. Account No. 0982*
- g. Raymond James & Assoc. Account No. 6098*
- h. Amex Gold Card (Waheed) 3782-925489-33001*

t. Amex Gold Card (Firyal) 3782-925489-33001

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood to seek information about any such accounts that counterclaim defendant and his father have together, no such documents exist to my recollection other than possibly those in the criminal case files that have been equally available to you since 2003.

2. Please produce all financial records including statements of account for all checking, savings, credit, investment, trust, or escrow accounts in the name of any of your children, wife, parents, brothers, and any other third parties at any bank or financial institution anywhere in the world in which you or Hamed have or had any legal or equitable interest from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, no such documents exist that were opened before the criminal action to my recollection other than possibly those in the criminal case files that have been equally available to you since 2003.

3. Please produce all documents provided to your and Hamed's accountants from January 1, 1986 to date either for the preparation of tax returns, bookkeeping services, the preparation of financial statements, or loan applications.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, no such documents exist that were opened before the criminal action to my recollection other than possibly those in the criminal case files that have been equally available to you since 2003.

4. Please produce all Tax Returns filed on your behalf from 1986 to present.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Counterclaim Defendant objects to the production of such documents on the basis of harassment -- as transactions at Plaza Extra Supermarkets after 2006 were done under the supervision of the Court or with the specific agreement of Yusuf with leave of the monitor. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

5. If you contend there were any errors made in any of your Tax Returns filed after 1986 please produce any and all documentation that demonstrates the errors in such returns and the actions you took to correct these errors.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant as well.

6. Please produce deed(s), contract(s), lease(s), or other similar documentary evidence of your ownership of any interest (including leasehold interests) in real property, from January 1, 1986 to present (regardless if you have transferred, sold, or otherwise disposed of these assets).

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Subject to these objections, none exist to Counterclaim Defendant's knowledge other than a deed to a property in Orlando FL, and a condo that is in the short sale process in Orlando FL. which are irrelevant here but copies of which will be supplied on request); and certainly no such documents are in Counterclaim Defendant's possession other than the deed on my personal residence and adjoining property, which is equally available to you to obtain.

7. Please produce all statements from any brokerage or other accounts, including online based accounts, issued from January 1, 1986 to present pertaining to any stocks, bonds, stock options, debentures, mutual funds or other financial investments in which you or Hamed have or had any interest.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant as well. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally, Object as seeking information that is not relevant and not likely to lead to relevant evidence.

8. Please produce all documents relating to any cash withdrawn by the Partners from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object as seeking information that is not relevant and not likely to lead to relevant evidence, particularly prior to 2006. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

9. Please produce all documents relating to any cash withdrawn by you or your brothers from the Plaza Extra Stores from January 1, 1986 to date including all documents relating to what was done with such cash.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

10. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to the Partners or to third parties on their behalves from January 1, 1986 to date including all documents relating to what was done with such funds.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

11. Please produce all documents relating to any checks or wire transfers from any Plaza Extra Accounts to you or your brothers or to third parties on you or your brothers behalves from January 1, 1986 to date including all documents relating to what was done with such funds.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Object to any materials prior to 2006 as being irrelevant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Object as the request as stated is confusing and not intelligible as worded.

12. Please produce all documents relating to any rent paid by or due from the Partnership for the Plaza Extra - East premises from January 1, 1986 to date including rent calculations, accounting records evidencing rent payments or rent due, claims or demands for rent, and rent payments.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Object to any materials prior to 2006 as being irrelevant. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may exist in the criminal case files that have been equally available to you since 2003.

13. Please produce all documents either supporting, undermining, or relating to any of the statements and information set forth in the letter from Yusuf to Hamed dated August 15, 2012 identified at FY004123-FY004210.

None in Counterclaim Defendant's possession.

14. Please produce all documents relating to any documents removed from the Plaza Extra Stores prior to the FBI raid in 2001 including any documents pertaining to the destruction of receipts or other documents.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Object to any materials prior to 2006 as being irrelevant. Finally object as the request as stated is confusing and not intelligible as worded.

15. Please produce all documents relating to the "Black Book" and any pages missing from that document.

Object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Object to any materials prior to 2006 as being irrelevant.

16. Please produce all documents the source of funds for the cash portion of the preliminary injunction bond posted in this case.

Object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

17. Please produce all documents relating to the source of funds for the acquisition and operation of the businesses known as Five Comers and Five-H Holdings, Inc. including all documents pertaining to the organization, existence, and ownership of such businesses.

Object as seeking information that is not relevant and not likely to lead to relevant evidence.

18. Please produce any financial statements prepared by or for you from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

19. Please produce all documents relating to the acquisition, improvement, cost of construction, and market value of all real estate in which you have or had an ownership interest from January 1, 1986 to date including all documents pertaining to the source of funds for acquisition and improvement.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

20. Please produce all documents generated in or relating to the Criminal Case that pertain to your, Hamed's or your brothers' receipt of money in the form of cash, checks or wire transfers from the Plaza Extra Stores or the Plaza Extra Accounts from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

21. Please produce all documents relating to how proceeds or profits from the Plaza Extra Stores were distributed to you, Hamed and your family members from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded.

22. Please produce all documents relating to the removal, transfer, subsequent transfer and use of funds from any of the Plaza Extra Accounts by you, Hamed, and your family members, other than salaries or direct reimbursements of costs.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may exist in the criminal case files that have been equally available to you since 2003.

23. Please produce all documents relating to any claims or counterclaims you may have against Yusuf and United for any type of relief including, but not limited to, money damages.

Object as seeking information that is not relevant and not likely to lead to relevant evidence, as no such counterclaims have been filed by Counterclaim Defendant at this juncture. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

24. Please produce all documents relating to all defenses or offsets you have or may have with regard to the claims of Yusuf and United.

Response: Object to as unduly burdensome, unduly harassing and not intelligible as worded, as Counterclaimants have not identified any claims they have against Counterclaim Defendant. Once that is done, this response will be supplemented. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

25. Please produce all documents relating to all amounts which you, Hamed and your family members have taken from the Plaza Extra Stores or Plaza Extra Accounts beyond salaries from January 1, 1986 to date.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent that discovery seeks responses related to money laundering or other acts in the criminal matter, the parties have a stipulation with regard to such matters and such responses are therefore refused.

26. Please produce all documents relating to all funds removed by you, Hamed, or your family from the Plaza Extra Stores or Plaza Extra Accounts that were used to buy real estate or other assets, and list all assets purchased, form of ownership, the date of purchase and the percentile owners at that time and now.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent that discovery seeks responses related to money laundering or other acts in the criminal matter, the parties have a stipulation with regard to such matters and such responses are therefore refused.

27. Please produce all documents relating to all investigations, reports, studies, surveys, valuations or expert advise [sic.] obtained by you, Hamed, and your family with regard to the Plaza Extra Stores from January 1, 2011 to date.

Counterclaim Defendant objects to this specific discovery requests to the extent it seeks information beyond that permitted under Rule 26 (a)(2) of the Federal Rules of Civil Procedure, as well as to the extent it seeks information specifically protected from disclosure pursuant to Rule 26(b)(4)(B),(C)and (D). When Counterclaim Defendant has received expert reports that are discoverable under Rule 26, they will be produced pursuant to the scheduling order as required by Rule 26(a)(2)(D) along with all other required information under Rule 26 (a)(2)(B).

28. Please produce all documents relating to all witnesses you, Hamed, or your family have interviewed and may or will call at trial in this matter. Provide all witness statements, notes and information provided by them to you.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34.

29. Please produce all accountings, valuations or other information pertaining to the valuation or division of the Plaza Extra Stores.

This request is objected to as calling for expert reports that are only discoverable through the limitations of Rule 26 and not by a Rule 34 request. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

30. Please produce all records kept by you, Hamed, and your family for keeping track of withdrawals and amounts due to the Hameds or Yusufs from January 1, 1986 through December 31, 2003.

Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also Object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided. Finally object as the request as stated is confusing and not intelligible as worded. To the extent this request is understood, documents may exist in the criminal case files that have been equally available to you since 2003.

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Response: Object to as unduly burdensome, unduly harassing, seeking information beyond the permissible scope of discovery and overly broad. Also Object as seeking information that is not relevant and not likely to lead to relevant evidence. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

32. Please produce all documents supporting any claims of Hamed against United.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34. Also, object to as that request is not a proper request to this Counterclaim Defendant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

33. Please produce all documents supporting any claims of Hamed against Yusuf.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34. Also, object to as that request is not a proper request to this Counterclaim Defendant. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

34. Please produce all documents relating to any defense you intend to assert with respect to the claims made against you in this case.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34.

35. Please produce all documents relating to each exhibit you intend to introduce into evidence at the trial of this case.

Object to as calling for work product of counsel and trial strategy, which is not discoverable under Rule 34. Also object to the untimely service of the request -- which will not be answered until the motion presently before the Court on the issue has been decided.

Respectfully submitted,

ECKARD, PC

Dated: June 25, 2014

By: /s/ Mark W. Eckard
Mark W. Eckard, Esquire
P.O. Box 24849
Christiansted, VI 00824
Telephone: (340) 514-2690
Email: mark@markeckard.com

Counsel to Hisham Hamed

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of June, 2014, I served a copy of the foregoing Motion by email, as agreed by the parties, on:

Nizar A. DeWood
The DeWood Law Firm
2006 Eastern Suburb, Suite 101
Christiansted, VI 00820
dewoodlaw@gmail.com

Gregory H. Hodges
Law House, 10000 Frederiksberg Gade
P.O. Box 756
ST. Thomas, VI00802
ghodges@dtflaw.com

Jeffrey B. C. Moorhead
1132 King Street
Christiansted, VI 00820
jeffreymlaw@yahoo.com

Carl J. Hartmann III, Esq.
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Telephone: (340) 719-8941
Email: carl@carlhartmann.com

/s/ Mark W. Eckard

DUDLEY, TOPPER AND FEUERZEIG, LLP

ATTORNEYS AT LAW

LAW HOUSE
1000 FREDERIKSBERG GADE
CHARLOTTE AMALIE, ST. THOMAS
U.S. VIRGIN ISLANDS 00802-8736
WEB: www.DTFLaw.com

MAILING ADDRESS:
P.O. BOX 756
ST. THOMAS, VI 00804-0756
TELEPHONE: (340) 774-4422
TELEFAX: (340) 715-4400

CHARLOTTE K. PERRELL
DIRECT DIAL: (340) 715-4437
EMAIL: CPERRELL@DTFLAW.COM

July 2, 2014

Via Electronic Transmission

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

RE: Hamed v. Yusuf et al,
Superior Court of the Virgin Islands,
Division of St. Croix
Civil No. SX-12-CV-370

Dear Carl and Mark,

This letter shall serve as my notice of a discovery dispute pursuant to FED. R. CIV. P. 37 and LRCi 37.1, made applicable to these proceedings by Super. Ct. R. 7, relating to your clients' responses ("Responses") to the First Requests for Production of Documents ("Requests for Production") served on each of the additional counterclaim defendants, Waleed Hamed ("Waleed"), Waheed Hamed ("Waheed"), Mufeed Hamed ("Mufeed"), and Hisham Hamed ("Hisham") (collectively the "Counterclaim Defendants") on May 23, 2014.

A. Untimely responses constitute a waiver of objections.

The Requests for Production were served electronically on May 23, 2014. Thirty (30) days are allowed for the responses per FED. R. CIV. P. 34. Under FED. R. CIV. P. 6(d), three (3) additional days are allowed for response times as to matters served electronically. The Responses to each of the Requests for Production were due on **Wednesday, June 25, 2014**. However, the Responses were not filed until **Thursday, June 26, 2014**.

The Responses were untimely and, therefore, any objections have been waived. "[W]hen a party fails to respond to discovery requests in the time specified by the Federal Rules of Civil



Carl Hartmann, III, Esq.
Mark W. Eckard, Esq.
July 2, 2014
Page 2

Procedure, the failure to respond will be considered a waiver by that party of any objections that they may have had.” Blue Anchor, Inc. v. Southern Seas Shipping Co., 1985 U.S. Dist. LEXIS 21003, 4-6 (E.D. Pa. Apr. 5, 1985). The District Court in Blue Anchor, held that discovery responses and objections filed after they were due constituted a waiver as to any objections to the discovery propounded. The Court found that “the passing of the thirty-day period without any objection being made or protective order being sought clearly must be considered a waiver by Blue Anchor...of any objections they might have had.” Id. Further, the Court held that “[r]egardless of the content of the discovery requests, Blue Anchor...have lost their opportunity to object.” Id. The Court explained that “[i]f discovery rules are to have ‘any effect or meaning, the failure to serve such objections within the time prescribed ... should be considered a waiver of such objections.’” Id., citing Bohlin v. Brass Rail, Inc., 20 F.R.D. 224 (S.D. NY 1957). The parties had a duty to timely respond to discovery requests and “[i]f they had wished to object for any reasons, they had thirty days to do so.” Id. Further, the principal of waiver has been applied with particular regularity when objections relate solely to the relevance or burdensomeness of the discovery request. Jet Plastica Industries, Inc. v. Goodson Polymers, Inc., 1991 U.S. Dist. LEXIS 16472, 1-2 (E.D. Pa. Nov. 12, 1991).

As you are both well aware, your clients have objected to virtually all of the Requests for Production on various grounds and have completely failed to produce a single responsive document. As set forth above, all of the objections have been waived as they have not been timely made. In addition to being untimely, the Responses are incomplete, non-responsive, and fail to state valid objections. Accordingly, this is a demand for additional information to supplement the untimely Responses submitted by the Counterclaim Defendants within the next ten (10) days, as there is no ability to object since *all* objections have been waived. If you believe that supplementation is unwarranted, please contact me at your earliest convenience so that we can schedule a conference as required by LRCi 37.1. If we do not receive supplemented Responses or otherwise hear from you within the next ten (10) days, we will assume that you are unwilling to confer and will move to compel more complete responses.

B. Conclusory and unsupported objections are insufficient.

Even though all objections have been waived, the late-filed objections are conclusory and unsupported. Thus, the objections are insufficient, even if they had been timely filed. See, e.g., Pulsecard, Inc. v. Discover Card Servs., 1995 U.S. Dist. LEXIS 13111 at *21-22 (D. Kan. 1995)(“The party opposing discovery cannot simply make conclusory allegations that the request is irrelevant, but must specifically show how each discovery request is irrelevant”). “Objections should be plain and specific enough so that the court can understand in what way the [discovery is] alleged to be objectionable.” Coregis Ins. Co. v. Baratta & Fenerty, Ltd., 187 F.R.D. 528, 530 (E.D. Pa. 1999); *see also*; McLeod, Alexander, Powel & Appfel, P.C. v. Quarles, 894 F.2d 1482, 1485 (5th Cir. 1990) (objections that requests were overly broad, burdensome, oppressive, and

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irrelevant were insufficient to meet party's burden to explain why discovery requests were objectionable).

1. Objections that Requests for Production were Overbroad and Unduly Burdensome

Of the 35 Requests for Production, each of your clients objected to 23 of the requests as "overly broad" and "unduly burdensome." As set forth above, such objections have been waived and, in any event, such cursory objections are insufficient. Hence, Yusuf requests that Responses to Requests to Produce 1-12, 14, 18-23, 25-26, 30-31, which were objected to as "overly broad" and "unduly burdensome" be provided as such objections, in particular, have been waived and are otherwise inadequate.

2. Objections as to Relevancy

In addition, each of your clients objected to 25 of the requests as "not relevant," "irrelevant" or not "likely to lead to relevant evidence." As set forth above, such objections have been waived. Further, it is clear from the sheer number of "relevancy" objections (i.e. to over 70% of the requests) that it was purely a cursory or rote objection which is improper. Hence, without stating why such a request is not relevant, any objection (to the extent not deemed waived) must be specific and demonstrate why a particular request is not relevant or calculated to lead to relevant evidence. No such showing has been made. On the contrary, the issues in this case and, in particular, as to the Counterclaim Defendants relate to funds removed from the Plaza Extra Stores by the Counterclaim Defendants. The information sought in Requests for Production Numbers 1-12, 14, 16-22, 24-26, and 30-31, to which the relevancy objection was raised, relate to financial information of the Counterclaim Defendants and back-up information relating to their financial status - information which is directly relevant to all claims and defenses in this case. Hence, Yusuf requests that Responses to Requests to Produce 1-12, 14, 16-22, 24-26, and 30-31 be provided within ten (10) days as such objections have been waived and the information sought is relevant to the pending issues.

3. Objections that Requests for Production were overbroad as to time prior to 2006

Another objection repeatedly raised, but likewise waived, was that no information prior to 2006 would be produced. Filing a motion for summary judgment does not stay discovery, even if the motion raises statute of limitations arguments. Moreover, as you are well aware, the Court has indicated that it is not inclined to rule on the numerous pending motions in the immediate future. Hence, contending that the parties are waiting for a ruling that you know is not imminent demonstrates bad faith and is not a legitimate basis for failing to respond. Hence, Yusuf requests that Responses to Requests for Production 1-12, 14-15, 19-26, 30-32, and 35, be

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supplemented within ten (10) days as objections to such production have been waived and pending motions provide no basis to withhold the information.

4. Objections as to Untimely Service of Requests For Production

The objection that the service of the requests was untimely is, likewise, without merit. Service of the discovery was entirely proper given the Court's Fourth Amended Scheduling Order, which it drew up. Hence, there is absolutely no basis to contend that the Requests for Production, served within the time allowed for fact discovery, is improper and the objection is baseless. Therefore, Yusuf requests that Responses to Requests for Production 1-12, 14, 16-26, 29-33, and 35, be supplemented within ten (10) days as objections to such production have been waived and the discovery sought was clearly timely.

5. Attorney-Client and Work Product Objections without a Privilege Log

In addition, Yusuf objects to the bare assertion of the attorney-client privilege and/or work product doctrine in Responses 27, 28, and 32-35. Counterclaim Defendants must provide a privilege log or produce the documents at issue. See Smith v. V.I. Hous. Auth., 2008 U.S. Dist. LEXIS 107722 (D.V.I. Apr. 8, 2008) ("In the absence of a privilege log or a showing of the privilege as it relates to specific documents, the Court finds that Defendant has waived its objection"); Dade Eng'g Corp. v. Reese, 2006 U.S. Dist. LEXIS 32639 (D.V.I. Apr. 13, 2006) ("a party may not resist discovery based merely on a bare assertion that the challenged information is protected"). As the Counterclaim Defendants have waived and failed to properly assert any privilege and/or valid objections, they should supplement their Responses and produce all responsive documents within ten (10) days.

6. Lack of Diligent Search and Oath

As to Response 13 that "none [of the documents requested are] in Counterclaim Defendants' possession," this objection is insufficient. Even if the Counterclaim Defendants have stored the documents or otherwise transferred them to third parties, they must still produce responsive documents. "It is well established that 'control' under Fed. R. Civ. P. 34 is to be broadly construed so that a party may be obligated to produce documents requested even though it may not actually possess the documents. As long as the party has the legal right or ability to obtain the documents from another source on demand, that party is deemed to have 'control.'" Poole v. Textron, Inc., 192 F.R.D. 494, 501 (D. Md. 2000); *see also*, Camden Iron & Metal, Inc. v. Marubeni America Corp., 138 F.R.D. 438, 441 (D.N.J. 1991); Alexander v. FBI, 194 F.R.D. 299, 301 (D.D.C. 2000). Accordingly, if the Counterclaim Defendants can obtain the requested documents on demand, they must produce those documents.

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If, after a reasonable search has been conducted, the Counterclaim Defendants cannot find responsive documents, then they must then provide Yusuf with a statement under oath that no responsive documents exist. See, e.g., 7 MOORE'S FEDERAL PRACTICE - Civil § 34.13 (“when a response to a production of documents is not a production or an objection, but an answer, the party must answer under oath. For example, when a party claims that all the requested documents have already been produced, it must state that fact under oath in response to the request”); Jensen v. Boston Ins. Co., 20 F.R.D. 619, 621 (D. Cal. 1957) (“If the documents sought are not in existence, it is incumbent upon the objecting party or parties to so state under oath and not by way of a general unverified allegation”); B & K Mech., Inc. v. Wiese, 2005 U.S. Dist. LEXIS 21005 at *14 (D. Kan. Sept. 21, 2005) (“when the records at issue are, by their nature, of a type that would normally be kept in the business of the producing party, and within that party's control, then the court can presume that the records exist and are within the control of the party unless the party denies their existence under oath”); Vazquez-Fernandez v. Cambridge College, Inc., 269 F.R.D. 150, 154 (D.P.R. 2010) (same). The Counterclaim Defendants failed to comply with these provisions and thus, Yusuf requests that proper supplementation be made within ten (10) days.

7. Money Laundering “Stipulation”

Although not raised as a specific objection to individual Requests for Production, Carl has asserted in his third “General Objection” that Defendants have stipulated that no information can be sought which relates to alleged “money laundering” and, therefore, objected to any Requests for Production seeking financial information up to the date of the Third Indictment. There is no such stipulation and any objection based on this non-existent stipulation has been waived. Hence, to the extent that any Response is being withheld on the basis of this “objection,” Yusuf hereby demands that such information be produced within ten (10) days.

C. Mandatory Disclosures

In addition to the discovery issues addressed above, as required by FED. R. CIV. P. 26(a)(1)(D), within thirty (30) days after being served or joined, new parties are required to submit their mandatory disclosures. Such disclosures would provide much of the information sought in the Requests for Production, including “a copy-or a description by category and location-of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses...” This is yet another reason that the objections raised are without merit and demonstrate bad faith as such information is required to be disclosed. Although we have raised this issue in pleadings with the Court, none of the Counterclaim Defendants have filed their mandatory disclosures. Therefore, we request these disclosures be made within the next ten (10) days as well. Yusuf's disclosures have already been made and supplemented as required and may be treated as his disclosures to the Counterclaim Defendants.

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Finally, as set forth above, if we do not receive supplemented Responses or otherwise hear from you within the next ten (10) days, we will assume that you are unwilling to confer and will move to compel more complete responses.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charlotte K. Perrell', written in a cursive style.

Charlotte K. Perrell

cc: Fathi Yusuf
Nizar DeWood, Esq.

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

MOHAMMAD HAMED, by his)
authorized agent **WALEED HAMED**,)

Plaintiff/Counterclaim Defendant,)

vs.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

vs.)

WALEED HAMED, WAHEED HAMED,)
MUFEED HAMED, HISHAM HAMED, and)
PLESSEN ENTERPRISES,)

Additional Counterclaim Defendants.)

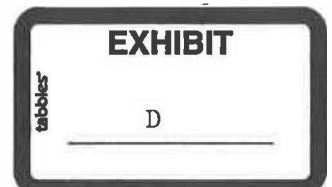
CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

JURY TRIAL DEMANDED

STIPULATION

Defendant Fathi Yusuf (“Yusuf”) and Additional Counterclaim Defendants Waleed Hamed (“Waleed”), Mufeed Hamed (“Mufeed”) and Hisham Hamed (“Hisham”)(Yusuf, Waleed, Mufeed and Hisham are referred to collectively as the “Parties”), by and through their respective counsel, hereby stipulate that, pursuant to LRCi 37.1, they participated in a telephonic conference on August 13, 2014 in an attempt to resolve as many disputed issues as possible. A copy of counsel for Yusuf’s letter dated July 2, 2014 setting forth the disputed discovery and requesting a pre-filing conference is attached hereto as **Exhibit A-1**. The parties further stipulate that despite the parties’ efforts to resolve their differences regarding the discovery dispute, they remain unable to resolve all differences regarding Waleed, Mufeed and Hisham’s responses and objections to the Requests for Production (“Requests”) propounded by Yusuf.



Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: August 21, 2014

By:



Charlotte K. Perrell (V.I. Bar No. 1281)
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4422
Telefax: (340) 715-4400
E-mail: cperrell@dtflaw.com

Attorneys for Fathi Yusuf and United Corporation

ECKARD, P.C.

Dated: August 21, 2014

By:

/s/ Mark W. Eckard with permission
Mark W. Eckard by Charlotte K. Perrell
P.O. Box 24849 V.I. Bar 1281
Christiansted, VI 00824
Telephone: (340) 514-2690
E-mail: mark@markeckard.com

Attorneys for Waleed Hamed, Mufeed Hamed and
Hisham Hamed

DUDLEY, TOPPER AND FEUERZEIG, LLP

ATTORNEYS AT LAW

LAW HOUSE
1000 FREDERIKSBERG GADE
CHARLOTTE AMALIE, ST. THOMAS
U.S. VIRGIN ISLANDS 00802-6736
WEB: www.DTFLaw.com

MAILING ADDRESS:
P.O. BOX 756
ST. THOMAS, VI 00804-0756
TELEPHONE: (340) 774-4422
TELEFAX: (340) 715-4400

CHARLOTTE K. PERRELL
DIRECT DIAL: (340) 715-4437
EMAIL: CPERRELL@DTFLAW.COM

July 2, 2014

Via Electronic Transmission

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com

Mark W. Eckard, Esq.
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824
Email: mark@markeckard.com

RE: Hamed v. Yusuf et al,
Superior Court of the Virgin Islands,
Division of St. Croix
Civil No. SX-12-CV-370

Dear Carl and Mark,

This letter shall serve as my notice of a discovery dispute pursuant to FED. R. CIV. P. 37 and LRCi 37.1, made applicable to these proceedings by Super. Ct. R. 7, relating to your clients' responses ("Responses") to the First Requests for Production of Documents ("Requests for Production") served on each of the additional counterclaim defendants, Waleed Hamed ("Waleed"), Waheed Hamed ("Waheed"), Mufeed Hamed ("Mufeed"), and Hisham Hamed ("Hisham") (collectively the "Counterclaim Defendants") on May 23, 2014.

A. Untimely responses constitute a waiver of objections.

The Requests for Production were served electronically on May 23, 2014. Thirty (30) days are allowed for the responses per FED. R. CIV. P. 34. Under FED. R. CIV. P. 6(d), three (3) additional days are allowed for response times as to matters served electronically. The Responses to each of the Requests for Production were due on **Wednesday, June 25, 2014**. However, the Responses were not filed until **Thursday, June 26, 2014**.

The Responses were untimely and, therefore, any objections have been waived. "[W]hen a party fails to respond to discovery requests in the time specified by the Federal Rules of Civil



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Procedure, the failure to respond will be considered a waiver by that party of any objections that they may have had.” Blue Anchor, Inc. v. Southern Seas Shipping Co., 1985 U.S. Dist. LEXIS 21003, 4-6 (E.D. Pa. Apr. 5, 1985). The District Court in Blue Anchor, held that discovery responses and objections filed after they were due constituted a waiver as to any objections to the discovery propounded. The Court found that “the passing of the thirty-day period without any objection being made or protective order being sought clearly must be considered a waiver by Blue Anchor...of any objections they might have had.” Id. Further, the Court held that “[r]egardless of the content of the discovery requests, Blue Anchor...have lost their opportunity to object.” Id. The Court explained that “[i]f discovery rules are to have ‘any effect or meaning, the failure to serve such objections within the time prescribed ... should be considered a waiver of such objections.’” Id., citing Bohlin v. Brass Rail, Inc., 20 F.R.D. 224 (S.D. NY 1957). The parties had a duty to timely respond to discovery requests and “[i]f they had wished to object for any reasons, they had thirty days to do so.” Id. Further, the principal of waiver has been applied with particular regularity when objections relate solely to the relevance or burdensomeness of the discovery request. Jet Plastica Industries, Inc. v. Goodson Polymers, Inc., 1991 U.S. Dist. LEXIS 16472, 1-2 (E.D. Pa. Nov. 12, 1991).

As you are both well aware, your clients have objected to virtually all of the Requests for Production on various grounds and have completely failed to produce a single responsive document. As set forth above, all of the objections have been waived as they have not been timely made. In addition to being untimely, the Responses are incomplete, non-responsive, and fail to state valid objections. Accordingly, this is a demand for additional information to supplement the untimely Responses submitted by the Counterclaim Defendants within the next ten (10) days, as there is no ability to object since *all* objections have been waived. If you believe that supplementation is unwarranted, please contact me at your earliest convenience so that we can schedule a conference as required by LRCi 37.1. If we do not receive supplemented Responses or otherwise hear from you within the next ten (10) days, we will assume that you are unwilling to confer and will move to compel more complete responses.

B. Conclusory and unsupported objections are insufficient.

Even though all objections have been waived, the late-filed objections are conclusory and unsupported. Thus, the objections are insufficient, even if they had been timely filed. See, e.g., Pulsecard, Inc. v. Discover Card Servs., 1995 U.S. Dist. LEXIS 13111 at *21-22 (D. Kan. 1995)(“The party opposing discovery cannot simply make conclusory allegations that the request is irrelevant, but must specifically show how each discovery request is irrelevant”). “Objections should be plain and specific enough so that the court can understand in what way the [discovery is] alleged to be objectionable.” Coregis Ins. Co. v. Baratta & Fenerty, Ltd., 187 F.R.D. 528, 530 (E.D. Pa. 1999); *see also*; McLeod, Alexander, Powel & Apffel, P.C. v. Quarles, 894 F.2d 1482, 1485 (5th Cir. 1990) (objections that requests were overly broad, burdensome, oppressive, and

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irrelevant were insufficient to meet party's burden to explain why discovery requests were objectionable).

1. Objections that Requests for Production were Overbroad and Unduly Burdensome

Of the 35 Requests for Production, each of your clients objected to 23 of the requests as "overly broad" and "unduly burdensome." As set forth above, such objections have been waived and, in any event, such cursory objections are insufficient. Hence, Yusuf requests that Responses to Requests to Produce 1-12, 14, 18-23, 25-26, 30-31, which were objected to as "overly broad" and "unduly burdensome" be provided as such objections, in particular, have been waived and are otherwise inadequate.

2. Objections as to Relevancy

In addition, each of your clients objected to 25 of the requests as "not relevant," "irrelevant" or not "likely to lead to relevant evidence." As set forth above, such objections have been waived. Further, it is clear from the sheer number of "relevancy" objections (i.e. to over 70% of the requests) that it was purely a cursory or rote objection which is improper. Hence, without stating why such a request is not relevant, any objection (to the extent not deemed waived) must be specific and demonstrate why a particular request is not relevant or calculated to lead to relevant evidence. No such showing has been made. On the contrary, the issues in this case and, in particular, as to the Counterclaim Defendants relate to funds removed from the Plaza Extra Stores by the Counterclaim Defendants. The information sought in Requests for Production Numbers 1-12, 14, 16-22, 24-26, and 30-31, to which the relevancy objection was raised, relate to financial information of the Counterclaim Defendants and back-up information relating to their financial status - information which is directly relevant to all claims and defenses in this case. Hence, Yusuf requests that Responses to Requests to Produce 1-12, 14, 16-22, 24-26, and 30-31 be provided within ten (10) days as such objections have been waived and the information sought is relevant to the pending issues.

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The objection that the service of the requests was untimely is, likewise, without merit. Service of the discovery was entirely proper given the Court's Fourth Amended Scheduling Order, which it drew up. Hence, there is absolutely no basis to contend that the Requests for Production, served within the time allowed for fact discovery, is improper and the objection is baseless. Therefore, Yusuf requests that Responses to Requests for Production 1-12, 14, 16-26, 29-33, and 35, be supplemented within ten (10) days as objections to such production have been waived and the discovery sought was clearly timely.

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In addition, Yusuf objects to the bare assertion of the attorney-client privilege and/or work product doctrine in Responses 27, 28, and 32-35. Counterclaim Defendants must provide a privilege log or produce the documents at issue. See Smith v. V.I. Hous. Auth., 2008 U.S. Dist. LEXIS 107722 (D.V.I. Apr. 8, 2008) ("In the absence of a privilege log or a showing of the privilege as it relates to specific documents, the Court finds that Defendant has waived its objection"); Dade Eng'g Corp. v. Reese, 2006 U.S. Dist. LEXIS 32639 (D.V.I. Apr. 13, 2006) ("a party may not resist discovery based merely on a bare assertion that the challenged information is protected"). As the Counterclaim Defendants have waived and failed to properly assert any privilege and/or valid objections, they should supplement their Responses and produce all responsive documents within ten (10) days.

6. Lack of Diligent Search and Oath

As to Response 13 that "none [of the documents requested are] in Counterclaim Defendants' possession," this objection is insufficient. Even if the Counterclaim Defendants have stored the documents or otherwise transferred them to third parties, they must still produce responsive documents. "It is well established that 'control' under Fed. R. Civ. P. 34 is to be broadly construed so that a party may be obligated to produce documents requested even though it may not actually possess the documents. As long as the party has the legal right or ability to obtain the documents from another source on demand, that party is deemed to have 'control.'" Poole v. Textron, Inc., 192 F.R.D. 494, 501 (D. Md. 2000); *see also*, Camden Iron & Metal, Inc. v. Marubeni America Corp., 138 F.R.D. 438, 441 (D.N.J. 1991); Alexander v. FBI, 194 F.R.D. 299, 301 (D.D.C. 2000). Accordingly, if the Counterclaim Defendants can obtain the requested documents on demand, they must produce those documents.

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Mark W. Eckard, Esq.
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If, after a reasonable search has been conducted, the Counterclaim Defendants cannot find responsive documents, then they must then provide Yusuf with a statement under oath that no responsive documents exist. See, e.g., 7 MOORE'S FEDERAL PRACTICE - Civil § 34.13 ("when a response to a production of documents is not a production or an objection, but an answer, the party must answer under oath. For example, when a party claims that all the requested documents have already been produced, it must state that fact under oath in response to the request"); Jensen v. Boston Ins. Co., 20 F.R.D. 619, 621 (D. Cal. 1957) ("If the documents sought are not in existence, it is incumbent upon the objecting party or parties to so state under oath and not by way of a general unverified allegation"); B & K Mech., Inc. v. Wiese, 2005 U.S. Dist. LEXIS 21005 at *14 (D. Kan. Sept. 21, 2005) ("when the records at issue are, by their nature, of a type that would normally be kept in the business of the producing party, and within that party's control, then the court can presume that the records exist and are within the control of the party unless the party denies their existence under oath"); Vazquez-Fernandez v. Cambridge College, Inc., 269 F.R.D. 150, 154 (D.P.R. 2010) (same). The Counterclaim Defendants failed to comply with these provisions and thus, Yusuf requests that proper supplementation be made within ten (10) days.

7. Money Laundering "Stipulation"

Although not raised as a specific objection to individual Requests for Production, Carl has asserted in his third "General Objection" that Defendants have stipulated that no information can be sought which relates to alleged "money laundering" and, therefore, objected to any Requests for Production seeking financial information up to the date of the Third Indictment. There is no such stipulation and any objection based on this non-existent stipulation has been waived. Hence, to the extent that any Response is being withheld on the basis of this "objection," Yusuf hereby demands that such information be produced within ten (10) days.

C. Mandatory Disclosures

In addition to the discovery issues addressed above, as required by FED. R. CIV. P. 26(a)(1)(D), within thirty (30) days after being served or joined, new parties are required to submit their mandatory disclosures. Such disclosures would provide much of the information sought in the Requests for Production, including "a copy-or a description by category and location-of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses..." This is yet another reason that the objections raised are without merit and demonstrate bad faith as such information is required to be disclosed. Although we have raised this issue in pleadings with the Court, none of the Counterclaim Defendants have filed their mandatory disclosures. Therefore, we request these disclosures be made within the next ten (10) days as well. Yusuf's disclosures have already been made and supplemented as required and may be treated as his disclosures to the Counterclaim Defendants.

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Mark W. Eckard, Esq.
July 2, 2014
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Finally, as set forth above, if we do not receive supplemented Responses or otherwise hear from you within the next ten (10) days, we will assume that you are unwilling to confer and will move to compel more complete responses.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charlotte K. Perrell', written in a cursive style.

Charlotte K. Perrell

cc: Fathi Yusuf
Nizar DeWood, Esq.

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

MOHAMMAD HAMED , by his)	
authorized agent WALEED HAMED ,)	
)	CIVIL NO. SX-12-CV-370
Plaintiff/Counterclaim Defendant,)	
)	ACTION FOR DAMAGES,
vs.)	INJUNCTIVE RELIEF
)	AND DECLARATORY RELIEF
FATHI YUSUF and UNITED CORPORATION ,)	
)	
Defendants/Counterclaimants,)	
)	
vs.)	JURY TRIAL DEMANDED
)	
WALEED HAMED, WAHEED HAMED,)	
MUFEED HAMED, HISHAM HAMED, and)	
PLESSEN ENTERPRISES,)	
)	
Additional Counterclaim Defendants.))	
)	
)	

ORDER GRANTING DEFENDANT FATHI YUSUF'S MOTION TO COMPEL

THIS MATTER came before the Court upon Defendant Fathi Yusuf's ("Yusuf") Motion to Compel Responses to Discovery Requests and For Sanctions against Counterclaim-Defendants Waleed Hamed, Mufeed Hamed, and Hisham Hamed (collectively the "Counterclaim Defendants") and the Court having been advised in the premises, it is hereby,

ORDERED that Yusuf's Motion to Compel Responses to Discovery Requests and For Sanctions is **GRANTED**, and it is further

ORDERED that Counterclaim Defendants shall produce to counsel for Yusuf within ten (10) days from the entry of this Order any and all documents that are responsive to Yusuf's Requests for Production of Documents or, if no responsive documents exist after appropriate

diligent search has been made, Counterclaim Defendants shall provide Yusuf with a statement signed under oath that no responsive documents exist, and it is further

ORDERED that Counterclaim Defendants provide the disclosures require by Fed. R. Civ. P. 26(a)(1)(A), within ten (10) days from the entry of this order, and it is further

ORDERED that Yusuf shall be entitled to recover his reasonable expenses incurred in making his motion to compel, as provided by Fed. R. Civ. P. 37(a)(5)(A), upon the filing of an appropriate motion to award such expenses.

Entered this _____ day of August, 2014.

Douglas A. Brady
Judge of the Superior Court

ATTEST:

Estrella George
Acting Clerk of the Court

cc: Joel H. Holt, Esq.
Nizar A. DeWood, Esq.
Gregory H. Hodges, Esq.
Charlotte K. Perrell, Esq.
Carl J. Hartman, III, Esq.
Mark W. Eckard, Esq.
Jeffrey B.C. Moorhead, Esq.

By: _____
Deputy Clerk

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