

**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

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' RULE 56.1 STATEMENT OF FACTS AND
COUNTERSTATEMENT OF FACTS**

Plaintiff hereby responds to Defendants' Rule 56.1 Statement of Facts ("DSOF") as well as sets forth his own Rule 56.1 Counterstatement of Facts ("PSOF").

I. Response to Defendants' Statement of Facts

1. Admit DSOF #1.
2. Admit DSOF #2.
3. Admit DSOF #3.
4. Admit the first sentence of DSOF #4. Deny the remaining two sentences, as the amount of rent claimed to be due of \$5.55 per square foot as well as the total square footage is disputed, as is the statement that \$5.55 would be below

market, as that figure is above market value for that time period. See ¶ 4 of **Exhibit 1** attached (Declaration of Wally Hamed).

5. Admit the first three sentences of DSOF #5. Deny the remaining two sentences, as those two sentences are not factually correct as stated. See ¶ 5 of **Exhibit 1** attached and **Exhibit 2**, attached at pp. 62-67 (30-b-6 Deposition of United by Mike Yusuf).
6. The entire statement of DSOF # 6 is disputed as this statement is incorrect. See ¶ 6 of **Exhibit 1** attached.
7. The entire statement of DSOF # 7 is disputed as this statement is incorrect. See ¶ 7 of **Exhibit 1** attached.
8. The entire statement of DSOF # 8 is disputed as this statement is incorrect. See ¶ 8 of **Exhibit 1** attached.
9. The entire statement of DSOF # 9 is disputed as this statement is incorrect. See ¶ 9 of **Exhibit 1** attached.
10. While Waleed Hamed agreed to the payment of outstanding back rent in early 2012 to United, the balance of DSOF #10 is disputed as worded, as this statement is incorrect. See ¶ 10 of **Exhibit 1** attached.
11. While Waleed Hamed agreed to the payment of outstanding back rent in early 2012 to United, the balance of DSOF #11 is disputed as worded, as this statement is incorrect. See ¶ 11 of **Exhibit 1** attached.
12. Admit a demand for rent was made by United (not Yusuf), but the entire statement is DSOF # 12 is disputed as worded, as this statement is incorrect. See ¶ 12 of **Exhibit 1** attached.

13. DSOF #13 is denied as worded. See ¶ 13 of **Exhibit 1** attached.

14. DSOF #14 is denied. See ¶ 14 of **Exhibit 1** attached.

15. Plaintiff admits he made the statements attributed to him in deposition, but denies the characterizations of them in DSOF #15.

16. DSOF #16 is denied as worded. See ¶ 16 of **Exhibit 1** attached.

17. DSOF #17 is denied as worded. See ¶ 17 of **Exhibit 1** attached.

18. DSOF #18 is denied. See ¶ 18 of **Exhibit 1** attached.

19. DSOF #19 is denied. See ¶ 19 of **Exhibit 1** attached.

20. DSOF #20 is denied. See ¶ 20 of **Exhibit 1** attached.

21. DSOF #21 is denied. See ¶ 21 of **Exhibit 1** attached.

22. DSOF #22 is denied. See ¶ 22 of **Exhibit 1** attached.

23. Regarding the assertions in DSOF #23, this assertion is denied for the reasons set forth in response to DSOF #4 through #20.

II. Plaintiff's Counterstatement of Facts

Plaintiff hereby submits the following additional facts as his Rule 56.1 Counterstatement of Facts:

1. In the instant motion, United avers at page 2 of its *Statement of Undisputed Facts* that:

There has been only one reconciliation of partnership accounts since the partnership was formed, and that occurred at the end of 1993. Hamed's portion of the rent payment due at that time was made by means of a credit against amounts that Yusuf owed Hamed for advances Yusuf had taken in the preceding years. (Emphasis added.)

This directly contradicts averments made by Defendants in prior pleadings, deposition testimony and responses to discovery that there was a reconciliation of the partnership's

Plaza East accounts in 2001, at which time all physical documents that would reflect an accounting were destroyed by mutual agreement. See *e.g.* *Deposition testimony of Mike Yusuf* of April 3, 2014 at 64-66 (emphasis added.), attached as **Exhibit 2** (at pp. 62-67):

A. [Mike Yusuf] 2001, that's the -- the year that we had the [FBI] raid.

Q. Okay. What -- approximately what date?

A. October 23rd of 2001.

Q. Okay.

A. Okay. Sometime I would say a month and a half to two months before that, Waleed got a call from Waheed saying that something is going on. Some kind of agency is coming to spot check us, look at us. I -- I don't know the details of that. So among us, at that time, it was me, Mufeed and Waleed in the Plaza Extra East, I was doing construction at that time -- or, no, the store in West was open at that time.

So I left my store, and I came to East to -- to discuss what's -- what's going on. Nobody wanted to speak over the phone. We -- you know? We were trying to not say anything over the phone, because we didn't know what was going on. We just heard through the grapevine, something is happening. We didn't know.

So between among us, we decided to destroy some of the receipts, because they were all in cash. We pulled out a good bit of receipts from the safes in Plaza East. Mufeed was present with me. He had a whole, a heap of receipts for the Hameds only. It could be from either one of the Hameds, once it's the Hamed. And receipts from the Yusuf, which basically was just me, not, you know, nobody else.

Mufeed, I guess you call it, tallied, and, you know, **put a tape on what they withdraw, and I put a tally, a tape, on what I withdraw.** And I gave him my receipts to double-check my work, he gave me his receipt to double-check his work.

Once everything dropped to the penny, we were fine, I said, Listen. I'm destroying my receipts. **You know what I owe you guys. I owe you guys 1.3 million,** and at that time, they had pulled in receipts about 2.9 million. . . .

2. United avers that the reason that the alleged 1994-2004 rent was not paid at the time of the 2012 writing was because the so-called "Black Book" had not yet been returned to United. See *e.g.* United's instant Motion at 8:

Moreover, the black book, which reflected the December 31, 1993 end date of the prior period for which rent had been paid, and a comprehensive book showing advances of supermarket funds to Yusuf

and Hamed, had both been seized. As a result, records needed to determine the date the next rent payment began accruing (January 1, 1994), and to make a full reconciliation of the accounts of Hamed and Yusuf, was no longer in their possession. They had been seized by federal agents in the 2001 raid. The black book was not returned until years later and the ledger has still not been returned.

However, the "Black Book" was found to be *in the possession of the Defendants* and was produced by them in discovery (after numerous attempts to obtain it.) See **Exhibit 1**. Thus, United had this Black Book in its possession before the 2012 rent reconciliation and payment by Hamed.

3. The "black book" had numerous pages removed from it before being produced by the Defendants in this case, and, in any case, provides no information whatsoever as to rents between 1986 and 2012. See **Exhibit 1**.

4. Defendants had unfettered access to the FBI documents and were permitted to review (and did review and copy or scan on multiple occasions) *any* box of documents held by the FBI at *any* time beginning in, including evidence seized during the searches, which is demonstrated by:

A. When United, as a party to a proceeding before Judge Dunston in St. Thomas (*United v. Hamed*, SX-13-CV-101) made the exact *same argument regarding its lack of access to the exact same FBI documents identified here in the Defendants' Statement of Undisputed Material Facts*—the so-called 'newly' produced FBI documents—in addressing this issue, the Court took into account two explicit 2009 FBI affidavits stating that all such documents had been fully available to Defendants for many years, beginning in 2003 and had been thoroughly reviewed by them on multiple occasions. **Exhibit 3**. The Court then

ordered United to produce a counter-affidavit by May 12, 2014, to refute these two FBI affidavits, ordering as follows (**Exhibit 3**):

it is ORDERED that Plaintiff SUPPLEMENT, by May 12, 2014, its Response in Opposition with **proof by affidavit from the United States Attorney's Office that it no longer has access to review documents held by the federal government, as opposed to the facts set forth in Special Agent Thomas L. Petri's July 08, 2009, Declaration.** . . (emphasis added).

United failed to produce any such affidavit.

B. Two FBI affidavits executed on July 8, 2009 (Special Agents Christine Ziemba and Thomas Petri) confirm that United and the individual criminal defendants, including Fathi Yusuf, had "complete" and "unfettered" access to all of the records from all sources -- and repeatedly and extensively exercised that access. **Exhibits 4 and 5.** Petrie swore that (See **Exhibit 4**) (Emphasis added) :

7. In **2003**, subsequent to the return of the indictment, counsel for defendants was afforded **complete access** to seized evidence. Attorney Robert King, the attorney then representing defendants, reviewed the discovery at the FBI office on St. Thomas. **He and a team of approximately four or five individuals reviewed evidence for several weeks. They brought with them a copier and made many copies of documents.**

and

8. In **2004**, a different set of attorneys presently representing the defendants reviewed the evidence seized in the course of the execution of the search warrants. **By my estimation, document review team included up to ten people at any one time. The defense team spent several weeks reviewing the evidence. They had with them at least one copier and one scanner with which they made numerous copies and images of the evidence.**

9. During the 2004 review, the defense team was afforded **unfettered access to discovery**. They were permitted to review **any box of documents at any time, including evidence seized during the searches**, foreign bank records, documents obtained either consensually or by grand jury subpoena, and FBI Forms 302. The defense team pulled numerous boxes at one time with many different people reviewing different documents from different boxes.

C. Such unfettered access to any box of these documents at any time continued after that for many years, as noted by FBI Special Agent Christine Zieba, in her statements that she personally watched Defendant's counsel access and review these documents over many weeks on subsequent occasions. See **Exhibit 5** (Emphasis added):

3. I have been present at the review of documents conducted by counsel for defendants in the Yusuf matter.

4. The FBI office is comprised of two buildings, an upper building and a lower building. The two buildings are secured facilities. As part of their duties, the agents and support staff housed in the lower building possess classified and secret national security information.

5. The evidence obtained in the course of the investigation and prosecution of the defendants is stored in the lower building. The evidence is secured either in a locked storage room or in locked file cabinets in the secured work space.

6. By necessity, the defendants' document review has taken place at a long conference table in middle of the central work space. The desks of one agent and analyst are freely accessible from that central work space. The special agent and the analyst possess and utilize classified, secret, and grand jury information in their work spaces.

7. Given that FBI special agents and employees maintain classified, secret, and grand jury information in the lower building, it is not feasible to provide the defendants unfettered access to that space.

8. I memorialized my conversations with defense counsel as well as the events that transpired during the document review **from November 8, 2008 through January 29, 2009**. Those memoranda

are attached to this declaration and incorporated as if fully set forth herein.

9. A process was put in place in order to ensure that evidence was not lost, misplaced or destroyed during the review process by defense counsel. Defense counsel were allowed to review one box at a time, and were allowed to handle the documents.

Dated: August 25, 2014



Joel H. Holt, Esq.
2132 Company Street
St. Croix, VI 00820
(340) 773-8709
holtvi@aol.com

Carl J. Hartmann III, Esq.
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820

CERTIFICATE OF SERVICE

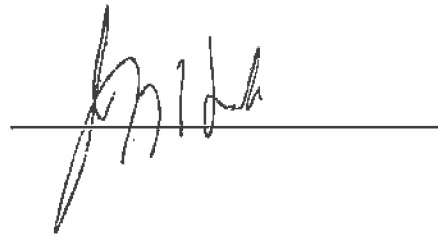
I hereby certify that on this 25th day of August, 2014, I served a copy of the foregoing by email, as agreed by the parties, on:

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

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

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

Jeffrey B. C. Moorhead
CRT Brow Building
1132 King Street, Suite 3
Christiansted, VI 00820
email : jeffreymlaw @yahoo.com

A handwritten signature in black ink, appearing to read "JBM", is written over a solid horizontal line. The signature is stylized and cursive.

**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**

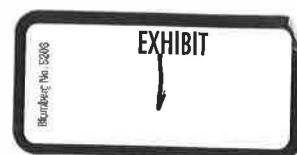
**WALEED HAMED, WAHEED
HAMED, MUFEED HAMED,
HISHAM HAMED,**)
and **PLESSEN ENTERPRISES, INC.**,)
)
Counterclaim Defendants.)

JURY TRIAL DEMANDED

DECLARATION OF WALEED HAMED

I, Waleed Hamed a/k/a Wally Hamed, declare, pursuant to 28 U.S.C. Section 1746, as follows:

1. I have personal knowledge of the facts set forth herein.
2. The "Black Book" referenced by Defendants in their August 12, 2014, summary judgment "rent" motion was produced by them in discovery.
3. The "black book" had numerous pages removed from it before being produced by the Defendants in this case.
4. Regarding the assertions in the last two sentences of #4 of Defendants' Rule 56.1 Statement of Facts ("DSOF"), there was never any agreement that the Plaza Extra Sion Farm store owned by the Hamed/Yusuf



partnership would pay \$5.55 per square foot per year for the time period between 1994 and 2004. Indeed, that amount was above market value for the time period prior to 2004.

5. Regarding the assertions in the last two sentences of DSOF #5, the partnership had ample funds to pay rent when due, as evidenced by the accumulation of assets from the partnership profits. Moreover, Fathi Yusuf was not the person who decided when to do an accounting, as we (the Hameds and the Yusufs) would all agree when it was a good time to do so. Indeed, as just one example, United's 30(b)(6) designee, Maher Yusuf, testified that he and Mufeed Hamed decided to do an accounting in 2001.
6. Regarding the assertions in DSOF #6, the entry in the "black book" referenced by Defendants as somehow demonstrating the first and last date rent was paid before 2012 (a copy of which is attached as **Exhibit A** (YUSF 106955)), is incorrect. The "black book" does not even mention rent between 1986 and 2004 anywhere, as suggested by Defendants. Moreover, the "black book" produced by Yusuf in discovery contains only one entry as to rent, on page YUSF 106953 (See **Exhibit B** attached to this declaration), which deals with rent in the mid-1980's before the store was open. In short, the portions of the "black book" produced by Defendants do not support Defendants' claim as to the amount of rent charged the Plaza Sion Farm store by United or the times of payment.
7. Regarding the assertions in DSOF #7, there was never any discussion in 2002 or 2003 about changing the rent formula in 2004 as asserted by

Defendants.

8. Regarding the assertions in DSOF #8, there were never any discussions in 2004 about deferring any rent payments, as asserted by Defendants. In fact, rent was paid in cash (so United would not have to report it as income) whenever United needed money without having to wait on any partnership accounting. Finally, there is no outstanding rent owed by Plaza Extra Sion Farm for the time period before 2004, which is why United's written statement of rent due used in the 2012 settlement of past rents (**Exhibit C** attached) did not include any amounts prior to that date.
9. Regarding the assertions in DSOF #9, there is no rent owed for the time period prior to 2004, as previously noted, so any assertion to the contrary is untrue. Moreover, the "black book" did not show when rent was paid, as suggested by Defendants, as noted above.
10. Regarding the assertions in DSOF #10, while I agreed in 2012 that rent would be paid for the 2004 to 2012 period, the remaining assertions are not accurate. As previously noted, there was never an agreement in 2004 to defer the calculation of rent, nor were any records still needed to determine when the last rent payment was made, which was well after 1993. There was also no agreement in 2012 to defer the calculation of rent for the time period prior to 2004.
11. Regarding the assertions in DSOF #11, the amount was paid as indicated, but it was not agreed to in 2004 as suggested by Defendants.
12. Regarding the assertions in DSOF #12, the rent calculations were based on inaccurate amounts (\$5.55 per sq. ft. and 69,680 total sq. ft.).

13. Regarding the assertions in DSOF #13, there is no rent due except for the time period from 2012 to now, as the amount for that time period is in dispute.
14. Regarding the assertions in DSOF #14, all rent has been paid for this time period, as previously noted.
15. Regarding the assertions in DSOF #15, the assertion that my father, Mohammad Hamed, somehow "waived" the statute of limitations defense is not supported by the deposition excerpts referenced by Defendants. In this regard, those excerpts show that my father first stated that he had no personal knowledge about any such 1994-2004 rent being owed. While he was then asked a series of hypothetical questions premised on the proposition that "if" such a rent obligation existed, a review of those excerpts reveals that he had no personal knowledge of any such amounts owed, much less that there is a "clear, unequivocal and decisive act" to waive the statute of limitations rights on any amounts due that were time-barred. Indeed, my father clearly stated that he did not know whether the rent for this time period was owed, nor was he even aware that this issue was a dispute now. See **Exhibit D** at p. 106.
16. Regarding the assertions in DSOF #16, any rent due is limited to the formula for the St. Thomas store using the correct square footage.
17. Regarding the assertions in DSOF #17, these figures are incorrect as the wrong square footage was used to make this calculation, which should be 67,498 sq. ft., not 69,680 sq. ft., as used by Defendants.
18. Regarding the assertions in DSOF #18, no agreement to rent any

additional space was ever entered into, nor was such space ever needed.

19. Regarding the assertions in DSOF #19, there was no agreement to use Bay 5 other than on a temporary and periodic basis, nor was there any agreement to pay rent for this space, as United made it available at no cost. Indeed, if rent were to be charged, the space would not have even been used on a periodic and temporary basis.
20. Regarding the assertions in DSOF #20, there was no agreement to use Bay 8 other than on a temporary and periodic basis, nor was there any agreement to pay rent for this space, as United made it available at no cost. Indeed, if rent were to be charged, the space would not have even been used on a periodic and temporary basis.
21. Regarding the assertions in DSOF #21, there was no agreement to use Bay 8 other than on a temporary and periodic basis, nor was there any agreement to pay rent for this space, as United made it available at no cost. Indeed, if rent were to be charged, the space would not have even been used on a periodic and temporary basis.
22. Regarding the assertions in DSOF #22, there was no agreement to use Bay 5 or Bay 8 other than on a temporary and periodic basis, nor was there any agreement to pay rent for this space, as United made it available at no cost. Indeed, if rent were to be charged, the space would not have even been used on a periodic and temporary basis.

Waleed Hamed Declaration
Page 6

Dated: August 24, 2014



Waleed Hamed a/k/a Wally Hamed

W 2 2 1

1							
2							
3							
4							
5							
6	3-24-93	check #	425		15,000.	-	
7	4-20	check #	446		5,000.	-	
8	5-14	check #	460		5,000.	-	
9	6-1		1039 & 1040		1,500.	-	
10	7-8		1215		2,500.	-	
11	8-9		1381		2,500.	-	
12	9-9		1550		2,500.	-	
13	9-30		557		5,000.	-	
14	11-4		1799		5,000.	-	
15	12-21		619		6,500.	-	
16	12-40		1927		1,500.	-	1/2
17	3-5	10,000 + 5,000 - 2,000			1,500.	-	
18	5-20-94	# 99158			5,000.	-	Cash
19	6-19-94	# 136			15,000.	-	
20	6-20-94	FIVE			5,000.	-	Cash
21	7-12-94	FIVE			2,500.	-	Cash
22	7-15-94	VOID			13,700.	-	Cash

united owes plaza as of
 12-31-1993 \$ 399,295.00
 Paid 399,295.00



(4)

United paid out

5-84 prudential Buckle

194,395.65
30,000.00

property tax

224,295.65
24,676.69

less 1/16

199,618.96
234.25

less 1/16

199,384.71
592.50

less For land

198,792.21
100,000.00

xxx 98,792.21

28 month ^{\$} 16,000.00 Int.

448,000.00

24 month Rest 1-1-84 to 12-31-85

202,000.00

xxx

98,792.91

749,292.00

399,295.00

Scotia Bank

349,997.00

300,000.00

owed to YUSUF

49,997.00

Rec'd

United Corporation dba Plaza Extra

Tutu Park Store Sales:

1-1-2004 to 12-31-2004	32,323,902.88
Less: 1-1-2004 to 5-4-2004	-10,849,029.02
Sales 5-5-2004 to 12-31-2004	<u>21,474,873.86</u>

Tutu Park Store:

Paid Rent, Water, & Property Tax	263,577.53
Paid 1.5% Overage	71,914.23
5-5-2004 to 12-31-2004	<u>335,491.76</u>
1-1-2005 to 12-31-2005	515,361.54
1-1-2006 to 12-31-2006	590,533.60
1-1-2007 to 4-1-2007	255,699.33
4-2-2007 to 12-3-2007	468,689.55
1-3-2008 to 12-5-2008	540,180.12
1-5-2009 to 12-10-2009	529,799.66
1-6-2010 to 12-3-2010	527,565.40
1-1-2011 to 12-31-2011	<u>541,175.61</u>

Rent, etc. 5-5-2004 to 12-31-2011	4,304,496.57
Parking Lot Cleaning	126,000.00
Total Amount Paid	<u>4,430,496.57</u> a

Tutu Park Store Sales:

5-5-2004 to 12-31-2011	261,474,323.91
Portion of Sales - Rented building	<u>217,895,269.93</u> b
Portion of Sales - Area built by Plaza	43,579,053.98

Total Paid as a % of Sales (Rented Bldg.) = a/b 2.0333147073%

Sion Farm Sales:

Sion Farm Sales 5-5-2004 to 12-31-2011	273,884,222.70
Less: R/X	-7,874,897.13
	<u>266,009,325.57</u>

Calculated Rent as a % of Sales Sion Farm \$ 5,408,806.74



MOHAMMAD HAMED -- DIRECT

1 until December 1993?

2 THE INTERPRETER: From the beginning?

3 MR. HODGES: '86, 1986.

4 THE INTERPRETER: Okay.

5 Yes.

6 Q. (Mr. Hodges) Okay. And that rental was based on
7 a price per square foot that you agreed upon with Mr. Yusuf,
8 is that correct?

9 THE INTERPRETER: Yes.

10 Q. (Mr. Hodges) Okay. And isn't it true that no
11 rent has been paid to United since January 1, 1994 through
12 May 4, 2004?

13 MR. HARTMANN: Object as to form.

14 A. I don't know. (Speaking in Arabic.)

15 THE INTERPRETER: He says, I don't know.

16 Q. (Mr. Hodges) You're not aware of any dispute
17 regarding United's entitlement to rent for the ten years
18 from January 1, 1994 to May 4, 19 -- excuse me -- 2004?

19 THE INTERPRETER: I am not aware, except
20 recently I've learned that my son has told me that
21 Mr. Fathi Yusuf is demanding rent of \$250,000 per month, and
22 this is of recent.

23 Q. (Mr. Hodges) Okay. Well, I'm -- I'm talking
24 about the price per square foot monthly rent for the period
25 between January 1, 1994 through May 4, 2004 that was agreed

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

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

THE VIDEOTAPED 30 (b) (6) ORAL DEPOSITION OF UNITED CORPORATION through its representative, MAHER "MIKE" YUSUF, was taken on the 3rd day of April, 2014, at the Law Offices of Adam Hoover, 2006 Eastern Suburb, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 10:07 a.m. and 2:42 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

Cheryl L. Haase
Registered Professional Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix U.S.V.I.
(340) 773-8161

30(B) (6) OF UNITED CORP. - MAHER "MIKE" YUSUF -- DIRECT

1 (Deposition Exhibit No. 1 was
2 marked for identification.)

3 Q. (Mr. Hodges) Okay. And did you receive a copy of
4 the document that's been provided to you as
5 Deposition Exhibit 1, the third amended notice of taking of
6 a Rule 36 -- 30(b)(6) videotape deposition dated March 4th,
7 2014?

8 A. Yes.

9 Q. Okay. And did you, in preparation for this
10 deposition, have a chance to review the topics that are set
11 forth, beginning on the fourth page of this, which is Bates
12 numbered HAMD597317?

13 A. Yes, I read through it.

14 Q. Okay. And did you have an opportunity to discuss
15 the -- the questions and the topics with other persons at
16 the United Corporation to gain evidence for your testimony
17 today, and are you prepared to discuss each of the topics
18 set forth in Attachment A?

19 A. I spoke about it, yes, and I'm prepared to answer
20 the questions.

21 Q. Okay. And by whom were you designated? How were
22 you designated to testify for United Corporation?

23 A. I'm the president of the corporation.

24 Q. Okay. So you designated yourself?

25 A. (Witness shakes head).

30 (B) (6) OF UNITED CORP. - MAHER "MIKE" YUSUF -- DIRECT

1 cash was removed from any of the safes, --

2 There were three safe rooms, one in each
3 store, is that correct?

4 A. Yes.

5 Q. -- there would have either been an entry in a
6 ledger, or a receipt, is that correct?

7 A. Entry in a ledger, or a receipt?

8 Yes, yes.

9 Q. Okay. And -- and so just let's take a year, for
10 example, 1998. I know nothing about it. This is a
11 hypothetical question. If in 1998 I went to all three
12 stores and I added up all the ledger entries, and all the
13 chit -- all the receipt entries, I could find out to the
14 penny how much money the Hameds had withdrawn, and how much
15 money the Yusufs had withdrawn, is that correct?

16 A. That's, yeah, if we could find the records, yes.

17 Q. Yes. And you say that like you are not sure you
18 can find the records.

19 A. Well, the FBI came in and took a lot of our
20 records. It's still held by the District Court.

21 Q. I see. But if you could get those all together
22 and add them up, you could get a number, is that correct?

23 A. Should be able to, yes.

24 Q. Okay. And to the best of your knowledge, all of
25 those receipts still exist today from 1986 on?

30 (B) (6) OF UNITED CORP. - MAHER "MIKE" YUSUF -- DIRECT

1 **A.** No.

2 **Q.** Okay. Why don't you tell me about that?

3 **A.** About what?

4 **Q.** Why -- why some of them don't exist?

5 **A.** Should I explain -- that would explain the 1.6
6 that we have here on the letter.

7 **Q.** I'll get there, I swear. I just want to -- right
8 now, I just want to know, I asked you if I could go around
9 and collect all these receipts, add them up and find out how
10 much the Hameds took out, and how much the Yusufs. You said
11 yes.

12 And I said, So I should be able to do that
13 from the -- from back till now, and you said, no, there's a
14 problem. You said some might be in the possession of a
15 third party.

16 **A.** Right.

17 **Q.** When I have those from the third party, will I
18 then be able to get that number?

19 **A.** To physically check every receipt by receipt?

20 **Q.** Through all the --

21 **A.** There's -- there's some receipt was destroyed by
22 Waleed Hamed, and some receipts were destroyed by me.

23 **Q.** Okay. Tell me about that.

24 **A.** Sure. In 2000 -- that's, I'm -- to explain to
25 you, that's where the 1.6, I'm going to explain.

30 (B) (6) OF UNITED CORP. - MAHER "MIKE" YUSUF -- DIRECT

1 Q. I -- I understand that.

2 A. Okay.

3 Q. But right now, just tell me how --

4 A. Because it comes -- it's going to drive to this.

5 Q. Okay.

6 A. Okay?

7 Q. That's fine.

8 A. 2001, that's the -- the year that we had the raid.

9 Q. Okay. What -- approximately what date?

10 A. October 23rd of 2001.

11 Q. Okay.

12 A. Okay. Sometime I would say a month and a half to
13 two months before that, Waleed got a call from Waheed saying
14 that something is going on. Some kind of agency is coming
15 to spot check us, look at us. I -- I don't know the details
16 of that. So among us, at that time, it was me, Mufeed and
17 Waleed in the Plaza Extra East, I was doing construction at
18 that time -- or, no, the store in West was open at that
19 time.

20 So I left my store, and I came to East to --
21 to discuss what's -- what's going on. Nobody wanted to
22 speak over the phone. We -- you know? We were trying to
23 not say anything over the phone, because we didn't know what
24 was going on. We just heard through the grapevine,
25 something is happening. We didn't know.

30(B) (6) OF UNITED CORP. - MAHER "MIKE" YUSUF -- DIRECT

1 of receipts for the Hameds only. It could be from either
2 one of the Hameds, once it's the Hamed. And receipts from
3 the Yusuf, which basically was just me, not, you know,
4 nobody else.

5 Mufeed, I guess you call it, tallied, and,
6 you know, put a tape on what they withdraw, and I put a
7 tally, a tape, on what I withdraw. And I gave him my
8 receipts to double-check my work, he gave me his receipt to
9 double-check his work.

10 Once everything dropped to the penny, we were
11 fine, I said, Listen. I'm destroying my receipts. You know
12 what I owe you guys. I owe you guys 1.3 million, and at
13 that time, they had pulled in receipts about 2.9 million.
14 Wally wanted to take a look at it, and as far as I know,
15 Wally got rid of the receipts. So 1.3 million from
16 2.9 million, this is where you get the 1.6 million.

17 Q. In Exhibit --

18 A. In Exhibit 146.

19 Q. Okay. So let me just see if I'm clear. The two
20 of you collected the receipts from everywhere?

21 A. No. You're -- I told you, from Plaza Extra East.

22 Q. Oh, just from Plaza Extra East?

23 A. I came from Plaza West.

24 Q. Okay.

25 A. I was open at that time.

30(B) (6) OF UNITED CORP. - MAHER "MIKE" YUSUF -- DIRECT

1 Q. Okay. And -- and do you know if the same thing
2 was done at Plaza Extra West and at--

3 A. Plaza Extra West, it was not done.

4 Q. It was not done?

5 A. No. We had just recently opened a year, --

6 Q. Okay.

7 A. -- and I believe I do have some receipts in that
8 safe --

9 Q. Okay.

10 A. -- up to this day.

11 Q. Okay.

12 A. Okay?

13 Q. And how about St. Thomas?

14 A. I don't -- St. Thomas didn't do anything. Now,
15 from reviewing the FBI records, they did not get rid of
16 anything.

17 Q. Okay.

18 A. Okay?

19 Q. Okay. Have -- have you ever attempted -- so if
20 I'm correct, any receipt that comes from East before the end
21 of 2001 has -- has theoretically been destroyed, and even if
22 it hasn't been destroyed, it was wiped out by the
23 reconciliation?

24 A. No. No. No. The safe, that was -- that safe
25 actually held everything to do with United Corporation,

30(B) (6) OF UNITED CORP. - MAHER "MIKE" YUSUF -- DIRECT

1 Plaza Extra, everything. Everything that's -- and
2 sometimes, even some personal stuff that was kept in there
3 for safekeeping from either the Hameds or the Yusuf. So, I
4 mean, it's a safe with about five drawers, I mean about five
5 shelves. The day-to-day receipts and this and that. I
6 mean, like the ledger, I remember the ledger after looking
7 at the FBI records, and I remembered the ledger, and I said,
8 Wait. We didn't get those receipts. And it still have more
9 receipts in that safe.

10 Q. Okay.

11 A. So it's not like I went and shelf by shelf by
12 shelf by shelf and clean out the safe. Remember, it's three
13 hands got into that safe, you know, after -- from -- from me
14 to Mufeed, and then Yousuf, I think he's now in charge.
15 Okay, so this --

16 Q. So -- so there might have been more receipts that
17 weren't calculated into the 1.6?

18 A. Correct, because the ledger goes back -- the
19 ledger goes back from 1994, I believe, here.

20 Q. Uh-huh.

21 A. Okay.

22 Q. So the ledger was or was not in the 1.6?

23 A. It was not in the 1.6.

24 Q. Okay. So what was in the 1.6? You don't know,
25 because they're all destroyed?

30(B) (6) OF UNITED CORP. - MAHER "MIKE" YUSUF -- DIRECT

1 **A.** The receipts. The receipts similar to the ones
2 I'm showing you here.

3 **Q.** I know, but the actual ones that you say added up
4 to this 1.6, they're gone.

5 **A.** Right.

6 **Q.** Okay.

7 **A.** To this figure, yes. Yes.

8 **Q.** And you don't know, could some of those be mixed
9 in with some of these?

10 **A.** No.

11 **Q.** How do you know that Wally destroyed all his?

12 **A.** It was given to him, and he said they was
13 destroyed.

14 **Q.** Okay. But you don't know.

15 **A.** I been taking his word for all these years.

16 **Q.** Okay. Okay. I'm just trying to understand,
17 really. And -- and so you added up, you took all these
18 receipts, which -- which were just Plaza East receipts?

19 **A.** Correct.

20 **Q.** And you said in your letter that -- that
21 additional withdrawals per the attached receipts was
22 \$1,095,000, right?

23 **A.** Uh-huh. Right. Right.

24 **Q.** More or less?

25 **A.** More or less.

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

UNITED CORPORATION

Case Number ST-2013-CV-0000101

VS.

Action For DAMAGES

WILLIE HAMED

NOTICE
OF
ENTRY OF ORDER

NIZAR A. DeWOOD, ESQ

CARL J. HARTMANN III, ESQ

Please take notice that on 29th day of April, 2014 a(n) ORDER dated April 25, 2014 was entered by this Court in the above-titled matter.

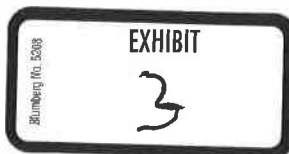
Dated: 29th day of April, 2014

ESTRELLA H. GEORGE

Acting Clerk of the Court

By: *Nancy Duran*

TITLE: Court Clerk Interpreter



SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

UNITED CORPORATION,)
)
) **Plaintiff,**)
)
) **vs.**) **Case. No. ST-13-CV-101**
)
) **WAHEED HAMED, a/k/a WILLY OR WILLIE**)
) **HAMED**)
)
) **Defendant.**)
)


ORDER

The Plaintiff having responded on April 07, 2014, to Defendant's Motion for Summary Judgment, it is


ORDERED that Plaintiff **SUPPLEMENT**, by May 12, 2014, its Response in Opposition with proof by affidavit from the United States Attorney's Office that it no longer has access to review documents held by the federal government, as opposed to the facts set forth in Special Agent Thomas L. Petri's July 08, 2009, Declaration; and it is

ORDERED that copies of this Order shall be directed to counsel of record.

Dated: April 25, 2014


Venetia H. Velazquez, Esq.


Lori Boynes-Tyson
Court Clerk Supervisor


HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

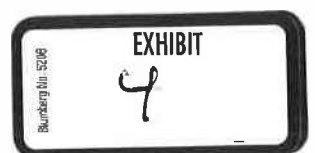
DECLARATION OF SPECIAL AGENT THOMAS L. PETRI

I, Thomas L. Petri, make this declaration in support of the Government's Response to Defendants' Reply Memorandum in Support of the Motion for Specific Relief.

- 1 I am employed as a Special Agent of the Federal Bureau of Investigation. I have served in that capacity for 20 years. I am assigned to the Miami Field Office.
- 2 I was assigned to the St. Thomas office of the Federal Bureau of Investigation from 2000 through 2006. While stationed on St. Thomas, I was the lead case agent of the investigation of United Corporation, Fathi Yusuf, Maher Yusuf, Negeh Yusuf, Waleed Hamed, Waheed Hamed, and Isam Yousuf.
- 3 In the course of that investigation, the government obtained and executed search warrants. Those searches were conducted at numerous locations throughout the islands, including the Plaza Extra stores and the homes of the defendants.
- 4 Evidence seized during the course of those searches was placed in boxes. Numbers were placed on the boxes to maintain an order.
- 5 The seized evidence, as well as evidence obtained either consensually or through grand jury subpoenas, was stored at the upper building of the FBI office in St. Thomas.
- 6 During the course of the investigation, FBI agents maintained control over the evidence. It was stored in a conference room in the office. No other materials but the documents pertinent to the investigation were stored in that room.
- 7 In 2003, subsequent to the return of the indictment, counsel for defendants was afforded complete access to seized evidence. Attorney Robert King, the attorney then representing defendants, reviewed the discovery at the FBI office on St. Thomas. He and a team of approximately four or five individuals reviewed evidence for several weeks. They brought with them a copier and made many copies of documents.
- 8 In 2004, a different set of attorneys presently representing the defendants reviewed the evidence seized in the course of the execution of the search warrants. By my estimation, document review team included up to ten people at any one time. The defense team spent several weeks reviewing the evidence. They had with them at least one copier and one scanner with which they made numerous copies and images of the evidence.
- 9 During the 2004 review, the defense team was afforded unfettered access to discovery. They were permitted to review any box of documents at any time, including evidence seized during the searches, foreign bank records, documents obtained either consensually or by grand jury subpoena, and FBI Forms 302. The defense team pulled numerous boxes at one time with many different people reviewing different documents from different

4420752.1

HAMD247566

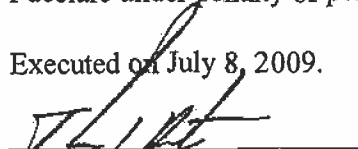


boxes.

- 10 Immediately following the defense team's departure from the FBI premises, I had occasion to obtain documents from boxes that had been reviewed by the defense team. I discovered that documents that originally had been placed in one box had been placed in a different box. I returned the documents to their original boxes. I cannot be certain that I was able to identify each instance where documents had been misfiled by the defense team.
- 11 During the document review in January 2009, Randall Andreozzi requested to review all documents obtained via subpoena. I explained to him that I could not produce all evidence at once. That evidence comprises approximately 40 boxes. I asked him for a specific list of documents, or category of documents that he wished to review. He declined to identify the records that he wished to review and did not pursue the matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 8, 2009.


Thomas L. Petri

Declaration of Special Agent Christine Zieba

I, Christine Zieba, make this Declaration in support of the Government's Response to Defendants' Reply Memorandum in Support of the Motion for Specific Relief.

- 1 I am employed as a Special Agent of the Federal Bureau of Investigation. I have served in that capacity for approximately 5 years.
- 2 I am a case agent who is assigned to the St. Thomas office of the FBI. I have been assigned to assist the prosecution in United States v. Yusuf, 05-15 (D.V.I.).
- 3 I have been present at the review of documents conducted by counsel for defendants in the Yusuf matter.
- 4 The FBI office is comprised of two buildings, an upper building and a lower building. The two building are secured facilities. As part of their duties, the agents and support staff housed in the lower building possess classified and secret national security information.
- 5 The evidence obtained in the course of the investigation and prosecution of the defendants is stored in the lower building. The evidence is secured either in a locked storage room or in locked file cabinets in the secured work space.
- 6 By necessity, the defendants' document review has taken place at a long conference table in middle of the central work space. The desks of one agent and analyst are freely accessible from that central work space. The special agent and the analyst possess and utilize classified, secret, and grand jury information in their work spaces.
- 7 Given that FBI special agents and employees maintain classified, secret, and grand jury information in the lower building, it is not feasible to provide the defendants unfettered access to that space.
- 8 I memorialized my conversations with defense counsel as well as the events that transpired during the document review from November 8, 2008 through January 29, 2009. Those memoranda are attached to this declaration and incorporated as if fully set forth herein.
- 9 A process was put in place in order to ensure that evidence was not lost, misplaced or destroyed during the review process by defense counsel. Defense counsel were allowed to review one box at a time, and were allowed to handle the documents.
- 10 Despite this procedure, the defense team misplaced evidence. For example, the defense team reviewed a box of evidence and scanned documents contained within it. They then replaced the documents in the box and asked to review a different box of evidence.

4420755.1

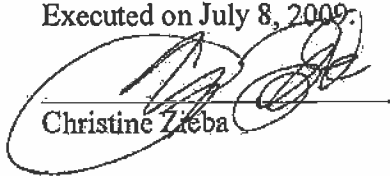


HAMD247568

Subsequent to the shelving of the original of the first box, it was discovered that the defense team had left a document on the scanner and had not returned it to the original box. The document was taken from one of the defense team and returned to the box from which it had been taken.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 8, 2009.


Christine Zieba

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/17/2008

SA Christine Zieba was informed by United States Department of Justice (DOJ) Tax Division Attorneys, Mark Daly and Lori Hendrickson that defense attorney's, representing defendants, in the captioned case needed to review specific items of evidence at some point during the week of November 10, 2008. Attorney Randall Andreozzi was to contact SA Zieba to set up a schedule, describe specifically what items of evidence needed to be reviewed, dates of arrival, length of time needed for review and other travel details.

By November 6, 2008, SA Zieba had not heard from the attorneys and sent an email to Randall P. Andreozzi, [REDACTED]

[REDACTED] which asked Andreozzi to facsimile a letter describing specifically what items of evidence needed to be reviewed, dates of arrival, length of time needed for review and other travel details. On November 7, 2008, Andreozzi responded via email to SA Zieba, "We will be arriving on Monday morning around 9:00 AM. We plan on spending Monday, Wednesday, Thursday and Friday at the office. We plan to go through the exhibit boxes with attorneys and forensic accountants. We anticipate 5-6 people." At this point SA Zieba contacted Hendrickson and SA Thomas Petri (former case agent) to ask for assistance to clarify Andreozzi's request, Hendrickson and Petri left Andreozzi a message for further clarification, neither received a return telephone call. SA Zieba also left Andreozzi a message on his voicemail and provided a cellular telephone number which he could call at anytime. No facsimile, letter or further details were provided by Andreozzi.

On Saturday, November 08, 2008, at approximately 9:30 AM, attorney Andreozzi, called SA Zieba's cellular telephone. Andreozzi explained that he had planned to come to St. Thomas to review all of the evidence in the captioned case. SA Zieba explained that she had expected to hear from him to confirm details and had never received a letter specifying the items that needed to be reviewed or the exact dates requested. SA Zieba told Andreozzi that since the defense had copied all of the evidence in the case that Andreozzi needed to supply a letter specifying the items that needed to be reviewed, in order to facilitate a quick review of the evidence. At this point Andreozzi stated that the defense did not

Investigation on 11/08/2008 at St. Thomas, VI (telephonically)

File # 315S-SJ-38281 Date dictated N/A

by SA Christine Zieba

315S-SJ-38281.

Continuation of FD-302 of Conversation with Randall Andreozzi, On 11/08/2008, Page 2

have copies of all of the evidence and that during the time that the defense had to copy all of the evidence that they chose not to copy every item. SA Zieba explained that she was not aware that this was the procedure the attorneys chose. SA Zieba had been informed that discovery in the matter was complete and that the defense had copies of all of the evidence. Both parties discussed ways to review the documents and to make sure the defense had everything that they needed. During the conversation Andreozzi stated that some of his experts were new. At this point SA Zieba suggested that Andreozzi postpone his trip until they were able to figure out which items they believed they needed to copy, in order to make the trip more productive, since new experts would not be able to resolve the issue without having already reviewed the voluminous evidence copies that the defense already had. SA Zieba also stated that if Andreozzi could not figure out what he was missing that he may need to recopy all of the evidence but Andreozzi said he did not think that was necessary, since he had copied a majority of the evidence.

SA Zieba further explained that the FBI would not be able to accommodate 5-6 people in the FBI JTTF office space in order to review evidence and that evidence would need to be reviewed item by item. Andreozzi expressed concern for such a procedure and explained that he had been able to review the evidence in a different manner prior to November 08, 2008. SA Zieba explained that based on the circumstances provided that an expert and an attorney would be allowed to review the evidence. Andreozzi again expressed concern for the protocol described and explained that he also needed someone to scan items. SA Zieba agreed that three people could come into the office space to review and copy evidence. Andreozzi explained that he would still bring the group out but he would stagger their visits at the office. SA Zieba asked Andreozzi to call Hendrickson and Petri to further discuss ideas for the most efficient protocol to finish copying the evidence on November 10, 2008. SA Zieba told Andreozzi that the procedure may be able to change on November, 12, 2008, since Petri and Hendrickson would be present. Andreozzi was reminded that, Tuesday, November 11, 2008, was a federal holiday, Andreozzi acknowledged that no review on Tuesday was expected. SA Zieba repeated that although the defense was entitled to all of the evidence if they chose not to copy it then their time reviewing items needed to be limited as FBI space was not the proper place to discuss evidence with his experts. SA Zieba reminded Andreozzi, that if he had all of the evidence copied he could consult with experts openly and in his own space. At this point, Andreozzi

HAMD247571

315S-SJ-38281

Continuation of FD-302 of Conversation with Randall Andreozzi, On 11/08/2008, Page 3

suggested that all of the evidence could be returned to the defendant and SA Zieba explained that would not be possible. Both parties ended the conversation and agreed to meet on Monday, November 10, 2008, at 9:00 AM in the FBI JTTF office in St. Thomas, United States Virgin Islands (VI).

HAMD247572

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/20/2008

On Monday, November 10, 2008, at approximately 10:15 AM, attorney, Randall P. Andreozzi,

Jose Ismael Marrero,

Tracy L. Marien,

Howard B. Epstein,

Theresa Lillian Robert Mains,

Ronald Eugene Wise,

arrived at the FBI JTTF office in St. Thomas.

SA Christine Zieba allowed Andreozzi into the office and asked the other individuals to remain in the lobby area. SA Zieba reminded Andreozzi that they had agreed that only three people would be reviewing evidence and they could only review one box of evidence at a time. Andreozzi was upset with the reviewing procedure described. SA Zieba asked if Andreozzi had called SA Thomas Petri or DOJ Tax Division attorney Lori Hendrickson to discuss an alternative procedures as SA Zieba had suggested, Andreozzi said he had not. SA Zieba further explained that the schedule would be 9:00 AM until 11:00 AM and 1:00 PM until 5:00 PM. At this point Andreozzi went to the lobby area and decided since it was already 10:45AM that his group would just return after lunch at 1:00PM.

At approximately 12:30 PM, Andreozzi called and stated the he decided that he was not going to return to review evidence, he did not want to "put SA Zieba on the spot" and that he would straighten things out on Wednesday when Hendrickson arrived. SA Zieba explained that there was no problem and he could come to review the evidence as described, however, Andreozzi decided not to return. SA Zieba explained that she would accommodate Andreozzi by staying later on Wednesday, Thursday or Friday, if requested in advance, in order to account for hours missed on Monday. SA Zieba further explained that Andreozzi should contact Hendrickson or Petri to discuss alternative evidence reviewing procedures, so as

Investigation on 11/10/2008 at St. Thomas, VI

315S-SJ-38281

N/A

File #

Date dictated

by SA Christine Zieba

Continuation of FD-302 of Evidence Review, 11/10/2008 . On 11/10/2008 , Page 2

to not delay his review of the evidence on November 12, 2008. SA Zieba also explained that since more people would be present on Monday, more evidence may be accessible and more people may be allowed in the FBI JTTF office to review evidence. Both parties ended the conversation and agreed to meet on Wednesday, November 12, 2008, at 9:00 AM, in the FBI JTTF office in St. Thomas, United States Virgin Islands (VI).

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/20/2008

On Wednesday, November 12, 2008, at approximately 9:00 AM, attorney, Randall P. Andreozzi, Attorney,

Jose Ismael Marrero,

Tracy L. Marien,

Howard B. Epstein,

Eugene Berkeley Benton,

Theresa Lillian Robert Mains,

Ronald Eugene Wise,

arrived at the FBI JTTF office in St. Thomas, VI. Andreozzi spoke with DOJ Tax Division attorney Lori Hendrickson. At approximately 10:20 AM the individuals listed above began to review evidence. Boxes of evidence were pulled in random order since the defense attorneys had never provided a specific list of which items needed to be reviewed. The scanner that Andreozzi brought was damaged on the airplane and could not scan items, Andreozzi asked to put aside certain items to scan later, this request was accommodated and certain items were put aside. At approximately 11:45 AM the individuals took a lunch break, and agreed to return at 1:15 PM.

The individuals returned at approximately 1:30PM, with a new scanner. At one point, Andreozzi specifically asked for five items to review, SA Zieba tried to accommodate but since SA Zieba was the sole person pulling and monitoring evidence. SA Zieba explained to Andreozzi that unless provided with a list ahead of time, as requested, random boxes would be pulled. SA Zieba reminded Andreozzi that he had requested to see all items in evidence and decided not to provide a list ahead of time. Andreozzi also specifically requested that SA Thomas Petri (FBI), SA Javier Bell (IRS) and Hendrickson not assist in evidence review.

Investigation on 11/12/2008 at St. Thomas, VI

File # 315N-SJ-38281

Date dictated _____

by SA Christine Zieba

315N-SJ-38281

Continuation of FD-302 of Evidence Review, On 11/12/2008, Page 2

Several times during the review Andreozzi asked questions on the way evidence was being provided. SA Zieba explained that the items were being randomly pulled based on his request to review all of the evidence and agreements made with Hendrickson. At one point Andreozzi asked if items have been moved by SA Zieba, SA Zieba explained that she had moved boxes around. Andreozzi also asked if SA Zieba could provide him with specific evidence and SA Zieba explained that if he requested evidence ahead of time that it could be reviewed. SA Zieba explained that this was the procedure that was anticipated until SA Zieba was told on November 8, 2008 that the defense planned to review all of the evidence. On another occasion Andreozzi became upset that Petri and Bell were in the evidence room.

Both parties agreed to meet on Thursday, November 13, 2008, at 9:00 AM, in the FBI JTTF office in St. Thomas, United States Virgin Islands (VI).

HAMD247576

-1-

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/24/2008

On Thursday, November 13, 2008, at approximately 9:25 AM, attorney, Randall P. Andreozzi, Attorney, [REDACTED]

[REDACTED] Jose Ismael Marrero,

[REDACTED] Howard B. Epstein,

[REDACTED] Ronald J. Soluri,

[REDACTED] arrived at the FBI JTF office in St. Thomas, VI to review evidence. Andreozzi asked to break at 12:30 PM instead of 11:00AM and wanted to come back at 2:00PM, this request was accomodated.

At approximately 2:40 PM, Marrero, Epstein, Theresa Lillian Robert Mains, [REDACTED]

[REDACTED] and Ronald Eugene Wise,

[REDACTED] returned to the office to continue reviewing evidence. The individuals requested to return at 10:00AM, Friday, November 14, 2008.

Investigation on 11/13/2008 at St Thomas, VI

File # 315S-SJ-38281

Date dictated N/A

by SA Christine Zieba

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/24/2008

On Friday, November 14, 2008, at approximately 10:30 AM,
Jose Ismael Marrero, [REDACTED]

[REDACTED]
Epstein, [REDACTED]

[REDACTED] Howard B.

(note: Epstein arrived at 10:00 AM and waited for the others to
arrive), Theresa Lillian Robert Mains, [REDACTED]

[REDACTED] Ronald Eugene Wise, [REDACTED]

[REDACTED] arrived
at the FBI JTTF office in St. Thomas, VI, to review and copy
evidence.

At 11:30 AM the individuals took a lunch break and agreed
to inform what time they were returning since they were not sure
who would be able to come. Randall P. Andreozzi, [REDACTED]

[REDACTED] Marrero, Mains and Wise
returned at 2:30 PM, without calling. An addition person was
present to scan however, the scanner was not utilized.

Investigation on 11/14/2008 at St. Thomas, VI

File # 315S-SJ-38281

Date dictated N/A

by SA Christine Zieba

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/02/2009

On Monday, January 26, 2009, at approximately 9:20 AM, attorney, Randall P. Andreozzi,

Jose Ismael Marrero,

Howard B. Epstein,

and Ronald Eugene Wise,

arrived at the FBI JTTF office in St. Thomas.

FBI SA Christine Zieba, SA Thomas Petri and IRS SA Javier Bell were present at various times during the day.

Andreozzi immediately questioned why Petri and Bell were present. SA Petri responded that both were involved in the investigation and trial preparation of the case. SA Petri further stated that himself and SA Bell will likely be associated with the case through trial.

Andreozzi stated that he was going outside to call the other attorneys. Andreozzi stated that he was unable to get a hold of the other attorneys and eventually began reviewing evidence.

SA Zieba asked the individuals where they wanted to start, SA Zieba was told that they left off at box 254.

Individuals left at approximately 12:00 PM and agreed to return at 1:30 PM. At approximately 1:45 PM, the individuals returned.

SA Petri also explained that they could see any piece of evidence if they asked for it and he also asked if they started reviewing evidence where they had left off the last time.

Andreozzi left at approximately 4:00 PM and the other individuals left at approximately 5:00 PM. The individuals agreed to meet at 9:00 AM on Tuesday, January 27, 2009.

Investigation on 01/26/2009 at St. Thomas, VI

File # 315S-SJ-38281

Date dictated N/A

by SA Christine Zieba:cz

315S-SJ-38281

Continuation of FD-302 of Evidence Review, On 01/26/2009, Page 2

Agent note: The individuals were scheduled to review evidence from January 26th-January 29th. Agents had agreed to stay after normal business hours if requested in advance, the individuals never requested to stay later than 5:30 PM. Individuals did not have a scanner or copier machine.

HAMD247580

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/02/2009

On Tuesday, January 27, 2009, at approximately 9:15 AM, attorney, Randall P. Andreozzi,

Jose Ismael Marrero,

Howard B. Epstein,

and Ronald Eugene Wise,

arrived at the FBI JTTF office in St. Thomas.

FBI SA Christine Zieba, SA Thomas Petri and IRS SA Javier Bell were present at various times during the day. The individuals continued reviewing evidence.

At one point during their review of documents, Epstein commented that "this is too much to write down," he then ignored a number of the documents and continued to another box. There were numerous occasions during the review that individuals were observed going through boxes and "red wells" at a rate they were obviously not able to identify the documents being reviewed. At one point, SA Petri commented to the individuals, specifically Epstein regarding the teams ability to actually inventory and review, Epstein simply smiled and continued.

Individuals left at approximately 11:40 PM. At approximately 1:15 PM, the individuals returned.

Individuals continued reviewing evidence. During their review SA Zieba was asked what the last box number was and about how many boxes from the number they were on until the last box number. At this point Andreozzi stated that they wanted to look at additional items after they finished. SA Zieba and Petri explained that they were told Andreozzi was only reviewing boxes of evidence collected from the search warrants. SA Zieba then asked Andreozzi to come up with a list of any additional items that they planned on reviewing.

Investigation on 01/27/2009 at St. Thomas, VI

File # 315S-SJ-38281

Date dictated N/A

by SA Christine Zieba:cz

315S-SJ-38281

Continuation of FD-302 of Evidence Review, On 01/27/2009, Page 2

The individuals list of documents that they wanted to review prior to their departure, included:

1. All documents secured from Jordan entities
2. All documents secured from St. Martin entities.
3. All documents secured from CPA or tax preparer.
4. All other documents secured through Grand Jury or government subpoena.
5. All documents secured from third parties through contacts or communications other than subpoena.
6. CTR and SAR Reports.
7. Report of analysis of seized computers.

SA Petri again asked if the defense was comfortable that they reviewed all of the search warrant evidence and reminded them that he thought they may have missed boxes.

The individuals agreed to meet at 9:00 AM on Wednesday, January 28, 2009. Individuals left at approximately 5:00 PM.

Agent note: The individuals were scheduled to review evidence from January 26th-January 29th. Agents had agreed to stay after normal business hours if requested in advance, the individuals never requested to stay later than 5:30 PM. Individuals did not have a scanner or copier machine.

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/02/2009

On Wednesday, January 28, 2009, at approximately 9:15 AM, attorney, Randall P. Andreozzi,

Jose Ismael Marrero,

Howard B. Epstein,

Ronald Eugene Wise,

arrived at the FBI JTTF office in St. Thomas.

FBI SA Christine Zieba and IRS SA Javier Bell were present at various times during the day.

After the individuals arrived they spent approximately 30 minutes reviewing lists and going through their computers before they addressed reviewing evidence and started their review.

In response to their list, CPA/tax preparer evidence was brought for the defense to review.

The individuals also asked to go back and review additional search warrant locations items that they missed, because they had trouble figuring out where they left off from their lists.

Individuals left at approximately 11:30 PM. At approximately 1:30 PM, the individuals returned.

The individuals later began reviewing foreign records, during their review Andreozzi told SA Bell that he needed to copy a document for the defense immediately and that he was not leaving without it. SA Zieba and SA Bell explained that they would not be making any copies for the individuals and reminded them that they were free to bring a scanner/printer along with them but chose not to.

At that point Andreozzi demanded that DOJ Tax Division Attorney Lori Hendrickson be called. Agents assisted Andreozzi in

Investigation on 01/28/2009 at St. Thomas, VI

File # 315S-SJ-38281

Date dictated N/A

by SA Christine Zieba:cZ

315S-SJ-38281

Continuation of FD-302 of Evidence Review , On 01/28/2009 , Page 2

contacting Hendrickson to resolve that issue and the other questions asked during the day.

During the review Andreozzi asked if the records had been translated, SA Zieba told Andreozzi that he should speak to DOJ Tax Attorney Lori Hendrickson if he had questions. On another occasion Andreozzi asked if certain markings on the documents were from the bank or the government, again SA Zieba asked Andreozzi to direct all questions to Hendrickson. Andreozzi wanted to get in contact with Hendrickson, who was on leave and SA Zieba asked that he get several question together before disturbing Hendrickson.

Individuals later specifically requested copies of various documents, including:

100 page Banking Commission Report
12 page document dated May 14, 2003
Bank records in the name of Sami Al-Yousef

The individuals agreed to meet at 9:00 AM on Thursday, January 29, 2009. Epstein left at approximately 4:30 PM and the other individuals left at approximately 4:45 PM.

Agent note: The individuals were scheduled to review evidence from January 26th-January 29th. Agents had agreed to stay after normal business hours if requested in advance, the individuals never requested to stay later than 5:30 PM. Individuals did not have a scanner or copier machine.

HAMD247584

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/02/2009

On Thursday, January 29, 2009, at approximately 10:40 AM,
attorney, Randall P. Andreozzi,

Jose Ismael Marrero,

Howard B. Epstein,

and Ronald Eugene Wise

At approximately 10:15 AM SA Bell arrived at the JTTF office and stated that he ran into the individuals at the Marriott Hotel around 9:25 AM and that they told him they would see him later at the JTTF office. SA Zieba was about to leave the office after waiting all morning, when the individuals finally arrived at approximately 10:40 AM. Andreozzi had SA Zieba's contact telephone number and cellular telephone number. SA Zieba never received any calls, messages or emails from Andreozzi.

Andreozzi explained that he was to get copies of all of the foreign bank records. SA Zieba explained that Hendrickson had said that they could review the documents but the FBI was not photocopying materials for the individuals. Andreozzi immediately demanded to speak to Lori Hendrickson, and SA Zieba said that she was still on leave and could be contacted later after Andreozzi put all of his questions together. Andreozzi again demanded that Hendrickson be called or an emergency motion needed to be filed, SA Zieba explained that since the individuals wanted to continue reviewing evidence that he could call her later when he had all of his questions together, rather than repeatedly calling Hendrickson while on her leave. At this point Andreozzi explained that someone else (not reviewing evidence) would be drafting an emergency motion, SA Zieba explained that she misunderstood Andreozzi about the urgency of his request since he was staying to review evidence and then got Andreozzi in contact with Hendrickson. Andreozzi insisted that the FBI should copy several documents for Andreozzi and that it would only take a few minutes to copy the documents. After both parties spoke to Hendrickson, SA Zieba reiterated that

Investigation on 01/29/2009 at St. Thomas, VI

File # 315S-SJ-38281

Date dictated N/A

by SA Christine Zieba:cz

315S-SJ-38281

Continuation of FD-302 of Evidence Review, On 01/29/2009, Page 2

the individuals could review any of the documents but the FBI would not be copying the documents for Andreozzi at that time.

The other individuals then explained that they had given the wrong number that they wanted to start reviewing on Monday and that they now wanted to go back and review additional search warrant location evidence. At this point they asked to start with box 185 and go up to 254, SA Zieba reminded them that they should look at where they left off on November 14, 2008. The individuals went back to their lists and at 11:20 AM they asked to see evidence that was in boxes 136-142, then asked for 145, SA Zieba repeated the suggestion that they start where they left off on November 14, 2008 and go up to 254, they repeated that after 136-142 that they wanted 145-184. SA Zieba asked if they were certain that those were the numbers that they wanted to review and they confirmed that those were the numbers they wanted to review. During the time they were trying to determine a start location the individuals referred to several different lists. The individuals also brought a list which they later took back that had several additional numbers on it.

At 11:50 AM, SA Zieba asked if they wanted to see the foreign documents again and they declined.

The individuals left at approximately 12:00 PM. At approximately 1:30PM, Andreozzi, Marrero, Epstein, Wise and Alice Andreozzi, [REDACTED] arrived at the FBI JTTF office in St. Thomas. The individuals brought a scanner/copier.

SA Zieba pulled some evidence for the individuals, as they requested. The individuals continued reviewing evidence while setting up the printer. At approximately 2:15 PM, Andreozzi asked SA Zieba to get the foreign records out to copy. SA Zieba started to collect the evidence that was being reviewed, Andreozzi then insisted that the different evidence be copied and reviewed at the same time. SA Zieba explained that they could either copy one set or review the other set. Andreozzi chose to copy the foreign records, but demanded to speak to Hendrickson again (who was out of the office on leave). SA Zieba explained that he could call Hendrickson any time he wanted, but SA Zieba was not going to disturb Hendrickson again. Andreozzi also told SA Zieba that she could use SA Bell's assistance so they could pull multiple items. During this time SA Bell was in an office on a conference telephone

HAMD247586

315S-SJ-38281

Continuation of FD-302 of Evidence Review, On 01/29/2009, Page 3

call. At 2:25 PM they began photocopying the foreign records. The items that the individuals were copying were the same items that Andreozzi told Hendrickson would take Agents three minutes to copy for him. The individuals copied and scanned the records until they departed.

The individuals scanned/copied the 100 page Banking Commission Report, 12 page document date May 14, 2003 (these documents were requested on January 28, 2009 to be copied) and additional documents. They did not scan/copy the bank records in the name Sami Al-Yousef.

Epstein departed at approximately 3:00 PM. The other individuals departed at approximately 5:40 PM.

Agent note: The individuals were scheduled to review evidence from January 26th-January 29th. Agents had agreed to stay after normal business hours if requested in advance, the individuals never requested in advance to stay later than 5:30 PM.

HAMD247587