

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

YUSUF YUSUF, derivatively on behalf of)		
Plessen Enterprises, Inc.,)		Case No. SX-13-CV-120
)		
Plaintiff,)		Civil Action for Damages
)		and Injunctive Relief
v.)		
)		JURY TRIAL DEMANDED
WALEED HAMED, WAHEED HAMED,)		
MUFEED HAMED, HISHAM HAMED,)		
and FIVE-H HOLDINGS, INC.,)		
)		
Defendants,)		
)		
and)		
)		
PLESSEN ENTERPRISES, INC.,)		
)		
_____)		
Nominal Defendant.)		

**DEFENDANT MUFEED HAMED'S
SECOND SET OF REQUESTS FOR ADMISSIONS**

Defendant Mufeed Hamed, by counsel, pursuant to Rule 36 of the Federal Rules of Civil Procedure, propounds this Second Set of Requests for Admissions to the Plaintiff, Yusuf Yusuf.

All terms, meanings and instructions from the first set are repeated and included here.

Numbering continues from the first set of Requests to Admit.

REQUESTS

86. After reviewing 13 V.I.C. § 69 Officers; selection, term, duties which states, in relevant part,

- (a) Every corporation organized under this chapter shall have a president, secretary and treasurer, who shall be chosen by the directors. The president shall be chosen from among the directors. **The secretary shall record all the proceedings of the meetings of the corporation and directors in a book to be kept for that purpose,** and perform such other duties that shall be assigned to him. The treasurer may be required to give bond in such sum and with such

surety or sureties as shall be provided by the bylaws for the faithful discharge of his duty.

ADMIT or **DENY** that Fathi Yusuf has been, since its inception, the Secretary of Plessen.

87. ADMIT or **DENY** that Fathi Yusuf had in his possession at one time a “record all the proceedings of the meetings of the Plessen corporation and directors in a book to be kept for that purpose”.

88. ADMIT or **DENY** that at the present time “Fathi Yusuf has in his possession a “record all the proceedings of the meetings of the Plessen corporation and directors in a book to be kept for that purpose”.

89. ADMIT or **DENY** that Fathi Yusuf had in his possession a “record all the proceedings of the meetings of the Plessen corporation and directors in a book to be kept for that purpose” in 2001.

90. ADMIT or **DENY** that Fathi Yusuf had in his possession a “record all the proceedings of the meetings of the Plessen corporation and directors in a book to be kept for that purpose” in 2003.

91. ADMIT or **DENY** that Fathi Yusuf had in his possession a “record all the proceedings of the meetings of the Plessen corporation and directors in a book to be kept for that purpose” in 2007.

92. ADMIT or **DENY** that Fathi Yusuf had in his possession a “record all the proceedings of the meetings of the Plessen corporation and directors in a book to be kept for that purpose” in 2010.

93. ADMIT or **DENY** that Fathi Yusuf had in his possession a “record all the proceedings of the meetings of the Plessen corporation and directors in a book to be kept for that purpose” in 2012.

94. After Reviewing 13 V.I.C. § 73, Duty to maintain business and stock records, which states in relevant part:

Every corporation formed under this chapter shall maintain
(1) correct books of account of its business transactions; and
(2) **a stock ledger in the form prescribed in section 189 of this title, which ledger shall be kept in the principal office of the corporation** in the United States Virgin Islands and which shall be open daily to any stockholder for inspection at reasonable times.

ADMIT or **DENY** that Fathi Yusuf had in his possession at one time a stock ledger for Plessen.

95. ADMIT or DENY that at the present time “Fathi Yusuf has in his possession a stock ledger.

96. ADMIT or DENY that Fathi Yusuf had in his possession a stock ledger in 2001.

97. ADMIT or DENY that Fathi Yusuf had in his possession a stock ledger in 2003.

98. ADMIT or DENY that Fathi Yusuf had in his possession a stock ledger in 2007.

99. ADMIT or DENY that Fathi Yusuf had in his possession a stock ledger in 2010.

100. ADMIT or DENY that Fathi Yusuf had in his possession a stock ledger in 2013.

101. After reviewing 13 V.I.C. § 191, Election of directors; manner, time, place and notice, which states in relevant part,

All elections of directors shall be by ballot, unless otherwise provided in the articles of incorporation. The first meeting for the election of directors, at which meeting any business may be transacted, shall be held at any place either within or without the United States Virgin Islands fixed by a majority of the incorporators in a writing signed by them, and thereafter **meetings of the stockholders shall be held annually for the election of directors and the transaction of any other business at the time and place within or without the United States Virgin Islands** named in the bylaws

ADMIT or DENY that Fathi Yusuf, in his capacity as Secretary, has never sent a notice of an annual meeting of the shareholders of Plessen.

102. ADMIT or DENY that Fathi Yusuf, in any capacity other than as Secretary of Plessen, has never sent a notice of an annual meeting of the shareholders of Plessen.

103. ADMIT or DENY that Fathi Yusuf, has in his possession any past notice of an annual meeting of the shareholders of Plessen that he sent or had sent.

104. ADMIT or DENY that Fathi Yusuf, in his capacity as Secretary, has never sent a notice of an annual meeting of the directors of Plessen.

105. ADMIT or DENY that Fathi Yusuf, in any capacity other than as Secretary of Plessen, has never sent a notice of an annual meeting of the directors of Plessen.

106. ADMIT or DENY that Fathi Yusuf, has in his possession any notice of an annual meeting of the directors of Plessen that he sent or had sent.

107. After reviewing 13 V.I.C. § 195 Equally divided vote; receivership, which states in relevant part:

Whenever, by reason of an equally divided vote of the stockholders, there shall be a failure to elect directors, and such failure for such reason shall exist at two successive annual elections

ADMIT or **DENY** there has never been “an equally divided vote of the stockholders” of Plessen.

108. ADMIT or **DENY** that “by reason of an equally divided vote of the stockholders” the has never been “a failure to elect directors” at a shareholder meeting.

109. ADMIT or **DENY** that “a failure to elect directors” at “two successive annual elections” at Plessen shareholder meeting has never occurred.

110. After reviewing 13 V.I.C. § 196 Consent of stockholders in lieu of meeting, which states in relevant part,

Whenever the vote of stockholders at a meeting thereof is required or permitted to be taken in connection with any corporate action, by any section of this chapter, the meeting and vote of stockholders may be dispensed with, if all of the stockholders who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such corporate action being taken. Nothing herein contained shall be construed to alter or modify the provisions of section 281 of this chapter. In the event that the action which is consented to is such as would have required the filing of a certificate under any of the other sections of this chapter, if such action had been voted upon by the stockholders at a meeting thereof, the certificate filed under such other section shall state that written consent has been given hereunder, in lieu of stating that the stockholders have voted upon the corporate action in question, if such last mentioned statement is required thereby.

ADMIT or **DENY** that prior to January 1, 2012 there were actions taken by the Plessen directors by written consent.

111. ADMIT or **DENY** in 2015 there were actions taken by the Plessen directors by written consent.

112. ADMIT or **DENY** in 2016 there were actions taken by the Plessen directors by written consent.

113. ADMIT or **DENY** that at all times until his death in 2016, Mohammad Hamed was the President of Plessen.

114 After referring to page 6 of the By-Laws of Plessen, paragraph 3.2 (shown below:

them.

Section 3.2. Powers and Duties of the President. The President shall be the Chief Executive Officer of the Corporation and shall have general charge and control of all its business affairs and properties. The President shall preside at all meetings of the Stockholders. The President may be a member of the Board of Directors and, if a member, shall preside at all meetings of the Board of Directors unless the Board of Directors, by a majority vote of a quorum of the Board, elects a Chairman other than the President to preside at meetings of the Board of Directors. The President may sign and execute all authorized bonds, contracts, or other obligations in the name of the Corporation. The President shall have the general powers and duties of supervision and management usually vested in the office of president and of corporation. The President shall be an ex-officio voting member of all standing committees. The President shall perform such other duties as from time to time are assigned to the President by the Board of Directors.

115. ADMIT or DENY that with regard to Plessen, during 2013, Mohammad Hamed was the “chief executive officer” of Plessen.

116. ADMIT or DENY that with regard to Plessen, during 2013, Mohammad Hamed had “the general powers and duties of supervision and management usually vested in the office of president” of a corporation with regard to Plessen.

117. ADMIT or DENY that with regard to Plessen, Mohammad Hamed had the authority to direct the Vice-President to remove funds from a corporation account that was subject to theft by other directors or shareholders.

118. ADMIT or DENY that at all times until the present, Waleed Hamed has been the Vice-President of Plessen.

119. After referring to page 6 of the By-Laws of Plessen, paragraph 3.3 (shown below:

Section 3.3 Powers and Duties of the Vice President. The Board of Directors may appoint one or more Vice Presidents. Each Vice President (except as otherwise provided by resolution of the Board of Directors) shall have the power to sign and execute all authorized bonds, contracts, or other obligations in the name of the Corporation. Each Vice President shall have such other powers and shall perform such other duties as from time are assigned to that Vice President by the Board of Directors or by the President. In case of the absence or disability of the President, the duties of that office shall be performed by a Vice President; the taking of any action by any Vice President in place of the President shall be conclusive evidence of the absence or disability of the President.

ADMIT or **DENY** that in 2013, with regard to Plessen, Waleed Hamed had the power to “sign and execute all authorized bonds, contracts, or other obligations in the name of the corporation.”

120. ADMIT or **DENY** in 2013 Waleed Hamed had “such other powers and [could] perform such other duties as from time to time [were] assigned [to him]. . .by the President.

121. ADMIT or **DENY** in 2013, if Mohammad Hamed was absent or disabled, Waleed Hamed had the power to perform “the duties of” the office of President.

122. ADMIT or **DENY** that Yusuf Yusuf does not have any written consent, or written resolutions or minutes of any meeting, making Mike Yusuf a director of Plessen.

123. ADMIT or **DENY** that Mike Yusuf does not have any written consent or written resolutions or minutes of any meeting, making Mike Yusuf a director of Plessen.

124. ADMIT or **DENY** that Fathi Yusuf does not have any written consent, or written resolutions or minutes of any meeting, making Mike Yusuf a director of Plessen.

125. ADMIT or **DENY** that Yusuf Yusuf does not know of any written consent, or minutes of any meeting, in the possession of any third person or entity, making Mike Yusuf a director of Plessen.

126. ADMIT or **DENY** that Mike Yusuf does not know of any written consent, or minutes of any meeting, in the possession of any third person or entity, making Mike Yusuf a director of Plessen.

127. ADMIT or **DENY** that Fathi Yusuf does not know of any written consent, or minutes of any meeting, in the possession of any third person or entity, making Mike Yusuf a director of Plessen.

128. ADMIT or **DENY** that Yusuf Yusuf has had written or verbal communications, including but not limited to emails and telephone conversation, with any vendor or supplier of grocery products or association of grocery vendors regarding criminal charges being brought against Waleed of Mafi Hamed regarding the embezzlement of Plessen funds at issue in this action.

129. ADMIT or **DENY** that Mike Yusuf has had written or verbal communications, including but not limited to emails and telephone conversation, with any vendor or supplier of grocery products or association of grocery vendors regarding criminal charges being brought against Waleed of Mafi Hamed regarding the embezzlement of Plessen funds at issue in this action.

130. ADMIT or **DENY** that Fathi Yusuf has had written or verbal communications, including but not limited to emails and telephone conversation, with any vendor or supplier

of grocery products or association of grocery vendors regarding criminal charges being brought against Waleed of Mafi Hamed regarding the embezzlement of Plessen funds at issue in this action.

131. ADMIT or DENY that Yusuf Yusuf forwarded a copy of a Daily News article to any vendor or supplier of grocery products or association of grocery vendors regarding criminal charges being brought against Waleed of Mafi Hamed regarding the embezzlement of Plessen funds at issue in this action.

132. ADMIT or DENY that Mike Yusuf forwarded a copy of a Daily News article to any vendor or supplier of grocery products or association of grocery vendors regarding criminal charges being brought against Waleed of Mafi Hamed regarding the embezzlement of Plessen funds at issue in this action.

133. ADMIT or DENY that Fathi Yusuf forwarded a copy of a Daily News article to any vendor or supplier of grocery products or association of grocery vendors regarding criminal charges being brought against Waleed of Mafi Hamed regarding the embezzlement of Plessen funds at issue in this action.

134. ADMIT or DENY that Nizar DeWood's conversations and written communications on behalf of Plaintiff with members of the VIPD are not privileged.

135. ADMIT or DENY that Plaintiff claims Nizar DeWood's conversations and written communications on behalf of Plaintiff with members of the VIPD are privileged.

136. ADMIT or DENY that Nizar DeWood's conversations and written communications on behalf of Plaintiff with employees of Scotiabank are not privileged.

137. ADMIT or DENY that Plaintiff claims Nizar DeWood's conversations and written communications on behalf of Plaintiff with employees of Scotiabank are privileged.

Respectfully submitted,

HAMMECKARD, LLP

Dated: January 13, 2017

By: 

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Mufeed Hamed, Hisham Hamed and Five-H
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CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2017, I served a copy of the foregoing by email, as agreed by the parties, on:

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