

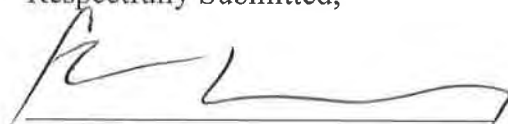
**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

<p>WALEED HAMED and KAC357, INC.</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>BANK OF NOVA SCOTIA, d/b/a SCOTIABANK, FAITH YUSUF, MAHER YUSUF, YUSUF YUSUF and UNITED CORPORATION,</p> <p style="text-align: center;">Defendants.</p>	<p>CIVIL NO. SX-16-CV-429</p> <p style="text-align: center;">ACTION FOR DAMAGES</p> <p style="text-align: center;"><u>JURY TRIAL DEMANDED</u></p>
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**DEFENDANT BANK OF NOVA SCOTIA'S MOTION TO FILE IN EXCESS OF 20
PAGES**

COMES now Defendant Bank of Nova Scotia (BNS), by and through its undersigned counsel, Nichols, Newman, Logan and Grey, P.C., Charles E. Lockwood, Esq., and requests permission to file its Motion to Dismiss and Motion to Strike Plaintiff's First Amended Complaint, said Motion being 24 pages in length, inclusive of its Certificate of Service. Said Motion is based on the fact that BNS' Motion to Dismiss and Motion to Strike required the development of diverse and substantial facts and multiple legal theories, necessitating considerable discussion. BNS knows of no reason the Plaintiffs would be prejudiced thereby.

Respectfully Submitted,



Charles E. Lockwood, Esq.
Nichols Newman Logan & Grey, P.C.
Attorneys for Bank of Nova Scotia
1131 King Street, Ste. 204
Christiansted, VI 00820

Dated: March 6, 2017

CERTIFICATE OF SERVICE

I **HEREBY** certify that on March 6, 2017, I caused a true and correct copy of the foregoing **DEFENDANT, BANK OF NOVA SCOTIA'S MOTION TO FILE IN EXCESS OF 20 PAGES** to be served by:

Via Hand-Delivery


Joel Holt, Esq.
Counsel for Plaintiffs
2132 Company Street, Suite 2
Christiansted, VI 00820

Via Hand-Delivery

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

u.s. mail, prepaid postage:

Gregory H. Hodges, Esq.
Dudley, Topper and Feuerzeig, LLP
P. O. Box 756
St. Thomas, VI 00804



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ORDER

THIS MATTER comes before the Court on Defendant, Bank of Nova Scotia's Motion to File in Excess of 20 Pages. The Court having reviewed the pleadings and being advised of the premises, it is hereby

ORDERED that Defendant, Bank of Nova Scotia's Motion to File in Excess of 20 Pages is hereby **GRANTED**.

SO ORDERED on this ____ day of _____, 2017.

JUDGE OF THE SUPERIOR COURT

AT T E S T:
ESTRELLA GEORGE
Acting Clerk of the Court

By: _____
Deputy Clerk

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
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**DEFENDANT BANK OF NOVA SCOTIA'S MOTION TO DISMISS AND MOTION TO
STRIKE PLAINTIFF'S FIRST AMENDED COMPLAINT**

COMES NOW the Defendant, BANK OF NOVA SCOTIA (BNS) by and through its undersigned attorneys, Nichols, Newman, Logan, Grey & Lockwood, P.C., Charles E. Lockwood, Esq. and moves to dismiss the Plaintiff's¹ First Amended Complaint in this matter and to strike the Plaintiff's demands for a jury trial and consequential & punitive damages. In support of its Motion, BNS states as follows:

FACTS AND PROCEDURAL HISTORY

1. The Plaintiff, an officer and stockholder of Plessen Enterprises, Inc. (Plessen), applied to BNS to be a check signer on the account of Plessen at BNS which ends - 012, and Plaintiff did, in fact, become a check signer for Plessen prior to 2013. (First Amended Complaint at 32.)

¹ The sole count against BNS in this matter is for negligence, alleging liability to Plaintiff Waleed Hamed only. Therefore, unless otherwise specifically noted, all references to "Plaintiff" herein, are to Plaintiff Waleed Hamed.

2. Plessen is owned jointly by various members of the Yusuf and Hamed families. (First Amended Complaint at 10.) Consequently, Plessen's accounts list various members of both families, who are also officers and/or representatives of Plessen, as check signers on Plessen's account ending -012. (See, IGF dated 4-5-10, attached hereto as Exhibit A.)
3. When he applied to be a check signer for Plessen, the Plaintiff agreed to the following provision, contained in BNS's "Information Gathering Form – Account For A Private Corporate Entity" (IGF):

Disclosure of information:

While the Bank is committed to protect the privacy and security of the information provided, it may be necessary to disclose information:

- In response to credit enquiries from qualified legal financial institutions (usually with respect to the customer's application at said financial institution);
- If the Bank in its discretion reasonably deems such disclosure necessary or desirable in furtherance of the customer's business;
- Pursuant to legal process or subpoena served on the bank, and If disclosure is reasonably necessary to protect the Bank's interests (the bank will usually notify the customer where permissible under the applicable legal process)

The Customer hereby consents to and authorizes such disclosure, and the Bank shall not become liable by reason of the giving of any such information or of its being inaccurate or incomplete.

(See, IGF dated 4-5-10, *emphasis added*, attached hereto as Exhibit A; see also, IGF, undated, attached hereto as Exhibit B.)

4. During the life of Plessen's account ending -012², the Plaintiff repeatedly agreed to the same provisions in successive IGF's. (*See e.g.*, IGF, undated, attached hereto as Exhibit B.)
5. The Plaintiff also agreed to the same provision regarding *all accounts* he maintained/was associated-with at BNS in his Agreement RE Operation Of Account (also referred to herein as the Account Agreement) when he opened a joint account with his brother, Mufeed Hamed. (*See*, Agreement RE Operation Of Account dated July 13, 1999, attached hereto as Exhibit C.) That account ended number -811. Plaintiff signed an identical Agreement for the Plessen account ending -012. (*See*, Agreement RE Operation Of Account dated October 27, 2005, attached hereto as Exhibit D.) The Account Agreements provided for the same waiver of liability for BNS's dissemination of account information as the IGF, and contained a waiver of jury trial³, consequential & punitive damages, all of which are applicable to all accounts held-by or associated-with the Plaintiff at BNS. (*Id.*)
6. Prior to March, 2013, members of the Yusuf and Hamed families became embroiled in a dispute⁴ regarding the movement of funds in the bank accounts involved with the operation of their Plaza supermarkets. (Original Complaint at 16-20; *see also*, Affidavit of Bakir Hussein, attached hereto as Exhibit E.) The Plaza supermarkets and the real estate they occupy are controlled and handled by the intertwined United and Plessen entities.

² Which has now been closed.

³ All set forth below.

⁴ In fact, several related disputes exist and are ongoing between the 2 factions in the VI Superior Court.

7. As a result of said disputes, Plaintiff and his brother removed \$460,000.00 from the Plessen account ending -012 by writing a check to Plaintiff, which Plaintiff then deposited in his personal account ending -811. Consequently, members of the Yusuf family made a police report of embezzlement and/or theft against Plaintiff and Mufeed Hamed to the Virgin Islands Police Department (VIPD). Among others, Detective Mark Corneiro investigated the Yusufs' report. (Original Complaint at 26.) The Yusufs told Det. Corneiro that Plaintiff and his brother had removed \$460,000.00 from the Plessen account ending -012 and placed it into their personal BNS account ending -811. (First Amended Complaint at 74; *see also*, Plaintiff's Original Complaint Exhibit 3⁵; *see also*, Det. Corneiro's Report and Statement Of Maher Yusuf, attached hereto as Exhibit F.)
8. During his investigation of the Yusufs' report, Det. Corneiro made inquiries to BNS and others regarding the documents related to the relevant BNS accounts and subpoenaed documents from those accounts from BNS. (Plaintiff's Original Complaint at 26 and Exhibit 3.) Specifically, the Atty. General issued a subpoena duces tecum (SDT) to BNS on May 20, 2013, returnable by June 4, 2013, for the account documents pertaining to account -012. (*See*, SDT, attached hereto as Exhibit G.)
9. BNS lawfully cooperated with law enforcement requests concerning Det. Corneiro's investigation and subpoenas. (Plaintiff's Original Complaint at 27 and Exhibit 3.)

⁵ Plaintiff's First Amended Complaint contains only a single Exhibit, Exhibit 1, which is a copy of Plaintiff's Attorney's notice to the V.I. Attorney General's Office of the filing of Plaintiff's CICO claims against the Yusuf and United Defendants. However, said First Amended Complaint also seems to reference several Exhibits which were included with Plaintiff's original Complaint, but not with the First Amended Complaint.

10. Det. Corneiro ultimately applied-for and received a warrant for the arrest of Plaintiff and his brother. (Plaintiff's Original Complaint Exhibit 3.)
11. The V.I. Atty. General made the decision to prosecute the Plaintiff and his brother based on Det. Corneiro's investigation in SX-15-CR-352/353. (Plaintiff's Original Complaint Exhibit 3.) The information in said prosecution was filed on November 20, 2015. (*Id.*)
12. Several months after said prosecution was initiated, the Atty. General elected to dismiss it without prejudice.
13. The Plaintiff now alleges that BNS is somehow liable for his arrest and prosecution. (*See generally*, First Amended Complaint.)

POINTS AND AUTHORITIES AND ARGUMENT

SUMMARY JUDGMENT STANDARD

A motion for dismissal under Rule 12(b)(6) which incorporates matters outside the pleadings should be treated as a motion for summary judgment. (Fed.R.Civ.Pro. 12(d); *see also*, Super. Ct. R. 7, *making the federal rules applicable to actions in the V.I. Superior Court, where not inconsistent with Superior Court rules.*)

Reviewing courts have explained that:

[s]ummary judgment shall be granted if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue respecting any material fact and that the moving party is entitled to a judgment as a matter of law." FED. R. CIV. P. 56(c); *see also Sharpe v. West Indian Co.*, 118 F.Supp.2d 646, 648 (D.Vi.2000). The nonmoving party may not rest on mere allegations or denials, but must establish by specific facts that there is a genuine issue for trial from which a reasonable juror could find for the nonmovant. *See Saldana v. Kmart Corp.*, 42 V.I. 358, 360-61, 84 F.Supp.2d 629, 631-32 (D.Vi.1999), *aff'd in part and rev'd*

in part, 260 F.3d 228 (3d Cir.2001). Only evidence admissible at trial shall be considered and the Court must draw all reasonable inferences therefrom in favor of the nonmovant.

(*Rajbahadoorsingh v. Chase Manhattan Bank, NA.*, 168 F.Supp.2d 496, 500 (D.V.I. 2001).)

I.

THE PLAINTIFF'S CLAIM MUST BE DISMISSED BECAUSE IT HAS BEEN WAIVED

The Plaintiff expressly waived the claim he is now making against BNS when he submitted his various IGFs on multiple occasions and signed his Account Agreements. No genuine issue of material fact exists when it is shown that a plaintiff contractually waived liability on the part of a named defendant. (See *e.g.*, *Prudential Insurance Co. of America, Inc. v. Bentley*, 2011WL4758708 (D.V.I. 2011); *Oran v. Fair Wind Sailing, Inc.*, 2009WL4349321 (D.V.I. 2009); *Piche' v. Stockdale Holdings, LLC*, 2009WL799659 (D.V.I. 2009); *Booth v. Bowen*, 2007WL3124687 (D.V.I. 2007).) As this Court has explained:

[a] signed waiver amounts to an exculpatory agreement and a court must examine the agreement's language to determine if it is enforceable. See generally, *Khan v. Soleimani*, 2002 WL 31573607 (D.V.I. App. 2002). An exculpatory agreement will be enforceable "if the language is sufficiently broad and unambiguous." *Joseph v. Church of God (Holiness) Acad.*, 47 V.I. 419, 426 (Super. Ct. 2006), quoting *Eastern Airlines v. Ins. Co. of N. Am.*, 758 F.2d 132,134 (3d Cir.1985). A contract is ambiguous "if it is reasonably susceptible of different constructions and capable of being understood in more than one sense." *Church Mut. Ins. Co. v. Palmer Constr. Co.*, 153 Fed.Appx. 805, 808 (3d Cir. 2005).

There is no specific language needed for a party to waive its rights to pursue legal remedies against another party. Courts have held that when an agreement states that the undersigned will hold a defendant harmless "from any claim or lawsuit... that phrase clearly and unambiguously indemnifies the [d]efendant." *Booth v. Bowen*, 2008 WL 220067, at *2 (D.V.I. 2008).

(*Chitolie v. Bank of Nova Scotia, et al*, SX-12-CV-323 (V.I. Super. 2013).)

The IGFs which Plaintiff repeatedly completed and signed contain the Plaintiff's express warranty that:

Disclosure of information:

While the Bank is committed to protect the privacy and security of the information provided, it may be necessary to disclose information:

- In response to credit enquiries from qualified legal financial institutions (usually with respect to the customer's application at said financial institution);
- If the Bank in its discretion reasonably deems such disclosure necessary or desirable in furtherance of the customer's business;
- Pursuant to legal process or subpoena served on the bank, and If disclosure is reasonably necessary to protect the Bank's interests (the bank will usually notify the customer where permissible under the applicable legal process)

The Customer hereby consents to and authorizes such disclosure, and the Bank shall not become liable by reason of the giving of any such information or of its being inaccurate or incomplete.

The Plaintiff released BNS from liability for disclosure of his information on more than one occasion. The same release is contained in the multiple IGF's which the Plaintiff signed, as well as his Account Agreements. (*See*, Exhibits A, B, C & D, attached hereto.) In addition, the Plaintiff agreed in his Account Agreement that:

THE UNDERSIGNED (the "Customer") for valuable consideration hereby agrees with THE BANK OF NOVA SCOTIA (the "Bank") that the operation of each account which the Customer now or hereafter has with the Bank at any branch or office of the Bank and the carrying on of other banking business by the Customer with the Bank at any branch or office shall be subject to the following terms and conditions:

(*See*, Account Agreement dated July 13, 1999, attached hereto as Exhibit C; *see also*, Account Agreement dated October 27, 2005, attached hereto as Exhibit D.)

Again, the Account Agreement goes on to state the same release language as the IGF (quoted above) as well as to provide a jury waiver and waiver of consequential & punitive damages (discussed further below).

The Plaintiff's waivers/releases expressly provide that BNS shall not be liable even if the information disclosed by BNS is "inaccurate or incomplete." Nor does the Plaintiff dispute that the information was released to law enforcement as part of an ongoing criminal investigation. (See e.g., Plaintiff's Original Complaint at 26, "*The criminal case was assigned to a police investigator, Sargent [sic] Mark A. Corneiro, who caused a subpoena to be issued to Scotia bank for Plessen's bank account records.*" See also, First Amended Complaint at 77.)

For all of these reasons, the Plaintiffs' First Amended Complaint must be dismissed because the Plaintiff has failed to state a claim against BNS upon which relief can be granted and no genuine issue of material fact remains in dispute regarding the Plaintiff's claims by virtue of his multiple releases/waivers.

II. **THE PLAINTIFF'S NEGLIGENCE CLAIM IS BARRED BY THE STATUTE OF LIMITATIONS**

The Plaintiff filed his negligence claim more than 2 years after BNS disclosed its records pursuant a law enforcement subpoena. Negligence is subject to a 2-year statute of limitations in the USVI. (5 V.I.C. §31; *Brouillard v. DLJ Mortg. Capital, Inc.*, 2015 WL 6549224, at *4 (V.I. 2015).) Det. Corneiro commenced his investigation on May 17, 2013 and requested BNS's records on May 20, 2013, returnable on/before June 4, 2013. (See, SDT, attached hereto as Exhibit G.) The Plaintiff did not file his negligence claim until August 1, 2016, more than 3

years later. Moreover, the Plaintiff was obviously aware of the existence of the records which he now complains were incomplete in BNS's file regarding account -012, since he personally signed them. He also knew of the dispute surrounding the funds he withdrew, since he quickly deposited those funds with the Court in the context of a civil dispute over withdrawing them. (Plaintiff's Original Complaint Exhibit 3, Affidavit of Det. Corneiro). In addition, the Plaintiff was actively involved in attempting to mediate his wrongful withdrawals in this matter and in his preexisting dispute with the Yusufs through friends, business associates and family members. (See, Affidavit of Bakir Hussein, attached hereto as Exhibit E.) All of these events took place long before Det. Corniero began his investigation. The Plaintiff's negligence claim is therefore barred by the statute of limitations and must be dismissed.

III.

THE PLAINTIFF HAS FAILED TO STATE A CLAIM FOR NEGLIGENCE BECAUSE BNS'S STATEMENTS AND ACTIONS WERE ABSOLUTELY PRIVILEGED

All "statements" contained-in or represented-by the records released by BNS were made as part of BNS's response to a criminal subpoena from law enforcement. Such statements are absolutely privileged. (*Sprauve v. CBI Acquisitions, LLC*, 2010 WL 3463308, 11 (D.V.I. 2010), "[t]he Court Finds that the Virgin Islands, through its recognition of the Restatements as its rules of decision, embraces an absolute privilege for statements made to law enforcement for the purposes of reporting a violation of criminal law.")

Reviewing courts have noted that the absolute privilege against liability for statements made to law enforcement is not limited to testimony given on the witness stand. (*Boice v. Unisys Corp.*, 50 F.3d 1145, 1150 (2d Cir. 1995); *United States v. Westinghouse Elec. Corp.*, 638 F.2d 570, 574, fn. 4 (3d Cir. 1980).) The *Boice* court recognized that the absolute privilege extended

to a subpoena duces tecum issued by a state inspector general to a corporate entity during the inspector general's investigation of a third party. *Boice*, 50 F.3d at 1145.) In *Westinghouse*, the Third Circuit embraced the same expansive application of the absolute privilege under circumstances involving an administrative agency subpoena to a corporate entity as part of the agency's workplace safety investigation. (*Westinghouse Elec. Corp.*, 638 F.2d at 570.)

The facts of *Boice* are strikingly similar to those in this matter. In *Boice*, the New York State Inspector General launched an investigation into possible misconduct by employees of the New York Dept. of Social Services for accepting improper consideration in the form of entertainment and other gratuities from representatives of private corporations which were vendors of the Department. Prior to the Inspector General's investigation, Unisys had investigated a number of its employees and discovered that those employees had made numerous claims for fraudulent reimbursement-for entertainment and other gratuities to Social Services employees. Unisys found that its employees had never actually entertained or provided the gratuities they requested reimbursement for. Boice and his co-plaintiffs were employees of Social Services during the relevant time period. When the Inspector General served a subpoena duces tecum on Unisys, and Boice became aware of it, Boice objected to Unisys that responding to the SDT would incriminate him, despite the fact that the Unisys employees' claims for reimbursement were found to be fraudulent. In response, Unisys represented that it would provide an explanatory letter with its SDT response, telling the Inspector General that the records reflected the Unisys employees' claims for entertainment and gratuities which never occurred. However, Unisys did not ultimately provide such a letter with its SDT response. Boice and his

co-plaintiffs subsequently sued Unisys, alleging that Unisys's misleading SDT response defamed them by incriminating them falsely.

Finding that Unisys had an absolute privilege against liability for its SDT response, the Second Circuit explained that:

[h]ere, the Inspector General ordered Unisys, under penalty of law, to produce documents reflecting the entertainment of state employees from 1988–1992. Unisys turned over pre-existing expense vouchers that clearly responded to the subpoena's description. Unisys did not instigate the Inspector General's investigation, nor did it fabricate the vouchers in order to maneuver the proceedings.

The plaintiffs argue that these cases do not bestow absolute immunity upon those who are compelled to publish defamatory material. Citing *Toker v. Pollak*, 44 N.Y.2d 211, 222, 405 N.Y.S.2d 1, 376 N.E.2d 163 (1978), they argue that the only time a witness earns absolute immunity is when he gives evidence at a judicial proceeding, or an administrative proceeding with quasi-judicial trappings. *See* 44 N.Y.2d at 222, 405 N.Y.S.2d 1, 376 N.E.2d 163. As *Toker* explains, proceedings are quasi-judicial if: (1) a hearing is held; (2) both parties may participate; (3) the presiding officer may subpoena witnesses; and (4) the body has the power to take remedial action. *See id.* Because the Inspector General did not conduct an adversarial hearing, and because he does not have the power to take remedial action, the plaintiffs maintain that Unisys is not entitled to the absolute privilege.

We reject this narrow reading of *Toker*. In *Toker*, a defendant called a District Attorney's office to criticize the qualifications of a potential judicial appointee. The appointee sued the defendant for defamation. Noting that a person who *volunteers* statements to a state official, without a hearing, compulsion of subpoena, or any procedural safeguards, cannot avail himself of the “quasi-judicial proceeding” basis for absolute immunity, *Toker* held that the defendant was not absolutely immune. *See id.* at 220–21, 405 N.Y.S.2d 1, 376 N.E.2d 163.

Toker explained that absolute immunity would be inappropriate for “communications which because of the absence of a hearing may often go unheard of, let alone challenged, by their subject.” *Id.* at 222, 405 N.Y.S.2d 1, 376 N.E.2d 163. Such concerns are absent in this case, however, because the production of documents was not unsolicited. To the contrary, the production was *compelled* by subpoena, the failure to comply with which would have subjected Unisys to contempt proceedings. Application of *Toker* as plaintiffs suggest would place Unisys in the position of choosing between willful noncompliance with a subpoena, which would subject it to contempt proceedings, and compliance with

the subpoena, which would subject it to a defamation suit. We refuse to place Unisys in this Catch 22 dilemma. *Token* is simply inapposite in a case where a valid subpoena has been issued.

A third course, proposed by plaintiffs, would require a person responding to a subpoena to disavow, disclaim, or correct libelous statements contained in the documents. Such a rule would entail review by counsel (perhaps by a libel lawyer), investigation of events reflected in (possibly voluminous) documents, and fencing with people (such as plaintiffs) who have advance notice that potentially damaging or libelous documents may be produced. The increased costs, obligations and risks associated with such a rule would impede the swift and voluntary compliance that the immunity rule is intended to induce.

We further note that *Hirshfield* bestowed absolute immunity even though the proceeding was far from judicial. The Commissioner in *Hirshfield* was conducting a fact-finding investigation to prepare a report for the Mayor. While he had the power to subpoena witnesses and examine them, the Commissioner had no authority to take remedial action, and he did not examine witnesses at a hearing. *See id.*, 228 N.Y. at 348, 127 N.E. 252; *cf. Tulloch v. Coughlin*, 50 F.3d 114, 116 (2d Cir.1995) (noting that subpoena power and the right to cross-examine witnesses indicate procedural formality weighing in favor of absolute immunity). Here, by contrast, the Inspector General has the power to “subpoena and enforce the attendance of witnesses.” 9 N.Y. Codes, Rules & Regs. § 4.103.III.1.(a).

Absolute immunity from defamation suits rests on policy reasons that are still sound. If a person gives the government defamatory material under threat of contempt, and has not manipulated the proceedings in any way, he should not be subject to a suit for damages based on this forced publication, even if he knows the contents are defamatory. *See Restatement (Second) of the Law of Torts* § 588 cmt. a (1977) (“The compulsory attendance of all witnesses in judicial proceedings makes [the absolute privilege] the more necessary.”); § 592A (“One who is required by law to publish defamatory matter is absolutely privileged to publish it.”); § 592A cmt. b (The § 592A rule is not limited to certain fact patterns but “will apply whenever the one who publishes the matter acts under legal compulsion in so doing.”).

(*Boice*, 50 F.3d at 1149–51.)

In fact, the rejected “third course” alluded-to by the *Boice* court is exactly what the Plaintiff in this matter advocates as the basis for BNS’s alleged liability. The Plaintiff’s allegation is that, had BNS produced the alleged computerized signature card, the Plaintiff never would have been arrested because (Plaintiff’s theory continues) law enforcement would certainly have concluded that Plaintiff was authorized to write himself the \$460,000 check. However, the

Boice court noted that such a policy would “impede the swift and voluntary compliance that the immunity rule is intended to induce.” (*Boice*, 50 F.3d at 1151.)

Reviewing courts have further explained that this same absolute immunity privilege is not limited to defamation cases. (*Gov't Employees Ins. Co. v. Hazel*, 2014 WL 4628655, at *20 (E.D.N.Y. 2014), *report and recommendation adopted*, 2014 WL 4628661 (E.D.N.Y. 2014).) As the *Hazel* court stated:

[t]he judicial-proceedings privilege has also been applied in cases involving New York state-law claims other than libel. For example, in *Jones v. SmithKlineBeecham*, No. 07 Civ. 0033(NPM), 2007 WL 2362354, at *3–*4 (N.D.N.Y. Aug.14, 2007), the plaintiff, who originally sued the defendants for employment discrimination, later brought an additional claim for negligent infliction of emotional distress (“NIED”) relating to the defendants' statements about the plaintiff's work habits in the course of the employment-discrimination proceedings. The court dismissed the plaintiff's NIED claim, invoking the New York judicial-proceedings privilege: “If the statements are relevant to the litigation, even if accompanied by actual malice, they are absolutely privileged and may not be the basis for any civil action.” *Id.* at *4; *see Alaimo v. Gen. Motors Corp.*, No. 07 Civ. 7624(KMK)(MDF), 2008 WL 4695026, at *2 (S.D.N.Y. Oct. 20, 2008) (finding that the plaintiffs' claim relating to the defendants' alleged perjury in an earlier lawsuit did not appear to exist under New York law, and also ruling that even if there was some such claim, the facts alleged by the plaintiffs were not actionable under the judicial-proceedings privilege); *Brady v. Calyon Sec. (USA)*, No. 05 Civ. 3470(GEL), 2007 WL 4440926, at *19 (S.D.N.Y. Dec.17, 2007) (granting the defendants' summary judgment motion on the plaintiff's tortious interference with prospective business economic relations claim, stating that the defendants' allegedly incorrect statements on a National Association of Securities Dealers regulatory form relating to employee termination, were protected by absolute privilege); *Martinson v. Blau*, 292 A.D.2d 234, 235, 738 N.Y.S.2d 572 (1st Dep't 2002) (affirming the lower court's dismissal of the plaintiffs' claims for professional malpractice, breach of contract and more based on the defendant's purported perjury at trial, since a trial witness “enjoys an absolute privilege with respect to his or her testimony”).

(*Hazel*, 2014 WL 4628655, at *20.)

Reviewing courts in the Third Circuit have stated that the absolute immunity accorded to persons/entities participating in a law enforcement investigation extends even to persons/entities who intentionally lie to law enforcement. (*Rashid v. Kite*, 934 F. Supp. 144, 147 (E.D. Pa. 1996).) In fact, the *Kite* court found that a witness who was alleged to have conspired to testify falsely in pretrial and trial proceedings was specifically covered by the absolute immunity accorded witnesses. (*Id.*) The Third Circuit itself has approved this reasoning, finding quasi-judicial witnesses absolutely immune from liability for their statements, despite the fact that those witnesses intentionally lied. (*McArdle v. Tronetti*, 961 F.2d 1083, 1085 (3d Cir. 1992).)

The Plaintiff's allegations concerning BNS's records maintenance and BNS's response to law enforcement's SDT are mundane in comparison with the egregious situations discussed above in which reviewing courts have repeatedly held that persons and entities making statements in the context of official investigations are absolutely immune from liability for those statements. Even assuming incomplete information was provided by BNS, BNS would be immune from liability. (*Boice*, 50 F.3d at 1150; *Westinghouse Elec. Corp.*, 638 F.2d at 574, fn. 4.) Nor does Plaintiff's recharacterization of his previous claims into a single claim of negligence rob BNS of its immunity. (*Hazel*, 2014 WL 4628655, at *20; *McArdle v. Tronetti*, 961 F.2d 1083, 1085 (3d Cir. 1992).) BNS did nothing more than respond to a law enforcement SDT for BNS's account information concerning account -012. Even if the Plaintiff had not expressly waived BNS's liability for such cooperation with law enforcement on a number of prior occasions, BNS's provision of information to law enforcement is absolutely privileged, and Plaintiff's negligence claim must therefore be dismissed.

IV.
THE PLAINTIFF'S NEGLIGENCE CLAIM MUST BE DISMISSED BECAUSE
THE PLAINTIFFS' PLEADINGS ARE INSUFFICIENT TO STATE A CLAIM UPON
WHICH RELIEF MAY BE GRANTED

The Plaintiff's negligence claim fails to state a plausible claim. A plaintiff's complaint must state sufficient facts to make the plaintiff's claims plausible, as opposed to merely stating a claim and demanding damages. (*Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1961 (2009).) As the *Iqbal* Court explained:

[u]nder Federal Rule of Civil Procedure 8(a)(2), a pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." As the Court held in *Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929, the pleading standard Rule 8 announces does not require "detailed factual allegations," but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation. *Id.*, at 555, 127 S.Ct. 1955 (citing *Papasan v. Allain*, 478 U.S. 265, 286, 106 S.Ct. 2932, 92 L.Ed.2d 209 (1986)). A pleading that offers "labels and conclusions" or "a formulaic recitation of the elements of a cause of action will not do." 550 U.S., at 555, 127 S.Ct. 1955. Nor does a complaint suffice if it tenders "naked assertion[s]" devoid of "further factual enhancement." *Id.*, at 557, 127 S.Ct. 1955....

Rule 8 marks a notable and generous departure from the hyper-technical, code-pleading regime of a prior era, but it does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions.

(*Iqbal*, 129 S.Ct. at 1949 -1950.)

As discussed below, the Plaintiffs' negligence claim is implausible because, at best, it pleads that "upon information and belief" BNS unlawfully harmed the Plaintiff in the maintenance of its records and its response to a law enforcement subpoena, in the face of substantial evidence to the contrary, which is a fatal deficiency pursuant to the *Iqbal/Twombly* standard. (*Iqbal*, 129 S.Ct. at 1949; citing, *Bell Atlantic v. Twombly*, 127 S.Ct. 1955, 1965 (2007).)

Misleadingly, the Plaintiff couches his negligence claim in the terms that BNS had a duty to “to maintain correct banking records and to not alter or allow the alteration of those records.”⁶ (First Amended Complaint at 62.) However, in reality, all of the Plaintiff’s claims center-on BNS’s disclosure of its records pursuant to a law enforcement subpoena. Had there been no criminal investigation, BNS would not have released the records, and there also could not have been any arrest of the Plaintiff, which is the genesis of all of his allegations against BNS.⁷ Thus, BNS’s maintenance of its records cannot be the basis of Plaintiff’s claims against BNS in the context of this Matter.

Nor can the Plaintiff plausibly allege a duty on the part of BNS to maintain ordinary records in a particular manner. Banks are not fiduciaries in the context of ordinary checking account operations/relationships. (*Jo-Ann's Launder Ctr., Inc. v. Chase Manhattan Bank, N.A.*, 854 F. Supp. 387, 392 (D.V.I. 1994).) As explained above, BNS also did not breach any duty by responding to a criminal law enforcement subpoena. In fact, the Atty. General’s SDT for the account records of account -012 does not call for the computer records which Plaintiff’s negligence claims are based-on. (*See*, SDT, attached hereto as Exhibit G.) In addition, the Plaintiff could not plausibly allege that BNS’s release of its subpoenaed records caused the Plaintiff to be arrested. (First Amended Complaint at 71.) Det. Corneiro initiated his investigation upon receiving detailed information from the Yusufs and their legal representative. (Plaintiff’s Exhibit 3, Affidavit of investigating Det. Corneiro.) The Yusufs told Det. Corneiro that the Plaintiff had taken company funds without the proper authorization. They also provided

⁶ Particularly since, the Plaintiff’s waivers/releases expressly provide that BNS shall not be liable even if information disclosed by BNS is “inaccurate or incomplete.” (*See*, Exhibits A, B, C & D, attached hereto.)

⁷ And, it is worth noting, the Plaintiff would have been arrested even if BNS’s records had not been requested, or even if they did not exist, because the Yusufs provided detailed information to law enforcement which supported Plaintiff’s arrest and the underlying charges, which was corroborated by information from other third parties.

Det. Corneiro with company records and informed him of the changes to the check-signer information which, though BNS had not yet disclosed its records, BNS's records reflected when they were later produced under subpoena. (*Id.*) After receiving the Yusuf information, Det. Corneiro requested BNS's account information. (*Id.*) After reviewing all of this information, Det. Corneiro presented the results of his investigation to the Atty. General's Office. The Atty. General's Office ultimately elected to file charges. Only after all of these steps was the Plaintiff arrested. In addition, BNS's records formed a very small part of the information upon-which the decision to arrest Plaintiff was made by the Attorney General.

Nor is there any merit to the Plaintiff's allegations that, if BNS had provided the alleged computer printout of the 1997 signature card to law enforcement, the Plaintiff would not have been arrested. Even if the SDT had called for such records, which it did not, BNS was required to release *all* records. There is no way to predict how law enforcement would have interpreted the 1997 signature card printout in comparison with the IGF's and signature card which were undated, signed by the Plaintiff, and required 2 signers (1 from each family). This is particularly true given that law enforcement relied heavily on detailed information provided by the Yusufs, other subpoenaed records, and other information gleaned during the totality of the investigation. No reasonable jury could find that BNS's release of the subpoenaed records caused the Plaintiff's alleged injuries under these circumstances. The attenuation between BNS's (correct) subpoena response and the Plaintiff's arrest therefore makes it implausible for the Plaintiff to allege that BNS's records were either the actual or proximate cause of the Plaintiff's arrest, much less the alleged damages which resulted from that arrest, and Plaintiff's negligence claims must therefore be dismissed.

The Plaintiff alleges that BNS inserted false information into its records regarding the Plaintiff, which BNS then provided pursuant to law enforcement subpoenas. Plaintiff alleges that the false information is the fact that 2 signers were required on all checks, 1 from the Yusuf family and 1 from the Hamed family. (First Amended Complaint at 54-55.) Yet the Plaintiff himself admits that the Hamed and Yusuf families had a preexisting agreement requiring 1 representative from the Hamed family and 1 representative from the Yusuf family to sign all Plessen checks. (*See*, Affidavit of Plaintiff Waleed Hamed, attached hereto as Exhibit H.) Tellingly, as discussed above, Plaintiff also fails to note that just before BNS released its records pursuant to subpoena, in civil litigation involving the same parties (Defendant, his brother, and the Yusufs), this Court had recently issued an order that a representative of each family must sign each check for disbursement of corporate funds. (*See*, Court's Opinion in SX-12-CV-370, Order dated April 25, 2013, p.1, attached hereto as Exhibit I.) The Order required 2 signers for checks written on any "supermarket operating accounts". (*Id.*) The Plaintiff's Original Complaint Exhibit 3 (portion which is the Affidavit of the investigating Detective, Mark Corneiro) indicates that, on May 17, 2013 Maher Yusuf reported the signature cards to the account ending -012 had been updated, as would be required-by and consistent-with this Order⁸ and the preexisting agreement of the parties. (Corneiro Affidavit at 3(c); *see also*, Affidavit of Plaintiff Waleed Hamed, attached hereto as Exhibit H.) Thus, the information which BNS released, pursuant to criminal subpoena, concerning the requirement of 2 signers on each check, was consistent with the Hamed/Yusuf agreement, as well as this Court's prior Order, and Maher Yusuf's report of an

⁸ Albeit that this Court's Order was concerned with operating accounts for United Corp., which then operated the various shopping centers, as opposed to Plessen, which leases the land some of the shopping centers are located-on to those shopping centers.

update to the signature card to reflect 2 signers is likewise consistent with the same agreement and Order of this Court. Just after Maher Yusuf's report, Det. Corneiro/the Attorney General requested BNS's account documents.

The Atty. General's decision to arrest the Plaintiff was based on the totality of the evidence uncovered in Det. Corneiro's investigation. As his Affidavit demonstrates, Det. Corneiro received a wealth of evidence during his investigation, of-which BNS's subpoenaed records formed a very small part, particularly with regard to the relevant account ending -012. Moreover, Det. Corneiro conducted an independent investigation and was free to ask any follow-up questions he chose after receiving BNS's records. For instance, Det. Corneiro might have asked why there was no date on one of the Information Gathering Forms (IGF) or whether there was a different signer requirement at the time the check was actually issued or whether any additional computer-based records regarding account -012 were available. BNS would have been obligated to answer those questions as it had answered the subpoena. But the fact remains that the documents BNS supplied in response to the SDT were true in the sense that they reflected the information in the file at the time the subpoena was issued.⁹ The Plaintiff himself admits that the 2-signer requirement existed by virtue of the Hamed/Yusuf agreement prior to March 27, 2013. (Affidavit of Plaintiff Waleed Hamed, attached hereto as Exhibit H.) In addition, Det. Corneiro and the Atty. General had 100% discretion over which information to credit or discard, what weight to give it, which witnesses to rely-on, and all other aspects of their investigation and charging decisions. Det. Corneiro received a wealth of other information in the course of his investigation, from the Yusufs, other banks, and the Cadastral Office, just as examples. For

⁹ The Plaintiff emphasizes the BNS email stating that signature cards are "now" kept on the computer system. However, that email was sent in March, 2016, 3 years after the transaction occurred.

instance, the Government's discovery in the criminal matter, SX-15-CR-352/353 also shows that, during Det. Corneiro's investigation, the Government obtained a *dated* IGF, signed by the Plaintiff, with the 2-signer requirement. (See, Government RESPONSE TO DISCOVERY REQUEST, IGF dated 2/3/12, attached hereto as Exhibit J.) Det. Corniero was also free to question the Plaintiff and his brother. Det. Corneiro received Court documents showing that the Plaintiff had effectively admitted taking money which did not belong to him by returning ½ of it to the Court's registry and giving the Yusufs a release to recover it. Nevertheless, the Plaintiff posits a situation in which the information regarding account -012 disclosed by BNS pursuant to a subpoena was 100% responsible for the Plaintiff's arrest. All BNS did was provide the subpoenaed documents to law enforcement. BNS would have been negligent (and in-contempt) if BNS had not responded. And, as stated, Det. Corneiro was free to ask follow-up questions if he wanted to add context to what BNS had disclosed.

Finally, the Plaintiff cannot plausibly allege that BNS's subpoena response harmed him. It is clear that the Plaintiff's wrongful taking of Plessen funds in this matter and before this matter was well known in the community. (See *e.g.*, Affidavit of Bakir Hussein, attached hereto as Exhibit E.) The Plaintiff himself was openly discussing his wrongful taking of Plessen and United funds with friends, businesses associates and family before BNS responded to the Atty. General's subpoena. (*Id.*) Thus, any damage to Plaintiff's business and personal reputation could not have been caused by BNS's release of its records. The Plaintiff provides no facts to underpin his "information and belief" that BNS was negligent in maintenance or disclosure of its records pursuant to law enforcement's subpoena. Such statements cannot state a plausible claim given that:

[a] pleading that offers “labels and conclusions” or “a formulaic recitation of the elements of a cause of action will not do.” 550 U.S., at 555, 127 S.Ct. 1955. Nor does a complaint suffice if it tenders “naked assertion[s]” devoid of “further factual enhancement.

(*Iqbal*, 129 S.Ct. at 1949 -1950.)

In fact, Plaintiff's allegations are particularly unbelievable, given that Plaintiff and his brother were substantial customers of BNS. Nor does Plaintiff explain how an unnamed employee developed an animus against Plaintiff, but not his brother, yet apparently sought to have them both arrested by BNS's subpoena response. One might also ask why, if this phantom employee had such tight control over the information that was produced pursuant to subpoena, the Plaintiff was able to obtain the exhibits he presented to this Court from BNS which he considers to be so favorable to him? Would not the phantom employee have seen-to-it that these documents were never produced, in the same way that Plaintiff alleges that phantom employee did for the documents the Plaintiff alleges were missing from the account -012 subpoena response?

As discussed above, Plaintiff posits a situation in which BNS's subpoena response was 100% responsible for his arrest. In fact, the relationship between the response and Plaintiff's arrest was attenuated by Det. Corneiro's entire investigation, all of the other information he received, such as the report and evidence from the Yusufs, and the ultimate charging decision made by the Atty. General. Thus, for the supposed phantom employee to develop the intent to injure Plaintiff, he/she would have had to believe that the information he/she was disclosing and/or withholding was so damning that law enforcement would arrest and charge the Plaintiff on the basis of that information alone. In reality, however, law enforcement already had most or

all of the information which was disclosed in BNS's subpoena response, because Det. Corneiro had gotten it from the Yusufs. (Original Complaint Exhibit 3.)

V.

THE PLAINTIFF'S JURY DEMAND MUST BE STRICKEN

The Plaintiff waived a jury trial when he signed his Account Agreement with BNS. As stated above, Plaintiff's Account Agreement provides that:

THE UNDERSIGNED (the "Customer") for valuable consideration hereby agrees with THE BANK OF NOVA SCOTIA (the "Bank") that the operation of each account which the Customer now or hereafter has with the Bank at any branch or office of the Bank and the carrying on of other banking business by the Customer with the Bank at any branch or office shall be subject to the following terms and conditions:

(See, Agreement RE Operation Of Account dated July 13, 1999, attached hereto as Exhibit C; *see also*, Agreement RE Operation Of Account dated October 27, 2005, attached hereto as Exhibit D.)

The same Account Agreements also contain a waiver of jury trial, which provides that:

JURY TRIAL WAIVER: The Customer hereby irrevocably waives all right to trial by jury in any action, proceeding, or counterclaim, including but not limited to, actions sounding in tort, "bad-faith", fraud or otherwise.

The Plaintiff waived a jury trial of the claims asserted in his First Amended Complaint against BNS and the Plaintiff's jury demand must therefore be stricken, in the event that the entirety of the Plaintiff's First Amended Complaint is not dismissed.

VI.

PLAINTIFF'S CLAIMS FOR PUNITIVE DAMAGES AND CONSEQUENTIAL DAMAGES MUST BE STRICKEN

The Plaintiff waived any claim to special damages or consequential damages in his Account Agreement, which provides that:

LIMITATION OF LIABILITY:

- (a) Notwithstanding any oral or written advice from any person respecting the purpose of any instrument or instruction, the Bank shall not be liable for any consequential or special damages.

(See, Agreement RE Operation Of Account dated July 23, 1999 at 10, attached hereto as Exhibit C; *see also*, Agreement RE Operation Of Account dated October 27, 2005 at 10, attached hereto as Exhibit D.)

Punitive damages are special damages. (*Marian v. Fraser*, 2014 WL 1239492, at *3 (V.I. Super. 2014).) In addition, the Plaintiff has alleged a number of consequential damages, such as damage to his business and business reputation. These damages allegations are contradicted by the waiver above, and they must be stricken.

CONCLUSION

In summary, all of the Plaintiff's claims must be dismissed because they have been waived on multiple occasions in the account documents Plaintiff signed. The Plaintiff's negligence claim is also barred by the two-year statute of limitations, since the Plaintiff filed his claims more than three years after they accrued. Nor is BNS liable for negligence, since all of the information release pursuant to a law enforcement SDT is absolutely privileged. In addition, the Plaintiff's claims must be dismissed because the Plaintiff's pleadings are insufficient to state claims upon which relief may be granted. For the reasons discussed above, the Plaintiff has failed to allege sufficient facts to make his claims plausible. Finally, based on the Account Agreements signed by the Plaintiff on more than one occasion, the Plaintiff's jury demand must be stricken and the Plaintiff's claims for punitive damages and consequential damages must be stricken.

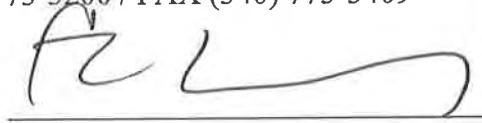
For all of the aforementioned reasons, BNS respectfully requests that this Court *grant* BNS Summary Judgment and dismiss Plaintiff's claims with prejudice.

Respectfully submitted,

DATED: March 6, 2017

NICHOLS NEWMAN LOGAN GREY &
LOCKWOOD, P.C.
Attorneys for Defendant BNS
No. 1131 King Street, Suite 204
Christiansted, U.S. Virgin Islands 00820-4971
(340) 773-3200 / FAX (340) 773-3409

By:



CHARLES E. LOCKWOOD, ESQ.

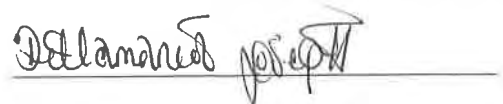
CERTIFICATE OF SERVICE

I HEREBY certify that on March 6, 2017, I caused a true and correct copy of the foregoing ***DEFENDANT BANK OF NOVA SCOTIA'S MOTION TO DISMISS AND MOTION TO STRIKE PLAINTIFF'S FIRST AMENDED COMPLAINT and proposed ORDER*** to be served on the following by hand delivery and u. s. mail, prepaid postage upon:

Joel Holt, Esq.
Counsel for Plaintiffs
2132 Company Street, Suite 2
Christiansted, VI 00820

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

Gregory H. Hodges, Esq.
Dudley, Topper and Feuerzeig, LLP
P. O. Box 756
St. Thomas, VI 00804





Information Gathering Form - Account for a Private Corporate Entity

NOTE: YOU SHOULD PROVIDE ALL OF THE REQUESTED INFORMATION & DOCUMENTS TO US TO COMPLETE THE ACCOUNT OPENING PROCESS. COMPLETE THIS FORM AND RETURN IT TO THE ADDRESS BELOW.

SECTION I - DETAILS OF THE COMPANY

- Full legal name of the company: PA... .. Inc.
Trading Name (if applicable):
- Mailing address of the company: PO Box 222308
ATLANTA, GA 30385
Telephone number: (404) 272-5266
E-mail address: Multi-Step.com
- Address of the company: 4500 Peachtree Dunwoody Rd
Atlanta, GA 30328
Telephone number: (404) 272-5266
Facsimile number: (404) 272-5266
- Number of employees: Full time 60 Part time 5
- Number of years in business: 21
- Number of years at above address: 16
- Primary office location: US
- Address of the Company's Registered Office: PO Box 212
St. Louis, MO 63103
Telephone number: (314) 777-2000 Facsimile number: (314) 777-2000
- Name and address of primary company contact: Patrick Yankoff
1605 Tenthon Park Mall Ste 202
Atlanta, GA 30328
Telephone number: (404) 272-5266 Facsimile number: (404) 272-5266
E-mail address:
- Name and address of the company's primary banker: State Bank
Name of Account Manager: Roid Facsimile number: 1
Telephone number: 1
- Name and address of the Law Firm that represents the company (if applicable): Law Office of S.H. ...
- Name of Attorney (if specifically assigned, within the firm): S.H. ...
Telephone number: (404) 272-5266 Facsimile number: 1
- Name and address of the company's Accountant (if applicable):
Telephone number: 1 Facsimile number: 1





13. Provide original or certified true copies of original copies of the following documents:

- Certificate of Incorporation / Registration;
- Memorandum and Articles of Incorporation / Association & By-Laws;
- Notice of Address or Notice of Change of Address of Registered Office;
- Notice of Directors, Managers or Notice of Change of Directors/Managers;
- Notice of Appointment of Secretary and/or Notice of Change of Secretary;
- Register of Members / Shareholders, including the full name and address of each beneficial owner holding 1% or more of the Company's shares;
- Trade / Business Licenses and Registration documentation;
- Request for Name Change / Reservation;
- Certificate of Good Standing; or
- Any other documentation requested by the Account Officer.

Note: Where documents require renewal, a copy of the "updated" document is to be provided to Sealbank upon each renewal / re-registration process.

13. If any of the following is well a company entity then the items listed in section 12 are required for a US based corporate entity, as well information regarding the following:

- Authorized signatory;
- Directors;
- Beneficial owner holding 25% or more of the Company's shares;
- Any person with principal control over the Company's assets; and
- Any person acting under a power of attorney or any other legal document.

14. Please provide personal information for each officer, director, and shareholder with more than 25% ownership of the company:

Name: Fatih Altun Title: Secretary of the Board
 Physical Address: 1115 1st St NW, Washington DC 20004
 Mailing Address: 1115 1st St NW, Washington DC 20004
 Date of Birth: 4/15/1971 Telephone Number: 202 223 1616
 Country of Citizenship: USA Social Security Number: 550 27 1813
 Email address: _____

Name: Robert J. Howard Title: President
 Physical Address: 1115 1st St NW, Washington DC 20004
 Mailing Address: 1115 1st St NW, Washington DC 20004
 Date of Birth: 3/11/35 Telephone Number: 202 624 2000
 Country of Citizenship: USA Social Security Number: 530 02 2272
 Email address: _____

Name: Robert J. Howard Title: Director
 Physical Address: 1115 1st St NW, Washington DC 20004
 Mailing Address: 1115 1st St NW, Washington DC 20004
 Date of Birth: 11/21/67 Telephone Number: 202 624 2000
 Country of Citizenship: USA Social Security Number: 527 00 2857
 Email address: _____

Name: _____ Title: _____
 Physical Address: _____
 Mailing Address: _____
 Date of Birth: _____ Telephone Number: _____
 Country of Citizenship: _____ Social Security Number: _____
 Email address: _____



July

Name _____
 Physical Address _____
 Mailing Address _____
 Date of Birth _____
 Country of Citizenship _____
 E-mail address _____

Telephone Number _____
 Social Security Number _____

- 15 Are any of the signatories, officers, shareholders with more than 25% ownership, or their immediate family members a government, former senior official in the executive, legislative, administrative, military or judiciary of a foreign government or a senior officer of a foreign political party or a senior executive of any entity owned by a foreign government or do they maintain a personal or professional relationship with any such official?
- NO YES (If YES, provide further details as directed by the Bank officer)

- 16 Scotland's standard opening documents are generally only provided after all of the necessary opening requirements have been fully satisfied. To assist in this process, please complete the following questions regarding the authorized signatories and signing instructions:

Provide the name and title of each individual who is authorized to sign for the company's account. Authorized signatories are required to provide two pieces of ID in original form or notarized copy, only when authorized by a bank employee (see ID primary piece being a government-issued photo ID (i.e., valid passport, driver's license and one DV, secondary piece is birth certificate, credit card, social security card, etc.).

Name Yusef Yusef Title Secretary of Finance
 Physical Address 14617 Tenth Ave NW
 Mailing Address Box 520228
 Date of Birth 11/15/1971 Telephone Number 775-564-6111
 Country of Citizenship USA Social Security Number 588 09 1013
 E-mail address _____

Name Wajid Yusef Title Secretary
 Physical Address 14617 Tenth Ave NW
 Mailing Address Box 520228
 Date of Birth 7/21/1976 Telephone Number 775-564-6111
 Country of Citizenship USA Social Security Number 480 25 3881
 E-mail address Wajid.Yusef@scotiabank.com

Name Wahid Ahmad Title Secretary
 Physical Address 14617 Tenth Ave NW
 Mailing Address Box 520228
 Date of Birth 7/21/1975 Telephone Number 775-564-6111
 Country of Citizenship USA Social Security Number 588 16 9068
 E-mail address Wahid.Ahmad@scotiabank.com

Name _____
 Physical Address _____
 Mailing Address _____
 Date of Birth _____
 Country of Citizenship _____
 E-mail address _____

Name _____
 Physical Address _____
 Mailing Address _____
 Date of Birth _____
 Country of Citizenship _____
 E-mail address _____

Telephone Number _____
 Social Security Number _____

7. Identified users of the company's primary systems in which it has a direct or indirect ownership interest, by level of operating authority, in which it has a direct or indirect ownership interest, and the names of the individuals who have access to such systems.

8. Reason for purchase for acquiring or control with Scotiabank, including relevant terms of purchase.

SECTION 2. PURCHASE OF THE ACCOUNT BY ANOTHER PARTY

1. If so requested, provide a bank's reference on the acquisition of the account, prepared on the applicable bank's letterhead and signed by its manager. If the company is newly established and does not have an existing banking relationship with the reference bank, the bank reference should include the date of establishment of the bank account, the name of the bank, the type of account, currency of account, and the date of establishment of the account. If the reference is provided by a bank other than the bank to which the account is being transferred, the reference should include the date of establishment of the account, the name of the bank, the type of account, currency of account, and the date of establishment of the account. The reference should also include the name of the bank to which the account is being transferred, the name of the bank, the type of account, currency of account, and the date of establishment of the account.

2. Provide details of any other existing accounts/relationships held with any Scotiabank Group.

3. Provide names and applicable contact information for persons not authorized to sign on the account, but authorized to obtain the account balance (collect account statements, etc.) documents are then required to be provided to the account holder.

4. Indicate the going forward signatories for the above named individuals who are required to sign on the company's account (e.g., any one to sign, or sign with other in "or" or "and" etc.)

Name
Physical Address
Mailing Address
Line of Birth
Country of Citizenship
Email Address
Telephone Number
Social Security Number

Title





1. In annual year end, Please provide a copy of the Company's latest financial statements or Annual Report. Attached Available
2. If the Company is a subsidiary then provide a copy of the parent company's Annual Report. (because financial statements to be provided if accounting prepared statements are not available)
3. Indicate the type of each account required (e.g., Checking, Savings, Certificate of Deposit, Cash Exports and services required (e.g., wire transfer, letters of credit))

4. Security is required by law to verify the effect of the signed funds in deposits (e.g., from sales, dividends, interest, company loans, etc.). Also funds are not to be withdrawn from the bank. Funds for deposits are received from the bank. (Security is required for all company funds and is subject to the bank's policies.)

5. Provide details of the anticipated activity in 2003. Material change (i.e., in excess of 20%) in the activity projected, requires that the company immediately notify the Account Manager (Relationship Officer) and discuss with him/her whenever supporting information may be required to support the new statistics.

6. Maximum of 1 specified activity:
 - Number of checks expected to be used in the average month: \$1,500
 - Total \$ value: \$100,000
 - Major Suppliers: 10 (amounts and in case of 10 suppliers in the month)

7. Largest amount of check (and its beneficiary) issued in the average month: None

8. Average check payments at regular intervals (e.g., Payment to primary bank supplier, ABC Suppliers 11, XYZ & hardware supplier, 5000 semi-annually, etc.)
 - Average per quarter: \$100,000

9. Allocated wire payments per month:
 - Total \$ value: \$150,000
 - Major Suppliers: 10 (amounts and in case of 10 suppliers in the month)

10. Number of anticipated deposits in the average month: 10-15
 - Total \$ value: \$1,500,000



7 Normal & Special Accounts of AP
 2 Composition of the above deposits C/Cheques Wire etc. or Daily Money Order
 Total \$ value \$ 250,000 \$ \$ \$ \$
 Monthly amount average monthly by them per month Grand Total \$ 250,000

3 Letters of Credit & Collections Payments etc. for goods purchased from a Supplier:
Main (Terms and principal amount): None.

4 Will this account be used to conduct business on behalf of someone other than the named account holder (s) (if rd party if Yes, (3) If "Yes" provide details and supporting documentation for further review/disclosure as advised by the Bank Office (s)
 (Note for Bank: If this is a gift or a loan, and personal information of the third party and obtain id, national id and non voters of it, names of the third party is it non-resident)

5 I We certify that to the best of our knowledge the information provided herein is accurate. If there are any subsequent changes to any of the information/documentation, we will notify the bank by a signed letter.

I We authorize the Bank to obtain independent verification from public & or internal sources, with respect to the application and in accordance with anti money laundering & international banking laws & regulations

I We acknowledge that this account will be open for review by Compliance Officers and Auditors and by local government authorities and inspectors, subject to appropriate confidentiality restrictions by the bank.

I We further confirm that all credits to the account are and will be beneficially owned by the company (or its details in item # 8)

Disclosure of Information:
 While the Bank is committed to protect the privacy and security of the information provided, it may be necessary to disclose information:

- to response to credit enquiries from qualified legal financial institutions (usually with respect to the customer's application at said financial institution);
- If the Bank in its discretion reasonably deems such disclosure necessary or desirable in furtherance of the customer's business;
- Pursuant to legal process or subpoena served on the bank; and
- If a disclosure is reasonably necessary to protect the Bank's interests (the bank will usually notify the customer where permissible under the applicable legal process)

The Customer hereby consents to and authorizes such disclosure, and the Bank shall not become liable by reason of the giving of any such information or of it's being inaccurate or incomplete



IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We will ask to see two forms of identification, one of which must have a picture. We may also request other identifying documents.

Signature: *[Handwritten Signature]*
Director Authorized Signatory
Date: 4-5-2010

Signature: _____
Authorized Signatory

For Bank Use Only

Covered by Risk _____
Assigned Risk Rating (if any) _____
Reviewed by _____
(Bank Officer)
Authorized by _____
(Bank Officer)

SIC Code _____
Date _____
Date _____



Information Gathering Form - Account for a Private Corporate Entity

NOTE: PLEASE PROVIDE ALL OF THE REQUESTED INFORMATION ON THIS FORM. IF YOU DO NOT HAVE ALL THE INFORMATION REQUESTED, PLEASE COMPLETE AND RETURN THIS FORM TO THE ATTENTION OF:

SECTION 1 - DETAILS OF THE COMPANY

1. Full legal name of the company: BEHREND DISPENSARIES LTD
Trading Name(s) (if applicable): SAME AS ABOVE

2. Mailing address of the company: P.O. BOX 762 CHRISTIANSTED ST. CROIX, USVI 00021-0762
Physical address of the company: 406D ESTATE SION FARM CHRISTIANSTED ST. CROIX, USVI 00020

Telephone number: 340 778-6240 Facsimile number: 340 778-1200
E-mail address: _____ Website: _____

3. Number of employees: Full time _____ Part time _____

4. Total number of years in business: _____

5. Number of years at above address: _____

6. Country of incorporation: _____

7. Address of the Company's Registered Office: 406D ESTATE SION FARM CHRISTIANSTED, ST. CROIX USVI 00020

Telephone number: 340 778-6240 Facsimile number: 340 778-1200

8. Name / address / etc. of primary company contact: WALEED HAMED 406D ESTATE SION FARM CHRISTIANSTED, ST. CROIX USVI 00020

Telephone number: (____) _____ Facsimile number: (____) _____
E-mail address: _____

9. Name and address of the company's primary banker: BANCO POPULAR

Name of Account Manager: _____
Telephone number: (____) _____ Facsimile number: (____) _____

10. Name and address of the Law Firm that represents the company (if applicable): _____

Name of Attorney (if specifically assigned, within the firm): _____
Telephone number: (____) _____ Facsimile number: (____) _____

11. Name and address of the company's Accountant (if applicable): _____
Telephone number: (____) _____ Facsimile number: (____) _____

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12. Provide originals or certified true copies (if originals cannot be provided) of the following documents:

- Certificate(s) of Incorporation / Registration
- Memorandum and Articles of Incorporation / Association & By-Laws
- Notice of Address or Notice of Change of Address of Registered Office
- Notice of Directors/Managers or Notice of Change of Directors/Managers
- Notice of Appointment of Secretary and/or Notice of Change of Secretary
- Register of Members / Shareholders, including the full name and address of each individual holding 25% or more of the Company's shares
- Trade / Business Licenses and Registration documents
- Request for Name Search and/or Name Reservation
- Certificate of Good Standing, or
- Any other documentation requested by the Account Officer.

Note: Whichever documents require a renewal, a copy of the "updated" document is to be provided to Scotiabank upon each renewal / re-registration process.

13. If any of the following is such a corporate entity, then the names listed in section 12 are required for each such corporate entity, as well information regarding the following:

- Authorized signatory,
- Director;
- Beneficial owner holding 25% or more of the Company's shares;
- Any person with principal control over the Company's assets, and
- Any person acting under a power of attorney to any other legal document.

14. Please provide personal information for each officer, director and shareholder with more than a 1% ownership of the company.

Name <u>MALEED HAMED</u>	The GENERAL MANAGER
Physical Address <u>1 CED ESTATE SION FARM CHRISTIANSTED, ST. CROIX, 00820</u>	
Mailing Address <u>P.O. BOX 763 CHRISTIANSTED, ST. CROIX, USVI, 00821, 0163</u>	
Date of Birth <u>01/22/1962</u>	
Country of Citizenship <u>USA</u>	Telephone Number <u>(1-10) 690-9395</u>
Email address _____	Social Security Number <u>500-06-4108</u>
Name <u>MUFEED HAMED</u>	The MANAGER
Physical Address <u>SAME AS ABOVE</u>	
Mailing Address <u>SAME AS ABOVE</u>	
Date of Birth <u>10/1/1971</u>	
Country of Citizenship <u>USA</u>	Telephone Number <u>(1-10) 690-0971</u>
Email address _____	Social Security Number <u>500-10-2056</u>
Name <u>BAHER YUSUF</u>	The PARTNER
Physical Address <u>#14 PLATE ELESSEN PLIMPTON, ST. CROIX, USVI, 00821</u>	
Mailing Address <u>P.O. BOX 369 KINGSHILL, ST. CROIX, USVI, 00821, 0062</u>	
Date of Birth <u>4/28/1967</u>	
Country of Citizenship <u>USA</u>	Telephone Number <u>(1-10) 690-9396</u>
Email address _____	Social Security Number <u>500-12-4006</u>
Name <u>FATHI YUSUF</u>	The PARTNER
Physical Address <u>#26 A TURTLE PARK HALL</u>	
Mailing Address <u>#26 A TURTLE PARK HALL</u>	
Date of Birth <u>4/15/1971</u>	
Country of Citizenship <u>USA</u>	Telephone Number <u>(1-10) 690-9396</u>
Email address _____	Social Security Number <u>500-08-0000</u>



12. Provide originals or certified true copies (if originals cannot be provided) of the following documents:

- Certificate(s) of Incorporation / Registration,
- Memorandum and Articles of Incorporation / Association & By Laws,
- Notice of Address or Notice of Change of Address of Registered Office,
- Notice of Directors/Managers or Notice of Change of Directors/Managers,
- Notice of Appointment of Secretary and/or Notice of Change of Secretary,
- Registers of Members / Shareholders, including the full name and address of each beneficial owner holding 1% or more of the Company's shares,
- Trade / Business Licenses and Registration documentation,
- Request for Name Change and/or Name Reservation
- Certificate of Good Standing, or
- Any other documentation requested by the Account Officer

Note: Wherever documents require renewal, a copy of the "updated" document is to be provided to Scotiabank upon each renewal / re-registration process.

13. If any of the following is itself a corporate entity, then the items listed in section 12 are required for each such corporate entity, as well as information regarding the following:

- Authorize / signatory,
- Directors,
- Beneficial owner holding 25% or more of the Company's shares,
- Any person with principal control over the Company's assets, and
- Any person acting under a power of attorney or any other legal document.

14. Please provide personal information for each officer, director, and shareholder with more than 25% ownership of the company:

Name HISHAM HAMED Title MANAGER
 Physical Address #111, ESTATE PLESENF SWRD ST, CROIX, USVI 00821
 Mailing Address P.O. BOX 2649 KIRCHHILL, ST. CROIX USVI 00821-2649
 Date of Birth 12/19/1975
 Country of Citizenship USA Telephone Number (340) 690-3130
 Email address _____ Social Security Number 560-19-4047

Name YUSUF YUSUF Title MANAGER
 Physical Address ACED ESTATE HIGH FARM, CHRISTIANSTED ST, CROIX USVI 00820
 Mailing Address P.O. BOX 763, CHRISTIANSTED, ST. CROIX USVI 00821-0763
 Date of Birth 4/24/1977
 Country of Citizenship USA Telephone Number (340) 690-6700
 Email address _____ Social Security Number 560-21-9710

Name _____ Title _____
 Physical Address _____
 Mailing Address _____
 Date of Birth _____
 Country of Citizenship _____ Telephone Number _____
 Email address _____ Social Security Number _____

Name _____ Title _____
 Physical Address _____
 Mailing Address _____
 Date of Birth _____
 Country of Citizenship _____ Telephone Number _____
 Email address _____ Social Security Number _____

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Name _____
 Title _____
 Mailing Address _____
 Date of Birth _____
 Country of Citizenship _____ Telephone Number _____
 Email address _____ Social Security Number _____

13. Are any of the signatories, officers, shareholders with more than 10% ownership, or their immediate family members, a current or former senior official in the executive, legislative, administrative, military or judiciary of a foreign government or a senior officer of a foreign Political Party or a senior executive of any entity owned by a foreign government or do they maintain a personal or professional relationship with any such official?
 NO YES IF YES, provide further details as directed by the bank officer

16. Scotiabank's standard operating documents are generally only provided after all of the account-opening requirements have been fully satisfied. To assist in this process, please complete the following questions regarding the authorized signatories and signing instructions.

A. Provide the name and title of each individual who is authorized to sign on the company's account. Authorized signers are required to provide two pieces of ID in original form (or notarized copy only when authorized by a bank employee) - one (1) primary piece being a government-issued photo-ID (e.g., valid passport, driver's license) and one (1) secondary piece (e.g., birth certificate, credit card, social security card, etc.)

✓ Name WALEED HAMED Title _____
 Physical Address _____ SAME _____
 Mailing Address _____ AS _____ Telephone Number _____
 Date of Birth _____ Social Security Number _____
 Country of Citizenship ABOVE _____
 Email address _____

✓ Name MUTSBI HAMED Title _____
 Physical Address _____
 Mailing Address _____ SAME _____ AS _____ Telephone Number _____
 Date of Birth _____ Social Security Number _____
 Country of Citizenship ABOVE _____
 Email address _____

✓ Name MARER YUSUF Title _____
 Physical Address _____
 Mailing Address _____ SAME _____ AS _____ Telephone Number _____
 Date of Birth _____ Social Security Number _____
 Country of Citizenship _____
 Email address ABOVE _____

✓ Name FARID YUSUF Title _____
 Physical Address _____
 Mailing Address _____ SAME _____ AS _____ Telephone Number _____
 Date of Birth _____ Social Security Number _____
 Country of Citizenship _____
 Email address ABOVE _____

✓ Name HISHAM HAMED Title _____
 Physical Address _____
 Mailing Address _____ SAME _____ AS _____ Telephone Number _____
 Date of Birth _____ Social Security Number _____
 Country of Citizenship _____
 Email address ABOVE _____



Name YUSUF YUSUF
 Physical Address SADD
 Mailing Address AD
 Date of Birth _____
 Country of Citizenship _____
 E-mail address ABOVE

Telephone Number _____
 Social Security Number _____

B. Indicate the signing instructions for the above named individuals who are required to sign on the company's account (e.g. any one to sign "A" to sign with either of "B" or "C", etc):
TWO SIGNATURES ARE REQUIRED (one named with one Yusuf)

C. Provide names and applicable jurisdictions for persons not authorized to sign on the account (i.e. individuals who obtain the account balance, etc.) or account statements, mail, etc. ID document also required as per Reg # 15

D. Provide details of any other existing accounts / relations held with any Scotiabank Branch

E. If so requested, provide a banker's reference on the information of Company, prepared on the applicable Bank's letterhead, and signed by its Manager. If the Company is newly established and does not have an existing banking relationship then the reference is to be provided on the Parent Company / Beneficial Owner's. The bank reference should comment on the quality of the banking relationship over at least two years, provide full details of the banking arrangements including the date of establishment of the account, type of account, currency of account, present balance, average balance over the previous twelve-month period, credit history, and be specifically addressed to Scotiabank, to provide meaningful support. Facsimile or email references, or references addressed to "Whom It May Concern" are not acceptable.

SPENDING - PURPOSE FOR THE ACCOUNT AND ANTICIPATED ACCOUNT ACTIVITY

1. Reason &/or purpose for opening account(s) with Scotiabank, (including reference number, if applicable)

Detailed overview of the Company's primary business activity (e.g., *Company's products / services provided and how distributed to clients*), type of operations, country in which its main transactions are processed, etc. *to the best of your knowledge, provide information*
IMPORTED SUPERMARKET

05/10/2010

FY 004498

HAMD601914



3. Financial year end: Please provide a copy of the Company's latest financial statements or Annual Report. Attached
 If the Company is a subsidiary then provide a copy of the parent company's Annual Report Attached
 & Corporate Tree detailing ownership particulars (as applicable). In-house financials are to be provided if Accountant-prepared statements are not available.

4. Indicate the type or such account required (e.g., Checking Account, Certificate of Deposit, Cash Deposit) and services required (e.g., wire transfers, letters of credit).

5. Scotiabank is required by law to justify itself as to the source of funds for deposits (e.g., from sales, dividends, inter-company loans, etc). Also indicate from where, &/or from whom, funds for deposits are received. (Scotiabank reserves the right to request additional documentary evidence to support the information provided.)

6. Provide details of the anticipated activity in # 7 below. Material change (i.e., in excess of 20%) in the activity projected, requires that the company (immediately) notify the Account Manager / Relationship Officer, and if it is with ill will or whatever supporting information may be required to support the new statistics.

7. Normal & Expected Activity:

Number of checks expected to be issued in the average month; 1-50 51-100 101-150 151+
 Total \$ value; \$ \$ \$ \$
Major Suppliers / Customers and average payments to them per month:

Largest amount of check (and its beneficiary) issued in the average month:

Large check payments at irregular intervals (e.g., Payment to primary auto parts supplier - 100 Suppliers Ltd \$50k per quarter, XYZ Corporation - oil & battery supplier - \$500k semi-annually, etc);

Anticipated wire payments per month; \$ \$ \$ \$
 Total \$ value; \$ \$ \$ \$
Major Suppliers / Customers and average payments to them per month:

Number of anticipated deposits in the average month; 1-10 11-20 21-30
 Total \$ value; \$ \$ \$



7 **Normal & Expected Activity (cont'd)**

Composition of the above deposits:

Check	Year	to	Total	Other
Total \$ value:	\$	\$	\$	

Major Client name and average payments by frequency and amount

Letters of Credit &/or Collections Payments (i.e. for goods purchased from a Supplier),
Major Clients and anticipated amounts:

8 Will this account be used in conduct business on behalf of someone other than the named account holder (s) (if in
 party)? Yes/No If "Yes" provide details and supporting documentation for further review/discussion (as advised
 by the Bank Office)
 (Note for Banks: If the reply is yes, record personal information of the third party(ies) under "Verification of New
 Interest of Reference (If the third party is a non-resident).")

9 **IMPORTANT INFORMATION ABOUT UNLAWFUL INTERNET GAMBLING:**

The Unlawful Internet Gambling Enforcement Act of 2006 ("UIGEA" or the "Act") and its implementing Regulation
 G-9 prohibit any person from knowingly accepting payments in connection with the participation of another person in
 unlawful internet gambling.

The Act generally defines "unlawful internet gambling" as placing, receiving, or otherwise knowingly transmitting a
 bet or wager (as defined by the Act) by any means which involves the use, at least in part, of the Internet where such
 bet or wager is unlawful under any applicable Federal or State Law.

I have hereby certify the above named business does NOT engage in an Internet gambling business of any kind
 either legal or illegal, and will notify Scotiabank if this activity occurs.

10 I/We certify that to the best of our knowledge the information provided herein is accurate. If there are any
 subsequent changes to any of the information/documentation, we will notify Scotiabank by e-mail or by letter.

I/We authorize the Bank to obtain independent verification from any public &/or internal sources with respect to
 this application and its accordance with anti money laundering & anti terrorist financing laws & regulations.

I/We acknowledge that this account will be open for review by Compliance Officers and Auditors and by other
 government auditors and inspectors, subject to appropriate confidential restrictions by the bank.

I/We find or confirm that all words in the account are and will be beneficially owned by the company (or as directed
 in Item # 8).

Disclosure of Information:

While the Bank is committed to protect the privacy and security of the information provided, may be necessary to
 disclose information:

- o In response to credit enquiries from qualified legal financial institutions (usually in respect to the
 customer's application at said financial institution),
- o If the Bank in its discretion reasonably deems such disclosure necessary or best safe or in the interest of the
 customer's business,
- o In pursuit to legal process or subpoena served on the bank, and
- o If disclosure is reasonably necessary to protect the Bank's interests (the bank will usually notify the
 customer where permissible under the applicable legal process)



The Customer hereby consents to and authorizes such disclosure, and the Bank shall not become liable by reason of the giving of any such information or of it's being inaccurate or incomplete.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We will ask to see two forms of identification, one of which must have a picture. We may also request other identifying documents.

Signature: [Handwritten Signature]
Director / Authorized Signatory

Signature: [Handwritten Signature]
Director / Authorized Signatory

Date:

For Bank Use Only:

Country of Risk _____

SIC Code _____

Assigned Risk Rating (H, M, L) _____

Reviewed by: _____

Date: _____

(Bank Officer)

Authorized by: _____

Date: _____

(Bank Officer)

AGREEMENT RE OPERATION OF ACCOUNT

Date: 2/15, 1999

THE UNDERSIGNED (the "Customer") for valuable consideration hereby agrees with THE BANK OF NOVA SCOTIA (the "Bank") that the operation of each account which the Customer now or hereafter has with the Bank at any branch or office of the Bank and the carrying on of other banking business by the Customer with the Bank at any branch or office shall be subject to the following terms and conditions:

1. **WAIVERS:** Subject to any specific instructions given to the Bank in writing by the Customer,
 - (a) The Customer hereby waives presentment, notice of dishonour and protest of all bills of exchange, promissory notes, cheques and other instruments (each an "instrument") drawn, made, accepted or endorsed by the Customer now or hereafter delivered to the Bank for any purpose whatever, and the Customer shall be liable to the Bank in respect thereof as if presentment, notice of dishonour and protest had been duly made or given;
 - (b) If the Bank should consider it in the best interest of the Customer or the Bank that any instrument should be noted or protested because of any endorsement other than that of the Customer or for any other reason, the same may be noted or protested at the discretion of the Bank, but the Bank shall not be liable for failure or omission to note or protest any such instrument.
2. **USE OF AGENTS AND TRANSMISSION SYSTEMS:**
 - (a) The Bank may use the services of any correspondent or other entity or any funds transfer method or system as it may deem best in doing any act or thing in the course of or in connection with the banking business of the Customer. Such correspondent or other entity, in providing such services, and the Bank, in using such services or funds transfer methods or systems, shall be deemed the agent of the Customer.
 - (b) The Bank shall not be liable to the Customer by reason of:
 - (i) any act or omission of such correspondent or other entity in the performance of such services or the failure of any such funds transfer method or system due to any reason beyond the reasonable control of the Bank, or
 - (ii) the loss, destruction or delayed delivery of any instrument, security, certificate, document, instruction or signal of any kind while in transit or while in the possession or control of a person other than the Bank.
 - (c) The Bank shall not be liable to the Customer for any delay in completing or failure to complete any funds transfer instruction:
 - (i) through the use of any funds transfer method or system for any reason not within the reasonable control of the Bank, or
 - (ii) due to any chronology in handling funds transfer instructions by the Bank or any other party or system.
3. **CREDITING ACCOUNTS AND CHARGES TO ACCOUNTS:**
 - (a) The Bank may charge against any account of the Customer:
 - (i) the amount of any instrument, drawn, made, accepted or endorsed by the Customer which is payable at any branch or office of the Bank or in respect of which the Bank must reimburse a third party;
 - (ii) the amount of funds instructed by the Customer to be transferred to a third party or another account;
 - (iii) the amount of any instrument cashed or negotiated by the bank for the Customer or credited to the Customer's account for which payment is not received by the Bank;
 - (iv) the amount credited to any account of the customer pursuant to any instruction to transfer funds whether by the Customer or any third party, however implemented, which is reversed in whole or in part for any reason or in respect of which settlement is not received by the Bank; and
 - (v) any other indebtedness or liability of the Customer to the Bank, together with any expenses incurred by the Bank in connection therewith, whether or not the charging of any such amount against any account of the Customer creates or increases an overdraft.
 - (b) The Customer shall be and shall remain liable to the Bank in respect of each such amount so charged and hereby promises to pay on demand any overdraft, together with interest and interest on overdraft interest thereon at the interest rate charged by the Bank from time to time for overdrafts. In any event, the Bank reserves the right to receive any instrument payable or endorsed to the Customer as a collection agent for the Customer and to delay crediting any account of the Customer with the amount of such instrument or the amount referred to in a funds transfer instruction pending collection upon such instrument or settlement of net positions of participants in any funds transfer systems, as applicable. The Customer agrees to pay service charges at the usual rates charged by the Bank from time to time for services normally provided in connection with the operation of any account of the Customer, unless otherwise agreed, and to pay such other charges as may be agreed upon by the Customer and the Bank for such other services as the Bank may provide to the Customer from time to time and the Bank is hereby authorized to debit any of the Customer's accounts with the amount of such charges.
4. **INSTRUCTIONS AND CONFIRMATIONS:** Where the Bank is requested to act upon any instruction respecting banking business of the Customer, the Bank shall incur no liability in acting upon such instruction (including, without limitation, telephoned, oral, telex, electronic or other instructions or directions which the Bank believes in good faith to have been given by the Customer or by an authorized representative or attorney of the Customer. In the event of a discrepancy between any such instruction and any written confirmation thereof, such instruction as understood by the Bank is agreed to be paramount.
5. **USE OF CHEQUES AND STOP PAYMENT INSTRUCTIONS:**
 - (a) It is understood and agreed that in the ordinary course all cheques issued by the Customer will be drawn on the branch or office of the Bank where the account is maintained and on forms satisfactory to the Bank for each type of account. The Customer expressly releases the Bank of any and all responsibility which it may incur on account of the Bank refusing to honour any cheque or other order for payment not drawn on such branch or office of the Bank at which the Customer maintains the account, and/or any cheque or other order for payment not made on forms satisfactory to the Bank.
 - (b) The Customer further agrees to fully indemnify and save harmless the Bank against all damages, costs and expenses which the Bank may incur through refusing payment of any cheque(s) or reversing or revoking a transfer instruction for which the Customer issues or communicates a stop payment, reversal or revocation order to the Bank, and discharges the Bank from any responsibility resulting from payment of such cheque(s), or completion of any reversed or revoked instruction being made due to the Customer's failure to furnish the Bank with accurate information as to the cheque(s) to be countermanded or its instruction(s) to be reversed or revoked provided that the Bank may treat all funds transfer instructions as final and not subject to stop payment or recall and the Customer shall not have the right to reverse, adjust or revoke any instruction after it is received by the Bank except with the consent of the Bank, such consent to be invalid if the instruction shall have already been acted upon by the Bank prior to its acting upon adjustment, reversal or revocation.
 - (c) The Bank may, in its sole discretion, refuse to honour any instruction, interest at, or to make or delay payment if drawn or made with respect to an account impressed with a trust or reserved, legal or testamentary. The Bank shall incur no liability as a consequence of such refusal.
6. **MAILING OF ACCOUNT RECORDS:** In respect of all so accounts in which the Customer is a party, the Customer hereby instructs the Bank to mail a statement of account from time to time to the Customer and to the address of the Customer recorded in the books of the Bank. The instruction will constitute a final and irrevocable agreement in writing is received by the Bank from the Customer. The Customer agrees to mail a statement of account received within 10 days after the end of the cycle established for their preparation; the Customer will mail the statement not later than 5 days thereafter.

7. VERIFICATION OF ACCOUNT:

- (a) Upon receipt from the Bank from time to time of a statement of account of the Customer, the Customer will check the credit and debit entries in the said statement and examine all cheques and vouchers included therewith;
- (b) The Customer will within thirty days of the delivery of a statement to the Customer, or if the Customer has instructed the Bank to mail the said statement, within thirty days of the mailing thereof to the Customer, notify the Bank in writing of any errors or omissions therein or therefrom;
- (c) At the expiration of the said thirty days, except as to any errors or omissions of which the Bank has been so notified, and except as to any amounts improperly credited to the Customer's account, it shall be finally and conclusively settled in all respects save or set out in (d) below, as between the Bank and the Customer that:
 - (i) the amount of the balance shown in such statement is true and correct,
 - (ii) the said cheques and vouchers are genuine,
 - (iii) all amounts charged to the said account are properly chargeable to the Customer,
 - (iv) the Customer is not entitled to be credited with any amount not shown on the said statement,
 - (v) the Bank is totally and irrevocably released from all claims by the Customer in respect of any and every item in the said statement, and,
 - (vi) the Customer fully and completely acknowledges that the Customer will have no further action against or recourse to the Bank in respect of the debit entries in the said statement, and all cheques and vouchers included therein.
- (d) Nothing herein contained shall preclude the Customer from later objecting to any payments made on unauthorized or forged endorsements provided notice in writing is given to the bank forthwith after the Customer has acquired knowledge thereof.

8. VERIFICATION OF TRANSMISSION OF FUNDS:

- (a) With respect to any funds transfer implemented by or through any transmission system, the Customer shall review promptly the written or electronic notification of transfer sent to the Customer by the Bank after each transfer and promptly, and in any event within twenty-four hours of receipt or deemed receipt of same, report to the bank any discrepancy or objection concerning such transfer. The Customer expressly agrees that the failure to promptly report any such discrepancies or objections shall relieve the Bank of any liability with respect to such discrepancies or objections.
- (b) Such notifications may be sent to the Customer by mail at its last known address and shall be deemed to have been received four business days subsequent to mailing, or by electronic notification to the Customer and shall be deemed received twenty-four hours subsequent to sending such notification. Any delay due to an interruption in any authorized communication service shall extend the date deemed receipt commensurately.

9. FORGERY AND UNAUTHORIZED SIGNATURES:

- (a) The Customer shall:
 - (i) maintain systems and controls sufficient to prevent and detect thefts of instruments or loss due to forgeries or fraud involving instruments, and,
 - (ii) monitor the conduct of employees and agents having banking functions.
- (b) The Bank shall not be liable for any loss due to a forged or unauthorized signature, unless the customer proves that:
 - (i) the forged or unauthorized signature was made by a person who at no time was the Customer's employee or agent,
 - (ii) the loss was unavoidable despite compliance with (a) above, and
 - (iii) the loss was unavoidable despite steps to prevent forgery, unauthorized signatures and any loss resulting therefrom.

10. LIMITATION OF LIABILITY:

- (a) Notwithstanding any oral or written advice from any person respecting the purpose of any instrument or instruction, the Bank shall not be liable for any consequential or special damages.
- (b) The Bank shall have no responsibility or liability to any person for any reduction in any account due to taxes or depreciation in the value of the funds credited to the account, or for the unavailability of such funds due to restrictions on transfer, payment or convertibility, or due to any requisitions involuntary transfers, distress of any character, exercise of military or usurped power or any other cause beyond the control of the Bank. In any such event, the Customer shall have no claim, action or other recourse against the Head Office or Executive Office of the Bank, or any branch subsidiary or affiliate of the Bank other than the branch or office at which the account is maintained.

11. DISCLOSURE OF INFORMATION: The Bank may disclose any information about the Customer and the Customer's accounts:

- (a) in response to credit inquiries;
- (b) if the Bank in its discretion deems such disclosure necessary or desirable;
- (c) pursuant to legal process or subpoena;
- (d) if disclosure is necessary to protect the Bank's interests.

The Customer hereby consents to and authorizes any such disclosure, and the Bank shall not become liable by reason of the giving of any such information or of its being inaccurate or incomplete.

12. GOVERNING LAW: This agreement and any account of the Customer with the Bank shall be governed in all respects by the law of the jurisdiction where the branch or office maintaining the account is located.

13. JURY TRIAL WAIVER: The Customer hereby irrevocably waives all right to trial by jury in any action, proceeding, or counterclaim, including, but not limited to, actions sounding in tort, "bad-faith", fraud or otherwise, arising because of or in any way relating to this Agreement.

Customer acknowledges receiving a copy of This Agreement.

[Signature]

Witness

MUHEED H. HAMED

Name of Customer

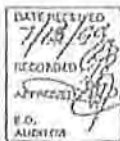
IF THE CUSTOMER IS A CORPORATION,
THE CORPORATE SEAL SHOULD BE AFFIXED.



[Signature]

Title

Title



AGREEMENT RE OPERATION OF ACCOUNT

Date: July 23, 1999

THE UNDERSIGNED (the "Customer") for valuable consideration hereby agrees with THE BANK OF NOVA SCOTIA (the "Bank") that the operation of each account which the Customer now or hereafter has with the Bank at any branch or office of the Bank and the carrying on of other banking business by the Customer with the Bank at any branch or office shall be subject to the following terms and conditions:

1. **WAIVERS:** Subject to any specific instructions given to the Bank in writing by the Customer,
 - (a) The Customer hereby waives presentment, notice of dishonour and protest of all bills of exchange, promissory notes, cheques and other instruments (each an "instrument") drawn, made, accepted or endorsed by the Customer new or hereafter delivered to the Bank for any purpose whatever, and the Customer shall be liable to the Bank in respect thereof as if presentment, notice of dishonour and protest had been duly made or given;
 - (b) If the Bank should consider it in the best interest of the Customer or the Bank that any instrument should be noted or protested because of any endorsement other than that of the Customer or for any other reason, the same may be noted or protested at the discretion of the Bank, but the Bank shall not be liable for failure or omission to note or protest any such instrument.
2. **USE OF AGENTS AND TRANSMISSION SYSTEMS:**
 - (a) The Bank may use the services of any correspondent or other entity or any funds transfer method or system as it may deem best in doing any act or thing in the course of or in connection with the banking business of the Customer. Such correspondent or other entity, in providing such services, and the Bank, in using such services or funds transfer methods or systems, shall be deemed the agent of the Customer.
 - (b) The bank shall not be liable to the Customer by reason of:
 - (i) any act or omission of such correspondent or other entity in the performance of such services or the failure of any such funds transfer method or system due to any reason beyond the reasonable control of the Bank, or
 - (ii) the loss, destruction or delayed delivery of any instrument, security, certificate, document, instruction or signal of any kind while in transit or while in the possession or control of a person other than the Bank.
 - (c) The Bank shall not be liable to the Customer for any delay in completing or failure to complete any funds transfer instruction:
 - (i) through the use of any funds transfer method or system for any reason not within the reasonable control of the Bank, or
 - (ii) due to any chronology in handling funds transfer instructions by the Bank or any other party or system.
3. **CREDITING ACCOUNTS AND CHARGES TO ACCOUNTS:**
 - (a) The Bank may charge against any account of the Customer:
 - (i) the amount of any instrument, drawn, made, accepted or endorsed by the Customer which is payable at any branch or office of the Bank or in respect of which the Bank must reimburse a third party;
 - (ii) the amount of funds instructed by the Customer to be transferred to a third party or another account;
 - (iii) the amount of any instrument cashed or negotiated by the bank for the Customer or credited to the Customer's account for which payment is not received by the Bank;
 - (iv) the amount credited to any account of the customer pursuant to any instruction to transfer funds whether by the Customer or any third party, howsoever implemented, which is reversed in whole or in part for any reason or in respect of which settlement is not received by the Bank; and
 - (v) any other indebtedness or liability of the Customer to the Bank, together with any expenses incurred by the Bank in connection therewith, whether or not the charging of any such amount against any account of the Customer creates or increases an overdraft.
 - (b) The Customer shall be and shall remain liable to the Bank in respect of each such amount so charged and hereby promises to pay on demand any overdraft, together with interest and interest on overdue interest thereon at the interest rate charged by the Bank from time to time for overdrafts. In any event, the Bank reserves the right to receive any instrument payable or endorsed to the Customer as a collection agent for the Customer and to delay crediting any account of the Customer with the amount of such instrument or the amount referred to in a funds transfer instruction pending collection upon such instrument or settlement of net positions of participants in any funds transfer systems, as applicable. The Customer agrees to pay service charges at the usual rates charged by the Bank from time to time for services normally provided in connection with the operation of any account of the Customer, unless otherwise agreed, and to pay such other charges as may be agreed upon by the Customer and the Bank for such other services as the Bank may provide to the Customer from time to time and the Bank is hereby authorized to debit any of the Customer's accounts with the amount of such charges.
4. **INSTRUCTIONS AND CONFIRMATIONS:** Where the bank is requested to act upon any instruction respecting banking business of the Customer, the Bank shall incur no liability in acting upon such instruction including, without limitation, telephoned, oral, telex, electronic or other instructions or directions which the Bank believes in good faith to have been given by the Customer or by an authorized representative or attorney of the Customer. In the event of a discrepancy between any such instruction and any written confirmation thereof, such instruction as understood by the Bank is agreed to be paramount.
5. **USE OF CHEQUES AND STOP PAYMENT INSTRUCTIONS:**
 - (a) It is understood and agreed that in the ordinary course all cheques issued by the Customer will be drawn on the branch or office of the Bank where the account is maintained and on forms satisfactory to the Bank for each type of account. The Customer expressly releases the Bank of any and all responsibility which it may incur on account of the Bank refusing to honour any cheque or other order for payment not drawn on such branch or office of the Bank at which the Customer maintains the account, and/or any cheque or other order for payment not made on forms satisfactory to the Bank.
 - (b) The Customer further agrees to fully indemnify and save harmless the Bank against all damages, costs and expenses which the Bank may incur through refusing payment of any cheque(s) or reversing or revoking any transfer instruction for which the Customer issues or communicates a stop payment, reversal or revocation order in the Bank, and discharges the Bank from any responsibility resulting from payment of such cheque(s), or completion of any reversed or revoked instruction being made due to the Customer's failure to furnish the Bank with accurate information as to the cheque(s) to be countersigned or its instruction(s) to be reversed or revoked provided that the Bank may treat all funds transfer instructions as final and not subject to stop payment or recall and the Customer shall not have the right to reverse, adjust or revoke any instruction after it is received by the Bank except with the consent of the Bank, such consent to be invalid if the instruction shall have already been acted upon by the Bank prior to its acting upon adjustment, reversal or revocation.
 - (c) The Bank may, in its sole discretion, refuse to honour any instruction, instrument, cheque or other order for payment if drawn or made with respect to an account impressed with a trust, expressed, implied or constructive. The Bank shall incur no liability as a consequence of such refusal.
6. **MAILING OF ACCOUNT RECORDS:** In respect of those accounts in which a statement is issued, the Customer hereby instructs the Bank to mail a statement of account from time to time to the Customer at the address of the Customer recorded in the books of the Bank. This instruction will continue in force until a contrary instruction in writing is received by the Bank from the Customer. The Customer agrees that if a statement of account is not received within 10 days after the end of the cycle established for their preparation, the Customer will notify the Bank not later than 5 days thereafter.

7. VERIFICATION OF ACCOUNT:

- (a) Upon receipt from the Bank from time to time of a statement of account of the Customer, the Customer will check the credit and debit entries in the said statement and examine all cheques and vouchers included therewith;
- (b) The Customer will within thirty days of the delivery of a statement to the Customer, or if the Customer has instructed the Bank to mail the said statement, within thirty days of the mailing thereof to the Customer, notify the Bank in writing of any errors or omissions therein or therefrom;
- (c) At the expiration of the said thirty days, except as to any errors or omissions of which the Bank has been so notified, and except as to any amounts improperly credited to the Customer's account, it shall be finally and conclusively settled in all respects save as set out in (d) below, as between the Bank and the Customer that:
 - (i) the amount of the balance shown in such statement is true and correct,
 - (ii) the said cheques and vouchers are genuine,
 - (iii) all amounts charged to the said account are properly chargeable to the Customer,
 - (iv) the Customer is not entitled to be credited with any amount not shown on the said statement,
 - (v) the Bank is totally and irrevocably released from all claims by the Customer in respect of any and every item in the said statement, and,
 - (vi) the Customer fully and completely acknowledges that the Customer will have no further action against or recourse to the Bank in respect of the debit entries in the said statement, and all cheques and vouchers included therein.
- (d) Nothing herein contained shall preclude the Customer from later objecting to any payments made on unauthorized or forged endorsements provided notice in writing is given to the bank forthwith after the Customer has acquired knowledge thereof.

8. VERIFICATION OF TRANSMISSION OF FUNDS:

- (a) With respect to any funds transfer implemented by or through any transmission system, the Customer shall review promptly the written or electronic notification of transfer sent to the Customer by the Bank after each transfer and promptly, and in any event within twenty-four hours of receipt or deemed receipt of same, report to the bank any discrepancy or objection concerning such transfer. The Customer expressly agrees that the failure to promptly report any such discrepancies or objections shall relieve the Bank of any liability with respect to such discrepancies or objections.
- (b) Such notifications may be sent to the Customer by mail at its last known address and shall be deemed to have been received four business days subsequent to mailing, or by electronic notification to the Customer and shall be deemed received twenty-four hours subsequent to sending such notification. Any delay due to an interruption in any authorized communication service shall extend the date deemed receipt commensurately.

9. FORGERY AND UNAUTHORIZED SIGNATURES:

- (a) The Customer shall:
 - (i) maintain systems and controls sufficient to prevent and detect thefts of instruments or loss due to forgery or fraud involving instruments, and,
 - (ii) monitor the conduct of employees and agents having banking functions.
- (b) The Bank shall not be liable for any loss due to a forged or unauthorized signature, unless the customer proves that:
 - (i) the forged or unauthorized signature was made by a person who at no time was the Customer's employee or agent,
 - (ii) the loss was unavoidable despite compliance with (a) above, and
 - (iii) the loss was unavoidable despite steps to prevent forgery, unauthorized signatures and any loss resulting therefrom.

10. LIMITATION OF LIABILITY:

- (a) Notwithstanding any oral or written advice from any person respecting the purpose of any instrument or instruction, the Bank shall not be liable for any consequential or special damages.
- (b) The Bank shall have no responsibility or liability to any person for any reduction in any account due to taxes or depreciation in the value of the funds credited to the account, or for the unavailability of such funds due to restrictions on transfer, payment or convertibility, or due to any requisitions involuntary transfers, distress of any character, exercise of military or usurped power or any other cause beyond the control of the Bank. In any such event, the Customer shall have no claim, action or other recourse against the Head Office of Executive Office of the Bank, or any branch subsidiary or affiliate of the Bank other than the branch or office at which the account is maintained.

11. DISCLOSURE OF INFORMATION: The Bank may disclose any information about the Customer and the Customer's accounts:

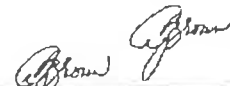
- (a) in response to credit inquiries;
- (b) if the Bank in its discretion deems such disclosure necessary or desirable;
- (c) pursuant to legal process or subpoena;
- (d) if disclosure is necessary to protect the Bank's interests.

The Customer hereby consents to and authorizes any such disclosure, and the Bank shall not become liable by reason of the giving of any such information or of its being inaccurate or incomplete.

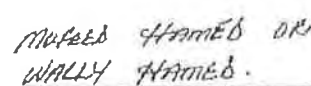
12. GOVERNING LAW: This agreement and any account of the Customer with the Bank shall be governed in all respects by the law of the jurisdiction where the branch or office maintaining the account is located.

13. JURY TRIAL WAIVER: The Customer hereby irrevocably waives all right to trial by jury in any action, proceeding, or counterclaim, including, but not limited to, actions sounding in tort, "bad-faith", fraud or otherwise, arising because of or in any way relating to this Agreement.

Customer acknowledges receiving a copy of This Agreement.

X 

 Witness



 Name of Customer

IF THE CUSTOMER IS A CORPORATION, THE CORPORATE SEAL SHOULD BE AFFIXED.



By: 

 Title





 Title

7. VERIFICATION OF A STATEMENT

- (a) Upon receipt from the Customer of a statement of account of the Customer, the Customer shall certify and shall ensure in the said statement that every debit and credit is properly recorded thereon.
- (b) The Customer will within thirty days of the delivery of a statement to the Customer, or if the Customer is not in the Bank to mail the said statement, within thirty days of the mailing thereof to the Customer, notify the Bank in writing of any error or omission therein or thereon.
- (c) At the expiration of the said thirty days, except as to any error or omission of which the Bank notifies the Customer and except as to any account discrepancy notified to the Customer's account, it shall be finally and conclusively settled by all requests as set forth below, to become the Bank's and the Customer's:
 - (i) the amount of the balance shown in each statement if true and correct;
 - (ii) all amounts credited to the said account and properly chargeable to the Customer;
 - (iii) the Customer is not entitled to be credited with any amount shown on the said statement;
 - (iv) the Bank is finally and irrevocably released from the claims of the Customer in respect of any such amount; and
 - (v) the Customer fully and conclusively acknowledges that the Customer will have no further liability or claim against the Bank in respect of the cash entries in the said statement, and all of payment and receipt entries thereon.
- (d) Nothing herein contained shall preclude the Customer from later objecting to any part thereof made on the basis of knowledge known.

8. VERIFICATION OF THE AUTHORITY OF FUNDS

- (a) With respect to any funds transfer transmitted by or through any transmission system, the Customer shall promptly on the date of receipt thereof or of transfer here to the Customer by the Bank the cash amount of the transfer, and in any event within forty-four hours of receipt of direct receipt of same, report to the Bank any discrepancy or objection concerning such transfer. The Customer's responsibility to report any discrepancy or objection shall not be affected by the Bank's or any bank's responsibility to such other parties as may be.
- (b) Such notification may be made to the Customer by mail at the last known address and shall be deemed to have been received four business days after receipt in mailing, or by electronic notification to the Customer and shall be deemed received three business days after receipt in mailing, or by direct communication to the Customer and shall be deemed received three business days after receipt in mailing, or by direct communication to the Customer and shall be deemed received three business days after receipt in mailing, or by direct communication to the Customer and shall be deemed received three business days after receipt in mailing.

9. FORGED AND UNAUTHORIZED SIGNATURES

- (a) The Customer shall:
 - (i) maintain systems and controls sufficient to prevent and detect thefts of instruments or data by or through any financial institution, and;
 - (ii) monitor the conduct of employees and agents having banking functions.
- (b) The Bank shall not be liable for any loss due to a forged or unauthorized signature, unless the Customer proves that:
 - (i) the forged or unauthorized signature was made by a person who at the time of the Customer's entry into the account was an authorized signatory;
 - (ii) the loss was unavoidable despite compliance with (a) above; and
 - (iii) the loss was unavoidable despite steps to prevent forgery, unauthorized signatures and any loss resulting therefrom.

10. LIMITATION OF LIABILITY

- (a) Notwithstanding any oral or written advice from any person representing the purpose of any instrument or the nature of the Bank shall not be liable for any consequences of special damages.
- (b) The Bank shall have no responsibility or liability to any person for any reduction in any account or instrument deposited in the name of the bank resulting from the account, or for the unrecoverability of such funds due to destruction or loss of, payment or conversion of, or due to any regulations including transfer, change of any character, or any other cause of liability or damaged paper or any other cause beyond the control of the Bank, in any such event, the Bank shall have no claim, action or other recourse against the Head Office or Branch Office of the Bank, or any other subsidiary or affiliate of the Bank other than the branch office through the account is maintained.

11. DISCLOSURE OF INFORMATION: The Bank may disclose any information about the Customer and the Customer's account

- (a) in response to credit inquiries;
- (b) if the Bank in its discretion deems such disclosure necessary or appropriate;
- (c) pursuant to legal process or subpoena;
- (d) if disclosure is necessary to protect the Bank's interests.

The Customer hereby consents to and authorizes any such disclosure, and the Bank shall not become liable by virtue of the giving of any such information or of its being in respect of or incomplete.

12. GOVERNING LAW: This agreement and any account of the Customer with the Bank shall be governed by the laws of the jurisdiction where the branch office maintaining the account is located.

13. JURY TRIAL WAIVER: The Customer hereby irrevocably waives all right to trial by jury in any action, proceeding or court action, including, but not limited to, action sounding in tort, breach of contract, fraud or otherwise, arising out of or in any way relating to this Agreement.

Customer acknowledges receiving a copy of This Agreement.

Muller & Charles
 Witness
 IN THE PRESENCE OF A COMPETENT
 THE COMPLETE REAL INDOUBT BE AFFIRMED.

Charles...
 Bank of Cuba
 By: *[Signature]*
 Title: *[Signature]*



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

TERRITORY OF THE VIRGIN ISLANDS)
) SS.
DIVISION OF ST. CROIX)

AFFIDAVIT OF BAKIR HUSSEIN

I, BAKIR HUSSEIN, being first duly sworn, declare under penalty of perjury that the foregoing is true and correct.

1. I am an adult of sound mind, and a resident of St. Croix, Virgin Islands; I personally know Fathi Yusuf, Waleed Hamed, and Mohammed Hamed. I make this affidavit of my own personal knowledge and information.
2. I attended several meetings and had numerous discussions with Fathi Yusuf, Waleed Hamed and Mohammed Hamed, together and separately, and as such, I am aware of the facts in this Affidavit.
3. Sometime in mid-2012, I heard rumors of a potential split between the Hamed and Yusuf families. I visited Mr. Yusuf to ask about the split, and at the time Mr. Yusuf said there was nothing wrong between the families, except that Mr. Yusuf wanted to separate from the Hameds.
4. A few weeks later, I asked him again about the rumored split, Mr. Yusuf then expressed his concerns regarding the unauthorized withdrawals of funds by Waleed Hamed. At that point, I realized along with other friends of both families that there was a problem between the Yusuf and Hamed families.
5. Over a six to eight month period, I was involved in a total of three meetings between the Hamed and Yusuf families. Other mutual friends were also present at those meeting. One of the meetings was held at Best Furniture, while the other meetings were held at various locations.
6. There were two major disputes between the Yusufs and Hameds. The first dispute was Waleed Hamed's unauthorized taking of monies belonging to the Plaza Extra supermarket stores



- without Mr. Yusuf's knowledge. The second dispute concerned the issue of excess funds that were withdrawn by the Hameds for which the Yusufs did not take in matching withdrawals.
7. As to the first dispute, Mr. Yusuf, Waleed Hamed, and Mohammed Hamed agreed that Mr. Yusuf would receive title to two properties in satisfaction of Waleed Hamed's unauthorized withdrawals. The first property is an 8 acre property located in Jordan, and the second property was a 9-10 acre property in Tutu Park.
 8. To my knowledge the first property was transferred to Mr. Yusuf, however to date the second property was not transferred.
 9. In several open meetings, Mr. Yusuf said that the Hameds took \$1.6 million more than the Yusufs. Waleed Hamed admitted that he took the excess \$1.6 million dollars, which is the difference between the \$2.9 Million taken by the Hameds and the \$1.3 Million taken by the Yusufs. In addition to the \$1.6 million dollars which I heard Waleed Hamed admit to, both Waleed Hamed and Fathi Yusuf both agreed to additional withdrawals by the Yusufs provided that the Yusufs produced receipts to show proof of the additional withdrawals.
 10. I personally heard Waleed Hamed admitting to owing \$1.6 million dollars to the Yusufs as a result of excess withdrawals by the Hameds, and that the receipts for that amount were not available because they were destroyed prior to the raid by the U.S. Government.
 11. In addition, Mr. Yusuf and Waleed Hamed discussed the unpaid rent on the Plaza Extra -- East store that has been pending for many years. Specifically, Waleed Hamed agreed to pay the rent for the rental period prior to 2004.
 12. At one point, there was an agreement in place between the Hameds and Fathi Yusuf that the Hameds would transfer two (2) properties to Mr. Yusuf for what he had discovered so far.
 12. Despite meeting with both sides, individually and together on a number of occasions, two issues began to stand out as the sticking points.
 13. First, Fathi Yusuf stated that the Hameds were not being straight with him when the Hameds refused to transfer the second property, as agreed for the transactions he had discovered so far. On the other hand, Waleed Hamed said that he did not believe that Fathi would not stop with his final request for the third property for everything. At the end, the parties could not agree to the transfer of the third piece of land to satisfy Mr. Yusuf's claims regarding the unauthorized monies taken by the Hameds. The parties also could not agree on how to divide up the business and go their separate ways.

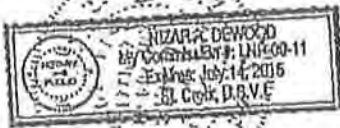
I attest that the above facts are true.

Date: 09-10-2014


Bakir Hussein

SUBSCRIBED AND SWORN TO before me
On this 10th day of Aug., 2014.


NOTARY PUBLIC



OFFENSE
REPORT

V. I. POLICE DEPARTMENT - United States Virgin Islands

1. OFFENSE/INCIDENT Embezzlement By Fiduciaries	2. ZONE	B	3. DR#	13 A-04488
	RIA	O-1	4. ARREST #	N/A
	P/S	III	5. UCR #	

6. COMPLAINANT'S NAME - FIRM OR BUS. YUSUF, Maher F.	7. HOME ADDRESS #306A Judith's Fancy Judith's Fancy	8. HOME PHONE (340) 718-9328
---	--	---------------------------------

9. SEX M	10. D.O.B. 04/28/67	11. RACE UNKN	12. POB Jordan	13. SSN	14. OCCUPATION Director
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15. BUS. ADDRESS OR SCHOOL ATTENDING PLESSEN ENTERPRISE, INC.	16. BUS/SCH PHONE (340) 690-9396	17. LOCATION OF INCIDENT (Address) Banco Popular de PR, Sunny Isles
--	-------------------------------------	--

18. TIME OF OCCURRENCE M D Y DAY OF WEEK & TIME 03 27 13 Wednesday	19. TIME REPORTED M D Y DAY OF WEEK 05 17 13 Friday
--	---

20. BY WHOM YUSUF, Maher F.	21. ADDRESS OF REPORTING PERSON #306A Judith's Fancy Judith's Fancy	22. PHONE # (340) 718-9328
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23. DESCRIPTION N/A	RACE	AGE	HT.	WT.	EYES	HAIR	BUILD	COMPLEXION	BEARD, MUSTACHE, SIDEBURNS	HAT	COAT
24. MENTAL CONDITION	25. PHYSICAL CONDITION										

26. SCARS, MARKS, DEFORMITIES	27. GLASSES (Describe)	28. LAST SEEN WHERE	29. IN COMPANY OF	30. PROBABLE DESTINATION
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31. CAUSE OF ABSENCE	32. Vehicle DESCRIBE <input type="checkbox"/> YES <input type="checkbox"/> NO	33. MISSING PREVIOUSLY <input type="checkbox"/> YES <input type="checkbox"/> NO	34. IF YES, DATE/WHERE LOCATED
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35. DESCRIPTION OF ANIMAL	36. IF ANIMAL BITE, GIVE INOCULATION NO.	37. LICENSE NO.	38. DISPOSITION
---------------------------	--	-----------------	-----------------

39. BREED	40. RESIDENCE ADDRESS	41. RESIDENCE PHONE	42. BUSINESS PHONE
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43. <input type="checkbox"/> INJURY <input type="checkbox"/> NATURE OF INJURY AND LOCATION ON BODY	45. TRANSPORTED TO	46. TRANSPORTED BY
--	--------------------	--------------------

47. <input type="checkbox"/> DEATH <input type="checkbox"/> RELEASED	48. PROBABLE CAUSE OF INJURY OR DEATH	49. PHYSICIAN
--	---------------------------------------	---------------

STATUS OF VEHICLE. USE APPLICABLE ITEMS IN THIS SECTION FOR ALL "AUTO THEFT" OR "VEHICLE REPORTS" OR OTHER TRANSPORTATION -

MOTORCYCLES AUTO TRUCK BUS BOAT Other...

50. <input type="checkbox"/> RECOVERED <input type="checkbox"/> ABANDONED <input type="checkbox"/> IMPOUNDED <input type="checkbox"/> CONFISCATED	51. POINT OF ENTRY <input type="checkbox"/> LOCKED DOOR <input type="checkbox"/> UNLOCKED DOOR <input type="checkbox"/> WINDOW <input type="checkbox"/> VENT <input type="checkbox"/> TRUNK <input type="checkbox"/> HOOD
---	--

52. METHOD OF THEFT (Crossed wires, etc.)	53. KEYS IN IGNITION <input type="checkbox"/> YES <input type="checkbox"/> NO	54. DESCRIBE EVIDENCE OF STRIPPING, TAMPERING, DAMAGE TO AUTO
---	---	---

55. COLOR	56. YR/MK/MAKE/MODEL/TYPE	57. VIN	58. YR/STATE/UC. PLATE NO./STICKER NO.
-----------	---------------------------	---------	--

59. VALUE	60. TOWED BY/WHERE	61. Time/Date Recovered/location
-----------	--------------------	----------------------------------

62. IN COMPANY	63. TYPE OF PROPERTY DAMAGE	64. VALUE OF PROPERTY DAMAGE/LOSS
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65. Narcotics Type	66. Quantity	67. Fd. Test By
--------------------	--------------	-----------------

68. TYPE PREMISE WHERE OFFENSE OCCURRED

- A. Residence _____
- B. Non-Residence Financial Institution _____

69. POINT OF ENTRY
- Adjacent Premise
 - Window
 - Door - Sliding Glass
 - Roof
 - Garage
 - Hallway
 - Patio
 - Unknown
 - Other... N/A

72. PROTECTIVE DEVICE
- Dog
 - Alarm
 - Professional Security Patrol
 - Normal Locking Devices
 - Lighting Device
 - T.V. Camera
 - None
 - Other... None

74. TOOL
- Pry Bar / Crowbar
 - Screwdriver
 - Knife / Cutting Instrument
 - Hammer / Mallet Device
 - Bolt Cutter
 - Key
 - Unknown
 - Other... Check

76. METHOD USED
- Break Window / Door Glass
 - Jimmy Door / Window
 - Burned
 - Punched
 - Removed
 - Cutting / Slabbing
 - Strong Arm
 - Sifting / Lifting
 - Verbal Threat
 - Shooting
 - Other... Removed

78. GUN FEATURES
- 01. Automatic
 - 02. Revolver
 - 03. Double Barrel
 - 04. Single Barrel
 - 05. Long Barrel
 - 06. Short Barrel
 - 07. Sawn Barrel
 - 08. Bolt Action
 - 09. Altered Grip
 - 10. Chrome Grip
 - 11. Blue
 - 12. Small Caliber
 - 13. Large Caliber
 - Other...

70. LOCATION OF ENTRY

N	S	E	W	Unk

73. PROPERTY TYPE
- Currency
 - Jewelry
 - Clothing
 - Office Equipment
 - Television, Radios, Cameras, Etc.
 - Firearms
 - Household Goods
 - Other... Currency

75. EVIDENCE
- Left Note
 - Bloodstains
 - Toolmarks
 - Fingerprints
 - Footprints
 - Unknown
 - Other... Check

77. WEAPON
- Hands / Feet
 - Pocket Knife
 - Machete
 - Handgun
 - Shotgun
 - Rifle
 - Rock
 - Bottle
 - Other... N/A

79. DOCUMENT

Brand Name / Caliber _____

Social Security Check No. 0376...
Account No. 35012 Amount...
\$450,000.00 Date 3/22/13...

83. REPORTING OFFICER NAME & BADGE NO.
M. Cornejo, SGT. #3070

V.I. POLICE RECORDS BUREAU
MAY 20 2013
RECORDING OFFICER RECOMMENDS FOLLOW UP
 YES NO

84. APPROVING OFFICER PRINT & SIGNATURE
M. Cornejo, SGT. #3070

81. SECOND OFFICER NAME & BADGE NO.

85. REMOVER'S SIGNATURE & TITLE

Blumberg No. 5718
Exhibit F

88 DESCRIPTION OF THE SUSPECT(S) Arrested

(1) Waleed Hamed, #7 South Gate, C'sted, DOB=22JAN62, POB=Jordan
Name, Address, Phone No.

(2) Muffed Hamed, #66 Eilza's Retreat, C'sted, DOB=01OCT71, POB=Kuwait
Name, Address, Phone No.

(3) _____
Name, Address, Phone No.

(4) _____
Name, Address, Phone No.

100. SOLVABILITY FACTORS

Yes	No	Unk	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	01 Can suspect vehicle be identified?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	02 Is stolen property traceable?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03 Was physical evidence collected?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	04 Is specific MO present?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	05 Is victim willing to prosecute?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	06 Was an arrest made?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	07 Can suspect be named?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	08 Can suspect be identified?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09 Can suspect be described?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10 Can suspect be located?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11 Is suspect related to victim?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12 Was there a witness?

87. SEX 01 Male 02 Female

88. RACE 01 White 02 Black 03 Asian 04 Oriental 05 Hispanic 06 Unknown 07 Other

89. AGE 01 Under 18 02 18-25 03 26-35 04 36-50 05 Over 50

90. BUILD 01 Short 02 Medium 03 Muscular 04 Large 05 Slim

91. CLOTHING 01 Hat 02 Coat 03 Shirt/Blouse 04 Trousers/Skirt 05 Shoes

92. HEIGHT 01 Over 6'3" 02 6'0" - 6'3" 03 5'9" - 6'0" 04 5'6" - 5'9" 05 5'3" - 5'6" 06 5'0" - 5'3" 07 Under 5'0"

93. EYES (Color) 01 Black 02 Blue 03 Brown 04 Gray 05 Green 06 Hazel 07 Maroon 08 Pink 09 Unknown

94. FACIAL HAIR 01 Mustache 02 Beard 03 Sideburns 04 Heavy Eyebrows 05 Clean Shaven

95. HAIR 01 Bald Head 02 Black 03 Blonde or Strawberry 04 Brown 05 Gray or Partial Gray 06 Red or Auburn 07 Sandy 08 White 09 Locks 10 Unknown

96. HAIR STYLE 01 Afro 02 Long, Straight 03 Long, Curly 04 Short, Straight 05 Short, Curly 06 Receding 07 Toupees 08 Wig 09 Bald w/Fringe 10 Locks

97. VOCAL IDENTITY 01 Foreign 02 Southern 03 Fast clipped 04 West Indian 05 Sturred 06 Stutters 07 Deep Pitch 08 High Pitch

98. SUSPECT BEHAVIOR 01 Threat of Bodily Harm 02 Threat of Property Loss 03 Tied or Locked up Victim 04 Did Considerable Talking 05 Did Little or No Talking 06 Acted Nervous or Excited 07 Acted Calm or Deliberate 08 Disguised or Masked 09 Used Lubricant 10 Malicious Destruction 11 Used Tools Found at Scene 12 Ate/Drank on Premises 13 Delocated 14 Perspired 15 Unusual Odor 16 Other Threat of Property Loss

99. MODUS OPERANDI OF SUSPECT 01 Bound Comp/Victim 02 Used Note 03 Prostitution Involved 04 Used Lookout 05 Acapologic 06 Made Gestures 07 Sex Acts Involved 08 Used Stolen Vehicle 09 Shots Fired 10 Used Comp/Victim Name 11 Used Other Familiar Name 12 Other Freud

101. RECOMMENDED ACTION UNDER SOLVABILITY FACTORS

Follow Up By:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	01. Investigation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	02. Juvenile
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03. I.A.U.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	04. I.I.U.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	05. Traffic
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	06. Patrol
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	07. F.B.I.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	08. Postal Inspector
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	09. Mental Health
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10. Coast Guard
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11. Narcotics
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12. Social Welfare
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	13. Other _____

102. CASE STATUS 01. Unfounded 02. Closed/Arrest 03. Exception/Cleared 04. Suspended 05. Open 06. Closed

103. DISPATCH TIME
ARRIVAL TIME 11:00
DEPARTURE TIME 13:50

104. CODE: V - Victim O - Owner P - Parent/Guardian R - Reporting Person CP - Child Present W - Witness

NAME(S)	CODE	RESIDENCE ADDRESS	RES. PHONE	EMPL/SCH/PHONE
Maher F. Yusuf	R	#306A Judith's Fancy	(340) 718-9328	(340) 690-9396
Fathi Yusuf	O	#92 A&B La Grande Princess		
Yusuf Yusuf	W	#92 CD La Grande Princess		

105. NARRATIVE:

On today's date, "R" was present at Insular Investigation Bureau with "O" (R's Father) and his Attorney, Nizar A. Dewood to make a complaint of "Embezzlement."

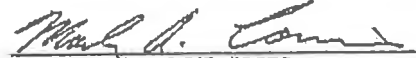
"R" was interviewed and stated that the Yusuf and Hamed family, each has 50 % interest in Plessen Enterprise, Inc. That they never have made any dividends payout. That Mohamad Hamed is the President, "S1" is the Vice-President, "O" is the Secretary/Treasurer, and "R" is the Director of Plessen Enterprises, Inc. That check No. 0376 was drawn from Scotiabank Account No. 45012, belonging to Plessen Enterprises, Inc., made payable to Waleed Hamed ("S1"), dated 27MAR13, in the amount of \$460,000.00, and was signed by "S1" and "S2." That both families had a verbal agreement that any check signed against Plessen Enterprise, Inc. would need the signature of at least one member of each family. That no one in the Yusuf family was aware of Check No. 0376, until the bank notified "O" that he needed to put cash in the account or a check written to compensate "W" would be return due to insufficient funds. That "W" used his credit card to pay the taxes for Plessen Enterprises, Inc. and Plessen Enterprises Inc. wrote a check to repay "W." That "S1" left \$7,000.00 in the account thinking that nobody would have notice the funds missing, since the account is not very active. However, "W" had failed to deposit a check from the rental of a property right away, which would have cover check No. 0376 and that was the reason the account did not have enough funds to cover the check or else the withdrawal would not have been detected.

(Cont.)

"R" further stated that "S1" returned \$230,000.00 after "W" filed a civil lawsuit against "S1," "S2," Waheed Hamed, Hisham Hamed, and Five-H Holdings, Inc. However, the money was deposited with the Clerk of the Court at the Superior Court.

"O" confirmed that the families did not have any written agreement, but they had a verbal agreement to sign the checks using one member of each family. That "S1" knew that the Yusuf Family would not have agreed to sign, so he had one of his brother ("S2") sign the check. That the monies "S1" took without any authorization was used for the closing on a property deal in St. Thomas. That the Plessen Enterprises Inc. account was strictly to cover the operational expenses of the business, not for personal ventures.

Request case open, until further development.



M. Corneiro, SGT. #3070

V.I.P.D. RECORDS BUREAU

MAY 21 2013



VIRGIN ISLANDS POLICE DEPARTMENT
INSULAR INVESTIGATION BUREAU

PAGE 1 OF 3
CR# 13A04488

STATEMENT - COVER SHEET

DATE: 17 MAY 13 TIME: 1130 PLACE: INSULAR INVESTIGATION
FULL NAME: MAHER YUSUF D.O.B.: 4/29/67 P.O.B.: JORDAN
HOME ADDRESS: 306A SUBITH'S ENCL. PHONE: (340) 718-9328
MAILING ADDRESS: PO BOX 908 C'STED 00821 S.S.#:
EMPLOYMENT: DIRECTOR OF PRESSEJ ENTERPRISES, INC. PHONE: (340) 690-9326
RECORDED BY: SGT. MARK A. CORNEIRO SUBJECT: EMBEZZLEMENT BY
STATEMENT NARRATIVE FIDUCIARIES

THIS IS AN INTERVIEW IN REFERENCE TO SCOTIABANK
ACCOUNT NO. 45012, CHECK NO. 0376, BELONGING TO PRESSEJ
ENTERPRISES, INC., MADE PAYABLE TO WALEED HAMED, IN THE
AMOUNT OF \$460,000.00, DATED 3/27/13 AND SIGNED BY
WALEED HAMED AND MUFFEED HAMED. THIS STATEMENT IS GIVEN
BY MR. MAHER YUSUF AND RECORDED BY SGT. MARK A.
CORNEIRO.

Q) CAN YOU TELL ME WHAT OCCURRED?

A.S.) MY BROTHER, YUSUF YUSUF PAID PROPERTY TAX FOR
PRESSEJ ENTERPRISE, INC WITH HIS CREDIT CARD. HE WAS
GOING TO REIMBURSE HIS CREDIT CARD WITH FUNDS FROM
PRESSEJ ENTERPRISE, INC. HE USED A CHECK FROM THE
COMPANY WHEN THE BANK CALLED AND NOTIFIED MY
FATHER, FATHI YUSUF THAT THERE WAS INSUFFICIENT FUNDS
IN THE ACCOUNT TO COVER THE CHECK. WE WONDERED
WHY, BECAUSE WE THOUGHT IT SHOULD HAVE ENOUGH TO
COVER THE CHECK IN THE ACCOUNT. THE BANK
REPRESENTATIVE TOLD US SOMEONE WITHDREW \$460,000.00
FROM THE ACCOUNT AND THAT WE NEEDED TO BRING

SIGNATURE: [Signature] WITNESS: [Signature] SGT

INSURANCE INVESTIGATION BUI A

STATEMENT - CONTINUATION SHEET

CR# 13A04488 PAGE 2 OF 3

ANS) MONEY TO COVER THE CHECK, SO THAT IT WOULD NOT BE RETURNED. WE BROUGHT MONEY FROM ANOTHER COMPANY AND DEPOSITED IN THE ACCOUNT, SO THAT THE CHECK COULD CLEAR. WE GOT COPY OF THE BACK AND FRONT OF THE CHECK AND NOTICED THE CHECK WAS SIGNED BY WALEED HAMED AND MUFFEES HAMED. THE CHECK WAS DEPOSITED IN WALEED HAMED PERSONNEL ACCOUNT.

Q) WHO IS IN THE BOARD FOR PRESSER ENTERPRISE INC.

ANS) MOHAMMAD HAMED, PRESIDENT, WALEED HAMED - VICE-PRESIDENT, FATH YUSUF = SECRETARY / TREASURER AND I AM DIRECTOR

Q) HOW MANY SIGNATURES ARE REQUIRED TO SIGN THE CHECK?

ANS) TWO SIGNATURES

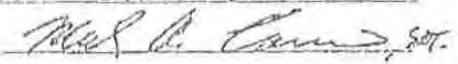
Q) WHO IS AUTHORIZED TO SIGN THE CHECKS?

ANS) INITIALLY WHEN ONE SIGNATURE WAS REQUIRED, WHICH WERE MYSELF, MY FATHER AND WALEED HAMED. HOWEVER, IT HAS BEEN UPDATED AND I DO NOT RECALL WHO IS AUTHORIZED. WE HAD A VERBAL AGREEMENT THAT ONE PERSON FROM THE HAMED AND ONE PERSON FROM THE YUSUF WOULD SIGN THE CHECK.

Q) THE FUNDS THAT WERE IN THE PRESSER ENTERPRISE, INC. ACCOUNT HAD ANY SPECIFIC PURPOSE?

ANS) THE FUNDS WERE STRICTLY TO COVER EXPENSE.

SIGNATURE: 

WITNESS:  , SO.

INSURANCE INVESTIGATION BUI AU

STATEMENT - CLOSING SHEET

CR# 13A04488 PAGE 3 OF 3

ANS) FROM THE COMPANY.

Q) DID WALEED HAMED OR ANY MEMBER OF THE HAMED FAMILY INFORMED YOU OR ANY MEMBER OF THE YUSUF FAMILY THAT THEY WERE GOING TO REMOVE \$460,000⁰⁰ FROM THE ACCOUNTS?

ANS) NO

Q) HOW MUCH SHARES IN THE COMPANY BOTH FAMILY HAVE?

ANS) 50% EACH

Q) WAS ANY MINUTES RECORDED OF THE PURPOSE OF THE WITHDRAWAL OF THE \$460,000⁰⁰?

ANS) NO

Q) DID WALEED HAMED HAD AUTHORIZATION TO WITHDRAW THE MONEY?

ANS) NO

Q) CAN YOU POSITIVELY IDENTIFY WALEED HAMED?

ANS) YES

Q) DO YOU WANT TO ADD ANYTHING ELSE?

ANS) WE NEVER DISTRIBUTE FUNDS FROM THAT COMPANY.

TIME ENDS: 1:347 DATE: 17 MAY 13

I HEREBY DECLARE THAT THE FOREGOING STATEMENT, WHICH I HAVE DICTATED AND READ, IS FREELY AND VOLUNTARILY GIVEN AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGNATURE: [Signature] DATE: 5/17/13 WITNESS: [Signature]

11/14/13 10:14:00



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

11438 KRONPRINSDRAGEN BLDG
OFFICE COMPLEX, 2ND FLOOR
ST. THOMAS, U.S. VIRGIN ISLANDS 00802
(340) 774-5000 FAX: (340) 778-3191

40040 ESTATE JUSTICE COMPLEX
THOMAS CENTER BUILDING
CHRISTIANSTED, ST. CROIX, VI 00820
(340) 773-0286 FAX: (340) 773-1426

SUBPOENA -DUCES TECUM

THE PEOPLE OF THE VIRGIN ISLANDS

TO: Derrick Martin, Bank Manager
Bank of Nova Scotia
4500 Estate Diamond
P.O. Box 773
Christiansted, St. Croix, VI 00821

Tel.: (340) 778-6936
Fax: (340) 773-3225

PURSUANT to Title 4 Virgin Islands Code Section 601 et. seq.:

YOU ARE HEREBY COMMANDED TO APPEAR before Esther R. Walters, Esq., Assistant Attorney General of the Virgin Islands, 6040 Castle Coakley, Christiansted, St. Croix, U.S. Virgin Islands 00820, to give testimony in connection with a criminal investigation, by the People of the Virgin Islands.

Personal appearance is not required to satisfy this subpoena. Instead of personal appearance, please surrender to Detective-Sergeant Mark A. Corneiro, Police Operation & Administrative Services, #45 Mars Hill, Frederiksted, St. Croix, VI 00840 the following information and any documentation evidencing same, by June 4, 2013:

- ✓1. Records reflecting monthly statements from October of 2012 to present of any accounts belonging to Plessen Enterprise, Inc., Account No. 45012 that might be at your bank.
2. Records to include: monthly statements, signature cards, credit cards, debit cards, checking, application forms for the accounts belonging to the business listed above.
- ✓3. Certified copies of all checks issued from October 2012 to present.



Subpoena-Duces Tecum
Re: Plessen Enterprise Inc., CR# 13A04488
Page 2 of 2

FAILURE TO APPEAR at such time and place or to produce requested documents may lead to the issuance of a warrant for your arrest pursuant to Title 5 Virgin Islands Code Section 654.

THE PEOPLE OF THE VIRGIN ISLANDS

VINCENT A. FRAZER
ATTORNEY GENERAL


DATED: 5.20.13

BY: 

ESTHER R. WALTERS
ASSISTANT ATTORNEY GENERAL
V.I. DEPARTMENT OF JUSTICE
6040 CASTLE COAKLEY,
CHRISTIANSTED, ST. CROIX
U.S. VIRGIN ISLANDS 00820-4375

RETURN OF SERVICE

I HEREBY CERTIFY that I received the SUBPOENA - DUCES TECUM attached hereto on the 20TH day of May, 2013, and that thereafter on the 21ST day of May, 2013, I served the same on Mr. Plessen, by showing him/her this original and then by delivering to him/her a copy.



Officer's Signature

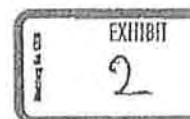
IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

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

AFFIDAVIT OF WALEED HAMED A/K/A WALLY HAMED

Waleed Hamed, a/k/a Wally Hamed, duly sworn, hereby avers as follows:

1. I am an adult resident of St. Croix and am personally knowledgeable about each fact set forth in this affidavit.
2. I am also known by most people as Wally Hamed.
3. My father, Mohammad Hamed, entered into a partnership with Fathi Yusuf in the 1980's to operate a supermarket known as Plaza Extra, located in the United Shopping Center located on the east end of St. Croix.
4. The partnership has since expanded to two other locations in the Virgin Islands, operating the Plaza Extra supermarket on the west end of St. Croix at Estate Plessen (Grove Place) and the Plaza Extra supermarket on St. Thomas located at the Tutu Park Mall.
5. My father has given me a power of attorney to act on his behalf in all aspects of the Plaza partnership business he has with Fathi Yusuf.
6. The partnership between Hamed and Yusuf currently operates the same three Plaza supermarket locations, currently employing in excess of 600 employees in the three stores.
7. Since its formation, the three Plaza Extra supermarkets have been managed jointly by my father with Fathi Yusuf, operating as a partnership with separate accounting records and separate bank accounts for each of the three stores, even though the partnership utilized the corporate entity of United Corporation ("United") for the reporting of tax obligations.



8. United owns additional assets other than the three Plaza supermarkets that my father does not have an interest in.
9. The bank accounts for the three Plaza Extra supermarkets, placed in the name of United, have always been accessible equally to my father and Fathi Yusuf, with the parties agreeing in 2010 that one family member from each of the Hamed and Yusuf families will sign each check written on these bank accounts. The current bank accounts for each of the three Plaza stores are:

St. Thomas Plaza Extra Store:

Operating Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Payroll Acct:	04xxxxxxxxxx	Bank of Nova Scotia (BNS)
Telecheck Acct:	04xxxxxxxx	Bank of Nova Scotia (BNS)
Credit Card Acct:	1xxxxxxxx	Banco Popular

St. Croix Plaza Extra – WEST

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
TeleCheck Acct:	05xxxxxxxxxx	Bank of Nova Scotia (BNS)

St. Croix Plaza Extra – EAST

Operating Acct:	19xxxxxx	Banco Popular
Credit Card Acct:	19xxxxxx	Banco Popular
Telecheck Acct:	58xxxxxxxxxx	Bank of Nova Scotia (BNS)

10. The accounts for United's shopping center operations and business operations that are unrelated to the three Plaza Extra supermarket stores are maintained separately by Fathi Yusuf and United. My father does not have access to these separate bank accounts used by United for its shopping center and other businesses unrelated to the three Plaza Extra supermarkets.
11. At all times relative hereto, the Hamed and Yusuf partnership profits from the Plaza Extra stores have always been held in banking and brokerage accounts completely separate from the profits of United's other unrelated businesses, even though the banking and brokerage accounts holding the profits from the Hamed and Yusuf partnership are in United's name as well. The current brokerage accounts holding these profits, well in excess of several million dollars, are:

Popular Securities

PSx-xxxx22
PSx-xxxx63

PSx-xxxx60
PSx-xxxx79
PSx-xxxx01
PSx-xxxx10
PSx-xxxx28
PSx-xxxx36

Merrill Lynch
14X-XXXXX

12. At all times relative hereto, my father and Fathi Yusuf have equally shared the profits distributed from the three Plaza supermarkets.
13. In this regard, my father and Fathi Yusuf have also maintained records of all withdrawals from the partnership account to each of them (and their respective family members), to make sure there would always be an equal (50/50) amount of these withdrawals for each partner's family members.
14. Fathi Yusuf has repeatedly confirmed the existence of this partnership between himself and my father, including statements made under oath. See Exhibit A.
15. On February 10, 2012, Fathi Yusuf's attorney, Nizar DeWood ("DeWood"), informed me, as the agent for my father, that Fathi Yusuf wanted to dissolve the partnership, which he again mentioned in a follow up letter. See Group Exhibit B. The letter stated that Mr. Yusuf was ready to proceed with dissolving the partnership, describing the partnership assets to be divided as follows:

As it stands, the partnership has three major assets: Plaza Extra - West (Grove Place, including the real property), Plaza Extra - East (Sion Farm) and Plaza Extra (Tutu Park, St. Thomas).

The letter then discussed each partner getting their own store from the partnership.

16. DeWood then sent a proposed partnership dissolution agreement on behalf of Fathi Yusuf on March 13, 2012, to me, regarding Yusuf's request to dissolve the partnership. That document (See Exhibit C) then went on to state in part as follows:

WHEREAS, the Partners have operated the Partnership under an oral partnership Agreement since 1986.

WHEREAS, the Partnership was formed for the purposes of operating Super Markets in the District of St. Croix, and St. Thomas; and

WHEREAS, the Partners have shared profits, losses, deductions, credits, and cash of the Partnership;

WHEREAS, the Partners have certain rights and responsibilities under the Virgin Islands Revised Uniform Partnership Act ("Act") governing dissolution of partnerships, and hereby desire to vary or confirm by the terms of this Agreement;

That document then described the partnership assets as follows:

Section 1.1: Assets of the Partnership

1. PLAZA EXTRA EAST- Estate Slon Farm. St. Croix
2. PLAZA EXTRA WEST- Estate Grove, St. Croix (Super Market Business ONLY)
3. PLAZA EXTRA - Tutu Park. St. Thomas

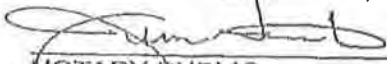
17. All interested parties subsequently met on numerous occasions to try to address the division of the partnership assets, including the three Plaza Extra Stores and the partnership profits held in the various bank and brokerage accounts. However, to date no agreement has been reached regarding the division of these partnership assets.
18. As these discussions progressed, Fathi Yusuf began to engage in, and continues to engage in, numerous acts in breach of his obligations as a partner in his partnership with Hamed. These acts are clearly designed to undermine the partnership's operations, jeopardizing their continued success and existence. These acts include but are not limited to the following acts:
 - a) Threatening to terminate the Hamed family employees in the three Plaza Extra stores;
 - b) Attempting to discredit the operations of these three stores by making defamatory statements about Hamed and his family members to third parties, including suppliers for the three stores, which are completely untrue;
 - c) Attempting to unilaterally change how the stores have operated by threatening to impose new and unreasonable restrictions on the operations of these three stores, all of which are aimed at undermining Hamed's partnership interest in the three stores.
 - d) Threatening to close down the Plaza Supermarkets;
 - e) Threatening the Hamed family members working in the Plaza supermarkets with physical harm, trying to intimidate them into leaving the stores;
 - f) Unilaterally cancelling orders placed with vendors and not ordering new inventory for the three Plaza supermarkets;

- g) Giving false information to third parties, including suppliers of the three Plaza Supermarkets, regarding its future operations, jeopardizing the good will of the Three Plaza supermarkets; and
 - h) Spending funds from the bank accounts of the three Plaza supermarkets to support his other personal business interests unrelated to the three Plaza supermarkets.
19. Finally, on or about August 20, 2012, Fathi Yusuf indicated he wanted to withdraw \$2.7 million from the partnership, which my father (through me) refused to agree to. See Exhibit D. Thereafter, Yusuf unilaterally and wrongfully converted \$2.7 million from the Plaza Extra supermarket accounts used to operate the partnership's three stores, placing the funds in a separate United account controlled only by him. Said conversion was a willful and wanton breach of the partnership agreement between my father and Mr. Yusuf. See Exhibit E.
20. Despite repeated demands, Fathi Yusuf has not returned these funds to the Plaza Extra bank accounts from which they were withdrawn.
21. If the partnership's operations are not secured immediately, the continued operation of the three Plaza stores will be in jeopardy, as well as the continued employment of its 600 plus employees, resulting in irreparable harm to these partnership assets.
22. Indeed, Plaza is in serious jeopardy of losing customers to other stores, losing employees due to moral problems, losing supplies, and otherwise losing its goodwill, which it has built up over past 25 years.
23. The Hamed family has operated this partnership for over 25 years and wants to continue these businesses into the future for its current family members.
24. Yusuf has extensive investments overseas, so that he can easily remove these significant assets beyond the jurisdiction of this Court if the relief sought is not granted, as he has done with other profits received by him over the past 25 years.

Dated: September 18, 2012


Waleed Hamed a/k/a Wally Hamed

SWORN AND SUBSCRIBED TO BEFORE
ME THIS 18th DAY OF September, 2012


NOTARY PUBLIC
NOTARY PUBLIC
JERRI FARRANTE
Commission Exp: August 26, 2015
NP 078-11

FOR PUBLICATION

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

MOHAMMED HAMED by his authorized agent)
WALEED HAMED,)
) Plaintiff) CIVIL NO. SX-12-CV-370
) v.)
) ACTION FOR DAMAGES;
FATHI YUSUF, and UNITED CORPORATON,) PRELIMINARY AND PERMANENT
) INJUNCTION; DECLARATORY
) RELIEF
) Defendants,)
) JURY TRIAL DEMANDED
)

ORDER

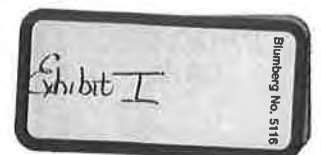
The Court having issued its Memorandum Opinion of this date, it is hereby

ORDERED that Plaintiff's Emergency Motion to Renew Application for TRO, filed January 9, 2013, seeking entry of a temporary restraining order or, in the alternative, preliminary injunction is **GRANTED**, as follows:

ORDERED that the operations of the three Plaza Extra Supermarket stores shall continue as they have throughout the years prior to this commencement of this litigation, with Hamed, or his designated representative(s), and Yusuf, or his designated representative(s), jointly managing each store, without unilateral action by either party, or representative(s), affecting the management, employees, methods, procedures and operations. It is further

ORDERED that no funds will be disbursed from supermarket operating accounts without the mutual consent of Hamed and Yusuf (or designated representative(s)). It is further

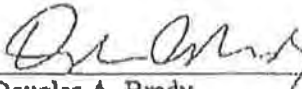
ORDERED that all checks from all Plaza Extra Supermarket operating accounts will require two signatures, one of a designated representative of Hamed and the other of Yusuf or a designated representative of Yusuf. It is further



ORDERED that a copy of this Order shall be provided to the depository banks where all Plaza Extra Supermarket operating accounts are held. It is further

ORDERED that Plaintiff shall forthwith file a bond in the amount of Twenty-Five Thousand Dollars (\$25,000.00) with the Clerk of the Court, and shall provide notice of the posting to Defendants. (Plaintiff's interest in the "profits" accounts of the business now held at Banco Popular Securities shall serve as additional security to pay any costs and damages incurred by Defendants if found to have been wrongfully enjoined.)

Dated: April 25, 2013



Douglas A. Brady
Judge of the Superior Court

ATTEST:

VENETIA H. VELASQUEZ
Clerk of the Court

By: 
Chief Deputy Clerk

4/25/13

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

PEOPLE OF THE VIRGIN ISLANDS,	)	CRIMINAL NO. SX-15-CR-352
	)	SX-15-CR-353
Plaintiff,	)	CHARGE(s):
)	
vs.	)	EMBEZZLEMENT BY
	)	FIDUCIARIES/PRINCIPALS
	)	14 V.I.C. §1091 & 1094(a)(2)& 11(a)
WALEED HAMED,	)	GRAND LARCENY
MUFEEED HAMED,	)	14 V.I.C. §1083(1) & 11(a)
)	
Defendants.)	

TO: JEFFREY MOORHEAD	GORDON RHEA
1132 (48) KING STREET STE. 3	PO BOX 307607
Christiansted, St. Croix	ST THOMAS VI 00803
U. S. Virgin Islands 00820	

RESPONSE TO DISCOVERY REQUEST

Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(E), the materials below are being supplied to the Defendant.

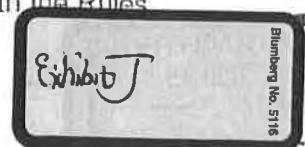
Specifically, the People have attached hereto copies of the following for the two case named above:

- 1) Scotiabank Information Gathering Form- Account for Private Company Plessen Enterprises Inc., dated 02/03/12 (9 single sided pages);

PURSUANT TO RULE 16(A)(1)(E) YOU MAY INSPECT AND COPY OR PHOTOGRAPH ANY TANGIBLE OBJECTS THE PEOPLE HAS IN ITS POSSESSION REFERENCE TO THIS CASE. PLEASE NOTE THAT THERE IS PHOTOGRAPHIC EVIDENCE AVAILABLE FOR VIEWING. OUR OFFICE HOURS ARE 8:00 A.M., TO 5:00 P.M. MONDAY THROUGH FRIDAY, EXCEPT HOLIDAYS. PLEASE CALL 773-0295 FOR AN APPOINTMENT.

Notice is hereby given that the People intend to rely upon all the evidence contained in the aforementioned.

The Defendant is further notified, and demand is hereby made pursuant to Rule 12.1 that in the event the Defendant intends to rely upon an alibi, that said Notice of Alibi be provided to the People and that the disclosure be in compliance with the Rules



of Discovery. Demand is hereby made that the aforementioned be supplied to the People within ten (10) days or within the time set by the Court.

The People intend to rely upon the dates and time of the occurrence as indicated in the attached Discovery.

Demand is hereby made upon the Defendant for any and all evidence which would be discoverable by the People under Rule 16(b) and (c). The People are presently unaware of any exculpatory material other than as noted above. However, the People acknowledge its continuing duty to disclose requested evidence or material and will supply same to the Defendant as it become available.

DATED: 04/01/16

BY 

Respectfully submitted,
CLAUDE WALKER
ATTORNEY GENERAL

KIPPY G. ROBERSON
ASSISTANT ATTORNEY GENERAL

Department Of Justice
6040 Castle Coakley, Christiansted
St. Croix, Virgin Islands 00820
Tel. (340) 773-0295

CERTIFICATE OF SERVICE

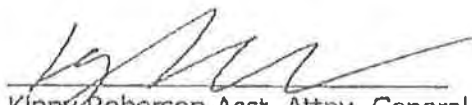
I HEREBY CERTIFY that I have served a true and foregoing copy of the within Second Response to Discovery Material; which was served upon

TO: JEFFREY MOORHEAD
1132 (48) KING STREET STE. 3
Christiansted, St. Croix
U. S. Virgin Islands 00820

GORDON RHEA
PO BOX 307607
ST THOMAS VI 00803

By electronic filing to grhea@rpwb.com and jeffreymlaw@yahoo.com

on this 1st day of, **April, 2016.**


Kippy Roberson Asst. Attny. General

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

<p>WALEED HAMED and KAC357, INC.</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>BANK OF NOVA SCOTIA, d/b/a SCOTIABANK, FAITH YUSUF, MAHER YUSUF, YUSUF YUSUF and UNITED CORPORATION,</p> <p style="text-align: center;">Defendants.</p>	<p>CIVIL NO. SX-16-CV-429</p> <p style="text-align: center;">ACTION FOR DAMAGES</p> <p style="text-align: center;"><u>JURY TRIAL DEMANDED</u></p>
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ORDER

THIS MATTER comes before the Court on Defendant, Bank of Nova Scotia's Motion to Dismiss and Motion to Strike Plaintiffs' First Amended Complaint. The Court having reviewed the pleadings and being advised of the premises, it is hereby

ORDERED that Defendant Bank of Nova Scotia's Motion to Dismiss and Motion to Strike Plaintiffs' First Amended Complaint is **GRANTED** and Plaintiffs' claims against Defendant Bank of Nova Scotia are hereby **DISMISSED WITH PREJUDICE**.

SO ORDERED on this ____ day of _____, 2017.

JUDGE OF THE SUPERIOR COURT

AT T E S T:
ESTRELLA GEORGE
Acting Clerk of the Court

By: _____
Deputy Clerk