

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

<b>WALEED HAMED and KAC357, INC.,</b>	)	
	)	<b>CIVIL NO. SX-16-CV-429</b>
<i>Plaintiffs,</i>	)	
<b>v.</b>	)	
	)	<b>ACTION FOR DAMAGES</b>
<b>BANK OF NOVA SCOTIA,</b>	)	
<b>d/b/a SCOTIABANK, FATHI YUSUF,</b>	)	
<b>MAHER YUSUF, YUSUF YUSUF,</b>	)	
<b>and UNITED CORPORATION,</b>	)	
	)	
<i>Defendants.</i>	)	<b>JURY TRIAL DEMANDED</b>
	)	

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**DEFENDANT FATHI YUSUF'S RESPONSE TO PLAINTIFF HAMED'S FIRST  
REQUEST FOR ADMISSIONS**

Defendant, Fathi Yusuf, through his attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provides his Response to Plaintiff Hamed's First Set of Requests for Admissions:

**GENERAL OBJECTIONS**

Fathi Yusuf makes the following general objections to the First Set of Requests for Admissions. These general objections apply to all or so many of the Requests for Admissions that, for convenience, they are set forth herein and are not necessarily repeated after each objectionable Requests for Admissions. The assertion of the same, similar, or additional objections in the individual responses to the Requests for Admissions, or the failure to assert any additional objections to a discovery request does not waive any of Fathi Yusuf's objections as set forth below:

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

(1) Fathi Yusuf objects to the Requests for Admissions to the extent they may impose obligations different from or in addition to those required under the Federal Rules of Civil Procedure.

(2) Fathi Yusuf objects to each request for admission that uses the words "any" and "all" as being overly broad, unduly burdensome, immaterial, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

(3) Fathi Yusuf objects to the Requests for Admissions to the extent they seek information which is protected by the attorney-client privilege or work-product doctrine, including information prepared in anticipation of litigation, or for trial, by or on behalf of Fathi Yusuf or relating to mental impressions, conclusions, opinions, or legal theories of its attorneys or representatives, or any other applicable privilege or doctrine under federal or state statutory, constitutional or common law. Fathi Yusuf's answers shall not include any information protected by such privileges or doctrine, and documents or information inadvertently produced which includes such privileged information shall not be deemed a waiver by Fathi Yusuf of such privilege or doctrine.

(4) Fathi Yusuf objects to the Requests for Admissions to the extent that they seek information and documents concerning any matter that is irrelevant to the claims or defenses of any party to this action, and not reasonably calculated to lead to the discovery of admissible evidence.

(5) Fathi Yusuf objects to the Requests for Admissions to the extent that they use terms or phrases that are vague, ambiguous, or undefined. Fathi Yusuf's response to each such request will be based upon its understanding of the request.

(6) Fathi Yusuf objects to the Requests for Admissions to the extent they seek documents or information not in the possession, custody or control of Fathi Yusuf, on the ground that it would subject it to undue burden, oppression and expense, and impose obligations not required by the Federal Rules of Civil Procedure.

(7) Fathi Yusuf has not completed either his discovery or his preparation for trial of this matter. Accordingly, Fathi Yusuf's responses to the Requests for Admissions are made without prejudice to Fathi Yusuf's right to make any use of, or proffer at any hearing or at trial, and are based only upon information presently available. If and as additional, non-privileged, responsive documents are discovered, these Requests for Admissions will be supplemented to the extent that supplementation may be required by the Federal Rules of Civil Procedure.

## RESPONSES REQUESTS TO ADMIT

1. Paragraph 6 of the Verified First Amended Complaint ("VFAC") provides and the Yusufs denied:

6. Defendant Maher Yusuf is an adult resident of St. Croix. He is and at all times relevant to this Complaint has been the President, a director and a shareholder of United Corporation. The Superior Court determined Maher Yusuf lied under oath in live testimony before the Court about what he had done with \$2.7 million of the funds he took out of the joint Partnership account.

Ignoring the term "lied", ADMIT or DENY that 'Maher Yusuf made an incorrect statement as to what had been done with the \$2.7 million on the first day of that hearing' while under oath.

### **RESPONSE:**

This suit was filed subsequent to *Yusuf Yusuf et al. v. Mohammad Hamed et al.*, SX-13-cv-120 ("Plessen Derivative Suit") brought as a shareholder derivative action relating to Plessen and the improper removal of \$460,000.00 by Mufeed and Waleed Hamed. In the Plessen Derivative Suit, there has been significant discovery exchanged between the parties which relates to the exact issues which give rise to this case. Although counsel for Plaintiff is also counsel in the Plessen Derivative Suit and, thus, has access to the voluminous discovery previously exchanged, Defendants herein incorporate by reference all of the discovery exchanged in the Plessen Derivative Suit as responsive to the recent discovery filed in this case.

The discovery includes:

1. Yusuf Yusuf's Responses to Mufeed Hamed's First Interrogatories, dated December 19, 2016;
2. Yusuf Yusuf's Responses to Mufeed Hamed's First Set of Requests for Admissions, dated December 19, 2016
3. Yusuf Yusuf's Response to Mufeed Hamed's first Request for Production of Documents, dated December 19, 2016 with Bates Stamped Documents
4. Yusuf Yusuf's Responses to Mufeed Hamed's Second Set of Interrogatories, dated February 15, 2017
5. Yusuf Yusuf's Responses to Mufeed Hamed's Second Set for Requests for Admissions, dated February 15, 2017

6. Yusuf Yusuf's Responses to Mufeed Hamed's Second Set of Requests for Documents, dated February 15, 2017
7. February 27, 2017 Letter from Counsel for Yusuf Yusuf supplementing discovery responses and further clarifications.
8. Yusuf Yusuf's Responses to Mufeed Hamed's Third Set of Requests for Admissions, dated March 27, 2017 with attachments
9. Yusuf Yusuf's Responses to Mufeed Hamed's Third Set of Interrogatories, dated June 5, 2017 (with chart analyzing various versions of the Intake Form).
10. Yusuf Yusuf's Responses to Mufeed Hamed's Third Set of Requests for Production of Documents, dated June 5, 2017.
11. The Bates Stamped documents include: 120-YY-00001 – [PAM TO FILL IN].
12. In addition, documents produced by the Hamed's in the Plessen Derivative Suit including those designated with the HAMD bates numbering and Bates Stamped PEOP100101- PEOP100686, SCOT500520-501249, FBIX210733- FBIX257241 (as produced by Hamed – it appears that the Bates numbers skip but this is the inclusive set of numbering).
13. In addition, Defendants incorporate all communication between counsel which further elaborated on discovery responses in the Plessen Derivative suit.

To the extent that this discovery must be re-produced, please advise.

Further responding as to the Requests to Admit, Defendants show that over 210 Requests to Admit have been propounded in the Plessen Derivative Suit. Detailed responses and follow up responses were provided therein including a chart correlating the different versions of the Intake Gathering Form. See **Exhibit A**. Moreover, Plaintiffs have fixated upon the BNS Intake Gathering Form which bears the date February 3, 2012. It appears from documents provided by Hamed, that it was Waleed Hamed and Wadda Charriez who created that particular document and forwarded it to BNS as part of the update and internal auditing procedures of BNS. It further appears, that the recent Requests to Admit are an attempt by Plaintiff to operate a "gotcha" effort so that a response in one case (the Plessen Derivative Suit) may be argued to contradict a response in this case. Given the volume of the information provided in the Plessen Derivative Suit and the cumulative nature of this litigation, Fathi Yusuf incorporates by reference all of the information and responses from the Plessen Derivative Suit as his responses to the Requests to Admit in this suit. Fathi Yusuf shows that doing so is not in an effort to be evasive or unresponsive, to the contrary, it is the opposite—to insure that all of the information which has already been provided to Hamed is brought to the fore as responsive to these Requests to Admit.

2. ADMIT or Deny that Plaintiff Waleed Hamed is now the Vice-President of Plessen, and has been at all times relevant to this case.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 2 as if fully set forth herein verbatim.

3. ADMIT or DENY that in all of 2013, Plaintiff Hamed's father, Mohammad Hamed, who did not pass away until 2016, was a shareholder, director and the President of Plessen.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 3 as if fully set forth herein verbatim.

4. ADMIT or DENY that the original three directors of Plessen, as they are listed in the formative corporate documents, were: Fathi Yusuf, Mohammad Hamed and Waleed Hamed.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 4 as if fully set forth herein verbatim.

5. ADMIT or DENY that Fathi Yusuf has correctly asserted under oath in sworn, court-filed documents that until April of 2014 there had never been a meeting of the shareholders or directors of Plessen after the original formation meeting.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 5 as if fully set forth herein verbatim.

6. ADMIT or DENY that there was no meeting altering the maximum number of directors (3) or the makeup of that Board of Plessen.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 6 as if fully set forth herein verbatim.

7. ADMIT or DENY that there are no meeting minutes from any Plessen Board meeting altering the maximum number of directors (3) or the makeup of that Board.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 7 as if fully set forth herein verbatim.

8. ADMIT or DENY that there has never been a written consent of the directors of Plessen altering the maximum number of directors, which is three.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 8 as if fully set forth herein verbatim.

9. ADMIT or DENY that there has never been a written consent of the directors of Plessen altering the makeup of the Board of Directors.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 9 as if fully set forth herein verbatim.

10. No Yusuf is now or ever has been the President or Vice-President of Plessen.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 10 as if fully set forth herein verbatim.

11. ADMIT or DENY that Mike Yusuf has never been made a director of Plessen by original document, vote or written consent.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 11 as if fully set forth herein verbatim.

12. ADMIT or DENY that Mike Yusuf is not now, nor has he ever actually been a director of Plessen.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 12 as if fully set forth herein verbatim.

13. ADMIT or DENY that Plessen opened a bank account with BNS in 1997.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 13 as if fully set forth herein verbatim.

14. ADMIT or DENY that at that time, in 1997, when the Plessen BNS account was opened, the only officers and directors of Plessen were Fathi Yusuf (Secretary-Treasurer), Mohammad Hamed (President) and Waleed Hamed. (Vice-President).

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 14 as if fully set forth herein verbatim.

15. ADMIT or DENY that in the contractual documents establishing the banking relationship between Plessen and BNS in 1997, there was no waiver of the right to a jury trial with regard to dealings between Plessen and BNS.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 15 as if fully set forth herein verbatim.

16. ADMIT or DENY that in the contractual documents establishing the banking relationship in 1997, there was no waiver of any right of Plessen to make claims against BNS for tort or negligence.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 16 as if fully set forth herein verbatim.

17. ADMIT or DENY that in the contractual documents establishing the banking relationship in 1997, there was no provision that BNS could unilaterally alter the contractual relationship between the parties by simply typing new contractual provisions onto the face of routine banking forms it supplied for use by customers such as Plessen.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 17 as if fully set forth herein verbatim.



18. ADMIT or DENY that in the contractual documents establishing the banking relationship in 1997, there was no provision that "signors" on the account could, without Board approval or approval of the President of Plessen, agree to changes in the contractual relationship between the parties.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 18 as if fully set forth herein verbatim.

19. ADMIT or DENY that at the time the banking relationship was established in 1997, BNS required the submission of the Plessen corporate Articles and Bylaws which listed the officers of the corporation - and required updated copies thereafter. Plessen supplied those to BNS originally and as requested later.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 19 as if fully set forth herein verbatim.

20. ADMIT or DENY that in the contractual documents establishing the banking relationship in 1997, there was no provision that BNS could unilaterally alter the contractual relationship between the parties by documents not signed by both parties, without consideration and without notice that the contractual relationship was being modified.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 20 as if fully set forth herein verbatim.

21. ADMIT or DENY that at no time after the initial contractual documents establishing the banking relationship, did Plessen ever negotiate for any contractual modification of the right to a jury trial or waiver of any claims for tort or negligence as to dealings between Plessen and BNS which modification was: (1) identified as a modification of the contractual relationship, (2) signed by both Plessen and BNS and (3) altered the parties' positions for consideration.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 21 as if fully set forth herein verbatim.

22. ADMIT or DENY that at no time after the initial contractual documents establishing the banking relationship, did Plessen ever enter into any contractual modification of the right to a jury trial or waiver of any claims for tort or negligence as to dealings between Plessen and BNS which modification was: (1) identified as a modification of the contractual relationship, (2) was signed by both Plessen and BNS and (3) altered the parties' positions for consideration.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 22 as if fully set forth herein verbatim.

23. ADMIT or DENY that at the time of the initial contractual documents establishing the banking relationship in 1997, there was a signature card created on April 23, 1997 (the "1997 Signature Card").

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 23 as if fully set forth herein verbatim.

24. ADMIT or DENY that three signors appeared on that 1997 Signature Card - one of whom was Waleed Hamed.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 24 as if fully set forth herein verbatim.

25. ADMIT or DENY that to transact on the Plessen account, the 1997 Signature Card required only one authorized signor's signature on a check, which could be any of the three authorized signatories.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 25 as if fully set forth herein verbatim.

26. ADMIT or DENY that Waleed Hamed was identified as an authorized signor on the 1997 Signature Card - and could negotiate a check on the account with his signature alone.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 26 as if fully set forth herein verbatim.

27. ADMIT or DENY that Yusuf has provided a version of an alleged BNS banking document, to wit, an undated paper signature card bearing the titles and signatures of United's officers, not Plessen's - which also contained a phrase requiring two family signatures. (Please refer to **Exhibit A**.)

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 27 as if fully set forth herein verbatim.

28. ADMIT or DENY that the persons and positions set forth on Exhibit A do not match Plessen's Officers and their positions, but rather, are those of United Corporation.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 28 as if fully set forth herein verbatim.

29. ADMIT or DENY that the Yusufs cannot state when Exhibit A was created or executed, or by whom it was created, or when it was provided to BNS.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 29 as if fully set forth herein verbatim.

30. ADMIT or DENY that the version of an alleged BNS banking document, to wit, an undated paper signature card bearing the titles and signatures of United's officers, does not list the officers and their positions with Plessen. (**Exhibit A**).

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 30 as if fully set forth herein verbatim.

31. ADMIT or DENY that the version of an alleged BNS banking document, to wit, an undated paper signature card bearing the titles and signatures of United's officers (**Exhibit A**) was supplied to VIPD by the Yusufs.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 31 as if fully set forth herein verbatim.

32. ADMIT or DENY that the dated final page on that second information gathering form attached as **Exhibit B** is not in any BNS file or computer system related to the Plessen Account.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 32 as if fully set forth herein verbatim.

33. ADMIT or DENY that the dated final page on that second information gathering form attached as **Exhibit B** was not added to the document by BNS, its managers or employees.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 33 as if fully set forth herein verbatim.

34. ADMIT or DENY that that second, dated form (**Exhibit B** last page) has an additional "date" page inserted and the date on that inserted page is typed in a different type font.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 34 as if fully set forth herein verbatim.

35. ADMIT or DENY that at some time after August 17, 2009, there was a forgery of an alleged BNS banking document, the undated information gathering form requiring two family signatures (**Exhibit B**).

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 35 as if fully set forth herein verbatim.

36. ADMIT or DENY that except for the original 1997 Signature Card, **Exhibit B** is the only **dated** document related to the Plessen account signature requirements signed by the Hameds and Yusufs as Plessen Officers about which the Yusufs have knowledge..

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 36 as if fully set forth herein verbatim.

37. ADMIT or DENY that at no time prior to March 27, 2013, did the computer-based retail signature card, or any other computer representation of the account signature card in the BNS computer system ever require "two signatures where one of the signatures had to be from the Hamed family and one had to be from the Yusuf family" with regard to the Plessen accounts.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 37 as if fully set forth herein verbatim.

38. ADMIT or DENY that at no time prior to March 27, 2013, did any dated signature card or other document in the BNS Plessen Account files require "two signatures where one of the signatures had to be from the Hamed family and one had to be from the Yusuf family" with regard to the Plessen accounts.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 38 as if fully set forth herein verbatim.

39. ADMIT or DENY that Yusuf Yusuf met with one or more BNS employees between March 27, 2013 and May 17, 2013 to discuss the March 27, 2013 withdrawal.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 39 as if fully set forth herein verbatim.

40. ADMIT or DENY that Mike Yusuf met with one or more bank employees between March 27, 2013 and May 17, 2013 to discuss the March 27, 2013 withdrawal.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 40 as if fully set forth herein verbatim.

41. ADMIT or DENY that a copy of a printed document with the date May 10, 2013 was supplied by BNS to the Yusufs between March 27, 2013 and May 17, 2013 which showed

that at the time of the \$460,000 withdrawal, the signature card in the retail signature system showed Waleed Hamed as one of three authorized signors.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 41 as if fully set forth herein verbatim.

42. ADMIT or DENY that when BNS produced the account documents for this Plessen bank account in another civil case pending before the Superior Court of the Virgin Islands (*Plessen v. Hamed*, SX-13-CV-120) on September 10, 2014, only the original 1997 and updated 2009 signature cards were produced, but no undated signature cards were produced.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 42 as if fully set forth herein verbatim.

43. ADMIT or DENY that at no time prior to March 27, 2013, did the computer-based retail signature card, or any other computer representation of the account signature card in the BNS computer system ever require "two signatures where one of the signatures had to be from the Hamed family and one had to be from the Yusuf family" with regard to the Plessen accounts.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 43 as if fully set forth herein verbatim.

44. ADMIT or DENY that in 2012, Mike and Fathi Yusuf unilaterally moved \$2.7 from the jointly accessible partnership account for the Plaza Extra Supermarkets to an account that only the Yusufs could draw from.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 44 as if fully set forth herein verbatim.

45. ADMIT or DENY that Judge Brady stated in footnote 9, page 19 or his April 25, 2013 decision that:

With regard to the August 2012 diversion of more than \$2.7 million by Mahar Yusuf, president of United, to accounts inaccessible to Plaintiff, a real concern exists that

continuing diversions will not be traceable as the Plaza Extra store have had no system of internal controls in existence and, to date accounting for the businesses is not completed beyond June 2012. . . .

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 45 as if fully set forth herein verbatim.

46. ADMIT or DENY that BNS cleared the \$460,000 check and made payment.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 46 as if fully set forth herein verbatim.

47. ADMIT or DENY that there was no signature of a Yusuf family member on that \$460,000 check.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 47 as if fully set forth herein verbatim.

48. ADMIT or DENY that Yusuf Yusuf has admitted in filings in the Superior Court that he met with one or more BNS employees between March 27, 2013 and May 17, 2013 to discuss the March 27, 2013 withdrawal.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 48 as if fully set forth herein verbatim.

49. ADMIT or DENY that Mike Yusuf also met with one or more bank employees between March 27, 2013 and May 17, 2013 to discuss the March 27, 2013 withdrawal.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 49 as if fully set forth herein verbatim.

50. ADMIT or DENY that a copy of a printed document with the date May 10, 2013 was supplied by BNS to the Yusufs at that time - which showed that at the time of the \$460,000

withdrawal, the signature card in the retail signature system showed Waleed Hamed as one of three authorized signors.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 50 as if fully set forth herein verbatim.

51. ADMIT or DENY that on May 17, 2013 - United's President, Mike Yusuf, and his prior counsel met with and filed a criminal report with the VI Police Department alleging embezzlement of the \$460,000 by Plaintiff Waleed Hamed.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 51 as if fully set forth herein verbatim.

52. ADMIT or DENY that the alleged embezzlement only concerned that March 27, 2013 Plessen BNS check in the amount of \$460,000, cleared by BNS.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 52 as if fully set forth herein verbatim.

53. ADMIT or DENY that some of the bases of the embezzlement alleged by the Yusufs were (1) Mike Yusuf was a director of Plessen and (2) thus, the Hameds did not have a majority of the Plessen Board and that, therefore, (3) the Hameds lacked authority to withdraw the \$460,000 because the evenly divided (2-2) Plessen Board had not agreed to the withdrawal.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 53 as if fully set forth herein verbatim.

54. ADMIT or DENY that on that same date, the police were also provided with a document from Consumer Affairs that purported to reflect that Mike Yusuf was a director of Plessen.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 54 as if fully set forth herein verbatim.



55. ADMIT or DENY that the Yusufs did not give the police the May 10, 2013 BNS printout showing BNS' account signature card review.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 55 as if fully set forth herein verbatim.

56. ADMIT or DENY that when BNS produced the account documents for this Plessen bank account in another civil case pending before the Superior Court of the Virgin Islands on September 10, 2014, only the original 1997 and updated 2009 signature cards were produced. No undated signature cards or undated information gathering documents reflecting the need for two signatures, one from the Yusuf family and one from the Hamed family, to withdraw funds from the Plessen account, were produced.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 56 as if fully set forth herein verbatim.

57. ADMIT or DENY that on September 24, 2014, counsel for the Yusufs also produced documents in a Superior Court civil action (*Plessen v. Hamed*) regarding the Plessen bank account. Those documents did not include any document with the two family signature requirement either.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 57 as if fully set forth herein verbatim.

58. ADMIT or DENY that the Yusufs have attested in court documents that the second, dated information gathering form (Exhibit B) they supplied to police was supplied to them by BNS as a bank record.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 58 as if fully set forth herein verbatim.

59. ADMIT or DENY that the dated final page on that second information gathering (Exhibit B) form was added to the document by the Yusufs - and created the ONLY dated document reflecting the need for two family signatures.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 59 as if fully set forth herein verbatim.

60. ADMIT or DENY that that second, dated form has an additional "date" page inserted and the date on that inserted page (last page of Exhibit B) is a clear alteration of the first such form -- typed in a different type font.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 60 as if fully set forth herein verbatim.

61. The Yusufs included information regarding the Hameds' arrest in communications or notifications to several off-island commercial entities.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 61 as if fully set forth herein verbatim.

62. The Yusufs included information regarding the Hameds' arrest in communications or notifications to on island customers and suppliers.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 62 as if fully set forth herein verbatim.

63. The Yusufs had stated to such off-island suppliers that the Hameds and KAC357, INC. were using embezzled funds to buy supplies from the off-island suppliers.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 63 as if fully set forth herein verbatim.

64. The Yusufs made copies of the newspaper article and gave them to employees and customers as well as to others in the community.

**RESPONSE:**

Fathi Yusuf hereby incorporates his Response to Request for Admission No. 1 as his Response to Request for Admission No. 64 as if fully set forth herein verbatim.

Dated: December 6, 2017

 LISA M. KOMEVES, V.I. BAR NO. 1171  
Charlotte K. Perrell, Esq. (V.I. Bar #1281) NO. 1171  
**DUDLEY, TOPPER AND FEUERZEIG, LLP**  
LAW HOUSE  
1000 Frederiksberg Gade (P.O. Box 756)  
St. Thomas, USVI 00804-0756  
(340) 774-4422 telephone  
(340) 715-4400 facsimile  
[cperrell@dtflaw.com](mailto:cperrell@dtflaw.com)

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade  
P.O. Box 756

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

(340) 774-4422

**CERTIFICATE OF SERVICE**

It is hereby certified that on this 6<sup>th</sup> day of December, 2017, I served a true and correct copy of the foregoing **DEFENDANT FATHI YUSUF'S RESPONSE TO PLAINTIFF HAMED'S FIRST REQUEST FOR ADMISSIONS**, which complies with the page and word limitations set forth in Rule 6-1(e), via email, addressed to:

Joel H. Holt, Esq.  
Law Offices of Joel H. Holt  
2132 Company Street,  
Christiansted, VI 00820  
[holtvi.plaza@gmail.com](mailto:holtvi.plaza@gmail.com)

Charles E. Lockwood, Esq.  
Nichols Newman Logan Grey &  
Lockwood, P.C.  
No. 1131 King Street, Suite 204  
Christiansted, USVI 00820-4971  
[clockwood@nnldlaw.com](mailto:clockwood@nnldlaw.com)

Carl J. Hartmann III, Esq.  
*Co-Counsel for Defendants*  
5000 Estate Coakley Bay, L-6  
Christiansted, VI 00820  
[carl@carlhartmann.com](mailto:carl@carlhartmann.com)

A handwritten signature in blue ink that reads "Frances Thomas". The signature is written in a cursive style and is positioned above a horizontal line.

R:\DOCS\6254\10\PLDG\17L1591.DOCX

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

# EXHIBIT A

**Correlation Table for BNS Documents Relating to Plessen - BNS Intake Gathering Form [Exhibit A page 1 of 3]**

<b>YUSUF PRODUCTION IN 370 CASE</b>	<b>BNS PRODUCTION</b>	<b>YUSUF PRODUCTION IN 120 CASE</b>		<b>BNS PRODUCTION</b>
<b>1. BNS Intake Gathering Form (Version 1)</b>	<b>1. BNS Intake Gathering Form (Version 1)</b>	<b>1. BNS Intake Gathering Form (Version 1)</b>	<b>1. BNS Intake Gathering Forming (Version 2)</b>	<b>1. BNS Intake Gathering Form (Version 3)</b>
2. Bates No. FY004494-4501	2. Bates No. FY004494-4501	2. Bates No. 120-YY-00225-232	2. Bates No. 12-YY-00273-281	2. No Bates No.s
A. FY004494 (only difference with Version 2 is at lines for #9 and 10).	A. FY004494 (only difference with Version 2 is at lines for #9 and 10).	A. 120-YY-00225(only difference with Version 2 is at lines for #9 and 10).	A. 12-YY-00273	A. First Page is Handwritten
B. FY004495	B. FY004495	B. 120-YY-00226	B. 12-YY-00274	B. Second Page is handwritten
C. FY004496	C. FY004496	C. 120-YY-00227	C. 12-YY-00275	C.
D. FY004497 (only difference with Version 2 is handwritten check marks on left hand side of page.)	D. FY004497 (only difference with Version 2 is a handwritten check marks on left hand side of page.)	D. 120-YY-00228 (only difference with Version 2 is handwritten check marks on left hand side of page.)	D. 12-YY-00276	D. Third Page is handwritten
E. FY004498 (only difference with Version 2 is Section 2, #1 is filled out.)	E. FY004498 (only difference with Version 2 is Section 2, #1 is filled out.)	E. 120-YY-00229 (only difference with Version 2 is Section 2, #1 is filled out.)	D. 12-YY-00277	E. Fourth Page is handwritten
F. FY004499 (only difference with Version 2 is that this form is not filled out.)	F. FY004499 (only difference with Version 2 is that this form is not filled out.)	F. 120-YY-00230 (only difference with Version 2 is that this form is not filled out.)	F. 12-YY-00278	F. Fifth Page is handwritten
G. FY004500 (only difference with Version 2 is that this form is not filled out.)	G. FY004500 (only difference with Version 2 is that this form is not filled out.)	G. 120-YY-00230 (only difference with Version 2 is that this form is not filled out.)	G. 12-YY-00279	G. Sixth Page is handwritten
H. FY004501	H. FY004501	H. 120-YY-00231	H. 12-YY-00280	H. Seventh page is signed by Fathi Yusuf, dated 4-5-10
			I. 12-YY-00281, dated 2/3/12	
	3. Also bears Bates No. HAMD601910-917	3. Also bears Bates No. FY004494-4501	3. Also bears Bates No. HAMD631639-631647	3. No bates no.s.
1. <b>When Received:</b> Produced on or about May 15, 2014 in the 370 Case, pursuant to supplemental Rule 26 disclosure.	4. This was produced by BNS as <b>Exhibit B</b> to its March 6, 2017 Motion to Dismiss and Motion to Strike in the <i>Hamed v. BNS et al</i> , Civil Action File No. SX-16-CV-429.  (Yusuf Yusuf is bates stamping and producing these documents as responsive to the Third Production of Documents, June 5, 2017)	4. <b>When Received: Re-</b> produced in this case after having been produced on or about May 15, 2014 in the 370 Case, pursuant to supplemental Rule 26 disclosure.	4. <b>When Received:</b> On or about March 30, 2016, See Interrogatory Responses 3 and 8 and February 27, 2017 Letter supplementing these responses.	4. This was produced by BNS as <b>Exhibit A</b> to its March 6, 2017 Motion to Dismiss and Motion to Strike in the <i>Hamed v. BNS et al</i> , Civil Action File No. SX-16-CV-429.  (Yusuf Yusuf is bates stamping and producing these documents as responsive to the Third Production of Documents, June 5, 2017)

**Correlation Table for BNS Documents Relating to Plessen - Signature Pages [Exhibit A page 2 of 3]**

<b>YUSUF PRODUCTION IN 370 CASE</b>	<b>YUSUF PRODUCTION IN 120 CASE</b>		
<b>1. Signature pages (Version 1)</b>	<b>1. Signature Pages (Version 1)</b>	<b>1. Signature Pages (Version 1)</b>	<b>1. Signature Pages (Version 2)</b>
2. Bates No. FY004502	2. Bates No. 120-YY-00233	2. Bates No. 12-YY-00282	2. Bates No. 120-YY-00283-284
A. Shows Six Signatures	A. Shows Six Signatures	A. Shows Six Signatures	A. Shows Six Signatures
B. Indicates "Any Two ** One Hamed One Yusuf"	B. Indicates "Any Two ** One Hamed One Yusuf"	B. Indicates "Any Two ** One Hamed One Yusuf"	B. Indicates "Any Two ** One Hamed One Yusuf"
	3. Also bears Bates No. FY004502	3. Also bears Bates No. PEOP100673	3. Also bears Bates No. HAMD631672-73
4. <b>When Received:</b> Produced on or about May 15, 2014 in the 370 Case, pursuant to supplemental Rule 26 disclosure.	4. <b>When Received:</b> Re-produced in this case after having been produced on or about May 15, 2014 in the 370 Case, pursuant to supplemental Rule 26 disclosure.	4. <b>When Received:</b> This particular copy was part of Hamed's Interrogatories which bears the bates numbers PEOP100673. It was received as part of the discovery from Hamed as Exhibit 2. However, it appears to be the same as the comparisons of Version 1 in this chart. Yusuf re-bates stamped it in this case and re-produced it.	4. <b>When Received:</b> This particular copy was part of Hamed's Interrogatories as Exhibit 2. However, it appears to be the same as the comparisons of Version 1 in this chart but is simply divided into two pages. Yusuf re-bates stamped it in this case and re-produced it.

**Correlation Table for BNS Documents Relating to Plessen - Signature Pages [Exhibit A, page 3 of 3]**

<b>YUSUF PRODUCTION IN 370 CASE</b>	<b>YUSUF PRODUCTION IN 120 CASE</b>	
1. <b>Signature pages (Version 1)</b>	1. <b>Signature Pages (Version 1)</b>	1. <b>Signature Pages (Version 2)</b>
2. Bates No. FY004504	2. Bates No. 120-YY-00234	2. Bates No. FY 010263
A. Electronic Signature Page Dated Aug. 17, 2009	A. Electronic Signature Page Dated Aug. 17, 2009	A. Electronic Signature Page Dated Aug. 17, 2009 – appears to be missing some of the “computer” information from the print screen but substantively is the same.
	3. Also bears Bates No. FY004504	
4. <b>When Received:</b> Produced on or about May 16, 2014 in the 370 Case, pursuant to supplemental Rule 26 disclosure.	4. <b>When Received:</b> Re-produced in this case after having been produced on or about May 15, 2014 in the 370 Case, pursuant to supplemental Rule 26 disclosure. See Supplemental Response to Interrogatory No. 4 in the February 27, 2017 letter. The August 17, 2009 electronic signature page was provided to Officer Corneiro as indicated at Page 3, Paragraph f, Subparagraph 6 of his Affidavit – “Copy of Signature card for Plessen Enterprises, Inc. as of August 17, 2009.”	4. <b>When Received:</b> Produced on or about September 23, 2014 in the 370 Case, pursuant to supplemental Rule 26 disclosure. Yusuf re-produced in this case but did not re-bates number and instead simply designated the previous bates identifiers. It appears to have originated from BNS pursuant to subpoena.