



treated as a motion for reconsideration, and that it should therefore be denied as untimely. That argument misses the mark.

The Motion filed by Fathi Yusuf (“Yusuf”) seeks two forms of relief – execution of standard form guarantees and provision of personal financial statements by the Hamed sons. The purpose of Yusuf’s request that the Court order execution of standard form guarantees is, as he described it in his Motion, to “ensure meaningful compliance with the Court’s December 8 Order.” Yusuf’s Motion at p. 2. A motion asking the Court to enforce its Orders is plainly not a motion for reconsideration, and is therefore not subject to the time requirements for bringing a motion for reconsideration. The rules of procedure do not impose any time limits for a motion seeking enforcement of a court order, and the Court has inherent authority to enforce its orders at any time.

As for Yusuf’s request that the Court order the Hamed sons to provide personal financial statements, that request was not made in his Motion that was denied by the Court’s December 8, 2017 Order. That August 24, 2017 Motion, which was styled “Motion to Set Aside Lease to KAC357, Inc. Due to Fraud on the Court,” asked only that the Court set aside the lease. It did not also ask that the Court order Mohammad Hamed’s sons to provide personal financial statements. Because Yusuf’s August 24, 2017 Motion did not seek that relief, and because the Court’s December 8 Order did not address it, the request for that relief in Yusuf’s instant Motion can hardly be characterized as a motion for reconsideration.

Hamed has little to say about the merits of either of the two kinds of relief Yusuf is seeking in his Motion, and has not satisfied his burden to show that the two-sentence guarantee signed by the Hamed sons is adequate to protect the interests of Plessen Enterprises, Inc. (“Plessen”) and the Yusuf shareholders. As the Court recognized in its July 22, 2017 Order denying Yusuf’s Motion to nullify and invalidate the KAC357, Inc. (“KAC357”) lease, because

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**  
1000 Frederiksberg Gade  
P.O. Box 756  
St. Thomas, U.S. V.I. 00804-0756  
(340) 774-4422

the lease is a self-dealing transaction, Hamed has the burden of establishing that the lease and all of its terms are intrinsically fair to Plessen and to the Yusuf shareholders of the corporation. *See* Court's July 22, 2017 Memorandum Opinion at pp. 8-9. Waleed Hamed does not argue that the stripped-down personal guarantee signed by him and two of his brothers is commercially reasonable, or that any landlord seeking a guarantee of an obligation of this dollar magnitude would accept it. The personal guarantee proposed by Yusuf is a standard form that contains the usual provisions designed to protect the landlord. The waiver of defenses clause is limited in scope, and both it and the jury waiver clause that Hamed objects to are commonplace protections for a landlord in standard form guarantees. Because the KAC357 lease with Plessen is a self-dealing transaction, and because the terms of that transaction must satisfy the heightened standard of intrinsic fairness, the Court should order the Hamed sons to sign guarantees in the form attached to Yusuf's Motion.

As for Yusuf's request that the Hamed sons also provide personal financial statements, Hamed does not argue with the case law cited by Yusuf holding that it is commercially reasonable for a landlord to ask an individual guarantor of a corporate obligation to provide personal financial statements. And if asking for such financial statements is commercially reasonable in the context of the ordinary lease that does not involve self-dealing, then why wouldn't personal financial statements be an absolute necessity under the heightened intrinsic fairness test that applies to self-dealing leases? Yusuf knows next to nothing about the current assets of any of the Hamed sons and whether they are sufficient to make meaningful any guarantee by them of the KAC357 lease obligations. And contrary to Hamed's contention, the fact that there is 1.5 million dollars in the Plessen account in no way obviates the need for personal financial statements. The aggregate rent obligations for the multi-year KAC357 lease that are to be guaranteed by the Hamed sons are exponentially greater than their share of any part

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

of that 1.5 million dollar sum. How much is in the Plessen account, and Hamed's speculation that some of that amount might possibly be available to satisfy part of a personal guarantee obligation is immaterial to whether this Court should order the protections being sought by Yusuf.

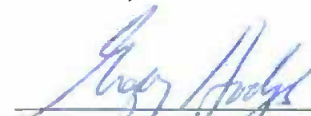
For all of these reasons set forth in this Reply and in Yusuf's Motion to Require Execution of Standard Personal Guarantees and Furnishing of Personal Financial Statements, the Motion should be granted.

Respectfully submitted,

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

Dated: February 26, 2018

By:



**GREGORY H. HODGES** (V.I. Bar No. 174)  
**STEFAN B. HERPEL** (V.I. Bar No. 1019)  
**CHARLOTTE K. PERRELL** (V.I. Bar No. 1281)  
1000 Frederiksberg Gade- P.O. Box 756  
St. Thomas, VI 00804  
Telephone: (340) 715-4405  
Telefax: (340) 715-4400  
E-Mail: [ghodges@dtflaw.com](mailto:ghodges@dtflaw.com)  
[sherpel@dtflaw.com](mailto:sherpel@dtflaw.com)  
[cperrell@dtflaw.com](mailto:cperrell@dtflaw.com)

Attorneys for Fathi Yusuf and United Corporation

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

**CERTIFICATE OF SERVICE**

I hereby certify that on the 26<sup>th</sup> day of February, 2018, I served the foregoing **DEFENDANT FATHI YUSUF'S REPLY IN SUPPORT OF MOTION TO REQUIRE EXECUTION OF STANDARD PERSONAL GUARANTEES AND FURNISHING OF PERSONAL FINANCIAL STATEMENTS**, which complies with the page or word limitations in V.I.R. Civ. P. 6.1(e), via e-mail addressed to:

Joel H. Holt, Esq.  
**LAW OFFICES OF JOEL H. HOLT**  
Quinn House - Suite 2  
2132 Company Street  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
E-Mail: [holtvi.plaza@gmail.com](mailto:holtvi.plaza@gmail.com)

Carl J. Hartmann, III, Esq.  
5000 Estate Coakley Bay -- Unit L-6  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
E-Mail: [carl@carlhartmann.com](mailto:carl@carlhartmann.com)

Mark W. Eckard, Esq.  
**ECKARD, P.C.**  
P.O. Box 24849  
Christiansted, St. Croix  
U.S. Virgin Islands 00824  
E-Mail: [mark@markeckard.com](mailto:mark@markeckard.com)

Jeffrey B.C. Moorhead, Esq.  
**JEFFREY B.C. MOORHEAD, P.C.**  
C.R.T. Brow Building -- Suite 3  
1132 King Street  
Christiansted, St. Croix  
U.S. Virgin Islands 00820  
E-Mail: [jeffreymlaw@yahoo.com](mailto:jeffreymlaw@yahoo.com)

The Honorable Edgar D. Ross  
E-Mail: [edgarrossjudge@hotmail.com](mailto:edgarrossjudge@hotmail.com)

  
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**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**  
1000 Frederiksberg Gade  
P.O. Box 756  
St. Thomas, U.S. V.I. 00804-0756  
(340) 774-4422