

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

**WALEED HAMED**, as the Executor of the  
Estate of MOHAMMAD HAMED,

*Plaintiff/Counterclaim Defendant,*

vs.

**FATHI YUSUF** and **UNITED CORPORATION**

*Defendants and Counterclaimants.*

vs.

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

*Counterclaim Defendants,*

Case No.: **SX-2012-CV-370**

**ACTION FOR DAMAGES,  
INJUNCTIVE RELIEF AND  
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

Consolidated with

**WALEED HAMED**, as the Executor of the  
Estate of MOHAMMAD HAMED,

*Plaintiff,*

vs.

**UNITED CORPORATION,**

*Defendant.*

Case No.: **SX-2014-CV-287**

**ACTION FOR DECLARATORY  
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

**WALEED HAMED**, as the Executor of the  
Estate of MOHAMMAD HAMED,

*Plaintiff,*

vs.

**FATHI YUSUF,**

*Defendant.*

Case No.: **SX-2014-CV-278**

**ACTION FOR DEBT AND  
CONVERSION**

JURY TRIAL DEMANDED

**HAMED'S MOTION TO COMPEL RESPONSES TO THREE REQUESTS TO ADMIT  
AND  
STIPULATED REQUEST FOR EXPEDITED DETERMINATION**

## I. Joint Stipulation Requesting Expedited Determination

On March 22, 2018, the parties jointly requested, by stipulation, that the Special Master expedite a determination on this motion—to avoid disputes between the parties as to discovery presently coming due.

### I. Facts

Prior to January 29, 2018, the parties undertook negotiations regarding the Master's order that they attempt to submit a stipulated, *Joint Discovery and Scheduling Plan* (the "Plan"). On that date, that mutually executed Plan was Ordered by the Master. See attached **Exhibit 1**.

The Plan was designed to be restrictive on both the amount of time allowed for taking written discovery (until March 31st) and the number of discovery requests (50 each of requests to admit, for documents and interrogatories). This was achieved because the parties specifically agreed to two, distinct and different halves of the Plan, Sections A and B.

*Section A* separated out 101 of the claims **the parties expressly agreed would be defined as the Gaffney-reviewed "accounting issues"**. These were to be treated on a totally separate schedule. For each of these accounting issues, **Hamed agreed to pay 100% for Mr. Gaffney's time to do two things in a fiduciary capacity for the Partnership**, for each of those 101 claims: (1) answer a single interrogatory, and (2) attach the documents supporting his answer. The hourly amount that Mr. Gaffney requested for this work (and to which Hamed agreed with no reduction) was \$150.

*Section B* of the Plan deals with the remaining 64 claims—which the parties expressly agreed would be dealt with *completely separately*—as normal discovery, NOT diverted to Mr. Gaffney. Pursuant to *Section B*, on January 30, 2018, Hamed served the following three items, due on March 1, 2018:

- a. One Interrogatory;
- b. three Requests to Admit, and
- c. five Requests for the Production of Documents.

On March 1, 2018, Yusuf served his three responses. See **Exhibit 2**. Hamed believes that all three sets of responses are grossly deficient and intentionally avoid answering—so much so that they violate the requirements for responding to discovery contained in the applicable rules.

To allow a focused discussion, rather than addressing all of the responses at once, Hamed sent Yusuf a first letter dated March 2, 2018, seeking an initial 'meet and confer' as to just the three requests to admit—as they are representative of the inadequacy of all of the responses. See attached **Exhibit 3**. That meet and confer was held March 5, 2018—with Yusuf's counsel declining to amend his responses to the requests to admit.

The instant motion and the agreed stipulation are being filed to avoid a useless set of Yusuf responses for the balance of the written discovery with no real answers given. Hamed has *unilaterally* agreed to allow Yusuf to hold any further discovery responses for 30 days—to give the Master time to review these three examples—to clarify what discovery responses are necessary. The parties stipulated that they would jointly ask that this be expedited. It is hoped this will avoid a useless cycle of non-responses and motions to compel.

*Virgin Islands Rule of Civil Procedure 36* applies and controls. It is taken directly from the *Federal Rule* of the same number. It has been uniformly held that where an RFA "requests admission of a matter about which" the opposing party is "likely to have information and which forms a crucial part of one of his claims. . . [he] must admit or deny the request, or explain *in detail* why he cannot do so." See e.g., *Subramani v. Wells Fargo Bank, N.A.*, No. 13-CV-01605-SC, 2014 WL 7206888, at \*2 (N.D. Cal. Dec. 18, 2014)("This RFA therefore requests admission of a matter about which Mr. Subramani is eminently likely to have information and

which forms a crucial part of one of his claims against Defendants. Mr. Subramani **must admit or deny the request**, or explain in detail why he cannot do so.")

Moreover, requests for admissions are not a discovery device. *Nat'l Semiconductor Corp. v. Ramtron Int'l Corp.*, 265 F.Supp.2d 71, 74 (D.D.C. 2003). **The purpose of requests for admissions is not to seek new information but rather “to narrow the scope of issues to be litigated and to thereby expedite the litigation process.”** *Equal Employment Opportunity Comm'n v. Baby Products Co.*, 89 F.R.D. 129, 130 (E.D. Mich. 1981)(*emphasis supplied*); *Kendrick v. Sullivan*, No. 83–CV–3175, 1992 WL 119125, at \*3 (D.D.C. May 15, 1992). Our USVI Rule provides:

Rule 36. Requests for Admission  
(a) Scope and Procedure.

\* \* \* \*

(3) *Time to Respond; Effect of Not Responding.* A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney. . . .

(4) *Answer.* If a matter is not admitted, **the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it.** A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

(5) *Objections.* The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial.

(6) *Motion Regarding the Sufficiency of an Answer or Objection.* The requesting party may move to determine the sufficiency of an answer or objection. Unless the court finds an objection justified, it must order that an answer be served. **On finding that an answer does not comply with this rule, the court may order either that the matter is admitted or that an amended answer be served.** . . . (Emphasis added.)

Thus the responses MUST be:

1. Admit, or
2. Deny, or
3. State "the answering party cannot truthfully admit or deny it."

Moreover: "The answering party may assert lack of knowledge or information as a reason for failing to admit or deny ***only*** if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny" and state that as a fact.

The *only* other variant allowed is "when good faith requires that a party qualify an answer [state it cannot be answered] or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest."

### **III. Argument - Yusuf's Responses and Hamed's identified Deficiencies**

The following section is taken largely from Exhibit 3, Hamed's *Rule 37* notice of deficiencies sent to Yusuf on March 2nd. It lists the three requests to admit, Yusuf's three non-responses and the deficiencies.

#### **Hamed's Request to Admit 1 of 50:**

Request to admit number 1 of 50 relates to Claim H-13 (Previously identified as 210) - described in the claims list as "Hamed payment of taxes during criminal case."

Admit or deny that Fathi, Fawzia, Maher, Nejeh, Syaid, Zayed and Yusuf Yusuf's income taxes were paid with Partnership funds for the years 2002-2012, but the Hamed taxes were not paid with Partnership funds.

#### **YUSUF RESPONSE:**

Yusuf admits that the **partnership agreement required** that the Yusuf family's personal income taxes as well as United's taxes be paid from the United operating account as members of the Yusuf family were the only individuals claiming for tax purposes any of the income derived from the grocery store operations and such income was recognized by United. None of the Hamed family claimed any of the distributions they received from the Yusuf-Hamed partnership on their income tax returns and thus, incurred no such tax liability for said income. The partnership agreement was for the splitting of net profits after the payment of taxes which would be incurred by United and the Yusuf family members. (Emphasis added.)

*Deficiency.* The Rule [36(a)(4)] requires that "If a matter is not **admitted**, the answer must **specifically deny it**." Thus, the correct response is either "Admit" or "Deny". It *appears* this is "*sort of admit*"<sup>[1]</sup>. But that is not what is required, because the verbiage is not responsive to the language of the request—and, worse, is a "speaking response".

More simply put, Yusuf was asked to admit it in a single word response, or deny it with the required specificity, or Hamed would ask the Court to deem this an unanswered RFA and thus admitted. [The underlying claim, H-13] is that for many years after the bar date in 2006, Yusuf used Partnership funds to pay HIS family's taxes, but did not pay Hamed's family's taxes.

Yes or No? *This does not rely of who knew what or who agreed to what—it is a simple "yes/no" question of fact: did the Partnership pay the Yusuf family's taxes but not the taxes of the Hamed family?" If "yes" admit. If "no" deny.* Explanations can come later in arguments in briefs. Hamed is just trying to get to basic admissions that can be used to construct those arguments—which is what RFAs are for.

#### **Hamed Request to Admit 2 of 50:**

Request to admit number 2 of 50 relates to Claim H-18 (previously identified as 275) - described in the claims list as "K4C357, Inc. payment of invoices from FreedMaxick."

Admit or deny that the Partnership did not reimburse KAC357, Inc. for the invoices shown in Exhibit 275, of the Exhibits to JYZ Engagement Report, September 28, 2016, bates numbers ...

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<sup>1</sup> First, the response admits only what the "partnership agreement required" -- not what the request actually asks -- what really happened.

Yusuf admits **that the partnership agreement required** that the Yusuf family's personal income taxes as well as United's taxes be paid from the United operating account. (Emphasis added.)

Second, there is no written "Partnership Agreement" which states anything about this. Third, Yusuf has repeatedly averred that there was no such written partnership language.

**YUSUF RESPONSE:**

Yusuf objects to this Request for Admission as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney **and maintain that these items were not included in the original list of Gaffney Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan.** [2] Further responding, Yusuf has no knowledge as to this particular payment by KAC357, any request for reimbursement or the accounting of same and, therefore, can neither admit or deny this Request to Admit.

*Deficiency.* First, the Discovery Plan as to the "Section B" claims absolutely does not either allow or require diversion to Mr. Gaffney—[Claim H-18] is in **Section B** of the Plan. Yusuf stipulated to that Plan—he *fully agreed* to these definitions and these procedures. The Master then Ordered the Plan based on this agreement. **Yusuf now seeks to say that other claims must go to Gaffney—despite the clear language. Yusuf cannot change it unilaterally now—he knew when he stipulated which claims would and would not be diverted to Mr. Gaffney, and which were in "B" and would be answered by Yusuf.**

Second, Mr. Gaffney is not a party here. **Requests to admit cannot [under Rule 36] be directed to non-parties.** Rule 36 ("A party may serve *on any other party* a written request to admit.")

Third, Nor are Mr. Gaffney's responses "admissions" that can be used like RFAs against United and Yusuf.

Fourth, Yusuf IS a party. Thus, pursuant to Rule 26(b)(1) any potentially relevant question can reasonably be put to him. He is both the defendant and he was the Liquidating Partner.

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<sup>2</sup>What does this even MEAN? What does the phrase "were not included" mean? How could Hamed have circumvented the plain language of the Plan? Yusuf agreed to the Plan. The Plan states specifically which items would be diverted to Mr. Gaffney (H-41 to H-141) and which would not. It is specific. This claim H-18. It is NOT a Gaffney-diverted "accounting" claim under the Plan.

Fifth, the fact that it could also be put to another witness is totally irrelevant for RFAs. Any actions of the defendants or of the Partnership that occurred while he was in those two roles, are answerable by him. It is not a proper response to an RFA to state that "the Plaintiff already knows this" or "someone else can also testify"—the main purpose of RFA is to get admissions for use, not information. He as the "party" must respond—Yusuf cannot refuse to "obtain" and answer as to information within his control. Moreover, as the Liquidating Partner he cannot refuse to answer as to Partnership information.

Sixth, even as an attempted "insufficient knowledge" response, this is deficient under the Rule. The Rule [34(a)(4)] requires:

The answering party may assert lack of knowledge or information as a reason for failing to admit or deny **only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient** to enable it to admit or deny. (Emphasis added,)

1. No statement of reasonable inquiry

You must state that Yusuf/United "made a reasonable inquiry with its staff" which means with the bookkeepers and accountants.

2. No statement as to "the information it . . . can obtain"

That response cannot be allowed here. The information can be obtained by him from his staff in at least two different capacities. This is an RFA to the party: If Mr. Gaffney was his staff as the Partner or LP, then Yusuf has to ask Mr. Gaffney, and then respond as the party to the litigation. Mr. Gaffney cannot respond to RFA's and certainly not for Yusuf.

Seventh, there has been very little cooperation from Yusuf in allowing Hamed access to the facts and admissions. The time is now for meaningful discovery responses.

**Request to Admit 3 of 50:**

Request to admit number 3 of 50 relates to Claim H-153 (previously identified as 3009a) - described in the claims list as "Partnership funds used to pay United Shopping Center's Property Insurance."

Admit or deny that after 9/17/2006 the Partnership paid the United Shopping Center's property Insurance - which included protection for properties other than the Plaza East Store.



**YUSUF RESPONSE:**

Yusuf objects to this Request for Admission as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintains that these items were not included in the original list of Gaffney Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling plan.

Further responding, according to the documentation submitted by Hamed, such inquiries were previously directed to John Gaffney who researched the question and provided them the following detailed response:

PE [Plaza Extra] funds paid insurance for the shopping center because that was the agreement between Fathi Yusuf and Mohammad Hamed. The payment of insurance by PE was a 25 year practice. . . .

*Deficiency.* First, as above, the Discovery Plan as to the "Section B" claims does not either allow or require diversion to Mr. Gaffney—this claim is in B. As above, Mr. Gaffney is not a party here. Requests to admit cannot be directed to non-parties. Nor are his responses admissions that can be used like RFAs. [Again, Hamed seeks to use the response in the claims process to demonstrate a very simple, basic fact. That is the entire purpose of requests to admit. The question is: "Were partnership funds being used to pay insurance for non-partnership property....yes or no?"]

Third, as above, Yusuf IS a party. And any [relevant] question can reasonably be put to him. He is the defendant and he was the Liquidating Partner. Any actions of the defendants or of the Partnership that occurred while he was, are answerable by him. Fourth, as above, even as an "insufficient knowledge" response, this is deficient under the Rule. Again, there is

1. No statement of reasonable inquiry

You must state that Yusuf/United "made a reasonable inquiry with its staff" which means with United's bookkeepers, Yusuf's (as LP) partnership bookkeepers and accountants.

2. No statement as to "the information it. . .can obtain"

And again, the information can be obtained by him from his staff.

Finally, again, the quotes from Mr. Gaffney are not binding on Yusuf/United as a response to a Request to Admit would be—and his quoted material is NOT responsive to the question. Defendants must admit or deny that "the Partnership did not reimburse KAC357, Inc. for the invoices shown in Exhibit 275, of the Exhibits to JYZ Engagement Report, September 28, 2016". Either it did or it did not. Once again, admit or deny.

#### **IV. Conclusion**

The Master is asked to either deem these three requests admitted or direct Yusuf to answer as required by the Rules.

Once that is done, Hamed hopes it will become apparent that the answers to the interrogatory and the five requests to the production of documents are deficient on the same bases - which will hopefully also guide all of the future responses as well. Rather than file all of this repetitively, the parties will await such direction.

**Dated:** March 22, 2018



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**CERTIFICATE OF SERVICE**

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e), and that on this 22nd day of March, 2018, I served a copy of the foregoing by email (Via CaseAnywhere), as agreed by the parties, on:

**Hon. Edgar Ross (with 2 Hard Copies by Mail)**

Special Master  
% edgarrossjudge@hotmail.com

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A handwritten signature in blue ink, appearing to read "Carl J. Hamed", with a long horizontal flourish extending to the right.

# **EXHIBIT 1**

## **JOINT DISCOVERY AND SCHEDULING PLAN**

**Dated January 29, 2018**

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

WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	
Plaintiff/Counterclaim Defendant,	)	CIVIL NO. SX-12-CV-370
v.	)	
	)	ACTION FOR INJUNCTIVE
FATHI YUSUF and UNITED CORPORATION,	)	RELIEF, DECLARATORY
	)	JUDGMENT, AND
Defendants/Counterclaimants,	)	PARTNERSHIP DISSOLUTION,
v.	)	WIND UP, AND ACCOUNTING
	)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,	)	
	)	
<u>Additional Counterclaim Defendants.</u>	)	Consolidated With
	)	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	CIVIL NO. SX-14-CV-287
	)	
Plaintiff,	)	ACTION FOR DAMAGES AND
v.	)	DECLARATORY JUDGMENT
	)	
UNITED CORPORATION,	)	
	)	
	)	
Defendant.	)	
	)	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	CIVIL NO. SX-14-CV-278
	)	
	)	ACTION FOR DEBT AND
v.	)	CONVERSION
	)	
FATHI YUSUF,	)	
	)	
	)	
Defendant.	)	

**JOINT DISCOVERY AND SCHEDULING PLAN**

**THE PARTIES** to the above-captioned civil action, in accordance with Virgin Islands Rules of Civil Procedure, and the instructions of the Honorable Edgar D. Ross

(the "Master") at a scheduling conference on December 15, 2017, agree and stipulate to the following Plan for incorporation into a Case Management Order.

**A. Discovery as to Hamed Claims H-41 through H-141**

Defendants Fathi Yusuf ("Yusuf") and United Corporation ("United") will be filing a Motion to Strike Claims H-41 to H-141, which, if granted, will obviate the need for any discovery relating to any claim that is stricken. Plaintiff will be opposing that Motion.

In the event the Motion is denied in part or in full, the parties agree to the following discovery regarding any of the **Claims H-41 to H-141**, which survive that Motion:

1. Mr. Gaffney will be paid by Hamed at the rate of \$150.00 per hour for the time he works, set forth in a contemporaneous kept timesheet for answering the items in this "Section A". Mr. Gaffney will submit daily emails to counsel for Hamed informing them of the hours worked and what was done. Unless counsel for Hamed disapproves the work by the end of the following day, Mr. Gaffney will continue the work. If it is disapproved, the Master will be consulted for a decision before work resumes. These emails will then form the basis of weekly billings that shall be paid within one month of receipt of same.

2. For each of the Hamed Claims numbered H-41 through H-141<sup>1</sup>, which survive the Motion, John Gaffney will provide a written response, in his fiduciary capacity as the Partnership Accountant, to the following two items:

a. Interrogatory: Provide a written statement describing this transaction, with reference to when the actual activity or delivery occurred, who the

<sup>1</sup>. Gaffney will be allowed to identify, collect and transport sales journals for Plaza Extra-Tutu Park and Plaza Extra-West from January 2013 through April 2015 as needed. Hamed will arrange or pay for the transport.

persons/entities are, what amounts were involved, and what it was for (with reference to why the funds are allegedly properly charged to the Partnership) and making reference to any checks, invoices or other relevant documents.

b. Production of Documents: Attach to the above Interrogatory response, the documents referenced in your response.

3. Mr. Gaffney's responses to interrogatories and document requests will be provided in the bi-weekly period in which they are completed and not in groups or all at once, by July 31, 2018. The parties may also subpoena third parties related to the transactions at issue.

4. Hamed shall have a total of fourteen hours to depose Mr. Gaffney with respect to any of the Claims H-41 – H-141 that survive the Motion. Yusuf and United will be allowed a similar amount of time at each examination for cross-examination, which will not be charged to Hamed's 14 hours, and Hamed re-direct, which will be charged to his 14 hours. The depositions shall be conducted on four separate, non-consecutive days of Hamed's selection based on Mr. Gaffney's reasonable availability, unless Mr. Gaffney agrees to a different schedule, and the Notice of Deposition shall specify the claims and responses to be covered in the deposition. The parties may agree to a tape or video-recorded deposition rather than a court reporter.

5. The written portion of this process will be completed by Mr. Gaffney by July 31, 2018.

6. No part of these funds paid to Mr. Gaffney by Hamed will be paid by him or shared by him with Yusuf or United or any third person or entity.

**B. Remaining Claims of Both Parties**

7. Written interrogatories, requests for production of documents, and requests for admissions shall be propounded no later than March 31, 2018, and all responses thereto, including objections, shall be served not later than May 31, 2018.

As to these remaining claims, no party shall propound more than 50 interrogatories, 50 requests for production of documents, and 50 requests for admissions, including all discrete subparts thereof, unless otherwise stipulated by the parties or ordered by the Master.

8. A motion regarding any claim may be filed at any time, without regard for the discovery schedule, and need not be held until the end of this process. Timing of responses and replies shall be governed by the V.I. Rules of Civil Procedure.

9. All fact witness depositions, including depositions of non-parties, taken for purposes of discovery and/or to preserve testimony for trial, shall be completed by August 31, 2018.

**[It is noted that Hamed does not think it is necessary, or that it would be to the Court's advantage to continue the schedule past this point, and suggests that a status/scheduling conference be set after August 15th -- but leaves that determination to the Special Master.]**

10. No party shall take more ten (10) fact and expert witness depositions, no single deposition shall exceed more than seven (7) hours in duration, and any single deposition shall be completed on the same day on which it is commenced, unless otherwise stipulated by the parties or ordered by the Master.



11. All motions to compel, for discovery, sanctions, or for protective orders with respect to fact discovery, shall be filed and served not later than September 17, 2018.

12. Plaintiff shall serve notices identifying all of his expert witnesses, and said expert witnesses' curriculum vitae and written reports, not later than September 28, 2018.

13. Defendants shall serve notices identifying all of their expert witnesses, and said expert witnesses' curriculum vitae and written reports, not later than October 31, 2018.

14. All expert witness depositions, for purposes of discovery and to preserve testimony for trial, shall be completed not later than November 30, 2018.

15. All motions to compel, for sanctions, or for protective orders with respect to expert discovery, shall be filed and served not later than December 17, 2018.

16. The parties shall jointly contact the Master to attempt an informal resolution of any discovery disputes prior to filing discovery motions.

17. All dispositive motions, except for motions challenging subject matter jurisdiction which may be filed at any time, and *Daubert/Kuhmo* motions shall be filed and served not later than January 15, 2019.

18. All motions in limine and V.I. Rule of Evidence 104 motions shall be filed and served not later than January 31, 2019.

19. This Joint Discovery and Scheduling Plan may not be amended, except as ordered by the Master for good cause shown.

Respectfully submitted,

**LAW OFFICES OF JOEL H. HOLT**

DATED: January 12, 2018 By: \_\_\_\_\_

  
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DATED: January 12, 2018 By: \_\_\_\_\_

  
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The foregoing Joint Discovery and Scheduling Plan is **APPROVED** and is made the Case Management Order in this case.

Dated: January 29<sup>th</sup>, 2018

  
Hon. Edgar D. Ross  
Master

# **EXHIBIT 2**

Hamed Letter  
Requesting Meet and  
Confer as to RFA

Dated: March 2, 2018

**CARL J. HARTMANN III**  
ATTORNEY-AT-LAW  
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EMAIL  
CARL@CARLHARTMANN.COM

March 2, 2017

Charlotte Perrell  
DTF  
Law House  
St. Thomas, VI 00820

Via Email Only

RE: Request for Conference re Requests to Admit 1-3

Dear Attorney Perrell:

I am writing to request a telephone conference regarding the Yusuf/United responses to *Requests to Admit* 1-3. It is my intention to file a motion for the Court to deem these conceded under the provisions of the Rule, but would like to discuss the bases. I would appreciate a date and time convenient for you within the week.

As I noted in my email prior to the service of these responses, the Rule is very clear. On February 26, 2018, I sent the attached email. The relevant portion is as follows;

As we are on a rather tight discovery schedule with regard to the claims under the Discovery Plan, I would like to confirm that Hamed will receive the responses to the discovery propounded on January 30, 2018 within 30 days of service – ie. with no extra 3 days added.

I also ask that these responses, unlike the Yusuf/United responses to discovery in the ScotiaBank action which did not comply with the requirements for such responses comply with the Rules. As this is the only written claims discovery Hamed will get, we will seek immediate and strict compliance or contempt orders for evasions – including group answers, referential answers to other (non-identical) discovery or discovery in other actions not of record here, and similar mechanisms. To avoid misunderstandings, I am making sure we have discussed specifics of the applicable Rules, via email so there will be a written record, before the responses are served. I have highlighted those I consider to have been lacking in the past. I know you do not agree with my characterizations of the ScotiaBank discovery, and you need not contest this in response – but I want to

make sure we have gone over these beforehand. The highlighted items (out of direct quotes from the Rules) are what I consider critical.

### **As to Requests to Admit**

\* \* \* \*

(4) Answer. **If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it.**

**A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest.**

The answering party may assert lack of knowledge or information as a reason for failing to admit or deny **only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.**

(5) Objections. **The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial.**

**Exhibit 1.** The deficiencies in your March 1, 2018 RFA responses (**Exhibit 2**) are as follows:

#### **Request to Admit 1 of 50:**

Request to admit number 1 of 50 relates to Claim H-13 (Previously identified as 210) - described in the claims list as "Hamed payment of taxes during criminal case."

Admit or deny that Fathi, Fawzia, Maher, Neje, Syaid, Zayed and Yusuf Yusuf's income taxes were paid with Partnership funds for the years 2002-2012, but the Hamed taxes were not paid with Partnership funds.

Yusuf admits that the partnership agreement required that the Yusuf family's personal income taxes as well as United's taxes be paid from the United operating account as members of the Yusuf family were the only individuals claiming for tax purposes any of the income derived from the grocery store operations and such income was recognized by United. None of the Hamed family claimed any of the distributions they received from the Yusuf-Hamed partnership on their income tax returns and thus, incurred no such tax liability for said income. The partnership agreement was for the splitting of net profits after the payment of taxes which would be incurred by United and the Yusuf family members.

**Deficiency.** The Rule requires that *If a matter is not **admitted**, the answer must **specifically deny it***. Thus, the correct response is either "Admit" or "Deny". It seems this may be "admit" but that is not what is required, because the verbiage is not responsive to the request and is a "speaking response". Please admit it in a single word response or deny it with the required specificity, or we will ask the Court to deem this an unanswered RFA and thus admitted.

**Request to Admit 2 of 50:**

Request to admit number 2 of 50 relates to Claim H-18 (previously identified as 275) - described in the claims list as "K4C357, Inc. payment of invoices from FreedMaxick."

Admit or deny that the Partnership did not reimburse KAC357, Inc. for the invoices shown in Exhibit 275, of the Exhibits to JYZ Engagement Report, September 28, 2016, bates numbers ...

**RESPONSE:**

Yusuf objects to this Request for Admission as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintain that these items were not included in the original list of Gaffney Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan. Further responding, Yusuf has no knowledge as to this particular payment by KAC357, any request for reimbursement or the accounting of same and, therefore, can neither admit or deny this Request to Admit.

. This violates the Rule in so many ways it is hard to know where to start. First, the Discovery Plan as to the "Section B" claims does not either allow or require diversion to Mr. Gaffney -- this claim is in B. You stipulated to that Plan. The Master Ordered the Plan. You cannot change it unilaterally now -- you knew when you stipulated which claims would and would not be diverted to him, and which were in "B".

Second, Mr. Gaffney is not a party here. Requests to admit cannot be directed to non-parties. Nor are his responses admissions that can be used like RFAs.

Third, Yusuf IS A PARTY. And any question can reasonably be put to him. He is the defendant and he was the Liquidating Partner. Any actions of the defendants or of the LP that occurred while he was, are answerable by him. It is not a proper response to an RFA to state that "the Plaintiff already knows this" -- the purpose of RFA is to get admissions for use, not information. If he as the LP or partner "employed, supervised, controlled or has access to information" he must respond -- Yusuf cannot refuse to "obtain" and answer as to information within his control. The LP cannot refuse to answer as to information within his sole control.

Fourth, even as an "insufficient knowledge" response, this is deficient under the Rule. The Rule requires:

The answering party may assert lack of knowledge or information as a reason for failing to admit or deny **only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient** to enable it to admit or deny. (Emphasis added,)

1. No statement of reasonable inquiry

You must state that Yusuf/United "made a reasonable inquiry with its staff" which means with United's bookkeepers, Yusuf's (as LP) partnership bookkeepers and accountants.

2. No statement as to "the information it. . .can obtain"

The information can be obtained by him for his staff in three different capacities -- you have admitted it.

**Request to Admit 3 of 50:**

Request to admit number 3 of 50 relates to Claim H-153 (previously identified as 3009a) - described in the claims list as "Partnership funds used to pay United Shopping Center's Property Insurance."

Admit or deny that after 911712006 the Partnership paid the United Shopping Center's property Insurance - which included protection for properties other than the Plaza East Store.

**RESPONSE:**

Yusuf objects to this Request for Admission as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintains that these items were not included in the original list of Gaffney Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling plan.

Further responding, according to the documentation submitted by Hamed, such inquiries were previously directed to John Gaffney who researched the question and provided them the following detailed response:

PE [Plaza Extra] funds paid insurance for the shopping center because that was the agreement between Fathi Yusuf and Mohammad Hamed. The payment of insurance by PE was a 25 year practice. . . .

**Deficiency.** First, the Discovery Plan as to the "Section B" claims does not either allow or require diversion to Mr. Gaffney -- this claim is in B. You stipulated to that Plan. The Master Ordered the Plan. You cannot change it unilaterally now -- you knew when you stipulated which claims would and would not be diverted to him, and which were in "B".

Second, Mr. Gaffney is not a party here. Requests to admit cannot be directed to non-parties. Nor are his responses admissions that can be used like RFAs.

Third, Yusuf IS A PARTY. And any question can reasonably be put to him. He is the defendant and he was the Liquidating Partner. Any actions of the defendants or of the Partnership that occurred while he was, are answerable by him. It is not a proper response to an RFA to state that "the Plaintiff already knows this" -- the purpose of RFA



is to get admissions for use, not information. If he as the LP or partner "employed, supervised, controlled or has access to information" he must respond -- Yusuf cannot refuse to "obtain" and answer as to information within his control. The LP cannot refuse to answer as to information within his sole control.

Fourth, even as an "insufficient knowledge" response, this is deficient under the Rule. The Rule requires:

The answering party may assert lack of knowledge or information as a reason for failing to admit or deny **only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient** to enable it to admit or deny. (Emphasis added,)

1. No statement of reasonable inquiry

You must state that Yusuf/United "made a reasonable inquiry with its staff" which means with United's bookkeepers, Yusuf's (as LP) partnership bookkeepers and accountants.

2. No statement as to "the information it. . .can obtain"

The information can be obtained by him for his staff in three different capacities -- you have admitted it.

Finally, the quotes from Mr. Gaffney are not binding on Yusuf/United as a response to a Request to Admit would be -- and his quoted material is NOT responsive to the question. Admit or deny that "the Partnership did not reimburse KAC357, Inc. for the invoices shown in Exhibit 275, of the Exhibits to JYZ Engagement Report, September 28, 2016".



**From:** Carl Hartmann [mailto:[carl@carlhartmann.com](mailto:carl@carlhartmann.com)]  
**Sent:** Monday, February 26, 2018 12:14 PM  
**To:** 'Gregory Hodges' <[Ghodges@dtflaw.com](mailto:Ghodges@dtflaw.com)>  
**Cc:** 'Kim Japinga' <[kim@japinga.com](mailto:kim@japinga.com)>; 'Joel Holt' <[holtvi.plaza@gmail.com](mailto:holtvi.plaza@gmail.com)>  
**Subject:** Corrected RESEND - RE: Question re your service of discovery responses

Greg:

As I am sure you are aware, when the Rules Committee revised the civil rules, they did not allow an additional 3 days for electronic service. Emails and ECF fall under subsection (E).

(E) sending it by electronic means if the person has consented in writing — in which event **service is complete upon transmission**, but is not effective if the serving party learns that it did not reach the person to be served; or. . . .

But the Rules do not allow an additional 3 days for subsection E service.

(d) Additional Time After Certain Kinds of Service. When a party may or must act within a specified time after being served and service is made under **Rule 5(b)(2)(C)** (mail), **(D)** (leaving with the Virgin Islands Marshal), or **(F)** (other means consented to), 3 days are added after the period would otherwise expire under Rule 6(a).

As we are on a rather tight discovery schedule with regard to the claims under the Discovery Plan, I would like to confirm that Hamed will receive the responses to the discovery propounded on January 30, 2018 within 30 days of service – ie. with no extra 3 days added.

I also ask that these responses, unlike the Yusuf/United responses to discovery in the ScotiaBank action which did not comply with the requirements for such responses comply with the Rules. As this is the only written claims discovery Hamed will get, we will seek immediate and strict compliance or contempt orders for evasions – including group answers, referential answers to other (non-identical) discovery or discovery in other actions not of record here, and similar mechanisms. To avoid misunderstandings, I am making sure we have discussed specifics of the applicable Rules, via email so there will be a written record, before the responses are served. I have highlighted those I consider to have been lacking in the past. I know you do not agree with my characterizations of the ScotiaBank discovery, and you need not contest this in response – but I want to make sure we have gone over these beforehand. The highlighted items (out of direct quotes from the Rules) are what I consider critical.

#### **As to Requests to Admit**

(3)Time to Respond; Effect of Not Responding. **A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter . . . .**

(4) Answer. **If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it.**

**A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest.**

The answering party may assert lack of knowledge or information as a reason for failing to admit or deny **only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.**

(5) Objections. **The grounds for objecting to a request must be stated. A party must not object solely on the ground that the request presents a genuine issue for trial.**

#### **As to Interrogatories**

(2) Scope. An interrogatory may relate to any matter that may be inquired into under Rule 26(b). An interrogatory **is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact**

(3) Answering Each Interrogatory. Each interrogatory must, to the extent it is not objected to, be answered **separately** and **fully** in writing under oath.

(4) Objections. **The grounds for objecting to an interrogatory must be stated with specificity.**

#### **As to Documents Requested**

(A) **any designated documents or electronically stored information** — including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations — stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or (B) any designated tangible things;

(C) Objections. An objection **must state whether any responsive materials are being withheld on the basis of that objection with sufficient particularity to identify what has been withheld.** An objection to part of a request must specify the part and permit inspection of the rest.

Please let me know if we are going to have any issues with regard to these matters – in advance – so a delay in the Discovery Plan is not forced on us.

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

WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	
Plaintiff/Counterclaim Defendant,	)	CIVIL NO. SX-12-CV-370
v.	)	
FATHI YUSUF and UNITED CORPORATION,	)	ACTION FOR INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, AND
	)	PARTNERSHIP DISSOLUTION, WIND UP, AND ACCOUNTING
Defendants/Counterclaimants,	)	
v.	)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,	)	
	)	
Additional Counterclaim Defendants.	)	Consolidated With
_____	)	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	CIVIL NO. SX-14-CV-287
Plaintiff,	)	
v.	)	ACTION FOR DAMAGES AND DECLARATORY JUDGMENT
UNITED CORPORATION,	)	
	)	
Defendant.	)	
_____	)	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	CIVIL NO. SX-14-CV-278
Plaintiff,	)	
v.	)	ACTION FOR DEBT AND CONVERSION
FATHI YUSUF,	)	
	)	
Defendant.	)	
_____	)	

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

**YUSUF'S RESPONSE TO HAMED'S REQUEST TO  
ADMIT PURSUANT TO THE CLAIMS DISCOVERY  
PLAN OF 1/29/2018, NOS. 1-3 OF 50 -- AS TO:  
CLAIM H-13, HAMED'S PAYMENT OF TAXES IN CRIMINAL CASE,  
CLAIM H-18, HAMED'S PAYMENT OF FREEDMAXICK INVOICES, &  
CLAIM H-153, PAYMENT OF PROPERTY INSURANCE FOR UNITED**

Yusuf, through his attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provides his Responses to Hamed's Request to Admit Pursuant to the Claims Discovery Plan of 1/29/2018, Nos. 1-3 of 50 – As To: Claim H-13, Hamed's Payment of Taxes in Criminal Case, Claim H-18, Hamed's Payment of Freedmaxick Invoices, & Claim H-153 Payment of Property Insurance for United:

### GENERAL OBJECTIONS

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

(1) Yusuf objects to these Requests to Admit to the extent they may impose obligations different from or in addition to those required under the Virgin Islands Rules of Civil Procedure.

(2) Yusuf objects to these Requests to Admit to the extent that they use 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) Yusuf objects to these Requests to Admit 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 Yusuf or relating

to mental impressions, conclusions, opinions, or legal theories of his attorneys or representatives, or any other applicable privilege or doctrine under federal or state statutory, constitutional or common law. 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 Yusuf of such privilege or doctrine.

(4) Yusuf objects to these Requests to Admit 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) Yusuf objects to these Requests to Admit to the extent that they use terms or phrases that are vague, ambiguous, or undefined. Yusuf's response to such request will be based upon his understanding of the request.

(6) Yusuf objects to these Requests to Admit to the extent they seek documents or information not in the possession, custody or control of Yusuf, on the grounds that it would subject him to undue burden, oppression and expense, and impose obligations not required by the Virgin Islands Rules of Civil Procedure.

(7) Yusuf has not completed either his discovery or preparation for trial of this matter. Accordingly, Yusuf's response to these Requests to Admit is made without prejudice to 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 any additional, non-privileged, responsive documents are discovered, these Requests to Admit will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.

(8) Yusuf objects to these Requests to Admit to the extent that they are compound and not a single Request. Hence, these Requests to Admit should be counted as more than a single Request such that when all of the subparts are included together with other Requests to Admit they may exceed the 50 Requests to Admit agreed upon by the parties.

### **RESPONSES TO REQUESTS TO ADMIT**

#### **Request to Admit 1 of 50:**

Request to admit number 1 of 50 relates to Claim H-13 (Previously identified as 210) – described in the claims list as “Hamed payment of taxes during criminal case.”

Admit or deny that Fathi, Fawzia, Maher, Negeh, Syaid, Zayed and Yusuf Yusuf's income taxes were paid with Partnership funds for the years 2002-2012, but the Hamed taxes were not paid with Partnership funds.

#### **RESPONSE:**

Yusuf admits that the partnership agreement required that the Yusuf family's personal income taxes as well as United's taxes be paid from the United operating account as members of the Yusuf family were the only individuals claiming for tax purposes any of the income derived from the grocery store operations and such income was recognized by United. None of the Hamed family claimed any of the distributions they received from the Yusuf-Hamed partnership on their income tax returns and thus, incurred no such tax liability for said income. The partnership agreement was for the splitting of net profits after the payment of taxes which would be incurred by United and the Yusuf family members.

#### **Request to Admit 2 of 50:**

Request to admit number 2 of 50 relates to Claim H-18 (previously identified as 275) – described in the claims list as “KAC357, Inc. payment of invoices from FreedMaxick.”

Admit or deny that the Partnership did not reimburse KAC357, Inc. for the invoices shown in Exhibit 275, of the Exhibits to JVZ Engagement Report, September 28, 2016, bates numbers JVZ-001240-JVZ-001241.

**RESPONSE:**

Yusuf objects to this Request for Admission as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintain that these items were not included in the original list of Gaffney Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan. Further responding, Yusuf has no knowledge as to this particular payment by KAC357, any request for reimbursement or the accounting of same and, therefore, can neither admit or deny this Request to Admit.

**Request to Admit 3 of 50:**

Request to admit number 3 of 50 relates to Claim H-153 (previously identified as 3009a) – described in the claims list as “Partnership funds used to pay United Shopping Center’s Property Insurance.”

Admit or deny that after 9/17/2006 the Partnership paid the United Shopping Center’s property Insurance – which included protection for properties other than the Plaza East Store.

**RESPONSE:**

Yusuf objects to this Request for Admission as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintains that these items were not included in the original list of Gaffney



Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan.

Further responding, according to the documentation submitted by Hamed, such inquiries were previously directed to John Gaffney who researched the question and provided them the following detailed response:

PE [Plaza Extra] funds paid insurance for the shopping center because that was the agreement between Fathi Yusuf and Mohammad Hamed. The payment of insurance by PE was a 25 year practice.

I found the commercial liability and property policies for 2012 that reflect, among other things, the value of the insured properties. Subsequent policies are likely to be substantially the same.

Invoice payments for policies paid by Plaza STT are unavailable since those records remain in St. Thomas. I searched the invoices paid by East in 2014 without success...2013 records are too far back in the warehouse to conduct a search for this blanket request.

In lieu of the extensive document request, provided herein are the schedules of Prepaid Insurance for years 2012 through 2015 with remarks regarding allocation of charges between the Plaza stores and the Shopping Center as I learned them.

The first schedule for 2012 was inherited from Margie Soeffing (prior United Corp dba Plaza Extra Controller). I could not understand her allocations sufficiently nor could she offer much help as she admitted a great deal of confusion about insurance. After several conversations with her and then Fathi Yusuf, I prepared a new schedule to close 2012 and to provide a base for moving forward to 2013.

Consequently, it is clear that Hamed has already received a substantial response from John Gaffney and that his investigation into the issue revealed that an allocation was in fact made. The allocation and schedule were provided to Hamed. Hence, Yusuf objects to this

Request as he is without knowledge to either admit or deny same and shows that it is properly directed to John Gaffney if any further clarification even is needed.

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

**DATED:** March 1, 2018

By:



**CHARLOTTE K. PERRELL**

(V.I. Bar #1281)

Law House

1000 Frederiksberg Gade - P.O. Box 756

St. Thomas, VI 00804-0756

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*Attorneys for Fathi Yusuf and United  
Corporation*

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

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P.O. Box 756

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(340) 774-4422

**CERTIFICATE OF SERVICE**

It is hereby certified that on this 1<sup>st</sup> day of March, 2018, I caused the foregoing a true and exact copy of the foregoing **FATHI YUSUF'S RESPONSE TO HAMED'S REQUEST TO ADMIT PURSUANT TO THE CLAIMS DISCOVERY** to be served upon the following via Case Anywhere docketing system:

Joel H. Holt, Esq.  
**LAW OFFICES OF JOEL H. HOLT**  
2132 Company, V.I. 00820  
Email: [joelholtpc@gmail.com](mailto:joelholtpc@gmail.com)

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The Honorable Edgar D. Ross  
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# EXHIBIT 3

Three Sets of Yusuf  
Discovery Responses

Dated March 1, 2018

A. To RFA

B. To Interrogatory

C. to RFPD

# **EXHIBIT 3-A**

Yusuf Responses to  
Requests to Admit 1-3

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

WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	
Plaintiff/Counterclaim Defendant,	)	CIVIL NO. SX-12-CV-370
v.	)	
FATHI YUSUF and UNITED CORPORATION,	)	ACTION FOR INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, AND PARTNERSHIP DISSOLUTION, WIND UP, AND ACCOUNTING
	)	
Defendants/Counterclaimants,	)	
v.	)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,	)	
	)	
Additional Counterclaim Defendants.	)	Consolidated With
<hr/>		
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	
Plaintiff,	)	CIVIL NO. SX-14-CV-287
v.	)	ACTION FOR DAMAGES AND DECLARATORY JUDGMENT
UNITED CORPORATION,	)	
	)	
Defendant.	)	
<hr/>		
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	
Plaintiff,	)	CIVIL NO. SX-14-CV-278
v.	)	ACTION FOR DEBT AND CONVERSION
FATHI YUSUF,	)	
	)	
Defendant.	)	
<hr/>		

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**  
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**YUSUF’S RESPONSE TO HAMED’S REQUEST TO  
ADMIT PURSUANT TO THE CLAIMS DISCOVERY  
PLAN OF 1/29/2018, NOS. 1-3 OF 50 -- AS TO:  
CLAIM H-13, HAMED’S PAYMENT OF TAXES IN CRIMINAL CASE,  
CLAIM H-18, HAMED’S PAYMENT OF FREEDMAXICK INVOICES, &  
CLAIM H-153, PAYMENT OF PROPERTY INSURANCE FOR UNITED**

Yusuf, through his attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provides his Responses to Hamed's Request to Admit Pursuant to the Claims Discovery Plan of 1/29/2018, Nos. 1-3 of 50 – As To: Claim H-13, Hamed's Payment of Taxes in Criminal Case, Claim H-18, Hamed's Payment of Freedmaxick Invoices, & Claim H-153 Payment of Property Insurance for United:

### **GENERAL OBJECTIONS**

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

(1) Yusuf objects to these Requests to Admit to the extent they may impose obligations different from or in addition to those required under the Virgin Islands Rules of Civil Procedure.

(2) Yusuf objects to these Requests to Admit to the extent that they use 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) Yusuf objects to these Requests to Admit 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 Yusuf or relating

to mental impressions, conclusions, opinions, or legal theories of his attorneys or representatives, or any other applicable privilege or doctrine under federal or state statutory, constitutional or common law. 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 Yusuf of such privilege or doctrine.

(4) Yusuf objects to these Requests to Admit 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) Yusuf objects to these Requests to Admit to the extent that they use terms or phrases that are vague, ambiguous, or undefined. Yusuf's response to such request will be based upon his understanding of the request.

(6) Yusuf objects to these Requests to Admit to the extent they seek documents or information not in the possession, custody or control of Yusuf, on the grounds that it would subject him to undue burden, oppression and expense, and impose obligations not required by the Virgin Islands Rules of Civil Procedure.

(7) Yusuf has not completed either his discovery or preparation for trial of this matter. Accordingly, Yusuf's response to these Requests to Admit is made without prejudice to 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 any additional, non-privileged, responsive documents are discovered, these Requests to Admit will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.



(8) Yusuf objects to these Requests to Admit to the extent that they are compound and not a single Request. Hence, these Requests to Admit should be counted as more than a single Request such that when all of the subparts are included together with other Requests to Admit they may exceed the 50 Requests to Admit agreed upon by the parties.

### **RESPONSES TO REQUESTS TO ADMIT**

#### **Request to Admit 1 of 50:**

Request to admit number 1 of 50 relates to Claim H-13 (Previously identified as 210) – described in the claims list as “Hamed payment of taxes during criminal case.”

Admit or deny that Fathi, Fawzia, Maher, Negeh, Syaid, Zayed and Yusuf Yusuf's income taxes were paid with Partnership funds for the years 2002-2012, but the Hamed taxes were not paid with Partnership funds.

#### **RESPONSE:**

Yusuf admits that the partnership agreement required that the Yusuf family's personal income taxes as well as United's taxes be paid from the United operating account as members of the Yusuf family were the only individuals claiming for tax purposes any of the income derived from the grocery store operations and such income was recognized by United. None of the Hamed family claimed any of the distributions they received from the Yusuf-Hamed partnership on their income tax returns and thus, incurred no such tax liability for said income. The partnership agreement was for the splitting of net profits after the payment of taxes which would be incurred by United and the Yusuf family members.

#### **Request to Admit 2 of 50:**

Request to admit number 2 of 50 relates to Claim H-18 (previously identified as 275) – described in the claims list as “KAC357, Inc. payment of invoices from FreedMaxick.”

Admit or deny that the Partnership did not reimburse KAC357, Inc. for the invoices shown in Exhibit 275, of the Exhibits to JVZ Engagement Report, September 28, 2016, bates numbers JVZ-001240-JVZ-001241.

**RESPONSE:**

Yusuf objects to this Request for Admission as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintain that these items were not included in the original list of Gaffney Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan. Further responding, Yusuf has no knowledge as to this particular payment by KAC357, any request for reimbursement or the accounting of same and, therefore, can neither admit or deny this Request to Admit.

**Request to Admit 3 of 50:**

Request to admit number 3 of 50 relates to Claim H-153 (previously identified as 3009a) – described in the claims list as “Partnership funds used to pay United Shopping Center’s Property Insurance.”

Admit or deny that after 9/17/2006 the Partnership paid the United Shopping Center’s property Insurance – which included protection for properties other than the Plaza East Store.

**RESPONSE:**

Yusuf objects to this Request for Admission as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintains that these items were not included in the original list of Gaffney

Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan.

Further responding, according to the documentation submitted by Hamed, such inquiries were previously directed to John Gaffney who researched the question and provided them the following detailed response:

PE [Plaza Extra] funds paid insurance for the shopping center because that was the agreement between Fathi Yusuf and Mohammad Hamed. The payment of insurance by PE was a 25 year practice.

I found the commercial liability and property policies for 2012 that reflect, among other things, the value of the insured properties. Subsequent policies are likely to be substantially the same.

Invoice payments for policies paid by Plaza STT are unavailable since those records remain in St. Thomas. I searched the invoices paid by East in 2014 without success...2013 records are too far back in the warehouse to conduct a search for this blanket request.

In lieu of the extensive document request, provided herein are the schedules of Prepaid Insurance for years 2012 through 2015 with remarks regarding allocation of charges between the Plaza stores and the Shopping Center as I learned them.

The first schedule for 2012 was inherited from Margie Soeffing (prior United Corp dba Plaza Extra Controller). I could not understand her allocations sufficiently nor could she offer much help as she admitted a great deal of confusion about insurance. After several conversations with her and then Fathi Yusuf, I prepared a new schedule to close 2012 and to provide a base for moving forward to 2013.

Consequently, it is clear that Hamed has already received a substantial response from John Gaffney and that his investigation into the issue revealed that an allocation was in fact made. The allocation and schedule were provided to Hamed. Hence, Yusuf objects to this

Request as he is without knowledge to either admit or deny same and shows that it is properly directed to John Gaffney if any further clarification even is needed.

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

**DATED:** March 1, 2018

By:



**CHARLOTTE K. PERRELL**

(V.I. Bar #1281)

Law House

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*Attorneys for Fathi Yusuf and United  
Corporation*

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(340) 774-4422

**CERTIFICATE OF SERVICE**

It is hereby certified that on this 1<sup>st</sup> day of March, 2018, I caused the foregoing a true and exact copy of the foregoing **FATHI YUSUF'S RESPONSE TO HAMED'S REQUEST TO ADMIT PURSUANT TO THE CLAIMS DISCOVERY** to be served upon the following via Case Anywhere docketing system:

Joel H. Holt, Esq.  
**LAW OFFICES OF JOEL H. HOLT**  
2132 Company, V.I. 00820  
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The Honorable Edgar D. Ross  
Email: [degarrossjudge@hotmail.com](mailto:degarrossjudge@hotmail.com)

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**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

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P.O. Box 756

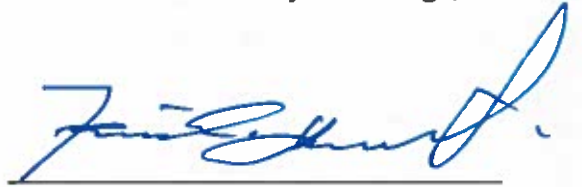
St Thomas, U.S V.I. 00804-0756

(340) 774-4422

**VERIFICATION**

I hereby certify under penalty of perjury that the facts contained in each of the foregoing responses to REQUESTS TO ADMIT are true and correct to the best of my knowledge, information and belief.

DATED: 3-1st, 2018

  
\_\_\_\_\_

**FATHI YUSUF**

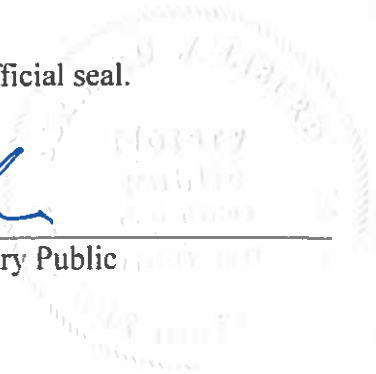
TERRITORY OF THE U.S. VIRGIN ISLANDS )  
  ) ss:  
DISTRICT OF \_\_\_\_\_)

On this, the 1 day of MARCH 2018, before me, the undersigned officer, personally appeared Fathi Yusuf, known to me ( or satisfactorily proven) to be the person whose name is subscribed to the within document and acknowledged that he/she executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
\_\_\_\_\_

Notary Public



# **EXHIBIT 3-B**

Yusuf Responses to  
Interrogatory 1

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

WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	
	)	
Plaintiff/Counterclaim Defendant,	)	CIVIL NO. SX-12-CV-370
v.	)	
	)	
FATHI YUSUF and UNITED CORPORATION,	)	ACTION FOR INJUNCTIVE
	)	RELIEF, DECLARATORY
	)	JUDGMENT, AND
Defendants/Counterclaimants,	)	PARTNERSHIP DISSOLUTION,
v.	)	WIND UP, AND ACCOUNTING
	)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,	)	
	)	
Additional Counterclaim Defendants.	)	Consolidated With
	)	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	
	)	CIVIL NO. SX-14-CV-287
Plaintiff,	)	
v.	)	ACTION FOR DAMAGES AND
	)	DECLARATORY JUDGMENT
UNITED CORPORATION,	)	
	)	
Defendant.	)	
	)	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	
	)	
	)	CIVIL NO. SX-14-CV-278
Plaintiff,	)	
v.	)	ACTION FOR DEBT AND
	)	CONVERSION
FATHI YUSUF,	)	
	)	
Defendant.	)	

DUDLEY, TOPPER  
AND FEUERZEIG, LLP  
1000 Frederiksberg Gade  
P.O. Box 756  
St. Thomas, U.S. V.I. 00804-0756  
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**YUSUF'S RESPONSE TO HAMED'S  
INTERROGATORY 1 OF 50 – AS TO CLAIM H-143**

Fathi Yusuf ("Yusuf") through his attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provide his Response to Hamed's Interrogatory 1 of 50 - As to Claim H-143.



**GENERAL OBJECTIONS**

(1) Yusuf objects to Interrogatory No. 1 to the extent it may impose obligations different from or in addition to those required under the Virgin Islands Rules of Civil Procedure.

(2) Yusuf objects to Interrogatory No. 1 to the extent that it 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) Yusuf objects to Interrogatory No. 1 to the extent it seeks 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 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. 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 Yusuf of such privilege or doctrine.

(4) Yusuf objects to Interrogatory No. 1 to the extent that it seeks 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) Yusuf objects to Interrogatory No. 1 to the extent that it uses terms or phrases that are vague, ambiguous, or undefined. Yusuf's response to such request will be based upon his understanding of the request.

(6) Yusuf objects to Interrogatory No. 1 to the extent it seeks documents or information not in the possession, custody or control of Yusuf, on the grounds that it would

subject him to undue burden, oppression and expense, and impose obligations not required by the Virgin Islands Rules of Civil Procedure.

(7) Yusuf has not completed either his discovery or preparation for trial of this matter. Accordingly, Yusuf's response to Interrogatory No. 1 is made without prejudice to 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 any additional, non-privileged, responsive documents are discovered, the Interrogatory will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.

(8) Yusuf object to Interrogatory No. 1 to the extent that it is compound and not a single interrogatory. Hence, Interrogatory No. 1 should be counted as more than a single interrogatory such that when all of the subparts are included together with other interrogatories they may exceed the 50 Interrogatories agreed upon by the parties.

## RESPONSES TO INTERROGATORY

### Interrogatory 1 of 50:

This interrogatory relates to Claim H-143 (which previously was identified as 490 in Hamed's Expert Report) -- described in the claims list as "Plaza Extra East land" being that small parcel which constitutes the back section of the East Store and property outside behind that back section.

Please describe in detail when, under what circumstances, why, and how this land was purchased and by what person or entity (and by whom it is owned now); also stating as part of that detail, where the funds to purchase this land came from, and if the source was fully or partially an insurance policy, state whether grocery store proceeds were used to pay for that policy – and describe any related documents, or documents that support or contradict your response.

### RESPONSE:

Yusuf objects to this Interrogatory No. 1 because it involves a claim that is barred by the Court Memorandum Opinion and Order Re Limitation On Accounting, which provided that the accounting in the matter "shall be limited in scope to consider only those claimed credits and charges to partner accounts, under the meaning of 26 V.I.C. §71(a), based on transactions that occurred on or after September 17, 2006." The deed conveying Plot 4H, Estate Sion Farm, to United Corporation has been of record since October 6, 1992. Accordingly, any claims by Hamed concerning this transaction are clearly barred by such Order and Yusuf has no obligation to provide discovery concerning a barred claim because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii). Furthermore, Yusuf has filed a Motion to Strike Hamed's Amended Claim Nos. 142 and 143 ("Motion to Strike") on the same

grounds. As further support for objecting to this Interrogatory, Yusuf incorporates by reference his Motion to Strike as if fully set forth herein verbatim.

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

**DATED:** March 1, 2018

By:



**CHARLOTTE K. PERRELL**

(V.I. Bar #1281)

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*Attorneys for Fathi Yusuf and United  
Corporation*

**CERTIFICATE OF SERVICE**

It is hereby certified that on this 1<sup>st</sup> day of March, 2018, I caused the foregoing a true and exact copy of the foregoing **YUSUF'S RESPONSE TO HAMED'S INTERROGATORY 1 OF 50 AS TO CLAIM H-143** to be served upon the following via Case Anywhere docketing system:

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The Honorable Edgar D. Ross  
Email: [degarrossjudge@hotmail.com](mailto:degarrossjudge@hotmail.com)

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# **EXHIBIT 3-C**

Yusuf Responses to  
Requests for the Production  
of Documents 1-5

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

WALEED HAMED, as Executor of the )  
Estate of MOHAMMAD HAMED, )

Plaintiff/Counterclaim Defendant, )

v. )

FATHI YUSUF and UNITED CORPORATION, )

Defendants/Counterclaimants, )

v. )

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

Additional Counterclaim Defendants. )

WALEED HAMED, as Executor of the )  
Estate of MOHAMMAD HAMED, )

Plaintiff, )

v. )

UNITED CORPORATION, )

Defendant. )

WALEED HAMED, as Executor of the )  
Estate of MOHAMMAD HAMED, )

Plaintiff, )

v. )

FATHI YUSUF, )

Defendant. )

CIVIL NO. SX-12-CV-370

ACTION FOR INJUNCTIVE  
RELIEF, DECLARATORY  
JUDGMENT, AND  
PARTNERSHIP DISSOLUTION,  
WIND UP, AND ACCOUNTING

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES AND  
DECLARATORY JUDGMENT

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT AND  
CONVERSION

DUDLEY, TOPPER  
AND FEUERZEIG, LLP

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

YUSUF'S RESPONSE TO HAMED'S REQUEST FOR PRODUCTION OF  
DOCUMENTS PURSUANT TO THE CLAIMS DISCOVERY PLAN OF 1/29/2018, NOS.

1-5 OF 50 – AS TO:

H-21 - PAYMENT OF NEJEH YUSUF CREDIT CARD BILL,  
H-33 MERRILL ACCOUNTS FINANCED WITH PARTNERSHIP FUNDS,  
H-149 – SEASIDE MARKET & DELI, LLC.

**H-151 – CHECKS WRITTEN TO FATHI YUSUF FOR PERSONAL USE AND  
H-162 – CLAIMS BASED ON MONITORING REPORTS/ACCOUNTING**

Yusuf through his attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provides its Responses to Hamed's Request for Production of Documents Pursuant to the Claims Discovery Plan of 1/29/2018, Nos. 1-5 of 50 -- As To: H-21 – Payment of NejeH Yusuf Credit Card Bill, H-33 – Merrell Accounts Financed with Partnership Funds, H-149 – Seaside Market & Deli, LLC., H-151 – Checks Written to Fathi Yusuf for Personal Use and H-162 – Claims Based on Monitoring Reports/Accounting.

**GENERAL OBJECTIONS**

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

(1) Yusuf objects to these Requests for Production to the extent they may impose obligations different from or in addition to those required under the Virgin Islands Rules of Civil Procedure.

(2) Yusuf objects to these Requests for Production to the extent that they use 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) Yusuf objects to these Requests for Production 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 Yusuf or relating to mental impressions, conclusions, opinions, or legal theories of his attorneys or representatives, or any other applicable privilege or doctrine under federal or state statutory, constitutional or common law. 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 Yusuf of such privilege or doctrine.

(4) Yusuf objects to these Requests for Production 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) Yusuf objects to these Requests for Production to the extent that they use terms or phrases that are vague, ambiguous, or undefined. Yusuf's response to such request will be based upon his understanding of the request.

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

(7) Yusuf has not completed either his discovery or preparation for trial of this matter. Accordingly, Yusuf's response to these Requests for Production is made without prejudice to 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 any additional, non-privileged, responsive

documents are discovered, these Requests for Production will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.

(8) Yusuf objects to these Requests for Production to the extent that they are compound and not a single Request. Hence, these Requests for Production should be counted as more than a single Request such that when all of the subparts are included together with other Requests for Production they may exceed the 50 Requests for Production agreed upon by the parties.

### **RESPONSES TO REQUESTS FOR PRODUCTION**

#### **Request for the Production of Documents 1 of 50:**

RFPD number 1 of 50 relates to Claim H-21 (previously identified as 281) – described in the claims list as “Payment of NejeH Yusuf credit card bill.”

Please provide all documents relating to or substantiating the \$49,715.05 in charges attributed to NejeH Yusuf on the Bank of America credit card statement (5474 1500 8271 1556), including, but not limited to, credit card statements and invoices substantiating the charges -- and the Partnership business purpose therefor. See Exhibit 281, Exhibits to JVZ Engagement Report, September 28, 2016, bates numbers JVZ-001252-JVZ-001253.

#### **Response:**

Yusuf objects to this Request for Production as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintain that these items were not included in the original list of Gaffney Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan. Further responding, Yusuf has no

knowledge any particular payment for expenses incurred on the Bank of America credit card held by Nejeih Yusuf, how reimbursement is documented and the items reflected in the April - May 2015 statement included as Exhibit 281 which document was provided by Hamed and, therefore, is unable to provide any information responsive to this Request.

**Request for Production of Documents 2 of 50:**

RFPDs number 2 of 50 relates to Claim H-33 (previously identified as 338) – described in the claims list as “Merrill Lynch accounts that still existed in 2012 (ML-140-21722, ML-140-07884 and ML-140-07951) financed with Partnership funds.”

Please provide all documents related to the following Merrill Lynch accounts from 9/17/2006 through the present: ML 140-21722, ML 140-07884 and ML 140-07951. Documents should include, but not be limited to, documents identifying the origins of the deposits into each Merrill Lynch account and the Merrill Lynch statements.

**Response:**

Yusuf objects to this Request at these accounts are not his accounts and thus, “the proposed discovery is not relevant to any party’s claim or defense.” V.I. R. Civ. P. 26(b)(2)(C)(iii). ML140-21722 is in the name of Fathieh Yousef, who is Yusuf’s niece. ML-140-07884 and ML-140-07951 are accounts in the name of Hamdan Diamond and are not Yusuf’s accounts. To the extent that payments were made to Hamdan Diamond, they were in repayment of loans. Partnership funds were deposited in to the United Merrill Lynch account ML-140-07759.

**Request for the Production of Documents 3 of 50:**

RFPD 3 of 50 relates to Claim H-149 (previously identified as 246, 255, 260, 318) described in the claims list as "Seaside Market & Deli LLC."

Please provide all documents related to transactions between the Partnership, United or the Plaza Extra Stores and the Seaside Market & Deli. These documents should include, but not be limited to, invoices, description of inventory sold to Seaside, pricing of inventory sold to Seaside, shipping invoices for the goods shipped to Seaside, and general ledger entries documenting the Plaza Extra, United and Seaside transactions. These documents should be provided up to the date of the transfer of the East and West stores on March 9, 2015.

**Response:**

Yusuf objects to this Request for Production as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintain that these items were not included in the original list of Gaffney Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan. Further responding, Yusuf has no knowledge as to the particular payments and transactions between the Partnership and Seaside Market and, therefore, is unable to provide any information responsive to this Request.

**Request for the Production of Documents 4 of 50:**

RFPD 4 of 50 relates to Claim H-151 (previously identified as 3004a) - described in the claims list as "Checks written to Fathi Yusuf for personal use."

For all of the Partnership bank accounts, please provide all bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as the cancelled checks, from 9/17/2006 to present.

**Response:**

Yusuf objects to this Request for Production as it is unclear as to checks written to United Corporation. Further responding, Yusuf shows that this request is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintain that these items were not included in the original list of Gaffney Items 41 through 141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan. According to the request, it appears that John Gaffney has already advised that he does not have all of the cancelled checks as to the various bank accounts.

Further responding, Yusuf directs Hamed's attention to Table 35(b) of the BDO Report which chronicles those checks written to Yusuf from 2001 to 2012. The supporting documentation for the allocation was also previously provided to Hamed with the original submission of the Yusuf Accounting Claims on September 30, 2016. To the extent that there are additional checks to which Hamed seeks clarification not otherwise listed in Table 35(b), please identify same and this response will be supplemented.

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

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

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**Request for the Production of Documents 5 of 50:**

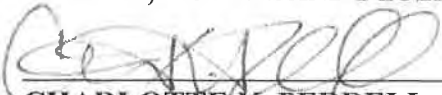
RFPD 5 of 50 relates to Claim H-162 (previously identified as Exhibit A-L) – described in the claims list as “Claims based on monitoring reports/accounting 2007-2012).”

Please provide all documents to and/or from the United States or the United States Virgin Islands government or monitors from 9/17/2006 to present related to monitoring or monitoring reports prepared in connection with the *US v United et al.* criminal case 2005-15- (D.V.I.).

**Response:**

Yusuf shows that he is unaware of all of the information provided to the monitors over the years as it was provided by various individuals as requested. To the extent that reports are available Yusuf shows that they have previously been provided to Hamed but attaches them again to this production. Further, Yusuf shows that as members of the Hamed family were defendants in the criminal action, they or their criminal counsel should have access to such information and that the burden of obtaining such information is equal as if provided by Yusuf. Moreover, Waleed Hamed was operating and in charge of the Plaza Extra East store until the split and, therefore, would have knowledge or information responsive to this request.

**DATED:** March 1, 2018

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**CERTIFICATE OF SERVICE**

It is hereby certified that on this 1<sup>st</sup> day of March, 2018, I caused the foregoing a true and exact copy of the foregoing **YUSUF'S RESPONSE TO HAMED'S REQUEST FOR PRODUCTION OF DOCUMENTS** to be served upon the following via Case Anywhere docketing system:

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