

IN 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

Case No.: SX-2014-CV-287

**ACTION FOR DECLARATORY
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-278

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

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

Plaintiff,

vs.

UNITED CORPORATION,

Defendant.

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

Plaintiff,

vs.

FATHI YUSUF,

Defendant.

**HAMED'S [EXPEDITED] REPLY
RE HIS MOTION TO COMPEL RESPONSES TO THREE REQUESTS TO ADMIT**

I. Procedural Posture of This Motion

On January 30, 2018, Hamed served the following three items of "claims discovery," pursuant to the *Stipulated Discovery Plan*.¹

- a. One Interrogatory;
- b. Three Requests to Admit ("RFAs"), and
- c. Five Requests for the Production of Documents.

Each of these nine Hamed discovery requests specifically noted the individual "Hamed Claim" to which it was related. (Full details as to each of these claims, individually, with reference to applicable documents and issues, were previously served on Yusuf on February 2, 2018, pursuant to the Plan.)

On March 1, 2018, Yusuf served his three responses. See the full text of all three responses at **Exhibit 3** to Hamed's original motion. Because Hamed believed all three sets of responses were deficient and appeared to intentionally avoid even the most basic answers, Hamed sent Yusuf a letter dated March 2, 2018, seeking an initial 'meet and confer' *as to just the three RFAs*—as the parties agreed the RFAs were representative of the alleged inadequacy of all of the responses. See **Exhibit 2** to Hamed's original motion. That meet and confer was held March 5, 2018—with Yusuf's counsel declining to amend his responses to any discovery.

Therefore, on March 22, 2018, the parties agreed by stipulation that Yusuf should hold off on any further discovery responses of any type until the Special Master could hear a motion to compel as to the RFAs—as a template for getting direction as to what the Master thought would be acceptable discovery responses more broadly. *They also agreed to ask the Master to expedite the motion process for that reason.*

¹ That January 29, 2018 *Joint Discovery and Scheduling Plan* (the "Plan") is attached as **Exhibit 1** to Hamed's original motion.

Simultaneously, on the 22nd, Hamed filed the instant motion to compel ("Original Motion")—which had previously been provided in full draft to Yusuf—regarding the need to have the Special Master hear this discovery matter.

In that original motion, Hamed set out the full text of all three RFAs. For each request, he provided the full response that Yusuf had given. He then provided citation to the applicable law and the applicable portion of the Discovery Plan (*as agreed to in writing by the parties* and then signed as a court management plan by the Master). Finally, Hamed argued the application of the law, individually, to each of the three RFA responses Yusuf had given. This was intended to be as short and simple as possible—to highlight the discovery dispute and allow the parties to seek guidance.

However, on April 6, 2018, Yusuf filed what is captioned his "Opposition" to that original motion—although the document filed does not do what the parties had intended—it does not respond to Hamed's discovery arguments or the law applicable to Rules 26 and 36 which were discussed in detail in the original motion. Nor does the Yusuf Opposition actually oppose the discovery arguments in Hamed's motion by reference to the applicable discovery law.

Instead, rather than addressing the law and facts set out in the original motion or the actual language of the Plan, Yusuf attempts to (1) argue as to why the Court should ignore the Plan's language, and (2) rather than discuss why his responses satisfy Rule 36, Yusuf (again) goes off on the unrelated tangent that: "Hamed's claims are not really surviving *RUPA* § 71(a) claims which must be determined in a winding up accounting....but, rather, just questions."

II. Hamed's Reply to Yusuf's Initial, Unresponsive Tangents

a. Hamed Claims v. what Yusuf calls Mere "Questions"

Yusuf seems to be unwilling to participate in much of the claims process yet because he has decreed that Hamed's claims are not really **RUPA § 71(a) claims**— but, rather, just "questions." However, his views that Hamed did not file a separate accounting or file his claims on time (or in the procedurally correct manner) or that they were not really RUPA § 71(a) "claims" were all argued, at length, in Yusuf's pending motion dated February 6, 2018. It is captioned "Yusuf's Motion to Strike Hamed's Claim Nos. H-41 through H-141 and Additional Maybe Claims." In reply, Hamed's opposition to that motion is attached here as **Exhibit 4**, and incorporated herein.² Hamed will not reargue that other motion here because, in addition to the absolutely clear majority legal rule set out in Hamed's opposition there (which law Yusuf *also* avoided), the Master is asked to review Judge Brady's holdings in his July 17, 2017 Order. In response to Yusuf's earlier "Motion to Strike Hamed's Revised Notice of Partnership Claims and Objections", Judge Brady stated (**Exhibit 5**):

Although Yusuf is correct that the above referenced filings were submitted to the Court in clear violation of the Master's directive, in this limited instance, the Court finds Hamed's failure to comply with the Master's directive to be harmless, as **all filings concerning the partners' § 71(a) accounting claims** will ultimately need to be submitted to the Court in order to allow for substantive review of the Master's final recommendation on the partnership accounting. . . .In light of the foregoing, it is hereby. . .ORDERED that Yusuf s Motion to Strike Hamed's Revised Notice of Partnership Claims and Objections to Yusufs Post-January 1, 2012 Accounting and Notice of Supplementation of Record is DENIED.

² Hamed's *Opposition* was filed February 15, 2018, and was captioned "Hamed's Opposition To Yusuf's Motion To Somehow, Magically, Make 117 Hamed Claims Just Disappear." Yusuf's reply was filed March 8, 2018. See also, the CPA Declaration attached to Hamed's Opposition which makes it very clear, *inter alia*, that an accountant cannot simply ignore claims in a RUPA partnership wind-up accounting under § 71(a).

It seems pretty apparent that Judge Brady is of the *very* strong opinion that these are all surviving RUPA "§ 71(a) accounting claims" that must be heard. His view is clear because that is exactly what he called them in denying Yusuf's prior attempt **to make the exact same accounting claims 'just go away'** via similar magical thinking. They were not stricken, but were expressly described as "the partners' [RUPA] § 71(a) accounting claims." They were not described as "just questions," nor were they described as "maybe claims."

Moreover, after that Order, and regardless of earlier 'insufficient' filings or failures to timely or correctly file 'proposed' alternate accountings or claims, Hamed was directed by the Court to submit REVISED claims. Thus, on October 30, 2017, Hamed submitted his revised claims—all stated as claims—which the Court allowed, regardless of any previous procedural issues or Yusuf-alleged impediments from earlier orders.

b. Yusuf's Request that the Master Ignore the Stipulated Discovery Plan

Yusuf suddenly wants to divert *Section B* claims under the Plan to Mr. Gaffney. To support this desire, Yusuf's Opposition does not argue that he did not stipulate to the Discovery Plan. He does not argue about what the language of the Plan states. He only argues that the language does not really mean what it says.

But the Plan's language could not be clearer: Claims H-41 to H-141 are to be handled under *Section A* by a detailed and specific diversion to Mr. Gaffney. That section's caption, at page 2, could not be more direct: "**A. Discovery as to Hamed Claims H-1 through H-141.**" It details a diversion process to Mr. Gaffney for those claims.

Similarly, at page 4 of the Plan, **Section B is captioned "REMAINING CLAIMS."** Thus, Section B provides that the "remaining claims," i.e. those claims that are not H-41

to H-141, are to be handled by regular discovery—"written interrogatories, requests for production of documents, and requests for admissions."

Despite Yusuf's (improper) attachment of negotiating correspondence to somehow prove an obscure point about what Yusuf's counsel "thought" *Section B* meant or what Hamed originally sought to pay Mr. Gaffney for this work -- *Section A* specifically states it applies to "Claims H-41 to H-141" and *Section B* specifically states that it applies to the "remaining claims." *Section A* describes diversion to Mr. Gaffney in some detail and at his full, requested rate, *Section B* requires use of regular discovery mechanisms.

III. Yusuf's Refusal to Discuss His Violation of the Discovery Rules

Thus, since the claims in *Section B* must be addressed by "[w]ritten interrogatories, requests for production of documents, and requests for admissions", there is no possible way that RFAs 2 and 3 regarding Claims H-18 and H-153, can be diverted to Mr. Gaffney. By the explicit language of Rule 36, **Mr. Gaffney cannot be the subject of a request to admit—only a "party" can be asked or respond to RFAs.** As Hamed stated in the original motion, Rule 36 is clear: "A party may serve on *any other party* a written request to admit." (Emphasis added.) Yusuf refused to address this obvious legal point in his opposition. Thus, it is unopposed.

Nor did Yusuf's opposition respond to Hamed's point in the original motion, that "requests for admissions are not a discovery device" and thus **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.** *Citing EEO v. Baby Products Co.*, 89 F.R.D. 129, 130 (E.D. Mich. 1981) and *Kendrick v. Sullivan*, Civ. A. No. 83-3175, 1992 WL 119125, at *3 (D.D.C. May 15, 1992).

Because they are meant to be used against a party, RFA responses must be made by a party, or they would be completely useless. This too is unopposed.

Finally, regarding RFA 1, Yusuf once again refused to discuss the clear language of the Rule requiring that answering party to:

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

Nor does he respond to Hamed's discussion regarding the third ("cannot admit or deny") response allowed; that "[t]he 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." This too is unopposed.

Yusuf's statements that the RFA is tricky or can be answered by someone else are not allowed. See his Opposition's one-page non-response as to *Request to Admit 1*.

The original RFA and response stated:

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, 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 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.)

In Hamed's original brief he stated:

Deficiency. 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"[1]. 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.

IV. Request that the Master Make This RFA Ruling Clear as to Pending Claims Discovery

To put this whole situation another way, in his upcoming claims brief regarding

Claim H-13, Hamed wishes to state the following:

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. **See Yusuf Response to Request to Admit 1**, attached hereto as Exhibit 8. Thereafter, when the tax accounts were later balanced at the end of the criminal matter, Yusuf again refused to pay the portion of the taxes for the Hameds. See Exhibits 9-11 (Request for payment, denial of request and CPA explanation.)

At the moment, Hamed cannot do this because Yusuf will not answer this most simple, basic RFA. Hamed's materials supporting Claim H-13 are clear in both time and specifics. It does not relate to Yusuf's refusal to allow *pre*-2012 tax payments—it relates to *post*-2012 tax payments *from partnership funds* when the criminal case ended—and resulted in the Hamed's personally paying for identical taxes that the Yusufs were reimbursed for from partnership funds. **Yusuf refused to have the Partnership pay these new,**

specific, documented, described tax payments despite the fact that partnership funds had paid all of Yusuf's and his children's identical taxes for the identical tax periods.

Certainly, Yusuf can argue about this when the time to brief the arguments comes—but he cannot refuse this basic discovery now – and thus deny Hamed the right to make HIS arguments as well. In fact, if the Special Master will review the other two Yusuf discovery responses³ (all attached as exhibits to the original motion) he will note that Yusuf did not respond to ANY discovery. And each time Yusuf did this, he said something totally outside of the rules such as "Mr. Gaffney should respond to this"—or as in the case of the *Request for the Production of Documents* numbered 2, at page 5⁴ (concerning a Merrill Lynch account into which skimmed partnership funds were obviously placed) Yusuf stated:

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). ML-140-21722 is in the name of Fathieh Yousef, **who is Yusuf's niece**. ML 140-07884 and ML-140-01951 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. (Emphasis added.)

³ As noted in and attached to the original motion, Hamed also filed RFPD's and interrogatories to narrow the issues. He hopes that a motion to compel as to each discovery request, individually, will not be necessary based on the Order that issues here.

⁴ 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. (Emphasis added.)

Again, what does this even mean? This was a RFPD about a claim fully described in the filings, captioned "Claim H-33. . ."Merrill Lynch accounts that still existed in 2012 (ML-140-21722, ML-140-07884 and ML-140-07951) allegedly financed with Partnership funds." It is entirely relevant because Hamed seeks to prove that recoverable partnership funds were in that account after 2006. But instead of responding, Yusuf seeks to avoid production of documents he received in the mail (see example in **Exhibit 6**) by expecting everyone to believe that his niece put millions of dollars into a closely-located Merrill Lynch account at the exact same time he was skimming and laundering millions from the partnership, AND, that even though he ADMITS there were cash transfers to these accounts (on which his address is given for mailings, *id.*), those were "loan repayments" totally unrelated to this case.

Similarly, **Exhibit 7** is a signed letter to Merrill Lynch from Fathieh Yousef regarding this account -- describing Fathi Yusuf as a "director" of Hamden Diamond at the time the skimmed funds were going into the account, and giving him "full authority. . .to manage the above account. . . . he will direct any and all investment activity in this account "

Re : Hamdan Diamond Corporation
Account # 140 - 07884

To whom it may concern

Please be advised that I, Fathieh Yousef, sole shareholder of Hamdan Diamond Corporation, **give full authority to the director Fathi Yusuf to manage the above account.**

I am fully knowledgeable and aware that the he will direct **any and all investment activity** in this account. (Emphasis added.)

Thus, not only are Yusuf's wildly odd, as yet unproven (and patently untrue) denials not "facts," but in light of the obvious relevance, this is an absolute, clear violation of Rule

26. This is not the time to argue the facts of the case and use that clearly unsupportable "position" as a reason not to respond based "relevance"—it is the time and place to answer the most basic, simplest forms of discovery.

V. Conclusion

The parties sought this expedited motion to clarify pending claims discovery-- of which there is a great deal. Yusuf simply must be made to answer pending discovery as the rules require. If he does not, Hamed cannot argue his case.



Dated: April 7, 2018

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of April, 2018, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

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CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

This document complies with the page or word limitation set forth in Rule 6-1(e).



EXHIBIT 4

**HAMED'S OPPOSITION TO
Yusuf's Motion to Strike
Hamed's Claim Nos. H-41
through H-141**

Dated February 15, 2018

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

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Estate of MOHAMMAD HAMED,

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**ACTION FOR DAMAGES,
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JURY TRIAL DEMANDED

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

**ACTION FOR DECLARATORY
JUDGMENT**

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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 OPPOSITION
TO YUSUF'S MOTION
TO SOMEHOW, MAGICALLY, MAKE 117 HAMED CLAIMS JUST DISAPPEAR**

I. Introduction

Yusuf seeks to make 117 Hamed Claims simply 'disappear' with no factual inquiry, no briefing and no substantive determination of their individual validity.¹ Because of the extremely unusual nature of what Yusuf proposes as to two-thirds of Hamed's issues, with no reference to the applicable statute, it is important to briefly review what this proceeding is. This is the "winding up" process of a partnership—expressly being done pursuant to the *Revised Uniform Partnership Act* ("RUPA" or "the Act"), 26 V.I.C. §§ 1-274. See "Order Adopting Final Wind Up Plan", January 9, 2015. ("**wind up** and liquidate the Partnership in the manner provided herein and **as required by the Act**.²) In turn, the Act is specific as to the "winding up" process—a defined term described in RUPA *Section VIII* "Winding up Partnership Business," §§ 171-177.

II. The Act Requires that All Claims that the Partnership is owed Money It can Recover Before Dissolution be Heard and Decided

The most central, longest-lasting and easiest to understand concepts of RUPA and all prior versions of the UPA are the that each partner has an "account", that at the end of any RUPA partnership there must be an evaluation of the calculated value of these accounts, and that to do so, the partners can make their case as to any amounts which must be credited to or recovered by the Partnership. See 26 V.I.C. § 177(b) "Settlement of accounts and contributions among partners". ("Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business.") This does not say "just claims of a certain size", or "only claims that were phrased using specific terms"; nor does a partner have to do anything else to be entitled to this. Thus, at the end of a RUPA partnership, one of the automatic questions that must always be asked and answered, is: "What do the partnership's

¹ Yusuf lists the 101 claims from H-41 through H-141 and an additional 16 other claims (see **Exhibit 1**, with value of each claim listed) totaling 117 claims.

² That same Order provides, in Section 1, "DEFINITIONS 1.1 'Act' means the Uniform Partnership Act, V.I. Code Ann. tit. 26, §§ 1 -274."

books show as the value of a partner's account, and are they accurate?" Hamed can locate no RUPA case law in any jurisdiction that allows certain issues as to a partner's account, once raised, to simply be 'ignored'. To the contrary, the RUPA case law makes it clear that it is impossible to wind up a RUPA partnership without the determination and calculation of all questioned accounting transactions in the books.³

A formal account or (as it is sometimes called) an accounting is more than a presentation of financial statements. It encompasses **a review of all transactions, including alleged improprieties, which should be reflected in the financial statements.** It resembles a trustee's accounting.

If a partner asks his co-partners for an account and does not get it, or is not satisfied with it, he may bring an action for an accounting. **This is a comprehensive investigation of transactions of the partnership and the partners, and an adjudication of their relative rights.** It is conducted by the court or, more commonly, by an auditor, referee or master, subject to the court's review. Equitable throughout most of its long history, this action is well adapted to the complexity of partners' relations. But **its origins lie in the mutual fiduciary obligations of the partners.** . . .[and is] *designed to produce and evaluate all testimony relevant to the various claims of the partners.*" (Emphasis added in original, quoting Crane & Bromberg, Law of Partnership (1968), chapter 7, § 72, p. 410). (Emphasis added.)

Jacob v. Bald Mountain W., No. 312390, 2014 WL 4854309, at *2 (Mich. Ct. App. Sept. 30, 2014); *see also Pankratz Farms, Inc. v. Pankratz*, 2004 MT 180, ¶ 53, 322 Mont. 133, 146, 95 P.3d 671, 681, 2004 WL 1559728 ("to wind up a partnership's affairs, the court is obligated to provide 'for a full accounting of the partnership assets and obligations and distribution of any remaining assets or liabilities to the partners in accordance with their interests in the partnership.'"; *accord. Ferguson v. Holmes*, No. A-08-442, 2009 WL 306314, at *9 (Neb. Ct. App. Feb. 10, 2009) (criticizing the partnership wind-up accounting below "because the court

³ Yusuf tries to re-cast this as something other than an accounting for winding up—not an examination of the books for erroneous or wrongful payments for the benefit of Yusuf or United, but rather (what he calls in his argument): the far more limited exclusion of "*questions [that] relate to 'unclear ledger entries, which benefit Hamed, and thus, are not claims against Yusuf.'*" Nonsense. When a partner controls the books and is the Liquidating Partner too, money paid out without adequate explanation and documentation, whether intentional or in error, IS a claim that *must* be determined. While it is true that recovery of wrongfully paid out funds may benefit Hamed, the point here is that under RUPA a proper accounting not only benefits the partnership as a whole, but is also *required*.

did not provide a detailed statement setting forth the manner in which it *calculated* the balance of the parties' capital accounts...." requiring a full, detailed accounting review *de novo*.) If a partnership's bookkeeper made an entry, it can be examined and to be deemed valid it has to be backed up by documentation: More so if one partner benefited from that entry.

To insure this necessary analysis of his Partner account and those bookkeeping entries, Hamed hired two highly reputable CPA firms—one on St. Croix which specializes in USVI entities, and one with an international practice. After an *extensive* year-long analysis of the partnership books by actual on-site accounting reviews, real-world testing of account records and many in-person interviews (none of which Yusuf's accountant BDO did) an Expert Report was issued. See **Exhibit 2**, *Declaration of CPA* at ¶¶ 5-10. That Expert Report was based on accounting procedures as described in U.S. Statements on Auditing Standards (SA) AU Section 500, and it listed the applicable accounting standards for each claim individually. The facts and documents are individually set out, claim-by-claim, for each claim. *Id.*

The CPAs originally identified more than 450 exceptions to the books of this Partnership. With subpoenas and extensive research these have already been pared down to 165 items that they found to be exceptions. These items have been presented to the Special Master as the 165 "Hamed Claims" in Hamed's Revised Claims. *Id.* at ¶¶ 8-15.

There is no way, as much as every partner responsible for a partnership's books would *like to do so*, to make any arguably valid claim asserted in this process "magically disappear." There is no such thing as a claim that is "too small" to be heard—because one simply cannot calculate the value of the partnership share, as required by the Act, without hearing all of the potentially valid winding-up issues. *Id.* at ¶ 15-17. *This is particularly true as to claims that go to the accounting practices where one partner kept the books.* One would think that this is

even more true here, where the Court had to enter orders to open the accounting process after Judge Brady found the accounts were improperly unilaterally controlled by Yusuf.⁴

Similarly, there is no distinction in the Act between items that are called "questions" or "problems" with the partnership's accounting as opposed to ones labeled "claims". *Id.* at ¶ 18. Again, the Act requires that *all accounts* be correctly determined and then the partner's share calculated. There is no RUPA process of deciding to just not hear some of the issues identified. If Yusuf paid himself or United funds they were not entitled to, or paid vendors for the benefit of East—and thus he cannot show that a particular accounting entry was legitimate through documents—the amount must be recovered by the Partnership. *Id.* at ¶¶ 16-20.

3. The Parties Have Already Agreed to a Fast, Simple Means to Deal with These Claims and Hamed has Agreed to Pay 100% of the Cost of Doing the Analysis

In the stipulated *Joint Discovery Plan*, as agreed to and signed by the Special Master on January 29, 2018, there is a simple, efficient process already set out specifically to deal with just these accounting items. **When it was negotiated, Hamed agreed to pay 100% of the cost of Mr. Gaffney doing this limited, specific, well-described analysis.** The \$150/hour is exactly what Mr. Gaffney requested, and was not reduced one-cent by Hamed.

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 he [accounting] 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 or 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 to H-141, 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 the transaction, with reference to when the actual activity or delivery occurred, who the 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.

⁴ See the Court's Orders dated April 25, 2015 and May 31, 2013.

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

* * * *

4. Hamed shall have a total of 14 hours to depose Mr. Gaffney. . . .

5. The written portion. . . will be completed by Mr. Gaffney by July 31. . . .

III. The Claims are Each Specific, Well-Documented and Accompanied by Information

As another part of the *Joint Discovery Plan*, Hamed provided Yusuf 146 pages of individual, explicit, detailed descriptions of the claims, on a claim-by-claim basis. This included descriptions of all claims, each with: new and old claim numbers, all information and documents identified as to each claim, all responses previously received from Mr. Gaffney or Yusuf, and the CPA-noted deficiencies. Moreover, all of this information has been in Yusuf's hands, *verbatim*, for more than a year—except the new claim numbers.

IV. It is Impossible to Argue the 117 Claims Here in Five Pages

Hamed cannot argue the validity of each of these 117 claims here—but asks the Master to consider just the first three challenged as examples. Claim H-41 involves payments to Caribbean Refrigeration & Mechanical of \$ 95,420 that Hamed believes were solely for United or Seaside. H-42 was a purchase of plastic bags from Miadden Plastic that Hamed and his CPAs believe were for the East Store only—\$ 49,565. H-43 is thought to be Yusuf's collection of a settlement and keeping it rather than splitting it—another \$42,970.

V. Conclusion

Yusuf confuses the polite accounting phrasing of "unclear" or "unsupported" accounting ledger entries with what that really means—that it appears Yusuf intentionally or erroneously used funds from the Partnership for his and United's benefit. *Id.* at ¶ 20. These are not delicate "questions" or "maybe claims." Either the East Store got and used those plastic bags for which the Partnership paid, or it did not, this is not a complex a series of issues. This is basic claims accounting. Yusuf is attempting to argue about these many claims in just 5 pages, *en masse*, to avoid having to address and discuss the specific facts.

Dated: February 15, 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 15th day of February, 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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**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

101 Hamed "Accounting" Claims H-41 to H-141			
New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-41	361	Payments to Caribbean Refrigeration & Mechanical LLC	\$ 95,420
H-42	363	Transactions with Miadden Plastic	\$ 49,565
H-43	364	General Ledger entry "Collection of Setallment [sic]"	\$ 42,970
H-44	365	General Ledger entries "Foreign taxes paid"	\$ 18,804
H-45	366	General Ledger entries POS charges for Seaside Market	\$ 11,660
H-46	367	General Ledger entries "change order" and "cash requisition"	\$ 26,510
H-47	369	General Ledger entries "credit card paid"	Discovery Required
H-48	370	General Ledger entries "RDC Frozen Account"	\$ 350,000
H-49	371	Scotiabank Telecheck transfers were deposited in Partnership accounts	\$8,500,000
H-50	373	General Ledger entries regarding "return check mutilated"	\$ 83,800
H-51	374	General Ledger entry regarding "Cash - Transfer Clearing, Banco Proc Error re Xfer"	\$ 360,000
H-52	375	General Ledger entry regarding "2013 US Customs Exp Per Schedule"	\$ 9,916
H-53	376	General Ledger entries regarding Merrill Lynch	\$4,261,939
H-54	377	General Ledger entries regarding Daas corporate loan	\$ 327,500
H-55	378	General Ledger entries to "Due from (to) Yusuf"	\$ 693,242
H-56	380	Unclear what the reclassification of partnership income in 2013 and 2014 notation on the general	Discovery Required
H-57	381	Many General Ledger entries are missing descriptions	\$1,026,856
H-58	383	General Ledger entries regarding "nominal cash reconciliation	\$ 4,313
H-59	384	General Ledger entry "Accrue 2012 rent as directed by legal"	\$ 678,549

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-60	385	Partnership may have paid Fathi Yusuf's personal attorney's fees	\$ 14,995
H-61	386	General Ledger entries regarding deposit adjustments	\$1,700,000
H-62	388	General Ledger entries regarding due/to Shopping Center	\$ 900,000
H-63	390	Transactions with Alamnai Co.	\$ 37,629
H-64	391	General Ledger entries regarding "Adjust due/to from"	\$ 241,558
H-65	392	Improper payments to Carol's newspaper distribution	\$ 1,697
H-66	393	General Ledger entries regarding "Cash Reques"	\$ 6,500
H-67	394	General Ledger entry regarding "AT&T MOBILITY"	\$ 2,950
H-68	396	Transactions with JKC Communication	\$ 13,389
H-69	397	Transactions with House of Printing	\$ 860
H-70	398	Transactions with Foampack	\$ 1,257
H-71	399	General Ledger entries regarding "All Scotia Account Closures"	\$ 615,172
H-72	400	General Ledger entries regarding "Fathi Yusuf matching draw"	\$1,288,603
H-73	401	General Ledger entries regarding United Corporation	\$ 120,431
H-74	405	Numerous unexplained General Ledger entries regarding Hamed	\$ 51,061
H-75	408	General Ledger entry for \$176,353.61 dated 9/30/15	\$ 176,354
H-76	409	General Ledger entries regarding transfers and closed accounts	\$ 837,554
H-77	410	General Ledger entry regarding 50/50 distribution	\$ 165,000
H-78	411	General Ledger entry regarding accrued accounting fees to complete 2015 year-end taxes	\$ 16,315
H-79	412	General Ledger entry regarding accounting error for Tropical Shipping invoices	\$ 10,242
H-80	414	General Ledger entry regarding adjust cash on hand to count on 3/11/15	\$ 24,934

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-81	415	General Ledger entry regarding clearing Banco irregularities	\$ 8,482
H-82	416	General Ledger entry regarding balance sheet balances closed for insurance items to expedite	\$ 51,569
H-83	417	General Ledger entries regarding clear misc Yusuf/Pship Due to/fr accounts	Discovery Required
H-84	418	General Ledger entry regarding United reimbursement to Hamed of 7/13 overpayment	\$ 38,668
H-85	419	General Ledger entry regarding combined services inv dtd 2/24/15 paid on behalf of East	\$ 4,935
H-86	420	General Ledger entry regarding CRA check 215 to reimburse KAC357 for STT deposit errors	Discovery Required
H-87	421	General Ledger entry regarding Daily (United C. CK)	Discovery Required
H-88	422	General Ledger entry regarding excess cash over \$50k per court order	\$ 44,400
H-89	423	General Ledger entries regarding prepayment of insurance	\$ 139,231
H-90	425	2015 Accounts Payable-Trade to John Gaffney	\$ 1,544
H-91	427	2013 Accounts Payable-Trade to John Gaffney	\$ 1,214
H-92	428	General Ledger entries regarding 2015 Accounts Payable-Trade to Maher Yusuf	\$ 1,866
H-93	430	Unsubstantiated check to NejeH Yusuf	\$ 2,032
H-94	431	General Ledger entry, Non-cash distribution to Yusuf	\$ 245,090
H-95	432	General Ledger entry, North Western Selectra Inc.	\$ 4,524
H-96	433	General Ledger entry, J Ortiz	\$ 1,250
H-97	434	General Ledger entries regarding St. Thomas petty cash	\$ 10,339
H-98	436	General Ledger entry regarding United Shopping Center payment of accounting fees for the	\$ 4,500
H-99	437	General Ledger entry regarding United Shopping Center payment of legal fees for the Partnership	\$ 4,946
H-100	438	Transaction with Source Accounting	\$ 3,500
H-101	439	General Ledger entry regarding St. Thomas 1.5% CR Reduction (FUTA) paid by West to United	\$ 12,346

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-102	440	General Ledger entry regarding temporary adjustment for unreimbursed cash expenses during	\$ 46,725
H-103	443	General Ledger entry regarding price gun deposits	\$ 1,780
H-104	444	General Ledger entries regarding 2013 Q3 VIESA deficiency, plus penalty and interest in 2005	\$ 9,386
H-105	445	General Ledger entries regarding United Corporation	\$ 6,933
H-106	446	General Ledger entries regarding United Corporation – FUTA	\$ 10,047
H-107	447	General Ledger entry regarding United Corporation – Gift Certificates	\$ 2,630
H-108	449	General Ledger entries regarding Industrial Video and Luxor Goods	\$ 9,803
H-109	450	General Ledger entry regarding Hector Torres' invoice	\$ 2,000
H-110	451	General Ledger entries for Ramone Reid Felix invoices	\$ 1,092
H-111	452	General Ledger entries regarding Tasty Alternatives	\$ 30,721
H-112	453	Scotia Invoices	\$ 11,411
H-113	454	Lissette Colon's salary, benefits, bonuses and incidental expenses	\$ 6,215
H-114	455	Myra Senhouse's salary, benefits, bonuses and incidental expenses	\$ 2,259
H-115	456	Humphrey Caswell's salary, benefits, bonuses and travel and entertainment expenses	\$ 28,666
H-116	457	2016 General Ledger entries regarding the United Corporation in 2016	\$ 238,829
H-117	459	General Ledger entry regarding United Corporation – Worker's Compensation	\$ 318
H-118	460	General Ledger entries regarding FUTA late fee	\$ 85,697
H-119	464	Transaction with Raja Foods	\$ 410
H-120	465	2016 transactions with Caribbean Refrigeration & Mechanical LLC	\$ 10,902
H-121	466	General Ledger entries We Are Wine LLC	\$ 2,705
H-122	467	General Ledger entries regarding US Customs penalty	\$ 2,250

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
H-123	468	2016 payments to Dudley, Topper and Feuerzeig, LLP (Fathi Yusuf's personal attorney) w/ #38	\$ 9,680
H-124	469	General Ledger entries regarding Inter Ocean refund	Discovery Required
H-125	470	General Ledger entries regarding "Lutheran Family Social Services"	\$ 1,246
H-126	471	General Ledger entries regarding KAC357	\$ 3,640
H-127	472	2016 General Ledger entries for Banco Popular Puerto Rico	Discovery Required
H-128	473	General Ledger entries regarding 2016 V.I. Employment Security contributions and penalties	\$ 13,048
H-129	475	Fathi Yusuf draw from Partnership funds for gift	\$4,000,000
H-130	476	Wireless Tech Rent	\$ 15,000
H-131	477	General Ledger entries regarding Hanun loan	\$ 35,000
H-132	478	General Ledger entries regarding distributing cash on hand in 2015	\$ 19,333
H-133	479	General Ledger entry regarding Yusuf distribution of WAPA deposit	\$ 110,842
H-134	480	General Ledger entries regarding "Yusuf distribu for trade AR"	\$ 15,701
H-135	481	General Ledger entry regarding "xfer fr Yusuf fam BPPR a/c to United BPPR a/c"	\$ 1,449
H-136	482	General Ledger entry regarding "Yusuf refund of overpayment"	\$ 77,336
H-137	483	General Ledger entry regarding "CLEAR MISC YUSUF/PSHIP DUE TO/FR ACCOUNTS"	\$ 247,870
H-138	484	General Ledger entries regarding "correct Yusuf/Hamed distrib settle on 9/30 ref ck 251 for \$183,381.91"	\$ 20,484
H-139	485	General Ledger entry regarding "clear pship a/c 28600 intraco bal's to equity"	\$ 247,138
H-140	487	General Ledger entry "clear misc Hamed/pship due to/fr accounts" in the amount of \$39,788.40.	\$ 39,788
H-141	488	General Ledger entry regarding "due t/fr settlement re stmt at 9/30/15"	\$ 183,382

**SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.**

16 other Hamed Claims Yusuf Seeks to Make Disappear			
New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Amount Due to Partnership from Yusuf
			\$ 389,364
H-7	248	KAC357, Inc. payment of invoices from J. David Jackson PC	
H-8	256	David Jackson, CPA, bill owed for tax work done related to the Partnership's 2013 taxes	
H-24	310	2015 Health permit payments for Plaza East	\$ 850
H-25	314	2015 Business license payment for Plaza East	Discovery
H-27	319	BJ's Wholesale Club vendor credit	Required
H-29	331	2015 Insurance for St. Thomas Plaza Extra car	Discovery
H-30	333	KAC357, Inc. payment of Partnership AT&T invoices	Required
H-31	334	Point of Sale transactions (purchases on account)	\$ 926
H-34	340	Rents collected from Triumphant church	\$ 3,900
H-36	345	UVI payment	\$ 293
H-39	358	STT Tutu gift certificates	Discovery
H-40	360	Approximately \$18 million in "purged" (i.e. missing) transactions in 2013	Required Discovery
H-147	3010	Vendor rebates	Required
H-156	372/379	General Ledger entries regarding miscellaneous adjustments to employee loans	\$ 122,905
H-158	403/413	general ledger entries for By Order	\$ 260,491

IN 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

DECLARATION OF BRACEY ALEXANDER, CPA - ENGAGEMENT MANAGER,
FOR PRAGER METIS CPAs, LLC

I, **BRACEY ALEXANDER**, declare under penalty of perjury pursuant to 28 U.S.C. Section 1746, as follows:

1. I am a Certified Public Accountant.

2. I am employed by and write this Declaration as an authorized representative of Prager Metis CPAs, LLC., a GGI Independent Member; previously Jackson Vizcaino Zomerfeld, LLP.

3. Prager Metis is a Top 10 International firm with over 60 partners and principals, more than 400 team members, and ten offices worldwide including New York, Los Angeles, London, Miami, New Jersey, and Connecticut.

4. I have personal knowledge of the factual assertions herein as the Engagement Manager for a team of CPAs and staff that submitted an Expert Report in this action based on a year long agreed upon procedures engagement conducted in St. Croix and in Florida. We were retained to ascertain and I did participate in ascertaining the following: (1) The accuracy and completeness of the Plaza Supermarket Partnership and Subsidiaries' (the "Partnership") accounting records and financial statements based on established standards (2) Expenses and transactions that were valid business expenses or served a business purpose based on established standards (3) Improper transactions and those that lacked a proper business purpose were properly documented as claims (4) A proper estimate for value of such claims.

5. It was agreed that the procedures we were to perform would be based on procedures similar to those prescribed in audit engagements as described in U.S. Statements on Auditing Standards (SAS) AU Section 500 to obtain *Audit Evidence* to support the financial information provided by the Yusufs. As part of that process we:

a. Met with and interviewed John Gaffney (the Partnership's controller), Plaza Extra Partnership accountants, bookkeepers, and staff to obtain an understanding of the accounting system and controls.

b. Met with and interviewed Plaza Extra Partnership managers.

c. Obtained and reviewed the extensive information listed in Attachment II to our Expert Report.

d. Reviewed the general ledger for strange or unusual transactions (transactions such as duplicate payments, payments to parties in interest, payments to unknown vendors, large or unusual adjustments and unexplained journal entries).

e. Requested supporting documentation (such as bank statements, cancelled checks, registers, invoices, agreements and other financial records) for transactions listed in Attachment V to our Expert Report.

f. Compared financial information to underlying supporting documentation.

g. Documented transactions which appeared to be improper and those that lacked proper business purpose in Attachment III to our Expert Report.

6. Thus, that Expert Report is based on procedures similar to those used to obtain *Audit Evidence* to determine if expenses or transactions were valid business expenses or serve a business purpose and we listed the applicable standards we applied for claims both generally, and where needed, individually.

7. The facts, related documents, issues and estimates were described individually for each of Hamed's claims.

8. We reviewed the accounting records from 2012 on as the earlier records were deemed by the other CPA expert to be inadequate.

9. We originally identified more than 450 questions or "exceptions" for items we were not able to determine if it was valid business expense or serve a business purpose.

10. We investigated these and sent many written inquiries to the Defendants to the attention of Mr. John Gaffney.

12. We were able to exclude many of the exceptions based on information provided.

13. These were pared down to 165 items we were not able to determine if it was a valid business expense or serve a business purpose.

14. Those items were included individually in our Expert Report and later presented to the Special Master as the 165 "Hamed Claims" in Hamed's Revised Claims.

15. We have read and reviewed the motion submitted by Mr. Yusuf and the United Corporation which seeks to strike 117 of the exceptions we noted.

16. We know of no accounting basis which allows us to eliminate such validly identified exceptions in bulk, as they propose.

17. To the contrary, to have an accurate and complete record of a Partner's account, a determination of the validity of questioned items must be made.

18. We note that Mr. Yusuf and the United Corporation attempt to characterize these exceptions in various ways, however, there is no valid accounting distinction between such items regardless of what they are labeled. To obtain an accurate and complete record of a Partner's account, these must be reviewed and validated.

19. For proper accounting of any business, including a partnership, if partners pay themselves funds they were not entitled to from the business accounts, or cannot show that an accounting entry was legitimate, the amount must be validated for there to be an accurate and complete accounting.

20. There appears to be some confusion by the Defendants, or an attempt by Mr. Yusuf to try to confuse our accounting *phrasing* as to these exceptions with what they mean; that it appears, based on the records and our examination, that Mr. Yusuf may have used Partnership funds for his and United's benefit -- using the accounting system as a means to do so.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 15, 2018



Bracey Alexander

EXHIBIT 5

JUDGE BRADY'S ORDER

DATED JULY 17, 2017

Refusing to Strike

Hamed's RUPA 71(a)

Accounting Claims

Dated July 17, 2017

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

WALEED HAMED, as Executor of the)
Estate of MOHAMMED 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.,)

Counterclaim Defendants.)

Civil No. SX-12-CV-370

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

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

Plaintiff,)

v.)

UNITED CORPORATION,)

Defendant.)

Civil No. SX-14-CV-287

ACTION FOR DAMAGES and
DECLARATORY JUDGMENT

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

Plaintiff,)

v.)

FATHI YUSUF,)

Defendant.)

Civil No. SX-14-CV-278

ACTION FOR DEBT and
CONVERSION

ORDER RE YUSUF'S MOTIONS TO STRIKE

Before the Court are the following related fully briefed motions of Defendant Fathi Yusuf: (1) Motion to Strike Hamed's Notice of Partnership Claims and Objections to Yusuf's Post-January 1, 2012 Accounting, filed October 14, 2016;¹ (2) Motion to Strike Hamed's Notice of First Supplemental Claims, filed October 24, 2016;² and (3) Motion to Strike Hamed's Revised Notice of Partnership Claims and Objections to Yusuf's Post-January 1, 2012 Accounting and Notice of Supplementation of Record, filed December 12, 2016.³

By his first Motion, Yusuf seeks to strike Hamed's Notice of Partnership Claims and Objections, filed with the Court September 30, 2016. Because that filing contained certain financial and personal

¹ Plaintiff's Response was filed October 17, 2016; Yusuf's Reply was filed October 20, 2016.

² Plaintiff's Opposition was filed October 25, 2016; Yusuf's Reply was filed November 14, 2016.

³ Plaintiff's Opposition was filed December 20, 2016; Yusuf's Reply was filed January 5, 2017.

identification information that should have been redacted, Hamed filed his Revised Notice of Partnership Claims and Objections on October 17, 2016, replacing in its entirety the original filing. Pursuant to Order entered December 21, 2016, the original filing was returned to Plaintiff's counsel in its entirety. As such, Yusuf's first Motion will be denied, as moot. Yusuf's subsequent motions regarding Hamed's replacement filing is addressed below.

By his second Motion, Yusuf seeks an order striking the Notice of Hamed's First Supplemental Claims Occasioned by Yusuf's Disclosures in his Claims, filed October 6, 2016, presenting two specific supplemental monetary claims that purportedly only became apparent from reviewing Yusuf's claims filed with the Master on September 30, 2016. Yusuf reasserts the argument presented in his first Motion that, pursuant to the Master's direction that "claims against or on behalf of the partnership should be filed with the Master and served on opposing counsel only," all documents filed with the Court regarding the partners' § 71(a) accounting claims must be stricken from the record.

Yusuf's third Motion reiterates the first, seeking to strike Hamed's Revised Notice of Claims and Objections, filed October 17, 2016, which replaced Hamed's original filing of claims and objections, pursuant to the Master's directive that "claims against or on behalf of the partnership should be filed with the Master and served on opposing counsel only." Yusuf's Motion also seeks to strike "Plaintiff Hamed's Notice of Supplementation of Record," with certificate noting service on November 30, 2016, actually served on Yusuf's counsel December 1, 2016.⁴ Yusuf argues that, pursuant to Virgin Islands Rule of Civil Procedure 5(d)(1), certain discovery materials, including expert reports, "must not be filed until they are used in the proceeding or the court orders filing."

Although Yusuf is correct that the above referenced filings were submitted to the Court in clear violation of the Master's directive, in this limited instance, the Court finds Hamed's failure to comply with the Master's directive to be harmless, as all filings concerning the partners' § 71(a) accounting claims will ultimately need to be submitted to the Court in order to allow for substantive review of the Master's final recommendation on the partnership accounting. By separate Order entered contemporaneously herewith, the parties are required to meet and confer, under the supervision of the Master, to implement a docketing/record-retention system to alleviate any concerns that documents submitted to the Master will not be subject to judicial or appellate review. In the future, failure to comply

⁴ Neither the Court's file nor electronic docket contains any reference to such a filing on November 30 or December 1, 2016.

with the Master's directives may result in appropriate sanctions, as such directives, issued under the authority of the Master pursuant to the Final Wind Up Plan, are designed to facilitate the efficient resolution of this matter and to avoid burdening both the parties and the Court with added costs associated with duplicative filings.

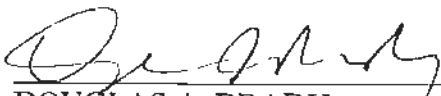
In light of the foregoing, it is hereby

ORDERED that Yusuf's Motion to Strike Hamed's Notice of Partnership Claims and Objections to Yusuf's Post-January 1, 2012 Accounting is DENIED, as moot. It is further

ORDERED that Yusuf's Motion to Strike Hamed's Notice of First Supplemental Claims is DENIED. It is further

ORDERED that Yusuf's Motion to Strike Hamed's Revised Notice of Partnership Claims and Objections to Yusuf's Post-January 1, 2012 Accounting and Notice of Supplementation of Record is DENIED.

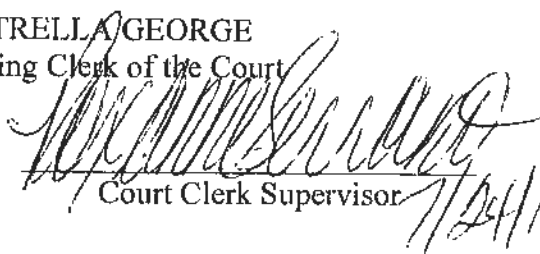
DATED: July 21, 2017.


DOUGLAS A. BRADY
Judge of the Superior Court

ATTEST:

ESTRELLA GEORGE
Acting Clerk of the Court

By:


Court Clerk Supervisor 7/24/17

CERTIFIED A TRUE COPY


DATE: July 24, 2017
ESTRELLA H. GEORGE
ACTING CLERK OF THE COURT
BY: 
COURT CLERK EG

EXHIBIT 6

Statements from
Merrill Lynch Accounts
in Others' Names
Addressed to Fathi
Yusuf's Address

Dated



CONFIDENTIAL

ML*000073

Portfolio Summary Review

Yusuf's Address

HAMDAN DIAMOND CORPORATION
PO BOX 503358
ST THOMAS VI 00805-3358

YOUR FINANCIAL ADVISOR:
R&K GROUP
(340) 773-3000

Office Serving Your Account
5030 ANCHOR WAY GALLOWS BAY
ST CROIX VI 00820

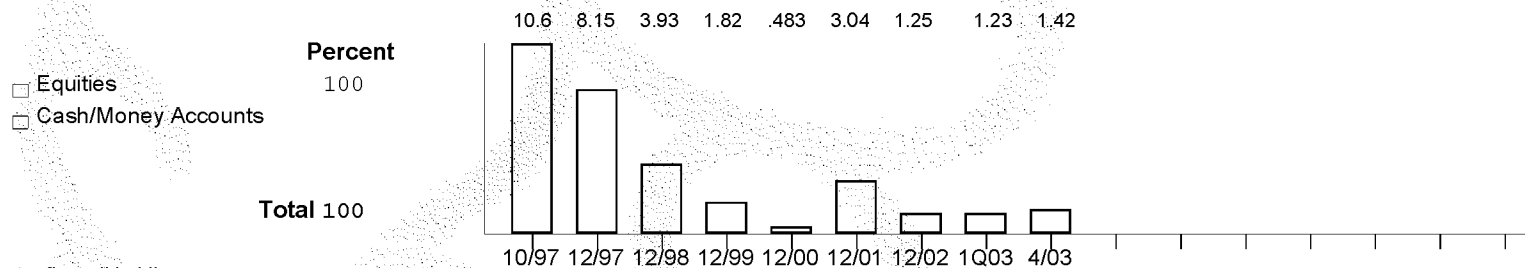
For Client Service Questions Call:
1-800-MERRILL (1-800-637-7455)

Total Value as of April 30, 2003

\$1,420,023.37

Asset Allocation Summary

Total Value Comparison (in \$ millions)



* Estimated Accrued Interest not included. May not reflect all holdings.

Total Value includes credits, debits, and change in market value.
Unpriced Securities are not included in Total Value.

Accounts Included in this Summary

Account No.	Account Name	Account Type/ Managing Firm	Page	Total Value (\$)		Gains and Losses (\$)			
				This Month	Last Month	Realized YTD	Unrealized	Short Term	Long Term
140-07884	HAMDAN DIAMOND CORPORATION	WCMA	4	1,420,013	1,230,583	-	-	-	-4,157,436
140-07951	HAMDAN DIAMOND CORPORATION	WCMA	7	10	10	-	-	-	-
Total				1,420,023	1,230,593	-	-	-	-4,157,436

Confidential

HAMD219268



Portfolio Summary Review

Activity Summary (All Accounts)

	This Statement (\$)	Year-To-Date (\$)		This Statement (\$)	Year-To-Date (\$)
Credits			Debits		
Security Sales	0.00	0.00	Security Purchases	0.00	0.00
Income	0.04	0.11	Withdrawals	0.00	0.00
Funds Received	0.00	325.00	Electronic Transfers (Debit)	0.00	0.00
Electronic Transfers(Credits)	0.00	0.00	Other Debits	0.00	300.00
Other Credits	0.00	300.00	Interest	0.00	0.99
			Checks Written	0.00	0.00
			Visa Purchases	0.00	0.00
Total Credit	0.04	625.11	Total Debit	0.00	300.99
			Net Activity	0.04	324.12

Income Summary (\$)

Account Number	Tax-Exempt Interest	This Statement				Year-to-Date				
		Interest	Non-Reportable Dividends	Dividends	TOTAL	Tax-Exempt Interest	Interest	Non-Reportable Dividends	Dividends	TOTAL
140-07884										
140-07951										
Total										

Financial Market Indicators

	This Statement	Last Statement	Previous Year-End
S&P 500	916.92	848.12	879.82
Three-Month Treasury Bills	1.11%	1.09%	1.19%
Long-Term Treasury Bonds	4.77%	4.82%	4.78%

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Portfolio Summary Review

Equity Weighting by Sector (All Accounts)

Selecting a maturity structure that matches an investor's goals is a key step in building a fixed income portfolio. One strategy is a bond ladder, which provides a predictable flow of principal payments for reinvestment or other needs. With a ladder, funds are evenly divided among bonds that mature at regular intervals. When a bond matures, it's replaced with the longest initial maturity.

	Dollar Value	Percent
<input type="checkbox"/> Information Technology	1,414,464	100
<input type="checkbox"/> Telecommunications Services	5,250	<1
<input type="checkbox"/> Materials	10	<1
<input type="checkbox"/> Health Care		
<input type="checkbox"/> Consumer Staples		
<input type="checkbox"/> Consumer Discretionary		
<input type="checkbox"/> Industrials		
<input type="checkbox"/> Financials		
<input type="checkbox"/> Utilities		
<input type="checkbox"/> Energy		
<input type="checkbox"/> Unassigned		
Total	1,419,724	100

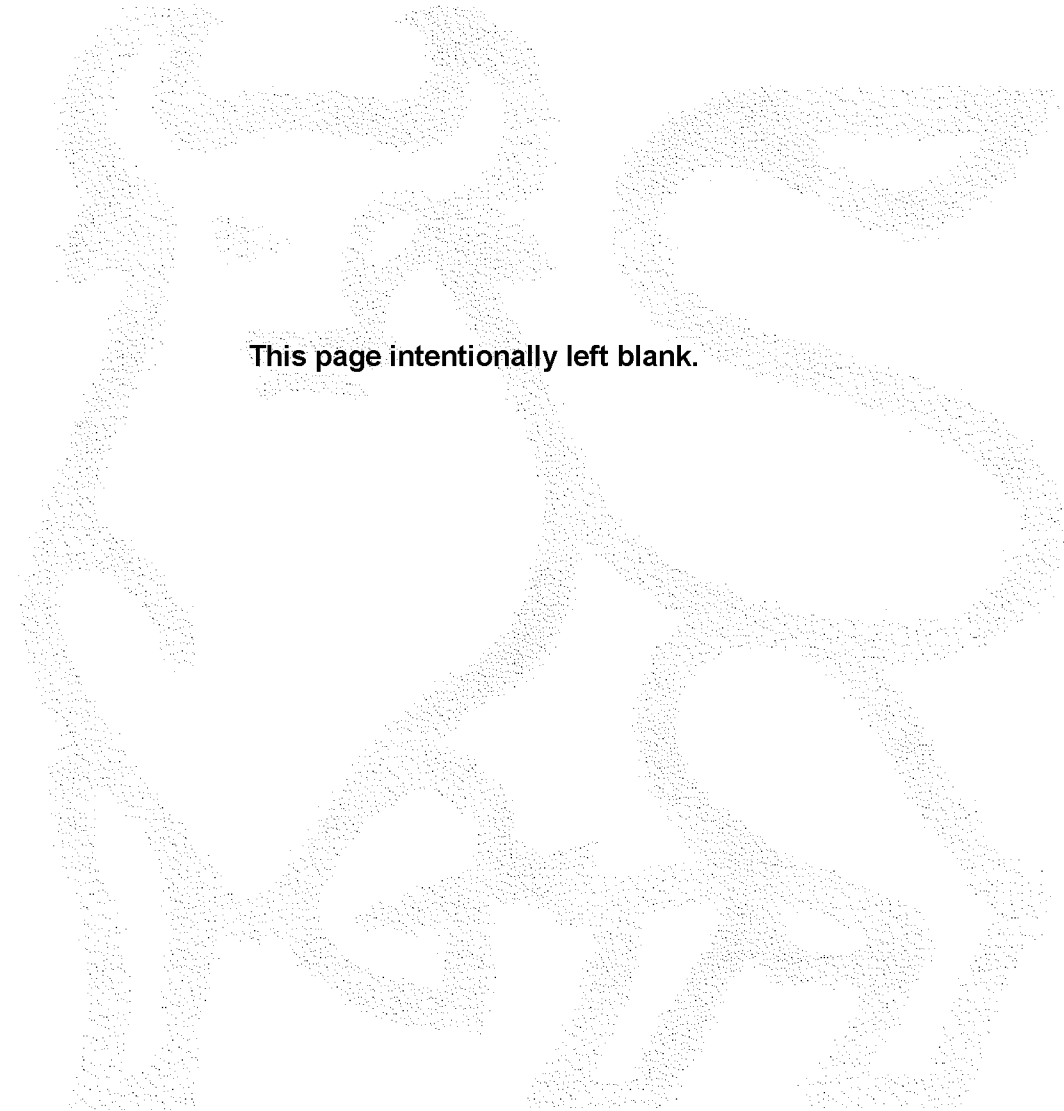
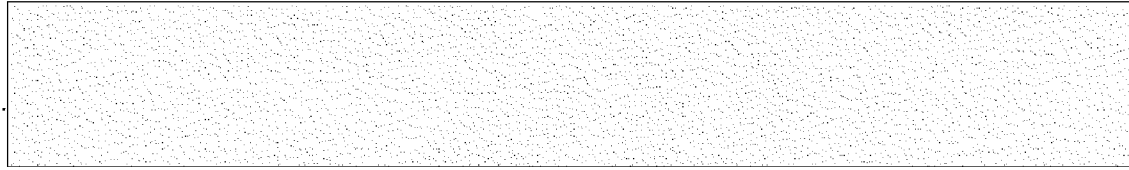
Top Portfolio Holdings > 5% (by Market Value)

Quantity	Security Description	Total Cost Basis	Estimated Market Value	Unrealized Gain or (Loss)	Equity Sector	% of Portfolio
Equity						
594,313	ADC TELECOMMUNCTNS INC	2,887,019	1,414,464	(1,472,555)	Information Technology	99.61
Total		2,887,019	1,414,464	(1,472,555)		99.61

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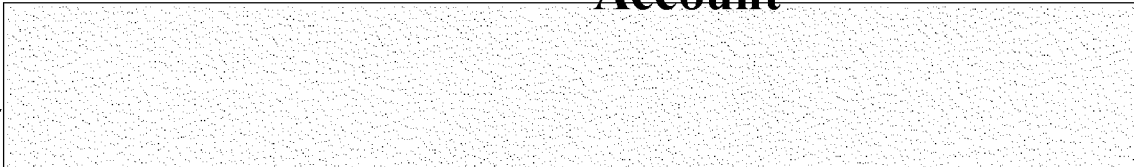




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Account



Total Account Value As Of 04/30/2003 \$1,420,013.37

**HAMDAN DIAMOND CORPORATION
PO BOX 503358
ST THOMAS VI 00805-3358**

**YOUR FINANCIAL ADVISOR:
R&K GROUP**

(340) 773-3000

**Your Merrill Lynch Office:
5030 ANCHOR WAY GALLOWS BAY
ST CROIX VI 00820**

FOR CUSTOMER SERVICE QUESTIONS:

1-800-MERRILL (1-800-637-7455)

Monthly Portfolio Summary

Asset	03/31/03	Value	%	04/30/03	Value	%
Cash/Money Accounts		298	*		298	*
CD's/Equivalents						
Government Securities						
Corporate Bonds						
Municipal Bonds						
Equities	1,230,284		100	1,419,714		100
Mutual Funds						
Options						
Other						
*-Less than 1 %						
Long Market Value	1,230,582			1,420,012		
Short Market Value						
Estimated Accrued Interest						
Debit Balance						
Net Portfolio Value	1,230,583			1,420,013		

Income Summary

	This Statement	Year-to-Date
Bank Deposit Interest	.04	.11
Tax-Exempt Funds		
Tax-Exempt Interest		
Reportable Interest		
Reportable Dividends		
Income Not Reported		
Total	.04	.11

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Items for Attention

Security	Message	Date
	No Items For Attention	

Purchasing Power 298

Financial Market Indicators

	This Statement	Last Statement	Previous Year-End
S&P 500	916.92	848.12	879.82
Three-Month Treasury Bills	1.11%	1.09%	1.19%
Long-Term Treasury Bonds	4.77%	4.82%	4.78%

NEWS

An information packet was mailed to you regarding important changes to your WCMA(R) account starting on July 14, 2003. To avoid disruptions in your service, please sign and return the authorization card by July 1, 2003. For more information, contact your Financial Advisor or call the Merrill Lynch Financial Service Center at 800-MER-WCMA (637-9262).

HAMDAN DIAMOND CORPORATION

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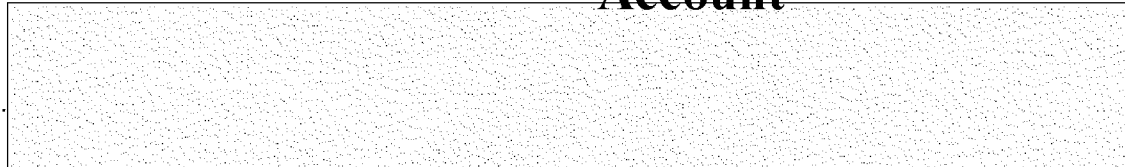
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Account



Cash Flow Summary

Activity Summary	This Statement	Year-to-Date	Credits	This Statement	Year-to-Date	Debits	This Statement	Year-to-Date
Opening Balance Cash & Money Accounts	298.39		Sales Income	.04	.11	Purchases		
Net Credits & Debits	.04	324.12	Funds Received		325.00	Withdrawals		
			Electronic Tfrs			Electronic Tfrs		.99
			Other		300.00	Interest Charged		300.00
Closing Balance Cash & Money Accounts	298.43		Total Credits	.04	625.11	Total Debits		300.99

Current Portfolio

Quantity	Security Description	Date Acquired	Adjust/Unit Cost Basis	Total Cost Basis	Estimated Market Price	Estimated Market Value	Unrealized Gain or (Loss)	Estimated Accrued Interest	Estimated Annual Income	Current Yield %
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Cash and Money Accounts

298	MERRILL LYNCH INTL BANK		1.00	298	1.00	298				.28
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Equity Weighting by Economic Sector *

A - Health Care	0%	D - Consumer Discretionary	0%	G - Financials	0%	J - Energy	0%
B - Consumer Staples	0%	E - Industrials	0%	H - Telecommunications Services	0%	K - Unassigned	0%
C - Information Technology	100%	F - Materials	0%	I - Utilities	0%		

* Economic sectors conform to the Global Industry Classification Standard. See statement backer.

Current Portfolio

Quantity	Security Description	Symbol Sector	Date Acquired	Adjust/Unit Cost Basis	Total Cost Basis	Estimated Market Price	Estimated Market Value	Unrealized Gain or (Loss)	Estimated Annual Income	Current Yield %
----------	----------------------	---------------	---------------	------------------------	------------------	------------------------	------------------------	---------------------------	-------------------------	-----------------

Equities

194,313	** ADC TELECOMMUNCTNS INC	ADCT (C)	08/08/01	4.92	956,019	2.38	462,464	(493,555)		
200,000	** ADC TELECOMMUNCTNS INC		08/08/01	4.92	984,000	2.38	476,000	(508,000)		
200,000	** ADC TELECOMMUNCTNS INC		08/08/01	4.73	947,000	2.38	476,000	(471,000)		

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Current Portfolio

Quantity	Security Description	Symbol	Sector	Date Acquired	Adjust/Unit Cost Basis	Total Cost Basis	Estimated Market Price	Estimated Market Value	Unrealized Gain or (Loss)	Estimated Annual Income	Current Yield %
594,313	Security Sub-Total					2,887,019		1,414,464	(1,472,555)		
300,000	GLOBAL CROSSING LTD	GBLXQ	(H)	06/22/01	8.96	2,690,130	.01	5,250	(2,684,880)		
Total Equities						5,577,149		1,419,714	(4,157,435)		
Total of Long Portfolio						5,577,447		1,420,012	(4,157,435)		

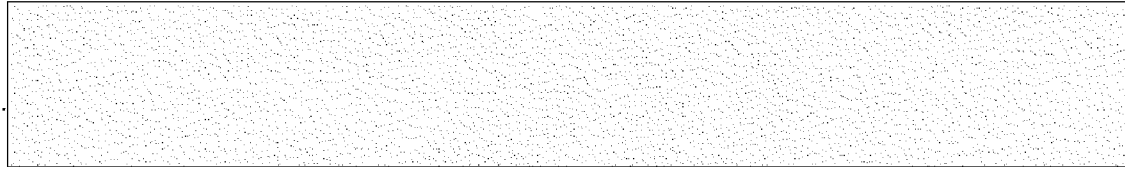
Monthly Activity

Date	Transaction	Quantity	Description	Price	Debit	Credit
04/30	Interest Credit		MERRILL LYNCH INTL BANK FROM 03-31 THRU 04-29			.04
Net Total						.04

Customer Service

For information about your account, please call 1-800-MERRILL (1-800-637-7455). To report Lost or Stolen Visa Cards or Checks, please call 1-800-262-5678.

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EXHIBIT 7

Letter to Merrill Lynch
from Hamden
Diamond Showing
Fathi Yusuf as a
Director and in Full
Control of the Account

21 May 1997

Merrill Lynch Pierce Fenner & Smith

Re : Hamdan Diamond Corporation

Account # 140 - 07884

To whom it may concern

Please be advised that I , Fathieh Yousef, sole shareholder of Hamdan Diamond Corporation, give full authority to the director Fathi Yusuf to manage the above account.

I am fully knowledgeable and aware that the he will direct any and all investment activity in this account.

Signed :

Fathieh Yousef

Fathieh Yousef

Date : *21 may 1997*