

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

Consolidated with

Case No.: SX-2014-CV-278

Consolidated with

Case No.: ST-17-CV-384

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.*

FATHI YUSUF, *Plaintiff,*

vs.

MOHAMMAD A. HAMED TRUST, *et al,*
Defendants.

**HAMED'S MOTION AS TO HAMED CLAIM H-13:
2013 REFUSAL TO PAY 2002-2012 TAXES FOR WALEED AND WAHEED HAMED--
DESPITE HAVING PAID THE IDENTICAL TAXES FOR YUSUF FAMILY MEMBERS**

Hamed has raised as one of his claims, designated as H-13, the non-reimbursement of \$133,128. This is based on the 2013 payment of Yusuf individual taxes and refusal to pay Hamed taxes at the end of the related criminal case of *United States v Yusuf*, District Court of the Virgin Islands, Division of St. Croix, 1:05-CR-15 (the "Criminal Case").

Claim H-13 alleges that in 2013, Yusuf used his now-discredited claim that "Hamed is not a partner" to stop the Partnership from paying Waleed ("Wally") and Waheed ("Willie") Hamed's 2002-2012 taxes, despite the fact that there is now no dispute that in 2013, the Partnership paid the identical taxes for the identical periods for Yusuf and his children.

On April 20, 2018, Yusuf filed his "*Motion to Amend Order to Compel as to RFA #1*" in response to the Special Master's April 12, 2018 "*Order re Three Requests to Admit.*" In Yusuf's new motion, he concedes the following:

the following matters are deemed admitted: (1) Fathi, Fawsi, Maher, Nejah, Syaid, Zayed and Yusuf Yusuf's income taxes **were paid with Partnership funds** for the years 2002-2012; and (2) Income taxes paid by Waleed Hamed and Waheed Hamed to the IRB for the tax years 2002 through 2012 **were not paid with Partnership funds.**

As described below, this non-payment of Wally and Willie's taxes was caused by Fathi Yusuf's 2013 refusal to allow that disbursement from the Partnership, despite the disbursement of the identical taxes for the identical time periods for his sons.

As a result of a plea agreement in the Criminal Case, on May 24, 2013, the Virgin Islands Bureau of Internal Revenue ("VI BIR") sent a letter stating that the Government of the USVI ("VI") was owed \$6,586,132 in taxes for the period of the Criminal Case, 2002-2012. See **Exhibit 1**. On June 14, 2013, Maggie Doherty of the U.S. Marshal's Service, authorized the release of \$6,586,132 from the Partnership's Banco Popular Securities account for that tax payment to VI BIR. See **Exhibit 2**. (This authorization to release Partnership funds was necessary because, during the course of the Criminal Case involving United, Fathi, Maher and Yusuf, Waleed and Waheed Hamed, the U.S. Marshal's

Service had to sign off on any release of funds in excess of a certain amount from the Partnership's banking and investment accounts). As part of that same series of tax payments, on June 20, 2013, Ms. Doherty also authorized the release of \$315,747 from that same Partnership account for the estimated income tax liabilities of Waleed and Waheed Hamed. See **Exhibit 3**. (The tax liability for both men subsequently was reduced from a total of \$315,747 to \$129,546 and \$3,582 respectively.)

As was the requirement following Judge Brady's order of April 25, 2013, one Hamed and one Yusuf had to sign checks jointly from the Partnership Accounts before any amount could be distributed.¹ **But, Fathi Yusuf refused to sign a check for the Partnership to pay Waleed and Waheed's taxes for 2002-2012.**² To understand what was happening—that Yusuf was suddenly refusing to have the Partnership accounts pay these taxes because of his position that all of the Partnership's funds were his and that Hamed had no partnership interest in those funds—one need only read the June 29th letter from Fathi Yusuf's attorney, Joseph DiRuzzo, to VI BIR in which he stated (to Ms/ Archer, Esq., VI Office of the Attorney General, Ms. Parson-Small, Esq., VI BIR, and Ms. Hendrickson, Esq., DOJ) that the \$6.5 million payment **didn't cover the Hameds.**

the \$6.5M tendered **was to satisfy only the Yusuf family members' tax liabilities for the years 2002 - 2010 and not for any tax liability of Mohammad Hamed (and by extension any of the Hamed family members).** We made clear that this term was non-negotiable. Everyone present agreed that Mohammed Hamed was not to be covered and under no circumstances would any portion of the \$6.5M be credited/ transferred to the tax account or to satisfy any tax liability of another taxpayer (and in particular Mohammad Hamed or his family members).

¹ This is among the accounts that Judge Brady and the parties refer to as the "Partnership Accounts" as opposed to another United-titled account to which the Hameds and the Partnership did not have access, which is referred to as the "United Tenant Account".

² H-13 relates only to these 2 Hamed tax claims. H-151 deals, in part, with the \$6.5 million.

See **Exhibit 4**, at p. HAMD594356 (emphasis added.) Attorney DiRuzzo went on to actually threaten the VI BIR on behalf of Yusuf. He warned that Yusuf would file a lawsuit against the Government to recoup the \$6.5 million payment unless the VI BIR confirmed that the payment applied only to Yusuf's and his children's taxes, not Hamed's or his sons':

In order to cure the breach we demand (i) that the VIBIR retract the June 20th letters issued to Mohammad Hamed (and confirm in writing its withdrawal to us) and (ii) that the VIBIR issue us a letter confirming that the \$6.5M paid was used to satisfy only the tax liabilities of the Yusuf family members (as shareholders of United Corporation, as an Subchapter S-Corp under the Internal Revenue Code) and not to satisfy any tax liability of Mohammad Hamed or any other taxpayer (including but not limited to other Hamed family members).

If the VIBIR does not cure this breach immediately we will seek to recoup the \$6.5M that was tendered as it was obtained either (i) by mutual mistake, (ii) in bad faith, or (iii) by fraud. *Id.*

It is critical to note two things: (1) this refusal to have the Partnership pay these taxes was AFTER Judge Brady's April 25, 2013 decision as to the existence of the Partnership—stating these were mutually held funds, and (2) this was of *absolutely* no benefit to Yusuf—as the government was trying quite hard (as discussed below) to settle all tax claims of both sides for the same amount. This was pure, unadulterated *spite*—ugliness solely designed to cause additional cost to the Hameds, and ultimately the Partnership, for not one additional cent of gain to Yusuf.

As a result, on July 1, 2013, concerned that the VI BIR would lose the \$6.5 million tax payment, Claudette Watson-Anderson, CPA, VI BIR, sent a letter to Attorney DiRuzzo:

In response to your letter dated June 29, 2013, the Bureau hereby acknowledges that full payment of tax owed, in the amount of \$6,586,132, has been applied to the returns filed for the following taxpayers only: Fathi & Fawzia Yusuf, Yusuf & Ala Yusuf, Zeyad Yusuf, Maher & Najat Yusuf, Nejah Yusuf, [and] Zayed Yusuf

See **Exhibit 5**. Thus the withdrawal from Partnership funds to make the Yusuf tax payment **did not apply to the Hamed's**. To confirm that this was the case, on July 1, 2013, Lori

Hendrickson, U.S. Department of Justice, was forced to send a letter stating that the \$6.5 million tax payment was not applicable to the Hamed Family. See **Exhibit 6**:

I am in receipt of your letter dated June 29, 2013 and the declaration of Waleed Hamed dated June 27, 2013. The statements from the declaration you quoted in your letter are not based on any representations or promises made by representatives of the Virgin Islands Bureau of Internal Revenue (VIBIR) or the United States. As we all agreed, the **\$6,586,132 was applied only to members of the Yusuf family for taxes owed for 2002 through 2010**. This is confirmed, as you requested, in the attached letter dated July 1, 2013 signed by the Director of the VIBIR. No one from the named family received any credit or benefit from that payment. (Emphasis added.)

Perhaps the clearest explanation of why this had changed after (and because of) Yusuf's initiation of his attempted theft of the Partnership's assets, is the somewhat stunned statement by the DOJ's counsel to Judge Lewis in the Criminal Case hearing. On July 16, 2013, Lori Hendrickson, DOJ, confirmed four critical points to Judge Lewis: (1) that up to this point in the Criminal Case (2013) taxes had been paid for both the Hameds and Yusufs by the Partnership, (2) that all of a sudden, in 2013, Yusuf was refusing to pay the Hameds' share from the Partnership, (3) that therefore, the Hameds still had to work out their own taxes with the VI BIR and (4) most astoundingly, it was revealed that not only had the Partnership funds been used to pay the taxes for Yusuf family members who did not work in the Plaza Extra stores—but that all of those Yusufs had, for the entire historical period, been taking Partnership funds to pay their taxes even on totally unrelated outside (i.e., non-Plaza Extra) earnings and income.

[p. 67] MS. HENDRICKSON: *And there was other income on some of their [the Yusuf Family members'] returns. So, if they had other investments and things like that. So I think that is a fair representation to say United paid for other taxes that the individual shareholders owed on top of the flow through based on United's operations.* * * * So to the extent there was additional money paid, and I reviewed the tax returns, I agree with Mr. Andreozzi's point, but I think it has [p. 69] impact on the plea agreement itself, since the government's purpose was to get all the income reported and the taxes paid for the income of Plaza Extra. And with the payment of \$6.5 million, that has occurred.

THE COURT: If that included **other than the flow through**, so be it?

MS. HENDRICKSON: Yes. * * * *

[p. 123] HENDRICKSON: **The fact that the United won't pay for the Hameds, that is a separate issue. In February of 2011, yes, they paid for everyone's. Now, in June, July of 2013, United does not agree to pay, but the Hameds, as taxpayers, are legally obligated to report income and pay taxes. . . .**

(Emphasis added.) Again, the thing that had 'changed' from 2011 when the Partnership account "paid for everyone's" taxes and 2013, when Yusuf/United "did not agree to pay" for both—was Yusuf's attempt in September 2012 to steal Hamed's half of the Plaza Extra Stores and claim Hamed was just an "illiterate employee"—which began with the late-2012 theft of the \$2.7 million and Hamed's responsive legal action.

Because of Yusuf's refusal, in direct contravention of Judge Brady's April 25, 2013 decision (and contrary to that order's provisions regarding joint control of funds) on March 30, 2014, Wally Hamed was forced to write a check for \$129,546.00 out of his personal Banco Popular account to the VI BIR for 2002-2012. See **Exhibit 7**, at p. JVZ-001172. Similarly, on December 9, 2013, Willie Hamed wrote a check for \$3,582.00 out of his personal Banco Popular account to the VI BIR for his 2002-2012 taxes. See **Exhibit 8**.

On September 28, 2016, Hamed's CPA reviewed the general ledgers from 2012 to present, as provided by John Gaffney, for any reimbursements to Waleed and Waheed for these tax payments or payments of the taxes made by the Partnership directly to VI BIR for the same period. None were found. **Exhibit 9**. Because this was a payment of an unbalanced amount for the benefit of the Yusufs and a 2013 refusal to reimburse the same taxes for Hamed, it was listed as an accounting exception—and was subsequently made a *Revised Claim* here. Unlike United's claims for past taxes and other amounts Yusuf alleges the Partnership "agreed to" or that they were part of the "Partnership Agreement," this has nothing to do with what anyone agreed to. It is simply a vanilla, unbalanced use of Partnership funds: In 2013, Yusuf taxes were paid, but identical Hamed taxes were not. These amounts are due to Hamed with 9% interest.

Conclusion

Thus, the facts of record (and the concession in Yusuf's motion regarding RFA #1) prove that, in 2013, Fathi Yusuf authorized the Partnership to pay 2002-2012 taxes for himself, his wife, his three children who worked in the Plaza Extra stores and his two children who were shareholders of the United Corporation, but did *not* work for Plaza Extra. Further, Fathi Yusuf, with no benefit to himself and at the potential loss to the Partnership of having to later pay these taxes, blocked the Partnership's payment of Wally and Willie Hamed's 2002-2012 taxes. Wally and Willie Hamed were forced to pay these amounts and have not been reimbursed to date. That amount plus 9% annual interest is due to the Hameds from the Partnership.

This was a blatant, aggravated and spiteful transaction prohibited by court order, tainted by a conflict of interest/self-dealing and directly against the future financial interest of the Partnership. It was further exacerbated by evasive discovery responses which attempted to mask the (*eventually* uncontested) basic, simple facts. Finally, had the Court not entered its order compelling a straight response to RFA #1, this would have had to proceed through further discovery and protracted filings.

Dated: April 27, 2018



Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
5000 Estate Coakley Bay, L6
Christiansted, VI 00820
Email: carl@carlhartmann.com
Tele: (340) 719-8941

Joel H. Holt, Esq.
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of April, 2018, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross (w/ 2 Mailed Copies)
Special Master
edgarrossjudge@hotmail.com

Gregory H. Hodges
Stefan Herpel
Charlotte Perrell
Law House, 10000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00802
ghodges@dtflaw.com

Mark W. Eckard
Hamm, Eckard, LLP
5030 Anchor Way
Christiansted, VI 00820
mark@markeckard.com

Jeffrey B. C. Moorhead
CRT Brow Building
1132 King Street, Suite 3
Christiansted, VI 00820
jeffreymlaw@yahoo.com



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 1

to

Hamed's Motion Re Claim H-13

07/05/2013

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT



**GOVERNMENT OF
THE VIRGIN ISLANDS OF THE UNITED STATES**
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VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE



6115 Estate Smith Bay, Suite 225
St. Thomas VI 00802
Phone: (340) 715-1040
Fax: (340) 774-2672

4008 Estate Diamond Plot 7 B
Christiansted VI 00820-4421
Phone: (340) 773-1040
Fax: (340) 773-1006

May 24, 2013

Nzar Dewood, Esq.
Dewood Law Firm
2006 Eastern Suburb, Suite 102
Christiansted, St. Croix VI 00820

Dear Attorney Dewood:

Pursuant to our conversation of May 24, 2013, Listed below is the net tax due after all payments have been applied and the separation of the penalties and accrued interest portions. This statement constitutes the amount of taxes due without penalties and interest for tax years 2002 through 2010 in accordance with plea agreements of the shareholders of United Corp & Related entities.

Unpaid Assessment	\$15,804,743
Deduct:	
Interest	3,829,384
Penalties	5,389,227
Total Penalties & Interest	9,218,611
Tax	\$6,586,132

Please review and contact the Bureau's Federal Disclosure officer, Ms. Marcella Somersall if there are any questions about the amounts as summarized. Her direct line is 714-9303.

Sincerely,

Claudette Watson-Anderson, CPA
Director

Exhibit
1

HAMD594303

Exhibit 2

to

Hamed's Motion Re Claim H-13



U.S. Department of Justice

United States Marshals Service

Asset Forfeiture Division

Alexandria, VA 22301-1025

June 14, 2013

Joseph DiRuzzo
Fuerst Ittleman David and Joseph PL
1001 Brickell Bay Dr
32nd Floor
Miami, FL 33131

Dear Mr. DiRuzzo:

Per your letter dated May 24, 2013, the United States Marshals Service authorizes you to request the release of \$6,586,132 from the Banco Popular Securities account so that payment of taxes due to the Virgin Islands may be remitted.

If you have any questions please feel free to contact me at Maggie.Doherty@usdoj.gov and by phone at (202).353.8333.

Sincerely,

A handwritten signature in cursive script that reads "Maggie Doherty".

Maggie Doherty
Case Manager
Complex Assets Unit
Asset Forfeiture Division

Exhibit 2

HAMD587992

Exhibit 3

to

Hamed's Motion Re Claim H-13

Tracy Marien

From: Doherty, Maggie (USMS) <Maggie.Doherty@usdoj.gov>
Sent: Thursday, June 20, 2013 10:05 AM
To: Randy Andreozzi
Cc: Gordon Rhea; Tracy Marien
Subject: RE: Release of Funds from United Corporation

Randy,

The email below should have read that I have received and approve the request for the release of funds in the amount of \$315,747.00 to pay the estimated income tax liabilities for both Waleed Hamed and Waheed Hamed as per the request you submitted on June 19, 2013.

I apologize for the error.

Regards,

Maggie

*Maggie Doherty, MBA, CFE
Case Manager, Complex Assets Unit
US Marshals Service
202-353-8333 (direct)*

From: Doherty, Maggie (USMS)
Sent: Thursday, June 20, 2013 9:39 AM
To: 'Randy Andreozzi'
Cc: Gordon Rhea; Tracy Marien
Subject: RE: Release of Funds from United Corporation

Randy,

I have received and approve the request for the release of funds in the amount of \$315,747.00 to pay the estimated income tax liabilities for Waleed Hamed as per the request you submitted on June 19, 2013.

Thanks,

*Maggie Doherty, MBA, CFE
Case Manager, Complex Assets Unit
US Marshals Service
202-353-8333 (direct)*

From: Randy Andreozzi [<mailto:rpa@abfmwb.com>]
Sent: Wednesday, June 19, 2013 5:00 PM
To: Doherty, Maggie (USMS)
Cc: Gordon Rhea; Tracy Marien
Subject: Release of Funds from United Corporation
Importance: High

Dear Ms. Doherty:

Exhibit 3

Attached please find a request for authorization for release of funds. Please acknowledge receipt of this request.

Randall P. Andreozzi

Partner

Andreozzi, Bluestein, Fickess, Muhlbauer Weber, Brown LLP

9145 Main Street

Clarence, New York 14031

Phone: (716) 565-1100

Fax: (716) 565-1920

Email: rpa@abfmwb.com

In accordance with IRS requirements, we inform you that any Federal tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

Notice of Privacy and Confidentiality: The information contained within this electronic mail is being sent by an attorney and is intended to be received and read only by certain individuals and is attorney-client privileged, confidential information and work product. It may contain information that is privileged and/or protected from disclosure by law. No addressee should forward, print, copy, or otherwise reproduce this message in any manner that would allow it to be viewed by any individual not originally listed as a recipient without the consent of the author. If you have received this message in error, please notify me by replying and then delete both my message and your reply and destroy any paper copies. Thank you.

Exhibit 4

to

Hamed's Motion Re Claim H-13

Joseph A. DiRuzzo, III, Esq., CPA
305.350.5690
jdiruzzo@fuerstlaw.com

June 29, 2012

Via USPS and email: tarcher@doj.vi.gov

Tamika M. Archer, Esq.
Office of the Attorney General
34-38 Kronprindsens Gade
GERS Complex, 2nd Floor
St. Thomas, USVI 00802

Via USPS and email: tsmalls@irb.gov.vi

Tamara Parson-Small, Esq.
Virgin Islands Bureau of Internal Revenue
PO Box 306421
St. Thomas USVI 00803

Via USPS and email: lori.a.bendrickson@usdoj.gov

Lori Hendrickson
DOJ Tax
PO Box 972
Ben Franklin Station
Washington, DC 20044

Re: *United States, et al. v. United Corporation, et al.*; case no. 1:05-cr-15 (D.V.I.)

Dear Attorneys,

~~Attached please find a copy of the declaration of Waleed Hamed filed earlier today in the Supreme Court of the Virgin Islands in the civil litigation that was explicitly mentioned during the recent mediation before Judge Barnard, viz: *Fatbi Yusuf and United Corporation v. Mohammad Hamed by his authorized agent Waleed Hamed*, case no. 2013-cv-0040.~~

~~At ¶29 Waleed Hamed declares: “[o]n June 19, 2013, as part of the closure of the criminal case, a check for approximately \$6.5 million was submitted to the IRB for taxes owed primarily on the profits of the Plaza Extra Supermarkets.”~~

~~At ¶32 Waleed Hamed declares: “[a]s such, my father agreed to ratify the withdrawal of these funds so long as they were used to pay taxes due on the profits of the three Plaza Extra Supermarkets – both those of Yusuf and those of Hamed.”~~

EXHIBIT

4

Tamika Archer, Tamara Parson-Small, and Lori Hendrickson

June 28, 2013

Page – 2 –

On pages 7 and 8 of the attachment are letters (dated June 20, 2013) from the VIBIR to Mohammad Hamed that states that the VIBIR has “received payment in full for income taxes for” tax years 1997 – 2010.

At ¶34 Waleed Hamed declares: “[t] the IRB has now confirmed that all income taxes owed by my father for this time period have been paid in full, as per the attached letter[s].”

This is a material breach of the agreement that was reached in the mediation conducted before Judge Barnard. The Parties to the mediation explicitly agreed that the \$6.5M tendered was to satisfy only the Yusuf family members’ tax liabilities for the years 2002 – 2010 and not for any tax liability of Mohammad Hamed (and by extension any of the Hamed family members). We made clear that this term was non-negotiable. Everyone present agreed that Mohammed Hamed was not to be covered and under no circumstances would any portion of the \$6.5M be credited/transferred to the tax account or to satisfy any tax liability of another taxpayer (and in particular Mohammad Hamed or his family members). This agreement is evidenced by the fact that the 3rd, 4th, and 5th paragraphs to the document that was circulated prior to lunch was never agreed to and, indeed, as explicitly objected to.

In direct breach of the agreement, the June 20th letters from the VIBIR to Mohammad Hamed state that his tax obligations have been paid in full, from funds which Waleed Hamed states came from the very \$6.5M check that was tendered at the end of the mediation. As such, we can only conclude that the terms of our mediation agreement have been intentionally breached.

In order to cure the breach we demand (i) that the VIBIR retract the June 20th letters issued to Mohammad Hamed (and confirm in writing its withdrawal to us) and (ii) that the VIBIR issue us a letter confirming that the \$6.5M paid was used to satisfy only the tax liabilities of the Yusuf family members (as shareholders of United Corporation, as a Subchapter S-Corp under the Internal Revenue Code) and not to satisfy any tax liability of Mohammad Hamed or any other taxpayer (including but not limited to other Hamed family members).

If the VIBIR does not cure this breach immediately we will seek to recoup the \$6.5M that was tendered as it was obtained either (i) by mutual mistake, (ii) in bad faith, or (iii) by fraud. We are also considering filing other motions with the District Court based on these events.

Kind Regards,

/s/ Joseph A. DiRuzzo, III

Digitally signed by /s/ Joseph A. DiRuzzo, III
DN: cn=/s/ Joseph A. DiRuzzo, III, o=Fuerst Ittleman,
PL, ou, email=jdiruzzo@fuerstlaw.com, c=US
Date: 2013.06.29 12:35:28 -0400

Joseph A. DiRuzzo, III

JAD/

cc: Hon. G. Barnard, USMJ via email only: Judge_Geoffrey_Barnard@vid.uscourts.gov

Exhibit 5

to

Hamed's Motion Re Claim H-13

07/05/2013

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT



**GOVERNMENT OF
THE VIRGIN ISLANDS OF THE UNITED STATES**
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VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE



6115 Estate Smith Bay - Suite 225
St. Thomas VI 00802
Phone: (340) 715-1040
Fax: (340) 774-2672

4008 Estate Diamond Plot 7B
Christiansted VI 00820-4421
Phone: (340) 773-1040
Fax: (340) 773-1006

July 1, 2013

Joseph A. DiRuzzo, III, Esq., CPA
FUERST ITTLEMAN DAVID & JOSEPH, PL
1001 Brickell Bay Drive
32nd Floor
Miami, FL 33131

Dear Attorney DiRuzzo:

In response to your letter dated June 29, 2013, the Bureau hereby acknowledges that full payment of tax owed, in the amount of \$6,586,132, has been applied to the returns filed for the following taxpayers **only**:

Fathi & Fawzia Yusuf
Yusuf & Ala Yusuf
Zeyad Yusuf
Maher & Najat Yusuf
Nejah Yusuf
Zayed Yusuf

Sincerely,

Claudette Watson-Anderson, CPA
Director

Exhibit

5

HAMD594305

Exhibit 6

to

Hamed's Motion Re Claim H-13



U.S. Department of Justice
Tax Division

IN THE SUPREME COURT
OF THE VIRGIN ISLANDS

FILED

07/05/2013

VERONICA HANDY, ESQUIRE
CLERK OF THE COURT

P.O. Box 972, Ben Franklin Station
Washington, D.C. 20044

(202) 514-2174
Telefax: (202) 514-9623

DJ 5-90-327
2003201580

July 1, 2013

Joseph A. DiRuzzo, III
Fuerst Ittleman David & Joseph PL
1001 Brickell Bay Drive, 32nd Floor
Miami, Florida 33131

Re: United States v. Fathi Yusuf, Crim. No. 05-0015 (D.V.I.)

Mr. DiRuzzo:

I am in receipt of your letter dated June 29, 2013 and the declaration of Waleed Hamed dated June 27, 2013. The statements from the declaration you quoted in your letter are not based on any representations or promises made by representatives of the Virgin Islands Bureau of Internal Revenue (VIBIR) or the United States. As we all agreed, the \$6,586,132 was applied only to members of the Yusuf family for taxes owed for 2002 through 2010. This is confirmed, as you requested, in the attached letter dated July 1, 2013 signed by the Director of the VIBIR. No one from the Hamed family received any credit or benefit from that payment.

To avoid any future misunderstandings, may I suggest we ask Judge Barnard to enter a protective order that prohibits the dissemination or use of any discussions or documents in the criminal case until further order of the court. The government would not oppose the exclusion of the attached letter from the Director of the VIBIR from that protective order should you make such a request.

Sincerely,

Lofi A. Hendrickson
Trial Attorney

cc: Honorable Geoffrey W. Barnard via email to: Judge_Geoffrey_Barnard@viduscourts.gov

Exhibit
6

HAMD594304

Exhibit 7

to

Hamed's Motion Re Claim H-13

WALLEED HAMED

194-602753

PAGE 6

We certify that these are true copies of your checks and other items paid during this statement.

Walleed Hamed 2206
101487215

3/30/14

Pay to the order of VIR \$ 129,546.⁰⁰

one hundred twenty nine thousand five hundred forty six

POPULAR
BANCO POPULAR DE LOS ANGELES
Cruz Blanca, S.W.

For/Foro/Foro Ex Walleed Hamed

⑆021808874⑆ 194⑆602753⑆ 2206

0501010726 04/24/14 129,546.00

FOR DEPOSIT ONLY
BANK OF AMERICA
N.A. BRANCH
111 10th St
2016

⑆0501007551⑆ 04/14/14 3,000.00

0501007551 04/14/14 3,000.00

Exhibit 7

~~Exhibit: 210-a~~

Exhibit 8

to

Hamed's Motion Re Claim H-13

Waheed M Hamed
PO Box 608058
St Thomas, VI 00805
340-776-5646

502
101-687/216

12/19/13
Fecha / Date

Páguese a la orden de
Pay to the order of

V.I.B.I.R.

\$ 3,582.⁰⁰/₁₀₀

Three thousand five hundred eighty two ⁰⁰/₁₀₀

Dollars
Dollars



POPULAR.

BANCO POPULAR DE PUERTO RICO
Fort Myer, Charlotte Amalie
Saint Thomas, USVI

Para / For *payment in full*
Income TAX 2002 thru 2012

028
[Signature]

⑆021606674⑆ 194⑈038515⑈ 0502

Printed Clerk

Exhibit 8

HAMD594373

JVZ-001174

Exhibit 9

to

Hamed's Motion Re Claim H-13

ATTACHMENT IV - Analysis

Based on the information observed in Exhibits 201-a and 201-b, we concluded the total amount of the claim is \$802,966.

Item 210 – Hamed payment of taxes during criminal case

Summary Description of Issue Identified:

Waleed Hamed paid his 2002 – 2012 VIBIR taxes from his own personal bank account, as did Waheed Hamed. Conversely, the Yusufs' personal 2002—2012 VIBIR taxes were fully paid by the Partnership

Work performed:

We interviewed Waleed and Waheed Hamed regarding their tax payments for 2002-2012. We were advised that the Partnership paid for the Yusufs' taxes (all United shareholders, which included Yusuf children who didn't work in the stores) during this time period. In addition, we were provided copies of the canceled check for the payment of Waleed's taxes from his personal Banco Popular account in the amount of \$129,546.00 (Exhibit 210-a) and the canceled checks for Waheed's taxes from his personal Banco Popular account in the amount of \$3,582.00 (Exhibit 210-b). We reviewed the general ledgers from 2012 to present provided by John Gaffney for any reimbursements to Waleed and Waheed for these tax payments or payments of the taxes made by the Partnership directly to VIBIR for the same period. None were found.

Gaffney's response:

No request was sent to John Gaffney.

Opinion as to the Issue Identified:

Based on the fact that the normal business practice was to provide shareholders distributions to cover VIBIR taxes, we concluded the payment made by Waleed and Waheed Hamed should be reimbursed to them to satisfy ourselves of management's assertion: 1. Completeness as described in **AU-C 315.A128**.

The total amount of the claim is \$133,128.

~~Item 221 – Unsubstantiated checks to NejeH Yusuf~~

Summary Description of Issue Identified:

We noted 6 payments totaling \$14,756.46 to NejeH Yusuf which appear to lack business purpose (Plaza Extra STT Scotia Bank Operating Account checks #37060, 37637, 37846, 37856, 38757, 39032) (Exhibit 221-a).

Work performed:

~~JVZ reviewed checks written on Plaza Extra partnership bank accounts for payment to NejeH Yusuf. We interviewed John Gaffney and the Hameds regarding payments made to NejeH Yusuf. We also~~

Exhibit 9