

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

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

Plaintiff/Counterclaim Defendant,)

v.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

v.)

CIVIL NO. SX-12-CV-370

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

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

Additional Counterclaim Defendants.)

Consolidated With

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

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 MOHAMMAD HAMED,)

Plaintiff,)

v.)

FATHI YUSUF,)

Defendant.)

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT AND
CONVERSION

FATHI YUSUF and)
UNITED CORPORATION,)

Plaintiffs,)

v.)

CIVIL NO. ST-17-CV-384

ACTION TO SET ASIDE
FRAUDULENT TRANSFERS

THE ESTATE OF MOHAMMAD HAMED,)
Waleed Hamed as Executor of the Estate of)
Mohammad Hamed, and)
THE MOHAMMAD A. HAMED LIVING TRUST,)

Defendants.)

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**RESPONSES TO HAMED'S FOURTH INTERROGATORIES PER THE CLAIM
DISCOVERY PLAN OF 1/29/2018 NOS. 16-28 OF 50**

Defendant/Counterclaimants Fathi Yusuf ("Yusuf") and United Corporation ("United")(collectively, the "Defendants") through their attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provide their Responses to Hamed's Fourth Set of Interrogatories per the Claims Discovery Plan of 1/29/2018, Nos. 16-28 of 50 as to Y-5: Reimburse United For Gross Receipt Taxes; H-150 And H-160: United's Gross Receipts Taxes; H-152: United's Corporate Franchise Taxes And Fees; H-153: P Funds Used to Pay United's Property Insurance; H-7: Kac357, Inc. Payment Of Invoices from J. David Jackson, PC; H-8: David Jackson, CPA, Bill Owed For Tax Work Done; H-15: NejeH Yusuf's Case Withdrawals from Safe; H-22: NejeH Yusuf Removed Property Belonging To Kac357, Inc.; H-142: Half Acre In Estate Tutu; H-146: Imbalance In Credit Card Points; H-147: Vendor Rebates; H-154: Attorney And Accounting Fees Paid Re Criminal Case; H-163: Loss Of Assets Due To Wrongful Dissolution; H-164: Inventory Adjusted Downward By \$1,660,000; H-165: Debts Totaling \$176,267.97.

GENERAL OBJECTIONS

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

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(1) Defendants object to these Interrogatories to the extent they may impose obligations different from or in addition to those required under the Virgin Islands Rules of Civil Procedure.

(2) Defendants object to these Interrogatories to the extent that they use the words “any” and “all” as being overly broad, unduly burdensome, immaterial, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

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

(4) Defendants object to these Interrogatories to the extent that they seek information and documents concerning any matter that is irrelevant to the claims or defenses of any party to this action, and not reasonably calculated to lead to the discovery of admissible evidence.

(5) Defendants object to these Interrogatories to the extent that they use terms or phrases that are vague, ambiguous, or undefined. Defendants’ response to such request will be based upon their understanding of the request.

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

(7) Defendants have not completed either their discovery or preparation for trial of this matter. Accordingly, Defendants' responses to these Interrogatories are made without prejudice to their right to make any use of, or proffer at any hearing or at trial evidence later discovered, and are based only upon information presently available. If any additional, non-privileged, responsive information is discovered, these Interrogatories will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.

(8) Defendants object to these Interrogatories to the extent that they are compound and not a single Request. Hence, these Interrogatories should be counted as more than a single Request such that when all of the subparts are included together with other Interrogatories they exceed the 50 Interrogatories allowed in the Joint Discovery and Scheduling Plan ("JDSP").

RESPONSES TO INTERROGATORIES

Interrogatory 16 of 50:

Interrogatory 16 of 50 relates to Y-5: "Reimburse United for Gross Receipt Taxes," H-150 (old Claim No. 3002a) and H-160 (old Claim No. Exhibit A-H): "United Shopping Center's gross receipts taxes," H-152 (old Claim No. 3008a): "United's corporate franchise taxes and annual franchise fees," and H-153 (old Claim No. 3009a): "Partnership funds used to pay United Shopping Center's property insurance.

State with specificity why, assuming that Yusuf is correct that Hamed had agreed that the Partnership would pay the separate (non-partnership-related) United Corporation costs for such things as GRT taxes, franchise taxes and fees, property insurance, etc., -- what facts, conversations, writings, communications or other information or documents leads Yusuf to believe and assert that he continued to have Hamed's consent as to such payments after September 17, 2012, despite a lawsuit filed by Hamed seeking to stop Yusuf's involvement in the Partnership, with a claim of outright theft by Hamed, as well as Yusuf's denial of the existence of a partnership, attempted removal of the Hameds from the stores by Yusuf and letters from Hamed and his counsel stating that various of the unilateral uses of funds, payments and actions were henceforth denied and actionable?

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Further responding, Yusuf submits that in his earlier declaration he explained that “[u]nder the business agreement between Hamed and me that I now describe as a partnership, profits would be divided 50-50 after deduction for rent owed to United, among other expenses” and that “[u]nder our agreement, I was the person responsible for making all decisions regarding when the reconciliation would take place” and that Yusuf had the discretion to determine when the reconciliation would take place. *See* August 12, 2014 Yusuf Declaration, p. 2. There is no reason for Yusuf to believe that this discretion, consistent with the manner in which the partnership operated from its inception, would not continue in the same manner until its dissolution. This belief and understanding has been further confirmed with Yusuf’s designation as the Liquidating Partner under the Final Wind Up Plan of the Plaza Extra Partnership adopted by the Court by Order dated January 7, 2015. Finally, the filing of Hamed’s lawsuit on September 17, 2012 did not enable him to continue receiving the benefits of the partnership without the burdens he agreed to from the outset.

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Interrogatory 17 of 50:

Interrogatory 17 of 50 relates to Claim H-7 (old Claim No. 248): "KAC357< Inc. payment of invoices from J. David Jackson, PC and H-8 (Old Claim No. 256): "David Jackson, CPA, bill owed for tax work done related to the Partnership's. 2013 taxes," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With regard to Claims H-7 and H-8, state in detail why these invoices for work done for the Partnership were not paid by the Partnership. If you assert these are not Partnership expenses, state in detail why that is, with reference to all applicable documents, communications and witnesses.

Response:

Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object to this Interrogatory because KAC357, Inc. is not a party to this consolidated case and its "claims" are not part of the accounting claims referred to the Master for his report and recommendation.

Defendants further object to this Interrogatory on the grounds set forth in the Motion to Strike Hamed's Amended Claim Nos. H-41 through H-141 and Additional "Maybe" Claims ("Motion to Strike") seeking to strike Hamed Claim H-7. Defendants incorporate by reference their Motion to Strike as if fully set forth herein verbatim and submit that because there is a pending Motion to Strike, the requirement for a response should be stayed pending the resolution.

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

Without waiving these objections, Defendants state that Yusuf did not request this work on behalf of the Partnership, no evidence has been provided that it benefited the Partnership, the invoice dated June 10, 2014 reflects that all the time spent was in a conference call with Hamed's counsel alone, and 2 hours (\$555.00 at \$250.00 per hour) reviewing a tax return prepared by John Gaffney and over an hour "Research[ing] SE Tax Issues, Compose and Transmit Information." Again, none of this work was requested by Yusuf or shared with him and none of it has been shown to have benefited the Partnership.

Interrogatory 18 of 50:

Interrogatory 18 of 50 relates to Claim H-15 (old Claim No. 242): NejeH Yusuf's cash withdrawals from safe," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

This interrogatory relates to Claim H-15. This is not a question about the practices surrounding withdrawals [sic] from the safe generally, but rather an inquiry as to the particular time period set forth in the claim. State in detail how much cash NejeH Yusuf removed from the safe, where it went and where it is now -- with reference to all applicable documents and any witnesses.

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Without waiving any objection, all of the detail as to the cash withdrawn by NejeH Yusuf for the period in question are set forth in Exhibit 242 (b) JVZ 00180 – 186 with the date and descriptions. Defendants refer to said document in lieu of a narrative response as same would be duplicative.

Interrogatory 19 of 50:

Interrogatory 19 of 50 relates to Claim No. H-17 (old Claim No. 265): "Wally Hamed's personal payment of accounting and attorneys' fees in *United States of America v. United Corp. et al.*, VI D. Ct. 2005-cr-015," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With regard to Wally Hamed's personal payment of accounting and attorneys' fees in *United States of American v. United Corp., et al.*, VI D. Ct. 2—5-cr-015 (Claim No. H-17), describe why the Yusufs' accounting and attorneys' fees were paid with Partnership funds and Hameds' were not -- with reference to all applicable documents, communications and witnesses.

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Without waiving any objections, Defendants submit that attorneys' fees incurred by the individual defendants in the Criminal Case were allocated as between the Hamed and Yusuf families and treated as partner distributions. *See* Table 10A and 10B of the BDO Report with supporting documentation previously provided to Hamed on September 30, 2016 and October 4, 2016.

Interrogatory 20 of 50:

Interrogatory 20 of 50 relates to Claim No. H-22 (old Claim No. 290): "Nejeh Yusuf removed property belonging to KAC357, Inc.," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

This is not a general question, but rather an inquiry as to a particular time period. With respect to Claim No. H-22, state in detail exactly what property Nejeh Yusuf removed from the store as described in this claim, where it went and where it is now – with reference to all applicable documents and witnesses.

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object to this Interrogatory because KAC357, Inc. is not a party to this consolidated case and its "claims" are not part of the accounting claims referred to the Master for his report and recommendation.

Without waiving any objections, no property belonging to KAC357, Inc. was removed by Nejeh Yusuf.

Interrogatory 21 of 50:

Interrogatory 21 of 50 relates to Claim No. H-142 (old Claim No. 490): "Half acre in Estate Tutu," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With respect to Claim No. H-142, state in detail how this half acre in Estate Tutu was purchased and what funds were used, the source of those funds and any discussions or agreements about the funds or the purchase, with reference to all applicable documents, communications and witnesses.

Response:

Defendants object to this Interrogatory because it involves a potential claim that is barred by the Court's Memorandum Opinion and Order Re Limitation on Accounting ("Limitation Order"), which limits the scope of the accounting to only those transactions that occurred on or after September 17, 2006. Pursuant to a deed dated July 26, 2006 and recorded on August 24, 2006, this property was titled in the name of Plessen Enterprises, Inc. and was not an asset of the Partnership as of September 17, 2006. Accordingly, any claims by Hamed relating to this property are clearly barred by the Limitation Order and Defendants have no obligation to provide discovery concerning a barred claim because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

Moreover, this claim is the subject of Defendants' Motion to Strike Hamed's Amended Claim Nos. 142 and 143 ("Motion to Strike") seeking to strike Hamed Claim 142 on the grounds that the property was titled in the name of Plessen, was not an asset of the Partnership and is barred by the Limitation Order. Defendants incorporate by reference their Motion to Strike as if

fully set forth herein verbatim and submit that because there is a pending Motion to Strike, the requirement for a response should be stayed pending the resolution.

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Interrogatory 22 of 50:

Interrogatory 22 of 50 relates to Claim No. H-146 (old Claim No. 3007): "imbalance in credit card points," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With respect to H-146, state the approximate value of these credit card points, by describing: the approximate number of points in each of the years 2008-the date of the splitting of the East and West stores; the present value of that many points if negotiated on the date of these answers at the point-to-dollar value now – and show all of your calculations, sources of information and support for this approximation.

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney

for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

Without waiving any objection, Defendants submit that information relating to this request was previously provided to Hamed by John Gaffney in his correspondence dated May 17, 2016 and Defendants incorporate that response as this response as if fully set forth herein verbatim.

Interrogatory 23 of 50:

Interrogatory 23 of 50 relates to Claim No. H-147 (old Claim No. 3010): "Vendor rebates," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With respect to Claim No. H-147, for each of the years from 2008 through the date of the splitting of the East, West and STT stores, identify each rebate by vendor, state the amount of each rebate, describe the process for ensuring that rebates applied to the personal, not Partnership, credit cards were reimbursed to the Partnership, including any controls in place to ensure reimbursement to the Partnership, and describe all documents with particularity (*e.g.*, name of document, date of document, name of person or entity the document relates to) documenting the whole rebate cycle for each rebate – from vendor, to Partnership by check, Partnership credit card or personal credit card, and, if applicable reimbursement of the rebate from the personal credit card to the Partnership.

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object to this interrogatory on the grounds set forth in their Motion to Strike, which seeks to strike Hamed Claim H-147 on the basis that this is merely a question regarding a ledger entry as opposed to an actual claim. Defendants incorporate by reference their Motion to Strike as if fully set forth herein verbatim and submit that because there is a pending Motion to Strike, the requirement for a response should be stayed pending the resolution.

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

Interrogatory 24 of 50:

Interrogatory 24 of 50 relates to Claim No. H-154 (old Claim No. 346a): “Attorney and accounting fees paid by the Partnership for the criminal case,” as described in Hamed’s November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With respect to Claim No. H-154, describe in detail, with specifics as to who proposed the acts, when and how the Partnership’s plan to remove, hide from taxing authorities and then launder income from the stores, came about – and Yusuf’s best approximation of the amounts removed and where they went As part of the explanation describe who was “in charge” of the decision – making and finances for the stores at that time and how the decision-making for the money-laundering scheme differed from the normal management. Also, state specifically, in detail, whether Fathi Yusuf thought up, directed and managed that money-laundering scheme, and if not, why not and who did – with reference to Mohammad Hamed’s role. Be specific as to dates, locations, times, events and, most importantly, amounts removed and laundered.

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object to this Interrogatory because it seeks information concerning transactions barred by the Limitation Order.

Interrogatory 25 of 50:

Interrogatory 25 of 50 relates to Claim No. H-163 (old Claim No. Exhibit A-M): "Loss of assets due to wrongful dissolution- attorney's fees," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With respect to Claim No. H-163, (1) State in detail the factual basis that Yusuf had in September through March of 2012-2013 for asserting that there was no Hamed-Yusuf Partnership as to the 3 Plaza Extra Stores, that he had the right to call the police to have the Hameds removed from the stores and had the right to cut Hamed off from partnership accounts. Identify any supporting documents as to this. (2) Describe in detail **why**, even if Yusuf had the beliefs set forth in his response to the foregoing, if he eventually admitted the existence of the Partnership for the purpose of this action, such actions did not constitute a breach of the Partnership agreement.

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Interrogatory 26 of 50:

Interrogatory 26 of 50 relates to Claim No. H-164: "Inventory adjusted downward by \$1,660,000 due to unrecorded inventory transfers to other stores," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3.

With respect to Claim No. H-164, describe all transactions in detail that relate to the inventory adjusted downward by \$1,660,000 due to unrecorded inventory transfers to other stores, with references, for each such transaction, to all related and underlying documents.

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object because all information as to the accounting performed by Mr. Gaffney during his employment as the accountant for the Partnership has been provided by John Gaffney in various forms including the submissions accompanying the numerous bi-monthly reports as well as the additional information and explanations provided by Gaffney directly to counsel and accountants for Hamed. This question relates to an accounting allocation made by the accountant to the Partnership under the supervision of the Master. Yusuf, as a partner, is without sufficient knowledge to respond to this inquiry as the information is not with in his care, custody or control. Yusuf has made reasonable inquiry into this Interrogatory and the information he knows or can readily obtain is insufficient to enable him to respond to same.

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed

attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

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Interrogatory 27 of 50:

Interrogatory 27 of 50 relates to Claim No. H-165: "Debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners," as of September 30, 2016, as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3.

With respect to H-165, described in detail, with reference to all related and underlying documents, each of the "debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners,"

Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object because all information as to the accounting performed by Mr. Gaffney during his employment as the accountant for the Partnership has been provided by John Gaffney in various forms including the submissions accompanying the numerous bi-monthly reports as well as the additional information and explanations provided by Gaffney directly to counsel and accountants for Hamed. This question relates to an accounting allocation made by the accountant to the Partnership under the supervision of the Master. Yusuf, as a partner, is without sufficient knowledge to respond to this inquiry as the information is not within his care, custody or control. Yusuf has made reasonable inquiry into this Interrogatory and the information he knows or can readily obtain is insufficient to enable him to respond to same.

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

Without waiving any objections, Defendants state that this information was previously provided in the exhibits to Yusuf's Accounting Claims as well as the Amended Claims. The supporting documentation for same has been provided in the numerous bi-monthly reports or the accompanying financial information prepared by John Gaffney. Defendants incorporate same in lieu of a narrative response.

Interrogatory 28 of 50:

Describe in detail any criminal charges, convictions, plea agreements, or other criminal actions as to Fathi Yusuf for any entity which he controlled other than United Corporation. For each such event describe in detail, the dates involved, the police or other authority involved, the full description of the charges, the full description of the proceedings, the outcome, any restrictions imposed on Fathi Yusuf during or after – with a description of all relevant document and witnesses.

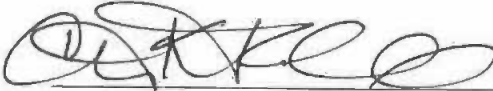
Response:

Defendants object to this interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object to this Interrogatory on the grounds that “the proposed discovery is not relevant to any party’s claim or defense.” V.I. R. Civ. P. 26(b)(2)(C)(iii). The issues to be resolved in this case relate to the dissolution of the Partnership and the associated accounting as to historical withdrawals. Various family members of the Hamed and Yusuf families were defendants in certain criminal cases involving this case of which all parties are well aware. There are no issues currently pending to which this question would be even remotely relevant.

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 15th, 2018

By: 

CHARLOTTE K. PERRELL

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CERTIFICATE OF SERVICE

It is hereby certified that on this 15th day of May, 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S FOURTH INTERROGATORIES PER THE CLAIMS DISCOVERY PLAN OF 1/29/2018, NOS. 16-28** to be served upon the following via Case Anywhere docketing system:

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