

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

WALEED HAMED, as Executor of the)	
Estate of MOHAMMAD HAMED,)	
)	
Plaintiff/Counterclaim Defendant,	)	CIVIL NO. SX-12-CV-370
v.)	
	)	ACTION FOR INJUNCTIVE
FATHI YUSUF and UNITED CORPORATION,	)	RELIEF, DECLARATORY
	)	JUDGMENT, AND
Defendants/Counterclaimants,	)	PARTNERSHIP DISSOLUTION,
v.	)	WIND UP, AND ACCOUNTING
)	
WALEED HAMED, WAHEED HAMED,)	
MUFEED HAMED, HISHAM HAMED, and)	
PLESSEN ENTERPRISES, INC.,)	
<u>Additional Counterclaim Defendants.</u>	)	Consolidated With
WALEED HAMED, as Executor of the)	
Estate of MOHAMMAD HAMED,)	
	)	CIVIL NO. SX-14-CV-287
Plaintiff,)	
v.	)	ACTION FOR DAMAGES AND
	)	DECLARATORY JUDGMENT
UNITED CORPORATION,)	
)	
<u>Defendant.</u>)	
WALEED HAMED, as Executor of the)	
Estate of MOHAMMAD HAMED,	)	CIVIL NO. SX-14-CV-278
)	
Plaintiff,	)	ACTION FOR DEBT AND
v.	)	CONVERSION
)	
FATHI YUSUF,)	
<u>Defendant.</u>)	
FATHI YUSUF and)	
UNITED CORPORATION,)	
	)	CIVIL NO. ST-17-CV-384
Plaintiffs,)	
v.	)	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.)	

DUDLEY, TOPPER
AND FEUERZEIG, LLP
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(340) 774-4422

**RESPONSE TO HAMED'S FIFTH REQUEST FOR PRODUCTION OF DOCUMENTS
NOS. 28-36 OF 50 PURSUANT TO THE CLAIMS DISCOVERY PLAN**

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 Fifth Request for Production of Documents Pursuant to the Claims Discovery Plan of 1/29/2018.

GENERAL OBJECTIONS

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

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

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

(3) Defendants object to these Requests for Production to the extent they seek information which is protected by the attorney-client privilege or work-product doctrine,

including information prepared in anticipation of litigation, or for trial, by or on behalf of 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 Requests for Production to the extent that they seek information and documents concerning any matter that is irrelevant to the claims or defenses of any party to this action, and not reasonably calculated to lead to the discovery of admissible evidence.

(5) Defendants object to these Requests for Production 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 Requests for Production 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 Requests for Production 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 Requests for Production will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.

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

RESPONSES TO REQUESTS FOR PRODUCTION

RFPDs 28 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 2. Please produce any and all financial statements or applications for financing for United, as well as Fathi, Mike, NejeH and Yusuf Yusuf or any company controlled more than 49%, submitted to any person or institution from September 17, 2006 to present.

Response:

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

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

RFPDs 29 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 4. Please produce copies of any accountings prepared by or on behalf of United or any member of the Hamed or Yusuf families in the Criminal Case to demonstrate the Partnership's or United's income.

Response:

Defendants object on the grounds that the Partnership was not an acknowledged or separate legal entity at the time of the Criminal Case and, therefore, no accountings were undertaken to demonstrate income of the Partnership.

RFPDs 30 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 5. Please produce copies of all original tax returns filed by United, Fathi, Mike, Negeh and Yusuf Yusuf from 1986 to date.

Response:

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

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

RFPDs 31 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 6. Please produce copies of all documents including statements relating to any operating, savings, credit, investment, trust, escrow or other accounts in which United, Fathi, Mike, Negeh and Yusuf Yusuf or any company which they have more than 49% control, have or had any interest in the Virgin Islands or elsewhere, including, but not limited to Jordan and West Bank, Palestine, from 1986 to date.

Response:

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

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

RFPDs 32 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 7. Please produce all documents relating to all assets of United, Fathi, Mike, Negeh and Yusuf Yusuf as of September 12, 2012 and the value of such assets.

Response:

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

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

As to United, the assets of United have been accounted for and provided to Hamed since the outset of this civil action.

RFPDs 33 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 8. For any allocation set forth in Exhibits 1-5, please produce all underlying documents relating to any such allocation

Response:

All of the underlying documents supporting the allocations set forth in Exhibits 1-5 were produced via a flash-drive labeled as Exhibit J-1 and delivered to Counsel for Hamed on October 4, 2016, as part of the submission Yusuf's original Accounting Claims and Proposed Distribution.

RFPDs 34 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 9. Please produce all documents relating to your claim that rent is due from the Partnership to occupying Bay 5 and Bay 8.

Response:

See Exhibit D – Declaration of Fathi Yusuf, attached to Yusuf's original Accounting Claims and Proposed Distribution previously served upon counsel for Hamed on September 30, 2016.

RFPDs 35 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 10. For any debts Yusuf claims are owed by the Partnership in Exhibit 6, please provide any documents or supporting evidence which supports these debts of the Partnership.

Response:

See Exhibits attached to Yusuf's original Accounting Claims and Proposed Distribution previously served upon counsel for Hamed on September 30, 2016 as well as the referenced Bi-Monthly Reports.

RFPDs 36 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 11. As to the accounts of Fathi, Mike, Nejeh and Yusuf Yusuf, please produce copies of any and all bank or investment account statements for the period from September 17, 2006 to date.

Response:

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

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

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DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 5th, 2018

By: 

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CERTIFICATE OF SERVICE

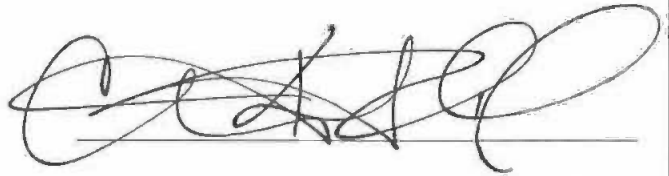
It is hereby certified that on this 15th day of May, 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S FIFTH REQUESTS FOR THE PRODUCTION OF DOCUMENTS NOS. 28-36 OF 50 PURSUANT TO CLAIMS DISCOVERY PLAN** to be served upon the following via Case Anywhere docketing system:

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