

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

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

Plaintiff/Counterclaim Defendant,)

v.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

v.)

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

Additional Counterclaim Defendants.)

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

Plaintiff,)

v.)

UNITED CORPORATION,)

Defendant.)

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

Plaintiff,)

v.)

FATHI YUSUF,)

Defendant.)

FATHI YUSUF and)
UNITED CORPORATION,)

Plaintiffs,)

v.)

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

Defendants.)

CIVIL NO. SX-12-CV-370

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

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES AND
DECLARATORY JUDGMENT

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT AND
CONVERSION

CIVIL NO. ST-17-CV-384

ACTION TO SET ASIDE
FRAUDULENT TRANSFERS

DUDLEY, TOPPER
AND FEUERZEIG, LLP

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**RESPONSE TO HAMED'S FIFTH REQUEST TO ADMIT
PURSUANT TO THE CLAIMS DISCOVERY PLAN OF 1/29/10, NO. 33-44 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 Fifth Request to Admit Pursuant to the Claims Discovery Plan of 1/29/2018, Nos. 33- 44 of 50.

GENERAL OBJECTIONS

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

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

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

(3) Defendants object to these Requests to Admit to the extent they seek information which is protected by the attorney-client privilege or work-product doctrine, including information prepared in anticipation of litigation, or for trial, by or on behalf of 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 to Admit to the extent that they seek information and documents concerning any matter that is irrelevant to the claims or defenses of any party to this action, and not reasonably calculated to lead to the discovery of admissible evidence.

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

RESPONSES TO REQUESTS TO ADMIT

References to "Exhibits" are to the Exhibits to Yusuf's First Set of Discovery served on Hamed on March 23, 2018.

Request to Admit 33 of 50:

Substantially the same as Yusuf RTA #1. Admit that Yusuf family members removed money from the safes at the Plaza Extra Stores without creating a written record of the withdrawal.

Response:

Denied.

Request to Admit 34 of 50:

Substantially the same as Yusuf RTA #2. Admit that a settlement was reached for all Partnership uses of Plaza East facilities and did not specify that it was solely for Bay 1.

Response:

Denied.

Request to Admit 35 of 50:

Substantially the same as Yusuf RTA #8. Admit that Yusuf was in charge of coordinating all of the financials of the Partnership in its relations with United – including rents.

Response:

Defendants object to the request as vague and ambiguous as to the meaning of “financials of the Partnership.” Admitted that Yusuf was in charge of coordinating all of the rent payments from the Partnership to United for use of space by the Partnership in the operation of the grocery store at Plaza Extra East.

Request to Admit 36 of 50:

Substantially the same as Yusuf RTA #15. Admit that the Partners agreed when the Partnership was formed that all income taxes of Hamed and his children were to be paid from the grocery store operations.

Response:

Denied.

Request to Admit 37 of 50:

Substantially the same as Yusuf RTA #16. Admit that the Partners agreed when the Partnership was formed that Fathi Yusuf would provide the services and use of United by the Partnership and the Partnership operated the three Plaza Extra Stores that way.

Response:

Defendants object to this request as vague and ambiguous as to the nature and scope of “the services and use of United by the Partnership.”

Request to Admit 38 of 50:

Substantially the same as Yusuf RTA #17. Admit that no a black book ledger was kept to record amounts due to United, the Partnership, and between the Partners after August of 2006.

Response:

Admitted to the best of Yusuf's recollection.

Request to Admit 39 of 50:

Substantially the same as Yusuf RTA #18. Admit that Fathi, Mike, NejeH and Yusuf Yusuf initially received financial benefit from the failure to report income skimmed from the grocery store operations on United's taxes.

Response:

Admit that Fathi, Mike, NejeH and Yusuf Yusuf initially received a financial benefit from the failure to report income generated from the grocery store operations on United's taxes.

Request to Admit 40 of 50:

Substantially the same as Yusuf RTA #19. Admit that Yusuf knew that monies skimmed from the grocery store operations were not being reported to the taxing authorities and nonetheless continued to receive financial gain from the under-reported income.

Response:

Yusuf objects to the term "skimmed" as vague and ambiguous. Admitted that Yusuf knew that some portion of the income generated from the grocery store operations were not being reported to the taxing authorities as to United's returns.

Request to Admit 41 of 50:

Substantially the same as Yusuf RTA #20. Admit that Yusuf did not report all income he received as a partner in the grocery Store operations to the taxing authorities.

Response:

Admit as to the years involved in the Criminal Case, denied as to any other years.

Request to Admit 42 of 50:

Substantially the same as Yusuf RTA #21. Admit that the Partnership is a separate and distinct legal entity from United and has been for the duration of the Partnership -- and that is solely the Partnership that owned the three Plaza Extra grocery stores, not United.

Response:

Denied that the Partnership was always considered or treated as a separate and distinct legal entity from United and as the sole owner of the three Plaza Extra stores.

Request to Admit 43 of 50:

Substantially the same as Yusuf RTA #22. Admit that in 2014, Mike Yusuf acknowledged, under oath, that the \$1.6 million Yusuf alleges is due to Yusuf as a result of the accounting true-up of only one operation at that time, and thus, did not show the full accounting at that time.

Response:

Admit.

Request to Admit 44 of 50:

Substantially the same as Yusuf RTA #23. Admit that members of the Yusuf family held assets for Fathi Yusuf which were part of his distributions from the Partnership.

Response:

Denied.

DATED: May 5th, 2018

By:

DUDLEY, TOPPER AND FEUERZEIG, LLP


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CERTIFICATE OF SERVICE

It is hereby certified that on this 5th day of May 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S FIFTH REQUEST TO ADMIT PURSUANT TO THE CLAIMS DISCOVERY PLAN OF 1/29/2018 NO. 33-44 OF 50** to be served upon the following via Case Anywhere docketing system:

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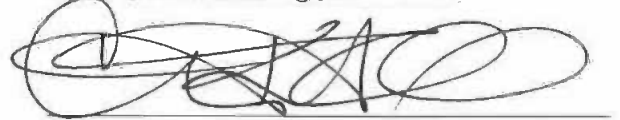
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