

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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AND FEUERZEIG, LLP

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**RESPONSE TO HAMED'S SIXTH REQUEST FOR PRODUCTION OF DOCUMENTS  
NOS. 37-47 OF 50 PURSUANT TO THE CLAIMS DISCOVERY PLAN OF 1/29/2018**

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 Sixth 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**

#### **RFPD 37 of 50:**

Please produce any and all documents relating to gifts given by Fathi Yusuf (and/or is wife) to Mafi Hamed and Shawn Hamed and/or at the time of their weddings to Yusuf daughters.

**Response:** Other than the letters and checks reflecting these amounts as noted in the BDO Report and previously produced, Yusuf is unaware of any other documents responsive to this request.

#### **RFPD 38 of 50:**

Please produce any and documents relating to gifts given by United Corporation to Mafi Hamed and Shawn Hamed and/or their spouses at the time of their weddings to Yusuf daughters.

**Response:** Other than the letters and check reflecting these amounts as noted in the BDO Report and previously produced, Yusuf is unaware of any other documents responsive to this request.

**RFPD 39 of 50:**

Please produce any and all documents relating to gifts given by the Plaza Extra Corporation to Mafi Hamed and Shawn Hamed and/or their spouses at the time of their weddings to Yusuf daughters.

**Response:** Other than the letters and checks reflecting these amounts as noted in the BDO Report and previously produced, Yusuf is unaware of any other documents responsive to this request.

**RFPD 40 of 50:**

Please produce any and all documents relating to gifts to Mafi Hamed and Shawn Hamed and/or their spouses at the time of their weddings to Yusuf daughters as to Fathi Yusuf or his spouse or his daughters seeking return, credit or offset in divorce proceedings.

**Response:** Yusuf objects as to this Request 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).

**RFPD 41 of 50:**

Please produce any and all documents identified in or relating to your responses to Hamed’s Interrogatories 42-48 of 50.

**Response:** To the extent not otherwise objectionable as set forth in Defendants objections and responses to Interrogatories 42-28, the documents responsive to this request and not previously provided will be produced. Further responding, Defendants submit that the information sought

relates primarily to the acknowledged \$1.6 million amount owed by Hamed to Yusuf and supporting documentation for same. The information currently available to Defendants relating to same has been previously produced and specifically delineated in the BDO Report, Tables and supporting documentation provided to Hamed via flashdrive on October 4, 2016.

**RFPD 42 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 7.** Please produce all documents relating to all assets of United, Fathi, Mike, NejeH 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).

RFPD’s 44-47 relate to the events and actions of Fathi Yusuf averred in his and United’s testimony and filing as follows: (1) in Yusuf March 4, 2013 *Proposed Findings of Fact and Conclusions of Law* submitted to the Court after the Preliminary Injunction hearings, Yusuf specifically asked for a finding that he was in charge of the business’ functions which would include accounting and payment of taxes agreeing with Hamed’s statement, to wit:

40.... As Fathi Yusuf “is in charge for everybody” and everything. (Jan. 25, 2013 Hr’g Tr....(reflecting Mohammad Hamed’s concession, even during his direct testimony, that “Mr. Yusuf he is in charge for everybody” [and] acknowledging again that Fathi Yusuf is in “charge” of “all the three stores.

After the Court’s April 2013 Preliminary Injunction was issued in response to that testimony, Yusuf continued his assertion that he alone was in charge on the Partnership’s management functions – as was the case in his May 9, 2013, Motion to Stay the Preliminary Injunction.

However, the testimony of the Plaintiff was clear when he admitted that he never worked in any management capacity at any of the Plaza Extra Stores, which role was under the exclusive ultimate control of Fathi Yusuf...[Id.at 6.]

**RFPD 43 of 50:**

Please produce any and all documents identified in or relating to your responses to Hamed’s RTA 49 of 50 which asks:

49. ADMIT or DENY that at the time the criminal tax evasion prosecuted in *United States of America v. United Corp., et al.*, VI D. Ct. 2005-cr-015, to which United pled guilty, was undertaken, Fathi Yusuf was in charge of the finances for the Plaza Extra Partnership and create the criminal plan to skim grocery store funds which led to the criminal conviction.

**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 as vague and ambiguous as to the meaning, nature and scope of the phrase “in charge of the finances for the Plaza Extra Partnership,” which was not a party to the Criminal Action and was not declared to exist until November 7, 2014 in this civil action. It is denied that Fathi Yusuf solely created the plan to underreport the gross receipts of the grocery stores. That plan was primarily conceived and executed by Mr. Yusuf and Waleed Hamed, Mr. Yusuf’s then “right hand man.”

**RFPD 44 of 50:**

Please produce any and all documents which demonstrate that Mohammad Hamed “never worked in any management capacity at any of the Plaza Extra Stores, which role was under the exclusive ultimate control of Fathi Yusuf” at the time of the criminal activities to which the guilty plea was made and conviction entered.

**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.



**RFPD 45 of 50:**

Please produce any and all documents which disprove that that “management capacity at any of the Plaza Extra Stores [] was under the exclusive ultimate control of Fathi Yusuf” at the time of the criminal activities to which the guilty plea was made and conviction entered.

**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 to the extent it makes an incorrect assumption as it is denied that Fathi Yusuf solely created the plan to underreport the gross receipts of the grocery stores. That plan was primarily conceived and executed by Mr. Yusuf and Waleed Hamed, Mr. Yusuf’s then “right hand man.”

**RFPD 46 of 50:**

Please produce any and all documents which disprove that that “management capacity at any of the Plaza Extra Stores [] was under the exclusive ultimate control of Fathi Yusuf” at the time of the criminal activities to which the guilty plea was made and conviction entered.

**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 to the extent it makes an incorrect assumption as it is denied that Fathi Yusuf solely created the plan to underreport the gross

receipts of the grocery stores. That plan was primarily conceived and executed by Mr. Yusuf and Waleed Hamed, Mr. Yusuf's then "right hand man."

**RFPD 46 of 50:**

Please produce any and all documents which prove or disprove that Fathi Yusuf planned, directed and controlled the criminal activities to which the guilty plea was made and conviction entered.

**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 to the extent it makes an incorrect assumption as it is denied that Fathi Yusuf solely created the plan to underreport the gross receipts of the grocery stores. That plan was primarily conceived and executed by Mr. Yusuf and Waleed Hamed, Mr. Yusuf's then "right hand man."

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

**DATED:** May 15<sup>th</sup>, 2018

By: 

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**CERTIFICATE OF SERVICE**

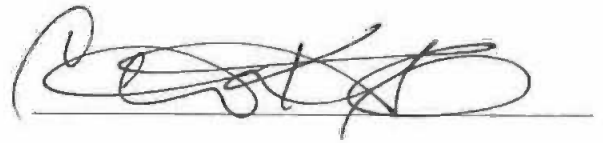
It is hereby certified that on this 5<sup>th</sup> day of May, 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S SIXTH REQUESTS FOR THE PRODUCTION OF DOCUMENTS NOS. 37-47 OF 50 PURSUANT TO CLAIMS DISCOVERY PLAN OF 1/29/2018** to be served upon the following via Case Anywhere docketing system:

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