

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,
MUFEEED 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'S
OBJECTIONS TO SUBPOENA

Pursuant to V.I.R. Civ. P. 45(d)(2)(B), Dudley, Topper and Feuerzeig, LLP (“DTF”) hereby objects to the subpoena duces tecum served on it on May 10, 2018 (Exhibit 1), as follows:

OBJECTION

Plaintiff Hamed is seeking testimony and the following documents from the DTF Records Custodian:

All documents provided to you by prior counsel or your client that are to or from, created by or provided by Joseph DiRuzzo or his firm in 2012-2013, as to which your client does not claim privilege.

See Exhibit 1 at p. 6 of 12. The scope of the subpoena is far too broad, particularly since it seeks information regarding “all work performed that resulted in the payment amounts paid to Fuerst Ittleman David & Joseph, PL, as the same are described in the Special Master’s Order of May 8, 2018, to wit,

\$ 15,067.26	October 19, 2012
\$ 29,011.50	October 19, 2012
\$ 99,254.45	November 16, 2012
\$111,660.24	January 21, 2013
\$112,383.32	February 13, 2013
\$ 82,274.84	March 6, 2013
\$ 54,938.89	April 3, 2013”

Id. at p. 7 of 12. These payments total \$504,590.50.

DTF objects to having to give any testimony or produce any documents regarding invoices for legal work performed by Fuerst Ittleman David & Joseph, PL (“Fuerst Ittleman”) in connection with the above payments on the grounds that the payments and related invoices include both legal work performed for United Corporation and Fathi Yusuf in the criminal case (no. 1:05-cr-15) and legal work performed in this civil case and other matters unrelated to the criminal case. Because United Corporation and Fathi Yusuf will agree that any amounts from

the \$504,590.50 that paid for legal work on the civil case and other matters unrelated to the criminal case was not for the benefit of the partnership, that amount is not in dispute and any discovery regarding it is irrelevant or overbroad.

In addition, Plaintiff has conceded that any work performed in the criminal case prior to September 20, 2012 was properly paid from Plaza Extra accounts maintained by United (i.e., from partnership funds). DTF objects to having to give any testimony or produce any documents for such work because it is irrelevant to any issues in this case.

As to work product reflected in invoices covering work performed from September 20, 2012 to April 3, 2013 in the criminal case (the "Criminal Case Invoices"), DTF states that Fuerst Ittleman did not turn over its files relating to its work on the criminal case or work billed for in the Criminal Case Invoices, and that DTF has no correspondence written by or to the firm, and no "notes, drafts, attorney work product or other writings created by Fuerst Ittleman" in its possession relating to any time entries in the Criminal Case Invoices other than some pleadings filed in the criminal case that may have been created by Fuerst, Ittleman. DTF further objects to the subpoena because it has no Records Custodian who can give any meaningful testimony regarding the time entries or the work product reflected in the Criminal Case Invoices.

Finally, DTF objects to the subpoena because, contrary to the provisions of V.I.R. Civ. P. 45(d)(1), the place of the deposition and production scheduled by the subpoena is the office of counsel for Hamed as opposed to DTF's offices.

Subject to all of these objections, and upon reaching an agreement with Plaintiff that the production of invoices will not waive the attorney client privilege as to any documents whose preparation or existence is disclosed in any time entry, DTF will provide to counsel for Plaintiff copies of the Criminal Case Invoices, redacted as necessary. In the event the work product underlying those invoices is ultimately produced by Fuerst Ittleman in response to a valid subpoena or otherwise, such an agreement would enable Yusuf and United to review the Fuerst

Ittleman files for privileged documents, assert any privilege claims as to particular documents and, if appropriate, concede the dollar amount charged for the creation of that document. The Criminal Case Invoices total \$114,647.65. United and Yusuf will concede that, when the Master issues his Report and Recommendation to the Court for its Final Distribution (under section 9, step 6 of the Wind Up Plan), of the \$504,590.50 at issue, one half of the sum of \$389,942.85 paid with partnership funds should be credited to Hamed. United and Yusuf do not concede that any interest and attorney fees are owed on that amount.

Respectfully submitted,

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 23, 2018 By:



GREGORY H. HODGES (V.I. Bar No. 174)

STEFAN B. HERPEL (V.I. Bar No. 1019)

CHARLOTTE K. PERRELL (V.I. Bar No. 1281)

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, VI 00804

Telephone: (340) 715-4405

Facsimile: (340) 715-4400

E-Mail: ghodges@dtflaw.com

sherpel@dtflaw.com

cperrell@dtflaw.com

Attorneys for Fathi Yusuf and United Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2018, I caused the foregoing **DUDLEY, TOPPER AND FEUERZEIG, LLP'S OBJECTIONS TO SUBPOENA**, which complies with the page or word limitation set forth in Rule 6-1(e), to be served upon the following via the Case Anywhere docketing system:

Joel H. Holt, Esq.
LAW OFFICES OF JOEL H. HOLT
Quinn House - Suite 2
2132 Company Street
Christiansted, St. Croix
U.S. Virgin Islands 00820

E-Mail: joelholtpc@gmail.com

Mark W. Eckard, Esq.
ECKARD, P.C.
P.O. Box 24849
Christiansted, St. Croix
U.S. Virgin Islands 00824

E-Mail: mark@markeckard.com

The Honorable Edgar D. Ross
E-Mail: edgarrossjudge@hotmail.com

Carl J. Hartmann, III, Esq.
5000 Estate Coakley Bay – Unit L-6
Christiansted, St. Croix
U.S. Virgin Islands 00820

E-Mail: carl@carlhartmann.com

Jeffrey B.C. Moorhead, Esq.
JEFFREY B.C. MOORHEAD, P.C.
C.R.T. Brow Building – Suite 3
1132 King Street
Christiansted, St. Croix
U.S. Virgin Islands 00820

E-Mail: jeffreymlaw@yahoo.com

and via U.S. Mail to:

The Honorable Edgar D. Ross
Master
P.O. Box 5119
Kingshill, St. Croix
U.S. Virgin Islands 00851

Alice Kuo
5000 Estate Southgate
Christiansted, St. Croix
U.S. Virgin Islands 00820


