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ADMITTED: USVI, NM & DC

May 31, 2018

Charlotte Perrell, Esq.  
DTF  
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By Email Only

RE: Request for Rule 37 Conference re Interrogatory 3 of 50: H-1 Dorothea

Dear Attorney Perrell

I write regarding one of the Yusuf/United 'claims discovery responses' served on May 15, 2018. It is Hamed's intention to file a motion to compel directed to the Special Master. Pursuant to Rule 37.1, I request a conference to discuss the bases of the proposed motion, and seek amendment to the Yusuf response. I would appreciate a date and time convenient for you by the end of this week. The item at issue is: Interrogatory 3 of 50 - New Claim Number H-1 as to Dorothea. The money Yusuf stole, admitted he stole in writing and won't pay out.

Please read his deposition, particularly the part about when he received payment. He received funds after the bar date. He independently "acknowledged" he owed it after the bar date in writing before this Court. The amount due is not based solely on a Partnership claim, this is also a separate action under its own case number that has been consolidated. Please read the papers there. Hamed will not play these games any longer. Answer or don't.

## **ANALYSIS OF DEFICIENCIES IN THIS INTERROGATORY**

### ***1. The discovery request and response***

The original Interrogatory, and Yusuf's response are set forth below:

**Interrogatory 3 of 50** - New Claim Number H-1 -- Old Claim # 201  
Reimbursement for sale of the Dorthea condo

Describe what was sold and to whom, as well as each payment received for the sale of that stock -- with particularity. For each such payment, this will include but not be limited to payor, receiving party, amount, where deposited, present location of funds and what amount, if any, of this was given to any member of the Hamed family. Identify any documents which support or relate to your response, and any witnesses who would have knowledge and what knowledge you believe they have.

#### **RESPONSE:**

Defendants object to this Interrogatory as it is vague, ambiguous and involves a transaction occurring prior to the Accounting Order limiting claims between the Partners to those prior to September 17, 2006.

### ***2. Parsing the "Objections"***

#### **a. Yusuf Objection #1 of 2** - vague, ambiguous

Yusuf says he owes the funds to Hamed. There is a post-bar date writing detailing the transaction. Yusuf testified as to that writing. How hard is this. What got sold, to whom, what did Yusuf collect and when -- and where is it now? I'll start you off. Shares to the new owner, all of the money, over a period of time in the following receipts \$\_\_\_\_\_, on \_\_\_\_\_, then \$\_\_\_\_\_, on \_\_\_\_\_, and \$\_\_\_\_\_, on \_\_\_\_\_, And it is in Yusuf's bank account.

**b. Yusuf Objection #2 of 2 - Barred**

Utter nonsense, and it would no stop a response because of the acknowledgement, post bar writing, and the fact that several of the receipts were after the bar date.

**3. Applicable Law**

**Rule 26. Duty to Disclose; General Provisions Governing Discovery  
(b) Discovery Scope and Limits.**

(1) Scope in General. Unless otherwise limited by court order, **the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense.** Information within this scope of discovery need not be admissible in evidence to be discoverable. (Emphasis added.)

(2) Limitations on Frequency and Extent.

\* \* \* \*

(C) When Required. On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed by these rules if it determines that:

(i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(iii) the proposed discovery is not relevant to any party's claim or defense.

(D) Duplicative discovery. Duplicative disclosure is not required, and if all information and materials responsive to a request for disclosure has already been made available to the discovery party, the responding party may, for its response, state specifically how and in what form such prior disclosure has been made. Where only part of the information has previously been provided to the discovering party, the response may so state and must then further make available the remaining discoverable information or materials.

\* \* \* \*

(c) Protective Orders.

(1) In General. **A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending** — or as an alternative on matters relating to a deposition, in the court where the deposition will be taken. **The motion must include a certification that the movant has in good faith conferred or attempted**

**to confer with other affected parties in an effort to resolve the dispute without court action.** (Emphasis added.) The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(A) forbidding the disclosure or discovery;

(B) specifying terms, including time and place or the allocation of expenses, for the disclosure or discovery;

(C) prescribing a discovery method other than the one selected by the party seeking discovery;

(D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(E) designating the persons who may be present while the discovery is conducted;

(F) requiring that a deposition be sealed and opened only on court order;

(G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and

(H) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the court directs.

(2) Ordering Discovery. If a motion for a protective order is wholly or partly denied, the court may, on just terms, order that any party or person provide or permit discovery.

(3) Awarding Expenses. Rule 37(a)(5) applies to the award of expenses in motions relating to protective orders.

\* \* \* \*

(3) Sanction for Improper Certification. If a certification violates this rule without substantial justification, the court, on motion or on its own, must impose an appropriate sanction on the signer, the party on whose behalf the signer was acting, or both. The sanction may include an order to pay the reasonable expenses, including attorney's fees, caused by the violation.

In addition, the revision notes provide:

NOTE. Rule 26 is the foundational provision regarding mandatory early disclosures and the scope of discoverable information throughout the action.

\* \* \* \*

Subpart (b) is the general "scope" provision governing discovery in the Virgin Islands. It defines discoverable materials as "any nonprivileged matter that is relevant to any party's claim or defense."

Rule 33 controls as to interrogatories. (Emphasis added).

**Rule 33. Interrogatories to Parties**

(a) In General.

\* \* \* \*

(2) Scope. An interrogatory **may relate to any matter that may be inquired into under Rule 26(b). An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact. . . .**

\* \* \* \*

(b) Answers and Objections.

(1) Responding Party. The interrogatories **must be answered:**

**(A) by the party to whom they are directed; or . . . .**

***4. Application of the Law to Yusuf's Objections***

This response violates virtually every section of the Rules for the reasons set forth above. I will await your response with dates/times.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carl J. Hartmann", with a long horizontal flourish extending to the right.

Carl J. Hartmann