

SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

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

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and **UNITED CORPORATION**

Defendants and Counterclaimants.

vs.

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

Counterclaim Defendants,

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED, *Plaintiff,*

vs.

UNITED CORPORATION, *Defendant.*

WALEED HAMED, as the Executor of the
Estate of MOHAMMAD HAMED, *Plaintiff*

vs.

FATHI YUSUF, *Defendant.*

FATHI YUSUF, *Plaintiff,*

vs.

MOHAMMAD A. HAMED TRUST, *et al,*
Defendants.

KAC357 Inc., *Plaintiff,*

vs.

HAMED/YUSUF PARTNERSHIP,
Defendant.

Case No.: SX-2012-CV-370

**ACTION FOR DAMAGES,
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-287

Consolidated with

Case No.: SX-2014-CV-278

Consolidated with

Case No.: ST-17-CV-384

Consolidated with

Case No.: ST-18-CV-219

**HAMED'S EXPEDITED MOTION TO COMPEL RE YUSUF CLAIM Y-12 --
FOREIGN ACCOUNTS AND PROPERTIES**

I. INTRODUCTION

Fathi Yusuf's deposition is scheduled for January 21, 2019 as to this specific issue and the Special Master has ordered that dispositive motions be filed by February 20, 2019. It is impossible for Hamed to proceed without getting the responses described herein, at a minimum, from Fathi Yusuf. Thus, Hamed requests expedited processing of this motion by the Special Master on his receipt of the reply herein. The parties and the Special Master have agreed to the following schedule with regard to motions to compel:

Motions December 20, 2018

Oppositions 10 Days Later

Replies 5 Days Later

Court Disposition by Friday, January 18, 2019

This claim is a wild, undefined mish-mash of foreign matters by Yusuf -- asking this Court to make determinations as to unspecified real property and disparate accounts in a foreign country that has no reciprocal probate treaty with the USA -- accounts and real property relating to a deceased person in probate. Hamed has suggested that it is not a proper claim for this case or this claims proceeding, but must await the actual Yusuf filing.

But more importantly, leaving those problems aside, the claim relates to land and accounts that Yusuf refuses to list, describe or provide ANY meaningful discovery responses to clarify. Yusuf has simply refused to answer 1 interrogatory and 2 RFPD's.

The Special Master can read the "claims" for himself¹ and try to fathom what is being pursued here—it is very unclear. All that Hamed asks is that Yusuf be made to list the

¹ *Yusuf's Amended Accounting Claims Limited to Transactions Occurring on or After September 17, 2006*, October 30, 2017 September 30, 2016, at 15-18.

individual properties and accounts, and for each give the facts -- who, what, when, and how.

II. The Most Basic Possible Questions and Yusuf's Refusals to Answer

The following interrogatory was basically ignored:

Interrogatory 30 of 50 - relates to Y-12: "Foreign Accts and Jordanian Properties."

This interrogatory relates to Claim Y-12: "Foreign Accts and Jordanian Properties." **Please identify all foreign accounts and Jordanian properties** that were funded or purchased with funds from the Plaza Extra supermarkets. **For each such foreign account** individually: include the name of the account, the account number, the name of the institution and its location, the date it was opened, how money generated by the Plaza Extra supermarkets got into the foreign account, the dates deposits and withdrawals were made from each account and the amounts, the date the last transaction on the account occurred, whether the account is active or closed. If open, provide the present balance and if closed, please identify the date the account closed and who closed it. **For the Jordanian property, for each property** individually please identify (in English) the date it was purchased, the name of the title holder, the property description, who presently owns the property, whether the purchase was in cash or was transferred from a bank, and how all funds generated or provided by Plaza Extra supermarkets were transferred for the purchase of the property (including amounts and dates of all such transactions). (Emphasis added.)

Yusuf's Response

Defendants object to this Interrogatory because it is compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Without waiving any objection to this Interrogatory, Yusuf incorporates the information concerning the foreign accounts and Jordanian properties set forth in his September 30, 2016 Accounting Claims and Proposed Distribution Plan, his October 30, 2017 Amended Accounting Claims and his December 12, 2016 Amended Supplementation of Accounting Claims as responsive to this Interrogatory.

In the referenced document (see footnote 1 above) there are no details, no information and no direction whatsoever as to the parameters of this claim. Because this is Yusuf's claim, a DETAILED Rule 37 letter was sent, and a conference was held. **Attorney Perrell**

stated that this interrogatory would be supplemented by December 15, 2018. On December 18, 2018 (two days before this motion to compel was due and after two extensions of time were given by Hamed) Yusuf responded with supplemental responses. **NOTHING at all about this claim was submitted.** This was a complete and utter mistreatment of opposing counsel, the process and the Court.

Therefore, another Rule 37 conference was set for 11 a.m. on Thursday, December 20, 2018. This is the date this motion must be filed on. Yusuf's counsel did not appear and did not provide any prior written or other notice of non-appearance (but did send an email more than an hour later requesting a change of date. Because of the lack of time remaining until deposition of Fathi Yusuf, and the fact that Hamed had already given two extensions before receiving no additional responses, made this filing necessary.)

III. FACTS

Hamed apologizes to the Special Master, but there are none at all beyond what is listed in the original claim itself – which has ZERO specificity. It may be helpful to the Special Master to review the deficiencies Hamed identified in Yusuf's response to interrogatory 30.

Foreign Bank Accounts

With respect to the foreign bank accounts, this is the sum total of information Yusuf provided in the documents Yusuf references in his response: Yusuf's October 30, 2017 Amended Claims and Proposed Distribution Plan, p. 16, states:

Hamed and his sons have failed to account for the Partnership funds held in various foreign bank accounts from 1996 to date, including, but not limited to, the accounts identified in Exhibit K.

Yusuf's September 30, 2016 Accounting Claims and Proposed Distribution Plan lists the following account numbers for Foreign Accounts in Mohammad Hamed and/or Waleed Hamed's name (Exhibit K):

- a. Arab Bank, Account No. 9020-415410-700 (JOD)
- b. Arab Bank, Account No. 9020-415410-500 (JOD)

- c. Arab Bank, Account No. 9020-415410-510 (USD)
- d. Arab Bank, Account No. 9020-415410-570 (ILS)
- e. Arab Bank, Nablus Branch, Account No. 9020-415410-710 (USD)
- f. Cairo Amman Bank, Account No. 001 0001629 01 2123 833 (JOD)
- g. Cairo Amman Bank, Account No. 001 0001629 03 2123 833 (USD)
- h. Cairo Amman Bank, Account No. 02501171878 00 (USD)
- i. Banque Francaise Commerciale, Account No. 40-60-63878-90
- j. Banque Francaise Commerciale, Account No. 40-60-63878-91

Deficiency for Foreign Bank Accounts: Yusuf did not respond to the request for information regarding the foreign accounts.

In addition to the name of the banking institution and the account number, please identify for each foreign account individually:

- The name of the account,
- The location of the institution,
- The date the account was opened,
- How money generated by the Plaza Extra supermarkets got into the foreign account,
- The dates deposits and withdrawals were made from each account and the amounts,
- The date the last transaction on the account occurred, and whether the account is active or closed. If open, provide the present balance and if closed, please identify the date the account closed and who closed it.

Jordanian Property

Two Parcels of Land in Jordan Titled in Mohammad Hamed's Name

These two parcels are identified in the "Land Value Estimation" attached as Exhibit N to the Original Claims:

- The first parcel appraised was the plot of land No. 1179, block No. 2, block name, Khirbet Al-Thheiba Al-Janoubieh and was 12769.12 square meters. The total appraised value according to Jamal Abu Doush was four hundred forty-six thousand nine hundred and nineteen (446,919.00) Jordanian Dinars.
- The second parcel appraised was the plot of land, No. 63, block No. 13, block name Um Al-Toyour in the village of Hayyan Al-Mushrel and was 19017.21 square meters. The total appraised value according to Jamal Abu Doush was ninety-five thousand eighty-five (95,085) Jordanian Dinars.

This is the pertinent sum of Yusuf's response in Yusuf's October 30, 2017 Amended Claims and Proposed Distribution Plan, p. 17:

Approximately forty (40) parcels of real property were purchased in Jordan using funds from the Plaza Extra Store. . . . Yusuf does seek the Court's assistance, however, with respect to (2) two parcels that were incorrectly titled in Hamed's name alone.

Deficiency for Two Parcels of Land in Jordan Titled in Mohammad Hamed's Name

The response failed to identify the following:

- The date each piece of land was purchased,
- Whether the purchase was in cash or was transferred from a bank, and
- How all funds generated or provided by Plaza Extra supermarkets were transferred for the purchase of the property (including amounts and dates of all such transactions).

Expenses for Conveying Hamed's Interest in One Piece of Land, No. (310), basin 6, Huwaijer, Tabarbour Village to Fathi Yusuf

- Yusuf sought re-payment for "one-half of the expenses incurred by Yusuf in conveying Hamed's interest in the Jordanian parcel identified in Exhibits O and S. . ." Mr. Yusuf declared the total amount for expenses was \$50,521.29." Supplementation of Yusuf's Accounting Claims and Proposed Distribution Plan, December 7, 2016, p. 2.

Deficiency for Expenses for Conveying Hamed's Interest in One Piece of Land, No. (310), basin 6, Huwaijer, Tabarbour Village to Fathi Yusuf:

All facts and circumstances relating to this portion of the claim have not been identified. Please identify the facts and circumstances surrounding this claim, including, but not limited to, your belief that Mr. Hamed should pay for the expenses for conveying this land.

Also, list all documents related to the expenses for conveying Hamed's interest. If the documents listed in Exhibits O, R, S and T are the only documents related to this portion of the claim, please confirm this is the case in writing.

Batch Plant

- "Because Hamed converted \$150,000 previously delivered as a charitable donation for a batch plant in West Bank, his interest in the Partnership should be charged for the transfer of \$150,000 to the Bank of Palestine to make good on the original donation." Yusuf's October 30, 2017 Amended Claims and Proposed Distribution Plan, p. 16.

Deficiency for Batch Plant: All facts and circumstances related to this claim have not been identified. Please explain in detail why you believe that Hamed converted \$150,000 that was supposed to be delivered as a charitable donation to a batch plant in the West Bank, including the dates when the funds were allegedly converted, the date or dates that Mr. Yusuf contributed \$150,000 to the batch plant and an explanation of whether the

funds Mr. Yusuf contributed were Partnership moneys or his own personal funds.

Also, only one document, Exhibit L to Yusuf's September 30, 2016 Accounting Claims and Proposed Distribution Plan has been produced. Please list all other documents relating to the batch plant or state that there are no other documents.

IV. Argument

This is a motion to compel based on a Hamed Revised Claim and this Motion to Compel is submitted pursuant to the *Joint Discovery and Scheduling Plan* of January 29, 2018.

Hamed cannot defend against this claim without information. **AGAIN, THIS IS A YUSUF CLAIM. Yusuf will not answer interrogatories, nor respond to the deficiencies identified by Hamed.** Further, there are no documents.

VI. Conclusion

Fathi Yusuf's deposition is scheduled for January 21, 2019 in this matter and the Special Master has ordered that dispositive motions be filed by February 20, 2019. It is impossible for Hamed to proceed without getting the above answers, at a minimum, from Fathi Yusuf.

Dated: December 20, 2018



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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2018, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross
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Carl J. Hamed

CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

This document complies with the page or word limitation set forth in Rule 6-1(e).



Carl J. Hamed