

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 MOTION TO COMPEL NO. 5 OF 5 WITH REGARD TO THE "B(1)" CLAIMS--
AS TO: REVISED CLAIM H-165: \$176,267.97 IN UNCLEAR ACCOUNTING ENTRIES**

I. Introduction

Pursuant to the newest Scheduling Order (October 5, 2019) from the Special Master, the parties were required to file a motions to compel related to the B(1) group of claims by today.

Hamed is filing the fifth of these motions to compel defendants to respond to an interrogatory and request for production of documents related to Hamed's Revised Claim H-165 -- \$176,267.97 in unclear accounting entries.

It should be noted, however, that Hamed has been attempting to procure responses to his discovery **since May 15, 2018 without success**. Hamed respectfully requests the Master to order a response to this outstanding discovery.

II. Procedural Process

The Parties exchanged discovery pursuant to the August 4, 2018 Scheduling Order. After the majority of the discovery was produced on May 15, 2018, the parties entered into a series of letters and Rule 37 conferences to resolve their differences. Some issues were resolved, but a number of issues remain outstanding. The following motion pertains to Hamed's Revised Claim H-165 – \$176,267.97 in unclear accounting entries.

III. Facts

A. Yusuf's Unanswered Interrogatory

1. Hamed's Unanswered Interrogatory 27 of 50 – Claim No. H-165 – \$176,267.97 in unclear accounting entries

On February 21, 2018, Hamed propounded the following interrogatory:

Interrogatory 27 of 50 relates to Claim No. H-165: “Debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners,” as of September 30, 2016, as described in Hamed’s November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3.

With respect to H-165, describe in detail, with reference to all related and underlying documents, each of the "debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners." (**Exhibit 1**)

On May 15, 2018, Yusuf’s initial response was incomplete:

Yusuf’s Response to Interrogatory 27 of 50:

Defendants object to this interrogatory as vague, ambiguous, and 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.

Defendants further object because all information as to the accounting performed by Mr. Gaffney during his employment as the accountant for the Partnership has been provided by John Gaffney in various forms including the submissions accompanying the numerous bi-monthly reports as well as the additional information and explanations provided by Gaffney directly to counsel and accountants for Hamed. This question relates to an accounting allocation made by the accountant to the Partnership under the supervision of the Master. Yusuf, as a partner, is without sufficient knowledge to respond to this inquiry as the information is not with in his care, custody or control. Yusuf has made reasonable inquiry into this Interrogatory and the information he knows or can readily obtain is insufficient to enable him to respond to same.

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions

Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

Without waiving any objections, Defendants state that this information was previously provided in the exhibits to Yusuf's Accounting Claims as well as the Amended Claims. The supporting documentation for same has been provided in the numerous bi-monthly reports or the accompanying financial information prepared by John Gaffney. Defendants incorporate same in lieu of a narrative response. **(Exhibit 2)**

A series of letters and meet and confers happened subsequent to Yusuf's May 15, 2018 responses. For example, Hamed's counsel sent a letter requesting a meet and confer on October 15th and 31st, 2018, outlining deficiencies with Yusuf's response. **(Exhibits 3 and 4)** The parties held Rule 37 conferences on November 9th and 12th, 2018. Those conferences were documented in letters on November 20th and 28th, 2018. **(Exhibits 5 and 6)** In Yusuf's December 18, 2018 discovery response, however, Yusuf inserted the following footnote: "Yusuf provides these supplemental responses relating to the claims, which remain in the Part B claim schedule. Yusuf will further supplement any other responses as to claims, which were shifted to the Part A schedule." **(Exhibit 7)** In other words, Yusuf unilaterally decided not to respond because this claim was going to be addressed after August 30, 2019. This is not what the Rule states and was not what the parties had agreed to. Thus, yet another, third, Rule 37 conference was set for 11 a.m. on Thursday, December 20, 2018. Yusuf's counsel did not appear and did not provide any written or other notice of non-appearance. **(Exhibit 8)**

Out of an abundance of caution to ensure compliance with Rule 37, Hamed sent another letter requesting a meet and confer regarding this claim specifically on October 3, 2019. **(Exhibit 9)** Although the parties had some passing conversation about this claim, nothing was documented in writing. The parties held a Rule 37 conference concerning

this claim on October 11, 2019. (**Exhibit 10**) Yusuf did not supplement his discovery on October 14, 2019.

B. Yusuf's unanswered request for the production of documents

1. Hamed's unanswered RFPDs 35 of 50 – Claim No. H-165 – \$176,267.97 in unclear accounting entries

On March 25, 2018, Hamed propounded the following request for documents:

RFPDs 35 of 50 relates to H-165: SUBSTANTIALLY THE SAME AS YUSUF RFPD 10. For any debts Yusuf claims are owed by the Partnership in Exhibit 6, please provide any documents or supporting evidence which supports these debts of the Partnership.

[Exhibit 6 references: A. Miscellaneous Debts: There are Debts totaling \$167,114.78, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners.¹¹

Footnote: ¹¹These liabilities are as of December 31, 2016 and are reflected in the Partnership financial statement provided to the Master and counsel for the Partners by Gaffney on January 31, 2017. As of August 31, 2017, Gaffney advises that these liabilities are \$69,273.51, which includes the \$30,000 accrued for accounting fees pursuant to § II D, above.] (**Exhibit 11**)

On May 15, 2018, Yusuf responded to RFPDs 35 as follows:

Yusuf Response to RFPDs 35 of 50

See Exhibits attached to Yusuf's original Accounting Claims and Proposed Distribution previously served upon counsel for Hamed on September 30, 2016 as well as the referenced Bi-Monthly Reports. (**Exhibit 12**)

The same process for obtaining a response to Interrogatory 27 of 50 was followed for RFPDs 35 of 50. (See **Exhibits 3 - 8**)

To ensure compliance with Rule 37(a)(1), Hamed sent another letter requesting a meet and confer regarding this claim specifically on October 3, 2019. (**Exhibit 9**) The parties held a Rule 37 conference concerning this claim on October 11, 2019. (**Exhibit 10**) Yusuf did not supplement his discovery on October 14, 2019.

IV. Argument

This Motion to Compel is submitted pursuant to the *Joint Discovery and Scheduling Plans* of January 29, 2018 and October 5, 2019.

A. Rule 26 Duty to Disclose; General Provisions Governing Discovery

Rule 26 of Virgin Islands Rules of Civil Procedure (“Rule 26”) is the foundational rule governing discovery. It broadly allows 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.” V.I. R. CIV. P. 26(b)(1), emphasis added.

B. Yusuf refused to fully respond to Hamed’s interrogatory 27 of 50

Rule 33 of the Virgin Islands Rules of Civil Procedure (“Rule 33”), among other things, identifies the duties of the party responding.

(a) Answers and Objections.

* * * *

(3) Answering Each Interrogatory. Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) Objections. The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure.

Yusuf’s last paragraph of his response states:

[D]efendants state that this information was previously provided in the exhibits to Yusuf’s Accounting Claims as well as the Amended Claims. The supporting documentation for same has been provided in the numerous bi-monthly reports or the accompanying financial information prepared by John Gaffney. Defendants incorporate same in lieu of a narrative response.
(Exhibit 2)

Yusuf appears to be referencing V.I. R. CIV. P. 33(d) to explain his lack of response to this interrogatory. Rule 33(d) provides as follows:

(d) Duty of Reasonable Diligence; Option to Produce Business Records. An answer must be given to each interrogatory as provided in subpart (b) of this Rule unless the responding party represents in good faith in its

response that it cannot — in the exercise of reasonable efforts — prepare an answer from information in its possession or reasonably available to the party. In that instance, and if the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records (including electronically stored information) — and if the burden of deriving or ascertaining the answer will be substantially the same for either party — the responding party may answer by:

- (1) specifying the records that must be reviewed, providing sufficient detail and explanation to enable the interrogating party to identify and understand the records as readily as the responding party could; and
- (2) producing copies of the records, compilations, abstracts, or summaries with the answer to the interrogatory, unless duplicating such materials would be unduly burdensome.

Yusuf's response fails to fulfill the requirements of Rule 33(d)(1) or (2). For instance, Yusuf has failed to specify **exactly** which of the eleven bi-monthly reports, financial information and exhibits to Yusuf's Accounting Claims and Amended Claims pertain to this interrogatory. Further, the burden of deriving or ascertaining the answer is not substantially the same for Hamed as it is for Yusuf. Yusuf was the Liquidating Partner and as such, would be able to detail each of the "debts totaling \$176,267.97." Also, the interrogatory requests that each debt be described in detail, which should include, at a minimum, the name of the vendor, the amount of the debt, and the business purpose for the expense. Finally, "all related and underlying documents" must be described as well, which would include the vendor invoice and check number from the Partnership account that paid the expense.

Hamed requests the Master to compel Yusuf to respond to the following for each debt:

- The name of the vendor
- The amount of the debt
- The business purpose of the debt
- A description of the underlying documents, such as the vendor invoice and the check number and Partnership account that paid the expense.

C. Similarly, Yusuf refused to respond fully to Hamed's document request 35 of 50

Rule 34 of the Virgin Islands Rules of Civil Procedure ("Rule 34"), among other things, identifies the scope of the document production and the duties of the party responding.

(a) In General. A party may serve on any other party a request within the scope of Rule 26(b): (1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control: (A) any designated documents or electronically stored information. . .

Yusuf directs Hamed to his original Accounting Claims and Proposed Distribution served on September 30, 2016 and the eleven Bi-Monthly reports to ascertain a response to his documents request. This is not helpful, nor does it fully respond to the request. Yusuf's original Accounting Claims and Proposed Distribution merely states:

There are Debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners⁹. This amount relates primarily to accounts payable for open tax issues from 2013.

Footnote: ⁹The total liabilities are reflected in the Partnership balance sheet provided to the Master and counsel for the Partners by Gaffney on September 30, 2016.

First, Yusuf's response fails to fulfill the requirements of Rule 33(d)(1) or (2). For instance, Yusuf has failed to specify **exactly** which bi-monthly reports and which debts on the Partnership balance sheet of general ledgers relates to the \$176,267.97 referenced in Hamed's claim. Further, Yusuf has refused to produce the documents in his control regarding these debts. For instance, no invoices, specific checks, bank statement or general ledger entries identifying each debt have been produced.

V. Conclusion

Hamed's interrogatory and request for documents discussed above clearly fall within Rule 26's scope allowing discovery regarding "**any nonprivileged matter that is relevant to any party's claim or defense.**" (Emphasis added). Hamed has patiently

been trying to get responses to this discovery since *May 15, 2018*, with no success.

Accordingly, Hamed respectfully requests that the Master compel Yusuf to answer and produce the following:

Interrogatory 27 of 50

For *each debt* that comprises the total \$176,267.97 in debts, please identify:

- The name of the vendor;
- The amount of the debt;
- The business purpose of the debt; and
- A description of the underlying documents, such as the vendor invoice and the check number and Partnership account that paid the expense.

RFPDs 35 of 50

For *each debt* that comprises the total \$176,267.97 in debts, please produce:

- Invoices related to the debt;
- Canceled checks and bank statements showing the debt was paid from the Partnership account;
- General ledger entries specifying which entry relates to the debt; and
- Any other documents relating to the debts such as engagement letters for consultants, etc.

Dated: October 15, 2019



Carl J. Hartmann III, Esq.

Co-Counsel for Plaintiff

5000 Estate Coakley Bay, L6

Christiansted, VI 00820

Email: carl@carlhartmann.com

Tele: (340) 719-8941

Joel H. Holt, Esq.

Counsel for Plaintiff

Law Offices of Joel H. Holt

2132 Company Street,

Christiansted, VI 00820

Email: holtvi@aol.com

Tele: (340) 773-8709

Fax: (340) 773-867

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of October 2019, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross

Special Master

% edgarrossjudge@hotmail.com

Gregory H. Hodges

Charlotte Perrell

CNF, LawHouse, 10000 Frederiksberg Gadee

P.O. Box 756

St. Thomas, VI 00802

ghodges@dtflaw.com

Mark W. Eckard

5030 Anchor Way

Christiansted, VI 00820

mark@markeckard.com

Jeffrey B. C. Moorhead

CRT Brow Building

1132 King Street, Suite 3

Christiansted, VI 00820

jeffreymlaw@yahoo.com



CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

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

A handwritten signature in blue ink, appearing to read "Carl J. Hamed", with a long horizontal flourish extending to the right.

CERTIFICATE OF COMPLIANCE WITH RULE 37(a)(1)

I hereby certify that I made the required efforts in good faith to confer with counsel for United and Yusuf in order to obtain the foregoing requested information.

A handwritten signature in blue ink, appearing to read "Carl J. Hamed", with a long horizontal flourish extending to the right.

Exhibit 1

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
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vs.

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Counterclaim Defendants.

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

**ACTION FOR DECLARATORY
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-278

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

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.


EXHIBIT

1

HAMED'S FOURTH INTERROGATORIES PER THE CLAIMS DISCOVERY
PLAN OF 1/29/2018, NOS. 16-28 OF 50 AS TO

HAMD656885

**Y-5: REIMBURSE UNITED FOR GROSS RECEIPT TAXES,
H-150 AND H-160: UNITED'S GROSS RECEIPTS TAXES,
H-152: UNITED'S CORPORATE FRANCHISE TAXES AND FEES
H-153: P FUNDS USED TO PAY UNITED'S PROPERTY INSURANCE,
H-7: KAC357, INC. PAYMENT OF INVOICES FROM J. DAVID JACKSON, PC
H-8: DAVID JACKSON, CPA, BILL OWED FOR TAX WORK DONE
H-15: NEJEH YUSUF'S CASH WITHDRAWALS FROM SAFE,
H-17: WALLY HAMED'S PERSONAL PAYMENT ACCOUNTING/FEES
H-22: NEJEH YUSUF REMOVED PROPERTY BELONGING TO KAC357, INC.,
H-142: HALF ACRE IN ESTATE TUTU,
H-146: IMBALANCE IN CREDIT CARD POINTS,
H-147: VENDOR REBATES,
H-154: ATTORNEY AND ACCOUNTING FEES PAID RE CRIMINAL CASE,
H-163: LOSS OF ASSETS DUE TO WRONGFUL DISSOLUTION
H-164: INVENTORY ADJUSTED DOWNWARD BY \$1,660,000
H-165: DEBTS TOTALING \$176,267.97**



Pursuant to the stipulated Joint Discovery Plan, as ordered by the Special Master on January 29, 2018, Hamed propounds the following Fourth Claims interrogatories relating to the claims listed below.



Interrogatory 27 of 50:

Interrogatory 27 of 50 relates to Claim No. H-165: "Debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners," as of September 30, 2016, as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3.

With respect to H-165, describe in detail, with reference to all related and underlying documents, each of the "debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners."

Response:

Dated: February 21, 2018



Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
5000 Estate Coakley Bay, L6
Christiansted, VI 00820
Email: carl@carlhartmann.com
Tele: (340) 719-8941

Joel H. Holt, Esq.
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709
Fax: (340) 773-867

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of February, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

Hon. Edgar Ross
Special Master
% edgarrossjudge@hotmail.com

Gregory H. Hodges
Stefan Herpel
Charlotte Perrell
Law House, 10000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00802
ghodges@dtflaw.com

Mark W. Eckard
Hamm, Eckard, LLP
5030 Anchor Way
Christiansted, VI 00820
mark@markeckard.com

Jeffrey B. C. Moorhead
CRT Brow Building
1132 King Street, Suite 3
Christiansted, VI 00820
jeffreymlaw@yahoo.com



CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

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



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

MOHAMMAD HAMED, by his
authorized agent **WALEED 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,

Case No.: SX-2012-cv-370

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DECLARATORY RELIEF**

JURY TRIAL DEMANDED

MOHAMMAD HAMED,

Plaintiff,

vs.

FATHI YUSUF,

Defendant.

Case No.: SX-2014-CV-278

**ACTION FOR DEBT AND
CONVERSION**

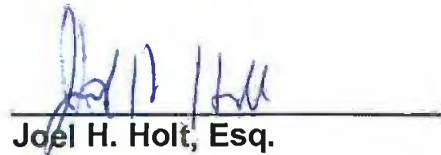
JURY TRIAL DEMANDED

MOTION FOR A HEARING BEFORE SPECIAL MASTER

The Special Master ordered the parties to re-submit claims that accrued after September 17, 2006, which both parties filed on October 30, 2017. A hearing is needed:

- To address any housekeeping matters needed to go forward;
- To rule on the claims that are ready to resolve now;
- To establish the procedure for resolving claims that need briefing but no discovery;
- To establish the discovery process for claims that need discovery.

Dated: November 16, 2017



Joel H. Holt, Esq.
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709
Fax: (340) 773-867

Carl J. Hartmann III, Esq.
5000 Estate Coakley Bay, L6
Christiansted, VI 00820
Email: carl@carlhartmann.com
Tele: (340) 719-8941

CERTIFICATE OF SERVICE

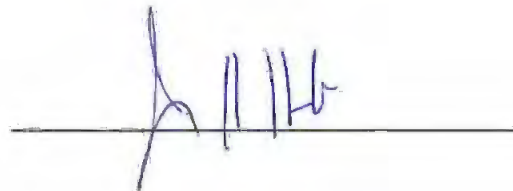
I hereby certify that on this 16th day of November, 2017, I served a copy of the foregoing by email (via Case Anywhere ECF) as well as regular email, as agreed by the parties, on:

Hon. Edgar Ross
Special Master
% edgarrossjudge@hotmail.com

Gregory H. Hodges
Stefan Herpel
Charlotte Perrell
Law House, 10000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00802
ghodges@dtflaw.com

Mark W. Eckard
Hamm, Eckard, LLP
5030 Anchor Way
Christiansted, VI 00820
mark@markeckard.com

Jeffrey B. C. Moorhead
CRT Brow Building
1132 King Street, Suite 3
Christiansted, VI 00820
jeffreymlaw@yahoo.com



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FATHI YUSUF,

Defendant.

Case No.: **SX-2014-CV-278**

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

**EXHIBIT 3
HAMED CLAIMS REQUIRING DISCOVERY**

Attached are the remaining Hamed claims requiring discovery.

HAMD652252

SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.

Exhibit 3

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Next Steps or What is needed from discovery	Amount Due to Partnership from Yusuf	Amount Due to Hamed Directly from Yusuf	Amount Due to Hamed from Partnership
1	201	Reimbursement for sale of the Dorthea condo	five page brief and exhibits, five page opposition and two page reply		\$ 802,966	
2	355	\$2.7 million unilateral withdrawal from the Partnership account - uncontested	Nothing - Ready for disposition			\$ 2,784,706
3	3006	Partnership funds used to pay Fathi Yusuf's personal legal fees - uncontested	Nothing - Ready for disposition			\$ 504,591
4	356	2012-2013 Real Estate Taxes for Plaza Extra STT	five page brief and exhibits, five page opposition and two page reply	\$ 89,444		
5	272	Tutu Park Mall 2014 taxes & corresponding Partnership withdrawals by Fathi Yusuf	five page brief and exhibits, five page opposition and two page reply	\$ 48,990		
6	244	Reimbursement for Fathi Yusuf withdrawal related to Tutu Park rent payments	five page brief and exhibits, five page opposition and two page reply	\$ 41,462		
7	248	KAC357, Inc. payment of invoices from J. David Jackson PC	five page brief and exhibits, five page opposition and two page reply		\$ 833	
8	256	David Jackson, CPA, bill owed for tax work done related to the Partnership's 2013 taxes	five page brief and exhibits, five page opposition and two page reply		\$ 653	
9	3005/426	John Gaffney's salary, benefits and bonus	five page brief and exhibits, five page opposition and two page reply	\$ 226,232		
10	297	Retirement bonus paid to Mary Gonzales	five page brief and exhibits, five page opposition and two page reply	\$ 28,899		
11	315	100 shopping carts purchased for Plaza Extra-East	five page brief and exhibits, five page opposition and two page reply	\$ 13,117		
12	312	Replacement of four condensers, plus associated costs for shipping, delivery and installation	five page brief and exhibits, five page opposition and two page reply	\$ 59,867		
13	210	Hamed payment of taxes during criminal case	five page brief and exhibits, five page opposition and two page reply		\$ 133,128	
14	221	Unsubstantiated checks to NejeH Yusuf	-Doc request to Liquidating Partner for invoices related to checks Subpoena to bank for cancelled checks -Depo (5-10 minutes) - NejeH Yusuf & John Gaffney for business purpose of checks	\$ 14,756		
15	242	NejeH Yusuf's cash withdrawals from safe	-Doc request to Liquidating Partner for invoices/receipts substantiating cash withdrawals -Depo (5-10 minutes) - NejeH Yusuf & John Gaffney regarding business purpose of cash withdrawals	\$ 53,385		
16	253	NejeH Yusuf's use of Partnership resources for his Private Businesses on STT	Subpoenas to trucking companies for invoices -Depo (5-10 minutes) - Personnel involved in the moving of the inventory -Depo (5-10 minutes) - NejeH Yusuf regarding his use of Partnership resources without reimbursement Declaration - Willie Hamed regarding what Partnership resources NejeH Yusuf used		Pending discovery	
17	265	Wally Hamed's personal payment of accounting and attorneys' fees in United States of America v United Corp., et. al., VI D.Ct. 2005-cr-015	five page brief and exhibits, five page opposition and two page reply		\$ 332,900	
18	275	KAC357, Inc. payment of invoices from FreedMaxick	-Rog to Liquidating Partner asking whether KAC357, Inc. was reimbursed, and if so, where is it listed on the general ledger -Doc request to Liquidating Partner for underlying Documentation substantiating the reimbursement to KAC357, Inc.		\$ 6,245	

Blumberg No. 5208

3

EXHIBIT

HAMD652253

SUMMARY OF HAMED'S Post-September 17, 2006 CLAIMS (163) following Judge Brady's 7/25/17 Order
With Suggested "Next Steps" for Depos, Discovery, Etc.

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Next Steps or What is needed from discovery	Amount Due to Partnership from Yusuf	Amount Due to Hamed Directly from Yusuf	Amount Due to Hamed from Partnership
159	442/407	Unclear general ledger entries indicating Accounts Payable Trade payments to United Corporation in 2015	-Rog to Liquidating Partner regarding what the entries reference -Doc request to Liquidating Partner for underlying Documentation substantiating the entries -Following Rog and Doc request, 5-10 minute Depo of John Gaffney (and/or accounting staff member) for explanation of the entries	Pending discovery		
160	Exhibit A - H	United Shopping Center's gross receipt taxes	-Doc request to Liquidating Partner for the United Shopping Center 2007-2011 monthly gross receipt tax forms and cancelled checks/credit cards statement evidencing payment -Following Doc requests, 5-10 minute Depo of John Gaffney (and/or accounting staff member) for explanation where the payment for the United Shopping Center gross receipt tax is located on the general ledger	Pending discovery		
161	Exhibit A - I	Attorney and accounting's fees paid by the Partnership for the criminal case - Pro-rated from September 17, 2006 forward	-Rog to Liquidating Partner regarding what the entries reference -Doc request to Liquidating Partner for underlying Documentation substantiating the entries -Following Rog and Doc request, 5-10 minute Depo of John Gaffney (and/or accounting staff member) for explanation of the entries	\$7,728,287		
162	Exhibit A - L	Claims based on monitoring reports/accounting 2007-2012	Subpoena to Andreozzi law firm for monitoring reports Subpoena to monitoring firm for reports	Pending discovery		
163	Exhibit A - M	Loss of assets due to wrongful dissolution - attorney's fees	Identify Hamed invoices for legal services during the relevant time period	Pending discovery		
164		Inventory adjusted downward by \$1,660,000 due to unrecorded inventory transfers to other stores, as per first supplemental Hamed claims dated October 6, 2016	Doc request to Liquidating Partner regarding this entry Following Doc requests, 5-10 minute Depo of John Gaffney (and/or accounting staff member) for an explanation	Pending discovery		
165		In Yusuf's Accounting and Proposed Distribution Plan filing on September 30, 2016, Yusuf stated that "[t]here are Debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners." (Footnote omitted) This is an unclear accounting entry.	Doc request to Liquidating Partner regarding this entry Following Doc requests, 5-10 minute Depo of John Gaffney (and/or accounting staff member) for an explanation	Pending discovery		



Exhibit 2

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

EXHIBIT
2

Claim H-165

DUDLEY, TOPPER
AND FEUERZEIG, LLP

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

**RESPONSES TO HAMED'S FOURTH INTERROGATORIES PER THE CLAIM
DISCOVERY PLAN OF 1/29/2018 NOS. 16-28 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 Fourth Set of Interrogatories per the Claims Discovery Plan of 1/29/2018, Nos. 16-28 of 50 as to Y-5: Reimburse United For Gross Receipt Taxes; H-150 And H-160: United's Gross Receipts Taxes; H-152: United's Corporate Franchise Taxes And Fees; H-153: P Funds Used to Pay United's Property Insurance; H-7: Kac357, Inc. Payment Of Invoices from J. David Jackson, PC; H-8: David Jackson, CPA, Bill Owed For Tax Work Done; H-15: NejeH Yusuf's Case Withdrawals from Safe; H-22: NejeH Yusuf Removed Property Belonging To Kac357, Inc.; H-142: Half Acre In Estate Tutu; H-146: Imbalance In Credit Card Points; H-147: Vendor Rebates; H-154: Attorney And Accounting Fees Paid Re Criminal Case; H-163: Loss Of Assets Due To Wrongful Dissolution; H-164: Inventory Adjusted Downward By \$1,660,000; H-165: Debts Totaling \$176,267.97.

GENERAL OBJECTIONS

Defendants make the following general objections to the Interrogatories. These general objections apply to all or many of the Interrogatories, 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 Interrogatories, or the failure to assert any additional objections to a discovery request does not waive any of Defendants' objections as set forth below:

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422


HAMD660352

Interrogatory 27 of 50:

Interrogatory 27 of 50 relates to Claim No. H-165: "Debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners," as of September 30, 2016, as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3.

With respect to H-165, described in detail, with reference to all related and underlying documents, each of the "debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners,"

Response:



Defendants object to this interrogatory as vague, ambiguous, and 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.

Defendants further object because all information as to the accounting performed by Mr. Gaffney during his employment as the accountant for the Partnership has been provided by John Gaffney in various forms including the submissions accompanying the numerous bi-monthly reports as well as the additional information and explanations provided by Gaffney directly to counsel and accountants for Hamed. This question relates to an accounting allocation made by the accountant to the Partnership under the supervision of the Master. Yusuf, as a partner, is without sufficient knowledge to respond to this inquiry as the information is not within his care, custody or control. Yusuf has made reasonable inquiry into this Interrogatory and the information he knows or can readily obtain is insufficient to enable him to respond to same.

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

Without waiving any objections, Defendants state that this information was previously provided in the exhibits to Yusuf's Accounting Claims as well as the Amended Claims. The supporting documentation for same has been provided in the numerous bi-monthly reports or the accompanying financial information prepared by John Gaffney. Defendants incorporate same in lieu of a narrative response.

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

HAMD660373

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 15th, 2018

By: 

CHARLOTTE K. PERRELL

(V.I. Bar #1281)

Law House

1000 Frederiksberg Gade - P.O. Box 756

St. Thomas, VI 00804-0756

Telephone: (340) 715-4422

Facsimile: (340) 715-4400

E-Mail: cperrell@dtflaw.com

*Attorneys for Fathi Yusuf and United
Corporation*

CERTIFICATE OF SERVICE

It is hereby certified that on this 15th day of May, 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S FOURTH INTERROGATORIES PER THE CLAIMS DISCOVERY PLAN OF 1/29/2018, NOS. 16-28** to be served upon the following via Case Anywhere docketing system:

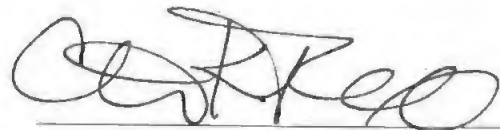
Joel H. Holt, Esq.
LAW OFFICES OF JOEL H. HOLT
2132 Company, V.I. 00820
Email: joelholtpc@gmail.com

Carl Hartmann, III, Esq.
5000 Estate Coakley Bay, #L-6
Christiansted, VI 00820
Email: carl@catlhartmann.com

Mark W. Eckard, Esq.
HAMM & ECKARD, LLP
5030 Anchor Way – Suite 13
Christiansted, St. Croix
U.S. Virgin Islands 00820-4692
E-Mail: mark@markeckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, St. Croix
U.S. Virgin Islands 00820
E-Mail: jeffreymlaw@yahoo.com

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**
1000 Frederiksberg Gade
P.O. Box 756
St. Thomas, U.S. V.I. 00804-0756
(340) 774-4422



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HAMD660375

Exhibit 3

CARL J. HARTMANN III
ATTORNEY-AT-LAW
5000 ESTATE COAKLEY BAY, L-6
CHRISTIANSTED, VI 00820

TELEPHONE
(340) 719-8941

ADMITTED: USVI, NM & DC

KIMBERLY L. JAPINGA, (ADMITTED MI, DC)

EMAIL
CARL@CARLHARTMANN.COM

Charlotte Perrell, Esq.
DTF
Law House
St. Thomas, VI 00820

Via Email Only

RE: Request for Rule 37 Conference re Claims Discovery Responses, Letter 1 of 2

Dear Attorney Perrell:

As discussed in the telephone conference last week, this is the first of two letters requesting a Rule 37 telephone conference regarding the Yusuf/United responses to the referenced discovery. The deficient discovery requests are separated into five categories. This letter covers items 1-4 and should require a relatively short conference. A second letter will be forthcoming outlining discovery responses that are just generally deficient.

- 1) KAC357, Inc. claims (Previously denied because of relevance – the case has since been filed separately and then consolidated),
- 2) Clams requiring John Gaffney's assistance (previously denied because Yusuf filed a motion seeking to have these transferred to Part-A, Gaffney Analysis, but that having since been denied),
- 3) Claims response pending determination of Yusuf's Motion to Strike (which has since been denied),
- 4) Claims responses where Yusuf indicated further information or supplementation would be forthcoming – but nothing has been received yet, and
- 5) Claim discovery responses that are generally deficient.

EXHIBIT
3

**Deficient Claims Discovery Responses re KAC357, Inc.,
John Gaffney, Motion to Strike and Supplemental Information**

1. KAC357, Inc. Claims

Interrogatory 17 of 50:

Interrogatory 17 of 50 relates to Claim H-7 (old Claim No. 248): "KAC357 Inc. payment of invoices from J. David Jackson, PC and H-8 (Old Claim No. 256): "David Jackson, CPA, bill owed for tax work done related to the Partnership's. 2013 taxes," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With regard to Claims H-7 and H-8, state in detail why these invoices for work done for the Partnership were not paid by the Partnership. If you assert these are not Partnership expenses, state in detail why that is, with reference to all applicable documents, communications and witnesses.

Yusuf Response:

* * *

Defendants further object to this Interrogatory because KAC357, Inc. is not a party to this consolidated case and its "claims" are not part of the accounting claims referred to the Master for his report and recommendation.

(May 15, 2018, *Responses to Hamed's Fourth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 16-28 of 50*, pp. 7-8)

Deficiency for Interrogatory 17: Defendant Fathi Yusuf objected to KAC357, Inc. including its claims in *Hamed v Yusuf, et. al.*, SX-12-CV-370 because it was not a party to the consolidated 370 case and KAC357, Inc.'s claims were not part of the accounting claims referred to the Master.

On June 13, 2018, KAC357, Inc. filed a complaint against Fathi Yusuf and the Hamed-Yusuf Partnership seeking reimbursements for unpaid expenses, *KAC357, Inc. v Yusuf and the Hamed-Yusuf Partnership*, SX-18-CV-219. On July 12, 2018, KAC357, Inc. filed a First Amended Complaint.

On August 2, 2018, the parties filed a joint motion for consolidation and a stipulation requesting that

KAC357's claims previously included in Hamed's Revised Claims are deemed re-presented against the partnership to Master Ross for

resolution by him in a manner identical with all other Hamed Revised Claims.

On August 16, 2018, Judge Jomo Meade entered an Order consolidating SX-18-CV-219 with the *Hamed v Yusuf, et.al.* consolidated case, SX-12-CV-370.

Now that the KAC357, Inc. claims are a part of the claims process, Hamed requests that Yusuf respond to Interrogatory 17.

2.Requires John Gaffney's Assistance

Interrogatory 8 of 50 - New Claim Number H-037-- Old Claim #: 353 **Due to/from Fathi Yusuf**

Please provide a detailed explanation for each entry on Exhibit 353-a, including, but not limited to, the business purpose for each transaction, what each entry represents, who received what payouts from this entry and the amounts, where each entry is recorded on the general ledger (both current and historical, if applicable), and a description of the documents that support your response. Make sure your response includes the following general ledger entries:

-West, 9130115, JE30-03, GENJ, CLEAR MISC YUSUF/PSHIP DUE TO /FR
ACCOUNTS, \$120,167.33
-STT, 9/30/15, JE30-01, GENJ, CLEAR YUSUF/PSHIP MISC DUE TO /FR
ACCOUNTS ON 9130, \$186,819.33
-West, 9/30/15, JE03-30, GENJ, CLEAR MISC YUSUF/PSHIP DUE TO/FR
ACCOUNTS, \$900,000
(See Exhibits 353-a, Exhibits to JVZ Engagement Report, September 28, 2016, bates number JVZ-001543.)

Response:

* * *

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. . . . (May 15, 2018, *Response to Hamed's Interrogatories 2 Through 13 Of 50 - New Claim Numbers: Y-8, H-1, H-23, H-19, H-33, H-34, H-37, H-144, H-145, H-155, H-156, H-158 & H-160*, pp. 14-15)

Deficiency for Interrogatory 8: On August 10, 2018, the Special Master denied Yusuf's motion to strike Hamed claims 41-141 and the additional 14 claims Yusuf questioned. The Judge ordered that the "Parties shall proceed forward with discovery as to Hamed Claim Nos. H-41 to H-141 as set forth in the Discovery Plan." (p. 6, footnote 10 omitted)

Now that Yusuf's motion to strike has been denied, Hamed requests that Yusuf respond to Interrogatory 8.

Interrogatory 9 of 50 - New Claim Number H-144-- Old Claim #: 492
\$900,000 Estimated tax payment for United Corporation Shareholders
in April 2013

Please provide a detailed explanation for the April 2013 \$900,000 estimated tax payment for United Corporation shareholders, including, but not limited to, the business reason for the payout, the names of the individuals whose taxes were being paid and the amount paid for each individual, a description of why the Partnership should pay United Corporation shareholders' taxes, an entity wholly separate from the Partnership, and a description of all documents related to this entry. If the Hameds received an equal payout, please describe the general ledger entry substantiating that payout and describe all of the documents evidencing that payout (cancelled checks, for example). If they did not, explain why.

Response:

* * *

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. . . . (May 15, 2018, *Response to Hamed's Interrogatories 2 Through 13 Of 50 - New Claim Numbers: Y-8, H-1, H-23, H-19, H-33, H-34, H-37, H-144, H-145, H-155, H-156, H-158 & H-160*, pp. 16-17)

Deficiency for Interrogatory 9: On August 10, 2018, the Special Master denied Yusuf's motion to strike Hamed claims 41-141 and the additional 14 claims Yusuf questioned. The Judge ordered that the "Parties shall proceed forward with discovery as to Hamed Claim Nos. H-41 to H-141 as set forth in the Discovery Plan." (p. 6, footnote 10 omitted)

Now that Yusuf's motion to strike has been denied, Hamed requests that Yusuf respond to Interrogatory 9.

Interrogatory 10 of 50 - New Claim Number H-145-- Old Claim #: 3003
WAPA deposits paid with Partnership funds

Explain the allocation of the returned WAPA deposit and interest, including, but not limited to, why the return of Partnership funds was allocated to the United Corporation, limited to, why the distribution to United was called a capital distribution, a description of all documents, testimony or affidavits showing that United funds were used for the initial deposit, why the WAPA deposit and interest for PE-West was allocated to Plessen, even though the funds are Partnership funds and how much of the PE-Tutu deposit and interest was allocated to expenses that occurred after May 1, 2015, a description of exactly where deposit and interest ended up for each of the three stores and a detailed description of all the documents that support your answer.

Response:

* * *

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. (May 15, 2018, *Response to Hamed's Interrogatories 2 Through 13 Of 50 - New Claim Numbers: Y-8, H-1, H-23, H-19, H-33, H-34, H-37, H-144, H-145, H-155, H-156, H-158 & H-160*, pp. 18-19)

Deficiency for Interrogatory 10: On August 10, 2018, the Special Master denied Yusuf's motion to strike Hamed claims 41-141 and the additional 14 claims Yusuf questioned. The Judge ordered that the "Parties shall proceed forward with discovery as to Hamed Claim Nos. H-41 to H-141 as set forth in the Discovery Plan." (p. 6, footnote 10 omitted)

Now that Yusuf's motion to strike has been denied, Hamed requests that Yusuf respond to Interrogatory 10.

RFPDs 20 of 50:

Request for the Production of Documents, 20 of 50 relates to H-144 (old Claim No. 492):

"\$900,000 Estimated tax payment for United Corporation shareholders."

With respect to H-144, an estimated tax payment in April 2013 using Partnership funds was made for United Corporation shareholders. Please provide all documents related to this expenditure, including but not limited to: any written agreements that Partnership funds would be used in this manner, tax returns for each United shareholder documenting any such

payments, as well as any documentation showing that the Hamed's tax for the same time period were paid by the Partnership.

Response:

Defendants object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. . . . (May 15, 2018, *Response to Hamed's Fourth Request for Production of Documents Nos. 19-27 of 50 Pursuant to the Claims Discovery Plan*, pp. 5-6)

Deficiency for Interrogatory 20: On August 10, 2018, the Special Master denied Yusuf's motion to strike Hamed claims 41-141 and the additional 14 claims Yusuf questioned. The Judge ordered that the "Parties shall proceed forward with discovery as to Hamed Claim Nos. H-41 to H-141 as set forth in the Discovery Plan." (p. 6, footnote 10 omitted)

Now that Yusuf's motion to strike has been denied, Hamed requests that Yusuf respond to Interrogatory 20.

Interrogatory 22 of 50:

Interrogatory 22 of 50 relates to Claim No. H-146 (old Claim No. 3007): "imbalance in credit card points," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With respect to H-146, state the approximate value of these credit card points, by describing: the approximate number of points in each of the years 2008 -the date of the splitting of the East and West stores; the present value of that many points if negotiated on the date of these answers at the point-to-dollar value now - and show all of your calculations, sources of information and support for this approximation.

Response:

* * *

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. . . .

(May 15, 2018, *Responses to Hamed's Fourth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 16-28 of 50*, pp. 14-15)

Deficiency for Interrogatory 22: On August 10, 2018, the Special Master denied Yusuf's motion to strike Hamed claims 41-141 and the additional 14 claims Yusuf questioned. The Judge ordered that the "Parties shall proceed forward with discovery as to Hamed Claim Nos. H-41 to H-141 as set forth in the Discovery Plan." (p. 6, footnote 10 omitted)

Now that Yusuf's motion to strike has been denied, Hamed requests that Yusuf respond to Interrogatory 22.

Interrogatory 26 of 50:

Interrogatory 26 of 50 relates to Claim No. H-164: "Inventory adjusted downward by \$1,660,000 due to unrecorded inventory transfers to other stores," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3.

With respect to Claim No. H-164, describe all transactions in detail that relate to the inventory adjusted downward by \$1,660,000 due to unrecorded inventory transfers to other stores, with references, for each such transaction, to all related and underlying documents.

Response:

* * *

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. . .

(May 15, 2018, *Responses to Hamed's Fourth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 16-28 of 50*, pp. 20-21)

Deficiency for Interrogatory 26: On August 10, 2018, the Special Master denied Yusuf's motion to strike Hamed claims 41-141 and the additional 14 claims Yusuf questioned. The Judge ordered that the "Parties shall proceed forward with discovery as to Hamed Claim Nos. H-41 to H-141 as set forth in the Discovery Plan." (p. 6, footnote 10 omitted)

Now that Yusuf's motion to strike has been denied, Hamed requests that Yusuf respond to Interrogatory 26.

Interrogatory 27 of 50:

Interrogatory 27 of 50 relates to Claim No. H-165: "Debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners," as of September 30, 2016, as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3.

With respect to H-165, described in detail, with reference to all related and underlying documents, each of the "debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners,"

Response:

* * *

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. . . . (May 15, 2018, *Responses to Hamed's Fourth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 16-28 of 50*, pp. 22-23)

Deficiency for Interrogatory 27: On August 10, 2018, the Special Master denied Yusuf's motion to strike Hamed claims 41-141 and the additional 14 claims Yusuf questioned. The Judge ordered that the "Parties shall proceed forward with discovery as to Hamed Claim Nos. H-41 to H-141 as set forth in the Discovery Plan." (p. 6, footnote 10 omitted)

Now that Yusuf's motion to strike has been denied, Hamed requests that Yusuf respond to Interrogatory 27.

3. Pending Motion to Strike

Interrogatory 7 of 50 - New Claim Number H-034-- Old Claim #: 340

Rents collected from Triumphant church

Please explain how, when and why rents from the church were collected by a Yusuf family member, and where those funds went. Describe all documents, including but not limited to, general ledger entries and cancelled checks, substantiating a credit back to the Partnership for the rents collected by NejeH Yusuf from the Triumphant church as documented in Exhibit 340, Exhibits to JVZ Engagement Report, September 28, 2016, bates numbers JVZ-001369-JVZ-001382.

Response:

Yusuf has filed a Motion to Strike Hamed's Amended Claim Nos. H-41 through H-141 and Additional "Maybe" Claims ("Motion to Strike") seeking to strike Hamed Claim 34, which is the subject of this interrogatory. Yusuf incorporates by reference his Motion to Strike as if fully set forth herein verbatim and submits that because there is a pending Motion to Strike, the

requirement for a response should be stayed pending the resolution. (May 15, 2018, *Response to Hamed's Interrogatories 2 Through 13 Of 50 - New Claim Numbers: Y-8, H-1, H-23, H-19, H-33, H-34, H-37, H-144, H-145, H-155, H-156, H-158 & H-160*, pp. 13)

Deficiency for Interrogatory 7: On August 10, 2018, the Special Master denied Yusuf's motion to strike Hamed claims 41-141 and the additional 14 claims Yusuf questioned. The Judge ordered that the "Parties shall proceed forward with discovery as to Hamed Claim Nos. H-41 to H-141 as set forth in the Discovery Plan." (p. 6, footnote 10 omitted)

Now that Yusuf's motion to strike has been denied, Hamed requests that Yusuf respond to Interrogatory 7.

RFPDs 13 of 50:

Request for the Production of Documents, 13 of 50, relates to H-142 (old Claim No. 490): "Half acre in Estate Tutu."

With respect to H-142, please provide all documents which relate to this entry - particularly (but not limited to) all underlying documents relating to the source of funds for the purchase of this property if it was other than income from the stores.

Response:

* * *

Moreover, this claim is the subject of Defendants' Motion to Strike Hamed's Amended Claim Nos. 142 and 143 ("Motion to Strike") seeking to strike Hamed Claim 142 on the grounds that the property was titled in the name of Plessen, was not an asset of the Partnership and is barred by the Limitation Order. Defendants incorporate by reference their Motion to Strike as if fully set forth herein verbatim and submit that because there is a pending Motion to Strike, the requirement for a response should be stayed pending the resolution. (May 15, 2018, *Response to Hamed's Third Request for Production of Documents Nos. 8-18 of 50 Pursuant to the Claims Discovery Plan*, pp.10-11)

Deficiency for RFPDs 13: On August 10, 2018, the Special Master denied Yusuf's motion to strike Hamed claims 41-141 and the additional 14 claims Yusuf questioned. The Judge ordered that the "Parties shall proceed forward with discovery as to Hamed Claim Nos. H-41 to H-141 as set forth in the Discovery Plan." (p. 6, footnote 10 omitted)

Now that Yusuf's motion to strike has been denied, Hamed requests that Yusuf respond to RFPDs 13.

4. Supply Additional Information or Supplement Response

**Interrogatory 2 of 50 - New Claim Number Y-08 - Old Claim #: Y's III.F
Water Revenue Owed United**

Describe in detail, by month, from Sept 17, 2006 to 2014, the amount of water sold to the Partnership, by whom it was sold, the number of gallons per month, the per gallon cost in each of those months, the total value of the gallons sold by month, year and total amount - and describe any ledgers, shipping invoices, receipts or other documents which support your claim as well as any witnesses who would have knowledge and what knowledge you believe they have.

Response:

Defendants first object that this Interrogatory is unclear as it requests information about water sold "to the Partnership." United's claim against the Partnership is that the Partnership sold United's water from the Plaza Extra-East location. After May 5, 2004, the proceeds from the sale of United's water were to be paid to United, not the Partnership. Nonetheless, in an effort to respond to what appears to be questions relating to the support and calculations for water sales due to United from the Partnership, Defendants submit that the calculations set forth Yusuf's Amended Accounting Claims Limited to Transactions Occurring On or After September 17, 2006 ("Yusuf's Claims") were based upon two years of sales in 1997 (\$52,000) and 1998 (\$75,000) for an average of \$5,291.66 per month. As Waleed Hamed was in charge of the Plaza Extra-East location where the sales took place, Yusuf will be seeking additional information from him as part of the written discovery propounded on him. The number listed in the claims was the average monthly sales multiplied by 131 months demonstrating that United is owed \$693,207.46 from the Partnership for the water sales revenue from April 1, 2004 through February 28, 2015. Yusuf submits that discovery is on-going and that he will supplement this response as and when appropriate. (May 15, 2018, *Response to Hamed's Interrogatories 2 Through 13 Of 50 - New Claim Numbers: Y-8, H-1, H-23, H-19, H-33, H-34, H-37, H-144, H-145, H-155, H-156, H-158 & H-160*, pp. 4-5)

Deficiency for Interrogatory 2 of 50: This response fails to identify by month from Sept 17, 2006 to 2014, the amount of water sold, who sold the water, the number of gallons per month, the cost per gallon per month, total value of gallons sold per month, year and overall total. Please supplement your response with this information.

Additionally, your response did not list witnesses who would have knowledge about the water sales and what knowledge you believe they have. Please list all witnesses and the knowledge you believe they have regarding the sale of water at Plaza Extra-East.

Finally, you did not describe any documents related to this claim. Please supplement your response with a description of any ledgers, shipping invoices, receipts or other documents which support your claim, including your claim that "the Partnership sold United's water from the Plaza Extra-East location." In other words, please describe any documentation that shows the water belonged to United rather than the Partnership.

Interrogatory 21 of 50:

Interrogatory 21 of 50 relates to Claim No. H-142 (old Claim No. 490): "Half acre in Estate Tutu," as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3 and the September 28, 2016 JVZ Engagement Report and Exhibits.

With respect to Claim No. H-142, state in detail how this half acre in Estate Tutu was purchased and what funds were used, the source of those funds and any discussions or agreements about the funds or the purchase, with reference to all applicable documents, communications and witnesses.

Initial Response (1/29/18):

* * *

Moreover, this claim is the subject of Defendants' Motion to Strike Hamed's Amended Claim Nos. 142 and 143 ("Motion to Strike") seeking to strike Hamed Claim 142 on the grounds that the property was titled in the name of Plessen, was not an asset of the Partnership and is barred by the Limitation Order. Defendants incorporate by reference their Motion to Strike as if fully set forth herein verbatim and submit that because there is a pending Motion to Strike, the requirement for a response should be stayed pending the resolution.

(May 15, 2018, *Responses to Hamed's Fourth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 16-28 of 50*, pp. 12-13)

Supplemental Response (7/19/18):

Defendants show that all documents relating to the purchase of the half acre in Estate Tutu are those documents, which have already been provided in this case including the Warranty Deed and the First Priority Mortgage. Further responding, Defendants show that Mr. Yusuf is out of the country until August 18, 2018 and to the extent that any additional information is required of him, Defendants are unable to provide that information at this time, but will readily supplement as soon as he is available. (July 19, 2018, *Supplemental Responses to Hamed's Discovery as to Interrogatory No. 21, Request to Admit 22, and the Request for the Production of Documents No. 13*, pp. 2-3)

Deficiency for Interrogatory 21: Please supplement your response, including identifying how this half acre in Estate Tutu was purchased and what funds were used, the source of those funds and any discussions or agreements about the funds or the purchase, with reference to all applicable documents, communications and witnesses.

RFPDs 21 of 50:

**Request for the Production of Documents, 21 of 50, relates to Y-2:
"Rent for Bays 5 & 8"**

With respect to Y-2, please provide all documents demonstrating a written agreement that Hamed or the Partnership agreed to pay rent for Bays 5 & 8, including any documents establishing the amount of rent, a signed lease agreement and any prior payments of rent on Bays 5 & 8, include but do not limit this to any writings after Hamed brought suit in September of 2012, that would show any such consent or agreement continued after that suit.

Defendants.

Response:

Defendants submit that information responsive to this Request for Production is set forth in Fathi Yusuf's earlier declaration he explained that "[u]nder the business agreement between Hamed and me that I now describe as a partnership, profits would be divided 50-50 after deduction for rent owed to United, among other expenses" and that "[u]nder our agreement, I was the person responsible for making all decisions regarding when the reconciliation would take place" and that Yusuf had the discretion to determine when the reconciliation would take place. See August 12, 2014 Yusuf Declaration, p. 2.

[Need to find out from Mr. Yusuf whether any prior payments were made as to Bays 5 and 8.] (May 15, 2018, *Response to Hamed's Fourth Request for Production of Documents Nos. 19-27 Of 50 Pursuant to the Claims Discovery Plan*, pp. 11-12)

Deficiency for RFPDs 21: Please supplement your response regarding "need to find out from Mr. Yusuf whether any prior payments were made as to Bays 5 and 8."

RFPDs 27 of 50: Request for the Production of Documents, 26 of 50, relates to Y-14, "Half of Value of Six Containers."

With respect to Y-14, please provide all documents substantiating your claim, including the itemized pricing and contents of the six containers.

Response:

To the extent that information has not already been provided to Hamed pursuant to briefing relating to this claim, Defendants will supplement their response to this Request. (May 15, 2018, *Response to Hamed's Fourth Request for Production of Documents Nos. 19-27 Of 50 Pursuant to the Claims Discovery Plan*, p. 7)

Deficiency for RFPDs 27: Please supplement your response and provide all documents substantiating your claim, including the itemized pricing and contents of the six containers.

Please let me know your availability to schedule the first Rule 37 conference by Friday, October 19, 2018.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl J. Haddad", with a long horizontal flourish extending to the right.

cc: Joel H. Holt, Esq., Kimberly L. Japinga, Greg Hodges, Esq. & Stephan Herpel, Esq.

Exhibit 4

CARL J. HARTMANN III
ATTORNEY-AT-LAW
5000 ESTATE COAKLEY BAY, L-6
CHRISTIANSTED, VI 00820

TELEPHONE
(340) 719-8941

ADMITTED: USVI, NM & DC

KIMBERLY L. JAPINGA, (ADMITTED MI, DC)

EMAIL
CARL@CARLHARTMANN.COM

October 31, 2018

Charlotte Perrell, Esq.
DTF
Law House
St. Thomas, VI 00820

Via Email Only

RE: Request for Rule 37 Conference re Claims Discovery Responses, Letter 2 of 2

Dear Attorney Perrell:

As discussed in the telephone conference three weeks ago, this is the second of two letters requesting a Rule 37 telephone conference regarding the Yusuf/United responses to the referenced discovery. The deficient discovery requests are separated into five categories. The first letter covered items 1-4, while this second letter deals with the remaining discovery responses that are just generally deficient.

- 1) KAC357, Inc. claims (Previously denied because of relevance – the case has since been filed separately and then consolidated),
- 2) Clams requiring John Gaffney's assistance (previously denied because Yusuf filed a motion seeking to have these transferred to Part-A, Gaffney Analysis, but that having since been denied),
- 3) Claims response pending determination of Yusuf's Motion to Strike (which has since been denied),
- 4) Claims responses where Yusuf indicated further information or supplementation would be forthcoming – but nothing has been received yet, and
- 5) Claim discovery responses that are generally deficient.

Excerpted for brevity

EXHIBIT

4

Request to Admit 37 of 50:

Substantially the same as Yusuf RTA. 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."

Deficiency for RTA 37 of 50: This is an improper objection, as the request does not seek details of such use, only the fact that United was used in some manner by the Partnership. Thus, the proper response is admit.

Please let me know your availability to schedule the first Rule 37 as required by the Rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl J. Holt", with a long horizontal flourish extending to the right.

cc: Joel H. Holt, Esq., Kimberly L. Japinga, Greg Hodges, Esq. & Stephan Herpel, Esq.

Exhibit 5

CARL J. HARTMANN III
ATTORNEY-AT-LAW
5000 ESTATE COAKLEY BAY, L-6
CHRISTIANSTED, VI 00820

TELEPHONE
(340) 719-8941

ADMITTED: USVI, NM & DC

KIMBERLY L. JAPINGA, (ADMITTED MI, DC)

EMAIL
CARL@CARLHARTMANN.COM

November 20, 2018

Charlotte Perrell, Esq.
DTF
Law House
St. Thomas, VI 00820

Via Email Only

RE: Summary of Rule 37 Conference re Claims Discovery Responses, Letter 1 of 2

Dear Attorney Perrell:

This letter summarizes our agreements regarding each of the outstanding discovery items from our Rule 37 conference on November 9, 2018.

1. KAC357, Inc. Claims

Interrogatory 17 of 50 - Relates to Claims H-7 and H-8 - KAC357, Inc. payments to David Jackson.

Withdrawn due to stipulation regarding attorneys' fees filed on November 9, 2018.

2. Requires John Gaffney's Assistance

Interrogatory 8 of 50 - Relates to Claim H-37 - \$186,819.33 due to/from Fathi Yusuf.

Withdrawn because this claim was moved to the Part A claims that John Gaffney is answering.

Excerpted for brevity

EXHIBIT
5

Interrogatory 2 of 50 – Relates to Claim Y-8 – Water Revenue

Attorney Perrell agreed to answer this interrogatory by December 15, 2018.

Interrogatory 21 of 50 – Relates to Claim H-142 – Half Acre in Estate Tutu

Attorney Perrell agreed to answer this interrogatory by December 15, 2018.

RFPD 21 of 50 – Relates to Claim Y-2 – Unpaid rent for Plaza Extra-East Bays 5 & 8

Attorney Perrell agreed to answer this request for production of documents by December 15, 2018.

RFPD 27 of 50 – Relates to Claim Y-14 – Half the value of the six containers

Attorney Perrell agreed to answer this request for production of documents before December 15, 2018.

Sincerely,

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

Carl J. Hartmann

Cc: Joel Holt, Esq., Greg Hodges, Esq., and Kim Japinga

Exhibit 6

CARL J. HARTMANN III
ATTORNEY-AT-LAW
5000 ESTATE COAKLEY BAY, L-6
CHRISTIANSTED, VI 00820

TELEPHONE
(340) 642-4422

ADMITTED: USVI, NM & DC

KIMBERLY L. JAPINGA, (ADMITTED MI, DC)

EMAIL
CARL@CARLHARTMANN.COM

November 28, 2018

Charlotte Perrell, Esq.
DTF
Law House
St. Thomas, VI 00820

Via Email Only

RE: Summary of Rule 37 Conference re Claims Discovery Responses, Letter 2 of 2

Dear Attorney Perrell:

This letter summarizes our discussion and agreements regarding each of the outstanding discovery items from our Rule 37 conference on November 12, 2018.

Quick Summary:

The following claims are ready for Hamed to file his Claim's Motion now: H-15 (interrogatory 18) and H-150 (interrogatory 41).

The following discovery items are ready for Hamed to file his Motion to Compel now: interrogatories 33, 34, 35, 41 (as it relates to Y-11) and request for the production of documents 26, 28, 31 and 32.

Hamed withdraws the following discovery items: interrogatories 25, 28, 41 (as it relates to Y-3 and Y-4 only); request for production of documents 29, 41 (as it relates to ROGs 42 and 43 only), and request to admit 18 and 29.

Once the joint stipulation regarding documents and fact positions is signed, the following discovery items will be withdrawn: interrogatories 41 (as it relates to Y-12 only), 47 and RFPDs 33, 41 (as it relates to ROG 47 only) and RFPDs 43-47.

Once the joint stipulation regarding the documents contained in the BDO report is signed, the following discovery items will be withdrawn: request for production of documents 4 and 38.

Excerpted for brevity

EXHIBIT

6

Requests to Admit

RTA 18 – Relates to no credit for expired (spoiled) inventory discovered at Plaza Extra West

Hamed withdraws RTA 18.

RTA 22 – Relates to the half-acre in Estate Tutu

Attorney Perrell agreed to respond to RTA 22 by December 15, 2018.

RTA 29 – Relates to loss of assets due to wrongful dissolution - attorney's fees

Hamed withdraws RTA 29.

RTA 37 – Relates to the Partners agreement that when the Partnership was formed, Fathi Yusuf would provide the services and use of United by the Partnership and the Partnership operated the three Plaza Extra Stores that way

Attorney Perrell agreed to respond to RTA 37 by December 15, 2018.

Sincerely,

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

Carl J. Hartmann

cc: Greg Hodges, Joel Holt and Kim Japinga

Exhibit 7

**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,	)	CIVIL NO. SX-12-CV-370
v.)	
	)	ACTION FOR INJUNCTIVE
FATHI YUSUF and UNITED CORPORATION,	)	RELIEF, DECLARATORY
	)	JUDGMENT, AND
Defendants/Counterclaimants,	)	PARTNERSHIP DISSOLUTION,
v.	)	WIND UP, AND ACCOUNTING
)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,)	
<u>Additional Counterclaim Defendants.</u>	)	Consolidated With
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,)	
	)	CIVIL NO. SX-14-CV-287
Plaintiff,)	
v.	)	ACTION FOR DAMAGES AND
	)	DECLARATORY JUDGMENT
UNITED CORPORATION,)	
)	
Defendant.)	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED,	)	CIVIL NO. SX-14-CV-278
)	
Plaintiff,	)	ACTION FOR DEBT AND
v.	)	CONVERSION
)	
FATHI YUSUF,)	
)	
Defendant.)	
FATHI YUSUF and UNITED CORPORATION,	)	CIVIL NO. ST-17-CV-384
)	
Plaintiffs,	)	ACTION TO SET ASIDE
v.	)	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.)	

EXHIBIT
7

**SUPPLEMENTAL RESPONSES
TO HAMED'S DISCOVERY**

Defendant/Counterclaimants Fathi Yusuf ("Yusuf") and United Corporation ("United")(collectively, the "Defendants") through their attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provide their Supplemental Responses¹ to Hamed's Discovery pursuant to discussion and various letters alleging deficiencies, as follows:

1. ~~Yusuf Claim Y-2 (for Rent for Bay 5&8), Hamed RTP 21, 34, Interrog. 29:~~

~~There are no additional documents responsive to this request beyond the Declaration of Fathi Yusuf dated August 12, 2014 attached as Exhibit 3 to the Defendant's Motion for Partial Summary Judgment on Counts IV, IX and XII Regarding Rent.~~

2. ~~Yusuf Claim Y-14 (Half of the value of the containers at Plaza Extra-Tutu Park), Hamed RFPD 27:~~

~~Yusuf has prepared a detailed analysis of the value of the containers attached hereto as Exhibit 1. To support the calculations as to the value of the items stored in the containers, Yusuf submits various invoices for the types of items stored therein at ~~Date Numbers FY 015045 – 015134 attached hereto.~~~~

3. ~~Hamed Claim H-1 (Reimbursement for sale of Dorthea Condo), Hamed Interrog. 3:~~

~~Yusuf supplements his earlier response and confirms that proceeds from the sale were paid and completed before 2006. Yusuf has no records of the payments. Interest was paid directly to a charity as part of the agreement to donate any interest.~~

¹ Yusuf provides these supplemental responses relating to the claims, which remain in the Part B claim schedule. Yusuf will further supplement any other responses as to claims, which were shifted to the Part A schedule.

~~Consequently, Yusuf reaffirms that this claim is barred by the Limitations Order of Judge Brady.~~

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: December 18, 2018

By:



CHARLOTTE K. PERRELL

(V.I. Bar #1281)

Law House

1000 Frederiksberg Gade - P.O. Box 756

St. Thomas, VI 00804-0756

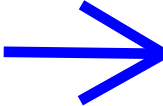
Telephone: (340) 715-4422

Facsimile: (340) 715-4400

E-Mail: cperrell@dtflaw.com

Attorneys for Fathi Yusuf and United Corporation

Exhibit 8



From: [Carl Hartmann](#)
To: "[Charlotte Perrell](#)"; "[Japinga, KiM \(kim@japinga.com\)](#)"
Cc: "[Gregory Hodges](#)"; "[Joel Holt](#)"
Subject: Confirming Thursday at 11 am AST conf - Items for Thursday Discussion with Kim/Carl/Charlotte
Date: Tuesday, December 18, 2018 5:55:00 PM

Charlotte & Kim:

The issues that will be capable of deposition and briefing (Charlotte's "Red" claims) are listed below.

I would like to discuss the discovery re:

H-1 Dorothea (we would still like Fathi's narrative i.e. interrogatory response to what he recalls about when, how and how much he received – as well as what banks records would reflect that.

Also H-152 and H-153.

Also, all of Yusuf's claims. I want to be clear that no other "factual" assertions or allegations will be made in motions or at trial that have not been set forth – with bu counsel or by affidavit/declarations.

Also need to discuss stips about additional docs/evid. – drafts of which have been circulated.

Carl

New Claim Number	Item No. in Original 8/30/16 Claim Filing	Description	Total Amount of Claim
H-001	201	Reimbursement for sale of the Dorthea condo	\$802,966.00
H-002	355	\$2.7 million unilateral withdrawal from the Partnership account	\$2,784,706.25
H-014	221	Unsubstantiated checks to NejeH Yusuf	\$14,756.00
H-015	242	NejeH Yusuf's cash withdrawals from safe	\$53,384.67
H-016	253	NejeH Yusuf's use of Partnership resources for his Private Businesses on STT	0 Discovery Needed
H-032	335	No credit for expired (spoiled) inventory discovered at Plaza Extra	\$54,592.08

EXHIBIT
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H-034	340	West Rents collected from Triumphant church	\$3,900.00
H-152	3008a	United's corporate franchise taxes and annual franchise fees	\$2,300.52
H-153	3009a	Partnership funds used to pay United Shopping Center's property insurance	\$59,360.84
Y-002	Y's Claims - III.B.2	Unpaid rent for Plaza Extra-East Bays 5 & 8	\$793,984.34
Y-004	Exhibit E	9% interest on rent claims for East Bays 5 & 8	\$241,005.18
Y-012	Y's Claims - VI, Exhibits K-O	Foreign Accts and Jordanian Properties	\$434,921.37
Y-014	Y's Claims - VIII	Half of the value of the six containers	\$210,000.00

CARL J. HARTMANN III
 WEBSITE: WWW.HARTMANN.ATTORNEY
 EMAIL: CARL@HARTMANN.ATTORNEY
 ALL FAXES: (202) 403-3750
 D.C. TELEPHONE: (202) 518-2970
 USVI TELEPHONE: (340) 642-4422

Exhibit 9

CARL J. HARTMANN III
ATTORNEY-AT-LAW
5000 ESTATE COAKLEY BAY, L-6
CHRISTIANSTED, VI 00820

TELEPHONE
(340) 642-4422

ADMITTED: USVI & DC

EMAIL
CARL@CARLHARTMANN.COM

October 3, 2019

Charlotte Perrell, Esq.
DTF
Law House
St. Thomas, VI 00820

Via Email Only

RE: Request for Rule 37 Conference re Discovery Responses Related to the B(1) claims, *Hamed v Yusuf*, SX-12-CV-370

Dear Attorney Perrell:

With respect to the B(1) claims only, there are two interrogatories and one request for production of documents that require a Rule 37 conference. Your original May 15, 2018 and supplemental January 18, 2019 discovery responses did not adequately address these items – and it is unclear as to whether these matters were discussed at prior conferences. Out of an abundance of caution, I am providing your client with the opportunity to meet on these, although we will understand if you feel this is no longer necessary because of past conferences.

Please let me know your availability for a Rule 37 conference next week.

Generally Deficient Interrogatory Responses

~~1. Interrogatory 16 of 50~~

~~On February 21, 2018, Hamed propounded the following interrogatory:~~

~~**Interrogatory 16 of 50 relates to Claim No. Y-5:** “Reimburse United for Gross Receipt Taxes,” H-150 (old Claim No. 3002a) and H-160 (old Claim No. Exhibit A-H): “United Shopping Center’s gross receipts taxes,” H-152 (old Claim No. 3008a): “United’s corporate franchise taxes and annual franchise fees,” and H-153 (old Claim No. 3009a): “Partnership funds used to pay United Shopping Center’s property insurance.”~~

~~State with specificity why, assuming that Yusuf is correct that Hamed had agreed that the Partnership would pay the separate (non-partnership-related) United Corporation costs for such things as GRT taxes, franchise~~


EXHIBIT
9

~~**Deficiency:** Yusuf has failed to identify the following and needs to~~

- ~~• State with specificity why, assuming that Yusuf is correct that Hamed had agreed that the Partnership would pay the separate (non-partnership-related) United Corporation costs for such things as GRT taxes, franchise taxes and fees, and property insurance, would continue after Hamed's September 2012 lawsuit.~~
- ~~• Identify what facts, conversations, writings, communications or other information or documents leads Yusuf to believe and assert that he *continued* to have Hamed's consent as to such payments after filing Hamed's September 2012 lawsuit.~~

2. Interrogatory 27 of 50

On February 21, 2018, Hamed propounded the following interrogatory:



Interrogatory 27 of 50 relates to Claim No. H-165: "Debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners," as of September 30, 2016, as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master, Exhibit 3.

With respect to H-165, described in detail, with reference to all related and underlying documents, each of the "debts totaling \$176,267.97, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners."

On May 15, 2018, Yusuf responded to Interrogatory 27 as follows:

Yusuf Response to Interrogatory 27 of 50

Defendants object to this interrogatory as vague, ambiguous, and 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.

Defendants further object because all information as to the accounting performed by Mr. Gaffney during his employment as the accountant for the Partnership has been provided by John Gaffney in various forms including the submissions accompanying the numerous bi-monthly reports as well as the additional information and explanations provided by Gaffney directly to counsel and accountants for Hamed. This question relates to an accounting allocation made by the accountant to the Partnership under the supervision of the Master. Yusuf, as a partner, is without sufficient knowledge to respond to this inquiry as the information is not with in his

care, custody or control. Yusuf has made reasonable inquiry into this Interrogatory and the information he knows or can readily obtain is insufficient to enable him to respond to same.

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

Without waiving any objections, Defendants state that this information was previously provided in the exhibits to Yusuf's Accounting Claims as well as the Amended Claims. The supporting documentation for same has been provided in the numerous bi-monthly reports or the accompanying financial information prepared by John Gaffney. Defendants incorporate same in lieu of a narrative response.

Yusuf's January 19, 2019 supplemental discovery responses did not address this interrogatory.

Deficiency: Yusuf appears to be referencing V.I. R. CIV. P. 33(d) to explain his lack of response to this interrogatory. Rule 33(d) provides as follows:

(d) Duty of Reasonable Diligence; Option to Produce Business Records. An answer must be given to each interrogatory as provided in subpart (b) of this Rule unless the responding party represents in good faith in its response that it cannot — in the exercise of reasonable efforts — prepare an answer from information in its possession or reasonably available to the party. In that instance, and if the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing

a party's business records (including electronically stored information) — and if the burden of deriving or ascertaining the answer will be substantially the same for either party — the responding party may answer by:

- (1) specifying the records that must be reviewed, providing sufficient detail and explanation to enable the interrogating party to identify and understand the records as readily as the responding party could; and
- (2) producing copies of the records, compilations, abstracts, or summaries with the answer to the interrogatory, unless duplicating such materials would be unduly burdensome.

Yusuf has failed to specify **exactly** which bi-monthly reports, financial information and exhibits to Yusuf's Accounting Claims and Amended Claims pertain further to this interrogatory. Further, the burden of deriving or ascertaining the answer is not substantially the same for Hamed as it is for Yusuf. Yusuf was the Liquidating Partner and as such, would be able to detail each of the "debts totaling \$176,267.97." Also, the interrogatory requests that each debt be described in detail, which should include, at a minimum the name of the vendor, the amount of the debt, and the business purpose for the expense. Finally, "all related and underlying documents" must be described as well, which would include the vendor invoice and check number from the Partnership account that paid the expense.

Generally Deficient Request for Production of Documents Response

1. RFPDs 35 of 50



On March 25, 2018, Hamed propounded the following documents request:

RFPDs 35 of 50 relates to H-165: SUBSTANTIALLY THE SAME AS YUSUF RFPD 10. For any debts Yusuf claims are owed by the Partnership in Exhibit 6, please provide any documents or supporting evidence which supports these debts of the Partnership.

[Exhibit 6 references: A. Miscellaneous Debts

There are Debts totaling \$167,114.78, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners.¹¹

Footnote: ¹¹These liabilities are as of December 31, 2016 and are reflected in the Partnership financial statement provided to the Master and counsel for the Partners by Gaffney on January 31, 2017. As of August 31, 2017, Gaffney advises that these liabilities are \$69,273.51, which

includes the \$30,000 accrued for accounting fees pursuant to § II D, above.]

On May 15, 2018, Yusuf responded to RFPDs 35 as follows:

Yusuf Response to RFPDs 35 of 50

See Exhibits attached to Yusuf's original Accounting Claims and Proposed Distribution previously served upon counsel for Hamed on September 30, 2016 as well as the referenced Bi-Monthly Reports.

Yusuf's January 19, 2019 supplemental discovery responses did not address this document request.

Deficiency: Yusuf has not identified and produced documents related to this request. For instance, no invoices relating to the debts totaling \$167,114.78 have been produced. Further, ***specific*** checks, bank statements and general ledger entries identifying all the debts totaling \$167,114.78 have not been produced.

I look forward to scheduling a Rule 37 conference for next week.

Sincerely,



Carl J. Hartmann III

Exhibit 10

CARL J. HARTMANN III
ATTORNEY-AT-LAW
5000 ESTATE COAKLEY BAY, L-6
CHRISTIANSTED, VI 00820

TELEPHONE
(340) 642-4422

EMAIL
CARL@CARLHARTMANN.COM

ADMITTED: USVI & DC

October 11, 2019

Charlotte Perrell, Esq.
DNF
Law House
St. Thomas, VI 00820

Via Email Only

**RE: Follow Up to Rule 37 Conference re Discovery Responses Related
to the B(1) claims, *Hamed v Yusuf*, SX-12-CV-370**

Dear Attorney Perrell:

This is a follow up to our October 3rd, 2019 letter requesting a Rule 37 conference. Today, during our Rule 37 conference, you agreed to try to respond to by Monday, October 14, 2019 to Hamed's interrogatories 16 and 21 of 50, propounded on February 21, 2018 and Hamed's request for the production of documents 35 of 50, propounded on March 25, 2018.

I understand that you may not be able to respond by EOD Monday. If that is the case, as we discussed, Hamed will file his motions to compel on the discovery requests on Tuesday, October 15, 2019, the date set for filing all such motions according to the most recent scheduling order.

Sincerely,



Carl J. Hartmann III

EXHIBIT
10

Exhibit 11

IN THE 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.

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**

**ACTION FOR DECLARATORY
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

Case No.: **SX-2014-CV-278**

**ACTION FOR DEBT AND
CONVERSION**

JURY TRIAL DEMANDED

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.

EXHIBIT
11

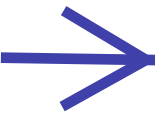
**HAMED'S FIFTH REQUEST
FOR THE PRODUCTION OF DOCUMENTS 28-36 OF 50
TO YUSUF PURSUANT TO THE CLAIMS DISCOVERY PLAN OF 1/29/2018**

RFPDs 34 of 50:

~~**SUBSTANTIALLY THE SAME AS YUSUF RFPD 9.** Please produce all documents relating to your claim that rent is due from the Partnership to occupying Bay 5 and Bay 8.~~

Response:

RFPDs 35 of 50:

 **SUBSTANTIALLY THE SAME AS YUSUF RFPD 10.** For any debts Yusuf claims are owed by the Partnership in Exhibit 6, please provide any documents or supporting evidence which supports these debts of the Partnership.

Response:

RFPDs 36 of 50:

~~**SUBSTANTIALLY THE SAME AS YUSUF RFPD 11.** As to the accounts of Fathi, Mike, Nejeah and Yusuf Yusuf, please produce copies of any and all bank or investment account statements for the period from September 17, 2006 to date.~~

Response:

Dated: March 25, 2018



Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
5000 Estate Coakley Bay, L6
Christiansted, VI 00820
Email: carl@carlhartmann.com
Tele: (340) 719-8941

Joel H. Holt, Esq.
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709
Fax: (340) 773-867

Exhibit 6

A. Miscellaneous Debts

There are Debts totaling \$167,114.78, which must be paid prior to any distribution of the remaining Partnership Assets to the Partners¹¹. This amount relates primarily to accounts payable for open tax issues.

Disputed/Undisputed, Ripe for Determination or Discovery Needed: It is Yusuf's position that this item should not be disputed and is ready for determination by the Master.

~~**B. Unpaid Rent for Plaza Extra-East and Adjacent Bays**~~

While the Court determined that certain past due rent obligations for Plaza Extra-East must be paid pursuant to the Rent Order, there remain additional rent claims for Plaza Extra-East. These claims have not yet been resolved¹² and, if found to be due and owing, then these are Debts of the Partnership that should be paid prior to any distribution of the remaining Partnership Assets to the Partners.

United makes the following claims against the Partnership as set forth in its Amended Counterclaim and Motion For Partial Summary Judgment Regarding Rent:

1. Bay 1 – Increased Rent Due Net of Rent Paid

United provided formal notice of increased rent of \$200,000 per month to the Partnership, which was to begin on January 1, 2012 through March 31, 2012, if the premises were not vacated before then. Thereafter, beginning on April 1, 2012 through March 8, 2015, United provided formal notice of increased rent of \$250,000 per month. See Exhibit D to Yusuf's Declaration dated August 12, 2014 (the "Yusuf Declaration") in support of Defendants'

¹¹ These liabilities are as of December 31, 2016 and are reflected in the Partnership financial statement provided to the Master and counsel for the Partners by Gaffney on January 31, 2017. As of August 31, 2017, Gaffney advises that these liabilities are \$69,273.51, which includes the \$30,000 accrued for accounting fees pursuant to § II D, above.

¹² See Rent Order, p. 2, n. 1; p. 11, n. 4.

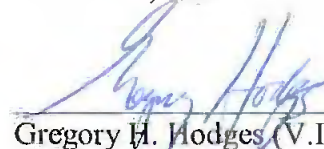
~~and distributions between the Partners adjusted to reflect the period from September 17, 2006 forward, both disclosed and undisclosed, still reveals a large discrepancy in Yusuf's favor. Again, these calculations were prepared without the benefit of deposition testimony and additional written discovery following the stay. It is anticipated that additional discovery will yield information necessitating further revisions to these calculations. On balance, there exists a substantial amount due to Yusuf to reconcile the Partner's withdrawals and distributions. Solvency of Hamed (or his estate)²¹ is in serious doubt given the significant discrepancy in the amounts due to Yusuf. For this reason, Hamed's (or his estate's or his trust's) interests in the jointly owned entities (Plessen Enterprises, Inc., Peter's Farm Investment Corporation, and Sixteen Plus Corporation) may need to be quantified as a means of payment to equalize the Partnership withdrawals.~~

Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

DATED: October 30, 2017

By:


Gregory H. Hodges (V.I. Bar No. 174)
1000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00804
Telephone: (340) 715-4405
Telefax: (340) 715-4400
E-mail: ghodges@dtflaw.com

Attorneys for Fathi Yusuf and United Corporation

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

~~²¹ A Petition for Probate of Will and for Letters Testamentary was filed on August 26, 2016 as Case No. SX-2016-PB-76. That petition reflects no available assets to satisfy Yusuf's claims since all of Hamed's interests in real and personal property had previously been conveyed to the Mohammad A. Hamed Living Trust dated September 12, 2012. Yusuf has filed a complaint challenging such conveyance as fraudulent. A copy of that complaint is attached as Exhibit U since Yusuf's Amended Supplementation left off with Exhibit T.~~

HAMD658567

EXHIBIT A-1

Original Claim Distribution Summary Submitted September 30, 2016 (and amended in December 2016)	Amended Claim Distribution Summary Submitted October 30, 2017	Disputed or Undisputed	Ripe for Determination	Additional Discovery Needed
I. Total Assets Remaining After Liquidation: ¹ \$8,957,168.54	I. Total Assets Remaining After Liquidation: ² \$8,879,900.96	Undisputed	N/A	N/A
II. Less Reserves A. Tutu Park Property Taxes: ³ \$ 14,356.44 B. Matching Payment to United: ⁴ \$ 9,812.14 C. FUTA Taxes: \$ 350,000.00 D. Master's Fees ⁶ : \$ 150,000.00 E. Accounting Fees: \$ 30,000.00 F. Litigation Risks: <u>\$1,320,777.00</u> Subtotal: <u>\$1,874,945.58</u> Balance Less Reserves: \$7,082,222.96	II. Less Reserves A. Tutu Park Property Taxes: \$ 14,356.44 B. Matching Payment to United: ⁵ \$ 9,812.14 C. FUTA Taxes: \$ N/A D. Master's Fees ⁷ : \$ 150,000.00 E. Accounting Fees ⁸ : \$ 30,000.00 F. Litigation Risks: <u>\$1,320,777.00</u> Subtotal: <u>\$1,524,945.58</u> Balance Less Reserves: \$7,354,955.38			
		Undisputed	Yes	No
		Disputed	Yes	No
		N/A	N/A	N/A
		Need Add'l Estimate	Yes	No
		Need Add'l Estimate	Yes	No
		Undisputed	Yes	No

¹ See Partnership balance sheet as of August 31, 2016 provided by John Gaffney to the Master and counsel for the Partners on September 30, 2016.

² See fn. 4 of the Amended Claims.

³ See fn. 6 to Tenth Bi-Monthly Report filed on September 30, 2016.

⁴ See fn. 6 to Tenth Bi-Monthly Report filed on September 30, 2016.

⁵ See fn. 5 to Twelfth and Final Bi-Monthly Report filed on January 31, 2017.

⁶ This is an estimated amount.

⁷ This is an estimated amount to be updated by the Master.

⁸ This is an estimated amount.

III. Less Debts of the Partnership:

A.	Balance Sheet Liabilities ⁹	\$	176,267.97
B.	Add'l Rent for Bay 1	\$	6,974,063.10
C.	Int. on Bay 1 Rent Awarded:	\$	881,955.08
D.	Rent for Bays 5 & 8:	\$	793,984.34
E.	Int. on Unpaid Rent, Bays 5 & 8:	\$	241,005.18
F.	Reimb. United for Gross Receipts Taxes	\$	60,586.96
G.	Black Book Balance owed to United	\$	49,997.00
H.	Ledger Balances owed to United	\$	199,760.00
I.	Water Revenue Re: Plaza Extra-East	\$	693,207.46
J.	Unreimbursed Transfers from United	\$	188,132.00
	Subtotal:	\$	10,258,959.09

IV. Net Partnership Assets Available for Distribution
After Debts and Reserves: (\$3,176,736.04)

III. Less Debts of the Partnership:

A.	Balance Sheet Liabilities ¹⁰	\$	39,273.51
B.	Add'l Rent for Bay 1:	\$	6,974,063.10
C.	Int. on Bay 1 Rent Awarded:	\$	881,955.08
D.	Rent for Bays 5 & 8:	\$	793,984.34
E.	Int. on Unpaid Rent, Bays 5 & 8:	\$	241,005.18
F.	Reimb. United for Gross Receipts Taxes	\$	60,586.96
G.	Black Book Balance owed to United	\$	49,997.00
H.	Ledger Balances owed to United	\$	199,760.00
I.	Water Revenue Re: Plaza Extra-East	\$	693,207.46
J.	Unreimbursed Transfers from United	\$	188,132.00
	Subtotal:	\$	10,121,964.60

IV. Net Partnership Assets Available for Distribution
After Debts and Reserves: (\$2,767,009.22)

Disputed or Undisputed	Ripe for Determination	Additional Discovery Needed
Disputed	Yes	No
Disputed	Yes	No
Disputed	Yes	No
Disputed	Yes	No
Disputed	Yes	No
Disputed	No	Yes
Disputed	No	Yes
Disputed	No	Yes
Disputed	No	Yes

⁹ See Total Liabilities shown on balance sheet provided by John Gaffney on September 30, 2016.

¹⁰ See ftn. 11 of the Amended Claims. Since \$30,000 was included as a reserve in item II E, above, that amount was not also included in the balance sheet liabilities.

Exhibit 12

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

EXHIBIT
12

Claim H-165

DUDLEY, TOPPER
AND FEUERZEIG, LLP

1000 Frederiksberg Gade

P.O. Box 756

St. Thomas, U.S. V.I. 00804-0756

(340) 774-4422

**RESPONSE TO HAMED'S FIFTH REQUEST FOR PRODUCTION OF DOCUMENTS
NOS. 28-36 OF 50 PURSUANT TO THE CLAIMS DISCOVERY PLAN**

~~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 for Production of
Documents Pursuant to the Claims Discovery Plan of 1/29/2018.

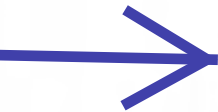
GENERAL OBJECTIONS

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,~~



RFPDs 35 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 10. For any debts Yusuf claims are owed by the Partnership in Exhibit 6, please provide any documents or supporting evidence which supports these debts of the Partnership.

Response:

See Exhibits attached to Yusuf's original Accounting Claims and Proposed Distribution previously served upon counsel for Hamed on September 30, 2016 as well as the referenced Bi-Monthly Reports.

RFPDs 36 of 50:

SUBSTANTIALLY THE SAME AS YUSUF RFPD 11. As to the accounts of Fathi, Mike, Nejeah and Yusuf Yusuf, please produce copies of any and all bank or investment account statements for the period from September 17, 2006 to date.

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).~~

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 5th, 2018

By: 
CHARLOTTE K. PERRELL
(V.I. Bar #1281)
Law House
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804-0756
Telephone: (340) 715-4422
Facsimile: (340) 715-4400
E-Mail: cperrell@dtflaw.com

Attorneys for Fathi Yusuf and United Corporation

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**
1000 Frederiksberg Gade
P.O. Box 756
St. Thomas, U.S. V.I. 00804-0756
(340) 774-4422

HAMD660393