

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, MUFEEED
HAMED, HISHAM HAMED, and PLESSEN
ENTERPRISES, INC.,**

Counterclaim Defendants,

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

vs.

UNITED CORPORATION, *Defendant.*

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

vs.

FATHI YUSUF, *Defendant.*

FATHI YUSUF, *Plaintiff,*

vs.

MOHAMMAD A. HAMED TRUST, *et al,*

Defendants.

KAC357 Inc., *Plaintiff,*

vs.

HAMED/YUSUF PARTNERSHIP,

Defendant.

Case No.: SX-2012-CV-370

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

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-287

Consolidated with

Case No.: SX-2014-CV-278

Consolidated with

Case No.: ST-17-CV-384

Consolidated with

Case No.: ST-18-CV-219

**HAMED'S NOTICE OF SUPPLEMENTATION – EXHIBIT AS TO YUSUF CLAIM Y-2
(UNPAID RENT FOR PLAZA EXTRA-EAST BAYS 5 & 8)**

Hamed provides, pursuant to *V.I. Rule of Civil Procedure* 6.1(d)(2),¹ a declaration (**Exhibit A**) and appended evidentiary document (**Exhibit B**) material to one of the central issues in Yusuf Claim Y-2, “Unpaid rent for Plaza Extra-East Bays 5 & 8”

Hamed contends in his Opposition that there was a check paid in settlement of the back rent owed – that stated that it was for “Sion Farm Rent” and included the subject Bay 8. Yusuf denied this in Reply.

However, the attached document is a business record of United, prepared by its accounting staff and consistent with other such reports provided with regard to this motion. As set forth in the accompanying Declaration it was copied on the business premises, from the business records of the business by a manager. It demonstrates that United, itself – on its own contemporaneous accounting records – showed that the \$5 million settlement check WAS for back rent on the units in the “Shopping Center,” More particularly, **the record shows that United booked the payment in specifically against Bay 8.**

¹ Rule 6-1. Motion Requirements; Form; Support; Timing


• * * * *

d) Supporting Affidavits or Documents. When allegations of fact not appearing of record are relied upon in support of a party's motion, response, or reply, unless the court grants permission for a different schedule for the filing of supporting materials: (1) all then-available affidavits and other documents supporting the party's position shall be filed simultaneously with the motion, response or reply; **(2) any supplemental affidavits or other documents in support of the party's position on the motion must be filed 10 days prior to hearing of the motion;** and (3) if supplemental affidavits or other documents are filed by any party under subpart (d)(2), any other party may submit additional affidavits or documents at least 5 days prior to hearing of the motion. (Emphasis added.)

Hamed notes that this is not a matter of surprise with regard to the introduction of this document – as it was produced to United/Yusuf counsel pursuant to *Rule 26* on July 16, 2013.

Finally, as noted in Hamed's motions to compel, Yusuf has completely and repeatedly refused to produce the accounting records for United's separate (non-Partnership) accounts and transactions, including these specific tenant accounts. Thus, if Yusuf attempts to respond under 6.1(d)(3), Yusuf and United should NOT be allowed to use any documents they expressly refused to produce in discovery.

United Shopping Plaza			
St. Croix, USVI			
Accounts Receivable 2012			
S = Bay	S = Suite		
Lessee	Unit	Feb-12 Rent	Feb-12 Paid
vacant	2		
Alvoice	3	1,800.00	(1,800.00)
Diamond Girl	4	1,400.00	(4,000.00)
Diamond Girl	5	2,600.00	(2,500.00)
Milano	6	4,000.00	(2,500.00)
vacant	7		
(in usa by Plaza)	8		(5,408,806.74)
Edith's Cafeteria	9	800.00	(929.00)
Guzman	10	850.00	(850.00)
Robles	11	850.00	(1,400.00)
Johnny Jewelry	12	1,850.00	(1,850.00)
vacant	13	1,875.00	(2,000.00)



The table is annotated with red boxes and arrows. A red box highlights the 'Unit' column header, and another red box highlights the 'Feb-12 Paid' column header. A red arrow points from the text '"Paid"' to the 'Feb-12 Paid' column header. Another red arrow points from the text '"Unit 8"' to the row for Unit 8, which is also highlighted with a red box.

Dated: October 31, 2019



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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of October, 2019, 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
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Christiansted, VI 00820
jeffreymlaw@yahoo.com

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

CERTIFICATE OF WORD/PAGE COUNT

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. Hamel", with a long horizontal flourish extending to the right.

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Case No.: ST-18-CV-219

**EXHIBIT A -- DECLARATION
AS TO HAMED'S NOTICE OF SUPPLEMENTATION –YUSUF CLAIM Y-2**

1. The undersigned is an attorney admitted to the Practice of law in the USVI, Bar No. 48.
2. This Declaration is true and accurate to the best of my knowledge, and is made under oath.
3. The statements herein are provided in support of a supplementation pursuant to *V.I. Rule of Civil Procedure 6.1(d)*, a document material to the central issue with regard to Yusuf Claim Y-2, "Unpaid rent for Plaza Extra-East Bays 5 & 8"
4. Hamed contends in his Opposition that there was a check paid in settlement of the rent owed – that included Bay 8.
5. Yusuf denied this in Reply.
6. However, the attached document is a business record of United, supplied to counsel by Mufeed ("Mafi") Hamed at the request of counsel while preparing an initial, July 2013, Rule 26 disclosure in this action, as follows:
7. Hamed stated at the time it was copied from the business records, that he was a manager of the store in which the records were located, and that the records were kept in the normal course of business.
8. Hamed stated that the documents supplied at that time were in the possession of and were prepared by and for the accounting staff.
9. Hamed stated the documents supplied were consistent with other such reports provided with regard to the business and this motion.
10. The documents copied by him at that time, after being supplied to counsel, were produced to opposing counsel under Rule 26, on July 16, 2013. Attached as Exhibit A-1 is the list of documents so produces at that time.

11. As noted in Hamed's motions to compel, Yusuf has completely and repeatedly refused to produce the accounting records for United's separate (non-Partnership) accounts and transactions, including these specific tenant accounts.

Dated: October 31, 2019



Carl J. Hartmann III, Esq.

Co-Counsel for Plaintiff

5000 Estate Coakley Bay, L6

Christiansted, VI 00820

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Tele: (340) 719-8941

Hamed v Yusuf (12-370): July 16, 2013 Rule 26 Disclosure Document Production

Bates Range
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EXHIBIT A-1

Hamed v Yusuf (12-370): July 16, 2013 Rule 26 Disclosure Document Production

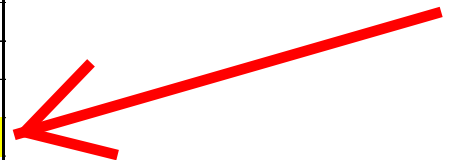
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Hamed v Yusuf (12-370): July 16, 2013 Rule 26 Disclosure Document Production

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EXHIBIT B

Posted:

- Plaza Extra - St. Croix
- Plaza Extra - St. Thomas
- 3 United Shopping Plaza

Journal Entries

AJE 1 SCOTIABANK TENANT Acct # 92031923 Period: FEB 2012
 STX TENANT FEB 2012 POST DISBURSEMENTS. AJE by:

Description	Acct. #	Co.	Debit	Credit
Tenant Dsbrsemt: Investment - Popular Securities	116100	10		
Property Insurance	131000	30		
Auto	511000	30		
Property Tax	520000	30		
LEGAL	525000	30	4,727.49	
Maintenance & Repair	530000	30	21,669.42	
Trash Removal	531000	30	900.00	
Office Supply	535000	30		
Postage	580000	30		
Electric	625000	30	1,742.65	
Gas	625500	30		
Travel	640000	30		
Property Tax	664500	30		
Contract Labor	671000	30		
Bonus	671500	30		
Cash Scotia Tenant	104000	30		29,039.56
			29,039.56	29,039.56

0.00

- Plaza Extra - St. Croix
- Plaza Extra - St. Thomas
- 3 United Shopping Plaza

Posted:

Journal Entries

AJE 2 Scotiabank Tenant Account # 92031923

Period: FEB 2012

STX TENANT FEB 2012 POST BANK REC

AJE by: _____

Description	Acct. #	Co.	Debit	Credit
Tenant Scotiabank	104000	30	5,408,806.74 31,423.00	
A/R United Shopping Plaza	120400	30		7,268.00
A/R United Shopping Plaza	120400	30		2,450.00
A/R United Shopping Plaza	120400	30		8,745.00
A/R United Shopping Plaza	120400	30		12,960.00
A/R United Shopping Plaza BACK RENT	120400	30		5,408,806.74
Debit Memo	345000	30		
Tenant Scotiabank	104000	30		
A/R United Shopping Plaza	120400	30		
Property Tax	664500	30		
M&M Note Principal	116000	10		
M&M Note Interest	340000	30		
Pay Phones	345000	30		
A/R United Shopping Plaza	120400	30	40,103.33	
Rental Income	345000	30		40,103.33
Returned Checks	345000	30	3,100.00	
Returned Checks Fees	565100	30	30.00	
Bank Charge	565000	30	12.40	
Tenant Scotiabank	104000	30		3,142.40
ADD BACK STALE CHECKS (REP + MAINT)	530000	30		
			5,483,475.47	5,483,475.47

0.00

64866

64866

Check Number: Feb 7, 2012

Check Date:

Check Amount: \$5,408,806.74

Amount Paid


5,408,806.74

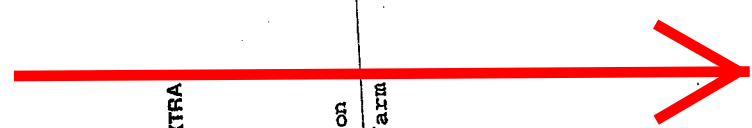
Discount Taken

UNITED CORPORATION D/B/A PLAZA EXTRA
UNITED SHOPPING PLAZA

Item to be Paid - Description

Rent - Sion farm

UNITED CORPORATION D/B/A PLAZA EXTRA 4C & 4D ESTATE SION FARM CHRISTIANSTED, VI 00821 (340) 778-6240 (340) 719-1870		64866 BANCO POPULAR DE PUERTO RICO 101-667216
PAY TO THE ORDER OF: UNITED SHOPPING PLAZA P.O. BOX 763 C'STED ST.C ROIX, VI 00821	DATE Feb 7, 2012	AMOUNT ***\$5,408,806.74
Five Million Four Hundred Eight Thousand Eight Hundred Six and 74/100 Dollars	VOID AFTER 90 DAYS	AUTHORIZED SIGNATURE 
Memo: PLAZA EXTRA (SION FARM) RENT	MICR LINE: ⑆021606674⑆ 191⑆ 148830⑆	Security Features Included



United Shopping Plaza St. Croix, USVI Accounts Receivable 2012			
B = Bey S = Suite			
Lessee	Unit	Feb-12 Rent	Feb-12 Paid
vacant	2		
Alvorce	3	1,800.00	(1,800.00)
Diamond Girl	4	1,400.00	(4,000.00)
Diamond Girl	5	2,600.00	(2,500.00)
Milano	6	4,000.00	(2,500.00)
vacant	7		
(in use by Plaza)	8		(5,408,806.74)
Edith's Cafeteria	9	800.00	(925.00)
Guzman	10	850.00	(850.00)
Robles	11	850.00	(1,400.00)
Johnny Jewelry	12	1,850.00	(1,850.00)
New Plaza Café & Bar	13	1,975.00	(2,000.00)
Jerry Anduza	14	850.00	
VI Nails	15	850.00	(850.00)
VI Nails	16	850.00	(850.00)
Parris Hair	17	800.00	(800.00)
Beautiful Hair	18	800.00	
BizVI 3/1	19	800.00	
Laundromat	20		
vacant	21		
vacant	22		
M.I. Mens' Wear	23	1,460.00	(2,920.00)
United Industrial Workers SIU	24	2,040.00	
Speedy Services	25	1,450.00	(2,400.00)
SportsPlus	26	1,458.33	(1,458.33)
vacant	27		
vacant	29		
Best Furniture	30	1,300.00	
Best Furniture	36	7,000.00	
Vacant	1		
Vacant	2		
Vacant	3		
United Steelworkers	3a	550.00	(550.00)
Vacant	4		
vacant	5		
vacant	7		
vacant	8		
United Steel Workers (Regional)	9	1,750.00	(1,750.00)
American Ranger Security	11	700.00	(700.00)
Vacant	12		
United Steel Workers (8526)	13	125.00	(125.00)
United Steel Workers (8526)	14	1,185.00	(1,185.00)
Totals		40,103.33	(5,440,230.07)

"Paid"

"Unit 8"

→ 5,408,806.74
 31,423.33 PAID
 5,440,230.07

2012
 FEB

United Shopping Plaza
Rents February
2012

170 202

DEPOSITS

3-Feb		
Menswear	1,460.00	4387
Johnny	1,850.00	1054
Sports	1,458.33	7300
VI Nall	1,700.00	1434
Anna's Café	800.00	cash
	7,268.33	
10-Feb		
Steelworkers	1,750.00	33090
Ranger	700.00	10208
	2,450.00	
10-Feb		
Plaza East	5,408,806.74	64866
17-Feb		
Naty's	125.00	cash
Shoe	850.00	cash
Diamond Girl	2,500.00	cash
Treasure Prints	700.00	1191
USV	1,320.00	10522
Speedy	2,400.00	2432
Steelworkers	550.00	693
in error	300.00	cash
	8,745.00	
28-Feb		
correct error	(300.00)	cash
Plaza Café	2,000.00	cash
Diamond Girl	4,000.00	cash
Midtla	1,460.00	4398
Airvoice	1,800.00	1306
Parris	800.00	1758
Prints	700.00	1192
Madonna	2,500.00	1274
	<u>12,960.00</u>	

Balance Reports				
Total Deposits	Database	Difference	A/R sheet	DIF
5,440,230.07			0.00	5,440,230.07
5,440,230.07			0.00	5,440,230.07

Deposit Dates	3-Feb-12	10-Feb	2/10/12	17-Feb-12	28-Feb-12
Amounts	7,268.33	2,450.00	5,408,806.74	8,745.00	12,960.00
Cummulative	7,268.33	9,718.33	5,418,525.07	5,427,270.07	5,440,230.07

2/28/12 7,268.33

REGULAR RENT DEPOSITS

\$ 31,423.33

RENT DEPOSITS

PLAZA EXTRA STT ; 340 778 1200

03-02-12; 09:29AM;

HAMID262213

Checkbook 2012				1-Feb-12			
February 2012				0.00			
Beginning Balance						Income (See Attached Reconciliation Sheet)	
Date	Check #	Expenses Payee/Item	Amnt	CL	Date	Amnt	
1-Feb-12	2959	Laurencin Backhoe	400.00	✓	3-Feb-12	7,268.00	
2-Feb-12	2960	Bryant Barnes	612.00	✓	10-Feb	2,450.00	
4-Feb-12	2961	VI Regulated Waste	450.00	✓	10-Feb-12	5,408,806.74	
3-Feb-12	2962	A Mallory	1,600.00	✓	17-Feb-12	8,745.00	
6-Feb-12	2963	Spartan Concrete	3,250.00	✓	28-Feb	12,960.00	
8-Feb-12	2964	Laurencin Backhoe	550.00	✓			
10-Feb-12	2965	WAPA	1,742.65	✓			
10-Feb-12	2966	Foley and Ladner Attyns	4,115.49	✓			
10-Feb-12	2967	A Mallory	800.00	✓			
10-Feb-12	2968	Didacus Charles	1,380.00	✓			
10-Feb-12	2969	Patrick Senhouse	1,000.00	✓			
14-Feb-12	2970	Sherwin Williams	245.90	✓			
14-Feb-12	2971	A to Z Paint	774.18	✓			
16-Feb-12	2972	Jose Ramon	4,000.00	✓			
17-Feb-12	2973	Juan Rosario	90.00	✓			
17-Feb-12	2974	Laurencin Backhoe	550.00	✓			
17-Feb-12	2975	Patrick Senhouse	1,200.00	✓			
22-Feb-12	2976	Laurencin Backhoe	650.00	✓			
24-Feb-12	2977	Eric Berry	769.64	✓			
24-Feb-12	2978	Dale Thomas	656.25	✓			
24-Feb-12	2979	Terminfx	158.00	✓			
24-Feb-12	2980	VI Regulated Waste	450.00	✓			
23-Feb-12	2981	A Mallory	1,600.00	✓			
Total Expense			27,044.11		Income (See Attached	5,440,229.74	
			Net Income MTD		5,413,185.63		

WAPA 1,742.65
 = Atty 4,727.49
 = TRASH 900.00
 Rep + Maint 21,669.42
29,039.56
 INCLUDED MORE

ADD
 IN
 REP + MAINT
 1,195.45
 800.00
29,039.56

OPEN 023-12-12
 L 023-12-12
 L 023-12-12

Time for Business

FEB 2012



Previous Day Account Activity

Account: TENANTS ACCT - 30585****1*23 2,795,255.44 USD

View Account

Account Name
TENANTS ACCT

Account Number
30585****1*23

Available Balance
2,795,255.44 USD

Overdraft Limit

Current Balance
0.00 USD

(N/A)

View By

Transaction For
All Activity

Reference #

From Date
02/01/2012
MM/DD/YYYY

02/29/2012
MM/DD/YYYY

Refresh

Viewing 1 - 38 of 38 Items

From Amount

To Amount

41,712.00

Date	Ref#	Transaction Type	Description	Debits	Credits	Balance
02/01/2012	0002957	Cheque	PREPOSTED CLEARING	1,200.00 ✓		40,512.80 USI
02/01/2012	0002956	Cheque	PREPOSTED CLEARING	1,800.00 ✓		38,712.80 USI
Total 2 Debits and 0 Credits:				3,000.00 USD	0.00 USD	
02/03/2012	0816945	GENERAL DEPOSITS	DEPOSIT		2,268.00 ✓	45,980.80 USI
02/03/2012	0002954	Cheque	PREPOSTED CLEARING	875.00 ✓		45,105.80 USI
Total 1 Debits and 1 Credits:				875.00 USD	7,268.00 USD	
02/06/2012	0002959	Cheque	PREPOSTED CLEARING	400.00 ✓		44,705.80 USI
Total 1 Debits and 0 Credits:				400.00 USD	0.00 USD	
02/07/2012	0002958	Cheque	PREPOSTED CLEARING	120.00 ✓		44,585.80 US
02/07/2012	0002955	Cheque	PREPOSTED CLEARING	132.00 ✓		44,453.80 US
Total 2 Debits and 0 Credits:				252.00 USD	0.00 USD	
02/08/2012	0002963	Cheque	PREPOSTED CLEARING	3,250.00 ✓		41,203.80 US
Total 1 Debits and 0 Credits:				3,250.00 USD	0.00 USD	
02/09/2012	0002961	Cheque	PREPOSTED CLEARING	450.00 ✓		40,753.80 US
Total 1 Debits and 0 Credits:				450.00 USD	0.00 USD	
02/10/2012	0818098	GENERAL DEPOSITS	DEPOSIT		2,450.00 ✓	43,203.80 US
02/10/2012	0818103	GENERAL DEPOSITS	DEPOSIT		5,408,806.74 ✓	5,452,010.54 US
02/10/2012	0002953	Cheque	PREPOSTED CLEARING	9,847.23 ✓		5,442,163.31 US
Total 1 Debits and 2 Credits:				9,847.23 USD	5,411,256.74 USD	
02/13/2012	0002964	Cheque	PREPOSTED CLEARING	550.00 ✓		5,441,613.31 US
02/13/2012	0002960	Cheque	PREPOSTED CLEARING	612.00 ✓		5,441,001.31 US
Total 2 Debits and 0 Credits:				1,162.00 USD	0.00 USD	
02/14/2012	0002969	Cheque	PREPOSTED CLEARING	1,000.00 ✓		5,440,001.31 US
02/14/2012	0002968	Cheque	PREPOSTED CLEARING	1,380.00 ✓		5,438,621.31 US
Total 2 Debits and 0 Credits:				2,380.00 USD	0.00 USD	
02/16/2012	0002967	Cheque	PREPOSTED CLEARING	800.00 ✓		5,437,821.31 US
02/16/2012	0002883	Cheque	PREPOSTED CLEARING B/DATE	800.00 ✓		5,437,021.31 US
02/16/2012	0002874	Cheque	PREPOSTED CLEARING B/DATE	1,195.45 ✓		5,435,825.86 US
Total 3 Debits and 0 Credits:				2,795.45 USD	0.00 USD	
02/17/2012	0002965	Cheque	PREPOSTED CLEARING	1,742.65 ✓		5,434,083.21 US
02/17/2012	0819409	GENERAL DEPOSITS	DEPOSIT		8,745.00 ✓	5,442,828.21 US
Total 1 Debits and 1 Credits:				1,742.65 USD	8,745.00 USD	
02/21/2012	0002966	Cheque		4,115.49 ✓		5,438,712.72 US
Total:				43,948.19 USD	5,440,229.74 USD	

HAMD262214

Statement for Business

Date	Ref#	Transaction Type	Description	Debits	Credits	Balance
			PREPOSTED CLEARING			
02/21/2012	0002971	Cheque	PREPOSTED CLEARING	774.18		5,437,938.54 USD
02/21/2012	0002962	Cheque	PREPOSTED CLEARING	1,600.00		5,436,338.54 USD
Total 3 Debits and 0 Credits:				6,489.67 USD	0.00 USD	
02/22/2012	0002973	Cheque	PREPOSTED CLEARING	90.00		5,436,248.54 USD
02/22/2012	0002974	Cheque	PREPOSTED CLEARING	550.00		5,435,698.54 USD
02/22/2012	0002975	Cheque	PREPOSTED CLEARING	1,200.00		5,434,498.54 USD
02/22/2012	0002972	Cheque	PREPOSTED CLEARING	4,000.00		5,430,498.54 USD
02/22/2012		GENERAL WITHDRAWALS	RETURNED ITEM CHARGEBACK	700.00		5,429,798.54 USD
02/22/2012		GENERAL WITHDRAWALS	RETURNED ITEM CHARGEBACK	2,400.00		5,427,398.54 USD
02/22/2012		Service Charges	SPECIAL SERVICE CHARGE SYS-GEN	15.00		5,427,383.54 USD
02/22/2012		Service Charges	SPECIAL SERVICE CHARGE SYS-GEN	15.00		5,427,368.54 USD
Total 8 Debits and 0 Credits:				8,970.00 USD	0.00 USD	
02/27/2012	0002970	Cheque	PREPOSTED CLEARING	245.90		5,427,122.64 USD
02/27/2012	0002976	Cheque	PREPOSTED CLEARING	650.00		5,426,472.64 USD
Total 2 Debits and 0 Credits:				895.90 USD	0.00 USD	
02/28/2012	0002978	Cheque	PREPOSTED CLEARING	656.25		5,425,816.39 USD
02/28/2012	0002977	Cheque	PREPOSTED CLEARING	769.64		5,425,046.75 USD
02/28/2012	0820796	GENERAL DEPOSITS	DEPOSIT		12,960.00	5,438,006.75 USD
Total 2 Debits and 1 Credits:				1,425.89 USD	12,960.00 USD	
02/29/2012		Service Charges	BACKDATED SERVICE CHARGE	12.40		5,437,994.35 USD
Totals 1 Debits and 0 Credits:				12.40 USD	0.00 USD	
Total:				43,948.19 USD	5,440,229.74 USD	