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/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
WALEED HAMED, as the Executor of the Estate of MOHAMMAD HAMED, *Plaintiff,* vs. **UNITED CORPORATION,** *Defendant.*	Consolidated with **Case No.: SX-2014-CV-287**
WALEED HAMED, as the Executor of the Estate of MOHAMMAD HAMED, *Plaintiff* vs. **FATHI YUSUF**, *Defendant.*	Consolidated with **Case No.: SX-2014-CV-278**
KAC357 Inc., *Plaintiff*, vs. **HAMED/YUSUF PARTNERSHIP,** *Defendant.*	Consolidated with **Case No.: ST-18-CV-219**
FATHI YUSUF, *Plaintiff*, vs. **ESTATE OF MOHAMMAD A. HAMED,** *Defendant.*	Consolidated with **Case No.: ST-17-CV-384**

HAMED'S OPPOSITION TO UNITED'S MOTION FOR SUMMARY JUDGMENT RE CLAIM Y-7: UNREIMBURSED PAYMENTS FROM UNITED FOR PARTNERSHIP

I. Introduction

Hamed opposes United's motion for summary judgment regarding claim Y-7: *Unreimbursed payments from United for Partnership.* The amount of the original claim is $199,760.00. The claim concerns transfers of United's tenant account funds allegedly on behalf of the Partnership. United combined claims Y-7 and Y-9 into one motion. In doing so, United conflated the facts and arguments between the two claims. Hamed has opted to respond separately to each claim to make the facts and arguments clearer.

II. Hamed's Counter-Statement of Material Facts (HCSOF)

Records from 1994-1995 and 1998 are Unsubstantiated

1. United has not provided any documentation to independently substantiate two of the larger claims from 1994: 5/24/94 Partnership's Prudential Bache Investment Account, $30,000 and 9/23/94 Core States Property St. Thomas $40,010. No investment or bank statements were provided to show that the money was actually moved from United's bank account ("tenant account"). No bank records were provided to show that the money was deposited into the Partnership's Prudential and Core States accounts. It is impossible to discern what the records from 1994 really mean. For example, there are records in 1994 of two Core States cashier's checks made out to Fathi Yusuf for a total of $145,000. (**Exhibit 1**) It is most probable that those cashier checks were funded with Partnership money. If so, any alleged debt owed by the Partnership would have been wiped out by that Yusuf draw. Completely unclear recordkeeping is one of the reasons why Judge Brady limited claims to those occurring on September 17, 2006 or later. (See also HCSOF ¶ 9)
2. United has not provided any records to independently substantiate the smaller claims for 1994 and 1998 either. Thus, there is no proof or record.

3. Similarly, a May 5, 1995 Peter's Farm Investment Corporation alleged expense of $60,000 claimed here does not belong in this Partnership claims process. As United described in its summary judgment motion, Peter's Farm is a totally separate and independent corporation. (**United Exhibits 2-4**) Any funds that United allegedly pledged to Peter's Farm must be addressed to Peter's Farm, not the Partnership. Therefore, this is an illegitimate claim against the Partnership.
4. Similarly, United alleges that the Partnership was required to pay the property tax of the Yusuf-family owned Shopping Center as Sion Farm (2/17/95 1993 Property Tax for United $20,000 and 8/31/95 1994 Property Tax for United $40,000). Again, United has not provided any documentation of an agreement between Fathi Yusuf and Mr. Mohammad Hamed to pay United's property tax. Also, Mike Yusuf, as President of United, and Fathi Yusuf do not agree on what these entries mean either: Mike Yusuf testified that the eighth ledger entry for $40,000 was for the United property tax, but then stated "It's not clear." Fathi Yusuf said it could have been a tax on the improvements to the supermarket, not the whole United Shopping Center. (**Exhibit 2**)
5. United states that three of the 1995 entries on the ledger sheet were backed up by accounting records prepared by John Benson "Ben" Irvin. As demonstrated in HCSOF ¶¶ 17-19, Ben Irvin's financial accounting was a fiction and is inherently unreliable and untrustworthy. As set forth there, he has specifically testified that he wrote down whatever made up story Fathi told him to write and there is no truth in these records at all.
6. United has not provided the complete "black book" or ledger book. It is impossible to know whether these alleged debts are still outstanding or were offset by other entries. It is half an accounting. As Mike Yusuf, author of the ledger page or black book admitted,

it is possible that other pages in the ledger book could show amounts that United owed to the Partnership.

> Q. [Ms. Perrell]. . . .So what I've handed you has been marked as Exhibit 11. Can you identify it?
> A. [MIKE YUSUF] Yes.
> Q. What is it?
> A. It's a -- what I paid from United. What tenant account for Plaza. I used to write it down on this ledger.
> * * * *
> Q. [Mr. Hartmann] So -- so there could have been like the next page of this thing. I don't have it, but obviously somebody did, because they put all these tabs on it. So let's say I flipped up this tab and read the heading at the next page, could the next page say -- this one says -- what does it say at the top? Can you just read that out for me where it says A? (1/21/2020 Mike Yusuf depo, 264:19-25)
> A. [MIKE YUSUF] I think that says United paid out for Plaza.
> Q. For Plaza. Okay.
> So if I flipped it over, could the next page have said, Plaza paid out for United?
> A. Possibly. (**Exhibit 3**)

7. Not only did Mike Yusuf destroy Partnership financial records (see HCSOF ¶ 14), he also stated that he kept the ledger or black book in the safe, but does not know what ultimately happened to it. He also did not know what happened to it after the one page of the Partnership's alleged debts was photocopied. Thus, it is impossible to know if these alleged debts are outstanding.

> Q. [Ms. Perrell]. . . .So what I've handed you has been marked as Exhibit 11. Can you identify it?
> A. [MIKE YUSUF] Yes.
> Q. What is it?
> A. It's a -- what I paid from United. What tenant account for Plaza. I used to write it down on this ledger.
> * * * *
> A. [MIKE YUSUF] And I used to keep -- it was in a black book that I used to keep in the safe.
> * * * *
> A. [MIKE YUSUF] Because I had a black book, and it's the same page just like this. And I know there's more, but it's just to put my hands on it.
> Q. [Ms. Perrell] This is the only one that you have?

A. It's the only one I have, yes.
* * * *
Q. [Mr. Hartmann]. . . . And -- and you see over on the right side here, there are a bunch of -- of tab stickers? They look like things that were copied when this page was copied?
A. [MIKE YUSUF] Right.
Q. Do you -- do you know what was underneath this page?
A. No. That's what I'm telling you. That's the black book. I don't know where it is.
Q. Do you know when this copy was made?
A. When it was made?
* * * *
A. [MIKE YUSUF] Not sure, no. (**Exhibit 4**)

8. In a supplemental response to Hamed's document request for the entire ledger or black book, United responded: "United shows that it has undertaken a diligent search of all records to determine if the book from which the copy was derived is available ***and has been unable to locate same***." (**Exhibit 5**) (Emphasis added.)

9. Judge Brady, in his Order re Limitations on Accounting, *Hamed v Yusuf*, SX-12-CV-370 (July 25, 2017) at 11 observed in footnote 10:

> Here however, as a result of the questionable and highly informal financial accounting practices of the partnership, by which both partners and their respective family members unilaterally withdrew funds from partnership accounts as needed to cover various business and personal expenses, there exists no authoritative ledger or series of financial statements recording the distribution of funds between partners upon which the Master or the Court could reasonably rely in conducting an accounting. Instead the Court finds itself in the predicament of having to account for multiple decades' worth of distributions of partnership funds among the partners and their family members based upon little more than a patchwork of cancelled checks, hand-written receipts for cash withdrawn from Plaza Extra safes, and the personal recollections of the partners and their agents.

Judge Brady also stated,

> As the last and only true-up of the partnership business occurred in 1993, the parties, by their respective actions for accounting, effectively impose upon the Court the onerous burden of reconstructing, out of whole cloth, twenty-five years' worth of these partner account transactions, based upon nothing more than scant documentary evidence and the ever-fading recollections of the partners and their representatives. For the reasons

> discussed below, the Court concludes, upon considerations of laches and a weighing of the interests of both the parties and the Court in the just and efficient resolution of their disputes, that the equities of this particular case necessitate the imposition of a six-year equitable limitation period for §71 (a) claims submitted to the Master in the accounting and distribution phase of the Wind Up Plan. *Id*. at 15-16 (footnotes omitted)

Money launderings scheme leads to untrustworthy 1998 financials

10. From 1996-2002, the US federal government alleged a vast money laundering scheme operated by United Corporation, Fathi and Mike Yusuf, Wally and Willy Hamed and others. On September 19, 2003, in *United States of America v. Fathi Yusuf, et. al.*, 1:03-cr-00147, the group was indicted on, among other things, money laundering, tax evasion and filing false corporate income tax returns. The Government described the extensive and high-value money laundering scheme as follows:

> 9. Beginning at least as early as in or about January 1996 and continuing through at least in or about September, 2002, defendants FATHI YUSUF, WALEED HAMED, WAHEED HAMED and UNITED defrauded the Virgin Islands of money in the form of tax revenue, specifically territorial gross receipts taxes as well as corporate income taxes, by failing to report at least $60 million in Plaza Extra sales on gross receipts tax returns and corporate income tax returns.
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> * * * *
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> 11. Defendants FATHI YUSUF, WALEED HAMED, WAHEED HAMED and UNITED directed and caused Plaza Extra employees to withhold from deposit substantial amounts of cash received from sales, typically bills in denominations of $100, $50 and $20. Instead of being deposited into the bank accounts with other sales receipts, this cash was delivered to one of the defendants or placed in a designated safe in the cash room. From 1996 through 2001, tens of millions of dollars in cash was withheld from deposit in this manner and as such, was not reported as gross receipts on tax returns filed by UNITED.
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> 12. In this way, defendants FATHI YUSUF, WALEED HAMED, WAHEED HAMED and UNITED caused the filing of dozens of false monthly gross receipts tax returns, which failed to report the cash withheld from deposit as gross receipts, thereby depriving the Virgin Islands of substantial tax revenue. Defendant UNITED's controller prepared and signed Plaza Extra's monthly gross receipts tax returns, declaring under oath that the returns were true and complete, knowing full well that the returns were false in that they failed to report substantial sales receipts.
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> * * * *

> 17. Defendants FATHI YUSUF and WALEED HAMED caused the checks and money orders described above to be deposited into foreign bank accounts they controlled. For example, defendants FATHI YUSUF and WALEED HAMED compiled the various checks and money orders obtained with unreported cash and caused them to be transported from the Virgin Islands to the Kingdom of Jordan ("Jordan"), where the funds were deposited into accounts they controlled at Cairo Amman Bank, in Amman, Jordan.
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> * * * *
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> 19. Defendants FATHI YUSUF and WALEED HAMED smuggled and caused to be smuggled millions of dollars of unreported cash from the Virgin Islands to the island of St. Martin, in the French West Indies, where it was deposited into accounts at Banque Francaise Commerciale that they and defendant ISAM YOUSUF controlled. (**Exhibit 6**)

11. Thus, in 1996, the Plaza Extra stores had plenty of funds to meet any obligations. Wally Hamed testified under oath on January 21, 2020 that the volume of sales in St. Thomas after Hurricane Marilyn went up by maybe three, four or five times because of the hurricane. Wally Hamed noted that Plaza Extra was only one or two of the surviving grocery stores on St. Thomas after the hurricane. (**Exhibit 20**) It would not be an exaggeration to say that federal agents described money pouring into the Partnership at unprecedented levels.
12. For example, the US federal government's January 4, 2005 draft analysis in the criminal case against United, the Yusufs and the Hameds demonstrates that there were no cash flow problems for the Partnership in 1996 or 1998. *Unreported* sales for the stores in 1996 were $8 million and in 1998 were $13.9 million. (**Exhibit 7**)
13. The US federal government's January 4, 2005 draft analysis concluded that the Partnership had over $60 million in *unreported* gross sales from 1996 through 2001. (**Exhibit 7**)
14. Mike Yusuf, as President of United, testified as the 30(b)(6) deposition witness for United. In his testimony, Mike Yusuf confirmed that he destroyed financial records of

the Partnership. Destroyed records make it impossible to do an accurate reconciliation of all accounts to determine debts owed and debts paid.

> A. [MIKE YUSUF] 2001, that's the -- the year that we had the raid.
> Q. [Mr. Hartmann]. . . .What -- approximately what date?
> A. October 23rd of 2001.
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> * * * *
>
> A. Okay. Sometime I would say a month and a half to two months before that, Waleed got a call from Waheed saying that something is going on. Some kind of agency is coming to spot check us, look at us. I -- I don't know the details of that. So among us, at that time, it was me, Mufeed and Waleed in the Plaza Extra East. . .
> the store in West was open at that time.
> So I left my store, and I came to East to --
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> * * * *
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> We just heard through the grapevine, something is happening. We didn't know.
> So between among us, we decided to destroy some of the receipts, because they were all in cash. We pulled out a good bit of receipts from the safes in Plaza East. Mufeed was present with me. He had a whole, a heap of receipts for the Hameds only. It could be from either one of the Hameds, once it's the Hamed. And receipts from the Yusuf, which basically was just me, not, you know, nobody else.
> Mufeed, I guess you call it, tallied, and, you know, put a tape on what they withdraw, and I put a tally, a tape, on what I withdraw.
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> * * * *
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> Once everything dropped to the penny, we were fine, I said, Listen. I'm destroying my receipts. (**Exhibit 8**)

15. By agreement between the parties and the Government on February 26, 2010, United admitted this when it pled guilty to one count of tax evasion. The case against the remaining defendants was dismissed with prejudice. (**Exhibit 9**)
16. In an opinion letter dated September 19, 2016, Lawrence Schoenbach, Esq., stated that it would be impossible to accurately reconstruct the financial records of United and the Plaza Extra stores from 1996 to September 2002 due to the vast money laundering scheme.

> According to the indictment, from "at least as early as in or about January 1996 and continuing through at least in or about September 2002, defendant[] . . . UNITED defrauded the Virgin Islands of money in the form of tax revenue, specifically territorial gross receipts taxes by failing to report at least $60 million in Plaza Extra sales on gross receipts tax returns and corporate income tax returns.
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> * * * *
>
> The scheme to skim funds from the stores (i.e. removal of funds from sales receipts before those funds are accounted for and taxes paid on them) is a classic white collar/business crime in which the purpose is to hide those funds from the governmental taxing authorities to avoid taxation, both regarding the receipt and disbursement. Most of such tax avoidance schemes require the removal of funds before accounting and/or the alteration of accounting records to reflect less cash received by the company than ultimately reported. The method used here, removal of funds prior to their being reported as sales, can be accomplished by several means, some of which were used here, to wit: those acting on behalf of the Company took cash out of sales before the Company could properly account for them. Another example of the fraudulent scheme involved cashing checks for third parties and then keeping and transacting the checks elsewhere. Cash was distributed without records or controls or those records were destroyed.
>
> The most fundamental feature of such a scheme is that the actual accounting records of the entity do not, and in fact cannot, accurately reflect the amount of cash taken in. No proper accounting can be determined from the Company's financial records because the gross receipts have been intentionally misapplied and documented. The very purpose of this sort of scheme is to render any accounting inaccurate. Moreover, any remaining records would have to be suspect because a criminal—with criminal intent and a criminal purpose -- would have created them. Further, because of the admitted lack of internal controls at United during the pre-2001 time period, there could be no legal or properly accurate way by which one could ascertain the correct amount of cash actually received or disbursed by the company.
>
> It is critical that the parties have both admitted that many records of transaction that should have gone into any accurate accounting were not kept or mutually and intentionally destroyed. For example, in his deposition, Mike Yusuf, President of United Corporation (and Fathi Yusuf's oldest son) testified that he and some of the Hamed brothers, upon hearing that the FBI was about to raid them in 2001, intentionally destroyed "a whole heap of" records (including those that would show where millions in cash partnership funds really went -- two months before the FBI raid and subsequent criminal charges). As such, there could be no way to verify the completeness of such records. Because the very nature of the crime, particularly money laundering/tax evasion, is to hide such incoming and outgoing funds from

> legitimate accounting it is impossible to determine and account for any portion of that amount each partner has or owes to the other. Since many such transactions were not recorded or destroyed, any remaining "records" can never be legitimately credited or debited against the unknown amounts. (**Exhibit 10**)(footnotes omitted)

Plaza Extra financial records prepared by the United-Plaza Extra controller were untrustworthy

17. On August 1, 2003, John Benson "Ben" Irvin was interviewed by FBI Special Agent Thomas L. Petri. Irvin was the financial controller for Plaza Extra, despite not having a formal education in tax accounting. (**Exhibit 11**) During the interview, subject to 18 USC 1001, Irvin described the process for determining Plaza Extra store sales. Irvin stated that Fathi Yusuf told him that store sales were to be based on deposits. Irvin noted that Yusuf was very emphatic on this point and Irvin didn't inquire further on the subject of sales. Irvin also knew the store had a point of sales system that would give accurate store sales figures, *but he was not allowed access to that system*. Finally, Yusuf told Irvin that he did not need to conduct internal financial audits.

> IRVIN was told by FATHI YUSUF that store sales would be based on deposits. IRVIN said that normal accounting procedures allow accountants to conduct internal audits. IRVIN advised that YUSUF told him that internal audits were being handled and to simply continue to use deposits to calculate sales. IRVIN said that YUSUF told him this early on and that YUSUF was very emphatic. IRVIN never revisited the subject of sales with YUSUF and continued to base sales on daily deposits. (**Exhibit 11**)

18. In that same August 1, 2003 FBI interview, Ben Irvin also stated he was instructed at times to make the inventory for a particular year come out to a set number. For instance, in February and March 1999, he was told by Fathi Yusuf to make the inventory number come out to $3 million. Yusuf wanted to do this in order to show a lower net income. In other words, it was a way for Yusuf to artificially lower the amount of taxes owed by the Plaza Extra stores. Thus, any financial records from this time were total fiction.

> IRVIN was shown copies of February and March of 1999 gross receipts sales tax figures. IRVIN stated that he had a discussion with FATHI YUSUF concerning cost of goods sold. YUSUF told IRVIN that it was not possible to determine actual numbers for cost of goods sold. Per YUSUF'S instructions, IRVIN was told to determine cost of goods sold in whatever manner would reflect approximately $3 million in year ending inventory for each store. IRVIN also had conversations with WILLIE HAMED concerning cost of goods sold and what the average markup on merchandise was. IRVIN said that HAMED was not specific but understood that YUSUF wanted ending inventory to be around $3 million. IRVIN advised that to determine cost of goods sold he would use a formula reflecting a 42% markup, or more often than not, simply plug in numbers so the $3 million number would be met.
>
> IRVIN stated that the reason YUSUF wanted the number for inventory to be around $3 million for each store was to show a lower net income. If taxable income was too high, YUSUF would tell IRVIN to adjust cost of goods sold to show a decrease in the companies profit. IRVIN stated YUSUF normally had him adjust the numbers presented to him which reflected cost of goods sold. (**Exhibit 11**)

19. Finally, during the August 1, 2003 FBI interview, Ben Irvin noted that he looked at the United corporate tax returns to make sure Irvin's numbers matched the numbers the CPA, Pablo O'Neill, recorded on United's tax returns. If O'Neill made any adjustments, Irvin requested that the adjustments be sent to him so his entries would match O'Neill's.

> IRVIN advised that he looked at the corporate tax returns to insure that PABLO O'NEILL'S numbers matched his. If O'NEILL made any adjustments, IRVIN requested that they be sent to him so that he could make corrected entries to match PABLO O'NEILL'S numbers. IRVIN said that he could think of no reason why the 4% Gross Sales Tax figures and the numbers on the general ledgers would differ from the corporate returns. (**Exhibit 11**)

20. Mike Yusuf, President of United, testified at his deposition that he did not know why the Yusuf family-owned United tenant bank account was transferring money to the Partnership. He did not dispute the fact that this was just a normal part of the movement of funds in such a laundering scheme. He could not identify the reason for the transfer

– he did not know whether the Partnership owed money to United or whether United was reimbursing the Partnership for an expense the Partnership paid on its behalf.

> Q. [Ms. Perrell]. . . .For the amounts that were transferred over, the -- let's say -- let's go about the first one, the 15,900, do you have any particular recollection as to why there was a transfer for 15,900 to Plaza partnership account?
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> * * * *
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> Q. [Ms. Perrell]. . .So this one is a specific amount, 15,900. Do you have -- let me ask you, what would have -- first of all, do you have any recollection of this particular entry?
> A. [MIKE YUSUF] No. I don't have recollection of the amounts, no.
>
> * * * *
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> Q. [Ms. Perrell]. . . .Other than 1996, do you recall any other times where there were amounts going. . . from the United tenant account into the Plaza Extra partnership account? When you were doing these transfers back and forth, do you recall that?
> A. [MIKE YUSUF] No, no, these are all the checks going into -- directly to the -- the operating account for Plaza.
> Q. . . . .Other than in 1996 -- these are just 1996.
> A. Right.
> Q. Other than 1996, there seem to be quite -- it happened regularly. Other than 1996, was that something that was occurring?
> A. I don't remember.
>
> * * * *
>
> A. I don't remember. I mean, I was dependent on Ben Irvin to keep the record with the -- with the tenant account. (**Exhibit 12**)

Ledger book available during SOL period and thus no reason to toll SOL

21. Mike Yusuf, President of United, stated that it is possible that the FBI did not seize the ledger or black book because the black book was in the large safe at Plaza Extra East and the FBI did not take all documents that were in that safe.

> Q. [Ms. Perrell]. . . .So what I've handed you has been marked as Exhibit 11. Can you identify it?
> A. [MIKE YUSUF] Yes.
> Q. What is it?
> A. It's a -- what I paid from United. What tenant account for Plaza. I used to write it down on this ledger.

* * * *

Q. [Mr. Hartmann] You said it was in a safe at the business, right?
A. [MIKE YUSUF] Yes.
Q. . . . .What safe was that?
A. Plaza East.
* * * *
Q. [Mr. Hartmann]. . . .And was it the big safe or the little safe?
A. [MIKE YUSUF] The big safe.

* * * *

Q. . . . .And when the FBI raided the place, they emptied the safes, right?
A. Not really. Not really.
A. They left some stuff in there, yes.
Q. They did?
A. Yes, they did.

* * * *

Q. So all the documents from the store don't have Bates Stamps, is what you're saying? Some of the FBI didn't get some of the documents?
A. I don't believe so. I think some stuff was still in -- in the safe. (**Exhibit 12A**) START

22. In 2003, according to a declaration (dated July 8, 2009) in the criminal case, *United States of America v. Fathi Yusuf Mohammed Yusuf et. al*., Criminal No. 2005-015 (DE 1148-1), FBI Special Agent Thomas L. Petri stated that counsel for the defendants, including United, were allowed complete access to review the seized Plaza Extra documents.

> In 2003, subsequent to the return of the indictment, counsel for defendants was afforded complete access to seized evidence. Attorney Robert King, the attorney then representing defendants, reviewed the discovery at the FBI office on St. Thomas. He and a team of approximately four or five individuals reviewed evidence for several weeks. They brought with them a copier and made many copies of documents. (**Exhibit 13**)

23. In 2004, according to a declaration (dated July 8, 2009) in the criminal case, *United States of America v. Fathi Yusuf Mohammed Yusuf et. al*., Criminal No. 2005-015 (DE 1148-1), FBI Special Agent Thomas L. Petri stated that up to ten people for the defense, including the United Corporation, reviewed the seized Plaza Extra and United documents. Special Agent Petri noted that the defense team spent several weeks

reviewing the evidence and had one copier and one scanner with them to make images of the evidence. Petri confirmed that the defense team had "unfettered access" to the documents and were permitted to review any box of documents at any time.

> 8. In 2004, a different set of attorneys presently representing the defendants reviewed the evidence seized in the course of the execution of the search warrants. By my estimation, document review team included up to ten people at any one time. The defense team spent several weeks reviewing the evidence. They had with them at least one copier and one scanner with which they made numerous copies and images of the evidence.
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> 9. During the 2004 review, the defense team was afforded unfettered access to discovery. They were permitted to review any box of documents at any time, including evidence seized during the searches, foreign bank records, documents obtained either consensually or by grand jury subpoena, and FBI Forms 302. The defense team pulled numerous boxes at one time with many different people reviewing different documents from different boxes. (**Exhibit 13**)

24. On March 22, 2017, Gordon Rhea, Esq. signed a declaration. He stated that there was a Joint Defense Agreement between all of the defendants, except Isam Yousef, in the criminal case, *United States of America v. Fathi Yusuf Mohammed Yusuf et. al*., Criminal No. 2005-015.

> 3. I was one of the defense lawyers in the criminal action filed by the United States of America in the District Court of the Virgin Islands (St. Thomas Division), Docket No,1:05-cr-00015, against the following defendants:
>
> FATHI YUSUF MOHAMAD YUSUF, aka Fathi Yusuf
> WALEED MOHAMMAD HAMED, aka Wally Hamed
> WAHEED MOHAMMAD HAMED, aka Willie Hamed
> MAHER FATHI YUSUF, aka Mike Yusuf
> NEJEH FATHI YUSUF,
> ISAM YUSUF, and
> UNITED CORPORATION
>
> 4. All of the defendants in that criminal case, except for Isam Yousef who was never apprehended, were represented jointly by multiple counsel, including myself, under a Joint Defense Agreement.
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> 5. Pursuant to the Joint Defense Agreement, all defense counsel worked together on behalf of all of the represented defendants in a joint effort to defend the case. (**Exhibit 14**)

The Partnership, as an entity, has existed since 1984 and thus no reason to toll SOL

25. On September 25, 1999, Fathi Yusuf declared in an affidavit that his brother-in-law, Mohammad Hamed, has been his Partner in the Plaza Extra stores since 1984. Thus, United's argument that there was no entity to sue from 2004-2008 is untrue.

> 2. My brother in law, Mohamed Hamed, and I have been full partners in the Plaza Extra Supermarket since 1984 while we were obtaining financing and constructing the store, which finally opened in 1986. (**Exhibit 15**)

26. On February 2, 2000, Fathi Yusuf was deposed in *Idheileh v. United Corp. and Fathi Yusuf*, Territorial Court of the Virgin Islands, Division of St. Thomas and St. John, case no. 156/1997. In his deposition, Yusuf asserted that both he and Mr. Mohammad Hamed have been Partners in the Plaza Extra grocery stores since 1984.

> A. [FATHI YUSUF] But I want you please to be aware that my partner's with me since 1984, and up to now his name is not in my corporation. And that -- excuse me and that prove my honesty. Because if I was not honest, my brother-in-law will not let me control his 50 percent. And I know very well, my wife knows, my children knows, that whatever Plaza Extra owns in assets, in receivable or payable, we have a 50 percent partner.
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> * * * *
>
> Q. [FATHI YUSUF]. . . . You were asked by Attorney Adams when it says United Corporation in this Joint Venture Agreement, in talking about Plaza Extra, talking about the supermarket on St. Thomas, who owned or who was partners in United Corporation Plaza Extra at the time before you entered into that Joint Venture Agreement?
> A. [Fathi Yusuf] It's always, since 1984, Mohammed Hamed.
> Q. . . . .So when it says United Corporation –
> A. It's really meant me and Mr. Mohammed Hamed. (**Exhibit 16**)

The criminal case occurred after SOL for the 1994-95 claims, so no reason to toll the SOL

27. The statute of limitations for the 1994 and 1995 claims expired in 2000 and 2001, before the 2003 criminal indictment, so United's purported reason for tolling the SOL with respect to these claims does not apply. (**Exhibit 6**).

Federal monitors allowed expenditures out of United and Partnership bank accounts under injunction during the criminal case, so no reason to toll the SOL

28. The federal monitors, brought in to provide oversight on United's financials during the pendency of the criminal case, allowed expenditures to be made out of the Yusuf family-owned tenant account and the Partnership bank accounts, despite those accounts being under a court imposed injunction. For example, United was allowed to use the tenant bank account to fund the building of a home on St. Thomas for Fathi Yusuf's son, Nejeh Yusuf and to fund and open a laundromat in United's name. Plaza Extra also was allowed to make capital expenditures at the Plaza Extra East store for new shelves. (**Exhibit 17**) If the alleged 1998 debt was for a legitimate purpose, there was no reason why United couldn't have requested authorization for repayment from the monitors prior to the expiration of the statute of limitations on those claims.

Desire to help Partnership is not a reason to toll the SOL

29. Contrary to Fathi Yusuf's assertion that he delayed requesting payment from the Partnership in order to provide it working capital, by 1996, the Partnership had plenty of funds to pay any current or past debts. Indeed, the federal government established that the Partnership had $8 million in unreported sales in 1996. From 1996-2001, the federal government stated that the Partnership had $60 million in *unreported* income.

No agreement, history or course of dealing for United to claim special treatment

30. On May 29, 2018, Hamed requested the Court's guidance regarding United's claim of "special" treatment, Hamed Motion for Court Assistance and Directions re Special Master Ross's May 21st Order, *Hamed v Yusuf*, SX-12-CV-370 (May 29, 2018) at 2:

> The thrust of this inquiry arises from the fact that each time Yusuf or United is found to have taken Partnership funds for their own uses, they argue that there was a "special arrangement" or an unwritten provision of the "Partnership Agreement" that allows this inequality.

Hamed argued in his motion that 26 V.I.C. § 44 requires that the partnership agreement dictates the terms of the partnership. When there is no written partnership agreement, 26 V.I.C. § 44 controls.

> But, absent a written agreement, what are the "terms" of the partnership? Missing or unclear terms are supplied by the Act. *See* 26 V.I.C. § 44 (Effect of partnership agreement; nonwaivable provisions.)
>
> (a) Except as otherwise provided in subsection (b) of this section, relations among the partners and between the partners and the partnership are governed by the partnership agreement. **To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners** and between the partners and the partnership. (Emphasis added)(footnote omitted).

> See, e.g., *Bunnell v. Lewis,* No. 05-92-02558-CV, 1993 WL 290781, at *5 (Tex. App. July 27, 1993), *writ denied* (Mar. 9, 1994) ("A partnership is an association of two or more persons to carry on a business for profit as co-owners. . . . In the absence of agreement on other terms, the Texas Uniform Partnership Act supplies the missing terms. *See Park Cities Corp. v. Byrd,* 534 S.W.2d 668, 672 (Tex. 1976).")

> Fortunately, once a partnership is determined to exist, one partner cannot make up, "explain" or dictate the rights, relative authority and power of the partners -- as these are set by statute in the Virgin Islands:

> 26 V.I.C. § 71 Partner's rights and duties

> * * * *

> (f) Each partner has equal rights in the management and conduct of the partnership business. *Id.* at 4.

31. In a June 26, 2018 Order, *Hamed v Yusuf*, SX-12-CV-370, Judge Brady noted that thus far in the case, "no findings have been made detailing with specificity the duties, responsibilities, benefits and obligations of each partner, including whether any benefits are due United and its shareholders during the period relevant to the issues and claims being addressed by the Master." *Id.* at 2 To determine whether any benefits are due United and its shareholders, Judge Brady ordered that the following factors be considered: 1) the partners' agreements, 2) history and 3) course of dealing.

> ORDERED that the Master is directed to proceed to conduct such evidentiary proceedings as are deemed appropriate to make factual findings necessary to permit full consideration of the claims of the partners, including the determination of the duties, responsibilities, benefits and obligations of each partner, including whether any benefits are due United and its shareholders, in light of the partners' agreements, history and course of dealing; and to report and make recommendations regarding the claims and the distribution of partnership assets in light of such findings. . . *Id.* at 3.

32. Fathi Yusuf testified in his deposition on April 2, 2014, that the only time the Partners reconciled the Partnership accounts between them was on December 31, 1993.

> A. [FATHI YUSUF] After we go and sees who and who takes who, if I take ten dollars more than them, and I take ten, they have the right to take it. That's when we go to the book and reconciliate our account between each other.
> But up to now, unfortunate, we have never done that since the past 25 years. Only, I'm sorry, up to December 31st, 1993. That books was closed by that day. We was even on that day, on whatever left Plaza Extra. (**Exhibit 18**)

33. Fathi Yusuf has not provided any evidence of a written or oral agreement between him and Mohammad Hamed to have the Partnership's books reconciled in United's favor at Fathi Yusuf's discretion.

III. Argument

United's motion for summary judgment with respect to claim Y-7—Unreimbursed payments from United for Partnership—should be denied for three distinct procedural reasons and the claim should be found to be untimely filed and outside of the applicable SOL:

1. United did not file its claim within the timeframe required by Judge Brady's January 9, 2015 Wind Up Order and the Special Master's August 31, 2016 directive.
2. Even if it is assumed that United filed its claim within the requirements set forth by Judge Brady and Special Master, the claim is untimely under Judge Brady's July 25, 2017 Order re Limitations on Accounting, which bars claims occurring prior to September 17, 2006.

3. United is not a partner and United's claim is outside of the normal statute of limitations.

There are no circumstances warranting the tolling of the statute of limitations with respect to the United's claim. United's claim should be denied as being outside of the statute of limitations. Finally, there are many disputes concerning material facts which also warrant denying United's summary judgment claim.

A. United did not file its claims within the timeframe set forth by the Special Master

Pursuant to the "Final Wind Up Plan Of The Plaza Extra Partnership," entered on January 9, 2015 (the "Plan"), § 9, Step 6, and the August 31, 2016 directive of the Master, as clarified on September 22, 2016, any entity or party with a claim was required to submit that claim on or before September 30, 2016.

On September 30, 2016, Defendant/counterclaimant Fathi Yusuf ("Yusuf') submitted his Accounting Claims and Proposed Distribution Plan (the "Claim"). United did not do so. United claims that it has some rights or claims as a totally distinct third-party, unrelated to Fathi Yusuf's Partners' claims—but if that is so, Fathi Yusuf's September 30th, 2016 filing was not United's filing. United cannot have it both ways. Therefore, United did not bring its claim under the timeframe set forth by the Special Master.

B. United's claims are barred by Judge Brady's July 25th, 2017 Order re Limitations on Accounting

On July 25, 2017, Judge Brady limited claims to transactions that occurred on or after September 17, 2006.

> ORDERED that the accounting in this matter, to which each partner is entitled under 26 V.I.C § 177(b), conducted pursuant to the Final Wind Up Plan adopted by the Court, shall be limited in scope to consider only those claimed credits and charges to partner accounts, within the meaning of 26 V.I.C § 71(a), based upon transactions that occurred on or after September 17, 2006. Order re Limitations on Accounting, *Hamed v Yusuf*, SX-12-CV-370 at 34 (July 25,2017)

Under Judge Brady's Order, United's claim is barred because all of the transactions in claim Y-7-Unreimbursed ledgers occurred in 1994-95 and 1998. (**United Exhibit 11**)

C. United's claims are barred by the Statute of Limitations (SOL) – 5 V.I.C. §31(3)

United also claims that it is not bound by Judge Brady's July 25th, 2017 SOL/laches Order because it is not one of the parties to the Partnership. If that is true, United is subject to the normal statute of limitations applicable to any civil litigant. Pursuant to 5 V.I.C. §31(3), the statute of limitations for actions for debt, breach of contract and conversion of property is 6 years. It is undisputed that the SOL on all of these claims expired years ago, between the years 2000 and 2004, depending on the specific claim. In addition, the 1994 and 1995 claims SOL expired prior to the 2003 indictment in the criminal case. Thus, United's Y-7 claims are barred by 5 V.I.C. §31(3).

D. United does not enjoy "special benefits" exempting it from the SOL

In June 26, 2018 Order, Judge Brady noted that thus far in the case, "no findings have been made detailing with specificity the duties, responsibilities, benefits and obligations of each partner, including whether any benefits are due United and its shareholders during the period relevant to the issues and claims being addressed by the Master." (HCSOF ¶ 31) To determine whether any benefits are due United and its shareholders, Judge Brady ordered that the following factors be considered: 1) the partners' agreements, 2) history and 3) course of dealing. (HCSOF ¶ 31)

United has not produced any evidence, other than Fathi Yusuf's self-serving affidavit specific to rent payments for Plaza Extra East, that Yusuf was empowered to let United disregard the statute of limitations on demands for repayment of alleged Partnership debts (**United Exhibit** 12, ¶ 1). Mr. Mohammad Hamed never testified to any such agreement. United has not produced any written document articulating this alleged agreement either. United also

has failed to demonstrate any history or course of dealing to show that United could demand payment at any time. The only reconciliation that United can point to is the reconciliation done in 1993, hardly evidence of a history of reconciliations or course of dealings.[1] (HCSOF ¶ 32)

United tries to springboard the Partnership's payment of rent as evidence that United was not bound by statute of limitations and could demand payment for alleged debts from the Partnership at any time. This is simply untrue. Judge Brady found the rent payments proper because, according to the Court, Hamed stated that the Partnership agreed to pay rent on the Plaza Extra East store. Order re Rent, *Hamed v Yusuf*, SX-12-CV-370 at 9-10 (Apr 27, 2015) No such agreement is present here.

E. The Partnership's accounting prior to 2001 is unreliable and not trustworthy

1. The Partnership operated a vast and widespread money laundering scheme, rendering its accounting unreliable

According to the federal examination of the book and the opinion of Lawrence Schoenbach, Esq., a white-collar criminal defense attorney since 1980, it would be impossible to accurately reconstruct the financial records of United and the Plaza Extra stores from 1996 to September 2002 due to the vast money laundering scheme. Attorney Schoenbach stated:

> The method used here, removal of funds prior to their being reported as sales, can be accomplished by several means, some of which were used here, to wit: those acting on behalf of the Company took cash out of sales before the Company could properly account for them. Another example of the fraudulent scheme involved cashing checks for third parties and then keeping and transacting the checks elsewhere. Cash was distributed without records or controls or those records were destroyed.

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[1] There was no "open account" between the Partnership and the United Corporation, as stated by Fathi Yusuf. The two entities only did one reconciliation in 1993. The case cited by Yusuf, *In re Estate of Vanderpool*, 2010 VI Lexis 113 (V.I. Super. Dec. 30, 2010), involved a care facility that routinely charged for its services and "not more than one year elapsed between any of the services provided or demands for payment." Id. at *6. Here there was no routine back and forth of payments between the two parties, making the present situation distinguishable from *Vanderpool*. In any event, no matter what SOL date is used, United is out of time to bring its claim.

> The most fundamental feature of such a scheme is that the actual accounting records of the entity do not, and in fact cannot, accurately reflect the amount of cash taken in. No proper accounting can be determined from the Company's financial records because the gross receipts have been intentionally misapplied and documented. The very purpose of this sort of scheme is to render any accounting inaccurate. Moreover, any remaining records would have to be suspect because a criminal—with criminal intent and a criminal purpose -- would have created them. Further, because of the admitted lack of internal controls at United during the pre-2001 time period, there could be no legal or properly accurate way by which one could ascertain the correct amount of cash actually received or disbursed by the company. (HCSOF ¶ 16)

In fact, during the time these claims were made, the US federal government estimated that the stores made over $60 million in unreported income. (HCSOF ¶ 13) Further, there were no financial controls on Partnership's accounting. (HCSOF ¶ 17) Finally, Mike Yusuf testified that he had destroyed some of the financial records of the Partnership. (HCSOF ¶ 14)

Given the unreliable nature of the Partnership's accounting, United cannot meet its burden of proof to show that the "transfers" of funds are actually owed United. 1) United can't prove that the funds in its tenant account were generated from the Shopping Center's rents versus the Partnership depositing the funds in the tenant account at some prior date. 2) Assuming for a moment the transfers were legitimate, United can't demonstrate that the Partnership hadn't repaid the amounts sometime in the past. 3) United also can't prove that it was reimbursing Plaza Extra for expenses the Partnership made on United Shopping Center's behalf. It is conceivable that United was reimbursing the Partnership for expenses the Partnership paid on its behalf. In the past, the Partnership used its cash to pay for United expenses. (**Group Exhibit 19**) Finally, even the President of United, Mike Yusuf, couldn't testify as to the reasons for the transfer of funds to Plaza. (HCSOF ¶ 20)

2. The work product of the Partnership's controller, Ben Irvin, was untrustworthy

Yusuf relies on Partnership financials prepared by the controller from 1995-2001, Ben Irvin, which are untrustworthy. Mr. Irvin stated in an interview with the FBI that he took direction

from Fathi Yusuf when preparing the financials. (HCSOF ¶¶ 17-18) Mr. Irvin said Fathi Yusuf told him that store sales were to be based on deposits. Irvin noted that Yusuf was very emphatic on this point and Irvin didn't inquire further on the subject of sales. (HCSOF ¶ 17) Yusuf told Irvin that he did not need to conduct internal financial audits. (HCSOF ¶ 17) Ben Irvin also said Fathi Yusuf instructed him at times to make the inventory for a particular year come out to a pre-determined number. (HCSOF ¶ 18) Finally, Irvin noted that he looked at the United corporate tax returns to make sure Irvin's numbers matched the numbers the CPA, Pablo O'Neill, recorded on United's tax returns. If O'Neill made any adjustments, Irvin requested that the adjustments be sent to him so his entries would match O'Neill's. (HCSOF ¶ 19)

F. The doctrine of equitable tolling does not apply to United

1. The ledger book was not seized during the FBI raid and even if it had been, United had access to all of the criminal documents in 2003

Mike Yusuf, President of United, stated that it is possible that the FBI did not seize the ledger or black book because the black book was in the large safe at Plaza Extra East and the FBI did not take all documents that were in that safe. (HCSOF ¶ 21)

In 2003, according to a declaration (dated July 8, 2009) in the criminal case, *United States of America v. Fathi Yusuf Mohammed Yusuf et. al*., Criminal No. 2005-015, Special Agent Thomas L. Petri stated that subsequent to the return of the indictment, counsel for defendants (including United) was afforded complete access to seized evidence. Attorney Robert King, the attorney then representing defendants, reviewed the discovery at the FBI office on St. Thomas. According to Special Agent Petri, Attorney King and a team of approximately four or five individuals reviewed evidence for several weeks. They brought with them a copier and made many copies of documents. (HCSOF ¶ 22)

Also in 2004, according to Special Agent Petri, counsel for defendants had up to ten people for the defense, including United, review the seized Plaza Extra and United documents again. Special Agent Petri noted that the defense team spent several weeks reviewing the evidence and had one copier and one scanner with them to make images of the evidence. Petri confirmed that the defense team had "unfettered access" to the documents and were permitted to review any box of documents at any time. (HCSOF ¶ 23)

While Fathi Yusuf personally may have not looked at the documents seized by the FBI until 2010, lawyers, operating under a Joint Defense Agreement for all of the defendants—including Fathi Yusuf personally and United—had ample access to the documents in 2003 and 2004. (HCSOF ¶ 24) Thus, United's argument that the SOL should be tolled to lack of access to the documents seized by the FBI must fail – United had access to the documents during the SOL time period.

2. There was a recognized entity to sue in 2000, 2001 and 2004

Contrary to Yusuf's assertions, there was an entity in 2000, 2001 and 2004 – the Partnership. In 1999 and again in 2000, Fathi Yusuf stated under oath that he and Mr. Mohammad Hamed had been partners since 1984. (HCSOF ¶¶ 25-26) Further, during the pendency of the criminal case, United could have asked the federal monitors to have the Partnership pay back the transfers to the tenant account, assuming they were legitimate expenses. The federal monitors approved expenditures throughout the criminal case. For example, the monitors approved payments for the taxes of United shareholders, allowed United to expend funds to start a laundromat, buy shelves for Plaza Extra and pay for the construction of Nejeh Yusuf's home on St. Thomas. (HCSOF ¶ 28) There is no record of Fathi Yusuf requesting re-payment for the alleged transfers to the Partnership. Since both the Partnership

and the tenant bank accounts were under an injunction, the likelihood of success of moving funds from one account to the other, assuming it was a legitimate expense, was great.

3. The criminal case was no bar to United complying with the SOL

The criminal case was not in operation during the statute of limitations periods for the 1994 and 1995 alleged debts. (HCSOF ¶ 27) So, United has no argument to permit the tolling of the SOL for those debts.

Yusuf seems to contend that the criminal case was somehow a bar to United complying with the SOL. There is no legal support for this contention and no factual basis. There is no such doctrine. See below to response to same argument with regard to YSOF #9 at 24.

On a practical level, assuming the 1989 debt was legitimate, it was possible for United to seek reimbursement from the Partnership within the applicable statute of limitations period by requesting funds to be moved from the Plaza Extra bank accounts to the United tenant bank account. The federal monitors exhibited a willingness to allow payments for legitimate expenses. (HCSOF ¶ 28)

4. There was no benefit to the Partnership in delaying repayment of alleged monies owed

Fathi Yusuf incorrectly states that he delayed payment of the alleged debts in order to provide working capital for the Partnership. This is simply untrue. Contrary to Fathi Yusuf's assertions, the Partnership in 1996-1998 had plenty of money to operate and pay its debts. The US federal government estimated that the Partnership had between $7 to $13.9 million in unreported gross sales from 1996-1998 and that amount is on top of the *reported* sales of $36-$40 million for the stores. (HCSOF ¶ 12) The US federal government's January 4, 2005 draft analysis concluded that the Partnership had over $60 million in *unreported* gross sales from 1996 through 2001, hardly an entity in need of additional working capital. (HCSOF ¶¶ 12-13)

IV. Opposition to United's Statement of Material Facts

A. United's Rule 56 Statement of Fact ("USOF")

United submitted its Rule 56 *Statement of Undisputed Facts* (USOF) in Section III of its motion. Pursuant to V.I.R. Civ. P. 56 (c)(2)(B), Hamed admits USOF ¶¶ 2, 8, 10 asserted in Section III for the limited purposes of this Opposition. The following USOF ¶¶ 1, 3-7, 9, 11-13 are disputed for the following reasons:

> **YSOF #1**. The United Shopping Center, which is owned by United Corporation ("United") and located in St. Croix, has 36 bays or retail spaces. *See* **Exhibit 14** (Floorplan of United Shopping Center). Bay 1, the largest bay, was occupied by Plaza Extra-East under a rental agreement with United. Bays 5 and 8 were sometimes rented to third parties, but more often used to store Plaza Extra inventory. The remaining Bays were rented to third parties. *See* Exhibit 14.

Response: Bays 5 and 8 were used from time to time by the Plaza Extra East store. However, the Bays were not use for a fixed period of time nor was there a rental agreement in place between United and the Partnership. Indeed, the Plaza Extra inventory had to be moved out of the bays each time United secured a paying tenant.

> **YSOF #3**. 3. Judge Brady ruled in an April 27, 2015 Opinion and Order that United was entitled to rent for Bay 1 for the 1994 to 2004 time period in the amount of $3,999,679.73, notwithstanding Hamed's statute of limitations defense. April 27, 2015 Opinion and Order, p. 10.

Response: Judge Brady's ruling found that there was an agreement between Yusuf and Mohmmad Hamed to pay rent on Bay 1. April 27, 2015 Opinion and Order, p. 4. Because of that agreement, Judge Brady stated that the "acknowledgement of the debt" doctrine and the "payment on account" doctrine tolled the statute of limitations. No such agreement is present with respect to the amounts made in this claim, Y-7 Unreimbursed Payments.

> **YSOF #4**. Hurricane Marilyn struck the islands in September 1995, and the partnership was "absolutely broke" as a result in 1996. *See* Exhibit 1, 1/21/20 Dep. Tr., p. 239 (testimony of Fathi Yusuf). Because the partnership was in dire need of cash in 1996, Mr. Yusuf concluded that he had "to put my rent money into the store…." *Id*. at 239.

Response: This statement is completely false. Wally Hamed testified under oath on January 21, 2020 that the volume of sales in St. Thomas after Hurricane Marilyn went up by maybe three, four or five times because of the hurricane. (HCSOF ¶ 11) Wally Hamed noted that Plaza Extra was only one or two of the surviving grocery stores on St. Thomas. (HCSOF ¶ 11) Wally Hamed's recollection is supported by the US federal government's January 4, 2005 draft analysis in the criminal case of the 1996 summary gross income for Plaza Extra. That analysis showed that over $8 million in sales went unreported to the Virgin Island's Bureau of Internal Revenue ("VIBIR"). (HCSOF ¶ 12) Further, the sales data for the St. Croix store came directly from the VIBIR gross receipt tax forms, as the federal government did not have access to data showing actual sales. (HCSOF ¶ 12) It is conceivable that the over $8 million in unreported sales was too low a figure. Unreported sales in 1998 for the stores was 13.9 million (HCSOF ¶ 12) Finally, The US federal government's January 4, 2005 draft analysis concluded that the Partnership had over $60 million in unreported gross sales from 1996 through 2001. (HCSOF ¶ 13)

> **YSOF #5**. United's comptroller, Ben Irvin, prepared monthly ledgers for United's tenant account which reflected the activity in the account including payments made from United's tenant account and reconciled this activity with the Community Bank monthly bank statements, and these are included in Exhibit 9. *See* Exhibit 1, pp. 193-194 (testimony of Mike Yusuf). These monthly ledgers show transfers from United's tenant account to Plaza Extra supermarket (partnership) accounts. These transfers are marked in red on Exhibit 9 and in the corresponding Community Bank statements that make up Exhibit 9A. The sum of the 1996 transfers is $188,132.00. *See* Exhibit 9, p. 1 (setting forth the tabulation of amounts transferred).
> **And**
>
> **YSOF #6.** Additional monthly ledgers were prepared in 1995, 1997 and 1998 showing amounts paid from United's tenant account to a Plaza Extra (partnership) account. *See* Exhibits 6, 10 and 13. These were prepared by Ben Irvin or at his direction as he served as the Comptroller in the 1990's until early 2000's. *See* Exhibit 6 - Declaration of Fathi Yusuf, ¶ 1. The accounting records showing payments or transfers from United's tenant account, along with the corresponding monthly bank statements reflecting those same transfers, are attached as Exhibit 10 (with highlighting of transfers in both sets of documents).

> Three of the 1995 transfers are those totaling $120,000 that Mike Yusuf personally made by check that are reflected in Exhibit 11 and are already part of United's claim Y-7, and there are two others totaling $11,500. *See* Exhibits 11 and 13. In 1997, transfers took place on January, February, March and April, 1997 and April, 1998, in the amounts of $44,400 and $10,000, respectively. *See* Exhibit 10.

Response: According to the opinion of Lawrence Schoenbach, Esq., a white-collar criminal defense attorney since 1980, it would be impossible to accurately reconstruct the financial records of United and the Plaza Extra stores from 1996 to September 2002 due to the vast money laundering scheme. (HCSOF ¶ 16) No conclusions can be made whether the Partnership actually owes the amounts United claims it owes because, as Schoenbach notes:

> The most fundamental feature of such a scheme is that the actual accounting records of the entity do not, and in fact cannot, accurately reflect the amount of cash taken in. No proper accounting can be determined from the Company's financial records because the gross receipts have been intentionally misapplied and documented. The very purpose of this sort of scheme is to render any accounting inaccurate. Moreover, any remaining records would have to be suspect because a criminal—with criminal intent and a criminal purpose -- would have created them. Further, because of the admitted lack of internal controls at United during the pre-2001 time period, there could be no legal or properly accurate way by which one could ascertain the correct amount of cash actually received or disbursed by the company. (HCSOF ¶ 16)

Indeed, even Mike Yusuf, President of United, couldn't testify as to the reasons for the transfer of funds to Plaza. (HCSOF ¶ 20) He also testified that some of the Partnership's financial records had been destroyed in 2001. (HCSOF ¶ 14)

> **YSOF #7**. In addition to the monthly ledgers showing transfers from United's tenant account to Plaza Extra, Mike Yusuf kept a handwritten ledger showing those payments that he was directly involved in making from United's tenant account to third parties on behalf of Plaza Extra (the partnership). *See* Exhibit 1, p. 250 (testimony of Mike Yusuf); Exhibit 11. That handwritten ledger shows 9 payments made in 1994, 1995, and 1998, the purposes of which are described in Mike Yusuf's deposition testimony. *See* Exhibit 11; Exhibit 1, pp. 250-257. Those payments total $199,760. The corresponding Community Bank records for 1995 also reflect these payments. *See* Exhibit 13.

Response: United cannot substantiate this SOF either. Hamed disputes the alleged debts are legitimate. (HCSOF ¶¶ 1-8) The financials of United and the Partnership are unreliable. (HCSOF ¶¶ 10-20) The ledger book itself is incomplete, thus making it impossible to determine if these debts are legitimate and outstanding. (HCSOF ¶¶ 7-8)

> **YSOF #9.** The theory of the prosecution was that United Corporation, a corporation owned by Fathi Yusuf and his family members—and not an undocumented, oral Hamed/Yusuf partnership— owned and operated the Plaza Extra supermarkets and was responsible for paying income and gross receipts taxes on store revenues. The criminal defense lawyers instructed Yusuf and the other defendants not to take any action that would support the existence of a partnership, and thereby draw Mohammad Hamed (who was not named in the indictment) into the criminal case. *See* Exhibit 6, Declaration of Fathi Yusuf, ¶ 4.

Response: That was one of many alternate theories of the defense. This claims process is a matter of allocation of "real" amounts NOW in a "real amounts" claims process. Yusuf is arguing that because this was once one of MANY positions taken, Hamed is forever estopped from pointing out the actual facts or what really happened—and what is really owed. Fine. If this is to be the rule in this case, Yusuf repeatedly said he was not a partner in this Partnership, and is, therefore, forever barred from ANYTHING from the Partnership. But, seriously, it is a little late for these sorts of debating club semantics. On the other hand, Hamed would agree to this logic, thus case should end and all of the Partnerships remaining assets should go to Hamed. Otherwise, historical estoppel is not a real "thing" in a RUPA partnership division.

On a more practical level, the statute of limitations for the 1994 and 1995 claims expired in 2000 and 2001, before the 2003 criminal indictment, so United's purported reason for tolling the SOL with respect to these claims does not apply. (HCSOF ¶ 27)

Further, the federal monitors, brought in to provide oversight on United's financials during the pendency of the criminal case allowed expenditures to be made out of the Yusuf family-owned tenant account and the Partnership bank accounts, despite those accounts being under a court imposed injunction. For example, United was allowed to use the tenant bank

account to fund the building of a home on St. Thomas for Fathi Yusuf's son, Nejeh Yusuf, to fund and open a laundromat in United's name. Plaza Extra also was allowed to make capital expenditures at the Plaza Extra East store for new shelves. (HCSOF ¶ 28) If the alleged 1998 debt was legitimate, there was no reason why United couldn't have requested authorization for repayment from the monitors prior to the expiration of the statute of limitations on that claim.

> **YSOF #11.** When the FBI conducted its raid on the stores in September 2001, it seized thousands of documents, including the documents attached to this opposition as Exhibits 9, 9A and 10. The index of the FBI Bates numbers is over 881 pages long and lists approximately 150 bates numbers on each page for a total of over 132,150 bates numbered documents. *See* Exhibit 5. This index and all of those documents produced in the criminal case were produced in this case by United and Yusuf's former counsel, Joseph DiRuzzo on August 1, 2013. *Id.* The FBI bates numbers typically follow the same format of: three digits – four digits. *Id.* Relevant to this motion, those documents reflecting the ledgers and Community Bank records have the initial pre-fix "071", "072" or "065" followed by a four digit designation Bates numbers. *Id.* Those are the Bates numbers used by the FBI. *Id.* At the earliest, the FBI did not return these records to United until some time in 2011, as part of a voluminous and very disorganized FBI hard drive. *See* Exhibit 12, ¶8.

Response: United's assertion that the FBI documents were not returned until 2011 is misleading because it makes it sound like 2011 was the first time that United had access to the seized documents. That is simply not true. According to the declaration of FBI Special Agent Thomas L. Petri, United's defense team in the criminal case had access to the seized documents in 2003 and 2004. In both years, the defense teams brought a photocopier and in 2004 they brought a scanner as well. As Special Agent Petri stated, the defense team had "unfettered access" to the documents. (HCSOF ¶¶ 22-24).

Further, Mike Yusuf, President of United, stated that it is possible that the FBI did not seize the ledger or black book because the black book was in the large safe at Plaza Extra East and the FBI did not take all documents that were in that safe. (HCSOF ¶ 21) Thus, no argument exists to toll the statute of limitations due to documents being seized by the FBI.

> **YSOF #12.** Judge Brady found in a 2017 opinion that Yusuf was the managing partner in charge of the finances of the partnership. *See Hamed v. Yusuf*, 69 V.I. 168, 175, n.4 (V.I. Super. 2017) (finding that "Yusuf acted as the managing partner" and that Hamed was "completely removed from the financial aspects of the business") and 69 V.I. 189, 215 (V.I. Super. 2017) ("As managing partner,…[i]t was Yusuf's responsibility to oversee, account for, and periodically reconcile the distributions of funds between the partners"). As managing partner with these responsibilities, Mr. Yusuf had discretion to determine when the open account between United and the Plaza Extra supermarkets should be reconciled -- i.e., when Plaza Extra should repay to United's tenant account all advances made by United to or on behalf of the supermarket business.

Response: Hamed disputes this statement. Judge Brady did not find that United was allowed to disregard the statute of limitations for making claims. United has not produced any evidence that there was an agreement between the Partners that allowed United avoid the statute of limitations on demands for repayment made to the Partnership. (See **United Exhibit** 12, ¶ 1) Mr. Mohammad Hamed never testified to any such agreement. United has not produced any written document articulating this alleged agreement either. United also has failed to demonstrate any history or course of dealing to show that United could demand payment at any time. The only reconciliation that United can point to is the reconciliation done in 1993. (HCSOF ¶ 32) Fathi Yusuf's purported reason for not requesting payment sooner—to help the supermarkets with its cash flow—is also untrue. The US federal government showed that from 1996-2001, the supermarkets had $60 million in *unreported* sales, hardly evidence of a cash flow problem. (HCSOF ¶ 13)

Finally, there was no "open account" between United and the Plaza Extra supermarkets. The two entities only did one reconciliation in 1993. (HCSOF ¶ 32) The case cited by United, *In re Estate of Vanderpool*, 2010 VI Lexis 113 (V.I. Super. Dec. 30, 2010), involved a care facility that charged routinely for its services and "not more than one year elapsed between any of the services provided or demands for payment." Id. at *6. Here there was no routine back and forth of payments between the two parties, making the present situation distinguishable

from *Vanderpool*. In any event, no matter what SOL date is used, United is out of time to bring its claim.

> **YSOF #13.** The amounts paid or advanced to or on behalf of Plaza Extra from United's tenant account (and backed up by Exhibits 9, 9A, 10 and 13 and other evidence cited herein) are listed in Exhibit 15, by payment amount and by date for all of the amounts claimed in Y-7 and Y-9, as well as the additional amounts in 1995, 1997 and 1998, which were not previously captured.

Response: United cannot support this statement either. First, as United's controller, Ben Irvin, stated in his interview with the FBI, he basically did the accounting in the manner that Fathi Yusuf instructed him. (HCSOF ¶¶ 17-18). Second, a vast money laundering scheme was underway during that time, making any alleged "debts" suspect because it is impossible to accurately reconstruct the financials. (HCSOF ¶¶ 9-10, 12-13, and 15-16). Third, Mike Yusuf, President of United, testified that he destroyed financial records in 2001. (HCSOF ¶ 14) Finally, Mike Yusuf did not know what the "Plaza transfer" entries on the accounting meant. (HCSOF ¶ 20) For all we know, this could be United repaying the Partnership for expenses that the Partnership made on United's behalf. There are documented instances where the Partnership paid cash for United's expenses. (**Group Exhibit 19**)

V. Conclusion

United's motion for summary judgment should be denied. First, there are many disputes of material facts. Second, United did not file its claims within the timeframe ordered by the Special Master. Third, United's claims are outside of Judge Brady's July 25, 2017 Limitations on Accounting Order. Fourth, United's claims exceed the normal statute of limitations. Finally, there are no legitimate reasons for tolling the statute of limitations.

Dated: May 26, 2020

Carl J. Hartmann III, Esq.
Co-Counsel for Plaintiff
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Suite 816
Washington, DC 20036
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Tele: (340) 719-8941

Joel H. Holt, Esq.
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2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
Tele: (340) 773-8709
Fax: (340) 773-8670

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of May, 2020, I served a copy of the foregoing by email, as agreed by the parties, on:

Hon. Edgar Ross *(w/ 2 paper copies to his Clerk)*
Special Master
edgarrossjudge@hotmail.com

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CERTIFICATE OF WORD/PAGE COUNT

This document complies with the limitations set forth in Rule 6-1 (e). Counsel notes that this excludes the cover page, caption, table of contents, table of authorities, appendices, exhibits, certificates of service and **"*Statement of Undisputed Facts*"** per the revised requirements. As the Rule, as amended, is unclear, if the *Statement of Facts* is counted in the total pages, Hamed will remove it from the body and append it as a separate exhibit.

LIST OF EXHIBITS

Exhibit	Description
Exhibit 1	Core State Cashier's Checks to Fathi Yusuf
Exhibit 2	1/21/20 Mike & Fathi Yusuf Depo Excerpt re United Property Tax
Exhibit 3	1/21/20 Mike Yusuf Depo Excerpt re Ledger Amounts United Owed Plaza
Exhibit 4	1/21/20 Mike Yusuf Depo Excerpt re Missing Ledger Document
Exhibit 5	5/11/20 United Supplemental Discovery re No Ledger Document
Exhibit 6	September 19, 2003 Indictment
Exhibit 7	January 4, 2001 US Federal Government's Draft Summary Schedules
Exhibit 8	4/2/14 Mike Yusuf Depo Excerpt re Destroyed Partnership Financial Records
Exhibit 9	2/6/10 United Plea Agreement
Exhibit 10	9/30/16 Larry Schoenbach, Esq. Expert Report
Exhibit 11	8/1/03 John Benson "Ben" Irvin FBI interview
Exhibit 12	1/21/20 Mike Yusuf Depo Excerpt re Dependent on Irvin for Financial Info
Exhibit 13	7/8/09 FBI Special Agent Thomas L. Petri Declaration
Exhibit 14	3/2/17 Gordon Rhea, Esq. Declaration
Exhibit 15	9/25/99 Fathi Yusuf Affidavit re Hamed as Partner
Exhibit 16	2/2/00 Fathi Yusuf Depo Excerpt re Hamed as Partner
Exhibit 17	Federal Monitors' Reports
Exhibit 18	4/2/14 Fathi Yusuf Depo Excerpt re 1993 Reconciliation
Grp Exhibit 19	Cash Receipts of Partnership Funds Paying United Expenses
Exhibit 20	1/21/20 Wally Hamed Depo Excerpt re Partnership Finances after Hurricane Marilyn

Exhibit 1

Scotiabank
THE BANK OF NOVA SCOTIA
SUNNY ISLE
CENTRE LINE ROAD
ST. CROIX, U.S. VIRGIN ISLANDS 00820

№ 3058063758

SEPTEMBER 16, 1994
DATE

PAY TO ORDER OF **********HAKIMA SALEM********** $ *****8,000.00****
U.S. DOLLARS

SUM OF

TO:
PNC BANK, NATIONAL ASSOCIATION
JEANNETTE, PA.

THE BANK OF NOVA SCOTIA
AUTH NO. W1607 AUTHORIZED OFFICER
AUTH NO. B1864 AUTHORIZED OFFICER

⑈3058063758⑈ ⑆043301627⑆ 0009596509⑈

Scotiabank
THE BANK OF NOVA SCOTIA
SUNNY ISLE
CENTRE LINE ROAD
ST. CROIX, U.S. VIRGIN ISLANDS 00820

№ 3058063791

SEPT. 22, 1994
DATE

PAY TO ORDER OF **********FATHI YUSUF********** $ *****250,000.00
U.S. DOLLARS

SUM OF

TO:
PNC BANK, NATIONAL ASSOCIATION
JEANNETTE, PA.

THE BANK OF NOVA SCOTIA
AUTH NO. D354 AUTHORIZED OFFICER
AUTH NO. H1954 AUTHORIZED OFFICER

⑈3058063791⑈ ⑆043301627⑆ 0009596509⑈

Scotiabank
THE BANK OF NOVA SCOTIA
SUNNY ISLE
CENTRE LINE ROAD
ST. CROIX, U.S. VIRGIN ISLANDS 00820

№ 3058063804

SEPT 26,1994
DATE

PAY TO ORDER OF **********FATHI YUSUF********** $ 52,000.00******
U.S. DOLLARS

SUM OF

TO:
PNC BANK, NATIONAL ASSOCIATION
JEANNETTE, PA.

THE BANK OF NOVA SCOTIA
AUTH NO. C890 AUTHORIZED OFFICER
AUTH NO. H1074 AUTHORIZED OFFICER

⑈3058063804⑈ ⑆043301627⑆ 0009596509⑈

EXHIBIT
1

054-0151

CoreStates
First Pennsylvania Bank
St. Croix, U.S.V.I.

CASHIER'S CHECK

3-1
310

Branch Christiansted Date September 22, 19 94 No. 004999

Pay to the Order of **********Fathi Yusuf **********

$100,000.00

THE SUM OF 100000 00 Dollars

CoreStates Bank, N.A.
Philadelphia, PA.

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

⑈004999⑈ ⑆031000011⑆ 0915⑈9333⑈

CoreStates
First Pennsylvania Bank
St. Croix, U.S.V.I.

CASHIER'S CHECK

3-1
310

Branch Christiansted Date 09/23 19 94 No. 005010

Pay to the Order of **********FATHI YUSUF**********

$ 45,000.00

THE SUM 45000 00 Dollars

Platform

CoreStates Bank, N.A.
Philadelphia, PA.

Only one signature is required.

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

⑈005010⑈ ⑆031000011⑆ 0915⑈9333⑈

Scotiabank
THE BANK OF NOVA SCOTIA
SUNNY ISLE
CENTRE LINE ROAD
ST. CROIX, U.S. VIRGIN ISLANDS 00820

№ 3058063799

60-43

Sept. 23, 1994
DATE

PAY TO ORDER OF ***FATHI YUSUF***

$ **45,000.00**
U.S. DOLLARS

SUM OF $ 45000 00 USD

TO:
PNC BANK, NATIONAL ASSOCIATION
JEANNETTE, PA.

AUTH NO. 0890
AUTH NO. 0380

THE BANK OF NOVA SCOTIA
AUTHORIZED OFFICER
AUTHORIZED OFFICER

⑈3058063799⑈ ⑆043301627⑆ 00095965094⑈

HAMD569135

054-0152

Exhibit 2

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 Deft.,	
vs.	Case No. SX-2012-CV-370
FATHI YUSUF and UNITED CORPORATION, Defendants/Counterclaimants,	
vs.	**DEPOSITIONS TAKEN: JANUARY 21, 2020**
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC., Counterclaim Defendants.	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff,	
vs.	Consolidated with Case No. SX-2014-CV-287
UNITED CORPORATION, Defendant.	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff,	
vs.	Consolidated with Case No. SX-2014-CV-278
FATHI YUSUF, Defendant.	
FATHI YUSUF, Plaintiff,	
vs.	Consolidated with Case No. ST-17-CV-384
MOHAMMAD A. HAMD TRUST, et al., Defendants.	
KAC357 Inc., Plaintiff,	
vs.	Consolidated with Case No. ST-18-CV-219
HAMED/YUSUF PARTNERSHIP, Defendant.	

EXHIBIT 2

THE VIDEOTAPED ORAL DEPOSITIONS OF FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, AND JOHN GAFFNEY

was taken on the 21st day of January, 2020, at the Law Offices of Joel H. Holt, 2132 Company Street, The Alcove Room, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 10:00 a.m. and 5:09 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

_____

Reported by:

Susan C. Nissman RPR-RMR
Registered Merit Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix
U.S. Virgin Islands 00820
(340) 773-8161

APPEARANCES

A-P-P-E-A-R-A-N-C-E-S

For the Plaintiffs:

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By: Joel H. Holt

and

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U.S. Virgin Islands 00820

By: Carl J. Hartmann, III
Kim Japinga

For the Defendants:

Law Offices of
DNF
Law House
P.O. Box 756
Charlotte Amalie, St. Thomas
U.S. Virgin Islands 00802

By: Charlotte Perrell

Also Present: Michael Gelardi, Videographer

A. Yes, that's my handwriting.

(Deposition Exhibit No. 11 was marked for identification.)

Q. Okay. So what I've handed you has been marked as Exhibit 11. Can you identify it?

A. Yes.

Q. What is it?

A. It's a -- what I paid from United. What tenant account for Plaza. I used to write it down on this ledger.

Q. Okay.

A. And I used to keep -- it was in a black book that I used to keep in the safe.

Q. Okay. All right. And this particular sheet is -- the Bates Number on it is FY 14955.

Is that your handwriting?

A. No, no.

Q. No, no, no, not the 14955. That's just the number of thing.

Is the handwritten portions of it, --

A. Oh, yes, yes.

Q. -- this document?

A. Yes, it's my handwriting. I said that earlier.

Q. Okay. That's what I was asking.

Okay. So -- and why did you keep this list or this ledger?

Q. Okay.

A. So I'm not -- I can't pinpoint what this is for.

Q. And the 20,000, --

A. Yeah.

Q. -- do you recall what that is for?

A. No.

Q. All right. And then the next one, 5-5?

A. That's Peter's Farm investment.

Q. Um-hum.

A. Corp.

Q. Um-hum.

A. 60,000. Well, Peter's Farm is owned by the -- both families.

Q. Um-hum.

A. So this came out of the tenant account to, I guess, to Peter's Farm Investment Corp.

Q. Okay. And that's something that should have been a joint payment, is that what you --

A. Right. It should come out of the store, but I guess for some reason, I don't know who, told me to pay it out of the tenant account.

Q. Okay. And the next one is 8-31?

A. It's another property. Oh, this is property tax for United.

Q. Um-hum.

A. '94. 40,000. I'm not sure. It's not clear.

Q. All right. And then the last one says something 5, a date.

A. Oh, five something '98.

Q. What is that?

A. Bedroom.

Q. What does it mean?

A. Bedroom set. If I'm not mistaken, that's a cousin of ours. Both families.

Q. What is his name?

A. Allaah.

Q. Um-hum.

A. He's my -- he's my first cousin and their first cousin. I guess he got married that year.

Q. Um-hum.

A. And I did ask somebody yesterday if he did, and they said yes. So that was a gift from the -- both families to him.

Q. Like a wedding gift?

A. Right.

Q. Okay.

A. And that came out of the same issue like the refrigerator.

Q. Um-hum.

A. Best Furniture. We got it from Best Furniture for

whatever is 50/50 partners. 50/50 partner in the -- in the profit of Plaza Extra and 50/50 interest in any company. We have four, five companies.

I heard you asking my question -- somebody asking my question about the taxes. This taxes refer to investment tax. See, wherever the government is, they have two kind of taxes: They have the bare land, unfinished property. Very, very minimum. And after that, they come and appraise your investment. They come up with number and that what the taxes is. That's what you call it improvement tax. So the supermarket really is over acre and a half. Just an example. Acre and half with nothing on it in Sion Farm, maybe about $250. But when it's a building and it's solid concrete and sidewalk, that jump to $40-50,000 improvement tax. And I believe these taxes are for improvement tax.

Q. Okay. And so United paid these. And in 19 -- for, it looks like, the periods 1993 and 1994; is that right?

A. Please understand, I did not make any payment. The instruction for my son, Listen to Wally. Whatever Wally tell you, he's our partner. He's representing his father. Make sure the man make him feel good.

Q. Okay.

A. It's not --

Q. Okay.

A. -- my son, anything else.

Q. All right.

A. And he was taking my instruction to listen to Wally and their cousins, and we believe in Wally and father and mother. And unfortunately, everybody do the best he can to hurt us.

Q. Okay. But Mr. Yusuf, let me ask you this: So this is for the United -- I'm asking, do you know whether this property taxes is for the United property taxes at Sion Farm?

A. No. It could be the improvements of the supermarket.

Q. Okay. And why is that amount an amount that should be paid by the partnership?

A. Well, what you mean? If they have no money, we explain already.

Q. No, but --

A. Supermarket was dry with cash.

Q. Was the supermarket operations supposed to be paying that, those amounts?

A. Yes.

Q. Okay. So that was supposed to be paid --

A. But if they don't have no money, he could tell you -- my son, Go ahead and pay it.

C-E-R-T-I-F-I-C-A-T-E

I, SUSAN C. NISSMAN, a Registered Merit Reporter and Notary Public for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witnesses, **FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, and JOHN GAFFNEY,** were first duly sworn to testify the truth; that said witnesses did thereupon testify as is set forth; that the answers of said witnesses to the oral interrogatories propounded by counsel were taken by me in stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such Registered Merit Reporter on this the 22nd day of February, 2020, at Christiansted, St. Croix, U.S. Virgin Islands.

_____

My Commission Expires:
June 28, 2023

Susan C. Nissman, RPR-RMR
NP 234-19

Exhibit 3

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 Deft.,	
vs.	Case No. SX-2012-CV-370
FATHI YUSUF and UNITED CORPORATION, Defendants/Counterclaimants,	
vs.	**DEPOSITIONS TAKEN: JANUARY 21, 2020**
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC., Counterclaim Defendants.	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff,	
vs.	Consolidated with Case No. SX-2014-CV-287
UNITED CORPORATION, Defendant.	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff,	
vs.	Consolidated with Case No. SX-2014-CV-278
FATHI YUSUF, Defendant.	
FATHI YUSUF, Plaintiff,	
vs.	Consolidated with Case No. ST-17-CV-384
MOHAMMAD A. HAMD TRUST, et al., Defendants.	
KAC357 Inc., Plaintiff,	
vs.	Consolidated with Case No. ST-18-CV-219
HAMED/YUSUF PARTNERSHIP, Defendant.	

EXHIBIT 3

THE VIDEOTAPED ORAL DEPOSITIONS OF FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, AND JOHN GAFFNEY

was taken on the 21st day of January, 2020, at the Law Offices of Joel H. Holt, 2132 Company Street, The Alcove Room, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 10:00 a.m. and 5:09 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

_____

Reported by:

Susan C. Nissman RPR-RMR
Registered Merit Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix
U.S. Virgin Islands 00820
(340) 773-8161

APPEARANCES

A-P-P-E-A-R-A-N-C-E-S

For the Plaintiffs:

Law Offices of
Joel H. Holt
2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Joel H. Holt

and

Carl J. Hartmann, III
5000 Estate Coakley Bay, L6
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Carl J. Hartmann, III
Kim Japinga

For the Defendants:

Law Offices of
DNF
Law House
P.O. Box 756
Charlotte Amalie, St. Thomas
U.S. Virgin Islands 00802

By: Charlotte Perrell

Also Present: Michael Gelardi, Videographer

A. Yes, that's my handwriting.

(Deposition Exhibit No. 11 was marked for identification.)

Q. Okay. So what I've handed you has been marked as Exhibit 11. Can you identify it?

A. Yes.

Q. What is it?

A. It's a -- what I paid from United. What tenant account for Plaza. I used to write it down on this ledger.

Q. Okay.

A. And I used to keep -- it was in a black book that I used to keep in the safe.

Q. Okay. All right. And this particular sheet is -- the Bates Number on it is FY 14955.

Is that your handwriting?

A. No, no.

Q. No, no, no, not the 14955. That's just the number of thing.

Is the handwritten portions of it, --

A. Oh, yes, yes.

Q. -- this document?

A. Yes, it's my handwriting. I said that earlier.

Q. Okay. That's what I was asking.

Okay. So -- and why did you keep this list or this ledger?

Q. Okay.

A. -- black book.

Q. Okay. So -- so in this black book, there were other pages, right? Obviously, or it wouldn't be a book, but in -- do you know what was on the other pages?

A. Yeah. I tell you, it has other stuff that -- that's --

Q. Back and forth?

A. Back and forth, yes.

Q. Okay.

A. There's other stuff. And there's -- I used to keep record of anything that I did if I need to refer back to it. And if it was not just this, it was even -- our records that I used to keep. This was not, you know, we talked about a black book that the partnership had, well, this was something I used to keep for -- so I don't forget.

Q. Okay.

A. I can go back to.

Q. So -- so there could have been like the next page of this thing. I don't have it, but obviously somebody did, because they put all these tabs on it. So let's say I flipped up this tab and read the heading at the next page, could the next page say -- this one says -- what does it say at the top? Can you just read that out for me where it says A?

A. I think that says United paid out for Plaza.

Q. For Plaza. Okay.

So if I flipped it over, could the next page have said, Plaza paid out for United?

A. Possibly.

MR. HARTMANN: Okay. I have no further questions.

REDIRECT EXAMINATION

BY MS. PERRELL:

Q. Mike, are you aware as to whether or not there's any documents that the FBI seized that they did not put Bates Stamps on?

A. Yeah. Yes.

Q. Okay. So there are documents that the FBI seized that didn't get a Bates Stamp?

A. They didn't get a Bates Stamp, yes.

Q. And your testimony today was that there was some documents that the FBI could have seized, but they chose not to seize?

A. Right. And they left. They left behind. I mean, there were things on my desk. They didn't seize everything. Still paperwork was still there.

MR. HARTMANN: No, I was just stunned when you said that they left stuff in the safes. I mean, you don't think about that with the FBI.

C-E-R-T-I-F-I-C-A-T-E

I, SUSAN C. NISSMAN, a Registered Merit Reporter and Notary Public for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witnesses, **FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, and JOHN GAFFNEY,** were first duly sworn to testify the truth; that said witnesses did thereupon testify as is set forth; that the answers of said witnesses to the oral interrogatories propounded by counsel were taken by me in stenotype and thereafter reduced to typewriting under my personal direction and supervision.

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My Commission Expires:
June 28, 2023

Susan C. Nissman, RPR-RMR
NP 234-19

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Susan C. Nissman RPR-RMR
Registered Merit Reporter
Caribbean Scribes, Inc.
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(340) 773-8161

APPEARANCES

A-P-P-E-A-R-A-N-C-E-S

For the Plaintiffs:

Law Offices of
Joel H. Holt
2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Joel H. Holt

and

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By: Charlotte Perrell

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A. Oh, yes, yes.

Q. -- this document?

A. Yes, it's my handwriting. I said that earlier.

Q. Okay. That's what I was asking.

Okay. So -- and why did you keep this list or this ledger?

him, and I deducted it from the rent for Best Furniture.

Q. Okay. So it would have been a gift from both families?

A. Correct.

Q. All right. Other than this ledger with these however many, 3, 4, 5, 6, 7, 8, 9, other than these 9.

A. Um-hum.

Q. And not talking about the transfer issues that we dealt with earlier, these are the only amounts that you recall came out of the tenant account that somehow should have been reimbursed by the partnership, or you're contending that, correct?

A. Correct, this -- yes. And I know there's more.

Q. Okay.

A. Because I had a black book, and it's the same page just like this. And I know there's more, but it's just to put my hands on it.

Q. This is the only one that you have?

A. It's the only one I have, yes.

Q. Okay. All right. All right. Do you recall whether you had conversations with Wally or any -- well, let me just ask you, any of the Hameds related to this, or do you recall?

A. I -- I took his instructions from Wally. In -- in '94, I, you know, my dad wasn't there. Most of my

counsel have that?

A. No, I -- I didn't keep it. When I -- when I did this here, I didn't keep that that way. I just whatever --

Q. I see.

A. -- I paid out. I kept a black book. Not just this, but other, you know, other stuff --

Q. Okay.

A. -- that pertains between the two families.

Q. Okay. And -- and you see over on the right side here, there are a bunch of -- of tab stickers? They look like things that were copied when this page was copied?

A. Right.

Q. Do you -- do you know what was underneath this page?

A. No. That's what I'm telling you. That's the black book. I don't know where it is.

Q. Do you know when this copy was made?

A. When it was made?

Q. Yeah.

A. Not sure, no.

Q. Okay. Well, I'm curious, because in your earlier testimony when you were testifying about the --

MS. JAPINGA: Transfers?

Q. **(Mr. Hartmann)** The transfers, yes, I said, Well, this -- you could have written this yesterday, right? And

C-E-R-T-I-F-I-C-A-T-E

I, SUSAN C. NISSMAN, a Registered Merit Reporter and Notary Public for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witnesses, **FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, and JOHN GAFFNEY,** were first duly sworn to testify the truth; that said witnesses did thereupon testify as is set forth; that the answers of said witnesses to the oral interrogatories propounded by counsel were taken by me in stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such Registered Merit Reporter on this the 22nd day of February, 2020, at Christiansted, St. Croix, U.S. Virgin Islands.

_____

My Commission Expires:
June 28, 2023

Susan C. Nissman, RPR-RMR
NP 234-19

Exhibit 5

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.	CIVIL NO. SX-12-CV-370 ACTION FOR INJUNCTIVE RELIEF, DECLARATORY JUDGMENT, AND PARTNERSHIP DISSOLUTION, WIND UP, AND ACCOUNTING
Consolidated With	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff, v. UNITED CORPORATION, Defendant.	CIVIL NO. SX-14-CV-287 ACTION FOR DAMAGES AND DECLARATORY JUDGMENT
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff, v. FATHI YUSUF, Defendant.	CIVIL NO. SX-14-CV-278 ACTION FOR DEBT AND CONVERSION
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. ST-17-CV-384 ACTION TO SET ASIDE FRAUDULENT TRANSFERS

EXHIBIT
5

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 Responses to Hamed's as follows:

~~**1. Interrogatory No. 15 – Relating to Y-7 - Ledger Balances Owed to United**~~

Subsequent to Hamed's service of this interrogatory, depositions were taken as to United's claim Y-7 – Ledger Balances Owed to United. During the course of those depositions, Hamed inquired as to Exhibit H referenced in this Interrogatory. In response, Mike Yusuf, President of United testified in detail. His testimony is responsive to this interrogatory. Specifically, Mike Yusuf's Deposition testimony on January 21, 2020. During direct examination, Mike Yusuf testified that the Exhibit H is his handwriting that he used to keep ledgers in the safe of checks that he wrote from the Tenant Account that should be paid by the Partnership; he read each entry and explained each entry and what it was for to the best of his recollection. *See* **Exhibit A** – January 21, 2020 Depo. Mike Yusuf at 248:15–258:3. Counsel for Hamed then cross-examined Mike Yusuf as to the specific entries and the location of the ledger, the nature of the ledger and whether the FBI had seized it. *Id.* at 258:4-265:7. During re-direct, some further clarifications were made as well as to the origins of the ledger. *Id.* at 265:8 – 266:25. Thereafter, Fathi Yusuf testified as to instructions for payment and that at the time of this ledger there was little cash in the grocery store operations such that funds were needed from the Tenant Account. *See* **Exhibit B**–January 21, 2020 Depo. Fathi Yusuf at 267:10-271:25. This testimony is incorporated by reference as if ~~fully set forth herein verbatim as responsive to Interrogatory Number 15.~~

~~In addition, produced herewith are the Tenant Account Bank Statements for 2010-2016,~~ (Bates FY015248 thru FY 015955). Further~~, the~~ Tenant Account Bank Statements from 2017 thru ~~March, 2020 have been secured and are being bates stamped. They will be supplemented shortly.~~

3. **Request to Produce Number 7: Ledger**

United shows that it has undertaken a diligent search of all records to determine if the book from which the copy was derived is available and has been unable to locate same. United refers to Mike Yusuf's testimony in this regard as to the substance of the ledger and any other possible claims and incorporates same as responsive to this request.

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 11, 2020

By: s/Charlotte K. Perrell
CHARLOTTE K. PERRELL
(V.I. Bar #1281)
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E-Mail: cperrell@dtflaw.com

Attorneys for Fathi Yusuf and United Corporation

Exhibit 6

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA, and
GOVERNMENT OF THE VIRGIN ISLANDS,
Plaintiff,

v.

FATHI YUSUF MOHAMAD YUSUF,
aka Fathi Yusuf,
WALEED MOHAMMAD HAMED,
aka Wally Hamed,
WAHEED MOHAMMED HAMED,
aka Willie Hamed,
MAHER FATHI YUSUF,
aka Mike Yusuf,
ISAM MOHAMAD YOUSUF,
aka Sam Yousuf, and
UNITED CORPORATION,
dba Plaza Extra,
Defendants.

INDICTMENT

CRIMINAL NO. 2003-147

18 U.S.C. § 371
CONSPIRACY TO COMMIT MAIL FRAUD
STRUCTURE FINANCIAL
TRANSACTIONS

18 U.S.C. § 1956(h)
CONSPIRACY TO LAUNDER MONEY

18 U.S.C. § 1341
MAIL FRAUD

18 U.S.C. § 1956(a)(2)(B)(i)
MONEY LAUNDERING

26 U.S.C. § 7206(2)
CAUSING FALSE TAX RETURNS

31 U.S.C. § 5324(a)(3)
STRUCTURING FINANCIAL
TRANSACTIONS

33 V.I.C. § 1522
CONSPIRACY TO EVADE TAXES

33 V.I.C. § 1525(2)
CAUSING FALSE TAX RETURNS

14 V.I.C. § 605(a)
ENGAGING IN A CRIMINAL ENTERPRISE

14 V.I.C. § 605(d)
CONSPIRACY TO ENGAGE IN A
CRIMINAL ENTERPRISE

18 U.S.C. § 982 & 21 U.S.C. § 853
ASSET FORFEITURE

14 V.I.C. § 606
ASSET FORFEITURE

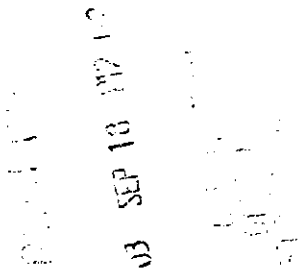

EXHIBIT
6

THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

A. Defendants

1. Defendant UNITED CORPORATION (hereinafter UNITED) was a corporation organized and existing under the laws of the United States Virgin Islands (hereinafter "Virgin Islands") that did business as Plaza Extra (hereinafter "Plaza Extra"). In the mid-1980s, Plaza Extra opened its first store, which was located in St. Croix. In 1993, Plaza Extra opened a second store, which was located in St. Thomas. In 2000, Plaza Extra opened a third store, which also was located in St. Croix. Plaza Extra sold groceries and other merchandise, which was purchased from wholesalers and other suppliers located in states, territories and countries outside of the Virgin Islands. From 1996 through 2001, Plaza Extra's sales totaled over $300 million.

2. Defendant FATHI YUSUF MOHAMAD YUSUF (hereinafter FATHI YUSUF) is a citizen of the United States and a resident of the Virgin Islands. FATHI YUSUF was an owner, director and officer of defendant UNITED and participated in the operation of Plaza Extra. FATHI YUSUF's duties and responsibilities included management of the business and conduct of the affairs of the corporation. FATHI YUSUF acted with the intent to benefit both himself and UNITED in executing his duties and responsibilities.

3. Defendant WALEED MOHAMMAD HAMED (hereinafter WALEED HAMED) is a citizen of the United States and a resident of the Virgin Islands. WALEED HAMED was employed by UNITED as the manager of a Plaza Extra supermarket in St. Croix. WALEED HAMED's duties and responsibilities included the overall operation and financial management of the store. ~~WALEED HAMED acted with the intent to benefit both himself and UNITED in~~

and to pay taxes on its monthly gross sales receipts.

8. United States law provides that the income-tax laws in force in the United States apply to the Virgin Islands, and that the proceeds of such taxes must be paid to the Virgin Islands.

C. Scheme to Defraud

9. Beginning at least as early as in or about January 1996 and continuing through at least in or about September, 2002, defendants FATHI YUSUF, WALEED HAMED, WAHEED HAMED and UNITED defrauded the Virgin Islands of money in the form of tax revenue, specifically territorial gross receipts taxes as well as corporate income taxes, by failing to report at least $60 million in Plaza Extra sales on gross receipts tax returns and corporate income tax returns.

10. Plaza Extra customers paid for their purchases with cash, checks, credit cards, food stamps, and other forms of payment. After Plaza Extra's sales receipts were collected each day, the funds typically were transferred to a room in the store often referred to as the "cash room," to which only certain individuals, including the defendants, were permitted access. In the cash room, Plaza Extra employees counted the sales receipts and prepared bank deposit slips for the sales receipts.

11. Defendants FATHI YUSUF, WALEED HAMED, WAHEED HAMED and UNITED directed and caused Plaza Extra employees to withhold from deposit substantial amounts of cash received from sales, typically bills in denominations of $100, $50 and $20. Instead of being deposited into the bank accounts with other sales receipts, this cash was delivered to one of the defendants or placed in a designated safe in the cash room. From 1996 through 2001, tens of millions of dollars in cash was withheld from deposit in this manner and as such, was not reported as gross receipts on tax returns filed by UNITED.

12. In this way, defendants FATHI YUSUF, WALEED HAMED, WAHEED HAMED and UNITED caused the filing of dozens of false monthly gross receipts tax returns, which failed to report the cash withheld from deposit as gross receipts, thereby depriving the Virgin Islands of substantial tax revenue. Defendant UNITED's controller prepared and signed Plaza Extra's monthly gross receipts tax returns, declaring under oath that the returns were true and complete, knowing full well that the returns were false in that they failed to report substantial sales receipts.

13. Defendants FATHI YUSUF, WALEED HAMED, WAHEED HAMED and UNITED also caused the filing of false annual corporate income tax returns of UNITED that failed to report the cash withheld from deposit as sales, thereby depriving the Virgin Islands of substantial tax revenue. Defendant FATHI YUSUF signed UNITED's returns, declaring under oath that the returns were true and complete, knowing full well that the returns were false in that they failed to report substantial sales receipts.

D. Concealment of the Fraud Proceeds

14. The defendants engaged in various efforts to disguise and conceal the illegal scheme and its proceeds. For example, defendants FATHI YUSUF, WAHEED HAMED and MAHER YUSUF directed and caused Plaza Extra employees and others to purchase cashier's checks, traveler's checks, and money orders with unreported cash, typically from different bank branches and made payable to individuals and entities other than the defendants, in order to disguise the cash as legitimate-appearing financial instruments.

15. Defendants FATHI YUSUF, WAHEED HAMED and MAHER YUSUF also purchased and caused others to purchase checks and money orders, and engaged in and caused others to engage in various cash transactions with banks, in amounts designed to evade the legal requirements that banks keep records and file reports regarding cash transactions with the U.S.

Treasury Department.

16. Defendants WALEED HAMED and MAHER YUSUF caused unreported currency to be used to cash the checks of Plaza Extra customers and others in order to disguise the cash as legitimate-appearing financial instruments.

17. Defendants FATHI YUSUF and WALEED HAMED caused the checks and money orders described above to be deposited into foreign bank accounts they controlled. For example, defendants FATHI YUSUF and WALEED HAMED compiled the various checks and money orders obtained with unreported cash and caused them to be transported from the Virgin Islands to the Kingdom of Jordan ("Jordan"), where the funds were deposited into accounts they controlled at Cairo Amman Bank, in Amman, Jordan.

18. Defendants WALEED HAMED and WAHEED HAMED used and caused to be used UNITED corporate checks to purchase cashiers' checks made payable to Plaza Extra suppliers and other entities to create the false appearance that the checks were payments to Plaza Extra suppliers. In fact, these cashier's checks were transported to Amman, Jordan and deposited into accounts at Cairo Amman Bank controlled by defendants FATHI YUSUF and WALEED HAMED.

19. Defendants FATHI YUSUF and WALEED HAMED smuggled and caused to be smuggled millions of dollars of unreported cash from the Virgin Islands to the island of St. Martin, in the French West Indies, where it was deposited into accounts at Banque Francaise Commerciale that they and defendant ISAM YOUSUF controlled.

20. To conceal the transfer of unreported cash to foreign bank accounts, defendants FATHI YUSUF and WALEED HAMED failed to file financial reports with the United States, as required by law. Specifically, FATHI YUSUF and WALEED HAMED failed to file required reports with the U.S. Treasury Department that would have revealed: (a) their transfer of

USAO NO. 2002R00389

A TRUE BILL

FOREPERSON

ASSISTANT U. S. ATTORNEY

DISTRICT OF THE VIRGIN ISLANDS: 9/18, 2003

Returned into the District Court by Grand Jurors and filed.

DEPUTY CLERK

03 SEP 13

Exhibit 7

JAN 0 4 2005

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA, and
GOVERNMENT OF THE VIRGIN ISLANDS,
Plaintiff,

v.

FATHI YUSUF MOHAMAD YUSUF,
aka Fathi Yusuf,
WALEED MOHAMMAD HAMED,
aka Wally Hamed,
WAHEED MOHAMMED HAMED,
aka Willie Hamed,
MAHER FATHI YUSUF,
aka Mike Yusuf,
ISAM MOHAMAD YOUSUF,
aka Sam Yousuf,
NEJEH FATHI YUSUF, and
UNITED CORPORATION
dba Plaza Extra,
Defendants.

CRIMINAL NO. 2003-147

DRAFT SUMMARY SCHEDULES

EXHIBIT
7

YUSF113438

FY 009991

United States & The Government of the Virgin Islands v. Fathi Yusuf Mohammed Yusuf, et. al.
Draft Summary Schedules

INDEX

INDEX

INDEX

SUMMARY GROSS INCOME ANALYSIS
PLAZA EXTRA
1996

	STT Actual Sales	STT Sales Per Gross Receipt Tax Return	Actual Sales Less Sales Per G/R Tax Returns	STX Actual Sales	STX Sales Per Gross Receipt Tax Return	Actual Sales Less Sales Per G/R Tax Returns	Total Actual Sales	Total Sales Per Gross Receipt Tax Return	Total Unreported Sales
Jan-96	2,174,587.95	1,787,148.63	387,439.32	1,764,049.92	1,764,049.92	0.00	3,938,637.87	3,551,198.55	387,439.32
Feb-96	2,110,327.53	1,832,829.71	277,497.82	1,584,458.49	1,584,458.49	0.00	3,694,786.02	3,417,288.20	277,497.82
Mar-96	2,231,448.19	1,386,679.98	844,768.21	1,682,477.05	1,682,477.05	0.00	3,913,925.24	3,069,157.03	844,768.21
Apr-96	2,138,062.07	1,596,410.12	541,671.95	1,625,813.27	1,625,813.27	0.00	3,763,895.34	3,222,223.39	541,671.95
May-96	2,066,154.43	1,457,064.06	609,090.37	1,628,086.86	1,628,086.86	0.00	3,694,241.29	3,085,150.92	609,090.37
Jun-96	2,101,441.68	971,423.68	1,130,018.00	1,326,332.05	1,326,332.05	0.00	3,427,773.73	2,297,755.73	1,130,018.00
Jul-96	2,262,943.56	909,992.67	1,352,950.89	1,503,545.59	1,503,545.59	0.00	3,766,489.15	2,413,538.26	1,352,950.89
Aug-96	2,273,867.61	1,181,108.35	1,092,759.26	1,344,547.73	1,344,547.73	0.00	3,618,415.34	2,525,656.08	1,092,759.26
Sep-96	1,988,104.22	1,786,111.67	201,992.55	1,339,708.73	1,339,708.73	0.00	3,327,812.95	3,125,820.40	201,992.55
Oct-96	1,878,971.04	1,540,699.09	338,271.95	1,683,877.91	1,683,877.91	0.00	3,562,848.95	3,224,577.00	338,271.95
Nov-96	2,272,294.13	1,613,089.72	659,204.41	1,814,830.24	1,814,830.24	0.00	4,087,124.37	3,427,919.96	659,204.41
Dec-96	2,365,551.06	1,697,477.02	668,074.04	1,828,632.06	1,828,632.06	0.00	4,194,183.12	3,526,109.08	668,074.04
	25,863,773.47	17,760,034.70	8,103,738.77	19,126,359.90	19,126,359.90	0.00	44,990,133.37	36,886,394.60	8,103,738.77
Gross Receipts Tax Due & Owing (4% of Total Unreported Sales)									324,149.55

1996 Actual Sales for St. Croix were not available. The amounts shown were as reported on gross receipts tax returns filed with the VIBIR.

DRAFT

COMPUTATION OF CORRECTED INCOME[1] AND TAX
UNITED CORPORATION
1996 - 2001

Item	1996	1997	1998	1999	2000	2001	
Actual Sales	44,959,700.47 [2]	44,008,812.53 [2]	54,607,513.98	57,937,942.63	65,262,591.41	79,305,980.28	Per Summary Income Analysis Schedule
Gross Sales	36,771,260.00	36,823,771.00	40,706,669.00	47,004,399.00	51,746,933.00	69,579,413.00	Per Corporate Income Tax Returns
Unreported Gross Sales	8,188,440.47	7,185,041.53	13,900,844.98	10,933,543.63	13,515,658.41	9,726,567.28	
Total Income	9,218,908.00	8,644,493.00	8,632,551.00	11,464,828.00	12,639,106.00	18,650,710.00	Per Corporate Income Tax Returns
Add:							
Unreported Gross Sales	8,188,440.47	7,185,041.53	13,900,844.98	10,933,543.63	13,515,658.41	9,726,567.28	
Less:							
Total Deductions	8,749,761.00	8,462,931.00	8,474,306.00	8,696,686.00	10,058,426.00	13,403,719.00	Per Corporate Income Tax Returns
Less:							
Additional Business Deductions				3,893,881.39	3,538,486.16	2,884,240.47	Per Schedule of Additional Business Expenditures
Compensation to Waleed Hamed	1,628,856.86	136,475.13	2,070,804.72	1,495,781.16	429,584.75	76,935.20	Per Taxable Income Computations for Waleed Hamed
Compensation to Waheed Hamed		111,500.00	151,150.00	181,800.00	795,919.63		Per Taxable Income Computations for Waheed Hamed
Corrected Taxable Income	$ 7,028,730.61	$ 7,118,628.40	$ 11,837,135.26				
Corrected Ordinary Income				$ 8,130,223.08	$ 11,332,347.87	$ 12,012,382.61	
Corrected Tax	2,389,768.41	2,420,333.66	4,042,997.34				Per IRS Tax Rate Schedules
Less: Tax Per Return	175,461.00	59,465.00	49,462.00				Per Corporate Income Tax Returns
Additional Tax Due & Owing	$ 2,214,307.41	$ 2,360,868.66	$ 3,993,535.34				

[1]As of the 1999 tax year, United Corporation elected to become an S Corporation, and as such, reported ordinary income as opposed to taxable income.

[2]The amounts reflected on line 1 "Actual Sales", for 1996 and 1997, represent the sum of actual sales for St. Thomas (per summary income analysis schedule) and reported income (per United Corporation financial statements) for St. Croix.

FY 010121

YUSF113568

Exhibit 8

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

MOHAMMED HAMED by His Authorized Agent WALEED HAMED,	)	
Plaintiff/Counterclaim Defendant,	)	
vs.	)	Case No. SX-12-CV-370
FATHI YUSUF and UNITED CORPORATION,	)	
Defendants/Counterclaimants,	)	
vs.	)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,	)	
Additional Counterclaim Defendants.	)	

THE VIDEOTAPED 30(b)(6) ORAL DEPOSITION OF UNITED CORPORATION through its representative, MAHER "MIKE" YUSUF, was taken on the 3rd day of April, 2014, at the Law Offices of Adam Hoover, 2006 Eastern Suburb, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 10:07 a.m. and 2:42 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

Cheryl L. Haase
Registered Professional Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix U.S.V.I.
(340) 773-8161

EXHIBIT 8

APPEARANCES

A-P-P-E-A-R-A-N-C-E-S

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2132 Company Street
Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Joel H. Holt

and

Law Offices of
Carl Hartmann, III
5000 Estate Coakley Bay, #L6
Christiansted, U.S. Virgin Islands 00820

By: Carl Hartmann, III

For the Defendant/Counterclaimants

Law Offices of
Dudley, Topper & Feuerzeig
P.O. Box 756
Charlotte Amalie, St. Thomas
U.S. Virgin Islands 00804

By: Gregory H. Hodges

APPEARANCES

For Fathi Yusuf:

Law Offices of
K. Glenda Cameron
2006 Eastern Suburb, Suite 101
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: K. Glenda Cameron

Also Present:

Josiah Wynans, Videographer
Hatim Yusuf, Interpreter
Kim Japinga
Waleed Hamed
Hisham Hamed
Mufeed Hamed
Fathi Yusuf

Q. Okay.

A. Okay?

Q. That's fine.

A. 2001, that's the -- the year that we had the raid.

Q. Okay. What -- approximately what date?

A. October 23rd of 2001.

Q. Okay.

A. Okay. Sometime I would say a month and a half to two months before that, Waleed got a call from Waheed saying that something is going on. Some kind of agency is coming to spot check us, look at us. I -- I don't know the details of that. So among us, at that time, it was me, Mufeed and Waleed in the Plaza Extra East, I was doing construction at that time -- or, no, the store in West was open at that time.

So I left my store, and I came to East to -- to discuss what's -- what's going on. Nobody wanted to speak over the phone. We -- you know? We were trying to not say anything over the phone, because we didn't know what was going on. We just heard through the grapevine, something is happening. We didn't know.

So between among us, we decided to destroy some of the receipts, because they were all in cash. We pulled out a good bit of receipts from the safes in Plaza East. Mufeed was present with me. He had a whole, a heap

of receipts for the Hameds only. It could be from either one of the Hameds, once it's the Hamed. And receipts from the Yusuf, which basically was just me, not, you know, nobody else.

Mufeed, I guess you call it, tallied, and, you know, put a tape on what they withdraw, and I put a tally, a tape, on what I withdraw. And I gave him my receipts to double-check my work, he gave me his receipt to double-check his work.

Once everything dropped to the penny, we were fine, I said, Listen. I'm destroying my receipts. ~~You know what I owe you guys. I owe you guys 1.3 million, and at~~ that time, they had pulled in receipts about 2.9 million. Wally wanted to take a look at it, and as far as I know, Wally got rid of the receipts. So 1.3 million from 2.9 million, this is where you get the 1.6 million.

Q. In Exhibit --

A. In Exhibit 146.

Q. Okay. So let me just see if I'm clear. The two of you collected the receipts from everywhere?

A. No. You're -- I told you, from Plaza Extra East.

Q. Oh, just from Plaza Extra East?

A. I came from Plaza West.

Q. Okay.

A. ~~I was open at that time.~~

CERTIFICATE

C-E-R-T-I-F-I-C-A-T-E

I, CHERYL L. HAASE, a Registered Professional Reporter and Notary Public No. NP-158-03 for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witness, MAHER "MIKE" YUSUF, was first duly sworn to testify the truth; that said witness did thereupon testify as is set forth; that the answers of said witness to the oral interrogatories propounded by counsel were taken by me in Stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such Certified Court Reporter on this the 25th day of April, 2014, at Christiansted, St. Croix, United States Virgin Islands.

_____

Cheryl L. Haase, RPR
My Commission Expires 2/10/16

Exhibit 9

IN THE DISTRICT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

UNITED STATES OF AMERICA, and GOVERNMENT OF THE VIRGIN ISLANDS, Plaintiffs, vs. FATHI YUSUF MOHAMAD YUSUF, aka Fathi Yusuf WALEED MOHAMMAD HAMED, aka Wally Hamed WAHEED MOHOMMAD HAMED, aka Willie Hamed MAHER FATHI YUSUF, aka Mike Yusuf NEJEH FATHI YUSUF ISAM YUSUF, and UNITED CORPORATION, dba Plaza Extra, Defendants.	CRIMINAL NO. 2005-15F/B

PLEA AGREEMENT

I.

INTRODUCTION

This agreement is entered into by and between defendant United Corporation, d/b/a Plaza Extra (hereinafter "United"), Thomas Albon, Esquire, and Warren B. Cole, Esquire, Attorneys for United; Fathi Yusuf Mohamad Yusuf, Waleed Mohammad Hamed, Waheed Mohammad Hamed, Maher Fathi Yusuf, Nejeh Fathi Yusuf, and the Department of Justice, Tax Division, and the United States Attorney for the District of the Virgin Islands (collectively referred to as the "Government").

The parties agree to the following terms:

EXHIBIT 9

5228044.1

A. United will plead guilty to Count Sixty of the Third Superseding Indictment, which charges willfully making and subscribing a 2001 U.S. Corporation Income Tax Return (Form 1120S), in violation of Title 33, Virgin Islands Code, Section 1525(2).

B. At the time that United enters its plea to the above-referenced count, the Government will dismiss all counts of the Indictment with prejudice against FATHI YUSUF MOHAMAD YUSUF, aka Fathi Yusuf, WALEED MOHAMMAD HAMED, aka Wally Hamed, WAHEED MOHAMMED HAMED, aka Willie Hamed, MAHER FATHI YUSUF, aka Mike Yusuf, ISAM MOHAMAD YOUSUF, aka Sam Yousuf, and NEJEH FATHI YUSUF (all collectively referred to as "individual defendants") , including the temporary restraining order and forfeiture allegations. The Government agrees not to file any additional criminal charges against United or any of the individual defendants for conduct arising out of the facts alleged in the Indictment. In accordance with paragraph VI. below, the Department of Justice of the Virgin Islands also agrees that it will file no criminal charges against United or any of the individual defendants for any conduct arising out of the facts alleged in the Indictment.

The Government agrees to dismiss with prejudice all remaining counts of the Indictment against United, including the temporary restraining order and forfeiture allegations, at the time of sentencing.

II.

NATURE OF THE OFFENSE

United agrees to plead guilty to Count Sixty of the Indictment, which charges a violation of Title 33, Virgin Islands Code, Section 1525(2). United acknowledges that the offense to which it is pleading has the following elements:

A. Elements

1. United aided, assisted, procured, counseled, advised, or caused the preparation and presentation of a return;

2. The return was fraudulent or false as to a material matter; and

3. United acted willfully.

B. Elements Understood and Admitted.

United, through a representative empowered to accept this plea by virtue of a duly enacted resolution of its Board of Directors, has fully discussed the facts of this case with defense counsel. United committed each of the elements of the crime charged in Count Sixty of the Indictment and admits that there is a factual basis for a plea of guilty to the charge.

C. Factual Basis.

The parties agree that the following facts are true and undisputed:

On or about September 18, 2002, United willfully aided, assisted, procured, counseled, advised, or caused the preparation and presentation of a materially false corporate income tax return on Form 1120S for the year 2001 and filed such return with the Virgin Islands Bureau of Internal Revenue (VIBIR).

Specifically, United reported gross receipts or sales on line 1c as $69,579,412, knowing that the true amount was approximately $79,305,980.

III.

PENALTIES

A. United acknowledges that the maximum penalties for violation of Count Sixty are the following:

1. A maximum fine of $5,000;

2. The Government may seek costs of prosecution, including but not limited to 1) costs incurred to produce discovery in the investigation and prosecution of this matter; 2) costs incurred by the United States Marshal's Service to monitor the operations of Defendant United pursuant to the Temporary Restraining Order, currently estimated at approximately $1.5 million; and 3) costs related to witness appearance and travel fees in the investigation and prosecution of this matter. United reserves the right to object to the imposition of the aforementioned costs and to contest the amounts claimed by the Government.

3. Restitution in an amount that represents any and all unpaid gross receipts taxes, corporate income taxes, and individual income taxes owing to the VIBIR for the Indictment years 1996, 1997, 1998, 1999, 2000, and 2001. Said restitution is to be determined by the Court in accordance with the figures and ranges set forth in Exhibit 1, accepting as proven those figures stipulated by the parties. For those numbers still in dispute, the Court will determine the appropriate amount within the ranges proposed by the parties in Exhibit 1, following briefing, evidentiary presentation, and argument. In making its

determination, the Court may consider all relevant and material evidence presented by the parties without regard to the Federal Rules of Evidence, so long as such evidence is disclosed in advance to the opposing party. Prior to submitting restitution amounts for the Court's consideration in preparation for sentencing, the parties agree to negotiate in good-faith to arrive at a mutually acceptable amount.

4. A term of probation of one year, with conditions as set forth in paragraph VIII.E. United understands that failure to comply with any of the conditions of probation may result in the imposition of further penalties.

B. In addition to the statutory penalties for violation of Title 33, Virgin Islands Code, Section 1525(2), United shall pay a substantial monetary penalty within the range set forth in paragraph VIII.B., as determined by the Court following briefing and argument by the parties.

IV.

WAIVER OF TRIAL RIGHTS

United understands that this guilty plea waives all of the following rights:

A. To plead not guilty and to require the Government to prove the elements of the crimes beyond a reasonable doubt;

B. To a speedy and public trial by jury;

C. To assistance of counsel at all stages of trial;

D. To confront and cross-examine witnesses against United; and

E. To present evidence and to have witnesses testify on United's behalf.

V.

UNITED'S REPRESENTATION THAT GUILTY PLEA IS KNOWING AND VOLUNTARY

United represents that:

A. United has had a full opportunity to discuss all the facts and circumstances of this case with its counsel and has a clear understanding of the charges and the consequences of pleading guilty;

B. No one has made any promises or offered any rewards in return for United's guilty plea, other than those contained in this Plea Agreement, in Exhibit 2, which contains the letter of understanding dated February 12, 2010 (this plea agreement controls in the event of any conflicts), or otherwise disclosed to the Court;

C. No one has threatened United to induce this guilty plea; and

D. United is pleading guilty because in truth and in fact United *is* guilty and for no other reason.

VI.

AGREEMENT LIMITED TO UNITED STATES ATTORNEY'S OFFICE FOR THE DISTRICT OF THE VIRGIN ISLANDS AND TAX DIVISION

This Plea Agreement is between United Corporation, the Individual Defendants, and the Government. This Agreement is not intended to bind any other federal, state, or local prosecuting, administrative, or regulatory authorities except to the extent specifically expressed herein. The Government will bring this Plea Agreement to the attention of other authorities if requested by United.

VII.

PLEA AGREEMENT SUBJECT TO COURT APPROVAL

Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the parties acknowledge and agree that United should be ordered to pay the fine, restitution, and monetary penalties contained within this Plea Agreement and should be sentenced to a term of probation of one year.

If the Court does not adopt the agreement of the parties pursuant to Rule 11(c)(1)(C), both United and the Government reserve the right to withdraw from this Plea Agreement.

VIII.

PARTIES' SENTENCING RECOMMENDATIONS

A. Fine. The parties agree that the maximum statutory fine of $5,000 should be imposed.

B. Monetary Penalty: The parties propose that the monetary penalty to be imposed pursuant to paragraph III.B. above be imposed in an amount between $250,000 to $5,715,748.

C. Costs of Prosecution: The Government proposes that costs of prosecution be imposed as discussed above in paragraph III.A.2. United contests said number and the categories of costs to be awarded.

D. Restitution. The parties propose the restitution amounts and ranges as set forth in Exhibit 1, as referenced in paragraph III.A.3. above.

E. Terms of Probation

1. United agrees to a term of probation of one year and agrees to be monitored by an independent third party certified public accounting firm to

assure its compliance with the tax laws of the VIBIR. United agrees to cooperate with the independent third party in carrying out such party's obligations under this agreement. The selection of a certified public accounting firm as the independent third party will be expressly approved by the Government prior to the beginning of the term of probation. If the parties cannot reach agreement on a third party, the independent third party will be selected by the Court.

2. The independent third party shall make quarterly reports to the Government, the Court, and United of United's financial condition, results of business operations, tax filings, tax payments, and accounting for the disposition of all funds received.

3. United shall submit to:

(a) a reasonable number of regular or unannounced examinations of its books and records at appropriate business premises by the independent third party; and

(b) a periodic review of financial statements and tax returns of United.

4. United shall be required to notify the court or independent third party immediately upon learning of (a) any material adverse change in its business or financial condition or prospects, or (b) the commencement of any bankruptcy proceeding, major civil litigation, criminal prosecution, or administrative proceeding against United, or any investigation or formal inquiry by governmental authorities regarding United's financial operations.

5. United shall make periodic payments, as specified by the Court, in the following priority: (a) restitution; (b) fine; and (c) substantial monetary penalty. After sentencing, the Government agrees to release all lis pendens, restraining orders, liens, or other encumbrances or property except to the extent necessary to assure valid security for the payments of all amounts referenced above. United shall develop and submit to the Court an effective compliance and ethics program consistent with §8B2.1 (Effective Compliance and Ethics Program) of the United States Sentencing Guidelines. United shall include in its submission a schedule for implementation of the compliance and ethics program.

6. Upon approval by the Court of the ethics program referred to above, United shall notify its owners, shareholders, directors, officers, and employees of its criminal behavior and its programs referred to above. Such notice shall be in a form prescribed by the Court.

7. United shall make periodic reports to the Government and to the Court at intervals and in a form specified by the Court, regarding the organization's progress in implementing the ethics program referred to above. Among other things, such reports shall disclose any criminal prosecution, civil litigation, or administrative proceeding commenced against United, or any investigation or formal inquiry by governmental authorities concerning United's financial operations of which United learned since its last report.

IX.

UNITED WAIVES APPEAL AND COLLATERAL ATTACK

In exchange for the Government's concessions in this Plea Agreement, United waives, to the full extent of the law, any right to appeal or collaterally attack the conviction and sentence, including any restitution order, except in the following circumstances: (i) the sentence exceeded the maximum statutory penalty; or (ii) the sentence violated the Eighth Amendment to the United States Constitution.

X.

FURTHER CRIMES OR BREACH OF THE AGREEMENT WILL PERMIT THE GOVERNMENT TO RECOMMEND A HIGHER SENTENCE OR TO SET ASIDE THE PLEA

This Plea Agreement is based on the understanding that United will commit no additional criminal conduct before sentencing. If United engages in additional criminal conduct between the time of execution of this agreement and the time of sentencing, or breaches any of the terms of any agreement with the Government, the Government will not be bound by the recommendations in this Plea Agreement and may recommend any lawful sentence.

XI.

COOPERATION WITH INTERNAL REVENUE SERVICE AND VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE

During the pendency of this matter, United, its shareholders, the individual defendants in this case, and certain related entities and individuals identified in various pleadings or motions in this case, upon the specific advice of their counsel in this matter, did not file tax returns and certain other reporting

documents to the United States or the United States Virgin Islands (USVI) on Fifth Amendment grounds. During the pendency of this matter, those same individuals and entities endeavored to work cooperatively with the U.S. Marshals Service and the USVI governments to pay over as deposits their best estimate of taxes owed on those returns.

Prior to sentencing, United agrees to cooperate with the Government and the VIBIR in filing complete and accurate corporate income tax returns and gross receipts returns for years 2002, 2003, 2004, 2005, 2006, 2007, and 2008 and in paying in full the amounts due thereupon. United agrees to comply with all current tax reporting and payment obligations between the execution of this agreement and sentencing. In addition, prior to the sentencing hearing in this matter, United's shareholders (FY 32.5%, FY 32.5%, SY 7%, ZY 7%, YY 7%, MY 7%, NY 7%), and the individual defendants shall file the outstanding returns and reporting documents and shall make full payments of the amounts due thereupon. United acknowledges that a special condition of probation will require that all corporate returns be filed, and all amounts due and owing under this agreement and all taxes due and owing for tax years 2002 through 2008 must be paid prior to the termination of the period of probation.

The Government agrees that no foreign bank account-related charges or discretionary penalties shall be applied with respect to United or any of the individual defendants so long as such reporting and regulatory compliance is made for each of the years 1996 through 2008 prior to sentencing.

XII.

ENTIRE AGREEMENT

The Plea Agreement and Exhibit 2 embody the entire agreement between the parties.

Upon the acceptance of the plea of guilty to Count Sixty by United in accordance with this agreement, the Government agrees to promptly move the Court for an Order dismissing the restraining orders against the individual defendants, except to the extent necessary to assure valid security for the payments of all amounts referenced in paragraph VIII., and shall move for entry of an order removing of record all notices of lis pendens or other encumbrances filed in connection with this case against all properties owned in whole or in part by any persons other than United. The parties agree to meet and confer to determine a schedule to remove pending lis pendens, liens, and other restrictions.

XIII.

MODIFICATION OF AGREEMENT MUST BE IN WRITING

No modification of the Plea Agreement shall be effective unless in writing signed by the Government, United, the individual defendants, and United's shareholders.

XIV.

UNITED AND COUNSEL FULLY UNDERSTAND AGREEMENT

By signing this Plea Agreement, United's representative certifies that he or she has been given lawful authority to enter into this Plea Agreement. United further certifies that its counsel has discussed the terms of this Plea Agreement

with appropriate officer and directors of United and that United fully understands its meanings and effect.

The Government agrees to the terms set forth in this Plea Agreement.

RONALD SHARPE
UNITED STATES ATTORNEY

JOHN A. DICICCO
ACTING ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE, TAX DIVISION

Dated: 2/26/10

Mark F. Daly
Lori A. Hendrickson
Kevin C. Lombardi
Trial Attorneys

The defendant United Corporation agrees to the terms set forth in this Plea Agreement.

Dated: 2/26/10

Thomas Alkon, Esq.
Attorney for Defendant United Corporation

Dated: 2/26/10

Warren B. Cole, Esq.
Attorney for Defendant United Corporation

Dated: 2/26/10

Warren B. Cole, Esq.
Attorney for Defendant's unindicted shareholders

Dated: 2-26-10

Maher Fathi Yusuf
President, Defendant United Corporation

Dated: 2/26/10

Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10

Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10

Derek M. Hodge, Esq.
Attorney for Defendant Nejeh Fathi Yusuf

Dated: 2/26/10

Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: 2/26/10

Henry C. Smock, Esq.
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: 2/26/10

John K. Dema, Esq.
Attorney for Defendant Maher Fathi Yusuf

EXHIBIT 1 - RESTITUTION NUMBERS FOR TAX LOSS

Description	Government	Defendant
Gross Receipts Tax 1996	$324,149.55	$0.00
Gross Receipts Tax 1997	$234,506.94	$0.00
Gross Receipts Tax 1998	$619,496.89	$272,251.00
Gross Receipts Tax 1999	$558,830.86	$603,633.00
Gross Receipts Tax 2000	$642,057.28	$642,057.00
Gross Receipts Tax 2001	$478,832.33	$386,081.00
TOTAL GROSS RECEIPTS TAXES	$2,857,873.85	$1,904,022.00
Corporate Income Tax - 1996	$2,214,307.41	$0.00
Corporate Income Tax - 1997	$2,360,868.66	$427,011.00
Corporate Income Tax - 1998	$3,993,535.34	$488,323.00
TOTAL CORPORATE INCOME TAX	$8,568,711.41	$915,334.00
Individual Income Tax - 1999 - FY 32.5%	$1,046,359.70	$0.00
Individual Income Tax - 1999 - FY 32.5%	$1,046,359.70	$0.00
Individual Income Tax - 1999 - SY 7%	$225,369.78	$0.00
Individual Income Tax - 1999 - ZY 7%	$225,369.78	$0.00
Individual Income Tax - 1999 - YY 7%	$225,369.78	$0.00
Individual Income Tax - 1999 - MY 7%	$225,369.78	$0.00
Individual Income Tax - 1999 - NY 7%	$225,369.78	$0.00
TOTAL INDIVIDUAL INCOME TAX - 1999	$3,219,568.31	$0.00
Individual Income Tax - 2000 - FY 32.5%	$1,458,473.19	$0.00
Individual Income Tax - 2000 - FY 32.5%	$1,458,473.19	$0.00
Individual Income Tax - 2000 - SY 7%	$314,132.69	$0.00
Individual Income Tax - 2000 - ZY 7%	$314,132.69	$0.00
Individual Income Tax - 2000 - YY 7%	$314,132.69	$0.00
Individual Income Tax - 2000 - MY 7%	$314,132.69	$0.00
Individual Income Tax - 2000 - NY 7%	$314,132.69	$0.00
TOTAL INDIVIDUAL INCOME TAX - 2000	$4,487,609.81	$0.00
Individual Income Tax - 2001 - FY 32.5%	$1,545,993.69	$0.00
Individual Income Tax - 2001 - FY 32.5%	$1,545,993.69	$0.00

Individual Income Tax - 2001 - SY 7%	$332,983.26	$0.00
Individual Income Tax - 2001 - ZY 7%	$332,983.26	$0.00
Individual Income Tax - 2001 - YY 7%	$332,983.26	$0.00
Individual Income Tax - 2001 - MY 7%	$332,983.26	$0.00
Individual Income Tax - 2001 - NY 7%	$332,983.26	$0.00
TOTAL INDIVIDUAL INCOME TAX - 2001	$4,756,903.67	$0.00
TOTAL ALL TAXES	**$23,890,667.04**	**$2,819,356.00**

Exhibit 2

February 12, 2010

Lori A. Hendrickson, Esq.
US DOJ/Tax Division/N.Criminal Section
601 D. Street NW, Room 7814
Washington, DC 20004-2904

Re: United States v. Fathi Yusuf, Crim. No. 05-0015

Dear Ms. Hendrickson:

We write to memorialize the process and parameters that will culminate in a formal plea agreement in this case. The parties have agreed to the following terms:

- Defendant United Corporation (d.b.a. Plaza Extra) agrees to plead guilty to Count Sixty, filing a false 2001 Form 1120S, in violation of Title 33, Virgin Islands Code, Section 1525(2);

- The government agrees to dismiss the pending charges against the individual defendants immediately after defendant United Corporation's guilty plea has been entered in court by an authorized representative of defendant United Corporation, according to the terms of a signed plea agreement. The Government agrees not to prosecute United Corporation or any other individual or entity for any other crimes arising out of the conduct alleged in the Third Superseding Indictment;

- The government agrees to dismiss the remaining pending charges against United at the sentencing hearing;

- The parties agree to meet with each other and with representatives of the Virgin Islands Bureau of Internal Revenue (VIBIR) to try to reach agreement for restitution numbers for unpaid gross receipts taxes, corporate income taxes, and individual income taxes for the Indictment years 1996, 1997, 1998, 1999, 2000, and 2001. The numbers for which the parties are able to agree will be set forth in the plea agreement;

- If the parties are unable to reach agreement on any of the tax loss numbers for the Indictment years, they will set forth their own tax loss numbers for each year and for each particular tax, in a format identical to the attached chart. The parties agree that the final determination of the restitution amount for the unpaid gross receipts taxes, corporate income taxes, and individual income taxes for the Indictment years 1996, 1997, 1998, 1999, 2000, and 2001, will be made by Judge Finch after the

parties submit sentencing memoranda and present testimonial and documentary evidence at a hearing. The parties agree that Judge Finch will determine a liability based on the range of numbers asserted by the parties in the plea agreement.

- The determination of Judge Finch of the restitution by United Corporation shall be conclusive of all taxes due and owing to the Government of the Virgin Islands for years 1996, 1997, 1998, 1999, 2000, and 2001 with respect to all taxes of the shareholders of United Corporation, both indicted and non-indicted, and employees of United, including Waheed Hamed and Waleed Hamed, due on or for or on account of income earned by United Corporation during said years and upon payment all such tax liabilities shall be deemed satisfied in full.

- Defendant United Corporation agrees to a term of probation of one year, and agrees to be monitored by an independent third party certified public accounting firm during the term of probation to assure its compliance with the tax laws of the VIBIR. The selection of the independent third party will be expressly approved by the government prior to the beginning of the term of probation. If the parties cannot reach agreement on a third party, the independent third party will be selected by the Court;

- The government agrees not to prosecute United Corporation or individual defendants, or assert any civil or criminal accuracy related or reporting penalties, in years 2002, 2003, 2004, 2005, 2006, 2007, and 2008, provided that the individual defendants tender documentary proof that they have filed tax returns and paid tax due as set forth on those returns and as reviewed and accepted by the VIBIR;

- United, its shareholders, and the individual defendants referenced in the Indictment agree to cooperate with VIBIR to file full and complete tax returns for all post indictment years through present and to make full payment on any amounts due thereon. The Government agrees that no interest, penalties, or time and interest sensitive penalties should be imposed on the post-indictment returns so long as said returns are filed in accordance with this agreement. To the extent tax deposits already submitted exceed the amount owed on the post indictment returns as filed, such deposits should be reallocated to other tax periods or refunded to the particular tax payer. The VIBIR reserves the right to review the returns to be filed hereunder to determine whether they are accurate as filed.

- No foreign bank account-related charges or discretionary penalties shall be applied with respect to any of the individuals and entities so long as such reporting and regulatory compliance is made for the subject post-indictment years. (United States Department of Justice, and not VIBIR, has authorization over this provision).

- The parties agree that United will pay a $5,000 fine and that the Government may seek a substantial monetary penalty. The parties will negotiate in good faith to determine the character of this penalty and will set forth a defined range from

which Judge Finch will make a final ruling. The parties agree that the Government may also seek reimbursement from United for the actual costs of prosecution, which will be set forth in the plea agreement. United reserves the right to contest the above mentioned penalties and prosecution costs.

- Defendant United Corporation, the individual defendants, and the shareholders of United Corporation, all agree to file original individual income tax returns (or correcting amended returns, if appropriate) for the years 2002, 2003, 2004, 2005, 2006, 2007, and 2008, and provide any documentation or information requested by the VIBIR in order for the VIBIR to make their own independent review and assessment of the accuracy of such returns. Defendant United Corporation, the individual defendants, and the shareholders of United Corporation all agree to take these actions prior to the sentencing hearing;

The United States government and the United States Virgin Islands government agree to the terms set forth in this Letter of Agreement.

RONALD SHARPE
UNITED STATES ATTORNEY

JOHN A. DICICCO
ACTING ASSITANT ATTORNEY GENERL
DEPARTMENT OF JUSTICE
TAX DIVISION

Dated: 2/12/2010

Kevin C. Lombardi
Mark F. Daly
Lori A. Hendrickson
Kevin C. Lombardi
Trial Attorneys

Dated: 2/18/10

Claudette Watson Anderson
Director
Virgin Islands Bureau of Internal Revenue

Dated: 2/18/10

Denise George Counlle
Assistant Attorney General
Virgin Islands Department of Justice
Office of the Attorney General

The defendant United Corporation agrees to the terms set forth in this Letter of Agreement.

Dated: 2/26/10

Thomas Alkon, Esq.
Attorney for Defendant United Corporation

Dated: 2/26/10

Warren B. Cole, Esq.
Attorney for Defendant United Corporation

Dated: 2/26/10

MAHER FATHI YUSUF
President, Defendant United Corporation

Dated: 2/26/10

Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10

Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

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Attorney for Defendant Nejeh Fathi Yusuf

Dated: 2/26/10

Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: 2/26/10

Henry C. Smock, Esq.
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: 2/26/10

John K. Dema, Esq.
Attorney for Defendant Maher Fathi Yusuf

Exhibit 10

LAWRENCE H. SCHOENBACH*
PARTNER, INSTITUTE FOR TAX AND COMMERCIAL LAW, CH-ZÜRICH

OF COUNSEL
ELLEN BESSIS**
JÜRG BRAND***
ERICA B. POPKIN
A. JEFFREY WEISS****

*ALSO ADMITTED IN D. PUERTO RICO AND U.S.V.I
**ADMITTED IN FRANCE ONLY
***ADMITTED IN SWITZERLAND ONLY
****ALSO ADMITTED IN U.S.V.I AND ILL.

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2111 COMPANY STREET
CHRISTIANSTED, ST. CROIX
U.S. VIRGIN ISLANDS 00820

September 19, 2016

To: Joel Holt, Esquire

From: Lawrence Schoenbach, Esquire

Re: Expert Opinion re: United Corporation (STX);
Mohammad Hamed v. Fathi Yusuf and United Corporation;
St. Croix, U.S. Virgin Islands

OPINION LETTER

You have engaged me to render an expert opinion in the context of the civil litigation currently in the Superior Court of the Virgin Islands, Division of St. Croix, in a matter captioned *Mohammad Hamed v. Fathi Yusuf and United Corporation,* docket number Civil No. SX-12-CV-370 (Brady, J.). Specifically, you have sought the expert opinion of a criminal defense attorney with experience in federal criminal practice and so-called "white collar" business crimes involving tax evasion, money laundering, and/or compliance.

In particular, you have asked me to determine whether it is possible for the books and records of a business entity to be re-constructed after a business entity (here a partnership) has been deeply involved in a money-laundering such as the one presented here.

Further, you have asked me to render an expert opinion as an experienced criminal lawyer who advises individuals and companies on compliance with criminal laws[1] -- particularly white collar and business entity crimes. I have been asked to

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[1] Although my primary law practice is in the federal courts in New York City (Southern and Eastern Districts of New York), I am admitted to (and have represented

EXHIBIT
10

EXHIBIT
C

review a series of documents related to the instant litigation, as well as the related criminal indictment, and to formulate an opinion based upon them.

Documents Reviewed

In connection with this Opinion Letter, I have reviewed the filed documents of record containing Hamed's claims, the defenses, the analysis done by Hamed's CPA regarding 2012-present, various deposition and other testimony (identified within this Opinion Letter) and following documents:

- Memorandum Opinion in response to Plaintiff's Emergency Motion and memorandum to Renew Application for TRO (Brady, J.);
- Opinion Letter of David Jackson, PC;
- "Exhibit 5" consisting of a plea agreement between the United States and the criminal defendants charged in Indictment 2005-14F/B; and a supplemental plea agreement; and a second addendum to the plea agreement;
- "Exhibit 6" consisting of the cover letter of RSM McGladrey, Inc., by Ronald J. Soluri, Sr., Managing Director; Flow Chart, and a Letter of Waleed Hamed, dated July 22, 1998; and
- "Defendant Exhibit C" consisting of a Press Release from the United States Attorney for the Virgin Islands, Indictment 2003-147 (St. Thomas Division) captioned *United States of America and Government of the Virgin Islands v. Fathi Yusef Mohamad Yusef, et. al.;* Defendant's Notice of Filing of Criminal Indictment (Third Superseding Indictment), dated September 8, 2004; a Plea Agreement between the Government and the defendants named in the indictment;
- A PACER search of the ECF docket sheet for Indictment 05-Cr-00015 (RLF)(GWB).
- The various documents referenced herein.

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clients in criminal proceedings in) the U.S. Virgin Islands and the federal district court in Puerto Rico. I have also represented clients throughout the country and internationally. A portion of my practice involves advising business clients on regulatory and potential criminal matters and I have done so in the U.S. Virgin Islands and elsewhere. My resume and curriculum vitae are annexed hereto.

The Facts

In 2003 a grand jury sitting in St. Thomas, U.S. Virgin Islands voted a 76-count indictment against United Corporation ("United") and various related individuals, including, among others, Fathi Yusuf and members of his and Mohammad Hamed's families. The indictment charged, *inter alia*, numerous counts of mail fraud, money laundering, enterprise corruption (pursuant to Virgin Islands Law), and tax evasion.

Although all of the individual defendants were charged in the criminal indictment, only the corporate defendant, United Corporation ("United" or the "Company"), was convicted of a crime (Count 60 -- tax evasion).[2] For purposes of this Opinion Letter, it is the Company's guilty plea and conviction, as well as its admissions during the course of the plea of guilty, that allow me to reach the conclusions herein.

United is a corporate entity wholly owned by Fathi Yusuf and family. He is an officer of the Company and his son, Mike (Maher) Yusuf, is the President. It is my understanding, based upon the findings of fact by Judge Brady in his Memorandum Opinion that Mohammad Hamed, although a partner in the Plaza Extra supermarkets in St. Croix and St. Thomas, was *not* a shareholder or officer of United.[3] Critical to my analysis is that United admitted at the time of entry of the corporate plea that it under-reported gross receipts by utilizing the money laundering scheme outlined in the 3rd superseding indictment. Specifically, in admitting guilt to Count 60 of the indictment, United admitted that:

> On or about September 19, 2002, United willfully aided, assisted, procured, counseled, advised, or caused the preparation and presentation of a materially false corporate income tax return on Form 1120S for the year 2001 and filed such return with the Virgin Islands Bureau of Internal Revenue ("VIBIR"). Specifically, United Reported gross receipts or sales on line 1c as $69,579,412,

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2 By agreement between the parties and the Government, United was allowed to plead guilty to one count of tax evasion in full satisfaction of the indictment. The case against the remaining defendants was dismissed with prejudice.

3 "Yusuf's management and control of the "office" was such that Hamed was completely removed from the financial aspects of the business." *See* Memorandum Opinion (Brady, J), dated April 25, 2014, at ¶ 19.

knowing that the true amount was approximately $79,305,980.

By pleading guilty United acknowledged that it underreported its 2001 gross receipts by nearly $10 million. More importantly, for purposes of making an accurate, and legal accounting of the true gross receipts of the company from in the years prior to 2001, one must understand the nature of that tax evasion during the relevant time period.

According to the indictment, from "at least as early as in or about January 1996 and continuing through at least in or about September, 2002, defendant[] . . . UNITED defrauded the Virgin Islands of money in the form of tax revenue, specifically territorial gross receipts taxes by failing to report at least $60 million in Plaza Extra sales on gross receipts tax returns and corporate income tax returns. *See* Indictment, at ¶10. The fraudulent scheme to report gross receipts was, according to the indictment, *inter alia*, for United and certain of its officers/employees:

> to withhold from deposit substantial amounts of cash received from sales, typically bills in denominations of $100, $50, and $20. Instead of being deposited into the bank accounts with other sales receipts, this cash was delivered to one of the defendants or placed in a dedicated safe in a cash room. From 1996 through 2001, tens of millions of dollars in cash was withheld from deposits in this manner and as such, was not reported as gross receipts on tax returns filed by UNITED.

Indictment, at ¶12.

Once United skimmed these extraordinary amounts of cash from its gross receipts, it engaged in "various efforts to disguise and conceal the illegal scheme and its proceeds . . . by, [among several methods,] purchas[ing] cashier's checks, traveler's checks, and money orders with unreported cash, typically from different bank branches and made payable to individuals and entities other than the defendants, in order to disguise the cash as legitimate-appearing financial instruments." *See* Indictment, at ¶15. Much of the illegally underreported income was then sent to various banks and/or other entities off shore.

I accept the allegations made in the indictment to which United pled guilty, at a minimum as to United and its officers, because the standard of proof for a grand jury indictment is probable cause to believe a crime was committed (i.e. more likely than not) and the defendant committed the crime. It is the same standard of proof in a civil case. The indictment alleged that from 1996-2001 United was involved in the same scheme to skim from its $300 million gross revenues cash receipts of approximately $60 million. I have no reason to disbelieve this allegation as a factual premise, at least for purposes of this Opinion Letter because United has acknowledged by its guilty plea its complicity in the scheme to underreport its income and thus partnership funds.

The scheme to skim funds from the stores (i.e. removal of funds from sales receipts before those funds are accounted for and taxes paid on them) is a classic white collar/business crime in which the purpose is to hide those funds from the governmental taxing authorities to avoid taxation, both regarding the receipt and disbursement. Most of such tax avoidance schemes require the removal of funds before accounting and/or the alteration of accounting records to reflect less cash received by the company than ultimately reported. The method used here, removal of funds prior to their being reported as sales, can be accomplished by several means, some of which were used here, to wit: those acting on behalf of the Company took cash out of sales before the Company could properly account for them. Another example of the fraudulent scheme involved cashing checks for third parties and then keeping and transacting the checks elsewhere. Cash was distributed without records or controls or those records were destroyed.

The most fundamental feature of such a scheme is that the actual accounting records of the entity do not, and in fact cannot, accurately reflect the amount of cash taken in. No proper accounting can be determined from the Company's financial records because the gross receipts have been intentionally misapplied and documented. The very purpose of this sort of scheme is to render any accounting inaccurate. Moreover, any remaining records would have to be suspect because a criminal -- with criminal intent and a criminal purpose -- would have created them. Further, because of the admitted lack of internal controls at United during the pre-

2001 time period, there could be no legal or properly accurate way by which one could ascertain the correct amount of cash actually received or disbursed by the company.[4]

It is critical that the parties have both admitted that many records of transaction that should have gone into any accurate accounting were not kept or mutually and intentionally destroyed. For example, in his deposition, Mike Yusuf, President of United Corporation (and Fathi Yusuf's oldest son) testified that he and some of the Hamed brothers, upon hearing that the FBI was about to raid them in 2001, intentionally destroyed "a whole heap of" records (including those that would show where millions in cash partnership funds really went -- two months before the FBI raid and subsequent criminal charges).[5] As such, there could be no way to verify

---

[4] I note that the plea agreement, at page 9, ¶ 5, requires the company to "develop and submit to the Court an effective compliance and ethics program consistent with § 8B2.1 (Effective Compliance and Ethics Program) of the United States Sentencing Guidelines." No such compliance program was in place in 2001 or for the years prior to that date.

[5] At the April 3, 2014 deposition Mike Yusuf testified, at pages 62-65, as follows (emphasis supplied):

Q. Okay. And to the best of your knowledge, all of those receipts still exist today from 1986 on?

A. No.

Q. Okay. Why don't you tell me about that?

A. About what?

Q. Why -- why some of them don't exist?

A. Should I explain -- that would explain the 1.6 that we have here on the letter.

Q. I'll get there, I swear. I just want to -- right now, I just want to know, **I asked you if I could go around and collect all these receipts, add them up and find out how much the Hameds took out, and how much the Yusufs.** You said yes. And I said, So I should be able to do that from the -- from back till now, and you said, no, there's a problem. You said some might be in the possession of a third party.

A. Right.

Q. When I have those from the third party, will I then be able to get that number?

the completeness of such records. Because the very nature of the crime, particularly money laundering/tax evasion, is to hide such incoming and outgoing funds from legitimate accounting it is impossible to determine and account for any portion of that amount each partner has or owes to the other. Since many such transactions were not recorded or destroyed, any remaining "records" can never be legitimately credited or debited against the unknown amounts.

Fathi Yusuf was (and remains) the majority owner of United Corporation. United was the corporate entity used by him, and others, to accomplish the tax

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A. To physically check every receipt by receipt?

Q. Through all the –

A. **There's -- there's some receipt was destroyed by Waleed Hamed, and some receipts were destroyed by me**.

Q. Okay. Tell me about that.

A. Sure. In 2000 -- that's, I'm -- to explain to you, that's where the 1.6, I'm going to explain.

* * *

A. 2001, that's the -- the year that we had the raid.

Q. Okay. What -- approximately what date [was the FBI raid]?

A. October 23rd of 2001.

Q. Okay.

A. Okay. Sometime I would say a month and a half to two months before that, Waleed got a call from Waheed saying that something is going on. Some kind of agency is coming to spot check us, look at us. . . **We didn't know. So between among us, we decided to destroy some of the receipts, because they were all in cash**. **We pulled out a good bit of receipts from the safes in Plaza East. Mufeed was present with me. He had a whole, a heap of receipts for the Hameds only. It could be from either one of the Hameds, once it's the Hamed.** And receipts from the Yusuf, which basically was just me, not, you know, nobody else. Mufeed, I guess you call it, tallied, and, you know, put a tape on what they withdraw, and I put a tally, a tape, on what I withdraw. And I gave him my receipts to double-check my work, he gave me his receipt to double-check his work. Once everything dropped to the penny, we were fine**, I said, Listen. I'm destroying my receipts. You know what I owe you guys.** I owe you guys 1.3 million, and at that time, they had pulled in receipts about 2.9 million. Wally wanted to take a look at it, **and as far as I know, Wally got rid of the receipts**. So 1.3 million from 2.9 million, this is where you get the 1.6 million. (Emphasis supplied.)

evasion in 2001 to which United admitted its guilt.[6] Moreover, Mr. Yusef has repeatedly stated that he was in charge of the businesses[7] and was certainly in charge

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[6] This is not to say that others were not involved. Corporations can only act through its individual agents. The Government charged activities in aid of the scheme by several of the Yusuf and Hamed sons and others. Who directed, as opposed to carried out, the acts is not a particularly relevant factor in this matter. The relevant fact is that United has admitted, by its guilty plea, that funds from Plaza Extra were never accounted for as gross receipts of the company (nor is there any documentation reflecting how these unreported funds were divided, if at all, among the recipients). The example of Mike Yusuf's testimony as to both family's cooperation in pre-FBI-raid destruction of millions of dollars in records underlines why no proper evaluation of the accounting or partnership value prior to 2001 is possible.

[7] Support for this statement can be found in several places. For example, at the outset of this case, Mohammad Hamed testified at the January 25, 2013 *Preliminary Injunction* hearing that the agreement in the partnership was that Mr. Yusuf would be in control of the front office functions and he (Hamed) was in charge of the warehouse/store operations. Similarly, at the same hearing, Wally Hamed agreed, on cross-examination:

> A: That was the duty of Fathi Yusuf, he was responsible for the office.
> Q: Because Fathi Yusuf was in charge, correct?
> A: No, he was responsible for the office.

Tr. 100.

Further, in Yusuf's March 4, 2013 *Proposed Findings of Fact and Conclusions of Law* submitted to the Court after those hearings, Yusuf specifically asked for a finding that he was in charge of the business' functions which would include accounting and payment of taxes – agreeing with Hamed's statement, to wit:

> 40. Mohammad Hamed also readily admitted that he never worked in any management capacity at any of the Plaza Extra Stores, **which role was under the exclusive ultimate control of Fathi Yusuf, as Fathi Yusuf "is in charge for everybody"** and everything. (Jan. 25, 2013 Hr'g Tr. At 201 :4 (reflecting Mohammad Hamed's concession, even during his direct testimony, that "Mr. Yusuf he is in charge for everybody"), 201:23 -24, 210:21 -23 (acknowledging again that Fathi Yusuf is in "charge" of "all the three stores] ")).

After the Court's April 2013 *Preliminary Injunction* was issued in response to that testimony, Yusuf continued his assertion that he alone was in charge of the partnership's management functions -- as was the case in his May 9, 2013, *Motion to Stay* the Preliminary Injunction.

> However, the testimony of the Plaintiff was clear when he admitted that he never worked in any **management capacity** at any of the Plaza Extra Stores, **which role was under the exclusive ultimate control of Fathi Yusuf**. . .

Id. at 6.

of the office functions which would include accounting and payment (or avoidance) of taxes. This would mean that he was "in charge of" and directed what I can state was a sophisticated scheme involving international money laundering and offshore banks -- and the attendant alteration of accounting records.

Conclusion

Because the nature of the tax fraud in this case (i.e. the skimming of gross receipts and cash distributions through various means) involves deception and, by definition, an incomplete set of books and records of the company, it is impossible for the partnership to reconstruct an accurate set of books and records prior to 2001. Although the parties and the Government have agreed to recognize approximately $10 million in underreported gross income for the 2001 tax year, there is no such agreement for the years prior to 2001. Even if it can be assumed that the $10 million

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Indeed, in a motion filed soon thereafter, in which Yusuf attempted to preclude the Hameds from all accounting information, he stated, with regard to the accounting:

> There is no dispute that Defendant Fathi Yusuf has always been the ultimate decision maker.

See May 16, 2013, *Defendants' Motion To Clarify Scope Of Preliminary Injunction With Respect To United Corporation's Financial Statements, And Access To United's Financial Systems*, at 3.

Finally, because Mr. Yusuf had, apparently, complete control over the accounting and accounting records and would not allow Hamed access, the Court entered an order ending that absolute control. On May 31, 2013 the Court:

> ORDERED that Defendant United Corporation shall provide revised financial statements for the three Plaza Extra Supermarket stores only within 30 days of the date of this Order;
>
> ORDERED that said financial statements for the three Plaza Extra Supermarket stores shall be used for internal purposes only, and may not be disseminated to any third parties (excepting legal, accounting and tax advisors of the Parties) without the written consent of the other Party, and
>
> **ORDERED that only mutual access of all sensitive financial data, records and financial statements shall be permitted** according to a process to be determined by the Parties.

of underreported income in 2001 is accurate, it cannot be known, within any degree of legal or factual certainty, where or to whom the money went.

The only year for which there is a specific acknowledgment of a defined amount of underreported income is 2001. It is the only year for which there can be any proper, legal accounting. The nearly $10 million of 2001 gross receipts was secreted and, presumably, given to someone. It is now impossible, by use of United's tax returns or accounting records, to determine where that money went. This is particularly true because the underlying income was cash and because much of the unreported gross receipts were transmitted in various forms internationally.

The only other arguably, detailed and accurate "accounting" related to this period was contemporaneously done by the U.S. Attorney's Office, which I am informed will be attached to Hamed's *Notice of Claims* for the Court's review. Because there is transaction-by-transaction documentary support for this accounting, it shows that Mr. Yusuf took $4.5 million more than Hamed out of the partnership that, along with interest, would now be due to Mr. Hamed.

Specifically, the FBI and the U.S. Attorney's Office performed a detailed accounting and analysis of funds covertly removed from the partnership from 1996 to 2001. On January 4, 2005, the Government produced a document showing the amount Fathi Yusuf or his family received in cash or transfers from the Partnership -- and the amount Hamed or his family received. *See* Document Bates numbered HAMD629722-HAMD630014. The document is accompanied by extensive, line-by-line, date-specific supporting records from offshore banks, wire transfers and other means by which funds were removed. Thus, the FBI was able to specifically trace disbursements of over $47 million between 1996 and 2001. The document was prepared as part of the criminal case 2003-147 and would normally be used by the prosecution to calculate the amount of tax United failed to pay on behalf of the partnership in its criminal settlement, conviction and allocution in that case. The amount of the disparity on the $47 million skimmed was $4,646,276.96 overage to Yusuf. This amount, plus interest should be due to Mr. Hamed. The chart below was

prepared by Hamed's counsel from that document and shows a summary of the results.

US Government Calculation of Additional Income to Fathi Yusuf, Wally Hamed and Willie Hamed from January 4, 2005 Draft Bates Number FY 009991-
(Overage to Fathi Yusuf was $4.646 Million)

	1996	1997	1998	1999	2000	2001	Total
1996-2001 Additional Income for Fathi Yusuf	$ 2,939,822.40	$ 301,230.42	$ 2,231,582.09	$ 5,413,214.70	$ 7,286,897.12	$ 7,756,376.54	$ 25,929,123.27
1996-2001 Additional Income for Wally Hamed	$ 4,868,283.17	$ 1,696,282.02	$ 3,619,176.42	$ 1,981,853.48	$ 8,647,150.59	$ 382,618.63	$ 21,195,364.31
1996-2001 Additional Income for Willie Hamed		$ 14,700.00	$ 16,300.00	$ 25,189.00	$ 31,293.00		$ 87,482.00
							$ -
							$ -
Overage Obtained by Fathi Yusuf over Hameds	$ (1,928,460.77)	$ (1,409,751.60)	$ (1,403,894.33)	$ 3,406,172.22	$ (1,391,546.47)	$ 7,373,757.91	$ 4,646,276.96

A copy of my resume and curriculum vitae of professional experience is annexed hereto for your review.

Thank you for your consideration.

Very truly yours,

LAW OFFICES OF
LAWRENCE H. SCHOENBACH, PLLC

By: _____
Lawrence Schoenbach, Esquire

LHS/sms

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LAWRENCE H. SCHOENBACH
RESUME AND CURRICULUM VITAE OF
PROFESSIONAL EXPERIENCE

Employment History

Law Offices of Lawrence H. Schoenbach, PLLC New York, New York	Private Practice of Law 1983-present
Legal Aid Society Queens, New York	Public Defender - NYC 1980-1983
Skadden, Arps, Slate, Meagher & Flom New York, New York	Summer Associate 1979
Kings County District Attorney's Office Brooklyn, New York	Summer Intern 1978

Private Law Practice – Overview

Since 1983 the Law Offices of Lawrence H. Schoenbach, PLLC and primarily, its principal attorney, Lawrence H. Schoenbach, has had a varied national and international litigation practice concentrating on criminal defense and since 2001, on Corporate Compliance. Mr. Schoenbach is admitted to practice law in New York and the United States Virgin Islands. Although based primarily in New York, the firm has affiliate offices in Paris, Zurich, Puerto Rico and the U.S. Virgin Islands. Mr. Schoenbach is also the New York partner in a Swiss law and business consulting firm.

For more than 25 years, Mr. Schoenbach has worked as an instructor of trial techniques at the National Institute of Trial Advocacy at the Hofstra University School of Law (Hempstead, New York) and the Cardozo School of Law (New York, New York). Mr. Schoenbach has also appeared regularly as a legal commentator on what was formerly known as Court TV.

Mr. Schoenbach has served as outside Compliance Counsel for a number of companies, most recently a national wholesale distributor of tobacco products. He has

drafted corporate Compliance Manuals, and overseen their implementation and personnel training.

Mr. Schoenbach has tried to verdict well in excess of 100 jury trials primarily in U.S. federal court and has represented clients throughout the United States (Houston, Miami, Tampa, Seattle, Las Vegas, Boston, San Juan, St. Thomas, St. Croix, Newark, Washington, D.C., and Palm Beach) as well as around the world (Hong Kong, Saudi Arabia, Italy, France, Switzerland, Canada, Nigeria, and Pakistan). Most of the firm's representation of its clients involved complex federal criminal matters including, but not limited to, securities and tax investigations, money laundering, and racketeering and violations of the Foreign Corrupt Practices Act ("FCPA").

Mr. Schoenbach has argued before various federal and state Courts of Appeal approximately 40 times. A sample of the more notable trials in U.S. District Court in which Mr. Schoenbach was defense counsel includes:

- The "Pizza Connection" (a 22 defendant indictment in New York charging $1.5 Billion narcotics conspiracy between the Sicilian and American mafia;

- The trial of the "Westies" (alleged to be New York's Irish mafia);

- The 1988 "Air America" civil forfeiture prosecution in Pennsylvania of reputed former agent of the Central Intelligence Agency;

- The 14 month-long trial in New York of the "DeMeo Crew" of the Gambino Crime family;

- The prosecution of "Phyber Optic," at the time the largest and most comprehensive federal case ever charged against a computer "hacker;"

- The Securities & Exchange Commission civil and criminal investigation and prosecution of the "Crazy Eddie" corporation;

- The attempted assassination conspiracy (in New York) of Egyptian President Hosni Mubarak (a part of the case involving the 1993 bombing of the World Trade Center in New York);

- The political corruption/bribery prosecution in St. Thomas of the former Commissioner of Public Works for the U. S. Virgin Islands; representation also of the Governor of the U.S. Virgin Islands;

- The Swiss and American prosecution of the then-largest ever Securities Fraud, Tax, and Money Laundering investigation involving the two countries (concerning the sale of penny stocks and reverse mergers);

- Representation of the co-lead defendant in the criminal trial in Italy against former Italian Prime Minister Giulio Andreotti; and

- Representation of the widow of Dr. Robert Atkins ("The Atkins Diet) in a multi-district, multi-state civil litigation.

Publications

"Doing Business in America in the New Millennium: Criminal Law Meets Corporate Responsibility." World Watch, September 2002 (a publication of American Express Tax and Business Services. *See* article reproduced at: www.schoenbachlaw.com)

Education

Hofstra University School of Law
Hempstead, New York
Juris Doctor, 1980
Honors/Awards: Constitutional Law
Law Fellow: Criminal Law, Property

State University of New York at Albany, School of Criminal Justice
Albany, New York
Master of Arts, 1980

Franklin & Marshall College
Lancaster, Pennsylvania
Bachelor of Arts (English & Government), 1975

Exhibit 11

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 08/01/2003

JOHN BENSON IRVIN, 8160 County Road # 64, Daphne, Alabama, 36526, date of birth 9/8/50, social security account number [redacted], was advised of the nature of the interview and the identity of the interviewing agent. Also present during the interview were Javier Bell, Criminal Investigation Division, Internal Revenue Service and Michael Pauze, Attorney, Department of Justice. IRVIN provided the following information voluntarily:

IRVIN advised that deposit slips prepared by the women working in the PLAZA EXTRA cash room at the St. Thomas location were given to him on a daily basis. IRVIN would update a schedule for deposits daily. ERIKA SAMUELS, accounts payable, would give IRVIN the credit card report on a daily basis and IRVIN would again update the credit card schedule. Also done on a daily basis was an update of the telecheck schedule.

Once IRVIN completed the bank reconciliation at the end of each month, he would prepare the 4% Gross Tax return, filed monthly. All deposit slips from payroll were deducted from the gross receipts.

IRVIN was shown a file labeled "1999 - General Ledger". IRVIN stated that the general ledger was not included in the file. IRVIN said the general ledger should be displayed in the front of the file with all adjustments made immediately following.

IRVIN was also shown a "Trial Balance as of December 31, 1999". IRVIN was asked how the numbers were entered onto the trial balance sheet. IRVIN advised that entries were made monthly and that the balance was carried over from month to month. Included in the trial balance were deposited cash, checks, food coupons and WIC. Not included were credit card transactions and rebates. Data from previous years were not accessible once the books were closed at year end. A printout of the year ending trial balance was printed out, but the computer program would delete the previous year once the new year began. The numbers generated from the end of year trial balance sheet were given to PABLO O'NEILL for income tax return preparation. To the best of IRVIN'S knowledge, O'NEILL did not adjust the numbers reflecting gross sales.

EXHIBIT 11

Investigation on 7/28/03 at St. Thomas, VI

File # [redacted] Date dictated N/A

by Thomas L. Petri

After the search warrants were executed by the FBI during October, 2001, IRVIN asked O'NEILL about the cash which was seized. IRVIN believed that O'NEILL told him that they would address the cash when it was returned. IRVIN never discussed how the cash would be handled with anyone but O'NEILL. IRVIN stated that there was never any adjustments made in the general ledger for the seized cash. IRVIN stated that he always made adjustments to the general ledger before the records were turned over to O'NEILL.

IRVIN was told by FATHI YUSUF that store sales would be based on deposits. IRVIN said that normal accounting procedures allow accountants to conduct internal audits. IRVIN advised that YUSUF told him that internal audits were being handled and to simply continue to use deposits to calculate sales. IRVIN said that YUSUF told him this early on and that YUSUF was very emphatic. IRVIN never revisited the subject of sales with YUSUF and continued to base sales on daily deposits.

IRVIN advised that as an S Corporation, UNITED CORPORATION did not pay taxes on it's income. UNITED CORPORATION'S shareholders are required to report and pay taxes on their share of UNITED CORPORATION's income. IRVIN knew UNITED CORPORATION'S shareholders to be FATHI YUSUF, his spouse, and five of YUSUF'S children. IRVIN further stated that since the corporate returns for 1999 through 2001 were false, it also meant that the individual returns for the shareholders were also false.

IRVIN was shown copies of seven cash deposit slips totaling $1.9 million. IRVIN advised that he posted the deposits in the ledger as stockholder investments. IRVIN said that for transactions of this nature, he would receive guidance from FATHI YUSUF. On this occasion, YUSUF specifically told IRVIN to credit HAMDAN DIAMOND. IRVIN stated that HAMDAN DIAMOND is an oversees corporation for YUSUF'S brother and that YUSUF is the administrator. YUSUF often received documents in the mail from Anguilla for HAMDAN DIAMOND which is how IRVIN knew of the company. IRVIN did not do any accounting or bookkeeping for HAMDAN DIAMOND CORPORATION. However, IRVIN did deliver checks to Merrill Lynch for HAMDAN DIAMOND at FATHI YUSUF'S request. IRVIN said that the checks were written off against notes payable. In the ledger the entries were divided between HAMDAN DIAMOND and MOHAMMAD HAMDAN. IRVIN did not recall why the entries were made as they were. IRVIN recalled that from time to time, large transactions of this nature occurred. IRVIN would always ask FATHI YUSUF how they should be recorded.

IRVIN advised that PLAZA EXTRA used a Point of Sales system. IRVIN stated that he was not allowed to use or access the system. ~~Only WILLIE HAMED, HISHAM HAMED, and NEJEH YUSUF had access. A password was required to gain access.~~ IRVIN stated that he was aware that the Point of Sales system reported accurate store sales. IRVIN said that there was an understanding that he was not suppose to have access to true sales figures.

IRVIN was shown copies of February and March of 1999 gross receipts sales tax figures. IRVIN stated that he had a discussion with FATHI YUSUF concerning cost of goods sold. YUSUF told IRVIN that it was not possible to determine actual numbers for cost of goods sold. Per YUSUF'S instructions, IRVIN was told to determine cost of goods sold in whatever manner would reflect approximately $3 million in year end ending inventory for each store. IRVIN also had conversations with WILLIE HAMED concerning cost of goods sold and what the average markup on merchandise was. IRVIN said that HAMED was not specific but understood that YUSUF wanted ending inventory to be around $3 million. IRVIN advised that to determine cost of goods sold he would use a formula reflecting a 42% markup, or more often than not, simply plug in numbers so the $3 million number would be met.

IRVIN stated that the reason YUSUF wanted the number for inventory to be around $3 million for each store was to show a lower net income. If taxable income was too high, YUSUF would tell IRVIN to adjust cost of goods sold to show a decrease in the companies profit. IRVIN stated YUSUF normally had him adjust the numbers presented to him which reflected cost of goods sold.

IRVIN advised that he looked at the corporate tax returns to insure that PABLO O'NEILL'S numbers matched his. If O'NEILL made any adjustments, IRVIN requested that they be sent to him so that he could make corrected entries to match PABLO O'NEILL'S numbers. IRVIN said that he could think of no reason why the 4% Gross Sales Tax figures and the numbers on the general ledgers would differ from the corporate returns.

Although IRVIN does not have any formal education in tax accounting, ~~he prepared WILLIE HAMED'S tax returns on a few occasions.~~ IRVIN used TURBO TAX software to ~~prepare the returns~~ and he did not sign the ~~return as the~~ preparer. IRVIN gave the return to ~~HAMED to~~ attach his W-2, sign, and mail to the ~~Internal Revenue Service.~~

Exhibit 12

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 Deft., vs. FATHI YUSUF and UNITED CORPORATION, Defendants/Counterclaimants, vs. WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC., Counterclaim Defendants.	Case No. SX-2012-CV-370 **DEPOSITIONS TAKEN: JANUARY 21, 2020**
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff, vs. UNITED CORPORATION, Defendant.	Consolidated with Case No. SX-2014-CV-287
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff, vs. FATHI YUSUF, Defendant.	Consolidated with Case No. SX-2014-CV-278
FATHI YUSUF, Plaintiff, vs. MOHAMMAD A. HAMD TRUST, et al., Defendants.	Consolidated with Case No. ST-17-CV-384
KAC357 Inc., Plaintiff, vs. HAMED/YUSUF PARTNERSHIP, Defendant.	Consolidated with Case No. ST-18-CV-219

EXHIBIT 12

THE VIDEOTAPED ORAL DEPOSITIONS OF FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, AND JOHN GAFFNEY

was taken on the 21st day of January, 2020, at the Law Offices of Joel H. Holt, 2132 Company Street, The Alcove Room, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 10:00 a.m. and 5:09 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

_____

Reported by:

Susan C. Nissman RPR-RMR
Registered Merit Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix
U.S. Virgin Islands 00820
(340) 773-8161

APPEARANCES

A-P-P-E-A-R-A-N-C-E-S

For the Plaintiffs:

Law Offices of
Joel H. Holt
2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Joel H. Holt

and

Carl J. Hartmann, III
5000 Estate Coakley Bay, L6
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Carl J. Hartmann, III
Kim Japinga

For the Defendants:

Law Offices of
DNF
Law House
P.O. Box 756
Charlotte Amalie, St. Thomas
U.S. Virgin Islands 00802

By: Charlotte Perrell

Also Present: Michael Gelardi, Videographer

generated it.

Q. Okay. And do you remember who the accountant was back in 1996?

A. Well, looking up here, it's Ben, Ben Irvin --

Q. Okay. So --

A. -- at that time.

Q. Okay.

A. Yeah.

Q. So Ben Irvin was the accountant for the tenant account, or was you just an accountant for United, generally?

A. He was for United, generally.

Q. Okay.

A. Comptroller, we call it.

Q. Okay. And he would have had access to the tenant, or at least knowledge of what was going on in the tenant account?

A. Yes. He -- he kept records of everything, yes.

Q. Okay. And then -- but would he have signatory authority for --

A. No.

Q. Okay. So the -- then let me back up here.

For the amounts that were transferred over, the -- let's say -- let's go about the first one, the 15,900, do you have any particular recollection as to why

there was a transfer for 15,900 to Plaza partnership account?

A. We -- we -- this is in 1996.

Q. Yes.

A. 1996, I know we were -- were tight, really, really tight for money.

Q. Okay.

A. And when we had extra money in the tenant account, we would transfer it over to the Plaza account.

Q. Okay. Was that for helping with operating expenses, or what was the purpose of transferring?

A. With helping with operating expenses, I believe.

Q. Okay. All right.

MR. HARTMANN: Let me -- excuse me. Just let me make a continuing -- I won't interrupt anymore. I'll just make a continuing objection on foundation and authenticity.

Q. **(Ms. Perrell)** All right. Other than -- let me ask you this: So this one is a specific amount, 15,900.

Do you have -- let me ask you, what would have -- first of all, do you have any recollection of this particular entry?

A. No. I don't have recollection of the amounts, no.

Q. Okay. How would you know what transfers to make and the amounts to make?

A. I don't remember who it was told from to transfer it.

Q. Okay. Would it have -- okay. So who are the possible people that would have told you to do the transfer?

A. It could be Wally or Ben Irvin.

Q. Okay. All right. And if Ben Irvin had access to at least see both accounts, he would know whether the Plaza Extra East was low?

A. Right.

Q. Okay. And then the -- the -- would that be the same with all of the other amounts that were transferred over to the Plaza store?

A. Correct.

Q. Okay. Other than 1996, do you recall any other times where there were amounts going from the Plaza United -- I'm sorry, from the United tenant account into the Plaza Extra partnership account? When you were doing these transfers back and forth, do you recall that?

A. No, no, these are all the checks going into -- directly to the -- the operating account for Plaza.

Q. Okay. Other than in 1996 -- these are just 1996.

A. Right.

Q. Other than 1996, there seem to be quite -- it happened regularly. Other than 1996, was that something that was occurring?

A. I don't remember.

~~**Q.** Okay.~~

A. I don't remember. I mean, I was dependent on Ben Irvin to keep the record with the -- with the tenant account.

~~**Q.** Okay. All right. All right. And you're not~~ aware of any other records that would reflect transfers going from the tenant account into the Plaza Extra partnership account?

A. No.

Q. Okay. All right. And just to be clear, you would have been the one person who would have either been signing -- you're saying these are checks, right, because there's a check number?

A. Yeah, yeah. I would be the one that signs them. I don't think -- either me or my dad, but my dad wasn't here.

Q. Okay.

A. He was not in St. Croix. And if he came, he came for the weekend and went, but that's about it.

Q. Okay. All right. With regard to these amounts, would this have been information that -- well, let me ask you this: Why would those -- you know, it's almost $188,000, why was that amount not settled and paid back to ~~United before all of this dispute arose?~~

C-E-R-T-I-F-I-C-A-T-E

I, SUSAN C. NISSMAN, a Registered Merit Reporter and Notary Public for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witnesses, **FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, and JOHN GAFFNEY,** were first duly sworn to testify the truth; that said witnesses did thereupon testify as is set forth; that the answers of said witnesses to the oral interrogatories propounded by counsel were taken by me in stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such Registered Merit Reporter on this the 22nd day of February, 2020, at Christiansted, St. Croix, U.S. Virgin Islands.

_____

My Commission Expires:
June 28, 2023

Susan C. Nissman, RPR-RMR
NP 234-19

Exhibit 13

DECLARATION OF SPECIAL AGENT THOMAS L. PETRI

I, Thomas L. Petri, make this declaration in support of the Government's Response to Defendants' Reply Memorandum in Support of the Motion for Specific Relief.

1 I am employed as a Special Agent of the Federal Bureau of Investigation. I have served in that capacity for 20 years. I am assigned to the Miami Field Office.

2 ~~I was assigned to the St. Thomas office of the Federal Bureau of Investigation from 2000~~ through 2006. While stationed on St. Thomas, I was the lead case agent of the investigation of United Corporation, Fathi Yusuf, Maher Yusuf, Nejeh Yusuf, Waleed Hamed, Waheed Hamed, and Isam Yousuf.

3 In the course of that investigation, the government obtained and executed search warrants. Those searches were conducted at numerous locations throughout the islands, including the Plaza Extra stores and the homes of the defendants.

4 Evidence seized during he course of those searches was placed in boxes. Numbers were placed on the boxes to maintain an order.

5 The seized evidence, as well as evidence obtained either consensually or through grand jury subpoenas, was stored at the upper building of the FBI office in St. Thomas.

6 During the course of the investigation, FBI agents maintained control over the evidence. It was stored in a conference room in the office. No other materials but the documents ~~pertinent to the investigation were stored in that room.~~

7 In 2003, subsequent to the return of the indictment, counsel for defendants was afforded complete access to seized evidence. Attorney Robert King, the attorney then representing defendants, reviewed the discovery at the FBI office on St. Thomas. He and a team of approximately four or five individuals reviewed evidence for several weeks. They brought with them a copier and made many copies of documents.

8 In 2004, a different set of attorneys presently representing the defendants reviewed the evidence seized in the course of the execution of the search warrants. By my estimation, document review team included up to ten people at any one time. The defense team spent several weeks reviewing the evidence. They had with them at least one copier and one scanner with which they made numerous copies and images of the evidence.

9 During the 2004 review, the defense team was afforded unfettered access to discovery. They were permitted to review any box of documents at any time, including evidence seized during the searches, foreign bank records, documents obtained either consensually or by grand jury subpoena, and FBI Forms 302. The defense team pulled numerous boxes at one time with many different people reviewing different documents from different

EXHIBIT 13

boxes.

10 Immediately following the defense team's departure from the FBI premises, I had occasion to obtain documents from boxes that had been reviewed by the defense team. I discovered that documents that originally had been placed in one box had been placed in a different box. I returned the documents to their original boxes. I cannot be certain that I was able to identify each instance where documents had been misfiled by the defense team.

11 During the document review in January 2009, Randall Andreozzi requested to review all documents obtained via subpoena. I explained to him that I could not produce all evidence at once. That evidence comprises approximately 40 boxes. I asked him for a specific list of documents, or category of documents that he wished to review. He declined to identify the records that he wished to review and did not pursue the matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 8, 2009.

Thomas L. Petri

Exhibit 14

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/Counterclaimants*, vs. **WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED,** and **PLESSEN ENTERPRISES, INC.**, *Counterclaim Defendants.*	**CIVIL NO. SX-12-CV-370** ACTION FOR DAMAGES INJUNCTIVE RELIEF AND DECLARATORY RELIEF JURY TRIAL DEMANDED
MOHAMMAD HAMED, *Plaintiff,* vs. **UNITED CORPORATION**, *Defendant.*	**Consolidated With** CIVIL NO. SX-I4-CY-287 ACTION FOR DAMAGES AND DECLARATORY RELIEF
MOHAMMAD HAMED, *Plaintiff,* vs. **FATHI YUSUF**, *Defendant.*	CIVIL NO. SX-I4-CY-278 ACTION FOR DEBT AND CONVERSION **JURY TRIAL DEMANDED**

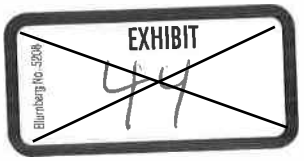
DECLARATION OF GORDON C. RHEA, ESQ.

I, GORDON C. RHEA, declare under penalty of perjury pursuant to 28 U.S.C. Section 1746, as follows:

1. I have personal knowledge of the facts set forth herein.

2. I am an attorney licensed to practice law in the U.S. Virgin Islands.

EXHIBIT 14



3. I was one of the defense lawyers in the criminal action filed by the United States of America in the District Court of the Virgin Islands (St. Thomas Division), Docket No, 1:05-cr-00015, against the following defendants:

FATHI YUSUF MOHAMAD YUSUF, aka Fathi Yusuf
WALEED MOHAMMAD HAMED, aka Wally Hamed
WAHEED MOHAMMAD HAMED, aka Willie Hamed
MAHER FATHI YUSUF, aka Mike Yusuf
NEJEH FATHI YUSUF,
ISAM YUSUF, and
UNITED CORPORATION

4. All of the defendants in that criminal case, except for Isam Yousef who was never apprehended, were represented jointly by multiple counsel, including myself, under a Joint Defense Agreement.

5. Pursuant to the Joint Defense Agreement, all defense counsel worked together on behalf of all of the represented defendants in a joint effort to defend the case

6. A plea agreement was reached in December of 2010 (See Exhibit 1), with a modification made thereafter in early 2011 (See Exhibit 2). As noted therein, the only defendant who pled guilty was United Corporation, as the charges were dismissed against all of the other represented defendants.

7. The Joint Defense Agreement then continued during the sentencing phase of the case (to primarily address the tax issues related to the Plea) until September 19, 2012, when the Joint Defense Agreement was terminated.

8. Under the Joint Defense Agreement;

a. All legal and accounting work was done jointly on behalf of all represented defendants in an effort to defend all of them at the same time.

b. Bills for attorneys' fees and expenses reflected the work of counsel done for all defendants without allocating specific items to individual defendants.

c. Simply because a bill was directed to a specific defendant did not reflect their individual personal obligation, as the bills were the joint obligation of all defendants while the Joint Defense Agreement was in place.

d. All defendants were all aware of this fact, as applications for payment of the bills submitted under Joint Defense Agreement had to be made to the United States Attorney, who would then have to authorize funds to pay these bills from the defendants' bank accounts which had been frozen by court order.

e. Until the Joint Defense Agreement was terminated all legal bills were paid from a United Plaza Extra account,

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 1, 2017

Gordon C. Rhea, Esq.

Exhibit 15

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

AHMAD IDHEILEH, Plaintiff, vs. UNITED CORPORATION and FATHI YUSUF, Individually Defendant.	CIVIL NO. 156/1997 ACTION FOR RECESSION BREACH OF CONTRACT and ACCOUNTING

AFFIDAVIT OF FATHI YUSUF

I, Fathi Yusuf, being first duly sworn, do hereby depose and state as follows:

~~1. I am an adult resident of the Virgin Islands.~~

2. My brother in law, Mohamed Hamed, and I have been full partners in the Plaza Extra Supermarket since 1984 while we were obtaining financing and constructing the store, which finally opened in 1986.

~~3. Mohamed Hamed and I decided to open a St. Thomas Plaza Extra store and used our~~ own capital and later obtained financing to make the store ready for opening.

4. Mohamed Hamed gave his eldest son, Walleed (a/k/a Wally), power of attorney to manage his interests for the family.

5. We negotiated a lease for the St. Thomas store with Tutu Park Ltd. and executed the agreement on May 30, 1991.

6. On or about September, 1992, Ahmad Idheileh approached me wanting to invest in the St. Thomas Store.

7. Hamed did not want a third partner, but I convinced him that Ahmad could run the store and would protect all of our investments.

8. On October 16, 1992, a Joint Venture Agreement was entered into between United and Plaintiff. *See* **Exhibit A.**

EXHIBIT 15

EXHIBIT

Defendant's Exhibit F

weeks later, Ahmad told me the Hometown transaction had fallen through. Later on that same week, Ahmad and I went to Avis on St. Croix to purchase a vehicle for my daughter. During our travels, Ahmad stated he still wanted the first $100,000 installment in advance even though the first installment was not due for approximately nine months later, according to the agreement. Ahmad said "this is my money and I want it to put into a savings account." Since he was not going to put the $100,000 into a business, I saw no reason to pay him ahead of schedule. Ahmad sent several Arab businessmen to me to pressure me to still pay him before it was due. Members of the Arab community, including among others, Ahmad's brothers, Mr. Hannun and Mr. Sharmouj, kept coming to me pressuring me to pay Ahmad the rest of his money in advance. We held yet another meeting at Mr. Hannun's home. Mr. Idheileh had no complaints about the Termination Agreement and the discussions were about United paying Ahmad ahead of schedule. Finally, on or about June 23, 1994, I did pay him his $100,000 (less $7,000 that we had given him to buy a car) in advance of the first payment scheduled for January 20, 1995. I had finally received financing from Scotia and used some of that loan money to pay Ahmad on June 23, 1994.

41. The Hameds and I were able to turn the store around by the last part of 1994.

42. As a result of the continuing pressure put upon me by many fellow Arabs, I paid the next installment on May 24, 1995 which was not due until January 20, 1996.

43. The remaining $200,000 for the last two installments was paid to Ahmad on November 23, 1995 even though the last two installments were not due until January 20, 1997 and January 20, 1998.

44. Ahmad never complained to me that he executed the Termination Agreement under duress or as a result of any threats.

FURTHER AFFIANT SAYETH NAUGHT.

DATED: 9-25-1999

FATHI YUSUF

SUBSCRIBED AND SWORN TO
before me this 25th day of September, 1999.

Notary Public
Print name: EDWIN R. WHITE
Commission # 41/99
My commission expires: 03/02/03

Exhibit 16

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

AHMAD IDHEILEH,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 156/1997
	)	
UNITED CORPORATION and	)	
FATHI YUSUF, Individually,	)	
	)	
Defendants.	)	

THE ORAL DEPOSITION OF FATHI YUSUF

was taken on the 2nd day of February 2000, at the Offices of Caribbean Scribes, 2132 Company St., Ste. 3, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 1:05 p.m. and 4:05 p.m. pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

Cheryl L. Haase
Registered Professional Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix U.S.V.I.
(340) 773-8161

EXHIBIT 16

Cheryl L. Haase
(340) 773-8161

COPY

A-P-P-E-A-R-A-N-C-E-S

For the Plaintiff:

Law Offices of
Elmo A. Adams
c/o Office of the Governor
Government House
21 - 22 Kongens Gade
St. Thomas, USVI 00802

By: Elmo Adams

For the Defendants:

Law Offices of
Bethaney J. Vazzana
47 King Street
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Bethaney J. Vazzana

Also Present:

Ahmad Idheileh

MR. ADAMS: Let the record indicate I'm showing Mr. Yusuf a copy of the Joint Venture Agreement.

A. I sees Mr. Idheileh and myself and Notary Public, and I believe it's a witness underneath. I don't know.

Q. (Mr. Adams) Now --

A. Notary Public someplace else, and the same witness, and my signature repeated again on a different page. My son. Yeah, my son is the president of United Corporation.

Q. Now, sir, the Joint Venture Agreement is between whom?

A. Between -- if you have to look at it this way, --

Q. No, no, I'm looking --

A. -- between me, my partner and him.

Q. No, Mr. Yusuf. Let us look at the Joint Venture Agreement that was signed.

A. Yeah, I seen it. United Corporation.

Q. Thank you.

A. But I want you please to be aware that my partner's with me since 1984, and up to now his name is not in my corporation. And that -- excuse me -- and that prove my honesty. Because if I was not honest, my brother-in-law will not let me control his 50 percent. And I know very well, my wife knows, my children knows, that whatever Plaza Extra owns in assets, in receivable or payable, we have a 50 percent partner.

convince my partner's son, Look, we got $6 million in this store. This man, we come to an agreement --

Q. We're talking about Sea-Mart.

A. Okay.

Q. So in Sea-Mart, when you negotiated that transaction that Mr. Idheileh would be able to be out of Sea-Mart, --

A. Yes.

Q. -- was that based upon the books or just on a hand shake?

A. There was no book whatsoever. Based on their conversation.

Q. Okay. Okay. You were asked by Attorney Adams, when it says United Corporation in this Joint Venture Agreement, in talking about Plaza Extra, talking about the supermarket on St. Thomas, who owned or who was partners in United Corporation Plaza Extra at the time before you entered into that Joint Venture Agreement?

A. It's always, since 1984, Mohammed Hamed.

Q. Okay. So when it says United Corporation --

A. It's really meant me and Mr. Mohammed Hamed.

Q. Okay.

A. Mr. Idheileh is well aware of that.

Q. Okay. Well, we're talking now Plaza Extra St. Thomas. Who was responsible for hiring employees?

CERTIFICATE

C-E-R-T-I-F-I-C-A-T-E

I, CHERYL L. HAASE, a Registered Professional Reporter and Notary Public for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witness, Fathi Yusuf, was first duly sworn to testify the truth; that said witness did thereupon testify as is set forth; that the answers of said witness to the oral interrogatories propounded by counsel were taken by me in Stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

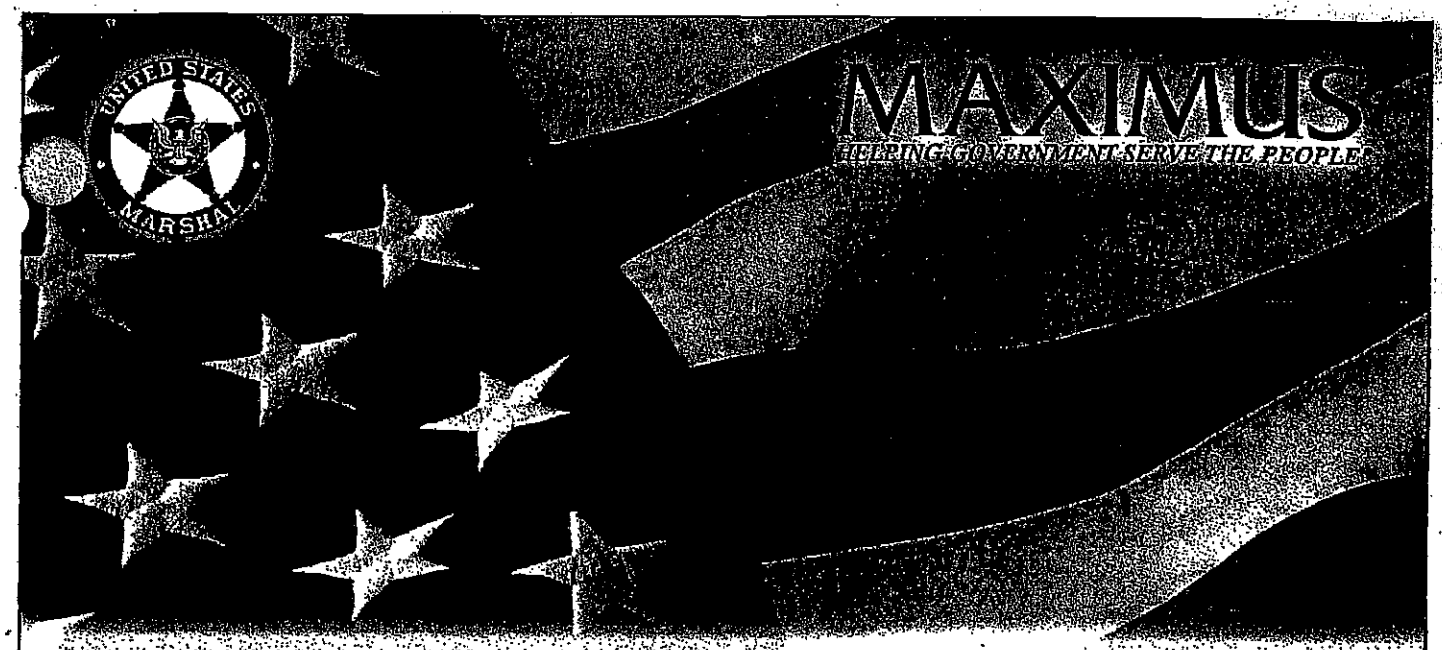
IN WITNESS WHEREOF, I have hereunto set my hand as such Certified Court Reporter on this the 4th day of February, 2000, at Christiansted, St. Croix, United States Virgin Islands.

CERTIFIED TRUE COPY

Cheryl L. Haase, RPR

Cheryl L. Haase
(340) 773-8161

Exhibit 17



MAXIMUS

HELPING GOVERNMENT SERVE THE PEOPLE

Ninety-Day Business Monitoring Report

United Corporation
U. S. Virgin Islands

For the Reporting Period
December 2004 - February 2005

Contract No: GS-10F-0080J
Order No: DJMS-04AFO-P-0013
March 2005

EXHIBIT
17

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

NINETY-DAY MONITORING REPORT
BUSINESS MONITORING SERVICES
UNITED CORPORATION
VIRGIN ISLANDS
FOR THE REPORTING PERIOD
DECEMBER 2004 - FEBRUARY 2005

1.0 ACTIVITES COMPLETED DURING REPORTING PERIOD

The sections that follow highlight the activities completed during the reporting period.

1.1 MEETING WITH COTR REGARDING AMENDING MONITORING PLAN

On December 20, 2004 representatives of MAXIMUS, Inc. (MAXIMUS) and Madison Associates, Inc. (MAI) met with the Contracting Officer's Technical Representative (COTR) to discuss implementation of the Business Monitoring Plan in 2005. During the meeting, the COTR expressed a desire to reduce the current number of Monitors being used under the current Business Monitoring Plan in order to conserve government costs in 2005. The COTR expressed a desire to eliminate the Monitor's position on St. Croix and allow one Monitor, stationed on St. Thomas, to cover the activities of United Corporation (UC) on both islands by traveling to St. Croix once a week. The representatives agreed to develop an Amended Business Monitoring Plan that would reduce costs but advised that elimination of one of the two Monitor positions being used under the current Plan would, by necessity, reduce the physical presence in monitoring the daily routine of UC operations and shift analytical responsibilities. On January 11, 2005, a draft of an Amended Business Monitoring Plan was provided to the COTR for discussion.

1.2 SECOND AMENDED MONITORING PLAN

On January 18, 2005 the COTR and representatives of MAXIMUS and MAI held a teleconference to discuss proposed changes to the Business Monitoring Plan, as requested by the COTR. Following these discussions a new, amended Business Monitoring Plan was drafted.

1.3 COTR ON-SITE VISIT TO VIRGIN ISLANDS

The COTR, representatives of MAXIMUS, and the MAI Project Director visited the Virgin Islands from January 24 through 27, 2005, to conduct an on-site visit of the businesses of UC. During the visit, the following items were reviewed:

- **Use of United Funds in Construction of House:** After viewing the house and realizing that the amount needed to complete the construction as estimated by the owners earlier in the year was not going to be sufficient, the COTR authorized additional funding of $13,000 for landscaping expenses. This brings the total amount authorized to $277,000.

2.0 ISSUES AND INFORMATION BROUGHT TO THE ATTENTION OF THE COTR

The sections that follow present issues brought to the attention of the COTR during the reporting period.

2.1 PROPOSED LAUNDROMAT AT THE ST. CROIX SHOPPING CENTER

An additional $12, 270 was expended in January toward completion of the laundromat project, bringing the total expended to $168,006. The COTR discussed the operation of the laundromat with Mr. Mike Yusuf and Mr. Alan Mallory during his visit in January. At that time Mr. Yusuf agreed to transfer all shares of "M and M Laundry, Inc." corporation to UC. See discussion of COTR's visit, *supra*.

The laundromat opened for business on January 31, 2005. Documents were presented to the Monitor indicating that all 100 shares of common stock in M and M Laundry, Inc., the entity that is represented as owning the laundromat, were transferred to UC. In addition, a copy of IRS Form 2553 was presented indicating that M and M Laundry, Inc. had elected to be treated as a Small Business Corporation. Copies of these documents were provided to the COTR on February 13, 2005. The documents were made available by UC management in response to issues raised by the COTR regarding the opening of a bank account in the name of M and M Laundry, Inc. On February 23, 2005 Mr. Mallory, the shopping center manager, provided the COTR with a copy of a letter dated February 22, 2005 expressing Mr. Mallory's intent to open the new bank account with the understanding that the account would be subject to the constraints of the Temporary Restraining Order. On February 24, 2005 the COTR concurred in the procedures that will be used to monitor the laundromat activities.

On March 5, 2005 the COTR provided a letter addressed to a Senior Manager of the Bank of Nova Scotia, St. Thomas, U.S. Virgin Islands, requesting access to the account of M and M Laundry, Inc. The letter was drafted as a result of a request we received from the Senior Manager who was reluctant to provide access to the bank information without a formal request. The letter was personally delivered to the Manager on March 11, 2005.

2.2 SUSPICIOUS WESTERN UNION TRANSACTIONS

On January 7, 2005 a series of Western Union money orders were purchased from the St. Croix Plaza Extra West store in a manner sufficiently unusual to bring it to the COTR's attention. Beginning at approximately 10:00 a.m. four different pairs of men purchased money orders at the store in cash. Each pair purchased a money order and left the store. Shortly thereafter, another pair would enter the store and conduct a similar transaction. They repeated this process until they had made a total of 24 purchases worth the sum of $11,775 over a 3 ½ hour period. Although identification is not required to purchase a money order, store personnel identified the men as a part of a group that regularly "hangs out" at a gas station near the store. The purchased money orders were all blank as to the payee. Due to the unusual nature of the pattern of

purchases, Plaza Extra store management has decided not to sell Western Union money orders to these individuals in the future.

On January 8, 2005 in a totally unrelated transaction, a Ms. Aida Yusuf came into the St. Croix Plaza Extra West store and requested that $8,000 in cash be wired to Amjad Yusuf in Miami, Florida. Western Union refused an initial attempt at sending this money, as a transaction in that amount requires that the registered Western Union agent at the location approve the transactions. Sean Hamid, who is the registered agent at the store, was not available at the time so the store employee handling Western Union transactions suggested that the transaction be broken down into smaller amounts. The transaction was then processed by the transfer of the money in five smaller amounts.

Shortly after the last transmission, Western Union contacted the store and informed them that the transaction as completed was a violation of Western Union policy as well as possibly being criminal in nature. Store personnel involved in the transaction stated that they were not aware that it was a violation to "break down" transactions in this manner and were only doing it as an accommodation to a customer who wanted to complete the transaction quickly to be able to attend the Island's Three Kings Celebration. Store management also stated that they were unaware of this transaction and would take steps to insure that this type of action does not occur in the future. Store management also assured the Monitor that the person conducting this transaction and the intended recipient was unknown to them.

No additional suspicious transactions were reported or observed during the reporting period.

2.3 RESIDENTIAL CONSTRUCTION COST

Store management has reported that construction of the residence is substantially complete. During the visit of the COTR in January, he approved the use of an additional $13,000 in UC funds for landscaping expenses, bringing the total approved amount to $277,000.

2.4 CAPITAL EXPENDITURES

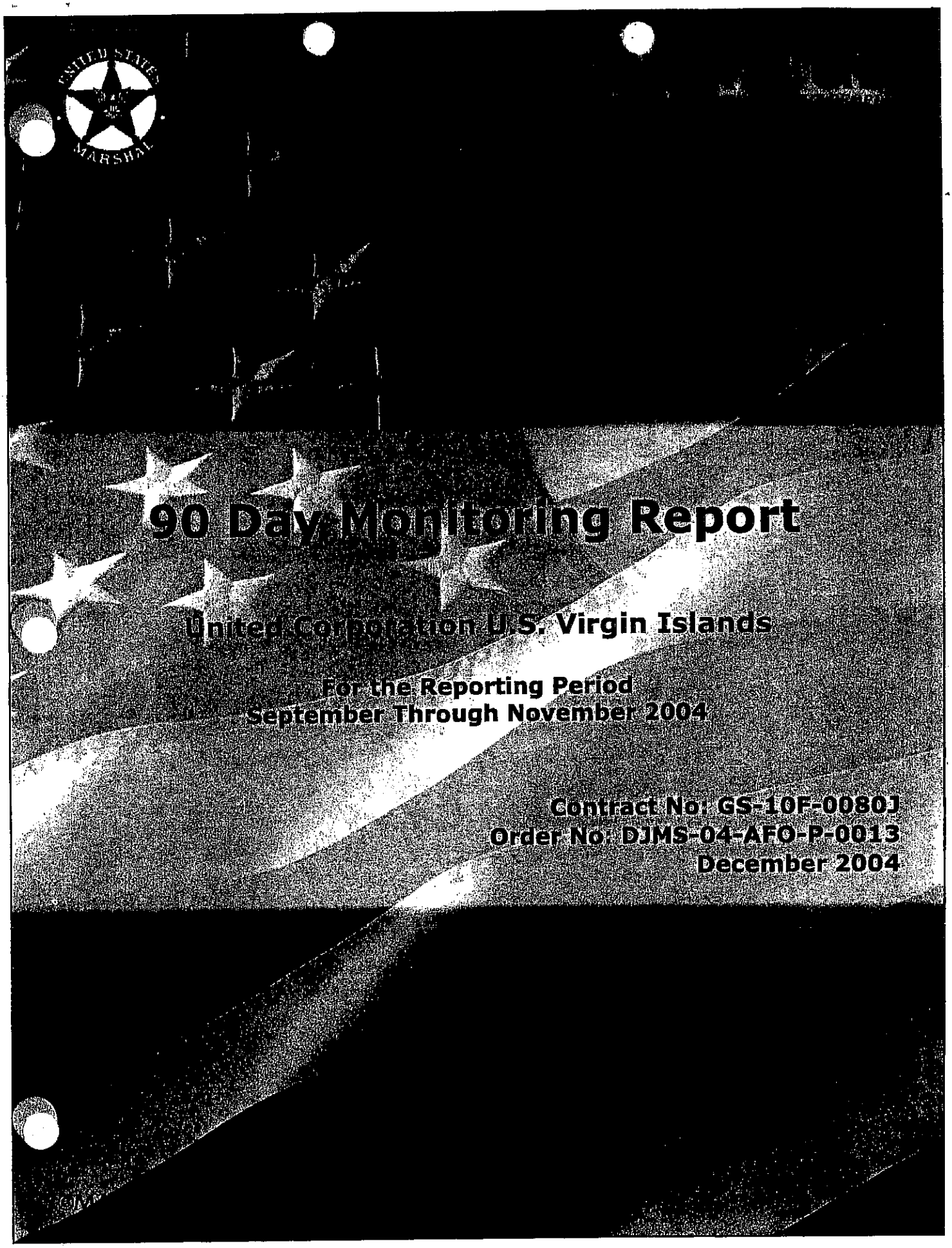
On December 22, 2004 the COTR was informed of a request from store management to spend up to $15,000 on new shelves for the St. Croix Plaza Extra East store. The shelves were to be a part of the improvements made to make Plaza Extra more competitive with a new Cost-U-Less store being built near the store. That same date the COTR approved the expenditure as requested. On January 11, 2005 the St. Croix Plaza Extra East store issued Check No. 27725 to Ypson Alliance Warehouse in the amount of $6,319.76 to purchase store shelving to begin this project.

2.5 LIABILITY INSURANCE

On December 8, 2004 the COTR was advised that UC made a settlement offer in a civil suit brought against the corporation by Elwood Thomas, a delivery man who was run over by a fork lift in the warehouse area of the St. Croix Plaza Extra East store. The attorney for Mr. Thomas originally sought damages of over $800,000 for the physical injuries suffered in the accident. UC offered to settle

3.13 ACTIVITY NO. 13– TRACK AND RECONCILE THE USE OF CERTAIN FUNDS IN COMPLETING A RESIDENCE ON ST THOMAS

Store management reported that construction of the residence is substantially complete. However, additional funds may be needed to fund final landscaping costs. During the COTR's January 2005 visit he approved the use of an additional $13,000 in UC funds for landscaping expenses, increasing the total approved amount to $277,000. In preparing this report it was determined that the cumulative total of funds approved for completing the residence that was previously reported as $252,000 did not reflect the $25,000 approved early in November 2004.



90 Day Monitoring Report

United Corporation U.S. Virgin Islands

For the Reporting Period
September Through November 2004

Contract No: GS-10F-0080J
Order No: DJMS-04-AFO-P-0013
December 2004

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

NINETY-DAY MONITORING REPORT
BUSINESS MONITORING SERVICES
UNITED CORPORATION
VIRGIN ISLAND
FOR THE REPORTING PERIOD
SEPTEMBER 2004 - NOVEMBER 2004

1.0 ACTIVITIES COMPLETED DURING REPORTING PERIOD

The COTR and the Madison Associates, Inc. (MAI) manager visited the Virgin Islands the week of October 18–22, 2004. The sections that follow discuss the issues that were addressed during that visit.

1.1 VISIT WITH ASSISTANT UNITED STATES ATTORNEY

On October 19, 2004 Assistant United States Attorney (AUSA) Jones advised that a tentative date had been set by the Court for the trial of the defendants who are owners and operators of United Corporation (UC). The trial is scheduled for June 6, 2005. During the visit the COTR provided AUSA Jones with the first Ninety-Day Monitoring Report to be filed with the Court.

1.2 VISIT WITH U.S. MARSHALS SERVICE ST. THOMAS OFFICE

On October 19, 2004 the office of the U.S. Marshals Service (USMS), St. Thomas, U.S. Virgin Islands, advised that a lis pendens had not been filed on the property inadvertently overlooked when the original order restraining the property of UC had been filed. The office of the USMS also advised that a lis pendens had not been filed on the property owned by the defendants consisting of approximately 9.5 acres on St. Thomas. Efforts were to be undertaken by the office to assist the AUSA in filing the appropriate lis pendens.

1.3 USE OF UNITED FUNDS IN CONSTRUCTION OF HOUSE

During the visit to St. Thomas, the COTR and the MAI manager visited the house being built with funds from UC. After viewing the house and realizing that the estimates provided by the owners earlier in the year on the amount necessary for completion were not going to be sufficient, the COTR authorized additional funding of $25,000. This brings the total amount authorized to $239,000. Based upon discussions with Mr. Nejeh Yusuf and the inspection of the house conducted on October 19, 2004 the COTR indicated that he thought additional funds may be needed in order to complete the house. However, the COTR requested that he be notified of any additional funds sought beyond the limit authorized. The COTR also requested that the Monitor be on the alert for any effort to use UC funds to decorate the house; an activity he believed to be beyond the scope of the authority granted to use UC funds to complete the structure. See *Section 2.3*, below.

Exhibit 18

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

MOHAMMED HAMED by His Authorized Agent WALEED HAMED,	)	
Plaintiff/Counterclaim Defendant,	)	
vs.	)	Case No. SX-12-CV-370
FATHI YUSUF and UNITED CORPORATION,	)	
Defendants/Counterclaimants,	)	
vs.	)	
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,	)	
Additional Counterclaim Defendants.	)	

THE VIDEOTAPED ORAL DEPOSITION OF FATHI YUSUF

was taken on the 2nd day of April, 2014, at the Law Offices of Adam Hoover, 2006 Eastern Suburb, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 9:17 a.m. and 4:16 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

Reported by:

Cheryl L. Haase
Registered Professional Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix U.S.V.I.
(340) 773-8161

EXHIBIT 18

APPEARANCES

A-P-P-E-A-R-A-N-C-E-S

For the Plaintiff/Counterclaim Defendant:

Law Offices of
Joel H. Holt
2132 Company Street
Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Joel H. Holt

and

Law Offices of
Carl Hartmann, III
5000 Estate Coakley Bay, #L6
Christiansted, U.S. Virgin Islands 00820

By: Carl Hartmann, III

For the Defendant/Counterclaimants

Law Offices of
Dudley, Topper & Feuerzeig
P.O. Box 756
Charlotte Amalie, St. Thomas
U.S. Virgin Islands 00804

By: Gregory H. Hodges

and

Law Offices of
Nizar A. DeWood
2006 Eastern Suburbs, Suite 101
Christiansted, VI 00830

By: Nizar A. DeWood

APPEARANCES

For Waleed Hamed:

Law Offices of
Eckard, P.C.
P.O. Box 24849
Christiansted, VI 00824

By: Mark W. Eckard

For Fathi Yusuf:

Law Offices of
K. Glenda Cameron
2006 Eastern Suburb, Suite 101
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: K. Glenda Cameron

Also Present:

Josiah Wynans, Videographer
Kim Japinga
Waleed Hamed
Hisham Hamed
Mufeed Hamed
Maher Yusuf

use for my personal expense and need.

Q. Okay. But the intent of -- of the agreement was that 50 percent of the net profits of the three Plaza Extra stores would belong 50 percent to Yusuf and 50 percent to Hamed.

A. That is correct.

Q. Okay. And that would also apply to the net profits that have yet to be distributed, such as the money --

A. Yes.

Q. -- at the Banco Popular account?

A. After we go and sees who and who takes who, if I take ten dollars more than them, and I take ten, they have the right to take it. That's when we go to the book and reconciliate our account between each other.

But up to now, unfortunate, we have never done that since the past 25 years. Only, I'm sorry, up to December 31st, 1993. That books was closed by that day. We was even on that day, on whatever left Plaza Extra. But we still a 50-percent joint venture in whatever left inside the store, what is accounts receivable or accounts payable.

Q. And that's true up through today?

A. Excuse me, sir?

Q. And that's true up through today?

A. Up to now.

CERTIFICATE

C-E-R-T-I-F-I-C-A-T-E

I, CHERYL L. HAASE, a Registered Professional Reporter and Notary Public No. NP-158-03 for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witness, FATHI YUSUF, was first duly sworn to testify the truth; that said witness did thereupon testify as is set forth; that the answers of said witness to the oral interrogatories propounded by counsel were taken by me in Stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such Certified Court Reporter on this the 3rd day of May, 2014, at Christiansted, St. Croix, United States Virgin Islands.

_____

Cheryl L. Haase, RPR
My Commission Expires 2/10/16

Group
Exhibit 19

Plaza Extra

2241

4C & D Estate Sion Farm
C'sted, St. Croix, V.I. 00821
Tel: (340) 778-6240
Fax: (340) 778-1200

#14 Estate Plessen
F'sted, St. Croix, V.I. 00841
Tel: (340) 719-1870
Fax: (340) 719-1874

Purchase Order No.

Account Name Garfield for Shopping Center Date

Address Phone

SOLD BY	CASH	C O D	CHECK	CHARGE

QUAN.	DESCRIPTION	PRICE	AMOUNT
			150 —
	for shopping Center roofing		
			150 —

449-0525

Received by

All claims and returned items **MUST** be accompanied by this invoice.

GROUP EXHIBIT 19

Plaza Extra

1718

4C & D Estate Sion Farm
C'sted, St. Croix, V.I. 00821
Tel: (340) 778-6240
Fax: (340) 778-1200

#14 Estate Plessen
F'sted, St. Croix, V.I. 00841
Tel: (340) 719-1870
Fax: (340) 719-1874

Purchase Order No. _____ Date 6/30/01

Account Name _____

Address Garfield

Phone

SOLD BY	CASH	C O D	CHECK	CHARGE

QUAN	DESCRIPTION	PRICE	AMOUNT
			90 00
	to Garfield		
	for warehouse doors		
			90 00

Received by _____ 449-0803

All claims and returned items **MUST** be accompanied by this invoice

Plaza Extra

1131

4C & D Estate Sion Farm
C'sted, St. Croix, V.I. 00821
Tel: (340) 778-6240
Fax: (340) 778-1200

#14 Estate Plessen
F'sted, St. Croix, V.I. 00841
Tel: (340) 719-1870
Fax: (340) 719-1874

Purchase Order No. _____ Date 07.08.01

Account Name _____

Address _____ Phone

SOLD BY	CASH	C.O.D	CHECK	CHARGE

QUAN	DESCRIPTION	PRICE	AMOUNT
	Materials for United Shopping Plaza.		49.98
	449-1199		49.98

Received by A St. Ange

All claims and returned items MUST be accompanied by this invoice.

Exhibit 20

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 Deft.,	
vs.	Case No. SX-2012-CV-370
FATHI YUSUF and UNITED CORPORATION, Defendants/Counterclaimants,	
vs.	**DEPOSITIONS TAKEN: JANUARY 21, 2020**
WALEED HAMED, WAHEED HAMED, MUFEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC., Counterclaim Defendants.	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff,	
vs.	Consolidated with Case No. SX-2014-CV-287
UNITED CORPORATION, Defendant.	
WALEED HAMED, as Executor of the Estate of MOHAMMAD HAMED, Plaintiff,	
vs.	Consolidated with Case No. SX-2014-CV-278
FATHI YUSUF, Defendant.	
FATHI YUSUF, Plaintiff,	
vs.	Consolidated with Case No. ST-17-CV-384
MOHAMMAD A. HAMD TRUST, et al., Defendants.	
KAC357 Inc., Plaintiff,	
vs.	Consolidated with Case No. ST-18-CV-219
HAMED/YUSUF PARTNERSHIP, Defendant.	

EXHIBIT 20

THE VIDEOTAPED ORAL DEPOSITIONS OF FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, AND JOHN GAFFNEY

was taken on the 21st day of January, 2020, at the Law Offices of Joel H. Holt, 2132 Company Street, The Alcove Room, Christiansted, St. Croix, U.S. Virgin Islands, between the hours of 10:00 a.m. and 5:09 p.m., pursuant to Notice and Federal Rules of Civil Procedure.

_____

Reported by:

Susan C. Nissman RPR-RMR
Registered Merit Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix
U.S. Virgin Islands 00820
(340) 773-8161

APPEARANCES

A-P-P-E-A-R-A-N-C-E-S

For the Plaintiffs:

Law Offices of
Joel H. Holt
2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Joel H. Holt

and

Carl J. Hartmann, III
5000 Estate Coakley Bay, L6
Christiansted, St. Croix
U.S. Virgin Islands 00820

By: Carl J. Hartmann, III
Kim Japinga

For the Defendants:

Law Offices of
DNF
Law House
P.O. Box 756
Charlotte Amalie, St. Thomas
U.S. Virgin Islands 00802

By: Charlotte Perrell

Also Present: Michael Gelardi, Videographer

~~Park store? Do you know? Not what you surmise. What you~~ know.

A. I know there was a lot of cash around. How the accountants do their thing, I have no idea, and I don't recall exactly what's on paper, but I know there was a lot of cash around.

MS. PERRELL: So you don't know. All right. I don't have any more questions.

REDIRECT EXAMINATION

BY MR. HARTMANN:

Q. Let's go back to the questions counsel asked you. Tell me what happened in 1995.

A. Where?

Q. ~~In St. Thomas?~~

A. St. Thomas, I believe we had -- I'm not sure if it was '94 or '95 when we bought out our -- our partner that we had in the St. Thomas store.

Q. And right after that, was there a hurricane?

A. Right after that, we had a hurricane.

Q. And how bad was the hurricane?

A. That hurricane, I think -- I'm not sure the category they referred to it, but it was --

Q. It was that --

A. -- significant. Yeah, Marilyn.

Q. Marilyn. Okay.

And tell me how the business did in '95 and then in '96 compared to how it had ever done before?

A. Probably triple, quadruple, maybe 10 times.

Q. And why was that?

A. Because of the hurricane. I mean, business just went out -- just went through the roof.

Q. I'll put Mr. Yusuf on next and ask him the same questions if you'd like. He'll tell you the same thing.

And why did the profits and the income triple?

A. Well, we -- we probably were one or two of the surviving stores in St. Thomas.

Q. So your volume --

A. My volume, our sales, went up.

Q. By how much?

A. Three, four, maybe five times.

Q. Okay. And -- and that was in late '95 and into '96?

A. Yes, sir.

Q. And how long was it from '95 until the other stores recovered?

A. The other? I'm sorry?

Q. The other stores. Your competitors got --

A. We had -- we had, I think '95, '96, '97, '98, and '99 were stellar years. I mean, we just -- we were really,

really busy. I mean, we had one time, St. Thomas was beating the St. Croix locations.

Q. Okay. And -- and what's the impact of St. Thomas beating the St. Croix locations?

A. It's significant, because at the time, the St. Croix location was beating the St. Thomas location --

Q. Okay.

A. -- in sales.

Q. So -- so would it be fair to say -- as I said, I'll call Mr. Yusuf next on this -- but would it be fair to say that '95 through '99 were probably the greatest years possible for a grocery store anywhere ever?

MS. PERRELL: Object. Speculation.

Q. **(Mr. Hartmann)** You can answer.

A. I'm not too sure if you could say for all over the place, but, I mean, for -- for --

Q. Well, --

A. It was good years for us.

Q. Let me put it to you a different way: Were you guys loading bundles of cash into suitcases and taking it to foreign countries?

A. Yes, sir.

Q. And what -- and what year did that all started?

A. That was late '95 to 2000-2001.

Q. And why -- why were these bundles of cash just

C-E-R-T-I-F-I-C-A-T-E

I, SUSAN C. NISSMAN, a Registered Merit Reporter and Notary Public for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witnesses, **FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, and JOHN GAFFNEY,** were first duly sworn to testify the truth; that said witnesses did thereupon testify as is set forth; that the answers of said witnesses to the oral interrogatories propounded by counsel were taken by me in stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such Registered Merit Reporter on this the 22nd day of February, 2020, at Christiansted, St. Croix, U.S. Virgin Islands.

_____

My Commission Expires:
June 28, 2023

Susan C. Nissman, RPR-RMR
NP 234-19