

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

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

**UNITED CORPORATION'S PROPOSED FINDINGS OF
FACT AND CONCLUSIONS OF LAW
RE: Y-8 – WATER CLAIMS**

FINDINGS OF FACT

1. The Court adopts its earlier findings of fact pursuant to its rulings relating to United's claim for the proceeds of the sale of water ("Water Proceeds") collected at the United Shopping Center for the period from April 1, 2004 through February 28, 2015. *See* Order dated November 9, 2020.
2. Specifically, the Court has found that "United had the right to control the Water Proceeds at the time of the conversion" and "the Partnership's interference caused damages to United since United was deprived of the Water Proceeds." *Id.* at 32.
3. United is entitled to the Water Proceeds from April 1, 2004 through February 28, 2015. *Id.* at 34.
4. The Water Proceeds were generated from the sale of water to commercial water truck suppliers beginning in 1994. *See* Transcript, Testimony of Fathi Yusuf; 29:15-19.
5. Prior to 2000, there was a high volume of sales. After 2000, the sales continued but they had dropped in volume. *See* Transcript, Testimony of Maher Yusuf; 38:17-20 and Waleed Hamed; 52:24-53:3, and Exhibit 13 - Hamed Response to Interrogatory 30.
6. Between 2004 and 2015, sales of water ranged between one to two trucks per day and five trucks per day. *See* Transcript, Testimony of Waleed Hamed; 53:4-17; Fathi Yusuf; 9:25-10:3, and Exhibit 13 - Hamed Response to Interrogatory 30.
7. The price charged for water over this period was \$0.15 per gallon or \$15.00 per 1,000 gallons. *See* Transcript, Testimony of Fathi Yusuf; 6:4-18; Maher Yusuf; 35:20-36:1 and Waleed Hamed; 53:18-54:4.

8. The average size of the trucks held 5,000 gallons. *See* Transcript, Testimony of Fathi Yusuf; 6:18–7:1 and Maher Yusuf: 36:2-16; 37:23-11 and Exhibit 12 – Declaration of Maher Yusuf, ¶1.
9. The average sale price for each truck was \$75.00. *See* Transcript, Testimony of Fathi Yusuf; 7:21-23.
10. At two, 5,000-gallon trucks per day, the Water Proceeds were \$150 per day ($\75×2) and \$54,750 per year ($\150×365 days) or \$4,562.50 per month ($\$54,750 \div 12$ months). *See* Transcript, Testimony of Fathi Yusuf; 13:22- 14:6.
11. Using these calculations, the total value of the Water Proceeds for the 31-month period from April 1, 2004 through February 28, 2015 is \$597,687.50 ($\$4,562.50/\text{month} \times 131$ months).
12. These calculations are consistent with Yusuf’s recollection of a business record that reflected Water Proceeds of \$52,000 for 1997 and \$75,000 for 1998 from which Mr. Yusuf calculated an average monthly revenue of \$5,291.66 per month with a total of \$693,207.46 for the 131 period from April 1, 2004 through February 28, 2015. *See* Transcript, Testimony of Fathi Yusuf; 11:25-12:21; 13:1-8.
13. As Waleed Hamed has confirmed the volume of trucks in the 2000’s was one to two trucks per day both in his Interrogatory Responses and in his testimony and confirmed the price was \$0.15 per gallon, the Court finds that the minimum amount due to United for the Water Proceeds from April 1, 2004 through February 28, 2015 is \$597,687.50. *See* Transcript, Testimony of Waleed Hamed; 53:4–17.
14. Fathi Yusuf’s testimony relating to his calculations of \$693,207.46 based upon his recollection of a business record from 1997 and 1998 is consistent with the \$597,687.50

valuation, albeit marginally higher. The higher value for the 1997 and 1998 valuation is consistent with the undisputed testimony from each witness that the Water Proceeds prior to 2000 were higher than after 2000.

15. The Court finds amount due to United for the Water Proceeds from April 1, 2004 through February 28, 2015 is \$597,687.50 based upon the undisputed testimony and historical trend for sales after the year 2000.

CONCLUSIONS OF LAW

1. The Master concludes that United has proven by a preponderance of the evidence that the Water Proceeds from April 1, 2004 through February 28, 2015 are at least \$597,687.50.

2. As the Virgin Islands Supreme Court has held, a party “is not required to establish her damages to an exactitude,” and need only “prove her damages with as much certainty as the nature of the tort and circumstances permit.” *Maso v. Morales*, 57 V.I. 627, 635-636 (2012). (citing to RESTATEMENT (SECOND) OF TORTS § 912). All that is required is that the plaintiff adduce evidence that “lay[s] a foundation which will enable the trier to make a fair and reasonable estimate” of damages. *Id.* at 636 (citation and internal marks omitted). “To prove damages, plaintiff has the burden ‘to establish a reasonable basis for computing damages.’ Although there is not a single method for computation, and mathematical precision is unwarranted, the best possible evidence is considered.” *Gourmet Gallery Crown Bay, Inc. v. Crown Bay Marina, L.P.*, 2019 WL 8883541, at *6 (V.I. Super., 2019) (citation and internal marks omitted).

3. United offered evidence from Fathi Yusuf, Maher Yusuf and Waleed Hamed as to the Water Proceeds for the period of April 1, 2004 through February 28, 2015.

4. Specifically, United offered the testimony of Waleed Hamed, who is opposing United's claim to the Water Proceeds. Waleed Hamed was the Manager of the Plaza Extra East Store during this period and was familiar with the water sales. Waleed Hamed has provided sworn testimony both in the form of Interrogatory Responses and testimony at the hearing, which confirmed that the average number of trucks after the year 2000 ranged from one to two trucks per day and he confirmed that the price charged was \$0.15 per gallon. *See* Transcript, Waleed Hamed testimony; 51:9-12 and Exhibit 13 – Hamed Interrogatory 30 Response.

5. United also offered the testimony of Maher Yusuf, who was at the Plaza Extra-East location when the sales first began in 1994 and regularly after 2000. Maher Yusuf testified as to the price per gallon charged at \$15.00 per thousand gallons, the average size of the trucks at 5,000 gallons and the average number of trucks during the relevant period of time was between two to three and up to five trucks per day. *See* Transcript, Maher Yusuf testimony; 36:2-16; 37:23-11 and Exhibit 12 – Declaration of Maher Yusuf, ¶1.

6. Moreover, United offered the testimony of Fathi Yusuf as to the average number of trucks, the price per gallon charged at \$15.00 per thousand gallons and the average size of the trucks at 5,000 gallons. *See* Transcript, Fathi Yusuf testimony; 6:4-18; 6:19-7:1.

7. Although there are some variations in the testimony, there is sufficient consistent testimony and evidence as to the price per gallon (\$15.00 per thousand gallons), the average number of trucks per day for the period in question (at least two trucks per day) and the average size of the trucks (5,000 gallons per truck) so as to establish a reasonable basis for computing damages for the amount of the Water Revenue for the April 1, 2004 to February 28, 2015 time period of at least \$597,687.50. This evidence is sufficient to enable the trier to make a fair and reasonable estimate of damages and to establish a reasonable basis for computing damages.

Further, because mathematical precision is unwarranted the use of average number of trucks per day and average volume size of the trucks is sufficient. Moreover, even if the price per gallon changed over this period, the evidence adduced demonstrated that all witnesses believed the price was consistently at \$0.15 per gallon over this period, even if there were fluctuations.

8. Hamed has contended that United's reliance upon the testimony of Fathi Yusuf as to a document that appears to have been lost is insufficient to demonstrate damages and should not be considered. "In a bench trial...the judge sits as fact finder" and "[I]n this role, the judge must weigh the evidence introduced by the parties, including the testimony of their witnesses" and can determine what weight the evidence should have. *Sam's Food Distributors, Inc. v. NNA & O, LLC*, 2020 WL 3086468, at *11 (V.I., 2020). Further, there is not a single method for computation, and mathematical precision is unwarranted, the best possible evidence is considered. Here, Yusuf's testimony has been consistent as to the numbers that he saw on the paper in a ledger book maintained at the Plaza Extra-East location, which reflected the amount of Water Proceeds sent to the West Bank for charity in 1997 and 1998 and that despite his best efforts, he has been unable to locate the document to produce same. Further, Yusuf's testimony during the hearing and his responses to Interrogatories reflect that he was also relying upon Waleed Hamed's knowledge of Water Proceeds as Waleed Hamed was in charge of the Plaza Extra East Store where the sales took place. *See* Transcript, Fathi Yusuf testimony; 30:21-22 and Hamed Exhibit 2 –Yusuf Interrogatory 2 Response, p. 4-5 ("As Waleed Hamed was in charge of the Plaza Extra-East location where the sales took place, Yusuf will be seeking additional information from him as part of the written discovery propounded upon him."). Hence, even if the testimony relating to the Yusuf's recollection of the record reflecting sales in 1997 and 1998 is given less weight, United may prove its damages through various witnesses, including Waleed Hamed. Hence, United has provided

sufficient evidence from the various witnesses to establish a reasonable basis for computing damages for the Water Proceeds. Moreover, the admissions of a party opponent are reliable evidence and binding upon the party. *Sobratti v. Tropical Shipping and Const. Co., Ltd.*, 267 F.Supp.2d 455, 463 (D.V.I., 2003).

9. As to Hamed's evidence as to transactional costs such as employee time associated with the sales, Hamed provided no information as to the value of the time per transaction or any other calculation of off-set to be applied to the gross revenue of the Water Proceeds. Further, the Declaration of Maher Yusuf in Exhibit 12 reflects that the transactional time per employee to process the water sales was "less than a minute" and therefore, *de minimus*. See Exhibit 12, ¶¶ 2-6. Hence, no reduction is warranted to account for transactional costs associated with the water sales.

10. United is entitled to a recovery in the amount of \$597,687.50 against the partnership for Water Proceeds from April 1, 2004 through February 28, 2015.

DUDLEY NEWMAN FEUERZEIG, LLP

DATED: May 19, 2021

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

Attorneys for Fathi Yusuf and United Corporation

CERTIFICATE OF SERVICE

It is hereby certified that on this 19th day of May, 2021, I caused the foregoing a true and exact copy of the foregoing **UNITED CORPORATION'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW RE: Y-8 – WATER CLAIMS** to be served upon the following via Case Anywhere docketing system:

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

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

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

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

The Honorable Edgar D. Ross
Email: degarrossjudge@hotmail.com

and via U.S. Mail to:

The Honorable Edgar D. Ross
Master
P.O. Box 5119
Kingshill, St. Croix
U.S. Virgin Islands 00851

Alice Kuo
5000 Estate Southgate
Christiansted, St. Croix
U.S. Virgin Islands 00820

s/Charlotte K. Perrell

Exhibit A

Hearing Transcript as to Y-8 - Water Claim

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

MOHAMMAD HAMED, by his authorized)
agent WALEED HAMED,)
Plaintiff/Counterclaim Defendant,)SK-12-CV-370
)
-vs-)
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FATHI YUSUF and UNITED CORPORATION,)
)
Defendants/Counterclaimants.)Full Caption
)Continued On
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TRANSCRIPT OF TRIAL PROCEEDINGS

BEFORE THE HONORABLE EDGAR D. ROSS, RETIRED

DATE: Thursday, April 15, 2021
LOCATION: ZOOM VIDEOCONFERENCING
REPORTED BY: N. Antoinette Cerge
CSR-California/RER-National
Notary Public - St. Thomas/St. John
P.O. Box 303426
St. Thomas, U.S. Virgin Islands 00803
caribbeanreporting@yahoo.com
340.771.6008

Certified Copy

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

MOHAMMAD HAMED, by his authorized)
agent WALEED HAMED,)
Plaintiff/Counterclaim Defendant,)SK-12-CV-370
)
vs.)
)
FATHI YUSUF and UNITED CORPORATION)
Defendants and Counterclaimants.)
)
vs.)
)
WALEED HAMED, WAHEED HAMED,)
MUEEED HAMED, HISHAM HAMED,)
and ELESSEN ENTERPRISES, INC.,)
)
Counterclaim Defendants.)
_____)
WALEED HAMED, as the Executor of)
the Estate of MOHAMMAD HAMED,)
Plaintiff,)SK-14-CV-287
)
vs.)
)
UNITED CORPORATION, Defendant.)
_____)
MOHAMMAD HAMED,)
Plaintiff,)SK-14-CV-378
)
vs.)
)
FATHI YUSUF, Defendant)
_____)

APPEARANCES:

For Plaintiff/Counterclaim Defendant:

JOEL H. HOLT, ESQ. P.C.
BY: JOEL H. HOLT, ESQUIRE
2132 Church Street, Suite 2
St. Croix, Virgin Islands 00820

For Defendants/Counterclaimants:

DUDLEY NEWMAN FEUERZEIG LLP
BY: CHARLOTTE FERRELL, ESQUIRE
SIEGAN FERRELL, ESQUIRE
1000 Frederiksborg Gade
St. Thomas, Virgin Islands 00804

Also Present:

Carl Hartmann, Esquire
Alice Kuo, Law Clerk

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WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
Fathi Yusuf	5	25	39	
Maher Yusuf	34	39		
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Waleed Hamed	54	57		

DEFENDANT EXHIBITS

NUMBER	DESCRIPTION	MARKED	IN EV.
12	Declaration of Maher Yusuf	40	62
13	Waleed Hamed Interrogatory Responses	51	62

PLAINTIFF HAMED EXHIBITS

NUMBER	DESCRIPTION	MARKED	IN EVIDENCE
1	Yusufs' Accounting Claims and Proposed Distribution Plan		25
2	Yusuf's Interrogatory Answers, 12-4-19		25
3	2018 Interrogatory Response		25
12	Declaration of Maher Yusuf 7-6-20		62

1 ST. THOMAS, VIRGIN ISLANDS; THURSDAY, APRIL 15, 2021

2 MS. FERRELL: United calls Mr. Fathi Yusuf
3 to the stand. If the reporter can — well, I guess
4 it's not a deposition.

5 Mr. Yusuf, would you raise your right hand.

6 FATHI YUSUF,
7 having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. FERRELL:

11 Q Can you state your name for the record.

12 A F-a-t-h-i, Fathi. Second name is
13 Y-u-s-u-f, Yusuf.

14 Q All right. And, Mr. Yusuf, I know we've
15 discussed this before, but just to make sure that we
16 focus our testimony today, we're here today relating
17 to the claim that United has for water revenues, and
18 the Judge has issued various rulings, and so we're
19 limiting the testimony today simply as to what or
20 how much — what is the value of the water that was
21 sold by United for the period April 1st, 2004,
22 through February 28, 2015. Okay? So my questions
23 are going to be limited to just how much, okay?

24 A Okay. The amount is —

25 Q So —

1 A May I answer?

2 Q Well, let me ask you some questions, okay?
3 All right.

4 So, Mr. Yusuf, are you familiar with how
5 much was being charged for the water when it was
6 sold to third parties like, you know, a water truck
7 company and so forth?

8 A Yes.

9 Q How much was it on a per gallon or per
10 thousand gallon basis?

11 A It's about, I understand any part is about
12 \$15 per 1,000. It's one-and-a-half cents a gallon.

13 Q All right. And to your understanding, is
14 that amount fairly consistent? It didn't change
15 much over the course of — and when I say "this
16 period of time," I'm just gonna talk about that
17 April 2004 through 2015.

18 A No, I don't think we ever change that.

19 Q Okay. All right. And are you familiar
20 with the size of the water trucks that would come
21 and purchase the water from United?

22 A Yes. It varies. It's — the most — I
23 would say very, very little 2,000 but higher
24 percentage of the 3,000 gallon. But the most
25 percentage was 5,000 gallons, and few of them will

1 be above 5,000, such as 6,000 up to 9,000 gallons.

2 Q All right. So is 5,000 gallons an average
3 that the water trucks, in your estimation, based on
4 what you've seen?

5 MR. HOLT: Objection; leading the witness.

6 BY MS. FERRELL:

7 Q What would be an average amount of — an
8 average truck gallon size of the water trucks as you
9 had observed and as you are aware?

10 A I would say around 15, 5,000 gallons a
11 truck.

12 Q Okay. And so had you done any
13 calculations — well, let me ask you this.

14 At 5,000 gallons per truck, and if the
15 cost is \$15 per a thousand gallons, how much revenue
16 would United have received for one 5,000-gallon
17 truck?

18 Ops. You froze.

19 A Can you repeat the question, please?

20 Q Sure. It looks like your computer froze.
21 So how much revenue was a typical \$5,000
22 truck? How much would United be paid for one truck?

23 A \$75 a truck load.

24 Q Okay. And then, Mr. Yusuf, do you have
25 any understanding over a period of time of how many

1 trucks were getting — let's go back earlier, before
2 2004, okay, 'cause I know you were more familiar
3 with the stores at that point — how many trucks
4 were coming, in your estimation, during the late
5 1990s —

6 A It varies —

7 Q — per day.

8 A — based on the weather outside.
9 Sometimes we have as much as ten trucks, even more,
10 at least five or six truck in line to load.

11 Q Okay.

12 A Sometimes if it's raining, we have almost
13 zero —

14 Q Okay.

15 A — if it's raining. But I would say an
16 average between high and low, it may be five trucks
17 a day.

18 Q Okay. And that was in the late 1990s.

19 Are you aware as to whether that number of
20 average trucks increased or decreased in the period
21 of, let's say, 2004 and 2015?

22 A I understand that first when we started,
23 we have almost only one only private establishment
24 to the public besides Public Works or — not Public
25 Works, WAPA. WAPA normally sells water. We the

1 first one to sell water, and everybody was coming to
2 us. Later, as the years go by, it go less and less
3 and less because people start to open up their own
4 one, so that reduced the demand on our location.

5 Q Okay. And after it was reduced, did you
6 have an understanding, and do you have an
7 understanding of what the average would be after
8 this, you know, other folks got into the market?
9 You were still — United was still selling water; is
10 that right?

11 MR. HOLT: Objection

12 THE WITNESS: Yes, it sell water. Yes.

13 MR. HOLT: Is there a timeframe for this?

14 MS. FERRELL: Right. I'll back that up.

15 BY MS. FERRELL:

16 Q Mr. Yusuf, was United still selling water?
17 And, again, the timeframe that matters for us here
18 is from April of 2004 through 2015. Was it still
19 selling water?

20 A Yes.

21 Q Okay. And was it still selling water to
22 these various water truck companies?

23 A At that time, yes.

24 Q Okay. And I know there might have been a
25 reduction. Do you have a sense of what was an

11

1 front, wait for the water, get a receipt and walk with
2 a receipt that he bought 3,000 gallon or 5,000 or 9,000
3 gallon. I don't think we have — I look at a record is
4 100 percent. Everything that I look at, it will not be
5 more than 40 to 50 percent.

6 Q Okay. So, Mr. Yusuf, let me just back up,
7 though. We're going to get there with the things
8 that you may have reviewed. But let me just back
9 up.

10 You had said that you thought an average
11 was five trucks a day during this period 2004
12 through 2015. If you had to put sort of a bottom
13 line on it, what would be, in your estimation, the
14 lowest possible number of trucks on a per-day basis
15 during that period?

16 MR. HOLT: Object to the form of the
17 question; asking him to guess. He's already said he
18 wasn't there.

19 THE WITNESS: The bottom could be three or
20 two; when it's rainy days, zero. I can't really
21 predict one hundred percent how much.

22 BY MS. FERRELL:

23 Q Okay. All right. Mr. Yusuf, let me back
24 up.

25 In making this claim, when you made this

1 average during that period of time, from 2004
2 through 2015; how many trucks per day are you aware?

3 A I would say the same, five.

4 Q Okay. All right. Are you aware as to —
5 well, let me ask you this.

6 What would be — on the low end of your
7 estimation, what would be the number of trucks
8 during that period of time?

9 A See, I want you to be aware that during
10 this time I was always working on St. Thomas. I
11 just comes once a week every two weeks for three,
12 four days, and when we — when I noticed that no
13 water was coming in, no money for the water we were
14 selling to the trucks, I tried to get a record of
15 what we selling and, unfortunately, nobody would
16 give me the record that we used to write down in the
17 receiving.

18 So I went to our record, and I find what we
19 send to the West Bank. I find only two years was sent
20 to the West Bank, one year — two years, which is
21 '97 — 1997 and 1998, total of 102,000. That money, it
22 went to the West Bank from the water sale.

23 Now, I would like to note to you that this
24 money is being delivered to the receiver, but not too
25 much of people used to come and fill water, go to the

12

1 claim, did you review any records in order to
2 calculate what you understood would be the value of
3 the water loss for that period of time between
4 April 2004 and 2015?

5 A What I looked at is somebody — and I
6 think it is Wally handwriting or my son handwriting.
7 I honestly believe Wally handwriting, but my son
8 says, no, that's his handwriting. Now, I can't say
9 no.

10 But the number says we send 52,000 to the
11 West Bank in 1997 and 75,000 in 1998. That's the only
12 two years it was written in the books.

13 Q Okay. And so based on those years, how
14 did you use those years' numbers to calculate what
15 you understood would be the revenues for the 2004
16 through 2015?

17 A I add in the 52 and 75, I end up with
18 127,000. But I divide it on the total of 24 months,
19 and it come up to 5,291.66. And this is exactly the
20 number I use over calculating or guessing how much
21 was directly or how much cash.

22 By the way, we used to give credit in the
23 major customers. Marcos come —

24 Q Mr. Yusuf, yeah, I don't mean to interrupt
25 you.

1 So it was 5,000 — I didn't hear the exact
 2 number — per month. What was the total number of
 3 months from 2004 through 2015?
 4 A I believe it was 131 months.
 5 Q Okay. And so what is the total
 6 calculation that you derived as a result of this
 7 calculation? What's the total number?
 8 A \$693,207.46.
 9 Q Okay. Now, Mr. Yusuf, let me ask you.
 10 Going back to the statements you made earlier at \$75
 11 a truck and a certain number of trucks per day, have
 12 you done any calculations on how many trucks per day
 13 there would be if there were only, let's say, two
 14 trucks a day?
 15 A No. I just — I told you, I just follow
 16 with the sheet I sees in the book. I didn't follow
 17 nothing else.
 18 Q Right.
 19 A I did not come up with any other numbers.
 20 Q Right. But, Mr. Yusuf, let me ask you
 21 this.
 22 Can you do the calculation for two trucks
 23 a day, at \$75 a truck on an annual —
 24 A Yes, I can do that.
 25 Q Okay. All right.

1 the number for 1997, what was the number for 1997
 2 that you looked at?
 3 MR. HOLT: Objection; leading.
 4 THE WITNESS: No, no, no, no.
 5 THE COURT: Overruled.
 6 THE DEPONENT: No. I'm telling you, this
 7 is two truck average a day times 365 days because we
 8 do open 365 days.
 9 Now, some days we might not sell anything,
 10 but some days we might sell 15 truckload. I just give
 11 it based on the record —
 12 BY MS. FERRELL:
 13 Q Right.
 14 A — two truck a day.
 15 Q Right.
 16 Mr. Yusuf, what I'm asking is simply the
 17 calculation that you just did, is it close to or is
 18 it similar to the number that you looked at for
 19 1997?
 20 A No. It is an average.
 21 Q Okay.
 22 A Because 50 — in 1997, it was 52,000. In
 23 1998, it was 75,000. I total both; it came out to
 24 127, and I divide it on 24 months. So if we say
 25 this is for whatever we saying is only for 1997,

1 (Reporter clarification.)
 2 THE WITNESS: 75 — that's a \$150. 75
 3 times two is 150. 150 times 365 days, that's give
 4 you 54,750 a year.
 5 BY MS. FERRELL:
 6 Q Okay. So 54,000 is two trucks a day.
 7 (Reporter clarification.)
 8 BY MS. FERRELL:
 9 Q Mr. Yusuf, you and I, you know, we talk a
 10 lot together, and so we talk at the same time, but
 11 it doesn't do well for the court reporter. So I'll
 12 try not to talk when you're talking; and if you can
 13 try to wait for me to finish as well. I know
 14 sometimes I interrupt you, so I apologize. I'll try
 15 not to do it; it will mess up the court reporter.
 16 Okay?
 17 A That's fine.
 18 Q Okay. So let me just try to be clear.
 19 So when you did the calculation at two
 20 trucks a day for an entire year, it would be \$54,000
 21 a year. Is that what you just calculate?
 22 A I want to give exact number. It was
 23 54,750.
 24 Q Okay. And so that number is very close
 25 to — when you looked at the writing and it showed

1 then the number will go much higher when we reach
 2 1998. That's not what I mean. I mean this is an
 3 average.
 4 Q Right. I understand.
 5 And all I'm saying is, is that just
 6 looking at two trucks a day is similar to what the
 7 revenue was only for the year in 1997?
 8 A Yes.
 9 Q All right. When we talk about that 1997
 10 number and the 1998 number, before 2004 was the
 11 water to be — what was supposed to happen with
 12 those revenues prior to 2004?
 13 A Before 2004, some of it, whatever went to
 14 the cash register stays in the business —
 15 Q Uh-huh.
 16 A — and whatever went in the receiving, my
 17 understanding that went to the West Bank.
 18 Q Okay. And when you say the "West Bank,"
 19 was that for — what was the purpose of sending it
 20 to the West Bank?
 21 A Well, I make a deal with
 22 Mr. Mohammed Hamed that we have too much water, and
 23 we will sell the water during the ten-year period
 24 and we send the money for the needy of your family
 25 and the needy of my family. And he said, that's a

1 good idea.
 2 Q Okay.
 3 A And then we did, until the FBI raid us.
 4 And we don't want to spread ourselves wide open to
 5 the FBI; they might think that it was terrorists.
 6 It was really to the needy, not to terrorists.
 7 Q Okay. And so you understand that the
 8 57,000 is the portion of the water sales that went
 9 for charity; is that correct?
 10 A Yes. I would estimate that is maybe
 11 40 percent. I don't think it was a 100 percent —
 12 Q Okay.
 13 A — because from experience of my partner,
 14 unfortunate, they don't like to give money away
 15 unless I insist it have to be done.
 16 Q Okay. So, Mr. Yusuf, did the Hamed family
 17 have the ability to utilize the water for their
 18 households or for any tenants that they may have on
 19 property?
 20 A Yes, they was hauling water all the time
 21 for their personal use.
 22 Q Okay. And you're not making a claim for
 23 that; is that right?
 24 A No, none of my claim is for that.
 25 Q Okay.

1 with the Court; is that right?
 2 A Yes. I gave it to my lawyer, and the
 3 lawyer, I'm sure, reviewed it.
 4 Q Okay. All right. And so there's
 5 really — the numbers that you've calculated, I
 6 think you had a number earlier that you mentioned
 7 was 693,000. Do you believe that to be a low end
 8 determination of what is owed to United, the
 9 conservative?
 10 A Very honest, is very, very low end, not
 11 taking in consideration what went through the cash
 12 register or — I don't know. A sale could be made
 13 and the money never been claimed. It just went
 14 through the record in the book.
 15 Q Okay. The other calculation could have
 16 been taking — well, let me ask you this.
 17 Can you do a calculation with — you said
 18 an average was 35 trucks per day.
 19 MR. HOLT: Your Honor, just for the
 20 record, you know, there's been discovery in this
 21 case asking for many calculations, and none of this
 22 has been provided. And, you know, the time to
 23 supplement discovery is long over with. I shouldn't
 24 be learning — you know what, I'll withdraw it.
 25 I'll withdraw it. I'm sure Your Honor can figure it

1 A Plus —
 2 Q Sorry. Go ahead.
 3 A Plus I understand Wally have about eight
 4 tenants. Whenever his cistem need water, he was
 5 free to take it to that cistem. That is not in my
 6 calculation.
 7 Q Okay. And your family was able to use the
 8 water as well, correct?
 9 A Very little. You know why very little?
 10 Because I have the largest cistem, maybe, for
 11 residential use.
 12 Q Okay.
 13 A I have a cistem of 135 capacity —
 14 135,000 gallon, supplied by a roof 12,500 square
 15 foot.
 16 Q Okay. But if you needed it, you could use
 17 it from United?
 18 A Sure. Yeah. I use it maybe once.
 19 Q Okay. All right. So, Mr. Yusuf, when you
 20 were making this claim, you put these claims in
 21 various filings with the Court; is that correct?
 22 A I didn't understand the question.
 23 Q When you made the calculations as to how
 24 much United would be owed, you put those
 25 calculations in filings or papers that were filed

1 out.
 2 THE COURT: You may proceed.
 3 MS. FERRELL: Okay.
 4 Actually, Your Honor, I think we can do the
 5 math, so I don't know if that's necessary for the
 6 testimony, to do the math.
 7 THE COURT: What's the question?
 8 BY MS. FERRELL:
 9 Q The question will be, Mr. Yusuf, what
 10 would be an average — I'm sorry.
 11 What would be an annual revenue for water
 12 trucks given five trucks a day at \$75 per truck?
 13 A You want me calculate it?
 14 Q Yes, please.
 15 A Five times 75 is 375 times 365. That will
 16 be one million 368 — that's one million 368 and
 17 75 cents. 368.75. And this is a very, very honest
 18 calculation for a guessing. This is really, really
 19 very honest. And never claim this, but this what it
 20 is.
 21 Q Mr. Yusuf, can you do that calculation one
 22 more time? I think you might have misspoken.
 23 A I did. Yes.
 24 Q Okay.
 25 A 136,875 — no, no, no.

1 That's annually, right?
 2 Q Yes.
 3 A Yes, annually. 136,875 per year.
 4 Q Correct. Okay.
 5 A And by 21 months, 131 a month, that's
 6 where I come to the million. It fool me.
 7 Q Okay.
 8 A 1,793,000 — what is this? One minute.
 9 No, there's something wrong. Hold on, please.
 10 136,875 by 131 — 1,793,000 — I don't know. I get
 11 lost.
 12 Q Okay. That's all right, Mr. Yusuf. I
 13 think we have the evidence out there.
 14 A Bear with me.
 15 MR. FERRELL: Charlotte, were you asking
 16 monthly or yearly?
 17 MS. FERRELL: I was asking yearly, to do a
 18 comparison of the different years, but I think it's
 19 getting a little bit muddled. So I think we can do
 20 the math. But, in any event, the evidence is out
 21 there.
 22 So I have no further questions. May I ask my
 23 co-counsel — wait.
 24 BY MS. FERRELL:
 25 Q Mr. Yusuf, go ahead.

1 the water claim; and Exhibit 3, which is the
 2 statement that your firm made on behalf of him
 3 regarding.
 4 You want me to walk him through each one of
 5 those or can we get a stipulation that these are what
 6 were found?
 7 MS. FERRELL: Let me pull the exhibits up.
 8 MR. HOLT: You know what, let me share
 9 file them, if that will work. I don't know if I can
 10 get that to work or not.
 11 MS. FERRELL: Hold on one second. I got
 12 it right here?
 13 Okay. Yeah, you didn't — did you send me
 14 these?
 15 MR. HOLT: Yes. I told you I might use
 16 things for impeachment.
 17 MS. FERRELL: Oh. Okay. But those were
 18 not previously forwarded. Okay. I'm sure there's
 19 not an issue. I just wanted to double check.
 20 MR. HOLT: You know what, I'm not sure
 21 what I have here. I'm not able to share file it.
 22 I'm not sure how to do it. Let me get Jay in here.
 23 Hold on a second.
 24 (Pause in proceedings.)
 25 MR. HOLT: Charlotte, can you just look at

1 A Yes. I calculate it first 136,875; that
 2 represents 12 months.
 3 Q Correct.
 4 A My mistake is I multiply that by 131 by
 5 month, and it's wrong.
 6 Q Okay.
 7 A Okay. Let me see.
 8 131 divide on 12. The answer is 10.91 times
 9 136,875. One million 494 — one million 494.
 10 Q All right. Thank you, Mr. Yusuf. I think
 11 we got it.
 12 MS. FERRELL: Counsel, anything? Stefan,
 13 anything further? 'Cause I feel like I have no
 14 further questions.
 15 MR. FERRELL: You can ask him for a
 16 calculation on the screen, if you want.
 17 MS. FERRELL: I think we're gonna submit
 18 proposed findings, so I think the evidence is there.
 19 All right. I have no further questions from
 20 Mr. Yusuf on the valuation.
 21 MR. HOLT: Before I ask Mr. Yusuf any
 22 questions, I'm just wondering if we can get a
 23 stipulation on my Exhibit 1, which is just the
 24 claim, the water revenue claim that was filed; and
 25 Exhibit 2, which is his interrogatory answers about

1 Exhibits 1, 2, and 3 and see if you can stipulate to
 2 them being admitted so I can — otherwise, I need
 3 the witness to have it, which means I'd have to
 4 drive it out to United. The judge has it and you
 5 have it.
 6 Exhibit 1 is the — actually, you actually
 7 attached it to one of your exhibits — Yusuf's
 8 Accounting Claims and Proposed Distribution Plan of the
 9 water revenues.
 10 Exhibit 2 is Mr. Yusuf's Interrogatory
 11 Answers signed by him on December 4th, 2019, about this
 12 claim.
 13 And Exhibit 3, which we sent out a while ago,
 14 is a May 5th, 2018, Statement by you as to his claim.
 15 MR. FERRELL: Charlotte, you're on mute.
 16 MS. FERRELL: No problem with Exhibit 1;
 17 it's excerpts of Yusuf's Accounting Claim Proposed
 18 Distribution.
 19 Do you want me to pull it up, Joel?
 20 MR. HOLT: No. As long as you stipulate
 21 to it being admitted. Like you say, we're gonna do
 22 briefs. I don't need to ask Mr. Yusuf about it. I
 23 want to just —
 24 MS. FERRELL: Okay. All right.
 25 Exhibit 2 is Supplemental Responses to

1 Discovery. Yeah, I see no problems with that. That's
2 supplemental responses to discovery.

3 And that was it, right? Was there a third
4 one?

5 MR. HOLT: Exhibit 3, it came by email
6 after that, which is just your version of the same
7 answer that you sent over.

8 MS. FERRELL: It's the earlier
9 interrogatory response?

10 MR. HOLT: Yes, the one in 2018.

11 MS. FERRELL: Okay. Yeah, we have no
12 objections to those.

13 (Exhibits 1, 2, 3 in evidence)

14 MR. HOLT: Okay. So we'll move those
15 three in. And then I'll just have a few questions
16 for Mr. Yusuf.

17 CROSS-EXAMINATION

18 BY MR. HOLT:

19 Q Mr. Yusuf, you talked about finding a
20 handwritten document that was, you said, either in
21 Walled's handwriting or Mike's handwriting; is that
22 correct?

23 A I don't know which one. I thought it's
24 Wally, but my son say it's not. I don't know.

25 Q And have you ever found that document?

1 A I gave it to my lawyer.

2 Q When's the last time you saw that
3 document? I'll represent to you, sir, it's never
4 been produced in this case.

5 A I don't know. I gave it to my lawyer on
6 time.

7 Q When is the last time you saw this
8 document?

9 A A few years. I don't know. I can't
10 recall when I see it the last time.

11 Q Did you say that you showed this exhibit
12 to your son, Maher?

13 A Well, you see, I did not show it to him.
14 He said that book was in the safe. I have no access
15 to the safe. The one who have access to the safe is
16 my son, Wally, and his brother. I don't have access
17 to the safe.

18 Q Okay. But at some point somebody showed
19 you the book, and you saw these numbers; that's
20 correct?

21 A No one showed me the book. I picked up
22 the book.

23 Q Okay. When did you pick up the book?

24 A Three, four years ago.

25 Q Okay. And did you make a copy of that

1 page?

2 A I did, but I can't find it.

3 Q And as we speak today you haven't found
4 it?

5 A I have not find it up to last night.

6 Q Okay. And so when you testified about
7 these two sales in 1995 and 1997, you're testifying
8 from your memory of what you saw in a book four,
9 five years ago?

10 A It's not the same, sir. It's just two
11 numbers, 75,000 sent to West Bank for water, 52,000
12 sent to West Bank for water, and deposit it. That's
13 all it have. That page, only that's all it have, no
14 any other explanation.

15 Q Okay. And if you can just go over what it
16 says again. It says 78,000?

17 A 1997, 52,000 was sent to West Bank; and in
18 1998, 75,000 was sent to West Bank.

19 Q Okay. And is there any other language
20 other than those two on numbers on that page?

21 A Only two numbers, only two years.

22 Q Any other words other than the ones that
23 you just went over?

24 A No any other word in the whole page.

25 Q Okay.

1 A Nothing.

2 Q All right. Between the years 2004 and
3 2015, I take it the Feds were in possession of
4 overseeing the store in 2004 and 2005, during that
5 time period?

6 Were there federal officers in the store
7 in 2004 to 2010 overseeing the operations of the
8 store?

9 A I suppose so, yes. There was —

10 THE WITNESS: What do you call that, a
11 marshal?

12 MR. MIKE YUSUF: Yes.

13 THE WITNESS: A marshal, yes.

14 BY MR. HOLT:

15 Q Okay. Were you in the store on St. Croix
16 during that time period?

17 A I came to the store maybe once every two
18 weeks, not to do any work, just to come to the
19 office and look around; not to come to work, to
20 produce any work, 'cause my work really in
21 St. Thomas.

22 Q Okay. And so you didn't actually go
23 outside and deal with any of the water trucks that
24 came?

25 A I did personally? No.

1 Q Okay. And you indicated that the water
2 sales in the 1990s, it had more water sales in the
3 1990s than you've had after that?

4 A I have — first we start, sir, trucks was
5 in line. I tell you, trucks was in line. And after
6 that, the demand for our water (inaudible).

7 Q All right. Let me see if I can recap what
8 you said.

9 You said that you started to sell water,
10 and you were the first ones other than WAPA; and
11 therefore, in the 1990s, you had a lot of business.
12 But at some point, the water companies started doing
13 their own wells, and you had less business; is that
14 correct?

15 A We start selling water in some time in '94
16 or, for sure, '95, because the store, after it
17 reopen, it open in '94, and we were selling water to
18 the trucks. I believe we was the only one selling
19 water besides the WAPA.

20 After that, business cease. We have a really
21 big argument. Start — some people start to dig well
22 and offer the water for sale, or somebody use it for
23 personal use.

24 Q So were there less trucks after the year
25 2000 than before the year 2000?

1 A Yes.

2 Q For example, Marco Water, did they buy
3 water from you in the 1990s?

4 A Yes.

5 Q Have they been buying water —

6 A No. Excuse me. You keep saying "1990."
7 I was out of business in 1990, when it comes to
8 water business. I do not never offer the water
9 until after 1994.

10 Q Okay.

11 A I never offer the water for sale until we
12 rebuild the supermarket and we put up a big cistem.
13 And then I started to offer the water for sale, and
14 there we have really a lot of demand.

15 Q Okay. Between 1995 and 2000, did you sell
16 water to Marco?

17 A Yes.

18 Q And after 2000, did you sell any water to
19 Marco or did they open their own wells?

20 A I don't know. Wally is the one to answer
21 that question. He's the one was in charge of that
22 store. I was in St. Thomas.

23 I understand he was giving credit to Marco
24 and to some other truck drivers. They just come and
25 they just sign a receipt; and we'll send them a bill, a

1 statement, and then they end up paying. That's what my
2 understanding from the people, Wally and my son.

3 Q And I take it if I went through the
4 different other trucking companies, you would say
5 the same thing; that you weren't here, so you don't
6 know what they were buying after 2000, correct?

7 A Could you speak slowly, please, 'cause
8 each time you speak, I have to ask my son to tell me
9 what you say. To avoiding that, you need to speak a
10 little bit slower, please.

11 MR. HOLT: Okay. Can we take just a
12 break? I may be done with the questioning. Can we
13 just take about a five-minute break, Your Honor?

14 THE COURT: Five-minute break.

15 MR. HOLT: Okay.

16 (Off record.)

17 MR. HOLT: I have no further questions.

18 MS. FERRELL: Your Honor, just a quick, a
19 few redirect.

20 REDIRECT EXAMINATION

21 BY MS. FERRELL:

22 Q Mr. Yusuf, Attorney Holt asked you a
23 couple of questions as to your knowledge of the
24 truck and so forth during this 2004 through 2015
25 timeframe.

1 Do you have an understanding based upon
2 your coming to the store every couple of weeks and
3 your communications with your son as to the average
4 number of trucks?

5 MR. HOLT: Objection; calls for hearsay.

6 THE COURT: Sustained.

7 BY MS. FERRELL:

8 Q Mr. Yusuf, do you have an understanding
9 based upon your knowledge in continuing in the store
10 about the average number of trucks per day during
11 that timeframe?

12 A Maybe two, three, maybe four; that's what
13 my son told me.

14 Q All right. And you understood that based
15 upon regular communications as part of operating the
16 various locations, the United locations; is that
17 right?

18 THE WITNESS: What she said?

19 BY MS. FERRELL:

20 Q Okay. Mr. Yusuf, you can't ask anybody
21 else.

22 A No, no. I didn't understand the question.

23 Q Right.

24 You understand that those numbers, as a
25 result of — when you spoke with your son as part of

1 the normal operating of the United and Plaza; is
 2 that correct?
 3 A About what, the water?
 4 Q Yes.
 5 A Yes, I see it from the receiving. There's
 6 a log in the receiving; I used to look at it. I
 7 could see it's not as much, but it's always —
 8 there's no one day without selling water. Even
 9 sometime during the rainy day, still selling water.
 10 Q Okay. All right, Mr. Yusuf. I don't have
 11 any further questions.
 12 MR. HOLT: No further questions.
 13 THE COURT: Thank you, Mr. Yusuf.
 14 You may stand down.
 15 MS. FERRELL: All right. Next United
 16 would like to call Mike Maher Yusuf to the stand.
 17 Mike, maybe you should switch with your
 18 father so you can be more in the screen.
 19 MAHER MIKE YUSUF: I'm right here.
 20 MS. FERRELL: Okay. All right. Maybe we
 21 should — can you adjust the screen so it's just you
 22 in the screen, other than Mr. Yusuf? There you go.
 23 Perfect.
 24 MAHER MIKE YUSUF: Hold on. I'm not
 25 hearing you. Hold on.

1 A I mean, I was there before, way before, in
 2 '86. Yeah. I mean, I construct the place, so I was
 3 there from day one. But I went to school in '96,
 4 August '96 and came back in '91.
 5 MR. FERRELL: '96?
 6 THE WITNESS: '86. Sorry. '86.
 7 BY MS. FERRELL:
 8 Q Okay. All right.
 9 MS. FERRELL: And just for other folks in
 10 the room, unfortunately we have to have it where
 11 it's just the person that is sworn testifying. So
 12 just Mike's responses.
 13 BY MS. FERRELL:
 14 Q Okay. And so during the time at
 15 Plaza Extra East, did you have an opportunity to
 16 observe sale of water to third parties —
 17 A Yes.
 18 Q — at the —
 19 A Yes.
 20 Q Okay. And do you have an understanding as
 21 to what was the charge that United was charging
 22 third party customers for water?
 23 A As per gallon or per truck or —
 24 Q Per gallon.
 25 A Yeah. Well, per thousand gallons we used

1 You can hear me?
 2 MS. FERRELL: I can hear you, yes.
 3 MAHER MIKE YUSUF: I can't hear you guys.
 4 I can't hear you. Oh, wait.
 5 MS. FERRELL: Can you hear us now?
 6 MAHER MIKE YUSUF: Now, yes.
 7 MS. FERRELL: All right. Mike, can you
 8 raise your right hand.
 9 MAHER YUSUF,
 10 having been first duly sworn,
 11 was examined and testified as follows:
 12 DIRECT EXAMINATION
 13 BY MS. FERRELL:
 14 Q Can you please state your name for the
 15 record.
 16 A Maher E. Yusuf. M-a-h-e-r, Y-u-s-u-f.
 17 Q Okay. And —
 18 A I also go by Mike Yusuf.
 19 Q All right. Mr. Yusuf, what is your —
 20 during the period of, let's say, 19 — well, let me
 21 ask you this.
 22 When did you start working in the
 23 Plaza Extra East store?
 24 A 1991.
 25 Q Okay. All right.

1 to charge at, I believe it was \$15 a 1,000 gallon.
 2 Q Okay. All right. And did you have an
 3 opportunity to observe the size and the trucks that
 4 would come and fill up at the Plaza Extra East
 5 location?
 6 A Yes. We had trucks from 3,500. We maybe
 7 had one truck that was a lot smaller. But most of
 8 the trucks was from 3,500 to, I think, 8- or 9,000
 9 gallon trucks; and sometimes the trailer tractor
 10 comes with its trailer; that's like 8 to 9,000
 11 gallons.
 12 Q Okay. And so based on your observations,
 13 what would you say was the average size of the
 14 trucks that would come to fill up at the Plaza Extra
 15 East store?
 16 A Well, we did a lot of the 4,000 and 5,000,
 17 and I would say we did a bit of the trailers. I
 18 can't remember the trailers' exact capacity —
 19 Q Okay.
 20 A — maybe it was between 7,000 to 9,000. I
 21 can't remember.
 22 Q Okay. So with regard to the volume of
 23 trucks, from your observations, what was the volume
 24 of trucks after they opened up the — reopened after
 25 the fire in 1994?

1 So let's say 1994, in the 1990's, what was
2 the average volume based on your observations? How
3 many trucks a day?

4 A It varied on the weather. Sometimes we
5 had, when it was the dry season, like what we have
6 now, we would get — I mean, the trucks used to line
7 up to fill up water.

8 I would say — shoot, I don't know — maybe
9 15 to 20 trucks a day when it's dry. But throughout
10 the whole year, we always sold water, even rainy
11 season, even regular season. But on a dry time, it was
12 really heavy. I mean, it's hard to put a number on it,
13 but it was real high.

14 Q And then after the 1990s, did the volume
15 of truck sales start to drop?

16 A Excuse me, I didn't hear that.

17 Q After the 1990s, there's been testimony
18 about this. Was it your understanding that the
19 average number or the volume dropped?

20 A It dropped, yes.

21 Q All right. And based on after — let me
22 ask you this period.

23 From 2004 through 2015, do you have an
24 understanding as to what an average number of trucks
25 per day volume was?

1 A It's hard to put a number on it, but it
2 was — you know, it was a frequent of four trucks,
3 four, five trucks per day. Except when it was dry,
4 we would go up to about ten trucks a day.

5 Q And was that true even in the 2004 through
6 2015 timeframe?

7 A Yeah. Like I said, when it's dry, we had
8 trucks that would come a lot. A lot of trucks would
9 come on the dry season, yes. On a regular time, day
10 in and day out, you would have between two to three
11 trucks a day.

12 Q Okay. All right. As far as the price,
13 you had said it was \$15 per thousand gallons. Do
14 you know whether that dollar number changed at all
15 over the period of time from 2004 through 2015?

16 A I don't believe it changed; I'm not sure.
17 I'm not sure if it changed when we started off, it
18 was lower or not. I'm not — I can't remember it
19 being — I just remember the \$15 rate.

20 Q Okay. All right. And if it had changed,
21 would it have — if the \$15 rate was —

22 What was the time period of that \$15 rate,
23 as you recall?

24 A I can't put a ...

25 Q Okay.

1 MS. FERRELL: All right. I have no
2 further questions.

3 THE COURT: Attorney Holt?

4 MR. HOLT: Yes, briefly.

5 CROSS-EXAMINATION

6 BY MR. HOLT:

7 Q Mr. Yusuf, would you agree with the
8 statement that water prices can vary depending upon
9 the supply and demand?

10 A Yes, it varies from the supply and demand.
11 Yes, it varies on the weather, not on the supply and
12 demand.

13 What you mean by supply and demand? Let's
14 back up a little bit.

15 It's usually on the weather. If the weather
16 is dry — and we always have that every year — there's
17 more demand on it.

18 Q Do you understand what's meant by the
19 statement water prices can vary depending upon
20 supply and demand?

21 A Yeah.

22 Q Okay. And it's true that the prices will
23 vary depending upon the supply and demand?

24 A Yes. It's the same.

25 Q Can I have the witness shown Exhibit

1 Number 12 — the exhibit submitted by Mr. Yusuf this
2 morning. It's in the notebook entitled Y-8.

3 THE COURT: What exhibit is it?

4 MR. HOLT: Exhibit Number 12, the
5 Declaration of Maher Yusuf, dated July 6th, 2020.

6 THE CLERK: We only have the folder for
7 H-163.

8 MR. HOLT: No. This would be the notebook
9 that was submitted this morning.

10 THE CLERK: We received two notebooks,
11 both for H-163. We don't have a notebook for Y-8.

12 MR. HOLT: That's because I have both
13 notebooks. I'm gonna bring it right down to you.

14 (Off record.)

15 MR. HOLT: Stefan, if you could show the
16 witness Exhibit Number 12.

17 (Exhibit 12 marked for identification.)

18 BY MR. HOLT:

19 Q Mr. Yusuf, do you have Exhibit Number 12
20 in front of you?

21 A Yes.

22 Q You see your signature on the bottom of
23 the page, July 6th, 2020?

24 A Yes.

25 Q And the first paragraph says:

1 "United's water customers typically
2 use trucks that could be filled up
3 to a maximum of 5,000 gallons."
4 Is that the most that you would sell to a
5 trucker?
6 A No. That's the majority of the truckers.
7 Q All right. So most truckers weren't over
8 5,000, correct?
9 A No. It have truckers that's over 5,000,
10 the trailers. That's what I told you, the trailer;
11 that's a truck.
12 Q Okay. And are most trucks 5,000 or less
13 than 5,000?
14 A Most trucks are 5,000, 4- to 5,000.
15 Q Okay. And it says:
16 "The charge for water now" — and
17 this is dated July 6th, 2020 — is
18 1.5 cents per gallon, which
19 translates into a total charge of
20 \$75 for a 5,000-gallon fill up."
21 Is that correct?
22 A Yes.
23 Q And then it says:
24 "Water prices can vary depending on
25 supply and demand."

1 A That phrase, yes. I misunderstand the
2 supply and demand. I believe I was thinking —
3 Q But I'm talking now about the second part
4 where you said — the part —
5 A Hello. Can you let me speak? I didn't
6 understand what you said.
7 Q Okay. So you've already indicated that
8 water prices can vary depending on supply and demand
9 is not correct.
10 The next sentence:
11 "The prices for the 2004 to 2011
12 time period would have been very
13 close to 1.5 cents a gallon."
14 And you're now telling me that statement
15 is incorrect as well, that it was always 1.5 cents
16 per gallon?
17 A It was always 1.5 cents per gallon. It's
18 \$15 a 1,000 gallons; that's how I know it, \$15 a
19 thousand gallons.
20 I maybe misunderstood supply and demand.
21 Supply and demand, I felt that it was when there was a
22 demand on water trucks. This maybe — I was not
23 indicating as prices. Prices didn't change. It was
24 \$15 a 1,000 gallons.
25 Q Okay. And that was the price in 1995,

1 Is that correct?
2 A Water prices, no, no, no, no, that's not
3 correct. Water prices can vary, depends on supply
4 and demand, no. It's always been the same price.
5 Q So that statement that you signed in this
6 declaration is incorrect?
7 A In that sense, yes. I overlooked that.
8 Q Okay. And then it says: "The price" —
9 A The price never changed. The price was
10 always the \$15 a 1,000 gallons.
11 Q Well, let me read the entire sentence. It
12 says:
13 "Water prices can vary depended
14 upon supply and demand, but prices
15 for the 2004 to 2011 time period
16 would have been very close to 1.5
17 cents a gallon."
18 Do you see that? Do you see that?
19 A Yes, I see that. Yes, I see that.
20 Q So do you want to take back the statements
21 you made that it was always \$15 or was it sometimes
22 less than \$15 per thousand?
23 A It was always \$15.
24 Q Okay. So this statement as worded is
25 incorrect as well, correct?

1 1996, 1997; is that correct?

2 A 1995, '96, I believe so. I believe it was
3 that price, if I'm not the mistaken. It could have
4 been lower; I'm not sure. But I know it was always
5 \$15.
6 Q Okay. But it might have been lower than
7 \$15 in 1996?
8 A I don't believe so, but I'm not — you
9 know, I can't remember back then what it was, but —
10 Q Okay.
11 A — \$15 a 1,000 gallons is pretty low.
12 Q Okay. And did you stay at the Plaza East
13 store or did you move to the Plaza West store just
14 for a time period?
15 A Yes, I did move to the Plaza West store.
16 Q And when did you move to the Plaza West
17 store?
18 A When the store opened, I moved permanently
19 in 2000, November of 2000.
20 Q So from 2004 at least to 2012, you weren't
21 in the Plaza East store on a daily basis, were you?
22 A No, but I know what's going on in the
23 operations.
24 Q Okay. But were you there on a daily basis
25 watching the truckers come and go?

1 A I was there frequently. I used to go to
2 the back and pick up merchandise for the other store
3 or vice versa, bring merchandise.

4 Q You weren't there all day long between
5 2004 and 2012 to —

6 A No, no, I wasn't there all day long.
7 Nobody is all day long in the back, none of us, not
8 the Hameds and not the Yusufs.

9 Q Okay. Who was there more often during
10 that time? Well, you know what, I'll withdraw that.

11 And then my next question is, did you hear
12 your father talk about this piece of paper that had
13 these two numbers on it?

14 A Correct.

15 Q Have you ever seen that piece of paper?

16 A Yes, I have.

17 Q Where did you see that piece of paper?

18 A It was in the black book that we used to
19 keep a record of everything. We used to keep a
20 record of what, you know, the daily activities or
21 certain things that we used to do. Even used to
22 keep a record of the chips that we used to do
23 between each other.

24 Q I just want to focus on this record.

25 So you say you actually saw the ledger

1 entry that your father just mentioned with the two
2 numbers in it?

3 A Yes.

4 Q Whose handwriting was it in?

5 A I believe it was my handwriting.

6 Q Okay. And when was the last time you saw
7 that piece of paper?

8 A I'm not sure when. I don't know the years
9 back I saw it.

10 Q And do you know what happened to that
11 piece of paper?

12 A It should be — I mean, if I'm not
13 mistaken, you probably even have the records, too,
14 because it was part of the FBI records. I'm not
15 sure. I saw it a couple years back, but I can't
16 remember. I looked in the same black book; this
17 time I don't see those things. I was looking in my
18 computer to see if I could find it, but I did not
19 find it.

20 Q Just for the record, I can assure you I
21 don't have it or seen it, or I would have produced
22 it, because I would be required to produce it. And
23 I suspect that your lawyers hadn't seen it or they
24 would have produced it because they would be
25 required to produce it.

1 So have you ever seen, in the last four or
2 five —

3 MS. FERRELL: I would object to that.
4 That misstates. Anyway...

5 MR. HOLT: Well, have you seen this piece
6 of — I asked for it. Do you have a copy of it?

7 MS. FERRELL: I have seen the piece of
8 paper originally when it came in shortly before the
9 filing of the Complaint. I have no idea where it is
10 now. When we filed the September 2016 claims, that
11 was when we received a copy of that in support of
12 that particular claim. (Inaudible) all of the
13 documents and, I have not — we have looked high and
14 low for this.

15 THE COURT: Attorney, are you going to
16 testify?

17 MS. FERRELL: No, Your Honor. He asked a
18 question, and I — it's my mistake that the paper is
19 lost, so I'm just trying to clarify that.

20 THE COURT: Well, you can testify as to
21 what happened to it. But please let's keep the
22 hearing as formal as possible.

23 MR. HOLT: Your Honor, just for the
24 record, I would like to at least formalize that,
25 rather than have testimony, just into a stipulation.

1 The parties could certainly stipulate to it.
2 Counsel indicates that she saw the record but has
3 been unable to locate it.

4 Can we have that stipulation?

5 MS. FERRELL: I will stipulate.

6 MR. HOLT: Okay.

7 MR. HARIMANN: Excuse me, Your Honor.

8 This is Cark Hartmann.

9 Since I was the person who did the discovery
10 on this, I'd like to ask one or two questions about
11 that stipulation if I could.

12 Since the Court issued a specific order with
13 regard to the discovery in this area requiring all
14 matters to be provided to us, we went through a whole
15 Rule 37 process, we went through a whole subsequent
16 production process, there's a supplemental production
17 process, and this is the first time that counsel has
18 ever suggested that she had that document or lost that
19 document.

20 If, in fact, that is the case, I would like
21 her to also produce attendant to that stipulation any
22 document or correspondence with us where she identifies
23 that they've only identified this document as not
24 produced, never in possession and lost. And this has
25 gone through three or four different iterations.

1 THE COURT: You will have the opportunity
2 to make all your arguments in terms of the validity
3 or credibility of the evidence if you want.

4 MR. HARMANN: Thank you, Your Honor.

5 MR. HOLT: All right. Just one last
6 question.

7 BY MR. HOLT:

8 Q So, Mr. Yusuf, you indicated that when it
9 was dry like it is now, when it's dry, that the
10 trucks used to line up and there will be more of
11 them. Is that your testimony?

12 A Yes. Yes.

13 MR. HOLT: No further questions.

14 MS. FERRELL: I have actually no further
15 questions of this witness either.

16 THE COURT: Thank you very much.

17 MS. FERRELL: All right.

18 THE COURT: You may be excused.

19 MS. FERRELL: For this component, we don't
20 need Mr. Yusuf, Mike Yusuf, any further.

21 We did want to ask a couple of questions of
22 Waleed Hamed. I don't know if you would like for me to
23 put him up for purposes of cross or whether I should
24 just cross-examine him if Mr. Holt would like to go
25 forward. I'll handle however the Court would like to

1 do it.

2 THE COURT: It's your claim. You may
3 present whatever evidence you want in support of
4 your claim.

5 MS. FERRELL: Okay. We'd like to call
6 Waleed Hamed to the stand.

7 Hang on. Let me pull up the exhibits.

8 All right.

9 Mr. Hamed, could you please state your right
10 hand.

11 WALEED HAMED,

12 having been first duly sworn,
13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. FERRELL:

16 Q Could you please state your full name for
17 the record.

18 A Waleed Hamed.

19 Q And, Mr. Hamed, it's true that you
20 primarily work at the Plaza East store, correct?

21 A Yes.

22 Q Okay. And you began at the Plaza Extra
23 East store, if I'm correct, I believe around 1986 or
24 so; is that right?

25 A Correct.

1 Q All right. And you were there
2 continuously until the partnership and the family
3 split; is that correct?

4 A Yes. By this time period, I was in
5 St. Thomas.

6 Q Okay. What was that timeframe?

7 A Probably '91. I would say '91 through
8 '93.

9 Q Okay. All right. You're familiar with
10 the sale of the water from the Plaza Extra East
11 location, correct?

12 A Yes.

13 Q Okay. And isn't it true that you answered
14 some interrogatory responses relating to that?

15 A Yes.

16 Q Okay. If you could please look at
17 Exhibit 13.

18 A Yes.

19 (Exhibit 13 marked for identification.)

20 BY MR. HOLT:

21 Q All right. Exhibit 13 is certain
22 interrogatory responses that you provided in this
23 case.

24 Do you see your signature on the — it
25 looks like it's actually the very last page. Do you

1 see that?

2 A Yes, ma'am.

3 MS. FERRELL: Okay. Move to admit Exhibit
4 Number 13.

5 MR. HOLT: No objection.

6 BY MS. FERRELL:

7 Q All right. In Exhibit 13 we asked
8 questions relating to this claim regarding water
9 claim, and you indicated there that at its peak in
10 the 1990s, ten or more trucks a day, each with a
11 capacity of 30,000 gallons delivered water St. Croix
12 residents.

13 Do you see that statement at the end of
14 the first paragraph under Rog 30?

15 A Yes.

16 Q Okay. And that's correct, right?

17 A Yes, ma'am.

18 Q Okay. And then you go on to say after
19 April 1, 2004, the funds generated from the
20 enterprise, you say, went to partnership versus
21 charity. That issue's been resolved.

22 But the next sentence is what I'd like to
23 attract your attention.

24 "The sale of water dropped off
25 quite dramatically for the

1 partnership in the 2000s."
 2 Is that correct?
 3 A That is correct.
 4 Q Okay. All right. And then the last
 5 sentence, you say:
 6 "To get a sense of the scope, in
 7 the 2000s, the partnership was
 8 sending out one to two trucks a day
 9 to deliver water rather than the
 10 previous ten or more trucks."
 11 That's correct, right?
 12 A Yes.
 13 Q Okay. And you base these statements on
 14 your observations having physically been at the
 15 store during the 2004 through 2015 timeframe; is
 16 that right?
 17 A Yes, ma'am.
 18 Q Okay. With regard to the amount of the
 19 charge, isn't it true that the charge for the price
 20 was \$15 per thousand gallons?
 21 A I don't — well, what time period you're
 22 talking?
 23 Q For the period 2004 through 2015.
 24 A At one time or another, the price has
 25 changed, but I'm not sure what year it changed.

1 your name.
 2 A Waleed Hared.
 3 Q And you were the manager — one of the
 4 managers at the Plaza East in 2004 and 2015?
 5 A Yes.
 6 Q Who would actually deal with the truckers
 7 when they came to the site?
 8 A Truckers would be handled through the
 9 warehouse.
 10 Q And those employees would be employed by
 11 who, the partnership?
 12 A By the partnership, yes, sir.
 13 Q And who would handle the funds received
 14 from the truckers?
 15 A Plaza Partnership employees.
 16 Q And who would account for the funds
 17 received by the partnership?
 18 A Plaza Partnership employees.
 19 Q And who would pay the gross receipts on
 20 any funds it received?
 21 A The partnership employees — I mean the
 22 partnership.
 23 Q And if there were any profits, how would
 24 those profits be distributed?
 25 A Profits from what, from the partnership?

1 Q Okay. But is the price — what is the
 2 price — what is the price that you were last aware
 3 of?
 4 A Probably 1.5 cents a gallon.
 5 MS. FERRELL: I have no further questions.
 6 Thank you.
 7 THE COURT: Attorney Holt?
 8 MR. HOLT: I have no questions,
 9 Your Honor.
 10 THE COURT: Thank you, Mr. Hared. You may
 11 be excused.
 12 MS. FERRELL: Your Honor, we have no
 13 further evidence relating to the value of the water
 14 claim for the period April 1 through February 28,
 15 2015.
 16 Thank you.
 17 THE COURT: Attorney Holt, do you have any
 18 witnesses?
 19 MR. HOLT: Yes, Your Honor, just briefly.
 20 I'll recall Mr. Hared.
 21 THE COURT: Mr. Hared, you've already been
 22 sworn.
 23 DIRECT EXAMINATION
 24 BY MR. HOLT:
 25 Q Again, just for the record, can you state

1 Q Yeah.
 2 A It would be through the partnership.
 3 Q So if there was a profit on the sale of
 4 water, Mr. Yusuf would have received 50 percent of
 5 that because he was a partner in the partnership?
 6 A Yes.
 7 Q And who paid for the electricity to
 8 operate the pumps?
 9 A Plaza Partnership.
 10 Q And who would maintain the cistern and the
 11 wells where the water was coming from?
 12 A The partnership.
 13 Q And if a pump had to be replaced, who
 14 would pay for that?
 15 A We did, the partnership.
 16 Q If there were taxes — other than gross
 17 receipts, if there's actually income taxes —
 18 A Partnership also would pay that. Yes,
 19 sir.
 20 MR. HOLT: No other questions.
 21 MS. FERRELL: Your Honor, I have some
 22 follow-up. This is beyond the scope of my prior
 23 cross.
 24 THE COURT: You may cross-examine
 25 Mr. Hared as to his testimony at this time.

1 MS. FERRELL: All right.
 2 THE COURT: Go ahead.
 3 MS. FERRELL: Thank you. Thank you, Your
 4 Honor.
 5 CROSS-EXAMINATION
 6 BY MS. FERRELL:
 7 Q Mr. Hamed, with regard to the payment of
 8 any taxes, isn't it true that the partnership was
 9 never determined to be a legal entity for the
 10 purposes of paying taxes but that United corporation
 11 paid the taxes?
 12 A But that's semantics. I mean, we know we
 13 had a partnership. We were acting on behalf of —
 14 United just held the books.
 15 Q Right.
 16 But what I'm saying is, is that
 17 United Corporation is the only entity with a tax
 18 I.D. number, the only entity that filed a tax
 19 return, correct?
 20 A Yes. Yes. But Plaza Partnership, the
 21 monies that were paid with taxes, United never paid
 22 them. Monies came to the partnership from the
 23 proceeds of Plaza Extra Partnership, not United
 24 owned funds.
 25 Q Okay. But isn't it also true that United

1 paid the taxes, correct?
 2 A No, because it went through the
 3 Plaza Extra Partnership, yes.
 4 Q Okay. And when you say the distributions
 5 happened, isn't it true that the partnership never
 6 did at the end of the year an equal division of all
 7 the profits; it was done on a monthly basis as
 8 people needed funds? Isn't that correct?
 9 A Not too sure if it was on a monthly basis,
 10 but it wasn't done at the end of the year.
 11 Q Right.
 12 And it was not done where there was any
 13 calculations, let's say, either monthly or at the
 14 end of the year, this is the total profits and we'll
 15 make sure and split it?
 16 A I agree with you, yes.
 17 Q Okay. So there was never necessarily some
 18 ultimate distribution of income, net income to the
 19 partners; it was certain partners would take money,
 20 other partners would take money, and then that was
 21 supposed to settle up as between you, correct?
 22 A Yes.
 23 Q Okay. All right. And the time it takes
 24 for a Plaza Extra employee to process a sale is very
 25 small, correct? — a minute or so?

1 owned the shopping center?
 2 A Yes.
 3 Q Okay. And so are you aware as to whether
 4 or not the taxes that were paid ultimately were paid
 5 for both income from the tenants as well as the
 6 income from the grocery store operations?
 7 A I know that Plaza Extra Partnership, that
 8 Plaza operations paid its own taxes. Under what
 9 company, it was under United, I understand.
 10 Q Okay. All right. And the payment of the
 11 taxes, ultimately the — whether United paid it or
 12 whether, as you say, the partnership paid it, the
 13 payment doesn't change the fact that the revenue,
 14 whether it came in for United or whether it came in
 15 for the partnership, would have to pay taxes,
 16 correct? Somebody would have to pay taxes.
 17 A Yeah, someone would have to pay taxes, but
 18 we paid our own taxes.
 19 Q Okay. And isn't it also true that with
 20 regard to the revenue, that the revenue that United
 21 is claiming, right, that revenue would not change
 22 regardless of how the taxes were paid?
 23 A Revenue is what, ma'am?
 24 Q The revenue for receipt of the income from
 25 third parties, that doesn't change regardless of who

1 A It would take time. Everything takes
 2 time. I mean, it's an employee, will do their job,
 3 whether it's in the front, the cashier, or whether
 4 it's the warehouse guy who has to turn on the pump
 5 or service the pump or take care of the pump.
 6 MS. FERRELL: All right. I have no
 7 further questions.
 8 THE COURT: Attorney Holt?
 9 MR. HOLT: Just briefly.
 10 REDIRECT EXAMINATION
 11 BY MR. HOLT:
 12 Q So the tenant account was kept separate
 13 than the partnership account that the store
 14 operated, correct?
 15 A Yes, sir.
 16 Q It was all these payments to the
 17 employees, the payment of electrical, gross
 18 receipts, and the division of profits, that came out
 19 of the partnership account, not from the United
 20 tenant account?
 21 A Not to the partnership, Plaza Extra
 22 operations.
 23 MR. HOLT: No other questions.
 24 MS. FERRELL: We have nothing further,
 25 Your Honor.

1 THE COURT: Thank you, Mr. Hamed. You may
2 be excused.

3 MR. HOLT: I have no other witnesses,
4 Your Honor.

5 THE COURT: All right. That concludes the
6 hearing as to —

7 MR. HOLT: Your Honor, I'd just like to
8 make sure before we complete the hearing. So right
9 now we have Exhibits 1, 2, and 3, which I submitted,
10 and Exhibits 12 and 13 which are from Yusuf; is that
11 correct?

12 THE COURT: Yes.

13 MR. HOLT: Okay. I just want to make sure
14 we have all the exhibits. I told the court reporter
15 I'll get a copy over to her, and I'll make sure of
16 that.

17 THE COURT: Do you accept the stipulation
18 as to what Attorney —

19 MR. HOLT: Charlotte, do you agree to the
20 five exhibits that we have in this —

21 MS. FERRELL: Oh, yes. I'm sorry,
22 Your Honor. I didn't know there was a question.

23 Yes, Your Honor, that's correct. It's 1, 2,
24 3 from Attorney Holt, and then Exhibits 12 and 13 from
25 us.

1 So, yes, I apologize for the delay.

2 THE COURT: Thank you.

3 MR. HOLT: Your Honor, do you want to take
4 a lunch break or do you want to take a brief break
5 before we begin H-163?

6 THE COURT: How long is that going to
7 take?

8 MR. HOLT: I don't know how long the
9 evidence is going to take.

10 I'd like to keep on going. Maybe we should
11 just take about a five or ten-minute break to regroup.

12 THE COURT: All right. Take a ten-minute
13 break so we can at least organize our presentation
14 better than we did with the first claim.

15 MR. HOLT: Oh, my gosh. Your Honor, you
16 do understand the difficulties of the Zoom. I mean,
17 if Charlotte and I could be in the same room as
18 witnesses and you any —

19 THE COURT: If the attorneys would
20 remember they're not doing a deposition where they
21 converse with each other, and just consider
22 themselves in the courtroom and addressing the
23 Court, we wouldn't have some of the delays we're
24 having.

25 MR. HOLT: Yes, Your Honor.

1 THE COURT: Thank you. Ten-minute recess.
2 (Proceedings concluded.)

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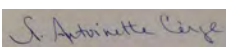
1 COURT REPORTER'S CERTIFICATE

2 I, N. Antoinette Cerge, Registered Professional Reporter
3 with the National Court Reporters Association; Certified
4 Shorthand Reporter, licensed in the State of California;
5 Notary Public in the U.S. Virgin Islands, do hereby
6 certify that the foregoing is a true and correct
7 transcript of the proceedings had in the within entitled
8 and numbered cause on the date hereinbefore set forth; and
9 I do further certify that the foregoing transcript has
10 been prepared under my direction.

11

12 Dated: April 23, 2021

13

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15 _____
16 N. Antoinette Cerge, RFR/CSR

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Exhibit 12

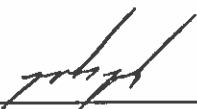
United Exhibit 12
to the Hearing

DECLARATION OF MAHER YUSUF

I, Maher Yusuf, pursuant to 28 U.S.C. § 1746, and V.I.R. Civ. P. 84, declare under the penalties of perjury under the laws of the United States Virgin Islands, that the following is true and correct:

1. United's water customers typically used trucks that could be filled up to a maximum of 5,000 gallons, although there were some that were larger. The charge for water is now 1.5 cents per gallon, which would translate into a total charge of \$75.00 for a 5,000 gallon fill-up. Water prices can vary depending on supply and demand, but prices for the 2004 to 2011 time period would have been very close to 1.5 cents/gallon.
2. The switch that permits water to flow from the standpipe to a delivery truck that is located inside the Plaza Extra East warehouse is connected to a timer. The practice from the time water began being sold and the switch was installed is that sometimes the customer would turn the switch and timer on, and sometimes a Plaza Extra employee would turn the switch and timer on. Regardless of who turned the switch and timer on, the process would consume a few seconds. The timer would turn off automatically, upon expiration of the time that was set, and nobody would have to manually turn it off.
3. The standpipe itself required no maintenance.
4. The pumps that bring water from the cistern to the standpipe and into a delivery truck usually last for a number of years. It is possible that a pump used for water sales had to be replaced in the 2004 to 2011 time period and it is possible that Plaza Extra paid for a replacement pump.
5. The cisterns that hold water for water sales have not needed to be repaired since water sales began.
6. The amount of time that a Plaza Extra cashier would spend accepting a cash payment from a water customer and preparing a receipt is less than a minute. For those customers who were billed for water, the generation of a bill and its mailing would take no more than a few minutes of a Plaza Extra employee's time.

Dated: July 6, 2020



Maher Yusuf

Exhibit 13

United Exhibit 13
to the Hearing

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

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

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and **UNITED CORPORATION**

Defendants and Counterclaimants.

vs.

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

Counterclaim Defendants,

Case No.: SX-2012-CV-370

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

JURY TRIAL DEMANDED

Consolidated with

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

vs.

UNITED CORPORATION, *Defendant.*

Case No.: SX-2014-CV-287

Consolidated with

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

vs.

FATHI YUSUF, *Defendant.*

Case No.: SX-2014-CV-278

Consolidated with

FATHI YUSUF, *Plaintiff,*

vs.

MOHAMMAD A. HAMED TRUST, *et al,*

Defendants.

Case No.: ST-17-CV-384

**PLAINTIFF/COUNTERCLAIM DEFENDANT WALEED HAMED'S
RESPONSES TO FATHI YUSUF'S INTERROGATORIES 1-33 [sic] TO HAMED**

September 30, 2016 Report, pages 2, 22. Finally, this claim is outside of the time period Judge Brady set for bringing claims against the Partnership. See Brady decision: *Hamed v. Yusuf, et al.*; SX-12-CV-370; SX-14-278; SX-14-287 Memorandum Opinion and Order Re Limitations on Accounting, July 21, 2017.

ROG 30. Identify all facts and circumstances which give rise to any dispute you have Yusuf s claims as to the Water Revenue from Plaza Extra East in the amount of \$693,000 and identify all documents relating to your dispute.

Hamed Response: Hamed disputes this debt. Yusuf contends that from April 1, 2004, all revenue from the sale of water that was collected by Plaza Extra-East was to be paid to United. The water sales actually did not belong to United, but to the Partnership.

A little background is in order. When the Partnership purchased the one-acre property at Plaza Extra-East, it also built, with Partnership funds, a 400,000 to 450,000 gallon cistern on the property. Additionally, one or two water wells also were used to fill the cistern. This was during the 1990s. At that time, there was a water shortage on island, WAPA had difficulty consistently providing water and, other than WAPA, there really weren't other companies selling water. The Partnership filled this gap by selling water, starting approximately in 1994. Yusuf is correct that during 1994-2004, the proceeds from the sale of the water went to charity (half to Mr. Yusuf's choice of charity and the other half to Mr. Hamed's choice of charity) and to pay the expenses of the water generation and delivery. At its peak, in the 1990s, 10 or more trucks a day, each with a capacity of about 30,000 gallons, delivered water to St. Croix residents.

After April 1, 2004, the funds generated from the enterprise went to the Partnership, rather than to charity. The sale of water dropped off quite dramatically for the Partnership in the 2000s. Competitors, such as Marcos and others, entered the

market. To get a sense of the scope, in the 2000s, the Partnership was sending out one or two trucks a day to deliver water, rather than the previous 10 or more trucks.

Eventually, Yusuf Yusuf was in charge of monitoring the water sales. For a time, water sales were recorded on hand written receipts, but there weren't any controls to ensure that the vendors did not take more water than they were billed. Wally Hamed then recommended, and Yusuf Yusuf implemented, a key being programmed into the register at the service desk to record the sales of water.

Hamed objects to this blatant claim by Yusuf & United for a number of reasons. First, neither United nor Yusuf has provided any document memorializing this so-called agreement between the Partnership and United because one does not exist. Next, Yusuf picks two years of sales, 1997 and 1998, and extrapolates those two years of sales into an average of \$5,291.66 per month and applies that monthly figure to every month from April 1, 2004 through February 28, 2015. As is explained by the chronology, water sales dropped off dramatically in the 2000s, so of course Yusuf picks two years of sales during the most profitable years. Third, Yusuf does not provide *any* documentation to support the sales for 1997 and 1998, nor does he provide *any* documentation to support water sales from April 1, 2004 through February 28, 2015, even though both paper copy receipts and information from the register could be generated to show actual sales. Fourth, and perhaps most galling, United doesn't have any right to the water, as it is Partnership water, so this really isn't money United is entitled. Finally, this leads to Hamed's belief that this is another example of what Special Master Ross described as "a transaction prohibited by law and tainted by a conflict of interest and self-dealing," when discussing the inflated rents United tried to collect on Bay 1. Yusuf is not fulfilling his fiduciary duty to the Partnership and instead is trying to loot the Partnership for his corporation, United.

Note: ROGs 31 & 32 were revised by Yusuf on March 30, 2018 and will be answered separately.

Dated: May 15, 2018

A handwritten signature in blue ink that reads "Carl J. Hartmann III". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Carl J. Hartmann III, Esq (Bar #48)
Co-Counsel for Plaintiff
5000 Estate Coakley Bay, L-6
Christiansted, VI 00820
Email: carl@carlhartmann.com
T: (340) 719-8941/F: (212) 202-3733

Joel H. Holt, Esq. (Bar #6)
Counsel for Plaintiff
Law Offices of Joel H. Holt
2132 Company Street,
Christiansted, VI 00820
Email: holtvi@aol.com
T: (340) 773-8709/F: (340) 773-867

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2018, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross

Special Master
% edgarrossjudge@hotmail.com

Gregory H. Hodges

Stefan Herpel

Charlotte Perrell

Law House, 10000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00802
ghodges@dtflaw.com

Mark W. Eckard

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

Jeffrey B. C. Moorhead

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



CERTIFICATE OF WORD/PAGE COUNT

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



VERIFICATION

I hereby certify under penalty of perjury that the facts contained in each of the foregoing responses to interrogatories are true and correct to the best of my knowledge, information and belief.

Dated: May, 15, 2018


_____ Attesting Individual

TERRITORY OF THE UNITED STATES VIRGIN ISLANDS

DISTRICT OF St. Croix) ss.

On this, the 15th day of May, 2018, before me, the undersigned officer, personally appeared the signor known to me (or satisfactorily proven to be) the person whose name is subscribed to the within document and acknowledged that he/she executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


_____ Notary Public

NOTARY PUBLIC
JERRI FARRANTE
Commission Exp: September 3, 2019
NP-93-15

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

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

Plaintiff/Counterclaim Defendant,)

v.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

v.)

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

Additional Counterclaim Defendants.)

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

Plaintiff,)

v.)

UNITED CORPORATION,)

Defendant.)

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

Plaintiff,)

v.)

FATHI YUSUF,)

Defendant.)

FATHI YUSUF and)
UNITED CORPORATION,)

Plaintiffs,)

v.)

THE ESTATE OF MOHAMMAD HAMED,)
Waleed Hamed as Executor of the Estate of)
Mohammad Hamed, and)
THE MOHAMMAD A. HAMED LIVING TRUST,)

Defendants.)

CIVIL NO. SX-12-CV-370

ACTION FOR INJUNCTIVE
RELIEF, DECLARATORY
JUDGMENT, AND
PARTNERSHIP DISSOLUTION,
WIND UP, AND ACCOUNTING

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES AND
DECLARATORY JUDGMENT

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT AND
CONVERSION

CIVIL NO. ST-17-CV-384

ACTION TO SET ASIDE
FRAUDULENT TRANSFERS

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



Exhibit 3

Hamed Exhibit 3
to the Hearing

**RESPONSE TO HAMED'S
INTERROGATORIES 2 THROUGH 13 OF 50 - NEW CLAIM NUMBERS:
Y-8, H-1, H-23, H-19, H-33, H-34, H-37, H-144, H-145, H-155, H-156, H-158 & H-160**

Defendant/Counterclaimants Fathi Yusuf ("Yusuf") and United Corporation ("United")(collectively, the "Defendants") through their attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provide their Responses to Interrogatory 2 through 13 of 50 as to New Claim Numbers: Y-8, H-1, H-23, H-19, H-33, H-34, H-37, H-144, H-145, H-155, H-156, H-158 & H-160.

GENERAL OBJECTIONS

Defendants make the following general objections to the Interrogatories. These general objections apply to all or many of the Interrogatories, thus, for convenience, they are set forth herein and are not necessarily repeated after each objectionable Request to Admit. The assertion of the same, similar, or additional objections in the individual responses to the Interrogatories, or the failure to assert any additional objections to a discovery request does not waive any of Defendants' objections as set forth below:

(1) Defendants object to these Interrogatories to the extent they may impose obligations different from or in addition to those required under the Virgin Islands Rules of Civil Procedure.

(2) Defendants object to these Interrogatories to the extent that they use the words "any" and "all" as being overly broad, unduly burdensome, immaterial, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

(3) Defendants object to these Interrogatories to the extent they seek information which is protected by the attorney-client privilege or work-product doctrine, including

~~privileged, responsive information is discovered, these Interrogatories will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.~~

(8) Defendants object to these Interrogatories to the extent that they are compound and not a single Request. Hence, these Interrogatories should be counted as more than a single Request such that when all of the subparts are included together with other Interrogatories they exceed the 50 Interrogatories allowed in the Joint Discovery and Scheduling Plan ("JDSP").

RESPONSES TO INTERROGATORIES

Interrogatory 2 of 50 – New Claim Number Y-08 – Old Claim #: Y's III.F

Water Revenue Owed United

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



RESPONSE:

Defendants first object that this Interrogatory is unclear as it requests information about water sold "to the Partnership." United's claim against the Partnership is that the Partnership sold United's water from the Plaza Extra-East location. After May 5, 2004, the proceeds from the sale of United's water were to be paid to United, not the Partnership. Nonetheless, in an effort to respond to what appears to be questions relating to the support and calculations for water sales due to United from the Partnership, Defendants submit that the calculations set forth Yusuf's Amended Accounting Claims Limited to Transactions Occurring On or After September 17, 2006 ("Yusuf's Claims") were based upon two years of sales in 1997 (\$52,000) and 1998 (\$75,000) for an average of \$5,291.66 per month. As Waleed Hamed was in charge of the Plaza

Extra-East location where the sales took place, Yusuf will be seeking additional information from him as part of the written discovery propounded on him. The number listed in the claims was the average monthly sales multiplied by 131 months demonstrating that United is owed \$693,207.46 from the Partnership for the water sales revenue from April 1, 2004 through February 28, 2015. Yusuf submits that discovery is on-going and that he will supplement this response as and when appropriate.

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksborg Gade

P.O. Box 756

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

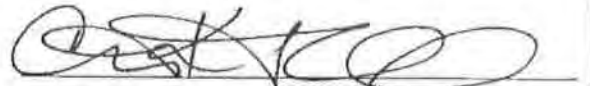
(340) 774-4422

~~undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.~~

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 15th, 2018

By:



CHARLOTTE K. PERRELL

(V.I. Bar #1281)

Law House

1000 Frederiksberg Gade - P.O. Box 756

St. Thomas, VI 00804-0756

Telephone: (340) 715-4422

Facsimile: (340) 715-4400

E-Mail: cperrell@dtflaw.com

*Attorneys for Fathi Yusuf and United
Corporation*

**DUDLEY, TOPPER
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

HAMD660283

CERTIFICATE OF SERVICE

It is hereby certified that on this 5th day of May, 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S INTERROGATORY 2-13 OF 50 AS TO CLAIM H-143** to be served upon the following via Case Anywhere docketing system:

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

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

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

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



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DUDLEY, TOPPER
AND FEUERZEIG, LLP
1000 Frederiksberg Gade
P.O. Box 756

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

(340) 774 4422

HAMD660284