

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,*

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

vs.

**UNITED CORPORATION**, *Defendant.*

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

vs.

**FATHI YUSUF**, *Defendant.*

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**FATHI YUSUF**, *Plaintiff,*

vs.

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

*Defendants.*

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**KAC357 Inc.**, *Plaintiff,*

vs.

**HAMED/YUSUF PARTNERSHIP**,

*Defendant.*

**Case No.: SX-2012-CV-370**

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

JURY TRIAL DEMANDED

Consolidated with

**Case No.: SX-2014-CV-287**

Consolidated with

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

Consolidated with

**Case No.: ST-17-CV-384**

Consolidated with

**Case No.: ST-18-CV-219**

**HAMED MOTION TO COMPEL RE REVISED CLAIM Y-11 –  
LIFESTYLE ANALYSIS**

## I. INTRODUCTION

This is a companion motion -- Hamed has simultaneously filed a Motion for Summary Judgment regarding Yusuf's revised claim Y-11 – Lifestyle Analysis.

In Judge Brady's 2017 holding regarding Yusuf's "Lifestyle Analysis," he stated that Yusuf's expert, the accounting firm BDO, provided, as the sole basis for the claim, an analysis that relies upon an unsupported theory which suggests that somehow any monies identified in excess of certain sources of income (*e.g.*, salaries, rental income, social security payments) were assumed to be a Partnership withdrawal or distribution. Judge Brady further noted that the BDO report also contained a section detailing the extreme limitations of that theory due to the inadequacy of the Partnership records.

As part of the accounting and distribution phase of the Wind Up, Yusuf submitted to the Master the report of accountant Fernando Scherrer of the accounting firm BDO, Puerto Rico, P.S.C. (BDO Report). Yusuf contends that this report constitutes a comprehensive accounting of the historical partner withdrawals and reconciliation for the time period 1994-2012." See Opposition to Motion to Strike BDO Report, filed October 20, 2016. However, the BDO report, by its own terms, appears to be anything but comprehensive. **Most tellingly, the body of the BDO Report itself contains a section detailing its own substantial "limitations,"** resulting from the absence or inadequacy of records for each of the grocery stores covering various periods during the life of the partnership.<sup>25</sup> See Plaintiff's Motion to Strike BDO Rep't, Exhibit 1, at 22.

Additionally, **the analysis presented in the report rests on the unsupported assumption [about "lifestyle"] that any monies identified in excess of "known sources of income" constitute distributions from partnership funds to the partners' §71(a) accounts.** Thus, even Yusuf's own "expert report" acknowledges the insurmountable difficulties inherent in any attempt to accurately reconstruct the partnership accounts. . . . 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, at pp. 23-24 (emphasis added).

His two findings are absolutely correct. If, however, Hamed's summary judgment motion is denied Hamed will require substantial discovery responses – information that Yusuf has refused to provide despite Hamed's inquiries, motions and even the Master's orders. Yusuf has refused to produce his own reciprocal financial documents that would allow Hamed to defend this claim. As noted in the motion for summary judgment, this discovery will dwarf all prior, combined discovery on all issues in this case – in service of an absurd theory that has been denied by Judge Brady and fatally undercut by BDO's own report.

## II. Procedural Process

In 2018, the Parties exchanged discovery pursuant to the August 4, 2018 Scheduling Order. After responses were produced on May 15, 2018, the parties entered into a series of letters and Rule 37 conferences to resolve their differences. Some issues were resolved, but Yusuf has adamantly refused to provide any real responses on this claim.

A Second Amended Joint Discovery and Scheduling Plan was filed on June 14, 2021. The following motion pertains to one Hamed revised claim only: Y-11 — Lifestyle Analysis.

## III. Facts

### A. Yusuf's unanswered interrogatories 33, 35 and 37 of 50

#### 1. Interrogatory 33

On March 24, 2018, Hamed propounded the following interrogatory:

#### **Interrogatory 33 of 50:**

#### **Substantially the Same as Yusuf ROG 1.**

Please identify any and all assets including bank accounts (indicating account number and name of bank), brokerage accounts, real estate, interests in business ventures and other financial interests, foreign and

domestic, owned by each of the following Yusuf family members: 1) Fathi, 2) Mike, 3) Neje, and 4) Yusuf Yusuf *from September 17, 2006 to the date of your response* and identify the source of all funds for the acquisition of such assets.<sup>1</sup> (**Exhibit 1**)

These requested items (for Yusuf family members and businesses) are EXACTLY the data BDO relies on in support of this claim. Hamed supplied this information (in the form of access to Hamed financial records and powers of attorney) allowing Yusuf access to his financial papers and institutions. On May 15, 2018, Yusuf refused to respond to Hamed's interrogatory:

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

Defendants further object to this Interrogatory because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii). (**Exhibit 2**)

On October 31, 2018, Hamed sent a letter to Yusuf's counsel requesting a Rule 37 conference on Interrogatory 33. (**Exhibit 3**) In a follow-up letter documenting the contents of the Rule 37 conference, Yusuf's attorney stated in the Rule 37 conference that

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<sup>1</sup> For the purposes of the Motion to Compel only, Hamed limits the scope of this interrogatory to domestic accounts.

Interrogatory 33 would not be supplemented and therefore was ready for a motion to compel. (**Exhibit 4**) Thus, Hamed has received virtually nothing.

2. *Interrogatory 35*

On March 24, 2018, Hamed propounded the following interrogatory:

**Interrogatory 35 of 50:**

**Substantially the Same as Yusuf ROG 3.** Please identify all sources of income for 1) Fathi, 2) Mike, 3) Neje, and 4) Yusuf Yusuf *from September 17, 2006 to the date of your response* and identify the source of all funds for the acquisition of such assets. (**Exhibit 1**)

On May 15, 2018, Yusuf refused to respond to Hamed's interrogatory:

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

Defendants further object to this Interrogatory because it seeks personal financial information concerning Yusuf s sons, who are not parties to this case.

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii). (**Exhibit 2**)

On October 31, 2018, Hamed sent a letter to Yusuf's counsel requesting a Rule 37 conference on Interrogatory 35. (**Exhibit 3**) On November 28, 2018 in a follow up letter documenting the contents of the Rule 37 conference, Yusuf's attorney stated that Interrogatory 35 would not be supplemented and therefore was ready for a motion to compel. (**Exhibit 4**) Again, virtually nothing has been received.

### 3. Interrogatory 37

On March 24, 2018, Hamed propounded the following interrogatory:

**Interrogatory 37 of 50:**

**Substantially the Same as Yusuf ROG 6.** Identify all distributions from the Partnership to any member of the Yusuf family or United Corporation from September 17, 2006 to present? (**Exhibit 1**)

On May 15, 2018, Yusuf provided an incomplete response to Hamed's interrogatory:

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

Without waiving any objections, all distributions and supporting documentation are reflected and categorized by each individual Yusuf family member in the BDO Report, Tables 35A through 68. Said Tables and supporting documentation are specifically incorporated by reference as if fully set forth herein as responsive to this interrogatory.<sup>2</sup> (**Exhibit 2**)

On October 31, 2018, Hamed sent a letter to Yusuf's counsel requesting a Rule 37 conference on Interrogatory 37. (**Exhibit 3**) On November 28, 2018 in a follow up letter documenting the contents of the Rule 37 conference, *the parties agreed that if a stipulation was signed, the interrogatory would be withdrawn. The stipulation was not signed by the parties and therefore the interrogatory is still outstanding.* (**Exhibit 4**) As of the date of this motion, Yusuf has not provided a supplemental response to Interrogatory 37 and, thus, it is still outstanding.

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<sup>2</sup> The BDO report is incomplete for 2006-2012: 1) No deposits of any kind are shown in the report for the Yusuf family members; 2) No credit card charges are shown for the Yusuf family members; and 3) BDOs report did not include any analysis of distributions to the United Corporation from the Partnership. (**Exhibit 5** generally at pp. 15-20 and **Exhibit 6**, BDO Tables 40B, 41, 46B, 48, 52B, 54, and 61)

**B. Yusuf's unanswered request for the production of documents 26 and 30-31**

1. *RFPD 26*

On February 25, 2018, Hamed propounded the following request for the production of documents (RFPDs) 26 of 50.

**Request for the Production of Documents, 26 of 50**, relates to Y-11, "Lifestyle Analysis." With respect to Y-11, please provide all bank account statements documenting deposits, all brokerage and retirement accounts documenting deposits and all credit card statements in the names of Fathi, Maher, Nejeh and Yusuf Yusuf (individually and any combination of joint accounts between them and all joint accounts with their spouses), from September 17, 2006 to September 30, 2016<sup>3</sup>. Include but do not limit this to:

- All bank account statements documenting deposits or withdrawals
- All brokerage and retirement account statements documenting deposits or withdrawals
- All credit card statements (**Exhibit 7**)

On May 15, 2018, Yusuf declined to respond to Hamed's request for the production of documents 26 of 50:

Defendants object to this Request for Production because it seeks personal financial information concerning Yusufs sons, who are not parties to this case.

Defendants further object to this Request because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

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<sup>3</sup> For purposes of this Motion to Compel only, Hamed is limiting this request to domestic accounts.

To the extent documents already exist in the records, they may be found within the BDO Report which has been previously provided [2]<sup>4</sup> in the Tables to the BDO Reports and supporting documentation provided to Hamed on October 4, 2016. (**Exhibit 8**)

On October 31, 2018, Hamed sent a letter to Yusuf's counsel requesting a Rule 37 conference on RFPD 26. (**Exhibit 3**) On November 12, 2018, the parties held a Rule 37 conference. At that conference, Yusuf's counsel indicated that no further information regarding RFPDs 26 would be forthcoming and therefore RFPDs 26 was ready for a motion to compel. That information was documented in a letter to Yusuf by Hamed on November 28, 2018:

RFPDs 26 of 50 – Relates to Y-11, Lifestyle Analysis  
Attorney Perrell agreed that no more information would be forthcoming for the RFPDs related to Y-11 and therefore is ready for Hamed's Motion to Compel. (**Exhibit 4**)

2. *RFPD 30*

On March 25, 2018, Hamed propounded the RFPDs 30 of 50.

**RFPDs 30 of 50:**  
**SUBSTANTIALLY THE SAME AS YUSUF RFPD 5.** Please produce copies of all original tax returns filed by United, Fathi, Mike, Negeh and Yusuf Yusuf from 1986 to date.<sup>5</sup> (**Exhibit 9**)

On May 15, 2018, Yusuf declined to respond to Hamed's request for the production of documents 30 of 50:

Defendants object to this Request for Production as vague, ambiguous, and compound such that the total number of Requests for Production together

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<sup>4</sup> This is simply not true. See footnote 8. None of these documents are attached to the BDO Report. It is merely an alleged summation of information without underlying support with regard to the Yusufs income and the income of their various businesses. Moreover, BDO makes it clear that they did no forensic examination – that data was simply supplied to them by the Yusufs uncritically, with no validation or investigative efforts.

<sup>5</sup> For purposes of this Motion to Compel only, Hamed limits this request to the time period from September 17, 2006-March 9, 2015, the date of the split of the East and West stores.

with their sub parts and other discovery exceeds the maximum allowable number of Requests for Production under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of Requests for Production.

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusufs sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii). (**Exhibit 10**)

On October 31, 2018, Hamed sent a letter to Yusuf's counsel requesting a Rule 37 conference on RFPD 30. (**Exhibit 3**) On November 28, 2018 in a follow-up letter documenting the contents of the Rule 37 conference, Yusuf's counsel:

...agreed to determine whether United and Yusufs would produce copies of their tax returns from 1986 to date by December 15, 2018. If the tax returns are not produced, this RFPD is ready for Hamed's Motion to Compel. (**Exhibit 4**)

As of the date of this motion to compel, Yusuf's counsel has not produced any tax returns for the Yusufs. No tax returns have been provided for United from 2013 to 2015.<sup>6</sup>

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<sup>6</sup> A draft Partnership return for 2013 and final Partnership tax returns for 2014-2015 were produced to Hamed. However, Hamed is seeking the CRITICAL United tax returns which cover, among other things, the United Shopping Center rents and other United businesses. In other words, Hamed needs this information to exclude non-Partnership income. Again, identical to what BDO used to compute the Hamed amounts.

### 3. RFPD 31

On March 25, 2018, Hamed propounded the RFPDs 31 of 50.

#### **RFPDs 31 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 6.** Please produce copies of all documents including statements relating to any operating, savings, credit, investment, trust, escrow or other accounts in which United, Fathi, Mike, Negeh and Yusuf Yusuf or any company which they have more than 49% control, have or had any interest in the Virgin Islands or elsewhere, including, but not limited to Jordan and West Bank, Palestine, from 1986 to date.<sup>7</sup> (**Exhibit 9**)

On May 15, 2018, Yusuf refused to respond to Hamed's RFPDs 31.

Defendants object to this Request for Production as vague, ambiguous, and compound such that the total number of Requests for Production together with their sub parts and other discovery exceeds the maximum allowable number of Requests for Production under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of Requests for Production.

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii). (**Exhibit 10**)

On October 31, 2018, Hamed sent a letter to Yusuf's counsel requesting a Rule 37 conference on RFPD 31 of 50. (**Exhibit 3**) On November 28, 2018 in a follow up letter documenting the contents of the Rule 37 conference, Yusuf's counsel:

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<sup>7</sup> For purposes of this Motion to Compel only, Hamed is limiting his request to domestic accounts from September 17, 2006 to March 9, 2015.

... agreed that no more information would be forthcoming for the RFPDs related to the Y-11 Lifestyle Analysis and therefore RFPDs 31 is ready for Hamed's Motion to Compel. (**Exhibit 4**)

#### IV. Argument

This Motion to Compel is submitted pursuant to the Second Amended Joint Discovery and Scheduling Plan of June 14, 2021.

##### A. Applicable Discovery Rules

###### 1. Rule 26 Duty to Disclose; General Provisions Governing Discovery

Rule 26 of Virgin Islands Rules of Civil Procedure ("Rule 26") is the foundational rule governing discovery. It broadly allows discovery regarding "**any nonprivileged matter that is relevant to any party's claim or defense**. Information within this scope of discovery need not be admissible in evidence to be discoverable." V.I. R. CIV. P. 26(b)(1), emphasis added.

###### 2. Rule 33 of the Virgin Islands Rules of Civil Procedure

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

###### (a) Answers and Objections.

\* \* \* \*

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

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

###### 3. Rule 34 of the Virgin Islands Rules of Civil Procedure

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

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

#### **B. Yusuf refuses to respond to Hamed's interrogatories 33, 35 and 37**

Interrogatories (ROGs) 33, 35 and 37 directly relate to information needed by Hamed to defend against this claim. The BDO "lifestyle analysis" included three components: 1) deposits to bank and brokerage accounts, 2) payments to credit cards and 3) investments (cost) sold as per tax return. (**Exhibit 11**) Amazingly, Yusuf has not provided any information from 2006 forward related to deposits to bank and brokerage accounts for himself, Mike, Nejeh and Yusuf Yusuf. Nothing has been provided for his other businesses. Similarly, the BDO report shows that Yusuf, Mike, Nejeh and Yusuf Yusuf did not make any credit card charges from 2006-2015.<sup>8</sup> Hamed knows that the Yusufs have personal credit cards, as there are charges for Partnership merchandise and gross receipt tax payments on Yusuf personal credit cards, which were recorded on the

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<sup>8</sup> While Yusuf tries to evade providing this information, stating that it is in BDO's report, this is absolutely untrue. This is what the BDO report actually stated -- that for the Yusuf family:

Our analysis entailed identifying checks and cash withdrawals, payments to third parties, payments to attorneys and withdrawals through cashier's checks from Partnership accounts. As well as reviewing and analyzing deposits to available bank accounts and brokerage /investment accounts, and payments to credit card accounts. However, **our examination did not reveal any of the latter, checks or cash withdrawals; No deposits were made to bank accounts, brokerage /investment accounts or payments to credit cards.** (Exhibit 5, p. 19)

Partnership's general ledgers in 2013-2015. (**Exhibit 12**) To complete a fair comparable analysis, Hamed needs this information to calculate this claim. (ROGs 26 and 31)

Because Yusuf has stated that he has other sources of income not related to the Partnership, Hamed has asked for that information in order to exclude it from the comparison lifestyle analysis that Yusuf uses to make his calculations, as was done with the Hameds' personal and business information. This information is directly relevant to both Hamed's defense and his calculation of the offset. Hamed needs to understand the total amounts of deposits the Yusuf family attributes to income outside of the Partnership so that a true comparison of withdrawal of Partnership funds between the families can be made.<sup>9</sup> (ROGs 26 and 31) Hamed requests the Yusuf income tax returns in order to pick up any "investments (cost) sold as per tax return," the third prong of BDO's "lifestyle analysis," which directly relates to Hamed's defense of this claim. (ROG 30) Finally, Hamed requests a listing of all of the withdrawals made from the Partnership from 2006 forward in order to accurately calculate amount each Partner took from the Partnership. (ROG 37)

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<sup>9</sup> BDO makes the blanket statement in its report that it excluded any Yusuf family deposits not related to Partnership income. THAT IS ENTIRELY CIRCULAR REASONING. It simply dismisses the entire basis of the whole analysis by saying "we've already done this for you—TRUST US." No proof of what those deposits were or how BDO made that determination was included in its report. No financials, no records. There is no support whatsoever.

We should mention that our analysis included identifying and excluding any deposits which could be identified and/or related to a source other than from the Partnership. (**Exhibit 5**, p. 45)

### **C. Yusuf refuses to produce documents for RFPDs 26 and 30-31**

The balance here is (not surprisingly) greatly in Yusuf's favor as he has provided nothing for comparison, so his best course is to obscure and refuse even the most basic information. Again, Hamed is asking for fundamental, primary information in these RFPDs to prepare his defense: bank records, credit card statements, evidence of income and business income from outside of the Partnership -- and tax returns. **It should be noted that the Hameds have given full access to all banking records both when Wally's were requested on St. Croix and in regard to the foreign accounts by way of letters to financial institutions and powers of attorney for a complete examination by Yusuf's counsel – Yusuf has never done so.**

Yusuf opened up this inquiry with his "lifestyle claim." He can't now say that all of his family's financial information is off limits and force Hamed to defend this claim without either a comparison or any contrary factual proof.. The discovery rules allow parties to ask for "any nonprivileged matter that is relevant to any party's claim or defense." That is all Hamed is requesting.

### **V. Conclusion**

Hamed's interrogatory and request for documents discussed above clearly fall within Rule 26's scope allowing discovery regarding "**any nonprivileged matter that is relevant to any party's claim or defense.**" (Emphasis added). Hamed has patiently been trying to get responses to this discovery since *May 15, 2018*, with no success. Accordingly, Hamed respectfully requests that the Master fully compel Yusuf to answer Interrogatories 33, 35 and 37 and RFPDs 26 and 30-31, and sanction the failure to do so.

**Dated:** August 1, 2021



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### CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of August 2021, 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

**Charlotte Perrell**  
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### CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

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



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

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

**Dated:** August 1, 2021



# **Exhibit 1**

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
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*Defendants and Counterclaimants,*

vs.

**WALEED HAMED, WAHEED HAMED,  
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PLESSEN ENTERPRISES, INC.,**

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INJUNCTIVE RELIEF AND  
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

Consolidated with

Case No.: **SX-2014-CV-287**

**ACTION FOR DECLARATORY  
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

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

**ACTION FOR DEBT AND  
CONVERSION**

JURY TRIAL DEMANDED

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

*Plaintiff,*

vs.

**UNITED CORPORATION,**

*Defendant.*

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

*Plaintiff,*

vs.

**FATHI YUSUF,**

*Defendant.*

**EXHIBIT**

**1**

~~Pursuant to the stipulated Joint Discovery Plan, as ordered by the Special Master~~  
on January 29, 2018, Hamed propounds the following sixth set of interrogatories.



**Interrogatory 33 of 50:**

**Substantially the Same as Yusuf ROG 1.** Please identify any and all assets including bank accounts (indicating account number and name of bank), brokerage accounts, real estate, interests in business ventures and other financial interests, foreign and domestic, owned by each of the following Yusuf family members: 1) Fathi, 2) Mike, 3) Nejeh, and 4) Yusuf Yusuf *from September 17, 2006 to the date of your response* and identify the source of all funds for the acquisition of such assets.

**Response:**



**Interrogatory 35 of 50:**

**Substantially the Same as Yusuf ROG 3.** Please identify all sources of income for 1) Fathi, 2) Mike, 3) NejeH, and 4) Yusuf Yusuf *from September 17, 2006 to the date of your response* and identify the source of all funds for the acquisition of such assets.

**Response:**



**Interrogatory 37 of 50:**

**Substantially the Same as Yusuf ROG 6.** Identify all distributions from the Partnership to any member of the Yusuf family or United Corporation from September 17, 2006 to present?

**Dated:** March 24, 2018



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### **CERTIFICATE OF SERVICE**

I hereby certify that on this 24<sup>th</sup> day of March, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

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

**Gregory H. Hodges**  
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### **CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)**

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



# **Exhibit 2**

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

WALEED HAMED, as Executor of the )  
Estate of MOHAMMAD HAMED, )  
 )  
Plaintiff/Counterclaim Defendant, )

v. )

FATHI YUSUF and UNITED CORPORATION, )  
 )  
Defendants/Counterclaimants, )

v. )

WALEED HAMED, WAHEED HAMED, )  
MUFEEED HAMED, HISHAM HAMED, and )  
PLESSEN ENTERPRISES, INC., )  
Additional Counterclaim Defendants. )

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

v. )

UNITED CORPORATION, )  
 )  
Defendant. )

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

v. )

FATHI YUSUF, )  
Defendant. )

FATHI YUSUF and )  
UNITED CORPORATION, )  
 )  
Plaintiffs, )

v. )

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

CIVIL NO. SX-12-CV-370

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

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES AND  
DECLARATORY JUDGMENT

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT AND  
CONVERSION

CIVIL NO. ST-17-CV-384

ACTION TO SET ASIDE  
FRAUDULENT TRANSFERS

**EXHIBIT**  
**2**

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

**RESPONSES TO HAMED'S SIXTH INTERROGATORIES PER THE CLAIM  
DISCOVERY PLAN OF 1/29/2018 NOS. 33-41 OF 50**

Defendant/Counterclaimants Fathi Yusuf ("Yusuf") and United Corporation ("United")(collectively, the "Defendants") through their attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provide their Responses to Hamed's Sixth Set of Interrogatories per the Claims Discovery Plan of 1/29/2018, Nos. 33-41 of 50.

**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 information prepared in anticipation of litigation, or for trial, by or on behalf of Defendants or relating to mental

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade  
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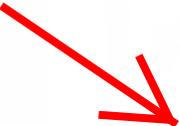
St. Thomas, U.S. V.I. 00804-0756  
(340) 774-4422

**HAMD660427**

(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 33 of 50:



Substantially the Same as Yusuf ROG 1. Please identify any and all assets including bank accounts (indicating account number and name of bank), brokerage accounts, real estate, interests in business ventures and other financial interests, foreign and domestic, owned by each of the following Yusuf family members: 1) Fathi, 2) Mike, 3) Negeh, and 4) Yusuf Yusuf *from September 17, 2006 to the date of your response* and identify the source of all funds for the acquisition of such assets.

#### Response:

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

Defendants further object to this Interrogatory because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would

**Interrogatory 35 of 50:**

**Substantially the Same as Yusuf ROG 3.** Please identify all sources of income for 1) Fathi, 2) Mike, 3) Nejeih, and 4) Yusuf Yusuf from September 17, 2006 to the date of your response and identify the source of all funds for the acquisition of such assets.

**Response:**

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

Defendants further object to this Interrogatory because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

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HAMD660432

**Interrogatory 37 of 50:**

**Substantially the Same as Yusuf ROG 6.** Identify all distributions from the Partnership to any member of the Yusuf family or United Corporation from September 17, 2006 to present?

**Response:**

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

Without waiving any objections, all distributions and supporting documentation are reflected and categorized by each individual Yusuf family member in the BDO Report, Tables 35A through 68. Said Tables and supporting documentation are specifically incorporated by reference as if fully set forth herein as responsive to this interrogatory.

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

**DATED:** May 15<sup>th</sup>, 2018

By:



**CHARLOTTE K. PERRELL**

(V.I. Bar #1281)

Law House

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*Attorneys for Fathi Yusuf and United  
Corporation*

**CERTIFICATE OF SERVICE**

It is hereby certified that on this 15<sup>th</sup> day of May, 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S SIXTH INTERROGATORIES PER THE CLAIMS DISCOVERY PLAN OF 1/29/2018, NOS. 33-41** to be served upon the following via Case Anywhere docketing system:

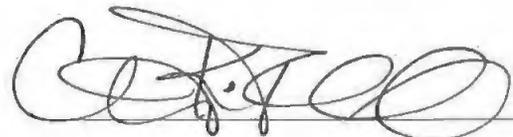
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# **Exhibit 3**

**CARL J. HARTMANN III**  
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TELEPHONE  
(340) 719-8941

ADMITTED: USVI, NM & DC

KIMBERLY L. JAPINGA, (ADMITTED MI, DC)

EMAIL  
CARL@CARLHARTMANN.COM

October 31, 2018

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

Via Email Only

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

Dear Attorney Perrell:

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

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

**EXHIBIT**  
**3**

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

**Deficiency for Expenses for Conveying Hamed’s Interest in One Piece of Land, No. (310), basin 6, Huwaijer, Tabarbour Village to Fathi Yusuf:** All facts and circumstances relating to this portion of the claim have not been identified. Please identify the facts and circumstances surrounding this claim, including, but not limited to, your belief that Mr. Hamed should pay for the expenses for conveying this land.

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

**Batch Plant**

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

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

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

**Interrogatory 33 of 50:**

**Substantially the same as Yusuf ROG 1**

Please identify any and all assets including bank accounts (indicating account number and name of bank), brokerage accounts, real estate, interests in business ventures and other financial interests, foreign and domestic, owned by each of the following Yusuf family members: 1) Fathi, 2) Mike, 3) Nejeh, and 4) Yusuf Yusuf from September 17, 2006 to the date of your response and identify the source of all funds for the acquisition of such assets.

**Response:**

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

Defendants further object to this Interrogatory because it seeks personal financial information concerning Yusufs sons, who are not parties to this case.

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii). (May 15, 2018, *Responses to Hamed's Sixth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 33-41 of 50*, pp. 4-5)

**Deficiency for Interrogatory 33 of 50:** V.I. R. Civ. P. 26(b)(1) states "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense." This interrogatory relates directly to two of Yusuf's claims: Y-11 - Lifestyle Analysis and Y-12 – Foreign Accounts and Jordanian Properties. Hamed has the right to determine whether any Partnership funds were diverted into Fathi Yusuf's accounts or his sons.

Further, Hamed claims H-21, H-146 and H-149 directly relate to this interrogatory, making the information directly relevant to Hamed's claims.

Please respond to Interrogatory 33.

~~**Interrogatory 34 of 50:**~~

~~**Substantially the same as Yusuf ROG 2**~~

~~Please identify each and every asset and interest, foreign and domestic, owned by Fathi Yusuf or any corporation more than 49% owned by him from September 1, 2012 to the date of this response -- and the source of the income (including any loan proceeds) which provided the asset as well as any disposition of the asset since that time.~~

~~**Response:**~~

~~Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their~~

~~sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.~~

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii). (May 15, 2018, *Responses to Hamed's Sixth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 33-41 of 50, p. 6*)

**Deficiency for Interrogatory 34 of 50:** V.I. R. Civ. P. 26(b)(1) states "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense." This interrogatory relates directly to two of Yusuf's claims: Y-11 - Lifestyle Analysis and Y-12 – Foreign Accounts and Jordanian Properties. Hamed has the right to determine whether any Partnership funds were diverted into Fathi Yusuf's assets, making the information directly relevant to Hamed's defenses.

~~Please respond to Interrogatory 34.~~

**Interrogatory 35 of 50:**

**Substantially the same as Yusuf ROG 3**

Please identify all sources of income for 1) Fathi, 2) Mike, 3) Nejeah, and 4) Yusuf Yusuf from September 17, 2006 to the date of your response and identify the source of all funds for the acquisition of such assets.

**Response:**

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

Defendants further object to this Interrogatory because it seeks personal financial information concerning Yusuf s sons, who are not parties to this case.

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not

otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii). (May 15, 2018, *Responses to Hamed's Sixth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 33-41 of 50*, p. 7)

**Deficiency for Interrogatory 35 of 50:** V.I. R. Civ. P. 26(b)(1) states "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense." This interrogatory relates directly to two of Yusuf's claims: Y-11 - Lifestyle Analysis and Y-12 – Foreign Accounts and Jordanian Properties. Hamed has the right to determine whether any Partnership funds were diverted into Fathi Yusuf's assets, making the information directly relevant to Hamed's defenses.

Please respond to Interrogatory 35.

---

**Interrogatory 36 of 50:**

**Substantially the same as Yusuf ROG 4**

Please describe who selected counsel to represent the Yusuf defendants in the Criminal Case, who paid each counsel, what amount each counsel was paid, how each counsel was paid, and the source of funds for each payment?

**Response:**

\* \* \*

Without waiving any objections, Yusuf replaced Robert King, Esq. with Hank Smock, Esq. as his counsel for the Criminal Case upon the recommendation of Gordon Rhea, who was engaged by Waleed Hamed and who assumed the role of "lead" counsel. United initially made the payments for Yusuf but amounts paid by United for Yusuf were later recognized as a partnership distribution to Yusuf as reflected in the BDO Report, Table 38A.

Mike Yusuf engaged John Dema, P.C. as his counsel for the Criminal Case upon the recommendation of Gordon Rhea, attorney for Waleed Hamed. United initially made the payments for Mike Yusuf but amounts paid by United for Mike Yusuf were later recognized as a partnership distribution to Yusuf as reflected in the BDO Report, Table 51.

Nejeh Yusuf engaged Derek Hodge, P.C. as his counsel for the Criminal Case upon the recommendation of Gordon Rhea, attorney for Waleed Hamed. United initially made the payments for Nejeh Yusuf but amounts

~~paid by United for Nejeah Yusuf were later recognized as a partnership distribution to Yusuf as reflected in the BDO Report, Table 45.~~

**Deficiency for Interrogatory 36 of 50:** Table 38A only reflects five payments made by United to Smock & Moorhead and Fuerst Ittleman David & Joesph, LP from April 2010 to November 2012, Table 51 reflects one United payment to John Dema, PC on March 31, 2010 and Table 45 also reflects one payment made by United on March 31, 2010 to Derek M. Hodge, PC.

Please supplement this response to include what amount each counsel was paid from September 17, 2006 to September 19, 2012, the end of the Joint Defense Agreement. If your initial response contends that these are the sole payments, please confirm this fact. Additionally, if these amounts were recognized as Partner distributions to Yusuf, please identify these distributions on the relevant Partnership general ledgers.

**Interrogatory 37 of 50:**  
**Substantially the same as Yusuf ROG 6**

Identify all distributions from the Partnership to any member of the Yusuf family or United Corporation from September 17, 2006 to present?

**Response:**

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

Without waiving any objections, all distributions and supporting documentation are reflected and categorized by each individual Yusuf family member in the BDO Report, Tables 35A through 68. Said Tables and supporting documentation are specifically incorporated by reference as if fully set forth herein as responsive to this interrogatory. (May 15, 2018, *Responses to Hamed's Sixth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 33-41 of 50*, p. 9)

**Deficiency for Interrogatory 37 of 50:** This interrogatory relates to the following claims: Y-10 Past Partnership Withdrawals, Y-12 Foreign Accounts and Jordanian Properties, H-01 Reimbursement for the sale of the Dorthea condo, H-13 Hamed payment of taxes during criminal case, H-14 Unsubstantiated checks to Nejeah Yusuf, H-15 Nejeah Yusuf's cash withdrawals from safe, H-16 Nejeah Yusuf's use of Partnership resources for his private businesses on STT, H-17 Wally (Mohammad) Hamed's personal payment of attorneys' and accounting fees for the criminal case, H-21 Payment of Nejeah Yusuf's credit card bill, H-37 Due to/from Fathi Yusuf, H-144 \$900 Estimated payment for United Corporation shareholders, H-150 United Shopping Center's gross receipt taxes, H-151 Checks written to Fathi Yusuf for personal use, H-

152 United's corporate franchise taxes and annual franchise fees, H-153 Partnership funds used to pay United Shopping Center's property insurance, H-154 Attorney and accounting fees paid by the Partnership for the criminal case, H-160 United Shopping Center's gross receipt taxes, and H-161 Attorneys and accounting fees paid by the Partnership for the criminal case.

The Tables 35A through 68 do not reflect any transactions after 2012. Further, they do not reflect distributions to the United Corporation.

Please update this response to identify all distributions from the Partnership to the Yusuf family and to the United Corporation from September 17, 2006 to the present (May 15, 2018, the date of your original interrogatory response submission).

---

**Interrogatory 38 of 50**

Like Yusuf ROG 14.

Identify all assets or amounts in excess of \$10,000 that were transferred to or from Fathi Yusuf or United Corporation from September 17, 2012 to date and what was the value of said assets upon transfer?

**Response:**

\* \* \*

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. (p. 10)

\* \* \*

Without waiving any objections, all transfers from United Corporation d/b/a Plaza Extra Stores and accounting information reflecting any transactions have been provided to the Hamed's contemporaneously through the Sage 50 Accounting software. In addition, Hamed has had access to all accounting records for United reflecting any checks or transfers made during the timeframe in question. Hence, the information has been provided to Hamed and the burden of reproducing same would be equal for Hamed to gather. (May 15, 2018, *Responses to Hamed's Sixth Interrogatories per the Claim Discovery Plan of 1/29/2018 Nos. 33-41 of 50*, pp. 10-11)

**Deficiency for Interrogatory 38 of 50:** This interrogatory relates to the following claims: Y-10 Past Partnership Withdrawals, Y-11 Lifestyle Analysis, Y-12 Foreign Accts and Jordanian Properties, H-33 Merrill Lynch accounts that existed in 2012 (ML 140-21722, ML 140-07884, and ML 140-07951) financed with Partnership funds, H-37 Due to/from Fathi Yusuf, H-151 Checks written to Fathi Yusuf for personal use, H-153 Partnership funds used to pay United Shopping Center's property insurance, H-154 Attorney and accounting fees paid by the Partnership for the criminal case, and H-161 Attorneys and accounting fees paid by the Partnership for the criminal case.

~~Supermarkets' accounts (or partnership's accounts) - January 1994 to August 2014. (Including adjustments for withdrawals before 9/17/2006 as instructed by the Court)," attached to Yusuf s Amended Accounting Claims Limited to Transactions Occurring on or After September 17, 2001, filed on October 30, 2017.~~

**Response:**

All documents supporting has been previously provided in the Tables to the BDO Reports and supporting documentation provided to Hamed on October 4, 2016. See, *Response to Hamed's Fourth Request for Production of Documents Nos. 19-27 of 50 Pursuant to the Claims Discovery Plan*, May 15, 2018, pp. 9.

**Deficiency for RFPDs 24 of 50:** The documents provided in support of the Tables to the BDO reports provided on October 4, 2016 do not substantiate the alleged \$20,311.00 in "[p]ayments to third parties on behalf of Hamed/Yusuf with partnership funds either with tickets or checks" by Waleed Hamed, as referenced on the revised BDO Exhibit J-2, titled "Summary calculation of Additional Income as a result of withdrawals from Supermarkets' accounts (or partnership's accounts) - January 1994 to August 2014. (Including adjustments for withdrawals before 9/17/2006 as instructed by the Court)."

~~Please provide the documentation substantiating the alleged \$20,311.00 in withdrawals.~~



**RFPDs 26 of 50:**

Request for the Production of Documents, 26 of 50, relates to Y-11, "Lifestyle Analysis."

With respect to Y-11, please provide all bank account statements documenting deposits, all brokerage and retirement accounts documenting deposits and all credit card statements in the names of Fathi, Maher, Nejeh and Yusuf Yusuf (individually and any combination of joint accounts between them and all joint accounts with their spouses), from September 17, 2006 to September 30, 2016. Include but do not limit this to:

- All bank account statements documenting deposits or withdrawals
- All brokerage and retirement account statements documenting deposits or withdrawals
- All credit card statements

**Response:**

Defendants object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

To the extent documents already exist in the records, they may be found within the BDO Report which has been previously provided in the Tables to the BDO Reports and supporting documentation provided to Hamed on October 4, 2016.

**Deficiency for RFPDs 26 of 50:** If Yusuf wishes to pursue his claim of a lifestyle analysis, then the analyses for both parties must be the same. Therefore, in order for Yusuf to pursue his lifestyle claim, he must provide the information requested in RFPDs 26 or drop this claim. Also, Yusuf's claim that the Hameds did not have other sources of income is not true, further undercutting his lifestyle analysis.

---

**RFPDs 28 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 2.** Please produce any and all financial statements or applications for financing for United, as well as Fathi, Mike, Nejeh and Yusuf Yusuf or any company controlled more than 49%, submitted to any person or institution from September 17, 2006 to present.

**Response:**

Defendants object to this Request for Production as vague, ambiguous, and compound such that the total number of Requests for Production together with their sub parts and other discovery exceeds the maximum allowable number of Requests for Production under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of Requests for Production.

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusufs sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership

~~which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).~~

**Deficiency for RFPDs 28 of 50:** This is relevant to the lifestyle analysis and the Yusuf sons' information needs to be submitted because of that claim. In addition, United's financials are relevant to the going forward/Integra motion to strike and ultimate motion, as it demonstrates differential, ongoing value of the value to United created in the East store "going forward" situation.

**RFPDs 29 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 4.** Please produce copies of any accountings prepared by or on behalf of United or any member of the Hamed or Yusuf families in the Criminal Case to demonstrate the Partnership's or United's income.

**Response:**

Defendants object on the grounds that the Partnership was not an acknowledged or separate legal entity at the time of the Criminal Case and, therefore, no accountings were undertaken to demonstrate income of the Partnership.

**Deficiency for RFPDs 29 of 50:** That's fine. Please provide the underlying accounting for the stores that were later adjudged to be property of the Partnership, regardless of ~~the owners of those stores at that time.~~

**RFPDs 30 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 5.** Please produce copies of all original tax returns filed by United, Fathi, Mike, Neje and Yusuf Yusuf from 1986 to date.

**Response:**

Defendants object to this Request for Production as vague, ambiguous, and compound such that the total number of Requests for Production together with their sub parts and other discovery exceeds the maximum allowable number of Requests for Production under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of Requests for Production.

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusufs sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which

were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

**Deficiency for RFPDs 30 of 50:** Same response as for lifestyle claim in RFPDs No. 28 above. Unless that is being dropped, the financial of the Yusuf sons is relevant. Also, to the extent that United has tax funds paid to or for the children, that is information in the possession of United. The tax returns requested are directly related to Hamed's claims regarding estimated tax payments for United Corporation shareholders, making the request relevant to Hamed's claims. Further, Hamed is requesting that Yusuf turn over these documents as they will show moneys being drawn from the Partnership.



**RFPDs 31 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 6.** Please produce copies of all documents including statements relating to any operating, savings, credit, investment, trust, escrow or other accounts in which United, Fathi, Mike, Nejeh and Yusuf Yusuf or any company which they have more that 49% control, have or had any interest in the Virgin Islands or elsewhere, including, but not limited to Jordan and West Bank, Palestine, from 1986 to date.

**Response:**

Defendants object to this Request for Production as vague, ambiguous, and compound such that the total number of Requests for Production together with their sub parts and other discovery exceeds the maximum allowable number of Requests for Production under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of Requests for Production.

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds.

Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership.

---

**Request to Admit 37 of 50:**

**Substantially the same as Yusuf RTA.** Admit that the Partners agreed when the Partnership was formed that Fathi Yusuf would provide the services and use of United by the Partnership and the Partnership operated the three Plaza Extra Stores that way.

**Response:**

Defendants object to this request as vague and ambiguous as to the nature and scope of "the services and use of United by the Partnership."

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

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

Sincerely,



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

# **Exhibit 4**

**CARL J. HARTMANN III**  
ATTORNEY-AT-LAW  
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ADMITTED: USVI, NM & DC

KIMBERLY L. JAPINGA, (ADMITTED MI, DC)

EMAIL  
CARL@CARLHARTMANN.COM

November 28, 2018

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

Via Email Only

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

Dear Attorney Perrell:

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

**Quick Summary:**

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

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

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

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

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

**EXHIBIT**  
**4**

HAMD663606

~~Interrogatory 25 of 50 – Relates to H-163 – Loss of assets due to wrongful dissolution~~

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

~~Interrogatory 28 of 50 – Relates criminal charges, convictions, plea agreements, or other criminal actions as to Fathi Yusuf for any entity which he controlled other than United Corporation~~

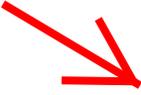
~~Withdrawn due to stipulation regarding attorneys' fees filed on November 9, 2018.~~

~~Interrogatory 29 of 50 – Relates to Y-2 – unpaid rents for Plaza Extra-East Bays 5 & 8~~

~~Attorney Perrell stated that this interrogatory will be supplemented by December 15, 2018.~~

~~Interrogatory 30 of 50 – Relates to Y-12 – Foreign accounts and Jordanian properties~~

~~Attorney Perrell stated that this interrogatory will be supplemented by December 15, 2018.~~

 Interrogatory 33 of 50 – Relates to banking information related to Mr. Yusuf and his sons

Attorney Perrell stated that the defendants would not be supplementing this interrogatory, therefore it is ready for Hamed's Motion to Compel.

~~Interrogatory 34 of 50 – Relates to foreign and domestic assets owned by Fathi Yusuf~~

~~Attorney Perrell stated that the defendants would not be supplementing this interrogatory, therefore it is ready for Hamed's Motion to Compel.~~

 Interrogatory 35 of 50 – Relates to Fathi Yusuf and his sons' sources of income

Attorney Perrell stated that the defendants would not be supplementing this interrogatory, therefore it is ready for Hamed's Motion to Compel.

~~Interrogatory 36 of 50 – Relates to how Yusufs' attorneys were hired and paid for in the criminal case~~

~~This interrogatory is held in abeyance until the Master rules on the parties' joint motion regarding attorneys' fees for the criminal case.~~

 Interrogatory 37 of 50 – Relates to Partnership distributions

Attorney Perrell agreed to draft a stipulation along the following lines and have it signed and filed by both parties before December 15, 2018:

- 1) All documents showing Partnership distributions (including Partnership funds distributed to United, Fathi Yusuf or Fathi Yusuf's family members) and Partnership financial obligations from 2006 through 2010 are contained within the August 31, 2016 BDO accounting report, *Report of Historical Withdrawals and Distributions of The Partners and Proposed Allocation to Equalize Partnership Distributions*, and any of BDO's subsequent revisions ("BDO report");
- 2) All documents from 2006 – May 15, 2018 related to United's Tenant account and United's businesses are excluded from the BDO report; and
- 3) Any transfer or distribution of Partnership funds from 2013 – May 15, 2018 to United, Fathi Yusuf or Fathi Yusuf's family members are documented in the Partnership accounting maintained by John Gaffney.

Attorney Perrell has agreed to find out whether her client agrees to respond to this interrogatory as it relates to United's Tenant banking account from 2006 through May 15, 2018 before December 15, 2018. If her client does not agree to respond, this portion of the interrogatory will be ready for a Motion to Compel.

~~Interrogatory 38 of 50 – Relates to assets or amounts in excess of \$10,000 that were transferred to or from Fathi Yusuf or United Corporation from September 17, 2012 to date.~~

Attorney Perrell agreed that this interrogatory is covered by the stipulation for Interrogatory 37. This interrogatory will be withdrawn when the stipulation identified for Interrogatory 37 is signed by both parties.

Interrogatory 41 of 50 – Relates to Yusuf Claims Y-2 through Y-5 and Y-10 through Y-12

Y-2 – Rent for Bays 5 & 8—Attorney Perrell stated that this interrogatory will be supplemented by December 15, 2018 (see interrogatory 29).

Y-3 – Interest on Bay 1—Withdrawn based on Master's March 15, 2018 Order.

Y-4 – Interest on Bays 5 & 8 – Withdrawn, no additional discovery needed.

Y-5 – Gross Receipts – Attorney Perrell agreed that this claim is ready for Hamed to make his Claim's Motion (H-150). No more discovery related to H-150 is required by Hamed.

~~RFPDs 19 of 50 – Relates to the reimbursement for sale of the Dorthea condo~~

Attorney Perrell stated that the defendants would be filing a Motion to Strike regarding this claim. She agreed to determine whether there were any more documents to produce related to this claim or whether she would submit a declaration from Fathi Yusuf listing the date he received payments for the Dorthea condo by December 15, 2018.

RFPDs 23 of 50 – Relates to Y-10, Partnership Distributions

Attorney Perrell agreed provide documentation substantiating the alleged \$237,352.75 in withdrawals by Waleed Hamed, as referenced in the revised BDO Exhibit J-2, titled "Summary calculation of Additional Income as a result of withdrawals from Supermarkets' accounts (or partnership's accounts) - January 1994 to August 2014. (Including adjustments for withdrawals before 9/17/2006 as instructed by the Court)," by December 15, 2018.

RFPDs 24 of 50 – Relates to Y-10, Partnership Distributions

Attorney Perrell agreed provide documentation substantiating the alleged \$20,311.00 in "[p]ayments to third parties on behalf of Hamed/Yusuf with partnership funds either with tickets or checks" by Waleed Hamed, as referenced in the revised BDO Exhibit J-2, titled "Summary calculation of Additional Income as a result of withdrawals from Supermarkets' accounts (or partnership's accounts) - January 1994 to August 2014. (Including adjustments for withdrawals before 9/17/2006 as instructed by the Court)," by December 15, 2018.

 RFPDs 26 of 50 – Relates to Y-11, Lifestyle Analysis

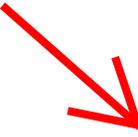
Attorney Perrell agreed that no more information would be forthcoming for the RFPDs related to Y-11 and therefore is ready for Hamed's Motion to Compel.

~~RFPDs 28 of 50 – Relates to financial statements or applications for financing for United, as well as Fathi, Mike, NejeH and Yusuf Yusuf or any company controlled more than 49%, submitted to any person or institution from September 17, 2006 to present~~

Attorney Perrell agreed that no more information would be forthcoming for the RFPDs 28 and therefore is ready for Hamed's Motion to Compel.

RFPDs 29 of 50 – Relates to any accountings prepared by or on behalf of United or any member of the Hamed or Yusuf families in the Criminal Case to demonstrate the Partnership's or United's income

~~Hamed agreed to withdraw RFPDs 29.~~

 RFPDs 30 of 50 – Relates to copies of all original tax returns filed by United, Fathi, Mike, Negeh and Yusuf Yusuf from 1986 to date

Attorney Perrell agreed to determine whether United and Yusufs would produce copies of their tax returns from 1986 to date by December 15, 2018. If the tax returns are not produced, this RFPD is ready for Hamed's Motion to Compel.

 RFPDs 31 of 50 – Relates to any operating, savings, credit, investment, trust, escrow or other accounts in which United, Fathi, Mike, Negeh and Yusuf Yusuf or any company which they have more that 49% control, have or had any interest in the Virgin Islands or elsewhere, including, but not limited to Jordan and West Bank, Palestine, from 1986 to date.

Attorney Perrell agreed that no more information would be forthcoming for the RFPDs related to the Y-11 Lifestyle Analysis and therefore RFPDs 31 is ready for Hamed's Motion to Compel.

~~RFPDs 32 of 50 – Relates to all documents relating to all assets of United, Fathi, Mike, Negeh and Yusuf Yusuf as of September 12, 2012 and the value of such assets.~~

~~Attorney Perrell agreed that no more information would be forthcoming for the RFPDs related to the Y-11 Lifestyle Analysis and therefore this RFPDs is ready for Hamed's Motion to Compel.~~

RFPDs 33 of 50 – Relates to any allocation set forth in Exhibits 1-5, please produce all underlying documents relating to any such allocation

Once the stipulation, "2018-11-26 With Greg's requested changes – mutuality – Joint Stipulation re docs fact positions not disclosed v.2," emailed to Attorneys Hodges and Perrell by Attorney Hartmann on November 26, 2018 is signed by both parties, this interrogatory will be withdrawn.

RFPDs 34 of 50 – Relates to all documents that rent is due from the Partnership to United for Bay 5 and Bay 8.

Attorney Perrell stated that this RFPDs will be supplemented by December 15, 2018.

~~RFPDs 40 of 50 – Relates to all documents relating to gifts to Mafi Hamed and Shawn Hamed and/or their spouses at the time of their weddings to Yusuf daughters as to Fathi Yusuf or his spouse or his daughters seeking return, credit or offset in divorce proceedings.~~

~~Attorney Perrell stated that this RFPDs will be supplemented by December 15, 2018.~~

---

**Requests to Admit**

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

Hamed withdraws RTA 18.

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

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

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

Hamed withdraws RTA 29.

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

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

Sincerely,



Carl J. Hartmann

cc: Greg Hodges, Joel Holt and Kim Japinga

# **Exhibit 5**

**TO: DUDLEY, TOPPER AND FEUERZEIG, LLP**

**RE: MOHAMMAD HAMED V FATHI YUSUF AND UNITED CORPORATION CIVIL NO. SX-12-CV-370**

**REPORT OF HISTORICAL WITHDRAWALS AND DISTRIBUTIONS OF THE PARTNERS AND PROPOSED ALLOCATION TO EQUALIZE PARTNERSHIP DISTRIBUTIONS**

**AUGUST 31, 2016**

**EXHIBIT  
5**

BDO, Puerto Rico, PSC, a Puerto Rico Professional Services Corporation, and BDO USVI, LLC, a United States Virgin Island's limited liability Company, are members of BDO International Limited, a UK company limited by guarantee, and form part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.



**YUSF237817**

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TABLES

APPENDICES

EXHIBITS

~~Tickets/receipts signed by third parties were observed acknowledging the receipt of money as a result of a loan; these tickets/receipts were also signed by Partners, family members and/or their agents who authorized the loan. Available tickets/receipts of the repayment of loans were also observed, signed by Partners, family members and/or their agents. If both tickets/receipts were identified, loan originated and loan repayment, we proceeded to adjust the amounts. However, if only one ticket/receipt was observed, said amounts were considered as partnership distributions.~~

#### Payments to attorneys with partnership's funds

During our examination a number of payments for legal services issued by either Partners, family members and/or their agents were analyzed and deemed not related to Partnership benefits or agreed upon. As a result, such payments were considered partnership distributions.

#### Funds withdrawn by cashier's checks

In order to identify any additional monies withdrawn, not directly identifiable through the Partnership or directly linked to the Partnership which could be construed to be partnership distributions, we examined available cashier's checks issued to either Partners, family members and/or their agents. Furthermore, we also reviewed any available supporting documentation related to such disbursements ~~in order to determine whether such withdrawals/disbursements constituted partnership distributions.~~

#### **4.1.2 Lifestyle Analysis to Identify Undisclosed Withdrawals from the Partnership**

Our examination was aimed to identify all other income received by the Partners, family members and/or their agents that could be construed to be partnership distributions, which otherwise had not been disclosed as a withdrawal. Mr. Mohammad Hamed testified that their only source of income was salaries and/or wages, and the distributions received from the Partnership since 1986.<sup>24</sup> Therefore, any excess of monies identified over the known sources of income during the period analyzed was assumed to be partnership distributions and/or partnership withdrawals.

Yusuf's family has testified that their source of income was not only related to the supermarket activities, but also from United's rental and other businesses not related to the supermarket operation. Any unidentified deposit was considered a withdrawal from the Partnership.

Lifestyle analysis is the most commonly used method of proving income for an individual in cases where records or documents are not fully available. This method considers the person's spending patterns in

<sup>24</sup> Refer to Case No. SX-12-CV370, Oral deposition of Mr. Hamed dated April 21, 2014, pages 43 to 44.

relation to their known sources of funds.<sup>25</sup> If a person has declared income that is well below the cost of the lifestyle he or she is living, the lifestyle analysis may suggest that undisclosed sources of income exist. When the total is compared to reported or known sources of income, there may be a big gap, which can indicate other sources of income.

There are different methods to prove income, depending on factors such as the availability and adequacy of the individual's books and records, whether the individual spends all income or accumulates it, the type of business involved, etc. The methods commonly used are the following:<sup>26</sup>

- a. Direct (specific item or transaction) method
- b. Indirect methods:
  - i. Net worth method
  - ii. Expenditures method
  - iii. Bank deposits method
  - iv. Cash method
  - v. Percentage markup method
  - vi. Unit and volume methods

We relied upon the bank deposits method<sup>27</sup>, one of the traditional indirect methods, to identify the Partners' withdrawals. The bank deposits method is recommended to be used in various situations, specifically when books and records are incomplete, inadequate, or not available, such as in this case.<sup>28</sup>

This method is based on the theory that if a person is engaged in an income producing business or occupation and periodically deposits money in bank accounts in his or her name or under his or her control, an inference can be drawn that such bank deposits represent income unless it appears that the deposits represented re-deposits or transfers of funds between accounts, or that the deposits came from a non-related sources such as gifts, inheritances, or loans. In other words, under this method, all bank deposits are deemed to be income, unless they can be traced to another source of funds.<sup>29</sup>

<sup>25</sup> Sources of income or funds can include wages, bonuses, stocks sold, bank loan proceeds, gifts, gambling winnings, among others.

<sup>26</sup> Thomson Reuters/PPC. (2014). *Litigation Support Services: Chapter 11 Criminal Cases*, "1104 Methods of Proving Unreported Income". *These methods are not only used in criminal cases but also in civil cases such as divorces and for other purposes where income needs to be proved.*

<sup>27</sup> A description of banks deposits computation can be observed in case United States v. Boulet, 577 F.2d 1165 (5<sup>th</sup> Cir. 1978).

<sup>28</sup> Thomson Reuters/PPC. (2014). *Litigation Support Services: Chapter 11 Criminal Cases*, "1104 Methods of Proving Unreported Income".

<sup>29</sup> This may include bank loans, transfer from another account, a gift, or another documented source. The Fraud Files Blog. (2010, February 28). *Lifestyle Analysis in Criminal Cases: Proving Income without Full Documentation*. <http://www.sequenceinc.com/fraudfiles/2010/02/lifestyle-analysis-in-criminal-cases-proving-income-without-full-documentation/>.

This method also contemplates, that any expenditures made by the person in cash or currency from funds not deposited in any bank and not derived from a known source, similarly raises an inference that such cash or currency represents additional income.

The deposits method can stand on its own as proof of taxable income; it need not be corroborated by another method and its use is not limited to validating another method. In using the deposits method, care must be taken to observe the following procedures:

- a. Deposits to all types of financial institutions should be considered; for example, banks, savings and loan associations, investment trusts, mutual funds, brokerage accounts, etc.
- b. Cash payments (whether for business expenses, personal expenses, investments, etc.) made from cash receipts not deposited must be counted (added) as additional gross income.
- c. Deposits that do not represent taxable income, such as deposits of gifts, inheritances, loan proceeds, insurance proceeds, etc., must be deducted from total deposits.
- d. Calculating taxable income, deductible business expenses, whether paid by cash or check, must be deducted from the total deposit, a deduction for depreciation must also be allowed.<sup>30</sup>
- e. Care must be taken not to double count transfers between accounts, deposits of previously withdrawn checks, checks in transit at the end of the period, bounced checks, debit and credit advices or deposits reported on the prior period's tax return but not deposited until the current period. Also, only the net deposit should be counted if the deposit slip lists all checks and then deducts an amount to be paid to the taxpayer in cash.

Based on the deposit method, we decided to examine the bank accounts, credit card accounts, and brokerage/investment accounts of each of the Partners, family members and their agents. As part of our analysis, we identified and included all amounts deposited in the respective bank and brokerage accounts, credit card payments, and funds assumed to have been received as partnership distributions/withdrawals identified from cash receipts provided. In order to confirm the funds and sources of income of both families, we used their known salaries/wages.

Our examination entailed reviewing and analyzing all known and available bank accounts, brokerage/investment accounts and credit card accounts of each of the Partners, family members and their agents. As part of our analysis, we identified and included all amounts deposited in the respective

---

<sup>30</sup> Thomson Reuters/PPC. (2014). *Litigation Support Services: Chapter 11 Criminal Cases, "1104 Methods of Proving Unreported Income"*.

bank and brokerage accounts, credit card payments, and funds assumed to have been received as partnership distributions/withdrawals. Any excess monies identified from our examination over the known and confirmed income was assumed to be distributions from the partnership. In order to confirm the funds and sources of income of both families, we obtained from the Partnership records the salaries and wages earned by the Partners, family members and their agents.

Through our forensic analysis, we were also able to identify a number of disbursements related to a construction of a residence belonging to Waleed Hamed (son of Mohammad Hamed). Such amounts were considered in our analysis of the partnership distributions.

In order to avoid double counting of data, our lifestyle analysis required that certain adjustments be made to the amounts of withdrawals/distributions identified for each of the Partners, family members and/or their agents. Following, list of the type of adjustments that were made:

1. Deduction from the amounts deposited, any amounts identified from sources other than the supermarket business. (Transfers from family members and/or transfers from other owned accounts).
2. Deduction of payments made to credit card accounts using funds from other personal accounts.
3. Deduction of amounts identified through cash tickets/receipts, related to withdrawals from the Partnership which we were able to identify as having been deposited in the bank and/or brokerage accounts.
4. Deduction of checks issued from Plaza Extra's accounts which we identified as having been deposited in the bank or brokerage accounts representing reimbursement of business expenses.

The above described procedures were applied to each of the Partners, family members and their agents in order to calculate the excess monies received per each individual over their stated or known sources of income. The calculated withdrawals and/or construed partnership distribution were tallied per Partner, family member, agent and family (i.e. Hamed Family vs. Yusuf Family). Following is a list of the Partnership families - Hamed & Yusuf:

**Hamed Family**

- a. Mohammad Hamed
- b. Waleed Hamed
- c. Waheed Hamed
- d. Mufeed Hamed

e. Hisham Hamed

**Yusuf Family**

- a. Fathi Yusuf
- b. Nejeh Yusuf
- c. Maher Yusuf
- d. Yusuf Yusuf
- e. Najat Yusuf
- f. Zayed Yusuf

**4.2 Yusuf Family Members**

We also performed a Partnership withdrawal analysis and a lifestyle analysis of the following additional Yusuf family members:

- Syaid Yusuf
- Amal Yusuf
- Hoda Yusuf



Our analysis entailed identifying checks and cash withdrawals, payments to third parties, payments to attorneys and withdrawals through cashier's checks from Partnership accounts. As well as reviewing and analyzing deposits to available bank accounts and brokerage/investment accounts, and payments to credit card accounts. However, our examination did not reveal any of the latter, checks or cash withdrawals; No deposits were made to bank accounts, brokerage/investment accounts or payments to credit cards. In accordance with the information presented, our analysis did not reveal Partnership withdrawals for the benefit of Amal, or Hoda Yusuf family members for 1994 to 2012. Hence, no adjustments were required. For Syaid Yusuf, we only observed three checks associated with tax expenses for the year 2000 and 2001 and therefore adjusted. No further analysis was needed.

**4.3 Periods for Analysis**

Due to the lack of formal accounting records related to the Partnership withdrawals prior to Mr. Gaffney's appointment, we divided into four periods the result of our work and the proposed adjustments to the partnership distributions based on the availability of the information. Following is a description of the periods:

1. January 1994 thru September 2001: this is the accounting period prior to the FBI raid and government scrutiny. During this period, it was common for the Partners, family members and their agents to withdraw monies via a check or cash by just signing a cash ticket/receipt. Neither formal supervision nor formal accounting was in place during this period.
2. October 2001 thru December 2012: this is the period after the FBI raid and government scrutiny; accounting was improved, however, Gaffney was not in place and most withdrawals were limited to salaries; partnership distributions were limited as the government supervision/monitoring was in place.
3. January 2013 thru January 30, 2015: the Gaffney years - accounting information is formal and comprehensive. During this period, all withdrawals were made with Gaffney's supervision and therefore, were recognized in the general ledger.
4. January 30, 2015 thru August 31, 2016: this is the period of the liquidation of the Partnership assets; during this period, all transactions were performed with Gaffney's supervision and therefore, recognized in the general ledger. Additionally, during this period the Partnership activity was supervised by the Court through the appointed Master.

~~We should clarify that before 1994 only one store was open, a fire in 1992 destroyed the store and with it most of the financial/accounting information that was available. It had also been established that the Partnership kept a "black book" or a ledger to reconcile withdrawals from the Partnership. Prior to 1993, no amounts had been disputed by either Partner. However, as a result of the current litigation process, Mr. Yusuf became aware of certain investments reported by Wakeed Hamed in his personal income tax returns of 1992 and 1993. Due to the amounts involved it was decided to evaluate and consider such amounts as part of our analysis.~~

Our analysis included information until August 2014, however we decided to adjust all transactions after January 2013 considering that during that period Mr. Gaffney was in control of all the transactions related to the partnership and all withdrawals should be accounted for.

#### **4.4 Documents Examined**

As part of our analysis, we have examined documents for each of the family members of the Hamed and Yusuf families, the Supermarkets (includes Plaza Extra-East, Plaza Extra-West, and Plaza Extra-Tutu Park), United Corporation, and other related entities. ~~All information, documents, evidence examined~~

**e. Funds withdrawn by cashier's checks**

In order to identify any additional monies withdrawn through other sources not directly identifiable through the Partnership or directly linked to the Partnership which could be construed to be partnership distributions, we examined available cashier's checks issued to Fathi Yusuf. Furthermore, we also examined any checks issued to Fathi Yusuf from any other related parties and/or entities related to the Partnership. From our review and analysis, we were able to identify a total of \$536,000.00 in cashier's checks which were considered to be distributions from the Partnership. From our review and analysis, we were able to identify a total of \$100,000.00 in checks issued to Fathi Yusuf from other related parties and/or entities related to the Partnership which were considered to be distributions from the Partnership. Total checks identified and/or attributable to Fathi Yusuf for the periods covered amounted to \$636,000.00.<sup>74</sup>

Description	January 1994 to September 2001	October 2001 to December 2012	January 2013 to August 2014	Total
Cashier's Checks	\$ 536,000.00	\$ -	\$ -	\$ 536,000.00
Bank of Jordan #8033145668	-	-	-	-
Banque Francaise Commerciale	100,000.00	-	-	100,000.00
<b>Total</b>	<b>\$ 636,000.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 636,000.00</b>

**f. Summary**

As a result of our review we can conclude that the Partnership monies withdrawn by Mr. Fathi Yusuf from January 1994 to December 2012 amounted to \$7,097,500.70.

**Lifestyle Analysis**

**a. Bank and Investments Accounts/Credit Card Accounts**

Our examination entailed reviewing and analyzing all known and available bank accounts and brokerage/investment accounts of Fathi Yusuf. From our examination, we were able to identify that Fathi Yusuf deposited monies/funds in the amount of \$82,235.76 for the covered period.<sup>75</sup>

We should mention that our analysis included identifying and excluding any deposits which could be identified and/or related to a source other than from the Partnership. In the following table we summarize the deposits identified and/or attributable to Fathi Yusuf for the periods covered:

<sup>74</sup> Refer to Table 39.

<sup>75</sup> Refer to Table 40A and 40B.

## 8. SIGNATURE

This report has been prepared under the direction of Fernando Scherrer, CPA, CIRA, CA, MBA, Managing Shareholder of BDO Puerto Rico, P.S.C. Neither the professionals who worked on this engagement, nor the shareholders of BDO Puerto Rico, P.S.C. have any present or contemplated future interest in the Partnership, as herein defined, or in reference to the owner, nor any personal interest with respect to the parties involved, nor any other interest that might prevent us from performing an unbiased analysis. Our compensation is not contingent on an action or event resulting from the analysis, opinions, or conclusions in, or the use of this report.

This report was prepared for the specific purpose described above and is not to be copied or made available to unrelated parties without the express written consent of BDO Puerto Rico, P.S.C. We did not use the work of one or more outside specialists to assist during this engagement. We have no obligation to update this report for information that comes to our attention after the date of this report.

BDO PUERTO RICO, P.S.C.

A handwritten signature in blue ink, appearing to read "Fernando Scherrer", with a long horizontal line extending to the right.

Fernando Scherrer, CPA, CIRA, CA, MBA

# **Exhibit 6**

# Table 41 - Fathi Yusuf



Dudley, Topper and Feuerzeig, LLP  
 Mohammad Hamed v. Fathi Yusuf and United Corporation  
 Civil No. SX-12-CV-99  
 Summary Additional Income Calculation as a result of withdrawals from Supermarkets' accounts (or partnership's accounts)

Family Member: Fathi Yusuf

Description	January 1994 to September 2001	October 2001 to December 2012	January 2013 to August 2014	Total
Funds withdrawn from Partnership through checks	\$ -	\$ 5,350,464.65		\$ 5,350,464.65
Withdrawals from the partnership with a signed ticket/receipt	791,067.00	700.00	-	791,767.00
Amount owed by Hamed family to Yusuf as per agreement before raid Sept 2001. As per Mike's testimony these tickets were burned. (Refer to Letter dated August 15, 2012)	-	-	-	-
Payments to third parties on behalf of Hamed/Yusuf with partnership funds either with tickets or checks	126,965.00	-	-	126,965.00
Payments to Attorneys with partnership's funds	-	183,607.05	-	183,607.05
Funds withdrawn by cashier's checks	636,000.00	-	-	636,000.00
<b>Total partnership</b>	<b>1,554,032.00</b>	<b>5,343,468.70</b>		<b>7,097,500.70</b>
Deposits to bank and brokerage accounts	76,075.00	6,160.76	-	82,235.76
Payments to credit cards	-	-	-	-
Investments (cost) sold as per tax returns	-	-	-	-
<b>Subtotal Lifestyle analysis</b>	<b>76,075.00</b>	<b>6,160.76</b>	<b>-</b>	<b>82,235.76</b>
<b>Net Withdrawals</b>	<b>1,630,107.00</b>	<b>5,549,629.46</b>		<b>7,179,736.46</b>

No credit card payments

Deposit from 2002 only, see Table 40B, next page

No investments

**EXHIBIT**  
**6**



Dudley, Topper and Feuerzeig, LLP  
 Mohammad Hamed v. Fathi Yusuf and United Corporation  
 Civil No. SX-12-CV-99  
 Deposits to bank and brokerage accounts

### Table 40B - Fathi Yusuf Deposits

(October 2001 to 2012)

Family Member: Fathi Yusuf

Type of Account:	Account Number:	Account Owner:	Year												Total	
			2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012		
Personal Checking	365610	Fathi Yusuf	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Personal Checking	55157126	Fathi Yusuf	-	6,160.76	-	-	-	-	-	-	-	-	-	-	-	6,160.76
Investments/Securities	140-16484	Fathi Yusuf	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Retirement Account	140-82627	Fathi Yusuf	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total Deposits Accounted For</b>			\$ -	\$ 6,160.76	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,160.76



2002 Deposits

## Table 48 - Nejeh Yusuf Deposits



Dudley, Topper and Feuerzeig, LLP  
 Mohammad Hamed v. Fathi Yusuf and United Corporation  
 Civil No. SX-12-CV-99  
 Summary Additional Income Calculation as a result of withdrawals from Supermarkets' accounts (or partnership's accounts)

Family Member: Najeh Yusuf

Description	January 1994 to September 2001	October 2001 to December 2012	January 2013 to August 2014	Total
<del>Funds withdrawn from Partnership through checks</del>	<del>\$ -</del>	<del>\$ 344,414.16</del>	<del>\$ -</del>	<del>\$ 344,414.16</del>
Withdrawals from the partnership with a signed ticket/receipt	237,866.81	37,251.79	-	275,118.60
Amount owed by Hamed family to Yusuf as per agreement before raid Sept 2001. As per Mike's testimony these tickets were burned. (Refer to Letter dated August 15, 2012)	-	-	-	-
Payments to third parties on behalf of Hamed/Yusuf with partnership funds either with tickets or checks	154,237.50	17,337.41	-	171,574.91
Payments to Attorneys with partnership's funds	-	20,370.00	-	20,370.00
Funds withdrawn by cashier's checks	-	-	-	-
<b>Total partnership</b>	<b>392,104.31</b>	<b>419,373.46</b>	<b>-</b>	<b>811,477.67</b>
Deposits to bank and brokerage accounts	69,000.00	43,998.21	-	112,998.21
Payments to credit cards	100.00	-	-	100.00
Investments (cost) sold as per tax returns	-	-	-	-
<b>Subtotal Lifestyle analysis</b>	<b>69,100.00</b>	<b>43,998.21</b>	<b>-</b>	<b>113,098.21</b>
<b>Net Withdrawals</b>	<b>461,204.31</b>	<b>463,371.67</b>	<b>\$ -</b>	<b>\$ 924,575.88</b>

No credit card payments

Deposit from 2001-2003, see Table 46B, next page

No investments

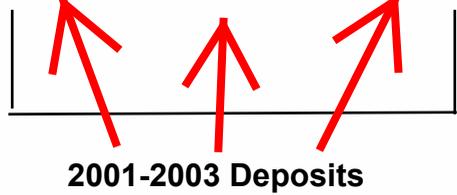


Dudley, Topper and Feuerzeig, LLP  
 Mohammad Hamed v. Fathi Yusuf and United Corporation  
 Civil No. SX-12-CV-99  
 Deposits to bank and brokerage accounts (October 2001 to December 2012)

### Table 46B - Nejah Deposits

Family Member: Najeh Yusuf

Type of Account:	Account Number:	Account Owner:	Year													Total	
			2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012			
Unknown	044-55163827	Najeh Yusuf	\$ 25,998.21	\$ 14,000.00	\$ 4,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 43,998.21
Investment Account	9718-1340	Najeh Yusuf	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Investment Account	9756-2480	Najeh Yusuf	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Deposits Accounted For			\$ 25,998.21	\$ 14,000.00	\$ 4,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 43,998.21



**Total Deposits 2001-2003**

## Table 54 - Maher Yusuf Deposits



Dudley, Topper and Feuerzeig, LLP  
 Mohammad Hamed v. Fathi Yusuf and United Corporation  
 Civil No. SX-12-CV-99  
 Summary Additional Income Calculation as a result of withdrawals from Supermarkets' accounts (or partnership's accounts)

Family Member: Maher Yusuf

Description	January 1994 to September 2001	October 2001 to December 2012	January 2013 to August 2014	Total
<del>Funds withdrawn from Partnership through checks</del>	<del>\$ 5,848.05</del>	<del>\$ 121,941.17</del>	<del>\$ -</del>	<del>\$ 127,759.22</del>
Withdrawals from the partnership with a signed ticket/receipt	12,540.00	146,310.00	-	158,850.00
Amount owed by Hamed family to Yusuf as per agreement before raid Sept 2001. As per Mike's testimony these tickets were burned. (Refer to Letter dated August 15, 2012)	-	-	-	-
Payments to third parties on behalf of Hamed/Yusuf with partnership funds either with tickets or checks	-	-	-	-
Payments to Attorneys with partnership's funds	-	33,714.00	-	33,714.00
Funds withdrawn by cashier's checks	-	-	-	-
<b>Total partnership</b>	<b>18,358.05</b>	<b>301,965.17</b>	<b>-</b>	<b>320,323.22</b>
Deposits to bank and brokerage accounts	473,285.71	41,884.17	-	515,169.88
Payments to credit cards	-	-	-	-
Investments (cost) sold as per tax returns	-	-	-	-
<b>Subtotal Lifestyle analysis</b>	<b>473,285.71</b>	<b>41,884.17</b>	<b>-</b>	<b>515,169.88</b>
<b>Net Withdrawals</b>	<b>491,643.76</b>	<b>143,849.34</b>	<b>-</b>	<b>635,493.10</b>

No credit card payments

No investments

2001-2002 Deposits, see Table 52B, next page



### Table 52B - Maher Yusuf Deposits

Dudley, Topper and Feuerzeig, LLP

Mohammad Hamed v. Fathi Yusuf and United Corporation

Civil No. SX-12-CV-99

(October 2001 to 2012)

Account Owner: Maher Yusuf  
 Financial Institution: Scotiabank  
 Type of Account: Checking Account  
 Account Number: 045-0364118

Year	Statement Date	Transaction Date	Deposits	Adjustment	Adjusted Amount	Tickmarks/ Notes
2001	10/15/2001	9/17/2001	\$ 9,570.26		\$ 9,570.26	A
2001	10/15/2001	10/5/2001	8,000.00		8,000.00	A
2001	10/15/2001	10/9/2001	3,961.04		3,961.04	A
2001	11/15/2001	11/4/2001	4,178.08		4,178.08	A
2001	12/15/2001		No deposit		-	1
<b>Total Year 2001</b>			<b>25,709.38</b>	<b>-</b>	<b>25,709.38</b>	
2002	1/15/2002	1/10/2002	12,174.79		12,174.79	A
2002	2/15/2002	1/30/2002	4,000.00		4,000.00	A
<i>Statements after February 2002 were not available.</i>					-	
<b>Total Year 2002</b>			<b>16,174.79</b>	<b>-</b>	<b>16,174.79</b>	
<b>Total</b>			<b>\$ 41,884.17</b>	<b>\$ -</b>	<b>\$ 41,884.17</b>	

**Tickmarks:**

A Amount was observed in bank statement.

**Notes:**

1 Statement was examined and no transactions were recorded.

2001-2002 Deposits



# Table 61 - Yusuf Yusuf Deposits

Dudley, Topper and Feuerzeig, LLP  
Mohammad Hamed v. Fathi Yusuf and United Corporation  
Civil No. SX-12-CV-99  
Summary Additional Income Calculation as a result of withdrawals from Supermarkets' accounts (or partnership's accounts)

Family Member: Yusuf Yusuf

Description	January 1994 to September 2001	October 2001 to December 2012	January 2013 to August 2014	Total
Funds withdrawn from Partnership through checks	\$	\$	\$	\$
Withdrawals from the partnership with a signed ticket/receipt	19,985.55	1,500.00	-	21,485.55
Amount owed by Hamed family to Yusuf as per agreement before raid Sept 2001. As per Mike's testimony these tickets were burned. (Refer to Letter dated August 15, 2012)	-	-	-	-
Payments to third parties on behalf of Hamed/Yusuf with partnership funds either with tickets or checks	9,878.00	-	-	9,878.00
Payments to Attorneys with partnership's funds	-	-	-	-
Funds withdrawn by cashier's checks	40,000.00	-	-	40,000.00
<b>Total partnership</b>	<b>69,863.55</b>	<b>1,500.00</b>	<b>-</b>	<b>71,363.55</b>
Deposits to bank and brokerage accounts	-	-	-	-
Payments to credit cards	-	-	-	-
Investments (cost) sold as per tax returns	-	-	-	-
<b>Subtotal Lifestyle analysis</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Net Withdrawals</b>	<b>69,863.55</b>	<b>1,500.00</b>	<b>-</b>	<b>71,363.55</b>

No deposits

No credit card payments

No investments

# **Exhibit 7**

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

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

*Plaintiff/Counterclaim Defendant,*

vs.

**FATHI YUSUF** and **UNITED CORPORATION**

*Defendants and Counterclaimants,*

vs.

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

*Counterclaim Defendants.*

Case No.: **SX-2012-CV-370**

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

JURY TRIAL DEMANDED

Consolidated with

Case No.: **SX-2014-CV-287**

**ACTION FOR DECLARATORY  
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

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

**ACTION FOR DEBT AND  
CONVERSION**

JURY TRIAL DEMANDED

---

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

*Plaintiff,*

vs.

**UNITED CORPORATION,**

*Defendant.*

---

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

*Plaintiff,*

vs.

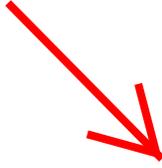
**FATHI YUSUF,**

*Defendant.*

**EXHIBIT**

**7**

**HAMED'S FOURTH REQUEST FOR THE PRODUCTION OF DOCUMENTS  
19-27 OF 50 PURSUANT TO THE CLAIMS DISCOVERY PLAN OF 1/29/2018,**



**RFPDs 26 of 50:**

Request for the Production of Documents, 26 of 50, relates to Y-11, "Lifestyle Analysis."

With respect to Y-11, please provide all bank account statements documenting deposits, all brokerage and retirement accounts documenting deposits and all credit card statements in the names of Fathi, Maher, Nejeh and Yusuf Yusuf (individually and any combination of joint accounts between them and all joint accounts with their spouses), from September 17, 2006 to September 30, 2016. Include but do not limit this to:

- All bank account statements documenting deposits or withdrawals
- All brokerage and retirement account statements documenting deposits or withdrawals
- All credit card statements

**Response:**

---

**RFPDs 27 of 50:**

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

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

---

**Response:**

**Dated:** February 25, 2018



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

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

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 25<sup>th</sup> day of February, 2018, I served a copy of the foregoing by email, as agreed by the parties, on:

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

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

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

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



### **CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)**

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



# **Exhibit 8**

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

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

Plaintiff/Counterclaim Defendant, )

v. )

FATHI YUSUF and UNITED CORPORATION, )

Defendants/Counterclaimants, )

v. )

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

Additional Counterclaim Defendants. )

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

Plaintiff, )

v. )

UNITED CORPORATION, )

Defendant. )

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

Plaintiff, )

v. )

FATHI YUSUF, )

Defendant. )

FATHI YUSUF and )  
UNITED CORPORATION, )

Plaintiffs, )

v. )

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

Defendants. )

CIVIL NO. SX-12-CV-370

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

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES AND  
DECLARATORY JUDGMENT

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT AND  
CONVERSION

CIVIL NO. ST-17-CV-384

ACTION TO SET ASIDE  
FRAUDULENT TRANSFERS

**EXHIBIT**  
**8**

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

**RESPONSE TO HAMED'S FOURTH REQUEST FOR PRODUCTION OF  
DOCUMENTS NOS. 19-27 OF 50 PURSUANT TO THE CLAIMS DISCOVERY PLAN**

~~Defendant/Counterclaimants Fathi Yusuf ("Yusuf") and United Corporation~~  
("United")(collectively, the "Defendants") through their attorneys, Dudley, Topper and  
Feuerzeig, LLP, hereby provide their Responses to Hamed's Fourth Request for Production of  
Documents Pursuant to the Claims Discovery Plan of 1/29/2018, as to H-1: Reimbursement  
for Sale of the Dorothea Condo H-144: \$900,00 Estimated Tax Payment Four United  
Corporation Shareholders Y-2: Rent for Bays 5&8 Y-10: Past Pship Withdrawals – Receipts  
Y-11: Lifestyle Analysis Y-14: Half of Value of Six Containers.

**GENERAL OBJECTIONS**

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

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

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

HAMD660339

**RFPDs 25 of 50:**

Request for the Production of Documents, 25 of 50, relates to Y-10, "Past Pship Withdrawals – Receipts."

With respect to Y-10, please provide all documents substantiating the alleged \$1,778,103.00 in the "[a]mount owed by Hamed family to Yusuf as per agreement before raid Sept 2001. As per Mike's testimony these tickets were burned ([r]efer to Letter dated August 15, 2012)" by Waleed Hamed, as referenced on the revised BDO Exhibit J-2, titled "Summary calculation of Additional Income as a result of withdrawal from Supermarkets' accounts (or partnership's accounts) – January 1994 to August 2014. (Including adjustment for withdrawals before 9/17/2006 as instructed by the Court)," attached to Yusuf's Amended Accounting Claims Limited to Transactions Occurring On or After September 17, 2001, filed on October 30, 2017.

**Response:**

All documents supporting has been previously provided in the Tables to the BDO Reports and supporting documentation provided to Hamed on October 4, 2016.

**RFPDs 26 of 50:**

Request for the Production of Documents, 26 of 50, relates to Y-11, "Lifestyle Analysis." With respect to Y-11, please provide all bank account statements documenting deposits, all brokerage and retirement accounts documenting deposits and all credit card statements in the names of Fathi, Maher, Negeh and Yusuf Yusuf (individually and any combination of joint accounts between them and all joint accounts with their spouses), from September 17, 2006 to September 30, 2016. Include but do not limit this to:

- All bank account statements documenting deposits or withdrawals

- All brokerage and retirement account statements documenting deposits or withdrawals
- All credit card statements

**Response:**

Defendants object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

To the extent documents already exist in the records, they may be found within the BDO Report which has been previously provided in the Tables to the BDO Reports and supporting documentation provided to Hamed on October 4, 2016.

**RFPDs 27 of 50:**

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

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

**Response:**

To the extent that information has not already been provided to Hamed pursuant to  
~~briefing relating to this claim, Defendants will supplement their response to this Request.~~

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

DATED: May 15<sup>th</sup>, 2018

By: 

**CHARLOTTE K. PERRELL**

(V.I. Bar #1281)

Law House

1000 Frederiksberg Gade - P.O. Box 756

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*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

**HAMD660349**

**CERTIFICATE OF SERVICE**

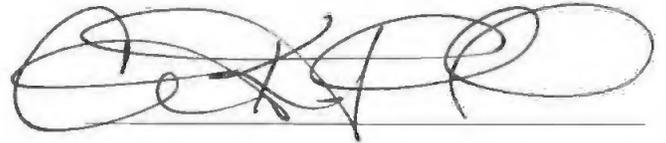
It is hereby certified that on this 15<sup>th</sup> day of May, 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S FOURTH REQUESTS FOR THE PRODUCTION OF DOCUMENTS NOS. 19-27 OF 50 PURSUANT TO CLAIMS DISCOVERY PLAN** to be served upon the following via Case Anywhere docketing system:

Joel H. Holt, Esq.  
**LAW OFFICES OF JOEL H. HOLT**  
2132 Company, V.I. 00820  
Email: [joelholtpc@gmail.com](mailto:joelholtpc@gmail.com)

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

Mark W. Eckard, Esq.  
**HAMM & ECKARD, LLP**  
5030 Anchor Way – Suite 13  
Christiansted, St. Croix  
U.S. Virgin Islands 00820-4692  
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Christiansted, St. Croix  
U.S. Virgin Islands 00820  
E-Mail: [jeffreymlaw@yahoo.com](mailto:jeffreymlaw@yahoo.com)



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# **Exhibit 9**

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

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

*Plaintiff/Counterclaim Defendant,*

vs.

**FATHI YUSUF** and **UNITED CORPORATION**

*Defendants and Counterclaimants,*

vs.

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

*Counterclaim Defendants.*

Case No.: **SX-2012-CV-370**

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

JURY TRIAL DEMANDED

Consolidated with

Case No.: **SX-2014-CV-287**

**ACTION FOR DECLARATORY  
JUDGMENT**

JURY TRIAL DEMANDED

Consolidated with

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

**ACTION FOR DEBT AND  
CONVERSION**

JURY TRIAL DEMANDED

---

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

*Plaintiff,*

vs.

**UNITED CORPORATION,**

*Defendant.*

---

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

*Plaintiff,*

vs.

**FATHI YUSUF,**

*Defendant.*

**EXHIBIT**

**9**

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

~~References to "Exhibits" are to the Exhibits to Yusuf's First Set Of Discovery served on Hamed on March 23, 2018.~~

**RFPDs 28 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 2.** Please produce any and all financial statements or applications for financing for United, as well as Fathi, Mike, Nejeh and Yusuf Yusuf or any company controlled more than 49%, submitted to any person or institution from September 17, 2006 to present.

**Response:**

**RFPDs 29 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 4.** Please produce copies of any accountings prepared by or on behalf of United or any member of the Hamed or Yusuf families in the Criminal Case to demonstrate the Partnership's or United's income.

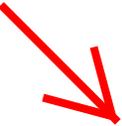
**Response:**

**RFPDs 30 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 5.** Please produce copies of all original tax returns filed by United, Fathi, Mike, Nejeh and Yusuf Yusuf from 1986 to date.

**Response:**





**RFPDs 31 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 6.** Please produce copies of all documents including statements relating to any operating, savings, credit, investment, trust, escrow or other accounts in which United, Fathi, Mike, NejeH and Yusuf Yusuf or any company which they have more than 49% control, have or had any interest in the Virgin Islands or elsewhere, including, but not limited to Jordan and West Bank, Palestine, from 1986 to date.

**Response:**

~~**RFPDs 32 of 50:**~~

~~**SUBSTANTIALLY THE SAME AS YUSUF RFPD 7.** Please produce all documents relating to all assets of United, Fathi, Mike, NejeH and Yusuf Yusuf as of September 12, 2012 and the value of such assets.~~

~~**Response:**~~

~~**RFPDs 33 of 50:**~~

~~**SUBSTANTIALLY THE SAME AS YUSUF RFPD 8.** For any allocation set forth in Exhibits 1-5, please produce all underlying documents relating to any such allocation.~~

~~**Response:**~~

**RFPDs 34 of 50:**

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

**Response:**

**RFPDs 35 of 50:**

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

**Response:**

**RFPDs 36 of 50:**

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

**Response:**

**Dated:** March 25, 2018



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

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

### CERTIFICATE OF SERVICE

I hereby certify that on this 25<sup>th</sup> day of March, 2018, I served a copy of the foregoing by email (CaseAnywhere ECF), 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

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mark@markeckard.com

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



### CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

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



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# **Exhibit 10**

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. )

CIVIL NO. SX-12-CV-370

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

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

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. )

CIVIL NO. ST-17-CV-384

ACTION TO SET ASIDE  
FRAUDULENT TRANSFERS

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

**EXHIBIT**  
**10**

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

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

Defendant/Counterclaimants Fathi Yusuf ("Yusuf") and United Corporation ("United")(collectively, the "Defendants") through their attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provide their Responses to Hamed's Fifth Request for Production of Documents Pursuant to the Claims Discovery Plan of 1/29/2018.

**GENERAL OBJECTIONS**

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

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

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

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

DUDLEY, TOPPER  
AND FEUERZEIG, LLP

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

HAMD660384

**RFPDs 30 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 5.** Please produce copies of all original tax returns filed by United, Fathi, Mike, Negeh and Yusuf Yusuf from 1986 to date.

**Response:**

Defendants object to this Request for Production as vague, ambiguous, and compound such that the total number of Requests for Production together with their sub parts and other discovery exceeds the maximum allowable number of Requests for Production under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of Requests for Production.

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

**RFPDs 31 of 50:**

**SUBSTANTIALLY THE SAME AS YUSUF RFPD 6.** Please produce copies of all documents including statements relating to any operating, savings, credit, investment, trust, escrow or other accounts in which United, Fathi, Mike, Negeh and Yusuf Yusuf or any company which they have more than 49% control, have or had any interest in the Virgin Islands or elsewhere, including, but not limited to Jordan and West Bank, Palestine, from 1986 to date.

**Response:**

Defendants object to this Request for Production as vague, ambiguous, and compound such that the total number of Requests for Production together with their sub parts and other discovery exceeds the maximum allowable number of Requests for Production under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of Requests for Production.

Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

~~Defendants further object to this Request for Production because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.~~

~~Defendants further object to this Request for Production because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).~~

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

DATED: May 5<sup>th</sup>, 2018

By:   
**CHARLOTTE K. PERRELL**  
(V.I. Bar #1281)  
Law House  
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E-Mail: [cperrell@dtflaw.com](mailto:cperrell@dtflaw.com)

*Attorneys for Fathi Yusuf and United Corporation*

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

**HAMD660393**

**CERTIFICATE OF SERVICE**

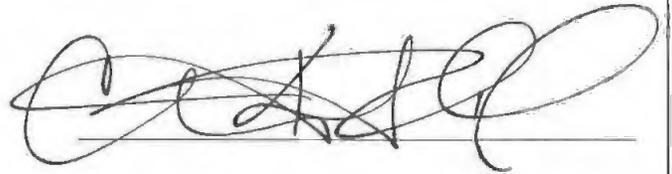
It is hereby certified that on this 15<sup>th</sup> day of May, 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S FIFTH REQUESTS FOR THE PRODUCTION OF DOCUMENTS NOS. 28-36 OF 50 PURSUANT TO CLAIMS DISCOVERY PLAN** to be served upon the following via Case Anywhere docketing system:

Joel H. Holt, Esq.  
**LAW OFFICES OF JOEL H. HOLT**  
2132 Company, V.I. 00820  
Email: [joelholtpc@gmail.com](mailto:joelholtpc@gmail.com)

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# **Exhibit 11**



Dudley, Topper and Feuerzeig, LLP  
 United Corporation  
 Civil No. SX-12-CV-99

Summary calculation of Additional Income as a result of withdrawals from Supermarkets' accounts (or partnership's accounts) - January 1994 to August 2014. (Including adjustments for withdrawals before 9/17/2006 as instructed by the Court)

Summary of Withdrawals

Description	Hamed						Yusuf										Difference	
	Mohammad	Waleed	Waheed	Mufeed	Hisham	Total	Fathi	Nejeh	Maher	Yusuf	Najat	Zayed	Syaid	Amal	Hoda	Yacer		Total
Funds received from partnership through checks	\$ 1,500,000.00	\$ -	\$ -	\$ -	\$ -	\$ 1,500,000.00	\$ 4,284,706.25	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,284,706.25	\$ (2,784,706.25)
Withdrawals from the partnership with a signed ticket/receipt	-	237,352.75	-	-	-	237,352.75	-	-	2,000.00	-	-	-	-	-	-	-	2,000.00	235,352.75
Amount owed by Hamed family to Yusuf as per agreement before raid Sept 2001. As per Mike's testimony these tickets were burned. (Refer to Letter dated August 15, 2012)	-	1,778,103.00	-	-	-	1,778,103.00	-	-	-	-	-	-	-	-	-	-	-	1,778,103.00
Payments to third parties on behalf of Hamed/Yusuf with partnership funds either with tickets or checks	-	20,311.00	-	-	-	20,311.00	-	-	-	-	-	-	-	-	-	-	-	20,311.00
Payments to Attorneys with partnership's funds	-	3,749,495.48	372,155.95	-	-	4,121,651.43	183,607.05	20,370.00	33,714.00	-	-	-	-	-	-	-	237,691.05	3,883,960.38
Funds received by cashier's checks	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Partnership</b>	<b>1,500,000.00</b>	<b>5,785,262.23</b>	<b>372,155.95</b>	<b>-</b>	<b>-</b>	<b>7,657,418.18</b>	<b>4,468,313.30</b>	<b>20,370.00</b>	<b>33,714.00</b>	<b>-</b>	<b>4,524,397.30</b>	<b>3,133,020.88</b>						
Deposits to bank and brokerage accounts	16,505.80	430,439.13	100,000.00	306,999.56	510,061.57	1,364,006.06	-	-	-	-	-	-	-	-	-	-	-	1,364,006.06
Payments to credit cards	-	422,824.70	-	179,786.80	-	602,611.50	-	-	-	-	-	-	-	-	-	-	-	602,611.50
Investments (cost) sold as per tax returns	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Spent Lifestyle analysis</b>	<b>16,505.80</b>	<b>853,263.83</b>	<b>100,000.00</b>	<b>486,786.36</b>	<b>510,061.57</b>	<b>1,966,617.56</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,966,617.56</b>
<b>Net Withdrawals</b>	<b>\$ 1,516,505.80</b>	<b>\$ 6,638,526.06</b>	<b>\$ 472,155.95</b>	<b>\$ 486,786.36</b>	<b>\$ 510,061.57</b>	<b>\$ 9,624,026.74</b>	<b>\$ 4,468,313.30</b>	<b>\$ 20,370.00</b>	<b>\$ 33,714.00</b>	<b>\$ -</b>	<b>\$ 4,524,397.30</b>	<b>\$ 5,099,638.44</b>						

Note:  
 Total amounts include adjustments made for withdrawals in 2016.

# **Exhibit 12**

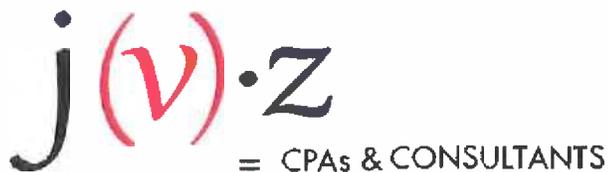
**Engagement Report**  
Joel H. Holt, Esq.  
c/o Plaza Supermarket Partnership and Subsidiaries

**EXHIBIT**  
**12**

~~Exhibit:~~

~~B-2~~

JVZ-000001



5001 Chandler's Wharf  
P.O. Box 24390 GBS  
Christiansted, VI 00824  
T. 340-719-8261  
F. 340-719-2775  
www.jvz-cpa.com

September 28, 2016

Joel H. Holt, Esq.  
2132 Company Street  
Christiansted, VI 00820

Re: Mohammad Hamed, et.al v. Fathi Yusuf and United Corporation

Dear Attorney Holt:

Jackson Vizcaino Zomerfeld, LLP (JVZ or we) is a licensed Certified Public Accountant firm in the U.S. Virgin Islands.

You have retained us to render an expert opinion in the litigation captioned Hamed v. Yusuf et al., docket number Civ. No. SX-12-CV-370. Attached is our analysis of the financial accounting for January 1, 2012 through June 30, 2016 as per Fathi Yusuf.

For the Firm

JACKSON, VIZCAINO ZOMERFELD, LLP

MEMBERS OF:

American Institute of Certified Public Accountants  
Florida Institute of Certified Public Accountants  
National Association of Certified Valuation Analysts  
Texas State board of Public Accountancy  
Virgin Islands Board of Accountancy

The Carribean's full-service accounting firm

JVZ-000002

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### EXHIBITS

## ATTACHMENT IV - Analysis

~~John Gaffney provided detailed of purged transactions as well as other general ledger detail. John Gaffney's response did not include an explanation for business purpose of such transactions as it relates to Plaza.~~

### *Opinion as to the Issue Identified:*

**IRS Pub. 535 - Business Expenses** states “[g]enerally, you cannot deduct personal, living, or family expenses.”

The audit evidence obtained suggests these checks were for personal use and would not be deductible for tax purposes under **IRS Pub. 535**. Therefore, we conclude these checks lacked a business purpose. As such, we are not able to satisfy ourselves of the following management assertions: 1. Occurrence 2. Accuracy or 3. Classification, as described in **AU-C 315.A128**.

We concluded these amounts should be returned to the Partnership to conform to the management's assertions.

The checks were identified, summarized and totaled. Exhibit 3006-a contains a summary of the accounting of the checks, as well as copies of the checks themselves.

~~The total amount of the claim is \$504,590.63.~~



---

### **Item 3007 – Imbalance in credit card points**

#### *Summary Description of Issue Identified:*

Credit card points earned on purchases/expenses paid on behalf of the Partnership using personal credit cards should be split evenly between the Hameds and Yusufs.

#### *Work performed:*

We interviewed John Gaffney and the Hameds regarding the use of personal credit cards to pay purchases/expenses of the Partnership and the credit card points earned. We also provided John Gaffney a query dated February 15, 2016 (see Attachment VII) requesting the detail of credit card payments for purchases/expenses from 2012-2015 and statements of credit card points earned on such purchases. In addition, we reviewed the general ledgers from 2012 to present provided by John Gaffney.

We were advised by Attorney Holt that further investigation through the legal process of discovery is need for the banks and credit card companies involved in this issue to provide documentation for transactions conducted with the Partnership from 2012-2015.

#### *Gaffney's response:*

John Gaffney's response dated May 17, 2016 (see Attachment IX) stated this request creates significant new work such that is its completely impractical. John Gaffney's response included detail of payments by vendor for the various credit cards used for Partnership transactions from the accounting records.

### *Opinion as to the Issue Identified:*

**ATTACHMENT IV - Analysis**

We were advised that credit card points earned on purchases paid on behalf of the Partnership using personal credit cards belong to the Partnership and should be split evenly between the Hameds and Yusufs. We noted in the accounting records (general ledger) reimbursements to the Yusufs for purchases/expenses on behalf of the Partnership using personal credit cards. However, we found no evidence, nor were we provided any evidence upon request from John Gaffney, of credit card points earned being returned or used by the Partnership or divided between the Hameds and Yusufs. Additionally, there was no detail provided in the 2012 ledger.

The total amount we identified as reimbursements to the Yusufs for purchases/expenses paid on behalf of the Partnership using personal credit cards based on information obtained from John Gaffney was \$32,085,919.10 from 2013 – 2015. The total amount we identified as reimbursements to the Hameds for purchases/expenses paid on behalf of the Partnership using personal credit cards based on information obtained from John Gaffney was \$15,236,534.50 from 2013 – 2015. We identified a difference of \$16,849,384.60, in the Yusufs favor. We presume a 2.5% earning on credit card purchases.

Exhibit 3007-a contains a summary of the accounting (extracted from vendor detail provided by John Gaffney) of the payments posted as reimbursements for purchases/expenses on behalf of the Partnership using personal credit cards.

The total amount of the claim is \$421,234.62, subject to further refinement after discovery is re-opened and completed.

---

**~~Item 3008a – United’s Corporate Franchise taxes and Annual Franchise fees~~**

*Summary Description of Issue Identified:*

The Partnership paid United’s Corporate Franchise taxes and Annual Franchise fees. United is a separate unrelated entity (not under common control).

*Work performed:*

We interviewed John Gaffney and the Hameds regarding payments of franchise taxes and fees. We also provided John Gaffney a query dated February 15, 2016 (see Attachment VII) requesting a reason or basis for using PE partnership funds to pay for United Corporation’s franchise taxes and annual franchise fees and provide canceled checks reflecting payment of United Corporation’s franchise taxes and annual fees. In addition, we reviewed the general ledgers from 2012 to present provided by John Gaffney.

JVZ reviewed 1 check for \$300 written on Plaza Extra partnership bank accounts for payment to John Gaffney as reimbursing for payment of United Corporation’s franchise taxes and fees (Exhibit 3008a-a). In addition, we reviewed a notice of delinquent franchise taxes, annual reports and annual fees dated November 5, 2012 from the Office of the Lieutenant Governor. The fee due per the later for June 30, 2007 through 2012 totaled \$2,000.52 (Exhibit 3008a-b). We identified check #4433 for \$2,000.52 clearing the Partnership’s bank account on December 31, 2012.

*Gaffney’s response:* \_\_\_\_\_

# Exhibits for claim 3007

Expert report of Jackson, Vizcaino Zomerfeld, LLP re Hamed v. Yusuf et.al  
 Exhibit 3007-a

Row Labels	Sum of Amount	Hameds	Yusufs
BP MAFI 1505	675,363.64	675,363.64	
BP MAFI 1929	3,862,809.28	3,862,809.28	
BP MAFI 3718	184,684.04	184,684.04	
BP MIKE - 2248	57,255.30		57,255.30
BP NEJEH 2812	21,311.92		21,311.92
BP VISA - HISHAM	5,935,782.38	5,935,782.38	
BP VISA - MIKE	16,926,782.60		16,926,782.60
BP VISA - MUFEED	60,000.00	60,000.00	
BP VISA - YUSUF	324,655.48		324,655.48
BP WALLY 1741	2,837,728.12	2,837,728.12	
BP WALLY 4898	1,385,296.80	1,385,296.80	
BP WALLY 9463	235,163.38	235,163.38	
BP WALLY 9586	59,706.86	59,706.86	
BP YUSUF 2858	4,208,652.94		4,208,652.94
BP YUSUF 3791	3,400,859.34		3,400,859.34
BP YUSUF 5492	756,778.16		756,778.16
BP YUSUF 6073	1,749,584.26		1,749,584.26
BP YUSUF 6251	1,364,279.18		1,364,279.18
BP YUSUF 7727	3,051,926.02		3,051,926.02
BP YUSUF 8137	7,800.00		7,800.00
BP YUSUF 8740	100,000.00		100,000.00
CITI - YUSUF	14,000.00		14,000.00
DISCOVER - NEJEH	62,553.62		62,553.62
SCOTIA - MIKE 6125	39,480.28		39,480.28
SCOTIA - YUSUF	436,180.44		436,180.44
<b>Grand Total</b>	<b>47,758,634.04</b>	<b>15,236,534.50</b>	<b>32,085,919.10</b>
	Difference in Yusufs favor	16,849,384.60	
	Total amount of the claim - 2.50%	<u>421,234.62</u>	

Exhibit: 3007-a