

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.*

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**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 REPLY  
TO YUSUF'S OPPOSITION TO HAMED'S MOTION TO COMPEL  
RE REVISED CLAIM Y-12—FOREIGN ACCOUNTS AND JORDANIAN PROPERTY**

**I. Introduction: The Most Basic Possible Questions—and Yusuf's Abject Refusals to Answer Them**

Yusuf's refusal to answer the most basic Interrogatories (ROG) and Requests for Production of Documents (RFPDs) is just the latest phase of his years-long refusal to comply with basic discovery in this matter.

Hamed notes that in the initial scheduling order he was allowed only a very limited number of inquiries—and therefore the majority of them were as basic and simple as can be imagined in a claims setting. Here the request is simply for a listing and description of the accounts and assets for which claims are made and transactions thereon. How can a claim be prosecuted without the claimant providing even this slight description?

Thus, Yusuf's arguments should be disregarded on three grounds: (1) on January 18, 2019, **Judge Ross already ordered Yusuf to fully answer Interrogatory 30, without condition or caveats**;<sup>1</sup> (2) Rule 26 allows for "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); and (3) this is an equity action—offsets between the partners and equitable defenses are completely relevant to Hamed's defense.<sup>2</sup>

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<sup>1</sup> Order, *Hamed v Yusuf*, SX-2012-CV-370, Jan. 18, 2019. (**Exhibit 1** to Hamed's Motion to Compel of July 14, 2021.)

<sup>2</sup> Yusuf claims he should not be required to respond regarding his identical foreign bank accounts that were identically funded with "laundered" Partnership funds because Hamed did not make a corresponding claim. This is a silly argument in an equity claim proceeding – even in cases for damages at law the discovery rules do not require such a condition. More to the point, Hamed seeks this information not only with regard to computation, but also as to potential offset and equitable defenses.

**II. A Preliminary Matter of Contempt: Yusuf's Refusal to Even Address the Existence of the Prior Order on this same Interrogatory in his Opposition**

Hamed noted in the instant motion<sup>3</sup> that the Special Master entered that order—but Yusuf did not even address, much less respond to this glaring fact—but, rather, ignored the point in his opposition. The Master ordered:

Upon review of the documents referenced in Yusuf's response, the Master finds that Yusuf's response to Interrogatory 30 is deficient. Under Rule 37(a)(4), "an evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond." V.I. R. CN. P. 37(a)(4). Thus, the Master will grant Hamed's motion to compel as to Interrogatory 30.

Yusuf most probably failed to address this in his opposition because he could not explain why the Master's earlier order has been ignored despite it being issued in response to Yusuf's earlier briefing of this identical claim—in which Yusuf made many of the same arguments. Moreover, Yusuf did not seek reconsideration at that time—instead he merely ignored the order. Thus, Yusuf's opposition is also an out-of-time motion for reconsideration as to Interrogatory 30. Thus, at best Yusuf's opposition filing here, and his refusal to comply with the Master's existing order, is wrongful, and at worst it is openly contemptuous.

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<sup>3</sup> *Id.* at 2. The very first lines of Hamed's motion fully describes the existing order and why Yusuf should comply:

On January 8, 2019, the Special Master issued an order in response to Hamed's Expedited Motion to Compel re Yusuf Claim Y-12 – Foreign Accounts and Properties (Exhibit 1).<sup>1</sup> In that Order, the Special Master required Yusuf to respond to Hamed's Interrogatory 30 within 7 days. *Id.* Contrary to that Order, Yusuf has failed to adequately respond to Interrogatory 30.

### **III. Facts**

#### **A. Interrogatory 30**

Yusuf still has not responded to the vast bulk of Interrogatory 30, despite a court order to do so. Basic items still missing from his response include the following.

##### **Foreign Bank Accounts**

- the date the account was opened (except for on, single account 02501171878 00, Cairo Aman Bank, Waleed Hamed – the only one which was provided)
- how Yusuf claims money generated by the Plaza Extra supermarkets got into each foreign account—the actual means by which this occurred, including his own planning, oversight, conveyances, etc.)
- the dates deposits and withdrawals were made from each account and the amounts, (Most critical information possible in an accounting claim.)
- the date the last transaction on the account occurred, and
- whether the account is active or closed. If open, the present balance and if closed, the date the account closed and who closed it. (Second most critical information; particularly as to what is now in the accounts and who took the funds and when, after 2006.)

Hamed is not in control of many these accounts, as they were planned and overseen by Fathi Yusuf. Yusuf received the statements and directed their funding and use. He alone would have this information—and even if that were not the case, HIS FACTUAL ASSERTIONS AND KNOWLEDGE about these things is the vary fundament of this claim.

It is impossible to take deposition or proceed with this claim without his responses.

##### **Jordanian Property**

- where the funds came from to purchase each piece of property,
- which banks and
- on what dates Partnership funds were transferred for the purchase of each piece of property.

Yusuf states in his Opposition at p. 5 that

[Y]usuf has provided the information that he has relating to the subject accounts (for which he is seeking explanation from Hamed). Yusuf has no additional information than what has already been produced in the case as to these accounts as identified above.

However, this is glaringly untrue. Yusuf asserts he ***does not have to give any*** information regarding ***his*** foreign accounts, suggesting that he or his family do have foreign accounts and he is simply refusing to provide the information, despite an earlier Order requiring him to do so. (See Opposition at pp. 5-6) He can resolve this by either (1) stating the following: from 2006 to the present Yusuf, his family members and companies have had no foreign depository or investment accounts,” or (2) by providing responses.

Yusuf claims in his Opposition on p. 5 that “Y-12 does not relate to any foreign accounts beyond those on the initial list, which has been further limited.” **Yusuf still hasn't identified even that limited universe.** This is critical, and must be responded to.

Finally, after Hamed's repeatedly noting that Yusuf has not verified what little he has given in response to Interrogatory 30, no verification has been forthcoming.

**B. Interrogatory 34 and Request for the Production of Documents 30, 31 and 36**

Although Hamed did not include these in the original motion to compel, the issue is identical to what the Master has already ruled on,

Again, Yusuf disregards the discovery rules in order to evade answering. These raise the identical issues the Master ruled on with regard to the interrogatory. Each of the discovery requests relates either to Hamed's ability to understand and calculate the claim, Yusuf's own involvement in their control/funding, or potential offsets in equity/defenses. As just one example, Hamed needs to know if any of the Yusuf family members have foreign accounts or assets containing Partnership funds in order to determine whether there are offsets to the amounts, if any, that Hamed may have in foreign accounts. (ROGs 30, 33-34, RFPDs 31, 36) Hamed also needs to see tax returns, foreign bank statements,

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investment accounts etc. to ferret out any foreign accounts held by Yusuf family members that may have Partnership funds in them and therefore, would have a bearing on Hamed's defense to this claim. (RFPDs 30-31 and 36)

#### **IV. Conclusion**

Hamed again requests the Court's help in obtaining response to these most basic discovery requests prior to the upcoming depositions and motions for summary judgment.

**Dated: August 7, 2021**



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> 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 7, 2021

