

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 H-151:  
CHECKS WRITTEN FOR FATHI YUSUF'S PERSONAL USE**

## **I. Introduction**

This claim aims to recover funds from transactions where Fathi Yusuf wrote checks from the Partnership accounts to himself or his family corporation, the United Corporation, without a corresponding withdrawal for Hamed.<sup>1</sup> In this discovery Hamed is endeavoring to account for instances when Yusuf or United withdrew additional Partnership funds for non-Partnership purposes.

## **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 refused to provide any 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: H-151 – Checks Written for Fathi Yusuf's Personal Use.

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<sup>1</sup> A number of other situations like this have already been recognized by the Master and awarded to Hamed, such as attorney fees taken for his personal defense here, the \$2.7 million already awarded, etc. This is the residual catchall category for such amounts not already dealt with.

### III. Facts

#### A. Discovery and Rule 37 Process for Interrogatory (ROG) 38 and Request for the Production of Documents (RFPDs) 4 and 40

On October 31, 2018, Hamed sent a letter to Yusuf's counsel requesting a Rule 37 conference on the outstanding discovery. (**Exhibit 1**) In a follow up letter documenting the contents of the Rule 37 conference, ROG 38 was contingent on a stipulation that was not signed by Yusuf and therefore is still outstanding. RFPD 4 was also contingent on a stipulation that, similarly, did not occur -- and therefore is still outstanding. Finally, Yusuf's attorney indicated that RFPD 40 would be supplemented on May 15, 2018, but, once again, nothing has been provided to Hamed. (**Exhibit 2**) These are three unsuccessful joint attempts at getting reasonable discovery responses from Yusuf. Obviously, this is a frustrating process and Hamed suspects that while counsel negotiated in good faith under Rule 37, it is simply impossible to then get Yusuf himself to fulfill such discovery responsibilities. Hamed does not seek sanctions or warnings here as they do little good in dealing with Mr. Yusuf – just an order to do basic discovery responses.

#### B. Yusuf's unanswered Interrogatories 38

On March 24, 2018, Hamed propounded Interrogatory 38

**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? (**Exhibit 3**)

On May 15, 2018, Yusuf did not provide a response to Hamed:

**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 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. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

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. (**Exhibit 4**)

### **C. Yusuf's unanswered RFPDs 4 and 40**

#### *1. RFPD 4*

On January 30, 2018, Hamed propounded RFPD 4:

**RFPD 4 of 50** relates to Claim H-151 (previously identified as 3004a) – described in the claims list as “Checks written to Fathi Yusuf for personal use.”

For all of the Partnership bank accounts, please provide all bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as the cancelled checks, from 9/17/2006 to present. (**Exhibit 5**)



On March 1, 2018, Yusuf responded

Yusuf objects to this Request for Production as is unclear as to checks written to United Corporation.

Further responding, Yusuf shows that this request is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed John Gaffney and maintain that these items were not included in the original list Gaffney Items 41 through 141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant the Joint Discovery and Scheduling Plan. According the request, it appears that John Gaffney has already advised that he does not have all of the cancelled checks as to the various bank accounts.

Further responding, Yusuf directs Hamed's attention to Table 35(b) of the BDO Report chronicles those checks written Yusuf from 2001 to 2012. Supporting documentation for the allocation was also previously provided Hamed with the original submission of the Yusuf Accounting Claims on September 30, 2016. To the extent that there are additional checks to which Hamed seeks clarification not otherwise listed in Table 35(b), please identify the same and this response be supplemented. (**Exhibit 6**)

*A. RFPD 40*

On March 31, 2018, Hamed propounded RFPD 40:

Please produce any and all documents relating to gifts given by United Corporation to Mafi Hamed and Shawn Hamed and/or their spouses at the time of their weddings to Yusuf daughters. (**Exhibit 7**)

On May 15, 2018, Yusuf refused to answer the discovery request:

Yusuf objects as to this Request on the grounds that "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii). (**Exhibit 8**)

#### 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 interrogatory 38**

Interrogatory 38 is integral to Hamed's claim. Hamed needs to understand how the Partnership money traveled between Yusuf and his family corporation, United. (It is important to remember that Yusuf has refused access to United's books throughout this entire case.) Hamed's first step in tracing Partnership funds and assets is to identify large sums of money or assets (in excess of \$10,000) being transferred to or from Fathi Yusuf and/or coming into or coming out of the United Corporation, determine the value of the assets upon transfer, then determine whether those were Partnership funds/assets or not and for the Partnership funds/assets, determine whether there was an equal draw of those funds between Yusuf and Hamed. This inquiry shouldn't be overly burdensome, as it has already been limited to large sums of money and has been further limited to just the period from September 17, 2012 to the split of the stores.

**C. Yusuf refuses to respond to Hamed's RFPDs 4 and 40**

*1. RFPD 4 – Bank statements and cancelled checks*

Again, at the risk of sounding like a broken record, Hamed needs the information requested to prosecute his claim. Hamed is not requesting anything extraordinary or strange – bank statements and cancelled checks. These should be documents that are kept in the ordinary course of business. Yusuf has claimed that Partnership bank statements were not always provided by the banks. (**Exhibit 9**) However, United's comptroller, John Gaffney, indicated that online statements were used instead. Presumably those can be provided to Hamed. (**Exhibit 9**)

To further reduce the burden and tighten up this request, Hamed will now limit this request to January 2012 to the present and limit it to the following bank accounts and cancelled checks:

- Banco 6269 West operating account,<sup>2</sup>
- Banco 8830 East operating account,<sup>3</sup>
- Scotia 2010 STT operating account,<sup>4</sup>
- Banco 9091 Partnership Claims account,<sup>5</sup>
- Banco 9075 Partnership Liquid Expense account,<sup>6</sup> and
- Any other Partnership operating account that Hamed did not list above.
- Any other United or Tenant Account not listed above.

2. *RFPD 40 – Wedding gifts to Mafi, Shawn Hamed and their Yusuf spouses*

A single, glaring example will give the Mater a sense of this frustration. There is absolutely no dispute that Yusuf withdrew a total of \$3 million from Partnership funds. Yusuf admits this. His position appears to be that since HE ALLEGES he kept his half, and that the other half went to the Hameds via wedding gifts “from the Partnership,” he need not explain or document this further. The issue is whether the Partnership gifted

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<sup>2</sup> Hamed has the bank statements from June 2015-January 2015, all of 2014 and 2013, and January 2012. Those bank statements don't need to be reproduced. Hamed does not have any cancelled checks for this account. Gaffney indicated that cancelled checks were provided for 2012 and from January 2013-July 2013. (**Exhibit 9**) Those should be produced.

<sup>3</sup> Hamed has the bank statements from June 2015-January 2015 and all of 2014 and 2013. Those bank statements don't need to be reproduced. Hamed does not have cancelled checks for this account. Gaffney indicated that cancelled checks were provided for 2012 and from January 2013-July 2013. (**Exhibit 9**) Those should be produced.

<sup>4</sup> Hamed does not have any statements or cancelled checks for this account.

<sup>5</sup> Hamed has the bank statements and cancelled checks for all of 2015 and January-May, July and October 2016. Those bank statements and cancelled checks don't need to be reproduced.

<sup>6</sup> Hamed has the bank statements and cancelled checks for October, August-January 2016, and December-February 2015. Those bank statements and cancelled checks don't need to be reproduced.

these funds, or whether (1) Yusuf made personal withdrawals that must be repaid and (2) the “gifts” were personal from Yusuf. Indeed, there are signed documents from Yusuf and his wife showing that he and his wife (individually) gave the wedding gifts to his daughters and their Hamed husbands. Hamed takes the position that regardless of the assertion these were “gifts,” this is a reimbursable withdrawal by Yusuf – particularly in light of two mediating facts: (1) he personally took \$1.5 million for himself at the time, and (2) in the divorce proceedings, Shawn Hamed's wife claimed this was a gift and that she should keep the house purchased with the funds....**which she did**. In other words, the daughter has already recovered the gift in another proceeding. This is Yusuf's effort to get the funds twice by confusing the issue – exactly as he did with the “water” claim.

In any case, before depositions can be taken and summary judgment motions written, Hamed must have a basic explanation of Yusuf's position on this, and all the related documents. It must be a simple and direct statement. This is not a huge demand—as there are few documents involved: the withdrawals totaling \$3 million, the gift letters and any checks, emails or correspondence.

Rather than bore the Master with a long-winded explanation as to the tortuous discovery process that has taken place on this simple matter, Hamed will simply ask that the documents and a step-by-step written explanation of “who gave what to whom and when” be given. If Yusuf denies these matters in a flurry of generalized statements or refuses to provide such a step-by-step explanation, Hamed will go through the longer explanation in reply – and not object to Yusuf filing a Sur-Reply. Moreover, **if Yusuf fails to provide something now and it suddenly appears at deposition or in a motion with explanations, Hamed will ask the Master to exclude the “new” materials.**

## V. Conclusion

The order should explicitly and specifically be directed at Mr. Yusuf – not his counsel. Hamed asks that it note that a non-response will be treated as contempt. 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). Negotiation has not worked. Drafting of stipulations with counsel has not worked. The records is clear that Hamed has patiently and repeatedly been trying in good faith to get responses to this discovery since *May 15, 2018*, with no success once the matter goes back to Mr. Yusuf for his cooperation. Accordingly, Hamed respectfully requests that the Master compel Yusuf, personally to answer Interrogatory 38 and RFPDs 4 and 40 – and to verify those responses as having come from him, not counsel.

**Dated:** August 8, 2021



**Carl J. Hartmann III, Esq.**

*Co-Counsel for Plaintiff*

2940 Brookwind Drive

Holland, MI 49424

Email: [carl@carlhartmann.com](mailto: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](mailto:holtvi@aol.com)

Tele: (340) 773-8709

Fax: (340) 773-8670

### CERTIFICATE OF SERVICE

I hereby certify that on this 8<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**  
**Stefan Herpel**  
Law House, 10000 Frederiksberg Gade  
P.O. Box 756  
St. Thomas, VI 00802  
Cperrell@dnfvi.com  
Sherpel@dnfvi.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).



### 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 8, 2021



# **Exhibit 1**



**CARL J. HARTMANN III**  
ATTORNEY-AT-LAW  
5000 ESTATE COAKLEY BAY, L-6  
CHRISTIANSTED, VI 00820

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.

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.

Please note that this interrogatory is not limited to transactions recorded in the Sage 50 accounting software. Please identify all assets or amounts in excess of \$10,000 that were transferred to or from Fathi Yusuf or United Corporation from September 17, 2006 to date [May 15, 2018] and the value of the assets upon transfer.

**Interrogatory 41 of 50**

Like Yusuf ROG 19.

Identify all facts and circumstances relating to Yusuf Claims No. 2-5 and 10-12 and identify, all documents relating to each claim.

**Y-02** Unpaid rent for Plaza Extra -East Bays 5 & 8

**Y-03** 9% interest on rent claims for Bay 1

**Y-04** 9% interest on rent claims for Bays 5 & 8

**Y-05** Reimburse United for Gross Receipt Taxes

\*\*\*\*

**Y-10** Past Partnership Withdrawals - Receipts

**Y-11** Lifestyle Analysis

**Y-12** Foreign Accts and Jordanian Properties

**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.

Without waiving any objections, Defendants further respond as follows:

**Y-02** Unpaid rent for Plaza Extra-East Bays 5 & 8: See Response to Interrogatory #29.

**Y-03** 9% interest on rent claims for Bay 1: See Yusuf Claims and Exhibits reflecting interest calculations.

**Y-04** 9% interest on rent claims for Bays 5 & 8: See Yusuf Claims and Exhibits reflecting interest calculations.

**Y-05** Reimburse United for Gross Receipt Taxes: See Response to Interrogatory # 16

**Y-10** Past Partnership Withdrawals - Receipts: See Response to Interrogatory # 37.

**Y-11** Lifestyle Analysis: See BDO Report, Tables and Supporting Documentation

**Y-12** Foreign Accts and Jordanian Properties See Response to Interrogatory # 30.

to P.O. Box 503358, St. Thomas, VI 00805-3358, they would be located at the Plaza Extra Store in Tutu Park, St. Thomas as this is the mailing address for that store, which is now under the control of the Hameds.

As to any information regarding loans from Hamden Diamond, Yusuf produces FY014911 (a document seized in the FBI raid and thus, equally accessible to the Hameds), which reflects a payment of \$1.4 million to Hamdan Diamond in April 10, 2001 for which a note "Partial Payment" is listed on the United Corporation check signed by Waleed Hamed.

As to ML140-21722, this account was one of the accounts that was frozen as part of the criminal case from 2003 thru 2015. Search efforts are continuing as to documents responsive to this request and supplementation will be made on or before Friday, April 20, 2018. See, *Yusuf's Supplemental Response to Hamed's Request for Production of Documents No. 2 as to H-33 Merrill Accounts*, April 17, 2018, pp. 2-3.

**Deficiency for RFPDs 2 of 50:** Please produce any documents responsive to this request or confirm that there are no documents in your possession.

**Request for the Production of Documents 4 of 50:**

RFPD 4 of 50 relates to Claim H-151 (previously identified as 3004a) – described in the claims list as “Checks written to Fathi Yusuf for personal use.”

For all of the Partnership bank accounts, please provide all bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as the cancelled checks, from 9/17/2006 to present.

**Response:**

Yusuf objects to this Request for Production as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed John Gaffney and maintain that these items were not included in the original list of Gaffney. Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan. According to the request, it appears that John Gaffney does not have all of the cancelled checks as to the various bank accounts.

Further responding, Yusuf directs Hamed's attention to Table 35(b) of the BDO Report which chronicles those checks written to Yusuf from 2001 to 2012. The supporting documentation for the allocation was also previously provided to Hamed with the original submission of the Yusuf Accounting Claims on September 30, 2016. To the extent that there are

additional checks to which Hamed seeks clarification not otherwise listed in Table 35(b), please identify the same and this response will be supplemented. See, *Yusuf's Response to Hamed's Request for Production of Documents Pursuant to the Claims Discovery Plan of 1/29/2018, Nos. 1-5 of 50 - As To: H-21 - Payment of NejeH Yusuf Credit Card Bill, H-33 Merrill Accounts Financed with Partnership Funds, H-149, Seaside Market & Deli, LLC.*, March 1, 2018, pp. 6-7.

**Deficiency for RFPDs 4 of 50:** The response to this RFPDs is incomplete. Please provide all cancelled checks, general ledger entries and bank statements showing checks written to the United Corporation from the Partnership bank accounts. Understanding that John Gaffney does not have all bank records, Hamed is requesting a response from the banking records John Gaffney, the Partnership or Yusuf has. The time period for this request is from September 17, 2006 through the present, May 15, 2018-the date of your responses to these requests.

Additionally, please provide all bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as the cancelled checks, from September 17, 2006 through the present, May 15, 2018-the date of your responses to these requests. Table 35(b) stops at the year 2012.

**Request for the Production of Documents 5 of 50:**

RFPD 5 of 50 relates to Claim H-162 (previously identified as Exhibit A-L) – described in the claims list as “Claims based on monitoring reports/accounting 2007-2012).”

Please provide all documents to and/or from the United States or the United States Virgin Islands government or monitors from 9/17/2006 to present related to monitoring or monitoring reports prepared in connection with the *US v United et. al*, criminal case, 2005-15 (D.V.I.).

**Response:**

Yusuf shows that he is unaware of all of the information provided to the monitors over the years as it was provided by various individuals as requested. To the extent that reports are available Yusuf shows that they have previously been provided to Hamed but attaches them again to this production. Further, Yusuf shows that as members of the Hamed family were defendants in the criminal action, they or their criminal counsel should have access to such information and that the burden of obtaining such information is equal as if provided by Yusuf. Moreover, Waleed Hamed was operating and in charge of the Plaza Extra East store until the split, and, therefore, would have knowledge or information responsive this request. See, *Yusuf's Response to Hamed's Request for Production of Documents Pursuant to the Claims Discovery Plan of 1/29/2018, Nos. 1-5 of 50 - As To: H-21 - Payment of NejeH Yusuf Credit Card Bill, H-33*

All of the underlying documents supporting the allocations set forth in Exhibits 1-5 were produced via a flash-drive labeled as Exhibit J-1 and delivered to Counsel for Hamed on October 4, 2016, as part of the submission Yusuf's original Accounting Claims and Proposed Distribution.

**Deficiency for RFPDs 33 of 50:** We've examined Exhibit J-1 and there is no such allocation there. If this allocation is not supplied, Yusuf's claim must be dropped.

**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:**

See Exhibit D - Declaration of Fathi Yusuf, attached to Yusuf's original Accounting Claims and Proposed Distribution previously served upon counsel for Hamed on September 30, 2016.

**Deficiency for RFPDs 34 of 50:** Exhibit D is the calculation of interest on Bay 1 rent. If you are referring to Fathi Yusuf's August 12, 2014 declaration, primarily paragraphs 21-25, please so state and confirm that no other documents are applicable to claim Y-02.

**RFPD 40 of 50:**

Please produce any and 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.

**Response:**

Yusuf objects as to this Request on the grounds that "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 40 of 50:** This is post 2006 claim that Hamed is making for funds Yusuf does not dispute were withdrawn by Yusuf from the Partnership. What the funds were used for does not negate the fact that this was a unilateral withdrawal from the Partnership which Hamed should be able to trace. Please produce the documents or state that there are no documents.

**RFPD 41 of 50:**

Please produce any and all documents identified in or relating to your responses to Hamed's Interrogatories 42-48 of 50.

**Response:**

**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,

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

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

# **Exhibit 2**



**CARL J. HARTMANN III**  
ATTORNEY-AT-LAW  
5000 ESTATE COAKLEY BAY, L-6  
CHRISTIANSTED, VI 00820

TELEPHONE  
(340) 642-4422

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.

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.

Interrogatory 48 of 50 – Relates to the Joint Defense Agreement 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 49 of 50 – Relates to claim Y-10, Partnership Withdrawals

Attorney Perrell agreed to provide additional information regarding the unexplained withdrawals attributed to Waleed Hamed by December 15, 2018 (see interrogatory 41 and RFPDs 23 and 24). Further, Attorney Perrell agreed this interrogatory would be covered by 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.

### **Request for Production of Documents**

RFPDs 2 of 50 – Relates to Merrill Lynch accounts that still existed in 2012 (ML-140-21722, ML-140-07884 and ML-140-07951)

Attorney Perrell agreed to respond to this document request by December 15, 2018.

RFPDs 4 of 50 – Relates to Checks written to Fathi Yusuf for personal use

This request will be withdrawn when the stipulation in Interrogatory 37 is signed by both parties.

RFPDs 5 of 50 – Relates to the monitoring and accounting reports generated from 2006 through 2012.

The parties agree that this RFPDs will be covered by a joint letter sent to Attorney Randy Andreozzi requesting these reports.

RFPDs 6 of 50 – Relates to United's tenant bank account

Attorney Perrell has agreed to find out whether her client agrees to respond to this request 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 request will be ready for Hamed's Motion to Compel.

RFPDs 7 of 50 – Relates to the Partnership's ledgers

Attorney Perrell has agreed to respond to RFPD 7 by December 15, 2018.

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 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.

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,

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

Carl J. Hartmann

cc: Greg Hodges, Joel Holt and Kim Japinga

# **Exhibit 3**

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

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

*Plaintiff/Counterclaim 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.*

**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?



**Dated:** March 24, 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 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**  
**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 4**

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

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

Plaintiff/Counterclaim Defendant, )

v. )

FATHI YUSUF and UNITED CORPORATION, )

Defendants/Counterclaimants, )

v. )

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

Additional Counterclaim Defendants. )

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

Plaintiff, )

v. )

UNITED CORPORATION, )

Defendant. )

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

Plaintiff, )

v. )

FATHI YUSUF, )

Defendant. )

FATHI YUSUF and )  
UNITED CORPORATION, )

Plaintiffs, )

v. )

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

Defendants. )

CIVIL NO. SX-12-CV-370

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

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES AND  
DECLARATORY JUDGMENT

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT AND  
CONVERSION

CIVIL NO. ST-17-CV-384

ACTION TO SET ASIDE  
FRAUDULENT TRANSFERS

DUDLEY, TOPPER  
AND FEUERZEIG, LLP

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

**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

**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:**

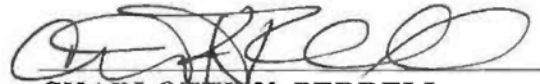
Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting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

Defendants further object 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. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years

**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

St. Thomas, VI 00804-0756

Telephone: (340) 715-4422

Facsimile: (340) 715-4400

E-Mail: [cperrell@dtflaw.com](mailto:cperrell@dtflaw.com)

*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:

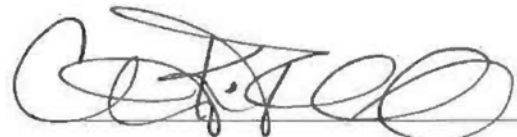
Joel H. Holt, Esq.  
**LAW OFFICES OF JOEL H. HOLT**  
2132 Company, V.I. 00820  
Email: [joelholtpc@gmail.com](mailto:joelholtpc@gmail.com)

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  
E-Mail: [mark@markeckard.com](mailto:mark@markeckard.com)

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

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



# **Exhibit 5**

**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.*

**HAMED'S REQUESTS FOR THE PRODUCTION OF DOCUMENTS PURSUANT  
TO THE CLAIMS DISCOVERY PLAN OF 1/29/2018, NOS. 1-5 OF 50 -- AS TO:**



**Request for the Production of Documents 3 of 50:**

RFPD 3 of 50 relates to Claim H-149 (previously identified as 246, 255, 260, 318) – described in the claims list as “Seaside Market & Deli LLC.”

Please provide all documents related to transactions between the Partnership, United or the Plaza Extra Stores and the Seaside Market & Deli. These documents should include, but not be limited to, invoices, description of inventory sold to Seaside, pricing of inventory sold to Seaside, shipping invoices for the goods shipped to Seaside, and general ledger entries documenting the Plaza Extra, United and Seaside transactions. These documents should be provided up to the date of the transfer of the East and West stores on March 9, 2015.

**Response:**

**Request for the Production of Documents 4 of 50:**

RFPD 4 of 50 relates to Claim H-151 (previously identified as 3004a) – described in the claims list as “Checks written to Fathi Yusuf for personal use.”

For all of the Partnership bank accounts, please provide all bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as the cancelled checks, from 9/17/2006 to present.

**Response:**

**Request for the Production of Documents 5 of 50:**

RFPD 5 of 50 relates to Claim H-162 (previously identified as Exhibit A-L) – described in the claims list as “Claims based on monitoring reports/accounting 2007-2012).”

Please provide all documents to and/or from the United States or the United States Virgin Islands government or monitors from 9/17/2006 to present related to monitoring or monitoring reports prepared in connection with the *US v United et. al*, criminal case, 2005-15 (D.V.I.).

**Response:**

**Dated:** January 30, 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 30th day of January, 2018, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

**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



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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).



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# **Exhibit 6**



**H-151 – CHECKS WRITTEN TO FATHI YUSUF FOR PERSONAL USE AND  
H-162 – CLAIMS BASED ON MONITORING REPORTS/ACCOUNTING**

Yusuf through his attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provides its Responses to Hamed's Request for Production of Documents Pursuant to the Claims Discovery Plan of 1/29/2018, Nos. 1-5 of 50 -- As To: H-21 – Payment of NejeH Yusuf Credit Card Bill, H-33 – Merrell Accounts Financed with Partnership Funds, H-149 – Seaside Market & Deli, LLC., H-151 – Checks Written to Fathi Yusuf for Personal Use and H-162 – Claims Based on Monitoring Reports/Accounting.

**GENERAL OBJECTIONS**

Yusuf makes 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 Yusuf's objections as set forth below:

(1) Yusuf objects 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) Yusuf objects 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) Yusuf objects to these Requests for Production to the extent they seek information which is protected by the attorney-client privilege or work-product doctrine, including

**Request for the Production of Documents 3 of 50:**

RFPD 3 of 50 relates to Claim H-149 (previously identified as 246, 255, 260, 318) described in the claims list as "Seaside Market & Deli LLC."

Please provide all documents related to transactions between the Partnership, United or the Plaza Extra Stores and the Seaside Market & Deli. These documents should include, but not be limited to, invoices, description of inventory sold to Seaside, pricing of inventory sold to Seaside, shipping invoices for the goods shipped to Seaside, and general ledger entries documenting the Plaza Extra, United and Seaside transactions. These documents should be provided up to the date of the transfer of the East and West stores on March 9, 2015.

**Response:**

Yusuf objects to this Request for Production as it is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintain that these items were not included in the original list of Gaffney Items H-41 through H-141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan. Further responding, Yusuf has no knowledge as to the particular payments and transactions between the Partnership and Seaside Market and, therefore, is unable to provide any information responsive to this Request.

**Request for the Production of Documents 4 of 50:**

RFPD 4 of 50 relates to Claim H-151 (previously identified as 3004a) - described in the claims list as "Checks written to Fathi Yusuf for personal use."

DUDLEY, TOPPER  
AND FEUERZEIG, LLP

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

HAMD657459

For all of the Partnership bank accounts, please provide all bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as the cancelled checks, from 9/17/2006 to present.

**Response:**

Yusuf objects to this Request for Production as it is unclear as to checks written to United Corporation. Further responding, Yusuf shows that this request is properly directed to John Gaffney. Yusuf shows that this Request along with other discovery recently submitted should be directed to John Gaffney and maintain that these items were not included in the original list of Gaffney Items 41 through 141 in what appears to be an attempt to circumvent the agreement for John Gaffney to respond to discovery and that payment for his time to be at the expense of the Hamed pursuant to the Joint Discovery and Scheduling Plan. According to the request, it appears that John Gaffney has already advised that he does not have all of the cancelled checks as to the various bank accounts.

Further responding, Yusuf directs Hamed's attention to Table 35(b) of the BDO Report which chronicles those checks written to Yusuf from 2001 to 2012. The supporting documentation for the allocation was also previously provided to Hamed with the original submission of the Yusuf Accounting Claims on September 30, 2016. To the extent that there are additional checks to which Hamed seeks clarification not otherwise listed in Table 35(b), please identify same and this response will be supplemented.

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

HAMD657460



**Request for the Production of Documents 5 of 50:**

RFPD 5 of 50 relates to Claim H-162 (previously identified as Exhibit A-L) – described in the claims list as “Claims based on monitoring reports/accounting 2007-2012.”

Please provide all documents to and/or from the United States or the United States Virgin Islands government or monitors from 9/17/2006 to present related to monitoring or monitoring reports prepared in connection with the *US v United et al.* criminal case 2005-15- (D.V.I.).

**Response:**

Yusuf shows that he is unaware of all of the information provided to the monitors over the years as it was provided by various individuals as requested. To the extent that reports are available Yusuf shows that they have previously been provided to Hamed but attaches them again to this production. Further, Yusuf shows that as members of the Hamed family were defendants in the criminal action, they or their criminal counsel should have access to such information and that the burden of obtaining such information is equal as if provided by Yusuf. Moreover, Waleed Hamed was operating and in charge of the Plaza Extra East store until the split and, therefore, would have knowledge or information responsive to this request.

**DATED:** March 1, 2018

By:

**DUDLEY, TOPPER AND FEUERZEIG, LLP**

  
**CHARLOTTE K. PÉRRELL**

(V.I. Bar #1281)

Law House

1000 Frederiksberg Gade - P.O. Box 756

St. Thomas, VI 00804-0756

Telephone: (340) 715-4422

Facsimile: (340) 715-4400

E-Mail: [cperrell@dtflaw.com](mailto:cperrell@dtflaw.com)

*Attorneys for Fathi Yusuf and United  
Corporation*

**DUDLEY, TOPPER  
AND FEUERZEIG, LLP**

1000 Frederiksberg Gade

P.O. Box 756

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

(340) 774-4422

HAMD657461

**CERTIFICATE OF SERVICE**

It is hereby certified that on this 1<sup>st</sup> day of March, 2018, I caused the foregoing a true and exact copy of the foregoing **YUSUF'S RESPONSE TO HAMED'S REQUEST FOR PRODUCTION OF DOCUMENTS** 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  
E-Mail: [mark@markeckard.com](mailto:mark@markeckard.com)

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

The Honorable Edgar D. Ross  
Email: [degarrossjudge@hotmail.com](mailto:degarrossjudge@hotmail.com)

R:\DOCS\6254\1\PLDG\17Q1972.DOCX

# **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.*

---

**HAMED'S SIXTH REQUEST  
FOR THE PRODUCTION OF DOCUMENTS 37-47 OF 50  
TO YUSUF PURSUANT TO THE CLAIMS DISCOVERY PLAN OF 1/29/2018**

**RFPD 40 of 50:**

Please produce any and 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.

**Response:**

**RFPD 41 of 50:**

Please produce any and all documents identified in or relating to your responses to Hamed's Interrogatories 42-48 of 50.

**Response:**

**RFPD 42 of 50:**

Please produce any and all documents identified in or relating to your responses to Hamed's RTAs 46-48 of 50.

**Response:**

**Dated:** March 31, 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

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 31st 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

**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

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 SIXTH REQUEST FOR PRODUCTION OF DOCUMENTS  
NOS. 37-47 OF 50 PURSUANT TO THE CLAIMS DISCOVERY PLAN OF 1/29/2018**

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 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,

**RFPD 39 of 50:**

Please produce any and all documents relating to gifts given by the Plaza Extra Corporation to Mafi Hamed and Shawn Hamed and/or their spouses at the time of their weddings to Yusuf daughters.

**Response:** Other than the letters and checks reflecting these amounts as noted in the BDO Report and previously produced, Yusuf is unaware of any other documents responsive to this request.

**RFPD 40 of 50:**

Please produce any and 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.

**Response:** Yusuf objects as to this Request on the grounds that “the proposed discovery is not relevant to any party’s claim or defense.” V.I. R. Civ. P. 26(b)(2)(C)(iii).

**RFPD 41 of 50:**

Please produce any and all documents identified in or relating to your responses to Hamed’s Interrogatories 42-48 of 50.

**Response:** To the extent not otherwise objectionable as set forth in Defendants objections and responses to Interrogatories 42-28, the documents responsive to this request and not previously provided will be produced. Further responding, Defendants submit that the information sought

receipts of the grocery stores. That plan was primarily conceived and executed by Mr. Yusuf and Waleed Hamed, Mr. Yusuf's then "right hand man."

**RFPD 46 of 50:**

Please produce any and all documents which prove or disprove that Fathi Yusuf planned, directed and controlled the criminal activities to which the guilty plea was made and conviction entered.

**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 to the extent it makes an incorrect assumption as it is denied that Fathi Yusuf solely created the plan to underreport the gross receipts of the grocery stores. That plan was primarily conceived and executed by Mr. Yusuf and Waleed Hamed, Mr. Yusuf's then "right hand man."

**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

St. Thomas, VI 00804-0756

Telephone: (340) 715-4422

Facsimile: (340) 715-4400

E-Mail: [cperrell@dtflaw.com](mailto:cperrell@dtflaw.com)

*Attorneys for Fathi Yusuf and United  
Corporation*

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

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

**CERTIFICATE OF SERVICE**

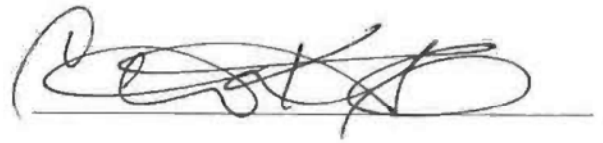
It is hereby certified that on this 5<sup>th</sup> day of May, 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S SIXTH REQUESTS FOR THE PRODUCTION OF DOCUMENTS NOS. 37-47 OF 50 PURSUANT TO CLAIMS DISCOVERY PLAN OF 1/29/2018** to be served upon the following via 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  
E-Mail: [mark@markeckard.com](mailto:mark@markeckard.com)

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



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# **Exhibit 9**

Included herein are 2012, 2013, 2014 and 2015 general ledger details for legal expense by store. Please compare the 2013 and subsequent general ledgers with the 2012 and note the improvement resulting from the 2013 conversion. I can supply some copies of cancelled checks for the period that includes January 2013 through Jul 2013 and only for East and West. STT never received cancelled checks due to Scotia's refusal to do so. You already have all of these cancelled Banco checks for that period in your possession. Checks that fall outside these dates cannot be supplied for East and West due to Banco's refusal to supply them with the monthly bank statements.

**List of documents provided:**

## Item No. 3007

**Description:** There is an imbalance in credit card points between Yusuf Yusuf and Mafi Hamed, NejeH Yusuf and Willie Hamed and Mike Yusuf and Shawn Hamed.

**General Ledger-Store, Date, Entry No. & Description [as an example]** (if applicable): East, 4/30/13, 29900, V.I.B.I.R - GROSS RECEIPT 3/30/13 PAID W/YUSUF 6073/3791 MIKE C/C 3940 NEJEH C/C5222, \$158,381.20

**Question/Request for Info:** Are the credit card points reflected in the general ledger and if so, please provide that information. If the credit card points are not reflected on the general ledger, for the years 2012-2015, would you please account for the amounts paid to each of the following individual's credit cards – Fathi Yusuf, Yusuf Yusuf, Mike Yusuf, NejeH Yusuf, Wally Hamed, Willie Hamed, Mafi Hamed and Shawn Hamed.

Please provide the canceled checks showing payment of Fathi Yusuf, Yusuf Yusuf, Mike Yusuf, NejeH Yusuf, Wally Hamed, Willie Hamed, Mafi Hamed and Shawn Hamed credit cards.

**Response:**

See objection to Item No. 3002. Without waiving that objection, credit card points are not reflected in the general ledger. You already know that because you were provided complete backups of Plaza accounting systems for all years and you loaded them into Sage software on your computers. You were given all rights to run not only complete general ledgers, but you also have the ability to run vendor reports showing all payments with credit cards.

This request to identify credit card points creates significant new work such that is its completely impractical. Regarding cancelled checks, copies of all cancelled checks were already provided for all accounts for all years in conjunction with the provision of all bank statements to the extent the banks provided them. We had several discussions about what our banks provided versus what they didn't provide and what information was withheld by Willie Hamed after the St. Thomas store auction.

More importantly, it is also irrelevant to request cancelled checks since ALL checks are dual signed by one member of the Yusuf family and one member of the Hamed family. If you can produce an instance where this isn't so, your request for cancelled checks might be warranted. But another point bears repeating. You already know from previous conversations that we don't have many cancelled checks as the banks refused to provide them.

ScotiaBank never even provided monthly bank statements for the Plaza St. Thomas operating account ending in 2010. While they provided monthly bank statements for the payroll and telecheck accounts, repeated requests for monthly statements for the operating account fell on deaf ears. Margie Soeffing first informed me of this issue in November 2012. Disbelieving her, I made repeated phone calls and visits to their Red Hook branch in early 2013 and only succeeded in getting their agreement to provide daily statements on a "Hold for Pickup" basis. Making matters worse, I could never rely on whether all days during a month were provided. When I picked up daily statements, there were always days missing which always took several more weeks to obtain. The process was so tedious and worthless that in frustration, I resorted to using online screen prints of activity to reconcile cash just as Margie had done before me. You were told this several times.

Humphrey Caswell was hired in March 2013 to first perform payroll processing. After training another new hire to perform payroll duties, he was assigned to improve the accounting and controls over in-store charges (i.e. Accounts Receivable). Humphrey had an accounting degree and demonstrated significant accounting skills from the start. As a result, he was promoted to Assistant Controller. Disbelieving my failure to get monthly statements from Scotia, he too attempted to get them during the last six months of 2013 and finally resigned himself to using online screen prints in lieu of monthly or daily bank statements. Despite not having monthly statements, Humphrey maintained excellent records of daily and monthly work in St. Thomas. Following the store auction on April 30, 2015, I attempted to obtain his monthly files from January 2013 through April 2015 and Willie Hamed refused to allow me or even Humphrey to enter the store to obtain those records which included cash reconciliations and the screen prints used to reconcile cash monthly.

Banco Popular provided complete monthly bank statements with enclosures through July 2013. Then suddenly and without warning they stopped including copies of enclosures for the two operating accounts (Plaza East a/c ending in 8830 and Plaza Wes a/c ending in 6269). When we asked to restore the provision of cancelled checks, they pretended having no knowledge and even challenged me that I ever received cancelled checks. They remained very evasive and would never give a straight answer about why they stopped providing copies of cancelled checks.

Although neither ScotiaBank nor Banco Popular would ever clearly state why they wouldn't provide complete statements, it was clear neither wanted to be subjected to unnecessary liability. It was my belief that they felt the less we had the less they could be held responsible for. Of course, they were compelled to scrutinize so many checks to ensure two signatures (one from each family) that the service we received was severely lacking. There were instances when 50 checks were returned for no reason at all. These instances created tremendous accounting challenges and countless bank charges, too numerous to attempt recovery from due to lack of accounting resources.

Neither ScotiaBank nor Banco would open any new accounts for United Corporation. Furthermore, we suffered more than one instance where we were asked to close our accounts and take our business elsewhere. And indeed our accounts were involuntarily closed by ScotiaBank at the end of 2015. Fortunately, Banco Popular remains as trying as it was to open any new accounts.

Included herein are copies of vendor reports for credit cards used at Plaza East. These reports reflect all activity since January 1, 2013 (the accounting conversion date). Prior to 2013, it is impractical if not impossible to provide all credit card activity as vendor accounts for credit cards never reflected activity properly. Sample general ledgers for the months of December 2012 and January 2013 are provided to demonstrate the deficiencies prior to my employment. Note that in 2012 all freight activity was rolled into single journal entries for St. Croix and in one account for both stores. Note also that in St. Thomas most of the freight was paid using Banco Popular credit cards. However, these payments are not associated with a vendor account for the corresponding Banco Popular credit cards. Instead, the AP clerk would simply change the name on the true vendor's account (probably Tropical Freight) when he or she was making the payment. So while a vendor account might have first been created at Tropical Freight, there were countless payments to the various credit cards actually used to pay Tropical Freight. Add to this the