

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

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

**YUSUF'S OPPOSITION TO HAMED MOTION TO COMPEL RE CLAIM Y-11 –
LIFESTYLE ANALYSIS**

Hamed's Current Motion to Compel Relating to Yusuf Claim Y-11 – Lifestyle Analysis is premised upon Yusuf's alleged failure to fully respond to: Hamed Interrogatory No.s 33, 35 and 37, and Requests to Produce 26, 30 and 31.

As more fully described below:

1) Interrogatory No. 33 and Request to Produce No.s 30 and 31 are already the subject of a previous Order denying in part an earlier motion to compel and limiting the scope of the inquiry, for which Supplemental Responses in accordance with such Order have already been served – hence, the instant Motion to Compel is moot as the issues have already been decided.

2) Likewise, as to Interrogatory No. 35, the instant Motion to Compel should be denied, the scope of inquiry should be limited consistent with the Master's earlier Order regarding scope and because the prior served response is sufficient, no further order compelling is needed.

3) As to Interrogatory No. 37, the prior served response is sufficient such that no further order compelling is needed.

4) As to Request to Produce No. 26, the instant Motion to Compel should be denied and limited consistent with the Master's earlier Order and because the prior served response is sufficient, no further order to compel is needed.

I. Interrogatory No. 33 and Request to Produce No.s 30 and 31 –

- **Have Already Been Ruled Upon and Limited the Scope of the Inquiry and,**
- **Supplemental Responses Consistent Therewith Have Already Been Served.**

The Master already has ruled specifically as to Interrogatory No. 33 and Request to Produce No.s 30 and 31 in his September 5, 2021 Order as they were already the subject of an earlier motion to compel. The earlier motion to compel was denied in part and the scope of the

inquiry was limited. Yusuf has already served his Supplemental Responses consistent therewith on October 22, 2021.

In the September 5, 2021 Order, the Master “den[ie]d Hamed’s Motion to Compel as to Interrogatory 33 as to non-parties,” denied “as to information sought regarding assets where the Partnership fund was not the source for the acquisition of such assets” and then limited the inquiry only to the parties to the case, “where the Partnership fund was the source of all or a partial funds for the acquisition of such assets” from September 17, 2006 forward. *See* September 5, 2021 Order, p. 20 and 28.

Likewise, as to Requests to Produce No.’s 30 and 31, the requests were denied as to non-parties and denied as to documents not pertaining to the Partnership fund. *Id.* at 29-30.

On October 22, 2022, Yusuf filed his Supplemental Responses in accordance with the September 5, 2021 Order and served same upon Hamed. *See* Yusuf’s Supplemental Discovery Responses to Hamed’s Discovery, October 22, 2022. Hence, there is no need to rule upon this interrogatory and requests again, as they are the subject of the earlier September 5, 2021 ruling and the instant Motion to Compel should be denied as moot.

II. Interrogatory 35 Should Be Limited Consistent with the Master’s September 5, 2021 Order and Responses Previously Served Are Sufficient, Hence, There is No Need to Further Compel

As to Interrogatory 35, Hamed seeks information as to all sources of income for Fathi Yusuf, Mike Yusuf, Nejeh Yusuf and Yusuf Yusuf. However, the Master has previously determined that discovery is to be limited to only the parties to the case. *See* September 5, 2021 Order, p. 20. Yusuf objected on the grounds that the interrogatory seeks personal financial information from non-parties. *See* Yusuf’s Objections and Responses dated May 15, 2018 – Exhibit 2 to Hamed’s Motion to Compel dated August 1, 2021. Hence, for the reasons

previously articulated by the Master in the September 5, 2021 Order, because Mike Yusuf, NejeH Yusuf and Yusuf Yusuf are not parties, discovery as to them should be denied.

Further, the Master also has limited discovery to information in which the Partnership fund was the source of the income for the acquisition of assets. *See* September 5, 2021 Order, p. 20 (“...the Master finds the information sought...regarding assets where the Partnership fund was not the source for the acquisition of such assets irrelevant.”). This interrogatory seeks information relating to income sources that are unrelated to the Partnership fund and thus, are also irrelevant. Yusuf objected on these grounds. *See* Yusuf’s Objections and Responses dated May 15, 2018 – Exhibit 2 to Hamed’s Motion to Compel dated August 1, 2021. Therefore, the Motion to Compel as to this Interrogatory also should be denied as to non-Partnership sources of income. All partnership distributions to Fathi Yusuf (*i.e.* income from the Partnership) have been identified and thus, there is no need to further compel any discovery as to this Interrogatory.

III. Interrogatory No. 37 - Fully Responded To, No Need to Compel

Interrogatory No. 37 provides: “Identify all distributions from the Partnership to Any member of the Yusuf family or United Corporation from September 17, 2006 to present.” Again, Interrogatory 37 should be limited to only the parties to the case. Further, Yusuf shows that he fully responded to same in his original response dated May 15, 2018, which provided, in part:

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

See Yusuf’s Objections and Responses dated May 15, 2018 – Exhibit 2 to Hamed’s Motion to Compel dated August 1, 2021. Contrary to Hamed’s assertions, these tables and the supporting

documentation, produced years ago is detailed and organized. To the extent that there are limited distributions after September 17, 2006, that is consistent as to all of the parties. Even the Hamed parties' distributions appear to decline during the timeframe. The reason is the fact that after the FBI raid in October of 2001, Federal Monitors were in place monitoring the financial operations of the Plaza Extra stores and any withdraw had to be approved by the monitors. Further, the Hamed and Yusuf family employees had increased their salaries during this time, which eliminated much of the need to remove funds from the store on a regular basis, as had been the practice previously when their salaries were extremely low. However, for purposes of this Motion, the responses originally provided are more than adequate and there is no need to compel additional responses.

IV. Request for Production No. 26 Should Be Limited Consistent with the Master's September 5, 2021 Order and Responses Previously Served Are Sufficient, Hence, There is No Need to Further Compel

As to Request to Produce No. 26, Hamed requests:

...please provide all bank account statements document deposits, all brokerage and retirement account documenting deposits and all credit car statements in the names of Fathi, Maher, Nejeh and Yusuf Yusuf (individually and any combination of joint accounts between them and all joint account with their spouses) from September 17, 2006 to September 30, 2016...

As set forth above, the Master has previously determined that discovery is to be limited to only the parties to the case. *See* September 5, 2021 Order, p. 20. Yusuf objected on the grounds that the request seeks personal financial information from non-parties. *See* Yusuf's Objections and Responses dated May 15, 2018 – Exhibit 8 to Hamed's Motion to Compel dated August 1, 2021. Hence, for the reasons previously articulated by the Master in the September 5, 2021 Order, because Mike Yusuf, Nejeh Yusuf and Yusuf Yusuf are not parties, discovery as to them should be denied.

Further, the Master also has limited discovery to information in which the Partnership fund was the source of the income for the acquisition of assets. *See* September 5, 2021 Order, p. 20 (“...the Master finds the information sought...regarding assets where the Partnership fund was not the source for the acquisition of such assets irrelevant.”). This request seeks information relating to income and asset sources that are unrelated to the Partnership fund and thus, are also irrelevant. Yusuf objected on these grounds. *See* Yusuf’s Objections and Responses dated May 15, 2018 – Exhibit 8 to Hamed’s Motion to Compel dated August 1, 2021. Therefore, the Motion to Compel as to this Interrogatory also should be denied as to non-Partnership sources of income. As to Fathi Yusuf, information responsive to this Request (*i.e.* income from the Partnership) have been identified in the Tables and supporting documentation to the preliminary BDO Report as part of the original response and thus, there is no need to further compel any discovery as to this Interrogatory.

For all of the foregoing reasons, the Motion to Compel should be denied.

Respectfully submitted,

DUDLEY NEWMAN FEUERZEIG, LLP

DATED: February 3, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of February, 2022, I caused the foregoing **Yusuf's Opposition to Hamed's Current Motion to Compel Relating to Yusuf Claim Y-11**, which complies with the page and word limitations of Rule 6-1(e), to be served upon the following via the Case Anywhere docketing system:

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