

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 (RENEWED) MOTION TO COMPEL RE REVISED CLAIM Y-10 –  
AS TO THE EFFECT OF THE LIMITATIONS ORDER --  
PER THE MASTER'S ORDER OF AUGUST 1, 2022**

## I. INTRODUCTION

In his Memorandum Opinion and Order dated August 1, 2022, the Special Master noted, at footnote 9, that Hamed contended--solely *in reply*--that the "BDO Summary of Withdrawals did not comply with the Limitations Order" and requested "that the Master order the BDO Summary of Withdrawals to be updated to comply with the Limitations Order and to reflect the actual amount being claimed for Y-10 so Hamed knows what he is defending." The Master denied that request without prejudice and allowed that "Hamed [could] raise this request in a separate motion."

9 As to Interrogatory 49 and RFPD 23, Hamed argued in the reply that the BDO Summary of Withdrawals did not comply with the Limitations Order and requested that the Master order the BDO Summary of Withdrawals to be updated to comply with the Limitations Order and to reflect the actual amount being claimed for Y-10 so Hamed knows what he is defending. (Opp., pp. 5, 7.) However, this request goes beyond the scope of Hamed's motion to compel discovery responses and is therefore, improperly included in his reply without giving Yusuf an opportunity to respond. As such, the Master will deny without prejudice Hamed's request, but **Hamed may raise this request in a separate motion.** (Emphasis added.)

Thus, this instant motion is just Hamed raising the issue separately—it simply formalizes that identical issue based on the identical argument already made previously--so that Yusuf might have an opportunity to oppose.

In his November 20, 2021 reply, Hamed stated:

Yusuf has not identified any transactions after the Limitation Order's cut-off date that Hamed would owe to the Partnership and certainly not the \$1,778,103 listed on BDO exhibit J-2. Yusuf states "The amount reflects certain receipts which accompanied the August 15, 2012 letter. **While these amounts were prior to the September 17, 2006 timeframe, they were kept in the chart as the withdrawal by Yusuf straddled the cut off date.**" (Exhibit 11 at p. 3)(Emphasis added.) As with the first question, Hamed requests that the Special Master order that exhibit J-2 (Exhibit 9 to the motion) be updated to comply with Judge Brady's Limitation Order and to reflect the actual amount being claimed for Y-10 so Hamed knows what he is defending—**which should**

**be nothing.** Fathi Yusuf withdrew the \$2,784,706 in 2012— **any justification for doing so based on Hamed Partnership withdrawals prior to the September 17, 2006 cut-off in the Limitation Order is moot.** As Judge Brady noted in his Limitation Order at pp. 23-24, the project of reconstructing Partnership accounts “becomes proportionately more difficult and less reliable the farther back in time one goes.” **Judge Brady ordered that “the accounting in this matter. . . shall be limited in scope to consider only those claimed credits and charges to partner accounts. . .based upon transactions that occurred on or after September 17, 2006.** Id. at 34. This is the action Hamed seeks. (Emphasis added.)

Judge Brady’s order about “the accounting in this matter” was as clear as can be. The Yusuf position that Fathi Yusuf was “straddling” something is, murky and factually incorrect. **BDO** simply REFUSED to revise the exhibit to accurately comply with that order – seemingly based on their expert’s previously discussed view (of record) that the Court’s order was wrong and *misleading*.

Finally, Hamed notes that the purported BDO “supplementation” recently filed by Yusuf on July 10, 2022 which was allegedly a update of BDO’s prior chart is not supported by either a declaration or anything else from BDO – indeed, it now appears to lack any reference to BDO. Hamed’s counsel acknowledges that lately the parties have been able to cooperate extensively and often informally with great success recently in this case— but, unable to obtain an informal resolution, feels this specific issue must be addressed by the Court in relation to this motion. Thus, if the Court grants the underlying motion, Hamed asks that **BDO**, as the testifying witness, provide declarative, signed support showing that it is the supplementing witness as the Master ordered.

**Dated:** August 5, 2022



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### CERTIFICATE OF SERVICE

I hereby certify that on this 5<sup>th</sup> day of August 2022, 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).

**Dated:** August 5, 2022

