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ADMITTED: USVI & DC

October 6, 2022

By Email Only

James Hymes, Esq.
Charlotte Perrell, Esq.
Stefan Herpel, Esq.
cc: Joel Holt, Esq.

RE: Discovery in 650 and 65/342 – Correction (2nd letter)

Counsel:

As I stated in my September 30th letter, “I erroneously referred to Island Appliances as “BFC Island Appliance” in several discovery requests.” I also asked for your consideration of a simple corrective measure:

I believe all responses from your clients to date have been about the correct entity—but need to confirm that you have (and will) treat the discovery requests as being about the identified “Island Appliances”—or, alternatively, will require me to seek relief from the Court to amend/correct.

Since then, I have heard from Jim, on October 3rd:

I will need to confer with my client to determine if a rule 37 conference is necessary as outlined in your September 30, 2022 email. I will get back to you as soon as practical.

Because of the short scheduling order and the upcoming deposition, I would appreciate receiving your responses so that I can approach the Court if you do not concur. To that end I provide the following information that I would put before the Court to assist in your reflection on the matter.

1. The error occurred because of the mix-up of the name from FBI/DOJ documents

At the early stage of the case, we referred to Island Appliances as it appeared in the central document we were using to follow this transaction: DOJ/FBI Draft Report dated December 28, 2004, where transfers to Sixteen Plus are described as follows:

SIXTEEN PLUS CORPORATION						
Bank of Nova Scotia						
Acct. 39411						
BANK DATE	DEPOSIT AMOUNT	DEPOSIT SOURCE	DEBIT AMOUNT	PAYEE	CHECK NUMBER	REMARKS
2/10/97	3,000.00	Currency				acct. opened - 60/\$50
2/19/97	2,000,000.00	Isam Yousef		<i>9-2 St. Martin</i>		wire trans // BFC Island Appliance acct
8/15/97			1,800,000.00	The Bank of Nova Scotia	101	Diamond Keturah Closing
8/27/97			7,500.00	M.P. Walker & Assoc.		land survey
9/4/97	18,000.00	Currency				180/\$100
9/4/97	2,000,000.00	Isam Yousef				wire trans // BFC Island Appliance acct
9/4/97			2,211,000.00	The Bank of Nova Scotia		Re payout on loan #58001377
	4,021,000.00		4,018,500.00			

The two transfers of \$2 million were shown as being to “BFC Island Appliances.” Of course counsel has by now determined that this refers to the “Island Appliances” account at BFC. While the error is entirely mine, I believe it was understandable to read this as the formal corporate name being “BFC Island Appliances”.

2. Isam clearly knew what entity was being referred to and identified himself as both the manager and a shareholder—even when identified as “BFC Island Appliances

In the existing discovery, Isam clearly understood the reference and answered, There are several examples of his responding as to the correct “Island Appliances”. In response to Interrogatory #2, he states:

Between 1986 and 2001 , I was the manager/shareholder of Island Appliances, Canigater Street, Dutch St. Maarten.

At interrogatory #3 he states:

I opened an account with the same bank for Island Appliances sometime near the end of 1986, or the beginning of 1987.

At interrogatory #4:

BFC Bank - I had a personal bank account. Island Appliances had a business account at the same bank. . . .

3. There are other discovery requests which should have elicited the documents and answers sought that did not have the naming error

Similarly, several of the discovery requests were such that the correct responses should have identified the correct “island Appliances” and provided the documents and answers sought. There are several examples of this. At page 8 of Isam’s responses to *Plaintiff Hisham Hamed's First Request For The Production Of Documents I* he is asked for:

Document Request No. 16:

Please provide documents reflecting the source of all funds used to make the wire transfer that was sent on or about September 4, 1997, on noted on page 6 of Exhibit 4 as well as Exhibit 6 that are attached.

This calls for all Island appliance account records that reflect the build-up and disbursement of the two \$2 million transfers to Sixteen Plus—the monthly statements of June 1996 through December 1997, the deposit slips sourcing the funds for that period and canceled checks. Isam states “none” but it is now unclear as to whether he does not have them, or limits his response to “BFC Island Appliances”—which would be an improper answer as the request is not so limited. Likewise, in interrogatories, he answered as to island Appliances, but did not provide the requisite detail:

Interrogatory 4:

Please list all financial accounts you have, that are fully or partially in your name¹ in any corporation, partnership or business association in which you own more than 5% interest, or as to which you are a beneficiary from January 1, 1995 through December 31, 2000, including but not be limited to all: bank accounts, stock brokerage accounts, negotiable instrument accounts, retirement accounts, trading or options accounts, and funds transfer accounts. For each, identify the name and address of the institution, the title holder(s), the beneficiaries or trust beneficiaries as well as the last four digits of the account number(s),

Response:

BFC Bank - I had a personal bank account. *Island Appliances had a business account at the same bank. . . . (Emphasis added.)*

This is simply a case of not fully responding once the Island Appliances account was correctly identified as being responsive. He is required to “ identify the name and address of the institution, the title holder(s), the beneficiaries or trust beneficiaries as well as the last four digits of the account number(s).

Conclusion

I would appreciate a response at your earliest convenience, and if the answer is in the negative, I will append it as an exhibit to explain to Judge Brady why an unnecessary motion is being forced given the facts above. In addition, if I could get a Rule 37 response from Isam as to whether or not he actually has the banking records for himself and Island appliances for that period, we could avoid at least part of the issue,

And I again note that I look forward to getting dates for all requested Rule 37 conferences as requested several times.

Thank you,

A handwritten signature in blue ink, reading "Carl J. Hartmann III". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Carl J. Hartmann III

Sincerely,

A handwritten signature in blue ink, reading "Carl J. Hartmann III". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Carl J. Hartmann III