

Transcript from Zoom Video - December 6, 2022

Other Speaker: John, can you hear us?

Other Speaker: Yeah.

Other Speaker: Can you unmute yourself, please?

Other Speaker: Yeah, gotta give me a second.

Other Speaker: Yeah.

Other Speaker: Okay.

Other Speaker: ****.

Other Speaker: Can you hear me now?

Other Speaker: Yes, John, so we're, we're going to be recording this, and so we're a little concerned that if we mute you here, we're actually muting all of us, um, and, for the recording purposes, so would it be possible for you to just simply sign out and then I will call you. We'll take a, a quick break and allow you to just log back in.

Other Speaker: Sure.

Other Speaker: Okay.

Other Speaker: So, **** I'm just gonna leave the meeting.

Other Speaker: That's correct. And then keep, keep the address, and then when it's time to call you, if you don't mind, we'll just take a 2-minute break, and we'll get you squared away. We'll go from there, is that okay?

Other Speaker: Very good.

Other Speaker: All right. Thanks, John.

Other Speaker: Okay, you're welcome.

Other Speaker: ****.

Other Speaker: ****.

Other Speaker: **** do you all wanna ****.

Other Speaker: ****.

Other Speaker: It doesn't matter.

Other Speaker: Huh?

Other Speaker: This is the witness affirmation.

Other Speaker: ****.

Other Speaker: Mm.

Other Speaker: Or we can just do it like a deposition and, and Joel **** –

Other Speaker: **** be the one doing it **** –

Other Speaker: Oh.

Other Speaker: – ****.

Other Speaker: ****.

Other Speaker: I think, they're going to call you as a witness. Joel's gonna ask you questions.

Other Speaker: ****.

Other Speaker: Okay.

Other Speaker: Do you wanna call the case.

Other Speaker: Sure.

Other Speaker: Yeah, go ahead.

Other Speaker: Hamed versus Yusuf, Case No. SX2012C **** 370 et al.

Other Speaker: ****.

Other Speaker: Uh, hearing for Hamed Claim No. **** H dash 37 on December 6, 2022, starting at 9:48.

Speaker 1: We, we call as our first witness, Fathi Yusuf.

Other Speaker: Will you please raise your right hand.

Fathi Yusuf: **** Fathi, F-A-T-H-I, ****. Sorry about that.

Other Speaker: Will you solemnly, sincerely and truthfully declare and affirm that the evidence you shall give shall be the truth, the whole truth and nothing but the truth?

Fathi Yusuf: I do.

Speaker 1: Good morning, can you state your name for the record, please?

Fathi Yusuf: Excuse me?

Speaker 1: Can you state your name for the record, please?

Fathi Yusuf: Okay, Fathi, F-A-T-H-I, the second name, last name, Y-U-S-U-F, Yusuf. ****.

Speaker 1: And what is your relationship with United Corporation?

Fathi Yusuf: Uh, **** owner and the secretary ****.

Speaker 1: Turning to Exhibit No. 1, which is a document, it's entitled **** United Corporation West Partnership **** remain partnership items ****.

Fathi Yusuf: Yeah, I don't know what to look for **** –

Speaker 1: **** have you seen that document before?

Fathi Yusuf: Uh, I saw it **** I think yesterday over ****.

Speaker 1: All right, and then if you look, uh, on the righthand column, you see the circled numbers one, two and three?

Fathi Yusuf: Yes.

Speaker 1: Let's go down to No. 3. And No. 3 is on a line that says STT 1,400, 14,000, excuse me, due from to Yusuf, \$186,819.00. Do you see that?

Fathi Yusuf: Yeah, this is the one, uh, 186, No. 3, yes.

Speaker 1: Okay, and do you know how that, uh, number was derived?

Fathi Yusuf: Exactly, I honestly don't know.

Speaker 1: Do you know whether or not it was a loan made by anyone to United Corporation?

Fathi Yusuf: No, maybe. I **** and **** money for me to give them part of my share, they have to contribute in cash, so I lose part of my share, it's considered I'm advancing the money to the company.

Speaker 1: When did you lose those shares from your, from your partners?

Fathi Yusuf: Before we opened.

Speaker 1: Would that be back in 1986?

Fathi Yusuf: Sometime.

Speaker 1: Okay. Uh, and other than that, you're not sure where this number comes from?

Fathi Yusuf: No, uh, I'm not the one to answer this, my accountant, but this a guess. This **** come from the people intent to **** with me. **** cash.

Speaker 1: All right. Um, showing the Exhibit No. 2, and this is a declaration that you signed, and I'm gonna hand it to you, and um, you can certainly look over on the page and see your signature, and I'm only showing this to you for just to re, refresh your recollection about some ****. This whole exhibit is not coming in.

Fathi Yusuf: ****.

Speaker 1: No, I'm gonna show it to you right now. So, so this is Exhibit, okay?

Fathi Yusuf: Okay.

Speaker 1: And over on Item No. 8, there's a statement about the FBI **** seized **** all of the financing and accounting records **** including these items **** October of 2001. **** just giving this to refresh your recollection on when the FBI raid was ****.

Fathi Yusuf: I'm not familiar with this. Maybe **** maybe not.

Speaker 1: Okay, but my question is to you, is do you recall that the FBI raided this store around October of 2001.

Fathi Yusuf: Yes.

Speaker 1: Okay, and when they did, they seized all the financial records of the three **** stores.

Fathi Yusuf: I think so, yes.

Speaker 1: Okay, so that's all I needed that. Next is, was really just to help you refresh your recollection which apparently you needed to be refreshed. Okay, showing you Exhibit No. 3. Showing Exhibit No. 3. This is a tax return for the year 2002 for United Corporation. Have you seen this document before?

Fathi Yusuf: **** receipt, my signatures.

Speaker 1: Just for the record, I don't believe that's your signature.

Fathi Yusuf: Would be my signature ****.

Speaker 1: Could it be your son's signature?

Fathi Yusuf: No, **** no one's right to sign my name.

Speaker 1: No, could it be your, your son, Mike Yusuf, signing his own name?

Fathi Yusuf: No, says, I don't know, I don't think so.

Speaker 1: Okay, so –

Fathi Yusuf: Maybe says Yusuf, Yusuf, I don't know.

Speaker 1: Okay, so you don't recognize **** –

Fathi Yusuf: Is this Yusuf, Yusuf or?

Other Speaker: He's, he's asking you.

Fathi Yusuf: Me?

Other Speaker: I can't answer the question –

Speaker 1: ****.

Fathi Yusuf: Well, it could be me, but it's not clear to me.

Speaker 1: Okay. All right, so I'm gonna walk you through it to see if I can clear it up. So, you see that this is a tax return for 2002 up at the top, United Corporation.

Fathi Yusuf: Yes.

Speaker 1: Okay, and you see it's stamped received and processing **** February 11th, 2013, by the IRB.

Fathi Yusuf: Okay.

Speaker 1: You see that stamp date on there.

Fathi Yusuf: I see it.

Speaker 1: All right, and then do you see a signed by someone whose name you can't recognize, and it's signed on February 2nd, 2013?

Fathi Yusuf: Where is that?

Speaker 1: Right after the signature, **** over to the right.

Fathi Yusuf: Where? It says where. That's **** told you what day?

Speaker 1: February, uh, 9th, 2013.

Fathi Yusuf: ****.

Speaker 1: And it said it's signed by the Treasurer, you see that?

Fathi Yusuf: Uh, president is not my handwriting.

Speaker 1: Okay, here we –

Fathi Yusuf: It's not my handwriting. The president is, should be my son.

Speaker 1: And that would be Mike Yusuf?

Fathi Yusuf: Yes.

Speaker 1: Okay. And then where it says pay **** preparer's use only. Preparer's signature on it. We see the last **** there. See these lines at the bottom where it says, where the preparer's signature is?

Fathi Yusuf: Yeah, **** signature. **** nobody ****, nobody signs it.

Speaker 1: So, nobody signed this as having prepared it, correct?

Fathi Yusuf: It doesn't look so.

Speaker 1: Okay. And then looking here on the next page.

Fathi Yusuf: Mm hmm.

Speaker 1: **** so looking at the signature where we can't quite tell who it is, underneath the signature, you see where it says see Statement A. You're required to **** –

Fathi Yusuf: I'm going to go back a little bit about president and my signature. My attorney said this is my signature.

Speaker 1: I, I'm not saying it is **** –

Fathi Yusuf: Okay. **** president, I have never recalled my son ever sign a, an income tax return.

Speaker 1: Okay.

Fathi Yusuf: And I, I honestly have a doubt of this is my signature, but whatever it is, the one answer all this question should John, the accountant. Accountant is the one who have ****. I have only a break **** certain things. This is, this is accountant. I'm not an accountant, I want you to know that.

Speaker 1: All right, you see underneath the signature where it says see Statement A? **** –

Fathi Yusuf: Statement A, where?

Speaker 1: And the signature's written over **** saying see statement.

Fathi Yusuf: Oh, next to the signature.

Speaker 1: Underneath it, the See Statement A, you see that?

Fathi Yusuf: `The, this A talking about?

Other Speaker: That's what he's talking about. This typed component. What does that say?

Fathi Yusuf: I don't know what that is, can't even, they say. I don't know. Uh, I don't know what it says.

Speaker 1: Uh, you can't read it?

Fathi Yusuf: I can't.

Speaker 1: Okay, and then look over on the next page where it says Statement A, Max will give two thousand to United Corporation. Do you see that?

Fathi Yusuf: Yes.

Speaker 1: **** you recognize ****?

Fathi Yusuf: I don't recognize any of this.

Speaker 1: Okay.

Fathi Yusuf: And this is, was, I don't know **** saw this. That's my accountant job.

Speaker 1: Okay. Um, so I wanna read this into the record unless you wanna read it, but I wanna just make sure I get this on the record. It says, pursuant to the plea agreement entered in the case of US et al versus Fathi Yusuf et al, Case No. 1050015 in District Court of the Virgin Islands as incorporated in the closing agreement received by the Virgin Islands Bureau of Internal Revenue Service, the taxpayer submits the attached information on Form 1120S. The enclosed Form 1120S was prepared to best of the taxpayer's ability, based on the available information. The United States Department of Justice in the context of the referenced litigation is in, is in possession of substantial original documentation related to original taxpayers that may be applicable to this return as it relates to priority or carryover, appreciation, amortization and other issues. The Department of Justice has assured the taxpayer ***** release the information in the future, uh, but that, but is unable to release the information in time for this submission. The taxpayer believes that to the best of its knowledge and information provided in this submission is complete under these circumstance, under this circumstance. Do you see that?

Fathi Yusuf: I seen that but I never read it before.

Speaker 1: You never read that *****?

Fathi Yusuf: I don't know.

Speaker 1: Okay, uh, do you believe an accountant put that in there?

Fathi Yusuf: I have an accountant in charge of the account.

Speaker 1: Okay and that would be who?

Fathi Yusuf: Who?

Speaker 1: Mr. Gaffney?

Fathi Yusuf: I, I don't know what about this, but believe it's him. Whoever was employed at that time that is his job and not mine.

Speaker 1: Okay, so let me ask you this question. This is signed on December, excuse me, on February 9, 2013. So back then this litigation had already begun and Judge Brady had already entered this, uh, preliminary injunction, so let, let me ask you this.

Fathi Yusuf: But if he was working it seemed, if he's was not working, he's the one to ask ***** when he'd been working that.

Speaker 1: Right.

Fathi Yusuf: When I recall when, when someone would hire Mr. Gaffney.

Speaker 1: Okay, would somebody from United have signed this without consulting Mr. Gaffney?

Fathi Yusuf: Excuse me?

Speaker 1: Would someone from United have signed this tax return without consulting Mr. Gaffney if Mr. Gaffney had stopped working?

Fathi Yusuf: I don't think anybody would sign ****.

Speaker 1: Okay, all right going over and then mention something. I'm going to flip over a few more pages. At the top come to mind in preparation Page 4. The direct code for.

Fathi Yusuf: **** for it.

Speaker 1: Okay, and if we go down Page 4 on the left-hand column, you'll see the lines go all the way down to Number 27, do you not have lines on the **** It says the loans from shareholders?

Fathi Yusuf: Loans from shareholders, that's what, sometimes that's what they want.

Speaker 1: Okay, and then it, this says it's the beginning of the tax year, this form says it's the beginning of tax year 1200, see that?

Fathi Yusuf: **** this is an accountant answer, not me.

Speaker 1: Okay, so at the beginning of, of 2002 this account, whoever prepared this accounting said that there were **** books to shareholders, all of the shareholders that put \$12,000, correct?

Fathi Yusuf: Where do they ****

Speaker 1: Right there, and going back to 2002, which, which shareholders would be, um, owed money and, and managed to make money to the company?

Fathi Yusuf: Shareholders is already used the family. No ending of a shareholder did United ever besides Yusuf family.

Speaker 1: Okay, and which of the Yousuf family member would have been on the trust at ****

Fathi Yusuf: I don't know.

Speaker 1: Okay. Could have been anyone.

Fathi Yusuf: No, not anyone because, uh –

Speaker 1: Any of the Yusuf family members who were adults.

Fathi Yusuf: I don't know.

Speaker 1: Okay, and then over on this line it goes and it says –

Fathi Yusuf: Like me, excuse me, I don't want to say. This is for the accountant to answer, not for me.

Speaker 1: I got it, then looking over, over at, on Line 19, at the year ending, you see the number that says year ending? It's over 105,000, do you see that number? On line 19 **** the year end is 700,000, do you see that?

Fathi Yusuf: I don't see that. I didn't see that, no, what number? You say 19.

Speaker 1: Yeah, 19 ****

Fathi Yusuf: I don't see nothing across 19 except on the left line, 12,1221, a process that **** applied 663.

Speaker 1: 705,000.

Fathi Yusuf: 705,663.

Speaker 1: So, it's almost \$700,000 larger than at the beginning we would show, correct?

Fathi Yusuf: Sir, please do not question me what is it my income tax ****. It's not **** by, by me. I have no respect of this. The one who keeps record is the accountant. The one to answer all these questions is the accountant.

Speaker 1: Okay, and so let me just ask a few questions about that. So, in the year 2002, okay, with this is the year of the report. Do you recall yourself ever loaning United Corporation an additional \$700,000.

Fathi Yusuf: I don't, the accountant is the one to answer that question sir.

Speaker 1: Okay.

Fathi Yusuf: You're asking me too many questions for **** I believe.

Speaker 1: Yourself, you don't recall yourself personally loaning \$700,000?

Fathi Yusuf: No.

Speaker 1: Let me finish the question, you don't recall yourself personally loaning \$700,000 to United Corporation during the year when the raid took place to FBI raids.

Fathi Yusuf: I don't recall anything. Anything, I have no record whatsoever. I, this is the second time that I read this. Read the **** on the question when it's come to money for the accountant.

Speaker 1: Okay.

Fathi Yusuf: I don't know want to be wrong or something. I don't know.

Speaker 1: All right, um, so I'm finished with that document. And I'm turning to Exhibit Number 4.

Fathi Yusuf: Mm hmm.

Speaker 1: Do you recognize this as your tax return from United Corporation 2003?

Fathi Yusuf: That's a game, is it's the same **** and I don't believe this is mine.

Speaker 1: Okay, do you recognize those?

Fathi Yusuf: It's listed as resident. I'm not the resident.

Speaker 1: You see up in the right-hand corner the year 2003?

Fathi Yusuf: Excuse me, I'm going back to that one. That one is **** after this, and this is been with the **** this is not my ****

Speaker 1: Hold on, I didn't suggest it was. So, looking at that and **** receive 2003 at the top.

Fathi Yusuf: 2003 on top, yes.

Speaker 1: Okay, and you see that this is filed with the **** on the same day, February 11, 2013?

Fathi Yusuf: Yes.

Speaker 1: And you see it signed by someone from United Corporation, it's president on February 9, 2013?

Fathi Yusuf: Yes, and I was not the president at that time?

Speaker 1: Okay, you see that there's no tax preparer assigned this. That those lines remain blank?

Fathi Yusuf: I don't know who prepared it.

Speaker 1: Okay, nobody signed this that prepared it.

Fathi Yusuf: I obviously don't know.

Speaker 1: Okay, now on the next page you see it has the same, uh, Statement A as the one before?

Fathi Yusuf: Hmm?

Speaker 1: On the next, on the next page you see it has the same follow-time line Statement A as the one before.

Fathi Yusuf: This?

Speaker 1: Yes.

Fathi Yusuf: Same situation.

Speaker 1: Okay.

Fathi Yusuf: And that.

Speaker 1: All right, and then if you'll go over to Page 4, about 4 pages earlier, seeing that type thing. The top right corner which is at the top of Page 4. See that?

Fathi Yusuf: The next thing that I don't want, sir, answer any of your questions.

Speaker 1: Yeah, I'm almost done with it.

Fathi Yusuf: No, no, no, **** I tell you over and over and over these questions should be directed to my accountant, not to me.

Speaker 1: Okay.

Fathi Yusuf: You telling me to read something is worse than a newspaper. I cannot do it, I don't have no record, uh, there's two **** I see I never dealt with my signature. I don't know what you're trying to throw on me.

Speaker 1: Okay, so looking down on this page on Line 19, loans from Cheryl and opening number is, see the 705? 705 ****

Fathi Yusuf: Yes, I seen that yes.

Speaker 1: Okay, that, so that's the **** when you go –

Fathi Yusuf: This is the accountant to answer. I can ****

Other Speaker: Mr. Yusuf, you need to answer his question.

Fathi Yusuf: I answered –

Other Speaker: If you don't now the answer, you just say you don't know the answer.

Speaker 1: Okay, now, and then this line ensures at the end of this year 2003 it shows that the balance is \$611,000, you see that?

Fathi Yusuf: Well, what it is, 611,000, yeah, I have **** with that.

Speaker 1: Okay, and in 2003 the, the, the stores were all being operated by the federal government, **** Marshall.

Fathi Yusuf: No, operated by us, but none of them ****

Speaker 1: Okay, and who is in charge of the money, is it, was federal government allow you to ****or put money ****?

Fathi Yusuf: I don't recall.

Speaker 1: Okay, do you recall yourself being paid back any funds in 2003 by United Corporation ****

Fathi Yusuf: I don't recall any payments.

Speaker 1: You don't know whether or not you received any money back then?

Fathi Yusuf: I don't have a record. My accountant would answer that question.

Speaker 1: Okay, would the federal government have allowed you to take money out of the Corporation to ****

Fathi Yusuf: I don't remember.

Speaker 1: Okay, um, all right, um, It might state things up **** 2010. Uh, **** stipulate that the tax returns for 2049, I'm going to ask the same questions. That they hired **** back in here at the **** stamp, is that the signature, note **** and we, uh, ****

Other Speaker: I only **** issue. All we can double check. I mean I'm assuming that these are the correct ones. I'm assuming that these were also part of the submissions. Where these permanent submissions in this ****?

Speaker 1: I don't know if it's actually ****.

Other Speaker: **** were they produced as part of the –

Speaker 1: **** Mr. Gaffney. Said ****

Other Speaker: Okay, and if that's the case then I would stipulate to that because architects are probably accurate. I would just, subject to confirmation by John Gaffney/

Speaker 1: Okay. All right, so, um, and I'm also just kinda represent and we can discuss this later, that Line 19 has 6,000, 11,000 every year thereafter as beginning an ending all the ay up to the year 2000. They can speak for themselves regarding the ****. In 2010, as she said, I'm not going to walk you through all of it in the interest of **** coming up, but do you recognize the year 2010 up in the right hand, uh, corner?

Fathi Yusuf: Yeah, I see it, yes.

Speaker 1: And you see the same RV stamp May 13, 2013?

Fathi Yusuf: I see.

Speaker 1: and, uh, you see the signature for February 9, 200 –

Fathi Yusuf: That's not my signature.

Speaker 1: Okay, and you see there the signature there?

Fathi Yusuf: Yeah, I see it.

Speaker 1: Okay, and then on the next page you see the Exhibit A **** same statement.

Fathi Yusuf: Same thing.

Speaker 1: You see that? **** Page 4, Line 19. This one starts off with a balance of \$6,11125, as an ending balance of \$722,800 **** it's **** do you see that?

Fathi Yusuf: I see it but I have no answer for it.

Speaker 1: Okay, so you don't recall loaning any more money to United Corporation in 2010?

Fathi Yusuf: I've already ****

Speaker 1: Okay.

Fathi Yusuf: I ****

Speaker 1: All right, **** the tax return you did in **** 20 and **** this tax return is slightly different. Here in the year 2011 ****

Fathi Yusuf: **** this is very strange to me. I never say something like that.

Speaker 1: Okay, and you see this –

Fathi Yusuf: **** I always see I sign them **** I hardly now where everything was. Always the accountant should be signing **** and **** I don't know who worked this out. All of them is similar.

Speaker 1: Okay, and you say that this one now has a different date stamp, it's dated July 1, 2013, instead of February 11, 2013. Being received on an RB, see that?

Fathi Yusuf: I see the date, but I don't know what it's for.

Speaker 1: Okay, and then on this we don't have an Exhibit A attached to it. ****.

Fathi Yusuf: I don't see any.

Speaker 1: All right, then go on over page 4 again where you go to, um, uh, ****, do you see that?

Fathi Yusuf: Oh, okay.

Speaker 1: ****. Excuse me. ****, line 19.

Other Speaker: Yeah, we see the **** from shareholders in 2011 go from \$722,000.00 all the way up to \$1.2 million, \$78,000.00, do you see that?

Fathi Yusuf: I see that but it's not ****. I didn't know.

Speaker 1: All right, so you don't recall ****.

Fathi Yusuf: I don't recall.

Speaker 1: Okay, do you know if anyone else on the company ****.

Fathi Yusuf: I don't know, I guess ****.

Speaker 1: All right, and you joined in 2012. Again, do you see up in the right-hand corner 2012, and you see this was also filed, see the date stamp on it ****.

Fathi Yusuf: Yeah, I see, July 4.

Speaker 1: Okay, and, uh, you don't see any -

Fathi Yusuf: This is **** my signature.

Speaker 1: Okay.

Fathi Yusuf: Could be my signature. Not there, but it could be my signature. That's completely different **** all the other ****.

Speaker 1: Okay, and do you recall, uh, during, uh, that year, 2012, receiving over a million dollars to you personally from the company **** pay off the loans ****.

Fathi Yusuf: Maybe, I don't know.

Speaker 1: So, you don't know whether or not received a million dollars in 2012 -

Fathi Yusuf: I don't remember, you're talking about 10 years ago.

Speaker 1: Okay, **** particular time, wasn't there an order from Judge Grady **** prohibiting disbursements with, uh, each side getting the same amount?

Fathi Yusuf: I'm sure they have ****. He was always complying with the law, ****. So, you're asking me something 10 years later, I don't recall.

Speaker 1: Okay, so you don't know if you received a million dollars in 2012?

Fathi Yusuf: It could be, it could be not.

Speaker 1: Okay. Um, now, do you recall **** over to, um, Saint Thomas in mid-2013 to meet with the U.S. Attorney **** to try to work out an agreement so that there could be a final payment **** in order to complete the ****?

Fathi Yusuf: ****.

Speaker 1: Do you remember being in Saint Thomas with Judge Barnhardt?

Fathi Yusuf: Yes.

Speaker 1: And, uh, Judge Barnhardt didn't have a conference in his chambers?

Fathi Yusuf: Yes.

Speaker 1: And you were there.

Fathi Yusuf: Yes.

Speaker 1: And Joe Baruza was there?

Fathi Yusuf: Joe Baruza?

Speaker 1: Yeah.

Fathi Yusuf: I don't recall.

Speaker 1: Uh, do you remember someone *****, Laurie Hendrickson, the U.S. Attorney *****.

Fathi Yusuf: No.

Speaker 1: Do you remember somebody from the IRB being there?

Fathi Yusuf: No.

Speaker 1: Okay, do you remember having discussions about trying to reach an agreement, uh, with the IRB on the taxes to, and any penalties and interest?

Fathi Yusuf: I don't recall. The only thing I ***** would be Judge Barnhardt is *****, and I told him, what's the, it was representing *****. I don't know what's his name, *****. That's the only two people I went to *****, I was allowed to speak.

Speaker 1: Do you remember ***** judge's chambers that, that the ***** were not allowed in the chambers?

Fathi Yusuf: Who?

Speaker 1: Do you remember that when you went in with Judge Barnhardt, and all of the other lawyers, that myself, and Molly, and ***** were not allowed to come to *****?

Fathi Yusuf: I don't recall that.

Speaker 1: Okay. Do you remember that you entered into an agreement to pay the \$6.5 million?

Fathi Yusuf: I don't remember that.

Speaker 1: Do you remember handing him a check that day ***** chambers for \$6.5 million *****?

Fathi Yusuf: Maybe.

Speaker 1: You don't recall?

Fathi Yusuf: I don't recall, honestly.

Speaker 1: Okay.

Fathi Yusuf: You're talking about something over 10 years.

Speaker 1: Okay, and you don't recall the fact that you paid them \$6.5 million, and in exchange for that, the, the IRS and U.S. Attorney, and IRB all agreed that that would mean the taxes ****.

Fathi Yusuf: Maybe my lawyer who represented me, I don't remember. I don't recall ****.

Speaker 1: Okay, um, show me exhibit number **** dated July 1, 2014. **** do you remember now looking at that that ****.

Fathi Yusuf: Yes.

Speaker 1: Okay, and you see it signed by Laurie Hendrickson, the trial attorney, and it's on the letterhead of the U.S. Department of Justice?

Fathi Yusuf: I see a signature.

Speaker 1: Okay, and it talks about, uh, in the first paragraph, we down, as we all agreed, I'm talking, I'm reading the 4th line down, as we all agreed the 6th **** was applied only to members of the Yusuf family for taxes owed for 2002 through ****. This will confirm as you requested in the attached letter dated July 1, 2013, signed by the director of ****. No one from the **** family received any credit or benefit ****. Do you see that?

Fathi Yusuf: **** it was agreement, IAB, like there was not, nothing, ****, silent partner, all the time. This is, was an absolute agreement between me and them.

Speaker 1: Okay, **** me and them would be ****.

Fathi Yusuf: ****.

Speaker 1: Okay. I'm trying to get back to your agreement with the IRB and the U.S. Attorney.

Fathi Yusuf: **** I would never mention this to IRB. Never mention it.

Speaker 1: Okay.

Fathi Yusuf: On many cases, maybe Mohammed **** was as a witness, he would, he was in the stand, he was asked if he's a partner, he said no, he's an employee.

Speaker 1: Okay, but that's not my question.

Fathi Yusuf: Well, I want to explain myself too.

Speaker 1: Okay, your lawyer will give you a chance. Can, can you **** the next page, there's a letter dated July 1, to Joe **** from the Bureau of Internal Revenue. Can you see that? The next page on ****.

Fathi Yusuf: Yeah.

Speaker 1: Okay, and you see where it says the bureau hereby acknowledges that full payment of taxes owed in the amount of \$6,586,132.00 has been applied to **** file by the following taxpayers only, and then it lists yourself, and your wife, and all of your children. Do you see that?

Fathi Yusuf: Yeah, we are, we are the shareholder.

Speaker 1: Okay.

Fathi Yusuf: Not the ****.

Speaker 1: Right.

Fathi Yusuf: Not the ****.

Speaker 1: Right, and, and isn't it -

Fathi Yusuf: We are the shareholder, not the ****, with the agreement with the ****. And I have enough witnesses ****. He's a silent partner.

Speaker 1: Okay, and you would agree that you made it clear with the IRB, that when United made this payment, Mr. Mohammed and his children were not get the benefit ****?

Fathi Yusuf: He was never a partner.

Other Speaker: I object to the relevance of the question, your Honor, I don't know what it has to do -

Fathi Yusuf: He was never a partner.

Other Speaker: ****.

Other Speaker: Well, the relevance is, is they filed pre, pre-pleadings **** which is not the case. It was prepared, as far as the criminal case, under ****, and I'm trying to show that they then used this for the benefit of the Yusuf family, not ****, which is what they represented. **** to the contrary ****.

Other Speaker: Overrule the objection.

Speaker 1: So, isn't it correct that when you met with, with, with Judge Barnhardt and settled the case, that you intended for the \$6.5 million to benefit the shareholders of United only and not **** benefit, uh, ****.

Fathi Yusuf: Mohammed, ****, never a partner.

Speaker 1: Okay.

Fathi Yusuf: He never, never a partner. He's a silent partner, and he agreed to that before he ****.

Speaker 1: And it was your decision -

Fathi Yusuf: Excuse me, let me finish. He went on the stand ****, and he say he's an employee, he is not a partner.

Speaker 1: Okay, but

Fathi Yusuf: ****, excuse me, and I went to jail for Mohammed. I give him half of the profit, but I went to jail for 21 days.

Speaker 1: Okay.

Fathi Yusuf: I was the one who work **** for me and Mohammed.

Speaker 1: Okay, you finished? I mean, I don't want to cut you off.

Fathi Yusuf: ****.

Speaker 1: Okay, and so, isn't it true because of everything you just said, when you made the, when United made the payment of \$6.5 million to the IRB, you did not want Mr. **** or his children to get the benefit of it?

Fathi Yusuf: ****, there was -

Other Speaker: The only relevance is that the IRB accepted these returns as valid returns for the 2002 to 2010 period to satisfy the liability of a sub chapter S corporation United, which is taxed at the shareholder level. I don't understand why we have to talk about benefit to Yusuf, shareholders versus benefit to **** shareholders. It's the nature of a sub chapter S that the taxation is at the shareholder level, and that's what was done here.

Other Speaker: Okay, well, it's really not my last question here, so. And I'm just trying, and he may not recall ****.

Other Speaker: I understand your objection, but I'm gonna premise him to go ahead with his line of questioning.

Speaker 1: Okay.

Other Speaker: **** I want to see where's he's going.

Speaker 1: Thank you, Your Honor. So, do you recall asking the IRB to clarify that the payment made by, had your lawyer, Joe ****, clarify that the payment made by United was not gonna be used to the benefit of ****.

Fathi Yusuf: No, but they get benefits of the profit.

Speaker 1: Okay.

Fathi Yusuf: They get benefit of the profit.

Speaker 1: All right. I have no other questions.

Other Speaker: Any ****.

Other Speaker: Uh, Mr. Yusuf, uh, who is your accountant currently for United?

Fathi Yusuf: Uh, John Gaffney.

Other Speaker: And would you say that John Gaffney is strict or lenient in the way he -

Fathi Yusuf: Very strict.

Other Speaker: Why do you say that?

Fathi Yusuf: Because he go by the law. He go by the **** numbers. I even accusing him working for the IR, internal revenue many time. And honestly, I didn't like him to work for me. Come on. The man is too strict, like I'm dealing with a, with an Asian. He was not working for me. He was working strict. I never even interfere with his numbers. If I cannot, if I had the capability to interfere with his number, I don't need to employ him. He's an accountant, he's doing his job, and you keep going back to the income tax. What do I put in my pocket? Income tax and money we make a profit on, the two family make a profit between each other, and out of the profit, we pay the taxes. It's simple. I didn't ****. I didn't say, oh, I'm a big shot, I pay so much income tax. Come on, man. ****. Is this, is the company income and the company ****. Mohammed **** he choose to en, enter as a silent partner. Now, he changing his mind. He can't go either way. You enter as a silent partner, stay until you leave as a silent buyer, partner.

Other Speaker: Mr. Yusuf, may I ask you another question?

Fathi Yusuf: Sure, sure.

Other Speaker: Uh, may I ask you another question?

Fathi Yusuf: Sure, um, any question.

Other Speaker: Uh, what is your assessment of the professionalism and honesty of John Gaffney as an accountant?

Fathi Yusuf: He, he's a very honest person.

Other Speaker: As an accountant?

Fathi Yusuf: As an accountant, as a human being.

Other Speaker: And as a professional, what is your assessment –

Fathi Yusuf: He's very professional. He was a CPA. He **** as a ****, uh, uh, even my bankers who lend me millions of dollars accept him, uh, review financial statement, and people accepted his ****. Even a CPA accepted, uh, John Gaffney, uh, **** because the man is clean, very, very clean. I **** with John as a taxation not as my employees. I said, I'm not hiding it.

Other Speaker: Okay. I have no further questions, Mr. Yusuf.

Speaker 1: Okay, so, um, just a few more, so **** first hired John Gaffney?

Fathi Yusuf: Excuse me, sir?

Speaker 1: Do you recall when you first hired John ****?

Fathi Yusuf: ****

Other Speaker: I can't answer, Mr. Yusuf. You have – if you don't remember, you don't remember.

Fathi Yusuf: I, no, no, no, I'm not, uh, **** answer for me. I need to understand the question.

Speaker 1: Do you, do you recall when you first hired or United Corporation –

Fathi Yusuf: Oh, if I, uh, I don't remember.

Speaker 1: Okay. Was he workin' for you in 2002?

Fathi Yusuf: Maybe, maybe not, I'm not sure.

Speaker 1: Okay. Do you remember the name of John Vincent Irwin?

Fathi Yusuf: Yes.

Speaker 1: And who was he?

Fathi Yusuf: That's the guy **** with us in Saint Thomas, right?

Speaker 1: Uh, he was, uh, did, did, did accounting work for you in Saint Thomas?

Fathi Yusuf: Yes.

Speaker 1: Okay. Now, you testified that you never told your accountants what to do with the money. They, they, they knew what to do with it. You didn't tell 'em. Is that correct?

Fathi Yusuf: ****, uh, John Gaffney, I have never – if I tell him, I'd be a fool. Uh, he's not gonna permit it.

Speaker 1: Okay. Uh, regarding John Irwin, did you ever tell him what to do with the money?

Fathi Yusuf: No.

Speaker 1: **** the witness shown Exhibit No. 21. So, Mr. Yusuf, this is a FBI investigative report dated August 1 of 2013. See that on the first page?

Other Speaker: Uh, Your Honor, I'm gonna object to any questions **** on the grounds that it's inadmissible hearsay. A statement of an FBI agent about, it's double hearsay, about –

Speaker 1: Mm.

Other Speaker: – what, uh, uh, that in itself is hearsay. It's an out-of-court statement made by an FBI agent, and it's also, uh, hearsay insofar as it's a **** report somebody else said, double hearsay, inadmissible.

Speaker 1: Your Honor, **** to respond?

Other Speaker: Yes, you may.

Speaker 1: Okay. Uh, it's not **** in pieces. Mr. Yusuf testified that he didn't direct his accountant ****, and with this particular one, Mr. Irwin, who's **** the accountant at Saint Thomas, he specifically states that he did, he, he made cash entries on the exact ledger we're talkin' about **** as directed by Mr. Yusuf **** impeach his testimony that he didn't ****.

Other Speaker: Uh, I'll permit you to ask questions.

Speaker 1: Okay. Looking over on Page 2 of this document, down at the bottom, last paragraph, it says Irwin was shown copies of seven cash deposit slips totaling 1.9 million. Irwin

advises he posted deposits in the ledger as stockholder investments. Irwin said that for transactions of this nature, he would seek guidance from Fathi Yusuf. You see that?

Fathi Yusuf: Yeah.

Speaker 1: So, I take it you did give your accountant instructions.

Fathi Yusuf: No, sir.

Speaker 1: ****

Fathi Yusuf: I have never given accountant instruction, not any accountant.

Speaker 1: Okay, so you think that this statement is untruthful?

Fathi Yusuf: Uh, absolutely not true because I am not capable of giving any directive to, direction to my accountant. I do know nothing about accounting. How could I tell him what to do?

Speaker 1: Okay. If, if, if Mr. Irwin came to you and said I have these cash deposit slips, where should I allocate them to, would you answer that question?

Fathi Yusuf: I would never answer. That's his job.

Speaker 1: Okay. I have no other questions.

Other Speaker: I have no further questions.

Other Speaker: Thank you, Mr. Yusuf. Do you need Mr. Yusuf any further?

Other Speaker: Uh, not at this time.

Other Speaker: Okay.

Other Speaker: I mean, I –

Other Speaker: I mean, he may remain **** –

Other Speaker: Yeah, ****.

Other Speaker: – a party but –

Other Speaker: Yeah.

Other Speaker: Yeah.

Other Speaker: 'Kay. Who do you wanna –

Other Speaker: Your Honor, I would like to read in portions of the testimony of ****. His entire deposition has been marked. But I don't, I don't intend to, uh, read about ****. And I don't really need to sit here and read it out loud but I'm more than ready to do so. Um, there's one part of ****.

Other Speaker: **** I think we're **** admitting ****, um, or **** than just using it for **** purposes. Um, it is –

Other Speaker: Well, it is –

Other Speaker: ****

Other Speaker: – Pa, Pablo O'Neal. This is a different thing, but I think we would still –

Other Speaker: **** the same ****, uh, it's an odd, and this is, this is even worse because it's, it's, a grand jury testimony which is not subject to cross examination. Uh, so it doesn't even come in under the inception of the rules for deposition testimony. And it's double hearsay because it's a statement about what, uh, Fathi Yusuf allegedly told, uh, **** so it's inadmissible hearsay.

Other Speaker: Then, well, now we wish to make a sworn testimony about **** and, uh, it, it was sworn testimony which they've had in their possession since 2002 and are completely aware of it because it's attached to the filing from the court. So, there's no ****.

Other Speaker: Why is the witness no longer available, for our record.

Other Speaker: He died.

Other Speaker: Okay. They object is well founded because you have the burden of proving **** that section in the record. And I, you may ask Mr. Yusuf whether or not it's true.

Other Speaker: ****.

Other Speaker: Your honor, we also, if we submit proposed findings and conclusions, would I be permitted to **** grand jury testimony **** admissible under, uh, uh, hearsay. And even under the catch all exception **** of the witness changes that analysis **** I have considered. But, I mean, I **** that issue and –

Other Speaker: You may, you may.

Other Speaker: Thank you, your honor.

Other Speaker: But the mere fact that I admitted **** doesn't mean that I am going to give it any weight.

Other Speaker: **** your honor.

Other Speaker: But I am permitting the, the movement in this case to at least present whatever evidence he believes is necessary to establish his claim.

Other Speaker: ****.

Other Speaker: I'm looking for ****

Other Speaker: It, um, was it attached **** to the –

Other Speaker: Well, the whole deposition ****.

Other Speaker: Oh. ****.

Other Speaker: It's then **** I think it's the last exhibit **** correct.

Other Speaker: Um, ****.

Other Speaker: Oh ****.

Other Speaker: Um, maybe, could we just maybe take a break ****.

Other Speaker: **** um, and then do you want me to get John's next or not yet?

Other Speaker: Um, ****?

Other Speaker: ****.

Other Speaker: Take a 10-minute recess.

Other Speaker: **** do you want it? I **** on my desk **** I was gonna give you one and I was gonna give ****.

Other Speaker: ****.

Other Speaker: Yeah.

Other Speaker: ****.

Other Speaker: You took ****.

Other Speaker: No.

Other Speaker: **** they were, they were in exhibits that I ****.

Other Speaker: Yeah, well, she ****.

Other Speaker: ****.

Other Speaker: And so –

Other Speaker: Alice, that'll be your copy.

Other Speaker: Uh huh.

Other Speaker: ****.

Other Speaker: All right. So don't ****.

Other Speaker: Don't ****. And that way we can finish with this and then take a break and then ****.

Other Speaker: That's what happens when you come here ****.

Other Speaker: ****.

Other Speaker: That's **** it's a little, it's a little confusing.

Other Speaker: ****.

Other Speaker: No problem.

Other Speaker: I got it to the office is this ****.

Other Speaker: **** more ****.

Other Speaker: **** more copies. But that's, oh, but that's ****.

Other Speaker: Okay. ****

Other Speaker: All right. Um, so this is the deposition of Pablo O'Neill **** part of the grand jury on June 5, 2003. Uh, good morning, Mr. O'Neil. As you may know, my name is Michael Pauze. I am an attorney for the justice department. This is a federal grand jury. **** here today, uh, before I begin I'll have to describe to you some of the rights and responsibilities as an individual who's testifying before the grand jury. And these are rights and responsibilities that we go with, over with with every individual who comes here and supplies testimony for the grand jury. First, you understand you have a right to have a lawyer present outside the grand jury not inside, do you understand that? Yes. You don't have a lawyer with you today? I don't. And also, Mr. O'Neill, you understand that the individual who comes and testifies has a right to refuse to answer questions if that question calls for an answer that could tend to incriminate you.

You understand that? I do. And also, Mr. O'Neill, you understand you're under oath today? I do. And you understand that you're required to provide truthful testimony and if you don't provide truthful testimony and you **** then you can be subject to criminal prosecution for offenses including obstruction, perjury Answer, I do. Mr. O'Neill, could you tell the grand jury where you live currently? I live on my island in **** Christiansted, St Croix. Mr. O'Neill, are you employed? Answer, how I was employed currently. Currently I'm a managing member of O'Neill, Harris and Associates LLC which is a certified public accountant. And are you a certified public accountant? I am a certified public accountant in the Virgin Islands and Puerto Rico. Have you been involved in accounting for at least 28, 29 years? 40 years. Mr. O'Neill, do you know Fathi Yusuf? Yes, I do. How long have you known Mr. Yusuf? Over 25 years. Have you prepared individual tax returns for a number of years? For a number of years. Also prepared tax returns and financial statements and other documents for United Corporation? That's correct. United Corporation does business –

Other Speaker: Uh, excuse me **** are we talking about ****?

Other Speaker: Yeah.

Other Speaker: **** skipping those areas marked in red, am I correct?

Other Speaker: Yeah.

Other Speaker: So, we're now on Page 18. United Corporation does business as Plaza Extra, is that right? That's correct. Can you tell the grand jury when and how you first met Mr. Yusuf? It'll be late 70s early 80s. He came to my office requesting accounting services. At that time he had an idea of building a shopping center, and he needed some money from the banks. So I go over with him preparing the projections that the bank required **** lend him the money to start to build, start to build. And after he started, they also started the supermarket the first Plaza Extra. And was that on St. Croix? St. Croix. And since then Mr. Yusuf has opened up two more stores ****? That's correct. **** St. Thomas later in the 1980s. And in the 1990s he built the other store in St. Croix. Okay, Mr. O'Neill, I want to talk to you about your representation of United Corporation which does business as Plaza Extra. This is on Page 19. And you said you prepared income taxes and financial returns for ****? That's right. And you've been doing that since the inception of the corporation? Basically, yes. In or about the mid or 1980s? Yes. And you also prepared annual reports and franchise tax reports for United? Correct. How about gross receipt tax returns? Have you prepared gross receipt tax returns for United? ****. Can you explain to the grand jury what gross receipts tax returns are? Gross receipt tax is a tax imposed **** sales ****. It is 4 percent of the gross sales of the entity. So **** corporation will have to pay, summarize all their sales for a month, and then add them up and multiply them by 4 percent. And that's paid to the **** and that's a local tax. Do corporations have to file **** reporting end gross receipt taxes every month? Every month. So United **** required to file these monthly returns every month since they began selling groceries? That's right. But your firm hasn't been involved in the preparation of those returns? That's correct. And who has prepared those returns on behalf of United? Well, usually a company will have their accounting staff in-house because of, you know, the volume and activity they have. So usually it's a comptroller that handles all the accounting and summaries all their

transactions on a daily basis. So, he will summarize the sales for the month, and then will prepare the return at the end of the month before the **** for, for May. Now, we passed May. For May the sales will be filed and paid by **** the end of June, before the end of June. So, since 1994, 1995, do you know which individual, uh, at United has been responsible for preparing those returns? Answer, I believe it'd be Mr. Dan Irving who was the comptroller, Dan Irving, over on Page 23. Mr. O'Neill, I want to talk to you a little bit about the information that was used to prepare these tax returns. Typically, what information did you use to prepare United, United corporate tax returns? Answer, it will be the compiled financial statement of the **** basis. That means the summary for sales ****

Other Speaker: 23. Mm hmm.

Other Speaker: – and expenses related to the business ****. Typically, who provided you with the information for these returns? Answer, that was provided by the comptroller, Mr. Dan Irving, and the accounting staff ****. Question. Did he actually give you the information at the end of the calendar year or shortly thereafter? That's correct. And did Mr. Irwin ever **** to provide it to escrow a voluntary financial statement? Answer, a financial statement that's ****. And from the inception your firm compiled financial statements as well as income tax returns?

Other Speaker: No. If he filled out a ****,

Other Speaker: **** business –

Other Speaker: I'm not sure if Mr. Yusuf's been keeping up.

Fathi Yusuf: No. I'm not keeping up with it.

Other Speaker: Well, you should, so.

Fathi Yusuf: No. He **** for me, and, uh, I never did, I hardly did what Pablo did.

Other Speaker: All right. Just a minute.

Other Speaker: ****.

Other Speaker: Okay. From that information your firm compiled financial statements as well as income tax returns. Answer, that's correct. And Mr. O'Neill, does your firm audit your information as given to your ****? Answer, no we don't. Again, only a compilation. So, you relied upon your client to provide you with accurate information. Answer: That's correct. Page 44. Would you ever discuss with Mr. Irwin the fact that **** –

Other Speaker: Excuse me, Your Honor, –

Other Speaker: – can't keep up. I don't know what, you know, how he can respond to questions about this if he can't keep up.

Other Speaker: Well, I understand the purpose.

Other Speaker: But what ***** point to the follow up questions.

Other Speaker: He's, he's, well, he will respond that he doesn't understand.

Other Speaker: Okay.

Other Speaker: He can understand.

Other Speaker: Because he had not been able to keep up with the, the reading of the testimony.

Other Speaker: I understand.

Other Speaker: Okay. Okay. So, on Page 44. Do you have that page? Mr. Yusuf?

Other Speaker: The last page.

Other Speaker: The last page? Do you, have you, do you have Page 44? The last page.

Fathi Yusuf: I do. Yeah. Yeah. I'm looking at it, but –

Other Speaker: Okay. If I read too fast, tell me to stop, although I hope you read it yourself?

Fathi Yusuf: Okay.

Other Speaker: Did you ever discuss with Mr. Irwin the fact that Mr. Yusuf used corporate money for his own benefit? Did you discuss with Mr. Irwin how to treat that? Yes. Can you tell ***** about that discussion? And he answered, yes?

Fathi Yusuf: Who answered these?

Other Speaker: This is, uh, Mr. O'Neill answering.

Fathi Yusuf: Mm.

Other Speaker: Yes. Well, any amount paid on his behalf to have been not charged to expenses but rather as a loan for shareholders and that ***** I was told that that was income made to him and should have been reported as personal income. Question, income? Answer, income. Question, not as a loan is that right? Answer, not as a loan, no. Do you see that?

Fathi Yusuf: I honestly don't know what he's talking about.

Other Speaker: Okay. All right. So, my question to you, Mr. Yusuf, –

Fathi Yusuf: May I go on something? I was in Saint Thomas. Mr. O'Neill never have an office in Saint Thomas. The one who was always 99.99 communicate with Pablo O'Neill is Willie Hamed, not myself.

Other Speaker: Okay.

Fathi Yusuf: I maybe met, sit down with him once a year or maybe once every 2 years. Is the one who was dealing directly with Mr. Pablo O'Neill is Willie Hamed, not myself.

Other Speaker: Okay. But, Mr. Yusuf, my question is, you see where, where Mr. O'Neill said that he told Dan Irving that you should not be attributing money to loans to United, but you should be attributed to income. Do you see that/

Fathi Yusuf: What if I did?

Other Speaker: Okay.

Fathi Yusuf: It doesn't matter, I did, I didn't, he did not distribute any income.

Other Speaker: Your Honor, question?

Other Speaker: **** question.

Other Speaker: Uh, Your Honor, the only thing I'd say is I, I don't have a full transcript. Uh, at least I, I, I had, I had it somewhere, but I haven't read the full –

Other Speaker: Mm hmm.

Other Speaker: – ****. I'd like you not to try and read that this has been taken out of context, or if it's something else, then we will offer that as part of our findings and conclusions.

Other Speaker: You may.

Other Speaker: ****.

Other Speaker: Thank you, Your Honor. All right. And just for the record, the entire transcript is marked as Exhibit –

Other Speaker: Twenty.

Other Speaker: Exhibit 20? And, um, just for the record, the **** an interesting thing. They took transcripts of five people, investigations of five people on the same transcript. So they probably submitted it as just a page from Mr. Gaffney, **** the answer. So, it begins on **** paging –

Other Speaker: O'Neill.

Other Speaker: I mean, Mr., um, well ****.

Other Speaker: Mr. ****.

Other Speaker: Um, here's another thing, **** the entire copy of O'Neill testimony.

Other Speaker: Thank you.

Other Speaker: Um, all right. **** John?

Speaker 1: Yes. But we can take a –

Other Speaker: Okay.

Speaker 1: – 10-minute break?

Other Speaker: Yeah. A 10-minute recess.

Speaker 1: Okay.

Other Speaker: Cough. I'm sorry.

Other Speaker: No. ****.

Other Speaker: **** really fast.

Other Speaker: Yeah. We've been through the roadside.

Other Speaker J: I'll wait until you get back.

Other Speaker: Hey John, um, we are all ready for you to go ahead, and, uh, log back in on the Zoom. We're at a quick little 10 minute recess if you want to try to do that, that would be great. Come through. And that, and we'll need, you'll need to flip your, um, uh, video off and also your UR off, so you don't want to **** mute yourself.

Other Speaker: Do you know what **** left to do ****.

Other Speaker: Perfect. You know where it is?

Other Speaker: I will –

Other Speaker: Just wait here. **** follow at the end.

Other Speaker: Is he all right?

Other Speaker: Springfield. So, how about you? You okay?

Other Speaker: Yeah.

Other Speaker: Um, can you hear us?

Other Speaker: Yes. I can. Can you hear me?

Other Speaker: I can. Uh, we can't see you though, so if you could –

Other Speaker: Okay. There we go.

Other Speaker: Yeah *****, um, perfect.

Other Speaker: Okay.

Other Speaker: I can change the views so it's just larger for him if you'd prefer. Would you like that?

Other Speaker: No.

Other Speaker: It's okay?

Other Speaker: It's all good.

Other Speaker: Okay.

Other Speaker: It's his testimony.

Other Speaker: Okay.

Other Speaker: You want to experiment, a trial, try ***** what it would look with the *****?

Other Speaker: Yes. 'Cause I can have John, or ***** John, Roger and the rest of us just kind of all to the side. I think that would be –

Other Speaker: If, if you want –

Other Speaker: – I think it might be –

Other Speaker: Easier.

Other Speaker: – a little easier to see him and, –

Other Speaker: Uh huh.

Other Speaker: – and, and to actually ultimately understand. That better?

Other Speaker: We back?

Other Speaker: Yeah.

Other Speaker: And then –

Other Speaker: No. You removed us.

Other Speaker: Oh, they were checking on **** we're **** –

Other Speaker: You rendered us ****.

Other Speaker: Up here.

Other Speaker: Oh, that one.

Other Speaker: Yeah. We're up here.

Other Speaker: Yeah.

Other Speaker: I'm not sure why –

Other Speaker: We are –

Other Speaker: – we got into a couple places that –

Other Speaker: – and we are in miniature.

Other Speaker: Yeah.

Other Speaker: Yeah.

Speaker 1: Uh, you, now if you put, if an exhibit goes up on the screen, –

Other Speaker: He'll move to the side.

Speaker 1: – uh, he'll be same height but different width?

Other Speaker: I think he'll move to the side. We'll cross that bridge when we come to it.
That's ****.

Speaker 1: Okay. It looks okay to me.

Other Speaker: We look okay? Are we small? Or normal size?

Speaker 1: Uh, actually, uh, I've got a small version and large version of you on the same screen.

Other Speaker: Uh huh.

Other Speaker: I can see it's George and me and Charlotte.

Speaker 1: I can see you and Charlotte, yes.

Other Speaker: But I can't see, you probably can't see the judge 'cause the camera is right there.

Speaker 1: Yeah.

Other Speaker: And **** he's –

Speaker 1: Hello, Judge Ross.

Other Speaker: How are you this morning?

Speaker 1: I'm pretty good. How are you?

Other Speaker: Uh, a little sleepy, but okay.

Speaker 1: Yeah. I'm a little sleepy too. I woke up at about 3:00 in the morning thinking is it time? Judge Ross?

Other Speaker: Yes.

Speaker 1: I'm, uh, scheduled to go into a hernia operation on Thursday morning.

Other Speaker: Oh, oh we got you just in time.

Speaker 1: Yeah. And, um, a lot of funny things seem to happen when you're, when you do something like this. You know, you get ready for, to go for surgery, and then all of a sudden everything comes up at the same time.

Other Speaker: Oh okay. ****.

Other Speaker: **** asking me to work with, uh, I believe, your daughter. Is that ****?

Other Speaker: Yvette?

Other Speaker: Yeah.

Other Speaker: Yeah.

Other Speaker: ****.

Other Speaker: Yeah. We've been on the board together for a lot, couple of years, and, um, she's been doing, um, quite a bit with the Access to Justice Committee and program.

Other Speaker: Oh.

Other Speaker: And, uh, it's just been a, it's really kind of her, like, pet project.

Other Speaker: Oh.

Other Speaker: It's been great. Um, and, um, I know that the Supreme Court's been very happy with her taking, you know, just taking it on.

Other Speaker: Mm hmm.

Other Speaker: So, it's really pretty cool.

Other Speaker: That's good.

Other Speaker: But I'm done.

Other Speaker: Oh you're – uh, no.

Other Speaker: I have served my time.

Other Speaker: Oh, that's good.

Other Speaker: It, it was fine. There was no issues, but I'm done.

Other Speaker: Mm hmm.

Other Speaker: It's like, it's a 3-year stint. You know?

Other Speaker: Mm hmm.

Other Speaker: And, so yeah. My time here is done.

Other Speaker: It's been a lot of, I actually kind of enjoyed doing that. 'Cause like you get to meet people that you wouldn't have otherwise met.

Other Speaker: Yeah. I know.

Other Speaker: You know? And have different practices and so forth, and, uh, it's funny because I did work, when I was in Atlanta, but actually I got my first job, I just volunteered for committees because, you know, –

Other Speaker: Got **** –

Other Speaker: I had the time –

Other Speaker: ****.

Other Speaker: Everybody was like, oh, you're willing to do stuff for free.

Other Speaker: Uh huh.

Other Speaker: Wonderful. So, um, I ended up meeting my first boss. He was the chairman of the committee, and I did a bunch of work, and he **** done this much for me for free, you know, what if we paid you a little bit. You know? So, you know, I was, it's always been a good – and I enjoy it.

Other Speaker: Yeah.

Other Speaker: So fun, but my time is, is coming to a close. Looks like **** –

Other Speaker: Mm hmm. Hmm.

Other Speaker: The other door. Probably still in –

Other Speaker: There's **** –

Other Speaker: Hi there.

Other Speaker: Oh.

Other Speaker: You all want to –

Other Speaker: Last winter it was

Other Speaker: Well, I'll just have to close her out.

Other Speaker: Oh.

Other Speaker: Ms. Tuna had to be – you know.

Other Speaker: Meeting with John?

Other Speaker: Meeting, surprised there isn't

Other Speaker: Yeah.

Other Speaker: **** hazard in a law office. That's always good. Right?

Other Speaker: Ah, well –

Other Speaker: **** personal injury, uh, complex. I don't even **** –

Other Speaker: Hey John, – Oh.

Other Speaker: I have a conference in Bayview.

Other Speaker: Oh ****.

Other Speaker: That and Tahoe is just like checking everything –

Other Speaker: See, in her –

Other Speaker: He can't see, he can't see you.

Other Speaker: ****.

Other Speaker: Oh John, how are you?

Other Speaker: Oh, that's where he was.

Other Speaker: See, he can't see you and I.

Speaker 1: Okay. I can, I can see you. Okay.

Other Speaker: Can see us. All right. All right.

Other Speaker: Okay. Can see both of us. Can see those.

Other Speaker: It's not one of those, um, –

Other Speaker: Yeah.

Other Speaker: Somebody's gonna have to –

Other Speaker: ****.

Other Speaker: – somebody's gonna have to move the camera around to pan, pan the audience.

Other Speaker: It can. I can rotate and move and do a lot of fancy things, but I –

Other Speaker: Okay.

Other Speaker: – am just like –

Other Speaker: Yeah.

Other Speaker: Why do you –

Other Speaker: – **** let's just leave it.

Other Speaker: No. But, but you've seen those cameras –

Other Speaker: Yeah.

Other Speaker: – that, that they do other things. It's a 360, or –

Other Speaker: Yeah.

Other Speaker: Mm hmm.

Other Speaker: **** camera.

Other Speaker: – to show what kind of ****.

Other Speaker: Yep. Yep. I have seen that.

Other Speaker: I find those fascinating. I really do.

Other Speaker: Yeah.

Other Speaker: Mm hmm. Mm hmm.

Other Speaker: Well we got this because we had the little camera you use up on the top of the video, of the TV there.

Speaker 1: Yeah.

Other Speaker: And it was too far away, and then you couldn't hear, and it was the whole thing. And so we found these. I found them on Amazon, and I said to our office administrator, I think these – uh, they were recommended, and they're, they're fabulous because John, John can hear Mr. Yusuf. He can probably hear me, and it's quality is, and they're wor, they're not very, uh, what I, I mean, I don't know what exactly, but they were 125, maybe even less.

Other Speaker: Oh.

Other Speaker: Mm hmm.

Other Speaker: They weren't that expensive for the –

Other Speaker: Mm hmm, super expensive, yeah.

Other Speaker: – the quality –

Other Speaker: Yeah.

Other Speaker: – of, of what they provide.

Other Speaker: Yeah.

Other Speaker: So.

Other Speaker: Oh, I'm back. Okay.

Other Speaker: Oh, **** go. Didn't know we had a case **** that, um, hernia ****.
Okay?

Other Speaker: Uh, if it's already something that's part of the original exhibit list, then we've probably already got it out and ready, but if it's not –

Other Speaker: ****.

Other Speaker: Yes.

Other Speaker: Okay. But it's ****.

Other Speaker: ****.

Other Speaker: Mm hmm.

Other Speaker: You ready?

Other Speaker: Uh, we're ready, Your Honor. I think it's, uh, Attorney Holt witness still.

Other Speaker: Mm hmm.

Other Speaker: Mr. Gaffney, can you hear me?

John Gaffney: Sure can. Yes.

Other Speaker: Would you raise your right hand. Do you solemnly swear that the testimony you're about to give in this case the truth, the whole truth and nothing but the truth?

John Gaffney: Yes. I do.

Other Speaker: Thank you. Attorney Holt?

Speaker 1: Can you state your name for the record?

John Gaffney: John Francis Gaffney.

Speaker 1: Mr. Gaffney, where are you currently employed?

John Gaffney: I'm sorry?

Speaker 1: Where are you currently employed?

John Gaffney: Um, well, I guess I'm still employed by United Corporation, um, but, um, uh, I'm kind of, uh, trying to move back to Florida.

Speaker 1: Okay. Well, just for purposes of this, you, you are an employee of United Corporation?

John Gaffney: Yes. I am. Yes.

Speaker 1: Okay. And can you tell me when you first started working for United Corporation?

John Gaffney: I started working in October of 2012.

Speaker 1: Okay. So, you were there in 2002, 3, 4, all, all the way through the years when the, uh, corporation was being operated by the federal government?

John Gaffney: Correct.

Speaker 1: All right. Uh, and so the information that you had available to you would just be historical information, generated by others.

John Gaffney: Yes.

Speaker 1: All right. Um, you may have these documents in front of ****, but you did, a um, United Corporation summary of partnership accounting, uh, for the period January 1, 2013, to September 30, 2015, um, which has a entry on it of \$186,819.33 owed to Mr. Yusuf, due, due to Mr. Yusuf. Are you familiar with that document?

John Gaffney: I am. Yes.

Speaker 1: Okay. And that's something you prepared.

John Gaffney: Yes.

Speaker 1: And under the, what you did is you separate columns, two separate columns for Hamed, and you came up with a balance owed from one partner to the other. Correct?

John Gaffney: Correct. yes.

Speaker 1: Okay. And you understand that today we are just concentrating on one of those many entries, fortunately most of them are not **** to the \$186,829.33.

John Gaffney: I am, yes.

Other Speaker: Do you - I didn't meant to interrupt – do you want me to pull it up onto the screen? Or is everyone following what you, where we are?

Speaker 1: I think we can all –

Other Speaker: Oh yeah.

Other Speaker: You okay?

Other Speaker: Yeah. I'm okay.

Other Speaker: Okay.

Speaker 1: So, uh, Mr. Gaffney, um, how were able to determine that Mr. Yusuf was owed \$186,000.00 by ****, I mean, uh, excuse me, uh, Mr. Hamed? How did you come up with that?

John Gaffney: Um, it wasn't by Mr. Hamed. It was by United Corporation.

Speaker 1: Okay. Let me, let me ask you this. You did a declaration in this case, um, which we marked as Exhibit No. 16, and that declaration is dated February 16, 2016. You, do you happen to have that declaration in front of you?

John Gaffney: Unfortunately, I don't have, I didn't print that one. Um, I don't have it in front of me. Wait a minute, maybe I did. Hold on. What was the date of it?

Speaker 1: ****, I'll check. Uh, February 16, 2016.

John Gaffney: I, I do have it. Yes.

Speaker 1: Okay. And this is a declaration that you made of, about some of the entries on this particular sheet including \$186,000.00 entry. Correct?

John Gaffney: Yes. It is. Yes.

Speaker 1: And then going over to, um, Item No. 5.

John Gaffney: Right.

Speaker 1: **** that line ****, uh, on Item No. 5, um, and you said we met, we met – and you're talking about meeting with me – January 25, 2016. Attorney Holt appeared to be confused over the \$186,000.00 8/19 33 entry budget on the summary. Do you see that?

John Gaffney: Yes. I do. Yeah.

Speaker 1: This entry is a stated liability from United Corporation to the shareholders on the books of **** too. Correct?

John Gaffney: Correct. Yeah.

Speaker 1: Okay. And you've never seen any, um, note signed by the corporation showing that it owes money to any shareholder?

John Gaffney: Um, I'm sorry, I didn't quite hear that question clearly

Speaker 1: Ever seen any promissory notes or other, um, debt notice that reflect, uh, this debt?

John Gaffney: No. I, no, never saw any notes. No.

Speaker 1: Okay. Uh, now, you, you go on to say that you didn't tell me you had no idea where it came, 'cause you then go on to say, I know why it is reflected on the ledger, because it was carried over from the previous books and records of the corporation. You see that?

John Gaffney: Yes.

Speaker 1: And, uh, which books and records are you referring to?

John Gaffney: I'm referring to the database that, uh, existed in Saint Thomas where all of the accounting –

Speaker 1: Okay. And did you also look at tax returns that were prepared, uh, for the corporation from 2002 to 2010?

John Gaffney: Yes. I did.

Speaker 1: Okay. And, uh, it says, what I did say was no I trial exists to validate the transaction giving rise to this liability as they occurred many years ago. Is that correct?

John Gaffney: That's correct. Yeah.

Speaker 1: Okay. And that statement is somewhat consistent with the statement of BDO, when they wrote a report in this case indicating that there were really no reliable records pre-2000, –

Other Speaker: Object to the form of the question, Your Honor.

Speaker 1: – 2, 2002.

Other Speaker: Sustained. Rephrase it.

Speaker 1: Are you familiar with the statement that BDO **** the records of the company?

John Gaffney: Um, vaguely. I don't, I don't have any specific, uh, recall of that statement, but –

Speaker 1: Okay. **** August 31 of ser, '16, shortly after this affidavit, what we marked as Exhibit No. 18, um, BDO issued a report, uh, and they said, January 1994 through September 2001, uh, this accounting could be **** way, um, and, and there was no formal supervision, no formal accounting in place during this time period. Is that, that what you generally saw when you looked at the records?

John Gaffney: Um, there was accounting. Um, there, there was accounting, but, um, um, a lot of it I didn't have, um, access to for a number of reasons, but, um, um, yeah. Well, not sure if that answers the question, but, um, I mean, there was an accounting system, and, um, the data that was available in the accounting system, tt, um, was about 5 years old, if I remember correctly. In other words, there was data going back about 5 years, but, um, uh, after about 5 years, the, um, all I had was balances coming forward from year to year.

Speaker 1: Okay. So, that, they, you, you did a good job of, of figuring out what I'm trying to ask. You see, you came in 2012 and you had about 5 years of data available.

John Gaffney: That's correct. Yeah.

Speaker 1: Okay. And before that, anything before that you really had no, nothing, nothing to back up any summaries.

John Gaffney: All I had was, I had the, um, I had the, uh, the general ledger balances because the details had been, um, um, detail had, you know, dropped out, but, uh, I had the general ledger balances. Then, then I also had the, uh, um, tax returns to, um, uh, you know, that were also a record of the, uh, the balances too.

Speaker 1: And, and you saw on the tax returns of United a, a ledger entry that went shareholder loans. Correct?

John Gaffney: Yeah. And unfortunately, I used the word entry there, and that's not – uh, I should have the, the word balance instead of entry. Um, but basically, it's, it's obviously a, um, um, it's a balance in an account called due to shareholders, and that was the original name of it. I subsequently changed the name of it to, do, you, due to Yusuf, um, and I did that only after we created an account that was due to Hamed, and I, I wanted to, uh, differentiate for purposes of the, um, you know, the audit trails. I wanted to differentiate between the Hameds and the Yusufs, but, um, um, initially that was, uh, due to from stockholders which the Yusufs were the stockholders of United Corporation.

Speaker 1: Okay. And you're familiar with tax, tax returns that actually carried that on as loans, uh, fr, uh, from shareholders.

John Gaffney: Yes.

Speaker 1: Okay. And you, you looked at the 2002, 2010 tax returns to see that flow.

John Gaffney: Yeah. Um, I did, and, um, the, eh, if I recall correctly the, the balances, um, in the later years for the due to shareholders was somewhere in the 6 to 700,000 range.

Speaker 1: Okay. And those figures, even though they were on the, on those tax returns and in those ledgers, you really have no, no backup to show why those figures are accurate **** did you?

John Gaffney: Um, the only thing that I had a visual on was some of the, uh, the blanket adjustments that were prepared by the CPA firm that was hired, um, you know, for, by the Hameds, um, Freed Maxick, and, uh, I had no reason to, I really had no reason to, um, question, you know, the validity of the due to shareholder amount that they were reporting.

Speaker 1: Okay. So, let's go back again. Who told you that Freed Maxick was hired by the Hameds?

John Gaffney: Well, when I talked to Ron Solari, um, and I tried to get some of the information that we're talking about, he said that he can't do it unless he's, um, unless he gets the approval from, uh, um, – what was the name of that attorney and the Hamed's.

Speaker 1: Okay. He needed approval from both sides to release it then.

John Gaffney: Uh, he, no. He didn't, he didn't, he said he couldn't, he said he couldn't, um, do it on, on, um, uh, on our, our side's author, authorization. It seemed to me that he needed the authorization from, from on the Hamed side.

Speaker 1: Well, you're asking for it. You had authorization from your side. Correct?

John Gaffney: I'm sorry. Say that again.

Speaker 1: You're asking for it. You had authorization from your side. Right?

John Gaffney: Yes.

Speaker 1: You wouldn't him for it if you didn't have authorization, would you?

John Gaffney: Correct. I had a, I had a long conversation with him, and he, I, all, what I was asking for was I was asking for the working trial balances and the adjustments, uh, that they posted for, um, from 2002 through 2010. Um, ultimately, um, I got Margie Sofing to call him, and he finally provided her with just the adjustments, and then she posted them, um, in a, um, you know, pretty much out of period which, uh, uh, caused a lot of extra work, but it didn't make it impossible. It just created a lot of extra work.

Speaker 1: Okay. And you unders, do you understand that Freed Maxick was hired by the joint defense agreement between the Hameds and the Yusufs to do the tax returns for the criminal case, not the civil one?

John Gaffney: Yeah. I guess, um, but, um, I'm not sure why, um, I'm sure why I, um, I had gotten so much resistance from him when I tried to get that simple information, and I, at that point, I felt as though he, um, uh, he wasn't cooperating, he wasn't cooperating with me certainly, and, um, you know, I had the distinct impression that he needed approval from your side.

Speaker 1: And do you know if he might have asked, asked to give that approval?

John Gaffney: What's that?

Speaker 1: Do you know if anyone ever asked the Hameds to give that approval?

John Gaffney: Um, I sure seem to think I did, if I asked to get that approval. I tired to get the approval from, um, let me see, I don't remember anything specific on that request, but, um, um, hmm. I, I can't, uh, I, I can't remember anything specific. Uh, all that comes to mind is my, my conversations with Margie Sofing. Um, I was doing a lot of work over in Saint Thomas at the time, and, um, I had some interaction with Willie Hamed.

Speaker 1: I **** just –

John Gaffney: But I don't recall –

Speaker 1: I don't –

John Gaffney: I don't rem, recall any specific conversations with him where I was, I asked him to intervene and, and, uh, and get me the approval for it.

Speaker 1: So, coming back, he never told you he was waiting for approval from the Hameds. He was waiting for approval Mr. Androsy to his ****.

John Gaffney: Uh, that was the name. Yeah. It was Androsy. Yeah.

Speaker 1: And are you aware of the fact that Mr. Androsy wouldn't give any approval because he hadn't been paid and was owed money by, for the criminal records attached to this case?

John Gaffney: You know, now that you mention it, I, I do remember that. Yeah.

Speaker 1: And Mr. Androsy wasn't going to release anything until he got paid. Correct?

John Gaffney: Okay. Well, that was, um, um, if I found that out, I can't, I can't put it into a time frame, but it would have, that would have been discovered later on.

Speaker 1: I mean, to your knowledge, United Corporation never paid Mr. Androsy for his work in regard to that did it?

Other Speaker: Excuse me, what was the question? For his work ***** –

Speaker 1: United Corporation never paid Mr. Androsy for that bill he wanted paid to give a release.

John Gaffney: Mm. I'm not sure what bill you're referring to. I, I, or some reason, I don't have a lot of, uh, I don't have a lot of recall on that situation. I just remember member mention of that.

Speaker 1: Okay. And the trial balances that you're talking about, those ultimately can be reflected in tax returns that were filed with the IRB on behalf of United Corporation. Correct?

John Gaffney: Correct. Yeah. \$186,829.33\$186,829.33

Speaker 1: And you've seen the tax returns from 2002 to 2010.

John Gaffney: Yes.

Speaker 1: Okay. And do you know who prepared those tax returns?

John Gaffney: Well, I received, I received copies of the tax returns, um, and, that, and they were not filed, and I actually had them prepared because the tax returns that I received were, you know, had Freed Maxick on it as the, um, as the, um, firm that prepared the tax returns, and well, what I, uh, what I had done was I had the tax returns, um, uh, prepared in blank so that they could be signed and filed with the IRB.

Speaker 1: And so, Freed Maxick had done a joint tax return that you had modified before it was filed. Is that correct?

John Gaffney: You use the word modified. When you say modified, I, what I did, was I actually just, the only thing that I did was, I prepared, I had the tax returns prepared identically the same, but I didn't have Freed Maxick as the preparer.

Speaker 1: And why didn't you put them on as the preparer?

John Gaffney: Um, that would have been probably at the, um, um, that was probably a decision that was made, that was a decision made by, uh, by the counsel at the time representing United, uh, Joe Darusa.

Speaker 1: Okay. So, Freed Maxick didn't sign the tax return as they had prepared, did it?

John Gaffney: Uh, they just, they, um, um, they were, and, uh, uh, essentially, they didn't say draft on 'em but they, uh, um, and they did reconcile to the books and records, so that much, um, I do know.

Speaker 1: Okay. And I don't know if you have, do you have the 2002 tax return in front of you?

John Gaffney: I don't. Not the 2002.

Speaker 1: Okay. So –

John Gaffney: I can get, I can get it in front of me.

Speaker 1: Okay. I'm not gonna ask you a lot of details about it. I really want to go over the first couple pages.

John Gaffney: 'Kay. You want me to look at the Solari copy?

Speaker 1: No. I want you to look at the copy that was filed.

John Gaffney: Okay. Let me open it up again. Okay. I'm looking at it.

Speaker 1: Okay. So, you see on the first page it's stamped received February 11, 2013?

John Gaffney: Actually, I don't have the date stamped ones. Um, I have only the, um, I have the prepared ones.

Speaker 1: Okay. You see on one that you have prepared a sign on February 9, 2013, by the president?

John Gaffney: Unfortunately, I don't have those signatures. Um, uh, puts me in an awkward position because what had happened was, um, we filed those over in Saint Thomas, and, um, let me see if I can find 'em.

Speaker 1: Uh, you know what, it's ****.

John Gaffney: Um, I know where they are. Are they, are they, are, are they part of that, um, that court document that I wa, uh, um, was sent a copy of?

Speaker 1: Yeah. The, if we just take a break, I can, I'm gonna just have to ask somebody to, to fax or email you, uh, Exhibit No. 14, which is a summary of the tax returns to the extent I'm gonna ask you questions about.

Other Speaker: Take a 5-minutes recess.

Speaker 1: And Mr., Mr. Gaffney, just so you know what you're gonna get, you're, you're gonna see a summary and then in each summary you're gonna see the first page of each, second page, third page, then you're gonna see all of 'em in a, in a string. And these are the ones I'm gonna ask you questions about.

John Gaffney: Okay. All right. Good.

Other Speaker: So, you want me to –

John Gaffney: Email ****.

Other Speaker: Hmm.

Other Speaker: ****.

Other Speaker: All right.

Other Speaker: No. You're fine.

Other Speaker: Can we talk? ****.

Other Speaker: Mm, I don't know.

Other Speaker: Stand up.

Other Speaker: This is just the **** of Dr. ****.

Other Speaker: Hmm?

Other Speaker: He's presenting at the at the conference this Friday for the Philly.

Other Speaker: Oh.

Other Speaker: And I was gonna pr, as I was preparing the slide or PowerPoints, –

Other Speaker: Mm.

Other Speaker: – do you want me to change ****.

Other Speaker: ****.

Other Speaker: So, it did come up to ****.

Other Speaker: Okay.

Other Speaker: Did you read that Supreme Court decision which, about Jessick?

Other Speaker: No.

Other Speaker: How would I have read the newspaper **** syndication.

Other Speaker: ****. But that, it's an interesting, I think, because appears that the Supreme Court telling the First Circuit in here the **** court is the same. The whole purpose of that is that ****. And they said he didn't ****.

Other Speaker: Hmm.

Other Speaker: I, –

Other Speaker: Well, –

Other Speaker: That's a pretty powerful statement.

Other Speaker: I, I got that over the **** then.

Other Speaker: I mean, the newspaper missed the real story. I mean, all across America, people wanted the federal court to **** due process, like due process of the court ****. Okay? And here the **** didn't ****. So.

Other Speaker: Goes back to kind of, **** was there, uh, said in opinions –

Other Speaker: Mm hmm.

Other Speaker: – **** motion.

Other Speaker: Now, that'll be ****.

Other Speaker: **** they'll have the 7th ****.

Other Speaker: Okay. How you do –

Other Speaker: ****

Other Speaker: ****

Other Speaker: ****.

Other Speaker: **** management from Pittsburgh.

Other Speaker: Oh, that's what ****.

Other Speaker: And she did it all, I assume.

Other Speaker: She didn't come back. That's why she never talked to him about it. She never talked to Jeffrey. She just all ****.

Other Speaker: But he interviewed her. That's, they, they're ****.

Other Speaker: Yeah.

Other Speaker: Probably they, they been in the circuit court.

Other Speaker: I had authority with –

Other Speaker: I thought it was Canon, but it, you know, you know how all this ****.

Other Speaker: ****.

Other Speaker: Yeah. It was, it was embarrassing.

Other Speaker: But, you know, ****. Half that team that **** –

Other Speaker: I'd say every district **** –

Other Speaker: Mm hmm.

Other Speaker: Every **** that *** to the field, there was, uh, **** had the ball. ****.

Other Speaker: Mm hmm.

Other Speaker: Oh, this one they have ****.

Other Speaker: Yeah.

Other Speaker: I thought ****.

Other Speaker: ****.

Other Speaker: **** additional work.

Other Speaker: The, the judge thinks I was bold enough to file, and she doesn't?

Other Speaker: ****.

Other Speaker: ****.

Other Speaker: I mean, the **** –

Other Speaker:

Other Speaker: *** long time?

Other Speaker: No. I mean, some of it's ***.

Other Speaker: I know.

Other Speaker: I know ***. It's a ***.

Other Speaker: ***

Other Speaker: The ones that required that, so **** filing, which is fine, but it's just ****

Other Speaker: *** scans? Can you scan that?

Other Speaker: I ****

Other Speaker: *** we don't care if I'm *** 30 days.

Other Speaker: My name is *** copier.

Other Speaker: Okay, can we ask her?

Other Speaker: Uh, John? John?

Other Speaker: Perk, right?

Other Speaker: Yes?

Other Speaker: Uh, check your email, you should've received the attachment.

Other Speaker: Okay, yeah, it just arrived.

Other Speaker: Okay.

Other Speaker: *** don't have a ***. And in that brief, I cite all of their attorney's cases, but I also ***

Other Speaker: *** just saying judge?

Other Speaker: Now, Jeffrey *** they're *** figures.

Other Speaker: I had to stop ***.

Other Speaker: Yeah, I know, because you don't exercise. Because that's a dilemma for them. You would think they just rubber-stamped it, but they just they're ***

Other Speaker: ***

Other Speaker: That's exactly it. ***

Other Speaker: Yeah, and then *** DORs with **** everything.

Other Speaker: We should supreme court it ***.

Other Speaker: The supreme court waited *** they were asked it. Somehow, that's ***.

Other Speaker: It's something to do, like, for now.

Other Speaker: We're not doing it.

Other Speaker: *** represent that.

Other Speaker: *** supply because he **** he straight up ***. Like, the whole reason for --

Other Speaker: ***

Other Speaker: -- seemed sketchy. And so ***.

Other Speaker: *** the supreme court ***

Other Speaker: If I were a juror, I wouldn't ***. I think the supreme court basically said the guy finally ***.

Other Speaker: ***

Other Speaker: *** get a chance to **** but, you know, comes back *** anything, so they weighed in on, I think, some of the procedural *** circuit. You know, the supreme court failed to get that, so I never send ***

Other Speaker: ***

Other Speaker: I will take something that's not, *** he's just no, like I said, he's not pursuing ***. He's just not gonna be a member of the district court ***. So, but, it's not affecting otherwise. I don't know why, how, or why --

Other Speaker: So, one of the objectives will be --

Other Speaker: -- *** the supreme court.

Other Speaker: -- *** supreme court *** .

Other Speaker: So, *** off, you know? That whole, so.

Other Speaker: I can do better than the supreme court, so.

Other Speaker: I mean, I'm *** uses it like a sword.

Other Speaker: The supreme court *** following?

Other Speaker: *** from Jeffrey, just correct me if ***.

Other Speaker: And they ***.

Other Speaker: But you can *** oral argument in ***.

Other Speaker: No, I don't ***, no because *** all I really ***.

Other Speaker: That's what Judge *** Jolla saw, the outside.

Other Speaker: Outside of somebody suing them, you know.

Other Speaker: Yeah.

Other Speaker: *** not even one of our customers, or ***.

Other Speaker: No.

Other Speaker: Like sometimes ***.

Other Speaker: In the *** that, so, I haven't read the ***.

Other Speaker: And \$10,000.00.

Other Speaker: Yeah, Marco.

Other Speaker: But, yes, when I read the headline, I didn't really need to read the article.

Other Speaker: I, I read the, I said, wow.

Other Speaker: So, he, he was even worse than that, he's got ***.

Other Speaker: Are you ready?

Other Speaker: All right.

Other Speaker: We're back on the record.

John Gaffney: Okay.

Speaker 1: John, you've got a Exhibit 21, excuse me, Exhibit 14 in front of you.

John Gaffney: Yes.

Speaker 1: Do you recognize this document as being a compilation of your tax returns 2002 to 2010?

John Gaffney: Okay, um, I'm, I'm looking at the page that says Line 19, loans from shareholders.

Speaker 1: Yeah, but I'm going to go to impeach ***. Yeah, but that's, that's the first page. That's the compilation.

John Gaffney: Okay, what do, where do you want me to look? I'm sorry.

Speaker 1: I want you to look on the very next page. See the 2002 tax return?

John Gaffney: Right.

Speaker 1: Now, this is *** it says received, processing accounting February 11, 2013, by the Bureau?

John Gaffney: Correct, yeah.

Speaker 1: Okay, and then you see down below there's a signature on it. Do you know whose signature that is?

John Gaffney: That's, not the use of ***

Speaker 1: It says see Statement A is typed under it. See the signature, if you read underneath the signature you'll just, I mean, under, literally underneath it. You --

John Gaffney: Right, yeah.

Speaker 1: See Statement ***, and then where it says prepares signature, there's no signature. Freed Maxick didn't sign this.

John Gaffney: Right, correct, yeah.

Speaker 1: Joe Darusa didn't sign this.

John Gaffney: Correct.

Speaker 1: You didn't sign this.

John Gaffney: I'm sorry?

Speaker 1: And you didn't sign this.

John Gaffney: No, I didn't sign it, no.

Speaker 1: All right, then looking over to Exhibit A, you see this, this statement that talks about this is done on best, on the best records available, but many of the records are not available, is that correct?

John Gaffney: Exhibit A, and, and let me read it.

Speaker 1: *** thanks.

John Gaffney: I wanna compare this with something. Give me a second, all right?

Speaker 1: You trying to figure out who wrote it?

John Gaffney: What was that?

Speaker 1: Are you trying to figure out who wrote that?

John Gaffney: Um, well, the funny thing is that, I don't recall that statement being there, but, um, that's not to say that it wasn't there, I mean, but, uh, let me, let me, let me just, uh, open up, okay, this is the correct return, yeah.

Speaker 1: Okay, and do you know who prepared Statement A?

John Gaffney: That statement would've been given to me by Joe Darusa.

Speaker 1: Okay, and that statement basically says that these returns are our best effort, but there's many, many documents that are missing, so, and that, that the federal government has, uh, it may be inaccurate.

Other Speaker: Objection to form, Your Honor.

Speaker 1: It might be --

Other Speaker: The document speaks for itself. It shouldn't *** paraphrase.

Speaker 1: Well, how, what would you stay this statement, what was the purpose of this statement being attached?

John Gaffney: That's a good question. Check something again, hold on. Very interesting. Hmm. No. believe it or not, that's the first time I've seen this statement. Um, I could send you a copy, I could send you a copy of the 2000 tax, two tax return, uh, that I prepared everything, all the numbers, on it are exactly correct, but where it says sign here, where Fathi Yusuf signed, my copy doesn't have see Statement A. I, um, I believe that that was added, what happened was, um, I met Joe Darusa over in St. Thomas, um, you know, to file the tax returns and he, uh, I had actually given him the tax returns in advance and, um, so, um, this kind of, has kind of caught me a little bit off guard. We had a, um, I forget what it's called, Kovel agreement. Does that sound like something you know, know of, Joel?

Other Speaker: We don't know, but go ahead. *** what that is.

John Gaffney: That, that's where, um, essentially, the preparer, um, uh, remains anonymous, in fact, you know, um, until some later date, but, um, essentially what happened was, um, the, um, you know, I had the um, returns, um, prepared, um, identical, identically with the Freed Maxick returns and then I, um, I gave them to Joel, but it seems to me that, um, I would've been involved in the signature process for Mr. Yusuf signing them. So, um, and, a funny, the other thing is, is that only a few months ago did I actually get the, uh, date-stamped copies of these tax returns from Joe Darusa. I actually, um, had requested that from him over and over again and I, it just was one of these things that I didn't, I didn't pursue actively all the time and lo and behold he was able to send them to me. they're on the server over at, they're physically on the server but the copy that I, you know, the copy of the united directory that I have right now doesn't have the, uh, the most recent, it's not the most recent files.

Speaker 1: So, it would be based upon your recollection of this, this see Statement A was added by Joe Darusa, but Statement A, was added, inserted by Joe Darusa?

John Gaffney: Yeah, I, it had to have been added by him, yeah.

Speaker 1: And Joe Darusa was who?

John Gaffney: Joe Darusa the, um, he was the attorney who was representing us in the federal case, uh, at the time and we needed to get these prepared in order to settle up everything with the internal revenue bureau.

Speaker 1: Okay, when you say us, you're talking about who?

John Gaffney: United Corporation.

Speaker 1: Okay, and so these tax returns had to get done so you could try to clean up the, uh, the criminal case and get the sentencing done and dismissed, correct?

John Gaffney: Correct, yeah.

Speaker 1: Okay, and going over to Line 19 on the next page, uh, it says loans from shareholders and it's got an entry of 12,421 at the beginning of the year and 705,663 at the end of the year.

John Gaffney: Let me get to it.

Speaker 1: It should be on the compilation I gave you as --

John Gaffney: Yeah.

Speaker 1: -- *** the pages.

John Gaffney: I, I was moving down to see what was below it, so let me see. Okay, yeah, I think I, I think I went down a tax, a year, let me go back up. Okay, here we go. We're still talking about 2002 tax return.

Speaker 1: Yeah.

John Gaffney: Yeah, give me those figures again for the loans from shareholders.

Speaker 1: Started off the year, balance was 12,421 and it ended up at 705,662.

John Gaffney: Correct, yeah.

Speaker 1: Okay, and have you ever seen any, uh, data that backs up what that number, 705,663 came from?

John Gaffney: No, um, that would've been on the working trial balances for, that Freed Maxick prepared.

Speaker 1: And do you know if they actually themselves had any backup for that number?

John Gaffney: Do I know what?

Speaker 1: Do you know if they had any backup for that number?

John Gaffney: Uh, Freed Maxick?

Speaker 1: Yeah.

John Gaffney: Um, I, uh, definitely assume, yes, because they wouldn't put it on a tax return unless they had support for it.

Speaker 1: Yeah, but they didn't, they didn't, they didn't *** this tax return, did they?

John Gaffney: No, the prepared the tax return that I prepared this from.

Speaker 1: All right ***.

John Gaffney: Or that I had prepared this from.

Speaker 1: But, in order to say Freed Max, Freed Maxick signed off on this tax return, they would've had to sign this tax return. Correct?

John Gaffney: Um, yeah, I see your point, but, uh, on the other hand, uh, they gave the adjustments to, uh, Marjorie Sofing, that when they were posted, retained earnings and everything reconciled perfectly to all the tax returns which is a reflection that all of the tax returns were prepared exactly as they had designed them to be prepared.

Speaker 1: And they'd been the adjustments for 2002?

John Gaffney: What's that?

Speaker 1: These are the adjustments *** 2010, what adjustments did they provide?

John Gaffney: I'm sorry, somehow, somehow your voice, um, keeps getting kind of drowned out a little bit, but, um, the answer is yes, the, the, um, um, the retained earnings is kind of a sacred territory, uh, on every, on every balance sheet. And what happens, if you'll notice, the Schedule M on every tax return is a reconciliation of retained earnings from year to year, and if there's anything funny going on, it'll most certainly, you know, reflect itself in retained earnings. In, in the case of these tax returns, there was no, nothing funny going on. Retained earnings reconciled perfectly when all the adjustments that were posted that we given to Margie Sofing when they were posted, what happened was, they, they eventually reconciled perfectly. Unfortunately, it took a little bit of work because Margie Sofing posted the adjustments out of period. In other words, all of the adjustments are 2002 through 2010, were rolled up into an adjustment that she posted on January 1st of 2011.

Speaker 1: Okay. And coming back to this, we're not really talking about retained earnings here, though. We're talking about the, uh, loans to shareholders, right?

John Gaffney: Yeah, but the thing is, is, um, in the accounting world --

Speaker 1: ***

John Gaffney: In the world of accounting, for every debit there's a credit and, and because of that little rule, for every credit there's a debit, for every debit there's a credit, for that little rule, it's why retained earnings is a control point. Uh, if there, if it was any other way, retained earnings wouldn't ever be a control point.

Speaker 1: Okay and, and, the, whoever submitted these tax returns, I think it's gonna be Joe Darusa, he makes sure that there was a Statement A in here, clarifying that these numbers were not based on the full books of the corporation, but only what was available, correct?

Other Speaker: Object to the form. Document speaks for itself.

Other Speaker: You can answer.

John Gaffney: Okay, um, well, let's put it this way, um, I obviously didn't have the working trial balance, nor did I have the uh, the, uh, financial statements for 2002, I had the tax returns.

Speaker 1: Okay, that's why --

John Gaffney: I had a high degree of confidence in the tax return, simply because, um, um, I was able to analyze them from year to year and make sure that retained earnings reconciled at the end of it all. And that, that gave me the confidence that I needed to say, yeah these are, these are, um, an accurate reflection of what Freed Maxick prepared.

Speaker 1: And, and that's when your affidavit, marked as Exhibit 16 you read from, you said what I did say was that no audit trail existed that validated the transaction, giving rise to this liability that occurred many years ago, correct?

John Gaffney: Okay, is that the document that you had me looking at before?

Speaker 1: That's your, your declaration, Exhibit No. 16.

John Gaffney: The February 16th one?

Speaker 1: Yeah.

John Gaffney: Okay, and where were you reading?

Speaker 1: Item No. 5.

John Gaffney: Five, yeah, and the accounting records, is that, the accounting records of United Corporation originally reflect, reflected the account as due from shareholders, due from shareholders after retroactive adjustment of partnership I added a new account called due to, um, okay, which statement have, did you read me? I'm sorry.

Speaker 1: Item No. 5.

John Gaffney: Yeah.

Speaker 1: About halfway down.

John Gaffney: Yeah.

Speaker 1: You went on to say that it, I'm sorry, what I did say, this is, like, the sixth line down, was that no audit trail exists to validate the transaction giving rise to this liability as they occurred many years ago.

John Gaffney: And, and that's an accurate statement, um, that' an accurate statement that, um, I couldn't produce an audit trail that, um, that showed it, but, uh, again, you know, it's kind of a laugh, but for every debit there's a credit. Um, if, for instance, um, a stockholder puts \$100,000.00 into a company, um, and it's reflected as a due to stockholder of \$100,000.00, what happens is that becomes just a balance on the company's books going forward, but the offset to that, which is the debit is the actual cash transaction and if anything funny would happen to that debit transaction, it would show up, whether it's in a bank reconciliation, or whatever. So, in other words, um, event though an audit trail may not exist, um, for the credit side as it is in this case, it doesn't necessarily invalidate the credit side, it just means that there's no audit trail because, uh, basically, the years were closed and the details were purged. But, it doesn't invalidate the balance. And I have, I mean, you know, Freed Maxick, um, even though I had my disagreement with Ron Solari, um, you know, I have every reason to think that Freed Malaxick, Freed Maxick was a very reputable firm and I had no reason to question that they had work that supported these numbers.

Speaker 1: And that would be work going back to 2002, 2003, 2004, 2005?

John Gaffney: That's correct, yes.

Speaker 1: All right, and the genesis of this debt really begins during that time period, correct?

John Gaffney: Um, I don't, I don't know why it is, but for some reason, I'm, uh, your words are getting a little muddled together. The genesis of this work is what?

Speaker 1: The genesis of this, uh, loan, uh, Rayback Shareholders Corporation, the genesis of that, that those transactions too place in the 2002, 2003, 2004, 2005 time period, correct?

John Gaffney: Correct, yeah.

Speaker 1: All right. And almost done, we are on Exhibit 17 called John Gaffney Accounts Report as to Med Claim H37, *****. Do you have that document in front of you?

John Gaffney: Okay. Exhibit 17? Hold on one second here.

Speaker 1: If you don't, we, if you don't have 17, but you have –

John Gaffney: It starts with a D, as in David.

Speaker 1: Yeah, we have Exhibit numbered D.

John Gaffney: Oh, I don't know. I printed a number of things that I thought I'd need for this but, um, and I actually went back and prepared some other –

Speaker 1: This is actually a report that you prepared and you signed it on, fairly recently, June 9th, 2019.

John Gaffney: Oh, wait a minute, okay, I, that sounds familiar. June 19th, yeah.

Speaker 1: Okay. And this is a document that you prepared as a report about this transaction, correct?

John Gaffney: Yeah, it's, that's the, that says Exhibit E, right?

Speaker 1: Yeah.

John Gaffney: Claim, Page 37 narrative.

Speaker 1: I think it's Exhibit D actually.

Other Speaker: It's D, E is an appendix to D.

John Gaffney: Yeah, it is, at the bottom of the page it says Exhibit D, Page 24 and then at the top it's got the little, uh, rectangle that shows Exhibit E Claim, and I guess that's because it was, uh, part of a different submission.

Speaker 1: And we use this all the time, we like to mix them up on you. Okay, so, on this particular you're reporting about this claim, correct?

John Gaffney: Correct, yeah.

Speaker 1: Okay. Um, and, uh, goin' over to Page 4, uh, it's Item B **** reference to **** charged to the partnership. And your answer was this balance is a carryover from old accounting records which cannot be located. Do you see that?

John Gaffney: No, I don't. I didn't, unfortunately, I didn't print that, so I might have to go to, uh, the, uh, ****.

Other Speaker: I think one of those ****.

Speaker 1: Okay.

John Gaffney: Okay. I've got it. I got the, um, the initial file that you sent me over. What roughly –

Other Speaker: Page 50, five zero.

John Gaffney: Five zero?

Other Speaker: ****.

Speaker 1: **** Page 50.

John Gaffney: Okay. My Page 50, **** Page 50 shows **** response to age 37, let's say, okay?

Speaker 1: **** allegedly improperly charged the partnership because this balance is a carryover from old accounting records that could not be located. Correct?

John Gaffney: Correct, yeah.

Speaker 1: And that's essentially what you testified to just a few minutes ago.

John Gaffney: Yeah.

Other Speaker: ****.

Speaker 1: It's not, uh, Exhibit B, Page 4 ****. It's, it's our Exhibit No. 16.

Other Speaker: Oh, 16?

Other Speaker: 16?

Speaker 1: And it's page – that's, that's not correct. It is our Exhibit Page 7.

Other Speaker: Mm hmm.

Speaker 1: **** from the bottom of Page 4. ****.

John Gaffney: Uh, D 4?

Speaker 1: Uh, it's a little D, uh, on the right, lower right-hand corner ****.

Other Speaker: ****.

Other Speaker: ****. I think this is, yeah, different.

Speaker 1: Page ****.

Other Speaker: What, what are you **** for her? ****.

Other Speaker: **** 17.

Other Speaker: 17?

Speaker 1: The package, you're, you're getting rid of the ****.

Other Speaker: ****. **** here on the, on the ****.

Speaker 1: ****.

Other Speaker: No.

Speaker 1: No, no. When this is copied ****.

Other Speaker: ****.

Speaker 1: ****.

Other Speaker: Well, he just has it, to have it here.

Other Speaker: ****.

Other Speaker: **** be the ****?

Other Speaker: Okay. ****.

Speaker 1: This is 17 ****.

Other Speaker: ****.

Speaker 1: You're gonna **** this morning? We might have to make that up ****. Anyway, that's it. That's the report that Mr. Gaffney submitted in response to this **** June 2019. **** fourth page at the bottom of ****. **** on this one?

Other Speaker: Yeah.

Speaker 1: Okay. I have no other questions.

Other Speaker: Okay. Uh, I have a few questions. Uh, Mr. Gaffney?

John Gaffney: Okay.

Other Speaker: Uh, Mr. Gaffney, who was Mr. Solari that you've referred to a few times in your, uh –

John Gaffney: Solari?

Other Speaker: – ****.

John Gaffney: He we, he was the partner in charge of Freed Maxick CPAs.

Other Speaker: Okay. And just to be clear, the, uh, the dollar figures on the United tax returns for 2002 to 2010 tax years were compiled and provided by the Freed Maxick law firm. Correct? Er, the accounting firm.

Other Speaker: Accounting firm.

John Gaffney: I have, yes, I have copies of, uh, the returns that had there, um, preparation information. They were not signed but they were prepared by them and, uh, apparently they were just, uh, in a kind of hold pattern to be filed. And maybe it had something to do with what, um, Mr. Holt mentioned before that they weren't paid. I wasn't aware of that as a reason but, um, I can probably ****.

Other Speaker: The file copies that are part of the exhibits, uh, today that we've, we've been questioning about, uh, were simply a transcription of the dollar numbers, uh, dollar figures on the three Maick returns for that period, 2002 to 2010. Correct?

John Gaffney: Correct, yes.

Other Speaker: And Freed Maxick prepared that, those 9 years of returns, uh, what in 2013, approximately?

John Gaffney: Well, um, they were prepared throughout the years. I'm not sure what year they actually physically prepared them, but, um, um, when I, I came on board in October of 2012 and Margie Sofing told me that, uh, Freed Maxick, um, had been on the premises there as late as May of that year and, um, I think they were, at that point, they were working on, uh, 2000 or they'd finished up 2010. Don't know that they were planning on working on 2011, but, um, um, since it was 2012, I would imagine that they were planning on working on 2011, but they never completed the work.

Other Speaker: But, but I **** years **** were prepared as a group, uh, somewhere in the 2012, 2013 time frame by Freed Maxick?

John Gaffney: Yeah, or before. You know, I, I, I've gotta assume that they were preparing these as, um, as they went along.

Other Speaker: But when did you first see them as a group?

John Gaffney: Hold on one second. Um, I first saw them, um, I first saw them probably in, uh, December of 2012. I had, I, um, I arrived in the middle of October, um, and, uh, I remember,

you know, I made a trip over to St. Thomas and then what had happened was I was provided a, uh, uh, a flash, uh, you know, a flash drive that had the, uh, you know, had these tax returns on it and, um, I was also, uh, at that point, I was dealing with Marjorie Sofing and I, and basically trying to secure the, uh, the accounting records.

Other Speaker: And, and for those tax returns, 2002 to 2010, that whole monitor is one ****. Correct?

John Gaffney: That's my understanding, yes.

Other Speaker: Well, if you please, I'll put up, uh, the second addendum to the plea agreement. That would be Exhibit B to the motion, uh, PDF Page 99. Right. Would you, uh, scroll over to Page 100, uh, the first page that it's a, it's ****. Okay? Uh, John, do you see that?

John Gaffney: Yep.

Other Speaker: Uh, and –

John Gaffney: Yes, I do. I act, I actually have it copied upon my other screen too, so, but yes.

Other Speaker: Uh, it would be **** –

Other Speaker: Do you have the screen on that?

Other Speaker: I have details.

Other Speaker: Okay.

Other Speaker: Um, so, uh, the, uh, Paragraph 2, uh, this, well Paragraph 1 of the, uh, plea agreement, the second addendum says that United Corporation and the shareholders and the individual dependents, uh, have to comply with their, uh, tax filing and payment obligations for the tax years 2002 through 2008, and it cross-references your original plea agreement. Correct?

John Gaffney: Yes, I see that, yeah.

Other Speaker: And then, uh, now was United Corporation a Subchapter S corporation?

John Gaffney: Yes.

Other Speaker: And, so, what is the legal affect of a corporation being a Subchapter S protects purposes?

John Gaffney: Well, um, the earnings and profits of the corporation pass straight through to the shareholders, so the shareholders had to, not had to, have their returns prepared, as well.

Other Speaker: And, uh, the second paragraph of that plea agreement, uh, states that, uh, in part, that the parties entered into closing agreements with the BI, BIR for the years 2002 through 2010. Um, and, uh, was it your understanding then that the BIR had accepted the validity of the returns for United and its shareholders for those tax years?

John Gaffney: Yes.

Other Speaker: Okay. And there's a reference to a tax agreement of \$6,586,132.00. Does that jog your memory as to what was paid?

John Gaffney: Yeah, that was the, that was the, uh, total settlement amount.

Other Speaker: Okay, and that would be the sum of the, uh, taxes owed on each of the individual shareholders' returns?

John Gaffney: Correct. That as the, uh, that was the sum that was still owed on 'em. There had been a lot paid in advance. There were estimated tax payments in advance, so that was the balance that was due.

Other Speaker: And the, the shareholders of United are Yusuf family members, including Mr. Yusuf. Correct?

John Gaffney: That's correct. Yes.

Other Speaker: Now the, I wanna just step back a little bit to discuss briefly the elements of this claim. Could, uh, Charles, would you please put up, uh, the, uh, Page 10 of Exhibit A to the motion. So you see the summary that you're requesting about? Uh, right. **** earlier today

John Gaffney: Yes, I did.

Other Speaker: Okay. Uh –

John Gaffney: **** here.

Other Speaker: What is this summary.

John Gaffney: I'm sorry?

Other Speaker: What is this summary and how would you describe to me just in general terms what it is?

John Gaffney: Well, um, prior to September 30th, um, you know, the Hameds and the Yusufs, uh, had several, um, um, a lot of items, um, related to inventory, fixtures, asset, the other assets and so forth and, of course, after all that was done, um, I kept on reminding everyone that there were still items on the balance sheet that needed to be cleared. And, um, you know, we had, we had been clearing, um, those that were very – Let me, let me say that had kind of a tangible quality

about them. Like for instance, uh, after the cutoff date between, when we had split March, uh, any for, uh, Plaza West. Um, on March 8th, we still had deposits and trans that, uh, so those would've belonged to the, you know ****.

Other Speaker: **** this. The, the only entry we're talking about is that 186 and any –

John Gaffney: Okay, yeah, I'm sorry. I'm sorry. Oh, like –

Other Speaker: One and two are subject to another claim off this.

John Gaffney: Yeah. Okay.

Other Speaker: Well, I'm entitled to discuss the background of the, the claim and –

Other Speaker: Right.

Other Speaker: – and get a little information about what this ****.

Other Speaker: I have no objection. I just don't think he needs to get into the merits of ****.

Other Speaker: **** let him too.

Other Speaker: All, all right.

Other Speaker: Yeah, what is it?

Other Speaker: Uh, I accept that.

John Gaffney: Okay –

Other Speaker: I spoke with – Uh, John, uh, there's a, uh, there were different ****, there's a com called location and it seems to have three locations. Uh, or what are those locations? What do they represent?

John Gaffney: Plaza East was, uh, of course, um, the founding store in Saint Thomas, Saint Croix and, and then STT was the Saint Thomas store and, uh, and, uh, okay I can't, I can't put, well West was Plaza West and there was a separate accounting system in each of those locations and then there was a consolidation of those three locations into a, you know, a, a financial statement that would be used for, for the preparation of the tax return.

Other Speaker: Okay, uh, some of the numbers on this summary are in parenthesis and some are not. What do the parenthesis mean? The numbers that are in parenthesis?

John Gaffney: Well, unfortunate, uh, unfortunately this is a very, uh, a complex schedule, but, um, um, I had, I had actually offered and I, I gave it to Joel Holt. Um, I gave everyone a copy

and I say everyone. I gave one copy to Joel Holt. I tried to give it to everybody I could. Like if, if, there's an Excel file that shows, um, a, this, this very summary that you're looking at and then, for instance, when you get to, uh, oh, let's just say, um –

Other Speaker: You can, I didn't mean to cut you, but if you just took the two from two you said, 186. See that?

John Gaffney: No.

Other Speaker: You see that?

John Gaffney: Yes, I do, yeah.

Other Speaker: If that was parenthesis, then you ****. If there's no parenthesis, that means ****. Right?

John Gaffney: That's correct. Yeah.

Other Speaker: So that's, **** of that. All right. So, uh, the use of parenthesis generically applies across the board on that ****. Right? If it, a number is in front of parenthesis here and it's in the use up column, uh, that means that it is all applied use up. Correct?

John Gaffney: Correct, yeah.

Other Speaker: And if a number is not in parenthesis in the use up column, uh, that means it is, uh, owed to use of. Correct?

John Gaffney: Um, if, without the parenthesis, yes. Yes.

Other Speaker: Okay. And the same convention would apply to the numbers in the **** column. Correct?

John Gaffney: Correct, yeah.

Other Speaker: And, so, what, but \$183,381.91, you got figure of net cash payoff showing at the bottom of this summary. What, what does that represent? How was that tabulated?

John Gaffney: I posted an adjustment, um, for a distribution of not \$255,331.90. That was the, that was essentially just the determination of what the, on the use of, um, uh, part of this, um, due to from total was.

Other Speaker: Oh, oh okay.

John Gaffney: And, so, in order to clear. In order to clear that, um, it's easiest to, to think about, you know, uh, how it was \$255,000.00. There were, there were, uh, there was an entry, a paid

entry for \$900,000.00. You see it right above it. Wouldn't you know it? Hold on one second.
Um –

Other Speaker: So just to back up a little bit, back me if I could. Uh, there's a number, uh, showing \$255,331.90 in parenthesis under the use up column.

John Gaffney: Correct.

Other Speaker: The accurate amount that is due from Mr. Yusuf to the partnership based on adding the, the entries above. Correct?

John Gaffney: Correct.

Other Speaker: Okay. ****

John Gaffney: **** essentially that, that's just a, um, a sum total of the adjustment, the non-cash adjustment, um, needed to eliminate these items from the balance sheet on, on the part of Yusuf.

Other Speaker: And when your tabulating the numbers in that column, you, you treat the numbers in parenthesis as a negative. Correct?

John Gaffney: No, no, no, I can't look at it that way.

Other Speaker: Okay.

John Gaffney: Uh, um, uh, uh, you know basically I'm, normally in, in, in most schedules, of course, when you see parenthesis, that just means it's a credit balance. But a credit can be a positive number and a liability or an income, uh, account whereas it's a, it, it would be, in fact, a negative number as long as it's in an asset or an expense. It's just, that's accounting garbage.

Other Speaker: All right. Well, the \$255,331.90 is your tabulation of amounts owed to the partnership by Mr. Yusuf. Correct?

John Gaffney: Correct. And, and I just wanted to pointed out that the biggest item was the \$900,000.00 that was a, what that was, that was a, um, a tax, an estimated tax deposit that was made on, in the first quarter of 2012.

Other Speaker: Okay, and it's –

John Gaffney: 2012. ****

Other Speaker: – the, the, the sum of a number. It's the sum of a numbers that appear above it.

John Gaffney: That's correct.

Other Speaker: All right and looking at the Hamed column, the \$71,949.99 is the, the sum of the numbers that appear above that number and it is the amount, uh, that is owed by, uh, Hamed to the partnership. Correct?

John Gaffney: Correct. Yes.

Other Speaker: And then the difference between those two numbers is the \$183,381.91. Correct?

John Gaffney: Correct. Yes.

Other Speaker: Okay. And would you, uh, turn to, you can put Page 11 on the screen. So, uh, well let me back up. Was, were there meetings, uh, with, uh, Attorney Holt and/or Judge Ross at which these, this summary was discussed?

John Gaffney: Yeah, that, um, there were so many meetings I lost count. We had lots of meetings about these items.

Other Speaker: Okay. So, let's turn to, and, and it's, uh, there's a reference on, on the third item at the top. Your, we're going from the top. It would be East 14500 adjust re meeting on 10/1. Does that suggest to you that there was a meeting on October 1st, 2015 to discuss it?

John Gaffney: Yes.

Other Speaker: Discuss some of these figures.

John Gaffney: Yes.

Other Speaker: Okay. So, let's, uh, put up Page, uh, 11 please. PDF Page 11 of Exhibit D to the motion. Um, and what is, uh, what do you see on, uh, Page 11, Mr. Gaffney?

John Gaffney: Well, it's the, uh, payment of the \$183,000.00. It's the, uh, the check that was cut to, uh, to be able to settle all of this.

Other Speaker: And what, uh, who are the signatories on the check?

John Gaffney: Uh, Drawson back to Yusuf.

Other Speaker: Okay. Now going back to, uh, PDF Page 10 of Exhibit D of the motion, uh, we see handwritten entry that you, uh, wrote it to. Uh, one to number one and number two and a number three. What do those, uh, who, who prepared those or penned in those handwritten notes?

John Gaffney: Well that was, um, when, when I, I've spent an afternoon with, um, Mr. Holt and, uh, as we're going down item by item and I was, I was, um, uh, giving him the information on it,

he made those notations right at that point. So, I, I was, I can remember which, exactly when those were written, yeah.

Other Speaker: So it is your understanding that these are items without, uh, the \$119,000.00, uh, credit to Mr. Yusuf, the \$326,017.99 credit to Mr. Yusuf, uh, and the \$186,819.33 credit to Mr. Yusuf. These are items that Attorney Holt disputed?

John Gaffney: Um, it, not in their entirety. Like, for instance, the, um, the \$326,000.00 amount, it's just that there were a couple of items in there that he disputed, uh, related to the, uh, um, the air conditioning system over at Plaza East.

Other Speaker: Okay. So, even though the check was cut at, for the full amount of \$183,381.91 and provided to, uh, Mr. Hamed or his attorney, Attorney Holt, uh, there were three items that were, uh, basically in your mind excluded from that settlement subject to later challenge?

John Gaffney: Yeah, in other words, yeah, he, he, uh, he was challenging some of the, some or all of the balances that you see there.

Other Speaker: Okay, but the other items, their, I counted 15 items in the two columns of, on that in the Yusuf columns on PDF Page 10, uh, Exhibit D, uh, the other ones were not being challenged to your understanding by Attorney Holt or his client. Correct?

John Gaffney: Correct, yeah, yeah.

Other Speaker: Okay. Um, now what was it that you asked Mr. Solari for that you were, that he was unwilling to provide you?

John Gaffney: I asked him for working trial balances for the, um, um, for all the years that they had prepared the tax returns for.

Other Speaker: What is a working trial balance?

John Gaffney: Well, um, it's basically an accountant's worksheet for where you, you, um, um, start with your, the balances that you're given in the, that are given to you in the general ledger and then after analysis of the transactions in each general ledger account and/or reconciliations with outside parties. Uh, the most common reconciliation that's done in any business is usually bank reconciliation, which is usually done by most businesses at the end of each month. And, um, um, so the work and trial balance would then have a column for debits and credits to make adjustments that are either reclassifications, core adjustments. It's a, it's a very common, it's, uh, it's basically, um, um, it's, it's, it's something that, um, uh, is done whether you're just releasing financial statements or whether or not you're, uh, uh using it to prepare tax returns.

Other Speaker: And what, what are you told to is he could not provide you those trial balances without the permission of Mr. Androsy, uh, uh, Wallie Hamed's attorney. Correct?

Other Speaker: For the record, it's not, it's a joint defense agreement for everybody.

Other Speaker: I'm sorry?

Other Speaker: A joint defense agreement is everybody's agreement.

Other Speaker: He needed Mr. Androsy's permission, but what's it –

Other Speaker: Well, I can ask him the question.

Other Speaker: But your misstating what, let's see if he knows.

Other Speaker: Well, I understand that –

Other Speaker: What, what do you recall Mr. Solari telling you about his ability or inability to release those trial balance records?

John Gaffney: Well, I, I think that, um, uh, I'm trying to remember if he actually used Androsy's name. I think he, I'm pretty sure he did, but he, um, he very definitely told me that he couldn't release, he couldn't give me the records without the approval of – Yeah, he had to use Androsy's name. He couldn't, he couldn't release the records without the approval of, the approval of the attorneys that, uh, who were representing, um, the company.

Other Speaker: And once he told you that, did, did you think there was anything else you needed to do to try to get or, or ****.

John Gaffney: Well, number, number, Number 1, I asked him to, um, I asked him to, uh, uh, attempt to get that approval, so that you could release those. Um, I had more than one conversation with him.

Other Speaker: And did he obtain that approval?

John Gaffney: No, he didn't.

Other Speaker: And you never got the records?

John Gaffney: And I never got the records, no.

Other Speaker: Now despite not having the trial balance information, uh, do you have, well what is your level of confidence in the, uh, the amount shown in the 2010 cash return belongs to shareholders?

Other Speaker: That, that ****. ****.

Other Speaker: Uh –

John Gaffney: No.

Other Speaker: You may rephrase.

Other Speaker: Uh, Mr. Gaffney, what is your –

Other Speaker: No, I'll retract it.

Other Speaker: What was, what is your belief as to the accuracy and reliability of the, uh, loan to shareholder information, uh, provided by Freed Maxick on, in the 2010 united tax return Schedule L?

John Gaffney: Um, I expected it as, as gospel. Um, it's, it's on a tax return. Um –

Other Speaker: Those tax returns were accepted by the, uh, the IRB. Correct?

John Gaffney: Yes.

Other Speaker: Okay. Uh, and you actually made downward adjustments to that \$700,000.00 plus number to arrive at the \$186,819.33 amount that's show in your summary. Correct?

John Gaffney: Correct.

Other Speaker: And what is your level of confidence in the adjustments that you made to actually reduce the amount of money that was owed to United by, uh, or owed to Mr. Yusuf by United Corporation?

John Gaffney: Um, my confidence is pretty high. I, um, I had essentially, um, there were a couple of debit items on the balance sheet that, um, were hard to tie down and rather than essentially, um, charging them against income, which would be a kind of a normal approach, I took a conservative approach and I charged it against the due to shareholder. Um, and, uh, and it had the effect of bringing the, um, the eventual balance owed to shareholders from down from I think 6 or \$700,000.00 down to the \$186,000.00.

Other Speaker: ****. Um, could you –

John Gaffney: And, and you –

Other Speaker: – could you –

John Gaffney: – and there was one account that came to mind. It was a loan to, uh, Doss Corporation. And, um, there were outside records evidencing the fact that Doss Corporation owed us one amount but it did not match our records. We, um, the account that we showed had about a, um, I forget how much more but I'm just gonna say a million dollars in round numbers

but, um, um, that was one of the items that I know that, um, um, I used to, to be able to reduce the shareholder loan balance down to \$186,000.00.

Other Speaker: Could, uh, could you please put up exhibit, uh, or PDF Page 45 of Exhibit D. I guess it would be 46. Uh, ****.

Other Speaker: ****.

Other Speaker: ****. Uh, 46.

Other Speaker: ****.

Other Speaker: Yeah.

Other Speaker: ****.

Other Speaker: Is that 46? Do you have 46?

Other Speaker: 46.

Other Speaker: That's all right. Uh, the next number ****. Okay. And then if you could flip to the, uh, end of Exhibit D, which I believe is PDF Pages 70 and 71. So, uh, Mr. Gaffney, I'm showing you the narrative that you prepared and that you've been questioned about by Attorney Holt **** this morning. Um, do you, is this, what you set forth, did you get a chance to read this in preparation for your testimony today?

John Gaffney: Yeah, this was one of the items I saw as I was goin' through the court, this document at, um, you sent me, I, uh, I was just reading it and, and, uh, in order and yes, I did review this and I, uh, I think this narrative is, is very good. The only things that I would add to it is I think I remember seeing somewhere about an entry that I woulda just simply changed the word to, to balance and then, um, yeah, I think it's a good narrative actually.

Other Speaker: Okay. Um, do you think it's accurate?

John Gaffney: Yeah, I think it is, yeah.

Other Speaker: Okay. Uh, I'm just going to review my notes to see if I have any other questions. May I have a couple of minutes, your honor?

Other Speaker: You may.

Other Speaker: Thank you.

Other Speaker: What's ****?

Other Speaker: It's actually Exhibit D. But it's a –

Other Speaker: It's a Motion ****.

Other Speaker: It's, yeah, but it's a subset.

Other Speaker: ****.

Other Speaker: Okay. I'm sorry. **** little bit of a maze to get –

Other Speaker: Oh, it's ****.

Other Speaker: – to get in and out of here.

Other Speaker: ****.

Other Speaker: Okay.

Other Speaker: Pretty good **** something at the table. ****

Other Speaker: How many files **** almost 30 ****.

Other Speaker: **** work and **** time passes.

Other Speaker: Are we ready to resume?

Other Speaker: Yeah, I'm ready.

Other Speaker: Okay. Uh, Mr. Gaffney, uh, um, Mr. Solari of Freed Maxick, uh, was unable or unwilling to give you the trial balances, uh, you ultimately got that information or equivalent information from, uh, the, through Marjorie, the, uh, accountant employed by United who in turn obtained the information from Mr. Solari, correct?

John Gaffney: Um, for the cumulative adjustments, yes, yeah, um, all it was just the adjustments. It wasn't, uh, any other detail which would normally be included in the working trial balance.

Other Speaker: Okay. You, what did you say about the adjustments that Marjorie obtained from Mr. Solari and in turn provided to you, uh, at, did the relationship between those adjustments and the reconciliation? Could you explain that again, please?

John Gaffney: Well, um, the only thing that happened was, uh, Mar, Marjorie, Margie, um, got the adjustments after she had closed it, um, the financial records for 2010. So they, uh, their, the numbers literally didn't resemble the numbers on the tax returns at all until she got those adjustments. And then what she did was she posted them on January 1, 2011. Um, it wasn't until had dropped all of the ledger balances into a, an analysis and then posted the adjustments by year that, uh, all of the numbers reconciled then to the tax returns.

Other Speaker: Okay.

John Gaffney: So in other words it, it proved, it –

Other Speaker: Did that, in turn, give you greater confidence in the accuracy and reliability of the loan to shareholder amount at **** of \$86,000.00 plus calculation?

John Gaffney: Well, yeah, it gave me, um, at that point I had no confidence in the financial records that I had until those adjustments were posted and I did my analysis. Once I was able to, uh, do a, what, um, a, a, um, an equity analysis, meaning a, um, a reconciliation of retained earnings and, uh, compare it favorably to the tax returns, my confidence went way up.

Other Speaker: I have no further questions.

Other Speaker: So –

Other Speaker: And we have no further witnesses.

Other Speaker: Okay. Um, why don't we have this on the screen. If we could just scroll up to the bottom of this document. ****

Other Speaker: Scroll down.

Other Speaker: Scroll down.

Other Speaker: **** fight about this all the time.

Other Speaker: Okay. I, uh, right there is fine.

Other Speaker: I think it's up.

Other Speaker: Okay. So the last paragraph that we have states as United **** history file for **** did you see that? See that, that sentence right there?

John Gaffney: Yeah, yeah, I do, yes.

Other Speaker: It's very old. And there was no record or knowledge of how it even came into existence, correct?

John Gaffney: Um, yes, yes. That statement is, um, accurate, yeah.

Other Speaker: Okay. And were you aware of the testimony of, well, first of all. Did you ****?

John Gaffney: Did I know what?

Other Speaker: Did, did you know who, who, I'm sorry, John Irwin was? The former comptroller? You ever heard that name?

John Gaffney: No. You know, it was funny. I just, I saw that name, um, in some of this that I was just looking at. And I didn't, didn't recognize that name.

Other Speaker: Okay. How about, how about Pablo O'Neill?

John Gaffney: Oh, yeah, Pablo O'Neill, yeah, definitely.

Other Speaker: Did you read any of the statements they made that, um, um, Mr. Yusuf entered accounts improperly as due to shareholders when it should've been listed as income.

Other Speaker: I'm gonna object, your honor. This was admitted only for ***** purposes. And not *****.

Other Speaker: Sustained, go ahead.

Other Speaker: ***** the question, I can't asked the question?

Other Speaker: No.

Other Speaker: All right. Are you aware of whether or not, uh, Mr. Yusuf may have, uh, actually improperly entered balances into the due to shareholder account going back to 2002, 2003?

John Gaffney: Um, I am not aware of that at all.

Other Speaker: Okay. So you can't say it did or did not happen, correct?

John Gaffney: That's correct.

Other Speaker: Okay. And you didn't –

Other Speaker: Excuse me a minute. All right. You may continue.

Other Speaker: Um, you talked about ***** with your ***** preparing the tax returns from 2002 to 2010. Do you know when the actual *****?

John Gaffney: The actual return? Are you asking me if I know when the actually prepared the returns?

Other Speaker: Yes, you can take that down.

Other Speaker: Oh.

Other Speaker: Yes. The, the ***** that you saw?

John Gaffney: Well, I'm, I'm gonna, I'm going to estimate that they, uh, started preparing these returns in and about 2005 or 6. And the only I say that is because I also have copies of the tax returns that were prepared by Pablo O'Neill up until, I want to say 2000, either 2003 or 2004. And so what happened was the numbers were very different obviously.

Other Speaker: And so the numbers on the corp, United Corporation tax returns that were prepared by Pablo O'Neill in 2003, 2004 are much different than the numbers from Freed Maxick?

John Gaffney: Yeah, they, they were different. The, um, the, um, the balances that Pablo O'Neill showed in loans, uh, to shareholders were substantially higher.

Other Speaker: Okay. So they didn't match up *****?

John Gaffney: No. And, and that's why I wanted the, uh, working trial balance, um, and the analysis of, um, of the accounts where they adjusted them to, yes.

Other Speaker: And you're aware between 2002 and really 2013 when ***** that there was a criminal investigation going on of United Corporation for tax problems?

John Gaffney: Yeah, I'm aware of it. Um.

Other Speaker: And isn't that why no tax returns were found because you can't file tax returns while there's an ongoing criminal investigation?

John Gaffney: Well, that was the agreement, yes. I remember reading the agreement that that, that was what was gonna happen that they were going to –

Other Speaker: As an accountant, if you receive a subpoena from the FBI to produce records, you don't have any privilege ***** your client not to produce those records, do you? You have to produce those records, don't you?

John Gaffney: Um, I'm, I, unfortunately, I'm sorry, the audio, for some reason is *****.

Other Speaker: As an, as an accountant you don't have a privilege that keeps you from having to produce information, uh, if you get a criminal subpoena, do you?

John Gaffney: As an accountant, um, I'm not sure I, I'm still not sure I understood, stood the question properly, I'm sorry.

Other Speaker: If you got a subpoena from, uh, the FBI to produce –

John Gaffney: Uh huh.

Other Speaker: – **** records for United, you'd have to produce, wouldn't you?

John Gaffney: Oh yeah, that's true. Yes.

Other Speaker: Okay. But if a lawyer gets a subpoena from the FBI, they don't have to be produced, do they? A lawyer has a privilege with his client ****?

Other Speaker: Object to lack of foundation. **** know the answer to that. Calls for a legal conclusion.

Other Speaker: Do you know the answer to that one?

John Gaffney: Um, should I answer?

Other Speaker: Do you know the answer?

John Gaffney: I, I, I think I do. I, I think that even in, um, um –

Other Speaker: You may answer.

John Gaffney: I, I guess, you know, there's, there's attorney-client privilege. I guess maybe lawyers have, lawyers have a more privilege than somebody like me.

Other Speaker: So do you know whether or not with Freed, Freed Maxick's work that you saw was actually work that **** Androsy's attorney-client confidentiality statements on it so it couldn't be seized by the FBI?

John Gaffney: Um, again, I'm sorry. Um, I, I don't know what it is about this sound system. But I, I just, um, I, I, for some reason I'm not hearing your voice coming through clearly.

Other Speaker: Okay. Do you know whether or not the reason why Mr. Androsy would have to give approval for you to get those is because these documents are actually his documents as the attorney not Freed Maxick's documents?

Other Speaker: Um, objection.

John Gaffney: Okay.

Other Speaker: **** question ****.

Other Speaker: Do you understand that?

Other Speaker: You can rephrase.

Other Speaker: **** foundation.

Other Speaker: Okay.

Other Speaker: Misstates the evidence.

Other Speaker: Well, do you have any understanding as to as, as, to who actually had, had the legal possession of these documents, Mr. Androsy or Mr. ****

Other Speaker: Objection **** which document?

Other Speaker: The underlying data.

John Gaffney: Well, I never thought of that. I never thought, thought of it that way. I mean, um, I had a copy of the tax returns. And, and, um, as far as I was concerned, uh, they were the property of United Corporation.

Other Speaker: Right so, why would Mr. Solari not give you property of United Corporation?

John Gaffney: I felt that he was basically, um, uh, I felt at that point that, uh, the, um, Androsy had, uh, was no longer representing United Corporation. He was representing, um, um, the Hameds.

Other Speaker: Well, why wouldn't Hamed want you to have this information?

John Gaffney: Um, good question. Yeah, I think, um, only, you know, it was who he was representing that's all, that's all, all I could figure.

Other Speaker: All right. And you were never informed that Mr. Androsy was not releasing this information because he hadn't been paid by the **** agreement?

John Gaffney: Um, I wasn't aware of that at that time for sure.

Other Speaker: Okay.

John Gaffney: You know, that might have been, that might have been, I might have picked upon that years later. But, um, not at that point and time, no.

Other Speaker: Okay. But Mr. Solari never told you that?

John Gaffney: No. He didn't mention, um, about non-payment, no.

Other Speaker: And you're aren't aware of multiple requests made by the Hamed family, uh, to United to pay that bill so these tax returns could get completed?

John Gaffney: Um, I don't recall any conversations like that, no.

Other Speaker: Okay. Um, going back to Exhibit, or let's, let's just talk first of all about Exhibit No. 1 which we see the, um, the 186 number on and then down at the bottom and **** 183,000. Do you have that document in front of you?

John Gaffney: I, I have one, yeah, I have my copy of it, yes.

Other Speaker: Okay. If the 186 was turned into a 0 like it was found that, that, that there's enough basis for that to be a reliable entry, then the 183 due to Mr., um, Hamed, Hamed would go **** on the same amount, correct?

John Gaffney: That, that's correct, yeah.

Other Speaker: Okay. And I'm gonna reach you a statement that's in the joint brief and ask you if you agree with this. This is Yusuf's statement. Attorney Holt marked three items in the Gaffney summary with the notation 1, 2, 3. And the parties agreed that with these three exceptions, the 183 check represented a settlement of the debts and credits shown in that summary. By accepting these three items, Mohammed Hamed was reserving the right to challenge them in this litigation. Did you understand that's the agreement we reached?

John Gaffney: Um, I, I heard your statement. But I, I, um, I mean, and I know that the check did have the, uh, the statement on it, um, that's been lined out.

Other Speaker: So you're not suggesting that that, that you can't contest this. You're not making that suggestion, are you?

John Gaffney: Um, no, not me. I, I mean, uh, I obviously, I was there and, and, um, that's, I didn't physically write that check. That's not my writing. But, um, but, uh, essentially I knew it was pre, being prepared based upon my analysis here, yes.

Other Speaker: Okay. And, um, can we get the witness shown Exhibit G?

Other Speaker: G?

Other Speaker: G.

Other Speaker: ****.

Other Speaker: Oh, this is the **** second addendum and you looked at that first part where he talked about, um, they agreed to file their tax returns, correct? Prior to sentencing?

John Gaffney: Yeah, prior to sentencing, yes, okay.

Other Speaker: And Item No. 2 if we just scroll up a little bit, and it talks about a mediation on June 24, 2014. Uh, did you attend that mediation?

John Gaffney: Did I, did I attend it, did you say?

Other Speaker: Yeah. In St. Thomas with Judge Barnard?

John Gaffney: No.

Other Speaker: Okay. Well, will you go to the next page? He says as a result of the mediation the parties entered a **** agreement in the Bi, **** for the year 2002 to 2010. You see that?

John Gaffney: Yes.

Other Speaker: And then it talks about they reached a settlement agreement for 2011 after serving tax returns. You see that?

John Gaffney: Correct, yeah.

Other Speaker: So this is a mediated agreement, correct?

John Gaffney: It appears, yes.

Other Speaker: The IRS **** the tax returns, did they?

John Gaffney: ****.

Other Speaker: Okay. And then payment of 6.5, 6,586,132 was remitted to the **** is that correct?

John Gaffney: Correct, yeah.

Other Speaker: Okay. Now, earlier today we were asking Mr. Yusuf about an Exhibit No. 15, um, ****.

Other Speaker: **** um, it was **** part. I mean, had to go **** scan **** so ****.

Other Speaker: Let me see if I can –

Other Speaker: I don't know if he's ever seen this so.

Other Speaker: Were you, okay. During this time period you understood that Judge DiRuzzo would've, well, let's skip, scroll this up a little bit. And you see that this is signed by Lori Hendrickson of the Justice Department?

John Gaffney: I, now, um, just to be, just to make sure that I'm not misunderstanding this. Uh, this mediation, this wasn't the one that happened at the federal courthouse in St. Croix was it?

Other Speaker: It happened at the federal courthouse in St. Thomas.

John Gaffney: Okay. I didn't go to anything, I didn't go to any federal courthouse in, in St. Thomas. But I remember the, um, I remember the hearing at the federal courthouse in St. Croix where, um, you know, Joe DiRuzzo said we had settled everything with the Internal Revenue Bureau.

Other Speaker: Okay.

John Gaffney: And –

Other Speaker: So –

John Gaffney: – it –

Other Speaker: – you –

John Gaffney: – seemed to be, it seemed to be in that same time period. That's why I was curious about this. I didn't –

Other Speaker: – and –

John Gaffney: – know –

Other Speaker: – it, it was a sentencing in October of 2000 14.

John Gaffney: – okay, okay.

Other Speaker: All right. And, so, throughout this time period, Joe DiRuzzo was a lawyer at the United Corporation?

John Gaffney: Yes.

Other Speaker: Richard, you can take that down.

Other Speaker: All right.

Other Speaker: So, earlier when we showed Mr. Houston a letter of, it came from Joe DiRuzzo and Lori Hendrickson, where she indicated that the 6 million, 6.5 million dollar check that you're talkin' about, applied only, uh, to the benefit of the Yusuf family, and not to the benefit of the Hamed family. Were you aware of that?

John Gaffney: I was aware of that, yeah.

Other Speaker: Okay. So, the tax returns were filed, the payment was made, and United took the position that the Hamed family didn't get the benefit of that payment, correct?

Other Speaker: Objection to form.

Other Speaker: Since **** never, uh, uh, **** the –

Other Speaker: Do you –

Other Speaker: – court –

Other Speaker: – know whether –

Other Speaker: – court –

Other Speaker: – **** IRB, okay, so the IRB agreed to accept the check. The check was tendered. Do you know whether or not the Yusuf family, or United took the position that the Hamed family were not entitled to the benefit of that check?

John Gaffney: I remember there was, um, um, yeah, there was a lot of discussion about, um, um, the Hamed family, and they're not being entitled to, in other words, that didn't settle the Hamed's ****.

Other Speaker: All right. So, so you don't know whether or not the settlement went to the, the United Corporation at the IRB, uh, was ever intended to benefit the Yusuf family? I mean, the Hamed family?

Other Speaker: Uh, objection to the form.

Other Speaker: Vague, ambiguous.

Other Speaker: Vague –

Other Speaker: That is **** –

Other Speaker: – and ambiguous in what way?

Other Speaker: Well, I'll restate it. The tax returns were submitted. The payment of 6.5 million was made, and you've indicated that the Bureau relied upon those tax returns, correct?

John Gaffney: Correct, yeah.

Other Speaker: But, they relied upon them for the benefit of the United Corporation, not the benefit the Yusuf –

Other Speaker: Objection –

Other Speaker: – family, **** they weren't corrected.

Other Speaker: The agreement speaks for itself, and it's requirements.

Other Speaker: So, well, I **** –

Other Speaker: What must be done, uh, and that controls. Uh, so objection –

Other Speaker: Not –

Other Speaker: – to form.

Other Speaker: The agreement has conditions about what must be done. What returns must be filed.

Other Speaker: And, and **** what, what **** –

Other Speaker: Were, like, statement's been made that the IRS accepted these taxes for the benefit of the Yusuf and Hamed family, and I'm just tryin' –

Other Speaker: But –

Other Speaker: – to –

Other Speaker: – but –

Other Speaker: – establish –

Other Speaker: – who said that?

Other Speaker: No, I don't, I don't think he has made that statement.

Other Speaker: Who made it?

Other Speaker: I thought we asked that question.

Other Speaker: Uh, he said that the taxes weren't paid, but, I, I, I object to the use of the word benefit. The, the plea agreement required that those tax, taxes be made for, for all defendants, the Hamed and the, the taxes had to be, in other words, the taxes for United Corporation had to be paid as a condition of the plea agreement for all –

Other Speakers: That's –

Other Speaker: – defendants.

Other Speaker: – correct. But you represented that it was done for his benefit, and they –

Other Speaker: Well –

Other Speaker: – accepted it, they accepted it as United's tax returns. I guess **** –

Other Speaker: – right. But that, that goes without saying. But, but the condition of the plea agreement, uh, was that United tax –

Other Speaker: I **** –

Other Speaker: – returns had to be paid for all defendants to be discharged.

Other Speaker: – yeah, I think –

Other Speaker: So it is –

Other Speaker: – you've –

Other Speaker: – true –

Other Speaker: – opened –

Other Speaker: – that the –

Other Speaker: – the door by –

Other Speaker: – ****.

Other Speaker: – asking this witness –

Other Speaker: It is for this –

Other Speaker: – and –

Other Speaker: – witness.

Other Speaker: – somehow or another, it was for his benefit. But, he's not gonna kn, really know that, but, but –

Other Speaker: That's –

Other Speaker: – if the **** the –

Other Speaker: – why I –

Other Speaker: – plea agreement determines who benefitted from the payment of the United ****, and that would be all defendants' benefit.

Other Speaker: Uh –

Other Speaker: Now –

Other Speaker: – ****.

Other Speaker: – the question is, when the Bureau accepted it, what was the Bureau thinking? Not the plea agreement. The plea agreement's a criminal case. But, what, what, when the, when the Bureau accepted these payments, I'll rephrase it, when the Bureau accepted these payments, which they did not audit, okay, were they shown that thinking they were doing it for the benefit of the Hamed family, or just for the benefit of the –

Other Speaker: How would –

Other Speaker: **** –

Other Speaker: – he know?

Other Speaker: Yeah.

Other Speaker: – if you –

Other Speaker: Possibly.

Other Speaker: – know.

John Gaffney: Okay, um, um, I, I, I guess you've asked me the question and I can answer it.

Other Speaker: Do you know?

Other Speaker: It's the ****.

Other Speaker: ****, you can speak –

John Gaffney: Yeah, no –

Other Speaker: **** but IRB –

John Gaffney: – well, I, I will tell you that, uh, what I will tell you is, is that six, the 6 million 586 that you're talking about, that was the sum total of everything that was owed that hadn't already been paid and advanced by, um, um, by the shareholders of the United Corporation, okay. It had no amount in it, it had no amount whatsoever in it that pertained to the Hameds. Um, uh, the only records that I had of amounts that owed by the Hameds were some of the correspondence that said that the Hameds owed some money to them, but I had no, I had no, uh,

privity to their tax returns. Those six, that six point six million in rough numbers, that 6 point 6 million was based upon the tax return preparations for all of the Yusuf family ****.

Other Speaker: No other question about ****.

John Gaffney: It was, there was no, there was no amount allocated to anybody else but the Yusuf family.

Other Speaker: Actually, I only have one other question.

Other Speaker: Mm hmm.

Other Speaker: I asked you a question –

Other Speaker: **** sure **** –

Other Speaker: – today about –

Other Speaker: – **** asked **** –

Other Speaker: – the Statement A that they said that you'd never seen that before, correct?

John Gaffney: Um, are you tal, referring to the one, this one, oh, the Statement A?

Other Speaker: Yeah. I just wanna know, have I ever asked you a question before and you didn't know the answer to, that you just **** –

John Gaffney: Right. To be honest –

Other Speaker: – **** up?

John Gaffney: – with you, I, I gotta tell ya, um, uh, I'm surprised. Um, the funny thing is, I will say this, um, as, as funny as this sounds, um, I had a conversation with Joe DiRuzzo about 6 months ago, and, um, he was bugging me about something, um, some, completely unrelated to this, and I said, you know, Joe, since you're bugging me about this, I'm gonna bug you about something that I've been bugging you about for years, and that is, you promised to give me a copy of the dated stamped copies of these tax returns, because you insisted upon taking them after we, um, left the office in Saint Thomas. And, and he goes, oh, wait, wait, and he came back to me a day later, and he goes we're in luck, and he posted 'em on a, um, you know one drive or something like that, and I actually captured them and I, I –

Other Speaker: Yeah.

John Gaffney: – I put them on the server. But, unfortunately, the records that I have right now, um, uh, on my laptop, I made a backup before, before that, and I don't have those, um, so I don't have the –

Other Speaker: **** –

John Gaffney: – the actual date stamped copies of the returns. And –

Other Speaker: But, my –

John Gaffney: – to be perfectly honest with you, I honestly don't remember seeing that Statement A, and I, I, uh, hey, you know, it's just very strange, especially the fact that it was, it says Statement A and it was, um, and it was signed over by Mr. Yusuf. So, I, um, I'm kind of, um, I'm kind of surprised about that, uh, you know, that, the discovery of that at this late point.

Other Speaker: Uh –

Other Speaker: Mr. Pratt, I'm –

Other Speaker: You **** –

Other Speaker: – gonna **** –

Other Speaker: – **** and about ****.

Other Speaker: That's the only thing I have to make up on this.

Other Speaker: Thank you.

John Gaffney: Okay.

Other Speaker: Uh, okay.

Other Speaker: Okay.

Other Speaker: ****.

Other Speaker: Um, so, just, uh, to clarify, uh, what I think you've already testified to, United as a Subchapter S Corporation, paid its taxes through individual returns of its shareholders, correct?

John Gaffney: That's correct, yeah.

Other Speaker: Those shareholders were members of the Yusuf family, not the, and did not include any Hamed family members, correct?

John Gaffney: That's correct, yeah.

Other Speaker: Okay. Um, and the, uh, the tax returns that mister, uh, that, excuse me, that Attorney Holt, uh, referred to in his, uh, uh, examination of, of you, uh, the filed tax returns, uh, show that they were processed, received and processed by the IRB, but the whole group, 2002 to 2010, uh –

Other Speaker: And **** –

Other Speaker: – received and processed on February 11, 2013, uh, and representing that, and, the mediation, uh, that, uh, was referenced in the second addendum to the plea agreement, that would be pdf page, uh, 100 and, yeah, Page 100, uh, was actually months after that, correct?

John Gaffney: Yes.

Other Speaker: Yeah, June 24, 2013. So, in, in this mediated settlement, the, the government had in its possession the tax returns that you had transcribed from the Freed Maxick, uh, prepared returns 2002 to 2010, had those tax returns in hand. They'd been filed several months earlier, and the, uh, tax liability shown on those returns, including the shareholder returns, was the exact amount was 6 million 586 thousand, 132, correct?

John Gaffney: That's correct, yeah.

Other Speaker: Okay. No further questions.

Other Speaker: Any cross:

Other Speaker: Thank you. May he be excused?

Other Speaker: Yes.

Other Speaker: You may be excused.

John Gaffney: Are you talkin' to me, Judge Ross?

Other Speaker: Yes –

Other Speaker: And **** –

Other Speaker: – you are. You may be –

John Gaffney: Oh **** –

Other Speaker; Excused.

John Gaffney: – okay, so I can leave?

Other Speaker: Mm hmm.

Other Speaker: Yeah, you can sign out.

John Gaffney: All right. Have, have a good holiday. Have a good day.

Other Speaker: Same to you.

Other Speaker: Thank you.

Other Speaker: And **** it.

John Gaffney: All right.

Other Speaker: We have no other witnesses.

Other Speaker: So –

Other Speaker: Uh, Your Honor, I wanted to just move for the admission of some exhibits. I'm going to refer to them by the exhibit number in the **** motion, 'cause that's how we, uh –

Other Speaker: I –

Other Speaker; – used them. Uh –

Other Speaker: – I think we can just agree to all of them.

Other Speaker: – well, I didn't agree, though, on, ****, uh, O and P. Um, I don't, I don't have an objection to the others, and, uh, at least I would like the opportunity, as I indicated, to brief the admissibility of O and P. I know you've had questions about them, and, and, uh, but I would like the opportunity –

Other Speaker: Okay.

Other Speaker: I'd appreciate it.

Other Speaker: – and I didn't wanna stipulate to, to waive my objection –

Other Speaker: Objections.

Other Speaker: – so if we could ****.

Other Speaker: Okay, so we just –

Other Speaker: –****.

Other Speaker: – say that they're admissible, all of them except O and P and you, subject to your objection?

Other Speaker: Yes.

Other Speaker: Okay.

Other Speaker: Well.

Other Speaker: Thank you.

Other Speaker: All right. Thank you, Your Honor. Um, would you like for us to do proposed findings?

Other Speaker: Yeah.

Other Speaker: Yes.

Other Speaker: Oh, to me.

Other Speaker: Yes. Twice.

Other Speaker: Either way, I will send ***** to the admissibility of your acceptance that aren't part of the package. They're, just *****, I don't know, so that we're cooperating as well.

Other Speaker: So.

Other Speaker: All right. So, all exhibits are admitted except for the FDS Summary and –

Other Speaker: Subject –

Other Speaker: – ***** –

Other Speaker: – O and P, subject –

Other Speaker: – that ***** –

Other Speaker: – is, uh –

Other Speaker: – um –

Other Speaker: *****.

Other Speaker: – all right.

Other Speaker: Timing.

Other Speaker: Huh?

Other Speaker: Timing of submissions –

Other Speaker: ***** proposed –

Other Speaker: – for proposed findings of –

Other Speaker: – of timing of, are we gonna have this transcribed, or are we gonna just –

Other Speaker: – we can.

Other Speaker: Okay.

Other Speaker: Actually, okay.

Other Speaker: You said can you hear a transcript?

Other Speaker: No.

Other Speaker: Okay. Then –

Other Speaker: I mean, we –

Other Speaker: You –

Other Speaker: – can say –

Other Speaker: – may wanna, wanna write it, but, I mean –

Other Speaker: – it's safe.

Other Speaker: – wanna, wanna write it, but, I –

Other Speaker: It's safe.

Other Speaker: – mean, the problem is, when you, when we get it, then I have to
correspondence where she said, she said, and he said, it'll take me a long time.

Other Speaker: Mm hmm.

Other Speaker: Whereas, if I'm just, just gonna submit proposed findings based on –

Other Speaker: Summarized.

Other Speaker: Yeah.

Other Speaker: – summarized, than that saves me a lot of work.

Other Speaker: Saves us a lot –

Other Speaker: **** what **** –

Other Speaker: – of time, too.

Other Speaker: – uh, later.

Other Speaker: I mean, it's, when you get a transcript, you gotta read it and –

Other Speaker: **** it's **** –

Other Speaker: – Jack said, Jack said –

Other Speaker: You just **** said.

Other Speaker: All right. So –

Other Speaker: Say that again.

Other Speaker: – so let's just agree to brief him without the transcript.

Other Speaker: You wanna get it to you as you can. It, it's not gonna be required for a **** plans of fact to use.

Other Speaker: But we could use it, um, in ours, if we chose.

Other Speaker: Yeah.

Other Speaker: Yeah. I mean, you don't wanna use it, that's fine. I'm not gonna be upset if you don't use it.

Other Speaker: It saves me a lot of work. Um, I, if you get, if it's part of the record, then I'm valid. That's who ****. But, anyway, you can –

Other Speaker: You don't –

Other Speaker: – **** –

Other Speaker: – **** use it. If we wanna use it, we'll, I mean, we may not, I, I don't know. We haven't read the thing yet. So, but, at the same time, you don't wanna, uh, you know, I wanna, if, if somebody said something, I wanna be able to point to it if I need to. Um, so.

Other Speaker: Um, the only thing I would say about that is, I sure have a lot of work to do, while **** time, what timing do we have?

Other Speaker: Well, it's all, I mean, this is only a couple of hours. And it's not even, uh, I, I think the transcript –

Other Speaker: I'm not talking about the tran, I'm talking about the stipulations. That's what –

Other Speaker: – oh.

Other Speaker: – the prob, the **** are done.

Other Speaker: I, I may just **** on the **** agreement and take all the rhymes and reasons of law practice and –

Other Speaker: Yeah.

Other Speaker: – I'm trying to **** it all.

Other Speaker: Well, if the court wouldn't mind –

Other Speaker: ****.

Other Speaker: – allowing, uh, it's, we're –

Other Speaker: That's a lot –

Other Speaker: – pushin' on the holidays.

Other Speaker: – that's –

Other Speaker: If we could do this sometime post, post January, that would be helpful.

Other Speaker: Mm hmm.

Other Speaker: Or, mid January or something along those lines. I don't know, um, how the court feels –

Other Speaker: ****.

Other Speaker: – about that.

Other Speaker: I just want it to be done, and some of the spots so –

Other Speaker: Okay.

Other Speaker: I'm not gonna force you to do it.

Other Speaker: All right. So, why don't we confer on a date, and then we just –

Other Speaker: Okay.

Other Speaker: – get it done.

Other Speaker: Is that all right, Your Honor?

Other Speaker: Yes.

Other Speaker: Okay. That's fine, then.

Other Speaker: And **** –

Other Speaker: I'm gonna go ahead and end the recording now. Is that okay?

Other Speaker: Yes, you may.

Other Speaker: Okay.