

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

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

Plaintiff/Counterclaim Defendant,)

v.)

FATHI YUSUF and **UNITED CORPORATION**,)

Defendants/Counterclaimants,)

v.)

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

Additional Counterclaim Defendants.)

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

Plaintiff,)

v.)

UNITED CORPORATION,)

Defendant.)

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

Plaintiff,)

v.)

FATHI YUSUF,)

Defendant.)

CIVIL NO. SX-12-CV-370

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

Consolidated With

CIVIL NO. SX-14-CV-287

**ACTION FOR DAMAGES AND
DECLARATORY JUDGMENT**

CIVIL NO. SX-14-CV-278

**ACTION FOR DEBT AND
CONVERSION**

**YUSUF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS
OF LAW RE: HAMED'S CLAIM H-37**

FINDINGS OF FACT

1. In 2015, John Gaffney prepared a summary of partnership accounting for the period January 1, 2013 to September 20, 2015 (the “Gaffney Summary” or “Summary”). The Gaffney Summary showed “due to/from” amounts for Fathi Yusuf (“Yusuf”) and Mohammad Hamed (“Hamed”) – *i.e.*, dollar amounts due from the partnership or to the partnership by Yusuf and dollar amounts due from the partnership or to the partnership by Hamed. See Exhibit 6, p. 1, appended to Exhibit A.¹ This Summary was an attempt to clear up remaining items on the balance sheet after he began treating the Plaza Extra supermarket businesses for tax purposes as a partnership separate and apart from United Corporation beginning with the 2013 tax year. Until the 2013 tax year, the Plaza Extra supermarket businesses operated under the aegis of United Corporation, and tax returns for the Plaza Extra business were submitted by United Corporation, but taxed at the shareholder level because United was a subchapter S corporation. See Transcript of December 6, 2022 Hearing (hereafter, “TR, ___”), pp 41-42; 66-68; ` Exhibit C, Gaffney Declaration, ¶ 2.

2. The Gaffney Summary has columns for Yusuf and Hamed, and covers all three stores – Plaza Extra East, Plaza Extra Tutu Park and Plaza Extra West. Gaffney testified that if a dollar figure appears in parentheses under a Yusuf column, that means that Yusuf owes the partnership that sum. If a dollar figure in the Yusuf column does not appear within parentheses,

¹The citations to exhibits in these proposed findings and conclusions are to the lettered exhibits filed on August 17, 2022 with the parties’ Joint Motion re: Claim H-37. Attorney Holt relied on separately numbered exhibits that he used in his direct examination of Fathi Yusuf and John Gaffney at the December 6, 2022 hearing. Rather than cite to the same document by both exhibit number and exhibit letter, Yusuf for sake of simplicity has cited to the document by exhibit letter. Yusuf is re-filing the exhibits to the Joint Motion in conjunction with the filing of these findings and conclusions so that the Special Master has easy access to them.

that means the amount is owed to Yusuf. TR², 69. The same convention applies to dollar figures appearing in the Hamed column. *Id.* at 69.

3. By adding the numbers in the Yusuf column on his Summary, Gaffney determined that Yusuf owed the partnership \$255,331.90. *See* Exhibit 6, p. 1, appended to Exhibit A; TR, 70. Adding the numbers in the Hamed column yielded a figure of \$71,949.99 owed by Hamed to the partnership. *See* Exhibit 6, appended to Exhibit A; TR, 71.

4. On or about October 1, 2015, the parties, Special Master Ross and John Gaffney met in one or more meetings to discuss that Summary and arrange for a payment by Yusuf to Hamed to cover the difference between what each of them owed the partnership, as shown in the Summary. *See* TR, 71.

5. The difference between the \$255,331.90. owed to the partnership by Yusuf and the \$71,949.99 owed to the partnership by Hamed is \$183,381.91. TR, 70-71. A check in that amount drawn on the Partnership Claims Reserve Account was signed by Special Master Ross and Fathi Yusuf dated October 1, 2015 and issued to Mohammad Hamed. *See* Exhibit 7, appended to Exhibit A; TR, 71.

6. Even though the check was cut for that amount, Attorney Holt disputed three of the items on the Gaffney Summary that were used to tabulate the \$183,381.91 settlement amount. Those items marked with the handwritten notations “1,” “2” and “3,” were left open for challenge by Hamed. TR, 71-72; Exhibit 6, appended to Exhibit A. The validity of the remaining 15 items on the Gaffney Summary is not being challenged by Hamed. TR, 72.

²The reporter mistakenly transcribed “Yusuf” as “use up” on page 69 of the transcript.

7. The line item of \$186,819.33 was marked with the numeral “3.” Claim H-37 represents Hamed’s challenge to that line item on the Summary that otherwise settled these “due to/due from” accounting entries on the summary. TR, 72.

8. The line item for \$186,819.33 represents the net amount owed by the partnership to Fathi Yusuf for loans made to him by United Corporation when the Plaza Extra supermarket business was being operated by United. TR, 43. In deriving the line item showing that \$186,819.33 was owed to Fathi Yusuf by the partnership, John Gaffney relied on amounts that appeared in schedule L of the tax returns for United Corporation. TR, 45, 47. *See* also Exhibit D, Gaffney Narrative re: Claim H-37, pdf pp. 24-25.

9. Tax returns for United Corporation for the tax years 2002 to 2010 (and the returns for each of its shareholders, including Fathi Yusuf) were prepared by the Buffalo, New York accounting firm of Freed Maxick. TR, 47, 65-66. Freed Maxick did not sign the returns as “preparer,” but they were filed by Gaffney in precisely the same form that Freed Maxick prepared them. TR, 47-48. Freed Maxick was retained by Waleed Hamed’s attorney in the criminal case, Attorney Randall Andreozzi,³ to oversee the accounting for the Plaza Extra supermarket businesses and to prepare income tax returns for the 2002 to 2010 tax years for United Corporation, the Yusuf family shareholders of that corporation and the Hamed defendants to the criminal case. *See* Exhibit E, Freed Maxick Invoices for Work Performed on those Tax Returns sent to Andreozzi; TR, 80.

10. Gaffney had no reason to question the validity of the shareholder loan information that appeared on the tax returns prepared by Freed Maxick (TR, 46). Freed Maxick was “a very

³See Exhibit F, transcript of July 16, 2013 hearing before Judge Lewis, p. 77 (identifying Attorney Andreozzi as an attorney for Waleed Hamed). The transcript of the December 6, 2023 hearing on Claim H-37 incorrectly spells “Andreozzi” as “Androsy” throughout.

reputable accounting firm” (TR, 61), and they would not have put information on a tax return unless they had backup for it. TR, 58. *See also* Gaffney’s statement at TR, 74 that he accepted “the loan to shareholder information” on Schedule L of the tax returns “as gospel”).

11. Mr. Solari, the partner in charge of the CPA’s at the Freed Maxick accounting firm (TR 64-65), was unwilling to provide the working trial balances and adjustments used by Freed to prepare the tax returns when Gaffney requested them. TR, 46. But ultimately United’s in-house bookkeeper, Marjorie Sofing did obtain the adjustments from Solari for the 2002 to 2010 period, but not the trial balances.⁴ TR, 46. The adjustments that Freed Maxick gave to Marjorie Sofing “reconciled perfectly” (TR, 59), which reinforced Gaffney’s belief in the validity of the shareholder loan information set forth in the 2002 to 2010 tax returns – and indeed gave Gaffney a “high degree of confidence” in the validity of that information. TR, 60; *see also* Gaffney’s testimony at TR, 76-77 (stating that once he was able to do “a reconciliation of retained earnings” after Marjorie received the adjustments, his “confidence went way up”).

12. The 2002 to 2010 tax returns for United Corporation (and the returns for its shareholders) that were prepared by Freed Maxick were accepted by the Virgin Islands Bureau of Internal Revenue (the “BIR”) as accurate and complete when they were submitted to the BIR in 2013.⁵ TR, 67, 74; *See also* Exhibit F, July 16, 2013 Sentencing Hearing of United before the

⁴Insofar as Hamed will claim that Gaffney’s inability to examine trial balances decreases the reliability of the information provided by Freed Maxick on the United tax returns in any respect (including amounts owed by United for shareholder loans to it shown in Schedule L of the returns), that problem is the result of the failure of Hamed’s criminal attorney (Andreozzi) or the accountants hired by Andreozzi (Freed Maxick) to share that information with Gaffney. It would be inequitable for Hamed to be advantaged in the resolution of claim H-37 by any problems of their making.

⁵The plea agreement entered into by United and the individual Hamed and Yusuf defendants provided for the dismissal of all counts against the individual defendants upon entry of a guilty plea by United to one count of the indictment. *See* Exhibit H, p. 2. But one of the conditions of

Honorable Wilma A. Lewis, p. 42, 45 (statements of Assistant U.S. Attorney Hendrickson affirming that the \$6.5 million dollars paid by United pursuant to tax returns it and its shareholders submitted for tax years 2002 to 2010 satisfied all tax obligations of United for those tax years); *see also* Exhibit G, Second Amended Plea Agreement (stating that the VIBIR has entered into closing agreements for tax years 2002 to 2010).⁶

13. The shareholder loans were initially as high as \$700,000 in the early tax returns, but Gaffney made downward adjustments to that number to arrive at the \$186,819.33 amount shown in his summary. TR, 74. He adopted a “conservative approach” in making those adjustments (meaning an approach that favored the partnership) and has a “pretty high confidence” in the \$186,819.33 figure as the amount owed to Yusuf by United (and hence the partnership) to repay shareholder loans. TR, 74.

14. John Gaffney met with Attorney Holt on January 25, 2016 to discuss the \$186,819.33 line item in the Gaffney Summary and why Gaffney regarded it as a valid entry. *See*

the plea agreement and second amended plea agreement (and hence one of the conditions of the dismissal of all charges against the Hamed defendants) was that United and all individual defendants file valid tax returns for tax years 2002 through 2010. *See* Exhibit H, p. 11; Exhibit G. Any contention by Hamed that the filing of the tax returns and the payment with partnership money of United’s remaining tax liability approximately \$6.5 million dollars did not “benefit” them is irreconcilable with the fact that the dismissals of the charges against them depended on United filing those returns and paying the \$6.5 million still owed after payment of estimated taxes during those tax years. In addition, the fact that United Corporation, and not the partnership, “took the bullet” in the criminal case meant that Mohammed Hamed completely escaped criminal prosecution. In that additional respect, Mohammed Hamed benefited from United’s plea and its performance of all conditions of the plea agreement, including payment of all tax liabilities for Plaza Extra income for the 2002 to 2010 tax years. *See* TR, 20 (testimony of Fathi Yusuf) (“I went to jail for Mohammed. I give him half of the profit, but I went to jail for 21 days”).

⁶The original plea agreement and the first addendum to it required United to pay \$10,000,000 to cover income tax liabilities for the supermarket business for prior tax years – namely, 1996-2001. *See* Exhibits H and I; *see also* Exhibit F, p. 45 (statements of Assistant U.S. Attorney Hendrickson).

Exhibit C, Gaffney Declaration, ¶ 5. Attorney Holt’s understanding of Gaffney’s explanation for that entry is that Gaffney told him in so many words that “he had no idea why this amount was on the ledger.” *See* Exhibit 8, ¶ 5, appended to Exhibit A.

15. Gaffney did not tell Attorney Holt at a meeting in 2016 that he had no idea why this amount was on the ledger. Gaffney said that what he told Attorney Holt was that while there was no audit trail for the \$186,819.33 entry, it is common for audit trails to disappear after long periods of time, and that accountants generally recognize the validity of such items if they are reported on tax returns, as was this item. *See* Exhibit C, Gaffney Declaration, ¶ 5. Gaffney testified that the absence of an audit trail “doesn’t invalidate” the shareholder loan information provided by Freed Maxick on the tax returns. TR, 61.⁷

CONCLUSIONS OF LAW

1. The Special Master finds that the testimony of John Gaffney at the December 6, 2023 hearing about the validity of the amount shown on his summary as owed by United Corporation to Yusuf from shareholder loans – namely, \$186,819.33 – is credible.

2. The Special Master finds that Hamed has not carried his burden of proof to show that the \$186,819.33 entry on the Gaffney summary is invalid. Even assuming *arguendo* that Yusuf had the burden of proof of this issue, and he does not, the Special Master finds that Yusuf has established the validity of this entry.

⁷The VI IRB had in hand the 2002 to 2010 tax returns that had been prepared by Freed Maxick and then copied verbatim by Gaffney when the mediation before Judge Barnard was held in which the IRB accepted those returns as valid and closed out those tax years by accepting payment of the \$6.5 million dollar payment. *See* TR, 91; Exhibit G, Second Addendum to Plea Agreement dated June 24, 2013.

3. The Special Master accordingly finds that the \$186,819.33 credit given to Yusuf in the Gaffney Summary is valid, and that it was properly used to calculate the settlement amount of \$183,381.91 in the check dated October 1, 2015 from the Partnership Claims Reserve Account that was signed by the Special Master and Fathi Yusuf and made payable to Mohammed Hamed.

4. In so finding, the Special Master rejects the contention by Hamed that the settlement check given to Hamed in the amount of \$183,381.91 should have been increased by \$186,819.33, and rejects any claim that Hamed is entitled to a credit in the partnership accounting of \$186,819.33.

5. The Special Master finds that the grand jury testimony⁸ of Pablo O'Neal, who is deceased, that Ben Irvin told him that Fathi Yusuf had advised him to treat amounts paid to him by United as a loan to shareholder is inadmissible hearsay and therefore, may not be relied upon in making findings and conclusions in this matter. Following the Supreme Court's decision in *Idaho v. Wright*, 497 U.S. 805 (1990), federal courts have been reluctant to approve the admission of grand jury testimony at trial over a hearsay and confrontation clause objection. *See U.S. v. Omar*, 104 F.3d 519 (1st Cir. 1997) (deceased grand jury witness testimony inadmissible over defendants' objections where government did not have the "opportunity and similar motive" for cross-examining witness); *U.S. v. Gomez-Lemos*, 939 F.3d 326 (6th Cir. 1991); *U.S. v. Lang*, 904 F.2d 618 (11th Cir. 1991). The Pablo O'Neal testimony suffers from the additional infirmity that it is double hearsay, insofar as it is O'Neal's out-of-court statement regarding what Ben Irvin told him about another out-of-court statement made by Yusuf to him,

⁸The Special Master overruled an objection to introduction the grand jury testimony, but permitted counsel for Yusuf to argue in these findings and conclusions that the testimony was inadmissible and should not be considered at all. In addition, the Special Master stated that even if he admitted the evidence, how much weight, if any, he would give it was a separate matter. TR, 25.

Irvin. But even if the grand jury testimony were admissible, the Special Master finds that the O’Neal testimony is entitled to no weight because, as grand jury testimony, O’Neal was not subject to cross-examination, and because Irvin was not subject to cross-examination in this or any other proceeding about what he allegedly said that Fathi Yusuf told him, and because the O’Neal testimony is vague in any event.

6. The FBI interview notes that contain an FBI agent’s statements of what Ben Irvin told him during the interview about what Fathi Yusuf told him are also inadmissible hearsay. *See United States v. Sampson*, 898 F.3d 287, 308-309 (2d Cir. 2018) (FBI agent’s notes of interview with defendant were hearsay not subject to any exception, and lower court properly excluded them from evidence). Even if the FBI agent’s notes were admissible, the Special Master finds that they are entitled to no weight because they were not subject to cross-examination, and further finds that they do not undercut Yusuf’s testimony (at TR, 24) that he did not give O’Neal or any of his accountants any instructions on how to prepare the accounting for United Corporation.

7. The Special Master further finds that Yusuf relied on his accountant, John Gaffney, for partnership accounting, including the preparation of the Gaffney summary, and that he properly deferred to John Gaffney at the December 6 hearing when asked about the Gaffney summary and the 2002 to 2010 income tax returns of United Corporation. TR 7, 21.

Respectfully submitted,

DUDLEY NEWMAN FEUERZEIG LLP

DATED: February 10, 2023

By: /s/ Stefan B. Herpel

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2023, I caused the foregoing **YUSUF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW RE: HAMED'S CLAIM H-37**, which complies with the page or word limitation set forth in Rule 6-1(e), to be served upon the following via the Case Anywhere docketing system:

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EXHIBITS

JOINT MOTION FOR THE MASTER’S FINAL JUDGMENT ON BRIEFS AS TO GROUP
“A” CLAIM H-37— \$186,819.33 CREDITED AS “DUE TO” YUSUF FROM PARTNERSHIP

EXHIBIT	TITLE
A	Plaintiff’s Motion and Memorandum in Support Thereof to Remove the Liquidating Partner
B	Excerpts from John Gaffney Testimony January 21, 2020
C	Declaration of John Gaffney dated February 15, 2016
D	John Gaffney Accountant’s Report as to Hamed Claim H-37 dated June 9, 2019
E	Three (3) FreedMaxick invoices
F	Excerpts from Sentencing Hearing Transcript July 16, 2013
G	Plea Agreement- Second Addendum filed June 24, 2013
H	Plea Agreement filed February 26, 2010
I	Plea Agreement- Addendum filed February 7, 2011
J	Excerpts from BDO Report, pp. 20-22,
K	David Jackson Expert Report of August 1, 2014
L	Excerpt from Deposition of John Gaffney, April 3, 2014 at p. 26
M	Excerpt from Deposition of John Gaffney, April 3, 2014 at p. 29
N	Excerpt from Hamed’s CPA Expert’s Report, September 28, 2016 at p. 56
O	FBI Agent’s summary recounting interview of John Irvin, former controller for the United Corporation, August 1, 2003.
P	Grand Jury Testimony of Pablo O’Neal, June 5, 2003.

EXHIBIT A

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

MOHAMMAD HAMED, by his
authorized agent **WALEED HAMED**,

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and
UNITED CORPORATION,

Defendants/Counterclaimants,

vs.

**WALEED HAMED, WAHEED
HAMED, MUFEEED HAMED,
HISHAM HAMED,
and PLESSEN ENTERPRISES, INC.,**

Counterclaim Defendants.

CIVIL NO. SX-12-CV-370

**ACTION FOR DAMAGES
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

**PLAINTIFF'S MOTION AND MEMORANDUM IN SUPPORT THEREOF
TO REMOVE THE LIQUIDATING PARTNER**

The Plaintiff, by counsel, respectfully requests this Court to remove Fathi Yusuf as the Liquidating Partner for two separate, independent reasons.¹ First, Fathi Yusuf has taken actions contrary to the interests of the partnership for his own personal interests, in violation of his statutory obligations to the partnership. Second, the remaining business of the partnership is virtually concluded, so that his services are no longer needed. Each issue will be addressed separately for the sake of clarity.

I. Conflicts of Interests

The Court appointed Fathi Yusuf to be the Liquidating Partner for the wind-up of

¹ As discussed herein, this Court has the authority to appoint the Master, Judge Ross, in his place to assume this role pursuant to 26 V.I.C. § 173(a).

the Plaza Extra Partnership between himself and Mohammad Hamed. Pursuant to 26

V.I.C. §74(b)(2) a partner's duty of loyalty requires him:

(2) to refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership.

Notwithstanding the clear statutory language, which specifically includes actions that occur during the winding up of the partnership, Yusuf has violated this mandate while acting as the Liquidating Partner in several ways, each of which requires his removal as the Liquidating Partner, as follows:

1) Parcel No. 2-4 Rem. Estate Charlotte Amalie, St. Thomas

This parcel is a half-acre plot in St. Thomas that is in the name of United Corporation, although it belongs 50/50 to Hamed. In this regard, Fathi Yusuf unequivocally stated in part as follows when asked about this plot in his deposition earlier in this action (See **Exhibit 1** at pp. 80-81):

Q. And the Tutu Park property, is that also called Ft. Milner, as well?

A. Yeah, it's Ft. Milner or Tut. Its' Ft. Milner, I believe.

Q. Okay. And one is a 9-acre parcel?

A. 9.31

Q. Then the other one is like a half-acre parcel?

A. It's about .53, if I recall.

...

Q. Okay. So, and what I'm trying to get at is there's a half-acre piece in United, that's in the name of United.

A. Yes.

...

Q. Okay. And both of those, the smaller piece and the bigger piece, were purchased with money from the supermarket, so they're 50/50.

A. That's correct. (Emphasis added.)

Notwithstanding this testimony, Yusuf failed to identify this property as partnership property in the Liquidating Partner's July 31st report to this Court, prompting Hamed to file an objection to that report because of his omission. See **Exhibit 2**.

Yusuf then had Greg Hodges send a letter counsel on this issue, expressly stating that United was not asserting any claim to this property. See **Exhibit 3**.

However, in the Liquidating Partner's November 30th report, Yusuf reversed his position, now claiming the property does belong to United, not the partnership. See Exhibit 4.

As such, claiming an asset admittedly purchased with partnership funds for his own company, United, places Yusuf in a direct conflict, requiring his removal as the Liquidating Partner.

2) RENT ALLEGEDLY OWED UNITED

On November 16, the Liquidating Partner submitted a final accounting, as required by §5 of the Winding Up Plan. See **Exhibit 5** (without attachments). Attached to that accounting was a one page list breaking down the credits between the partners, Yusuf and Hamed, showing a balance due Hamed for \$183,381.91. See **Exhibit 6**. A check for this balance due Hamed was then given to him. See **Exhibit 7**.

As there was no back-up provided with Exhibit 6, counsel for Hamed met with John Gaffney, the person who did this accounting, to see what these entries represented. See **Exhibit 8**. Two entries in the same amount of \$119,529.01, marked with a circled "1" on Exhibit 6, canceled each other out. To explain this entry, Mr. Gaffney produced a back up ledger (See **Exhibit 9**) showing that this amount was due the partnership by United, as the partnership had paid the gross receipts taxes and insurance premiums for the time period in question. However, Mr. Gaffney then canceled out this entry on the summary page, Exhibit 6, as Mr. Yusuf told him that the partnership had agreed to pay this sum as "additional rent" to United, even though Hamed never agreed to such a payment. See **Exhibit 8**.

In short, Mr. Yusuf had the accountant credit his company, United, with a disputed "rent" payment, again taking a position adverse to the partnership. Indeed, this conduct is akin to Yusuf paying United all of the rent that United is still seeking in the final accounting without waiting for this Court to rule on the pending motions regarding the remaining claims for rent.

3) THE CONDENSERS

In his August 18th objection, Hamed also complained about Yusuf claiming he was owed \$59,867.02 for some condensers installed at Plaza East after the parties had already agreed to a value of the store's equipment. See **Exhibit 2**. In a response filed with this Court, Yusuf represented that he would wait until the final accounting to deal with this claim. See **Exhibit 10**. When counsel met with Gaffney, he saw a ledger that showed the amounts due Yusuf from the partnership that totaled \$253,033.97. See **Exhibit 11**. However, this sum did not match up to the entry on Exhibit 6 for this credit, which had a figure of

\$326,017.99. When counsel asked Gaffney about this discrepancy, Gaffney indicated that Yusuf had insisted on adding the value of the condensers to this list. See **Exhibit 8**. As such, Yusuf again “filled” his own pockets with a disputed claim, despite telling this Court that he would not do so. See **Exhibit 10**.

Again, Yusuf’s misconduct is grounds for his removal as the Liquidating Partner.

4) NOTES DUE SHAREHOLDERS

The accounting summary (Exhibit 6) also had another entry for an amount “Due Yusuf” with a figure of \$186,819.33. When asked about this figure, Gaffney said it was from an old accounting entry (See **Exhibit 8**), which he produced. See **Exhibit 12**. Gaffney said he had no idea why this amount was on this ledger. See **Exhibit 8**. Interestingly, this same amount (1) shows up as being due the shareholders (not Yusuf) on the December 31, 2012, accounting, (2) then shows up as due the shareholders (not Yusuf) in a reduced amount of \$117,644.33 on the December 31, 2013, accounting and (3) then shows up as only due Yusuf in the reduced amount of \$117,644.33 on the proposed accounting he submitted to this Court with his proposed Plan. See **Exhibit 13**.

These changing entries certainly are highly suspicious. Moreover, this Court’s order approving the plan stated that the attached accounting was “preliminary” only. Notwithstanding this fact, Yusuf has now taken the amount due the “shareholders” for himself in an amount higher than even the figures presented by him to this Court.

Again, this suspicious conduct is grounds for Yusuf’s removal as the Liquidating Partner.

5) SUMMARY

Any one of these conflicts would warrant removing Yusuf as the Liquidating Partner. Together, they make this conflict overwhelming. As such, Hamed seeks the removal of Yusuf as the Liquidating Partner and the appointment of the Master, Judge Ross, to assume this role, as permitted by 26 V.I.C. § 173(a), which allows judicial supervision as one alternative to having a liquidating partner:

- (a) After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership’s business, *but on application of any partner, partner’s legal representative, or transferee, the*

Superior Court, for good cause shown, may order judicial supervision of the winding up. (Emphasis added.)

In short, for the reasons set forth herein, it is respectfully submitted that the Master, not Fathi Yusuf, should oversee the remaining aspects of the liquidation of the partnership.

II. The Partnership Business No Longer Requires Yusuf's Services

Alternatively, the Liquidating Partner submitted a final accounting on November 16, 2015, as noted. See **Exhibit 5**. Thus, at this juncture the only remaining part of the liquidation process will be the adversarial "claims process." Clearly the Liquidating Partner should not be paid for claiming disputed partnership assets for himself.

Thus, as the remaining business of the partnership is virtually concluded, so that his services are no longer needed, the Liquidating Partner should be removed. Indeed, at the very least, there is no need to continue to pay him a salary any longer.

III. Conclusion

For the reasons set forth herein, it is respectfully submitted that the relief sought be granted and that an order be entered removing Fathi Yusuf as the Liquidating Partner.

By way of example, the Liquidating Partner did allocate the purchase cost of two new condensers for the Plaza East store to himself, as they were purchased after the value of the store's equipment had been agreed to. However, he failed to allocate the cost of shipping and installation of these condensers to himself. Instead, he charged these costs to the partnership, which was improper. Of course, this item will be one of the items addressed in the "claims portion" of the liquidation process. That process will commence once Hamed has had time to review all of the accounting records to

determine what other items were improperly charged the partnership by the Liquidating Partner (to his own benefit).

As for identifying assets, there are problems here as well. For example, in his July 31st Bi-monthly report, the Liquidating Partner fails to identify a significant partnership asset, a Merrill-Lynch account that has in excess of \$300,000 in it, all of which came from Plaza Extra funds. In this regard, the account was placed in the name of a third party, a relative of Mr. Yusuf, even though the deposits came partnership funds. Apparently the Liquidating Partner thinks Hamed has forgotten about this account, which is a significant partnership asset.

Dated: January 29, 2016



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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January 29, 2016, I served a copy of the foregoing by email, as agreed by the parties, on:

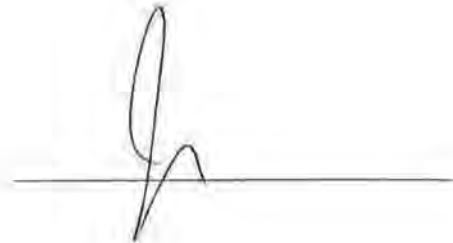
Hon. Edgar Ross
Special Master
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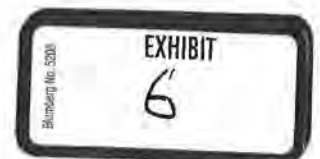
Jeffrey B. C. Moorhead
CRT Brow Building
1132 King Street, Suite 3
Christiansted, VI 00820
email : jeffreymlaw @yahoo.com



United Corporation West (Pship)
Summary of Remaining Partnership Items
For the Period From Jan 1, 2013 to Sep 30, 2015

<u>Location</u>	<u>A/C</u>	<u>A/C Description</u>	<u>Yusuf</u>	<u>Hamed</u>
East	10400	Cash - Banco CC 3307	(176,353.61)	-
East	14500	Due from/to Shopping Ctr	(119,529.01)	-
East	14500	Adjust Re Mtg on 10/01	119,529.01	-
East	20000	Accounts Payable (@ 8/31/15)	326,017.99	-
East	25800	Deposit Error Suspense	193,649.63	-
			<u>343,314.01</u>	-
STT	14000	Due from/to Yusuf	186,819.33	-
STT	25800	Deposit Error Suspense	-	181,355.40
STT	Adjust	Paid to KAC357 in July 2015	-	(181,355.40)
STT	Adjust	Trop Shpg Pd for KAC357	-	(10,242.00)
			<u>186,819.33</u>	<u>(10,242.00)</u>
West	14000	Due from/to Yusuf	120,167.33	-
West	14500	Due from/to Shopping Ctr	(900,000.00)	-
West	14600	Due from/to Hamed	-	(24,700.00)
West	20000	Accounts Payable	(5,632.57)	2,780.41
West	25800	Deposit Error Suspense	-	(39,788.40)
			<u>(785,465.24)</u>	<u>(61,707.99)</u>
		Due from (to) Partnership	<u>(255,331.90)</u>	<u>(71,949.99)</u>
		Partnership Distribution	255,331.90	255,331.90
		Repmt fr NonCash Distrib	<u>(255,331.90)</u>	<u>(71,949.99)</u>
		Net Cash Payout	<u>-</u>	<u>183,381.91</u>

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 Total Pa



UNITED CORPORATION PARTNERSHIP
CLAIMS RESERVE ACCOUNT
PO BOX 763
CHRISTIANSTED, VI 00821

251

101-667/216

16/01/15

Date

CHECK ARMOR

Pay to the
Order of

Mohammed Hamed

\$ 183,381.91

One Hundred Eighty Three Thousand Three Hundred Eighty One ^{91/100} Dollars

Security
Features
Detailed on
Back.



BANCO POPULAR

BANCO POPULAR DE PUERTO RICO
Orange Grove Branch
Saint Croix, U.S. Virgin Islands

For ~~Pay to the order of~~ ^{7/15} ~~at 8/15~~

[Signature]
MP

⑆021606674⑆ 190⑈199091⑈ 0251

Blumberg No. 5226
EXHIBIT
7

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

MOHAMMAD HAMED, by his)
authorized agent **WALEED HAMED**,)

Plaintiff/Counterclaim Defendant,)

vs.)

FATHI YUSUF and)
UNITED CORPORATION,)

Defendants/Counterclaimants,)

vs.)

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

Counterclaim Defendants.)

CIVIL NO. SX-12-CV-370

**ACTION FOR DAMAGES
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

DECLARATION OF JOEL H. HOLT

I, Joel Holt, declare, pursuant to 28 U.S.C. Section 1746, as follows:

1. I am counsel of record for the Plaintiff and have personal knowledge of the facts set forth herein.
2. On January 25th I met with John Gaffney to go over the November 16th accounting submitted to my client.
3. Two entries on the accounting summary were for the same amount of \$119,529.01, which canceled each other out. To explain this entry, Mr. Gaffney produced a back up ledger showing that this amount was due the partnership by United, as the partnership had paid the gross receipts taxes and insurance premiums for the time period in question. However, Mr. Gaffney then canceled out this entry on the summary page, as Mr. Yusuf told him that the partnership had agreed to pay this sum as "additional rent" to United, even though Hamed never agreed to such a payment.
4. When I met with Mr. Gaffney, I saw a ledger that showed the amounts due Yusuf from the partnership that totaled. \$253,033.97. However, this sum



did not match up to the entry on the summary for this credit, which had a figure of \$326,017.99. When I asked Gaffney about this discrepancy, he indicated that Yusuf had insisted on adding the value of the condensers to this list.

5. The accounting summary also had another entry for an amount "Due Yusuf" with a figure of \$186,819.33. When asked about this figure, Mr. Gaffney said it was from an old accounting entry, which he produced. However, Mr. Gaffney said he had no idea why this amount was on this ledger.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 28, 2016



Joel H. Holt

information in “one large ‘document dump’” simply is untrue as reflected by the actual bi-monthly reports filed with the Court. Along with and prior to each bi-monthly report, the Liquidating Partner provided Hamed with all of the financial information described in those reports and required by the Court’s Order Adopting Final Wind Up Plan. While the second and third bi-monthly reports acknowledged that the reconciliation of actual expenditures against projected expenses set forth in Exhibit A to the Plan was not provided until the third bi-monthly report, Hamed has not even attempted to argue that this prejudiced him or his accountants in any way.

At page 2 of the Objection, Hamed claims that the “Liquidating Partner allocated the purchase cost of two new condensers for the Plaza East store to himself, as they were purchased after the value of the stores equipment had been agreed to. However, he failed to allocate the cost of shipping and installation of these condensers to himself.” Yusuf disputes that he allocated the purchase cost of these condensers to himself. Rather, it is Yusuf’s position that the cost of the condensers as well as the shipping and installation costs should be borne entirely by the Partnership. Yusuf agrees, however, that this item will be one of the matters addressed in the “claims portion” of the liquidation process.

Hamed next claims that in the third bi-monthly report the Liquidating Partner fails to identify “a Merrill-Lynch account that has in excess of \$300,000 in it, all of which came from Plaza Extra funds.” By email dated February 20, 2015, counsel for Hamed sent an email to the undersigned inquiring whether Yusuf “established a list of partnership assets unrelated to the three stores as required by § 4 on page 8 of the January 7th Order? For example, one Merrill-Lynch account was identified in the initial plan and a second one has surfaced (why not move both now?), which need to be identified along with any other such items[.]” He further stated

United Corporation East (Pship)
 Aged Payables
 as of Aug 31, 2015

Vendor	Date	Invoice/CM #	0 - 30	31 - 60	61 - 90	Over 90 days	Amount Due
UNITED CORPORATION						-500.00	-500.00
	3/6/15	2015-0306-01				9,558.60	9,558.60
	3/9/15	2015-0309-01				21.33	21.33
	3/11/15	2015-0311-01				924.18	924.18
	3/18/15	2015-0318-01				-1,074.10	-1,074.10
	3/18/15	2015-0318-CM01				-10,196.62	-10,196.62
	3/24/15	2015-0324-CM01				4,390.00	4,390.00
	3/25/15	2015-0325-02				1,677.86	1,677.86
	3/25/15	2015-0325-04				11,841.50	11,841.50
	3/25/15	2015-0325-01				1,609.60	1,609.60
	3/25/15	2015-0325-03				409.62	409.62
	3/26/15	2015-0326-01				327.00	327.00
	3/31/15	2015-0331-01				59,867.02	-59,867.02
	3/31/15	2015-0331-CM01				-13,117.00	-13,117.00
	3/31/15	2015-0331-CM02				28,899.28	28,899.28
	4/1/15	2015-0401-01				376.14	376.14
	4/1/15	2015-0401-02				-767.06	-767.06
	4/6/15	2015-0406-CM01				-1,221.22	-1,221.22
	4/8/15	2015-0408-CM01				98.03	98.03
	4/15/15	2015-0415-01				10,933.00	10,933.00
	4/29/15	2015-0429-01				4,537.58	4,537.58
	4/29/15	2015-0429-02				29,603.75	29,603.75
	4/29/15	2015-0429-03				59.99	59.99
	5/8/15	2015-0508-01				544.00	544.00
	5/14/15	2015-0514-01				1,750.00	1,750.00
	5/25/15	2015-0525-01				3,292.50	3,292.50
	5/27/15	2015-0527-01				8,732.00	8,732.00
	5/27/15	2015-0527-02				23,683.00	23,683.00
	5/27/15	2015-0527-03					653.50
	6/3/15	2015-0603-01			653.50		653.50
	6/24/15	2015-0624-01			8,625.50		8,625.50
	6/24/15	2015-0624-02			4,390.00		4,390.00
	6/24/15	2015-0624-03			22,505.00		22,505.00
	6/25/15	2015-0625-01			349.00		349.00
	7/1/15	2015-0701-01			62,082.94		62,082.94
	7/1/15	2015-0701-02			445.88		445.88
	7/1/15	2015-0701-03			2,255.00		2,255.00
	7/1/15	2015-0701-04			270.00		270.00
	7/1/15	2015-0701-05			2,869.32		2,869.32
	7/1/15	2015-0701-06			8,210.39		8,210.39
	7/24/15	2015-0724-01		4,433.25			4,433.25
	7/31/15	2015-0731-01		5,457.50			5,457.50
	7/31/15	2015-0731-02		10,765.00			10,765.00
	7/31/15	2015-0731-03		27,898.75			27,898.75
	8/31/15	2015-0831-01	4,366.00				4,366.00
	8/31/15	2015-0831-02	8,612.00				8,612.00
	8/31/15	2015-0831-03	22,319.00				22,319.00
UNITED CORPORATION			35,297.00	48,554.50	112,656.53	56,525.94	253,033.97
Report Total			35,297.00	48,554.50	112,656.53	56,525.94	253,033.97

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United Corporation STT (Pship)
General Ledger
For the Period From Jan 1, 2013 to Jun 30, 2015

A/C	Date	Ref	Jrnl	Trans Description	Debit Amt	Credit Amt	Balance
14000	Due from (to) SH's Yusuf						
	01/01/13			Beginning Balance			-186,819.33
	12/31/13			Fiscal Year End Balance			-186,819.33
	01/01/14			Beginning Balance			-186,819.33
	12/31/14			Fiscal Year End Balance			-186,819.33
	01/01/15			Beginning Balance			-186,819.33
	06/30/15			Ending Balance			-186,819.33



Plaza Extra Supermarkets
Balance Sheet
As of December 31, 2013 and Prior Year

		<u>As of 12/31/13</u>	<u>As of 12/31/12</u>
ASSETS			
Current Assets			
10000	Cash - Petty	\$ 30,000.00	\$ 30,000.00
10100	Cash - Registers	33,870.00	33,870.00
10200	Cash - Safe	177,032.00	221,000.00
10300	Cash in Bank - Operating	(923,160.09)	(1,519,575.21)
10350	Cash in Bank - Payroll	18,894.76	10,523.05
10400	Cash in Bank - CC Deposit	932,533.54	1,454,852.93
10500	Cash in Bank - Telecheck	7,703,852.96	4,171,924.43
10900	Cash Clearing - Transfers	4,450.00	0.00
11000	Accounts Receivable - Trade	43,528.26	0.00
12000	Inventory	9,553,982.58	9,443,569.48
13100	Prepaid Insurance	278,216.83	200,320.86
13400	Due from Employees - Loans	75,006.39	(0.04)
→ 14000	Due from (to) Shareholders	(117,644.33)	(186,819.33)
14100	Due from (to) Plaza East	(491,742.89)	0.00
14300	Due from (to) Plaza West	482,951.56	0.00
14400	Due from (to) Plaza STT	8,791.33	0.00
14500	Due from (to) Shopping Ctr	65,688.31	0.00
15100	Marketable Securities - BPPR	37,767,429.03	43,069,015.83
15150	Unrealized (Gain) Loss - BPPR	(2,324,369.86)	(3,778,720.41)
15200	Marketable Securities - ML	336,378.45	201,293.74
15250	Unrealized (Gain) Loss - ML	0.00	1,611,901.72
	Total Current Assets	53,655,688.83	54,963,157.05
Property and Equipment			
16000	Buildings	3,478,103.00	3,478,103.00
16100	Leasehold Improvements	4,214,919.00	4,214,919.00
16200	Fixtures & Store Equipment	7,377,032.21	7,293,445.00
16400	Security Equipment	304,241.60	294,445.00
16500	Vehicles & Transport Equipment	57,050.50	57,050.50
16900	Accum Depreciation	(10,677,827.06)	(10,465,458.00)
	Total Property and Equipment	4,753,519.25	4,872,504.50
Other Assets			
17000	Land	330,000.00	330,000.00
19000	Deposits	57,963.40	57,963.40
19100	Investment - Laundromat	0.00	0.00
19150	Investment - Mattress Pal LLC	0.00	0.00
19200	Due from (to) Peter's Farm	1,527,708.00	1,527,708.00
19300	Due from (to) Plessen	5,109,018.00	5,089,018.00
19400	Due from (to) Sixteen Plus	87,004.26	87,004.26
19500	Due from (to) DAAS Corp	0.00	327,500.00
19600	Due from (to) Royal Furniture	0.00	0.00
	Total Other Assets	7,111,693.66	7,419,193.66
	Total Assets	\$ 65,520,901.74	\$ 67,254,855.21

United Corporation
Balance Sheet - Plaza Extra STT
December 31, 2012

ASSETS

Current Assets		
105000-20	Scotia - TeleCheck STT	\$ 107,890.35
105100-20	Scotia - Operating STT	20,106.91
105200-20	Scotia - Payroll STT	10,523.05
105300-20	Banco Popular - CC STT	306,646.08
111000-20	Cash Room	10,000.00
112000-20	Cash - Registers	5,000.00
113000-20	Cash - STT Safe	61,000.00
128000-20	Inventory - St. Thomas	2,008,308.64
131000-20	Prepaid Property/Hurricane Ins	63,398.58
		<hr/>
	Total Current Assets	2,592,873.61
Property and Equipment		
149000-20	Land - Est Char Ama	330,000.00
150000-20	Furniture & Fixtures	2,247,158.00
151000-20	Auto Equipment	25,800.00
156000-20	Building	4,188,558.00
159000-20	Security	95,180.00
162000-20	Accum Depreciation	(4,092,580.00)
		<hr/>
	Total Property and Equipment	2,794,116.00
Other Assets		
185000-20	Deposits - Utilities	37,962.40
		<hr/>
	Total Other Assets	37,962.40
		<hr/>
	Total Assets	\$ 5,424,952.01
		<hr/> <hr/>

LIABILITIES AND CAPITAL

Current Liabilities		
205000-20	Accounts Payable - Trade	\$ 1,852,242.80
→ 214500-20	Due to Stockholders	186,819.33
218600-20	AFLAC W/H & Payable	2,228.35
220000-20	Accrued Gross Receipts Tax	138,231.07
231000-20	Accrued VI Withholding Tax	21,308.52
232000-20	Accrued FICA / Medicare Tax	26,367.76
233000-20	Accrued VIESA Tax	6,184.00
239000-20	Accrued FUTA Tax	63,362.54
		<hr/>
	Total Current Liabilities	2,296,744.37
Long-Term Liabilities		
		<hr/>
	Total Long-Term Liabilities	0.00
		<hr/>
	Total Liabilities	2,296,744.37
Capital		
	Net Income	794,040.89
		<hr/>
	Total Capital	794,040.89
		<hr/>
	Total Liabilities & Capital	\$ 3,090,785.26
		<hr/> <hr/>

Plaza Extra Supermarkets
Balance Sheet
As of January 31, 2014 and Last Year End

ASSETS	Current Period	Last Year End
Current Assets		
10000 Cash - Petty	\$ 31,726.00	\$ 31,726.00
10100 Cash - Registers	33,870.00	33,870.00
10200 Cash - Safe	146,520.20	168,220.20
10300 Cash in Bank - Operating	(2,212,795.52)	(970,814.23)
10350 Cash in Bank - Payroll	15,712.17	15,693.98
10400 Cash in Bank - CC Deposit	1,096,301.95	932,533.54
10500 Cash in Bank - Telecheck	7,967,789.80	7,703,852.94
10900 Cash Clearing - Transfers	0.00	106,910.23
11000 Accounts Receivable - Trade	57,323.37	43,129.55
12000 Inventory	9,553,982.57	9,553,982.57
13100 Prepaid Insurance	226,946.88	278,216.83
13300 Due from Cashiers - Shortages	0.00	(2,719.72)
13400 Due from Employees - Loans	60,638.60	73,497.47
14000 Due from (to) Yuruf	(117,644.33)	(117,644.33)
14100 Due from (to) Plaza East	(458,954.70)	(550,471.77)
14300 Due from (to) Plaza West	405,655.79	476,080.46
14400 Due from (to) Plaza STT	53,298.91	53,298.91
14500 Due from (to) Shopping Ctr	67,251.73	65,688.31
15100 Marketable Securities - BPPR	37,767,429.03	37,767,429.03
15150 Unrealized (Gain) Loss - BPPR	(2,324,369.86)	(2,324,369.86)
15200 Marketable Securities - ML	336,378.45	336,378.45
Total Current Assets	52,707,061.04	53,674,488.56
Property and Equipment		
16000 Buildings	3,478,103.00	3,478,103.00
16100 Leasehold Improvements	4,214,919.00	4,214,919.00
16200 Fixtures & Store Equipment	7,377,032.21	7,377,032.21
16400 Security Equipment	304,241.60	304,241.60
16500 Vehicles & Transport Equipment	57,050.50	57,050.50
16900 Accum Depreciation	(10,695,527.03)	(10,677,827.03)
Total Property and Equipment	4,735,819.28	4,753,519.28
Other Assets		
17000 Land	330,000.00	330,000.00
19000 Deposits	57,963.40	57,963.40
19200 Due from (to) Peter's Farm	1,527,708.00	1,527,708.00
19300 Due from (to) Plessen	5,109,018.00	5,109,018.00
19400 Due from (to) Sixteen Plus	87,004.26	87,004.26
Total Other Assets	7,111,693.66	7,111,693.66
Total Assets	\$ 64,554,573.98	\$ 65,539,701.50

Unaudited - For Management Purposes Only

Plaza Extra Supermarkets
Balance Sheet
As of January 31, 2014 and Last Year End

ASSETS	Current Period	Last Year End
Current Assets		
10000 Cash - Petty	\$ 31,726.00	\$ 31,726.00
10100 Cash - Registers	33,870.00	33,870.00
10200 Cash - Safe	146,520.20	168,220.20
10300 Cash in Bank - Operating	(2,212,795.52)	(970,814.23)
10350 Cash in Bank - Payroll	15,712.17	15,693.98
10400 Cash in Bank - CC Deposit	1,096,301.95	932,533.54
10500 Cash in Bank - Telecheck	7,967,789.80	7,703,852.94
10900 Cash Clearing - Transfers	0.00	106,910.23
11000 Accounts Receivable - Trade	57,323.37	43,129.55
12000 Inventory	9,553,982.57	9,553,982.57
13100 Prepaid Insurance	226,946.88	278,216.83
13300 Due from Cashiers - Shortages	0.00	(2,719.72)
13400 Due from Employees - Loans	60,638.60	73,497.47
14000 Due from (to) Yuruf	(117,644.33)	(117,644.33)
14100 Due from (to) Plaza East	(458,954.70)	(550,471.77)
14300 Due from (to) Plaza West	405,655.79	476,080.46
14400 Due from (to) Plaza STT	53,298.91	53,298.91
14500 Due from (to) Shopping Ctr	67,251.73	65,688.31
15100 Marketable Securities - BPPR	37,767,429.03	37,767,429.03
15150 Unrealized (Gain) Loss - BPPR	(2,324,369.86)	(2,324,369.86)
15200 Marketable Securities - ML	336,378.45	336,378.45
Total Current Assets	52,707,061.04	53,674,488.56
Property and Equipment		
16000 Buildings	3,478,103.00	3,478,103.00
16100 Leasehold Improvements	4,214,919.00	4,214,919.00
16200 Fixtures & Store Equipment	7,377,032.21	7,377,032.21
16400 Security Equipment	304,241.60	304,241.60
16500 Vehicles & Transport Equipment	57,050.50	57,050.50
16900 Accum Depreciation	(10,695,527.03)	(10,677,827.03)
Total Property and Equipment	4,735,819.28	4,753,519.28
Other Assets		
17000 Land	330,000.00	330,000.00
19000 Deposits	57,963.40	57,963.40
19200 Due from (to) Peter's Farm	1,527,708.00	1,527,708.00
19300 Due from (to) Plessen	5,109,018.00	5,109,018.00
19400 Due from (to) Sixteen Plus	87,004.26	87,004.26
Total Other Assets	7,111,693.66	7,111,693.66
Total Assets	\$ 64,554,573.98	\$ 65,539,701.50

Unaudited - For Management Purposes Only

EXHIBIT B

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

WALEED HAMED, as the Executor of) the Estate of MOHAMMAD HAMED,) Plaintiff/Counterclaim Deft.,) vs.))	Case No. SX-2012-CV-370
FATHI YUSUF and UNITED) CORPORATION,) Defendants/Counterclaimants,) vs.))	DEPOSITIONS TAKEN: JANUARY 21, 2020
WALEED HAMED, WAHEED HAMED,) MUFEED HAMED, HISHAM HAMED, and) PLESSEN ENTERPRISES, INC.,) Counterclaim Defendants.))	
<hr/> WALEED HAMED, as Executor of the) Estate of MOHAMMAD HAMED,) Plaintiff,) vs.))	Consolidated with Case No. SX-2014-CV-287
UNITED CORPORATION, Defendant.))	
<hr/> WALEED HAMED, as Executor of the) Estate of MOHAMMAD HAMED,) Plaintiff,) vs.))	Consolidated with Case No. SX-2014-CV-278
FATHI YUSUF, Defendant.))	
<hr/> FATHI YUSUF, Plaintiff,))	
vs.))	Consolidated with Case No. ST-17-CV-384
MOHAMMAD A. HAMD TRUST, et al.,) Defendants.))	
<hr/> KAC357 Inc., Plaintiff,))	
vs.))	Consolidated with Case No. ST-18-CV-219
HAMED/YUSUF PARTNERSHIP,) Defendant.))	

**THE VIDEOTAPED ORAL DEPOSITIONS OF FATHI YUSUF,
MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF,
MAFEED "MAFI" HAMED, AND JOHN GAFFNEY**

was taken on the 21st day of January, 2020, at the Law
Offices of Joel H. Holt, 2132 Company Street, The Alcove
Room, Christiansted, St. Croix, U.S. Virgin Islands, between
the hours of 10:00 a.m. and 5:09 p.m., pursuant to Notice
and Federal Rules of Civil Procedure.

Reported by:

Susan C. Nissman RPR-RMR
Registered Merit Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix
U.S. Virgin Islands 00820
(340) 773-8161

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MAFEED "MAFI" HAMED -- RECROSS

1 documents we were talking about. So it's JVZ-1028, and ask
2 you if this document is something that you had initially
3 prepared without the handwriting, just the typed portions?

4 **A.** Yes, this is -- this is something that I prepared
5 every month.

6 **Q.** Okay. And you did this as part of your duties as
7 the partnership accountant?

8 **A.** Yes.

9 **Q.** Okay. And included in there is a payment for or a
10 potential payment for the gross receipts due for the Plaza
11 Extra shopping -- I'm sorry, for the United Shopping Center
12 in St. Croix; is that right?

13 **A.** Correct, yes.

14 **Q.** Okay. And what was your understanding as to why
15 the gross receipts for the shopping center, which was not
16 part of the partnership, would be paid by the partnership?

17 **A.** Just discussions with Mr. Yusuf over the
18 agreement, the purported agreement that the shopping center
19 gross receipts taxes are to be paid by the -- by Plaza
20 Extra.

21 **Q.** Okay. And did there come a point in time with the
22 Hamed side, or the Hamed family, objected to the payment of
23 those gross receipt taxes for the United Shopping Center?

24 **A.** Yes.

25 **Q.** Okay. And what was the interim resolution or

MAFEED "MAFI" HAMED -- RECROSS

1 accounting of that that took place?

2 **A.** Well, what happened was, I spent some time with
3 Mafi, in particular, explaining to him that I was posting
4 these in a due to/from account. In other words -- and when
5 I say "these," I'm talking about the United Shopping Center
6 gross receipts tax. I was posting them to a due to/from
7 account to be settled at a later date.

8 To me, it didn't matter who paid the cash
9 out. It didn't matter whether it was paid by credit card.
10 None of that mattered to me. What mattered to me was the
11 handling of the gross receipts taxes, because the portion
12 that applied to the Plaza operations was an expense on the
13 financial statement. It was -- it was posted to an account
14 called taxes, gross receipts.

15 **Q.** Okay.

16 **A.** Whereas the portion that was the United rentals
17 was posted from due to/from shopping center account. So it
18 was something to be settled at a later date, which it was.

19 **Q.** Okay. And when you say it was "settled at a later
20 date" -- when you say "settled," I think you mean accounting
21 settled as opposed to --

22 **A.** Right.

23 **Q.** -- what lawyers mean --

24 **A.** Exactly.

25 **Q.** -- when you say "settled."

MAFEED "MAFI" HAMED -- RECROSS

1 **A.** Exactly.

2 **Q.** So just to be clear, when you say it was resolved
3 at a later date or settled at a later date, what do you mean
4 by that?

5 **A.** Well, what happened was after some of the larger
6 items were resolved, meaning inventory, fixed assets, those
7 were -- those were the various meetings, there were still a
8 number of items on the balance sheet that I kept on saying
9 that we need to -- we need to resolve these, because we're
10 trying to get it down to a couple of assets, namely the
11 securities account and namely the cash accounts. Then --
12 and basically get it down to its simplicity.

13 One of the items that we had, one substantial
14 item that we had was very obvious on the balance sheet, was
15 a \$900,000 payment that was made to the V.I. Bureau of
16 Internal Revenue for the quarterly estimated taxes for the
17 Yusufs. So Joel Holt brought that up in a conference call
18 and said that that needs to be repaid, and we agreed. That
19 became part of the due to/from items, along with the gross
20 receipts taxes, the accumulation of the gross receipts
21 taxes, which, at that point, had accumulated to about
22 \$44,000 --

23 **Q.** Okay.

24 **A.** -- from January 1st, 2013 forward.

25 **Q.** Okay. So as we sit here today, has the

MAFEED "MAFI" HAMED -- RECROSS

1 partnership paid for the United Shopping Center's gross
2 receipt taxes from January of '13 forward until the split?

3 **A.** On the books right now, you know, that -- that --
4 I don't mind pointing out this schedule, but this was --
5 this was my effort to try and highlight everything that
6 needed to be discussed between the two parties. And -- and
7 ultimately what happened was in a meeting with Judge Ross,
8 Mr. Yusuf and I, we spent quite a bit of time on this, and
9 the point was argued about who was supposed to be incurring
10 the cost of the shopping center. Judge Ross finally said,
11 Okay. For our purposes right now, go ahead, and let's, you
12 know, let's go ahead. I proposed a journal entry. I
13 proposed a journal entry so that we could get these off the
14 books. And then the point about the \$44,000 in the gross
15 receipts taxes could be argued later.

16 But ultimately what happened was, once I
17 posted that journal entry, I expensed \$44,000 to taxes,
18 gross receipts, and I did that in 2015.

19 **Q.** Okay. So if I -- I'm going to try to summarize
20 that into --

21 **A.** Okay.

22 **Q.** -- laymen non-accounting speak, okay?

23 **A.** Okay.

24 **Q.** And my understanding of this laymen version of
25 what you just described is that clearly there was debate,

MAFEED "MAFI" HAMED -- RECROSS

1 there was conversations between yourself, counsel for the
2 Hameds, Mr. Yusuf and so forth, and Judge Ross, who's
3 operating as the master. And in order simply to continue to
4 comb through the accounts and get it down to basically just
5 simply liquid assets at the end that could ultimately be
6 divided, things have to be paid, things have to be dealt
7 with and so forth. Ultimately the gross receipts taxes that
8 were paid on behalf of the United Shopping Center were
9 charged as an expense of the partnership --

10 **A.** Exactly.

11 **Q.** -- for the time being, because that's Mr. Yusuf's
12 understanding of what was supposed to happen as per his
13 agreement with Mr. Hamed, but we understood that would be a
14 claim that the Hameds would then be able to make because
15 they're disputing that; is that correct?

16 **A.** Right, that's correct.

17 **Q.** Okay. And the total amount that was paid from
18 February -- I'm sorry, from January '13 through the end of
19 the -- for the time of the split is how much?

20 **A.** I have actually on this, if you don't mind me --

21 **Q.** It's the second page.

22 **A.** Second page.

23 **Q.** Let me hand you -- before we go --

24 **A.** Okay.

25 **Q.** -- let me back up from that question.

MAFEED "MAFI" HAMED -- RECROSS

1 (Deposition Exhibit No. 7 was
2 marked for identification.)

3 I've handed you what's been marked as
4 Exhibit 7. It's a two-page document. Can you identify what
5 this document is?

6 **A.** Yes, this is the document that I prepared. It was
7 kind of a wrap-up of all the remaining items on the balance
8 sheet that I was asserting needed to be cleaned up.

9 **Q.** Okay. But before you go any further.

10 **A.** Okay.

11 **Q.** Was this document provided to counsel for the
12 Hameds?

13 **A.** Yes.

14 **Q.** Okay.

15 **A.** It has been provided, yes.

16 **Q.** Okay. Go ahead.

17 **A.** Okay. One of the items on here is due to/from
18 shopping center account, 14,500. I actually changed the
19 account number in the part -- in one of the records to
20 fourteen three, but it all consolidated properly. But the
21 amount of the gross receipts taxes for those years, for
22 those years and months in question totaled forty-four
23 thousand nine forty-two eighty-eight.

24 **Q.** Okay. And that is on -- you're referring to the
25 second page?

JOHN GAFFNEY -- CROSS

1 **A.** The second page, which is a detailed -- that's the
2 general ledger of all the entries made to the due to/from
3 account during that period of time. And then I prepared a
4 little recap down at the bottom of it that recapped the --
5 the subtotals for -- that comprised the balance at that
6 particular point in time of \$119,529.01.

7 **Q.** Okay. So the forty-four thousand nine forty-two
8 eighty-eight is the amount that was paid?

9 **A.** By the partnership on behalf of the shopping
10 center, yes.

11 **Q.** That can be contested. And that's from
12 January 1st, 2013 to the time of the split?

13 **A.** Correct.

14 **MS. PERRELL:** Okay. All right. I don't have
15 any more questions relating to that. I don't know if you
16 do.

CROSS-EXAMINATION

17
18 **BY MR. HARTMANN:**

19 **Q.** Okay. So dealing with Exhibit 7, if there were
20 some amounts that were due, the amount of our claim is --

21 **MS. PERRELL:** This one.

22 **Q.** **(Mr. Hartmann)** Sixty-nine thousand dollars, if
23 there were some amounts due in 2012, that wouldn't have
24 picked up in this --

25 **A.** No. It wasn't picked up on there, no.

JOHN GAFFNEY -- CROSS

1 Q. -- accounting?

2 So your forty-four thousand is -- is just for
3 a set period?

4 A. That's correct.

5 Q. And you said that the source of your information
6 about the fact that the partnership was supposed to pay for
7 the tenant gross receipts tax was Mr. Yusuf?

8 A. Correct.

9 Q. And Mr. Yusuf told you what?

10 A. Well, he just told me that his agreement had
11 always been that the gross receipts taxes for the shopping
12 center were to be paid by Plaza. The -- the -- I will say
13 that I had conversations with the former controller, Margie
14 Soeffing, about that too, and she was under the -- she was
15 under the same guideline.

16 Q. Okay. And -- and did you -- did you ever have
17 a -- is there like a file or any written backup or copy of
18 an agreement or anything that would support it for the
19 purposes of, for instance, a GAAP-type of accounting?

20 A. I'm not sure I understand completely what your
21 question is as far as GAAP accounting, but the answer is no,
22 the -- the accounting for -- that I did was -- was based
23 upon my conversations with Mr. Yusuf. But also I set it up
24 as a due to/from item because I also had conversations with
25 Mafi and I -- I explained to him at length that I was

JOHN GAFFNEY -- CROSS

1 created a little bit of tracking challenge, but it was still
2 easy to do.

3 **Q.** I -- I get exactly what you're saying, but engage
4 with me in the fantasy world in which the partnership
5 actually came into existence. And that from January of 2013
6 on, you were supposed to be looking at it as though two
7 different entities existed and two different entities were
8 paying stuff, right?

9 **A.** Um-hum.

10 **Q.** Okay. So starting in that -- that part, one
11 entity, the partnership, was paying for the gross receipts
12 of a totally unrelated entity, right?

13 **A.** Well, I can't -- I can't characterize it like
14 that, no. And then the other -- and the reason --

15 **Q.** How would you characterize it?

16 **A.** Basically the -- it's irrelevant how it's being
17 paid or who's paying it. It's irrelevant. It's the debit
18 side of it, how it's being treated on the --

19 **Q.** But it's still debited to it?

20 **A.** It was still being -- it was posted to a due
21 to/from account. That's the thing.

22 **Q.** I understand that, but it was being posted -- it
23 was still being posted to the partnership? In other
24 words --

25 **A.** No, no. It was only being paid by the

JOHN GAFFNEY -- CROSS

1 partnership. That's different than -- in other words --

2 **Q.** It has been --

3 **A.** Yeah. The -- the -- the due to/from, the only
4 thing that the due to/from accounting did was it delayed the
5 recognition of the expense until this settlement -- this
6 settlement sheet that we looked at before. I forget what it
7 was -- oh, this one right here.

8 In other words, the due to/from accounting of
9 the gross receipts taxes were deferred until this
10 settlement, at which point, the \$44,000 was expensed for the
11 first time on the books of anybody's books.

12 **Q.** Right, but the due to -- explain to me the
13 relationship between your view that -- that this was done in
14 a particular way consistently and the fact that it was being
15 charged to a due to/from account.

16 **A.** The -- the -- there's a tendency to say, I paid it
17 out of this cash here, to mean that that's the end-all.
18 That that's the expense. When, in fact, if you paid it out
19 of this cash right here with an agreement that somebody was
20 going to pay that cash back, it -- it's not necessarily an
21 expense, and so it has a slightly different character.

22 **Q.** Excuse me.

23 (Respite.)

24 **A.** So, in -- in essence, what -- what -- what
25 happened was, I prepared this -- each month, I prepared

JOHN GAFFNEY -- CROSS

1 this. And on this, I also put the general ledger account
2 numbers that were being -- that the amounts were supposed to
3 be posted to.

4 The -- the United rentals was being posted.
5 The debit was going to 14,500. The credit for the entire
6 amount of the gross receipts taxes was going to accrued
7 gross receipts taxes. And then I would -- then I would post
8 an entry, an accrual entry, which would recognize the
9 expense portion, which was the Plaza stores. And I would
10 also recognize the due to/from between the shopping center
11 and the -- and -- and United Corporation Plaza stores.

12 **Q.** But who -- who -- where did the money come from?

13 **A.** If money was paid from -- the majority of the
14 money was paid out of the Plaza cash accounts.

15 **Q.** The partnership?

16 **A.** Yeah.

17 **Q.** Okay. And has it ever been paid back to the
18 partner?

19 **A.** Sure.

20 **Q.** It's been paid back to the partnership?

21 **A.** Yeah. I mean, that cash is still sitting there to
22 be distributed, okay? That cash is still part of -- that's
23 part of the --

24 **Q.** That's part of the --

25 **A.** -- cumulation of all the cash that's sitting in

JOHN GAFFNEY -- CROSS

1 the claims reserve --

2 **Q.** Right.

3 **A.** -- account. The liquidating expense account. And
4 there's also, for that matter, you could even say that it's
5 part of the Banco Popular securities accounts.

6 **Q.** And do you have an opinion on which way it should,
7 when it's distributed, whether it should go back to the
8 partnership or --

9 **A.** Well, no.

10 **MS. PERRELL:** I -- whoa. Hang on.

11 **A.** That's exactly --

12 **MS. PERRELL:** Wait.

13 **A.** Okay.

14 **MS. PERRELL:** You have to let me object
15 first.

16 I would object to him offering an opinion as
17 to where he believes it should go one way or the other.

18 **MR. HARTMANN:** You can still answer. You can
19 give an opinion.

20 **MS. PERRELL:** I object to him offering an
21 opinion.

22 **Q.** (Mr. Hartmann) Yeah, but you can still give the
23 opinion.

24 **A.** The fact of the matter is I accounted for it as a
25 due to/from item specifically not to make -- have my own

C-E-R-T-I-F-I-C-A-T-E

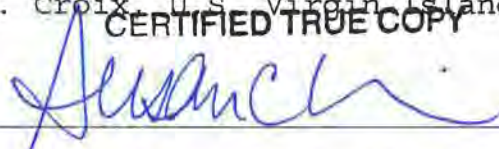
I, SUSAN C. NISSMAN, a Registered Merit Reporter and Notary Public for the U.S. Virgin Islands, Christiansted, St. Croix, do hereby certify that the above and named witnesses, **FATHI YUSUF, MAHER "MIKE" YUSUF, WALEED "WALLY" HAMED, NEJEH YUSUF, MAFEED "MAFI" HAMED, and JOHN GAFFNEY**, were first duly sworn to testify the truth; that said witnesses did thereupon testify as is set forth; that the answers of said witnesses to the oral interrogatories propounded by counsel were taken by me in stenotype and thereafter reduced to typewriting under my personal direction and supervision.

I further certify that the facts stated in the caption hereto are true; and that all of the proceedings in the course of the hearing of said deposition are correctly and accurately set forth herein.

I further certify that I am not counsel, attorney or relative of either party, nor financially or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand as such Registered Merit Reporter on this the 22nd day of February, 2020, at Christiansted, St. Croix, U.S. Virgin Islands.

CERTIFIED TRUE COPY


 Susan C. Nissman, RPR-RMR
 NP 234-19

My Commission Expires:
 June 28, 2023

EXHIBIT C

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

MOHAMMAD HAMED, by his
authorized agent WALEED HAMED,

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and UNITED CORPORATION,

Defendants/Counterclaimants,

vs.

WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED, and
PLESSEN ENTERPRISES,

Additional Counterclaim Defendants.

CIVIL NO. SX-12-CV-370

ACTION FOR DAMAGES,
INJUNCTIVE RELIEF
AND DECLARATORY RELIEF

DECLARATION OF JOHN GAFFNEY

I, John Gaffney, pursuant to 28 USC § 1746 and Super. Ct. R. 18, under the penalties of perjury, state and affirm that the following is true and correct:

1. I am the Senior Controller of United Corporation d/b/a Plaza Extra. As such, my duties include the collection, supervision and updating of accounting data and financial information concerning, among other things, the three supermarket stores known as Plaza Extra-East, Plaza Extra-Tutu Park, and Plaza Extra-West.

2. I have been shown a declaration of Joel H. Holt dated January 28, 2016 attached as Exhibit 8 to "Plaintiff's Motion and Memorandum In Support Thereof To Remove The Liquidating Partner" (the "Motion"). I prepared the "Summary of Remaining Partnership Items For the Period From Jan 1, 2013 to Sept 30, 2015" (the "Summary") that was included as a part of the Partnership accounting provided to the Partners, Mohammad Hamed and Fathi Yusuf,

EXHIBIT

6

and the Master on November 16, 2015 and which was attached as Exhibit 6 to the Motion. The purpose of the Summary was to explain the Partnership debits and credits for the period from January 1, 2013 to September 30, 2015 with respect to the three Plaza Extra stores. The Summary was delivered to Attorney Holt on or about November 16, 2015 when I delivered a check payable to Mr. Hamed in the amount of \$183,381.91 to Attorney Holt. While I did not provide the "back up" for the Summary at that time, I did inform Attorney Holt that I would do so in connection with the next bi-monthly report that was due at the end of November. Furthermore, I told him I would be happy to answer any questions and provide whatever support was needed immediately, if he so desired. Attorney Holt did not ask to meet with me until we met on January 25, 2016.

3. The \$119,529.01 entry reflected on the Summary represents the cumulative total of gross receipts taxes and insurance paid by the Partnership, through Plaza Extra-East, from January 1, 2013 through March 8, 2015 on behalf of the United Shopping Center. Mr. Yusuf has steadfastly objected to any effort to claim that United Corporation owed this to Plaza Extra-East because he contends his original agreement with Mr. Hamed was that Plaza Extra-East would pay all gross receipts taxes and insurance on behalf of the United Shopping Center. Since I began providing accounting services with respect to the Plaza Extra Stores, I have never found any evidence that the United Shopping Center ever previously paid or reimbursed Plaza Extra-East for such gross receipts taxes and insurance.

4. The \$72,984.02 "discrepancy" addressed in ¶ 4 of the declaration of Attorney Holt relates to two invoices in the amount of \$59,867.02 (for condensers ordered for Plaza Extra-East in 2014) and \$13,117 (for shopping carts ordered for Plaza Extra-East). At an initial meeting between Judge Ross, Attorney Holt, and me, I was instructed by Judge Ross to credit

the Partnership for these two invoices. While I informed Judge Ross that Mr. Yusuf would object, I did in fact credit the Partnership as instructed. Later, after much back and forth between the Partners and their representatives, at a meeting between Judge Ross, Mr. Yusuf and me on October 1, 2015, Judge Ross instructed me to take out the credits previously provided to the Partnership for the condensers and shopping carts. I informed Judge Ross that I would maintain visibility of this disputed transaction by simply posting offsetting charges.

5. When we met on January 25, 2016, Attorney Holt appeared to be confused over the \$186,819.33 entry reflected on the Summary. This entry is a stated liability from United Corporation to the shareholders on the books of Plaza Extra-Tutu Park. I did not say to Attorney Holt that I "had no idea why this amount was on this ledger." I know why it was reflected on the ledger because it was carried over from the previous books and records of the corporation. What I did say was that no audit trail exists to validate the transactions giving rise to this liability as they occurred many years ago. I went on to say that it is not uncommon for audit trails to disappear over long periods of time and accountants generally except the validity of such items since they are reported on tax returns, as was this entry. The accounting records of United Corporation originally reflected the account as "Due to/from Shareholders." After the retroactive establishment of the Partnership, I added an account called "Due to/from Hamed" and changed the "Shareholders" reference to Yusuf to avoid confusion over the shareholders versus partners.

6. Attorney Holt's confusion over the balance of \$186,819.33 reported on the balance sheet of Plaza Extra-Tutu Park on December 31, 2012 appeared to be due, in part, to his comparison of the balance sheet of Plaza Extra-Tutu Park with the Combined balance sheets of all three stores. I told him not to compare the "St. Thomas" and "Combined" balance sheets

as it was tantamount to comparing balance sheets of different companies. The fact that the balance on the combined balance sheet was \$117,644.33 on December 31, 2013 was very clear to me, but unfortunately, not for Attorney Holt. The difference of \$69,175.00 is simply an offsetting amount on the Plaza Extra-West balance sheet. Even after I pointed out to Attorney Holt that the \$186,819.33 had not changed on the Plaza Extra-Tutu Park balance sheet, he remained confused. Attached as Exhibits A, B, and C are balance sheets I have produced for Plaza Extra-Tutu Park, Plaza Extra-West, and Combined. The \$69,175 shown on Plaza Extra-West balance sheet relates to money Mr. Yusuf owed to the Partnership for 2012 tax extension payments originally charged to shareholder distributions. If you look at the Summary (Exhibit 6 to the Motion), there is an "A/C 14000" settlement amount for Plaza Extra-West. By the reconciliation date in 2015, other transactions obscured the \$69,175 from the earlier year. One such transaction was the reporting of the ByOrder Investments series of transactions. When I started to explain this, it appeared that Attorney Holt was even further confused. I then asked him to allow me to explain it to Mr. Hamed's accountants to eliminate any confusion and resulting suspicion. Although Attorney Holt appeared to be satisfied with this suggestion, I have never been asked to provide any further explanation. The ByOrder monies were received in 2014 and 2015. With each cash receipt, Mr. Hamed was issued a check for his 31% interest, while Mr. Yusuf was not issued a check for his percentage interest. Therefore, the \$69,175 Mr. Yusuf originally owed to Plaza Extra-West eventually became the \$120,167.33 Plaza Extra-West owed to Mr. Yusuf, as reflected in the Summary.

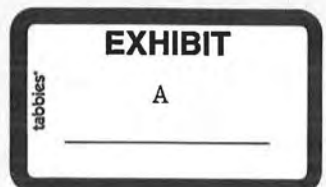
Dated: February 16, 2016


John Gaffney

United Corporation STT (Pship)
Balance Sheet
As of December 31, 2013 and Prior Year

	<u>As of 12/31/13</u>	<u>As of 12/31/12</u>
ASSETS		
Current Assets		
10000 Cash - Petty	\$ 10,000.00	\$ 10,000.00
10100 Cash - Registers	5,000.00	5,000.00
10200 Cash - Safe	61,000.00	61,000.00
10300 Cash - Bank Op'g 2010	325,585.62	20,106.91
10350 Cash - Bank Payroll 0640	18,894.76	10,523.05
10400 Cash - Bank CC 6143	53,203.15	306,646.08
10500 Cash - Bank Telchk 6719	116,760.40	107,890.35
11000 Accounts Receivable - Trade	14,083.33	0.00
12000 Inventory	2,184,104.30	2,008,308.64
13100 Prepaid Insurance	119,989.70	63,398.58
14000 Due from (to) SH's Yusuf	(186,819.33)	(186,819.33)
14100 Due from (to) Plaza East	(126,480.79)	0.00
14300 Due from (to) Plaza West	117,689.46	0.00
	2,713,010.60	2,406,054.28
Property and Equipment		
16100 Leasehold Improvements	4,188,558.00	4,188,558.00
16200 Fixtures & Store Equipment	2,253,883.85	2,247,158.00
16400 Security Equipment	99,335.60	95,180.00
16500 Vehicles & Transport Equipment	25,800.00	25,800.00
16900 Accum Depreciation	(4,201,529.00)	(4,092,580.00)
	2,366,048.45	2,464,116.00
Other Assets		
17000 Land	330,000.00	330,000.00
19000 Deposits	37,962.40	37,962.40
	367,962.40	367,962.40
Total Assets	\$ 5,447,021.45	\$ 5,238,132.68

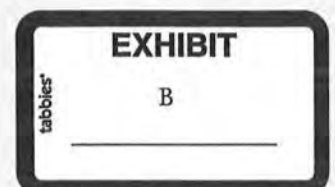
Unaudited - For Management Purposes Only



United Corporation West (Pship)
Balance Sheet
As of December 31, 2013 and Prior Year

		<u>As of 12/31/13</u>	<u>As of 12/31/12</u>
ASSETS			
Current Assets			
10000	Cash - Petty	\$ 10,000.00	\$ 10,000.00
10100	Cash - Registers	14,435.00	14,435.00
10200	Cash - Safe	36,032.00	80,000.00
10300	Cash - Bank Op'g 6269	(672,207.87)	(613,302.06)
10400	Cash - Bank CC 3789	351,196.21	583,059.33
10500	Cash - Bank Telchk 2918	2,343,033.13	2,246,391.86
11000	Accounts Receivable - Trade	21,738.20	0.00
12000	Inventory	4,259,525.49	4,242,815.36
13100	Prepaid Insurance	83,679.76	73,059.38
13400	Due from Employees - Loans	62,561.39	0.00
14000	Due from (to) Yusuf	69,175.00	0.00
14100	Due from (to) Plaza East	(365,262.10)	0.00
14400	Due from (to) Plaza STT	(117,689.46)	0.00
14500	Due from (to) Shopping Ctr	900,000.00	0.00
15100	Marketable Securities - BPPR	37,767,429.03	43,069,015.83
15150	Unrealized (Gain) Loss - BPPR	(2,324,369.86)	(3,778,720.41)
15200	Marketable Securities - ML	336,378.45	201,293.74
15250	Unrealized (Gain) Loss - ML	0.00	1,611,901.72
	Total Current Assets	42,775,654.37	47,739,949.75
Property and Equipment			
16000	Buildings	3,478,103.00	3,478,103.00
16200	Fixtures & Store Equipment	2,977,514.00	2,977,514.00
16400	Security Equipment	109,333.00	109,333.00
16900	Accum Depreciation	(4,272,215.00)	(4,183,036.00)
	Total Property and Equipment	2,292,735.00	2,381,914.00
Other Assets			
19000	Deposits	10,000.50	10,000.50
19200	Due from (to) Peter's Farm	1,598,689.00	1,527,708.00
19300	Due from (to) Plessen	5,004,610.00	5,089,018.00
19400	Due from (to) Sixteen Plus	140,719.62	87,004.26
19500	Due from (to) DAAS Corp	0.00	327,500.00
	Total Other Assets	6,754,019.12	7,041,230.76
	Total Assets	\$ 51,822,408.49	\$ 57,163,094.51

Unaudited - For Management Purposes Only



Plaza Extra Supermarkets
Combined Balance Sheet
As of December 31, 2013 and Prior Year

ASSETS	<u>As of 12/31/13</u>	<u>As of 12/31/12</u>
Current Assets		
10000 Cash - Petty	\$ 30,000.00	\$ 30,000.00
10100 Cash - Registers	33,870.00	33,870.00
10200 Cash - Safe	177,032.00	221,000.00
10300 Cash in Bank - Operating	(923,160.09)	(1,519,575.21)
10350 Cash in Bank - Payroll	18,894.76	10,523.05
10400 Cash in Bank - CC Deposit	932,533.54	1,454,852.93
10500 Cash in Bank - Telecheck	7,703,852.96	4,171,924.43
10900 Cash Clearing - Transfers	4,450.00	0.00
11000 Accounts Receivable - Trade	43,528.26	0.00
12000 Inventory	9,553,982.58	9,443,569.48
13100 Prepaid Insurance	278,216.83	200,320.86
13400 Due from Employees - Loans	75,006.39	(0.04)
14000 Due from (to) Shareholders	(117,644.33)	(186,819.33)
14100 Due from (to) Plaza East	(491,742.89)	0.00
14300 Due from (to) Plaza West	482,951.56	0.00
14400 Due from (to) Plaza STT	8,791.33	0.00
14500 Due from (to) Shopping Ctr	(391,409.69)	0.00
15100 Marketable Securities - BPPR	37,767,429.03	43,069,015.83
15150 Unrealized (Gain) Loss - BPPR	(2,324,369.86)	(3,778,720.41)
15200 Marketable Securities - ML	336,378.45	201,293.74
15250 Unrealized (Gain) Loss - ML	0.00	1,611,901.72
	53,198,590.83	54,963,157.05
Total Current Assets		
Property and Equipment		
16000 Buildings	3,478,103.00	3,478,103.00
16100 Leasehold Improvements	4,214,919.00	4,214,919.00
16200 Fixtures & Store Equipment	7,377,032.21	7,293,445.00
16400 Security Equipment	298,600.60	294,445.00
16500 Vehicles & Transport Equipment	57,050.50	57,050.50
16900 Accum Depreciation	(10,677,021.00)	(10,465,458.00)
	4,748,684.31	4,872,504.50
Total Property and Equipment		
Other Assets		
17000 Land	330,000.00	330,000.00
19000 Deposits	57,963.40	57,963.40
19100 Investment - Laundromat	0.00	0.00
19150 Investment - Mattress Pal LLC	0.00	0.00
19200 Due from (to) Peter's Farm	1,598,689.00	1,527,708.00
19300 Due from (to) Plessen	5,004,610.00	5,089,018.00
19400 Due from (to) Sixteen Plus	140,719.62	87,004.26
19500 Due from (to) DAAS Corp	0.00	327,500.00
19600 Due from (to) Royal Furniture	0.00	0.00
	7,131,982.02	7,419,193.66
Total Other Assets		
Total Assets	\$ 65,079,257.16	\$ 67,254,855.21

Unaudited - For Management Purposes Only

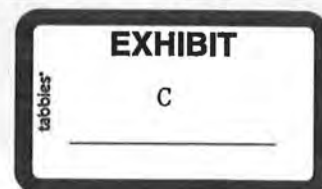


EXHIBIT D

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

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

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and **UNITED CORPORATION**

Defendants and Counterclaimants.

vs.

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

Counterclaim Defendants,

Case No.: SX-2012-CV-370

**ACTION FOR DAMAGES,
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

JURY TRIAL DEMANDED

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

vs.

UNITED CORPORATION, *Defendant.*

Consolidated with

Case No.: SX-2014-CV-287

Consolidated with

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

vs.

FATHI YUSUF, *Defendant.*

Case No.: SX-2014-CV-278

Consolidated with

FATHI YUSUF, *Plaintiff,*

vs.

MOHAMMAD A. HAMED TRUST, *et al,*

Defendants.

Case No.: ST-17-CV-384

Consolidated with

KAC357 Inc., *Plaintiff,*

vs.

HAMED/YUSUF PARTNERSHIP,

Defendant.

Case No.: ST-18-CV-219

**JOHN GAFFNEY ACCOUNTANT'S REPORT
AS TO HAMED CLAIM H-37 --
Due to/from Fathi Yusuf**

I. Introduction

This submission is made by the fiduciary partnership accountant pursuant to the applicable Orders of the Special Master: (1) Joint Discovery and Scheduling Plan, January 29, 2018; (32) Order re Joint Motion for 40 Days, August 6, 2018, and (3) Order re Motion to Strike Hamed Claim Nos. H-41 to H-141 and Additional "Maybe" Claims, August 12, 2018.

II. Description of this Claim 'As Made'

On August 17, 2018, I received a document from Hamed's counsel that listed the 101 Hamed Claims (H-41 to H-141) and attached the description given by Hamed to the Special Master, the prior description of each claim and the exhibits to Hamed's CPA's report relate to the claim (if any) – listing both the old and new claim numbers. That material related to this claim is attached as **Exhibit A** hereto. The description of the claim from those materials, and to which I am responding is as follows:

Hamed Claim H-37

Due to/from Fathi Yusuf

DESCRIPTION OF THIS CLAIM:

Hamed's CPA noted a balance of \$186,819.33 in the due to/from Yusuf account recorded on Plaza STT accounting records as of June 30, 2015. This balance has carried over prior to January 1, 2013 according to the accounting records provided by John Gaffney. This amount was used in the calculation of a pay out in the Summary of Remaining Partnership Items.

ALL INFORMATION AND RELATED DOCUMENTS KNOWN TO HAMED:

Hamed's CPA interviewed the Hameds regarding payments due to Fathi Yusuf. Hamed's CPA reviewed the summary of Summary of Remaining Partnership Items (Exhibit 353-a). Hamed's CPA also provided John Gaffney a query dated February 15, 2016 (see Attachment VII) requesting an explanation of the business purpose and supporting documentation.

INFORMATION RECEIVED BY HAMED FROM YUSUF/GAFFNEY:

John Gaffney did not respond to our request.

HAMED'S CPA'S EXPERT ANALYSIS OF WHY THE CLAIM IS VALID:

Hamed's CPA did not find any sufficient reliable audit evidence, nor were Hamed's CPA provided any audit evidence from John Gaffney that these payments were for a valid business expense or served a business purpose. As such, Hamed's CPA were not able to satisfy themselves of management's assertions: 1. Occurrence 2. Accuracy or 3. Classification, as described in AU-C 315.A128. -- The total amount of this claim is \$186,819.33, subject to further refinement after discovery is re-opened and completed.

III. The Work I was Ordered to Do by the Special Master

1 . . .Mr. Gaffney will submit daily emails to counsel for Hamed [with copy to counsel for Yusuf] informing them of the hours worked and what was done. . . .

2. For each of the Hamed Claims numbered H-41 through H-141. . .John Gaffney will provide a written response, in his fiduciary capacity as the Partnership Accountant, to the following two items:

a. **interrogatory:** Provide a written statement describing the transaction, with reference to when the actual activity or delivery occurred, who the persons/entities are, what amounts were involved, and what it was for (with reference to why the funds are allegedly properly charged to the Partnership) and making reference to any checks, invoices or other relevant documents.

b. **Production of Documents:** Attach to the above interrogatory response, the documents referenced in your response.

3. Mr. Gaffney's responses to interrogatories and document requests will be provided in the bi-weekly period in which they are completed and not in groups or all at once. . . .

IV. Accountant's Response to Interrogatory as to Hamed Claim H-37

A. [Date(s)] when the actual activity or delivery occurred:

IV. Accountant's Response to Interrogatory as to Hamed Claim H-37

A. [Date(s)] when the actual activity or delivery occurred:

Prior to January 1, 2013

B. Who the persons/entities are:

Prior outside CPA's (Freed Maxick CPA's) and previous Controller (Margie Soefing), except as adjusted to clean up old, unidentifiable garbage.

C. What amounts were involved,

Loans from Shareholders per 2010 Form 1120S was \$722,892 as adjusted by Freed Maxick CPA's. Subsequent adjustments were made for various unidentifiable balance sheet debits only after substantial inquiries were made with management and especially Margie Soefing. Where an adjustment might otherwise be charged against current Partnership income but for the lack of credible support, it was charged against shareholder debt as a conservative measure. The final carryover balance from 2012 is \$186,819.

D. What it was for (with reference to why the funds are allegedly properly charged to the Partnership)

This balance is a carryover from old accounting records which cannot be located. A request was made to Ron Soluri (Freed Maxick partner) for copies of working trial balances and workpapers to gain further documentation supporting Loans from Shareholders and other items. Request was denied.

Accountant's Production of Documents

The documents I have used and am therefore providing are as follows:

Exhibit B-1:

Post 2012 Shareholder Loans Activity.

Exhibit B-2:

Reconciliation of Shareholder Loans to 2010 tax return and Adjustments
Summary through 12/31/12.

Exhibit B-3:

Pre 2012 Shareholder Loans Activity per General Ledger.

Exhibit B-4:

Pre 2012 Adjustments Detail.

V. Reservations and Limitations

A. Information

I was able to obtain any information I requested in writing from the parties.

I requested the following information from a party or parties and was not able to obtain it for the following reason(s) – the written request(s) are attached as Exhibit C. The reasons(s) or explanation I was given in writing is attached as Exhibit D. My concern, reservation or limitation on my responses above is/are as follow:

B. Documents

I was able to obtain any documents I looked for.

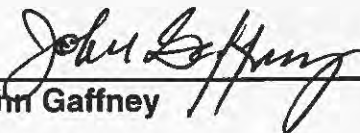
I looked for the following documents and was not able to obtain them for the following reason(s) – the written statement as to the efforts I undertook are Exhibit E. The reasons(s) or for my concern, reservation or limitation on my responses above is/are as follow:

SEE EXHIBIT E: Claim H-37 Narrative

CERTIFICATION

The above is true and accurate to the best of my knowledge. I have had no *ex parte* communications with any person, entity, party or counsel in preparing this response. I have provided this to counsel upon my completion of the work.

Dated: June 9, 2019



John Gaffney

CERTIFICATE OF SERVICE

I hereby certify that on the date stated above, I served a copy of the foregoing by email, as agreed by the parties, on:

Gregory H. Hodges
Charlotte Perrell
ghodges@dtflaw.com

Carl J. Hartmann
Joel H. Holt
carl@hartmann.attorney



John Gaffney

EXHIBIT A

Claim H-37 - was Old Item 353 – Due to/from Fathi Yusuf

DESCRIPTION OF THIS CLAIM:

Hamed's CPA noted a balance of \$186,819.33 in the due to/from Yusuf account recorded on Plaza STT accounting records as of June 30, 2015. This balance has carried over prior to January 1, 2013 according to the accounting records provided by John Gaffney. This amount was used in the calculation of a pay out in the Summary of Remaining Partnership Items.

ALL INFORMATION AND RELATED DOCUMENTS KNOWN TO HAMED:

Hamed's CPA interviewed the Hameds regarding payments due to Fathi Yusuf. Hamed's CPA reviewed the summary of Summary of Remaining Partnership Items (Exhibit 353-a). Hamed's CPA also provided John Gaffney a query dated February 15, 2016 (see Attachment VII) requesting an explanation of the business purpose and supporting documentation.

INFORMATION RECEIVED BY HAMED FROM YUSUF/GAFFNEY:

John Gaffney did not respond to our request.

HAMED'S CPA'S EXPERT ANALYSIS OF WHY THE CLAIM IS VALID:

Hamed's CPA did not find any sufficient reliable audit evidence, nor were Hamed's CPA provided any audit evidence from John Gaffney that these payments were for a valid business expense or served a business purpose. As such, Hamed's CPA are not able to satisfy ourselves of management's assertions: 1. Occurrence 2. Accuracy or 3. Classification, as described in **AU-C 315.A128**.

The total amount of this claim is \$186,819.33, subject to further refinement after discovery is re-opened and completed.

Item No. 353

Description: Unexplained payouts to Mr. Fathi Yusuf in 2015.

General Ledger-Store, Date, Entry No. & Description [as an example] (if applicable):

STT, 9/30/15, JE30-01, GENJ, CLEAR YUSUF/PSHIP MISC DUE TO/FR ACCOUNTS ON 9/30, \$186,819.33

West, 9/30/15, JE30-03, GENJ, CLEAR MISC YUSUF/PSHIP DUE TO/FR ACCOUNTS, \$120,167.33

West, 9/30/15, JE03-30, GENJ, CLEAR MISC YUSUF/PSHIP DUE TO/FR ACCOUNTS, \$900,000

Question/Request for Info: Please describe what the general ledger item listed above is.

Please provide all documents substantiating the general ledger items listed above.

Response:

List of documents provided:

Exhibits for claim 353

United Corporation West (Pship)
Summary of Remaining Partnership Items
For the Period From Jan 1, 2013 to Sep 30, 2015

<u>Location</u>	<u>A/C</u>	<u>A/C Description</u>	<u>Yusuf</u>	<u>Hamed</u>
East	10400	Cash - Banco CC 3307	(176,353.61)	-
East	14500	Due from/to Shopping Ctr	(119,529.01) ←	- } ①
East	14500	Adjust Re Mtg on 10/01	119,529.01 ←	- } ①
East	20000	Accounts Payable (@ 8/31/15)	326,017.99 ←	- } ②
East	25800	Deposit Error Suspense	193,649.63	-
			<u>343,314.01</u>	-
STT	14000	Due from/to Yusuf	186,819.33 ←	- } ③
STT	25800	Deposit Error Suspense	-	181,355.40
STT	Adjust	Paid to KAC357 in July 2015	-	(181,355.40)
STT	Adjust	Trop Shpg Pd for KAC357	-	(10,242.00)
			<u>186,819.33</u>	<u>(10,242.00)</u>
West	14000	Due from/to Yusuf	120,167.33	-
West	14500	Due from/to Shopping Ctr	(900,000.00)	-
West	14600	Due from/to Hamed	-	(24,700.00)
West	20000	Accounts Payable	(5,632.57)	2,780.41
West	25800	Deposit Error Suspense	-	(39,788.40)
			<u>(785,465.24)</u>	<u>(61,707.99)</u>
		Due from (to) Partnership	<u>(255,331.90)</u>	<u>(71,949.99)</u>
		Partnership Distribution	255,331.90	255,331.90
		Repmnt fr NonCash Distrib	<u>(255,331.90)</u>	<u>(71,949.99)</u>
		Net Cash Payout	-	<u>183,381.91</u> ←

Total Pd



Exhibit: 353-a

EXHIBIT B-1

**United Corporation West (Pship)
Summary of Remaining Partnership Items
For the Period From Jan 1, 2013 to Sep 30, 2015**

<u>Location</u>	<u>A/C</u>	<u>A/C Description</u>	<u>Yusuf</u>	<u>Hamed</u>
East	10400	Cash - Banco CC 3307	(176,353.61)	-
East	14500	Due from/to Shopping Ctr	(119,529.01)	-
East	14500	Adjust Re Mtg on 10/01	119,529.01	-
East	20000	Accounts Payable (@ 8/31/15)	326,017.99	-
East	25800	Deposit Error Suspense	193,649.63	-
			<u>343,314.01</u>	<u>-</u>
STT	14000	Due from/to Yusuf	186,819.33	-
STT	25800	Deposit Error Suspense	-	181,355.40
STT	Adjust	Paid to KAC357 in July 2015	-	(181,355.40)
STT	Adjust	Trop Shpg Pd for KAC357	-	(10,242.00)
			<u>186,819.33</u>	<u>(10,242.00)</u>
West	14000	Due from/to Yusuf	120,167.33	-
West	14500	Due from/to Shopping Ctr	(900,000.00)	-
West	14600	Due from/to Hamed	-	(24,700.00)
West	20000	Accounts Payable	(5,632.57)	2,780.41
West	25800	Deposit Error Suspense	-	(39,788.40)
			<u>(785,465.24)</u>	<u>(61,707.99)</u>
		Due from (to) Partnership	<u>(255,331.90)</u>	<u>(71,949.99)</u>
		Partnership Distribution	255,331.90	255,331.90
		Repmt fr NonCash Distrib	<u>(255,331.90)</u>	<u>(71,949.99)</u>
		Net Cash Payout	<u>-</u>	<u>183,381.91</u>

United Corporation STT (Pship)
General Ledger
For the Period From Jan 1, 2013 to Jun 30, 2015

A/C	Date	Ref	Jrnl	Trans Description	Debit Amt	Credit Amt	Balance
14000	Due from (to) SH's Yusuf						
	01/01/13			Beginning Balance			-186,819.33
	12/31/13			Fiscal Year End Balance			-186,819.33
	01/01/14			Beginning Balance			-186,819.33
	12/31/14			Fiscal Year End Balance			-186,819.33
	01/01/15			Beginning Balance			-186,819.33
	06/30/15			Ending Balance			-186,819.33

EXHIBIT B-2

PLAZA EXTRA PARTNERSHIP
DUE TO/FROM SHAREHOLDERS ANALYSIS

<u>Account</u>	<u>Description</u>		<u>12/31/10</u>	<u>2011</u>	<u>2012</u>	<u>12/31/12</u>
214500-20	Due to Stockholder	(To) / From	(250,758.28)	(1,027,249.66)	1,091,188.61	(186,819.33)
114500-10	Due from Stockholder	(To) / From	(561,520.46)	561,520.46	-	-
114500-20	Due from Stockholder	(To) / From	(492,088.66)	492,088.66	-	-
263200-10	Note Payable - I Yousef	(To) / From	167,500.00	413,975.00	(581,475.00)	-
263200-20	Note Payable - I Yousef	(To) / From	413,975.00	(413,975.00)	-	-
	Net Due (To) From SH		<u>(722,892.40)</u>			<u>(186,819.33)</u>

Note: The balance as of 12/31/10 reconciles perfectly to Loans from Shareholders as reported on the 2010 Form 1120S for United Corporation which draft was obtained from Freed Maxick CPA's.

Schedule L	Balance Sheets per Books	Beginning of tax year		End of tax year	
		(a)	(b)	(c)	(d)
Assets					
1	Cash		9,821,111.		16,030,419.
2a	Trade notes and accounts receivable	124,502.		179,595.	
b	Less allowance for bad debts		124,502.		179,595.
3	Inventories		9,274,994.		10,821,699.
4	U.S. government obligations				
5	Tax-exempt securities				
6	Other current assets (att. stmt.)	STATEMENT 14	343,077.		374,341.
7	Loans to shareholders				
8	Mortgage and real estate loans				
9	Other investments (att. stmt.)	STATEMENT 15	37,332,184.		40,755,773.
10a	Buildings and other depreciable assets	18,752,809.		18,793,691.	
b	Less accumulated depreciation	12,252,135.	6,500,674.	12,526,238.	6,267,453.
11a	Depletable assets				
b	Less accumulated depletion				
12	Land (net of any amortization)		644,664.		644,664.
13a	Intangible assets (amortizable only)				
b	Less accumulated amortization				
14	Other assets (att. stmt.)	STATEMENT 16	6,850,651.		6,850,651.
15	Total assets		70,891,857.		81,924,595.
Liabilities and Shareholders' Equity					
16	Accounts payable		5,847,654.		4,698,751.
17	Mortgages, notes, bonds payable in less than 1 year				
18	Other current liabilities (att. stmt.)	STATEMENT 17	907,768.		617,783.
19	Loans from shareholders		611,125.		722,892. ✓
20	Mortgages, notes, bonds payable in 1 year or more				
21	Other liabilities (att. stmt.)	STATEMENT 18	35,783.		35,783.
22	Capital stock		200,000.		200,000.
23	Additional paid-in capital		12,454,539.		12,454,539.
24	Retained earnings	STATEMENT 19	50,234,581.		60,863,891.
25	Adjustments to shareholders' equity (att. stmt.)	STATEMENT 20	1,000,407.		2,730,956.
26	Less cost of treasury stock		(400,000.)		(400,000.)
27	Total liabilities and shareholders' equity		70,891,857.		81,924,595.

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

Note: Schedule M-3 required instead of Schedule M-1 if total assets are \$10 million or more - see instructions

1	Net income (loss) per books	5	Income recorded on books this year not included on Schedule K, lines 1 through 10 (itemize): a Tax-exempt interest \$
2	Income included on Schedule K, lines 1, 2, 3c, 4, 5a, 6, 7, 8a, 9, and 10, not recorded on books this year (itemize):	6	Deductions included on Schedule K, lines 1 through 12 and 14I, not charged against book income this year (itemize): a Depreciation \$ b Travel and entertainment \$
3	Expenses recorded on books this year not included on Schedule K, lines 1 through 12 and 14I (itemize): a Depreciation \$ b Travel and entertainment \$	7	Add lines 5 and 6
4	Add lines 1 through 3	8	Income (loss) (Schedule K, line 18) Line 4 less line 7

Schedule M-2 Analysis of Accumulated Adjustments Account, Other Adjustments Account, and Shareholders' Undistributed Taxable Income Previously Taxed (see instructions)

	(a) Accumulated adjustments account	(b) Other adjustments account	(c) Shareholders' undistributed taxable income previously taxed
1	Balance at beginning of tax year	49,691,542.	1,847,416.
2	Ordinary income from page 1, line 21	10,952,924.	
3	Other additions STATEMENT 11 STATEMENT 12	1,499,737.	750,878.
4	Loss from page 1, line 21	()	
5	Other reductions STATEMENT 13	(181,423.)	()
6	Combine lines 1 through 5	61,962,780.	2,598,294.
7	Distributions other than dividend distributions	2,113,028.	
8	Balance at end of tax year. Subtract line 7 from line 6	59,849,752.	2,598,294.

EXHIBIT B-3

PLAZA EXTRA PARTNERSHIP
 DUE TO/FROM SHAREHOLDERS ANALYSIS

Account	Description		12/31/10	2011	2012	12/31/12
214500-20	Due to Stockholder	(To) / From	(250,758.28)	(1,027,249.66)	1,091,188.61	(186,819.33)
114500-10	Due from Stockholder	(To) / From	(561,520.46)	561,520.46	-	-
114500-20	Due from Stockholder	(To) / From	(492,088.66)	492,088.66		-
263200-10	Note Payable - I Yousef	(To) / From	167,500.00	413,975.00	(581,475.00)	-
263200-20	Note Payable - I Yousef	(To) / From	413,975.00	(413,975.00)	-	-
	Net Due (To) From SH		(722,892.40)			(186,819.33)

Note: The balance as of 12/31/10 reconciles perfectly to Loans from Shareholders as reported on the 2010 Form 1120S for United Corporation which draft was obtained from Freed Maxick CPA's.

**z 2012 United Corp Plaza STT
General Ledger**

For the Period From Jan 1, 2006 to Dec 31, 2012

Filter Criteria includes: 1) IDs: 214500-20. Report order is by ID. Report is printed with shortened descriptions and in Detail Format.

Account ID Account Description	Date	Reference	Jrnl	Trans Description	Debit Amt	Credit Amt	Balance
214500-20	1/1/06			Beginning Balance			-7,381,636.28
Due to Stockholders	2/1/06			Beginning Balance			-7,381,636.28
	3/1/06			Beginning Balance			-7,381,636.28
	4/1/06			Beginning Balance			-7,381,636.28
	5/1/06			Beginning Balance			-7,381,636.28
	6/1/06			Beginning Balance			-7,381,636.28
	7/1/06			Beginning Balance			-7,381,636.28
	8/1/06			Beginning Balance			-7,381,636.28
	9/1/06			Beginning Balance			-7,381,636.28
	10/1/06			Beginning Balance			-7,381,636.28
	11/1/06			Beginning Balance			-7,381,636.28
	12/1/06			Beginning Balance			-7,381,636.28
	12/31/06			Fiscal Year End Ba			-7,381,636.28
	1/1/07			Beginning Balance			-7,381,636.28
	2/1/07			Beginning Balance			-7,381,636.28
	3/1/07			Beginning Balance			-7,381,636.28
	4/1/07			Beginning Balance			-7,381,636.28
	5/1/07			Beginning Balance			-7,381,636.28
	6/1/07			Beginning Balance			-7,381,636.28
	7/1/07			Beginning Balance			-7,381,636.28
	8/1/07			Beginning Balance			-7,381,636.28
	9/1/07			Beginning Balance			-7,381,636.28
	10/1/07			Beginning Balance			-7,381,636.28
	11/1/07			Beginning Balance			-7,381,636.28
	12/1/07			Beginning Balance			-7,381,636.28
	12/31/07			Fiscal Year End Ba			-7,381,636.28
	1/1/08			Beginning Balance			-7,381,636.28
	2/1/08			Beginning Balance			-7,381,636.28
	3/1/08			Beginning Balance			-7,381,636.28
	4/1/08			Beginning Balance			-7,381,636.28
	5/1/08			Beginning Balance			-7,381,636.28
	6/1/08			Beginning Balance			-7,381,636.28
	7/1/08			Beginning Balance			-7,381,636.28
	8/1/08			Beginning Balance			-7,381,636.28
	9/1/08			Beginning Balance			-7,381,636.28
	10/1/08			Beginning Balance			-7,381,636.28
	11/1/08			Beginning Balance			-7,381,636.28
	12/1/08			Beginning Balance			-7,381,636.28
	12/31/08			Fiscal Year End Ba			-7,381,636.28
	1/1/09			Beginning Balance			-7,381,636.28
	2/1/09			Beginning Balance			-7,381,636.28
	3/1/09			Beginning Balance			-7,381,636.28
	4/1/09			Beginning Balance			-7,381,636.28
	5/1/09			Beginning Balance			-7,381,636.28
	6/1/09			Beginning Balance			-7,381,636.28
	7/1/09			Beginning Balance			-7,381,636.28
	8/1/09			Beginning Balance			-7,381,636.28
	9/1/09			Beginning Balance			-7,381,636.28
	10/1/09			Beginning Balance			-7,381,636.28
	11/1/09			Beginning Balance			-7,381,636.28
	12/1/09			Beginning Balance			-7,381,636.28
	12/31/09			Fiscal Year End Ba			-7,381,636.28
	1/1/10			Beginning Balance			-7,381,636.28
	2/1/10			Beginning Balance			-7,381,636.28
	3/1/10			Beginning Balance			-7,381,636.28
	4/1/10			Beginning Balance			-7,381,636.28
	5/1/10			Beginning Balance			-7,381,636.28
	6/1/10			Beginning Balance			-7,381,636.28

**z 2012 United Corp Plaza STT
General Ledger**

For the Period From Jan 1, 2006 to Dec 31, 2012

Filter Criteria includes: 1) IDs: 214500-20. Report order is by ID. Report is printed with shortened descriptions and in Detail Format.

Account ID Account Description	Date	Reference	Jrnl	Trans Description	Debit Amt	Credit Amt	Balance
	7/1/10			Beginning Balance			-7,381,636.28
	8/1/10			Beginning Balance			-7,381,636.28
	9/1/10			Beginning Balance			-7,381,636.28
	10/1/10			Beginning Balance			-7,381,636.28
	11/1/10			Beginning Balance			-7,381,636.28
	12/1/10			Beginning Balance			-7,381,636.28
	12/31/10			Fiscal Year End Ba			-7,381,636.28
	1/1/11			Beginning Balance			-7,381,636.28
	1/1/11	CPA #1	GEN	CPA's ADJ #1 201	7,369,215.00		
	1/1/11	CPA #2	GEN	CPA's ADJ #2 201		238,337.00	
				Current Period Cha	7,369,215.00	238,337.00	7,130,878.00
	2/1/11			Beginning Balance			-250,758.28
	3/1/11			Beginning Balance			-250,758.28
	4/1/11			Beginning Balance			-250,758.28
	5/1/11			Beginning Balance			-250,758.28
	6/1/11			Beginning Balance			-250,758.28
	7/1/11			Beginning Balance			-250,758.28
	8/1/11			Beginning Balance			-250,758.28
	9/1/11			Beginning Balance			-250,758.28
	10/1/11			Beginning Balance			-250,758.28
	11/1/11			Beginning Balance			-250,758.28
	12/1/11			Beginning Balance			-250,758.28
	12/31/11	JE02	GEN	Consolidate SH De		1,053,609.12	
	12/31/11	JE05	GEN	Adjust Related Affil	26,359.46		
				Current Period Cha	26,359.46	1,053,609.12	-1,027,249.66
	12/31/11			Fiscal Year End Ba			-1,278,007.94
	1/1/12			Beginning Balance			-1,278,007.94
	2/1/12			Beginning Balance			-1,278,007.94
	3/1/12			Beginning Balance			-1,278,007.94
	4/1/12			Beginning Balance			-1,278,007.94
	5/1/12			Beginning Balance			-1,278,007.94
	6/1/12			Beginning Balance			-1,278,007.94
	7/1/12			Beginning Balance			-1,278,007.94
	8/1/12			Beginning Balance			-1,278,007.94
	9/1/12			Beginning Balance			-1,278,007.94
	10/1/12			Beginning Balance			-1,278,007.94
	11/1/12			Beginning Balance			-1,278,007.94
	12/1/12			Beginning Balance			-1,278,007.94
	12/31/12	JE06	GEN	Adjust BPPR & ML	1,262,027.93		
	12/31/12	JE07	GEN	Adj PR Related Ac		69,196.43	
	12/31/12	JE10	GEN	Adjust Related Part		101,642.89	
				Current Period Cha	1,262,027.93	170,839.32	1,091,188.61
	12/31/12			Ending Balance			-186,819.33

**z 2012 United Corp Plaza STT
General Ledger**

For the Period From Jan 1, 2006 to Dec 31, 2012

Filter Criteria includes: 1) IDs: 114500-10. Report order is by ID. Report is printed with shortened descriptions and in Detail Format.

Account ID Account Description	Date	Reference	Jrnl	Trans Description	Debit Amt	Credit Amt	Balance
114500-10	1/1/06			Beginning Balance			451,228.54
Due from Stockholder	2/1/06			Beginning Balance			451,228.54
	3/1/06			Beginning Balance			451,228.54
	4/1/06			Beginning Balance			451,228.54
	5/1/06			Beginning Balance			451,228.54
	6/1/06			Beginning Balance			451,228.54
	7/1/06			Beginning Balance			451,228.54
	8/1/06			Beginning Balance			451,228.54
	9/1/06			Beginning Balance			451,228.54
	10/1/06			Beginning Balance			451,228.54
	11/1/06			Beginning Balance			451,228.54
	12/1/06			Beginning Balance			451,228.54
	12/31/06			Fiscal Year End Ba			451,228.54
	1/1/07			Beginning Balance			451,228.54
	2/1/07			Beginning Balance			451,228.54
	3/1/07			Beginning Balance			451,228.54
	4/1/07			Beginning Balance			451,228.54
	5/1/07			Beginning Balance			451,228.54
	6/1/07			Beginning Balance			451,228.54
	7/1/07			Beginning Balance			451,228.54
	8/1/07			Beginning Balance			451,228.54
	9/1/07			Beginning Balance			451,228.54
	10/1/07			Beginning Balance			451,228.54
	11/1/07			Beginning Balance			451,228.54
	12/1/07			Beginning Balance			451,228.54
	12/31/07			Fiscal Year End Ba			451,228.54
	1/1/08			Beginning Balance			451,228.54
	2/1/08			Beginning Balance			451,228.54
	3/1/08			Beginning Balance			451,228.54
	4/1/08			Beginning Balance			451,228.54
	5/1/08			Beginning Balance			451,228.54
	6/1/08			Beginning Balance			451,228.54
	7/1/08			Beginning Balance			451,228.54
	8/1/08			Beginning Balance			451,228.54
	9/1/08			Beginning Balance			451,228.54
	10/1/08			Beginning Balance			451,228.54
	11/1/08			Beginning Balance			451,228.54
	12/1/08			Beginning Balance			451,228.54
	12/31/08			Fiscal Year End Ba			451,228.54
	1/1/09			Beginning Balance			451,228.54
	2/1/09			Beginning Balance			451,228.54
	3/1/09			Beginning Balance			451,228.54
	4/1/09			Beginning Balance			451,228.54
	5/1/09			Beginning Balance			451,228.54
	6/1/09			Beginning Balance			451,228.54
	7/1/09			Beginning Balance			451,228.54
	8/1/09			Beginning Balance			451,228.54
	9/1/09			Beginning Balance			451,228.54
	10/1/09			Beginning Balance			451,228.54
	11/1/09			Beginning Balance			451,228.54
	12/1/09			Beginning Balance			451,228.54
	12/31/09			Fiscal Year End Ba			451,228.54
	1/1/10			Beginning Balance			451,228.54
	2/1/10			Beginning Balance			451,228.54
	3/1/10			Beginning Balance			451,228.54
	4/1/10			Beginning Balance			451,228.54
	5/1/10			Beginning Balance			451,228.54
	6/1/10			Beginning Balance			451,228.54

General Journal Entry

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Journal Entry

Date: Dec 31, 2012 Reverse Transaction

Reference: JED7

GL Account	Description	Debit	Credit	Job
231000-10	Adj PR Related Accts per Analysis Accrued VI Withholding Tax	118,715.54		
		Account will be decreased		
231000-20	Adj PR Related Accts per Analysis Accrued VI Withholding Tax	45,779.48		
		Account will be decreased		
232000-10	Adj PR Related Accts per Analysis Accrued FICA / Medicare Tax	13,375.26		
		Account will be decreased		
243000-20	Adj PR Related Accts per Analysis Child Care W/H & Payable	358.87		
		Account will be decreased		
676000-10	Adj PR Related Accts per Analysis FICA / Medicare Tax	56,063.20		
		Account will be increased		
676000-20	Adj PR Related Accts per Analysis FICA / Medicare Tax	28,159.58		
		Account will be increased		
678000-10	Adj PR Related Accts per Analysis VIESA Tax	6,345.24		
		Account will be increased		
680000-10	Adj PR Related Accts per Analysis FUTA Tax	45,531.55		
		Account will be increased		
680000-20	Adj PR Related Accts per Analysis FUTA Tax	19,935.01		
		Account will be increased		
214500-20	Adj PR Related Accts per Analysis Due to Stockholders		69,196.43	
		Account will be increased		
Totals:		334,563.83	334,563.83	
Out of Balance:		0.00		

General Journal Entry

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Journal Entry

Date: Dec 31, 2012 Reverse Transaction

Reference: JED7

GL Account	Description	Debit	Credit	Job
217000-10	Adj PR Related Accts per Analysis Garments W/H & Payable		154.56	
		Account will be increased		
232000-20	Adj PR Related Accts per Analysis Accrued FICA / Medicare Tax		450.32	
		Account will be increased		
233000-10	Adj PR Related Accts per Analysis Accrued VIESA Tax		3,207.82	
		Account will be increased		
233000-20	Adj PR Related Accts per Analysis Accrued VIESA Tax		811.61	
		Account will be increased		
239000-10	Adj PR Related Accts per Analysis Accrued FUTA Tax		6,787.93	
		Account will be increased		
239000-20	Adj PR Related Accts per Analysis Accrued FUTA Tax		66,122.83	
		Account will be increased		
242000-10	Adj PR Related Accts per Analysis Other Accrued Expenses		105,218.66	
		Account will be increased		
242000-20	Adj PR Related Accts per Analysis Other Accrued Expenses		80,561.18	
		Account will be increased		
243000-10	Adj PR Related Accts per Analysis Child Care W/H & Payable		51.62	
		Account will be increased		
678000-20	Adj PR Related Accts per Analysis VIESA Tax		2,000.87	
		Account will be decreased		
Totals:		334,563.83	334,563.83	
Out of Balance:		0.00		

**z 2012 United Corp Plaza STT
General Journal**

Date	Account ID	Reference	Trans Description	Debit Amt	Credit Amt	Job ID
12/31/12	114700-10	JE10	Adjust Related Party Debts	1,051,742.00		
	120600-10		Adjust Related Party Debts	264,341.36		
	121000-10		Adjust Related Party Debts	62,305.00		
	121100-10		Adjust Related Party Debts	586,039.00		
	114600-10		Adjust Related Party Debts		117,161.00	
	121200-10		Adjust Related Party Debts		1,031,864.47	
	214500-20		Adjust Related Party Debts		101,642.89	
	242600-10		Adjust Related Party Debts		111,767.00	
	263200-10		Adjust Related Party Debts		581,475.00	
	340000-10		Adjust Related Party Debts		20,517.00	
		Total		<u><u>1,964,427.36</u></u>	<u><u>1,964,427.36</u></u>	

General Journal Entry

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Close New List Save Print Copy Delete Flow Reports Attach Help

Journal Entry

Date: 12/31/12 Reverse Transaction

Reference: JE 10

GL Account	Description	Debit	Credit	Job
114700-10	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Due from Plessen - Accr Int	1,051,742.00		
		Account will be increased		
120600-10	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Due from Sixteen Plus	264,341.36		
		Account will be increased		
121000-10	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Due from Peter's Farm	62,305.00		
		Account will be increased		
121100-10	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Due from Peter's - Accr Int	586,039.00		
		Account will be increased		
114600-10	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Due from Plessen		117,161.00	
		Account will be decreased		
121200-10	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Due from DAAS Corporation		1,031,864.47	
		Account will be decreased		
214500-20	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Due to Stockholders		101,642.89	
		Account will be increased		
242600-10	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Accrued Interest - I. Yousef		111,767.00	
		Account will be increased		
263200-10	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Note Payable - I. Yousef		581,475.00	
		Account will be increased		
340000-10	Adjust Related Party Debts to Offsets & w/o Yousef Receivable Interest Income		20,517.00	
		Account will be increased		
Totals:		1,964,427.36	1,964,427.36	
Out of Balance:		0.00		

EXHIBIT E

EXHIBIT E**Claim H-37 Narrative:**

This claim addresses a "Due to Shareholder" balance of \$186,819.33. I explained it to Joel Holt in conjunction with the bi-monthly submissions to the Court - probably in October 2015. After researching and considering five or more preparation paths for this written request, I can't find a simple way to document it without getting into extensive discussions and further research. So, I decided it's best to start with this narrative.

Simply put, the early work I performed for the Plaza stores required considerable reconstruction. For instance, no fixed assets schedule existed until I prepared one myself. Fixed asset maintenance was left to outside CPA's in conjunction with tax return preparation. Consequently, generic descriptions became the norm. A forklift purchase may simply be described as "Equipment" by the outside CPA. Worse yet, a forklift and a computer or 10 other items may be combined into a single item and described as "Equipment" by the outside CPA. These are very common business faults and left unchecked for many years, it's virtually impossible to correct to perfection.

Reconstructing fixed assets detail was just the tip of the iceberg. What were commonly referred to as "Bank Reconciliations" were anything but reconciliations. They were more accurately characterized as bank analysis reports that lack any of the controls that "reconciliations" have. True bank reconciliations easily provide 75% of all accounting controls in a business. The remaining 25% is established by diligent monthly reconciliations or permanent file maintenance for ALL other balance sheet accounts. Although a few schedules were previously maintained, no actual reconciliations were being performed prior to 2013 and a few were just mystery accounts – thus the need for reconstruction. Fortunately, honesty among the office employees in all three stores seemed high and I didn't detect any outright theft or signs of fraudulent activity - just the common mistakes from not having a system of internal controls.

Reconstruction of tangible items can be very tedious but is very rarely impossible. The same is true for some intangible accounts. But other intangible accounts can't be validated when their history extends beyond the record retention period and no permanent file is maintained.

The United/Plaza history file for "Due to Shareholder" is very old and there was no record or knowledge of how it came into existence. But that alone doesn't invalidate the character or even the account balance brought forward. In fact, Freed Maxick, CPA's tax returns for United Corporation showed "Due to Shareholder" balances ranging between \$611,125 and \$722,892 from 2002 through 2010. Several attempts to get historical detail from Ron Soluri (Freed Maxick Partner) failed and the inhouse general ledger which dated back to January 2006 had only carryover balances and no activity.

This brings up another point. For months, I was unable to reconcile the United/Plaza general ledger to the 2010 tax return by Freed Maxick. The Plaza Controller was Margie Soefing and she was of little assistance at first. Noting no CPA adjustments over the years, I asked her to inquire with Ron Soluri. After several requests, she finally received a cumulative record of adjustments. Having already closed the 2010 accounting year, she posted the adjustments out of period as of January 1, 2011 further confusing matters. Only after preparing detailed trial balances in excel, dissected the adjustments, and posting them by year in the trial balance, was I was able to reconcile 2009 and 2010 accounting records to tax returns. This was a pivotal reconstruction moment.

Claim H-37 Narrative (Continued):

Still I spent months researching and reconstructing outside support schedules for ALL the United/Plaza accounts with only a few exceptions. My policy is to avoid adjustments that affect equity unless the amount is either nominal or there's a preponderance of evidence supporting an income adjustment. The consistent reporting of debt to shareholders on Feed Maxick tax returns from 2002 forward and the carryover balance from the 2010 tax return of \$722,892 provided sufficient precedent to the historical existence of debt to Shareholders.

There were other balance sheet debit items eventually adjusted against shareholder debt only after all other research efforts failed. This was in my opinion a conservative practice, both from an income tax viewpoint and subsequently in respect of the Plaza Partnership. The adjustment of Shareholder Loans from \$722,892 to \$186,819 supports my assertion.

Signed: John Giffney
Date: 6/9/19

EXHIBIT E

REMIT TO:

5155 Paysphere Circle
Chicago, IL 60674USA

5155 0006117813 0003920950 07032012 0007858500 2

ATTN: RANDY ANDREOZZI
PLAZA EXTRA
C/O ANDREOZZI & FICKESS
9145 MAIN STREET
CLARENCE NY 14031

July 03, 2012

Account No. 611-781-3 HBE

Invoice No. M-3920950-330

Amount Paid \$ _____

Amount Due \$78,585.00

Please return top portion with payment

611-781-3 Plaza Extra

07/03/2012

Invoice # M-3920950-330

Professional services rendered from April 16, 2012 through June 30, 2012 as follows:

Progress billing on assimilation of data and preparation of out year tax returns for 2001 thru 2011 related to settlement for Plaza Extra, Sixteen Plus, Peters Farm, Plessen Enterprises, Hamed and Yusuf Family; travel to VIBR to meet with defendants and negotiate approach for out year returns and submission of draft returns to VIBR; pull together summary schedules of taxes due and other reports for VIBR and defendants; travel to St. Croix/St. Thomas for meetings with defendants and counsel plus multiple conference calls with defendants regarding settlement and other related corporate and personal matters; discussions with counsel regarding return issues; other miscellaneous legal matters; discuss issues related to family matters and follow up calls with counsel regarding recourse; preparation of FBAR's for 2011; etc.	\$71,914.00
Travel expenses for accountants and attorneys for trip to St. Thomas and St. Croix for weeks of April 19th and June 25th for meetings with defendants and VIBR; etc.	10,266.00
LESS: Courtesy Discount	(3,595.00)
Total Due	<u>\$78,585.00</u>

Invoices are due upon receipt.

REMIT TO:

0626 0006117813 0003936999 08132012 0006076500 0

PO Box 8000
Dept. 644
Buffalo, NY 14267

ATTN: RANDY ANDREOZZI
PLAZA EXTRA
C/O ANDREOZZI, BLUESTEIN, FICKESS,
MUHLBAUER WEBER
9145 MAIN STREET
CLARENCE NY 14031

August 13, 2012
Account No. 611-781-3 HBE
Invoice No. M-3936999-330
Amount Paid \$ _____
Amount Due \$60,765.00

Please return top portion with payment

611-781-3 Plaza Extra

08/13/2012

Invoice # M-3936999-330

Professional services rendered from July 1, 2012 through August 9, 2012 as follows:

Progress billing on assimilation of data and preparation of out year tax returns for 2001 thru 2011 related to settlement for Plaza Extra, Sixteen Plus, Peters Farm, Plessen Enterprises, Hamed and Yusuf Family; travel to VIBR to meet with defendants and negotiate approach for out year returns and submission of draft returns to VIBR; pull together summary schedules of taxes due and other reports for VIBR and defendants; travel to St. Croix/St. Thomas for meetings with defendants and counsel plus multiple conference calls with defendants regarding settlement and other related corporate and personal matters; discussions with counsel regarding return issues; other miscellaneous legal matters; discuss issues related to family matters and follow up calls with counsel regarding recourse; preparation of updated FBAR's for 1996 thru 2011; etc.	\$53,374.00
Travel expenses for accountants and attorneys for trip to St. Croix for week of August 1, 2012 for meetings with defendants; etc.	10,062.00
LESS: Courtesy Discount	(2,671.00)
	<u>Total Due</u> <u>\$60,765.00</u>

Invoices are due upon receipt.

REMIT TO:

0626 0006117813 0003960036 09272012 0001200000 4

PO Box 8000
Dept. 644
Buffalo, NY 14267

ATTN: RANDY ANDREOZZI
PLAZA EXTRA
C/O ANDREOZZI, BLUESTEIN, FICKESS,
MUHLBAUER WEBER
9145 MAIN STREET
CLARENCE NY 14031

September 27, 2012
Account No. 611-781-3 HBE
Invoice No. M-3960036-330
Amount Paid \$ _____
Amount Due \$12,000.00

Please return top portion with payment

611-781-3 Plaza Extra

09/27/2012

Invoice # M-3960036-330

Professional services rendered from August 10, 2012 through September 15, 2012 as follows:

Progress billing on assimilation of data and preparation of out year tax returns for 2001 thru 2011 related to settlement for Plaza Extra, Sixteen Plus, Peters Farms, Plessen Enterprises, Hamed and Yusuf Family; calls with multiple attorneys, defendants and response to various emails with regard to case related issues regarding settlement; mediation related issues and prep edits to draft spreadsheets regarding patronage dividends; etc. \$12,280.00

Travel expenses for accountants for trip to St. Croix for week of August 1, 2012 for meetings with defendants; etc. 333.00

LESS: Courtesy Discount (613.00)

Total Due \$12,000.00

Invoices are due upon receipt.

EXHIBIT F

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IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

UNITED STATES OF AMERICA, and
GOVERNMENT OF THE VIRGIN ISLANDS,

Plaintiffs,

v.

FATHI YUSUF MOHAMAD YUSUF,

aka Fahti Yusuf

WALEED MOHAMMAD HAMED,

aka Wally Hamed

WAHEED MOHOMMAD HAMED,

aka Willie Hamed

MAHER FATHI YUSUF,

aka Mike Yusuf

NEJEH FATHI YUSUF, ISAM YUSUF, and

UNITED CORPORATION,

dba Plaza Extra,

Defendants.

Criminal No. 2005-15

July 16, 2013

3:20 p.m.

TRANSCRIPT OF SENTENCING

BEFORE THE HONORABLE DISTRICT JUDGE

WILMA A. LEWIS

1 APPEARANCES:

2 LORI A. HENDRICKSON, ESQ.,

3 FOR THE GOVERNMENT

4 RANDALL P. ANDREOZZI, ESQ.,

5
6 FOR DEFENDANT WALEED HAMED

7 PAMELA COLON, ESQ.,

8
9 FOR DEFENDANT WAHEED HAMED

10 JOSEPH DIRUZZO, ESQ.,

11 FOR UNITED CORPORATION

12 NIZAR DEWOOD, ESQ.,

13 FOR FAHTI YUSUF

14 VALERIE LAWRENCE, RPR
15 OFFICIAL COURT REPORTER

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1 THE CLERK: Criminal No. 2005/0015,
2 sentencing. United States of America versus
3 United Corporation, dba Plaza Extra.

4 THE COURT: Good afternoon, everyone. May
5 I have your appearances, counsel, please. We
6 will start with appearances from the United
7 States.

8 MS. HENDRICKSON: Good afternoon, Lori
9 Hendrickson.

10 THE COURT: Good afternoon, Attorney
11 Hendrickson.

12 MR. DiRUZZO: And good afternoon, Your
13 Honor. Joseph DiRuzzo on behalf of United
14 Corporation. And seated directly to my left,
15 Maher Yusuf, as the corporate representative
16 today.

17 THE COURT: Good afternoon, Attorney
18 DiRuzzo. And the corporate representative is
19 Mr. Yusuf?

20 MR. DiRUZZO: Maher Yusuf, yes.

21 MS. COLON: Good afternoon. Pamela Colon
22 on behalf of Waheed Hamed, not in the
23 courtroom.

24 MR. DEWOOD: Nizar Dewood for Mr. Fathi
25 Yusuf, and he's present today.

1 THE COURT: Good afternoon, Attorney
2 Dewood.

3 THE COURT: On the telephone.

4 MR. ANDREOZZI: Good afternoon, Your
5 Honor. Randall Andreozzi on behalf of Waleed
6 Hamed.

7 THE COURT: Good afternoon, Attorney
8 Andreozzi.

9 MS. COLON: And Your Honor, if I may note,
10 Waleed Hamed is present in the courtroom. I'm
11 not sure if Randall Andreozzi recognizes that.

12 THE COURT: Okay.

13 MS. COLON: Thank you.

14 THE COURT: Counsel, as you're aware, the
15 Court scheduled this sentencing hearing at the
16 request of the government and counsel for
17 United Corporation. The request is that the
18 sentencing be held today; that request was made
19 the early part of July, and was granted. The
20 request was granted by the Court on the 11th of
21 July.

22 As we're all aware, the parties are
23 requesting that the Court enter a plea,
24 sentence, actually, the defendant in accordance
25 with Rule 11(c)1(C) of the Federal Rules of

1 Criminal Procedure, that is to adopt the
2 agreement, the plea agreement that was entered
3 into by the parties, and negotiated over the
4 course of a few years now as the original plea
5 agreement was entered back in 2010.

6 At the time that the Court granted the
7 motion to proceed with the sentencing today,
8 Court, of course, was under the impression, and
9 hopefully will continue to be under the
10 impression, that everything that needed to be
11 accomplished precedent to the sentencing of the
12 defendant in this case has, in fact, been
13 accomplished in accordance with the plea
14 agreement that the parties are requesting that
15 the Court accept, and sentence the defendant in
16 accordance therewith.

17 Yesterday the Court received a motion that
18 was filed by counsel for Waleed Hamed, and
19 counsel for Waheed Hamed, seeking to either
20 extend the temporary restraining order that the
21 Court entered many years ago, or postpone the
22 sentencing hearing.

23 This afternoon, a couple of hours or so
24 ago, the Court received the response to that
25 motion filed by the government and defendant

1 United Corporation. I think before we proceed
2 with the sentencing in this matter, we need to
3 address the issues that have been raised, and
4 ensure that we are at a point today where we
5 can proceed with the sentencing of the
6 defendant, United Corporation.

7 So with that, by way of background, I will
8 hear first from Attorney Andreozzi. Am I
9 pronouncing your name correctly?

10 MR. ANDREOZZI: Andreozzi. Thank you,
11 Your Honor.

12 THE COURT: Thank, Attorney Andreozzi.

13 MR. ANDREOZZI: I appreciate you allowing
14 me to participate telephonically. We received
15 the objection from the government and the
16 United Corporation this afternoon. And I think
17 briefly I'd like to address each of the points
18 raised. And I think we can clarify our
19 concern, and I believe that at the end of this,
20 we're going to be in a position where we can
21 move forward with sentencing and address most,
22 if not all, of these issues by way of order
23 under the, you know, under the probation.

24 But on the first issue with regard to
25 payment of taxes, the plea agreement executed

1 your underlying position is that it is
2 something that as it applies to your client,
3 your client should have been signing?

4 MS. COLON: Absolutely.

5 THE COURT: Okay. Thank you.

6 MS. COLON: And we wouldn't sign it as
7 this.

8 THE COURT: Understood.

9 MS. COLON: Thank you, Your Honor.

10 THE COURT: Thank you. Okay. Attorney
11 Hendrickson.

12 MS. HENDRICKSON: Your Honor, going
13 through them point by point again, as
14 Mr. Andreozzi and Miss Colon just did, I think
15 that everyone is in agreement on point one.
16 And Court's questions regarding some of the
17 language on page eleven I think could just be
18 attributed to my, perhaps, inartful drafting.
19 That it was the intent of the parties that if
20 we took out that sentence, we'll require all
21 corporate returns be filed, that the last
22 sentence, the really most important part is
23 that the condition of probation was going to
24 make sure that all the individuals paid taxes
25 so the government did have some leverage if

1 that did not occur, even though the corporate
2 plea was only with United. Because as Mr.
3 Andreozzi said, as corporation reports its
4 profits through the individual shareholders, so
5 the individual would have to file returns or
6 otherwise make some agreement with the VIBIR
7 for the taxes to be paid that were based on an
8 operations of United.

9 So the intent of that paragraph was to
10 make sure that all the payments were paid
11 through 2008. And, of course, when this was
12 written in February 2010, it was prior to the
13 parties agreeing on any restitution. If the
14 Court has read through this, we had two
15 proposals that was attached, Exhibit 1 to the
16 plea agreement, that the defendants' position
17 was about \$2.9 million, and the government's
18 position was \$24 million.

19 We filed briefings, an evidentiary hearing
20 conducted by Judge Barnard, more mediation.
21 Judge Barnard was very skilled and able to get
22 us to come to an agreement that resulted in the
23 first addendum where the parties agreed that
24 there would be a \$10 million payment for all
25 taxes due for the years at issue in the

1 indictment, 1996 through 2001.

2 And the difference between the first
3 addendum and the second one is that the first
4 one there was just one document, which was
5 filed with the court. And then everyone
6 signed, because it was addressing the criminal
7 years and also was addressing the clause in the
8 plea agreement. There were no closing
9 agreements, nothing was written, at that time,
10 when the first addendum was signed.

11 The government filed a motion later, a
12 notice with the Court, that there was a closing
13 agreement reached in July of 2011, and then
14 that's when there was actually the \$10 million
15 was tendered to the VIBIR. So that was part of
16 the reason there was a difference. At the time
17 of that mediation, the defendants, or the
18 individual defendants knew that we had agreed
19 to \$10 million, and that no one would have to
20 worry about paying any other taxes for those
21 tax years, as far as United States or the VIBIR
22 was concerned.

23 In the second addendum, and I would
24 submit, Your Honor, perhaps I should have just
25 submitted this as notice of progress of

1 mediation that the point was just to document
2 the fact that the mediation had taken place and
3 contrary to the first addendum and the first
4 mediation, the VIBIR was there, and through the
5 course of mediation, entered into agreements
6 with every individual. So there was no reason
7 to file something separately with the Court.

8 Now, I agree with Mr. Andreozzi's point
9 that a closing agreement is a term of art, and
10 that's not what was signed during mediation.
11 But the point was that all the individual
12 defendants had negotiated with the VIBIR
13 individually and that part of the plea
14 agreement that the Court would need to be
15 concerned with is that be done prior to
16 sentencing has been met. So that was the
17 purpose of filing the second addendum, to say
18 that that clause on page eleven regarding the
19 filing of the 2002 through 2008 tax returns has
20 been met by the mediation process, by the
21 agreements with the VIBIR. And since all the
22 money has been paid, the \$6.5 million was paid
23 by Mr. -- by United Corporation, so there is no
24 other funds that need to be paid prior to the
25 termination of probation as far as United is

1 concerned.

2 THE COURT: Let me back up for a minute.
3 And go back first to the interpretation of the
4 paragraph that I discussed with both Attorney
5 Andreozzi and Attorney Colon on this issue
6 regarding the timing of the payment.

7 Am I understanding you correctly that you
8 are in agreement with Attorney Colon regarding
9 the interpretation of that paragraph? That is
10 to say that the understanding was that the
11 payments were to be made prior to the time of
12 sentencing, that is, including the individual
13 defendants' payments, and that the last
14 sentence there that we were discussing about
15 payments being made prior to the termination of
16 the period of probation, was, in fact, sort of
17 the guarantee that the government would have
18 that all these payments were, in fact, paid?

19 MS. HENDRICKSON: Yes. Although I think
20 the critical distinction is that there was no
21 agreement that United would pay. I think
22 February of 2010 that was certainly the
23 anticipation, if things would have been
24 resolved a few months later, that that may have
25 happened. But we never actually agreed to

1 that, because, again, we couldn't even agree to
2 the restitution amount. So we were trying to
3 nail down as many terms as we could. We had
4 less to resolve at sentencing. But I think the
5 key distinction there is that that paragraph
6 does not mean United has to pay all of the
7 money. The paragraph meant that there would be
8 a special condition of probation during
9 United's probation, because United was the only
10 entity that pleaded guilty. So the government
11 had some leverage regarding making sure that
12 individual filed returns, which would include
13 United's profits. So that was kind of the,
14 without trying to get too wordy in the plea
15 agreement, that was our thinking, at the time,
16 because the corporation was an S corporation.
17 If individual tax returns weren't filed, the
18 VIBIR would not receive profits made based on
19 United and Plaza Extra's operations.

20 THE COURT: So, in other words, the idea
21 would be it would be a condition of United
22 probation to ensure that they were paying, but
23 not necessarily that United would have to pay,
24 in the event that the individual did not pay?

25 MS. HENDRICKSON: Yes. And as we're

1 standing here today, the \$16.5 million does pay
2 for the taxes of the operations of Plaza Extra
3 through 2010.

4 THE COURT: Okay. So, so your position is
5 that that particular provision has, in fact,
6 been satisfied, because the \$16.5 million would
7 include the amounts from years 2002 --
8 1996/2001, as well as 2002 through 2008?

9 MS. HENDRICKSON: Yes. The first plea
10 agreement addendum covered 1996 through 2001.
11 The second mediation session, and the second
12 addendum covered 2002 through 2010, which we
13 agreed to extend, rather than 2008, which was
14 in the plea agreement just because more returns
15 were due.

16 THE COURT: Okay. Now, what about this
17 issue that has been raised regarding the taxes,
18 the individual, the taxes of the individual
19 defendants, Waleed and Waheed Hamed, 300 and I
20 believe 20 some odd thousand -- \$315,000,
21 around there, what is the issue with respect to
22 that?

23 MS. HENDRICKSON: Well, Your Honor, I
24 think the only issue remaining is whether
25 United is going to pay that or not. And I'll

1 let Mr. DiRuzzo speak to that at more length,
2 but as far as the government's concerned is,
3 the plea agreement was for the VIBIR to get the
4 money owed to it based on the operations of
5 United, and it has. This other issue now with
6 the Hameds and whether United pays for their
7 individual income taxes, it's a separate issue
8 and should not delay sentencing, because as
9 Mr. Andreozzi said Waleed Hamed or Waheed Hamed
10 are not partners or owners, they're employees,
11 not managers. So United is not obligated to
12 pay taxes of all of its employees and managers
13 individually.

14 THE COURT: Now, Waleed and Waheed Hamed
15 were among the individual defendants --

16 MS. HENDRICKSON: Yes, they were.

17 THE COURT: -- in this matter. So, is it
18 correct that they were among the individual
19 defendants for whom all outstanding returns and
20 reporting documents had to have been filed and
21 full payments of the amounts due --

22 MS. HENDRICKSON: Yes, Your Honor.

23 THE COURT: -- were included?

24 MS. HENDRICKSON: Yes. But if I may?

25 THE COURT: Sure.

1 MS. HENDRICKSON: In February of 2010, our
2 anticipation was we would have a sentencing
3 hearing perhaps in the summer or fall of 2010,
4 United probation would extend for a year,
5 everything would get filed, probably in 2011 or
6 early 2012. But since that all got moved,
7 then, and at this time, we didn't anticipate
8 even having any mediation, or having the
9 involvement of VIBIR in this process. They
10 were involved in helping get to the first plea
11 agreement, because the individual defendants
12 wanted to make sure that in the event of a
13 corporate plea, the VIBIR could not come after
14 them for some other taxes on some stock sales
15 or something from 1998, completely unrelated to
16 the allegations in the criminal case. So, at
17 that point, that was the only role of VIBIR.

18 Now, once the closing agreement was done
19 in 2011, for the years at issue in the
20 indictment, and then just last month, now the
21 VIBIR participated in all of that, and as we
22 left the mediation on June 10th, they were
23 happy with everything and had made arrangements
24 with individual defendants. So there is
25 nothing else this Court needs to do regarding

1 that term of the plea agreement.

2 THE COURT: So from the government's
3 perspective, all of the monies due and owing
4 under the paragraph eleven that we have been
5 speaking about for taxes due from 2002 through
6 2008 have been paid?

7 MS. HENDRICKSON: Yes. Again, because the
8 main point of this was that taxes were paid on
9 the profit of United, which would have been
10 reported by individual shareholders. So that's
11 why it has the individual income tax aspect in
12 there, but the intent was really that the BIR
13 got all the taxes due for United and Plaza
14 Extra's operations, and they have received that
15 money.

16 THE COURT: Okay. So, this \$315,000 that
17 the U.S. Marshal service agreed to have
18 released deals with something completely
19 separate from your perspective than the terms
20 of this agreement?

21 MS. HENDRICKSON: Yes. Because it's not
22 income directly related to the profits of
23 United. Now, it may be some salary paid for
24 working for United, but was not the actual
25 profits that could have been reported and

1 flowed through to the individual income tax
2 returns.

3 THE COURT: So the answer to my question
4 is that it does not have anything to do, at
5 least additional monies, do not have anything
6 to do with monies due and owing under this plea
7 agreement?

8 MS. HENDRICKSON: Correct. Correct.

9 The second issue regarding, I think I just
10 touched on that, that the Hameds are not owners
11 or partners. And that in the civil litigation,
12 at least Mohammad Hamed is the one who has an
13 interest in the procedures that are set up
14 through the independent monitoring or the
15 ethics compliance report.

16 And, Your Honor, I mean, we, of course,
17 from the criminal perspective, from the United
18 States perspective, we have tried to not be
19 involved in a civil litigation at all, and only
20 dealt with the things that impact us here
21 today. But my interpretation of Judge Brady's
22 order, if I may be so polled to try to
23 interpret it, it's regarding the management of
24 United, day-to-day, what expenses are paid for
25 the operation of the supermarkets. It's not

1 addressing complying with the terms of the plea
2 agreement in the criminal case.

3 And from our mediation session with Judge
4 Barnard, I thought we were all in agreement
5 that Judge Brady's order also recognized that
6 this case was still pending, and it was not
7 through and through.

8 So I would ask the Court to reject the
9 position of Mr. Andreozzi and Miss Colon to say
10 that we will submit a compliance program to the
11 Court, based on generally, on accounting
12 principles, not going to be a full audit or a
13 full review, but it's just going to have very
14 standard language. There is not something
15 that's going to be, I think, that's going to be
16 a potential burden or impact for the Hameds.
17 While United is on probation, of course, if we
18 file something with the Court, and the Court
19 wants to invite counsel for Hameds to weigh in
20 on it, the Court can certainly do that, but
21 it's not something that should hold up the
22 sentencing of United.

23 Mr. DiRuzzo and I have exchanged
24 agreements and have sent out proposals for the
25 monitors, and language is taken from other

1 similar agreements we've done similar to the
2 language that's in the temporary restraining
3 order. So not something that the Court can't
4 supervise individually.

5 THE COURT: So from your perspective,
6 specifically, from a substantive point of view,
7 your view is that, say, the appointment of a
8 monitor, the responsibilities of a monitor,
9 regarding the overseeing of sort of the
10 financial aspects, ensuring the taxes are paid
11 and that kind of thing, setting up of a
12 compliance program, that will obviously bind
13 the Plaza Extra stores, that should not be
14 considered to be part and parcel of the
15 day-to-day operations, even assuming the Court
16 were to take into account what's going on in
17 the civil matter?

18 MS. HENDRICKSON: Yes. Yes. That's
19 government's position.

20 THE COURT: Okay. So, is it also your
21 position that the Court should essentially
22 ignore that ruling as it pertains to the, the
23 sentencing here, and the terms and conditions
24 that are imposed pursuant to the plea
25 agreement?

1 MS. HENDRICKSON: I think two points:

2 One, in Judge Brady's order, or in other
3 pleadings in the case, and it's in that
4 particular document, Judge Brady acknowledged
5 that the criminal case was still pending, was
6 not intending to intrude on that.

7 And second, I think what the parties are
8 envisioning regarding the monitoring and the
9 compliance program was just kind of some basic
10 overall review, periodically, of United's
11 day-to-day operations and make sure that
12 they're complying with the law that have been
13 under monitoring since 2003. I mean, it's not
14 that we have a grave concern that we're worried
15 about anything, at this point.

16 Another point I would make for the Court
17 is that at the time, since we were talking
18 about millions of dollars potentially being
19 paid as part of the terms of plea agreement, we
20 expected that it probably would not be paid
21 until near the end of probation. So that was
22 also part of the government's concern. I can
23 tell you that was my concern at the time it was
24 being drafted. And now that issue doesn't
25 exist, because all the money has been paid up

1 through, already, before sentencing. So that
2 doesn't even need to be a special condition,
3 the actual payments of the fines.

4 So the monitoring can be done in
5 conjunction with the controllers, the other
6 accounting employees at United, by just the
7 monitor getting periodic financial statements,
8 bank statements, whatever type of information
9 the monitors wants. And it may be something
10 that unless the monitor has any questions, they
11 just file reports with the Court quarterly and
12 say I reviewed these statements, and I've
13 talked to employees, and they're complying with
14 the terms, and they're filing their tax
15 returns, and they're paying their taxes.

16 That's really what we anticipate. Not a
17 thorough audit. Not somebody going in and
18 looking at all of the books in the record and
19 trying to trace every dollar that comes into
20 the store. So I think it's much more cursory
21 procedure, if I could use that word. And
22 again, I think because the money has already
23 been paid, less of an issue.

24 Of course, the whole facts of this case
25 was that money was skimmed, so if the

CERTIFICATE

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C-E-R-T-I-F-I-C-A-T-E

I, Valerie Lawrence, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter this 27th day of August, 2013.

Valerie Lawrence

**Valerie
Lawrence**

Digitally signed by Valerie Lawrence
DN: cn=Valerie Lawrence, o=St.
Croix Division, ou=U.S. District Court,
email=valerie_lawrence@vid.uscourts.gov, c=US
Date: 2013.08.28 11:21:02 -04'00'

EXHIBIT G

IN THE DISTRICT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

UNITED STATES OF AMERICA, and
GOVERNMENT OF THE VIRGIN ISLANDS,
Plaintiffs,

vs.

FATHI YUSUF MOHAMAD YUSUF,
aka Fathi Yusuf
WALEED MOHAMMAD HAMED,
aka Wally Hamed
WAHEED MOHOMMAD HAMED,
aka Willie Hamed
MAHER FATHI YUSUF,
aka Mike Yusuf
NEJEH FATHI YUSUF
ISAM YUSUF, and
UNITED CORPORATION,
dba Plaza Extra,
Defendants.

CRIMINAL NO. 2005-15F/B

PLEA AGREEMENT- SECOND ADDENDUM

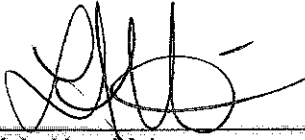
With reference to the Plea Agreement in this case dated February 26, 2010, and the Plea Agreement – Addendum filed on February 7, 2011, the parties supplement the record with the following:

- 1) Part XI of the Plea Agreement required United Corporation, its shareholders, and the individual defendants to comply with their tax filing and payment obligations for years 2002, 2003, 2004, 2005, 2006, 2007, and 2008 prior to the sentencing of United;
- 2) On June 24, 2013, Magistrate Judge Geoffrey W. Barnard conducted a mediation session with the parties and representatives from the Virgin Islands Bureau of Internal Revenue (VIBIR). As a result of the

mediation, the parties entered into closing agreements with the VIBIR for the years 2002 through 2010. The VIBIR agreed to enter into a similar agreement for 2011 and 2012 after the individual income tax returns have been filed and the tax due has been paid. A payment of \$6,586,132 was remitted to the VIBIR.

Dated:

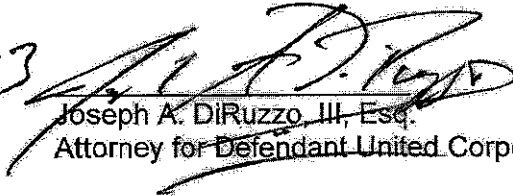
6/24/2013



Lori A. Hendrickson
Trial Attorney
United States Department of Justice, Tax Division

Dated:

6/24/2013



Joseph A. DiRuzzo, III, Esq.
Attorney for Defendant United Corporation

EXHIBIT H

**IN THE DISTRICT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

UNITED STATES OF AMERICA, and
GOVERNMENT OF THE VIRGIN ISLANDS,
Plaintiffs,

vs.

FATHI YUSUF MOHAMAD YUSUF,
aka Fathi Yusuf
WALEED MOHAMMAD HAMED,
aka Wally Hamed
WAHEED MOHOMMAD HAMED,
aka Willie Hamed
MAHER FATHI YUSUF,
aka Mike Yusuf
NEJEH FATHI YUSUF
ISAM YUSUF, and
UNITED CORPORATION,
dba Plaza Extra,
Defendants.

CRIMINAL NO. 2005-15F/B

RECEIVED
2010 FEB 26 PM 4:00
DISTRICT OF THE VIRGIN ISLANDS
ST. THOMAS, VI

PLEA AGREEMENT

I.

INTRODUCTION

This agreement is entered into by and between defendant United Corporation, d/b/a Plaza Extra (hereinafter "United"), Thomas Alkon, Esquire, and Warren B. Cole, Esquire, Attorneys for United; Fathi Yusuf Mohamad Yusuf, Waleed Mohammad Hamed, Waheed Mohammad Hamed, Maher Fathi Yusuf, NejeH Fathi Yusuf, and the Department of Justice, Tax Division, and the United States Attorney for the District of the Virgin Islands (collectively referred to as the "Government").

The parties agree to the following terms:

A. United will plead guilty to Count Sixty of the Third Superseding Indictment, which charges willfully making and subscribing a 2001 U.S. Corporation Income Tax Return (Form 1120S), in violation of Title 33, Virgin Islands Code, Section 1525(2).

B. At the time that United enters its plea to the above-referenced count, the Government will dismiss all counts of the Indictment with prejudice against FATHI YUSUF MOHAMAD YUSUF, aka Fathi Yusuf, WALEED MOHAMMAD HAMED, aka Wally Hamed, WAHEED MOHAMMED HAMED, aka Willie Hamed, MAHER FATHI YUSUF, aka Mike Yusuf, ISAM MOHAMAD YOUSUF, aka Sam Yousuf, and NEJEH FATHI YUSUF (all collectively referred to as "individual defendants"), including the temporary restraining order and forfeiture allegations. The Government agrees not to file any additional criminal charges against United or any of the individual defendants for conduct arising out of the facts alleged in the Indictment. In accordance with paragraph VI. below, the Department of Justice of the Virgin Islands also agrees that it will file no criminal charges against United or any of the individual defendants for any conduct arising out of the facts alleged in the Indictment.

The Government agrees to dismiss with prejudice all remaining counts of the Indictment against United, including the temporary restraining order and forfeiture allegations, at the time of sentencing.

II.

NATURE OF THE OFFENSE

United agrees to plead guilty to Count Sixty of the Indictment, which charges a violation of Title 33, Virgin Islands Code, Section 1525(2). United acknowledges that the offense to which it is pleading has the following elements:

A. Elements

1. United aided, assisted, procured, counseled, advised, or caused the preparation and presentation of a return;
 2. The return was fraudulent or false as to a material matter;
- and
3. United acted willfully.

B. Elements Understood and Admitted.

United, through a representative empowered to accept this plea by virtue of a duly enacted resolution of its Board of Directors, has fully discussed the facts of this case with defense counsel. United committed each of the elements of the crime charged in Count Sixty of the Indictment and admits that there is a factual basis for a plea of guilty to the charge.

C. Factual Basis.

The parties agree that the following facts are true and undisputed:

On or about September 18, 2002, United willfully aided, assisted, procured, counseled, advised, or caused the preparation and presentation of a materially false corporate income tax return on Form 1120S for the year 2001 and filed such return with the Virgin Islands Bureau of Internal Revenue (VIBIR).

Specifically, United reported gross receipts or sales on line 1c as \$69,579,412, knowing that the true amount was approximately \$79,305,980.

III.

PENALTIES

A. United acknowledges that the maximum penalties for violation of Count Sixty are the following:

1. A maximum fine of \$5,000;
2. The Government may seek costs of prosecution, including but not limited to 1) costs incurred to produce discovery in the investigation and prosecution of this matter; 2) costs incurred by the United States Marshal's Service to monitor the operations of Defendant United pursuant to the Temporary Restraining Order, currently estimated at approximately \$1.5 million; and 3) costs related to witness appearance and travel fees in the investigation and prosecution of this matter. United reserves the right to object to the imposition of the aforementioned costs and to contest the amounts claimed by the Government.

3. Restitution in an amount that represents any and all unpaid gross receipts taxes, corporate income taxes, and individual income taxes owing to the VIBIR for the Indictment years 1996, 1997, 1998, 1999, 2000, and 2001. Said restitution is to be determined by the Court in accordance with the figures and ranges set forth in Exhibit 1, accepting as proven those figures stipulated by the parties. For those numbers still in dispute, the Court will determine the appropriate amount within the ranges proposed by the parties in Exhibit 1, following briefing, evidentiary presentation, and argument. In making its

determination, the Court may consider all relevant and material evidence presented by the parties without regard to the Federal Rules of Evidence, so long as such evidence is disclosed in advance to the opposing party. Prior to submitting restitution amounts for the Court's consideration in preparation for sentencing, the parties agree to negotiate in good-faith to arrive at a mutually acceptable amount.

4. A term of probation of one year, with conditions as set forth in paragraph VIII.E. United understands that failure to comply with any of the conditions of probation may result in the imposition of further penalties.

B. In addition to the statutory penalties for violation of Title 33, Virgin Islands Code, Section 1525(2), United shall pay a substantial monetary penalty within the range set forth in paragraph VIII.B., as determined by the Court following briefing and argument by the parties.

IV.

WAIVER OF TRIAL RIGHTS

United understands that this guilty plea waives all of the following rights:

- A. To plead not guilty and to require the Government to prove the elements of the crimes beyond a reasonable doubt;
- B. To a speedy and public trial by jury;
- C. To assistance of counsel at all stages of trial;
- D. To confront and cross-examine witnesses against United; and
- E. To present evidence and to have witnesses testify on United's behalf.

V.

UNITED'S REPRESENTATION THAT GUILTY PLEA IS KNOWING
AND VOLUNTARY

United represents that:

- A. United has had a full opportunity to discuss all the facts and circumstances of this case with its counsel and has a clear understanding of the charges and the consequences of pleading guilty;
- B. No one has made any promises or offered any rewards in return for United's guilty plea, other than those contained in this Plea Agreement, in Exhibit 2, which contains the letter of understanding dated February 12, 2010 (this plea agreement controls in the event of any conflicts), or otherwise disclosed to the Court;
- C. No one has threatened United to induce this guilty plea; and
- D. United is pleading guilty because in truth and in fact United *is* guilty and for no other reason.

VI.

AGREEMENT LIMITED TO UNITED STATES ATTORNEY'S OFFICE FOR THE
DISTRICT OF THE VIRGIN ISLANDS AND TAX DIVISION

This Plea Agreement is between United Corporation, the Individual Defendants, and the Government. This Agreement is not intended to bind any other federal, state, or local prosecuting, administrative, or regulatory authorities except to the extent specifically expressed herein. The Government will bring this Plea Agreement to the attention of other authorities if requested by United.

VII.

PLEA AGREEMENT SUBJECT TO COURT APPROVAL

Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the parties acknowledge and agree that United should be ordered to pay the fine, restitution, and monetary penalties contained within this Plea Agreement and should be sentenced to a term of probation of one year.

If the Court does not adopt the agreement of the parties pursuant to Rule 11(c)(1)(C), both United and the Government reserve the right to withdraw from this Plea Agreement.

VIII.

PARTIES' SENTENCING RECOMMENDATIONS

A. Fine. The parties agree that the maximum statutory fine of \$5,000 should be imposed.

B. Monetary Penalty: The parties propose that the monetary penalty to be imposed pursuant to paragraph III.B. above be imposed in an amount between \$250,000 to \$5,715,748.

C. Costs of Prosecution: The Government proposes that costs of prosecution be imposed as discussed above in paragraph III.A.2. United contests said number and the categories of costs to be awarded.

D. Restitution. The parties propose the restitution amounts and ranges as set forth in Exhibit 1, as referenced in paragraph III.A.3. above.

E. Terms of Probation

1. United agrees to a term of probation of one year and agrees to be monitored by an independent third party certified public accounting firm to

assure its compliance with the tax laws of the VIBIR. United agrees to cooperate with the independent third party in carrying out such party's obligations under this agreement. The selection of a certified public accounting firm as the independent third party will be expressly approved by the Government prior to the beginning of the term of probation. If the parties cannot reach agreement on a third party, the independent third party will be selected by the Court.

2. The independent third party shall make quarterly reports to the Government, the Court, and United of United's financial condition, results of business operations, tax filings, tax payments, and accounting for the disposition of all funds received.

3. United shall submit to:

(a) a reasonable number of regular or unannounced examinations of its books and records at appropriate business premises by the independent third party; and

(b) a periodic review of financial statements and tax returns of United.

4. United shall be required to notify the court or independent third party immediately upon learning of (a) any material adverse change in its business or financial condition or prospects, or (b) the commencement of any bankruptcy proceeding, major civil litigation, criminal prosecution, or administrative proceeding against United, or any investigation or formal inquiry by governmental authorities regarding United's financial operations.

5. United shall make periodic payments, as specified by the Court, in the following priority: (a) restitution; (b) fine; and (c) substantial monetary penalty. After sentencing, the Government agrees to release all liens, restraining orders, liens, or other encumbrances on property except to the extent necessary to assure valid security for the payments of all amounts referenced above. United shall develop and submit to the Court an effective compliance and ethics program consistent with §8B2.1 (Effective Compliance and Ethics Program) of the United States Sentencing Guidelines. United shall include in its submission a schedule for implementation of the compliance and ethics program.

6. Upon approval by the Court of the ethics program referred to above, United shall notify its owners, shareholders, directors, officers, and employees of its criminal behavior and its programs referred to above. Such notice shall be in a form prescribed by the Court.

7. United shall make periodic reports to the Government and to the Court at intervals and in a form specified by the Court, regarding the organization's progress in implementing the ethics program referred to above. Among other things, such reports shall disclose any criminal prosecution, civil litigation, or administrative proceeding commenced against United, or any investigation or formal inquiry by governmental authorities concerning United's financial operations of which United learned since its last report.

IX.

UNITED WAIVES APPEAL AND COLLATERAL ATTACK

In exchange for the Government's concessions in this Plea Agreement, United waives, to the full extent of the law, any right to appeal or collaterally attack the conviction and sentence, including any restitution order, except in the following circumstances: (i) the sentence exceeded the maximum statutory penalty; or (ii) the sentence violated the Eighth Amendment to the United States Constitution.

X.

FURTHER CRIMES OR BREACH OF THE AGREEMENT WILL PERMIT THE GOVERNMENT TO RECOMMEND A HIGHER SENTENCE OR TO SET ASIDE THE PLEA

This Plea Agreement is based on the understanding that United will commit no additional criminal conduct before sentencing. If United engages in additional criminal conduct between the time of execution of this agreement and the time of sentencing, or breaches any of the terms of any agreement with the Government, the Government will not be bound by the recommendations in this Plea Agreement and may recommend any lawful sentence.

XI.

COOPERATION WITH INTERNAL REVENUE SERVICE AND VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE

During the pendency of this matter, United, its shareholders, the individual defendants in this case, and certain related entities and individuals identified in various pleadings or motions in this case, upon the specific advice of their counsel in this matter, did not file tax returns and certain other reporting

documents to the United States or the United States Virgin Islands (USVI) on Fifth Amendment grounds. During the pendency of this matter, those same individuals and entities endeavored to work cooperatively with the U.S. Marshals Service and the USVI governments to pay over as deposits their best estimate of taxes owed on those returns.

Prior to sentencing, United agrees to cooperate with the Government and the VIBIR in filing complete and accurate corporate income tax returns and gross receipts returns for years 2002, 2003, 2004, 2005, 2006, 2007, and 2008 and in paying in full the amounts due thereupon. United agrees to comply with all current tax reporting and payment obligations between the execution of this agreement and sentencing. In addition, prior to the sentencing hearing in this matter, United's shareholders (FY 32.5%, FY 32.5%, SY 7%, ZY 7%, YY 7%, MY 7%, NY 7%), and the individual defendants shall file the outstanding returns and reporting documents and shall make full payments of the amounts due thereupon. United acknowledges that a special condition of probation will require that all corporate returns be filed, and all amounts due and owing under this agreement and all taxes due and owing for tax years 2002 through 2008 must be paid prior to the termination of the period of probation.

The Government agrees that no foreign bank account-related charges or discretionary penalties shall be applied with respect to United or any of the individual defendants so long as such reporting and regulatory compliance is made for each of the years 1996 through 2008 prior to sentencing.

XII.

ENTIRE AGREEMENT

The Plea Agreement and Exhibit 2 embody the entire agreement between the parties.

Upon the acceptance of the plea of guilty to Count Sixty by United in accordance with this agreement, the Government agrees to promptly move the Court for an Order dismissing the restraining orders against the individual defendants, except to the extent necessary to assure valid security for the payments of all amounts referenced in paragraph VIII., and shall move for entry of an order removing of record all notices of lis pendens or other encumbrances filed in connection with this case against all properties owned in whole or in part by any persons other than United. The parties agree to meet and confer to determine a schedule to remove pending lis pendens, liens, and other restrictions.

XIII.

MODIFICATION OF AGREEMENT MUST BE IN WRITING

No modification of the Plea Agreement shall be effective unless in writing signed by the Government, United, the individual defendants, and United's shareholders.

XIV.

UNITED AND COUNSEL FULLY UNDERSTAND AGREEMENT

By signing this Plea Agreement, United's representative certifies that he or she has been given lawful authority to enter into this Plea Agreement. United further certifies that its counsel has discussed the terms of this Plea Agreement


with appropriate officer and directors of United and that United fully understands its meanings and effect.

The Government agrees to the terms set forth in this Plea Agreement.

RONALD SHARPE
UNITED STATES ATTORNEY

JOHN A. DICICCO
ACTING ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE, TAX DIVISION

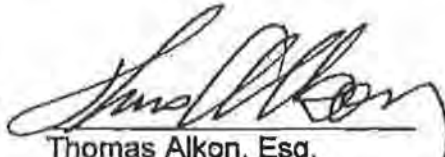
Dated: 2/26/10



Mark F. Daly
Lori A. Hendrickson
Kevin C. Lombardi
Trial Attorneys


The defendant United Corporation agrees to the terms set forth in this Plea Agreement.

Dated: 2, 26/10



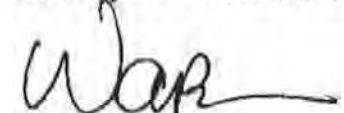
Thomas Alkon, Esq.
Attorney for Defendant United Corporation

Dated: 2/26/10

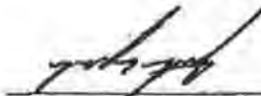


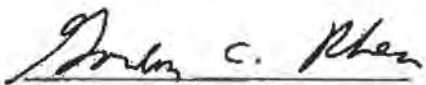
Warren B. Cole, Esq.
Attorney for Defendant United Corporation

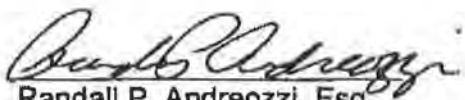
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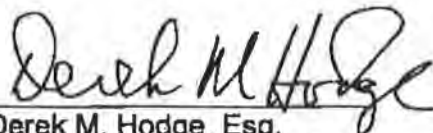


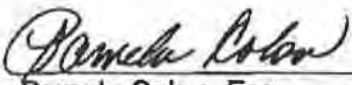
Warren B. Cole, Esq.
Attorney for Defendant's unindicted shareholders


Dated: 2-26-10 
Maher Fathi Yusuf
President, Defendant United Corporation

Dated: 2/26/10 
Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10 
Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10 
Derek M. Hodge, Esq.
Attorney for Defendant Nejeah Fathi Yusuf

Dated: 2/26/10 
Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: 2/26/10 
Henry C. Smock, Esq.
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

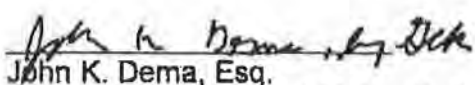
Dated: 2/26/10 
John K. Dema, Esq.
Attorney for Defendant Maher Fathi Yusuf

EXHIBIT 1 - RESTITUTION NUMBERS FOR TAX LOSS

Description	Government	Defendant
Gross Receipts Tax 1996	\$324,149.55	\$0.00
Gross Receipts Tax 1997	\$234,506.94	\$0.00
Gross Receipts Tax 1998	\$619,496.89	\$272,251.00
Gross Receipts Tax 1999	\$558,830.86	\$603,633.00
Gross Receipts Tax 2000	\$642,057.28	\$642,057.00
Gross Receipts Tax 2001	\$478,832.33	\$386,081.00
TOTAL GROSS RECEIPTS TAXES	\$2,857,873.85	\$1,904,022.00
Corporate Income Tax - 1996	\$2,214,307.41	\$0.00
Corporate Income Tax - 1997	\$2,360,868.66	\$427,011.00
Corporate Income Tax - 1998	\$3,993,535.34	\$488,323.00
TOTAL CORPORATE INCOME TAX	\$8,568,711.41	\$915,334.00
Individual Income Tax - 1999 - FY 32.5%	\$1,046,359.70	\$0.00
Individual Income Tax - 1999 - FY 32.5%	\$1,046,359.70	\$0.00
Individual Income Tax - 1999 - SY 7%	\$225,369.78	\$0.00
Individual Income Tax - 1999 - ZY 7%	\$225,369.78	\$0.00
Individual Income Tax - 1999 - YY 7%	\$225,369.78	\$0.00
Individual Income Tax - 1999 - MY 7%	\$225,369.78	\$0.00
Individual Income Tax - 1999 - NY 7%	\$225,369.78	\$0.00
TOTAL INDIVIDUAL INCOME TAX - 1999	\$3,219,568.31	\$0.00
Individual Income Tax - 2000 - FY 32.5%	\$1,458,473.19	\$0.00
Individual Income Tax - 2000 - FY 32.5%	\$1,458,473.19	\$0.00
Individual Income Tax - 2000 - SY 7%	\$314,132.69	\$0.00
Individual Income Tax - 2000 - ZY 7%	\$314,132.69	\$0.00
Individual Income Tax - 2000 - YY 7%	\$314,132.69	\$0.00
Individual Income Tax - 2000 - MY 7%	\$314,132.69	\$0.00
Individual Income Tax - 2000 - NY 7%	\$314,132.69	\$0.00
TOTAL INDIVIDUAL INCOME TAX - 2000	\$4,487,609.81	\$0.00
Individual Income Tax - 2001 - FY 32.5%	\$1,545,993.69	\$0.00
Individual Income Tax - 2001 - FY 32.5%	\$1,545,993.69	\$0.00

Individual Income Tax - 2001 - SY 7%	\$332,983.26	\$0.00
Individual Income Tax - 2001 - ZY 7%	\$332,983.26	\$0.00
Individual Income Tax - 2001 - YY 7%	\$332,983.26	\$0.00
Individual Income Tax - 2001 - MY 7%	\$332,983.26	\$0.00
Individual Income Tax - 2001 - NY 7%	\$332,983.26	\$0.00
TOTAL INDIVIDUAL INCOME TAX - 2001	\$4,756,903.67	\$0.00
TOTAL ALL TAXES	\$23,890,667.04	\$2,819,356.00

Exh: 617 2

February 12, 2010

Lori A. Hendrickson, Esq.
US DOJ/Tax Division/N.Criminal Section
601 D. Street NW, Room 7814
Washington, DC 20004-2904

Re: United States v. Fathi Yusuf, Crim. No. 05-0015

Dear Ms. Hendrickson:

We write to memorialize the process and parameters that will culminate in a formal plea agreement in this case. The parties have agreed to the following terms:

- Defendant United Corporation (d.b.a. Plaza Extra) agrees to plead guilty to Count Sixty, filing a false 2001 Form 1120S, in violation of Title 33, Virgin Islands Code, Section 1525(2);
- The government agrees to dismiss the pending charges against the individual defendants immediately after defendant United Corporation's guilty plea has been entered in court by an authorized representative of defendant United Corporation, according to the terms of a signed plea agreement. The Government agrees not to prosecute United Corporation or any other individual or entity for any other crimes arising out of the conduct alleged in the Third Superseding Indictment;
- The government agrees to dismiss the remaining pending charges against United at the sentencing hearing;
- The parties agree to meet with each other and with representatives of the Virgin Islands Bureau of Internal Revenue (VIBIR) to try to reach agreement for restitution numbers for unpaid gross receipts taxes, corporate income taxes, and individual income taxes for the Indictment years 1996, 1997, 1998, 1999, 2000, and 2001. The numbers for which the parties are able to agree will be set forth in the plea agreement;
- If the parties are unable to reach agreement on any of the tax loss numbers for the Indictment years, they will set forth their own tax loss numbers for each year and for each particular tax, in a format identical to the attached chart. The parties agree that the final determination of the restitution amount for the unpaid gross receipts taxes, corporate income taxes, and individual income taxes for the Indictment years 1996, 1997, 1998, 1999, 2000, and 2001, will be made by Judge Finch after the

Letter of Agreement

February 12, 2010

Page 2 of 5

parties submit sentencing memoranda and present testimonial and documentary evidence at a hearing. The parties agree that Judge Finch will determine a liability based on the range of numbers asserted by the parties in the plea agreement.

- The determination of Judge Finch of the restitution by United Corporation shall be conclusive of all taxes due and owing to the Government of the Virgin Islands for years 1996, 1997, 1998, 1999, 2000, and 2001 with respect to all taxes of the shareholders of United Corporation, both indicted and non-indicted, and employees of United, including Waheed Hamed and Waleed Hamed, due on or for or on account of income earned by United Corporation during said years and upon payment all such tax liabilities shall be deemed satisfied in full.
- Defendant United Corporation agrees to a term of probation of one year, and agrees to be monitored by an independent third party certified public accounting firm during the term of probation to assure its compliance with the tax laws of the VIBIR. The selection of the independent third party will be expressly approved by the government prior to the beginning of the term of probation. If the parties cannot reach agreement on a third party, the independent third party will be selected by the Court;
- The government agrees not to prosecute United Corporation or individual defendants, or assert any civil or criminal accuracy related or reporting penalties, in years 2002, 2003, 2004, 2005, 2006, 2007, and 2008, provided that the individual defendants tender documentary proof that they have filed tax returns and paid tax due as set forth on those returns and as reviewed and accepted by the VIBIR;
- United, its shareholders, and the individual defendants referenced in the Indictment agree to cooperate with VIBIR to file full and complete tax returns for all post indictment years through present and to make full payment on any amounts due thereon. The Government agrees that no interest, penalties, or time and interest sensitive penalties should be imposed on the post-indictment returns so long as said returns are filed in accordance with this agreement. To the extent tax deposits already submitted exceed the amount owed on the post indictment returns as filed, such deposits should be reallocated to other tax periods or refunded to the particular tax payer. The VIBIR reserves the right to review the returns to be filed hereunder to determine whether they are accurate as filed.
- No foreign bank account-related charges or discretionary penalties shall be applied with respect to any of the individuals and entities so long as such reporting and regulatory compliance is made for the subject post-indictment years. (United States Department of Justice, and not VIBIR, has authorization over this provision).
- The parties agree that United will pay a \$5,000 fine and that the Government may seek a substantial monetary penalty. The parties will negotiate in good faith to determine the character of this penalty and will set forth a defined range from

Letter of Agreement
February 12, 2010
Page 3 of 5

which Judge Finch will make a final ruling. The parties agree that the Government may also seek reimbursement from United for the actual costs of prosecution, which will be set forth in the plea agreement. United reserves the right to contest the above mentioned penalties and prosecution costs.

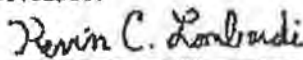
- Defendant United Corporation, the individual defendants, and the shareholders of United Corporation, all agree to file original individual income tax returns (or correcting amended returns, if appropriate) for the years 2002, 2003, 2004, 2005, 2006, 2007, and 2008, and provide any documentation or information requested by the VIBIR in order for the VIBIR to make their own independent review and assessment of the accuracy of such returns. Defendant United Corporation, the individual defendants, and the shareholders of United Corporation all agree to take these actions prior to the sentencing hearing;

The United States government and the United States Virgin Islands government agree to the terms set forth in this Letter of Agreement.

RONALD SHARPE
UNITED STATES ATTORNEY


JOHN A. DICICCO
ACTING ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
TAX DIVISION

Dated: 2/12/2010

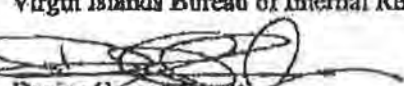

Kevin C. Lombardi

Mark F. Daly
Lori A. Hendrickson
Kevin C. Lombardi
Trial Attorneys

Dated: 2/15/10


Claudette Watson Anderson
Director
Virgin Islands Bureau of Internal Revenue

Dated: 2/18/10


Denise George-Covatta
Assistant Attorney General
Virgin Islands Department of Justice
Office of the Attorney General

The defendant United Corporation agrees to the terms set forth in this Letter of Agreement.

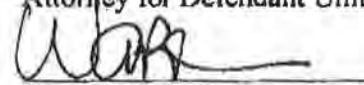
Letter of Agreement
February 12, 2010.
Page 4 of 5

Dated: 2/26/10



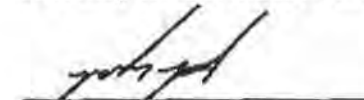
Thomas Alkon, Esq.
Attorney for Defendant United Corporation

Dated: 2/26/10



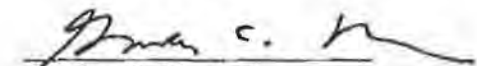
Warren B. Cole, Esq.
Attorney for Defendant United Corporation

Dated: 2/26/10



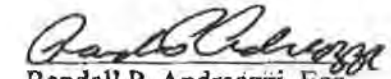
MAHER FATHI YUSUF
President, Defendant United Corporation

Dated: 2/26/10



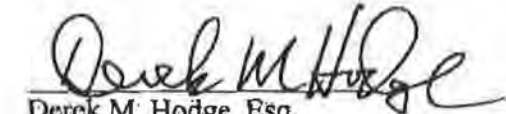
Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10



Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/26/10



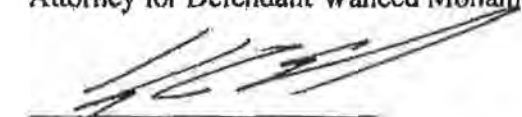
Derek M. Hodge, Esq.
Attorney for Defendant Nejeih Fathi Yusuf

Dated: 2/26/10



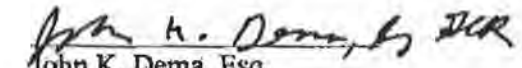
Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: 2/26/10



Henry C. Smock, Esq.
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: 2/26/10



John K. Dema, Esq.
Attorney for Defendant Maher Fathi Yusuf

EXHIBIT I

**IN THE DISTRICT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

**UNITED STATES OF AMERICA, and
GOVERNMENT OF THE VIRGIN ISLANDS,
Plaintiffs,**

vs.

**FATHI YUSUF MOHAMAD YUSUF,
aka Fathi Yusuf
WALEED MOHAMMAD HAMED,
aka Wally Hamed
WAHEED MOHOMMAD HAMED,
aka Willie Hamed
MAHER FATHI YUSUF,
aka Mike Yusuf
NEJEH FATHI YUSUF
ISAM YUSUF, and
UNITED CORPORATION,
dba Plaza Extra,
Defendants.**

CRIMINAL NO. 2005-15F/B

PLEA AGREEMENT- ADDENDUM

The parties agree to the following:

- 1) United will pay a \$5,000 fine, as set forth in Paragraphs III.A.1 and VIII.A;
- 2) United will pay \$10 million to the VIBIR for restitution, as set forth in Paragraphs III.A.3 and VIII.D;
- 3) United will pay \$1 million as a substantial monetary penalty, as set forth in Paragraphs III.A.2, III.B, VIII.B, and VIII.C.

In consideration of the settlement herein, United, the individual defendants, and United's shareholders, and their heirs, executors, administrators, or assigns do hereby stipulate and agree to pay the agreed upon

sums, and to waive and release any and all claims, demands, rights, and causes of action of whatsoever kind and nature, whether sounding in tort, contract, or any other theory of legal liability, including any claims for fees, interest, costs, and expenses, arising from, and by reason of, any and all known and unknown, foreseen and unforeseen, bodily and personal injuries, death, or damage to property, and the consequences thereof, which United, the individual defendants, and United's shareholders, or their heirs, executors, administrators, or assigns may have or hereafter acquire against the United States, its agents, servants, and employees on account of the same subject matter that gave rise to the above-captioned action. United, the individual defendants, and United's shareholders, and their heirs, executors, administrators, and assigns do hereby further agree to reimburse, indemnify, and hold harmless the United States and its agents, servants, and employees from and against any and all such claims, causes of action, liens, rights, or subrogated or contribution interests incident to, or resulting or arising from, the acts or omissions that gave rise to the above-captioned action. Provided, however, that the duties to reimburse, indemnify and hold harmless the United States and its agents as set forth in the preceding sentence shall be strictly limited to claims made by United, the individual defendants, United's shareholders, or their executors, administrators, assigns, or their family members.

**UNITED AND COUNSEL FULLY UNDERSTAND PLEA AGREEMENT-
ADDENDUM**

By signing this Plea Agreement-Addendum, United's representative certifies that he has been given lawful authority to enter into this Plea Agreement-

Addendum. United further certifies that its counsel has discussed the terms of this Plea Agreement- Addendum with appropriate officers, directors, and shareholders of United and that United fully understands its meanings and effect.

The Government agrees to the terms set forth in this Plea Agreement- Addendum.

RONALD SHARPE
UNITED STATES ATTORNEY

JOHN A. DICICCO
ACTING ASSISTANT ATTORNEY GENERAL
DEPARTMENT OF JUSTICE, TAX DIVISION

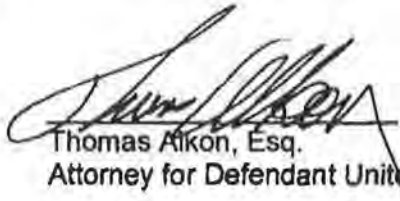
Dated: 2/2/2011



Mark F. Daly
Lori A. Hendrickson
Kevin C. Lombardi
Trial Attorneys

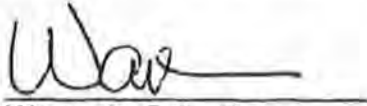
The defendant United Corporation agrees to the terms set forth in this Plea Agreement-Addendum.

Dated: 1/20/11



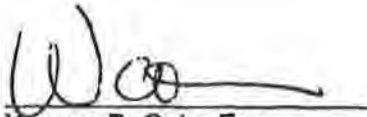
Thomas Alkon, Esq.
Attorney for Defendant United Corporation

Dated: 1/20/11

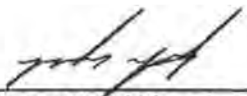


Warren B. Cole, Esq.
Attorney for Defendant United Corporation

Dated: 1/20/11



Warren B. Cole, Esq.
Attorney for Defendant's unindicted shareholders

Dated: _____ 
Maher Fathi Yusuf
President, Defendant United Corporation

Dated: _____
Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: _____
Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: _____
Derek M. Hodge, Esq.
Attorney for Defendant Nejeh Fathi Yusuf

Dated: _____
Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: _____
Henry C. Smock, Esq.
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: _____
John K. Dema, Esq.
Attorney for Defendant Maher Fathi Yusuf

Dated: _____

Maher Fathi Yusuf
President, Defendant United Corporation

Dated: 1/20/2011

Gordon C. Rhea
Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: _____

Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: 2/2/11

Derek M. Hodge
by WABA with authorization
Derek M. Hodge, Esq.
Attorney for Defendant Neje Fathi Yusuf

Dated: _____

Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: _____


Henry C. Smock, Esq.
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: _____

[Signature]
John K. Dema, Esq.
Attorney for Defendant Maher Fathi Yusuf

Dated: _____
Maher Fathi Yusuf
President, Defendant United Corporation

Dated: _____
Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: 1/24/11

Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: _____
Derek M. Hodge, Esq.
Attorney for Defendant Nejeh Fathi Yusuf

Dated: _____
Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: _____
Henry C. Smock, Esq.
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: _____
John K. Dema, Esq.
Attorney for Defendant Maher Fathi Yusuf

Dated: _____

Maheer Fathi Yusuf
President, Defendant United Corporation

Dated: _____

Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

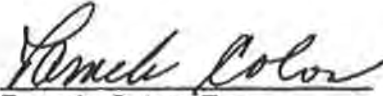
Dated: _____

Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: _____

Derek M. Hodge, Esq.
Attorney for Defendant Nejeer Fathi Yusuf

Dated: 2/1/11


Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: _____

Henry C. Smock, Esq.
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: _____

John K. Dema, Esq.
Attorney for Defendant Maheer Fathi Yusuf

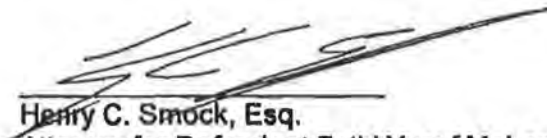
Dated: _____
Maher Fathi Yusuf
President, Defendant United Corporation

Dated: _____
Gordon C. Rhea, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: _____
Randall P. Andreozzi, Esq.
Attorney for Defendant Waleed Mohammed Hamed

Dated: _____
Derek M. Hodge, Esq.
Attorney for Defendant Nejeih Fathi Yusuf

Dated: _____
Pamela Colon, Esq.
Attorney for Defendant Waheed Mohammed Hamed

Dated: 1-25-11

Henry C. Smock, Esq.
Attorney for Defendant Fathi Yusuf Mohamad Yusuf

Dated: _____
John K. Dema, Esq.
Attorney for Defendant Maher Fathi Yusuf

EXHIBIT J

EXHIBIT

J

TO: DUDLEY, TOPPER AND FEUERZEIG, LLP

**RE: MOHAMMAD HAMED V FATHI YUSUF AND UNITED
CORPORATION CIVIL NO. SX-12-CV-370**

**REPORT OF HISTORICAL WITHDRAWALS AND
DISTRIBUTIONS OF THE PARTNERS AND PROPOSED
ALLOCATION TO EQUALIZE PARTNERSHIP
DISTRIBUTIONS**

AUGUST 31, 2016

BDO, Puerto Rico, PSC, a Puerto Rico Professional Services Corporation, and BDO USVI, LLC, a United States Virgin Island's limited liability Company, are members of BDO International Limited, a UK company limited by guarantee, and form part of the International BDO network of independent member firms.

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YUSF237817

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TABLES

APPENDICES

EXHIBITS

1. January 1994 thru September 2001: this is the accounting period prior to the FBI raid and government scrutiny. During this period, it was common for the Partners, family members and their agents to withdraw monies via a check or cash by just signing a cash ticket/receipt. Neither formal supervision nor formal accounting was in place during this period.
2. October 2001 thru December 2012: this is the period after the FBI raid and government scrutiny; accounting was improved, however, Gaffney was not in place and most withdrawals were limited to salaries; partnership distributions were limited as the government supervision/monitoring was in place.
3. January 2013 thru January 30, 2015: the Gaffney years - accounting information is formal and comprehensive. During this period, all withdrawals were made with Gaffney's supervision and therefore, were recognized in the general ledger.
4. January 30, 2015 thru August 31, 2016: this is the period of the liquidation of the Partnership assets; during this period, all transactions were performed with Gaffney's supervision and therefore, recognized in the general ledger. Additionally, during this period the Partnership activity was supervised by the Court through the appointed Master.

We should clarify that before 1994 only one store was open, a fire in 1992 destroyed the store and with it most of the financial/accounting information that was available. It had also been established that the Partnership kept a "black book" or a ledger to reconcile withdrawals from the Partnership. Prior to 1993, no amounts had been disputed by either Partner. However, as a result of the current litigation process, Mr. Yusuf became aware of certain investments reported by Waleed Hamed in his personal income tax returns of 1992 and 1993. Due to the amounts involved it was decided to evaluate and consider such amounts as part of our analysis.

Our analysis included information until August 2014, however we decided to adjust all transactions after January 2013 considering that during that period Mr. Gaffney was in control of all the transactions related to the partnership and all withdrawals should be accounted for.

4.4 Documents Examined

As part of our analysis, we have examined documents for each of the family members of the Hamed and Yusuf families, the Supermarkets (includes Plaza Extra-East, Plaza Extra-West, and Plaza Extra-Tutu Park), United Corporation, and other related entities. All information, documents, evidence examined

and used by BDO was provided by Dudley.³¹ The following is a summary of documents examined and used in our analysis.

- General ledgers of the Supermarkets
- Cash receipts of the Supermarkets
- Monthly bank statements of the Supermarkets' bank accounts
- Monthly bank statements of each Partner's bank accounts
- Monthly bank statements of each of the Partner's family members' bank accounts
- Monthly bank statements of each of the Partner's agents' bank accounts
- Monthly brokerage/investment statements of each Partner's investment accounts
- Monthly brokerage/investment statements of each of the Partner's family members' investment accounts
- Monthly brokerage/investment statements of each of the Partner's agents' investment accounts
- Credit card statements of each Partner's credit card accounts
- Credit card statements of each Partners' family members' credit card accounts
- Credit card statements of each Partners' agents' credit card accounts
- Income tax return of each Partner
- Income tax return of each Partner's family members
- Income tax return of each Partner's agents
- Legal documents: Court Orders, Motions and depositions
- Letters, black book (cash receipts ledger) and other documents

As indicated under Section 4.5 Limitations, we encountered certain limitations with respect to the information provided; not all of the information examined was complete. Due to the volume of documents provided, we have included a complete list of documents examined and used in our report. Therein, we have listed the documents received along with the corresponding dates. In addition, any missing statements and/or documents are also disclosed therein.

In the following sections, we describe the specific procedures that were applied to enable us to identify any withdrawals made by the Partners, family members and/or their agents that could be construed to be partnership distributions for the covered period.

³¹ Information obtained from of the following sources: (1) FBI files related to Criminal Case No. 2005-CR-0015, (2) documents provided by Mr. Hamed through the discovery process in the Case, (3) documents provided by Mr. Yusuf and United Corp. through the discovery process in the Case.



4.5 Limitations

Our report and the findings included herein have been impacted by the limitation of the information available in the Case. Following is a summary of the limitations we encountered during the performance of the engagement.

- Accounting records of Plaza Extra-East were destroyed by fire in 1992 and the information was incomplete and/or insufficient to permit us to reconstruct a comprehensive accounting of the partnership accounts before 1993.
- Accounting records and/or documents (checks registers, bank reconciliations, deposits and disbursements of Supermarkets' accounts) provided in connection with Supermarkets were limited to covering the period from 2002 through 2004, East and West from 2006 through 2012, and Tutu Park from 2009 through 2012.
- Accounting records and/or documents provided to us for the periods prior to 2003 are incomplete and limited to bank statements, deposit slips, cancelled checks, check registers, investments and broker statements, cash withdrawal tickets/receipts and cash withdrawal receipt listings. For example, the retention policy for statements, checks, deposits, credits in Banco Popular de Puerto Rico is seven years; therefore, there is no Bank information available prior to 2007 and electronic transactions do not generate any physical evidence as to regular deposits and/or debits.
- Information discovered about the case up to August 31, 2014. We only considered information up to December 31, 2012. Transactions after that date were adjusted in our report.

4.6 Assumptions

Any monies identified through our analysis in excess of the amount identified from the known sources of income (e.g. salaries, rent income, etc.) were assumed to be partnership withdrawals/distributions. With regards to the Hamed family, Mohammad Hamed admitted during deposition testimony that his family's sole source of income was the monies they withdrew from the supermarkets.³²

The lifestyle analysis is supported by available information related to deposits to banks and brokerage accounts and payments to credit cards during the period from January 1994 to December 2012 or until Gaffney was assigned to work with the Supermarkets accounting.

³² Refer to Case No. SX-12-CV370, Oral deposition of Mr. Hamed dated April 21, 2014, pages 43 to 44.

EXHIBIT K

August 1, 2014

Joel H. Holt, Esq.
2132 Company Street
Christiansted, VI 00820

Re: Mohammad Hamed v. Fathi Yusuf and United Corporation

Dear Attorney Holt:

As you know, I am a Certified Public Accountant licensed in the U.S. Virgin Islands. Exhibit 1. You have asked my firm to render certain accounting opinions related to the lawsuit pending between Mohammed Hamed and Fathi Yusuf/United Corporation as follows:

1. Do the tax returns filed by United Corporation in 2013 for the years 2002 to 2012 reflect two separate businesses—one for the three Plaza Extra Supermarkets and one for the United Corporation's shopping center at Sion Farm, St. Croix?
2. Do the tax returns filed by United Corporation in 2013 for the years 2002 to 2012 contain any improper statements based upon the information you have reviewed?
3. Is it possible to provide an accurate accounting of the partnership accounts before 2012 either by reviewing existing accounting records or reconstructing comprehensive or cohesive partnership transactions for Plaza Extra Supermarkets prior to 2012—in order to make any assumptions about which partner owes the other partner specific amounts due to their "partner accounts"?
4. Are there ascertainable post-January 1, 2012 amounts that are clearly owed by Yusuf to the partnership for diverting partnership funds to United's account or for its benefit for the period in which actual accounting records are available?

We have reviewed the Preliminary Injunction opinion entered by Judge Brady, which has provided factual background related to this case. We have also reviewed the items listed in Exhibit 2 regarding the accounting issues related to these four questions you have asked us to consider. This includes testimony and exhibits related to the available accounting information (or lack thereof) for the Partnership from 1986 to present as well as the tax returns filed for United Corporation for the years 2002 to 2012 (all filed in 2013).

We have also been supplied the *Sage 50* accounting program and data for all three Plaza Extra Supermarket operations for the period from January 1, 2012 to July 7, 2013. Data from that system has allowed us to review and understand the financial activities and tax obligations for 2012 to date.

This report will address our opinions with respect to each question in the order raised.

Question #1-Applying the "mirror" U.S. Tax Code and Generally Accepted Accounting Principles (GAAP) in the manner routinely employed by accountants, it is our expert opinion that the tax returns filed by United in 2013 for the years 2002 to 2012 reflect two distinct business operations. These tax returns contain the financial information for the operations of the three Plaza Extra Supermarkets in the basic return and then attach a separate schedule for the shopping center business as a separate operation distinct from the three supermarkets.

United was incorporated on March 5, 1979 and elected to be treated as an S-Corporation beginning January 1, 1999. The tax returns filed by United Corporation each year since then have been on *Form 1120S, "U.S. Income Tax Return for an S Corporation."*

An S Corporation is treated for federal income tax purposes in a manner somewhat similar to a partnership. The primary similarity is the requirement to flow the income of the entity out to the owners, and then the owners must report the income on their personal returns.

In order for the shareholders (S-Corp) or partners (partnership) to determine how to report their share of income and expense, the Internal Revenue Service requires that the income or loss from different types of business activities be aggregated into appropriate groups and the net income of each group reported separately to the owners, based on their percentage of ownership.

The United Corporation tax filings as presented clearly indicate two distinct business operations. Page 1 of the Form 1120S tax return as filed by United Corporation contains the financial information for the operations of the three Plaza Extra Supermarkets. This is the same information that was used to file the individual returns for Mohammad Hamed for the same time period. Form 8825, which is included with the

Form 1120S as filed by United Corporation, includes the rental portion of the income and expenses reported on the United Corporation return.

The separation of the two businesses on the tax return is consistent with the view that the Plaza Extra Supermarkets are a separate business operation from the shopping center rental activities. While the income and expenses of the two distinct business activities were separated on the United Corporation filings, there is no allowance for Mohammed Hamed as a shareholder/owner and the United filing did not report Mr. Hamed's allocation of income and expenses when he was clearly a 50% owner in the Plaza Extra Supermarket. In that regard the tax filings by United Corporation are not correct.

A review of the 2012 tax return (in light of information also gained in the accounting data) demonstrates this inconsistency. You have provided me with the rent payment made to United by Plaza Extra in February of 2012. In this regard, the schedule attached for the shopping center reports this rent as income for United, which we understand was placed in the non-supermarket 'shopping center bank account' belonging solely to the Yusuf interests. However, the tax return portion for the Plaza Extra operations reflects this amount as a deduction. By combining the two businesses on the same return, the Yusufs were able to receive the payment of rent from Plaza Extra as income without having to pay any taxes on it since the return also treats that rent payment as a deduction. In short, the treatment of this payment on this return again confirms that the tax return shows two distinct businesses, not one business as the single return would suggest.

Question # 2- Applying the "mirror" U.S. Tax Code and Generally Accepted Accounting Principles (GAAP) in the manner routinely employed by accountants, it is our expert opinion that the filing of a single tax return by United for both businesses led to an improper avoidance of income by United. It reported \$5.4 million in income as part of its rental income as a landlord in 2012, which was the rent paid by the Plaza East (Sion Farm) store to United, but United avoided paying any gross receipts or income tax on this item by then deducting this rent payment as one of the business deductions for the Plaza Extra Supermarket partnership. While this was a proper deduction for the supermarket partnership, United should have paid taxes on this income, which was avoided by not filing a separate tax return as it was required to do by law. (I understand the 2013 returns will be filed correctly instead of combining these businesses.)

In addition, the tax returns filed by United Corporation are improper since United is a corporation owned by individuals from the Yusuf family, with no allowance for Mr. Hamed's ownership in the Plaza Extra Shopping Center. However, as noted in the multiple documents provided, United and Mr. Yusuf concede that Mohammed Hamed is entitled to 50% of the net income from the operations of the three Plaza Extra stores. Thus, reporting 100% of the income from the operations of the three Plaza Extra Supermarkets as part of the income of United Corporation is improper. S Corporations differ from partnerships in that they do not allow for uneven allocations of earnings and expense. In other words all of the income and expenses of the S Corporation have to

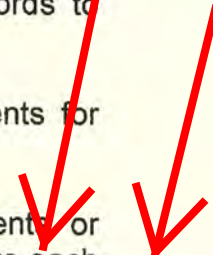
be allocated based on ownership percentage. Mr. Hamed is not a shareholder in United when in fact he is entitled to 50% of the earnings of the Plaza Extra Shopping Center since inception, therefore the filings are improper.

Question # 3- Applying Generally Accepted Accounting Principles (GAAP), the answer to this question is "no." In reaching this conclusion, we note as follows:

- We have examined, operated and are entirely familiar with the data supplied by Defendants and the Controller (Gaffney) for the three Plaza Expert Stores on the Sage50 computer system. (John Gaffney is the "Controller" for United, and we have relied on his sworn statements in a preliminary injunction hearing and deposition (Exhibit 3) as to the state of the accounting records in United's possession prior to Defendant Yusuf's April 7, 2014 concession that Plaza Extra Supermarkets is a partnership.)
- We work frequently with this and similar accounting systems and are experienced in their use —and the act of accounting for different businesses on such systems.
- The present "books and accounting records" of Plaza Extra Supermarkets as kept on the Sage50 system began with 2012. (Gaffney).
- No cohesive books and records for the period 2003 to 2012 have been supplied to us (to Plaintiff) in discovery that reflect transactions prior to 2012. (Gaffney and Sage 50). A large number of documents obtained from the U.S. Attorney/FBI and supplied to Mr. Hamed do contain some information from pre-2003¹ —but no cohesive accounting.
- The computer disk containing some or all of the 2003-2012 accountings was destroyed or damaged by defect, and Gaffney states there was no full backup kept.
- Gaffney has testified that he believes that there may be some paper records somewhere in warehouses for transactions prior to 2012.
- No such records have been produced. Exhibit 3.
- In any case, Gaffney also testified that the records before 2012 were of little accounting value, and were little more than bank reconciliations.
- We have also viewed records seized by the FBI and Justice Department prior to 2003 (Exhibit 4), and the two plea agreements involving the computation of income and taxes for the period from 2001 to 2013. Exhibit 5.

¹ This disk was supplied by Defendants. Exhibit 4.

Based on all available data, it is our expert opinion that no set of useable or reliable accounting records exist for two reasons² and that it is impossible to reconstruct the accounting transactions of Plaza Extra Supermarkets for the years 2002 through 2011—and for period 1986 through 2001. It is impossible to:

- a. Reconstruct the individual partnership accounts before 2012. (Thus, the only appropriate method to determine partnership accounts is to accept what both partners have used as a practical matter—the Sage50 accounting records to date which they began keeping as of 2012.)
 - b. Reconstruct any comprehensive or cohesive partnership disbursements for Plaza Extra Supermarkets prior to 2012.
 - c. Reconstruct how single documents purporting to show disbursements or removal of funds relate to one another, to the partnership's accounting or to each other. Thus, no such individual records taken out of context can reflect anything about the value of either partner's "partner account" or what might be owed at dissolution.
- 

Question # 4- Attached as Exhibit 8 (3 files prepared on 07/07/14, one for each store) is the most recent backup of the Sage 50 accounting for Plaza Extra Supermarkets compiled and supplied by the Controller, John Gaffney. Under the applicable U.S. Virgin Islands enactment of the Revised Uniform Partnership Law (RUPA), this new, mutually used accounting is the only possible method of calculating the value of each partner's account—each being entitled to 50% of the value reflected therein with only "corrections" shown in that accounting after the date the accounting became reliable—such as the following payments made from the Plaza Extra accounts:

1. Payment of \$2.7 million to Fathi Yusuf/United objected to by Hamed as shown in Exhibit 9.

² First, prior to 2003, Yusuf maintained two completely separate systems by which funds were removed from Plaza Extra Supermarkets. One consisted of the books and reporting showed to VI and US taxing authorities. The other was a sophisticated enterprise removing millions of unaccounted dollars of Plaza Extra Supermarkets funds prior to ANY accounting, converting these funds to transferable mechanisms and depositing them in overseas property and institutions. Exhibit 6 is a letter sent to Fathi Yusuf—with a chart reflecting the general nature of the enterprise by which he and others removed such funds. As additional examples, Exhibit 7 is a listing of Fathi Yusuf's transactions involving millions of dollars of such funds at the Cairo Amman Bank, and Exhibit 5, Plea Agreement, Section II, *Nature of the Offense*.

Second, computer and other records from the time after the FBI raided the business and placed a federal monitor, have been destroyed and/or lost, as set forth above.

2. Payment of \$504,591.03 to Joseph DiRuzzo for United's attorney fees as shown in Exhibit 10.

3. Payment of \$49,808.13 in V.I. Gross Receipts taxes on behalf of United as shown in Exhibit 11.

4. Payment of \$211,351.04 in insurance by Plaza Extra for the United Shopping Center (non-supermarket) coverage from January 1, 2012, shown in Exhibit 12.

The foregoing opinions are subject to supplementation if further information becomes available. Please let me know if you have any questions, or need anything else.

Respectfully submitted,

A handwritten signature in blue ink, consisting of a stylized, cursive name followed by the letters "CPA".

J. David Jackson, CPA

EXHIBIT L

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

EXHIBIT
L

MOHAMMED HAMED by His Authorized)
Agent WALEED HAMED,)
)
Plaintiff/Counterclaim Defendant,)
)
vs.) Case No. SX-12-CV-370
)
FATHI YUSUF and UNITED CORPORATION,)
)
Defendants/Counterclaimants,)
)
vs.)
)
WALEED HAMED, WAHEED HAMED, MUFEED)
HAMED, HISHAM HAMED, and PLESSEN)
ENTERPRISES, INC.,)
)
Additional Counterclaim Defendants.)

THE VIDEOTAPED ORAL DEPOSITION OF JOHN GAFFNEY

was taken on the 3rd day of April, 2014, at the Law Offices
of Adam Hoover, 2006 Eastern Suburb, Christiansted,
St. Croix, U.S. Virgin Islands, between the hours of
3:14 p.m. and 4:41 p.m., pursuant to Notice and Federal
Rules of Civil Procedure.

Reported by:

Cheryl L. Haase
Registered Professional Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix U.S.V.I.
(340) 773-8161

JOHN GAFFNEY -- DIRECT

1 So, essentially, the decision was made to put
2 in a -- an accounting system in all three locations that
3 would have the same system of controls, and the -- the most
4 major thing that was implemented was the interface between
5 Point of Sale and Peachtree.

6 **Q.** So you said early on that you were brought in
7 pursuant to a court order, or something like that, to try to
8 fix what I think you described it as pretty much a -- a
9 total mess.

10 Would that be true?

11 **A.** Yeah, it was pretty -- it was a pretty good
12 description that it was a pretty total mess before.

13 **Q.** And you --

14 **A.** I'm not saying that it was -- it didn't have any
15 integrity. It did have integrity.

16 **Q.** Uh-huh.

17 **A.** It's just that it lacked controls.

18 **Q.** Okay. And was it accurate?

19 **A.** I'd say fairly accurate.

20 **Q.** Okay. And do you know where -- where the -- where
21 the accounting records were before -- you've given me 2012
22 and 2013, is that correct?

23 **A.** Correct, yeah.

24 **Q.** Okay. And do you have any idea where the
25 accounting records are for 2002 through 2011?

EXHIBIT M

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

EXHIBIT
M

MOHAMMED HAMED by His Authorized)
Agent WALEED HAMED,)

Plaintiff/Counterclaim Defendant,)

vs.)

FATHI YUSUF and UNITED CORPORATION,)

Defendants/Counterclaimants,)

vs.)

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

Additional Counterclaim Defendants.)

Case No. SX-12-CV-370

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Rules of Civil Procedure.

Reported by:

Cheryl L. Haase
Registered Professional Reporter
Caribbean Scribes, Inc.
2132 Company Street, Suite 3
Christiansted, St. Croix U.S.V.I.
(340) 773-8161

JOHN GAFFNEY -- DIRECT

1 A. If I do some comparative financial statements, I
2 can get it at least through back to 2010.

3 Q. And your recollection is that the financial
4 records before 2010 are in a warehouse?

5 A. The -- I'm hoping that there are hard copies of
6 most of the records in the warehouse at St. Thomas. I did
7 look for a lot of them after the crash, when I was trying to
8 find things, but I -- I didn't have a great deal of success.

9 Q. Okay.

10 A. And I did find a -- spotty old backups on
11 computers, but -- and I had to get help from Sage to -- to
12 break through them, because they had old passwords and
13 whatnot on them. But I didn't get anything cohesive, like
14 I -- I had one old backup at East, and it was, you know, as
15 far as I was concerned, East and West were just using it to
16 process payroll and/or accounts payable, and it was being
17 used much like a word processor. There was no integrity
18 when it came to general ledgers or anything like that, or
19 anything that would feed into a financial statement.

20 Q. Okay. Now, in the -- let's use the 2013 year that
21 you supplied on January 5th, 2014.

22 You said, sort of off the bat, it -- it
23 lagged in certain areas, such as accounts payable and
24 securities for a couple of months. Beyond that, is there
25 any other major financial data related to the Plaza Extra

EXHIBIT N

**EXHIBIT
N**

Engagement Report
Joel H. Holt, Esq.
c/o Plaza Supermarket Partnership and Subsidiaries

Exhibit:

B-2

JVZ-000001

Engagement Report
Joel H. Holt, Esq.
c/o Plaza Supermarket Partnership and Subsidiaries

Exhibit:

B-2

JVZ-000001



5001 Chandler's Wharf
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F. 340-719-2775
www.jvz-cpa.com

September 28, 2016

Joel H. Holt, Esq.
2132 Company Street
Christiansted, VI 00820

Re: Mohammad Hamed, et.al v. Fathi Yusuf and United Corporation

Dear Attorney Holt:

Jackson Vizcaino Zomerfeld, LLP (JVZ or we) is a licensed Certified Public Accountant firm in the U.S. Virgin Islands.

You have retained us to render an expert opinion in the litigation captioned Hamed v. Yusuf et al., docket number Civ. No. SX-12-CV-370. Attached is our analysis of the financial accounting for January 1, 2012 through June 30, 2016 as per Fathi Yusuf.

For the Firm

JACKSON, VIZCAINO ZOMERFELD, LLP

MEMBERS OF:
American Institute of Certified Public Accountants
Florida Institute of Certified Public Accountants
National Association of Certified Valuation Analysts
Texas State board of Public Accountancy
Virgin Islands Board of Accountancy

The Carribbean's full-service accounting firm

JVZ-000002

ATTACHMENT IV - Analysis

satisfy ourselves of management's assertions: 1. Occurrence 2. Accuracy or 3. Classification, as described in AU-C 315.A128.

The total amount of the claim is \$989,626.90.



Item 353 – Due to/from Fathi Yusuf

Summary Description of Issue Identified:

We noted a balance of \$186,819.33 in the due to/from Yusuf account recorded on Plaza STT accounting records as of June 30, 2015. This balance has carried over prior to January 1, 2013 according to the accounting records provided by John Gaffney. This amount was used in the calculation of a pay out in the Summary of Remaining Partnership Items.

Work performed:

We interviewed the Hameds regarding payments due to Fathi Yusuf. We reviewed the summary of Summary of Remaining Partnership Items (Exhibit 353-a). We also provided John Gaffney a query dated February 15, 2016 (see Attachment VII) requesting an explanation of the business purpose and supporting documentation.

Gaffney's response:

John Gaffney did not respond to our request.

Opinion as to the Issue Identified:

We did not find any sufficient reliable audit evidence, nor were we provided any audit evidence from John Gaffney that these payments were for a valid business expense or served a business purpose. As such, we are not able to satisfy ourselves of management's assertions: 1. Occurrence 2. Accuracy or 3. Classification, as described in AU-C 315.A128.

The total amount of this claim is \$186,819.33, subject to further refinement after discovery is re-opened and completed.

Item 355 –\$2.7 million unilateral withdrawal from the Partnership account

Summary Description of Issue Identified:

We noted a withdrawal from the Partnership account that was not approved nor signed by the Hameds.

Work performed:

We reviewed check #1154 dated 8/15/2012 payable to United Corporation (Exhibit 355-a) and an online screen print of Scotia Bank account ending #6413 showing check #1154 clearing account (Exhibit 355-b) and we reviewed the Yusuf's justification for the \$2.7 million withdrawal from the Partnership account (Exhibit 355-c). We also interviewed the Hameds regarding this payment to United

EXHIBIT O

EXHIBIT

O

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FEDERAL BUREAU OF INVESTIGATION

Date of transcription 08/01/2003

JOHN BENSON IRVIN, 8160 County Road # 64, Daphne, Alabama, 36526, date of birth 9/8/50, social security account number [REDACTED], was advised of the nature of the interview and the identity of the interviewing agent. Also present during the interview were Javier Bell, Criminal Investigation Division, Internal Revenue Service and Michael Pauze, Attorney, Department of Justice. IRVIN provided the following information voluntarily:

IRVIN advised that deposit slips prepared by the women working in the PLAZA EXTRA cash room at the St. Thomas location were given to him on a daily basis. IRVIN would update a schedule for deposits daily. ERIKA SAMUELS, accounts payable, would give IRVIN the credit card report on a daily basis and IRVIN would again update the credit card schedule. Also done on a daily basis was an update of the telecheck schedule.

Once IRVIN completed the bank reconciliation at the end of each month, he would prepare the 4% Gross Tax return, filed monthly. All deposit slips from payroll were deducted from the gross receipts.

IRVIN was shown a file labeled "1999 - General Ledger". IRVIN stated that the general ledger was not included in the file. IRVIN said the general ledger should be displayed in the front of the file with all adjustments made immediately following.

IRVIN was also shown a "Trial Balance as of December 31, 1999". IRVIN was asked how the numbers were entered onto the trial balance sheet. IRVIN advised that entries were made monthly and that the balance was carried over from month to month. Included in the trial balance were deposited cash, checks, food coupons and WIC. Not included were credit card transactions and rebates. Data from previous years were not accessible once the books were closed at year end. A printout of the year ending trial balance was printed out, but the computer program would delete the previous year once the new year began. The numbers generated from the end of year trial balance sheet were given to PABLO O'NEILL for income tax return preparation. To the best of IRVIN'S knowledge, O'NEILL did not adjust the numbers reflecting gross sales.

Investigation on 7/28/03 at St. Thomas, VI

File # [REDACTED] Date dictated N/A

by Thomas L. Petri

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Continuation of FD-302 of John Benson Irvin, On 7/28/03, Page 2

After the search warrants were executed by the FBI during October, 2001, IRVIN asked O'NEILL about the cash which was seized. IRVIN believed that O'NEILL told him that they would address the cash when it was returned. IRVIN never discussed how the cash would be handled with anyone but O'NEILL. IRVIN stated that there was never any adjustments made in the general ledger for the seized cash. IRVIN stated that he always made adjustments to the general ledger before the records were turned over to O'NEILL.

IRVIN was told by FATHI YUSUF that store sales would be based on deposits. IRVIN said that normal accounting procedures allow accountants to conduct internal audits. IRVIN advised that YUSUF told him that internal audits were being handled and to simply continue to use deposits to calculate sales. IRVIN said that YUSUF told him this early on and that YUSUF was very emphatic. IRVIN never revisited the subject of sales with YUSUF and continued to base sales on daily deposits.

IRVIN advised that as an S Corporation, UNITED CORPORATION did not pay taxes on it's income. UNITED CORPORATION'S shareholders are required to report and pay taxes on their share of UNITED CORPORATION'S income. IRVIN knew UNITED CORPORATION'S shareholders to be FATHI YUSUF, his spouse, and five of YUSUF'S children. IRVIN further stated that since the corporate returns for 1999 through 2001 were false, it also meant that the individual returns for the shareholders were also false.

IRVIN was shown copies of seven cash deposit slips totaling \$1.9 million. IRVIN advised that he posted the deposits in the ledger as stockholder investments. IRVIN said that for transactions of this nature, he would receive guidance from FATHI YUSUF. On this occasion, YUSUF specifically told IRVIN to credit HAMDAN DIAMOND. IRVIN stated that HAMDAN DIAMOND is an overseas corporation for YUSUF'S brother and that YUSUF is the administrator. YUSUF often received documents in the mail from Anguilla for HAMDAN DIAMOND which is how IRVIN knew of the company. IRVIN did not do any accounting or bookkeeping for HAMDAN DIAMOND CORPORATION. However, IRVIN did deliver checks to Merrill Lynch for HAMDAN DIAMOND at FATHI YUSUF'S request. IRVIN said that the checks were written off against notes payable. In the ledger the entries were divided between HAMDAN DIAMOND and MOHAMMAD HAMDAN. IRVIN did not recall why the entries were made as they were. IRVIN recalled that from time to time, large transactions of this nature occurred. IRVIN would always ask FATHI YUSUF how they should be recorded.

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IRVIN also discussed sales with WILLIE HAMED. IRVIN could not recall specifics of the conversations but stated he would make comments to HAMED that "things didn't add up". IRVIN could not recall any specific response from HAMED.

WILLIE HAMED oversaw the cash room. IRVIN said, that for lack of a better term, HAMED was responsible for the "internal audit". Beginning sometime in 2001, IRVIN started giving HAMED daily updates so HAMED would be aware of bank balances. If a bank account was at a negative balance, IRVIN would circle it in red or simply tell him.

According to IRVIN, WILLIE HAMED knew that store sales were based on deposits. IRVIN was shown exhibit 13 and advised that the document reflected deposits. IRVIN further stated that a copy of the document was given to HAMED and YUSUF on a regular basis, specifically monthly. The document showed deposits and that the numbers for deposits were used to pay the 4% Gross Sales Tax.

IRVIN was then shown exhibit 10 and compared it to exhibit 13. Exhibit 13 reflected St. Croix gross sales of \$5 million. YUSUF told IRVIN that the numbers were incorrect due to the HAMDAN DIAMOND investment. St. Thomas gross sales for the month were \$3.3 million. IRVIN advised that in the end, after receiving instruction from FATHI YUSUF, adjustments were made and the bottom line used for the 4% Gross Sales Tax, for St. Thomas and St. Croix, was \$5.2 million. IRVIN stated that other than getting his information from documents and records, he had no direct knowledge of the volume of money that went through the PLAZA EXTRA stores. IRVIN said he heard rumors of there being \$7 million in the vault at one time but had no direct knowledge.

IRVIN said that he knew there were two safes in the cash room. The small safe was used by the cash room employees and that the cash register cash pans were kept in that safe. IRVIN also stated that the cash room girls reconciled the cash pans.

IRVIN was shown a copy of a daily balance sheet. IRVIN stated that he was responsible for creating the document known as the daily balance sheet at the request of the cash room employees. IRVIN said that the document was used to record deposits. IRVIN further stated that the entry on the daily balance sheet for cash on hand (COH), was not recorded by himself as cash on hand.

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IRVIN advised that PLAZA EXTRA used a Point of Sales system. IRVIN stated that he was not allowed to use or access the system. Only WILLIE HAMED, HISHAM HAMED, and NEJEH YUSUF had access. A password was required to gain access. IRVIN stated that he was aware that the Point of Sales system reported accurate store sales. IRVIN said that there was an understanding that he was not suppose to have access to true sales figures.

IRVIN was shown copies of February and March of 1999 gross receipts sales tax figures. IRVIN stated that he had a discussion with FATHI YUSUF concerning cost of goods sold. YUSUF told IRVIN that it was not possible to determine actual numbers for cost of goods sold. Per YUSUF'S instructions, IRVIN was told to determine cost of goods sold in whatever manner would reflect approximately \$3 million in year end ending inventory for each store. IRVIN also had conversations with WILLIE HAMED concerning cost of goods sold and what the average markup on merchandise was. IRVIN said that HAMED was not specific but understood that YUSUF wanted ending inventory to be around \$3 million. IRVIN advised that to determine cost of goods sold he would use a formula reflecting a 42% markup, or more often than not, simply plug in numbers so the \$3 million number would be met.

IRVIN stated that the reason YUSUF wanted the number for inventory to be around \$3 million for each store was to show a lower net income. If taxable income was too high, YUSUF would tell IRVIN to adjust cost of goods sold to show a decrease in the companies profit. IRVIN stated YUSUF normally had him adjust the numbers presented to him which reflected cost of goods sold.

IRVIN advised that he looked at the corporate tax returns to insure that PABLO O'NEILL'S numbers matched his. If O'NEILL made any adjustments, IRVIN requested that they be sent to him so that he could make corrected entries to match PABLO O'NEILL'S numbers. IRVIN said that he could think of no reason why the 4% Gross Sales Tax figures and the numbers on the general ledgers would differ from the corporate returns.

Although IRVIN does not have any formal education in tax accounting, he prepared WILLIE HAMED'S tax returns on a few occasions. IRVIN used TURBO TAX software to prepare the returns and he did not sign the return as the preparer. IRVIN gave the return to HAMED to attach his W-2, sign, and mail to the Internal Revenue Service.

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Continuation of FD-302 of John Benson Irvin, On 7/28/03, Page 5

IRVIN advised that he was charged with 3rd degree assault with a deadly weapon several years ago. IRVIN explained that the cottage he was renting was burglarized twice. The first time, police came to investigate. A week later, another attempt to burglarize IRVIN'S cottage was made, however, neighbors apprehended the burglar. At a later date, neighbors called IRVIN to advise him that someone was parked in hi driveway. IRVIN went out to his driveway to check on the vehicle with his weapon behind his back. IRVIN then showed the weapon in an effort to get the people to leave. IRVIN was charged and also was sued civilly.

IRVIN was asked about amended 4% Gross Receipts Tax returns. IRVIN stated that the amended returns were done at the direction of FATHI YUSUF, and were to be amended starting September 1, 2001. YUSUF advised IRVIN to do the amended returns in September, 2002. In order to prepare the amended returns, new numbers were given to IRVIN. IRVIN received a hand written document from WALLY HAMED showing increases for the St. Croix stores. Increases for St. Thomas were received from WILLY HAMED. YUSUF further stated that from that point forward, numbers for sales to be reflected on the 4% Gross Receipts Returns were to be obtained from WALLY and WILLY HAMED. From that point forward, IRVIN received on a monthly basis, a document labeled PLAZA EXTRA-STORE SALES.

IRVIN stated that he was never directly privy to conversations concerning the transfer of currency or anyone physically transporting currency or negotiable instruments outside of the United States. IRVIN did recall, that on one occasion, he heard a rumor that OMAR SALEH took a large green bag of cash to St. Maarten. IRVIN believed that he walked upstairs at PLAZA EXTRA and was told about SALEH by ROBERT BRADY.

IRVIN stated he regularly observed Express Mail packages being used by WILLIE HAMED when he paid vendors in cash for their products. The money was placed in Express Mail packages or envelopes when carried from the store.

IRVIN advised that he never purchased cashier's checks for YUSUF or HAMED. IRVIN stated that he did recall mail from a bank in Jordan come for FATHI YUSUF.

IRVIN was shown check number 4101 written to JOHN B. IRVIN, IV, for \$10,025.00. IRVIN had cashed the check, but stated the check did not result from a loan from PLAZA EXTRA. IRVIN

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believed he cashed the check at PLAZA EXTRA and used the cash to pay for a Jeep he purchased. IRVIN advised that he did not recall ever cashing any other large checks at PLAZA EXTRA. IRVIN did recall that on occasion, he would be asked to go purchase cashier's checks for vendors. IRVIN received the money to purchase the checks from WILLIE HAMED.

IRVIN advised that he did open a bank account at the BANK OF NOVA SCOTIA, Tortola, British Virgin Islands. IRVIN advised that he used the account to secure the cash wages he earned at PLAZA EXTRA and as a defense against the civil suit from the assault charge.

IRVIN was asked if he recalled making any large cash deposits into account number 55146128 on August 18, 1999, October 14, 1999, or anytime in 2000. IRVIN could not recall.

IRVIN was shown documents labeled S2007547 and S2007548. IRVIN advised that these were documents received from WALLY HAMED to amend the 4% Gross Receipts Sales Tax. IRVIN was also shown a document labeled S2007549. IRVIN stated that the document was provided to him by WILLY HAMED for the amended 4% Gross Receipts Tax Return.

IRVIN was also shown a document labeled 017-0644, PLAZA EXTRA - St. Thomas - Journal Entries. IRVIN was directed to adjustment 15. IRVIN stated that although he was employed by PLAZA EXTRA at that time, he could provide no further information.

IRVIN was shown exhibit 19A and 19B. IRVIN advised that the documents resulted from the construction of the new PLAZA EXTRA store on St. Croix. IRVIN said he needed data on the cost of construction and that he traveled to St. Croix to obtain the information as documented in the exhibits. IRVIN said he obtained the information stored in boxes, and separated by contractor.

IRVIN was shown exhibit 20A and 20B. IRVIN stated that the exhibit 20A reflected a DAAS CORPORATION balance sheet and that exhibit 20B reflected pending expenditures for DAAS CORPORATION to open their store. IRVIN believes he generated the documents to obtain a loan for DAAS CORPORATION.

IRVIN was shown a copy of his 1997 Income Tax Return. IRVIN advised that he prepared the return in the U.S. Virgin Islands (USVI) with the intention of filing in the same. IRVIN

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advised that the signature and date of 8/15/97 was scribed by himself and that he also signed his spouses signature.

IRVIN was also shown his 1998 and 1999 Income Tax Returns. Again, IRVIN advised he prepared the return in the USVI to be filed in the USVI. The returns were dated 8/15/98 and 6/30/98. IRVIN signed and dated the return for both himself and his spouse, REGINA IRVIN.

IRVIN was shown a copy of his 2000 Income Tax Return. IRVIN again stated that he prepared the return in the USVI, to be filed in the USVI. However, IRVIN stated that his spouse, REGINA, signed the 2000 return. IRVIN also signed the return, dated 8/1/00.

IRVIN was shown a copy of his 2001 Income Tax return. IRVIN advised that he prepared the return in the U.S. Virgin Islands (USVI) with the intention of filing in the same. IRVIN advised that the signature and date of 10/15/01 was scribed by himself and that he also signed his spouses signature.

IRVIN was again shown exhibits 18 and 19, reflecting affidavits signed by himself and FATHI YUSUF regarding the money taken during the search warrants executed by the FBI. IRVIN stated that the usual operating procedures for payment of 4% Gross Receipts Taxes was to transfer money from the credit card account to the St. Thomas operating account. Shortly after the search warrants, IRVIN sat down with FATHI YUSUF, WILLIE HAMED, and ROBERT KING. After the meeting, an affidavit was prepared by ROBERT KING and brought over to PLAZA EXTRA by a female employee of KING'S. IRVIN was told by the female employee that he was to sign the affidavit and have it notarized. IRVIN reviewed and signed the affidavit.

IRVIN recalled that during the meeting, FATHI YUSUF started talking about how currency was being accumulated to pay Gross Receipts Taxes and for insurance premiums. IRVIN said that these items had always been paid by check in the past.

IRVIN advised that the rent paid to TUTU PARK MALL was based partly on sales. When the rent was due, YUSUF would go into his office and return to give IRVIN the numbers to be used to pay the portion of the rent that was based on sales.

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Continuation of FD-302 of John Benson Irvin, On 7/28/03, Page 8

IRVIN was asked if he ever discussed with FATHI YUSUF, WALLY HAMED, or WILLIE HAMED, the fact that he mailed the 4% Gross Receipt Tax returns to the Virgin Islands Bureau of Internal Revenue (VIBIR). IRVIN stated that FATHI YUSUF asked him if he hand carried the returns and IRVIN told YUSUF that he mailed them certified mail, return receipt so that he maintained a record that the taxes had been paid if the VIBIR ever came back and claimed non-payment. WILLIE HAMED was aware that the 4% Gross Receipts Sales Taxes was paid by mail, according to IRVIN. IRVIN stated that it was simply standard operating procedure. Furthermore, IRVIN filled out a receipt showing that he spent money at the U. S. Post Office to mail the returns. HAMED accounted for the receipts.

IRVIN said he did not go over the 4% Gross Receipts Sales Tax numbers with WALLY HAMED.

IRVIN was never asked about reporting requirements at banks regarding cash. IRVIN said that the normal procedure was for family members to go to the bank to purchase bank checks. Furthermore, neither WALLY HAMED, WILLIE HAMED, or FATHI YUSUF ever asked IRVIN about reporting requirements for currency transfers outside the United States.

IRVIN advised that there was a general ledger entry for bonuses paid to FATHI YUSUF. IRVIN was shown Grand Jury exhibit number 25 reflecting FATHI YUSUF'S platinum card. IRVIN advised that the credit card bill was paid by PLAZA EXTRA, St. Croix. IRVIN stated that he believed that he treated the payment of FATHI YUSUF'S credit card bill as part of YUSUF'S bonus.

IRVIN stated that on 9/11/2001, he received a telephone call from FATHI YUSUF. YUSUF told IRVIN that something terrible had happened. When IRVIN got to the office, he observe that everyone appeared very solemn. YUSUF often watched an ARAB television station at work. On one occasion IRVIN observed Israeli tanks blowing up houses of Palestinians. IRVIN said that it was very painful for YUSUF to watch his people destroyed. YUSUF would call IRVIN over to the television and show him the news clips. For a while this occurred almost every day. YUSUF'S opinion was that the Arab station was more accurate and honest than CNN. YUSUF would explain to IRVIN about the French and British occupation and the history of the division of land after the French and British pull out. YUSUF felt that the United States should not support the Israeli's and abandon the Palestinian people.

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IRVIN is not aware that YUSUF financially supports the Palestinian cause. IRVIN considers YUSUF to be religious and further stated that YUSUF often goes to the mosque and contributes money to the mosque.

IRVIN has never talked to WALLY or WILLIE HAMED regarding Palestine or religion. IRVIN said that WILLIE HAMED is not religious.

HAMD639830

EXHIBIT P

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

**EXHIBIT
P**

IN RE)

GRAND JURY PROCEEDINGS)

USAO NO. 2001 R00389)

TESTIMONY OF:

PABLO O'NEILL, CPA

DATE:

Thursday, June 5, 2003

THEODORE A. DORSETT & ASSOCIATES
Registered Professional Court Reporters
P.O. Box 305528
St. Thomas, Virgin Islands 00803

EXHIBIT

31 - FathiDepo

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S2-019153

HAMD224038

APPEARANCES :

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U.S. Attorney's Office
Suite 260, Federal Building
5500 Veterans Drive Highway
St. Thomas, USVI 00802

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P-R-O-C-E-E-D-I-N-G-S

[PABLO O'NEILL, Grand Jury Witness, having been first duly sworn by the Grand Jury Foreperson, testified as follows:]

EXAMINATION

BY MR. PAUZE:

Q. Good morning, Mr. O'Neill. As you know, my name is Michael Pauze. I'm an attorney with the Justice Department, and this is a Federal Grand Jury.

You've been subpoenaed to provide testimony here today. Before we begin I'd like to describe to you some of the rights and responsibilities that you have as an individual who's testifying before the Grand Jury. And these are rights and responsibilities that we go over with every individual who comes here and provides testimony for the Grand Jury.

First, you understand that you have a right to have a lawyer present outside the grand jury, not inside the grand jury.

Do you understand that?

A. Yes.

Q. And you don't have a lawyer with you here today?

A. I don't.

Q. And, also, Mr. O'Neill, you understand that

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1 an individual who comes here to testify has a right to
2 refuse to answer any question if that question calls for
3 an answer that could tend to incriminate you.

4 Do you understand that?

5 A. I do.

6 Q. And, also, Mr. O'Neill, you understand you're
7 under oath today?

8 A. I do.

9 Q. And you also understand that you're required
10 to provide truthful testimony, and if you don't provide
11 truthful testimony and you do so knowingly, you can be
12 subject to criminal prosecution for offenses including
13 obstruction and perjury?

14 A. I do.

15 Q. Also, Mr. O'Neill, please keep your voice up.
16 The Court Reporter here is taking down everything that we
17 say. And I will try not to interrupt your answers, and if
18 you could do the same and try not to answer my questions
19 until I'm finished asking the questions?

20 A. Okay.

21 Q. Okay?

22 A. Yes.

23 Q. And, also, Mr. O'Neill, when you answer a
24 question the Court Reporter needs to take down your answer
25 so you can't shake your head or nod your head. You need

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1 to say either yes or no or go ahead and explain. Okay?

2 A. Yes.

3 Q. Mr. O'Neill, could you tell the Grand Jury
4 where you live currently?

5 A. I live on the island of St. Croix for 29
6 years at 54 Estate Tipperary, Christiansted, St. Croix.

7 Q. Mr. O'Neill, how are you employed?

8 A. How -- I was employed --

9 Q. Currently.

10 A. Currently I am a managing member of O'Neill
11 Anderson & Associates LLC which is a certified public
12 accountant.

13 Q. And you are a certified public accountant?

14 A. I am a certified public accountant in the
15 Virgin Islands and Puerto Rico.

16 Q. And you've been involved in accounting for at
17 least 28, 29 years?

18 A. Forty years.

19 Q. Mr. O'Neill, could you describe for the Grand
20 Jury your educational background, please?

21 A. I have a Bachelor's degree in Business
22 Administration from the University of Puerto Rico. That
23 was in 1963, and the last time I obtained a master's
24 degree in Business Administration with a major in taxation
25 from the Bernard Baruch College of the City University of

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SZ-019157



1 New York.

2 Q. And you said you got an MBA in taxation?

3 A. In taxation. Yes..

4 Q. Mr. O'Neill, about when did you receive your
5 MBA in taxation?

6 A. 1973.

7 Q. And after you received your MBA in taxation,
8 what did you do then?

9 A. I moved to the Virgin Islands with the
10 accounting firm Alexander Grant & Company. Then
11 subsequently, when Grant came then I -- and I started
12 employment in 1974 with the firm of Alexander Grant in St.
13 Croix.

14 Q. And you were an accountant for Alexander
15 Grant?

16 A. Yes, I was a staff accountant for a number of
17 years. Subsequent to that I passed the CPA examination in
18 '79 and became a partner with the succeeding firm which
19 was Bramer, Chasen & O'Connell, a firm which was
20 established in St. Thomas and St. Croix.

21 Q. And was that in about 1990?

22 A. About 1990 I was a member, a staff member --
23 I'm sorry, a partner with Bramer, Chasen & O'Connell in
24 St. Croix.

25 Q. And in 1996 did the name of the firm change

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1 to Bramer, Chasen, O'Neill & De Luca?

2 A. Okay, that's correct. We admitted De Luca,
3 Mr. John De Luca, and we changed the name.

4 Q. And how long were you a partner in that
5 particular firm?

6 A. From '96 through '99.

7 Q. And what happened after that?

8 A. Well, then '99, then the founding partner
9 there got ill and subsequently he passed away. That was
10 in the year 2000.

11 The other partner John De Luca got also ill and
12 left the island. And then I was just the only one left.
13 At that time we agreed to close that firm. I started the
14 firm O'Neill, Anderson & Associates with a new partner.

15 Q. And who's your partner?

16 A. Anderson, Vincent Anderson.

17 Q. And that's the firm with which you're a
18 partner here today?

19 A. Right.

20 Q. Mr. O'Neill, I want to talk to you a little
21 bit about some of the general tax obligations that people
22 and corporations here in the Virgin Islands have.

23 First of all, let me talk about Virgin Islands
24 residents, individuals. Individuals are required to file
25 Form 1040 to report their income with the Virgin Islands

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1 Bureau of Internal Revenue; is that right?

2 A. That's correct.

3 Q. And each Virgin Islands resident is required
4 to report on that form all the income that they've earned
5 worldwide; is that true?

6 A. As long as they are bona fide residents,
7 that's correct.

8 Q. And I want to talk a little bit about social
9 security taxes. Now, unlike income taxes which go to the
10 Virgin Islands, social security taxes go to the IRS; is
11 that right?

12 A. That's correct.

13 Q. And how do individuals typically pay their
14 social security taxes?

15 A. The social security taxes are paid, Form
16 1040-SS, Self-Employment Income. Based on that, they pay
17 15 point 3 percent tax to the Federal Government.

18 If they are employees of any company, according to
19 income, the employer withholds money from the employee,
20 matches their contribution, and pays that through 941-SS
21 quarterly tax reports to the Internal Revenue Service.

22 Q. So if I'm an individual and I'm getting a
23 paycheck, and I'm an employee, my employer will withhold
24 my social security tax?

25 A. That's correct.

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1 Q. And then the employer has the responsibility
2 to file tax returns quarterly with the Federal Government;
3 is that right?

4 A. That's correct.

5 Q. And the employer then reports and pays those
6 social security taxes?

7 A. That's correct.

8 Q. If I'm a self-employed individual then I have
9 the responsibility of filing an income tax return called a
10 1040-SS with the Federal Government?

11 A. That's correct.

12 Q. And that 1040-SS reports any income that I
13 receive from which no taxes, social security taxes have
14 been withheld; is that right?

15 A. That's correct.

16 Q. And if you receive compensation from a
17 company, for example, and there are no taxes withheld,
18 you're required to file a 1040-SS?

19 A. That's correct.

20 Q. And on that 1040-SS you report any income
21 that's not on a W-2; is that right?

22 A. That's correct.

23 Q. And that includes bonuses, for example?

24 A. That's right.

25 Q. Okay, Mr. O'Neill, I want to talk a little



1 bit about the obligations that corporations here in the
2 Virgin Islands have to pay taxes. Corporations are
3 required to file income tax returns with the Virgin
4 Islands Bureau of Internal Revenue if they're incorporated
5 or organized here in the Virgin Islands; is that right?

6 A. That's correct.

7 Q. And those corporations are required to report
8 all of their income to the Virgin Islands; is that right?

9 A. That's correct.

10 Q. And the type of form that a corporation files
11 depends on the type of corporation it is; is that right?

12 A. That's right.

13 Q. Now, a regular corporation files a Form 1120?

14 A. That's right.

15 Q. And a regular corporation will pay tax on its
16 income to the Virgin Islands; is that right?

17 A. That's right.

18 Q. Now, there's something called a Subchapter S
19 Corporation; is that right?

20 A. That's right.

21 Q. Could you explain to the Grand Jury what a
22 Subchapter S Corporation is?

23 A. Well, it's a small business corporation that
24 requires to be treated as such. What that means is that
25 they still have the protection for, liability taxes of a

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1 regular corporation but for tax purposes they are not
2 taxed on their profits. Those profits are passed through
3 to the individual owners, and the owners in turn will pay
4 the income taxes that the corporation has. So there's no
5 corporate tax at that level.

6 Q. So a regular corporation, like I said, pays
7 taxes on its income; is that right?

8 A. That's correct.

9 Q. And if that corporation then gives money to
10 its shareholders, the shareholders have to pay taxes,
11 again, on that money; is that right?

12 A. That's correct.

13 Q. Mr. O'Neill, for the benefit of the court
14 reporter, wait until I finish my question. Then go ahead
15 and answer, okay?

16 A. Okay.

17 Q. But with a Subchapter S Corporation, as
18 you've described, the income of the corporation itself
19 isn't taxed at the corporate level; is that right?

20 A. That's right.

21 Q. Instead, the money goes to each individual
22 owner and each individual owner has the responsibility to
23 pay tax on that income?

24 A. That's correct.

25 Q. Now, Mr. O'Neill, I want to talk to you a

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1 little bit about foreign bank accounts.

2 Now, if an individual has a foreign bank
3 account you're required to indicate such on your
4 individual income tax return; is that right?

5 A. That's right.

6 Q. And that's on Schedule B?

7 A. That's correct. Form 1040.

8 Q. Form 1040?

9 A. Right.

10 Q. And if an individual receives interest on any
11 income or interest income, including interest income from
12 a foreign bank account, that must also be reported on
13 Schedule B, true?

14 A. True.

15 Q. And if an individual has a foreign bank
16 account that individual is also required to file a form
17 with the U.S. Treasury Department; is that right?

18 A. That's correct.

19 Q. And that form describes the foreign bank
20 account?

21 A. That's right.

22 Q. And you've filed these forms for your clients
23 in the past?

24 A. Thousand times.

25 Q. When they've indicated to you that they have

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1 --

2 A. When they had a foreign bank account.

3 Q. Okay. Mr. O'Neill, I want to talk to you a
4 little bit about -- we mentioned before a corporation
5 might give money to some of its owners.

6 Now, if a corporation transfers money to its
7 owners that can be treated different ways depending on
8 what the purpose of that -- those funds are; is that
9 right?

10 A. That's right.

11 Q. Now that could be compensation to the owner;
12 is that right?

13 A. Right.

14 Q. It could be a loan -- the repayment of a loan
15 to the individual owner?

16 A. Right.

17 Q. It could also be a return of money that the
18 individual invested in a corporation; is that right?

19 A. That's right.

20 Q. Mr. O'Neill, I want to talk to you about your
21 accounting practice since the year 1994. And I'd like you
22 to describe for the Grand Jury, if you could, the general
23 process that your firm goes through when you prepare an
24 income tax return.

25 A. Okay. Well, in the cases -- you want me to

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1 address this specific case?

2 Q. Well, let's just talk -- let's talk just
3 generally.

4 A. For corporations the client will provide us
5 the trial balance. A trial balance is a summary of the
6 activities for the year. They have a calendar year ends,
7 say December 31st.

8 With that trial balance they will provide us also
9 the financial statement. It could be that it's done
10 internally. That will include the assets of the company,
11 liabilities and equity, will show the sales, less cost of
12 sales, less expenses, coming to a net profit.

13 So what we do in the office is we get all this
14 information from their in-house accountant. We compile
15 it.

16 We come with an engagement letter that we prepare
17 with the owner of the company indicating the extent of our
18 involvement in the preparation of the statement. It could
19 be prepared, a compilation which has the highest level --
20 I mean, it doesn't have the level of assurance that an
21 audit will have but usually the cheapest way to do the
22 accounting work at that level is the compilation.

23 There could be a review. A review involves more
24 testing. And it could be an audit, a certified audit. In
25 that audit we do all the procedures as enumerated or

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1 required by the American Institute of Certified Public
2 Accountants and we follow the guidelines.

3 So once our work is completed, we have compiled the
4 financial statement, we proceed to prepare the tax
5 returns, based on documentation obtained from that
6 customer.

7 Q. So, Mr. O'Neill, if you perform an audit for
8 a company you're not only compiling information but you're
9 checking to make sure that it's accurate; is that right?

10 A. That's correct.

11 Q. But you don't provide an audit for all your
12 clients, true?

13 A. That's correct.

14 Q. In some cases they provide you the
15 information, and you have to assume that it's correct?

16 A. That's correct.

17 Q. In those cases you report the information as
18 it's given to you?

19 A. That's correct.

20 Q. Mr. O'Neill, could you describe the same
21 procedure as far as individuals for whom you prepare tax
22 returns?

23 A. Well, for individuals depends on the extent
24 of the -- if their return is complicated or not. If an
25 individual has a W-2 or if he has a business, which is

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1 self-employed, he would have to provide us with his income
2 of the business, all the expenses, the net profit,
3 whatever, and if he has interest income from banks or
4 investments, provide us a Form 1099-B which indicates the
5 amount paid to them for the year.

6 Also expenses they have incurred. If they have a
7 mortgage what they paid in interest, the mortgage expense,
8 property taxes paid, medical expenses, all the
9 miscellaneous deductions, investment accounts they might
10 have. So we proceed to prepare the return.

11 We have a questionnaire, also, which asks a number
12 of questions, and they're supposed to go over the
13 questionnaire and give us all the information. Once that
14 information is obtained we have a staff person input the
15 information into our computer system until their form is
16 completed, the Form 1040, and if they are self-employed
17 they will have a 1040-SS.

18 So a reviewer will review the information, make
19 sure it's proper. They have to have all the backup to
20 substantiate their income and expenses on their return.
21 Once that's done then the return is completely processed,
22 and the client is called to sign the return.

23 Q. Mr. O'Neill, when you prepare returns for
24 individuals do you have to rely on the individuals to
25 provide you with all the information necessary to prepare

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1 an accurate return? Is that right?

2 A. That's correct. We have a statement which
3 we -- the taxpayer will sign which indicates that he has
4 provided us with all the information necessary to be
5 filed.

6 Q. And do you typically ask individuals if
7 they've reported to you all of their income?

8 A. That's correct.

9 Q. And, of course, you report all the income
10 that a client will tell you about; is that right?

11 A. That's correct.

12 Q. But if you don't know about income that a
13 client has you can't record that?

14 A. That's correct.

15 Q. Mr. O'Neill, do you know Fati Yusuf?

16 A. Yes, I do.

17 Q. How long have you known Mr. Yusuf?

18 A. Over 25 years.

19 Q. You've prepared his individual tax returns
20 for a number of years?

21 A. For a number of years.

22 Q. And you also prepare tax returns and
23 financial statements and other documents for United
24 Corporation?

25 A. That's correct.

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1 Q. And United Corporation does business as Plaza
2 Extra; is that right?

3 A. That's correct.

4 Q. Could you tell the Grand Jury when and how
5 you first met Mr. Yusuf?

6 A. It will be late 'Seventies, early 'Eighties
7 he came to my office requesting accounting services. At
8 that time he had the idea of building a shopping center
9 and he needed some money from the banks. So I go over
10 with him in doing the projections that the bank required
11 in order to lend him the money to start a building.

12 And after he started that, and then he also started
13 the supermarket, the first Plaza Extra.

14 Q. And that was in St. Croix?

15 A. St. Croix.

16 Q. And since then Mr. Yusuf has opened up two
17 more stores; is that right?

18 A. That's right. He came to St. Thomas later on
19 in the '80s, and then in the '90s he built the other store
20 in St. Croix.

21 Q. Mr. O'Neill, when you first met Mr. Yusuf was
22 he a wealthy man?

23 A. I don't believe so.

24 Q. What was he doing for a living when you first
25 met him?

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1 A. At that time he was just trying to work in
2 that project of building the shopping center.

3 Q. Before he began building a shopping center do
4 you know what he did for a living?

5 A. I thought -- he had a store. He had a
6 furniture store I think.

7 Q. A furniture store?

8 A. That's correct. But we didn't do any work at
9 that time.

10 Q. Okay. Mr. O'Neill, I want to talk about your
11 representation of United Corporation which does business
12 as Plaza Extra.

13 You said you prepared income tax returns and
14 financial statements for United?

15 A. That's right.

16 Q. And you've been doing that since the
17 inception of the corporation?

18 A. Basically, yes.

19 Q. In about the mid or so 1980's?

20 A. Yes.

21 Q. And you also prepared annual reports and
22 franchise tax reports for United?

23 A. Correct.

24 Q. How about gross receipts tax returns? Have
25 you ever prepared gross receipts tax returns for United?

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1 A. No, we don't.

2 Q. Could you explain to the Grand Jury what
3 gross receipts tax returns are?

4 A. Well, gross receipts is a tax imposed on
5 sales for businesses. It is four percent of the gross
6 sales of that entity. So monthly the company will have to
7 pay, summarize all their sales for the month and then add
8 them up and multiply by four percent, and then that's paid
9 to the V.I. Government. It's a local tax.

10 Q. And corporations have to file these returns,
11 reporting and paying gross receipts taxes every month?

12 A. Every month.

13 Q. So United has been required to file these
14 monthly returns every month since it began selling
15 groceries?

16 A. That's right.

17 Q. But your firm hasn't been involved in the
18 preparation of those returns?

19 A. That's correct.

20 Q. And who has prepared those returns on behalf
21 of United?

22 A. Well, usually a company will have their own
23 accounting staff in-house because of the, you know, the
24 volume of activity they have. So usually it's a
25 comptroller that handles all the accounting, and

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1 summarizes all their transactions on a daily basis.

2 So he will summarize the sales for the month and
3 then will prepare the return at the end of the month,
4 before the following -- let's say it's for the -- we are
5 in May now. We pass May. For May, the May sales will be
6 filed and paid by the end of June, before the end of June.

7 Q. Since about 1994, 1995 do you know which
8 individual at United has been responsible for preparing
9 those returns?

10 A. I believe it would be Mr. Ben Irvin who was
11 the comptroller. Ben Irvin.

12 Q. That's spelled I-r-v-i-n?

13 A. That's correct.

14 Q. Mr. O'Neill, I want to show you Exhibits
15 Number One through Seven. If you could take a look at
16 those and tell me if you recognize those documents?

17 A. Yes, I do recognize them. They are copies of
18 United Corporation's tax returns for the Year 1994 through
19 the Year 2000 inclusive. And they were prepared by our
20 firm.

21 The first three years were prepared by Bramer,
22 Chasen & O'Connell. And 1997, '98 was prepared by Bramer,
23 Chasen, O'Neill & De Luca, PC, the firm I was as a partner
24 then.

25 And the last one, '99 and 2000 was prepared by the

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1 current firm O'Neill Anderson & Associates. And I signed
2 those returns.

3 Q. Mr. O'Neill, let's go through the signature
4 on these returns. Exhibit Number One, the 1994 return, do
5 you recognize the signature of the individual who signed
6 as Secretary/Treasurer for the corporation?

7 A. Right. That's Mr. Fati Yusuf.

8 Q. And Exhibit Number Two, the '95 return.
9 Whose signature is that?

10 A. Looks like Fati Yusuf's signature.

11 Q. How about the 1996 return, Exhibit Three?

12 A. This one I don't recognize.

13 Q. That individual -- it is indicated that he's
14 president of the company?

15 A. Oh, yes. That's the president. That could
16 have been his son.

17 Q. It could have been his son?

18 A. Yes.

19 Q. Mr. Yusuf's son?

20 A. Yes.

21 Q. How about the 1997 return, Exhibit Number
22 Four?

23 A. Fati Yusuf, which was Secretary/Treasurer.

24 Q. And Exhibit Number Five in the 1998 return?

25 A. Fati Yusuf.

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1 Q. Exhibit Six, the 1999 return?

2 A. Fati Yusuf.

3 Q. And Exhibit Seven, the 2000 return?

4 A. Fati Yusuf.

5 Q. Mr. O'Neill, I want to talk to you a little
6 bit about the information that you used to prepare these
7 returns. Typically, what information did you use to
8 prepare United's corporate income tax returns?

9 A. It will be the compiled financial statement
10 on an annualized basis. That means the summaries of
11 sales, cost of sales, and expenses related to the business
12 throughout the year.

13 Q. And typically, who provided you the
14 information for these returns?

15 A. That was provided by their comptroller,
16 Mr. Ben Irvin and the accounting staff for the business.

17 Q. And did he typically give you the information
18 at the end of the calendar year or shortly thereafter?

19 A. That's correct.

20 Q. And did Mr. Irvin prepare a trial balance
21 that he provided to you?

22 A. That's correct.

23 Q. And also financial statements?

24 A. And financial statements. That's correct.

25 Q. And from that information your firm compiled

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1 financial statements as well as the income tax returns?

2 A. That's correct.

3 Q. Mr. O'Neill, did your firm audit the
4 information that was given to you from United?

5 A. No, we don't. Again, only a compilation.

6 Q. So you relied on your client to provide you
7 with accurate information?

8 A. That's correct.

9 Q. Mr. O'Neill, I want to talk to you about the
10 first line on each return. It's called gross receipts or
11 sales; is that right?

12 A. Yes.

13 Q. What is required to be reported on that line?

14 A. The actual sales of the business.

15 Q. So United Corporation that does business as
16 Plaza Extra Supermarkets is supposed to report its total
17 sales on that line?

18 A. Right. Sales and rents because they have --
19 United Corporation was also renting the shopping center.
20 Shopping Center. So that's included. On that line should
21 be sales. And they put that. Yes, that's correct.

22 Q. Okay. Is rent separate from that line?

23 A. Yes, it's separate. Rent is a separate line.
24 It's line --

25 Q. And so line one is just the sales --

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1 A. Actually sales from the supermarket.

2 Q. Okay. And line six is sales from the
3 shopping center?

4 A. That's correct. From the rental side.

5 Q. From the renters at the shopping center.

6 Let's talk about the first line on the corporate
7 return.

8 Where did you get the information to report Plaza
9 Extra's sales on each of these returns?

10 A. From the financial statements and trial
11 balance as provided by the accountant.

12 Q. And you weren't asked to verify that
13 information; is that right?

14 A. That's correct.

15 Q. And you were told that sales for this purpose
16 equaled total deposits; is that right?

17 A. Right. Yes.

18 Q. You said --

19 A. Yes. Yes.

20 Q. Okay. And the fact that sales was supposed
21 to equal total deposits, you discussed with Mr. Irvin?

22 A. Yes, I discussed it.

23 Q. And, also, with Fati Yusuf; is that right?

24 A. That's correct.

25 Q. You also discussed the total sales equaled --

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1 were supposed to equal total deposits with Wally Hamed; is
2 that right?

3 A. That's correct.

4 Q. And you had these discussions with Mr. Yusuf,
5 Mr. Hamed and Mr. Irvin a number of times; is that right?

6 A. That's correct.

7 Q. And you had those discussions back as far as
8 1994?

9 A. That's correct.

10 Q. And Mr. Irvin, Mr. Yusuf and Wally Hamed also
11 told you many times, isn't it true, that all sales were
12 deposited; isn't that right?

13 A. That's right.

14 Q. And, in fact, for that number on that return
15 to be accurate all of the sales that the supermarket
16 earned would have to be deposited into his bank account;
17 is that right?

18 A. That's correct.

19 Q. So if some of the sales weren't deposited
20 into the bank account, then those numbers would be false;
21 is that right?

22 A. They would not be correct.

23 Q. As far as you know, Mr. O'Neill, the
24 information given to you was accurately reported on the
25 return; is that right?

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1 A. That's right.

2 Q. So as far as you know Plaza Extra didn't have
3 any sales in addition to the amounts reported; is that
4 right?

5 A. That's right.

6 Q. So no one ever told you that Plaza Extra
7 earned sales that were not reported; is that right? In
8 other words, all the sales that you're aware of were
9 reported on the returns?

10 A. All the sales that I was aware of.

11 Q. So at the time those returns were filed, as
12 far as you knew, they were accurate; is that right?

13 A. That's right.

14 Q. Now, Mr. O'Neill, at some point you had a
15 conversation with Mr. Yusuf about the amount of tax that
16 United was paying; is that right?

17 A. Yes, that's right.

18 Q. And did you believe that the amount of tax
19 that the corporation was paying was less than the amount
20 of tax that you would have expected?

21 A. It seemed that way at that time. Just from
22 the total sales, the tax, yes. The actual tax paid was
23 quite low. And it was discussed with me.

24 Q. Did you raise that issue, also, to Mr. Irvin?

25 A. Yes, I believe so. I believe so.

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1 Q. And what did Mr. Irvin say?

2 A. Well, according to his record, that's what
3 the -- they had provided accurate figures.

4 Q. And did he say he would discuss it with
5 Mr. Yusuf?

6 A. Yes.

7 Q. But you didn't get a response from Mr. Irvin
8 or Mr. Yusuf after that; is that right?

9 A. That's right.

10 Q. And you subsequently raised the issue
11 directly with Mr. Yusuf; is that right?

12 A. That's correct.

13 Q. And what did Mr. Yusuf say to you?

14 A. He will look into the matter.

15 Q. Did he indicate to you that all sales were
16 deposited according to the --

17 A. Related to that. Or he will review it and
18 call in if he make any corrections to the net.

19 Q. And at the time did they make any
20 corrections?

21 A. Not that I know of.

22 Q. Well, you'd know, right? If they made any
23 corrections?

24 A. Well, they would -- ought to know that they
25 had filed amended returns. At that time they adjust their

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1 returns.

2 Q. And you discussed this with your partner
3 Mr. De Luca; is that right?

4 A. At that time Mr. De Luca, right.

5 Q. And what did you say to Mr. De Luca?

6 A. Well, basically, that they were reviewing
7 their sales, and they will take care -- if there's any
8 discrepancy they will provide us the additional
9 information.

10 So it's nothing but at the time, you know, it was
11 developing.

12 Q. But at the time -- and since then your role
13 hasn't been to audit that information; is that right?

14 A. That's correct.

15 Q. So you relied on United and Mr. Irvin and
16 Mr. Yusuf and Wally Hamed and others to provide you with
17 accurate information?

18 A. That's correct.

19 Q. Mr. O'Neill, for the years 1994 to 1998
20 United filed its returns as a regular corporation; is that
21 right?

22 A. That's correct.

23 Q. And as we discussed before, it was United who
24 would actually pay taxes on its income; is that right?

25 A. That's right.



1 Q. Now for 1999 that changed?

2 A. Right.

3 Q. And United became what you called before a
4 Subchapter S Corporation?

5 A. That's correct.

6 Q. A small business corporation?

7 A. Small business. That's correct.

8 Q. And by making the selection, then, United,
9 the corporation, wouldn't pay any income taxes; is that
10 right?

11 A. That's right.

12 Q. Instead, the income taxes would be paid by
13 the different owners of United?

14 A. That's correct.

15 Q. And sometime in 1998 you discussed making
16 this change with Mr. Yusuf?

17 A. That's correct. An election had to be made
18 of filing then, which was done.

19 Q. So in order to elect the status of being a
20 small business corporation you had to file a form with the
21 Virgin Islands?

22 A. That's correct.

23 Q. And did Mr. Yusuf ask you in 1998 for ways
24 that he could reduce the amount of corporate taxes that
25 were being paid?

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1 A. How to avoid paying so much high taxes, yes,
2 it was discussed.

3 Q. And then did you recommend forming the S
4 corporation?

5 A. Yes, I did. By allocating the accountings
6 based on different family members which were owners we
7 reduced, avoided double taxation in the course of reducing
8 the tax.

9 Q. And, also, at that time, up until that time
10 in 1998 the corporation was owned by Mr. Yusuf and his
11 wife as far as you knew?

12 A. That's correct.

13 Q. And when the corporation elected to be a
14 small business corporation you recommended to Mr. Yusuf
15 that he should give portions of the corporation to his
16 children; is that right?

17 A. That's correct.

18 Q. In that way, since the individuals paid the
19 tax and his children had a lower tax rate than he had,
20 they'd actually pay less taxes on the income from United;
21 is that right?

22 A. That's correct.

23 Q. Now, Mr. O'Neill, I want to show you what has
24 been marked as Exhibit Number Eight.

25 These are your handwritten notes; is that

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1 right?

2 A. That's correct.

3 Q. And those notes describe some discussions
4 that you had with Mr. Yusuf relating to compensation for
5 Wally Hamed; is that right?

6 A. Yes, I believe so.

7 Q. And at the time Mr. Yusuf discussed with you
8 giving Wally Hamed or the Hamed Family 50 percent of the
9 corporation; is that right?

10 A. That's correct. Or the operation of Plaza
11 Extra.

12 Q. Or the operation of Plaza Extra Supermarkets?

13 A. Correct.

14 Q. And Mr. Yusuf would keep the ownership of the
15 land for himself; is that right?

16 A. For his -- related under the United
17 Corporation. That's correct.

18 Q. Was Mr. Wally Hamed to be given the entire
19 St. Croix store or just half of that?

20 A. It would have been for him and his family.
21 The Hameds.

22 Q. The Hameds, yes?

23 A. Right.

24 Q. And was the Hamed Family to be given --
25 was --

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1 A. Half of the stores of the entity.

2 Q. So half of the St. Croix stores and half of
3 the St. Thomas stores?

4 A. Right.

5 Q. So the Yusuf Family and the Hamed Family
6 would own -- each would own half of the stores; is that
7 right?

8 A. That's correct.

9 Q. Did that ever happen as far as you know?

10 A. No. It didn't happen.

11 Q. Mr. O'Neill, you mentioned that you also have
12 been preparing individual income tax returns for Mr. Yusuf
13 and his wife; is that true?

14 A. That's true.

15 Q. Okay, Mr. O'Neill, I want to show you
16 Exhibits Nine through Sixteen, and those are the 1994
17 through 2001 income tax returns for Mr. Yusuf and his
18 wife; is that right?

19 A. Correct.

20 Q. And those returns were prepared by your firm;
21 is that right?

22 A. That's correct.

23 Q. Mr. O'Neill, I want to take you through the
24 signatures of these returns.

25 A. Yes.

1 Q. Exhibit Nine, the 1994 return. Do you
2 recognize the signature at the bottom of the page?

3 A. Signature attached.

4 Q. The second page it says, "Signature
5 attached." Is that right?

6 A. Right.

7 Q. But the third page, --

8 A. All I see, it says attached.

9 Q. -- is there a form that Mr. Yusuf signed?

10 A. Right. Saying your individual income tax --

11 Q. It says, "Your individual income tax return
12 filed for the Calendar Year 1994 was received in this
13 office without signature." Is that right?

14 A. That's right.

15 Q. And that was sent to Mr. Yusuf by the Virgin
16 Islands Internal Revenue Bureau?

17 A. That's correct.

18 Q. Do you recognize the signature?

19 A. Yes, I do.

20 Q. Would you look at the Exhibit Number Ten, the
21 1995 return of Mr. Yusuf.

22 Do you recognize his signature on the second page?

23 A. Yes, I do.

24 Q. Would you take a look at Exhibit Number 11,
25 the 1996 return.

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1 Do you recognize Mr. Yusuf's signature on the
2 second page?

3 A. I do.

4 Q. Take a look at Exhibit Number 12, the 1997
5 return.

6 Is that Mr. Yusuf's signature on the second page?

7 A. That's correct.

8 Q. Go to Exhibit Number 13. The 1998 return.

9 Is that Mr. Yusuf's signature on the second page?

10 Take a look at Exhibit Number 14, the 1999 return.

11 A. Yes.

12 Q. Mr. Yusuf's signature?

13 A. Right.

14 Q. Exhibit Number 15, the 2000 return.

15 Is that Mr. Yusuf's signature?

16 A. That's correct.

17 Q. And last, Exhibit Number 16, the 2001 return.

18 Do you recognize Mr. Yusuf's signature on the
19 second page?

20 A. Yes, I do.

21 Q. And 1994 through 2001. Mr. O'Neill, I want
22 to show you what has been marked as Exhibit Number 22.

23 Do you recognize that document?

24 A. Yes.

25 Q. What is that?

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1 A. This is an internal tax form, processing form
2 and guide sheet that we do in our office.

3 Q. Is that a document that you prepare and
4 maintain regularly in your office?

5 A. It will indicate who prepared the return,
6 the person who interviewed the client, the time spent,
7 the time to prepare to return and to review the return.
8 And then who input and compiled and made a copy of the
9 return.

10 This is a reminder for us internally to indicate
11 the time spent on the return and see who did the return.

12 Q. And at the bottom of Exhibit 22, under
13 Special Instructions?

14 A. It has -- I have a note. It says, my
15 handwriting, "Mr. Yusuf indicated he had no income during
16 1993."

17 Q. And did Mr. Yusuf, in fact, indicate to you
18 that he had no income during 1993?

19 A. Yes, sir. That's correct.

20 Q. Mr. O'Neill, who provided you the information
21 to prepare Mr. Yusuf's returns?

22 A. Most of the time it was done by the
23 comptroller, also, at the store. Irvin.

24 Q. Mr. Irvin?

25 A. Yes. He had all the information. Since he's

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1 the one responsible to do, at the end of the year, the
2 W-2's, he would send it to our attention.

3 Q. Did you also talk to Mr. Yusuf about his
4 returns?

5 A. Yes.

6 Q. Mr. O'Neill, did you report all of the income
7 of which you were aware on Mr. Yusuf's income tax returns?

8 A. Yes.

9 Q. Did Mr. Yusuf ever tell you that he had a
10 foreign bank account?

11 A. Honestly, I don't recall.

12 Q. Did you ever file a form for Mr. Yusuf with
13 the Government indicating he had a foreign bank account?

14 A. I don't think so.

15 Q. If Mr. Yusuf had told you that he had a
16 foreign bank account, would you have filed a form with the
17 Government?

18 A. Yes. He will have to file it himself because
19 he had to sign it. But at least we would have to prepare
20 it for him.

21 Q. Would you have prepared it for him to sign?

22 A. That's correct.

23 Q. But you didn't; is that right?

24 A. We didn't.

25 Q. Specifically, Mr. O'Neill, I want to point

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1 out to you Exhibit 14, Schedule B, and at the bottom of
2 that, line 7, it says, "At any time during 1999 did you
3 have an interest in or signature or other authority over a
4 financial account in a foreign country, such as a bank?"

5 Is that right?

6 A. That's correct.

7 Q. And there's -- then there's a box -- the box
8 for a "no"; isn't that right?

9 A. That's right.

10 Q. And there's nothing indicated in either box?

11 A. That's correct.

12 Q. And why is that? Just blew it there?

13 A. That's right.

14 Q. Mr. O'Neill, I just want to show you Exhibits
15 Numbers 17, 18, 19, 20, and 21.

16 Are those forms 1040-SS --

17 A. 1040-SS --

18 Q. -- in Mr. Yusuf's name; is that right?

19 A. That is correct. 1994, '95, '96, '97,
20 and '98.

21 Q. And you prepared the 1040-SS's for Mr. Yusuf;
22 is that right?

23 A. That's correct.

24 Q. Okay. Mr. O'Neill, I want to show you, also,
25 Exhibit Number 23.

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1 Is that your handwriting?

2 A. That's right.

3 Q. And that document was maintained in
4 Mr. Yusuf's tax file; is that right?

5 A. That's correct.

6 Q. And that was maintained in the regular course
7 of business?

8 A. That's correct.

9 Q. Okay, could you read that to the Grand Jury,
10 please?

11 A. Yes. [Reading:]

12 Per the telephone conversation with Mr. Fati
13 Yusuf, the company paid on his behalf American
14 Express in the amount of \$21,846.94 for the
15 1996. This should have been shown as
16 compensation, additional compensation for
17 Mr. Yusuf and not repayment of loan.

18 Pablo O'Neill, 33197

19 Q. Did you actually have that conversation with
20 Mr. Yusuf?

21 A. Exactly.

22 Q. And if you look at Mr. Yusuf's 1996 return,
23 on line 21 it says, "United Corp. bonus, \$21,847." Is
24 that right?

25 A. That's correct.

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1 Q. And that's consistent with your conversation
2 with Mr. Yusuf?

3 A. That's correct.

4 Q. Mr. Yusuf didn't tell you that he received
5 any other money that year; is that right?

6 A. That's right. No, no.

7 Q. If he did, you would have reported it?

8 A. I would have reported it, yes.

9 Q. And that bonus, also, was reported on the
10 1040-SS; is that right?

11 A. That's correct.

12 Q. And that bonus was reported there because
13 there were no social security taxes withheld?

14 A. That's correct.

15 Q. And did you discuss with Mr. Yusuf the reason
16 that this had to be reported to the IRS?

17 A. Yes, I did.

18 Q. Would you tell the Grand Jury about that
19 discussion?

20 A. I indicated that this payment was additional
21 compensation, that you have been subject to
22 self-employment taxes or social security tax. The fact
23 that they didn't -- because there are taxes, then he has
24 to file the Form 1040-SS and pay this tax on those monies
25 he received.

1 Q. Did you explain that had to be paid to the
2 IRS?

3 A. That's correct, yes. I indicated to him it
4 was tax. It was supposed to have been filed with the
5 Internal Revenue Service in Philadelphia, and the amount
6 of the tax, \$3,092 which was 15.3 percent of the amount
7 received.

8 Q. Okay. Mr. O'Neill, I want to show you
9 what has been marked as Exhibit Number 24.

10 And that's a note from Mr. Irvin; is that right?

11 A. That's correct.

12 Q. Dated April 2nd, 1998, and that was a note
13 that your firm maintained in the regular course of
14 business?

15 A. Right.

16 Q. And that note you relied on to prepare
17 Mr. Yusuf's tax returns; is that right?

18 A. Correct.

19 Q. Would you tell the Grand Jury what that note
20 says?

21 A. Note dated 4/2/98. April 2nd, '98. It says,
22 "Pablo, Fati Yusuf bonus, \$35,859.91." And down below
23 that, "Irvin, Comptroller."

24 So that's the amount that we used to include
25 additional income from Mr. Yusuf's return for that year

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1 which was in '97.

2 Q. So if you look at his return for 1997,
3 Exhibit 12, on line 21 where it says, "Other Income," it
4 says, "United Corp. Bonus, \$35,860"; is that right?

5 A. That's correct.

6 Q. And that's the amount on the note from
7 Mr. Irvin?

8 A. That's correct. I prepared the 1040-SS.

9 Q. And that's the same amount, also, on
10 the 1040-SS?

11 A. That's correct.

12 Q. That's Exhibit 20; is that right?

13 A. That's right.

14 Q. I show you Exhibits 25 and 26.

15 Exhibit 26 contains a note from Mr. Irvin, again;
16 is that right?

17 A. That's correct.

18 Q. [Reading:] "Mr. Pablo, please process and
19 file ASAP. Thanks, Ben." Is that right?

20 A. That's correct.

21 Q. Did Mr. Irvin give you that note?

22 A. Yes.

23 Q. And were both Exhibits 25 and 26 provided to
24 you from Mr. Irvin?

25 A. That's correct.

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1 Q. And those are maintained by your firm in the
2 regular course of business?

3 A. That's correct.

4 Q. And you relied on those documents to prepare
5 Mr. -- as we saw on the exhibit?

6 A. That's correct.

7 Q. And the right-hand side, Exhibit 26, says,
8 "Fati Yusuf, 1998 bonus," and the total is \$12,190.07; is
9 that right?

10 A. That's correct.

11 Q. And if you look at Mr. Yusuf's 1998 tax
12 return under "Other Income," it says \$12,191; is that
13 right?

14 A. Correct.

15 Q. Is that the same amount that was reported on
16 the 1040-SS for 1998, Exhibit Number 21?

17 A. Right.

18 Q. You weren't informed of any other bonus
19 income for Mr. Yusuf; is that right?

20 A. That's right.

21 Q. Exhibit Number 25 which adds up those
22 numbers, starting with the \$12,191 says, "Fati Yusuf,
23 Platinum Card," and states the VISA on there; is that
24 right?

25 A. That's correct.

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1 Q. And did you understand that to mean that the
2 corporation had paid his credit cards?

3 A. That's correct.

4 Q. And you had explained to Mr. Yusuf that if
5 the corporation gives you money you need to report that as
6 income; is that right?

7 A. That's right.

8 Q. Did you ever discuss with Mr. Irvin the fact
9 that Mr. Yusuf used corporate money for his own benefit?

10 Did you discuss with Mr. Irvin how to treat that?

11 A. Yes.

12 Q. Could you tell the Grand Jury about that
13 discussion?

14 A. Yes. Well, any amount paid on his behalf, to
15 have been not charged to expense, but rather as a loan
16 from the shareholders.

17 And I was told that that was income paid to him and
18 should have been reported on his personal income.

19 Q. As income?

20 A. As income.

21 Q. Not as a loan; is that right?

22 A. Not as a loan, no.

23 Q. Mr. O'Neill, I want to show you what has been
24 marked as Exhibits Numbers 27, 28 and 29.

25 Exhibit Number 27 is a letter from the IRS in

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1 Philadelphia to Mr. Yusuf; is that right?

2 A. Right.

3 Q. And that relates to a 1040-SS for 1994?

4 And the letter indicates that we have no record
5 that they had received a tax return for the period of
6 1994; is that right?

7 A. That's correct.

8 Q. And Mr. Yusuf gave you this letter after he
9 received it?

10 A. Yes.

11 Q. Exhibit Number 25 is a letter from you to the
12 IRS; is that right?

13 A. That's correct.

14 Q. And that also relates to the 1040-SS for
15 1994?

16 A. That's correct.

17 Q. And you indicated to the IRS that that amount
18 was paid; is that right?

19 A. That's correct.

20 Q. And you enclosed copies of the payment?

21 A. That's correct.

22 Q. And the next exhibit, Exhibit Number 29 are
23 additional correspondence with the IRS; is that right?

24 A. That's correct.

25 Q. And those documents you maintained in the

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1 regular course of business in Mr. Yusuf's tax file?

2 A. That's correct.

3 Q. And, Mr. O'Neill, did you discuss these
4 letters from the IRS with Mr. Yusuf?

5 A. Yes.

6 Q. Did he ask you why he was receiving letters
7 from the IRS when he files his income tax returns with the
8 Virgin Islands?

9 A. Yes.

10 Q. And, again, did you explain to him --

11 A. I explained to him that it was -- they told
12 us the self-employment taxes, that must be paid to the
13 Internal Revenue Service.

14 Q. So based on your conversation, Mr. Yusuf
15 understood that he had to pay his social security taxes to
16 the IRS; is that right?

17 A. That's correct.

18 Q. And he understood that he paid his income
19 taxes to the Virgin Islands?

20 A. That's correct.

21 MR. PAUZE: Mr. O'Neill, if
22 you need to take a break at any time, just let me know,
23 and we can take a break.

24 [Short break]

25 [After the break]

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1 BY MR. PAUZE:

2 Q. Mr. O'Neill, you understand you're still
3 under oath?

4 A. Yes, I do.

5 Q. Mr. O'Neill, do you currently prepare the
6 income tax for Wally Hamed?

7 A. Yes, we do.

8 Q. Has your firm prepared his income tax returns
9 for some years?

10 A. Yes.

11 Q. I show you Exhibits 27 through 34. We're
12 going to make them 27 A, 28 A, and 29 A.

13 Those are Mr. Wally Hamed's returns, 1994 to 2001?

14 A. Yes.

15 Q. And they were prepared by your firm; is that
16 right?

17 A. Yes.

18 Q. Mr. O'Neill, I want to go through 27 A, 1994,
19 of Wally Hamed, and I ask you to go through each of these
20 returns, and identify whether or not Mr. Wally Hamed
21 signed them?

22 A. Yes, it is.

23 Q. Exhibit 27 A, Mr. Wally's signature?

24 A. That's correct.

25 Q. Exhibit 28 A, 1995 return?

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1 A. Yes, it is.

2 Q. And Exhibit Number 29 A, 1996 return, the
3 signature on the second page?

4 A. Yes, it is.

5 Q. Exhibit Number 30, the 1997 return?

6 A. Yes, it is.

7 Q. And Exhibit 31, the 1998 return?

8 A. Yes.

9 Q. Exhibit 32, the 1990 return.

10 That was the one that -- is that his signature on
11 the second page?

12 A. That is correct. Yes.

13 Q. Exhibit 33, the 2000 return?

14 A. Yes, it is.

15 Q. And Exhibit 34, the 2001 return?

16 A. Yes, it is.

17 Q. Each of those returns bears the signature of
18 Wally Hamed?

19 A. That's correct.

20 Q. Mr. O'Neill, who provided you the information
21 to prepare those returns?

22 A. Mr. Wally Hamed.

23 Q. And did you record on those returns all of
24 the income of which you were aware that Mr. Wally Hamed
25 had?



1 A. That's correct.

2 Q. Did Wally Hamed ever inform you that he had a
3 foreign bank account?

4 A. Not to the best of my recollection.

5 Q. If he had informed you that he had a foreign
6 bank account, you would have filed a Schedule B with those
7 returns; is that right?

8 A. That's correct.

9 Q. You also would have prepared for his
10 signature a form to file with the Treasury Department?

11 A. That's correct.

12 Q. Showing you, just to run through the total
13 income for Wally Hamed for each of these years.

14 For 1994 the total income is about \$13,200?

15 A. Net amount.

16 Q. Is that right?

17 A. Yes.

18 Q. Total income?

19 A. Total income. I've just been noticing it's
20 the total income. Yes.

21 Q. For 1995 --

22 A. \$28,972.

23 Q. -- he reports wages from United of \$9,300?

24 A. That's correct.

25 Q. For 1996 Mr. Hamed reported \$15,000 in wages,

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1 and total income of \$27,592?

2 A. That's correct.

3 Q. In 1997, Exhibit 30, Mr. Hamed reported
4 \$18,500 from wages from United and \$23,825 in total
5 income?

6 A. That's correct.

7 Q. 1998, Exhibit 31, Mr. Hamed reported \$18,900
8 in wages from United; is that right?

9 A. That's right.

10 Q. Total income of \$25,598?

11 A. That's correct.

12 Q. 1999, Mr. Hamed reported wages of \$25,050?

13 A. That's right.

14 Q. For the Year 2000, Exhibit 33, he reported
15 \$33,800 in wages?

16 A. That's correct.

17 Q. And for 2001, Exhibit 34, he reported
18 \$35,600?

19 A. That's correct.

20 Q. Now, Mr. O'Neill, during this time you
21 understood that Wally Hamed was the manager for the United
22 Corporation and Plaza Extra Supermarket in St. Croix; is
23 that right?

24 A. That's right.

25 Q. And did there come a time when you informed

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1 Mr. Wally Hamed that, in your opinion, the income that he
2 was reporting from United was low in relation to his
3 responsibility at the store?

4 A. Yes, I did.

5 Q. Were you worried that he wasn't reporting all
6 of his income?

7 A. Well, he said that, well, when they gave me
8 there were only two. There's only two he provided me that
9 was his paycheck.

10 Q. And did he respond to you when you raised
11 this issue, in that he was working on a compensation
12 package that included a percentage ownership of the
13 business?

14 A. That's correct.

15 Q. Did he tell you that he receives money in
16 addition to what he told you before?

17 A. No, not to my recollection.

18 Q. So you'd recall if he told you that he had
19 income and he didn't report it; is that right?

20 A. I would have to put it in, right.

21 Q. Mr. O'Neill, I want to show you Exhibits 34 A
22 and 34 B.

23 Is that a personal financial statement of Wally
24 Hamed?

25 A. Right.

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1 Q. Was that prepared by your firm?

2 A. That's right.

3 Q. Dated June 30th, 1992?

4 A. It is.

5 Q. Is that based on information that Wally Hamed
6 provided to your firm?

7 A. That's correct.

8 Q. And was that document maintained by your firm
9 in the regular course of business?

10 A. It's not maintained. It was prepared at one
11 time as requested by --

12 Q. Prepared for Mr. Wally Hamed?

13 A. Yes.

14 Q. How about the next exhibit, Exhibit 34 B?
15 Was that prepared by your firm?

16 A. No, it wasn't.

17 Q. I'm sorry?

18 A. No, it wasn't.

19 Q. It was not?

20 A. No.

21 Q. Is that -- the initials in the bottom right
22 corner of 34 B, are those Mr. Wally Hamed's initials?

23 A. It seems to be.

24 Q. Yes?

25 A. Yes.

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1 Q. Do you recognize his handwriting?

2 A. Very much. But I don't recognize the form.

3 Q. But your firm prepared Exhibit 34 A?

4 A. 34 A.

5 Q. And that was based on information from
6 Mr. Wally Hamed?

7 A. That's correct.

8 Q. Mr. O'Neill, you've also prepared returns for
9 other members of the Yusuf Family; is that right?

10 A. That's right.

11 Q. Specifically for Fati Yusuf's children; is
12 that right?

13 A. That's correct.

14 Q. Who provided you the information to prepare
15 those returns?

16 A. Again, Mr. Ben Irvin, through the company,
17 United Corporation.

18 Q. And did you begin preparing the returns of
19 the other members of the Yusuf Family after United
20 Corporation became a Subchapter S Corporation?

21 A. That's correct.

22 Q. And after United Corporation became a
23 Subchapter S Corporation the individual shareholders were
24 responsible for the taxes as they flowed through United;
25 is that right?

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1 A. That's correct. The profits from United.

2 Q. So after United became a Subchapter S
3 Corporation, if United failed to report all of its income,
4 then the separate shareholders would have underpaid taxes;
5 is that right?

6 A. That's right.

7 Q. Mr. O'Neill, did you also prepare income tax
8 returns for other corporations of which Mr. Yusuf and
9 members of the Hamed Family were owners?

10 A. Yes, we did.

11 Q. Did one of those corporations include
12 Pleasant Enterprises, Inc.?

13 A. Right. That's correct.

14 Q. Could you explain to the Grand Jury what
15 business Pleasant was involved in?

16 A. Pleasant Enterprises was involved in the real
17 estate. They had purchased land, and eventually their
18 part of that land was used to build one of the Plaza Extra
19 stores in the west end.

20 Q. In St. Croix?

21 A. St. Croix.

22 Q. And to your knowledge, was that owned equally
23 by the Yusuf and the Hamed families?

24 A. I would believe that's so.

25 Q. And did you deal with Mr. Yusuf, Wally Hamed

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1 and Mr. Irvin regarding this corporation?

2 A. That's correct.

3 Q. I show you Exhibits 35 through 40.

4 Are those exhibits the income tax returns for
5 Pleasant Enterprises, Inc. for 1995 through Year 2000?

6 A. Yes, they are.

7 Q. And were those income tax returns prepared by
8 your firm?

9 A. Yes, they were.

10 Q. Mr. O'Neill, who provided you the information
11 which you needed to prepare those returns?

12 A. Wally Hamed and Mr. Yusuf.

13 Q. Did Mr. Irvin, also, provide you with
14 information?

15 A. Yes, for some years.

16 Q. Mr. O'Neill, I'm giving you Exhibit Number
17 35, which is a 1995 return. If you look at Schedule L of
18 the balance sheet it shows on line 19 Loans from
19 Shareholders of approximately \$1.5 million; is that right?

20 A. That's right.

21 Q. And each of these returns has a line for
22 loans to shareholders; is that right?

23 A. That's right.

24 Q. I'm sorry. Loans from shareholders?

25 A. Yes.

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1 Q. And you were provided the information about
2 loans from shareholders from the individuals that you
3 mentioned earlier?

4 A. That's correct.

5 Q. Mr. Yusuf, Wally Hamed and Mr. Irvin?

6 A. Right.

7 Q. I show you Exhibits 42 and 43.

8 Exhibit 42 is a schedule entitled Pleasant
9 Enterprises, Inc.; is that right?

10 A. That's right.

11 Q. And it says, "WTB." Is that Working Trial
12 Balance?

13 A. Working Trial Balance. That's right.

14 Q. December 31, 1998?

15 A. That's correct.

16 Q. And that shows, among other things, Beginning
17 Balance, Transaction, Adjustments, and Ending Balance.
18 For Cash and Loans, SH; is that right?

19 A. Yes.

20 Q. And loans from shareholders?

21 A. Right.

22 Q. And on the second page there's a bank
23 reconciliation for Pleasant Enterprises, Inc.; is that
24 right?

25 A. That's right.

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1 Q. And on the left-hand side of the second page,
2 there's an adding page that says Deposits and there are a
3 list of numbers and a total at the bottom?

4 A. That's right.

5 Q. Do you understand that to be deposits into
6 the Pleasant's account?

7 A. That's correct.

8 Q. And that total at the bottom of deposits is
9 \$52,500?

10 A. That's correct.

11 Q. And the working trial balance there shows
12 cash of \$52,500; is that right?

13 A. That's correct.

14 Q. And those deposits are treated as loans --

15 A. Loans from the shareholder.

16 Q. -- loans from the shareholder?

17 A. Right.

18 Q. Who informed you that -- let me ask you a
19 different way.

20 Were you informed that all deposits in the Pleasant
21 account were loans from shareholders?

22 A. Yes. Because they declared they were not
23 doing any business, and that they had no income. It was
24 only holding real estate. So any monies coming in had to
25 be from the shareholders.

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1 Q. And did Wally Hamed and Mr. Yusuf indicate to
2 you that those deposits were loans from shareholders?

3 A. Right.

4 Q. Did they indicate to you that they were loans
5 from themselves, from Mr. Yusuf and Wally Hamed?

6 A. That's right.

7 Q. Exhibit 43 shows bank statements along with
8 canceled checks involving Pleasant's account; is that
9 right?

10 A. Right.

11 Q. And you would record the loans from the
12 shareholders from these schedules off the tax returns?

13 A. Correct.

14 Q. I show you Exhibits 44 and 45.

15 Have you had an opportunity to look at Exhibits 44
16 and 45?

17 A. Yes, I did.

18 Q. Exhibit 44 is another chart that says
19 Pleasant Enterprises, Inc.; is that right?

20 A. Right.

21 Q. Working Trial Balance, December 31, 1999?

22 A. That's correct.

23 Q. And it says Cash, \$671,500; is that right?

24 A. That's right.

25 Q. Do you understand it to be cash deposits into

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1 Pleasant's account?

2 A. That's correct.

3 Q. And those deposits were treated as loans from
4 shareholders; is that right?

5 A. That's correct.

6 Q. Exhibit Number 45 includes bank statements of
7 Pleasant?

8 A. That's correct.

9 Q. And those show a number of deposits; is that
10 right?

11 A. Correct.

12 Q. And the first page of Exhibit 45 those
13 deposits are tallied, and that comes up to \$671,500; is
14 that right?

15 A. Correct.

16 Q. And you testified previously you were told by
17 Mr. Yusuf and Mr. Wally Hamed that those deposits were
18 loans from them to Pleasant; is that right?

19 A. That's correct.

20 Q. Just on that first page, Mr. O'Neill, shows
21 deposits in January of 1999; is that right?

22 A. Right.

23 Q. There were approximately a dozen deposits in
24 that month?

25 A. Right.

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1 Q. And whatever change in the loans from the
2 shareholders, you would have recorded on to the income tax
3 returns; is that right?

4 A. That's right.

5 Q. Mr. O'Neill, next to \$671,500 under Loans
6 From Shareholders, there's another number?

7 A. \$51,344.

8 Q. And that's under Adjustments; is that right?

9 A. Right.

10 Q. Do you know what that number represents?

11 A. I don't have the work papers with me. It's
12 in reference to one. Could be an adjusting entry.

13 One million. Set 79 from 1.9. Four million, two
14 ninety-three, forty-four. It's a credit.

15 That's an adjustment for a transaction there. In
16 the right side it says, "Due to United Corporation."

17 So that could be the adjustment regarding the place
18 where the United Corporation Shopping Center in the west
19 was built. The source of land used for that.

20 Q. Did Mr. Yusuf indicate to you where, from
21 where he received the monies, made these deposits?

22 A. No. Well, one time he said his brother lent
23 him some money. I believe that was at the beginning. Up
24 to the last time I don't know.

25 At one time at the beginning he had indicated that

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1 he had received a loan from his brother. That was when he
2 first bought the land. But thereafter there were more of
3 these deposits. So those are involved in -- only as
4 stockholders.

5 Q. Mr. O'Neill, I want to show you what has been
6 marked as Exhibit 46.

7 Another schedule, Working Trial Balance, for
8 December 31, 2000; is that right?

9 A. That's correct.

10 Q. Was that provided to you by either Mr. Irvin,
11 Wally Hamed or Mr. Fati Yusuf?

12 A. That's correct. Yes, Mr. Irvin provided
13 this.

14 Q. Did Mr. Irvin provide you with these
15 schedules?

16 A. Yes? He told me to have, you know, summarize
17 them.

18 Q. Oh, you could have summarized them?

19 A. Right. The staff. I don't have the work
20 papers with me.

21 I don't know if it was actually done by us or by
22 Mr. Ben Irvin. Sometimes at the end he was doing the
23 summary so I'm not sure.

24 Q. If your office prepared these summaries, you
25 received the information, the bank statements from Wally

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1 Hamed, Fati Yusuf or Ben Irvin?

2 A. That's correct.

3 Q. Mr. O'Neill, at some point Pleasant was
4 audited by the Virgin Islands Bureau of Internal Revenue;
5 is that right?

6 A. That's correct.

7 Q. It would have been approximately the Year
8 2000; is that right?

9 A. That's correct.

10 Q. I show you Exhibits 46 through 48.

11 First, Exhibit Number 46. Is that a letter from
12 the Internal Revenue Bureau to Pleasant Enterprises
13 informing them of the audit?

14 A. That's correct.

15 Q. Let's stick with Exhibit 46 for a minute.
16 The letter says [reading]:

17 Dear Taxpayer:

18 Your 1997, 11/20, past tax return has been
19 selected for audit, and the following is needed:
20 Loans from shareholders, written loan agreements
21 showing stated interest.

22 Is that right?

23 A. That's right.

24 Q. And below that there's some handwriting. It
25 says, "Met with Gale"? Is that correct?

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1 A. That's right.

2 Q. As provided by --

3 A. It only goes to [phon.] -- and land mortgage
4 purchases. Includes those.

5 Q. Do you know whose handwriting that is?

6 A. Yes. That was from Teresa Collingwood.

7 Q. How do you spell that?

8 A. C-o-l-l-i-n-g-w-o-o-d.

9 Q. And was that a document you maintained in
10 your file?

11 A. Yes, because it was the corporation. From
12 our work papers and the land mortgage purchase, whatever
13 we had, we provided them. Again, it was crucial.

14 Q. This letter from the Virgin Islands Internal
15 Revenue Bureau, do you remember who gave that to you?

16 A. Probably Mr. Yusuf or Ben Irvin. Either
17 Yusuf, Ben Irvin, or Wally Hamed.

18 Q. And someone from your office met with the
19 Revenue Agent, Miss Gale Johnson Hamilton?

20 A. Right.

21 Q. And Exhibit Number 47, it looks like a draft
22 of the letter to the Revenue Agent Miss Johnson Hamilton;
23 is that right?

24 A. Right.

25 Q. Do you know who drafted that?

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1 A. That would be the same person, Teresa, from
2 our office.

3 Q. Could you read that for the Grand Jury,
4 please?

5 A. [Reading:]

6 Dear Mrs. Johnson Hamilton:

7 Per our telephone conversation of November 14,
8 2000 relative to the shareholder loans and the
9 stated interest, as I have stated, there is a
10 classification that so far these loans to
11 additional petty capital cannot be arbitrarily
12 done.

13 The intent of the shareholders is given utmost
14 consideration. Hence, a reclassification is not
15 reasonable under these income taxes. It is
16 permitted that a shareholder provide a
17 corporation a loan without imputed interest.
18 The effect is a deduction on the corporate
19 return, and income to the shareholders, a simple
20 wash.

21 Most of these corporations are S corporations.

22 The taxpayer, shareholder can be able to record
23 interest only when received.

24 And she was quoting that Section on Relation

25 161-7.

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1 Q. So, Mr. O'Neill, was the issue of the audit
2 of these shareholder loans that were provided from
3 Mr. Yusuf and Wally Hamed to Pleasant?

4 A. Yes, it was.

5 Q. Can you look at Exhibit 48?

6 Is that a letter from Ms. Collingwood of your
7 office to Mr. Yusuf?

8 A. That's correct.

9 Q. And in the letter Ms. Collingwood from your
10 office indicated to Mr. Yusuf that the main concern of the
11 auditor relates to the fact that we do not have any
12 stockholder loan agreements between Pleasant Enterprises,
13 Inc. and the stockholders for the proceeds you need to
14 purchase the land investment included on Pleasant
15 Enterprises, Inc.'s inventory; is that correct?

16 A. That's correct.

17 Q. And Ms. Collingwood continues to say there
18 should be some documentation in place to validate this
19 transaction in the form of a signed promissory note, et
20 cetera; is that right?

21 A. That's correct.

22 Q. And she goes on to request that your office
23 be provided with those loan agreements?

24 A. That's correct.

25 Q. Were you ever provided those loan agreements?

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1 A. Not to the best of my recollection.

2 Q. Mr. O'Neill, did you also provide services
3 for a corporation called 16 Plus Corporation?

4 A. Yes, we did.

5 Q. And could you explain to the Grand Jury what
6 business 16 Plus Corporation was involved in?

7 A. Well, it was involved in the purchase of real
8 estate. At one point they set up this company to buy the
9 gas stations in St. Croix that were for sale. One, I
10 think it was the Shell, and the corporation was set up to
11 buy these different gas stations.

12 Q. And did the corporation ever purchase those
13 gas stations?

14 A. They just put the deposit but the transaction
15 was never consummated.

16 Q. So 16 Plus never purchased gas stations?

17 A. Never.

18 Q. So they just used it to hold real estate; is
19 that right?

20 A. Yes.

21 Q. And who were the owners of 16 Plus
22 Corporation, to the best of your knowledge?

23 A. It was Yusuf and Hamed.

24 Q. Let me show you Exhibits 46 through 48.

25 Are those the 1998 through 2000 income tax returns

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1 of 16 Plus Corporation?

2 A. That's correct. Yes, they are.

3 Q. Were those prepared by your office?

4 A. Yes, they were.

5 Q. That first exhibit is going to be 46. 47 B
6 and 48 B.

7 Mr. O'Neill, did you also prepare annual reports
8 for 16 Plus Corporation, your firm prepare those reports?

9 A. I believe so.

10 Q. Let me show you Exhibits 49 through 52.

11 Are those annual reports that were prepared by your
12 office?

13 A. Yes, they were.

14 Q. I show you Exhibit 53.

15 Is that a schedule labeled 16 Plus Corporation,
16 Working Trial Balance, December 31, 1998?

17 A. Right.

18 Q. And was that either provided to you from
19 Mr. Yusuf, Mr. Hamed or Mr. Irvin or prepared in your
20 office?

21 A. Yes, based on information.

22 Q. And attached to the second page of Exhibit 53
23 is another schedule; is that right?

24 A. Right.

25 Q. And the next page is a bank reconciliation?

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1 A. Correct.

2 Q. Who prepared the bank reconciliation?

3 A. It was prepared by Mr. Hamed and Mr. Ben
4 Irvin.

5 Q. Mr. Irvin provided you the bank
6 reconciliation?

7 A. Right.

8 Q. On the first page of Exhibit 53, under Cash,
9 it says, "Transaction, \$99,500"; is that right?

10 A. Yes.

11 Q. And those amounts are considered to be loans
12 from the shareholders; is that right?

13 A. That's correct.

14 Q. Let me show you Exhibit 54.

15 That's another Working Trial Balance from 16 Plus;
16 is that right?

17 A. That's correct.

18 Q. And attached to that is a second page of a
19 list. It says 16 Plus Corporation and a list of checks
20 totaling \$96,159?

21 A. Right.

22 Q. And attached to that there are various bank
23 statements of 16 Plus Corporation?

24 A. Yes.

25 Q. And under Cash, \$186,000. That's listed

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1 under "Due from Shareholders"; is that right?

2 A. Yes, that's correct.

3 Q. Now, if those are deposits from the
4 shareholders, that should be "Due To Shareholders,"
5 correct?

6 A. Yes. But that's how usually it's called "Due
7 To, From." Same word.

8 Q. Okay, so it's just -- even though they have
9 to do "From Shareholders" that there was a balance in it.
10 It may require actual payment to the shareholders; is that
11 right?

12 A. That's correct.

13 Q. Were you informed that deposits into the
14 account of 16 Plus were loans from the shareholders?

15 A. Yes, I was.

16 Q. And who informed you of that?

17 A. I think Mr. Hamed and maybe Irvin or
18 Mr. Yusuf.

19 Q. In other words, the deposits into 16 Plus
20 were to be treated the same way as the deposits into the
21 account of Pleasant; is that right?

22 A. That's right.

23 Q. Were you told from which shareholders those
24 deposits were made?

25 A. No, I wasn't.

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1 Q. Mr. O'Neill, did you also prepare income tax
2 returns for a company called Peter's Farm Investment
3 Corporation?

4 A. Yes.

5 Q. And was that also a corporation that was
6 owned by members of the Yusuf and the Hamed Family?

7 A. Yes.

8 Q. Was that also owned by an individual named
9 Yusuf Jaber?

10 A. Yes.

11 Q. Spelled J-a-b-e-r?

12 A. That's correct.

13 Q. Was he a partner in the corporation?

14 A. A type of partner.

15 Q. He was a part owner; is that right?

16 A. A part owner, yes.

17 Q. And what type of business was Peter's Farm
18 Investment Corporation?

19 A. Real estate.

20 Q. I show you Exhibits 56 through 61.
21 Those are returns for Peter's Farm for 1995 to
22 2000?

23 A. Yes, they are.

24 Q. Were those prepared by your office?

25 A. Yes, they were.

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1 Q. Mr. O'Neill, regarding deposits into the
2 account of Peter's Farm, were you informed that those
3 deposits also should be treated as loans from
4 shareholders?

5 A. Yes, I was.

6 Q. And, again, was it either Mr. Yusuf, Wally
7 Hamed or Mr. Irvin who provided you with that information?

8 A. That's correct.

9 Q. Mr. O'Neill, I want to show you Exhibits 62
10 and 63.

11 Exhibit 62 is a letter from you to Mr. Becks is
12 that right?

13 A. Right.

14 Q. And Exhibit 63 is a draft of a sale
15 agreement; is that right?

16 A. That's correct.

17 Q. And were you asked to look at that draft
18 agreement?

19 A. Yes, I was.

20 Q. And that involves the sale of the shares of
21 Mr. Yusuf and Wally Hamed or Mohamed Hamed to Mr. Jaber;
22 is that right?

23 A. That's correct.

24 Q. The first line of Exhibit 62, the letter, it
25 says, "As discussed, I reviewed the draft agreement which

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1 Messrs. Yusuf and Hamed are proposing to enter with
2 Mr. Jaber."

3 Is that right?

4 A. That's correct.

5 Q. And the next paragraph says, "Further,
6 Mr. Yusuf has indicated that there are loans due to both
7 him and Mr. Hamed in the amount of \$3 million"; is that
8 right?

9 A. That's right.

10 Q. Did Mr. Yusuf indicate to you that there were
11 loans to Peter's Farm from him and Mr. Hamed in the amount
12 of \$3 million?

13 A. Right.

14 Q. And those would be reflected as loans from
15 shareholders on the income tax returns; is that right?

16 A. That's correct.

17 Q. And were Exhibits 63 and 62 maintained in the
18 tax file for Peter's Farm?

19 A. Right.

20 Q. They were maintained by your office in the
21 regular course of business?

22 A. Yes.

23 Q. Mr. O'Neill, we're almost finished. I want
24 to talk to you just briefly about some reporting
25 requirements.

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1 Is it your understanding that banks are required to
2 file certain reports with the Federal Government involving
3 cash transactions of a certain amount?

4 A. Yes.

5 Q. That's more than \$10,000?

6 A. Yes.

7 Q. Did you discuss this requirement with
8 Mr. Yusuf?

9 A. I believe so.

10 Q. Did you also discuss this requirement with
11 Wally Hamed?

12 A. Yes.

13 Q. And you had numerous discussions with
14 Mr. Yusuf and Mr. Hamed about this requirement?

15 A. Right.

16 Q. And, Mr. O'Neill, did you have some of these
17 discussions before 1996?

18 A. Yes.

19 Q. Is it your understanding, also, Mr. O'Neill,
20 that if an individual takes currency out of the United
21 States to another country that they're required to file a
22 form with the Treasury Department?

23 A. Yes.

24 Q. Cash of more than \$10,000; is that right?

25 A. That's right.

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1 Q. Did you also discuss this requirement with
2 Fati Yusuf and Wally Hamed?

3 A. Yes, I have.

4 Q. And that was before 1996, among other times;
5 is that right?

6 A. That's right.

7 Q. Mr. O'Neill, how did this discussion come up?

8 A. Well, occasionally they might have a
9 question. Say well, probably they knew about it. Say
10 that they had to -- is that true that we have to file a
11 form? I say, I guess so.

12 And, as a matter of fact, when you leave the
13 country or the States, and you were in the United States,
14 and the form that you fill out with Customs indicates if
15 you are carrying cash of more than \$10,000 with you, then
16 you have to state it.

17 Q. Mr. O'Neill, to go back to the corporate
18 returns and the amount of sales that were reported on
19 those returns, you were informed by Mr. Yusuf on a number
20 of occasions that all sales were deposited into United's
21 bank accounts; is that right?

22 A. Except if there was an exception for -- an
23 exception to pay for an insurance.

24 Q. And that was on the occasion of the search
25 warrant; is that right?

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1 A. The search warrant. That's correct.

2 Q. And that was when several hundred thousand
3 dollars in cash was found in the St. Croix store; is that
4 right?

5 A. That's correct.

6 Q. And Mr. Yusuf told you, other than that time,
7 all sales are deposited; is that right?

8 A. That's correct.

9 Q. And Mr. Wally Hamed also told you that all
10 sales were deposited; is that right?

11 A. That's correct.

12 Q. And both Mr. Wally Hamed and Mr. Yusuf knew,
13 based on your conversations, that sales on the income tax
14 returns were reported as total deposits, right?

15 A. Right. That's true. Absolutely.

16 Q. Is that right, Mr. O'Neill?

17 A. Yes, yes.

18 MR. PAUZE: Mr. O'Neill, I
19 don't have any further questions for you at this time. If
20 you can just step outside for just one minute, we'd
21 appreciate it.

22 [Witness excused.]

23 [PABLO O'NEILL, Grand Jury Witness,
24 previously sworn, returned to the stand.]

25 MR. PAUZE: Mr. O'Neill, we

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1 have a few more questions for you.

2 FURTHER EXAMINATION

3 BY MR. PAUZE:

4 Q. Mr. O'Neill, first I want to talk to you
5 about the corporations Pleasant, 16 Plus, and Peter's
6 Farm.

7 You said that these corporations hold real estate;
8 is that right?

9 A. That's correct.

10 Q. Is that all these corporations do? They're
11 just there to hold real estate?

12 A. That's right.

13 Q. So, the real estate that these corporations
14 own, if you looked at the deeds of the real estate, it's
15 in the corporation's name; is that right?

16 A. Yes, that's right.

17 Q. And the corporations don't do anything else
18 other than hold these pieces of property?

19 A. Or sell them. Eventually sell the land for
20 investment purposes.

21 Q. And whatever loss or profit that --

22 A. They would report.

23 Q. -- would result from the purchase and sale of
24 this property is reported on these, on the corporate
25 income tax returns?

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1 A. That's correct.

2 Q. Mr. O'Neill, I want to ask you about some
3 issues relating to the individual income tax returns of
4 Wally Hamed and Mr. Yusuf.

5 First, when you were informed of charitable
6 contributions, were you given receipts for those
7 contributions, or were you provided with the total number
8 of charitable contributions?

9 A. I believe they gave both the amounts and the
10 receipts.

11 Q. So you would be provided with individual
12 receipts?

13 A. They should have been filed, yes.

14 Q. Would those be maintained in your file?

15 A. Should be maintained in the file. Copies --
16 at least copies of the receipts.

17 Q. Okay. Also, on Mr. Yusuf's returns show some
18 medical expense payment.

19 Do you know whether or not he had medical
20 insurance?

21 A. I believe they had but that was in excess. I
22 believe the daughter he had was ill. It exceeded the
23 insurance payments.

24 Q. So he had to pay those personally?

25 A. Yes.

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1 Q. And if Mr. Hamed, Wally Hamed and Mr. Yusuf
2 indicated to you that there were any losses that they had
3 before the United became a Subchapter S Corporation, what
4 information would they provide to you to substantiate
5 those losses?

6 A. Losses on what? They had losses?

7 Q. Any losses?

8 A. Well, if they have these capital losses, they
9 will have to provide us with their cost of their stocks
10 owned and the selling price of, to determine the loss so
11 that we can see how much they carry out.

12 Q. And what if there was a loss from a business?

13 A. A business? Well, basically, information
14 about how their loss was incurred, which is the income or
15 expenses, what type of business, and the backup to
16 supporting the expenses.

17 Q. So they would have to provide you documents
18 that evidence any of --

19 A. Any of the losses.

20 Q. -- any losses.

21 You also testified that at some point Mr. Yusuf
22 mentioned that he received a loan from his brother, I
23 think initially, to purchase some property; is that right?

24 A. That's correct.

25 Q. Do you know the amount of that loan?

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1 A. I don't know.

2 Q. Do you know where his brother lives
3 currently?

4 A. I believe he passed. He died.

5 Q. In Palestine?

6 A. I believe so.

7 Q. You said he died?

8 A. Yes. Just a couple of weeks ago.

9 Q. Do you know his brother's name?

10 A. No, I don't recall.

11 Q. Mr. O'Neill, Wally Hamed currently lives in
12 St. Croix; is that right?

13 A. That's right.

14 Q. And he manages the St. Croix Plaza Extra?

15 A. Right.

16 Q. One of the two stores?

17 A. That's correct.

18 Q. And his brother is Willy Hamed; is that
19 right?

20 A. Yes.

21 Q. And Willy Hamed resides in St. Thomas; is
22 that right?

23 A. I believe so.

24 Q. And he manages the store in St. Thomas?

25 A. Yes, sir.

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1 Q. Mr. O'Neill, the corporate income tax returns
2 from United include income from all of the Plaza Extra
3 stores; is that right?

4 A. That's right.

5 Q. Both in St. Thomas and in St. Croix?

6 A. That's right.

7 Q. Mr. O'Neill, Mr. Yusuf has built a house
8 recently or is in the process of building a house; is that
9 right?

10 A. In St. Thomas.

11 Q. In St. Thomas.

12 And is Mr. Willy Hamed also building a house in
13 St. Thomas?

14 A. I don't know.

15 Q. You don't know?

16 A. I don't know.

17 Q. And you don't prepare Willy Hamed's income
18 tax returns; is that right?

19 A. No. I think we did one year.

20 Q. You did one year?

21 A. Yes.

22 Q. Okay, but that's it?

23 A. I believe so.

24 Q. Did you think that -- have you ever seen
25 Mr. Yusuf's -- the house that he's building?

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1 A. No. No, I haven't.

2 Q. So you don't know if it's a big house or a
3 small house?

4 A. Well, I think we've gone close to that house.
5 It's supposed to be a big house.

6 Q. Did you think that Mr. Yusuf's income was --
7 the income that he reports could finance that size of a
8 house?

9 A. Now I do.

10 Q. Now you do?

11 A. Yes.

12 Q. Since the Subchapter S; is that right?

13 A. Yes.

14 Q. But before that he wasn't making -- he wasn't
15 reporting nearly as much money; is that right?

16 A. Yes, that's right.

17 Q. Mr. O'Neill, did Mr. Yusuf ever inform you
18 that, whether or not he provides loans to other
19 individuals in the community?

20 A. No.

21 Q. He never, never indicated that he provides
22 loans to other individuals?

23 A. No.

24 Q. Did he ever ask you how to treat particular
25 loans for tax purposes?

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1 A. Well, basically, if it's a loan and he
2 charges interest, then that's taxable income, nothing
3 concrete.

4 Q. But did Mr. Yusuf ever ask you any questions
5 about how to treat loans?

6 A. Well, just if it's income or not. I told him
7 no, the payment back is not income. Just the interest.
8 If you charge interest, of course, that's taxable.

9 Q. Any other discussions you can remember?

10 A. No, I don't remember.

11 Q. Mr. O'Neill, after United became a Subchapter
12 S Corporation it's true, is it not, that the corporation
13 issued corporate checks to pay Mr. Yusuf's individual
14 income tax liability; is that right?

15 A. Yes, that's right.

16 Q. Do you know how the corporation treated those
17 checks?

18 A. They've been treated as distribution of
19 earnings from the S corporation.

20 Q. To the taxpayers?

21 A. To the taxpayers, yes.

22 Q. In this case, Mr. Yusuf?

23 A. That's right.

24 Q. Would a distribution of earnings like that be
25 taxable to Mr. Yusuf?

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1 A. No, it would not.

2 Q. And why is that?

3 A. Because he already included in income his
4 share of the profits of the corporation.

5 Q. So as long as the distribution of the
6 earnings was equal to or less than his share of the
7 profits that he had to report, then he doesn't have to pay
8 taxes; is that correct?

9 A. That's correct.

10 Q. But if it's more than what he reported as his
11 share of the profits, then he'd have to report that
12 additional amount; is that right?

13 A. Well, if there were loans from him to the
14 corporation, it could go against the loans that he had.
15 The difference against the loans. Or if he's in excess of
16 those loans, then it's going to be -- could be return of
17 capital.

18 Any excess of capital, then it's capital gains.
19 Type of a dividend.

20 Q. A type of dividend?

21 A. Right.

22 Q. Or it could be just compensation; is that
23 right?

24 A. It could be compensation, also.

25 Q. Did you keep track of the distribution of



1 earnings to Mr. Yusuf and the other members of his family
2 from United?

3 A. We should -- that's another issue. We'll get
4 the accountant I have talked to you about. All we need is
5 to break down all the information to see, to tell me if
6 he's exceeded or not.

7 Q. So in the past that's not something you kept
8 track of; is that right?

9 A. Well, we look into it to make sure that it
10 doesn't exceed.

11 Q. So you look into it to make sure that the
12 amount that Mr. Yusuf has received from earnings does not
13 exceed the amounts that --

14 A. His share of the income. That's right.

15 Q. His share of income. Okay.

16 And one last question, Mr. O'Neill, there was a
17 hurricane in about 1995; is that correct?

18 A. Yes.

19 Q. Do you know if United received any insurance
20 payments in connection with any damages that resulted from
21 that hurricane?

22 A. Yes, I believe they did.

23 Q. You believe they did?

24 Okay, and how would this appear on the tax return?

25 A. Well, first I have to determine what was the

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1 actual loss. His loss of inventories basically is a wash
2 because they're getting money to replace their inventory.

3 And there were damages to the building itself. I
4 know they were renting.

5 So only to, damages to the equipment so they have
6 to -- when they put the claim it goes against their
7 balance and the cost of those equipment. Remember when we
8 pay the same amount it will be basically about break even
9 and no income or loss.

10 Q. And if they break even, is there anything
11 reported on the income tax returns?

12 A. No.

13 MR. PAUZE: Mr. O'Neill, we
14 don't have any further questions at this time. Okay, I
15 think we have some questions.

16 Mr. O'Neill, if you could step outside just for one
17 minute.

18 [Witness excused.]

19 [PABLO O'NEILL, Grand Jury Witness, still
20 under oath, returned to the stand.]

21 MR. PAUZE: Mr. O'Neill, we
22 have a few more questions for you.

23 SECOND FURTHER EXAMINATION

24 BY MR. PAUZE:

25 Q. First, did Mr. Yusuf or Mr. Wally Hamed ever

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1 indicate to you that they -- whether or not they had
2 transferred funds to a foreign country?

3 A. No.

4 Q. Did Mr. Yusuf ever discuss with you any loans
5 or contributions or any other transfer of funds to an
6 organization called the Holy Land Foundation?

7 A. No.

8 Q. Has Mr. Yusuf or Wally or Willy Hamed ever
9 discussed with you any transfer of funds to any charitable
10 organization or any other organization in the Middle East?

11 A. I believe on occasion they had said they had
12 sent their contributions to the Holy Land, their leaders.

13 Q. And where was that?

14 A. Where?

15 Q. Yes?

16 A. Could have been in Palestine.

17 Q. And who did you have these discussions with?

18 A. Probably Mr. Hamed and Mr. Yusuf.

19 Q. Which -- which -- Willy Hamed or Wally Hamed?

20 A. Wally Hamed.

21 Q. Do you remember when these discussions were?

22 A. It was subsequent to when they left. When
23 they left they were going to Palestine.

24 Q. So it was after October of 2001?

25 A. Right.

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1 Q. After the search warrants were executed at
2 the stores?

3 A. Right.

4 Q. How far after that?

5 A. A few weeks.

6 Q. And could you explain to the Grand Jury the
7 substance of these discussions?

8 A. Well, basically, you know, I was concerned
9 because I guess he was targeted as a -- could have been as
10 a terrorist, so he was very concerned.

11 And he sort of told me that well, I'm an American
12 citizen. I will never go with a terrorist or make any
13 contribution to any terrorists outside of United States.
14 And we also -- because I will -- I couldn't even go
15 dealing with those types of transactions, I told him.

16 So he swore to me that he has nothing to do with
17 any payments or any contributions to any terrorist
18 organizations. The only thing, he has made contributions
19 to religious, charitable, for his church and, also, they
20 have made contributions for some computers and also the
21 schooling things on St. Croix.

22 Q. That's Mr. Yusuf you said that to; is that
23 right?

24 A. Yes.

25 Q. Did he describe to you the organizations, the

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1 religious and charitable organizations that he did provide
2 money to?

3 A. No.

4 Q. You said those organizations were in
5 Palestine?

6 A. To the best of my recollection, he said that.

7 Q. That's what he said to you?

8 A. That's what he said.

9 Q. So you told Mr. Yusuf that you wanted to
10 reassure yourself that he wasn't providing any funds to
11 organizations or groups that would be considered
12 terrorist; is that right?

13 A. That's right.

14 Q. And that's what he told you?

15 A. Yes.

16 Q. Did you have a similar conversation with
17 Wally Hamed?

18 A. Yes.

19 Q. And what did you say to Wally Hamed?

20 A. Well, the fact that he was involved in any
21 type of contributions to this. He assured me he has
22 nothing to do with it at all.

23 Q. With what?

24 A. With making any contributions to any
25 terrorist organization.

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1 Q. Did Wally Hamed indicate to you whether or
2 not he's made any contributions to any organizations in
3 the Middle East?

4 A. I don't think in the Middle East but in
5 St. Croix to the, I guess, Arabs. I guess they have a
6 group, church group in St. Croix. He has made
7 contributions to this group.

8 Q. So it's a mosque in St. Croix?

9 A. A mosque in St. Croix.

10 Q. Other than the mosque in St. Croix did
11 Mr. Wally Hamed indicate to you whether or not he'd given
12 to any other organizations in the Virgin Islands?

13 A. No.

14 Q. Other than the time after the search, did you
15 have any other conversations with Fati Yusuf or Wally
16 Hamed about whether or not they had made any contributions
17 to any groups that would be considered groups that support
18 terrorism?

19 A. No.

20 Q. When you had these conversations with
21 Mr. Yusuf and Mr. Hamed did you discuss whether or not, or
22 did you discuss how Mr. Yusuf transferred money to
23 Palestine to make contributions to these groups?

24 A. No, I didn't.

25 Q. Mr. O'Neill, I want to ask you about the

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1 Subchapter S requirement.

2 How can a corporation qualify as a Subchapter S
3 Corporation?

4 A. By being a small business corporation and
5 having less than 35 shareholders where it's here in the
6 Virgin Islands, and they consent to become, request and
7 consent by signing a form with the V.I. Bureau of Tax
8 within two and a half months of the beginning of the
9 taxable year.

10 Q. So if a corporation has approximately 35
11 or fewer employees?

12 A. Shareholders.

13 Q. Shareholders, I'm sorry. Shareholders. It
14 can qualify for Subchapter S treatment under the tax code;
15 is that right?

16 A. Right.

17 Q. And the shareholders have to file an election
18 with the Internal Revenue Bureau within a certain amount
19 of time after the beginning of the taxable year?

20 A. That's correct.

21 Q. So it doesn't matter how much income the
22 corporation has. As long it has 35 or so, or fewer
23 shareholders, it can be a Subchapter S Corporation?

24 A. That's correct.

25 Q. Mr. O'Neill, have you prepared individual

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1 returns of Wally Hamed and Fati Yusuf for 2002?

2 A. We did, and I submit for Mr. Yusuf, based on
3 the internal profits of the company and for the family, so
4 they can pay the estimates, and they would not be
5 penalized but we have not completed the form as yet.

6 We will not complete it until we finalize the
7 filing of the financial statements and the corporate
8 returns for United Corporation.

9 Q. So in order for you to calculate Mr. Fati
10 Yusuf's tax liability, you have to first --

11 A. Complete --

12 Q. -- complete the tax return of the
13 corporation; is that right?

14 A. Right. Of all the S corporations, yes.

15 Q. For the S corporations?

16 A. That's including --

17 Q. Including United and the other corporations
18 we talked about?

19 A. 16 Plus and Pleasant.

20 Q. And did you get an extension in which to file
21 those returns?

22 A. Yes, we did.

23 Q. Did you also get an extension to file
24 Mr. Yusuf's return?

25 A. Yes, we did.

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1 Q. Have you prepared the return of Wally Hamed
2 for 2002?

3 A. No. We filed an extension.

4 Q. So when are the individual returns of Wally
5 Hamed and Fati Yusuf due?

6 A. Supposed to as soon as -- well, Wally could
7 be done any time. But we have an extension until August
8 15th.

9 Q. Mr. O'Neill, are you aware of any donations
10 or other contributions that Mr. Yusuf or Wally Hamed have
11 made to organizations or groups here in the Virgin Islands
12 other than the contributions to the mosque that you
13 mentioned before?

14 A. Yes. They always cooperate with different
15 nonprofit entities like Caribbean Dance, the Chamber of
16 Commerce, Rotary Clubs. Since I've been working this, all
17 right, they always cooperate with them.

18 Q. They make contributions?

19 A. Yes.

20 Q. Anything else you can think of?

21 A. No. I know they cooperate with many of the
22 other different entities. They're good corporate
23 citizens.

24 All I can say he pays his bills timely. Excellent
25 client.

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1 MR. PAUZE: Mr. O'Neill, I
2 don't have any further questions.

3 Mr. Foreman, may he be excused?

4 GRAND JUROR: Just one question.

5 MR. PAUZE: One more question.

6 GRAND JUROR: May I pose it to
7 the witness?

8 MR. PAUZE: Please.

9 GRAND JUROR: And that is, after
10 Hurricane Georges there was a check in the amount of
11 \$236,000 for an insurance payment.

12 And that is, have you seen that?

13 Did you see any payment from an insurance company
14 to Fati's account?

15 THE WITNESS: Payment to the
16 corporation itself?

17 GRAND JUROR: Or have you seen
18 any payment from the insurance company, period?

19 THE WITNESS: Now it's the size
20 of building that they -- today based, you know, --

21 GRAND JUROR: Wouldn't you have
22 seen that since it's such a large amount?

23 THE WITNESS: Well, I believe it
24 should be a report that then we have to -- but I haven't
25 seen it.

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1 GRAND JUROR: You haven't seen
2 it?

3 Do you remember what was the payment for Hurricane
4 Marilyn?

5 THE WITNESS: No, I don't.

6 GRAND JUROR: Approximately?

7 Two hundred thousand, \$300,000, --

8 THE WITNESS: Could be four
9 million something.

10 GRAND JUROR: Huh?

11 THE WITNESS: I believe it's
12 more than that.

13 GRAND JUROR: How much?

14 THE WITNESS: Four or five.

15 GRAND JUROR: What?

16 THE WITNESS: Million.

17 GRAND JUROR: A million dollars?

18 And that was a wash?

19 THE WITNESS: Well, to the
20 extent of inventory --

21 GRAND JUROR: And the question
22 is, was that a wash? You mentioned it was a wash.

23 THE WITNESS: Well, it could be
24 a wash. You have to go to the actual -- there's a form
25 the corporation returns which reports your -- the casualty

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losses.

So if I see the form I can tell you how it works out.

GRAND JUROR: Thank you,
Senator.

MR. PAUZE: Mr. Foreman, may
he be excused?

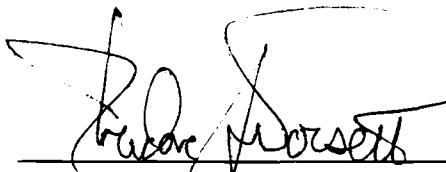
GRAND JURY FOREPERSON: Yes, he may.
Thank you. And you may be excused.

THE WITNESS: Thank you.

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This document is hereby certified to be a true
and correct transcript of the foregoing proceedings.

DATED: July 10, 2003


Theodore A. Dorsett, RPR, CM

