

**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/Counterclaimants.

vs.

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

Counterclaim Defendants,

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

vs.

UNITED CORPORATION, *Defendant.*

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

vs.

FATHI YUSUF, *Defendant.*

KAC357 Inc., *Plaintiff,*

vs.

HAMED/YUSUF PARTNERSHIP,

Defendant.

FATHI YUSUF, *Plaintiff,*

vs.

ESTATE OF MOHAMMAD A. HAMED,

Defendant.

Case No.: SX-2012-CV-370

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

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-287

Consolidated with

Case No.: SX-2014-CV-278

Consolidated with

Case No.: ST-18-CV-219

Consolidated with

Case No.: ST-17-CV-384

**HAMED'S [REVISED AND CORRECTED] MOTION
FOR AN ORDER TO SHOW CAUSE AS TO CONTEMPT
WITH REGARD TO THE SPECIAL MASTER'S ORDER OF MAY 11, 2022
(REGARDING CLAIM H-151 - CHECKS TO YUSUF)**

COMES NOW, Waleed Hamed, through undersigned counsel and moves the Master for an order to show cause for contempt with regard to Mr. Yusuf's failure to comply with the Special Master's Order of May 11, 2022—as to Claim H-151 (Checks to Yusuf). In that order the Master directed the following [numbering supplied for clarity]:

1. **ORDERED** that Hamed's motion to compel as to Interrogatory 38 is **GRANTED** in the context of Hamed Claim No. H-151. Interrogatory 38 shall be revised as follows:

"Identify all amounts in excess of \$10,000 that were transferred from the Partnership account(s) to Fathi Yusuf or United Corporation via checks from September 17, 2012 through March 9, 2015. (Emphasis added.)

It is further:

ORDERED that, within thirty (30) days from the date of entry of this Order, Fathi Yusuf and United shall **file a supplemental response to Interrogatory 38 and respond to Interrogatory 38 "fully in writing under oath"** in compliance with Rule 33. It is further: (Emphasis added.)^[1]

2. **ORDERED** that Hamed's motion to compel as to RFPD 4 is **GRANTED** in the context of Hamed Claim No. H-151. RFPD 4 shall be revised as follows:

"For all of the Partnership bank accounts, please provide all **bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as *the cancelled checks***, from January 2012 to the present." (Emphasis added.)

It is further:

ORDERED that, within thirty (30) days from the date of entry of this Order, Fathi Yusuf, as the former managing partner of the Partnership and as the current liquidating partner under the Final Wind Up Plan, shall **PRODUCE** documents on behalf of the Partnership in response to RFPD 4. **For the specific bank accounts^[2] referenced in Hamed's motion**, Yusuf will not be

¹ Here the Master expressly directs that the response must be in writing **and under oath**.

² Throughout this action, Yusuf has stated that he could not obtain historical bank statements. However, the statements at issue here are modern, post-litigation accounts—fully under Yusuf's control.

required to produce bank statements and cancelled checks that Hamed already has in his possession. (Emphasis added.)

And it is further:

- 3. ORDERED** that Fathi Yusuf and/or United **MUST RESPOND** to Interrogatory 38 and RFPD 4 in compliance with the Virgin Islands Rules of Civil Procedure; Fathi Yusuf and/or United **CANNOT** answer by reference.

FACTS

On June 10, 2022, Yusuf's counsel transmitted the following email, with an internet address for a document download:

Sent: Friday, June 10, 2022 4:13 PM

To: 'Carl@hartmann.attorney' <Carl@hartmann.attorney>

Subject: Hamed v. Yusuf SX-12-CV-370

Good Day Attorney Hartmann,

Following is a link to a Dropbox folder containing the documents listed below. These documents are being produced in conjunction with Yusuf and United's Supplemental Responses to Hamed Discovery Per May 11, 2022 Order which was served today via the Case Anywhere platform.

<https://www.dropbox.com/sh/5at63x52gw9v424/AAAk8LqiJRxj-zWYnfNcWgWpa?dl=0>

STT Store:

FY 014838- 2012 STT General Ledger Detail

FY 014838- 2012 STT General Ledger Detail (SORTED BY TRANSACTION)

FY014859 2013 Plaza STT GL Detail

FY014859 2013 Plaza STT GL Detail (SORTED BY TRANSACTION)

FY014869 2014 Plaza STT GL Detail

FY014869 2014 Plaza STT GL Detail (SORTED BY TRANSACTION)

Plaza East Store:

FY 014845- 2012 Plaza East General Ledger Detail

FY 014845- 2012 Plaza East General Ledger Detail
(SORTED BY TRANSACTION)

FY014860 2013 Plaza East GL Detail

FY014860 2013 Plaza East GL Detail (SORTED BY TRANSACTION)

FY014870 2014 Plaza East GL Detail

FY014870 2014 Plaza East GL Detail (SORTED BY TRANSACTION)

Plaza West Store:

FY 014857- 2012 Plaza West AP General Ledger Detail

FY 014857- 2012 Plaza West AP General Ledger Detail

(SORTED BY TRANSACTION)

FY014861 2013 Plaza West GL Detail

FY014861 2013 Plaza West GL Detail (SORTED BY TRANSACTION)

FY014868 2014 Plaza West GL Detail

FY014868 2014 Plaza West GL Detail (SORTED BY TRANSACTION)

Combined:

FY 014873 2015-09 00001 Plaza Gen Ledgers

FY014864 2015 Plaza Gen Ledgers (SORTED BY TRANSACTION)

Please let me know if you have any issues accessing the documents.

Regards,

On the same day these files were supplied, Yusuf also filed what was captioned his "*Supplemental Responses to Hamed's Discovery.*" The following is the totality of that response:

Intentionally Blank

Defendant/Counterclaimants Fathi Yusuf (“Yusuf”) and United Corporation (“United”)(collectively, the “Defendants”) through their attorneys, Dudley Newman Feuerzeig, LLP hereby provide their Supplemental Responses to Hamed’s discovery as follows:

1. Interrogatory 38:

Following the Court’s Order of May 11, 2022, the interrogatory was revised to read:

“Identify all amounts in excess of \$10,000 that were transferred from the Partnership account(s) to Fathi Yusuf or United Corporation via checks from September 17, 2012 thru March 9, 2015.”

Supplemental Response:

Yusuf requested John Gaffney to review the accounting records of the Plaza Extra stores to secure the information requested. The original general ledgers for this period of time reflects the information responsive to this interrogatory and it is as follows:

4038	106000-10	Banco Popular Operating STX	2/6/12		GENJ	Wic Dep		2,226.76	
4039	106000-10	Banco Popular Operating STX	2/7/12	64866	CDJ	UNITED SHOPPING PLAZA			5,408,806.74
4040	106000-10	Banco Popular Operating STX	2/7/12	64864	CDJ	UNITED CORPORATION DBA UNITED			5,408,806.74
4041	106000-10	Banco Popular Operating STX	2/7/12	64865	CDJ	UNITED SHOPPING PLAZA			5,408,806.74
4042	106000-10	Banco Popular Operating STX	2/7/12	64864V	CDJ	UNITED CORPORATION DBA UNITED		5,408,806.74	
4043	106000-10	Banco Popular Operating STX	2/7/12	64865V	CDJ	UNITED SHOPPING PLAZA		5,408,806.74	
31574	105000-10	Scotia - Telecheck East	8/15/12		GENJ	CHK MAKE TO UNITED CORPORATION			2,784,706.25
31575	305100-10	Sales - Checks	8/15/12		GENJ	CHK MAKE TO UNITED CORPORATIC		2,784,706.25	
146197	105200-20	Scotia - Payroll STT	12/29/12	65178	PRJ	YUSUF, FATHI			32,550.87
146198	105200-20	Scotia - Payroll STT	12/30/12	65380	PRJ	YUSUF, FATHI			9,122.93
146252	231000-20	Accrued VI Withholding T	12/29/12	65178	PRJ	YUSUF, FATHI			16,724.13
146463	670020-20	Officers' Salaries	12/29/12	65178	PRJ	YUSUF, FATHI			50,000.00
146464	670020-20	Officers' Salaries	12/30/12	65380	PRJ	YUSUF, FATHI			13,134.62
17350	33000	Dividend Distributions	1/15/13	18040	CDJ	BUREAU OF INTERNAL REVENUE - 2012-Q4 FATHI YUSUF EST TAX PAYMENT			360,000.00
8	10500	Cash - Bank Telchk 2918	4/10/13	1118	GENJ	1ST QTR 2013 ESST. TAX FATHI YUSUF			324,000.00
9	33000	Dividend Distributions	4/10/13	1118	GENJ	1ST QTR 2013 ESST. TAX FATI		324,000.00	
46887	14100	Due from (to) Plaza East	12/31/14	XJE31-11	GENJ	F YUSUF DIV DISTRIB'S BY EAST AND POST AGAINST WEST PSHIP			4,375,835.50
46888	10500	Cash - Bank Telchk 2918	10/7/14	1128	CDJ	FATHI YUSUF			1,000,000.00
46889	33000	Dividend Distributions	10/7/14	1128	CDJ	FATHI YUSUF - PLAZA DISTRIBI		1,000,000.00	

Q	AMOUNT	REVENUE - Sales	DATE	QTR	GENR (CONTRACT NUMBER)	AMOUNT	AMOUNT
55582	69000	Wages - Officer Salaries	11/26/14	DD114361	PRJ FATHI M. YUSUF	5,500.00	
55583	69000	Wages - Officer Salaries	12/3/14	DD114512	PRJ FATHI M. YUSUF	5,500.00	
55584	69000	Wages - Officer Salaries	12/10/14	DD114663	PRJ FATHI M. YUSUF	5,500.00	
55585	69000	Wages - Officer Salaries	12/17/14	DD114812	PRJ FATHI M. YUSUF	5,500.00	
55586	69000	Wages - Officer Salaries	12/24/14	DD114960	PRJ FATHI M. YUSUF	5,500.00	
55587	69000	Wages - Officer Salaries	12/30/14	DD115109	PRJ FATHI M. YUSUF	5,500.00	
55588	10500	Cash - Bank Telchk 6413	4/14/14	1167	CDJ FATHI YUSUF		1,375,835.50
55589	10500	Cash - Bank Telchk 6413	8/11/14	1178	CDJ FATHI YUSUF		1,000,000.00
55590	10500	Cash - Bank Telchk 6413	10/1/14	1180	CDJ FATHI YUSUF		1,000,000.00
55591	10500	Cash - Bank Telchk 6413	11/26/14	1184	CDJ FATHI YUSUF		1,000,000.00
55592	33000	Dividend Distributions	4/14/14	1167	CDJ FATHI YUSUF - DISTRIBUTION ;	1,375,835.50	
55593	33000	Dividend Distributions	10/1/14	1180	CDJ FATHI YUSUF - Dividend Distribu	1,000,000.00	
55594	33000	Dividend Distributions	11/26/14	1184	CDJ FATHI YUSUF - Dividend Distribu	1,000,000.00	
55595	33000	Dividend Distributions	8/11/14	1178	CDJ FATHI YUSUF - PLAZA DISTRIB	1,000,000.00	
55596	10300	Cash - Bank O/o 8830	10/28/14	63587	CDJ FATIMA P. BROWN		150.00
34523	69200	Wages - Managers	04/29/15	2015-0429-03	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		27,500.00
34524	67200	Taxes - Empr FICA & Mec	06/24/15	2015-0624-03	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		186.00
34525	67200	Taxes - Empr FICA & Mec	06/24/15	2015-0624-03	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		319.00
34526	69200	Wages - Managers	06/24/15	2015-0624-03	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		22,000.00
34527	67200	Taxes - Empr FICA & Mec	03/25/15	2015-0325-01	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		682.00
34528	67200	Taxes - Empr FICA & Mec	03/25/15	2015-0325-01	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		159.50
34529	69200	Wages - Managers	03/25/15	2015-0325-01	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		11,000.00
34530	67200	Taxes - Empr FICA & Mec	05/27/15	2015-0527-03	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		1,364.00
34531	67200	Taxes - Empr FICA & Mec	05/27/15	2015-0527-03	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		319.00
34532	69200	Wages - Managers	05/27/15	2015-0527-03	PJ UNITED CORPORARION - FATHI YUSUF PAYRO		22,000.00
10751	10600	Cash - Bank Claims 9091	03/06/15	100	CDJ FATHI YUSUF		5,000,000.00
10752	33000	Dividend Distributions	03/06/15	100	CDJ FATHI YUSUF - PSHIP DISTRIB FR CLAIMS RESERVE	5,000,000.00	
10753	10600	Cash - Bank Claims 9091	05/01/15	109	GENJ FATHI YUSUF 50% INT FOR STT		4,270,000.00
10754	33000	Dividend Distributions	05/01/15	109	GENJ FATHI YUSUF 50% INT FOR STT	4,270,000.00	
10755	10600	Cash - Bank Claims 9091	05/01/15	110	GENJ FATHI YUSUF 50% INTEREST MATCHING FUND		4,270,000.00
10756	33000	Dividend Distributions	05/01/15	110	GENJ FATHI YUSUF 50% INTEREST MATCHING FUND	4,270,000.00	
10757	10600	Cash - Bank Claims 9091	04/09/15	105	GENJ FATHI YUSUF DISTRIB RE 2014 INC TAX ESTIMATE		992,613.00
10758	33000	Dividend Distributions	04/09/15	105	GENJ FATHI YUSUF DISTRIB RE 2014 INC TAX ESTIMATE	992,613.00	

Yusuf further notes that all of the General Ledgers were provided to the Hamed’s contemporaneously by John Gaffney over the course of this litigation. They are reproduced herein simply to insure that all are complete.

2. Request to Produce 4:

Following the Court’s Order of May 11, 2022, the request to produce was revised to read:

“For all of the Partnership bank accounts, please provide all bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as the cancelled checks, from January 2012 to the present.”

Supplemental Response:

Yusuf provides the attached Excel spreadsheets reflecting the General Ledger for United partnership accounts as well as a sorted version reflecting any amounts payable to Fathi Yusuf or the United Corporation for the periods indicated.

As to the corresponding bank statements, as previously explained by John Gaffney, as to the St. Thomas store, the accounts were held with Scotia and there existed a strained relationship in the 2012 to 2014 period when the accounts were ultimately closed. Scotia did not provide bank

statements requiring the accounting department to perform reconciliations from online screen prints. Those online screen prints were maintained in the sales journal records at the St. Thomas location. Yusuf is continuing to search for any records from that time or determine if they still remain at the St. Thomas store. In which case, those records would be in the care, custody and control of the Hameds.

As to the Plaza East and Plaza West stores, Banco Popular stopped providing copies of enclosures with the bank statement as that relationship was also strained with the dual signatory requirements of Hameds and Yusufs during this litigation. We solicited the assistance of John Gaffney but were unable to receive a response prior to his departure for a pre-planned period off-island. We are continuing our efforts to secure any copies of bank statements not previously provide that are in our possession, custody or control.

An attempted review of those supplied documents suggested that this was a data dump. Many of these files did not appear to reference Fathi Yusuf or respond to the order. Regardless of that, the following things were not done or produced in contravention of the order.

ARGUMENT

- a. *Fathi Yusuf and United did not “file a supplemental response to Interrogatory 38 and respond to Interrogatory 38 ‘fully in writing **under oath**’ in compliance with Rule 33.”*

No sworn supplemental response has been filed under oath.

- b. *Yusuf did not “Identify all amounts in excess of \$10,000 that were transferred from the Partnership account(s) to Fathi Yusuf or United Corporation via checks from September 17, 2012 through March 9, 2015.”*

There is no such listing—what was provided states that it is merely what the general ledger for this period of time reflects. There is no statement or certification that this was all checks to Yusuf. There is no statement from Yusuf under oath that no other checks were obtained but not listed The answer is not responsive, it is, on its face, not complete, and it is not affirmed by Yusuf. The order says “identify.” He needs to say this:

During this period from _____ to _____ I received check, withdrew or otherwise obtained funds in the total amount of \$_____, by way of the following list of transactions:

1. I received a check numbered ____ on account numbered ____ from _____bank on _____, which was for \$_____ and the purpose was_____.
 2. Same for next check.
 3. I swear under oath that I received no other amounts not disclosed to Hamed.
- c. *“Fathi Yusuf, as the former managing partner of the Partnership and as the current liquidating partner under the Final Wind Up Plan, [did not] **PRODUCE** documents on behalf of the Partnership in response to RFPD 4. For the specific **bank accounts** referenced in Hamed's motion. (Emphasis added.)*

Also, after the Master ordered that RFPD 4 shall be revised as follows:”

“For all of the Partnership bank accounts, please provide all bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as the cancelled checks, from January 2012 to the present.”

Yusuf did not produce any bank statements or checks. To understand why he says he did not do so is somewhat convoluted. The Master's attention is first directed to the end of Yusuf's supplementation--with the following as to why none of the bank statements or checks from the two St. Croix stores were produced:

Supplemental Response:

Yusuf provides the attached Excel spreadsheets reflecting the General Ledger for United partnership accounts as well as a sorted version reflecting any amounts payable to Fathi Yusuf or the United Corporation for the periods indicated.

As to the corresponding bank statements, as previously explained by John Gaffney, as to the St. Thomas store, the accounts were held with Scotia and there existed a strained relationship in the 2012 to 2014 period when the accounts were ultimately closed. Scotia did not provide bank

statements requiring the accounting department to perform reconciliations from online screen prints. Those online screen prints were maintained in the sales journal records at the St. Thomas location. Yusuf is continuing to search for any records from that time or determine if they still remain at the St. Thomas store. In which case, those records would be in the care, custody and control of the Hameds.

As to the Plaza East and Plaza West stores, Banco Popular stopped providing copies of enclosures with the bank statement as that relationship was also strained with the dual signatory requirements of Hameds and Yusufs during this litigation. We solicited the assistance of John Gaffney but were unable to receive a response prior to his departure for a pre-planned period off-island. We are continuing our efforts to secure any copies of bank statements not previously provide that are in our possession, custody or control.

Thus, in the supplementation, Yusuf’s counsel testifies that: “Those online screen prints [of all of the bank statements] were maintained in the sale journal records” exactly how mailed statements would be. She therefore, says Yusuf did keep all of the statements and checks for East and West. What she describes is a very normal process by which, absent mailed statements and checks, *the statements and checks were simply printed off from the online account access*. Yusuf had this online access as “*the current liquidating partner under the Final Wind Up Plan.*”

However, this is where it gets murky. These printouts of all of the bank statements and checks are not produced for St. Thomas. Moreover, they are not even *mentioned* in the paragraph of the supplementations as to the St. Croix stores. To the contrary, counsel, in her testimony, makes representation about St. Thomas, and then avoids any explanation as to St. Croix *by referring to those statements and checks ambiguously as materials Mr. Gaffney was unable to get to before leaving back in mid-2022*. Instead, Yusuf’s counsel further testifies, “we” (she or Yusuf or perhaps someone else) were “unable to receive a response” (presumably from “their” internal accounting folks)—apparently as to *all of these bank accounts and cancelled checks for East and West*.³ Finally, counsel testifies that the undefined “we” are “continuing OUR efforts to secure any copies of bank statements not previously provided that are in OUR possession.”

Who is this “we?” What does the phrase “*unable to receive a response*” mean in the context of Mr, Yusuf? And did Mr. Gaffney never return? If he did, did he ignore Mr. Yusuf’s directions that these bank statements be produced? If so, has he been disciplined and someone else tasked with this? The bottom line here is that this was all more than a half year_____

³ Yusuf avers, without declaration that the St. Thomas statements and checks (printed from online) were left on St. Thomas—but offers no proof or support—nor does Hamed believe this. Once it is asserted under oath it will be contested with declarations and other evidence.

ago. Since then, as discussed below, Hamed sent a September 2022 Rule 37 letter and sought clarification in January 2023.

And have these statements and checks printed out this way been produced since, as counsel said they would be? No.

The reason this is contempt is that there is no indication in the record that **Mr. Yusuf** personally sought or directed his staff that these documents be produced. There is no indication that he personally asked Gaffney or others to get them....but despite this, **Mr Yusuf was somehow unable to do so—and remains unable to do so months later.** The initial mid-2022 “supplementation” is just a chain of unsworn statements by others about “their” unsuccessful efforts which resulted *in not a single bank statement or check being produced*. This is just a repeat of years of this sort of activity. **That is exactly why the Court ordered a sworn, non-referential response personally by Fathi Yusuf—because this has been going on for years and already required one order compelling this basic performance.** It has now been the better part of a year and no further mention of those bank statements and check “they” were “unable” to “receive” has been forthcoming.

It is also contempt because it strains credibility to ask the Court and Hamed to believe that in his own organization, the one he solely controls by a majority of stock, Mr. Yusuf (not a shy man or one known for timidity in getting people to do what he wants when he wants it) has been “**unable**” for NINE MONTHS to order someone to produce these bank statements and checks or to, himself, swear to a list of amounts he has received—not the Gaffney culling of a ledger printout, but his own statement as to what he has gotten and not gotten. It further strains credibility to suggest that he didn’t realize what an order for him to sign such responses under oath meant. Yusuf fully understood what the Master was ordering—as this entire issue of evasion by reference to other documents and the efforts of his underlings had already been

briefed in painful detail in the motion to compel that led to the order. This was clearly intended by the Master to be Yusuf’s certification UNDER OATH that he could *personally* aver to the responsiveness and completeness—because of the past failures. Yusuf did not even make a faint pretense that *he* tried to do so. Instead, again, having a succession of others make the averments and give reasons why there was no production.

HAMED’S EFFORTS TO HAVE YUSUF PURGE HIMSELF OF CONTEMPT

To address these issues, Hamed sent a letter to Yusuf’s counsel on September 11, 2022. (**Exhibit 1**) It requested, although *Hamed was NOT required to do so before filing a motion regarding contempt*, a further Rule 37 conference—following the series of such conferences which led to the first motion to compel and the order. With no additional filings apparent to Hamed, on January 4, 2023, counsel for Hamed inquired as to what materials had been sent and was informed in writing that the June 10, 2022 materials and filing were it.

Finally, on March 4, 2023, an email with a prior draft of this motion was sent to opposing counsel, containing the following statement:

Hamed is providing you with a draft of this motion in the hopes that Mr. Yusuf will purge himself of the contempt set forth herein by answering the interrogatories and providing the documents as the Master ordered—on or before the end of business on Wednesday, March 8th **As always, if I have made any mistakes in relating the facts here, need to modify anything, or I have missed some point of fact or law that would obviate the need for this motion—please let me know and I will correct the problem.** (Emphasis added.)

LAW

There has been no service of any additional responses. Thus, this is a matter for the Court—the enforcement of its own order.

“[A]n order to show cause is a firmly entrenched procedural tool that the Superior Court may employ to enforce its own jurisdiction and orders.” *Port Auth. of Guam v. Civil Serv. Comm’n*, 2018 Guam 1, ¶ 22 (citations omitted); *accord Molloy v. Indep. Blue Cross* [*517], 56 V.I. 155, 191 n.11 (V.I. 2012) (“The failure to follow a Superior Court order can be the grounds for sanctions against the party or its attorney. . . .”

Holloway v. Hess Oil V.I. Corp., 69 V.I. 496, 516-17 (Super. Ct. 2018). Hamed does not seek sanctions, or summary action by the Master—thus this motion for an order to show cause—to obtain compliance. See, e.g., *In re Rogers*, 56 V.I. 325, 339 (2012):

the Superior Court issued an order to show cause before imposing any ‘contempt’ sanctions. It gave Rogers adequate time to prepare a defense. Furthermore, it is quite likely the court would have permitted him to obtain counsel, if he requested it. He did not. Because he had notice, time to prepare, and an opportunity to present his defense, the contempt findings do not implicate the due process concerns that often militate against the imposition of summary sanctions.

As the Master is no doubt aware, sanctions would be of no real effect with regard to Mr. Yusuf—and Hamed has not collected them even when they were imposed. This is just another effort to get Mr. Yusuf to do what he is supposed to do: The hope being that SOMEDAY the claims process will end—this being Hamed’s last “B” claim, one he would like to complete.

Conclusion

Yusuf should be ordered to show cause why he should not be held in contempt.

Dated: March 10, 2023



Carl J. Hartmann III, Esq.

Co-Counsel for Plaintiff

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Washington, DC 20036

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2132 Company Street,

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of March I served a copy of the foregoing by email, as agreed by the parties, on:

Hon. Edgar Ross (*w/ 2 paper copies to his Clerk on completion of briefing by all parties*)
Special Master
edgarrossjudge@hotmail.com

Charlotte Perrell
Stefan Herpel
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CERTIFICATE OF WORD/PAGE COUNT GOOD FAITH EFFORTS

This document complies with the limitations set forth in Rule 6-1 (e). Moreover, Hamed has attempted in good faith to discuss this matter and inform opposing counsel as require by Rules 26 and 37.





CARL J. HARTMANN III
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TELEPHONE
(340) 642-4422

EMAIL
CARL@CARLHARTMANN.COM

ADMITTED: USVI & DC

September 11, 2022

Via Email

Stefan Herpel and Charlotte Perrell, Esqs.
DNF
Law House
St. Thomas, USVI

RE: Rule 37 – Conference Requested in 370 re H-151

Counsel:

I am requesting this conference rather than immediately discussing contempt or filing a MPSJ. Please provide dates for a Rule 37 conference as soon as possible with regard to Mr. Yusuf's failure to comply with the Special Master's Order of May 11, 2022 as to Claim H-151 (Checks to Yusuf)

The Court ordered the following [numbering supplied for clarity]:

1. **ORDERED** that Hamed's motion to compel as to Interrogatory 38 is **GRANTED** in the context of Hamed Claim No. H-151. Interrogatory 38 shall be revised as follows:

"Identify all amounts in excess of \$10,000 that were transferred from the Partnership account(s) to Fathi Yusuf or United Corporation via checks from September 17, 2012 through March 9, 2015.

It is further:

ORDERED that, **within thirty (30) days from the date of entry of this Order**, Fathi Yusuf and United shall file a supplemental response to Interrogatory 38 and respond to Interrogatory 38 "fully in writing under oath" in compliance with Rule 33. It is further:

2. **ORDERED** that Hamed's motion to compel as to RFPD 4 is **GRANTED** in the context of Hamed Claim No. H-151. RFPD 4 shall be revised as follows:

"For all of the Partnership bank accounts, please provide all bank statements reflecting checks written to Fathi Yusuf, the United Corporation, as well as the cancelled checks, from January 2012 to the present."

It is further:

ORDERED that, **within thirty (30) days from the date of entry of this Order**, Fathi Yusuf, as the former managing partner of the Partnership and as the current liquidating partner under the Final Wind Up Plan, shall **PRODUCE** documents on behalf of the Partnership in response to RFPD 4. For the specific bank accounts referenced in Hamed's motion, Yusuf will not be required to produce bank statements and cancelled checks that Hamed already has in his possession.

And it is further:

3. **ORDERED** that Fathi Yusuf and/or United **MUST RESPOND** to Interrogatory 38 and RFPD 4 in compliance with the Virgin Islands Rules of Civil Procedure; Fathi Yusuf and/or United **CANNOT** answer by reference.

As you know, Hamed granted the requested extension until August 1, 2022 for a response. That time passed 6 weeks ago.

Please supply me with the earliest possible date for such a conference.



Carl J. Hartmann III

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

EXHIBIT

2

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

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

vs.

UNITED CORPORATION, *Defendant.*

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

vs.

FATHI YUSUF, *Defendant.*

KAC357 Inc., *Plaintiff,*

vs.

HAMED/YUSUF PARTNERSHIP,

Defendant.

FATHI YUSUF, *Plaintiff,*

vs.

ESTATE OF MOHAMMAD A. HAMED,

Defendant.

Case No.: SX-2012-CV-370

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

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-287

Consolidated with

Case No.: SX-2014-CV-278

Consolidated with

Case No.: ST-18-CV-219

Consolidated with

Case No.: ST-17-CV-384

ORDER

THIS MATTER having come on before the Master on Hamed’s motion for an order to show cause for contempt with regard to Mr. Yusuf’s failure to comply with the Special Master’s Order of May 11, 2022 as to Claim H-151 (Checks to Yusuf), and the Master being fully apprised:

IT IS HEREBY ORDERED:

That within 5 days of the issuance of this Order, Fathi Yusuf will PERSONALLY sign and his counsel shall file a written statement as to why he should not be held in contempt of the Court and subject to whatever sanctions and consequences the Master might deem appropriate.

So ordered.

Dated: March ____, 2023

Special Master