

1 IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

2 DIVISION OF ST. CROIX

3
4 -----
5 HISHAM HAMED, individually, and

6 derivatively on behalf of

7 SIXTEEN PLUS CORPORATION,

8 Plaintiff,

9 v.

Case No.:

10 FATHI YUSUF, ISAM YOUSUF, and

SX-2016-CV-00650

11 JAMIL YOUSUF

12 Defendants,

13 and

14 SIXTEEN PLUS CORPORATION,

15 a nominal Defendant.

16 -----
17 SIXTEEN PLUS CORPORATION,

18 Plaintiff,

19 v.

20 MANAL MOHAMMAD YOUSEF,

21 Defendant,

22 and

MANAL MOHAMMAD YOUSEF,

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Counter-Plaintiff,
v.
SIXTEEN PLUS CORPORATION,
Counter-Defendant.

MANAL MOHAMMAD YOUSEF,
Plaintiff,

v.
SIXTEEN PLUS CORPORATION,
Defendant,

and
SIXTEEN PLUS CORPORATION,
Counter-Plaintiff,

v.
MANAL MOHAMMAD YOUSEF,
Counter-Defendant.

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VIDEOTAPED DEPOSITION OF

FATHI YUSUF

DATE: Thursday, July 27, 2023

TIME: 11:07 a.m.

LOCATION: Remote Proceeding

Virgin Islands, US

REPORTED BY: Shondra Dawson, Notary Public

JOB NO.: 6014359

A P P E A R A N C E S

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A P P E A R A N C E S (Cont'd)

ON BEHALF OF MANAL YUSUF AND ISAM YUSUF AND JAMIL
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11 ALSO PRESENT:

12 Pamela Bayless, Dudley Newman Paralegal (by

13 videoconference)

14 Shawn Hamed, Defendant (by videoconference)

15 Walley Hamed, Defendant (by videoconference)

16 Ben Pelta-Heller, Videographer (by

17 videoconference)

18 Isam Yousuf, Plaintiff (by videoconference)

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P R O C E E D I N G S

THE VIDEOGRAPHER: We're going on the record at 11:07 a.m. on Thursday, July 27, 2023. This is media unit 1 of the videorecorded deposition of Fathi Yusuf taken by counsel in the matter of Hamad, et al. vs. Yusuf, et al.

My name is Ben Pelta-Heller representing Veritext, and I am the videographer.

The court reporter is Shondra Dawson from the firm Veritext.

Counsel and all present including remotely will now state their appearances and affiliations for the record, and the reporter please swear in the witness.

MR. HARTMANN: Carl Hartmann for Hisham Hamed.

MR. HOLT: Joel Holt for Sixteen Plus.

MS. PERRELL: Charlotte Perrell on behalf of Fathi Yusuf.

MR. HERPEL: Stefan Herpel, seated next to Mr. Yusuf, on behalf of Mr. Yusuf and --

MR. HOLT: Just excuse me for one

1 minute. I have a prompt on the screen that says set
2 up professional audio in audio settings. Is that
3 something we should do?

4 THE VIDEOGRAPHER: No.

5 MR. HOLT: Okay. Then I wonder if I
6 can get rid of that. Just click on it maybe? Yeah.
7 Close it out. Okay.

8 MR. HARTMANN: And, Stefan, if you
9 could -- yeah. If you could stay moved over so you're
10 out of the screen? Okay.

11 MR. HERPEL: Am I out now?

12 MR. HARTMANN: You're out now.

13 MR. HERPEL: Okay.

14 MR. HYMES: James Hymes for Manal
15 Yusuf, Isam Yusuf, and Jamil Yusuf.

16 THE REPORTER: Thank you and good
17 morning. Again my name is Shondra Dawson; I am the
18 reporter assigned by Veritext to take the record of
19 this proceeding.

20 I am a notary authorized to take
21 acknowledgments and administer oaths in the District
22 of Columbia. Parties agree that I will swear in the

1 witness remotely.

2 Parties agree that I will swear in the
3 witness remotely outside of his or her presence.

4 Additionally, absent an objection on
5 the record before the witness is sworn, all parties
6 and the witness understand and agree that any
7 certified transcript produced from the recording of
8 this proceeding:

- 9 - is intended for all uses permitted
10 under applicable procedural and
11 evidentiary rules and laws in the
12 same manner as a deposition recorded
13 by stenographic means; and
14 - shall constitute written stipulation
15 of such.

16 Mr. Yusuf, it is only a required
17 stipulation, so hearing no objection I will now swear
18 in the witness. If you'll please raise your right
19 hand, Mr. Yusuf?

20 //

21 //

22 //

1 WHEREUPON,

2 FATHI YUSUF,

3 called as a witness and having been first duly sworn
4 to tell the truth, the whole truth, and nothing but
5 the truth, was examined and testified as follows:

6 THE REPORTER: Thank you. You may
7 proceed, Mr. Hartmann.

8 EXAMINATION

9 BY MR. HARTMANN:

10 Q Good morning, Mr. Yusuf.

11 A Good morning, Mr. Hartmann.

12 Q Before you and I start we're going to do
13 just a little business on the record, so if you could
14 please wait patiently for a second?

15 MR. HARTMANN: I'd like to note that
16 counsel for Fathi Yusuf and Hisham Hamed have
17 stipulated that counsel for Hasham Hamed has agreed he
18 will not ask Fathi Yusuf questions with regard to
19 subjects as to which he has asserted the fifth
20 amendment right against self-incrimination and
21 questions relating to those subjects are preserved for
22 continuance of this deposition until after the

1 determination of Hamed's pending motions to compel.
2 This does not increase the total time for the
3 deposition under these rules.

4 I'd also like to note that after the
5 stipulation was entered into counsel for Mr. Yusuf
6 contacted me and in response to a proffered list of
7 the questions that I would have asked but for that
8 stipulation suggested that some of the questions he
9 felt could -- this is attorney Herpel -- he felt could
10 still be answered without stepping into the fifth
11 amendment areas. So what we've agreed to do is I will
12 start after the first 30 questions, which was what he
13 pointed to originally, and start what would be roughly
14 question 60, and will question from there to the end
15 and we'll see how that goes.

16 If I do intrude into the fifth
17 amendment I've stipulated that at any time defending
18 counsel can simply state that and I will withdraw the
19 question and move on. We're not going to have on
20 record disputed about the fifth amendment prior to the
21 courts making a decision about that.

22 Is that correct, Ms. Perrell?

1 MS. PERRELL: That's correct.

2 MR. HARTMANN: Okay. And that
3 stipulation and that agreement is reflected on page 1
4 of Exhibit 1 which is the proffered question list.
5 With that out of the way let's start at question 60 of
6 the proffered question list which has been supplied to
7 all counsel.

8 BY MR. HARTMANN:

9 Q And, Mr. Yusuf, I'm going to ask you a
10 series of questions today beginning with the subject
11 of certain tax and corporate documents that you signed
12 and filed. Is that okay?

13 A I don't understand the question. What is
14 the --

15 Q I'm going to ask you questions about tax
16 documents and corporate documents that you signed and
17 then filed with the government.

18 A That's -- that's fine. That's fine. I --

19 MR. HARTMANN: Okay. Good. If we
20 could have a look at Exhibit 68?

21 THE WITNESS: 68?

22 MR. HARTMANN: Yes.

1 THE WITNESS: It's --

2 MR. HARTMANN: The court reporter will
3 put it on the screen for you, Mr. Yusuf.

4 THE WITNESS: I can't see. I could see
5 the whole thing, but I can't read it.

6 MR. HARTMANN: Okay. Well, perhaps Mr.
7 Herpel can supply you with an easier one to see.

8 THE WITNESS: Yeah. I could -- I could
9 see.

10 BY MR. HARTMANN:

11 Q Okay. And could you tell me what Exhibit 68
12 is?

13 (Exhibit 68 was marked for
14 identification.)

15 A Okay. You are -- you are asking what?

16 Q What is Exhibit 68?

17 A It say What Social Security Means to You. I
18 don't know what that means. I know what it means, but
19 I don't know the purpose of it. I --

20 Q Okay. Do you recognize this as your January
21 22, 2001, social security statement provided to you by
22 the United States government?

1 A -- what is that? "We're sending you this
2 Social Security Statement to help you understand what
3 Social Security means to you and your family. We hope
4 --"

5 Q Mr. Yusuf, in the upper righthand corner of
6 this document do you see the date January 22, 2001?

7 A Yeah. I -- I see the date. January 22nd.

8 Q Okay. And on the left side at the top do
9 you see the address being to Fathi Mohamad Yusuf, PO
10 Box 763, Christiansted VI 00821?

11 A That is -- that is correct. Yes.

12 Q Okay. So was this a document that you
13 received from the Social Security Administration on or
14 about January 22, 2001.

15 A If -- maybe. Maybe. I don't know. If it's
16 there I -- I may have received it, or sometime I
17 received it and I don't read it.

18 MS. HARTMANN: Okay. If we could turn
19 over now to page 3, please? Down so that we can see
20 the chart. Okay. Thank you.

21 BY MR. HARTMANN:

22 Q Now, Mr. Yusuf, on your Social Security

1 Statement for 2001 the government reports the
2 following amounts as the income tax you reported to
3 the government on your income tax returns: In 1990
4 the Social Security Administration says that your tax
5 return reflected that you had adjusted gross income of
6 \$23,723. Do you know if that's correct?

7 A Well, I -- I would assume it's correct.

8 Q Okay. And do you see the rest of the years,
9 1991 through 1999 there? Would you assume that they
10 are correct?

11 A I seen all of them.

12 Q And are they correct?

13 A They must be correct.

14 Q Okay. And particularly I direct your
15 attention to the entry for 1997, \$55,617. Do you see
16 that?

17 A Yes.

18 Q And do you agree that your reported --

19 A 55,617.

20 Q Okay. And do you agree that your reported
21 income in 1997 was \$55,617?

22 A I would assume so.

1 Q Okay. I'm going to represent to you that
2 for the ten years from 1990 to 1999 I've added up that
3 column, and for that ten years your total income was
4 \$267,971. Is that correct?

5 A 257 for what?

6 Q 267,971 is the total of the column for your
7 income.

8 A I don't see that total for here -- I -- I
9 see --

10 Q No. I'm telling you that I have added up
11 that column and that's what the number comes to.

12 A All right. So --

13 Q Okay. And do you agree that that is or is
14 very approximately the reported tax income for you for
15 the ten years of 1990 through 1999?

16 A That's what maybe we report but --

17 Q Okay.

18 A -- to me.

19 MR. HARTMANN: Okay. And for an
20 example of the documents the government used to do
21 this I'd like the reporter to show Exhibit 61, please?
22 //

1 BY MR. HARTMANN:

2 Q Okay. And, Mr. Yusuf, can you identify what
3 Exhibit 61 is?

4 (Exhibit 61 was marked for
5 identification.)

6 A The Sixteen Plus Corporation income tax
7 return.

8 Q Okay. And down below that at the bottom of
9 that page, is this your signature?

10 A Yes. That's absolutely my signature.

11 Q Okay. And you see that you've signed as the
12 secretary/treasurer? Were you at that time the
13 secretary/treasurer of Sixteen Plus?

14 A I was up to now.

15 Q Were you at some time the
16 secretary/treasurer of Sixteen Plus?

17 A I -- I was. Yes.

18 Q Okay. And can you tell me what the date is
19 that you signed that document?

20 A Looks to be it's I signed it October 12,
21 2000.

22 Q Okay. And directly over your signature

1 there's a statement. It says, under penalty of
2 perjury I declare that I have examined this return
3 including accompanying schedules and statements, and
4 to the best of my knowledge and belief it is true,
5 correct, and complete. Did you sign your name under
6 that statement?

7 A Yes.

8 MR. HARTMANN: Okay. So now switch to
9 Exhibit 23, please?

10 BY MR. HARTMANN:

11 Q Okay. Mr. Yusuf, were you a criminal
12 defendant in a criminal case with the number 2005-015,
13 United States of America and Government of the Virgin
14 Islands vs. United Corporation?

15 (Exhibit 23 was marked for
16 identification.)

17 A Yes.

18 Q Okay. And in that case the government filed
19 this document.

20 MR. HARTMANN: And I would like to turn
21 over to page 4?

22 BY MR. HARTMANN:

1 Q Okay. And you'll see two arrows and a chart
2 there. The text at the first arrow says, "Defendant
3 has conceded that is true, as it must, because those
4 figures are based on United's own records. There is
5 no dispute that United failed to report at least \$60
6 million in sales on its gross receipts tax returns and
7 corporate income tax returns for the years 1996, 1997,
8 1998, 1999, 2000, and 2001, as set forth in the table
9 below:." And there's a table there in which for each
10 of those years the government states that the
11 unreported gross income was a certain amount of money
12 which adds up to a total of 63,450,096. Do you see
13 that?

14 A I see --

15 Q I'm sorry?

16 A Income is -- what kind of income? Gross
17 income or net?

18 Q The first column is reported gross receipts.
19 Those are amounts you reported to the government.

20 A Yes.

21 Q Column two is the corrected gross receipts,
22 what the government's audit showed your books actually

1 reflected you had received.

2 A I see now. Okay.

3 Q And column three is the unreported gross
4 receipts for those years.

5 A Okay.

6 Q And they said it totaled 63,450,096.

7 THE WITNESS: Yeah. I -- and I think
8 that's -- pull that down.

9 MR. HERPEL: You're on the --

10 THE WITNESS: I am but I can't see
11 that. I can't see --

12 MR. HERPEL: Can we move that up a
13 little bit? That chart?

14 THE WITNESS: Okay. Now I could see.

15 BY MR. HARTMANN:

16 Q Okay. So do you see at the bottom line it
17 says the total for the six years 1996 through 2001 is
18 \$63,450,096 of unreported gross receipts?

19 A Okay. Yes.

20 Q Yes. And in that case did you concede that
21 there was over 60 million dollars of unreported
22 receipts during those six years?

1 MS. PERRELL: Objection. Did he
2 concede? Because this appears to be talking about the
3 United Corporation. Unclear. Your question is vague.

4 MR. HARTMANN: Okay. He can answer.

5 MS. PERRELL: No.

6 THE WITNESS: No. See -- the --

7 MS. PERRELL: Just a minute. Wait,
8 wait, wait. Mr. Yusuf, I have an objection.

9 THE WITNESS: Yes.

10 MS. PERRELL: The question says --

11 MR. HARTMANN: Charlotte, no ruling --

12 MS. PERRELL: No, no. Carl, I'm going
13 to --

14 MR. HARTMANN: Charlotte, no ruling
15 objections. You've objected and I'm going to continue
16 now.

17 MS. PERRELL: And you have asked him if
18 he conceded.

19 MR. HARTMANN: I have asked him a
20 question which the reporter can read back.

21 MS. PERRELL: Carl, look --

22 MR. HARTMANN: You don't get to talk

1 during this deposition, Charlotte. You've made an
2 objection.

3 MS. PERRELL: Carl, I'm going to speak,
4 and if you want to bring it up to the judge you can do
5 that; okay? What --

6 MR. HARTMANN: You want to call the
7 judge right now? Because I'm not going to do this all
8 day long.

9 MS. PERRELL: You specifically said did
10 you concede, and as it read --

11 MR. HARTMANN: I understand what my
12 question was.

13 MS. PERRELL: And your question --

14 MR. HARTMANN: Then you objected.

15 MS. PERRELL: -- relates to United, and
16 so I'm asking you to clarify when you say you concede
17 do you mean you, Mr. Yusuf, or do you mean United?
18 That's my question. It is vague.

19 BY MR. HARTMANN:

20 Q Mr. Yusuf, you may now answer the question.

21 A I don't have to answer it, sir.

22 MR. HARTMANN: Okay. The witness has

1 refused to answer the question.

2 BY MR. HARTMANN:

3 Q Mr. Yusuf, at the first two lines of this
4 for 1996 and 1997 it states that the reported gross
5 income in --

6 THE WITNESS: He's covering it up.

7 MR. HERPEL: The chart has to be moved
8 up in order to be visible to Mr. Yusuf.

9 THE WITNESS: Yeah. Like that I can't
10 see if there's any -- that don't mean nothing to me.
11 That I could see much clearer than the --

12 MR. HERPEL: -- the camera. The camera
13 is here.

14 THE WITNESS: Oh. Okay. Well --

15 THE REPORTER: Okay.

16 THE WITNESS: I cannot answer without
17 my lawyer saying go ahead and answer.

18 MS. PERRELL: Mr. Yusuf, there's not a
19 question posed, but if you can answer the question,
20 until I tell you not to you may answer. I'm raising
21 objection as to the form of these questions which I
22 think are concerns, but if you can answer the question

1 you can answer the question until I tell you not to;
2 okay?

3 THE WITNESS: This is a total -- this
4 is --

5 MS. PERRELL: Well --

6 THE WITNESS: -- for United that cover
7 Plaza Extra, which has nothing to do with United.
8 It's a partnership issue, and United. I don't know
9 how much the United return or how much the real --
10 what you call United Grocery retail.

11 MR. HARTMANN: I ask the court reporter
12 to mark the deposition with an exception for
13 conversation between counsel and her client, and for
14 rolling objections, and to note the timestamp right
15 now. Thank you.

16 BY MR. HARTMANN:

17 Q Mr. Yusuf, look at the first row of that
18 chart. First row of that chart reports that in 1996
19 United Corporation had \$36,771,260 in reported gross
20 receipts. Do you see that?

21 A Yes.

22 Q Okay. Is that a correct number?

1 A I would assume so.

2 Q Okay. And in the next line, next column for
3 1996, it says United Corporation's corrected gross
4 receipts, in other words the gross receipts that the
5 government determined after reviewing your books and
6 records, was actually over 8 million dollars more at
7 \$44,459,700. Do you see that?

8 A I see it.

9 Q And do you believe that's correct?

10 A I would assume it's correct.

11 Q Okay. So in the third column it states that
12 the unreported gross receipts for 1996, in other words
13 money that was diverted from United's income prior to
14 tax reporting, was \$8,188,440. Do you see that?

15 A I seeing it. Yeah.

16 Q Okay. And do you believe that's correct?

17 A I would assume so.

18 Q Okay. And do you see the same three numbers
19 for 1997?

20 A Yes. I seeing it.

21 Q Okay. And do you believe that the numbers
22 for 1997 are correct?

1 A I would assume according to my staff, which
2 Walley Hamed is part of my staff, I would assume is
3 that correct for --

4 Q Okay. And can we say the same --

5 A May I complete, please? Walley Hamed is the
6 one always who dealt with my accounting. All the --

7 THE REPORTER: Mr. Yusuf, this is the
8 court reporter. You are speaking lower and lower. I
9 need you to speak louder and to repeat your last
10 statement, please.

11 THE WITNESS: Oh. Okay. What --
12 that's -- that's loud enough?

13 THE REPORTER: Yes.

14 THE WITNESS: Okay.

15 BY MR. HARTMANN:

16 Q Okay. Mr. Yusuf --

17 THE REPORTER: If you could repeat your
18 last statement?

19 THE WITNESS: My -- you want -- repeat
20 my statement again?

21 THE REPORTER: Yes.

22 THE WITNESS: The statement is 99.9 of

1 all activity is done by the management. I'm not a
2 manager. I'm always at my office. The one, the real
3 manager, was Walley Hamed, and he is the one used to
4 go to the company accountant, Pablo O'Neill.

5 BY MR. HARTMANN:

6 Q Okay. Mr. Yusuf, can we say that the
7 numbers for 1998 through 2001 and the totals on that
8 chart are also correct?

9 A I would assume it's correct based on my
10 staff.

11 Q Okay. Thank you very much.

12 A Yes --

13 MS. PERRELL: No.

14 BY MR. HARTMANN:

15 Q Can you tell me without specificity as to
16 where it went what happened to that \$63,450,096 that
17 was removed from Plaza Extra's receipts before taxes
18 were paid?

19 A I don't know what happened to it. I --

20 Q You --

21 A -- understand that you want to ask the same
22 question. Walley Hamed.

1 Q Okay. So you don't know where that 63
2 million dollars went?

3 A Stays in the business.

4 Q Stayed in what business?

5 A The supermarket business. Money go in and
6 out the supermarket, not the renter.

7 Q Okay. So you and Walley Hamed did not
8 remove 63 million dollars during that six-year period?

9 A It is not moved. In some cases we used to
10 pay cash. It's not profit. Sometimes whenever we
11 receive from brokers, suppliers, or produce from Santo
12 Domingo Walley used to pay cash and get a receipt.
13 Never were -- went to the bank.

14 Q Okay. Was any of it diverted, of the
15 \$63,450,096, diverted to your and Walley's personal
16 use to buy land in Jordan, the West Bank, the United
17 States Virgin Islands, or other places?

18 A Some of it.

19 MS. PERRELL: Objection. Objection.
20 Fifth amendment privilege.

21 MR. HARTMANN: Okay.

22 BY MR. HARTMANN:

1 Q You don't have to answer that, Mr. Yusuf.

2 MR. HARTMANN: Okay. I'd like to turn
3 now to Exhibit 64. Is it possible to enlarge that a
4 little more?

5 THE WITNESS: Yeah. I can't see it.

6 MR. HARTMANN: I also need the bottom.
7 Yeah. There you go. That's perfect.

8 BY MR. HARTMANN:

9 Q Can you see this document, Mr. Yusuf?

10 (Exhibit 64 was marked for
11 identification.)

12 A Yeah.

13 Q Okay. And at the top it says BFC, Banque
14 Francaise Commerciale?

15 A BFC. Yes.

16 Q Okay. And in the line on the right side
17 where it states the client's name it says Mr. Fathi
18 Yusuf. Do you see that?

19 A That's -- yeah. That's my account.

20 Q Okay.

21 A Now -- yes.

22 Q Okay. And right above that could you read

1 your account number, please?

2 A 40 60 63877 90.

3 Q Okay. And to who was this statement sent?

4 There's an address there where this statement was
5 sent. Could you tell me whose address that is?

6 A It must be sent to me.

7 Q Well, it says it sent to 12 Canigiete Road,
8 Philipsburg (Isam Yousuf), Sint-Maarten. Are you Isam
9 Yousuf, and did you ever live at 12 Canigiete Road?

10 A No. We put our address in Saint Martin, and
11 we used my nephew address to receive all our
12 corresponding from that particular bank.

13 Q Okay. Now if you look over at the lefthand
14 column you'll notice that using the European method of
15 date stamping that this document extends from April
16 30th of 1998 to May 15th of 1998; is that correct?

17 A Yes. It looks so.

18 Q Okay. And during that time do you see the
19 deposits listed there? The starting balance is set
20 as 624,795. Was that your starting balance on that
21 date?

22 A I would -- it looks so.

1 Q Okay. And during that time did you deposit
2 \$100,000, another \$100,000, another \$100,000, \$70,000,
3 and \$50,000 into that account?

4 A I would -- it looks so. Yeah.

5 Q Okay. And down at the bottom of that page
6 it has cumulative debit or credit. It shows your
7 account balance at that point as \$1,044,795; is that
8 correct?

9 A It -- it look -- yes. That's the total.
10 Yeah. That's --

11 Q And was that the correct total on that date?

12 A Repeat the question, please?

13 Q Yes. Do you believe that to have been the
14 correct total on that date?

15 A I would assume so.

16 Q Okay. So could you explain to me how -- I
17 will tell you something else that you can believe;
18 okay? I'm going to make a representation to you. I'm
19 going to tell you that I averaged those ten years of
20 your income from the Social Security Administration's
21 reporting of your tax returns as being \$26,797 a year,
22 and the four-year average from 1996 to 1999 was

1 \$37,788. Does that sound correct to you?

2 A Okay. Where you see -- I don't -- I don't
3 see it there. I don't see it, the --

4 Q Okay. I'm telling you that that is a
5 mathematical computation based on your social security
6 document that we previously examined, so you can
7 believe that. So here's my question. When you were
8 averaging for the four years from 1996 to 1999 \$37,788
9 a month in income how were you placing \$100,000;
10 100,000; 100,000; 70,000; and 50,000 dollars into your
11 bank account in Saint Martin in just one month?

12 MS. PERRELL: Objection. Fifth
13 amendment privilege.

14 MR. HARTMANN: Okay.

15 BY MR. HARTMANN:

16 Q And, Mr. Yusuf, if you'll take a look at the
17 next page of this document? Okay. Mr. Yusuf --

18 MR. HARTMANN: Can you -- just a little
19 more? Thank you.

20 BY MR. HARTMANN:

21 Q Mr. Yusuf, do you see this deposit slip?

22 A Yes. I see it.

1 Q Okay. And this is a deposit slip that was
2 attached to that statement, and it states that for the
3 first of the \$100,000 deposits the form that it was
4 deposited was one thousand hundred-dollar bills for a
5 total of \$100,000. Do you see that?

6 A I see it.

7 Q Okay. And can you read the stamp down there
8 for the date that that was deposited?

9 A March 5th --

10 Q I think it's May 5th, but that's --

11 A May. Yeah. Okay. You can't see -- I could
12 see M-A and -- but --

13 Q That's fine.

14 A -- if that is March. It doesn't --

15 Q Okay. And did you personally take one
16 thousand one-hundred-dollar bills to the bank and
17 deposit them on May 5, 1998?

18 MS. PERRELL: Same objection. Same
19 objection. Fifth amendment.

20 MR. HARTMANN: Okay.

21 BY MR. HARTMANN:

22 Q And if you look there just above that

1 stamp --

2 MS. PERRELL: Carl, I have no problem,
3 I'm happy to continue to raise these objections, I
4 just -- I mean, my understanding is that you are going
5 to inquire into the loan, things relating to the loan,
6 all of those issues. This is obviously 1998 which is
7 after. I'm happy to continue down this path, but I
8 thought you didn't want to do that whole, you know,
9 back and forth on the fifth. I will do it, but I just
10 didn't think that's what you were --

11 MR. HARTMANN: Charlotte, I offered a
12 stipulation and you guys accepted that essentially
13 would have put off this deposition for exactly this
14 reason which is --

15 MS. PERRELL: Well --

16 MR. HARTMANN: Let me finish, please.

17 MS. PERRELL: Mm-hmm.

18 MR. HARTMANN: Because I didn't want to
19 go through these questions and have them riddled with
20 fifth amendment objections, so I entered into that
21 stipulation. Last night late in the evening I
22 received an email from Stefan which said that he

1 didn't see it that way, that he only saw the first 30
2 questions as being excluded under that rule, which
3 then forced me to have to take the deposition as to
4 all the rest of the questions.

5 MS. PERRELL: Well --

6 MR. HARTMANN: So I ask you again since
7 it is impossible to examine this witness outside of
8 the context of the fact that he took, and denies he
9 took, 60 million dollars and sent it to Isam, and Isam
10 put it in the bank, I don't understand how I could ask
11 him questions about these accounts, his taxes, and his
12 corporate filings because every one of the questions
13 is going to go back to the question of where did the
14 money come from and who transported it.

15 MS. PERRELL: Right. And I understand
16 your issues. I guess where I'm coming from is to the
17 extent you wanted to ask any questions, if you started
18 at paragraph 30, which is what Stefan emailed
19 yesterday, paragraph 30 talks about, you know, in
20 September of 1996 it talks about the loan, it talks
21 about the conversations that were had, it talks about
22 all of the things relating to the loan.

1 My understanding is that the issues
2 here relate to the Manal loan and the allegation that
3 Walley has made that the loan was not necessarily --
4 that the loan was really either partnership money or
5 whatever, but that's all, again, back in 1996. And so
6 my point here was to allow you to ferret out any
7 questions about who said what, when, what the
8 conversations were, what happened, Mr. Yusuf's
9 perspective on all of that, similar to the questions,
10 you know, that you seem to be asking the prior two
11 witnesses today relating to the issue of the loan and
12 so forth. This is into 1998, which is after the loan.

13 And so in any event I'm not trying to
14 be difficult, I'm not trying to create problems and
15 make this procedurally difficult, I'm trying to say,
16 look, if you want to ask Mr. Yusuf all of the things
17 about the loan and his position on that, you're happy
18 to do it, and, you know, that's where we were coming
19 from. So, you know, 30 is about that, 31 is about
20 that, all of those questions are about that.

21 And so I think what we were trying to
22 say is just, look, this doesn't stop you from asking

1 questions about the loan. It does stop from questions
2 relating to certain parts of that which we believe are
3 fifth amendment. So I'm not trying to be difficult,
4 I'm not trying to, you know -- I'm trying to give you
5 as much opportunity to ask the questions that you want
6 of Mr. Yusuf as to the events that transpired, what he
7 knows, what he knew, and so forth, at the same time
8 preserving his fifth amendment --

9 MR. HARTMANN: To the court --
10 Charlotte, stop.

11 MS. PERRELL: I can respond.

12 MR. HARTMANN: To the court reporter,
13 I'd ask you to mark the transcript with an exception
14 and enter the timestamp. I'm not going to have
15 extended conversations within my seven hours. Stefan
16 said don't ask questions up to 30 after entering into
17 a stipulation that would have made this deposition
18 today unnecessary. He then said ask the questions
19 after.

20 I am in the 60 series, which I informed
21 you in writing after Stefan sent the change to the
22 agreed stipulation I would be starting with and

1 working on. We've now gotten through four questions,
2 four of the 60 questions, starting at 60. I'm now on
3 -- I believe this exhibit is the one that matches up
4 to 64. And I guess my problem is is that you already
5 made four objections in the 60s questions. So I
6 don't --

7 MR. HERPEL: May I interject and say
8 that you've selected out of the 60-some questions that
9 I said did not appear to intrude in the fifth
10 amendment based on an hour review that I had last
11 night when you gave me that document with the
12 questions at 8:13, and you've selected for questioning
13 the ones that relate to post-loan events. There are
14 many questions starting with number 30 that don't
15 relate to 1998 and later years, so why --

16 MR. HARTMANN: This is not a post-loan
17 event.

18 MR. HERPEL: You're asking about what
19 happened in 1998.

20 MR. HARTMANN: No. 1998 is pre-loan.

21 MR. HERPEL: Then I suggest that you
22 just start with question 30 and go forward with

1 questions about the loan and about the time period
2 relating to the loan rather than focusing on 1990
3 through 1998 and what was earned then, and then asking
4 about bank statements for post-loan bank statements.
5 Why can't we keep it -- when I looked at this last
6 night, admittedly a quick review, it seemed like
7 questions 30 were very similar to questions you were
8 asking, you know, of the other witnesses this week.

9 Beginning with question 30, but you've
10 selected for today questions that go outside that that
11 talk about eight years' worth of income and 1998 bank
12 statements. Well, why don't we focus on the time
13 period at issue?

14 MR. HARTMANN: I'm not going to have
15 you direct my deposition. You sent me an email that
16 said you objected to my asking to questions 1 to 30,
17 and that questions from 30 on were acceptable. I
18 changed the entire deposition because we had
19 originally stipulated that I simply wouldn't go into
20 these types of areas because of the fifth amendment
21 complications. Can I suggest a way out of it?

22 Why don't we continue this deposition

1 as we had originally stipulated until after the
2 judge's decision and then take it?

3 MR. HERPEL: I think we should find out
4 what's objectionable. And if you ask question 30 --
5 Charlotte, you can look at it too -- but why don't we
6 ask questions that aren't objectionable? And I
7 think --

8 MR. HARTMANN: Stefan, I'm asking the
9 questions and she's objecting. I don't know which are
10 not objectionable until she objects.

11 MR. HERPEL: Well, why don't we start
12 in sequence? Start with --

13 MR. HARTMANN: I am starting in
14 sequence. As I said in me email yesterday to you,
15 because you said do not question as to 1 through 30 I
16 will start at 60 and go to the end. Did you send me
17 an email, or did Charlotte send me an email, between
18 then and now that said don't start at 60 or don't
19 question about --

20 MR. HERPEL: No but I also -- in
21 fairness, Carl, you converted Walley's statement into
22 a series of questions at 8:15 yesterday evening, the

1 day before the deposition. I did my best to review
2 your new document, a list of questions, and I
3 concluded on the basis of that cursory view that
4 questions 30 and beyond seemed legitimate to me and
5 did not intrude on the fifth. I could not --

6 MR. HARTMANN: And I'm asking questions
7 starting at 60, which is after 30.

8 MR. HERPEL: Well, I know. I know, but
9 I could not make definitive representation based on an
10 hour review. And some of these questions that are
11 asking about post-loan events or asking about events
12 ten years before that you've started with are
13 objectionable. But I think that's the exception as I
14 see it here to the questions 30 through 93. Most of
15 them seem to be tied to the loan or events close to in
16 proximity to the loan. So we're not saying you can't
17 ask questions about the loan and the source of the
18 funds for the loan.

19 MR. HARTMANN: Stefan. Stefan, stop.

20 MR. HERPEL: Yeah.

21 MR. HARTMANN: This is a document from
22 within a year of the loan. So when you say close

1 proximity and I can't ask about this how am I to
2 interpret that? This is a 1998 series of
3 transactions.

4 MR. HERPEL: But how does that answer
5 the question of the source of funds for a loan?
6 Something that was a deposit made to an account after
7 the loan was made?

8 MR. HARTMANN: Stefan, I'm not going
9 to --

10 MR. HERPEL: I'm not --

11 MR. HARTMANN: Stefan, I'm not getting
12 into this argument.

13 MR. HERPEL: No. But there's much of
14 what is in here that is not objectionable, so why
15 don't we proceed with that which is not objectionable
16 and does not deal with post-loan events?

17 MR. HARTMANN: Stefan, I can't tell
18 what you guys will find objectionable. I've started
19 at 60, I'm going to the end, and so far you've
20 objected to virtually every single thing I've asked.

21 MR. HERPEL: No. Well, I --

22 MR. HARTMANN: So I'll continue with

1 the deposition and ask the questions, and you can
2 continue to make these obviously dilatory and abusive
3 objections which are designed to chop up the
4 deposition.

5 MR. HERPEL: No. Carl, you're entitled
6 to your opinion.

7 MR. HARTMANN: Okay.

8 MR. HERPEL: I don't think we're being
9 that way. We're encouraging you to ask legitimate
10 questions. That's it.

11 MR. HARTMANN: Okay.

12 MR. HERPEL: And I'm not trying to
13 block you or -- and I'm not going to go to court and
14 say that every one of these questions from 30 to 93 is
15 illegitimate. We would not do that.

16 MR. HARTMANN: Okay. I'll continue
17 my --

18 MR. HERPEL: I --

19 MR. HARTMANN: I'll continue my
20 questioning.

21 MR. HERPEL: Thank you.

22 MR. HARTMANN: Okay.

1 BY MR. HARTMANN:

2 Q Mr. Yusuf, above the date stamp on the
3 document that we're looking at there's a signature
4 that says Fathi Yusuf. Do you see that?

5 A That is not a signature. That is not my
6 handwriting.

7 Q Okay. Do you know whose handwriting it is?

8 A It could be Walley, it could be someone
9 else.

10 Q Who else?

11 A I don't know.

12 Q Could it be --

13 A Ask Walley the same question.

14 Q Could it be Isam's?

15 A Walley is the one who was in charging of
16 sending the money to Saint Martin.

17 Q When you say he sent it to --

18 A I -- used to travel.

19 Q Right. But when he sent it to Saint Martin
20 he sent it to Isam, who then deposited it; didn't he?

21 A I don't know. Ask Walley, please.

22 Q So --

1 A I only went to Saint Martin twice. One of
2 them to the bank, and one of them was personal.
3 Family, personal trip.

4 Q Okay. So --

5 A -- other trip was picked up by Walley, and
6 I believe this is -- could be Walley handwriting.

7 Q So what you're saying is that it could be
8 Walley's handwriting, it could be Isam's handwriting,
9 but the only person who would know who was sending the
10 money to Saint Martin that Isam was depositing would
11 be Walley, not you; is that correct?

12 A Walley is --

13 MS. PERRELL: Objection. Wait.
14 Mr. Yusuf. Objection. That misstates the testimony.
15 BY MR. HARTMANN:

16 Q You can now answer, Mr. Yusuf.

17 A Other --

18 MS. PERRELL: You can --

19 BY MR. HARTMANN:

20 Q I'll rephrase. I'll re-ask the question.
21 Mr. Yusuf.

22 A Yes.

1 Q Are you saying that when the money went from
2 the Virgin Islands to Saint Martin you were not the
3 person who was involved with depositing it into the
4 bank?

5 A No. Not me.

6 Q Okay. And are you saying that you don't
7 really know who did deposit it into the bank?

8 A I have no idea.

9 Q Okay. And so --

10 A That's not my bank. I don't know if money's
11 coming from us but --

12 MS. PERRELL: Okay. Mr. Yusuf. Carl,
13 I'm going to have to object. This, I think, is
14 getting to -- his answers are getting into the fifth
15 amendment privilege, and I think your question is
16 calling for it. I apologize, but I think we've got to
17 invoke it.

18 MR. HARTMANN: He's already in the
19 middle of an answer, Charlotte. You didn't object
20 when the question was asked.

21 MS. PERRELL: I am directing him not to
22 answer on fifth amendment grounds.

1 MR. HARTMANN: Okay.

2 MS. PERRELL: Again, I'm not trying to
3 be obstructive. So --

4 MR. HARTMANN: Okay. I'd like to point
5 out for the purpose of the record that when I'm
6 calling for exhibit, for instance, 23 or exhibit 64,
7 that's the exhibit that's keyed to the question
8 number. So, for instance, when we're looking at
9 exhibit 64 for the deposit of a million dollars we're
10 discussing question 64 and the documents that go to
11 question 64. Okay? So let's take a look at Exhibit
12 63 then. Oh. Just a second. Could you show the
13 exhibit number, please? Thank you. Now could you
14 zoom in?

15 BY MR. HARTMANN:

16 Q Mr. Yusuf, can you tell me what this
17 document is?

18 (Exhibit 63 was marked for
19 identification.)

20 A Bank record, BFC. My account listed on it,
21 my name listed on it, and the account total would be
22 624,795.

1 Q Okay. And is it for the period of April
2 17th through April 30th?

3 A I don't see that date.

4 Q Over in the lefthand column could you see
5 the dates?

6 A -- March 2098 [sic] to April 30th -- you
7 know, April -- yeah. The -- the 30 days, 40 days,
8 period.

9 Q Okay. And do you see during that time into
10 your account was deposited four \$100,000 deposits and
11 one \$129,900 deposit?

12 MS. PERRELL: Same objection. Fifth
13 amendment privilege.

14 MR. HARTMANN: Okay. If we could look
15 at the next page of this document?

16 BY MR. HARTMANN:

17 Q Okay. This is Exhibit 63, Page 2, and this
18 is a deposit slip into your account that was attached
19 to that statement. And do you see on the right side
20 how it states that 480 one-hundred-dollar bills, 840
21 fifty-dollar bills, and 500 twenty-dollar bills were
22 deposited into your --

1 A I'm asking --

2 MS. PERRELL: Same -- wait, Mr. Yusuf.
3 Same objection. Fifth amendment privilege.

4 MR. HARTMANN: Okay.

5 BY MR. HARTMANN:

6 Q And do you see down below that there's a
7 signature?

8 A I see it. Not my handwriting.

9 Q Okay.

10 A It's not my --

11 Q So do you know who deposited this money into
12 your account?

13 MS. PERRELL: Same objection. Fifth
14 amendment privilege.

15 MR. HARTMANN: Charlotte, you didn't
16 assert the fifth amendment privilege with that when I
17 asked the previous exhibit.

18 MS. PERRELL: Again, well, Carl, I'm
19 asserting it now.

20 BY MR. HARTMANN:

21 Q Mr. Yusuf, is that your signature?

22 A No, sir.

1 Q Can you identify whose signature it is?

2 A I -- I -- my name there, but I don't know
3 who wrote it.

4 Q Okay. And was it your common custom to
5 allow people other than yourself to deposit money to
6 your bank accounts in 1996 through 2000?

7 A Walley.

8 Q Other people besides Walley?

9 A You can direct that question to Walley.

10 Q Okay. So you have no knowledge?

11 A I have no knowledge.

12 MR. HARTMANN: Okay. I'd like to look
13 at Exhibit 62. And if you could zoom in on that?

14 BY MR. HARTMANN:

15 Q And this is again a deposit slip for your
16 account. This time it say 3 of 1998, March of 1998,
17 that on March 20, 1998, you deposited \$70,000 into
18 your account. Or, excuse me, that \$70,000 was
19 deposited in your account; is that correct?

20 (Exhibit 62 was marked for
21 identification.)

22 A That should be directed to Walley, please.

1 Q Okay.

2 A -- to Saint Martin's.

3 MR. HARTMANN: Can I have the next page
4 of this document, please?

5 BY MR. HARTMANN:

6 Q Okay. And again on the right side this
7 says that 700 one-hundred dollar bills were deposited.
8 Do you know how those 700 dollar bills got to Saint
9 Martin, who deposited them, or why?

10 A That --

11 MS. PERRELL: Same objection. Same
12 objection. Fifth amendment privilege.

13 MR. HARTMANN: Okay.

14 BY MR. HARTMANN:

15 Q And is that your signature in the lower left
16 side?

17 A That's is -- not the signature. That's
18 somebody handwriting.

19 Q Okay. Is that your handwriting?

20 A Not my handwriting. This is not my
21 handwriting.

22 Q Okay. And do you have any idea why that

1 \$70,000 was deposited into this account?

2 MS. PERRELL: Same objection.

3 MR. HARTMANN: Okay. Charlotte, can I
4 assume that you're going to make the same objection
5 about all bank and financial statements?

6 MS. PERRELL: With regard to -- I mean,
7 certainly anything -- yeah. I think it's safe to say
8 that yes we would make that objection with regard to
9 these accounts. Yes.

10 MR. HARTMANN: Okay.

11 MR. HERPEL: For what time period are
12 we talking?

13 MR. HARTMANN: 1996 to 2000. Okay. If
14 you'd now put up Exhibit 67? Oh. I'm sorry. First
15 I'd like to quickly look at -- Exhibit 67, please.

16 BY MR. HARTMANN:

17 Q Okay. Mr. Yusuf, can you identify what this
18 document is?

19 (Exhibit 67 was marked for
20 identification.)

21 A It is a -- a form for income tax for Sixteen
22 Plus Corporation.

1 Q Okay. And if you'll look down at the bottom
2 of -- first, was this filed with the Virgin Islands
3 Bureau of Internal Revenue on October 13, 2000?

4 A Yeah. I see the stamp.

5 Q Okay. And can you tell by looking at the
6 document in the upper righthand corner what tax year
7 this is being filed for?

8 A I have not seen that.

9 Q Do you see the year 1999 in that upper
10 righthand corner where it says client's copy right
11 under that?

12 A Go up a little bit, please, with the
13 document? I did not see the last digit. Oh. 1999.
14 Yes.

15 MR. HARTMANN: Okay. If we can now
16 look at the bottom of this document?

17 THE WITNESS: No. We have to go up,
18 please.

19 MR. HARTMANN: Okay.

20 BY MR. HARTMANN:

21 Q And is that your signature at the bottom of
22 this document?

1 A Yes, sir.

2 Q And did you file this document?

3 A The accountant filed it. Or 1999. I would
4 assume Walley or Pablo O'Neill because I always work
5 here or Saint Thomas.

6 Q But you signed it under penalty of perjury;
7 didn't you?

8 A I sign it in good faith what my accountant
9 give me.

10 Q Okay. And again you signed it as the
11 secretary/treasurer of Sixteen Plus?

12 A Yes.

13 MR. HARTMANN: Okay. Now I'd like to
14 take a look at page 4, please? And specifically line
15 12 through 19.

16 MR. HERPEL: Yeah. Could you move that
17 up, please, on the screen? Line 19?

18 THE WITNESS: Yeah. I see it. It
19 start with four and a half million, end up total with
20 4,523,261.

21 BY MR. HARTMANN:

22 Q Okay. Let's look first at line 12; okay?

1 A Yes.

2 Q Okay. This says that Sixteen Plus
3 Corporation is reporting in its '99 tax return land
4 valued at 4.5 million and with a present value of
5 \$4,596,159. Do you see that?

6 A No. Where is that? That --

7 Q Line 12.

8 MR. HERPEL: The gallery is concealing
9 that column I think. Could you slide the exhibit a
10 little bit to the left?

11 THE WITNESS: To the left, please.

12 MR. HERPEL: The images of the
13 participants are concealing the third column.

14 MR. HARTMANN: Okay. Stefan?

15 MR. HERPEL: Yes?

16 MR. HARTMANN: Go to the top where it
17 says view and click on witness.

18 MR. HERPEL: I've got side by side
19 gallery, hide self-view, standard -- which is clicked.
20 Side by side speaker, side by side gallery, hide self-
21 view, hide --

22 MR. HARTMANN: Would you click on

1 speaker?

2 MR. HERPEL: Side by side speaker?

3 MR. HARTMANN: Speaker. Yes.

4 THE WITNESS: Now -- now I can see it.

5 MR. HERPEL: Okay.

6 MR. HARTMANN: Okay.

7 BY MR. HARTMANN:

8 Q Okay. Please look at line 12, and the
9 question before you is do you see that Sixteen Plus in
10 its 1999 tax return which you signed reported that it
11 held land valued at \$4,596,159?

12 A Okay.

13 Q Do you see that?

14 A So this is what's given to me.

15 Q Okay. And at that time what land was held
16 that was worth \$4,595,159 [sic]?

17 A Could you repeat the question, please?

18 Q What land did Sixteen Plus own that was
19 worth 4.5 million dollars?

20 A What land?

21 Q Yes.

22 A Diamond Keturah. There is two pieces of

1 land. It's --

2 Q Okay. So down below that at line 15 you'll
3 see that Sixteen Plus reported in its 1999 tax return
4 which you signed that its total assets were worth
5 \$4,709,261. Do you see that?

6 A Yes.

7 Q Okay. And do you believe that to be
8 accurate?

9 A The questions should go to Walley. As far
10 as I'm concerned it was presented to me either by
11 Walley or by Pablo O'Neill, and I signed it without
12 going through all these numbers.

13 Q Okay. Well, then let me ask the question
14 again.

15 A Okay.

16 Q Since the land was worth about four and a
17 half million, and the total assets of the company are
18 being listed at 4.7 million, would it be fair to say
19 that the only real asset of any value that the company
20 held was the Diamond Keturah land?

21 A I don't understand the question. Repeat it
22 slowly, please?

1 Q Okay. Was the only asset that the company
2 held at the time of the 1999 tax return the Diamond
3 Keturah land?

4 A Yes.

5 Q Yes?

6 A Sixteen Plus, that's the only one it have,
7 which all of it comes from Manal. Four -- four and a
8 half million that's coming from Manal. I honestly
9 didn't know where that come from.

10 Q Okay. Now I'd ask you to look at line 20.

11 A All right.

12 Q 20 gives the total amount of mortgages,
13 notes, bonds payable in one year or more. And is
14 there anything listed on that line? Are there any
15 numbers listed as mortgages or notes?

16 A I don't see any.

17 Q Okay. And above that at line 19 it states
18 loans from shareholders. It states \$4,708,261. Who
19 at that time, who in 1999, were the shareholders of
20 Sixteen Plus Corporation?

21 A That is worth -- worth -- that's not
22 contribution from the shareholder. The shareholder

1 does not have any money invested --

2 Q Okay. Mr. Yusuf --

3 A -- money. I'm not finished. This was
4 corrected. I realize it a year later, or two years,
5 and all this is being corrected 'cause we don't have
6 no shareholder investment period.

7 Q Okay. At this time in 1999, Mr. Yusuf, who
8 were the shareholders?

9 A The shareholder is -- I can't -- myself and
10 my wife, and my four sons.

11 Q And how much did the Yusuf family hold of
12 Sixteen Plus?

13 A Fifty-fifty.

14 Q I'm sorry?

15 A 50 percent for Yusuf family and 50 percent
16 for Hamed family.

17 Q Well, who -- okay. Now you just said to me
18 that this was an error and the next year you changed
19 it; is that correct?

20 A I don't remember exactly but I know this --
21 this statement was wrong statement and it's being
22 corrected.

1 Q Okay. Then I'm going to go through the
2 filings from this pay all the way to 2021 one at a
3 time and show you that those two lines still say the
4 exact same -- not the exact same thing. Slightly
5 different amounts, but there is always an amount for a
6 loan from shareholders, and there is never an amount
7 for loans for mortgages to Manal for the next 15
8 years. So let's first turn -- well, one more thing on
9 this exhibit before leaving.

10 MR. HARTMANN: Could we turn to page 5,
11 please?

12 BY MR. HARTMANN:

13 Q Now attached to this 1999 return was a
14 Shareholder's Share of Income, Credits, Deductions, et
15 cetera. And this one I will represent to you was the
16 report by Hisham Hamed, the plaintiff in this action,
17 and it was also prepared and submitted under your
18 signature with the 1999 taxes.

19 So did you provide, you and your CPA
20 provide, Hisham Hamed any other shareholders with
21 these schedule K-1s to be filed with the Virgin
22 Island's Department of Internal Revenue?

1 A I -- I told you, sir. Walley is the man in
2 charge to -- Pablo O'Neill. Both of them in Saint
3 Croix, and I was always in Saint Thomas. Only when I
4 go and -- they bring me set of paper and I sign. I
5 don't know about K-1 or K-9, whatever K it is. I did
6 not contact Hisham about share. I understand he have
7 some shares given by his father, but I -- I don't
8 know. I see -- could you raise up that and see if my
9 signature is on it?

10 Q Yes. Your signature is on this.

11 A I would like to see it, please.

12 MR. HARTMANN: Okay. Could we go back
13 to page 1 at the bottom?

14 THE WITNESS: Why do I have to sign for
15 Hisham? That's -- is that Hisham's income tax?

16 BY MR. HARTMANN:

17 Q No. This is --

18 A Why do I have to sign that for Hisham?

19 Q This is a document that was filed with your
20 1999 tax returns that the company then issues to
21 Hisham.

22 Q Look, this is -- Pablo O'Neill, God bless

1 him, he passed away, but the one Pablo O'Neill was
2 working all the long time on direction of Walley, not
3 me. I am always on Saint Thomas. Walley's the one
4 who is dealing all the time with Pablo O'Neill. By
5 the way, I would like to -- comment. I don't know if
6 I should do it now or not.

7 Walley should be president from his father
8 to my brother to my son. And from Walley Hamed as
9 vice president to my wife. My wife never enter this
10 kind of business, and my son never be the president of
11 Sixteen Plus. Please. Ask these questions to Walley,
12 why he did all this. He went to the lawyer and pick
13 up all of our documents, and he start to make changes
14 of his own. And Pablo O'Neill go ahead and approve
15 it. I can't be blamed for that.

16 MR. HARTMANN: Please put up Exhibit
17 70. And if you could zoom in on the top half of it?

18 THE WITNESS: What is that? Annual
19 report.

20 BY MR. HARTMANN:

21 Q Okay. I'm showing you a document that is
22 labeled the Annual Report on a domestic or foreign

1 corporation, and it's dated received August 30th. And
2 as we'll see below, that's of 2001.

3 (Exhibit 70 was marked for
4 identification.)

5 Do you know that every year a corporation in
6 the Virgin Islands has to file an annual report?

7 A Yes.

8 Q And they file it with the office of the
9 Lieutenant Governor?

10 A Yes.

11 Q And who in a corporation normally signs this
12 document and makes representations to the government
13 about the corporation?

14 A The officers. And I thought Walley is an
15 officer. It look like he changed it and put my son.
16 But then --

17 Q Okay. If you go down to the bottom of this
18 page --

19 A Excuse me. Excuse me. But he signed he was
20 not an officer according to his changes, but he still
21 signed as vice president. President, and then put
22 comma vice president. That's -- your question. I

1 sign below there.

2 Q Okay.

3 A If he's not a vice president, why he signs
4 it?

5 Q Well, on the line just above this it says
6 names and addresses of directors and officers of the
7 company at the close of the physical year, and it
8 lists Mohammed Hamed is the president, it lists Walley
9 Hamed as the vice president, and it lists Fathi Yusuf
10 as the secretary/treasurer. Is that the correct
11 listing of the officers?

12 THE WITNESS: I don't understand the
13 question.

14 MR. HERPEL: Could you repeat the
15 question, please?

16 MR. HARTMANN: Okay.

17 THE WITNESS: The last one.

18 BY MR. HARTMANN:

19 Q Look just above the signature line. About
20 five lines up. And you see where it says names and
21 addresses of the directors and officers?

22 A Where? I see Walley's signature, and my

1 signature, and the date.

2 Q No. But above that --

3 MR. HERPEL: Where the arrow is
4 pointing. Could you use the cursor to --

5 THE WITNESS: I don't see that.

6 MR. HERPEL: Do you see the --

7 THE WITNESS: Yeah.

8 MR. HARTMANN: Thank you.

9 THE WITNESS: Name and addresses of
10 director and -- close of physical --

11 MR. HARTMANN: Okay. And now if you
12 could highlight the line with their names?

13 THE WITNESS: Where is it? Where is it
14 now?

15 MR. HARTMANN: Okay.

16 THE WITNESS: That's all my
17 understanding up to now, and then I start reading this
18 document. Up to now -- or, I mean, up to when
19 Mohammed Hamed was still alive he was the president.

20 BY MR. HARTMANN:

21 Q Okay.

22 A And he never been -- excuse me. He never

1 been substitute with somebody else, but he put my son
2 as the president and my wife as the vice president.

3 Q Okay. And so these were the correct
4 officers in 1999; is that correct?

5 A Yes. To my understanding, yes.

6 Q Okay. And did you sign this report and
7 submit it to the government?

8 A Yes.

9 MR. HARTMANN: Okay. I'd like to turn
10 over now to page 2.

11 BY MR. HARTMANN:

12 Q And at the top of page 2 do you see that
13 it's stamped received on April 30th?

14 A April 30th. I see in August 30th.

15 Q I'm sorry. August 30th? My error.

16 A Yeah.

17 MR. HARTMANN: Okay. Now if you could
18 go down, the exhibit could be raised so we can see
19 Liabilities and Shareholder's equity?

20 BY MR. HARTMANN:

21 Q Okay. Do you see the line at the top there
22 that says Liabilities and Shareholder's Equity?

1 A Is it -- where is it? Where is this you see
2 it?

3 MR. HARTMANN: Could you highlight
4 Liabilities and Shareholder Equity?

5 THE WITNESS: Liability and Stockholder
6 Equity. Yeah. I read that. I seen all that on the
7 right.

8 BY MR. HARTMANN:

9 Q Okay. And below that do you see the line
10 that says loan to shareholders?

11 MR. HARTMANN: Could you highlight
12 that, please?

13 THE WITNESS: What do you mean loan to
14 shareholder? There's no loan from shareholder.

15 The --

16 BY MR. HARTMANN:

17 Q Do you see the line on the document that you
18 signed and submitted to the government that says loan
19 to shareholders?

20 A This is -- I believe it was corrected.

21 MR. HERPEL: What did you --

22 THE WITNESS: I am --

1 BY MR. HARTMANN:

2 Q Okay. I'm just asking you do you see the
3 line?

4 A Yeah. I seeing it, but I tell you it's
5 wrong.

6 Q Okay. And do you see the amount \$4,708,467?

7 A Yes.

8 Q Okay. So in 1999 you signed a document and
9 submitted it to the government which represented for
10 the purpose of corporate filings that the company
11 Sixteen Plus had a loan to its shareholders of
12 4,708,467; is that correct?

13 A Who -- who give -- we give loan to the
14 shareholder?

15 Q No. That a loan from the shareholders was
16 given to the company in the amount of \$4,708,000?

17 A The shareholder did not spend a dollar as --
18 as --

19 Q That's not the question I'm asking. I'm
20 asking whether you submitted this document with this
21 line in it under your signature to the Virgin Islands
22 government in 1999?

1 A It's been submitted twice. One was a
2 mistake, and the second one was correction.

3 Q Okay. So do you have a copy or does your
4 lawyer have a copy of the corrected 1999 filing --

5 A I have to check with my accountant. I'm
6 sure. It's John Gaffney. He's no longer working with
7 us, but the records shows that it's been changed.

8 Q I'm sorry. Did you say that John Gaffney is
9 no longer working with you?

10 A No. He's no longer -- well, I don't know.
11 I don't know. I don't know. If he want to come back
12 to work he's welcome, but he's, you know --

13 Q When was the last time John Gaffney worked
14 for you?

15 A The what?

16 Q When was the last time John Gaffney worked
17 for you?

18 A I think about a month ago.

19 Q Okay.

20 A He left, but with no -- when he would be
21 back.

22 Q Okay. Now after this was filed in 1999 this

1 -- or this was the 1999 corporate report filed after
2 that. In 2001 was Plaza Extra and United raided by
3 the FBI?

4 A Yes.

5 Q And after that raid in 2001 were United
6 Corporation and yourself, Walley Hamed, and Isam Hamed
7 [sic], indicted in 2003?

8 A I know about us. I don't know about Isam.

9 Q You don't know whether Isam was a
10 codefendant with you in the case?

11 A No.

12 Q Okay.

13 A I don't know. That is his -- he's been
14 indicted.

15 Q Okay. So after you were indicted did the
16 federal government in essence take control of your
17 finances and your ability to spend money?

18 A It was monitored but not controlled.

19 Q Okay. So the federal government was
20 monitoring your financials after the indictment; is
21 that correct?

22 A Yes.

1 Q And tell me how that worked? What does it
2 mean to be monitored by the federal government
3 following a criminal indictment? How did it work for
4 you?

5 A Well, no. That question should be directed
6 to Walley, really. I don't interfere with numbers.

7 Q Well, Walley wasn't a president of United
8 Corporation, was he?

9 A Walley what?

10 Q Walley wasn't an officer of United
11 Corporation, was he?

12 A Never.

13 Q Okay. And what entity was being monitored?

14 A -- in for Plaza Extra only on a verbal
15 agreement, and I am not changing it. That is
16 enforcement to please take him as a -- if I had been
17 forced I say I quit.

18 Q So Walley was not an officer of United
19 Corporation, was he?

20 A He never officer.

21 Q Okay. And so the monitoring that the
22 federal government did was of all the books, income,

1 receipts, expenditures, of United Corporation, wasn't
2 it?

3 A Repeat -- repeat the question, please?

4 Q Yes. The monitoring that the federal
5 government placed you under after the indictment was
6 monitoring of the spending, income, and other
7 financial transactions of United Corporation; is that
8 correct?

9 A Yeah. Yeah. Yes.

10 Q Okay. And so do you as a -- are you the
11 major shareholder of United Corporation?

12 A Yeah. I mean, me and -- me and my wife.

13 Q Okay. And what percentage of the stock of
14 United Corporation did you hold in the years 2003
15 forward?

16 A Repeat the question, please?

17 Q What percentage of the stock of United
18 Corporation from 2003 on was owned by you and your
19 wife?

20 A No. I never say owned by me and my wife.
21 We are the largest shareholder, but I -- our sons is
22 -- with us.

1 Q Do you and your wife together hold the
2 majority of the shares?

3 A Yes.

4 Q And what percentage of the shares do you and
5 your wife together hold?

6 A I don't remember. I would have to open up
7 the book. I don't know.

8 Q Okay. So is it your testimony that you
9 don't understand the financial constraints and
10 requirements and activities of the federal marshals
11 monitor from 2003 forward following the federal
12 indictment? That I have to speak to Walley about
13 that?

14 A No. What do you mean I don't understand the
15 finance?

16 Q Well, I asked you --

17 A I don't deal with financial, but I do
18 understand.

19 Q Okay. So tell me what you understood that
20 the monitors were doing?

21 A Doing their job.

22 Q And what was their job?

1 A -- to take care of the employees. They're
2 supposed to -- cash receipt. They're supposed to
3 handle the store, open the store, close the store.
4 That's their job. But, you know, Walley never
5 bothered. He's never around at United.

6 Q Okay. And is one of the things that the
7 monitors did is control all of the cash going in and
8 out of the store?

9 A Not control. In charge of. Control is I am
10 the controlling, one is I have to get --

11 Q Okay. But --

12 A I was leaving him in charge.

13 Q Okay. But, for instance, if you or Walley
14 or anybody else in United Corporation wanted to write
15 a large check did you have to clear it with the
16 monitors?

17 A Yeah. Well, they could bring it for me to
18 sign. They could -- they -- Walley can sign it. He
19 was -- because most likely -- we have two account. We
20 have a tenant account which Walley had no access to
21 it, and we have Plaza Extra account which his father
22 own 50 percent of the inventory. And he's a tenant

1 really based on agreement. And that's all. Walley
2 have no access to the tenant account. We can show it
3 to him any time he want to see 'cause it was always
4 open on our desk, but he have no authority to -- to
5 draw -- he do have authority to draw from Plaza Extra
6 business until I find something error -- go on. I
7 said no check will be signed without two signature.
8 One on each part.

9 Q Okay. Returning to the question of the
10 monitors. If you wanted to write a large check on any
11 of the Plaza Extra or United accounts after 2003's
12 indictment could the monitors simply tell you no, you
13 can't do that, and did they in fact tell you no, you
14 can't do that?

15 A No. Nobody submitted with an invoice. They
16 never turn me down because he knows the business I
17 have to run. But I was not -- I write the check for
18 50,000 without him knowing. No. He's aware of it.
19 And if he --

20 Q And --

21 A Excuse me. If he decided not to approve it
22 that's his choice, but I don't remember ever rejecting

1 -- from the marshal ever refuse to sign a check. All
2 you need to know is -- and the business I have to run.

3 Q Do you remember that on occasions the
4 monitor refused to allow the company to spend its
5 money and your lawyers had to go into court and try to
6 get the judge to overrule the monitors? Do you
7 remember that happening?

8 A What is that question again?

9 Q Do you remember that on several occasions
10 the monitors refused to approve financial transactions
11 for United and that your lawyers went to the judge and
12 tried to overrule the monitors, and the judge refused
13 to do that?

14 A I -- I don't recall that.

15 Q You don't recall that?

16 A I don't recall it.

17 Q Okay.

18 A They send this man -- marshal always approve
19 it if you can prove to him legitimate document is an
20 invoice, or -- or purchases, or whatever payment is,
21 but we have to prove it is -- payment.

22 Q Okay. Now during the period of the

1 monitoring did United also have to submit its
2 financial reports to the monitors?

3 A Yeah. I -- I would assume so. And the --
4 listen, I thought it -- but between me and Hamed is a
5 shape and agreement, and everything was under -- under
6 the agreement of -- of United. But not really United
7 have no right to take the income of the supermarket or
8 responsible for the losses to the suppliers, but it
9 was any income -- we -- we can't take it. There's --
10 only own 50 percent of it.

11 Q Okay. And is another thing that the
12 monitors oversaw during that period your tax and other
13 financial filings?

14 A I don't understand the question.

15 Q Okay. You've testified that the monitors
16 looked at and reviewed cash coming in and cash going
17 out. You've testified that the monitors reviewed such
18 things as requests for large checks. You've said that
19 the monitors reviewed the financials of the company.
20 I'm asking --

21 A -- deal with the financial. I really don't
22 recall.

1 Q Okay. And do you recall whether they
2 reviewed -- was there any financial information
3 whatsoever that was not open to the monitors to
4 review?

5 A Zero.

6 Q Okay. They could look at everything;
7 correct?

8 A Yeah. They're free to look at everything,
9 and we was ready for him -- for everything because
10 he's the marshal and he's -- that's the government
11 order.

12 Q Okay. And as part of the agreement after
13 the indictment that allowed you to continue operating
14 and put the monitors in place did you guys not agree
15 that no longer would money be taken out of cash before
16 it was reported for taxes?

17 MS. PERRELL: Objection. I believe
18 that goes to the fifth amendment.

19 MR. HARTMANN: Okay.

20 BY MR. HARTMANN:

21 Q Mr. Yusuf, you've been told not to answer
22 that question.

1 A I heard that.

2 Q Okay. So during that time I assume that you
3 guys were very, very careful about all your financial
4 transactions and all of your government and tax
5 reporting because the federal monitors were reviewing
6 it all; is that correct?

7 A Yeah.

8 MR. HARTMANN: Okay. So now I'd like
9 to look at --

10 THE VIDEOGRAPHER: Excuse me. Carl,
11 can we take a quick break to change media units?

12 MR. HARTMANN: Oh. I'm sorry. I
13 should have taken a break before this. Can we go off
14 the record for a second?

15 THE VIDEOGRAPHER: Going off the video
16 record. The time is 12:34 p.m.

17 (Off the record.)

18 MR. HARTMANN: Okay. Before we start
19 I'm just going to put something on the record about
20 the dispute about the stipulation. I've been
21 instructed by Joel Holt in the spirit of cooperation
22 to conclude the post-80 examination after one more

1 small volley of questions just to impeach on an issue
2 that we've already discussed, and at that point I'll
3 return to 30 as Stefan has requested. And I'll try to
4 go through that, although if there are objections
5 there, fifth amendment objections, after that I'll
6 just invoke the stipulation and continue the
7 deposition.

8 Okay. If we could put up Exhibit 81?

9 THE WITNESS: 81?

10 MR. HERPEL: It's on the screen.

11 MR. HARTMANN: And page 2, please?

12 THE WITNESS: Page 2.

13 MR. HARTMANN: Ben, could you flip it
14 to page 2? Thank you.

15 BY MR. HARTMANN:

16 Q Mr. Yusuf, in written discovery you were
17 asked to admit or deny that as a condition of the plea
18 agreement and settlement the federal government
19 removed its lien on the subject land. I want to ask
20 you a couple of questions about your statement that
21 you admit insofar as the lien was removed on the
22 subject land as a result of the plea and settlement.

1 First of all is it true that on December
2 26th of 2010 the defendants in the criminal case
3 entered into a plea agreement with both the United
4 States and Virgin Islands governments?

5 (Exhibit 81 was marked for
6 identification.)

7 THE WITNESS: What is that?

8 MR. HERPEL: Could you repeat the
9 question, please?

10 MR. HARTMANN: Sure.

11 BY MR. HARTMANN:

12 Q Is it true that on December 26, 2010, the
13 defendants in the criminal case, including yourself
14 and United, entered into a plea agreement with the
15 United States and Virgin Islands governments?

16 A What kind of agreement?

17 Q A plea agreement?

18 A Yeah. Yes.

19 Q Okay. And as part of that plea agreement
20 was the lien -- after that plea agreement was entered
21 into was the lien removed from the Diamond Keturah
22 land?

1 MS. PERRELL: Small objection. You're
2 talking about -- can you clarify as to which lien?
3 I'm sorry. That's -- I'm confused. I just want to
4 make sure it's clear. Objection. Vague. Sorry.

5 BY MR. HARTMANN:

6 Q Mr. Yusuf, as part of the federal indictment
7 and criminal litigation and the monitoring of you, the
8 other defendants, and United Corporation, did the
9 federal government place a lien on the Diamond Keturah
10 property?

11 A I honestly don't know. I never checked
12 that.

13 Q Okay.

14 A They could work, or they did not work. I
15 don't know.

16 Q Okay. Your attorney wrote for you --
17 apparently you didn't see it or don't remember it --
18 that you admit that insofar as the lien was removed on
19 the subject land as a result of the plea and
20 settlement. There's nothing contentious here. I just
21 want to move onto the next issue. Do you have any
22 reason to believe that your prior response was wrong?

1 A With what?

2 MR. HARTMANN: Charlotte, can you
3 direct your client?

4 MS. PERRELL: I mean, I --

5 THE WITNESS: I did not understand the
6 question, sir.

7 MS. PERRELL: I believe that what
8 you're trying to ask is is this response for the
9 request to admit accurate to Mr. Yusuf's knowledge.
10 Is that the question?

11 MR. HARTMANN: Yes, it is.

12 MS. PERRELL: Okay.

13 EXAMINATION

14 BY MS. PERRELL:

15 Q Mr. Yusuf, this is a request to admit. I
16 don't have the page. I don't remember when this one
17 was done, but whatever the date was this was the
18 response that you gave. Do you have any reason to
19 believe that your response was inaccurate?

20 A I don't know what -- what it is. Let me see
21 what it was.

22 Q Well, that's what they have on the screen

1 there. Number 35. They ask you to admit or deny that
2 as a condition of the plea and the settlement that the
3 federal government removed its lien on the land, the
4 Diamond Keturah land; okay? And then your response
5 was you admit that they removed it, so you admit it
6 insofar as the lien was removed on the subject land as
7 a result of the plea agreement and settlement.

8 But Yusuf is unable to admit or deny whether
9 the removal was a condition of the plea agreement. In
10 other words, you're saying you know it was removed,
11 but not sure about whether that was required or, you
12 know, how that worked in with the -- whether it was a
13 condition they required. I don't know that part, but
14 my question is --

15 A I don't know. My lawyer is dealing with
16 this. I honestly --

17 Q Okay. Do you have any reason to believe
18 that it's inaccurate, or do you believe that it's
19 appropriate?

20 A I don't understand the question. That's my
21 problem.

22 Q Okay.

1 A I did not understand the questions,
2 honestly. I --

3 EXAMINATION

4 BY MR. HARTMANN:

5 Q Mr. Yusuf --

6 A -- to deny whether the removal was a
7 condition of the plea. I would assume it was part of
8 the settlement.

9 Q Okay. Thank you.

10 A I believe so.

11 Q Okay.

12 A Even though it's a -- the put it. I don't
13 know where they put it, but it's -- do whatever they
14 like.

15 Q Okay. And as a result of the plea agreement
16 and settlement that was entered into in 2010 were you
17 also removed from the supervision of the federal
18 marshal's monitor?

19 A If I been removed?

20 Q Did they stop the monitoring?

21 A If I was removed? Removed in what places?

22 I -- what?

1 Q No. After the plea agreement was entered
2 into, and you entered into the settlement in 2010, did
3 they stop monitoring you? Did they withdraw the
4 monitor from the stores?

5 A Yeah. They stop monitor the stores?

6 Q Yes.

7 A I don't know. I know they came in and they
8 -- and they stop, but what time I don't know.

9 Q Okay. But they did stop the monitoring of
10 the stores?

11 A One of the monitor -- we have one time
12 monitor of the store, and -- but for -- not too long.
13 Maybe two months or three months. I don't know. I
14 don't remember. I know we used to have a monitor in
15 the store, and sometimes he just come for a day or two
16 and no more monitor. But we went straight -- our book
17 is always open for them to look at, or cash -- that
18 day. Whatever they want.

19 Q But the question I'm asking is after you
20 entered into a plea agreement and a settlement so that
21 the criminal case was settled -- after the criminal
22 case was settled did they stop monitoring your

1 financials?

2 A Yeah.

3 Q Okay. Thank you.

4 MR. HARTMANN: So I'd like to next put
5 up Exhibit 83. If you could highlight that top part?
6 I mean, zoom to the top?

7 BY MR. HARTMANN:

8 Q Okay. Mr. Yusuf, I'm showing you document
9 83. Do you recognize this as the 2010 Sixteen Plus
10 Corporation tax return filing?

11 (Exhibit 83 was marked for
12 identification.)

13 A Yes.

14 Q And can you see down there at the bottom in
15 the middle when it was actually filed? What day it
16 went into the Bureau of Internal Revenue?

17 A That's October 28, 1997.

18 Q Down below where the stamp is where it says
19 August 19, 2011?

20 A Yeah. Yeah. I -- now I seeing it.

21 Q Okay. Good.

22 MR. HARTMANN: Could you go to the

1 bottom of that page?

2 BY MR. HARTMANN:

3 Q So on August 19, 2011, nine months after the
4 settlement and the plea agreement were done, this
5 document was submitted to the Virgin Islands Bureau of
6 Internal Revenue. And do you recognize the person
7 signing it?

8 A Yeah. That is my signature, but I don't
9 know what is it -- the --

10 Q Okay. And what date did you sign this tax
11 return?

12 A I signed this tax return based on what
13 the -- they submit to me.

14 Q But did you sign it on August 18, 2011, as
15 it says right --

16 A Yes. Yeah.

17 Q Yes. And did you sign it as the
18 secretary/treasurer of 2016 Corporation?

19 A Yes.

20 Q I mean Sixteen Plus Corporation? I'm sorry.
21 I'll re-ask it.

22 A So -- go ahead.

1 Q Did you sign it as the secretary/treasurer
2 of Sixteen Plus Corporation?

3 A Yes.

4 MR. HARTMANN: Okay. If you could
5 please flip over to page 4? And if you could
6 highlight the area from lines 12 through 20? Zoom.
7 I'm sorry. Yeah. But highlight would be fine.
8 Either one. But also zoom. Thank you very much.
9 Sorry for making that difficult.

10 BY MR. HARTMANN:

11 Q Okay. Now this is a document that you
12 signed and submitted to the tax authority in August of
13 2011, after the plea agreement and settlement, and
14 after the removal of the monitors from the store. And
15 could you look at line 12? And at line 12 it lists
16 the land that the company Sixteen Plus claims as an
17 asset. It says that it has land worth \$4,596,159.
18 And is that still the Diamond Keturah land?

19 A I would assume so. Yes.

20 Q Okay. Now I'm going to ask you to look at
21 line 20 where it says what mortgages, notes, bonds,
22 does the company have outstanding. In other words,

1 did the company owe any loans or mortgages to any
2 outsiders. And could you tell me how much money is
3 entered into line 20 there?

4 A Line -- what -- we owe the four and a half
5 million dollar to --

6 Q I'm asking you to say to me is there any
7 amount issued as money owed to anybody for mortgages
8 or notes on line 20, or is that line blank?

9 A It's not written. We owe it, but it's not
10 written.

11 Q Okay. It's blank; right?

12 A Blank. Yes.

13 Q Okay. And in the line above it, line 19,
14 where it says loans from shareholders, \$4,710,626. Do
15 you see that?

16 A Yeah. I see that.

17 Q Okay. Now you told me when I was examining
18 you with regard to the earlier tax returns that that
19 was a mistake made by your accountant and your
20 accountant corrected it immediately. That --

21 A This is --

22 Q That is incorrect --

1 MS. PERRELL: Objection. I'm sorry.
2 Go ahead. Finish.

3 MR. HARTMANN: I'll withdraw the
4 question and I'll ask it.

5 BY MR. HARTMANN:

6 Q You said to me that that had been corrected
7 by your accountant, did you not?

8 A This is corrected by John Gaffney. He --

9 Q Okay. But in what year did John Gaffney
10 correct this?

11 A I have no idea.

12 Q Okay. Well, he hadn't corrected it by
13 August of 2011, had he?

14 A I -- no. I -- whatever it is is there, but
15 I know -- I know we owe four and a half million plus
16 the interest.

17 Q Okay. And at the time that you listed in
18 your tax return which you signed in 2011 after federal
19 supervision had ended that there was \$4,710,626 due to
20 shareholders who were the shareholders then?

21 A The shareholders is four of us. I mean, two
22 family. 50 percent, 50 percent.

1 Q Okay.

2 A This is -- is written just -- written false
3 because if Walley or his father invest, show me his
4 canceled check they paid to Manal. I don't have
5 anything to show because I never paid for anything to
6 Manal. I mean, this was purchased with Manal money,
7 and show me that a check went to Manal or to Sixteen
8 Plus for Sixteen Plus pay Manal. We still owe the
9 money. Walley and his -- his accountant is very
10 honest. God bless him, he pass away, but he's --
11 unfortunate he put whatever Walley tell him, which is
12 -- this is not the CPA rule with no -- with no
13 canceled check.

14 Q You said that you and Walley didn't give any
15 money for this, that Manal did. Isn't it in fact true
16 that you and Walley gave that money to Isam, and Isam
17 simply leant it back to the company?

18 A I have never seen we give any money to Isam.
19 That Isam -- we never give him one dollar. We don't
20 have any money.

21 Q Okay. When you say you didn't have any
22 money let's return to that 62 million dollars. Isn't

1 it true that you and Walley took 62 million dollars
2 out of the corporation, took it off United's books,
3 out of Plaza Extra, and sent it to Saint Martin?

4 A That is not true.

5 MS. PERRELL: Objection. Objection.
6 That's fifth amendment.

7 MR. HARTMANN: Okay. Strike his answer
8 under the objection.

9 BY MR. HARTMANN:

10 Q Okay. I'll now ask you to take a look at
11 Exhibit 85.

12 MR. HARTMANN: And if you could zoom in
13 on the top of that?

14 BY MR. HARTMANN:

15 Q Okay. Mr. Yusuf, do you recognize this as
16 another of the annual reports submitted by Sixteen
17 Plus Corporation?

18 (Exhibit 85 was marked for
19 identification.)

20 A I don't remember anything. All is when you
21 show me my signature if it's mine I'll tell you it's
22 mine, but I don't remember anything and how it's there

1 and who puts it. Walley was in charge of all these
2 numbers.

3 MR. HARTMANN: Okay. And if the court
4 reporter could highlight the -- I think it's the
5 seventh line down. It says fiscal year covered by the
6 last report filed, and it shows 12/31/2010. And the
7 next line, fiscal year covered by this report. Okay.
8 Thank you.

9 BY MR. HARTMANN:

10 Q Okay. Mr. Yusuf, do you see the second of
11 those highlighted lines there that says fiscal year
12 covered by this report is 12/11/2011?

13 A Yeah.

14 Q Okay. So this is the annual report of
15 Sixteen Plus for the year of 2011.

16 MR. HARTMANN: And if we could zoom
17 down to the bottom of the page? Stop. Thank you.

18 BY MR. HARTMANN:

19 Q Over on the right can you see the stamp
20 saying that it was submitted on September 21, 2012?

21 MR. HARTMANN: Could you highlight that
22 stamp, please?

1 BY MR. HARTMANN:

2 Q Do you see that stamp, Mr. Yusuf?

3 A I seeing it.

4 Q Okay. And do you agree that this report was
5 filed on September 21, 2012?

6 A Yeah. I would assume so. Yes.

7 Q Okay. So the settlement and plea agreement
8 were entered into in 2010, and this is a report now
9 being submitted in 2012. In fact, down below that --

10 MR. HARTMANN: Could you highlight the
11 date and his signature, please? You can get both
12 signatures if it's easier. There you go.

13 BY MR. HARTMANN:

14 Q Okay. So do you see your signature on this
15 document?

16 A Yes.

17 Q Okay. So you along with Waleed Hamed
18 submitted this document on 9/5/2012 to the Virgin
19 Islands government as a representation of the
20 financial status of Sixteen Plus Corporation; is that
21 correct?

22 A Walley is the one did all that work. He

1 just bring me that paper and he -- I know where to
2 sign, and I did sign. I did -- I did not -- I
3 overlooked the numbers. I will trust in Walley. I
4 never know Walley to play these kind of games.

5 MR. HARTMANN: Okay. If we could move
6 to page 3, please? And scroll it down just a little
7 bit and then highlight the section from liabilities
8 down to the total of that? Great. That's perfect.

9 BY MR. HARTMANN:

10 Q Okay. In that report that you filed and
11 signed with regard to the year 2011, under Liabilities
12 and Shareholder's Equities did you report that there
13 were shareholder's loans of \$4,710,626?

14 A I seeing it there, but now I want to see the
15 canceled check.

16 Q So are you saying that you don't believe
17 that you filed this document?

18 A I myself never pay any money. If I don't
19 pay I would assume Hamed did not pay. This is a funny
20 numbers.

21 Q Mr. Yusuf, your client has invoked the fifth
22 amendment as to where this money comes from, so I

1 can't question you about that, so I'm not questioning
2 you about it. What I'm questioning you about is in a
3 report to the Virgin Islands government, Lieutenant
4 Governor's office, did you sign a document and submit
5 it in 2012 stating that in 2011 the company had
6 shareholder loans in the amount of \$4,710,626? I'm
7 not asking you where it came from or anything about
8 it. I'm simply asking did you file the document and
9 does the document say that the company had shareholder
10 loans in that amount?

11 A I did not file. I signed it, but I did not
12 file it. I signed it by mistake. I trust Walley, and
13 he was doing it with his accountant. Unfortunately
14 the accountant, Mr. O'Neill, Pablo O'Neill, who pass
15 away, he normally doesn't look for proof of what you
16 put in the -- on the -- if -- he never see a canceled
17 check I'm sure. Never from me. And I'm sure Walley
18 and -- or his father or his brother cannot show a
19 single check was paid to Sixteen Plus. I --

20 Q And would he have a canceled check if the
21 money was provided to Isam and Manal in the form of
22 hundred- and fifty-dollar bills deposited into your

1 and Hamdan Diamond's accounts?

2 A Look, I don't deal with Isam except asking
3 for that loan.

4 Q Well, somebody -- you have admitted --

5 A I -- please let me finish, please. I never
6 received the transfer. Walley's the one who received
7 it.

8 Q Okay. Somebody deposited many, many
9 hundred-thousand-dollar deposits, millions of dollars,
10 into your bank account in Saint Martin; is that
11 correct?

12 A I would assume Walley -- did it.

13 MS. PERRELL: Hang on. Just a minute,
14 Mr. Yusuf. Same objection.

15 MR. HARTMANN: Okay. All right. If we
16 could now take a look at Exhibit 86? If you could
17 zoom in on the top?

18 BY MR. HARTMANN:

19 Q And I'm showing you now Sixteen Plus's
20 annual report, and it states that the fiscal year
21 covered by this report is 2011. Oh. Wait a second.

22 //

1 (Exhibit 4 was marked for
2 identification.)

3 MR. HARTMAN: Oh. I'm sorry. Exhibit
4 number 4, please. Okay. If you could zoom in on the
5 top of that?

6 BY MR. HARTMANN:

7 Q Mr. Yusuf, I'm now showing you Exhibit 4,
8 which is a bill, an invoice, to Sixteen Plus
9 Corporation dated August 6, 2015, from Source
10 Accounting, LLC. Do you see that at the top?

11 A Source Accounting, LLC. Lakeland, Florida.
12 I see.

13 Q Okay. And could you tell me who Source
14 Accounting is?

15 A I honestly don't know who it is.

16 Q Do you know that it's actually John Gaffney?

17 A It could be John Gaffney connected.

18 Q Okay. So John Gaffney's company sent you an
19 invoice dated August 6, 2015, and in it he says in the
20 line down there he has tax preparation fees. Do you
21 see that?

22 A What -- what --

1 MR. HERPEL: Can you move it up
2 slightly?

3 THE WITNESS: Raise it up, please?

4 MR. HARTMANN: Okay. Could you please
5 highlight in yellow the tax preparation fees line?
6 Thank you.

7 BY MR. HARTMANN:

8 Q Do you see that this company has invoiced
9 Sixteen Plus Corporation for preparing its 2016 taxes?

10 A Yes.

11 Q Okay. And could you explain who John
12 Gaffney is?

13 A He was working as an accountant with us. I
14 believe he might come back to work. Just for now, for
15 the past two months, he's never around.

16 Q Okay.

17 A And normally -- excuse me. He normally when
18 it's come to taxes he have a lady in Florida doing it
19 for him.

20 Q Okay. And in 2015 John Gaffney was working
21 as a salaried employee for you and United Corporation;
22 is that correct?

1 A Yeah. Plaza Extra really. I mean, United
2 Corporation doesn't have much -- much work to do.

3 Q Okay. And is this the John Gaffney that you
4 said corrected your tax and corporate accounting
5 records to correct the shareholder equity and loan
6 mortgage obligations?

7 A He is the man in charge with -- with taxes
8 or -- or the records too. How much we owe, how
9 much -- but our record doesn't show any payment from
10 me to Sixteen Plus. I'm not -- where the money coming
11 from? I don't have no money.

12 Q I'm not allowed to talk to you about that
13 money, Mr. Yusuf. I'm sorry.

14 MR. HARTMANN: Could I now see the
15 bottom of this document? Of this page? Stop. Thank
16 you.

17 BY MR. HARTMANN:

18 Q And now it shows --

19 MR. HARTMANN: Could you highlight in
20 yellow from the summary down to the bottom of this?

21 Okay.

22 BY MR. HARTMANN:

1 Q So under the description of what Mr. Gaffney
2 did for you, did for Sixteen Plus Corporation for
3 2014, it lists he did the form 10-30 tax return, he
4 did the federal information worksheet, he did other
5 liabilities; is that correct?

6 A Yeah.

7 Q Okay. So Mr. Gaffney, the accountant for
8 United Corporation, your employee, was also billing
9 you separately to do the tax and accounting work for
10 Sixteen Plus; is that correct?

11 A Yeah. Yeah. And that lady -- I don't know.

12 MR. HARTMANN: Okay. So if we could go
13 to the next page, please?

14 BY MR. HARTMANN:

15 Q Okay. And I'm asking you to look at Exhibit
16 H-Ex-004, which at the top states that it's the 2014
17 tax return for Sixteen Plus Corporation. Do you see
18 that?

19 A Yeah. I seeing it.

20 MR. HARTMANN: Okay. And if we could
21 scroll down just enough to get the stamp, and if you
22 could highlight the stamp?

1 BY MR. HARTMANN:

2 Q Okay. And do you see that this was filed
3 with the Virgin Islands Collections Department on
4 September 14, 2015?

5 A Yeah. I see that.

6 MR. HARTMANN: Okay. And if we could
7 zoom down now? I mean scroll down.

8 BY MR. HARTMANN:

9 Q Okay. At the bottom of this document it's
10 signed. Could you tell me whose signature that is?

11 A Fathi Yusuf signature. My signature.

12 Q Okay. And on what date did you sign this?

13 A It looks like -- I don't know the -- it's
14 August 20-something. I don't know what it -- 19, 15.

15 Q Could it be 2015?

16 A 2015. Yes.

17 Q And in what capacity did you sign this? Was
18 it as the secretary and treasurer?

19 A Who? Me? I'm the secretary/treasurer.

20 Q Okay. Good. And this was not being filed
21 by Pablo O'Neill, was it?

22 A No. This is not by Pablo O'Neill. No.

1 Q Okay. This was by John Gaffney?

2 A This is by John Gaffney.

3 Q Okay. And John Gaffney was hired by you to
4 do this; is that correct?

5 A He's -- he's an employee, but not like
6 somebody else did it. Not him. Unless the same --
7 cover the same mistakes. Look below, all the way
8 below, there is somebody Lakeland.

9 Q Okay.

10 A The -- this is not Mr. Gaffney signature.

11 MR. HARTMANN: If you could go down to
12 page 3?

13 THE WITNESS: That's the lady.

14 MR. HARTMANN: I'm sorry. Page 4.

15 Okay. And if you could scroll down? I'm sorry. It
16 must be page 5. Yep. There we go. And just down a
17 little more? Stop there. And if you could highlight
18 lines 12 through line 20? Okay.

19 BY MR. HARTMANN:

20 Q So in the 2014 tax filing at line 12 it
21 states that Sixteen Plus Corporation had land in the
22 value of \$4,596,159; is that correct?

1 A It says so. Yes.

2 Q And at line 20, where the company reported
3 any outstanding mortgages or notes or bonds to third
4 parties, how much is entered in line 20?

5 A In what?

6 Q How much did the company say that it owed in
7 notes and mortgages on line 20?

8 A Four and a half million dollars.

9 Q No. Line --

10 A Oh. Line 20? No. It does not have any --
11 any numbers.

12 Q Okay. So it's zero for line 20. And at
13 line 19 for loans from shareholders how much does it
14 list?

15 A 19?

16 Q Yes.

17 A Loan from shareholder. I never leant no
18 money. I am part of the shareholder.

19 Q And this --

20 A Four and a half million dollars. There was
21 no loan from me. I was not involved in that, and I'm
22 sure my partner is not involved neither.

1 Q You mean you didn't transfer millions of
2 dollars to Isam Yusuf and into your French banking
3 account and Hamdan Diamond's banking account and then
4 use that money to transfer it from Yusuf back to
5 Sixteen Plus?

6 A I'm telling to --

7 MR. HARTMANN: Wait. Wait. Go ahead,
8 Charlotte.

9 MS. PERRELL: I'm going to let him
10 answer it because this is ridiculous. He can answer
11 that question. You asked him if he transferred any
12 money basically to Isam, the route regardless. It
13 doesn't matter.

14 MR. HARTMANN: If you allow him to
15 answer this question then I get to ask the follow up
16 questions about means and method. You can't
17 selectively choose to do this. You've invoked on this
18 every single time, and if you don't want to invoke
19 that's fine, but I get means and methods.

20 MS. PERRELL: Well --

21 THE WITNESS: We have --

22 MR. HARTMANN: So either -- wait,

1 Mr. Yusuf.

2 MS. PERRELL: Just a minute.

3 THE WITNESS: A question for me?

4 MS. PERRELL: Just wait.

5 MR. HERPEL: Just a moment.

6 MS. PERRELL: Your question is did you
7 transfer funds, and then you talk about where you
8 think -- basically to Isam is what you're asking?

9 MR. HARTMANN: I asked him whether he
10 and Waleed took 62 million dollars out of the
11 partnership and transferred some of that money in the
12 amount of millions of dollars through Isam into his
13 accounts in Saint Martin, and then used the money to
14 have Isam transfer it back to Sixteen Plus. It's the
15 same question I've asked about a dozen times, and
16 you've invoked every time. And if you withdraw the
17 invocation I'm going back over all of those.

18 MS. PERRELL: Okay. May I have a
19 moment?

20 THE WITNESS: I --

21 MS. PERRELL: Mr. Yusuf, just a minute.
22 May I have a moment to confer with Stefan?

1 MR. HARTMANN: Certainly.

2 MS. PERRELL: Okay.

3 THE WITNESS: Mr. Hartmann, can you
4 repeat the -- 62 million.

5 MS. PERRELL: Wait. Okay. Mr. Yusuf,
6 just hold on just a moment. Stefan, I'm going to call
7 you on my cell. Can we just take a quick five-minute
8 break?

9 MR. HERPEL: Sure.

10 MS. PERRELL: Okay. Thank you.

11 THE VIDEOGRAPHER: Going off the video
12 record. The --

13 MR. HARTMANN: Charlotte. Wait, wait,
14 wait. Don't go off the record.

15 THE VIDEOGRAPHER: One second.

16 MR. HARTMANN: Go back on the record.

17 THE VIDEOGRAPHER: We're still on.

18 THE REPORTER: We are still on the
19 record.

20 MR. HARTMANN: I withdraw the question.
21 I'm not going to play this game with you.

22 MS. PERRELL: Well, and I'm not --

1 okay.

2 MR. HARTMANN: I'm not going to play
3 this game, Charlotte.

4 MS. PERRELL: No. And I'm not looking
5 to play a game. No. I'm going to put this on the
6 record. This can be not part of your time used. The
7 issue -- your question is whether or not Mr. Yusuf
8 transferred funds to Isam. That question does not
9 invoke any issues relating to a fifth amendment. And
10 so I'm trying to be responsive to you so that you can
11 ask your questions. You may not like the answers, but
12 you can ask those questions.

13 MR. HARTMANN: Charlotte, what --

14 MS. PERRELL: You can ask that
15 question --

16 MR. HARTMANN: Charlotte, what's
17 happening here is he is repeatedly answering my
18 questions about a notation about shareholders loans by
19 saying there couldn't be a shareholder loan because I
20 have no canceled check. So what I'm answering in
21 response to impeach him is but isn't it true that you
22 took 62 million dollars out of a partnership,

1 transferred it to the Saint Martin, had it put into
2 your account, someone put it into your accounts, and
3 then Isam moved that money to Sixteen Plus which would
4 not have left a canceled check. So that is not a good
5 defense to this, and I'm trying to get him to
6 acknowledge that.

7 MS. PERRELL: Okay. Okay.

8 MR. HARTMANN: Do you want him to
9 answer that track?

10 MS PERRELL: Okay. I'm not -- Carl --

11 THE WITNESS: So I answer?

12 MS. PERRELL: Just a minute, Mr. Yusuf.
13 The concern I have is this. Mr. Yusuf can explain the
14 funds and so forth. Now the concern I have is is
15 getting into and asking all kinds of questions about
16 money laundering and all of those various things.
17 That's the part that bothers me. Okay?

18 MR. HARTMANN: The problem, Charlotte,
19 is that your witness is responding to a question about
20 there not being a loan by saying the reason there
21 isn't a loan is because there's no canceled check.
22 And I am saying there would be no canceled check if

1 the money was transferred through a money laundering
2 operation.

3 MS. PERRELL: Okay.

4 MR. HARTMANN: So he either can't
5 answer that way repeatedly like he is, or I get to
6 inquire. You don't get to let him state his side and
7 then not let me get to examine.

8 MS. PERRELL: Okay.

9 MR. HARTMANN: And at this point since
10 I've withdrawn the question why don't we move on?

11 MS. PERRELL: I'd still like to take a
12 quick five-minute break. Thank you.

13 MR. HERPEL: Sure. For my part I just
14 would say that I thought the question was legitimate,
15 and whether this question was legitimate or other
16 questions are legitimate the follow ups are a separate
17 issue.

18 MR. HARTMANN: Okay. I'm not going to
19 do that with you guys. That is absolutely the most
20 ridiculous thing I've ever heard. Follow up
21 questions --

22 MR. HERPEL: Okay. Because asking one

1 question automatically makes all follow up questions
2 legitimate? That can't be the rule --

3 MR. HARTMANN: I'm not going to have
4 this discussion. I've withdrawn the question. I'm
5 going to move to question 30 now.

6 MS. PERRELL: Okay. I would still like
7 the break.

8 MR. HARTMANN: Oh my God.

9 THE VIDEOGRAPHER: Going off the video
10 record. The time is 1:48 p.m.

11 (Off the record.)

12 MS. PERRELL: Carl, thank you for the
13 break. As I said, I believe that the last question
14 you had asked is not objectionable, however you have
15 withdrawn that question. If I need to follow up with
16 redirect I will do that, and if you believe that that
17 opens a door I will certainly -- you know, we will
18 cross that bridge. But I'm trying to allow you the
19 ability to inquire, so --

20 MR. HARTMANN: Okay. I'm now at the
21 request of Attorney Herpel going to discontinue the
22 examination of the 60 to end questions and will return

1 to those in the continuation of the deposition after
2 the motions. So for those of you following along on
3 the question list I'm returning to question number 30,
4 which is what he says I should start with.

5 BY MR. HARTMANN:

6 Q Okay. Mr. Yusuf, I'm going to show you a
7 document that has been marked Exhibit 30. Could you
8 take a look at that?

9 (Exhibit 30 was marked for
10 identification.)

11 A Yes. I seeing it.

12 Q Okay. And is this a letter sent from Plaza
13 Extra by you on September 12, 1996?

14 A Yes.

15 Q Okay. And who is it addressed to?

16 A Addressed to the bank manager I believe.

17 Q Okay. So Mr. --

18 A Excuse me. Can I -- can I explain?

19 Q Sure.

20 A Walley want to borrow that money, and the
21 bank refused to allow them to draw from my account
22 until I have that -- signed that letter authorizing

1 the bank to allow Walley to borrow that money.

2 Q Okay. So my question was is it addressed to
3 Mr. Alexander Gumbs, the private client advisor for
4 Banque Francaise Commerciale?

5 A That question for me?

6 Q Yes. Is your letter written to Mr. Gumbs at
7 BFC?

8 A Mr. Gumbs I believe is a bank manager.

9 Q Okay. And this is your letter on Plaza
10 Extra's letterhead by you to him?

11 A For the bank. Walley want to borrow that
12 money from my account, and the bank got suspicious.
13 He asked me to write a letter, and that's the -- the
14 way writing it. He sent it to me, and I give him
15 exactly what he wanted. That is to help Walley
16 collect -- I think there's more checks around with
17 that.

18 Q Okay.

19 A If you go up I think it's more check.

20 Q Okay. Just to be clear, you are saying
21 that --

22 A Walley received that money.

1 Q Just to be clear, you are saying yes this is
2 a letter sent from Plaza Extra on Plaza Extra's
3 letterhead on 12 December 1996 by you to Mr. Alexander
4 Gumbs, the private client counsellor for Banque
5 Francaise Commerciale; is that correct? Is that what
6 this document is?

7 A Banque Commerciale? What you mean Banque
8 Commerciale?

9 Q Banque Francaise Commerciale. BFC.

10 A Yeah. I mean, this is to allow Walley to
11 borrow that money. It's -- to him.

12 Q But it is a letter that you wrote on Plaza
13 Extra stationary to the bank; is that correct?

14 A Yeah. It is this. The letter from me, it's
15 -- the Plaza Extra really have nothing to do with that
16 money.

17 Q Okay.

18 A And please, that is a personal account, and
19 I use the stationary of the business where I'm
20 working.

21 Q And so it's written on Plaza Extra
22 stationary because why?

1 A Because I don't have any stationary in my
2 name privately.

3 Q Okay. And it authorizes a check to be drawn
4 on account number 046066387790. Could you tell me
5 whose account that is?

6 A What is that? What is the amount of the
7 check?

8 Q Now the amount at the very bottom line of
9 which you could see --

10 MR. HARTMANN: Could you highlight the
11 account number on the bottom line there?

12 THE WITNESS: Yeah. That's the same
13 letter.

14 MR. HARTMANN: Thank you.

15 BY MR. HARTMANN:

16 Q Do you see where it's highlighted in yellow?

17 A Yeah.

18 Q And what account is that?

19 A I would assume my account. This is where we
20 have all our money in Saint Martin.

21 Q Okay. And which accounts did you have in
22 Saint Martin?

1 A I don't have that paper with me. I don't
2 know.

3 Q Okay. You had --

4 A I don't have that record.

5 Q You had an account; is that correct?

6 A Yes.

7 Q Waleed Hamed had an account; is that
8 correct?

9 A Yes.

10 Q Hamdan Diamond had an account; is that
11 correct?

12 A That's correct.

13 Q Isam Yusuf had an account; is that correct?

14 A That I don't know of.

15 Q Okay. And you could instruct the bank to
16 transact checks on both your account and the Hamdan
17 Diamond account; is that correct?

18 A Hamdan Diamond. I don't -- we was -- we was
19 using that to have more -- more account, really.
20 Hamdan Diamond have nothing to do with that.

21 Q Okay.

22 A That wasn't aware of it.

1 MR. HARTMANN: Okay. So if you could
2 now scroll down to the lower part of this document and
3 zoom in on that? Thank you.

4 BY MR. HARTMANN:

5 Q Okay. Below that it says, in addition --

6 MR. HARTMANN: Could you highlight from
7 the words in addition to the end of that paragraph?

8 BY MR. HARTMANN:

9 Q Okay. Do you see the highlighted section
10 where it says, in addition, please pay check number
11 3633491 in the amount of two million dollars drawn on
12 Hamdan Diamond Corporation, account number
13 040606388790. Do you see where it says that?

14 A I seeing it.

15 Q Okay. So you were directing the bank to pay
16 out two million dollars from the BFC Hamdan Diamond
17 Corporation account; is that correct?

18 A Right. It's -- account --

19 Q And if I understand what you just said to me
20 you said that this had nothing to do with --

21 MS. PERRELL: Two people are talking.

22 MR. HERPEL: You didn't let him finish

1 the answer.

2 THE WITNESS: I said based on Walley
3 request.

4 BY MR. HARTMANN:

5 Q Okay.

6 A Direct him permission from me to give him
7 these checks to send to Jordan.

8 Q And just to be clear, previously you said
9 even though this is Hamdan Diamond Corporation's
10 account this really has nothing to do with Hamdan
11 Diamond Corporation; is that correct?

12 A It have nothing to do with it.

13 Q Okay. And you said in fact it was an
14 account that who, you and Walley, were using so you
15 had more accounts to transfer money in Saint Martin?

16 A Yes. So we -- I use my private attorney for
17 Hamdan Diamond, and I open the account for Hamdan
18 Diamond, but really the money was ours to -- to
19 transfer to Jordan.

20 Q Okay. So let me ask you a question. Where
21 did the two million dollars that was sitting in Hamdan
22 Diamond's account in 1996 come from?

1 A I don't recall where it's coming from. I
2 would assume Walley took it. And Walley taking the
3 money, deposit in his name, my name, and -- and
4 Diamond name, and then -- Hisham was not with us.

5 Q Okay. So let me see if I'm correct. During
6 a year in which you made an average of somewhat just
7 north of \$25,000 you and Walley were able to deposit
8 more than two million dollars in Hamdan Diamond
9 account where Hamdan Diamond Corporation had nothing
10 to do with it so you could launder those funds; is
11 that correct?

12 MS. PERRELL: Same objection.

13 MR. HARTMANN: What objection? I want
14 you to state on the record what your objection is and
15 what part of it you're not allowing him to answer.

16 MS. PERRELL: The issue is the
17 laundering issue. That is my issue, Carl. That is
18 the fifth amendment privilege. I don't want Mr. Yusuf
19 answering questions that relate to issues infused with
20 the concept of money laundering. And your question
21 has that --

22 MR. HARTMANN: Okay. I'll break up my

1 question into parts.

2 BY MR. HARTMANN:

3 Q Did you and Walley Hamed deposit two million
4 dollars into the Hamdan Diamond Corporation account in
5 1996?

6 A Not me. Walley did it.

7 Q Okay. And where did Walley get that money?

8 A I would assume from our business.

9 Q What business?

10 A The Plaza Extra business.

11 Q Okay. So Walley got two million dollars
12 from the Plaza Extra business and deposited it into
13 this Hamdan Diamond Corporation account. Is that your
14 testimony?

15 A That's -- that's correct.

16 Q Okay. And did you know that he had taken
17 that money from Plaza Extra Corporation and deposited
18 it in the Hamdan Diamond Corporation account?

19 A That's what it looks like.

20 Q Did you know? Did you personally understand
21 that he was taking millions of dollars out of Plaza
22 Extra Corporation and depositing them into the Hamdan

1 Diamond account, into the Waleed Hamed account, and
2 into the Fathi Yusuf account in Saint Martin?

3 A Yeah. We send some money to the -- some
4 money to Saint Martin, but -- never heard of ten
5 million dollar. That's all.

6 Q Okay. How many million?

7 A I don't know how much it is, but it's not as
8 you say 62 million. And I will buy in cash.

9 MR. HARTMANN: Okay. I'm going to ask
10 the reporter to read back his prior response about ten
11 million dollars.

12 THE REPORTER: Please stand by.

13 (The reporter played the record as
14 requested.)

15 BY MR. HARTMANN:

16 Q At the bottom of this letter you say that
17 the two checks had been issues and signed by
18 Mr. Waleed Hamed, but you knew that Waleed Hamed was
19 obtaining two million dollars in cash out of the
20 Hamdan Diamond Corporation, and \$400,000 out of your
21 account in this transaction; did you not? You were
22 the one telling Mr. Gumbs; correct?

1 A Yes.

2 Q Okay. And did Walley -- I'm trying to think
3 of a good word for launder. Did Walley move those
4 funds out of those accounts into cash?

5 A No. No. He don't -- that -- that's
6 supposed to -- supposed to send it to Jordan, but
7 unfortunately somebody's fund is went straight to him.

8 Q All I'm asking is did you authorize BFC Bank
9 to pay out to Walley Hamed \$400,000 and two million
10 dollars as this letter states? Did you know about it,
11 did you approve it, and did you direct them to do so?

12 A I didn't know about it. Yes. And by check,
13 not cash.

14 Q Okay. And when you did this did you know
15 that Walley was going to use -- that that money --
16 strike that. When you directed the bank to provide
17 2.4 million dollars did you understand that that money
18 would be used to buy real estate?

19 A In Jordan.

20 Q But you understood that he was going to use
21 it to buy real estate; is that correct?

22 A In Jordan. Yes.

1 Q I understand that, but you understood that
2 he was going to use it to buy real estate; is that
3 correct?

4 A Yes. In Jordan.

5 MS. PERRELL: Objection. Okay. I was
6 going to say asked and answered, but it's fine.

7 MR. HARTMANN: I'm going to keep asking
8 him until he answers it.

9 MS. PERRELL: Well, he is answering it,
10 Carl. He is saying real estate in Jordan.

11 MR. HARTMANN: Then I'd like him to say
12 that.

13 MS. PERRELL: Okay. Go ahead.

14 BY MR. HARTMANN:

15 Q Mr. Yusuf, was it used to buy only real
16 estate? Was it used to buy anything else?

17 A No. I did not buy anything else. No.

18 Q Okay. So was all of the money that was
19 going through Saint Martin in this manner going
20 through Saint Martin to use it to buy real estate?

21 A Yes.

22 Q Okay. And you said that when you were using

1 the Hamdan Diamond Corporation account to do this that
2 Hamdan Diamond Corporation didn't know anything about
3 this; is that correct?

4 A No. They didn't know.

5 Q They didn't know. Okay. And who created
6 the Hamdan Diamond Corporation?

7 A Me and who -- this --

8 Q Who formed the Hamdan Diamond Corporation?

9 A This is account -- the Hamdan Diamond is not
10 even aware of it.

11 Q Okay.

12 A We open it because they have power of
13 attorney on it.

14 Q Okay. So you --

15 A And -- the power of attorney.

16 Q And when you say we who was that?

17 A Excuse me, sir?

18 Q Who is the we that created the Hamdan
19 Diamond account to provide the transfer of this cash
20 for the purchase of real estate? Who did it? You and
21 who else?

22 A Me and Walley did it.

1 Q Okay. Thank you. And did you use that
2 money all to buy real estate? In other words, has the
3 money all been spent that was transferred through
4 Saint Martin?

5 MS. PERRELL: Objection. Vague. Real
6 estate where?

7 MR. HARTMANN: He's already said it was
8 in Jordan.

9 MS. PERRELL: Okay. Just to be clear.

10 MR. HARTMANN: Okay.

11 BY MR. HARTMANN:

12 Q Was all the money that's transferred through
13 Saint Thomas at Saint Martin, has it all been spent?

14 A All of it. 100 percent.

15 Q Okay. And was it all spent --

16 A Oh. Wait a minute. I -- I forget
17 something. They went -- the -- some for real estate.
18 The majority of it was real estate, and we donate one
19 million dollar to open up a complete company, but
20 unfortunately Walley have sent two million dollars,
21 and say I send one. That's what -- that's the time
22 when I catch Walley really stealing. And his father.

1 So --

2 Q Okay. And this money that was being
3 transferred through Saint Martin that Hamdan Diamond
4 Corporation didn't know about, just to be clear,
5 you've testified previously that large amounts of
6 money, hundreds, thousand dollars at a time in fifties
7 and hundred-dollar bills, that that was being put into
8 your account, but you didn't know who was putting it
9 in or how they were putting it in; is that correct?

10 A No. I would assume Walley knows.

11 Q Okay. But you don't --

12 A I didn't -- most likely Walley. I don't
13 know if anybody else was helping Walley. I don't
14 know. Ask that question to Walley, please.

15 Q Okay. And just to be clear, that answer was
16 about your personal account in Saint Martin. I'm
17 going to now ask you the same question about the
18 Hamdan Diamond account and Walley's account. Do you
19 know -- is your answer the same that you don't know
20 who was actually physically depositing the fifty- and
21 hundred-dollar bills in those two accounts?

22 A I said money being transferred by Walley --

1 the Virgin Island. Not me.

2 Q Okay. And did you ever carry money yourself
3 on a plane to Saint Martin?

4 A No.

5 Q Okay. And --

6 A I just carry on the plane personal expense.
7 Money to -- to go to the bank -- account was open when
8 I took the plane. I don't --

9 Q Okay. So these deposits that you don't know
10 how they happened, that we have to ask Walley about,
11 which you --

12 A Ask Walley about it.

13 Q Yeah. Those accounts, you never took any of
14 the money for those accounts to Saint Martin yourself
15 personally by plane; is that correct?

16 A No. No.

17 Q Okay. And did you ever arrange --

18 MR. HERPEL: Real quick can we clear
19 the record on that? Well, to make sure what he meant
20 by no? Could you ask the question again?

21 MR. HARTMANN: Stefan, why don't you
22 just go ahead and ask the questions? Go ahead.

1 MR. HERPEL: Can we read back the
2 question and answer and make sure that answer is
3 clear?

4 MR. HARTMANN: No, no. Go ahead. Just
5 ask the question.

6 MR. HERPEL: I don't know the question.

7 MR. HARTMANN: Okay. But you're pretty
8 sure it was unclear?

9 MR. HERPEL: I don't have an
10 encyclopedic recall of the question. No. Can we read
11 it back?

12 MR. HARTMANN: Okay. Read back the
13 question.

14 THE REPORTER: Please stand by.

15 (The reporter played the record as
16 requested.)

17 BY MR. HARTMANN:

18 Q You personally never carried or arranged for
19 any of the money deposited into any of the three
20 accounts, your account, Walley's account, or the
21 Hamdan Diamond Corporation account, you never
22 personally either instructed someone to deposit funds

1 into those accounts or took money yourself and
2 deposited those funds; is that correct?

3 A No. I -- I don't recall.

4 Q Okay. And did you ever take funds to be
5 deposited into those three accounts to Isam Yusuf to
6 deposit?

7 A No. Definitely no.

8 Q Okay. And did you ever pack money into a
9 shipping container, or have other people packed money
10 into a shipping container containing mattresses to be
11 shipped to Isam Yusuf to deposit into those accounts?

12 A No. No. I never sent no containers with
13 mattresses.

14 Q Okay.

15 A I'm not in the mattress business.

16 Q So just to be clear, you knew that Walley
17 Hamed was taking millions of dollars out of Plaza
18 Extra and taking him to Saint Martin, but you're not
19 sure exactly how that money then got from Walley into
20 those three bank accounts; is that correct?

21 A Well, he take them form the store.

22 Q Right.

1 A I didn't know.

2 Q But do you know how it got from him taking
3 it to the store actually physically into those three
4 accounts?

5 A I don't know.

6 Q You do know, or you don't know?

7 A I don't know.

8 Q Oh. You don't know. Okay. So the only
9 person who could inform us on that would be Walley
10 Hamed; is that correct?

11 A Walley.

12 Q Okay. Thank you very much. I'm now going
13 to move onto the next question.

14 MR. HARTMANN: Exhibit 32, please. No.
15 I'm sorry. I'm sorry. Exhibit 33. And if you could
16 zoom in on the top?

17 BY MR. HARTMANN:

18 Q Okay. Mr. Hamed [sic], I'm asking you too
19 look at this exhibit.

20 (Exhibit 33 was marked for
21 identification.)

22 MR. HARTMANN: Could we once again go

1 to the top just so we see the exhibit number first?
2 I'm sorry.

3 BY MR. HARTMANN:

4 Q Okay. I'm now showing you Exhibit Number
5 33.

6 MR. HARTMANN: Now you can zoom back.

7 BY MR. HARTMANN:

8 Q Okay. Do you recognize what this document
9 is?

10 A I -- no. I don't recognize it. I don't
11 know. This is Hamdan Diamond Corporation, but I --
12 the customers I don't know who it is. N-O-U --
13 N-O-U-S-V-O-U-S Informons. I don't know.

14 Q That says in French for the information of
15 Hamed Diamond Corporation.

16 A Hamdan Diamond Corporation was -- they never
17 have a two million dollar in the account. Nothing
18 that I ever know of.

19 Q Okay. We've seen a letter from you to
20 Mr. --

21 A Now I see Isam Yousuf there. That's Isam
22 Yousuf. I don't know who have that. Hamdan Diamond

1 have nothing to do with Isam Yousuf.

2 Q Okay. Let's just answer my questions one at
3 a time; okay? First of all do you recognize this as a
4 BFC account statement?

5 A No. Not this one.

6 Q This is not a BFC account statement?

7 A I'm not -- the -- is not. I have never seen
8 it in the past.

9 Q Okay. But it is a BFC account statement.
10 You've received those and this looks like all of
11 those; is that correct?

12 A I tell you I never seen this before.

13 Q Okay. Whether or not you've ever seen it
14 before does it say on it's face on the right side --

15 MR. HARTMANN: Will you highlight the
16 words Hamdan Diamond Corporation in yellow, please?

17 BY MR. HARTMANN:

18 Q Does it say that it is being sent to Hamdan
19 Diamond Corporation?

20 A This is my brother Hamdan Diamond
21 Corporation. That's my brother own.

22 Q Okay. And this statement was sent to Isam

1 Yousuf; is that correct?

2 A Yeah. I see this is going to Isam, and --
3 and --

4 Q Okay. And it --

5 A -- on top is owned by his father.

6 Q Okay. And it relates that a check was
7 written on September 17th of 1996, doesn't it? Do you
8 see that?

9 A Where?

10 Q Down below.

11 MR. HARTMANN: Could you highlight the
12 date 17.09.96, please?

13 THE WITNESS: I -- I don't see nothing
14 but -- I don't see. Maybe you have to raise up. Oh.
15 17.09.96. That date? You're looking for a date?

16 BY MR. HARTMANN:

17 Q Okay. That's right.

18 A September 17, '96.

19 Q Okay. So --

20 A I tell you I never saw this before.

21 Q And does it relate that a withdrawal was
22 made, a debit was made, in the amount of two million

1 dollars?

2 A That's what it looks like.

3 Q Okay. Is this the two million dollars that
4 you told Mr. Gumbs to cash out to Walley Hamed?

5 A No. This is not the -- not -- not the same
6 two million dollars. I -- Diamond -- my brother don't
7 even know this account at that bank in his company
8 name.

9 Q And if your brother didn't know Isam
10 wouldn't know, would he?

11 A No one knows.

12 Q Okay. Now who --

13 A Just me and Walley.

14 Q Okay. So Isam wouldn't have known anything
15 about this account, nor would your brother, because it
16 was you and Walley using the Hamdan Diamond
17 Corporation's bank account; correct?

18 A Hamdan Diamond is -- I use it to put some
19 money, our money. My brother don't -- he was not
20 aware of using his company name.

21 Q Okay. And when you say our money you mean
22 you and Walley's money? The money from Plaza Extra?

1 A Yes. The Plaza Extra money.

2 Q The money from Plaza Extra; is that correct?

3 A Yes. Yes.

4 Q Okay. Thank you.

5 MR. HARTMANN: Okay. I'm going to move
6 now to the next question.

7 BY MR. HARTMANN:

8 Q Now the day before that -- I'm sorry. Four
9 days before that on September -- that check was
10 written, we've seen, on September 9th; okay? And on
11 September --

12 A 17th.

13 Q I'm sorry. September 17th. Okay. And four
14 days prior to that on September 13th, okay, 1996, was
15 Scotia Bank the successful bidder on the foreclosure
16 sale for the Diamond Keturah property? I'd ask you to
17 look --

18 MR. HARTMANN: We're going to put up
19 Exhibit 32 for a second.

20 BY MR. HARTMANN:

21 Q Okay. Mr. Yusuf, if you'd look at Exhibit
22 32 it's captioned Assignment of Certificate of Sale.

1 (Exhibit 32 was marked for
2 identification.)

3 A Yeah.

4 Q And I'm going to read just the first line.
5 Whereas, a foreclosure sale was held on September 13,
6 1996 in the Office of the Territorial Court Mashal,
7 Kingshill, St. Croix, U.S. Virgin Islands in
8 connection with that certain action pertaining to the
9 Territorial Court of the Virgin Islands -- I'll skip
10 the title and go to the case number -- 746/1992, and
11 with respect to those certain plots and parcels of
12 land more full described in Exhibit A. Then it says,
13 Whereas the Bank of Nova Scotia was the successful
14 bidder of said sale.

15 Now do you recall that the Bank of Nova
16 Scotia on or about September 13, 1996, purchased what
17 we now call the Diamond Keturah property?

18 A I know they bought it, but all the -- the
19 foreclose item and -- bidding -- but I don't know what
20 day.

21 Q Okay. Do you have any reason to believe
22 that the filings with the court were wrong as to the

1 date? Do you have any reason to believe it was not
2 September 13, 1996?

3 A No. The -- I have to read the way it is.
4 If it's -- I don't expect it to.

5 MR. HARTMANN: Okay. So I'll move onto
6 the next question. I'm repeating that in the record
7 for anybody that's following along on the question
8 list. We're now at question 34.

9 BY MR. HARTMANN:

10 Q Okay. Do you know whether on October 28,
11 1996, the foreclosure sale on Diamond Keturah was
12 confirmed by an order of the Territorial Court? I'd
13 ask you to look at Exhibit 34 which is now being put
14 on the screen.

15 (Exhibit 34 was marked for
16 identification.)

17 Have you had a chance to look at Exhibit 34?

18 A I'm looking at it, but I don't know what to
19 look for.

20 MR. HARTMANN: Okay. Would you scroll
21 down on this document, please? Okay. Stop there.
22 And would you highlight the sentence that starts

1 whereas the sale was confirmed by order of the
2 Territorial Court entered on October 28, 1996?

3 THE WITNESS: Yeah. I seeing that.

4 BY MR. HARTMANN:

5 Q Okay. So do you have any reason to believe
6 that the foreclosure sale of Diamond Keturah to the
7 bank was not confirmed on the 28th of October 1996?

8 A I can't say. I can't say yes or no. What
9 it is is what it is.

10 Q Okay. And if you look at the next paragraph
11 it says that in connection with the afore-described
12 foreclosure sale the assistant marshal of the Virgin
13 Islands issued a certificate of sale to the Bank of
14 Nova Scotia. Do you see that?

15 A Yeah. I seeing it.

16 Q Okay. And at this time when this property
17 was being purchased by Bank of Nova Scotia did you
18 know about the fact that the Bank of Nova Scotia was
19 buying the Diamond Keturah property?

20 A Repeat the question, please?

21 Q Yes. At the time that the Bank of Nova
22 Scotia was foreclosing and obtaining a bill of sale

1 for the Diamond Keturah property did you know that
2 that was taking place? Did you know that the bank was
3 foreclosing on the property?

4 A Yeah. I heard from a real estate agent.

5 Q Okay. And did you talk to Walley Hamed or
6 anybody else about the idea that you wanted to buy
7 that property in that foreclosure sale?

8 A I didn't say I want to buy it. I say that
9 let's go and take a look at it.

10 Q Okay. And after you said let's go and take
11 a look at it did you eventually make the decision to
12 buy the property?

13 A Not me alone. I -- me and Walley.

14 Q Okay. So you and Walley decided to buy the
15 property at about the time that the Bank of Nova
16 Scotia was foreclosing on it; is that correct?

17 A Yes.

18 Q Okay. And so when you and Walley had these
19 discussions about the bank is going to foreclose how
20 much did you think you could buy the property for, and
21 how did you get that impression?

22 A No -- we ask the bank how much you want for

1 it. The bank have bought it four and a half million.
2 They say all they want is to recover my money. But if
3 you want to buy it you have to put some down payments.
4 And, well, I can't sell it to you now, but I can
5 promise you the property will be yours if you come up
6 with the money.

7 Q Okay. And --

8 A -- so they -- for the owner to -- to claim
9 his properties.

10 Q Okay. So now I'm going to imagine a
11 conversation between you and Walley, and you tell -- I
12 know it's not the real one, but I want you to tell me
13 what the real one was. So you say to Walley, Walley,
14 this is a great idea. Walley says, yes, Fathi, I
15 agree it's a great idea. And the two of you talk
16 about how good an idea it is. And then one of you
17 says to the other, well, this is going to cost just
18 over four million dollars to buy. And then one of you
19 says to the other, well, where are we going to get
20 four million dollars in the beginning of 1997 when you
21 and I are only making about \$26,000 a year that we're
22 reporting to the tax authorities. Okay.

1 How did that conversation go? How did you
2 two discuss you would find this?

3 A No. It's the -- it's the -- we -- I know we
4 don't have the money, but I know my brother have a lot
5 of money. And there is a situation with one of his
6 daughters. She's married and -- and she's married for
7 many, many years, and at this time she become pregnant
8 she lose her baby, and unfortunately she lost about
9 five or six of them, and all are boys. So her father
10 was really, really worried about her, and her future.

11 She's trying to get babies, and her husband
12 want babies, but unfortunately each time she get
13 pregnant she lost her baby. And he want to -- what
14 can he do about it? Because her husband, eventually
15 he want to look for baby, and my daughter, she can't
16 carry it. She will end up losing her husband. I say,
17 well it's --

18 Q But I'm confused now.

19 MS. PERRELL: Well, let him finish the
20 answer.

21 THE WITNESS: You -- seems to me that
22 he understand with the whole story. Allow me to

1 finish, sir, Mr. Hartmann.

2 I told him the best thing is buy her
3 business, or -- husband a business, but put the
4 business in her name. Or, you know, he put the four
5 and a half million dollar. I don't know really how
6 much he put, but I find out later that he put money,
7 but I don't know how much. And it's none of my
8 business to know how much it really is. But when this
9 comes up I call Isam.

10 He say, yes, we have four or four and a
11 half million dollar. I don't know. I don't remember
12 how much he told. I say, would you loan it to us?
13 That's a good deal, and I think we can flip it and
14 make money. He says, fine, Fathi, whatever you want.
15 He's -- goes, I even put in the contract she have
16 shares of the income if we sells it. And based on
17 that I put in 500,000 depending on Isam when we ready.
18 We don't know when we're ready. Maybe six months
19 later. He will -- he will come up with the -- what
20 amount we need. That's it.

21 BY MR. HARTMANN:

22 Q Okay. Now at the beginning of that answer

1 you said you guys didn't have the money to buy it, but
2 in fact you had millions of dollars sitting in three
3 French bank accounts, didn't you?

4 A We don't have millions of dollars. We
5 merely pass millions of dollars through that bank.
6 But we don't have millions of dollars at that time.
7 And we -- we have -- the goal is to buy more and more
8 land in Jordan. And --

9 Q But on the day --

10 MR. HERPEL: Let him finish his answer,
11 please.

12 THE WITNESS: Go ahead.

13 MR. HERPEL: Did you finish your
14 answer?

15 THE WITNESS: Yeah. I mean, it -- we
16 sent about roughly ten million dollar into Jordan to
17 buy properties, and we did use it for properties.

18 BY MR. HARTMANN:

19 Q Okay. But on the day -- well, three days
20 around the day that this was being foreclosed you
21 coincidentally -- the sale of the Diamon Keturah
22 property was being closed. You coincidentally had 2.4

1 million dollars sitting in bank accounts on Saint
2 Martin, which you took out at the exact same time the
3 foreclosure sale took place; isn't that true?

4 A If I took money from Saint Martin? Where --
5 where I went with that money?

6 Q Well, that's what I'm asking. At the exact
7 same time -- well, let me ask a different question.
8 Strike that. Let's ask this. When you talked to the
9 bank about how you might buy this property did you say
10 if you get the property in January or February I'll
11 give you all 4.5 million dollars right then, or did
12 you say to them I'll give you two and a half million
13 dollars?

14 A I don't recall the negotiation we have.

15 Q Okay.

16 A I mean, this is -- you're talking about 15
17 years ago.

18 Q But when you did close that deal how much
19 cash did you give them in January and February of
20 1997?

21 A I understand Walley get wife's 2 million
22 dollar. That was --

1 Q So when you paid the bank in January and
2 February of 1997 you said Walley did it, but the
3 amount you gave them was two and a half million
4 dollars, wasn't it?

5 A I -- see, Walley is the one who receive all
6 the money. Walley is the one who pay the bank. I
7 didn't even sign the check to the bank.

8 Q Okay. So --

9 A Walley -- the one to answer the question.

10 Q So I understand that you didn't do it. I
11 understand that you say that Walley handled all of the
12 money being paid to the bank for Diamond Keturah
13 property. But I'm asking do you understand that the
14 amount that was given to the bank at that time in the
15 first of the payments was 2.5 million dollars?

16 MS. PERRELL: Objection. I think
17 that --

18 THE WITNESS: Walley --

19 MS. PERRELL: Wait, Mr. Yusuf. Wait,
20 Mr. Yusuf. I believe that misstates the evidence, but
21 Mr. Yusuf, to the extent you know you can answer.

22 BY MR. HARTMANN:

1 Q Mr. Yusuf, do you know how much money was
2 paid to the Bank of Nova Scotia in January and
3 February of 1997 for the first of the two payments for
4 Diamond Keturah? Do you know how much it was paid?

5 A I have no idea. Walley would know.

6 Q Okay.

7 A He's the one made the payment.

8 Q But if the documents, the transfer documents
9 and the receipts and the documents with the bank,
10 showed some amount you would agree that that was the
11 correct amount?

12 A No. I would not --

13 MS. PERRELL: Objection. Objection.
14 That calls for a speculation. You're not showing him
15 any particular documents.

16 BY MR. HARTMANN:

17 Q You can answer, Mr. Yusuf. Do you dispute
18 that money was paid in January and February?

19 MS. PERRELL: Same objection, Carl.
20 That really misstates the evidence. I know where
21 you're going with it, but it's not -- but I'm just --

22 MR. HARTMANN: Charlotte, you've got to

1 stop the rolling objections. The objection is --

2 MS. PERRELL: But the problem is, Carl,
3 is that your questions --

4 MR. HARTMANN: Charlotte, the objection
5 is object and then a one sentence statement of what
6 the objection is.

7 MS. PERRELL: It misstates the evidence
8 and it is wrong.

9 MR. HARTMANN: Okay. Thank you. Okay.
10 Thank you.

11 MS. PERRELL: The question is wrong.
12 So I'm just --

13 MR. HARTMANN: Thank you. I appreciate
14 your help in this deposition.

15 MS. PERRELL: And I'm not trying to be
16 obstructive is my point. I'm not trying to be
17 difficult. I'm just telling you that question is
18 incorrect. So --

19 MR. HARTMANN: Charlotte, I'm not
20 trying to -- just for your information, I'm not trying
21 to figure out how much was paid. I'm trying to get
22 Mr. Yusuf to say he doesn't understand. Now thanks to

1 you he's repeated it several times, and he's also said
2 that he had nothing to do with it, so the only person
3 that can testify about it is Walley Hamed. So he's
4 knocked himself out as a witness to this transaction.
5 He has no recollection, he has no memory, but I
6 appreciate your assistance after my 43 years of
7 practice. I do.

8 BY MR. HARTMANN:

9 Q Okay. So, Mr. Hamed [sic], I'll ask you the
10 question again. Do you personally know at this time,
11 as you sit here, how much was paid to the bank in the
12 January, February 1997 period for the purchase of the
13 Diamond Keturah property?

14 MS. PERRELL: Same objection.

15 A I -- I look at -- we -- after we bought it
16 we receive two transfer. Walley receive two transfer.
17 One some time in February, and one some -- two million
18 in February, and, like, two million in September.
19 That's seven months apart. I did not receive none of
20 it. Walley receive both. Walley dealing with the
21 bank.

22 Q Okay. So that's not the question I'm

1 asking. I'm not asking you what the money transfer
2 was. I'm asking you do you now today as you sit here
3 -- you're a witness today. Do you know right now how
4 much the bank was paid in January and February in that
5 first installment for the purchase of the Diamond
6 Keturah land?

7 A I have no idea how much Walley paid at that
8 time.

9 Q Okay. Thank you. And so the only person
10 that could testify or give information about that
11 would be Walley Hamed; is that correct?

12 A Yes.

13 Q Okay. And who made the arrangement with
14 Isam for Isam to transfer that money to the Sixteen
15 Plus account on Saint Croix?

16 A I know 'cause he had the capacity to help
17 us, but after that everything Walley --

18 Q Okay. So you --

19 A -- to Walley. Not me.

20 Q Okay. So you had no discussions, contact,
21 or any kind of communications with Isam about the two
22 million that was transferred, about how it was

1 transferred, about where it came from, or about what
2 it was being used for; is that correct?

3 A Zero communication between me and Isam.

4 Q Okay. Thank you.

5 A About how and why they sent it.

6 Q Thank you. Okay. Now after Walley had
7 withdrawn the 2.4 million dollars from the account in
8 Saint Martin, after that occurred and after the bank
9 foreclosed, did there come a time on January 11, 1997,
10 when you and Walley had contacted Andy Simpson, a
11 lawyer, and Andy Simpson sent Walley a memo regarding
12 the shareholder agreement for the formation of Sixteen
13 Plus Corporation? Were you involved in the January
14 1997 setting up of Sixteen Plus Corporation?

15 A What year?

16 Q January 1997.

17 A I -- I don't know when the -- it get set up.

18 Q Okay. I'll ask you to look at Exhibit 35,
19 please.

20 (Exhibit 35 was marked for
21 identification.)

22 Okay. Exhibit 35 is a memorandum to Walley Hamed

1 from Andy Simpson, Re: Sixteen Plus Corporation, dated
2 January 15, 1997, which I will represent to you Walley
3 Hamed stated was sent to him by Andy Simpson on or
4 about January 15, 1997; okay? In it they discuss
5 setting up the corporation, the Sixteen Plus
6 Corporation. What I'm asking you is were you involved
7 in the setting up of this corporation in January of
8 1997?

9 A I don't recall.

10 Q Okay. And do you know if at the time it was
11 originally being set up it was intended that Mike
12 Yusuf would be the president and would be an officer
13 of the company?

14 A My son never involved in any outside
15 business like Sixteen Plus or any other business.
16 He's never an officer. I see some documents saying
17 he's the president. That is not true. And I see a
18 document say that his mother is the vice president.
19 That's not true. The president is Mohammed Hamed, and
20 he signed the loan as the president. You can't have -
21 -- America is of 385 millions, only have one
22 president. Chine, one and a half billions, only one

1 president.

2 Q Okay.

3 A -- Corporation have two -- same time?

4 MR. HARTMANN: Okay. I'll ask the
5 court reporter to highlight in yellow the second
6 sentence of the letter which starts with the word I.

7 BY MR. HARTMANN:

8 Q Okay. This sentence states, "I am putting
9 together a shareholder agreement in which all
10 shareholders pledge to allow you and Mike to run the
11 corporation." Did you know that there were
12 discussions going on with a lawyer that Mike would run
13 the corporation?

14 A Nothing that I know of. And by the way, I
15 would like to add a comment. I don't remember
16 Attorney Simpson, that he was representing us. I
17 believe Carl Dexter is the only one. I am not too
18 sure is Andy Simpson is the one set up the company.

19 Q Okay. So let me ask the question in a
20 different way. If there were discussions with
21 Attorney Simpson going on, and if agreements were
22 being drawn up that would make Mike one of the people

1 who were going to run the corporation, you didn't know
2 anything about that; is that correct?

3 A No. I -- I know the three director is as
4 follow. Mohammed Hamed is the president, Walley Hamed
5 is the vice president, Fathi Yusuf as the
6 secretary/treasurer. No son of mine, and no wife.

7 Q Okay. Let me ask you the question a
8 slightly different way. When the corporation was set
9 up, right, in 1997, do you know anything about what
10 documents were done or who did them?

11 A I tell you, Walley is the one is supposed to
12 -- the company, and I tell you the -- the three -- the
13 three director. And now you telling me my son. I
14 don't know how my sons were going to be a president,
15 and without my knowledge, and they did not sign the
16 note. Mohammed Hamed signed as the president because
17 he is the president. You can't have two presidents at
18 the same company.

19 Q Okay. Is your son Mike a shareholder of
20 Sixteen Plus Corporation?

21 A If what? What the question, sir?

22 Q Is Mike Yusuf, your son, the person that's

1 being discussed in this memo --

2 A Yeah.

3 Q Is he a shareholder of the corporation?

4 A He a shareholder. Yes. He's a -- I think
5 he has 10 percent.

6 Q And you're a shareholder?

7 A Yeah. I believe I got 30.

8 Q And Walley's a shareholder?

9 A Yes. A shareholder is different to them and
10 a director.

11 Q Okay. And if Mike Yusuf presently holds
12 seven shares of stock in the corporation --

13 A Okay.

14 Q Who decided that Mike would get seven
15 shares?

16 A I decide Mike and his brother will get seven
17 share each.

18 Q Okay. And did you have to decide that when
19 the company was being formed?

20 A Who?

21 Q Did you have to decide who was going to get
22 the shares at the time Sixteen Plus Corporation was

1 being formed?

2 A All I know the 16 percent -- I mean, the --
3 the Sixteen Plus is 100 percent shares. Okay. 50
4 percent of that 100 is the Hamed family. Mohammed
5 Hamed can go to whoever he wants. And the other 50
6 percent is Fathi Yusuf family. I -- I put anybody I
7 want.

8 Q Okay. And at the time the corporation was
9 being set up did Mike understand that he was getting
10 shares of the corporation?

11 A I don't -- I don't remember all this.

12 Q Okay. And --

13 A I never discussed it with him.

14 Q Okay. Did you ever discuss with Walley that
15 Mike was getting shares?

16 A Anything I moved I discussed with Walley,
17 but not with my son.

18 Q Okay. And if Andy Simpson was not the
19 attorney who did the corporate document setting up
20 Sixteen Plus do you know what other attorney might
21 have done it?

22 A -- question, please?

1 Q Do you know if -- you said you weren't sure
2 if Andy Simpson did the documents to set up Sixteen
3 Plus Corporation. Do you know what other attorney
4 might have?

5 A No. All I know my -- our attorney, the one
6 deal with, is Carl Dexter. Carl Dexter was a member
7 of a law firm. I don't remember the name. It -- of
8 the -- the -- at the same time of -- before or after
9 Andy Simpson, Attorney Simpson, is working for the
10 same law firm. After several years they are split.
11 They no longer -- I don't think none of them work with
12 the same firm. I forget their name. And there was a
13 company street. I don't know -- street. I don't -- I
14 don't remember the name 'cause I don't use that
15 company no more.

16 Q Okay. I'm moving now to Number 38.

17 (Exhibit 38 was marked for
18 identification.)

19 MR. HARTMANN: And I'd ask the witness
20 to be shown Exhibit 38.

21 BY MR. HARTMANN:

22 Q Okay. And I'll represent to you that this

1 is a response to a request for admissions that you
2 filed in this case. I'm sorry, you filed in the 342
3 case, or related case, and you were asked whether you
4 could recall any communications with the Bank of Nova
5 Scotia when the funds were transferred to Sixteen
6 Plus's account. And you answered that you do not
7 recall any communications with the Bank of Nova Scotia
8 when the funds were transferred, but you have seen the
9 documents relating to the February and September 1997
10 transfers; is that a correct statement? That you do
11 not recall communications with the Bank of Nova Scotia
12 when the funds were transferred to the Sixteen Plus
13 account?

14 A It was -- any communication would be Walley
15 and the bank.

16 Q Okay. Thank you. Moving to the next
17 question. I'm going to show you Exhibit 39 and ask
18 you now as you sit here now do you know that on
19 January 16th of 1997, even though it hadn't been
20 formed as a corporation yet, that Sixteen Plus became
21 the client of Brammer, Chasen, O'Neill CPAs?

22 //

1 (Exhibit 39 was marked for
2 identification.)

3 A No. I --

4 Q Did you know that Sixteen Plus was retaining
5 Brammer, Chasen, O'Neill CPAs?

6 A That's -- you mean the -- the day we
7 established the company?

8 Q Yes.

9 A Yeah. I -- I know this.

10 Q Let me ask the question again. I'm not sure
11 that you understood.

12 A No, no, no, no.

13 Q You see the document at the top says
14 Brammer, Chasen, O'Neill & DeLuca, PC?

15 A I see that. Yes.

16 Q Okay. And they are certified public
17 accountants; is that correct?

18 A What -- say?

19 Q They are CPAs; is that correct?

20 A Yeah. These people are CPA. Yes.

21 Q Okay. And who is O'Neill?

22 A He was a -- he was an officer, a CPA, and

1 worked for the same company.

2 Q Okay. And is this the same Pablo O'Neill
3 who filed all of the tax returns?

4 A It's the same as Pablo O'Neill. He was
5 first with the Brammer and Chasen, and after that he
6 split, and he went on his own.

7 Q So it would be fair to say that Pablo
8 O'Neill was your and United's CPA?

9 A Yeah. We -- we -- him. He was a CPA. Yes.

10 MR. HARTMANN: Okay. And so now at the
11 top line, if the court reporter would highlight the
12 whole line where it says name of client?

13 THE WITNESS: What is that? Name of
14 client, Sixteen Plus Corporation.

15 BY MR. HARTMANN:

16 Q Okay. You see that?

17 A Yes.

18 Q So this was Brammer, Chasen, O'Neill &
19 DeLuca dealing with their client Sixteen Plus
20 Corporation. Do you see --

21 A Yes.

22 Q Okay. And look a little bit farther down

1 there where it says officers, and could you just read
2 to me who the officers at that company were?

3 A The officers is, as it reads, my son, Maher
4 F. Yusuf, vice --

5 Q As president?

6 A Excuse me. Let me finish, please. The vice
7 president Waheed M. Hamed, and the secretary and
8 treasurer Waheed. I'm out of it completely.

9 Q Okay. And look farther down there. Do you
10 see who the client's attorney is listed as being?

11 A Let me see. Well, it says Andrew Simpson.

12 Q Okay.

13 A His name is there.

14 Q Now having reviewed this document does this
15 refresh your recollection at all about the fact
16 that --

17 A I don't remember.

18 Q -- at the time the company was being set up
19 the original discussions were with Andy Simpson as the
20 attorney, and had Maher Yusuf as the president?

21 A I don't remember all what I'm seeing right
22 now.

1 Q Okay.

2 A I have some kind of rules on that. When
3 Mohammed Hamed and his son Walley want to pick Plaza
4 West when we decided to split my son want -- want to
5 be on the -- on the board. He say, I'm a member.
6 They say, no, you are not a member. And now when we
7 borrow the money my son should have signed that note,
8 not Mohammed Hamed. And I should be -- I'm -- I'm
9 like a fool. Every year I'm signing as the secretary
10 and treasurer, and looks to me behind my back I am
11 not.

12 That's Walley doing. I cannot blame the
13 Attorney Simpson. You know, here is -- the island is
14 too small and everybody knows the other. All these
15 lists as officer is fake -- of them is -- I have
16 proof. Mohammed Hamed signed the loan as a president,
17 Waleed Hamed as vice president. I was a secretary and
18 treasurer. My name here is -- is not even around.

19 Q But you should have been on it; right? And
20 Maher should have been on it?

21 A I'm supposed to be secretary and treasurer.
22 That's why I sign it. The -- the income tax return

1 every year. When I was a fool.

2 Q Okay. So is it your testimony that Andy
3 Simpson and Brammer and Chasen were all wrong, and
4 that both you and Mike should have been on the
5 corporate documents?

6 A I will say they're wrong. They have
7 misspoke.

8 Q Okay.

9 A I say -- I am not saying -- the man is very
10 respectable. I have nothing against him. But if we
11 was with Brammer and Chasen and we was a client of
12 that company, and he was handling it, Walley as
13 Mohammed Hamed is the one who is wrong. Mohammed
14 Hamed, Mr. Hamed, if you have nothing to do with this
15 company, you're name is not even mentioned there, then
16 why you approve a loan and you signed it?

17 Why my son was kicked out of that meeting
18 because he's not a member? Now Walley put him a
19 member when he need him, and when he don't need him
20 he's not a member. It doesn't work both ways.

21 Q So what you're saying is -- let me make sure
22 I understand you. You're saying that because Mohammed

1 Hamed was not an officer of the company at that time
2 he shouldn't have signed the loan?

3 A No, no, no. I -- I have -- I have -- and
4 concern. For Mohammed Hamed from day one until he
5 died he was the president. Not my son. And Walley
6 knows and approved them in the -- the -- he signed the
7 -- the loan to Maher. If you have nothing to do with
8 the company, why he sign it? And he sign it as the
9 president. Come on.

10 Q Okay.

11 A My son was not involved. They kicked him
12 out.

13 Q So I'm confused, sir. I'm sorry. Are you
14 saying that Maher Hamed should have been an officer of
15 Sixteen Plus Corporation, but he was not?

16 A I -- see, when he need him he's an officer,
17 when he don't need him he put him out. The bottom
18 line is --

19 Q What --

20 A Excuse me. We owe four and a half million
21 dollars to APC. Who submit as the president to APC is
22 Mr. Mohammed Hamed. Not Yousuf. That's the one who

1 singd the note. Mohammed Hamed. Maher Yusuf, my
2 son, he was not aware of all this. I mean, the -- and
3 again going both ways. And when we want -- they want
4 to make a list, they want two to one. My son was sent
5 to -- to vote with me, and they say no. And then I
6 checked the store, and they'd taken it. It's all
7 right. We'll fight it later.

8 Q Okay.

9 A But I -- this is -- Maher Fathi Yusuf is
10 never the president. Never.

11 Q Okay.

12 A And my wife -- I saw a document show that my
13 wife, Isaiah [ph] Yusuf, is the vice president. I
14 don't want to do anything to put my wife as a
15 president -- as a president or vice president to
16 Mohammed Hamed. Mohammed Hamed is her brother-in-law.
17 Okay? All this is a forgery done by Walley. I cannot
18 blame the lawyer.

19 Q Okay. But this exhibit that we've looked at
20 came from Brammer, Chasen & O'Neill, and at least when
21 this memorandum was sent they thought that Maher was
22 going to be the president, didn't they?

1 A No, no, no, no, no, no. He never -- excuse
2 me. No one -- I don't care what they thought. I care
3 is my son never operate as a president. I care about
4 the promissory note I signed in joint with Walley,
5 vice president, his father as the president. Now I --
6 I should never signed that note there. I -- my name
7 is not there. I'm not an officer.

8 Q Okay. I'm going to move to finish --

9 A -- testifying right now.

10 Q Okay. I'm going to move to question 41 now.
11 During this period before the promissory note and the
12 mortgage were signed, before they were drafted, were
13 there any written negotiations with regard to that
14 note and mortgage that you know of?

15 A What we have is the -- the -- Mr. Hamed
16 signed the note as a president of the company, his son
17 as a vice president, and myself as -- as the secretary
18 and treasurer. By the way, I don't mean to change the
19 -- the subject. I would love to have a copy of that.
20 The ones you have on the screen.

21 Q Okay. The question I'm asking --

22 A My --

1 Q The question I'm asking you, sir, is prior
2 to the signing of the note and the mortgage, prior to
3 the time the note and the mortgage were even brought
4 up, were there any negotiations about the note and the
5 mortgage that are in writing that you know of?

6 Besides the note and the mortgage themselves are there
7 any writings where you discuss how much would be
8 leant, what the interest rate would be, who would be
9 paid, how it would be paid, anything like that?

10 A Well, you know, it's everything in the
11 contract. The contract will speak for itself.

12 Q Okay. But do you know of any writings
13 leading up to the creation of the note and mortgage
14 that discuss the fact that the note and mortgage would
15 be created?

16 A I don't remember anything from 15 years ago.

17 Q Okay. Now you said that you're not clear
18 whether Andy Simpson was the lawyer for Sixteen Plus
19 Corporation. Do you know who the lawyer was that drew
20 up the note and the mortgage?

21 A It -- it could be Attorney Simpson, it could
22 be Carl Dexter. That's the only two that I know in

1 the Virgin Island.

2 Q And were you involved at all in the drafting
3 of the note and the mortgage? Were you asked
4 questions about it, did you give information, was your
5 opinion --

6 A No. I'm involved in the loan only. I
7 signed that loan.

8 Q Okay. But you were not involved in any of
9 the drafting, any copies that may have been made, or
10 anything like that?

11 A No. I -- I'm involved in the drafting, but
12 I -- but then my son as the president. And then I
13 know I have another president, and the drafting -- not
14 this one. This is the first time I ever saw. I would
15 draft it, and we give it to Isam, they look at it,
16 they approve it, they release the money.

17 Q Okay. When the note and the mortgage were
18 being drafted, okay, who was talking to whoever was
19 drafting it? Were you?

20 A I don't know how to read my name.

21 Q Okay. Do you know if Mike was involved in
22 the drafting of it?

1 A Up to now Mike is not involved with
2 anything. Mike involved in only United Corporation.
3 You can ask him, because he's the president of United
4 Corporation.

5 Q Okay. So aside from -- you said you weren't
6 involved in the drafting, you said that --

7 A I was involved in the drafting. Yes. But I
8 -- I did not put -- the lawyer is the one who put the
9 language, that he put it in a legal way. You know, I
10 don't know how to do it.

11 Q Who was talking to the lawyer about the
12 legal language?

13 A I was talking to the lawyer, Walley was
14 talking to the lawyer.

15 Q Okay. What lawyer were you talking to about
16 the language in the --

17 A I believe Carl Dexter. I believe.

18 Q You believe what?

19 A I believe it's Carl Dexter. Attorney
20 Dexter.

21 Q Okay. And you were talking to that attorney
22 about what would be in the note and the mortgage?

1 A I -- I told him what our agreement is.

2 Q Okay.

3 A What I know it -- would be acceptable to
4 Isam. I want to assure him that he's secure, and
5 that's all. I have to give him something.

6 Q Okay. Good. Now moving onto Question 42.
7 So I'm confused about something, and maybe you can
8 help me; okay? Sixteen Plus had not yet been created
9 by the governor's office, so who actually did the deal
10 with Scotia? Who signed the contract to buy the
11 Diamond Keturah property with Scotia Bank?

12 A I would assume the three of us. Mohammed
13 Hamed as the president, Waleed Hamed as vice
14 president, and Fathi Yusuf as secretary and treasurer.

15 Q Secretary and treasurer of what?

16 A Of Sixteen Plus.

17 Q Okay. So I'm going to ask you to look at
18 Exhibit 42, which is the agreement for purchase and
19 sale of the property.

20 (Exhibit 42 was marked for
21 identification.)

22 A Yes.

1 Q And I'm going to ask you just to look at the
2 first paragraph, and ask you to look at the fact the
3 agreement is not between the bank and Sixteen Plus but
4 is actually between the Bank of Nova Scotia and
5 Plessen Enterprises?

6 A And who? Who? Who is that?

7 Q The agreement is between the Bank of Nova
8 Scotia as the seller and Plessen Enterprises as the
9 buyer?

10 A We -- we own Plessen Enterprise.

11 Q Who is we?

12 A The same thing. Mohammed Hamed as the
13 president, Waleed Hamed as vice president, and I'm the
14 secretary and treasurer.

15 Q And how are the shares of Plessen
16 Enterprises divided?

17 A I tell you. The Hamed family is 50 percent,
18 and the Yusuf family is 50 percent.

19 Q Okay. So the entity that actually entered
20 into the agreement and purchase of the property was
21 not Sixteen Plus, was it? It was actually Plessen?

22 A What? That's not true. It's -- Sixteen

1 Plus is now a corporation, is a trade name. After
2 that I believe we move it into a corporation by -- by
3 myself. But first when we go into this we only have
4 Plessens Enterprise, and I believe Plessens is the one
5 buy it and Plessens is the one who put in the 500,000.
6 The initial down payment.

7 Q Okay.

8 A Okay.

9 Q And so it was Plessen, not Sixteen Plus,
10 that actually was satisfying the requirement of the
11 agreement for the first payment in January or February
12 of 1997; is that correct?

13 A Sir, I don't know how it's been done. I
14 seen that, but it could be Sixteen Plus. I don't
15 know. Either this Mohammed Hamed as the president and
16 -- and either Sixteen Plus Mohammed Hamed as the
17 president. My son is nothing but shareholder.

18 Q Okay. I'd ask you to look at Exhibit 43.

19 MR. HARTMANN: For those following
20 along I've moved to paragraph 43.

21 BY MR. HARTMANN:

22 Q Okay. Now I'm looking at a document on

1 Plessen Enterprises, Inc. letterhead dated February 4,
2 1997, and it's addressed to Mr. Ralph T. Chan, vice
3 president of the Bank of Nova Scotia. And I'll
4 represent to you also that Walley Hamed says that this
5 letter was sent by him for Plessen Enterprises to
6 Mr. Chan. Could you tell me who Mr. Chan was with
7 regard to this deal?

8 (Exhibit 43 was marked for
9 identification.)

10 A I don't -- I don't remember that gentleman.

11 Q Okay. In the letter it states in the first
12 line after dear Mr. Chan, "Please accept this letter
13 as our serious intent to purchase the Diamond Keturah
14 Property in St. Croix." Okay?

15 A All right. Okay.

16 Q Okay. And it says that the purchase price
17 would be 4.55 million dollars. Do you see that?

18 A Yes.

19 Q And it says that there would be an earnest
20 deposit of \$100,000 US?

21 A If that's the case, yes.

22 Q And an additional \$450,000 within three

1 business days after the signing of the contract. Do
2 you see that?

3 A Yes. I see it.

4 Q Okay. And that's signed by Walley. And in
5 fact when it closed was the bank paid the original
6 100,000 and 450,000 more?

7 A Whatever it is is -- ask Walley this thing.
8 Walley's the one who signed that.

9 Q Okay. And that money you said was paid by
10 Plessen; is that correct?

11 A By what?

12 Q By Plessen? It came out of a Plessen
13 account?

14 A It came out of the -- Plessen's account.

15 Q Yes. Okay. I move onto the next question.
16 Two days after that letter in 1997 the articles of
17 incorporation and the bylaws of Sixteen Plus were
18 signed.

19 A What date?

20 Q Two days after that letter on February 6,
21 1997. I'd ask you to look at Exhibit 44. Okay?

22 //

1 (Exhibit 44 was marked for
2 identification.)

3 A Yeah. I seeing it.

4 Q Okay. Now in the upper lefthand corner do
5 you see the filing date of that as being February 10th
6 of 1997?

7 A I --

8 Q Upper lefthand corner?

9 A I seeing it. Yes.

10 Q Okay. So these were the official articles
11 of incorporation of Sixteen Plus Corporation --

12 A Yes.

13 Q -- filed before the money was --

14 A Hello?

15 Q Excuse me. Were filed in 1997. Now I'll
16 ask you to look down to the second page, and I'll ask
17 you to look at paragraph tenth.

18 MR. HARTMANN: And I ask the court
19 reporter to please highlight that?

20 THE WITNESS: I see something very,
21 very interesting.

22 BY MR. HARTMANN:

1 Q Okay. And do you see who it says are the
2 three incorporators of the corporation?

3 A Why didn't you ask Walley all these
4 questions? Who put my Maher Fathi Yusuf, and who put
5 Waleed, and where is Mohammed Hamed in there? He
6 signed the loan. Mohammed Hamed signed the loan as
7 the president, Walley sign it as vice president, I
8 sign it as secretary.

9 Q Well, as you point out --

10 A I -- excuse me. Let me finish my comment,
11 please. I am not listed there anywhere. That could
12 tell you that Walley is the boss. He do whatever he
13 want, and I've been used like a --

14 Q Okay. I'll ask you the question --

15 A Go on and -- me there.

16 Q I'll ask you the question again. Do you see
17 under paragraph tenth the fact that the original
18 incorporator, the first original incorporator of the
19 corporation, was in fact Maher Yusuf? Do you see it?
20 I'm not asking you if it's true. Do you see it on the
21 document?

22 A I see it but it's -- this is absolutely

1 fake.

2 Q Okay. And down below on the next page, 3 of
3 4, do you see at the top of that page the fact that
4 Maher Yusuf signed his personal signature?

5 A I was not aware of it, but then Walley --
6 why he keep bringing me the income tax return to sign?
7 Why he still have me as secretary and treasurer?
8 He --

9 Q Okay. Now I'm going to --

10 A -- show you this is -- this is something
11 Walley put together.

12 Q Okay.

13 A He had my son sign and -- away of it.
14 Excuse me. Let me continue. Why? My son have -- the
15 last year in -- he had been kicked out. He is not --
16 he is -- he's not a member. He's not a -- an officer.
17 And he have no pull.

18 Q Sir, it's your testimony that this document
19 was something that was faked by Walley Hamed; is that
20 correct?

21 A It's been done in my back with no knowledge
22 of mine.

1 Q Okay. I'm now going to ask you --

2 MS. PERRELL: Okay. Can I just -- are
3 we -- I think there's some uncertainty about the title
4 names that are on there, and I don't want to -- I'm
5 not trying to -- I just think we're going round about
6 something that doesn't need to be gone around about.
7 So --

8 MR. HARTMANN: Thank you for your
9 thoughts.

10 MS. PERRELL: Well, I'm just -- I feel
11 like what's happening is is now we're having this
12 record that's got all of this issues in there. I
13 mean, I guess I'll clean it up on redirect, but --

14 MR. HARTMANN: Okay. I'll ask you once
15 again not to make running comments in the record.

16 MS. PERRELL: Okay. I just, I feel
17 like --

18 MR. HARTMANN: Thank you. And I
19 understand why you don't want me to get to the next
20 question.

21 MS. PERRELL: No. I'm not --

22 MR. HARTMANN: I really do.

1 MS. PERRELL: I don't even know what
2 the next question is. I don't even know what the next
3 question is.

4 MR. HARTMANN: I have great pity for
5 you.

6 MS. PERRELL: Okay.

7 BY MR. HARTMANN:

8 Q Now, Mr. Yusuf, you've said that this is a
9 document that Maher didn't sign, and Walley faked.
10 I'll ask you to look at the next thing below this,
11 which is the acknowledgement by a notary public, and
12 I'm going to read it into the record.

13 It says, On this 6th day of February, 1997,
14 before me the undersigned notary public, personally
15 appeared Maher Yusuf, known to me for satisfactory
16 proven to be the persons whose name is subscribed to
17 be within the instrument, acknowledged that he
18 executed the same for the purposes therein contained.

19 Now --

20 A Again, the --

21 Q Sir, this document, do you see where it says
22 that?

1 A Again, sir, I repeat over and over to a
2 hundred million over.

3 Q Okay.

4 A This is done behind my back, and I have no
5 knowledge of it, and I witnessed my son who was kicked
6 out of that meeting because he's not a director.

7 Q Okay.

8 A My -- whether --

9 Q Mr. Yusuf. Mr. Yusuf.

10 A -- can you please, please, let me continue.
11 Attorney Holt was present on the signing the lease,
12 and if he had that document why you kick my son? Why
13 you have Mohammed Hamed sign the loan? Why I have to
14 keep signing the income tax return if Walley -- the
15 same Walley bringing it to me, and he know I'm not the
16 secretary. Why he did that to me?

17 MS. PERRELL: Okay. Can --

18 THE WITNESS: -- trying to -- he's not
19 -- excuse me. I want to clear myself.

20 MS. PERRELL: Mr. Yusuf, I --

21 THE WITNESS: It's not I'm trying to
22 hide something. It's just that I was not aware of it.

1 MS. PERRELL: I understand that but
2 you're getting far afield, and I think it's because
3 you're confused, but --

4 MR. HARTMANN: Okay. I'm going to put
5 an exception on the record right now, and I'm going to
6 say -- Mr. Yusuf, listen to the exception that I'm
7 making. Mr. Yusuf is talking about a meeting with
8 regard to the West lease, which happened decades after
9 this, had nothing to do with Sixteen Plus. It was a
10 transaction with Plessen and has nothing to do with
11 this case. I'm going to ask him to stop referring to
12 that meeting as though it's relevant to this thing.
13 I'm asking the court reporter to note an exception,
14 and I'm going to state to Counsel that I will ask the
15 court to delete this type of testimony from the record
16 because it's taking up my time with totally
17 unresponsive answers. Okay?

18 MS. PERRELL: That is --

19 MR. HARTMANN: That's the end of the
20 exception, and I'm not going to continue my
21 questioning.

22 MS. PERRELL: May I ask a question? I

1 think I can clarify the confusion if we just --

2 MR. HARTMANN: No. I don't want you to
3 testify, Charlotte.

4 MS. PERRELL: I'm not trying to
5 testify.

6 MR. HARTMANN: Okay.

7 MS. PERRELL: I'm asking for a break.

8 MR. HARTMANN: Then don't talk.

9 MS. PERRELL: I'm asking for a break so
10 I can speak to my client --

11 MR. HARTMANN: Okay.

12 MS. PERRELL: because I think we have a
13 confusion, and that is leading to all of this
14 unnecessary discussion, and that's what I'm trying to
15 say.

16 MR. HARTMANN: Yeah. But I'll tell you
17 what the confusion is. The confusion is he's
18 testified that Maher had nothing to do with this
19 company. Then when confronted with the fact that
20 Maher was the primary incorporator listed on the CPA's
21 records and signed as the only notarized individual in
22 the formation of the company he started spouting

1 nonsense about a meeting that happened 20 years later
2 in another case having nothing to do with this.

3 So when we go off the record you talk
4 to him about that, because that's what I'll be putting
5 in the motion to the judge; okay?

6 MS. PERRELL: Okay. I'm not --

7 MR. HARTMANN: We can go off the record
8 now.

9 MS. PERRELL: We'll take a moment.

10 THE VIDEOGRAPHER: Going off the video
11 record. The time is 3:23 p.m.

12 (Off the record.)

13 MR. HARTMANN: Okay.

14 MS. PERRELL: They lost our signal.

15 MR. HARTMANN: Yes. If you'd let me
16 talk, please?

17 MS. PERRELL: Sure.

18 MR. HARTMANN: Okay. Apparently
19 there's been a power failure on St. Croix. Joel's
20 office has lost power and they've gone off grid, so
21 they've communicated with me otherwise and said they
22 can't participate. I assume that other people are

1 being affected by the same thing. So what I'm going
2 to do is I'm going to invoke the stipulation to
3 continue the deposition until a point in the future.

4 I'm also giving you notice that I'm
5 going to go and ask for an order of assistance from
6 the court and have this be a supervised deposition.
7 I'm also going to ask for guidance with regard to the
8 interference by use of the fifth amendment and the
9 changing around of which questions can and can't be
10 asked. So if you'd like to also make a comment for
11 the record, that's my reason for continuing.

12 MS. PERRELL: Okay. I didn't realize
13 that there was a power failure. I know that Stefan
14 just called and indicated when they moved the camera
15 somehow they lost the connection, so it's probably the
16 power failure on their side as well. In any event,
17 that's fine if we want to continue for another day.
18 We're happy to do that.

19 MR. HARTMANN: Okay. We'll continue
20 after those motions are decided based on the
21 stipulation, and before that I'll make those motions
22 that I said.

1 MS. PERRELL: What I was going to
2 suggest is I really don't think, Carl, that we are as
3 far apart as perhaps you think that we are, and I
4 think it would make sense for us to have a
5 conversation about that to do what we can to see if we
6 can, you know, coordinate so that you can get your
7 deposition. I am not trying to be difficult and
8 obstreperous on this.

9 MR. HARTMANN: And I will state for the
10 record that the parties, and especially their counsel,
11 have always been able to work out procedural problems.

12 MS. PERRELL: Exactly.

13 MR. HARTMANN: I'm more than willing to
14 meet with you prior to the decision on those motions,
15 or even after them, to restructure how this is done.

16 MS. PERRELL: Okay. That's fine,
17 because I think that that would make life easier for
18 everyone involved.

19 MR. HARTMANN: Okay.

20 MS. PERRELL: All right.

21 MR. HARTMANN: And thank you very much
22 to the court reporter and to the videographer. And if

1 I could ask the court reporter and the videographer if
2 I could order a partial video and a partial transcript
3 of what's been done so far? That can be supplied
4 electronically. And because the deposition has not
5 been concluded it's not official and there's no
6 requirement for read and sign.

7 THE REPORTER: No. But a ten day
8 standard delivery will be all right for you still?

9 MR. HARTMANN: Standard delivery is
10 fine. Is that okay with you, Ben?

11 THE VIDEOGRAPHER: Yes.

12 MR. HARTMANN: Okay. Thank you so
13 much. And thank you --

14 THE VIDEOGRAPHER: We are going off the
15 video record. The time is 3:38 p.m.

16 (Signature waived.)

17 (Whereupon, at 3:38 p.m., the
18 proceeding was concluded.)

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CERTIFICATE OF DEPOSITION OFFICER

I, SHONDRA DAWSON, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise involved in the outcome of this action.

Shondra Dawson

SHONDRA DAWSON

Notary Public in and for the
District of Columbia

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CERTIFICATE OF TRANSCRIBER

I, JILLIAN PORTER, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



JILLIAN PORTER

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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