

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

HISHAM HAMED, individually,
and derivatively on behalf of
SIXTEEN PLUS CORPORATION,

Plaintiff,

v.

**FATHI YUSUF, ISAM YOUSUF and
JAMIL YOUSUF**

Defendants,

and

SIXTEEN PLUS CORPORATION,

a nominal Defendant.

Case No.: SX-2016-CV-00650

**DERIVATIVE SHAREHOLDER
SUIT, ACTION FOR DAMAGES
AND CICO RELIEF**

JURY TRIAL DEMANDED

ORDER

THIS MATTER having come on before the Court on the motion of Sixteen Plus Corporation to compel discovery responses from Third-Party Defendant Fathi Yusuf pursuant to Rules 26, 33 and 37, or to preclude testimony; and the Court being informed,

IT IS ORDERED that Fathi Yusuf, having asserted his Fifth Amendment right against self-incrimination, is not compelled to further answer the subject interrogatories. Yusuf has demonstrated the factual predicate pursuant to the standard for the inquiry which derives from *Hoffman v. United States*, 341 U.S. 479, 486 (1951). A witness is generally entitled to invoke the Fifth Amendment privilege against self-incrimination where there is (1) a *realistic possibility* that his answer to a question can be used in any way to convict him of a crime. It need not be probable that a criminal prosecution will be brought or that the witness's answer will be introduced in a later prosecution; the witness need only show a realistic possibility that his answer will be used against him. Moreover, (2) the Fifth Amendment forbids not only the compulsion

of testimony that would itself be admissible in a criminal prosecution, but also the compulsion of testimony, whether or not itself admissible, that may aid in the development of other incriminating evidence that can be used at trial.

Yusuf has shown that testimony as to his acts from 1996 to the present meet these standards because the acts have not been fully immunized by a criminal Plea Agreement or protected by the applicable statutes of limitations.

However, Yusuf is precluded from testimony as to the subject matter of the refused interrogatories and related facts.

SO ORDERED.

Dated: _____, 2022

Douglas A. Brady
Judge of the Superior Court

ATTEST: TAMARA CHARLES,
Clerk of the Court

By: Court Clerk Supervisor