

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

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

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and **UNITED CORPORATION**

Defendants and Counterclaimants.

vs.

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

Counterclaim Defendants,

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

vs.

UNITED CORPORATION, *Defendant.*

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

vs.

FATHI YUSUF, *Defendant/Plaintiff*

vs.

MOHAMMAD A. HAMED TRUST, *et al,*

Defendants.

KAC357 Inc., *Plaintiff,*

vs.

HAMED/YUSUF PARTNERSHIP,

Defendant.

Case No.: SX-2012-CV-370

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

JURY TRIAL DEMANDED

Consolidated with

Case No.: SX-2014-CV-287

Consolidated with

Case No.: SX-2014-CV-278

Consolidated with

Case No.: ST-17-CV-384

Consolidated with

Case No.: ST-18-CV-219

**HAMED'S MOTION TO PARTIALLY STRIKE
RE YUSUF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW
AS TO CLAIM H-146: THE CREDIT CARD IMBALANCE**

On March 21, 2023, Yusuf filed his *Proposed Findings and Conclusions* as to Claim H-146. Yusuf's filing contains two sets of improper assertions which must be stricken:

1. Yusuf Improperly Argued the Master Should "Re-Visit" His Prior Order

As Yusuf well knows, the time for seeking reconsideration of an order under Rule 6-4 is within the 14-day time period allowed—not much later, absent notice, in a *Proposed Findings and Conclusions*. His (repeated) requests that the Master do so are untimely, factually erroneous and to the extent Yusuf intended to do so at the time of the hearing, quite improper.

2. Yusuf Had a Full Copy of the CPA Report and Was on Notice of Its Use

Yusuf contends that CPA Alexander's references to his Report, and the Report should be ignored. However, on May 15, 2022, Hamed filed a second, extensive notice (**Ex. 1**) that:

- a. The Master had **ordered** (7/14 & 11/16/2021) *identification of experts and reports*.
- b. Hamed timely complied, identifying the Report at issue and stating it would be used.
- c. Yusuf had neither IDENTIFIED AN EXPERT nor had he SUBMITTED AN EXPERT REPORT AS ORDERED. Yet he used the Partnership Accountant as his expert and sought, and now seeks even more so, to sneak in materials and arguments.

Yusuf never did identify an expert or a report as ordered. The content of the *Proposed Findings and Conclusions*, much of which Mr. Gaffney newly adduced at the hearing (and some of which is new here) was not in any discovery, nor in an expert report. Everything new (beyond the original Yusuf discovery responses) in exhibits and testimony was, thus improper. Similarly, use of Gaffney for new expert testimony/materials was improper—and violated those orders.

But Yusuf was served with both Hamed's full report and separate, later notice it would be used. See Ex. 1 for that history. Thus, he could have brought and cross-examined with his copy of the Report to his heart's content. It is Yusuf's attempt to use Mr. Gaffney as an expert and to introduce new (expert and undisclosed) material that is vastly improper.

Dated: March 21, 2023

/s/

Carl J. Hartmann III, Esq.

Co-Counsel for Plaintiff

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

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of March, 2023, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross
Special Master
edgarrossjudge@hotmail.com

Charlotte Perrell
Stefan Herpel
DNF
Law House, 10000 Frederiksberg Gade
P.O. Box 756
St. Thomas, VI 00802
Cperrell@dnfvi.com
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/s/ Carl J. Hartmann

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FATHI YUSUF, *Plaintiff,*

vs.

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**HAMED'S SECOND NOTICE RE CLAIM B(2) EXPERT WITNESSES AND REPORTS
(AS TO DEFENDED CLAIMS) -- PER THE ORDERS OF THE SPECIAL MASTER
DATED JUNE 14, 2021 AND NOVEMBER 16, 2021**

On June 14, 2021, the Special Master issued the *Second Amended Joint Discovery and Scheduling Plan*. At page 5 it required the following with regard to the six (6) remaining "B(2)" claims (non-Gaffney claims):

The party asserting the claim(s) shall serve notices identifying all of his expert witnesses, and said expert witnesses' curriculum vitae and written reports, not later than February 15, 2022.

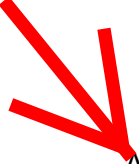
The party defending the claim(s) shall serve notices identifying all of their expert witnesses, and said expert witnesses' curriculum vitae and written reports, not later than March 15, 2022.

Thereafter, on November 16, 2021, the Special Master issued the *Third Amended Joint Discovery and Scheduling Plan*. It provided a 60-day extension of the dates for filing of that expert information as follows:

ORDERED that a 60-day enlargement of the deadlines set forth in the second amended scheduling order is GRANTED.

Hamed filed the requisite notice on April 8, 2022. In addition, the Special Master ordered:

The party defending the claim(s) shall serve notices identifying all of their expert witnesses, and said expert witnesses' curriculum vitae and written reports, not later than March 15, 2022 [Now May 15, 2022 due to the 2nd Order.]

.As ordered, Hamed provides this timely notice for the three remaining Yusuf claims.

On September 30, 2016, Hamed filed his *Notice of Partnership Claims and Objections to Yusuf's Post-January 1, 2012 Accounting*. It was re-filed to redact certain information, with the Master's permission on October 17, 2016. Attached as Exhibit B-2 to that filing was the expert opinion of Hamed's expert CPA firm. Included therein are the curriculum vitae of Beatriz Martin, the project lead, as well of the other project members. (Note: the firm has altered and changed names since, but CPA Martin remains with the successor firm.) Hamed gives notice that the Expert Report as originally filed will be used

with regard to this issue. An additional copy is not attached as per the Court's directions on duplication of exhibits.

However, Hamed notes that Yusuf is under the Special Master's recent orders to provide critical information with regard to these two claims—but has not yet done so. Nor has Yusuf filed the Expert Disclosures for these two claims. Thus, Hamed may need to supplement this notice when those events occur.

Dated: May 15, 2022



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2132 Company Street,

Christiansted, Vi 00820

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May 2022, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

Hon. Edgar Ross

Special Master

edgarrossjudge@hotmail.com

Charlotte Perrell

Stefan Herpel

Law House, 10000 Frederiksberg Gade

P.O. Box 756, St. Thomas, VI 00802

Cperrell@dnfvi.com Sherpel@dnfvi.com



CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

This document complies with the page or word limitation set forth in Rule 6-1(e).

A handwritten signature in blue ink, appearing to read "Carl J. Hamel", with a long horizontal flourish extending to the right.

Dated: May 15, 2022