

SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX

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

Plaintiff/Counterclaim Defendant,

vs.

FATHI YUSUF and **UNITED CORPORATION**

Defendants and Counterclaimants.

vs.

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

Counterclaim Defendants,

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.*

FATHI YUSUF, *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 REPLY
RE HIS EXPEDITED MOTION TO COMPEL RE Y-12 --
FOREIGN ACCOUNTS AND PROPERTIES**

I. The Most Basic Possible Questions and Yusuf's Refusals to Answer

In his Opposition, Fathi Yusuf once again refuses to fully answer the sole Interrogatory regarding his own claim.

Interrogatory 30 of 50 - relates to Y-12: "Foreign Accts and Jordanian Properties."

This interrogatory relates to Claim Y-12: "Foreign Accts and Jordanian Properties." **Please identify all foreign accounts and Jordanian properties** that were funded or purchased with funds from the Plaza Extra supermarkets. **For each such foreign account** individually: include the name of the account, the account number, the name of the institution and its location, the date it was opened, how money generated by the Plaza Extra supermarkets got into the foreign account, the dates deposits and withdrawals were made from each account and the amounts, the date the last transaction on the account occurred, whether the account is active or closed. If open, provide the present balance and if closed, please identify the date the account closed and who closed it. **For the Jordanian property, for each property** individually please identify (in English) the date it was purchased, the name of the title holder, the property description, who presently owns the property, whether the purchase was in cash or was transferred from a bank, and how all funds generated or provided by Plaza Extra supermarkets were transferred for the purchase of the property (including amounts and dates of all such transactions). (Emphasis added.)

A. Foreign Bank Accounts

Yusuf completely disregarded and failed to respond to the portion of the interrogatory relating to foreign accounts in his Opposition. Hamed asked the following in his interrogatory. Yusuf failed in several different ways – each discussed below.

1. Failure to "identify all foreign accounts"

The only information Yusuf provided was a partial listing of foreign account numbers that Yusuf stated were in Mohammad Hamed's name or Waleed Hamed's name.¹ No

¹ See Exhibit K, Yusuf's October 30, 2017 Amended Claims and Proposed Distribution Plan, p. 16.

such accounts were listed for Fathi Yusuf, Hamdan Diamond², or any other Yusuf family member who had a foreign bank account containing Plaza Extra supermarket funds.

In order to successfully defend this claim, Hamed needs to know of all such accounts in order to discern whether there was an equal distribution of supermarket funds between the two partners.

2. **“For each such foreign account** individually: include the name of the account, the account number, the name of the institution and its location, the date it was opened, how money generated by the Plaza Extra supermarkets got into the foreign account, the dates deposits and withdrawals were made from each account and the amounts, the date the last transaction on the account occurred, whether the account is active or closed. If open, provide the present balance and if closed, please identify the date the account closed and who closed it.”

Again, Yusuf only provided the name of the bank and the account number for each foreign account listed in Yusuf's Exhibit K. Even for the Yusuf-owned accounts, Yusuf failed to answer:

- the name of the person/corporation/business on the account (including non-Hamed family members),
- where the accounts are located,
- the date the accounts were opened,
- the dates of deposits and withdrawals in each account,
- the date of the last transaction,
- the status of the account – opened or closed – and the particulars of the account today (if open, the present balance and if closed, the date it was closed and who closed it).

² January 4, 2005, Draft Summary Schedules, provided by the US Justice Department in relation to the criminal case, *US v United*, VI D. Ct. CR-2005-15, indicated that Partnership funds were diverted to Yusuf's Hamdan Diamond Corporation. **(Exhibit 1)**

These details are needed, for example, for Hamed to determine whether this claim even falls within the parameters of Judge Brady's July 21, 2017 Order re Limitations on Accounting ("Limitation Order").

B. Jordanian Property³

Yusuf recites a dizzying array of Exhibits, cross-references to other documents, supplementation of original documents and claims within his original claim that are no longer available due to the Limitation Order. Further, Yusuf notes "there are no additional documents of which Yusuf is aware that have not otherwise already been disclosed." Yusuf's Response to Hamed's Motion to Compel Relating to Claim Y-12 - Foreign Accounts and Properties, *Hamed v Yusuf*, SX-12-CV-370, December 30, 2018, p. 4.

Yusuf intentionally confuses document production with a response to an interrogatory. Yusuf totally failed to respond **to the question** regarding the deficiencies identified by Hamed in Yusuf's original response to the interrogatory and did not provide any supplementation in his December 19, 2018 submission. **There is no interrogatory answer regarding the properties.**

1. Two Parcels of Land in Jordan Titled in Mohammad Hamed's Name (Exhibit N to the Original Yusuf Claims)

There must be responses to the following:

- The **date** each piece of land was purchased⁴,

³ Yusuf argues in his reply "Hamed knows exactly the Jordanian Property at issue because Hamed has made claims to the same property in the companion case, *Hamed v. Yusuf*, SX-12-CV-377." Hamed has no idea whether the Jordanian property in his suit is the same or relates to the claim Yusuf is making. Hamed is simply trying to get some clarity around Yusuf's claim so he can adequately respond.

⁴ In the context of Judge Brady's cutoff order, this is critical.

- Whether the purchase was in cash or was transferred from a bank, and
- **How all funds generated or provided by Plaza Extra supermarkets were transferred⁵** for the purchase of the property (including amounts and dates of all such transactions).

These details are needed to determine whether the parcels were purchased with Partnership funds, whether the transactions occurred within the time frame of the Limitation Order and whether there is a banking trail Hamed can follow. It is unclear to Hamed why Yusuf refuses to provide this information, as he will need it to prove his claim.

2. Expenses for Conveying Hamed's Interest in One Piece of Land, No. (310), basin 6, Huwaijer, Tabarbour Village to Fathi Yusuf (Supplementation of Yusuf's Accounting Claims and Proposed Distribution Plan, December 7, 2016, p. 2)

Yusuf sought re-payment for "one-half of the expenses incurred by Yusuf in conveying Hamed's interest in the Jordanian parcel identified in Exhibits O and S. . ." Mr. Yusuf declared the total amount for expenses was \$50,521.29. Supplementation of Yusuf's Accounting Claims and Proposed Distribution Plan, December 7, 2016, p. 2. Yusuf has provided no facts substantiating his claim that Mr. Hamed agreed to pay one-half of the expenses incurred by Yusuf in conveying his interest in the parcels. Yusuf must provide responses⁶ to the following:

- the facts and circumstances surrounding this claim, including, but not limited to, Yusuf's belief that Mr. Hamed should pay for the expenses for conveying this land and

⁵ Hamed has asked this question many times in many different forms – by Yusuf steadfastly refuses to answer. Again, this is critical to a foreign property claim.

⁶ Responses must be in writing and SIGNED by Fathi Yusuf.

- confirmation in writing that Exhibits O, R, S and T are the only documents related to this portion of the claim. While it appears that Yusuf's counsel is now claiming that those are the only documents in the Opposition, the proper form requires a written response to the interrogatory and a signed verification by her client.

3. Batch Plant

Again, Yusuf did not respond to the deficiencies identified regarding the batch plant. Yusuf alleged that "[b]ecause Hamed converted \$150,000 previously delivered as a charitable donation for a batch plant in West Bank, his interest in the Partnership should be charged for the transfer of \$150,000 to the Bank of Palestine to make good on the original donation." Yusuf's October 30, 2017 Amended Claims and Proposed Distribution Plan, p. 16.

Hamed is requesting the following information:

- a detailed explanation as to why Mr. Yusuf believes that Hamed converted \$150,000 that was supposed to be delivered as a charitable donation to a batch plant in the West Bank,
- the dates when the funds were allegedly converted,
- the date or dates that Mr. Yusuf contributed \$150,000 to the batch plant and
- an explanation of whether the funds Mr. Yusuf contributed were Partnership moneys or his own personal funds,
- only one document, Exhibit L to Yusuf's September 30, 2016 Accounting Claims and Proposed Distribution Plan, has been produced relating to this allegation. Please confirm there are no other documents relating to the batch plant.

II. Conclusion

Fathi Yusuf's deposition is scheduled for January 21, 2019 in this matter and the Special Master has ordered that dispositive motions be filed by February 20, 2019. It is impossible for Hamed to proceed without getting the above answers, at a minimum, from Fathi Yusuf.

Dated: January 2, 2019



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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd^t day of January, 2019, 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

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Handwritten signature of Carl J. Hadd, underlined.

CERTIFICATE OF COMPLIANCE WITH RULE 6-1(e)

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



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IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

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

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

CRIMINAL NO. 2003-147

DRAFT SUMMARY SCHEDULES

EXHIBIT

1

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TAB BB

Deposit Analysis, Sixteen Plus Corporation, Bank
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TAB CC

Deposit Analysis, Plessen Enterprises, Inc., Bank of
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DEPOSIT ANALYSIS

HAMDAN DIAMOND CORPORATION
 Banque Francaise Commerciale
 Acct. 40606388790



DEPOSIT DATE	GROSS DEPOSIT	CASH W/N	NET DEPOSIT	ITEM SOURCE	AMOUNT	CURRENCY	CHECKS	TRANSFER	OTHER NON-INCOME	INTEREST	UNIDENTIFIED
6/26/96	10,000.00		10,000.00	Currency	10,000.00	10,000.00					
7/22/96	50,000.00		50,000.00	Currency	50,000.00	50,000.00					
7/23/96	50,000.00		50,000.00	Currency	50,000.00	50,000.00					
7/24/96	50,000.00		50,000.00	Currency	50,000.00	50,000.00					
7/26/96	50,000.00		50,000.00	Currency	50,000.00	50,000.00					
7/30/96	200,000.00		200,000.00	Currency	200,000.00	200,000.00					
7/31/96	200,000.00		200,000.00	Currency	200,000.00	200,000.00					
8/1/96	250,000.00		250,000.00	Currency	250,000.00	250,000.00					
8/2/96	200,000.00		200,000.00	Currency	200,000.00	200,000.00					
8/5/96	200,000.00		200,000.00	Currency	200,000.00	200,000.00					
8/6/96	200,000.00		200,000.00	Currency	200,000.00	200,000.00					
8/7/96	200,000.00		200,000.00	Currency	200,000.00	200,000.00					
8/8/96	200,000.00		200,000.00	Currency	200,000.00	200,000.00					
8/9/96	200,000.00		200,000.00	Currency	200,000.00	200,000.00					
8/14/96	100,000.00		100,000.00	Currency	100,000.00	100,000.00					
8/19/96	100,000.00		100,000.00	Currency	100,000.00	100,000.00					
8/21/96	100,000.00		100,000.00	Currency	100,000.00	100,000.00					
10/11/96	40,000.00		40,000.00	Currency	40,000.00	40,000.00					
	<u>2,400,000.00</u>		<u>2,400,000.00</u>		<u>2,400,000.00</u>	<u>2,400,000.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

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3/20/98	60,000.00		60,000.00	Currency	60,000.00	60,000.00					
4/23/98	21,000.00		21,000.00	Currency	21,000.00	21,000.00					
4/27/98	100,000.00		100,000.00	Currency	100,000.00	100,000.00					
4/29/98	100,000.00		100,000.00	Currency	100,000.00	100,000.00					
5/4/98	80,000.00		80,000.00	Currency	80,000.00	80,000.00					
5/6/98	100,000.00		100,000.00	Currency	100,000.00	100,000.00					
5/7/98	100,000.00		100,000.00	Currency	100,000.00	100,000.00					
5/11/98	60,000.00		60,000.00	Currency	60,000.00	60,000.00					
11/18/98	200,000.00		200,000.00	Banque Francaise Commerciale	200,000.00				200,000.00		
11/18/98	2,344.11		2,344.11	Banque Francaise Commerciale	2,344.11					2,344.11	
	<u>823,344.11</u>		<u>823,344.11</u>		<u>823,344.11</u>	<u>621,000.00</u>	<u>0.00</u>	<u>0.00</u>	<u>200,000.00</u>	<u>2,344.11</u>	<u>0.00</u>

1/11/00	50,000.00		50,000.00	Currency	50,000.00	50,000.00					
1/11/00	70,000.00		70,000.00	Currency	70,000.00	70,000.00					
1/13/00	80,000.00		80,000.00	Currency	80,000.00	80,000.00					
1/14/00	75,000.00		75,000.00	Currency	75,000.00	75,000.00					
1/17/00	90,000.00		90,000.00	Currency	90,000.00	90,000.00					
1/18/00	65,000.00		65,000.00	Currency	65,000.00	65,000.00					
1/20/00	45,000.00		45,000.00	Currency	45,000.00	45,000.00					
4/11/00	723,000.00		723,000.00	Banque Francaise Commerciale	723,000.00				723,000.00		
4/11/00	9,745.00		9,745.00	Banque Francaise Commerciale	9,745.00					9,745.00	
7/11/00	732,745.00		732,745.00	Banque Francaise Commerciale	732,745.00				732,745.00		

HAMDAN DIAMOND CORPORATION
 Banque Francaise Commerciale
 Acct. 40606388790

DEPOSIT DATE	GROSS DEPOSIT	CASH W/H	NET DEPOSIT	ITEM SOURCE	AMOUNT	CURRENCY	CHECKS	TRANSFER	OTHER NON-INCOME	INTEREST	UNIDENTIFIED
7/11/00	10,340.00		10,340.00	Banque Francaise Commerciale	10,340.00					10,340.00	
8/24/00	743,085.00		743,085.00	Banque Francaise Commerciale	743,085.00				743,085.00		
8/24/00	5,473.00		5,473.00	Banque Francaise Commerciale	5,473.00					5,473.00	
	<u>2,699,388.00</u>		<u>2,699,388.00</u>		<u>2,699,388.00</u>	<u>475,000.00</u>	<u>0.00</u>	<u>0.00</u>	<u>2,198,830.00</u>	<u>25,558.00</u>	<u>0.00</u>

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