



admissibility; and any and all objections and grounds that would require the exclusion of any statement contained in any response, if such request were asked of, or any statement contained therein were made by, a witness present and testifying in court, all of which objections and grounds are hereby reserved and may be interposed at the time of trial.

The following answers are based upon information presently available to Yusuf and, except for explicit facts admitted herein, no incidental or implied admissions are intended hereby. The fact that Yusuf has answered or objected to any request should not be taken as an admission that Yusuf accepts or admits the existence of any facts set forth or assumed by such request, or that such answer constitutes admissible evidence. The fact that Yusuf has answered to part or all of any such request is not intended and shall not be construed to be a waiver by Yusuf of all or any part of any objection to any such request.

#### **GENERAL OBJECTIONS**

Yusuf makes the following general objections to Plaintiff's Request. These general objections apply to all or so many of the requests, for convenience, they are set forth herein and are not necessarily repeated after each objectionable request. The assertion of the same, similar, or additional objections in the individual objections to these Requests, or the failure to assert any additional objections to a request does not waive any of Yusuf's objections as set forth below:

1. Yusuf objects to each request that uses the words "any" and "all" as being overbroad, unduly burdensome, immaterial, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

2. Yusuf objects to each request to the extent it seeks the production of documents or information protected by the attorney-client, work product or other privileges. Only non-privileged documents, or portions thereof, will be produced.

3. Yusuf objects to each request that uses the term "document," as defined, as overbroad, unduly burdensome, irrelevant, and immaterial to the extent that it calls for material unrelated to this case.

4. Yusuf objects to each request to the extent that it uses terms or phrases that are vague, ambiguous, or undefined. Yusuf's response to each such request is based upon its understanding of the request.

5. Yusuf objects in part to each request that asks for answers or documents that fall outside the scope of this litigation. To the extent the requests seek production of such documents; the requests impose an undue burden and expense. Further, such documents are irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence.

6. Yusuf objects to each request to the extent it requires information outside of his possession, custody or control of Yusuf on the ground that it would subject him to undue burden, oppression and expense, and impose allegations not required by the Federal Rules of Civil Procedure.

7. Yusuf is continuing its efforts to identify non-privileged documents that are responsive to these Requests. If and as additional, non-privileged, responsive documents are

discovered, this response will be supplemented to the extent that supplementation may be required by the Federal Rule of Civil Procedure.

8. Each answer the Yusuf produces is subject to all of the above general objections and all specific objections listed below. Inadvertent production of privileged documents shall not be deemed a waiver.

9. The information sought by the Discovery Requests is as much as is as twenty-seven (27) years old. Documents which may have contained information relevant to responding to the Discovery Requests may no longer be in existence. Thus the information produced herewith may not be,, and should not be considered complete, and may be subject to supplementation if additional documents are discovered.

10. Yusuf objects to defined terms and instruction to the extent that they vary from applicable law and/or impose different obligations that those set forth in the Federal Rules of Civil Procedure.

#### **SPECIFIC OBJECTIONS AND RESPONSES**

Subject to and incorporating by reference each of the General Objections set forth above, Yusuf responds to Plaintiff's Requests as follows:

Yusuf has produced both the documents responsive to these requests and a Discovery Log. The Discovery Log reflects the Requests to which the documents respond. Below are the objections and other clarifications as necessary.

### **REQUESTS**

1. All documents during the Relevant Time Period making reference to a "partnership," or "joint venture" in connection to Mohammad Hamed's relationship to Fathi Yusuf, Plaza Extra Supermarkets or United.

#### **Response to Request No. 1:**

Yusuf object to the use of the term "partnership" in that there are no documents such as tax returns, business filings or any written agreements that reflect a relationship between Hamed and Yusuf or United as a legally recognized "partnership" under Virgin Islands law. Rather Plaintiff has made the allegation that such a "partnership exists and bears the burden of proof as to that issue.

Subject to and without waiving the above objection, there are no documents referencing "partnership". In certain documents related to Territorial Court case of Idheileh v. United, Yusuf referred to Hamed as a "partner" but has also provided sworn statements in this case that he used the term as a layman and not in its legal sense. Said documents are already in Hamed's possession.

In addition, other documents that may be responsive to this Request are already in the possession of Plaintiff.

2. All documents making reference to "partners" or "partnership" in connection to Mohammad Hamed's relationship to Fathi Yusuf, Plaza Extra Supermarkets or United.

#### **Response to Request No. 2:**

Yusuf object to the use of the term "partnership" in that there are no documents such as tax returns, business filings or any written agreements that reflect a relationship between Hamed and Yusuf or United as a legally recognized "partnership" under Virgin Islands law. Rather Plaintiff has made the allegation that such a "partnership exists and bears the burden of proof as to that issue.

Subject to and without waiving the above objection, there are no documents referencing "partnership". In certain documents related to Territorial Court case of *Idheileh v. United*, Yusuf referred to Hamed as a "partner" but has also provided sworn statements in this case that he used the term as a layman and not in its legal sense. Said documents are already in Hamed's possession.

In addition, other documents that there are other documents that may be responsive to this Request, they are already in the possession of Plaintiff.

3. All documents which show how proceeds or profits from the three Plaza Extra Supermarkets were *distributed* to you or your family members from 1986 to present. (Any amounts not paid as corporate distributions or Sub-Chapter S pass throughs, salaries or direct reimbursements of costs.)

**Response to Request No. 3:**

Yusuf objects to the term "distributed" insofar as it is a characterization of a receipt of funds by partners of a partnership. Yusuf has maintained that no "partnership" exists and therefore characterizing the flow of funds as a "distribution" assumes a relationship which is contested. Subject to this objection and without waiving this objection, Yusuf shows that withdrawals from the net profits retained were made by Yusuf and/or his designees and memorialized by signed receipts.

In addition, documents in Yusuf's possession, responsive to this Request are already in the Plaintiff's possession or may have been previously produced in Defendant's Rule 26 Disclosures.

To the extent such records have not been produced in Yusuf's Rule 26 Disclosures such records remain in the possession of a third party: The United States' Attorney's Office.

Further responding, Yusuf shows that Plaintiff's Exhibit 27 to TRO (Checks to Fathi Yusuf per Plaintiff's TRO Exhibit 27) – Bates Nos. FY 003615 – FY 003627 are responsive to this Request.

4. All documents which show how proceeds or profits from **United Corporation** were distributed to you or family members by corporate distributions or pass through Sub-Chapter S set forth on tax forms, from 1986 to present, other than salaries or direct reimbursements of costs.

**Response to Request No. 4:**

Subject to the above stated objections and without waiving any objections, Yusuf shows that all Corporate Tax Returns and schedules have been provided to Plaintiff.

See 2002-2010 Tax Records for United Corporation (S-Corp) as Bates® –Stamp FY 003743 – FY 004121;

2008 Tax Records for United Corporation Bates® –Stamp FY 004211 – FY 004245;  
2007 Tax Records for United Corporation Bates® –Stamp FY 004246 – FY 004271;  
2009 Tax Records for United Corporation Bates® –Stamp FY 004727 – FY 004299; and  
2010 Tax Records for United Corporation Bates® –Stamp FY 004300 – FY 004326.

Yusuf is aware of no other responsive documents in possession.

5. The filed tax returns of Defendant Yusuf and his wife for the years 1986 to present.

**Response to Request No. 5:**

Yusuf objects to Request No. 5 in that it is overly broad and burdensome, irrelevant and calls for information not reasonably calculated to the discovery of admissible evidence.

6. All documents evidencing the removal, transfer, subsequent transfer and use of funds from any of the Plaza Extra Supermarket operating accounts held by United (as defined by this Court) by you or your family members, other than salaries or direct reimbursements of costs.

**Response to Request No. 6:**

Documents in Responding Party's possession, responsive to this request are already in the Plaintiff's possession with respect to the \$2.7 Million dollar setoff check or may have been previously produced in Defendants' Rule 26 Disclosures. (See, 2.7 Million Dollar Receipts - Bates Nos. FY 004123 - FY 004210)

To the extent such records have not been produced in Responding Party's rule 26 Disclosures, such records remain in the possession of a third party: The United States Attorney's Office.

7. All documents evidencing the removal, transfer, subsequent transfer by you or your family members of the approximately \$2.7 million discussed by the Court in the Preliminary Injunction. This shall include the ultimate purchases, saving or investments thereof.

**Response to Request No. 7:**

Documents in Responding Party's possession, responsive to this request are already in the Plaintiff's possession (served on Plaintiff on November 15th, 2013) or may have been previously produced in Defendants' Rule 26 Disclosures. (See, 2.7 Million Dollar Receipts - Bates Nos. FY 004123 - FY 004210)

Further these documents were hand delivered over to Joel Holt during informal mediation in 2012.



8. All documents evidencing sale, gift or other transfer of stock of United Corporation from Yusuf or his wife from 1986 to date.

**Response to Request No. 8:**

Yusuf shows that no documents are responsive to this Request.

9. All documents evidencing sale, gift or other transfer of stock of United Corporation by any other person than Yusuf or his wife from 1986 to date.

**Response to Request No. 9:**

Yusuf shows that no documents are responsive to this Request.

10. Documents supporting any and all claims or counterclaims you may have against the Plaintiff for any type of relief, including but not limited to money damages.

**Response to Request No. 10:**

Documents in Responding Party's possession, responsive to this request are already in the Plaintiff's possession or may have been previously produced in Defendants' Rule 26 Disclosures. In addition, see also:

Docs produced in the *Hamed v. Yusuf* (SX-12-CV-377) (FY000001-FY002142)

Docs produced *United v Waleed Hamed* (SX-13-cv-03) (UC -000199 –UC 001672)

Docs produced in the *United v. Waheed Hamed* (ST-12-CV-101) (UC001673 – UC002614)

Docs produced in the Rule 26 Disclosures -- seven (7) CDs, as Bates<sup>®</sup> –Stamp Defendant's 0017308 – 0104300.

11. Documents supporting any and all claims you may have against any third party for any type of relief related to the allegations in this case, including but not limited to money damages.

**Response to Request No. 11:**

See Response to Request No. 10.

12. Documents supporting all defenses or offsets you have or may have with regard to the claims of plaintiff.

**Response to Request No. 12:**

Documents in Responding Party's possession, responsive to this request are already in the Plaintiff's possession or may have been previously produced in Defendants' Rule 26 Disclosures.

Also see Response to No. 10

13. Documents supporting all defenses or offsets United Corporation has or may have with regard to plaintiff's claims about which you have any knowledge.

**Response to Request No. 13:**

Documents in Responding Party's possession, responsive to this request are already in the Plaintiff's possession or may have been previously produced in Defendants' Rule 26 Disclosures.

Also see Response to No. 10

14. Documents showing all amounts which you or your family members have taken from the Plaza Extra operations or operating accounts beyond salaries from 1986 to present.

**Response to Request No. 14**

Documents in Responding Party's possession, responsive to this request are already in the Plaintiff's possession or may have been previously produced in Defendants' Rule 26 Disclosures.

To the extent such records have not been produced in Responding Party's Rule 26 Disclosures, such records remain in the possession of a third party: The United States Attorney's Office.

In addition, Plaintiff's agents Waleed Hamed and Waheed Hamed were the custodian of such records which are believed to be in their possession.

Also see Response to RPD No. 7.

15. Documents showing all amounts which Mohammad Hamed or his family members have taken from the Plaza Extra operations or operating accounts beyond salaries from 1986 to present.

**Response to Request No. 15:**

Documents in Responding Party's possession, responsive to this request are already in the Plaintiff's possession or may have been previously produced in Defendants' Rule 26 Disclosures on seven (7) CDs, as Bates® –Stamp Defendant's 0017308 – 0104300.

[See also, records produced in related cases, and produced in Response to Request No. 10]

To the extent such records have not been produced in Responding Party's Rule 26 Disclosures, such records remain in the possession of a third party: The United States Attorney's Office. In addition, Plaintiff's purported agents Waleed Hamed and Waheed Hamed were the custodian of such records which are believed to be in their possession.

16. Documents showing all funds removed by you or United from Plaza Extra operations or operating accounts that were used to buy real estate or other assets, and list all assets purchased, form of ownership, the date of purchase and the percentile owners at that time and now.

**Response to Request No. 16:**

All documents responsive to this Request have been previously produced and delivered to Plaintiff's counsel on November 15<sup>th</sup>, 2013.

17. Documents showing all investigations, reports, studies, surveys, valuations or expert advice obtained by you or United with regard to the Plaza Extra Stores from January 1, 2011, to the date of these interrogatories.

**Response to Request No. 17:**

Yusuf objects to Request No. 17 as it is overly broad, unduly burdensome and seeks information that may be protected by the work product and consulting expert privileged. Subject to and without waiving this objection, Yusuf has not at this time identified trial and/or expert witnesses to which reports and valuations may be prepared, he will timely supplement his response hereto as required by the Federal Rules of Civil Procedure.

18. Documents relating to all witnesses you or United have interviewed, may or will call at trial in this matter. Provide all witness statements, notes and information provided by them to you.

**Response to Request No. 18:**

Yusuf objects to Request No. 18 as it is overly broad, unduly burdensome and seeks information that may be subject to work produce privilege. "Information pertaining to the development of the trial of the case is not the proper subject for Request for Production. *Wedding v. Tallant Transfer Co.* 37 F.R.D. 8, 10 (N.D. Ohio 1963). Consequently, documents reflecting such information is also objectionable.

Subject to the above-stated objections, Yusuf shows that no witness interviews have taken place to date and therefore, there are no documents responsive to this Request.

19. All physical evidence other than documents, which support your defense, counterclaims or third-party claims.

**Response to Request No. 19:**

To the best of Yusuf's knowledge, surveillance video clips for the Plaza Extra Stores' surveillance system depicting Mufeed Hamed and Hisham Hamed displaying and brandishing their weapons may exist. Yusuf has not retained private investigators and/or assigned any agents to conduct surveillance on the Hamed Family. Further, surveillance videos will also show the limited time members of the Hamed Family have been at the stores performing any work. To the extent that photos, plats and maps are not deemed to be documents and are used, they will be timely produced.

20. All accountings, valuations or other information in your possession or which you have caused to be created as to the valuation or division of the Plaza Extra Supermarkets.

**Response to Request No. 20:**

Yusuf objects to Request No. 20 as overly broad and unduly burdensome and not reasonably limited in time and scope.

Further responding, Yusuf shows that no such information in his possession.

21. Any documents or other physical medium containing or describing surveillance of plaintiff or his sons undertaken by you, your sons or your agents. This shall include private investigators, reading of email to or from any member of the Hamed Family from store or other email systems, including video or sound recordings.

**Response to Request No. 21:**

To the best of Yusuf's knowledge, surveillance video clips for the Plaza Extra Stores' surveillance system depicting Mufeed Hamed and Hisham Hamed displaying and brandishing their weapons may exist. Yusuf has not retained private investigators and/or assigned any agents to conduct surveillance on the Hamed Family. Further, surveillance videos will also show the limited time members of the Hamed Family have been at the stores performing any work.

22. With regard to the letter attached as Exhibit A to the First Set of Interrogatories to Yusuf, all documents related to the line of the calculation that states:

- A. "Past Confirmed Withdrawals . . . . . \$ 1,600,000.00"
- B. "Fifty percent (50%) of St. Maarten Bank Account..... \$44,355.50"; and
- C. "Fifty percent (50%) of Cairo Amman Bank ..... [\$]44,696.00"

**Response to Request No. 22:**

A. Documents were previously provided to Plaintiff's Agents and were either destroyed or are in the possession of Plaintiff and/or his agents. As stated in Defendant Interrogatory responses:

During the period of 1994 through 2001, the Hamed families withdraw a total of \$2.9 million dollars. Sometime before October 2001, Waleed Hamed was provided the receipts totaling of \$2,900,000 million dollars. In October of 2001, the FBI raided each of the Plaza Extra Stores. Subsequent to the FBI raid, Waleed Hamed was asked to return the receipts. Waleed Hamed first stated that he didn't have them. Waleed Hamed then changed his explanation several times, ending up with one where his brother Mufeed Hamed destroyed these receipts to avoid detection by the FBI.

Similarly, during the period of 1994 through 2001, the Yusuf family withdrew \$1.3 million dollars. Those receipts were also provided to Waleed Hamed prior to the FBI raid in 2001. Hence, the amount of \$1.6 Million (\$2.9m –

\$1.3m) due to the Yusuf Family remained. Sometime within the last three years the parties attempted to settle their dispute by way of informal mediation before friends/family members. During those mediations, Waleed Hamed admitted before several individuals that the amount of \$1.6 million was owed despite the unavailability of the receipts. It was not until this lawsuit was filed in September of 2012, that Waleed Hamed now denies the \$1.6 Million dollars owing to the Yusufs.

B. See, 2010-07-07 Bank Stmt of Cairo Amman Bank - Bates Nos. FY 002143

23. At some time between 1986 and 1989 Fathi Yusuf paid some amount believed to be \$1 million to his brother -- Ahmad Yusef -- to buy him out of the Plaza Shopping Center real estate. Provide all documents reflecting any buyout of Yusuf's brother or any other person from United Corporation or the Plaza Extra real estate, including but not limited to the sourcing of the funds used to pay such a buyout.

**Response to Request No. 23:**

There are no documents responsive to this request.



24. Between the years 1986 and 1992, Fathi Yusuf keep a record of amount due to and from Hamed and Yusuf family members in what has been referred to as "the black book". Provide all records kept by Yusuf, Plaza Extra Supermarket or United for keeping track of withdrawals and amounts due to Hameds or Yusufs from 1986 through 2003.

**Response to Request No. 24:**

The maintenance of records for keeping track of withdrawals and amounts due was the responsibility of Plaintiff's Agents Waleed Hamed, and later Waheed Hamed. As such, these records are available to the Plaintiff through his purported agents.

In addition, the "Black Book" was in the custody and control of Waleed Hamed until 2013. When responding party inventoried the corporate records of United Corporation that were in the possession and control of Waleed Hamed it was revealed that over 40 pages of that book had been removed. As such responding party cannot provide a complete and accurate record of the amounts due to and from.

The "Black Book" is available for physical inspection at a mutually agreed upon time and location.

25. For the years 2003 to date, provide documents that reflect bonus points, rebates or other valuable transfers to Fathi Yusuf or his sons in which they personally paid for food products or other purchases for Plaza Extra Supermarkets with their own personal credit cards and kept the points or monetary rebates.

**Response to Request No. 25:**

Responding Party objects to this request as overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the above objection, Responding Party is willing to execute an appropriate authorization if ordered to do so by the Court over the Responding Party's objection.

26. Provide the financial documents for all accounts and transactions on those accounts for Sixteen Plus and Plessen Enterprises Inc.

**Response to Request No. 26:**

The records of Sixteen Plus Corporation and Plessen Enterprises, Inc., are equally available to the Plaintiff, as the Plaintiffs are fifty (50%) percent co-owners of that corporation.

Moreover, Plaintiff Mohammed Hamed is President of both Sixteen Plus Corporation and Plessen Enterprises, Inc. In addition, Plaintiff Waleed Hamed is the Resident Agent, Director of Sixteen Plus Corporation, and Vice President, of Plessen Enterprises, Inc., and the Custodian of Records of both corporations, as such, any responsive records are presumed to be within the custody and control of Plaintiff and/or his Agent Waleed Hamed.

27. Documents provided to or by all third persons or entities having knowledge of the claims or defenses of any party hereto. This shall include any person or entity which you may or will call as a witness as well as any person or entity with whom: you have spoken about such matters, you have obtained information about such matters or you have provided with information about such matters.

**Response to Request No. 27:**

Yusuf objects to this Request to the extent that it may seek information which is subject to attorney/client and other privileges. Further responding, Yusuf shows that he

is not currently in possession of any such documents, not otherwise privileged, which would be responsive to this Request.

28. All financial and accounting data, documents or records which contain, include or otherwise reflect transactions involving Plaza Extra Supermarkets for the years 2003-present other than those provided to Plaintiff as Sage 50 backup files.

**Response to Request No. 28:**

None other than the Sage50 accounting files that are currently being provided to Plaintiff via monthly backups.

29. Billings from all attorneys, financial consultants, investment advisors, accountants, or bookkeepers paid more than \$100 by you any member of your family, any corporation or entity in which you have any interest from January 2011 to present.

**Response to Request No. 29:**

Yusuf objects to Request No. 29 as he is not required to respond to a request on behalf of members of his family. Furthermore, this Request is overly broad and burdensome, irrelevant, calls for information not reasonably calculated to the discovery of admissible evidence, and seeks information that may be covered by the attorney-client privilege.

30. Please produce any surveillance of plaintiff or his sons undertaken by you, your sons or your agents.

**Response to Request No. 30:**

Yusuf shows that no surveillance was procured by him or at his direction. To the extent that the surveillance from the video equipment in the Plaza Extra Stores depicts members of the Hamed Family (or their absence) and is reasonably related to the issued in this case, it will be produced.

31. All documents related to the transaction(s) reflected in **Exhibit 1** hereto.

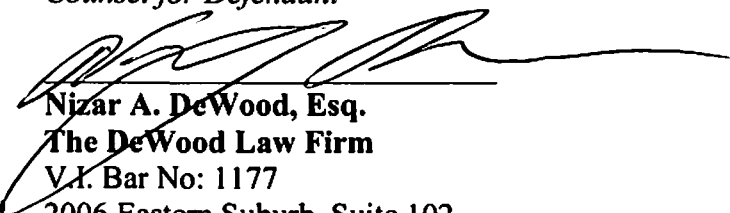
**Response to Request No. 31:**

Responding party references the documents produced as French Commercial Bank (Hamdan Diamond) - Bates Nos. FY 004359 - FY 004410, specifically FY 00480 - FY 004382.

Dated: January 9, 2014

Respectfully Submitted,

**Gregory H. Hodges, Esq.**  
**Dudley, Topper and Feuerzeig, LLP**  
Law House  
1000 Fredericksberg Gade  
P. O. Box 756  
St. Thomas, VI 00804  
Email: ghodges@dtflaw.com  
*Counsel for Defendant*



**Nizar A. DeWood, Esq.**  
**The DeWood Law Firm**  
V.I. Bar No: 1177  
2006 Eastern Suburb, Suite 102  
St. Croix, USVI 00820  
Tel: 340.773.3444  
Fax: 888.398.8428  
Email: dewood@gmail.com  
*Counsel for Defendant*

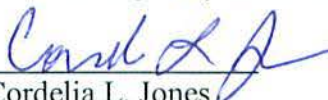
**CERTIFICATE OF SERVICE**

**IT IS HEREBY CERTIFIED THAT** a true and exact copy of the foregoing *Defendant Fathi Yusuf's Corrected Responses to Plaintiff's Request For the Production of Documents to Defendant Yusuf: First Set* was served via U.S. Mail, postage prepaid, fax, electronic mail or hand delivery on this the 9<sup>th</sup> day of January 2014 to wit:

**Joel H. Holt, Esq. (V.I. Bar No. 6)**  
**Law Office of Joel H. Holt**  
2132 Company Street  
Christiansted, USVI 00820  
Email: holtvi@aol.com  
*Counsel for Plaintiff*

**Carl J. Hartmann III, Esq.**  
5000 Estate Coakley Bay  
Unit L-6  
Christiansted, USVI 00820  
Email: carl@carlhartmann.com  
*Co-Counsel for Plaintiff*

via: CM/ECF  | Mail  | Fax  | Hand Delivery  | Email

  
Cordelia L. Jones  
Certified Paralegal