

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 YOUSEF**

*Defendants,*

and

**SIXTEEN PLUS CORPORATION,**

*a nominal Defendant.*

**Case No.: 2016-SX-CV-650**

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

**JURY TRIAL DEMANDED**

**PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

The Plaintiff hereby moves for partial summary judgment as to Count III of the First Amended Complaint. The basis for the motion is more fully set forth in the memorandum being submitted in support of said motion, which is incorporated herein by reference. For the reasons set forth therein, it is respectfully submitted that the relief sought be granted.

**Dated:** January 20, 2017

  
**Joel H. Holt, Esq. (Bar # 6)**  
*Counsel for Defendants*  
Law Offices of Joel H. Holt  
2132 Company Street,  
Christiansted, VI 00820  
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Tele: (340) 773-8709  
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**Carl J. Hartmann III, Esq.**  
*Co-Counsel for Defendants*  
5000 Estate Coakley Bay, L-6  
Christiansted, VI 00820  
Email: carl@carlhartmann.com

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of January, 2017, I served a copy of the foregoing by mail and email, as agreed by the parties, on:

**Gregory H. Hodges**  
**Stephen Herpel**  
Law House, 10000 Frederiksberg Gade  
P.O. Box 756  
St. Thomas, VI 00802  
ghodges@dtflaw.com



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

*Plaintiff,*  
v.

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

**JURY TRIAL DEMANDED**

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT**

The Plaintiff hereby moves for partial summary judgment pursuant to Rule 56 on Count III of the First Amended Complaint ("FAC"). Count III is a claim brought only against one Defendant—Fathi Yusuf—for breach of his fiduciary duty to the nominal Defendant corporation, Sixteen Plus, Corporation, of which he is an officer and director.

The FAC contains the following facts in a verified pleading that sets forth the background giving rise to this case as follows:

- 1) In 1997, Mohammad Hamed and Fathi Yusuf decided to purchase 300 acres on the south shore of St. Croix, generally known as "Diamond Keturah," from the Bank of Nova Scotia ("BNS"). To do so, they formed a corporation, Sixteen Plus, which they owned 50/50 through their respective family members. FAC ¶¶ 12-14
- 2) Yusuf has been an officer and director of Sixteen Plus since that time and remains so today. FAC ¶ 3.

- 3) Yusuf and Hamed agreed to pay for the purchase with profits from the Plaza Extra Supermarket they also jointly owned as 50/50 partners. FAC ¶¶ 15-19.
- 4) Yusuf decided he did not want the Government or BNS to know the source of the funds being used to buy the property, as he was diverting unreported cash from Plaza Extra to use for this purchase. Thus, he arranged to have the funds laundered by having cash taken to St. Martin and then sent back by wire transfer by his nephew, Isam Yousuf ("Isam"), into the account of Sixteen Plus at BNS. FAC ¶¶ 21-22.
- 5) To further hide the source of the funds, Yusuf and Isam decided to create a sham mortgage in 1997 for \$4.5 million in the name of another Yusuf relative in St. Martin, Manal Yousef ("Manal"). FAC ¶¶ 23.
- 6) Yusuf explained to the Hamed's that Manal would never enforce the mortgage, but that it would be executed and recorded to make it look like a valid mortgage, which was done. FAC ¶¶ 24-31.
- 7) The transaction was finally closed in 1999 and the 1997 Manal mortgage was recorded. FAC ¶ 31.
- 8) However, when Yusuf signed the corporate tax return for 1999 (filed in 2000), he verified under oath that the loan was owed to the shareholders (the Hamed's and Yusuf's). FAC ¶ 75 and Exhibit 9 thereto.
- 9) Yusuf, Isam and Wally Hamed (who signed the Manal mortgage) were subsequently indicted for money laundering and tax evasion related in part to the Diamond Keturah purchase. Indeed, the Government placed a lien against it as part of the criminal case. FAC ¶¶ 32-34
- 10) That case was subsequently dismissed, after taxes were paid and a fine was levied, releasing Yusuf and Wally Hamed from any criminal liability for the acts related to the 1997 purchase of Diamond Keturah. The Government also released the lien. FAC ¶¶ 52-54.
- 11) In 2010 Yusuf had a real estate Power of Attorney ("POA") drawn up for Manal to sign giving Yusuf full control over the mortgage, which she did. FAC ¶¶ 45-51.
- 12) The POA, **Exhibit 1** to the FAC (also attached to this motion as **Exhibit 1**), gave Yusuf full authority to execute any and all documents related to the mortgage. The POA also incorporated the language in 15 V.I.C. § 5-604 (a copy of which is attached as **Exhibit 2**) that allowed Yusuf to **release the mortgage or change the name on the mortgage**. See **Exhibit 2** (subsections 4 and 8).
- 13) The POA signed by Manal then added the following broad indemnity language:

**I hereby agree to release, indemnify, defend and hold my attorney-in-fact harmless for all claims arising by reason of his acts he so performs in accordance with this instrument and the law. See Exhibit 1 (Emphasis added).**

- 14)** On September 14, 2012, Yusuf filed the 2011 corporate tax return for Sixteen Plus, again verifying that \$4.5 million note was owed to the Hamed and Yusuf shareholders (¶ 75 and FAC Exhibit 8), a copy of which is attached hereto as **Exhibit 3**.
- 15)** Notwithstanding this verified filing, in December of 2012, Yusuf began to try to secure the property as his own through the POA by having a St. Martin lawyer send a demand letter to Sixteen Plus (c/o Wally Hamed) to collect the note secured by the mortgage, claiming a debt due of \$14,612,662.23 plus \$3,000,000 in late fees. FAC ¶55.
- 16)** That letter and the response from Hamed's counsel explaining Yusuf's fraudulent conduct are attached to the FAC. They are also **Exhibits 4 and 5** hereto. ¶¶ 56-58.
- 17)** Yusuf then engaged in a series of additional acts in 2012 through 2016 to try to collect the sham mortgage, despite filing sworn tax returns denying the existence of the alleged Manal debt (FAC ¶ 75), such as filing verified answers to interrogatories in the Superior Court claiming the debt was valid (FAC ¶¶ 65-66).
- 18)** He also used the POA to retain local counsel to defend the declaratory judgment action filed against Manal by Sixteen Plus to have the mortgage declared void. FAC ¶¶ 77-78.

With these verified facts in mind, it is now appropriate to address the issues raised in the motion for partial summary judgment.

### **I. The Undisputed Facts**

The undisputed facts that are necessary to address this Rule 56 motion are much more limited than the background facts set forth above. In this regard, the verified facts set forth in the FAC relevant to this Rule 56 motion are as follows:

- 1)** Yusuf has been an officer and director of Sixteen Plus since 1997 and remains so today. FAC ¶ 3, 96.

- 2) Sixteen Plus purchased a 300-acre plot of real property known as Diamond Keturah and closed the transaction in 1999, recording a mortgage against it in favor of Manal Yousef, which Yusuf arranged. FAC ¶¶ 23-28, 31.
- 3) Yusuf has a real estate Power of Attorney ("POA") from Manal Yousef giving him the power to release the Manal Yousef mortgage. FAC ¶¶ 45 and **Exhibit 1** to the FAC (also attached to this motion as **Exhibit 1**).
- 4) The POA also incorporated the language in 15 V.I.C. § 5-604 (a copy of which is attached as **Exhibit 2**) that also allowed Yusuf to release the mortgage. See **Exhibit 2** at subsections 4.
- 5) The POA also contained the following broad indemnity language:

**I hereby agree to release, indemnify, defend and hold my attorney-in-fact harmless for all claims arising by reason of his acts he so performs in accordance with this instrument and the law. See **Exhibit 1** (Emphasis added).**

- 6) To date, Yusuf has used his POA to act adversely to Sixteen Plus by hiring a lawyer to defend the action filed by Sixteen Plus to have the Manal Yousef mortgage declared void. ¶¶ 78-79, 96-98.
- 7) The POA states it remains in effect until a termination has been recorded against the property at the Recorder of Deeds (See **Exhibit 1**), which has not happened. See **Exhibit 6**.

## II. Argument

In Count III of the FAC, the Plaintiff has alleged a breach of Yusuf's fiduciary duties to Sixteen Plus. In sections B and C of the Prayer for Relief, the Plaintiff sought "equitable orders with regard to the acts" as well as "any other relief the Court deems appropriate." See FAC at pp. 23. Such an Order is appropriate here.

As noted in *Roebuck v. V.I. Housing Authority*, 2014 WL 2109066, at \*6 (V.I. Super. May 7, 2014):

"[T]o establish a claim for breach of fiduciary duty: (1) there must be a fiduciary relationship, (2) the fiduciary must have breached its duty imposed by such relationship, (3) the plaintiff must have been harmed, and (4) the fiduciary's breach must be a proximate cause of the plaintiffs harm." *Watts v. Blake-Coleman*, Civil No. 2011-61, 2012 WL 1080323, at \*4 (D.V.I. March 29, 2012).

Courts in the Virgin Islands have described a fiduciary relationship existing between two persons when "one of them is under a duty to act for or to give advice for the benefit of another upon matters within the scope of the relation." *Guardian Insurance Co., v. Hani Khalil*, 2012 WL 3114601, at \*7 (V.I.Super. Ct. July 26, 2012).

All four of these elements have been satisfied.

In this regard, Yusuf has been an officer-director of Sixteen Plus at all times relative hereto (FAC ¶¶ 3, 96), which establishes a fiduciary duty. See, e.g., *RC Hotels V.I., Inc. v. B&T Cook Family Ptnrs.*, 57 V.I. 3, 11 (Super. Ct. 2012)(A fiduciary is a "person who is required to act for the benefit of another person on all matters within the scope of their relationship; one who owes to another the duties of good faith, trust, confidence, and candor"). Clearly as an officer and director of Sixteen Plus, Yusuf owes this duty to Sixteen Plus.

While he was the officer-director who originally negotiated the mortgage, he breached his fiduciary duty to the corporation by gaining the sole right to enforce and collect the mortgage for himself pursuant to the 2010 POA. FAC ¶¶ 45-51, 96. As noted in *Airlines Reporting Corp. v. Belfon*, 2010 WL 3664065, at \*29 (D.V.I. Sept. 16, 2010):

In general, the standard used to determine whether an officer or director breached his or her fiduciary duty is whether he or she performed "his or her duties in good faith and in a manner reasonably believed to be in the best interest of the corporation."

As such, that duty was breached here when Yusuf took the POA to enforce the mortgage.

Thus, partial summary judgment is warranted pursuant to Rule 56 as to Count III of the FAC, as there are no genuine issues of fact in dispute as to the elements giving

rise to Count III. See, e.g. *Williams v. United Corp.*, 50 V.I. 191, 194–95 (V.I. 2008)(discussing the applicable summary judgment standard).

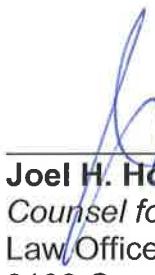
Moreover, that act has harmed the Plaintiff, particularly since Yusuf is now using this POA to defend the direct action by Sixteen Plus against Manal Yousef to void the sham mortgage. FAC ¶¶ 72, 77-78, 96-98 of the FAC. Finally, Yusuf's acts are the proximate cause of the current harm being suffered by Sixteen Plus, as he agreed to this "sham" mortgage in the first place and now is resisting its release. FAC ¶¶ 23-28, 78-79.

Thus, to remedy this breach, this Court has the equitable power to direct Yusuf to exercise the POA and release the mortgage. See, 13. V.I.C. §341(1). As such, this Court should exercise its authority and order Yusuf to sign a release of the mortgage forthwith along with doing any and all other acts needed to record the release against the Diamond Keturah property.

### III. Conclusion

For the reasons set forth herein, it is respectfully submitted that the equitable relief sought pursuant to Rule 56 should be granted and an order issued forthwith.

Dated: January \_\_, 2017

  
\_\_\_\_\_  
**Joel H. Holt, Esq. (Bar # 6)**  
*Counsel for Defendants*  
Law Offices of Joel H. Holt  
2132 Company Street,  
Christiansted, VI 00820  
Email: holtvi@aol.com  
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Fax: (340) 773-8677

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

### CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_ day of January, 2017, I served a copy of the foregoing by mail and email, as agreed by the parties, on:

**Gregory H. Hodges**  
**Stephen Herpel**  
Law House, 10000 Frederiksberg Gade  
P.O. Box 756  
St. Thomas, VI 00802  
ghodges@dtflaw.com

A handwritten signature in blue ink, appearing to read "Carl J. Hartmann III", is placed over a horizontal line.

W18/2010

09:01

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TRAVEL INN TANGGE

PAGE 0

REAL ESTATE POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that I, Manal Mohamad Yousef, of 25 Gold Finch Road, Pointe Blanche, St. Martin, N.A., have made, constituted and appointed and by these presents do make, constitute and appoint Fathi Yusuf, of P. O. Box 503358, St. Thomas, VI 00804, my true and lawful attorney ["Attorney"], for me and in my name, place and stead, and on my behalf, and ~~for my benefit~~ and benefit:

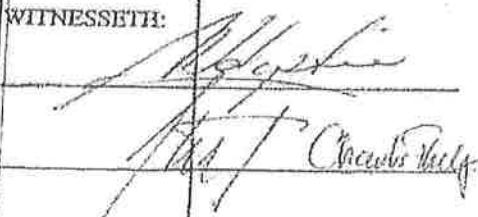
To do and perform all and every act and thing whatsoever requisite and necessary to be done in relation to my interest as a Mortgagee/Lender in the real property located on St. Croix, U.S. Virgin Islands, the legal description of which is attached hereto as Exhibit A.

Said acts and things include, but are not limited to all of those powers enumerated in Title 15 Virgin Islands Code, Uniform Power of Attorney Act § 5-604, the execution and delivery of any and all documents such as a Release, Ratification, Assignment, Closing Statement, contracts, affidavits, and any other documents necessary to do all acts related to my interest in said property, including prosecuting foreclosure in my name, as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying all that my said attorney shall lawfully do or cause to be done by virtue thereof.

The rights, powers and authority of said attorney-in-fact granted in this instrument shall commence upon the date of execution of this instrument and shall be in and remain in full force and effect until terminated by me in writing and filed in the Recorder of Deeds office wherein said property is situated. I hereby agree to release, indemnify, defend and hold my attorney-in-fact harmless for all claims arising by reason of his acts he so performs in accordance with this instrument and the law.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010.

WITNESSETH:

   
MANAL MOHAMAD YOUSEF

Bloomberg No. 5208

Manal Mohamed Yousef to Fathi Yusuf  
Real Estate Power of attorney  
Page 2

## ACKNOWLEDGMENT

Philipsburg \_\_\_\_\_ )  
\_\_\_\_\_) ss:  
Sint Maarten \_\_\_\_\_ )

On this 18<sup>th</sup> day of May, 2010, before me, the undersigned officer, personally appeared Manal Mohamed Yousef, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and she acknowledged to me that the same was executed for the uses and purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.



Signature, Notary Public at Law  
Francis Edgar Gijsbertha  
My Commission Expires: is for life

## APOSTILLE

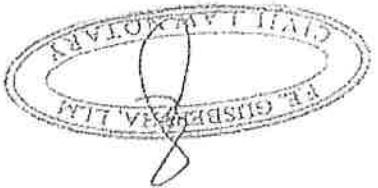
(Convention de La Haye du 5 octobre 1961)

1. Country: Sint Maarten, Netherlands Antilles  
This public document
2. has been signed by F.E. Gijsbertha
3. acting in the capacity of Civil-Law-Notary  
of Sint Maarten
4. before the notary of the aforementioned  
F.E. Gijsbertha

VERIFIED

for this Notary \_\_\_\_\_ on the 20<sup>th</sup> day of May, 2010  
in the office of the Department of Justice  
acting as Notary of the Netherlands Antilles  
of the Island of Sint Maarten  
by -- F.E.G. -- to witness:





1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17.

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17.



1. Permit No. 65, Bureau of Customs, of approximately 1,646 U.S. Acres.
2. Permit No. 66, Bureau of Customs, of approximately 2,087 U.S. Acres.
3. Permit No. 67, Bureau of Customs, of approximately 2,617 U.S. Acres.
4. Permit No. 68, Bureau of Customs, of approximately 2,617 U.S. Acres.
5. Permit No. 69, Bureau of Customs, of approximately 2,617 U.S. Acres.
6. Permit No. 70, Bureau of Customs, of approximately 4,517 U.S. Acres.
7. Permit No. 71, Bureau of Customs, of approximately 11,996 U.S. Acres.
8. Permit No. 72A, Bureau of Customs, of approximately 11,036 U.S. Acres.
9. Permit No. 76, Bureau of Customs, of approximately 14,957 U.S. Acres.
10. Permit No. 78, Bureau of Customs, of approximately 7,122 U.S. Acres.
11. Permit No. 79, Bureau of Customs, of approximately 5,852 U.S. Acres.
12. Permit No. 81, Bureau of Customs, of approximately 6,036 U.S. Acres.
13. Permit No. 82, Bureau of Customs, of approximately 6,036 U.S. Acres.
14. Permit No. 83, Bureau of Customs, of approximately 6,544 U.S. Acres.
15. Permit No. 84, Bureau of Customs, of approximately 6,544 U.S. Acres.
16. Permit No. 85, Bureau of Customs, of approximately 6,544 U.S. Acres.
17. Permit No. 86, Bureau of Customs, of approximately 6,544 U.S. Acres.

## EXHIBIT A

التجديدات

RENEWALS

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توقيع صاحب الجواز  
~ SIGNATURE OF HOLDER



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otherwise provides, a grant of authority § 17.

and (d), if the subjects over which attorney are similar or overlap, the

attorney is exercisable with respect to the power of attorney is exercised if the property is located in the Virgin Islands. Authority is exercised or the power of attorney is exercisable with respect to the power of attorney is exercised if the property is located in the Virgin Islands.

pursuant to a power of attorney has fit of and binds the principal and the if the principal had performed the 1, Sess. L. 2009, pp. 666–667.

#### ORY

a heading for Part 6. A heading was provided the National Conference of Commissioners on

bed in this article if the power of respect to the descriptive term for through 5-617 or cites the section in

key to general authority with respect in sections 5-604 through 5-617 or through 5-617 incorporates the entire the power of attorney.

y incorporated by reference.—Added 009, p. 667.

#### Generally

.e power of attorney, by executing a by reference a subject described in grants to an agent authority to do all want to section 5-601(c), a principal that subject, to:

by litigation or otherwise, money or principal is, may become, or claims to pursue, or use anything so received or

(2) contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(9) access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) do any lawful act with respect to the subject and all property related to the subject.—Added Oct. 1, 2011, No. 7150, § 1, Sess. L. 2009, pp. 667–668.

#### § 5-604. Real Property

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(1) demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(2) sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or

otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property which exists or is asserted;

(5) manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(A) insuring against liability or casualty or other loss;

(B) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(C) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(D) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;

(6) use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(A) selling or otherwise disposing of them;

(B) exercising or selling an option, right of conversion, or similar right with respect to them; and

(C) exercising any voting rights in person or by proxy;

(8) change the form of title of an interest in or right incident to real property; and

(9) dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.—Added Oct. 1, 2011, No. 7150, § 1, Sess. L. 2009 pp. 668-669.

#### § 5-605. Tangible Personal Property

Unless the power of attorney otherwise provides language in a power of attorney granting general authority with respect to tangible personal property authorizes the attorney to:

(1) demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;



Sixteen Plus Corporation  
4 C & D Sion Farm  
Christiansted  
St. Croix 00820, U.S.V.I.

Par Courier

St. Maarten, December 12, 2012

Ref.: Manal Mohamad Yousef / Collection loan

Dear Sir, Madame,

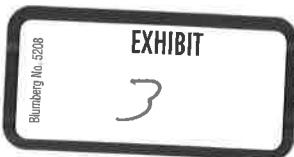
My client Manal Mohamad Yousef requested me to inform you of the following.

As it appears from documents in my possession your company owes client an amount of no less than US\$ 14,612,662.23 (Fourteen Million Six Hundred Twelve Thousand Six Hundred Sixty Two United States Dollars and Twenty Three Dollar Cent), for both principle and interest, based on a promissory note between client and your company dated September 15, 1007 and a First Priority Mortgage dated February 22, 1999. Apart from this your company owes client at least an amount of US\$ 3,000,000.00 for late penalties.

Client is no longer willing to accept your negligent payment behavior and hereby summons you to pay off the entire debt mentioned, to the total of US\$ 17,612,662.23, to client within two (2) weeks from the postdating of this letter. Failure to comply therewith shall result in legal measures taken against your company forthwith, the costs of which will be for your account only.

Sincerely yours,

Jelmer G. Snow



# *JOEL H. HOLT, ESQ. P.C.*

2132 Company Street, Suite 2  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

Tele. (340) 773-8709  
Fax (340) 773-8677  
E-mail: [holtvi@aol.com](mailto:holtvi@aol.com)

December 24, 2012

Jelmar G. Snow, Esq.  
BZSE  
Kudu Driver #2, Bel Air  
P.O. Box 373, Philipsburg  
Sint Maarten

Via fax 599-542-7551 and mail

**Re: Manal Mohamad Yousef/Sixteen Plus, Inc.**

Dear Mr. Snow:

I understand why you rudely hung up on me on Friday, as you now obviously realize that you should have never sent the letter in question to Sixteen Plus, Inc. Aside from the fact that you are effectively practicing law in a jurisdiction where you are not admitted, you sent a letter on behalf of a person, Manal Mohamad Yousef, whom you have apparently never met or spoken with—and who appears to never have authorized you to send that letter.

Indeed, I do not understand why a lawyer in Sint Maarten would not question the propriety of being asked by someone from the Virgin Islands to send a demand letter to someone in the Virgin Islands involving real property located in the Virgin Islands. It is hard to believe that this scenario did not make you suspicious when you were retained by Mr. Yusuf to send this letter.

I suspect Mr. Yusuf assured you it was proper, but in my view you have an independent duty to verify certain basic facts about the matter before sending such a letter under the questionable circumstances in question. Had you inquired further, you would have found that Mr. Yusuf's family owns one-half of Sixteen Plus, Inc. Obviously he appears to be using your services to try to obtain the other 50% shareholder's interest. Of course, if the mortgage were valid, your alleged client, Manal Mohamed Yousef, would be adverse to your actual client, Mr. Yusuf.

If you had inquired further you would also have discovered that Mr. Yusuf, along with the United Corporation and others, was indicted by the taxing authorities in the Virgin Islands in 2003. While the case against Mr. Yusuf (and others) was finally dropped in



2010, the United Corporation, whom I suspect actually paid for your services, remains under indictment.

Finally, if you had inquired further, you would have discovered that Mr. Yusuf is involved in civil litigation with his partner here, which indirectly involves the asset owned by Sixteen Plus, Inc. Had you known this, you might have thought to ask him why he did not use any of the multiple lawyers he has already retained (who are admitted here) to send the letter you sent.

In due course, the mortgage will be proven to be invalid in my opinion, but I question whether you should remain involved any further in this matter in this jurisdiction unless (1) you can produce something in writing demonstrating that you have authorization to represent Manal Mohamed Yousef which (2) also waives any conflict you appear to have in representing Mr. Yusuf at the same time. I would be very interested in seeing such a document. If you do decide to become involved further here, you might also look into the law in the Virgin Islands regarding what should be included in a demand letter.

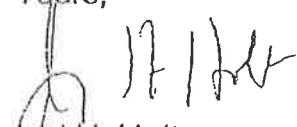
You also commented on the timing of my call, as the holidays are here, but you are the one who dictated the timing by requesting a response by December 26, 2012. I had called twice earlier in the week, as I had hoped a phone call would resolve this matter, but since you requested a written response when we finally spoke on Friday, please consider this letter as that response.

Finally, as for your comment about "American" lawyers, if you take the time to check me out, you will find I have an excellent reputation as well, despite what Mr. Yusuf might say. Indeed, Mr. Yusuf would do far better trying to amicably resolve these matters with his partner than resorting to such tactics like having a Sint Maarten Lawyer send a demand letter to a company in which his family has a 50% interest. In any event, while I do not like sending letters like this one, neither you nor Mr. Yusuf has left me any other alternative.

Please let me know if you have any questions or if you think there is additional information I should know. I am always glad to discuss anything you think I may have misunderstood or overlooked. However, if you wish to communicate with Sixteen Plus, Inc., please do so in writing sent to my attention at the above address.

Enjoy the rest of the holidays.

Yours,

  
Joel H. Holt  
JHH/jf

Form 1120S

## U.S. Income Tax Return for an S Corporation

OMB No. 1545-0130

2011

Department of the Treasury  
Internal Revenue Service (77)► Do not file this form unless the corporation has filed or is  
attaching Form 2553 to elect to be an S corporation.

For calendar year 2011 or tax year beginning

, and ending

|  |  |   |
|--|--|---|
| A S election effective date<br><b>10/28/1997</b>                       | Name<br><b>SIXTEEN PLUS CORPORATION</b>  | D Employer identification number<br><b>66-0540661</b>     |
| B Business activity code number<br>(see instructions)<br><b>531390</b> | Number, street, and room or suite no. If a P.O. box, see instructions.<br><b>P. O. BOX 763, CHRISTIANSTED1</b> | E Date incorporated<br><b>10/28/1997</b>                  |
| C Check if Sch. M-3 attached<br><input type="checkbox"/>               | City or town, state, and ZIP code<br><b>ST. CROIX, VI 00821-0763</b>   | F Total assets (see instructions)<br><b>\$ 4,828,625.</b> |

- G Is the corporation electing to be an S corporation beginning with this tax year?  Yes  No If "Yes," attach Form 2553 if not already filed
- H Check it: (1)  Final return (2)  Name change (3)  Address change (4)  Amended return (5)  S election termination or revocation
- I Enter the number of shareholders who were shareholders during any part of the tax year ► **12**

Caution: Include only trade or business income and expenses on lines 1a through 21. See the instructions for more information.

| Income           | 1 a Merchant card and third-party payment for 2011, enter -0-<br>d Returns and allowances plus any other adjustments (see instructions)  | 0. b Gross receipts or sales not reported on line 1a<br>c Total Add lines 1a and 1b | 1c Subtract line 1d from line 1c |
|------------------|--|---|----------------------------------|
|                  | 2 Cost of goods sold (attach Form 1125-A)  |   | 1e                               |
|                  | 3 Gross profit. Subtract line 2 from line 1e   |   | 2                                |
|                  | 4 Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)  |   | 3                                |
|                  | 5 Other income (loss) (attach statement)   |   | 4                                |
|                  | 6 Total income (loss). Add lines 3 through 5   |   | 5                                |
|                  | 7 Compensation of officers   |   | 6                                |
|                  | 8 Salaries and wages (less employment credits)   |   | 7                                |
|                  | 9 Repairs and maintenance  |   | 8                                |
|                  | 10 Bad debts   |   | 9                                |
|                  | 11 Rents   |   | 10                               |
|                  | 12 Taxes and licenses  |   | 11                               |
|                  | 13 Interest  |   | 12                               |
|                  | 14 Depreciation not claimed on Form 1125-A or elsewhere on return (attach Form 4562)   |   | 203.                             |
|                  | 15 Depletion (Do not deduct oil and gas depletion.)  |   | 13                               |
|                  | 16 Advertising   |   | 14                               |
|                  | 17 Pension, profit-sharing, etc., plans  |   | 15                               |
|                  | 18 Employee benefit programs   |   | 16                               |
|                  | 19 Other deductions (attach statement)   |   | 17                               |
|                  | 20 Total deductions. Add lines 7 through 19  |   | 18                               |
|                  | 21 Ordinary business income (loss). Subtract line 20 from line 6   |   | 19 2,150.                        |
|                  | 22 a Excess net passive income or LIFO recapture tax (see instructions)  | 22a   | 20 2,353.                        |
|                  | b Tax from Schedule D (Form 1120S)   | 22b   | 21 -2,353.                       |
|                  | c Add lines 22a and 22b  |   |                                  |
| Tax and Payments | 23 a 2011 estimated tax payments and 2010 overpayment credited to 2011   | 23a   |                                  |
|                  | b Tax deposited with Form 7004   | 23b   |                                  |
|                  | c Credit for federal tax paid on fuels (attach Form 4136)  | 23c   |                                  |
|                  | d Add lines 23a through 23c  |   |                                  |
|                  | 24 Estimated tax penalty (see instructions). Check if Form 2220 is attached  |   | 22c                              |
|                  | 25 Amount owed. If line 23d is smaller than the total of lines 22c and 24, enter amount owed   |   | 24                               |
|                  | 26 Overpayment. If line 23d is larger than the total of lines 22c and 24, enter amount overpaid  |   | 25                               |
|                  | 27 Enter amount from line 26 credited to 2010 estimated tax  |   | 26                               |
|                  | Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge. |   | 27                               |

Sign Here

Signature of officer

Date

Title

May the IRS discuss this return with the preparer shown below (see instructions)?  
 Yes  No

|                        |  |                  |  |                            |
|------------------------|--|------------------|--|----------------------------|
| Paid Preparer Use Only | PABLO O'NEILL<br>Firm's name ► O'NEILL & ASSOCIATES, LLC<br>Firm's address ► P.O. BOX 24775<br>ST. CROIX, VI 00824 | Date<br>06/19/12 | Check if self-employed<br><input type="checkbox"/> | PTIN<br>P01474673          |
|                        |  |                  | Firm's EIN<br>66-0575500                           | Phone no.<br>(340)773-4305 |

JWA For Paperwork Reduction Act Notice, see separate instructions.  
111701  
12-12-11

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EXHIBIT

8

Bumberg No 5208

Form 1120S (2011)

EXHIBIT

5

| Schedule B Other Information (see instructions)  | Yes | No |
|--|-----|----|
| 1 Check accounting method: (a) <input type="checkbox"/> Cash (b) <input checked="" type="checkbox"/> Accrual (c) <input type="checkbox"/> Other (specify) ►  |     |    |
| 2 See the instructions and enter the:  |     |    |
| (a) Business activity ► <b>REAL ESTATE</b> (b) Product or service ► <b>SUBDIVIDERS / DEVELOPERS</b>  |     |    |
| 3 At the end of the tax year, did the corporation own, directly or indirectly, 50% or more of the voting stock of a domestic corporation? (For rules of attribution, see section 267(c).) If "Yes," attach a statement showing: (a) name and employer identification number (EIN), (b) percentage owned, and (c) if 100% owned, was a qualified subchapter S subsidiary election made? ..... X   |     |    |
| 4 Has this corporation filed, or is it required to file, Form 8918, Material Advisor Disclosure Statement, provide information on any reportable transaction? ..... X  |     |    |
| 5 Check this box if the corporation issued publicly offered debt instruments with original issue discount ..... If checked, the corporation may have to file Form 8281, Information Return for Publicly Offered Original Issue Discount Instruments. ..... X   |     |    |
| 6 If the corporation: (a) was a C corporation before it elected to be an S corporation or the corporation acquired an asset with a basis determined by reference to the basis of the asset (or the basis of any other property) in the hands of a C corporation and (b) has net unrealized built-in gain in excess of the net recognized built-in gain from prior years, enter the net unrealized built-in gain reduced by net recognized built-in gain from prior years ► \$ ..... \$ ..... X |     |    |
| 7 Enter the accumulated earnings and profits of the corporation at the end of the tax year ..... \$ ..... X  |     |    |
| 8 Are the corporation's total receipts (see instructions) for the tax year and its total assets at the end of the tax year less than \$250,000? If "Yes," the corporation is not required to complete Schedules L and M-1 ..... X  |     |    |
| 9 During the tax year, was a qualified subchapter S subsidiary election terminated or revoked? If "Yes," see instructions ..... X  |     |    |
| 10a Did the corporation make any payments in 2011 that would require it to file Form(s) 1099 (see instructions)? ..... b If "Yes," did the corporation file or will it file all required Forms 1099? ..... X   |     |    |

| Schedule K Shareholders' Pro Rata Share Items                         |    | Total amount |
|---|----|--------------|
| 1 Ordinary business income (loss) (page 1, line 21)                   | 1  | - 2,353.     |
| 2 Net rental real estate income (loss) (attach Form 8825)             | 2  |              |
| 3a Other gross rental income (loss)                                   | 3a |              |
| b Expenses from other rental activities (attach statement)            | 3b |              |
| c Other net rental income (loss). Subtract line 3b from line 3a       | 3c |              |
| 4 Interest Income .....   | 4  |              |
| 5 Dividends: a Ordinary dividends                                     | 5a |              |
| b Qualified dividends   | 5b |              |
| 6 Royalties   | 6  |              |
| 7 Net short-term capital gain (loss) (attach Schedule D (Form 1120S)) | 7  |              |
| 8a Net long-term capital gain (loss) (attach Schedule D (Form 1120S)) | 8a |              |
| b Collectibles (28%) gain (loss)                                      | 8b |              |
| c Unrecaptured section 1250 gain (attach statement)                   | 8c |              |
| 9 Net section 1231 gain (loss) (attach Form 4797)                     | 9  |              |
| 10 Other income (loss)<br>(see instructions) Type ►                   | 10 |              |

JWA

Form 1120S (2011)

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| <b>Schedule L</b>                                      | <b>Balance Sheets per Books</b> | <b>Beginning of tax year</b> |            | <b>End of tax year</b> |            |
|--|---------------------------------|------------------------------|------------|------------------------|------------|
|  |                                 | (a)                          | (b)        | (c)                    | (d)        |
| 1 Cash   |                                 |                              | 9,819.     |                        | 7,466.     |
| 2 a Trade notes and accounts receivable                |                                 |                              |            |                        |            |
| b Less allowance for bad debts                         |                                 |                              |            |                        |            |
| 3 Inventories  |                                 |                              |            |                        |            |
| 4 U.S. government obligations                          |                                 |                              |            |                        |            |
| Tax-exempt securities                                  |                                 |                              |            |                        |            |
| 5 Other current assets (att. stmt.)                    |                                 |                              |            |                        |            |
| 6 Distributions to shareholders                        |                                 |                              |            |                        |            |
| 7 Mortgage and real estate loans                       |                                 |                              |            |                        |            |
| 8 Other investments (att. stmt.)                       |                                 |                              |            |                        |            |
| 9 Buildings and other depreciable assets               |                                 |                              |            |                        |            |
| b Less accumulated depreciation                        |                                 |                              |            |                        |            |
| 10 a Depletable assets                                 |                                 |                              |            |                        |            |
| b Less accumulated depletion                           |                                 |                              |            |                        |            |
| 11 Land (net of any amortization)                      |                                 |                              | 4,596,159. |                        | 4,596,159. |
| 12 Intangible assets (amortizable only)                |                                 |                              |            |                        |            |
| b Less accumulated amortization                        |                                 |                              |            |                        |            |
| 13 Other assets (att. stmt.)                           |                                 |                              |            |                        |            |
| 14 Total assets  |                                 |                              | 4,830,978. |                        | 4,828,625. |
| <b>Liabilities and Shareholders' Equity</b>            |                                 |                              |            |                        |            |
| 15 Accounts payable                                    |                                 |                              |            |                        |            |
| 16 Mortgages, notes, bonds payable in less than 1 year |                                 |                              |            |                        |            |
| Other current liabilities (att. stmt.)                 |                                 |                              |            |                        |            |
| 17 Loans from shareholders                             |                                 |                              | 4,710,626. |                        | 4,710,626. |
| 18 Mortgages, notes, bonds payable in 1 year or more   |                                 |                              |            |                        |            |
| 19 Other liabilities (att. stmt.)                      |                                 |                              |            |                        |            |
| 20 Capital stock                                       |                                 |                              | 1,000.     |                        | 1,000.     |
| 21 Additional paid-in capital                          |                                 |                              |            |                        |            |
| 22 Retained earnings                                   |                                 |                              | 119,352.   |                        | 116,999.   |
| 23 Adjustments to shareholders' equity (att. stmt.)    |                                 |                              |            |                        |            |
| 24 Less cost of treasury stock                         |                                 |                              | ( )        |                        | ( )        |
| 25 Total liabilities and shareholders' equity          |                                 |                              | 4,830,978. |                        | 4,828,625. |

**Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return**

Note: Schedule M-3 required instead of Schedule M-1 if total assets are \$10 million or more - see instructions

|   |          |  |          |
|---|----------|--|----------|
| 1 Net income (loss) per books   | - 2,353. | 5 Income recorded on books this year not included on Schedule K, lines 1 through 10 (itemize):                       |          |
| 2 Income included on Schedule K, lines 1, 2, 3c, 4, 5a, 6, 7, 8a, 9, and 10, not recorded on books this year (itemize): |          | • Tax-exempt interest \$   |          |
| 3 Expenses recorded on books this year not included on Schedule K, lines 1 through 12 and 14 (itemize):                 |          | 6 Deductions included on Schedule K, lines 1 through 12 and 14, not charged against book income this year (itemize): |          |
| a Depreciation \$   |          | • Depreciation \$  |          |
| b Travel and entertainment \$   |          | 7 Add lines 5 and 6  |          |
| 4 Add lines 1 through 3   | - 2,353. | 8 Income (loss) (Schedule K, line 18), Line 4 less line 7  | - 2,353. |

**Schedule M-2 Analysis of Accumulated Adjustments Account, Other Adjustments Account, and Shareholders' Undistributed Taxable Income Previously Taxed (see instructions)**

|   | (a) Accumulated adjustments account | (b) Other adjustments account | (c) Shareholders' undistributed taxable income previously taxed |
|---|-------------------------------------|-------------------------------|---|
| 1 Balance at beginning of tax year                        | 119,352.                            |                               |   |
| 2 Ordinary income from page 1, line 21                    |                                     |                               |   |
| 3 Other additions   |                                     |                               |   |
| 4 Loss from page 1, line 21                               | ( 2,353.)                           |                               |   |
| 5 Other reductions  | ( )                                 |                               |   |
| 6 Combine lines 1 through 5                               | 116,999.                            |                               |   |
| 7 Distributions other than dividend distributions         |                                     |                               |   |
| 8 Balance at end of tax year. Subtract line 7 from line 6 | 116,999.                            |                               |   |

H3VMD688588

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 YOUSEF

*Defendants,*

and

SIXTEEN PLUS CORPORATION,

*a nominal Defendant.*

Case No.: 2016-SX-CV-650

DERIVATIVE SHAREHOLDER SUIT, ACTION FOR DAMAGES AND CICO RELIEF

JURY TRIAL DEMANDED

DECLARATION OF JOEL H. HOLT

I, Joel H. Holt, declare, pursuant to 28 U.S.C. Section 1746, as follows:

1. I am counsel of record and am personally knowledgeable about the facts set forth herein.
2. No termination of the Power of Attorney given by Manal Yousef to Fathi Yusuf has been recorded in the St. Croix Recorder of Deeds against the Diamond Keturah property owned by Sixteen Plus, Corporation.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 20, 2016

JOEL H. HOLT

EXHIBIT

6