

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

YUSUF YUSUF, FATHI YUSUF, FAWZIA YUSUF,
NEJEH YUSUF, and ZAYED YUSUF, in their
individual capacities and derivatively on behalf of
PLESSEN ENTERPRISES, INC.,

Plaintiffs,

vs.

MOHAMMAD HAMED, WALEED HAMED,
WAHEED HAMED, MUFEED HAMED,
HISHAM HAMED, FIVE-H HOLDINGS, INC., and
KAC357, INC.,

Defendants,

-and-

PLESSEN ENTERPRISES, INC.,

Nominal Defendant.

CASE NO. SX-13-CV-120

ACTION FOR DAMAGES,
DECLARATORY AND
INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

**PLAINTIFF YUSUF YUSUF'S RESPONSES TO
MUFEED HAMED'S SECOND SET INTERROGATORIES**

Plaintiff, Yusuf Yusuf, through his attorneys, Dudley, Topper and Feuerzeig, LLP,
hereby provides his Responses to Defendant Mufeed Hamed's Second Set of Interrogatories:

GENERAL OBJECTIONS

Yusuf Yusuf makes the following general objections to the Interrogatories. These
general objections apply to all or so many of the Interrogatories that, for convenience, they are
set forth herein and are not necessarily repeated after each objectionable Interrogatory. The
assertion of the same, similar, or additional objections in the individual responses to the

Interrogatories, or the failure to assert any additional objections to a discovery request does not waive any of Yusuf Yusuf's objections as set forth below:

(1) Yusuf Yusuf objects to the Interrogatories to the extent they may impose obligations different from or in addition to those required under the Federal Rules of Civil Procedure.

(2) Yusuf Yusuf objects to each interrogatory that uses the words "any" and "all" as being overly broad, unduly burdensome, immaterial, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

(3) Yusuf Yusuf objects to the Interrogatories to the extent they seek information which is protected by the attorney-client privilege or work-product doctrine, including information prepared in anticipation of litigation, or for trial, by or on behalf of Yusuf Yusuf or relating to mental impressions, conclusions, opinions, or legal theories of its attorneys or representatives, or any other applicable privilege or doctrine under federal or state statutory, constitutional or common law. Yusuf Yusuf's answers shall not include any information protected by such privileges or doctrine, and documents or information inadvertently produced which includes such privileged information shall not be deemed a waiver by Yusuf Yusuf of such privilege or doctrine.

(4) Yusuf Yusuf objects to the Interrogatories to the extent that they seek information and documents concerning any matter that is irrelevant to the claims or defenses of any party to this action, and not reasonably calculated to lead to the discovery of admissible evidence.

(5) Yusuf Yusuf objects to the Interrogatories to the extent that they use terms or phrases that are vague, ambiguous, or undefined. Yusuf Yusuf's response to each such request will be based upon its understanding of the request.

(6) Yusuf Yusuf objects to the Interrogatories to the extent they seek documents or information not in the possession, custody or control of Yusuf Yusuf, on the ground that it would subject him to undue burden, oppression and expense, and impose obligations not required by the Federal Rules of Civil Procedure.

(7) Yusuf Yusuf has not completed either its discovery or its preparation for trial of this matter. Accordingly, Yusuf Yusuf's responses to the Interrogatories are made without prejudice to Yusuf Yusuf's right to make any use of, or proffer at any hearing or at trial, and are based only upon information presently available. If and as additional, non-privileged, responsive documents are discovered, these Interrogatories will be supplemented to the extent that supplementation may be required by the Federal Rules of Civil Procedure.

(8) Yusuf Yusuf objects to the Interrogatories to the extent that when all of the subparts are included they are in excess of the number permitted by Rule 33.

INTERROGATORIES AND RESPONSES
Numbering continued from First Set

INTERROGATORY NO. 8

Describe, with particularity as to dates and persons or documents present, all meetings, conferences or communications between any attorney for Plaintiff or for any member of the Yusuf Family and: Scotiabank, the VI Daily News, the VIPD, Attorney General's Office or any other VI Government official, regarding the alleged embezzlement from the Plessen Account.

RESPONSE:

Subject to the above-stated objections and without waiving any objections, shortly after March 27, 2013, when the \$460,000.00 check was cashed by Waleed Hamed and Mufeed Hamed, Yusuf Yusuf went to the Sunny Isle Branch of Scotia Bank in person and asked to speak with someone regarding information on a commercial account. Ms. Yvette Clendenen from Scotia Bank was called to speak with Yusuf Yusuf. During that conversation, Yusuf Yusuf inquired about Plessen account and the monies that had been removed. Ms. Clendenen showed Yusuf Yusuf the balance in the Plessen account, the monies which had been taken out and provided him a photocopy of the \$460,000.00 check front and back. The next day, Yusuf Yusuf returned to the Sunny Isle Branch of Scotia Bank and asked for Ms. Clendenen. During this conversation, Yusuf Yusuf asked her for a copy documents in the bank's files as to the persons authorized to sign checks on behalf of Plessen. Ms. Clendenen provided a copy of the Intake Gathering Form from Scotia Bank's physical file. A true and correct copy of the documents received are attached hereto as Bates Stamped – 12-YY-0001-2;000273-281.

It is Mike Yusuf's recollection that in mid-to-late 2011 or early 2012, that it was determined that two signatures would be required, one Hamed and one Yusuf and that the Mike Yusuf and Waleed Hamed separately went into Scotia Bank and executed the documents with this requirement.

This change is also reflected in the signatures on the checks from the Plessen account. From September, 2011, all checks written bear one Hamed and on Yusuf signature. The exception to this is the \$460,000.00 check which bears two Hamed signatures. See Bates Stamped documents, 12-YY-00489-501, which are the checks written on the Plessen account each containing two signatures, one Hamed and one Yusuf after September of 2011.

On May 17, 2013, Attorney Nizar DeWood and Maher Yusuf met with VIPD Officer Mark Corneiro. During that meeting they conveyed to him orally the events which Officer Corneiro chronicles in his Affidavit. At that time, the documents provided were those listed in Officer Corneiro's Affidavit at page 3. Based upon Officer Mark Corneiro's Affidavit, it appears that he conducted his own independent investigation into the matter and he appears to have secured additional information directly from Scotia Bank, including the signature cards, reflecting "One Hamed and One Yusuf". Mike Yusuf recalls that there were a few calls between himself and Sergeant Corneiro but does not recall the dates. Sergeant Corneiro inquired about the name "Galleria" in Smith Bay which had arisen as part of his investigation into the funds that were deposited into Wally's account. Mike Yusuf explained that he understood that this related to the real property upon which a supermarket was being constructed in Red Hook, St. Thomas formerly known as Marina Market.

The V.I.P.D. investigation was later turned over to Attorney Kippy Roberson of the Attorney General's office. Attorney Roberson contacted Attorney Nizar DeWood and requested any information available. The exact date of this communication is unknown but on March 30, 2016, in response to Attorney Roberson's request, Yusuf Yusuf provided to Attorney DeWood a copy of the Intake Gathering Form with signatures and requirement for one Hamed and one Yusuf. See Bates Stamps 12-YY-000273-281. Attorney DeWood forwarded the information to Attorney Roberson as requested the same day. No further communication occurred between Attorney DeWood or any of the Yusuf's regarding this matter and Attorney Roberson.

With regard to the V.I. Daily News, Mike Yusuf received a call from them and answered no questions and referred them to the V.I.P.D. The date of the contact is uncertain.

INTERROGATORY NO. 9

Describe any privilege(s) asserted with regard to conversations and communications between any attorney for Plaintiff or for any member of the Yusuf Family and: Scotiabank, the VI Daily News, the VIPD, Attorney General's Office or any other VI Government official, regarding the alleged embezzlement from the Plessen Account. (If no such privilege(s) are asserted, state "None asserted.")

RESPONSE:

None asserted.

INTERROGATORY NO. 10

In the Amended Complaint, at page 5, paragraph 27. Plaintiff alleges:

27. Yusuf then reviewed Plessen's bank statements and learned that on March 27, 2013, Waleed and Mufeed, without authorization, issued check number 03 76 in the amount of \$460,000.00 from Plessen's Scotiabank account, made payable to Waleed in his personal capacity, with no business purpose.

For the date, March 27, 2017, [sic]

- a. state the officers and directors of Plessen, and when and how each had become a director.
- b. state what articles of incorporation and bylaws were in effect.
- c. state what you understand and contend were the powers and duties of the President and Vice-President.

RESPONSE:

Subject to the above-stated objections and without waiving any objections, Yusuf Yusuf shows that date of "March 27, 2017" is obviously incorrect. To the extent that the date is assumed to mean "March 27, 2013," Yusuf Yusuf shows that Mohammed Hamed, who previously served as President and was a director is now deceased. Fathi Yusuf has always served as the Secretary and Treasurer and has been a director. The Yusuf's were under the belief that Mike Yusuf was a director of Plessen as a result of documents provided to the V.I. Government Department of Licensing and Consumer Affairs and because he originally was provided signature authority as to the Plessen account at Scotia Bank and reflected in the August 17, 2009 bank records. He was also listed on the Intake Gathering Form for Scotia as a "director." Furthermore, Mohammed Hamed in response to interrogatories in the *Hamed v. Yusuf et al*, sx-12-370 case, swore that "I [Mohammed] am one of the four directors of Plessen. To the best of my recollection, I have always been a director. The other three directors and shareholders of the complaint, including Fathi Yusuf and his sons were all aware of this fact, as is the Office of the Lieutenant Governor, Division of Corporations." See Bates Stamped documents 12-YY-00509-511.

Yusuf Yusuf shows that the corporate records for Plessen were outside any of the parties' control for years following the FBI raid in which the corporate records were seized. In April, 2014, Carl Beckstedt prepared corporate documents to reflect Mike's position as a director.

Attorney Holt advised Carl Beckstedt to the contrary. However, Attorney Beckstedt did not comply but rather advised that he would need to confirm with the parties. Nonetheless, there is not an executed document in the official corporate record book reflecting Mike Yusuf's position as a director.

The powers and the duties of the President and the Vice President were limited by the Bylaws, including Article V, Section 5.1(c) which requires checks to be signed by either the President or Vice President and then countersigned by the Secretary or Treasurer. This would require that one Hamed and one Yusuf would ultimately be signing all checks. In addition, in mid-to-late 2011, all checks thereafter were signed by one Hamed and one Yusuf, with the exception of the \$460,000.00 check. No officer was allowed to remove funds from the account without the dual family signatures and this was the accepted restriction agreed to by the two families in addition to the other restrictions already imposed by Article V of the Bylaws.

INTERROGATORY NO. 11


Describe any privilege(s) asserted with regard to conversations and communications between any attorney for Plaintiff or for any member of the Yusuf Family and: Scotiabank, the VI Daily News, the VIPD, Attorney General's Office or any other VI Government official, regarding the alleged embezzlement from the Plessen Account. (If no such privilege(s) are asserted, state "none asserted.")

RESPONSE:

This Interrogatory is duplicative of Interrogatory No. 9.

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DATED: February 15th, 2017

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CERTIFICATE OF SERVICE

It is hereby certified that on this 15th day of February, 2017, I caused a true and exact copy of the foregoing **PLAINTIFF YUSUF YUSUF'S RESPONSES TO DEFENDANT MUFEEED HAMED'S SECOND SET OF INTERROGATORIES** to be served upon the following via e-mail:

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