

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

WALEED HAMED, as Executor of the)	
Estate of MOHAMMAD HAMED,)	
)	
Plaintiff/Counterclaim Defendant,	)	CIVIL NO. SX-12-CV-370
v.)	
	)	ACTION FOR INJUNCTIVE
FATHI YUSUF and UNITED CORPORATION,	)	RELIEF, DECLARATORY
	)	JUDGMENT, AND
Defendants/Counterclaimants,	)	PARTNERSHIP DISSOLUTION,
v.	)	WIND UP, AND ACCOUNTING
)	
WALEED HAMED, WAHEED HAMED,)	
MUFEED HAMED, HISHAM HAMED, and)	
PLESSEN ENTERPRISES, INC.,)	
Additional Counterclaim Defendants.	)	Consolidated With
WALEED HAMED, as Executor of the)	
Estate of MOHAMMAD HAMED,)	
	)	CIVIL NO. SX-14-CV-287
Plaintiff,)	
v.	)	ACTION FOR DAMAGES AND
	)	DECLARATORY JUDGMENT
UNITED CORPORATION,)	
)	
Defendant.)	
WALEED HAMED, as Executor of the)	
Estate of MOHAMMAD HAMED,	)	CIVIL NO. SX-14-CV-278
)	
Plaintiff,	)	ACTION FOR DEBT AND
v.	)	CONVERSION
)	
FATHI YUSUF,)	
)	
Defendant.)	
FATHI YUSUF and)	
UNITED CORPORATION,)	
	)	CIVIL NO. ST-17-CV-384
)	
Plaintiffs,	)	ACTION TO SET ASIDE
v.	)	FRAUDULENT TRANSFERS
)	
THE ESTATE OF MOHAMMAD HAMED,)	
Waleed Hamed as Executor of the Estate of)	
Mohammad Hamed, and)	
THE MOHAMMAD A. HAMED LIVING TRUST,)	
)	
Defendants.)	

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**RESPONSE TO HAMED'S SECOND REQUEST TO ADMIT PER THE CLAIMS
DISCOVERY PLAN OF 1/29/18, NOS. 4-6 OF 50 AS TO YUSUF CLAIM Y-6 BLACK
BOOK BALANCE OWED UNITED, Y-7 LEDGER BALANCES OWED UNITED, AND
Y-9 UNREIMBURSED TRANSFERS OWED UNITED**

Defendant/Counterclaimants Fathi Yusuf ("Yusuf") and United Corporation ("United")(collectively, the "Defendants") through their attorneys, Dudley, Topper and Feuerzeig, LLP, hereby provide their Responses to Hamed's Second Request to Admit Per the Claims Discovery Plan of 1/29/2018, Nos. 4-6 of 50 as to Yusuf Claim Y-6, Black Book Balance Owed United, Y-7 Ledger Balances Owed United, and Y-9 – Unreimbursed Transfers Owed United.

GENERAL OBJECTIONS

Defendants make the following general objections to the Requests to Admit. These general objections apply to all or many of the Requests to Admit, thus, for convenience, they are set forth herein and are not necessarily repeated after each objectionable Request to Admit. The assertion of the same, similar, or additional objections in the individual responses to the Requests to Admit, or the failure to assert any additional objections to a discovery request does not waive any of Defendants' objections as set forth below:

(1) Defendants object to these Requests to Admit to the extent they may impose obligations different from or in addition to those required under the Virgin Islands Rules of Civil Procedure.

(2) Defendants object to these Requests to Admit to the extent that they use 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.

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(3) Defendants object to these Requests to Admit 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 Defendants or relating to mental impressions, conclusions, opinions, or legal theories of their attorneys or representatives, or any other applicable privilege or doctrine under federal or territorial statutory, constitutional or common law. Defendants' 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 Defendants of such privilege or doctrine.

(4) Defendants object to these Requests to Admit 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) Defendants object to these Requests to Admit to the extent that they use terms or phrases that are vague, ambiguous, or undefined. Defendants' response to such request will be based upon their understanding of the request.

(6) Defendants object to these Requests to Admit to the extent they seek documents or information not in the possession, custody or control of Defendants, on the grounds that it would subject them to undue burden, oppression and expense, and impose obligations not required by the Virgin Islands Rules of Civil Procedure.

(7) Defendants have not completed either their discovery or preparation for trial of this matter. Accordingly, Defendants' responses to these Requests to Admit are made without prejudice to their right to make any use of, or proffer at any hearing or at trial evidence later

discovered, and are based only upon information presently available. If any additional, non-privileged, responsive information is discovered, these Requests to Admit will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.

(8) Defendants object to these Requests to Admit to the extent that they are compound and not a single Request. Hence, these Requests to Admit should be counted as more than a single Request such that when all of the subparts are included together with other Requests to Admit they exceed the 50 Requests to Admit established in the Joint Discovery and Scheduling Plan.

RESPONSES TO REQUESTS TO ADMIT

Request to Admit 4 of 50:

Request to admit number 4 of 50 relates to Claim Y-6 – as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master as "Black Book Balances Owed United."

Admit or deny that claims listed in Exhibit G to Yusuf's Original Claims, Relevant Black Book Entries, occurred in 1994 or earlier, and occurred more than six years before the FBI seized document.

Response:

Admit. Further responding, Defendants state shows that in Yusuf's earlier declaration he explained that "[u]nder the business agreement between Hamed and me that I now describe as a partnership, profits would be divided 50-50 after deduction for rent owed to United, among other expenses" and that "[u]nder our agreement, I was the person responsible for making all decisions

regarding when the reconciliation would take place” and that Yusuf had the discretion to determine when the reconciliation would take place. *See* August 12, 2014 Yusuf Declaration, p. 2. At the time that these United debts were incurred, the grocery store at the Plaza Extra East location was not operating as a result of a fire at that store and the Plaza Extra Tutu Park Store was not yet open. Such circumstances constitute extraordinary circumstances, which operate to trigger an equitable tolling as to the pursuit of such debts.

Request to Admit 5 of 50:

Request to admit number 5 of 5 relates to Claim Y-7 – as described in Hamed’s November 16, 2017 Motion for a Hearing Before Special Master as “Ledger Balances Owed United.”

Admit or deny that the claims listed in Exhibit H to Yusuf’s Original Claims, Ledger Sheets Reflecting United’s Payment for Plaza Extra, except for one transaction for \$3000, occurred in 1995 or earlier, and occurred more than six years before the FBI seized the document.

Response:

Admit that the transactions occurred in 1995 or earlier but denied as to whether they occurred more than six years before the FBI seized the document. Further responding, Yusuf shows that in his earlier declaration he explained that “[u]nder the business agreement between Hamed and me that I now describe as a partnership, profits would be divided 50-50 after deduction for rent owed to United, among other expenses” and that “[u]nder our agreement, I was the person responsible for making all decisions regarding when the reconciliation would take place” and that Yusuf had the discretion to determine when the reconciliation would take place. *See* August 12, 2014 Yusuf Declaration, p. 2.

Request to Admit 6 of 50:

Request to admit number 6 of 50 relates to Claim Y-9 as described in Hamed's November 16, 2017 Motion for a Hearing Before Special Master as "Unreimbursed Transfers from United."

Admit or deny that the claims listed in Exhibit I to Yusuf's Original Claims, Summary and Supporting Documentation of Unreimbursed Transfers from United, occurred in 1996, and occurred more than six years before the FBI seized the document.

Response:

Admit that the unreimbursed transfers from United in Exhibit I occurred in 1996, but deny that the same occurred more than six years before the FBI seized the document. Further responding, Yusuf shows that in his earlier declaration he explained that "[u]nder the business agreement between Hamed and me that I now describe as a partnership, profits would be divided 50-50 after deduction for rent owed to United, among other expenses" and that "[u]nder our agreement, I was the person responsible for making all decisions regarding when the reconciliation would take place" and that Yusuf had the discretion to determine when the reconciliation would take place. *See* August 12, 2014 Yusuf Declaration, p. 2.

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 15th, 2018

By:


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*Attorneys for Fathi Yusuf and United
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CERTIFICATE OF SERVICE

It is hereby certified that on this 15th day of May 2018, I caused the foregoing a true and exact copy of the foregoing **RESPONSE TO HAMED'S SECOND REQUEST TO ADMIT PER THE CLAIMS DISCOVERY PLAN OF 1/29/2018** to be served upon the following via Case Anywhere docketing system:

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