

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,)

v.)

FATHI YUSUF and UNITED CORPORATION,)
)
Defendants/Counterclaimants,)

v.)

CIVIL NO. SX-12-CV-370

ACTION FOR INJUNCTIVE
RELIEF, DECLARATORY
JUDGMENT, AND
PARTNERSHIP DISSOLUTION,
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,)
)
Plaintiff,)

v.)

UNITED CORPORATION,)
)
Defendant.)

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES AND
DECLARATORY JUDGMENT

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

v.)

FATHI YUSUF,)
Defendant.)

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT AND
CONVERSION

FATHI YUSUF and)
UNITED CORPORATION,)
)
Plaintiffs,)

v.)

CIVIL NO. ST-17-CV-384

ACTION TO SET ASIDE
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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**RESPONSES TO HAMED'S SIXTH INTERROGATORIES PER THE CLAIM
DISCOVERY PLAN OF 1/29/2018 NOS. 33-41 OF 50**

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 Sixth Set of Interrogatories per the Claims Discovery Plan of 1/29/2018, Nos. 33-41 of 50.

GENERAL OBJECTIONS

Defendants make the following general objections to the Interrogatories. These general objections apply to all or many of the Interrogatories, 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 Interrogatories, 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 Interrogatories 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 Interrogatories 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.

(3) Defendants object to these 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 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 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) Defendants object to these Interrogatories 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 Interrogatories 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 Interrogatories 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 Interrogatories will be supplemented to the extent that supplementation may be required by the Virgin Islands Rules of Civil Procedure.

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

RESPONSES TO INTERROGATORIES

Interrogatory 33 of 50:

Substantially the Same as Yusuf ROG 1. Please identify any and all assets including bank accounts (indicating account number and name of bank), brokerage accounts, real estate, interests in business ventures and other financial interests, foreign and domestic, owned by each of the following Yusuf family members: 1) Fathi, 2) Mike, 3) Negeh, and 4) Yusuf Yusuf *from September 17, 2006 to the date of your response* and identify the source of all funds for the acquisition of such assets.

Response:

Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object to this Interrogatory because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would

account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because “the proposed discovery is not relevant to any party’s claim or defense.” V.I. R. Civ. P. 26(b)(2)(C)(iii).

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Interrogatory 34 of 50:

Substantially the Same as Yusuf ROG 2. Please identify each and every asset and interest, foreign and domestic, owned by Fathi Yusuf or any corporation more than 49% owned by him *from September 1, 2012 to the date of this response* -- and the source of the income (including any loan proceeds) which provided the asset as well as any disposition of the asset since that time.

Response:

Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

Interrogatory 35 of 50:

Substantially the Same as Yusuf ROG 3. Please identify all sources of income for 1) Fathi, 2) Mike, 3) Nejeih, and 4) Yusuf Yusuf from September 17, 2006 to the date of your response and identify the source of all funds for the acquisition of such assets.

Response:

Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object to this Interrogatory because it seeks personal financial information concerning Yusuf's sons, who are not parties to this case.

Defendants further object to this Interrogatory because it seeks personal information when there has been no allegation that monies were removed from the partnership by any member of the Yusuf family which were not otherwise disclosed to the Hameds. Furthermore, unlike the Hameds, the Yusufs had sources of income other than the partnership which would account for income and assets in excess of the funds acknowledged to have been withdrawn from the partnership. Hence, the discovery is irrelevant because "the proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(iii).

Interrogatory 36 of 50:

Substantially the Same as Yusuf ROG 4. Please describe who selected counsel to represent the Yusuf defendants in the Criminal Case, who paid each counsel, what amount each counsel was paid, how each counsel was paid, and the source of funds for each payment?

Response:

Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Without waiving any objections, Yusuf replaced Robert King, Esq. with Hank Smock, Esq. as his counsel for the Criminal Case upon the recommendation of Gordon Rhea, who was engaged by Waleed Hamed and who assumed the role of "lead" counsel. United initially made the payments for Yusuf but amounts paid by United for Yusuf were later recognized as a partnership distribution to Yusuf as reflected in the BDO Report, Table 38A.

Mike Yusuf engaged John Dema, P.C. as his counsel for the Criminal Case upon the recommendation of Gordon Rhea, attorney for Waleed Hamed. United initially made the payments for Mike Yusuf but amounts paid by United for Mike Yusuf were later recognized as a partnership distribution to Yusuf as reflected in the BDO Report, Table 51.

Nejeh Yusuf engaged Derek Hodge, P.C. as his counsel for the Criminal Case upon the recommendation of Gordon Rhea, attorney for Waleed Hamed. United initially made the payments for Nejeh Yusuf but amounts paid by United for Nejeh Yusuf were later recognized as a partnership distribution to Yusuf as reflected in the BDO Report, Table 45.

Interrogatory 37 of 50:

Substantially the Same as Yusuf ROG 6. Identify all distributions from the Partnership to any member of the Yusuf family or United Corporation from September 17, 2006 to present?

Response:

Defendants object to this Interrogatory on the grounds that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Without waiving any objections, all distributions and supporting documentation are reflected and categorized by each individual Yusuf family member in the BDO Report, Tables 35A through 68. Said Tables and supporting documentation are specifically incorporated by reference as if fully set forth herein as responsive to this interrogatory.

Interrogatory 38 of 50:

Like Yusuf ROG 14. Identify all assets or amounts in excess of \$10,000 that were transferred to or from Fathi Yusuf or United Corporation from September 17, 2012 to date and what was the value of said assets upon transfer?

Response:

Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object on the grounds that the responsive information cannot be readily obtained by making reasonable inquiries as these inquiries require the skilled and detailed attention and focus of John Gaffney, former Partnership accountant, to revisit his accounting and work papers. Yusuf is no longer being paid to function as the Liquidating Partner to answer questions on behalf of the Partnership and the accounting that took place during the liquidation process. Likewise, John Gaffney is no longer employed by the Partnership to function in the role as Partnership accountant. To respond to these questions, the expertise and knowledge of John Gaffney is necessary, which diverts him away from his employment with United. Rather, if Hamed seeks information from John Gaffney for questions as to the accounting efforts he undertook as the Partnership accountant, Hamed should be required to compensate John Gaffney for his time in researching and preparing those responses. Furthermore, many of these inquiries as to the Partnership accounting are duplicative of questions Gaffney has previously addressed at or near the time that the transactions took place. Reorienting now as to transactions from years

ago constitutes an undue burden and causes unnecessary time and expense. If Hamed seeks to revisit these issues, Hamed should bear the cost.

Without waiving any objections, all transfers from United Corporation d/b/a Plaza Extra Stores and accounting information reflecting any transactions have been provided to the Hamed's contemporaneously through the Sage 50 Accounting software. In addition, Hamed has had access to all accounting records for United reflecting any checks or transfers made during the timeframe in question. Hence, the information has been provided to Hamed and the burden of reproducing same would be equal for Hamed to gather.

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Interrogatory 39 of 50:

Like Yusuf ROG 15. What assets were held by Fathi Yusuf and United Corporation as the date of death of Mohammad Hamed?

Response:

Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Defendants further object to this interrogatory as it is irrelevant to the matters at issue in this case. The interrogatory was requested of Hamed as Hamed had acknowledged that all of his assets were transferred into a trust at the time of the filing of the suit and that no assets remained in the Estate of Mohammad Hamed at the time of his death, raising issues as to fraudulent conveyance and whether representations made to the Court earlier in the litigation were truthful. No such allegation as to the solvency of Yusuf has been raised or is at issue and thus, the "proposed discovery is not relevant to any party's claim or defense." V.I. R. Civ. P. 26(b)(2)(C)(ii).

Interrogatory 40 of 50:

Substantially the Same as Yusuf ROG 17. Has any member of the Yusuf family held assets for the benefit of Fathi Yusuf and, if so, please identify any such assets and their value as of September 17, 2006, September 1, 2012, and at present, as well as any disposition of such assets?

Response:

Defendants object to this Interrogatory on the grounds that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

Without waiving any objections, no.

Interrogatory 41 of 50:

Substantially the Same as Yusuf ROG 19. Identify all facts and circumstances relating to Yusuf Claims No. 2-5 and 10-12 and identify, all documents relating to each claim.

- Y-02** Unpaid rent for Plaza Extra-East Bays 5 & 8
- Y-03** 9% interest on rent claims for Bay 1
- Y-04** 9% interest on rent claims for Bays 5 & 8
- Y-05** Reimburse United for Gross Receipt Taxes

- Y-10** Past Partnership Withdrawals – Receipts
- Y-11** Lifestyle Analysis
- Y-12** Foreign Accts and Jordanian Properties

Response:

Defendants object to this Interrogatory as vague, ambiguous, and compound such that the total number of interrogatories together with their sub parts and other discovery exceeds the maximum allowable number of interrogatories under the JDSP and violates both the spirit and the terms of the JDSP limiting the number of interrogatory questions.

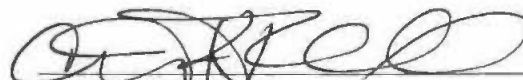
Without waiving any objections, Defendants further respond as follows:

- Y-02** Unpaid rent for Plaza Extra-East Bays 5 & 8: *See* Response to Interrogatory # 29.
- Y-03** 9% interest on rent claims for Bay 1: *See* Yusuf Claims and Exhibits reflecting interest calculations.
- Y-04** 9% interest on rent claims for Bays 5 & 8: *See* Yusuf Claims and Exhibits reflecting interest calculations.
- Y-05** Reimburse United for Gross Receipt Taxes: *See* Response to Interrogatory # 16.
- Y-10** Past Partnership Withdrawals – Receipts: *See* Response to Interrogatory # 37.
- Y-11** Lifestyle Analysis: *See* BDO Report, Tables and Supporting Documentation
- Y-12** Foreign Accts and Jordanian Properties *See* Response to Interrogatory # 30.

DUDLEY, TOPPER AND FEUERZEIG, LLP

DATED: May 15th, 2018

By:



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*Attorneys for Fathi Yusuf and United
Corporation*

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 SIXTH INTERROGATORIES PER THE CLAIMS DISCOVERY PLAN OF 1/29/2018, NOS. 33-41** to be served upon the following via Case Anywhere docketing system:

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