

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

<b>UNITED CORPORATION</b>	)	CIV. NO. SX-13-CV-03
	)	
Plaintiff	)	
	)	
VS.	)	ACTION FOR DAMAGES
	)	<b>CIVIL ACTION</b>
	)	
	)	<b>PLAINTIFF'S RESPONSE IN OPPOSITION</b>
	)	<b>TO DEFENDANT'S MOTION FOR</b>
<b>WALEED HAMED</b>	)	<b>JUDGMENT ON THE PLEADINGS</b>
	)	
	)	
Defendant	)	<b><u>HEARING ON MOTION REQUESTED</u></b>
_____	)	

**PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S RULE 12(c)**  
**MOTION FOR JUDGMENT ON THE PLEADINGS**

**COMES NOW**, Plaintiff United Corporation, and hereby files this Response in Opposition to Defendant's Motion pursuant to Rule 12(c) for Judgment on the pleadings. For the following reasons, it is respectfully requested that Defendant's Motion for Judgment on the Pleadings be denied.

1. On January 8<sup>th</sup>, 2013, Plaintiff filed suit alleging conversion, breach of contract, constructive trust, and breach of fiduciary against Waleed Hamed, an employee of Plaintiff United Corporation.
  
2. Defendant's Rule 12(c) Motion alleges without more that because the alleged conversion of funds belonging to Plaintiff United was based on income tax returns of the defendant for the years 1992 and 1993, the statute of limitations would bar any cause of action arising out of the conversion of these funds, regardless of whether the Plaintiff knew or had reason to know of Defendant's misconduct. Defendant fails to cite anything in support of this foregoing argument.

3. In support of his Motion, Defendant simply recites the various statute of limitations for the various causes of action in the Virgin Islands, and proceeds to conclude that because any cause of action alleged against the Defendant would fall outside the Statute of Limitations, Plaintiff's complaint should be dismissed.
4. Conveniently, Defendant does not argue that the statute of limitations for the causes of action in the complaint could be tolled because Plaintiff never, and could not have known of Defendant's defalcation until Plaintiff obtained the information from the U.S. Attorney's Office in October of 2012 during an unrelated criminal investigation.
5. As fully averred in Plaintiff's Complaint, the funds in question were discovered in October of 2011. Plaintiff's Complaint states the following facts:

“During nine years of criminal proceedings, the U.S. Department of Justice and federal law enforcement (collectively the “U.S. Government”), gathered *significant financial documents*, including but not limited to tax returns, financial ledgers, accounting records, and various other documents concerning the parties herein. Prior to the release of the documents in October of 2011 to Plaintiff United, none of the officers of Plaintiff United had any actual or constructive knowledge of Defendant Hamed's conduct.”

#### **Complaint ¶17**

“In October of 2011, a review of the U.S. Government records and files further revealed the following defalcation of funds:

- i. Loans totaling \$430,500.00, approved by Defendant Hamed, presumably repaid to Defendant Hamed.
- ii. Payments made with respect to the construction of Defendant Hamed's home amounting to \$481,000.00.

#### **Complaint ¶27**

6. Again, Defendant's Motion fails to state a single fact showing that Plaintiff had any reason to know of Defendant Hamed's misconduct. There is no doubt that Plaintiff could not have known of Defendant's millions of dollars in reported securities on his U.S. Tax Returns for 1992 and 1993, until same were obtained from the U.S. Attorney's Office during an unrelated criminal investigation in October of 2011.
7. As such, the statute of limitations could not accrue and was tolled because Plaintiff could not have possibly known of Defendant's misconduct until a federal investigation revealed Defendant Waleed Hamed's misconduct.
8. This matter requires detailed discovery to determine the origins of the cash used to purchase the securities in question as well as third party subpoenas to the various brokerage houses where these funds were used to purchase the securities listed in Defendant's tax returns.
9. As such, at best Defendant's Motion is premature, at worst it is without merit since it fails to detail any facts showing Plaintiff's reasonable knowledge of the facts underlying Defendant's conversion of funds, acquisition of substantial securities, etc.

For the reasons stated above it is respectfully requested that Defendant's Motion for Judgment on the Pleadings.

Date: May 1, 2013

Respectfully Submitted,

DeWood Law Firm, LLC  
Counsel for Plaintiff

By: 

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## CERTIFICATION OF SERVICE

I hereby certify that a true copy of the foregoing Plaintiff Response in Opposition to Defendant's Motion for Judgment on the Pleadings was served on the Defendant via his counsel at the below address and date via first class mail.

Date: May 1, 2013

**Mark Eckard, Esq.**  
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