

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

**YUSUF YUSUF, derivatively on behalf of
PLESSEN ENTERPRISES, INC.,**)

Plaintiff,)

vs.)

**WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED, and
FIVE-H HOLDINGS, LLC.,**)

Defendants,)

and)

PLESSEN ENTERPRISES, INC.,)

Nominal Defendant.)

CASE # SX-13-CV-120

**ACTION FOR DAMAGES,
AND INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

**MUFEED HAMED’S REPLY TO
PLAINTIFF YUSUF YUSUF’S OPPOSITION TO HAMED’S MOTION TO COMPEL**

Defendant Mufeed Hamed files this Reply to Plaintiff Yusuf Yusuf’s Opposition to Hamed’s Motion to Compel discovery and states as follows:

I. THIS MATTER IS GOVERNED BY THE VIRGIN ISLANDS RULES OF CIVIL PROCEDURE.

The plaintiff is correct that the newly promulgated Virgin Islands Rules of Civil Procedure (“V.I.R.Civ.P.”) applies to this motion. While the Federal Rules of Civil Procedure and the Virgin Islands Rules of Civil Procedure governing discovery are similar, the difference in the new rules favors Hamed’s position.

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

**YUSUF YUSUF, derivatively on behalf of
PLESSEN ENTERPRISES, INC.,**

Plaintiff,

vs.

**WALEED HAMED, WAHEED HAMED,
MUFEED HAMED, HISHAM HAMED, and
FIVE-H HOLDINGS, LLC.,**

Defendants,

and

PLESSEN ENTERPRISES, INC.,

Nominal Defendant.

CASE # SX-13-CV-120

**ACTION FOR DAMAGES,
AND INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

**NOTICE OF FILING OF EXHIBITS 3, 4 and 5 TO MUFEED HAMED'S REPLY TO
PLAINTIFF YUSUF YUSUF'S OPPOSITION TO HAMED'S MOTION TO COMPEL**

On or about June 2, 2017, Defendant Mufeed Hamed filed his Reply to Plaintiff Yusuf Yusuf's Opposition to Hamed's Motion to Compel (the "Reply"). As filed on or about June 2, 2017, the Reply did not include Exhibits 3, 4 and 5, which are referenced in and relied upon in the Reply. Due to a clerical error that occurred in connection with the preparation for filing of the Reply, Exhibits 3, 4 and 5 were inadvertently omitted from the Reply.

PLEASE TAKE NOTICE that attached hereto are Exhibits 3, 4 and 5 to the Reply.

Respectfully submitted,

HAMMECKARD, LLP

Dated: June 12, 2017

By:



Mark W. Eckard, Esquire (VI Bar No. 1051)
5030 Anchor Way, Ste. 13
Christiansted, VI 00824
Phone: 340-773-6955
Facsimile: 302-543-2455
Email: meckard@hammeckard.com

Counsel for Waleed Hamed, Waheed Hamed,
Mufeed Hamed, Hisham Hamed and Five-H
Holdings, Inc.

CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on June 12, 2017, I served a copy of the foregoing by email, as agreed by the parties, on:

Gregory H. Hodges
Charlotte K. Perrell
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Jeffrey B. C. Moorhead
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Exhibit 3

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.)

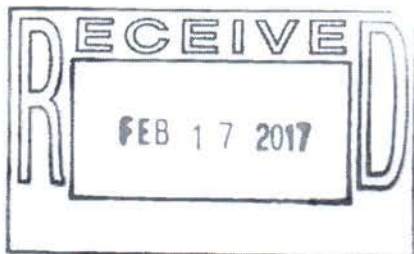
CASE NO. SX-13-CV-120

ACTION FOR DAMAGES,
DECLARATORY AND
INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

**PLAINTIFF YUSUF YUSUF'S RULE 34
RESPONSE TO MUFEED HAMED'S SECOND
REQUEST FOR PRODUCTION OF DOCUMENTS**

Plaintiff, Yusuf Yusuf, through its attorneys, Dudley, Topper and Feuerzeig, LLP, hereby submits its Rule 34 Response to Defendant Mufeed Hamed's Second Request for Production of Documents. This Response is being submitted pursuant to Fed. R. Civ. P. 34, as applied to this Court by Superior Court Rule 7.



HAMD641180

~~See response to RTP #4.~~

9. Please provide all document or communications present at or related to, all meetings, conferences or communications between any member of the Yusuf Family and vendors selling to the Hamed family business regarding the alleged embezzlement from the Plessen Account.

RESPONSE:

~~Yusuf Yusuf is unaware of documents responsive to this request.~~

10. Please provide all documents evidencing a meeting of the Board of Directors for Plessen Enterprises, Inc. where the Board had voted to make Maher (Mike Yusuf a Plessen director.

RESPONSE:

There are no documents responsive to this request. However, Yusuf Yusuf provides 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.

11. Please provide all documents evidencing a meeting of the shareholders of Plessen Enterprises, Inc. where the shareholders had voted to make Maher (Mike) Yusuf a Plessen director.

RESPONSE:

There are no documents responsive to this request. However, Yusuf Yusuf provides 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.

12. Please provide all documents showing by a unanimous consent action of the Board of Directors for Plessen Enterprises, Inc. that Maher (Mike) Yusuf had been made a Plessen director.

RESPONSE:

There are no documents responsive to this request. However, Yusuf Yusuf provides 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.

13. Please provide all documents showing by a unanimous consent action of the Plessen Enterprises, Inc. shareholders and Maher (Mike) Yusuf had been made a Plessen director.

RESPONSE:

There are no documents responsive to this request. However, Yusuf Yusuf shows that 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.

14. Please provide all documents showing by a unanimous consent action of the Board of Directors for Plessen Enterprises Inc. that the size of the Plessen Board of Directors increased to more than three directors.

RESPONSE:

There are no documents responsive to this request. However, Yusuf Yusuf shows that 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.

15. Please provide all documents showing by a unanimous consent action of the shareholders for Plessen Enterprises Inc. that the size of the Plessen Board of Directors increased to more than three directors.

RESPONSE:

There are no documents responsive to this request. However, Yusuf Yusuf shows that 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.

16. Please provide all documents showing a vote by the Board of Directors for Plessen Enterprises, Inc. to increase the size of the Plessen Board of Directors to more than three directors.

RESPONSE:

There are no documents responsive to this request. However, Yusuf Yusuf shows that 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.

17. Please provide all documents showing a vote by the shareholders of Plessen Enterprises, Inc. to increase the size of the Plessen Board of Directors to more than three directors.

RESPONSE:

There are no documents responsive to this request. However, Yusuf Yusuf shows that 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.

~~18. Please provide all of the documents any attorney on behalf of a Yusuf family member submitted to any VI Government official (excluding the VIPD) in connection with *People v. Mufeed Hamed*, SX-15-CR-352 and *People v Waleed Hamed*, SX-15-CR-353.~~

RESPONSE:

~~See response to RTP #4.~~

Yusuf Yusuf, et al. (v. Mohammad Hamed, et al.)
Case No. SX-13-CV-120
Plaintiff Yusuf Yusuf's Rule 34 Response to Mufeed Hamed's
Second Request for Production of Documents
Page 12 of 12

DATED:

February 15th, 2017

By:

~~DUDLEY, TOPPER AND FEUERZEIG, LLP~~


Charlotte K. Perrell (V.I. Bar #1281)

Law House

1000 Frederiksberg Gade - P.O. Box 756

St. Thomas, VI 00804-0756

Telephone: (340) 715-4422

Facsimile: (340) 715-4400

E-Mail: cperrell@dtflaw.com

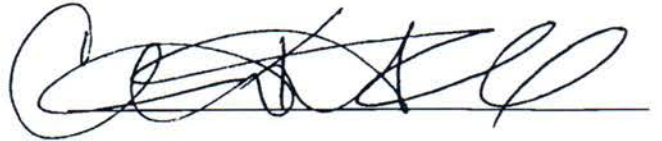
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

It is hereby certified that on this _____ day of February, 2017, I caused a true and exact copy of the foregoing **PLAINTIFF YUSUF YUSUF'S RULE 34 RESPONSE TO MUFEEED HAMED'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS** to be served upon the following via e-mail:

Mark W. Eckard, Esq.
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5030 Anchor Way – Suite 13
Christiansted, St. Croix
U.S. Virgin Islands 00820-4692
E-Mail: meckard@hammneckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, St. Croix
U.S. Virgin Islands 00820
E-Mail: jeffreymlaw@yahoo.com



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HAMD641191

Exhibit 4

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.)

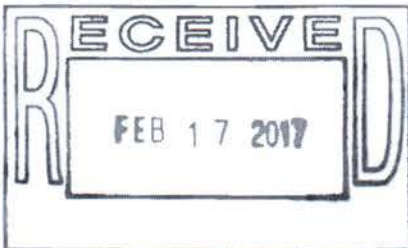
CASE NO. SX-13-CV-120

ACTION FOR DAMAGES,
DECLARATORY AND
INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

**PLAINTIFF YUSUF YUSUF'S RESPONSE TO DEFENDANT
MUFEED HAMED'S SECOND SET OF REQUESTS FOR ADMISSIONS**

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



HAMD641145

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 120-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.

123. ADMIT or DENY that Mike Yusuf does not have any written consent, or written resolutions or minutes of any meeting, making Mike Yusuf a director of Plessen.


RESPONSE:

Admit as to written resolutions or minutes but shows that the Yusufs were under the belief that Mike Yusuf was a director of United 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 120-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.

Yusuf Yusuf, et al. (v. Mohammad Hamed, et al.)
Case No. SX-13-CV-120
Plaintiff Yusuf Yusuf's Response to Defendant
Mufeed Hamed's Second Set of Requests for Admissions
Page 23 of 23

DATED: February 15th, 2017

~~BUDLEY, TOPPER AND FEUERZEIG, LLP~~
By: 
CHARLOTTE K. PERRELL
(V.I. Bar #1281)
Law House
1000 Frederiksberg Gade - P.O. Box 756
St. Thomas, VI 00804-0756
Telephone: (340) 715-4422
Facsimile: (340) 715-4400
E-Mail: cperrell@dtflaw.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

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

Mark W. Eckard, Esq.
HAMM & ECKARD, LLP
5030 Anchor Way – Suite 13
Christiansted, St. Croix
U.S. Virgin Islands 00820-4692
E-Mail: meckard@hammneckard.com

Jeffrey B.C. Moorhead, Esq.
C.R.T. Building
1132 King Street
Christiansted, St. Croix
U.S. Virgin Islands 00820
E-Mail: jeffreymlaw@yahoo.com



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Exhibit 5

Your BUSINESS CHECKING Account Summary
BNS SUNNY ISLE BRANCH
 P.O. BOX 773
 CHRISTIANSTED

 1-866-9SCOTIA
 1-866-972-6842

www.USVI.scotiabank.com
PLESSEN ENTERPRISES, INC.

 UNITED SHOPPING PLAZA SION FARM
 PO BOX 763
 CHRISTIANSTED VI 00821-0763

Account Number: 058-00045012
Transit Number: 30585
Statement Period: 31MAY13 to 30JUN13
058-00045012 - BUSINESS CHECKING - USD
Account Summary

No. of Deposits	1	Service Charges	\$ 8.50
Deposits	\$ 200.00	Record Keeping Fees	\$ 0.00
No. of Withdrawals	1	Interest Paid	\$ 0.00
Withdrawals	\$ 8.50	Interest Rate	0.00%
Enclosures	0	Annual Percentage Yield Earned (APY)	0.00%

The interest earned and annual percentage yield earned are based on your average daily balance for the period 31MAY13 through 30JUN13.

Your BUSINESS CHECKING Account Summary

 PLESSEN ENTERPRISES. INC.
 058-00045012

 1-866-9SCOTIA
 1-866-972-6842

www.USVI.scotiabank.com

Transactions (Withdrawals & Deposits) - 058-00045012			
Transaction Date	Description	Amount	Balance
	OPENING BALANCE		\$ 116,324.90
20JUN	DEPOSIT		\$ 116,524.90
28JUN	SERVICE CHARGE	\$ 200.00 + \$ 8.50 -	\$ 116,516.40
	CLOSING BALANCE		\$ 116,516.40
Total Returned Item Fees This Period		\$ 0.00	Total Overdraft Fees This Period
Total Returned Item Fees Year to Date		\$ 0.00	Total Overdraft Fees Year to Date
			\$ 0.00
			\$ 0.00

* Trademark of The Bank of Nova Scotia, used under license.

Your BUSINESS CHECKING Account Summary

PLESSEN ENTERPRISES, INC.
058-00045012



1-866-9SCOTIA
1-866-972-6842

www.USVI.scotiabank.com

RECONCILIATION STATEMENT

IN CASE OF ERRORS OR QUESTIONS REGARDING ELECTRONIC TRANSFER OF FUNDS AND/OR TRANSACTIONS WITH YOUR SCOTIACARD ON YOUR ACCOUNT STATEMENT

We must receive your claim in writing, no later than 60 days after we sent you the statement in which the error is reflected for the first time.

To balance this statement with your record:

CHECKS OUTSTANDING	
NUMBER DATE	AMOUNT
TOTAL	

1. Check off all items in your check book register which are shown on this statement.
2. List checks not checked off (checks outstanding).
3. Record in your register any service charge and/or other charges that appear on your statement but not in your records.
4. Record Check book balance.
5. Complete the reconciliation below.

CLOSING BALANCE ON THIS STATEMENT	
ADD DEPOSITS MADE AFTER STATEMENT CLOSING DATE	
SUB TOTAL	
LESS OUTSTANDING CHECKS	
TOTAL	
CHECK BOOK BALANCE	
DIFFERENCE (IF ANY)	

You must send your writing to:

Scotiabank
P.O. Box 420
St. Thomas, VI 00804-0420

You can also call your branch at the phone number indicated on the front page of your statement, Monday through Friday from 8:00 am to 5:00 pm for questions regarding your statement or to notify us of an error. You may be required to give written confirmation of an error within 10 days of an oral notice.

Your written claim must contain your name, account number, a description of the error or transaction(s) in question, and the dollar amount(s) of the transaction(s).

In case of electronic transfer of funds and/or transactions made with your Scotiacard, we will investigate your claim and correct any error immediately. If our investigation should take more than 10 business days to complete, we will credit your account for the amount claimed, so you may have the funds available during the period of time it takes us to complete our investigation.

However, if your claim is made by phone, we will not credit your account until we receive your claim in writing. The credit to your account will then take place within 10 business days from the date of receipt of your written claim.

If after our investigation, it is determined that no error(s) had occurred, we will send you in writing, within the following 3 business days, the results of our investigation.

IF THERE IS A DIFFERENCE YOU CANNOT LOCATE, OUR BRANCH STAFF WILL BE PLEASED TO ASSIST. PLEASE COME HANG OVER US.

The Federal Rule of Civil Procedure 26(b)(1) places a limit on discovery, requiring it to be “proportional to the needs of the case.” The V.I. R. CIV. P. 26(b)(1) places no such limits: “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense.”

II. PLAINTIFF HAS NOT PROVIDED ANSWERS TO DISCOVERY AS REQUIRED UNDER THE VIRGIN ISLANDS RULES OF CIVIL PROCEDURE.

A. Plaintiff Not Provided Any Privilege Logs.

Plaintiff Yusuf alleges that Defendant Hamed has made “onerous and duplicative” discovery requests. Nothing could be further from the truth. The Plaintiff has engaged in a pattern of thwarting Defendant’s legitimate discovery requests. This pattern requires the Defendant to produce more discovery in order to get the answers to simple, but critical questions. The pattern begins by refusing to provide a privilege log – no log has been provided in any of the Yusuf-Hamed cases where the law firm of Dudley, Topper and Feuerzeig, LLP represents the Yusufs.

B. Plaintiff Has Not Responded to Simple Interrogatories.

In the second tactic, Plaintiff Yusuf initially provides a vague response, requiring extensive follow-up by Defendant Hamed. For example, as interrogatory 7, sent on October 26, 2016, asked: “Describe, **with particularity as to dates and persons or documents** present, all meetings, conferences or communications between any member of the Yusuf Family and Scotiabank. . .” (emphasis added). Although the initial response was due on November 28, 2016, Plaintiff Yusuf requested an extension and Defendant Hamed agreed. Plaintiff Yusuf then responded on December 19, 2016:

As to any meetings with Scotiabank, there were no meetings *per se*, rather, it is Yusuf Yusuf’s recollection that he obtained a physical copy directly from

Scotiabank after the discovery of the check for \$460,000.00 in an effort to investigate the matter....

Unfortunately, Plaintiff Yusuf's response **did not include the dates or persons Yusuf Yusuf encountered at Scotiabank or all of the documents obtained, the three things the interrogatory specifically requested.** This is on the central issue in the case. Defendant Hamed was then forced to request a meet and confer conference pursuant to Rule 37 for this item and 33 other deficiencies identified in Plaintiff Yusuf's initial responses. Additionally, Defendant Hamed sent a letter on outlining all deficiencies in advance of the meet and confer. On February 3rd, when the two parties met to confer, Yusuf's counsel still hadn't responded to Defendant Hamed's January 10, 2017 deficiency letter. At the meet and confer, Plaintiff's counsel indicated that she would conduct an 'investigation' into the Scotiabank meeting **to determine whether she could identify the person(s) Yusuf Yusuf met with, the date of those meetings and any other documents obtained, the very investigation that should have been conducted in response to the interrogatory in the first place.** Defendant Hamed's counsel followed up with a letter on February 14, 2017 summarizing the agreements made in the meet and confer. Finally, on February 27, 2017, Plaintiff Yusuf's counsel revealed in a letter that

. . . 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.

Thus, it has taken Defendant Hamed over 90 days, a meeting and two letter requests to find out contrary to the initial *verified* response by Plaintiff Yusuf that in fact:

- Yusuf Yusuf did have dates for the *two* times he went into Scotiabank (not the one time his initial response indicated -- so that response was false);
- Yusuf Yusuf *did* speak to a specific person, Ms. Clendenen, not once, but twice (not identified in his initial response -- so that response was false); and
- Yusuf Yusuf received not only a copy of the \$460,000 check, but *also received* copies of the bank's files relating to person's authorized to sign checks on the account (not listed in his initial response -- so that response was also false).

Inappropriately, but not surprisingly as it happens often, Plaintiff Yusuf Yusuf's February 27, 2017 letter did not contain any verification of his responses. Because of that omission, Defendant Hamed could not rely upon the new responses. After not receiving the verification after almost a month had passed, on March 22, 2017, Defendant Hamed's counsel sent yet another letter requesting verification -- this time for Yusuf Yusuf's new interrogatory responses. Finally, on April 7, 2017 Plaintiff Yusuf's counsel sent a verification of his February 27, 2017 revised interrogatory responses.

Thus, Defendant Hamed had to write three letters, engage in a meet in confer and take 130 days to receive a verified answer to a simple interrogatory.

C. Plaintiff Has Forced an Excruciating Discovery Process to Determine the Truth.

Another Yusuf/DTF tactic forces Defendant Hamed into an excruciating discovery process to determine the truth of the information or to obtain the information at all. The central

point of this case, whether Maher "Mike" Yusuf was a member of the board of Plessen Enterprises, Inc., required an absurd amount of discovery and follow up to obtain an answer to that question. Defendant Hamed's document request number 5, first set, stated:

Please provide all documents supporting your contention in the 14th paragraph of your amended complaint that "[a]fter Plessen's formation, an additional seat on the Board was created...".

Instead of providing documents regarding the existence (or non-existence) of a Plessen board meeting creating an additional seat on the Board, Plaintiff Yusuf responded with a Department of Consumer Affairs Print-Out with a List of Corporate Officers dated February 14, 2013, showing Mike Yusuf as a director. At the meet and confer, Plaintiff Yusuf's counsel finally conceded, after several years, **that there were no Plessen meeting minutes or signed unanimous consents supporting Plaintiff's contention that a fourth seat on the Plessen Board was created.** (Exhibit 1 to Defendant's Motion to Compel, p. 18). That should end this case.

However, on February 27, 2017, Plaintiff Yusuf's counsel's statement in the meet and confer that there were no Plessen meeting minutes or signed unanimous consents creating a fourth seat on the Plessen Board was nowhere to be found in her client's revised response to document request no. 5, first set:

...additional information responsive is the Intake Gathering Form from the Bank of Nova Scotia which was signed by both Walleed Hamed as well as Mike Yusuf which reflects that Mike was a director as well as Mohammed Hamed's sworn interrogatory responses in which he too believed that Mike Yusuf was a director.

And,

[F]athi 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 United [sic] 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. (**Exhibit 1** to Defendant's Motion to Compel, p. 18).

The response completely ignored the key request and what was stated in the conference: In inquiry was: Please provide all documents . . . that [support your contention] "[a]fter Plessen's formation, an additional seat on the Board was created...". No Plessen Board of Directors or shareholder meeting documents were produced showing that an additional seat was created nor were any Unanimous Consents of the Board of Directors or shareholders produced showing that an additional seat on the Plessen Board was created.

Solely because Yusuf/DTF would not respond directly to the RFPD no. 5 in his February 27, 2017 letter, Defendant Hamed tailored more specific requests (and Requests to Admit) to elicit the information in his *second* set of Requests for the Production of Documents. Document request numbers 10-17 stated

10. Please provide all documents evidencing a meeting of the Board of Directors for Plessen Enterprises, Inc. where the Board had voted to make Maher (Mike) Yusuf a Plessen director."

11. Please provide all documents evidencing a meeting of the shareholders of Plessen Enterprises, Inc. where the shareholders had voted to make Maher (Mike) Yusuf a Plessen director.

12. Please provide all documents showing by a unanimous consent action of the Board of Directors for Plessen Enterprises, Inc. that Maher (Mike) Yusuf had been made a Plessen director.

13. Please provide all documents showing by a unanimous consent action of the Plessen Enterprises, Inc. shareholders and Maher (Mike) Yusuf had been made a Plessen director.

14. Please provide all documents showing by a unanimous consent action of the Board of Directors for Plessen Enterprises Inc. that the size of the Plessen Board of Directors increased to more than three directors.

15. Please provide all documents showing by a unanimous consent action of the shareholders for Plessen Enterprises Inc. that the size of the Plessen Board of Directors increased to more than three directors.

16. Please provide all documents showing a vote by the Board of Directors for Plessen Enterprises, Inc. to increase the size of the Plessen Board of Directors to more than three directors.

17. Please provide all documents showing a vote by the shareholders of Plessen Enterprises, Inc. to increase the size of the Plessen Board of Directors to more than three directors. (**Exhibit 3**)

Plaintiff Yusuf finally responded on February 15, 2017 to all the requests with the following:

“There are no documents responsive to this request....” (**Exhibit 3**)

What is more disingenuous is that Yusuf's response to the Requests for Admissions numbers 37-45, in the first set, produced a similar obfuscation regarding whether the Plessen board or shareholders had voted to make Maher Yusuf a director. The Requests for Admissions asked for a response to three scenarios for the time periods as of May 17, 2013 and the date of his answers to admit or deny that:

- no meeting of the directors or shareholders of Plessen had voted Maher Yusuf in as a director,
- Maher Yusuf did not have in his possession, nor know of any person or entity which had in its possession, a consent of the directors increasing the size of the Board above three, and
- Maher Yusuf did not have in his possession, nor know of any person or entity which had in its possession, a consent of directors making him a director. (**Exhibit 1** to Defendant's Motion to Compel, pp. 31-43).

Plaintiff Yusuf responded with one of three answers:

Deny. Mike Yusuf was listed on the Business License as a Director of Plessen in a filing that appears to have been made by Waleed Hamed. (response to Request to Admit no. 37)

Deny as Mike Yusuf was listed as a Director on the Business License for Plessen in a filing that appears to have been made by Waleed Hamed and as the business was set up to have equal governance by the two families. . . . (response to Request to Admit no. 38)

Deny as Mike Yusuf was listed as a Director on the Business License for Plessen and as the business was set up to have equal governance by the two families. See also, Response to Request to Admit #38. (response to Request to Admit nos. 39-45)

(**Exhibit 1** to Defendant's Motion to Compel, pp. 31-43).

None of the responses answered the three critical, dispositive questions: 1) Was there a meeting of the directors or shareholders voting Maher "Mike" Yusuf as a director, 2) Was there a Unanimous Consent of the Plessen board that increased the number of directors above three and 3) Did Maher Yusuf know of any person or entity that had in its possession a Unanimous Consent of the Plessen board that increased the number of directors above three? Again, it isn't until the second set of Defendant Hamed's Requests to Admit filed on February 15, 2017 that responses contradicting the answers to Requests to Admit numbers 37-45, first set, appears, although with the standard qualifications:

123. ADMIT or DENY that Mike Yusuf does not have any written consent, or written resolutions or minutes of any meeting, making Mike Yusuf a director of Plessen.

RESPONSE:

Admit as to written resolutions or minutes but shows that the Yusufs were under the belief that Mike Yusuf was a director of United 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 120 -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. (Exhibit 4, p. 16)

In summary, Defendant Hamed should not have had to go through three letters, a meet and confer and two sets of document requests and requests to admit to get an accurate response to the central question in the case—whether there was evidence of a Plessen board or shareholder meeting making Maher Yusuf a director. To break Plaintiff Yusuf's pattern of thwarting discovery, defendant Hamed requests that the Court require Plaintiff Yusuf to amend his answers to these questions so that they are clear and consistent between the two sets of discovery (and provide verification of the newly amended interrogatories). Further, Defendant Hamed requests an admonishment to Plaintiff Yusuf to follow the rules regarding responding to requests to admit – qualifiers in the response are not appropriate unless they are allowed under V.I. R. CIV. P. 36(a)(4), otherwise a simple admit or deny will suffice.

III. SPECIFIC DISCOVERY RESPONSES AT ISSUE

A. Interrogatories

1. Interrogatory No. 4 – requests the source of Exhibit 2 and the date it came into Plaintiff Yusuf's possession. Exhibit 2 is a Scotiabank Signature Card requiring "ANY TWO **One Hamed and One Yusuf" signatures to transact on the Plessen Enterprises, Inc. account, with

the signatures in black (appears to be a copy of the signature card). Plaintiff Yusuf maintains this document was initially produced by the Bank of Nova Scotia ("Scotiabank") and then was produced by Plaintiff Yusuf to Defendant Hamed on May 16, 2014 in *Hamed v Yusuf*, SX-12-CV-370, VI Superior Court case ("370"), bates number FY004502:

[i]t is Plaintiff's position that the Yusufs did not have possession of this document and believe that it was sourced directly from Bank of Nova Scotia pursuant to subpoena in the "370" case. This document appears to have been produced in the companion "370" case as it bears bates number FY004502 and was produced in that case on May 16, 2014. . . . (**Exhibit 1** to Defendant's Motion to Compel, p. 9).

The time sequence and bates number in Plaintiff Yusuf's explanation do not work, however. On May 6, 2014, Plaintiff Yusuf issued a subpoena to Scotiabank in the 370 case for the Plessen account and the bank responded by letter on September 24, 2014. Plaintiff Yusuf produced those Scotiabank documents to Defendant Hamed in the 370 case on September 30, 2014, with a bates range FY 010987 – 011468. The production was well after the May 16, 2014 production identified in Plaintiff Yusuf's response, so the document could not have come into Yusuf's possession from Scotiabank since the bank did not produce any Plessen documents until September 30, 2014. Further, the Scotiabank production does not contain the document bearing bates number FY004502. Plaintiff Yusuf has not been truthful on the source and the date Exhibit 2 came into his possession.

2. Interrogatory 5 – requests the source of Exhibit 3 and when it came into Plaintiff Yusuf's possession. Exhibit 3 is a Scotiabank Signature Card requiring "ANY TWO **One Hamed and One Yusuf," signatures to transact on the Plessen Enterprises, Inc. account, with some signatures signed in blue ink. Plaintiff Yusuf's explanation for *the source* of the document and *when it came into his possession* are not answered by the February 27, 2017 Plaintiff's letter. In the response to interrogatory 5, Plaintiff Yusuf states:

Upon further investigation, it is Plaintiff's position that the Yusufs did not have possession of this document and believe that it was sourced directly from the Bank of Nova Scotia. See Response to Interrogatory No. 3 as to the documents in Plaintiff's possession. (**Exhibit 1** to Defendant's Motion to Compel, p. 10).

The reader expects that the Response to Interrogatory No. 3 will identify that the document came from Scotiabank. However, when the answer doesn't identify Exhibit 3 at all:

shortly after March 27, 2013. . . 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 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 appears that the signature cards were not in possession of the Yusufs and were not provided to the VIPD or the Attorney General's office. Rather, the information provided to the VIPD is as listed in the Affidavit of Mark Affidavit at page 3.

* * *

Further responding, Plaintiff clarifies that the signature card provided to the VIPD was as indicated in Officer Corneio's Affidavit at page 3, item #6, which is the the [sic] August 17, 2009 signature card from Bank of Nova Scotia. (**Exhibit 1** to Defendant's Motion to Compel, pp. 5-8).

Thus, none of the documents identified in Plaintiff Yusuf's February 27, 2017 response is Exhibit 3, leaving this interrogatory unanswered.

3. Interrogatory 7 – Plaintiff Yusuf merely refers to his original answer to Interrogatory 7 and supplements it with his updated response to Interrogatory 3 from his counsel's February 27, 2017 letter. This interrogatory is still unanswered—breaking it down by each part and paring it with the corresponding answer identifies the deficiencies:

7. Describe, with particularity as to *dates* and *persons* or *documents* present, all meetings, conferences or communications between any member of the Yusuf Family and Scotiabank . . . regarding the alleged embezzlement from the Plessen Account. (emphasis added)

Yusuf's December 19, 2016 response: Mike Yusuf had no particular contact with any specific individual but simply made the request to whomever was present at the bank at the time.

(**Exhibit 1** to Defendant's Motion to Compel, p. 12). Plaintiff Yusuf's response did not include the date or dates Mike Yusuf went to the bank and whether he received any documents.

7. Describe, with particularity as to *dates* and *persons* or *documents* present, all meetings, conferences or communications between any member of the Yusuf Family and the . . .VIPD . . . regarding the alleged embezzlement from the Plessen Account. (emphasis added)

Yusuf's December 19, 2016 response: Mike Yusuf did file a report and met with Sergeant Mark A. Corneiro. It is Mike Yusuf's recollection that Attorney DeWood was present when the information was provided to Sergeant Mark A. Corneiro. Mike Yusuf recalls that there were a few calls between himself and Sergeant Corneiro.

Sergeant Corneiro undertook his own investigation as well. The documents received were those set forth in Exhibits 1, 2 and 3.

Yusuf's February 27, 2017 response: On May 17, 2013, Attorney Nizar DeWood and Maher Yusuf met with VIPD Officer Mark Corneiro. . . At that time, the documents provided were those listed in Officer Corneiro's Affidavit at page 3.

* * *

Mike Yusuf recalls that there were a few calls between himself and Sergeant Corneiro but does not recall the dates.

* * *

Further responding, a copy of the Police Report dated May 17, 2013, which was produced with a brief filed by the Bank of Nova Scotia in its Motion to Dismiss in the Scotia Suit, demonstrates that Fathi Yusuf also may have been present during the May 17, 2013 meeting.

(**Exhibit 1** to Defendant's Motion to Compel, pp. 12-16).

It is unclear what Exhibits 1, 2 and 3 are, as well as whether those documents were brought by Attorney DeWood and Mike Yusuf to the May 17, 2013 meeting with VIPD Officer Mark Corneiro or whether the Officer brought the documents. A clarification is sought.

Further, excluding the contacts already identified, an assurance that there were no other meetings, conferences or communications (and documents present) for the following:

- between Yusuf Yusuf and the VIPD, VI Daily News, and any other VI Government official,
- between Negeh Yusuf and the VIPD, VI Daily News and any other Government official,
- between Fathi Yusuf and the VIPD, VI Daily News and any other Government official,
and
- between Mike Yusuf and any other Government official.

These assurances are sought because Plaintiff Yusuf has not been forthcoming in his answers – his first response did not identify Fathi Yusuf in the May 17, 2013 meeting with VIPD Officer Mark Corneiro, nor did it identify the additional calls Mike Yusuf had with Sergeant Corneiro.

B. Requests for the Production of Documents

1. Requests to Produced 5 through 7 – Plaintiff Yusuf's responses to requests to produce 5 through 7 directly contradict his responses provided in his second set of responses to requests for documents, numbers 10-17 (see II. C. discussion above). Defendant Hamed requests that the Court require Plaintiff Yusuf to amend his answers to these requests so that they are clear and consistent between the two sets of discovery.

2. Requests to Produce 10, 17, 20 – Plaintiff Yusuf responded "As to RTP 10, 17 and 20, such information was learned from bank records and other publically [*sic*] available information." While interesting, this is not responsive. Defendant Hamed requests that the documents be produced or Plaintiff Yusuf state they are not in his possession.

3. Requests to Produce 13 and 14 – Defendant Hamed asked for any documents supporting these two statements: on or about March 27, 2013, Yusuf paid with his personal Banco Popular Visa credit card the 2011 real property taxes of Plessen and Yusuf was

reimbursed for such payment by way of a check drawn on Plessen's bank account with Scotiabank. Instead of producing documents related to those two statements, Plaintiff Yusuf responded "see FY10344." (February 27, 2017 letter). FY 10344 is the second page of Plessen Enterprises, Inc.'s Scotiabank statement for May 31, 2013-June 30, 2013. (**Exhibit 6**). The only activity shown is a \$200 deposit. This document is not at all responsive to document request numbers 13 and 14. If Plaintiff Yusuf does not have documents responsive to these requests, he should state that he does not have them.

4. Requests to Produce 23, 36, 37 and 40 – With respect to Requests to produce 23, 36, and 37, if Plaintiff Yusuf does not have documents responsive to these requests, he should state that he does not have them. Although Plaintiff Yusuf claimed "it would continue to review the documentation and provide supplementation," this is not tenable. Defendant Hamed needs a response one way or the other 1) to ensure an adequate investigation required by the rules has been completed and 2) to prevent a surprise "discovery" of documents just prior to a deposition or trial.

Document request number 40 asks for documents supporting the 79th paragraph of the amended complaint

Absent such documentation, Plessen is without the means to determine, among other things, if funds or assets are owed to it and, if so, how much; and if its misappropriated funds and assets were used to purchase any real or personal property, in which case it has an ownership interest in such property. (**Exhibit 1** to Defendant's Motion to Compel, p. 28).

Defendant Hamed requests production of any documents that supports the proposition that funds or assets other than the March 28, 2013 \$460,000 check and the April 25, 2014 \$20,000 check to Attorney Moorehead are missing. If none, please respond none.

5. Requests to Produce 44 – This item is withdrawn.

6. Request to Produce 53 – Plaintiff Yusuf stated that he is “unaware” of any documents responsive to the following document request:

Please provide all documents notifying commercial entities that Waleed and/or Mufeed Hamed had been arrested in connection with *People v Mufeed Hamed*, SX-15-CR-352 and *People v Waleed Hamed*, SX-15-CR-353. (**Exhibit 1** to Defendant’s Motion to Compel, pp. 30-31).

Plaintiff Yusuf is purposefully evading producing documents. If there are no documents, so state – either Plaintiff has documents responsive to the requests or he does not. As Defendant Hamed has received information contrary to Plaintiff’s response, an unequivocal response that no documents are in Plaintiff Yusuf’s possession that are responsive to the request is necessary.

C. Requests for Admissions

1. Request to Admit No. 21 – Defendant Hamed is not requesting a lay or expert opinion with this request. He refers to an exhibit and simply asks whether “the letter “O” in the phrase “One Hamed and One Yusuf” is in a different font than the letter “O” in the words “Sion” and “St. Croix” above that on the card.” Plaintiff Yusuf’s explanation for its qualification is absurd and Defendant requests the Court require a simple response of “admit” or “deny.”

2. Request to Admit No. 37 – Plaintiff Yusuf’s response does not comport with V.I. R. CIV. P. 36(a)(4) which requires one of three reasons for qualifying the response 1) state in detail why the answering party can’t truthfully admit or deny it; 2) when *good faith* requires that a party qualify an answer or deny only a part of the matter, answer must specify the part admitted and qualify or deny the rest, and 3) assert lack of knowledge or information, only if the party states it made a reasonable inquiry.

This request (as well as numbers 38-45) concern the *central* issue of the case concerning whether Mike Yusuf was a director of Plessen. The request states “ADMIT or DENY that as of

May 17, 2013, no meeting of the directors or shareholders of Plessen had voted Maher Yusuf in as a director of Plessen.” Plaintiff Yusuf responded “Deny,” and then “explained” his answer with non-responsive information. The question does not ask whether Mike Yusuf was listed on a form as a director, nor does it ask whether the parties thought Mike Yusuf was a “de facto” director. (**Exhibit 1** to Defendant’s Motion to Compel, pp. 31-32).

This request is simple: either Mike Yusuf was voted a director or he wasn’t. Defendant Hamed asks that the Court require a simple response of admit or deny.

3. Request to Admit No. 38-45 – The responses to these requests have the same defect as the response to Request to Admit no. 37. Because these responses violate Rule 36(a)(4), Defendant Hamed asks that the Court require a simple response of admit or deny.

4. Request to Admit No. 46 – Again, the request asks whether Mike Yusuf’s representation to the VI Police that he was a director of Plessen was false. The response has the same defects as the responses to request to admit numbers 37-45.

5. Request to Admit No. 47 – It is unclear what response Plaintiff Yusuf is giving to this request. The request is simple and does not need over 10 paragraphs of explanation – Did Attorney DeWood give the police department the following records: 1) Department of Consumer Affairs print-out with a list of corporate officers and 2) Copy of Signature card for Plessen Enterprises, Inc. as of August 17, 2009. (**Exhibit 1** to Defendant’s Motion to Compel, pp. 44-45). Defendant Hamed asks that the Court require a simple response of admit or deny.

6. Request to Admit No. 48 – Plaintiff Yusuf’s “good faith effort to explain the response” was really an attempt to muddy the waters. The request asks whether a document was created by filling out a form in a password protected, online DLCA website. Plaintiff’s explanation concerned how he obtained the form—it does not address how the form was created. (**Exhibit 1**

to Defendant's Motion to Compel, p. 45). Defendant Hamed asks that the Court require a simple response of admit or deny.

7. Request to Admit No. 49 – This request asks if the Yusuf family or someone acting on its behalf supplied the information that Mike Yusuf was a director to the DLCA. The request did not ask who they thought filled out the form. (**Exhibit 1** to Defendant's Motion to Compel, pp. 44-46). Defendant Hamed asks that the Court require a simple response of admit or deny.

8. Request to Admit No. 53 – This item is withdrawn.

9. Request to Admit No. 54 – This item is withdrawn.

10. Request to Admit No. 58 – Plaintiff Yusuf is correct when he states that this request asks Defendant Yusuf to admit or deny whether the reason in the motion to dismiss criminal charges against Mufeed and Waleed Hamed was "the People submit that, at this time, the people will be unable to sustain its burden of proving the charges against the Defendants to a reasonable doubt." (**Exhibit 1** to Defendant's Motion to Compel, pp. 47-48). Defendant Hamed asks that the Court require a simple response of admit or deny.

11. Request to Admit No. 82 – The request and response are as follows:

ADMIT or DENY that with regard to the testimony of Maher Yusuf under oath in CIVIL NO. SX-12-CV-370 "In the first hearing day, Maher Yusuf, President of United Corporation testified under oath that he used the \$2,784,706.25 withdrawn from the Plaza Extra operating account to buy three properties on St. Croix in the name of United."

RESPONSE: Admit that a portion of Mike Yusuf's testimony related to the \$2,784,706.25 withdrawn from the Plaza Extra operating account. This excerpt is the Court's paraphrase of Mike Yusuf's testimony and is not a direct quote of his testimony. Denied to the extent that it is inaccurate or incomplete as to Mike Yusuf's testimony on the subject.

(**Exhibit 1** to Defendant's Motion to Compel, p. 48). Again, Defendant Hamed is requesting whether Mike Yusuf used the \$2.7 million withdrawn from the Partnership account to buy three

properties in the name of United. No explanation is needed whether that was a true statement or not. Defendant Hamed asks that the Court require a simple response of admit or deny.

12. Request to Admit No. 83 – This item is withdrawn.

13. Request to Admit No. 84 – This request states

ADMIT or DENY that is was not true as stated by Maher Yusuf, on January 25, 2013, that United's President, Maher Yusuf, "used the \$2,784,706.25 withdrawn from the Plaza Extra operating account to buy three properties on St. Croix in the name of United." (**Exhibit 1** to Defendant's Motion to Compel, pp. 49-50).

Defendant Hamed wants to know whether three properties purchased using the approximately \$2.7 million in funds withdrawn from the Plaza Account and purchased in the name of United occurred on January 25, 2013. Defendant Hamed asks that the Court require a simple response of admit or deny without extraneous explanations from the Plaintiff.

Respectfully submitted,

HAMMECKARD, LLP

Dated: June 2, 2017

By:



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CERTIFICATE OF SERVICE

I hereby certify that this document complies with the page or word limitation set forth in Rule 6-1(e) and that on this 2nd day of June 2017, I served a copy of the foregoing by email, as agreed by the parties, on:

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