

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

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SIXTEEN PLUS CORPORATION, Plaintiff,	)	
	)	CASE NO.: SX-2016-CV-00065
vs.	)	
	)	ACTION FOR DECLARATORY JUDGMENT
MANAL MOHAMMAD YOUSEF, Defendant,	)	
	)	JURY TRIAL DEMANDED
	)	
and	)	
	)	CASE NO.: SX-2017-CV-00342
	)	(CONSOLIDATED)
MANAL MOHAMMAD YOUSEF, Counter-Plaintiff,	)	
	)	
vs.	)	ACTION FOR DEBT AND FORECLOSURE
	)	
	)	JURY TRIAL DEMANDED
SIXTEEN PLUS CORPORATION, Counter-Defendant.	)	

**RESPONSE OF MANAL YOUSEF TO THE FIRST MOTION OF  
SIXTEEN PLUS CORPORATION TO COMPEL MANAL YOUSEF  
FOR ADDRESS, AGENT'S INFORMATION, ACCOUNTING AND TAX INFORMATION**

**COMES NOW, MANAL MOHAMMAD YOUSEF**, by her undersigned attorney, James L. Hymes, III, and respectfully opposes the first motion of the Sixteen Plus Corporation to compel Manal Mohammad Yousef to produce five items of information as set forth in the Introduction section of the motion.

The Sixteen Plus Corporation and its token shareholder, Hisham Hamed, have filed various motions to, among other things, (1) compel Isam Yousuf to authorize the prosecutors and police in St. Maarten to conduct a search of the bank records of the

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company he once owned and operated; (2) compel Manal Mohammad Yousef to provide information regarding her agent, accounting records, and income tax information; and (3) to add Manal Mohammad Yousef as a named party defendant to a declaratory judgment action. All of these are opposed for the reasons that they constitute impermissible discovery requests and seek irrelevant information by impermissible means. In order to further understand the opposition to these motions it is necessary to understand the factual background and litigation history of the parties.

**Factual Introduction:**

The Sixteen Plus Corporation, in multiple civil cases, on its own behalf and derivatively through a token stockholder, Hisham Hamed, is attempting to relitigate a failed attempt by its stockholders for an accounting. These civil lawsuits have a common theme espoused by the Sixteen Plus Corporation, that \$60 Million was skimmed from the United Corporation and its three Plaza Extra stores, and the skimmed money was diverted to St. Maarten, and elsewhere, to avoid taxes, and for other nefarious purposes. In 2012, and 2014, civil actions were filed by and between Waleed Hamed and Fathi Yusuf, the two men who formed the Sixteen Plus Corporation to purchase the Diamond Keturah property. These civil actions were designed to obtain a dissolution of their partnership and a distribution of partnership assets related to and derived from the business of the Plaza Extra stores. The plaintiff, Waleed Hamed, retained the services of an expert witness who based his opinion on the 2003 third superseding indictment in the matter captioned *United States of America and Government of the Virgin Islands vs.*

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*Yusuf, et al.*, No. 2005 – 15F /B (DVI February 26, 2010). Although various individuals were charged in the indictment, only the United Corporation pled guilty to Count No. 60, by which it admitted that \$10 Million of gross receipts were skimmed and mis-accounted to avoid taxes. In his opinion letter, the expert stated, as reported by Judge Brady in his

Opinion:

“The most fundamental feature of such a scheme is that the actual accounting records of the entity do not, and in fact cannot, accurately reflect the amount of cash taken in. No proper accounting can be determined from the company's financial records because the gross receipts have been intentionally misapplied and documented. The very purpose of this sort of scheme is to render any accounting inaccurate. It is critical that the parties have both admitted that many records of transaction that should have gone into accurate accounting were not kept, or mutually and intentionally destroyed. Because the very nature of the crime, particularly money laundering/tax evasion, is to hide such incoming and outgoing funds from legitimate accounting, it is impossible to determine and account for any portion of that amount each partner has or owes to the other. Since many such transactions were not recorded or destroyed, any remaining records can never be legitimately credited or debited against the unknown amounts.... The court is not called upon to express any opinion, as to the criminal nature of the conduct of the individual defendants named in the criminal matter except to the extent that such conduct demonstrates both the impossibility of reconstructing financial records or conducting, at present, an accurate accounting, and the partner's knowledge of the state of affairs. However, United's guilty plea as to Count 60 establishes that United, which as a corporation, must necessarily act through its officers and employees, intentionally schemed to obfuscate gross receipts and cash disbursements thereby rendering impossible any accurate reconstruction of accounts.” P.17-18 op. 7/21/17 2017 V.I. LEXIS 114.

The trial judge found that

*“at a bare minimum, the pleadings and record evidence establish that the partners and their sons had both unfettered access to large*

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*amounts of cash, deliberately kept off company books, and ample opportunity to secretly remove that cash, secure in the knowledge that no partner, accountant, or investigator would be able after the fact to ascertain the amount taken, as the total amount of cash in the store safes was intentionally omitted from any record-keeping.”*  
P.21. loc cit.

The court went on to state that

*“the policy of RUPA prevents both Hamed and Yousuf from imposing upon the court the great burden of sorting through the ramshackle patchwork of evidence supporting their claims, to reconstruct decades worth of partnership accounts, when the partners, who deliberately determined not to keep accurate records in the first place, were themselves content to carry on conducting partnership business despite having full knowledge of the pattern of conduct which they now belatedly complain.”* P.21. loc cit.

The central core allegation by the Sixteen Plus Corporation is that the money used to purchase the Diamond Keturah property was money skimmed from the United Corporation by Wally Hamed, which was somehow sent to St. Maarten and redirected back to St. Croix to buy the property. In all of these presently pending civil actions the Sixteen Plus Corporation is asking this Court to find now what it could not find in 2017, namely what money was skimmed from United Corporation and what was done with it, and by whom. Since it has been found beyond question that Waleed Hamed and Fathi Yusuf cannot account among themselves as to how the money skimmed from United Corporation could be accounted for, it should be axiomatic that they should be foreclosed from attempting to contend in this case, and others presently pending, that an accurate accounting can now be made to find conclusively that the \$4.5 Million used to purchase Diamond Keturah came from money skimmed from the three Plaza Extra stores, and not from money loaned to Sixteen Plus Corporation by Manal Mohammad Yousef.

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Accordingly, before Sixteen Plus Corporation is given unfettered access to search the bank records of the business Isam Yousuf used to own and operate, and before Manal Mohammad Yousef is ordered to be joined as a named party defendant and to produce discovery information, it is respectfully submitted that Sixteen Plus Corporation should be ordered to produce documentary proof that the money it admits it skimmed from the United Corporation and its three Plaza Extra stores was given to Isam Yousuf and was sent by him to the Sixteen Plus Corporation for the purpose of purchasing the Diamond Keturah property from the Bank of Nova Scotia. This is the only relevant factual issue in this case.

**The Law:**

Virgin Islands Rules of Civil Procedure, Rule 26 and Rule 33, govern the scope of a parties duty to disclose information during discovery. *Cruz v. VI Water and Power Authority*, No. ST-2015-CV00491, 2020 VI Lexis 45 (citing *Gourmet Gallery Crown Bay, Inc. v. Crown Bay Marina, LP*, 2017 VI Lexis 86. Under VIR Civil Procedure Rule 26 (b)(1), “parties may obtain discovery regarding any nonprivileged matter that is relevant to any parties claim or defense. The singular factor for determining whether information is discoverable is its relevance.” *Cruz*, 2020, VI Lexis 45 at 1. Under the standard provided by Rule 401 of the Virgin Islands Rules of Evidence, the Court determines what information is relevant. See *Donastorg v. Walker*, 2019 VI Lexis 66 at 5-6. Relevant information is that which has the tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable that it would be

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without it. *Donastorg, loc. cit.* When a request for production of documents extends to documents relevant to the claims or defenses in the matter, the request may be overly broad and therefore objectionable and subject to being stricken. See *Westhemeco Limited vs. New Hampshire Insurance Company*, 82 FRD 702 (S.D.N.Y., 1979). *Chambers vs. Capital Cities/ABC*, 154 FRD 63 (S.D.N.Y., 1994). The Court may strike a request that is not proportional to the needs of the case in light of the facts listed in the parties initial Rule 26 Disclosures.

In the Introduction section of the motion to compel, the Sixteen Plus Corporation sets forth five topics which it claims Manal Mohammad Yousef is obligated to provide information. Those five topics will be addressed as follows:

1. The address of Manal Mohammad Yousef.

Manal Mohammad Yousef is represented by counsel. Sixteen Plus Corporation has no legal basis to contact her directly and therefore does not need her address. At various times Sixteen Plus Corporation has indicated that it intends to file a lawsuit against her and therefore needs her address. If this is the case, there are various means and methods by which she may be sued which do not require Sixteen Plus Corporation to know her address. Sixteen Plus Corporation is aware and has been told she is a resident of the West Bank, Ramallah, Palestine. If Sixteen Plus Corporation wishes to sue her, it has, and now has, sufficient address information for that purpose.

2. Documents in the possession of Isam Yousuf.

Both Manal Mohammad Yousef and Isam Yousuf have responded to written discovery and indicated that they have no documents in their possession responsive to

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the request for production of documents issued in this case. The production of documents by Isam Yousuf is the subject of a separate motion and need not be addressed further here beyond stating that Isam Yousuf has no documents in his possession custody or control.

3. The subject matter of this demand for production of documents has been responded to, not with documents, but with a description of how Manal Mohammad Yousef spent the three payments of interest in the amount of \$360,000 she received from the Sixteen Plus Corporation. Neither she nor Isam Yousuf have documents in their possession, custody, or control regarding same.

4. Manal Mohammad Yousef is not now, nor has she ever been, a resident of the U.S. Virgin Islands, or the United States of America. She has indicated in answers to written discovery that she did not pay income tax with respect to the receipt of the three payments of interest by the Sixteen Plus Corporation to her. Therefore, the production of income tax returns is irrelevant to any pending issue in this case.

5. Manal Mohammad Yousef has provided written answers to written discovery stating that the funds provided by her to the Sixteen Plus Corporation came from her father. The use of the word/term conspirators is that of Sixteen Plus Corporation and not Manal Mohammad Yousef or Isam Yousuf, and is a less than veiled attempt by Sixteen Plus Corporation to white wash his own criminal conduct by attempting to include her in it.

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**WHEREFORE**, Manal Mohammad Yousef respectfully request that the Court deny the Motion to Compel for the reasons set forth herein.

Respectfully Submitted,

DATED: February 3, 2023.

**LAW OFFICES OF JAMES L. HYMES, III, P.C.**  
*Counsel for Plaintiff/Counterclaim*  
*Defendant Manal Mohammad Yousef*  
*a/k/a Manal Mohamad Yousef*

By:     /s/ James L. Hymes, III    

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**CERTIFICATE OF SERVICE**

I hereby certify that this document complies with the page and word limitations set forth in Rule 6-1(3). I hereby further certify that on this the 3<sup>rd</sup> day of February, 2023, as an approved C-Track filing on behalf of James L. Hyems, III, I caused an exact copy of the foregoing ***“Response Of Manal Yousef To The First Motion Of Sixteen Plus Corporation To Compel Manal Yousef For Address, Agent’s Information, Accounting And Tax Information”*** to be served electronically through the C-Track system, upon the following counsel of record:

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