

The Household Defendants respectfully submit this Status Report (i) to summarize the steps Defendants have taken with respect to the approximately 400 boxes of Ernst & Young (“E&Y”) work papers that were prepared during E&Y’s July 2002 Compliance Engagement, (ii) to provide Defendants’ further response, after a meet and confer, to Plaintiffs’ recent request for documents pertaining to work performed by Jefferson Wells and PriceWaterhouseCoopers, (iii) to inform the Court of the current status of Plaintiffs’ non-party depositions, and (iv) to again raise issues concerning Plaintiffs’ inadequate responses to Defendants’ interrogatories.

1. Review of the Boxes of E&Y Work Papers

As an initial matter, on the evening of April 24, six hours after our close of business, Plaintiffs electronically served a motion pertaining to the E&Y matter (and another pertaining to Plaintiffs’ depositions of non-parties, *see* paragraph 3 below). In their E&Y motion, Plaintiffs seek to compel Defendants “to produce all unlogged documents relating to the E&Y Compliance Engagement or alternatively, for defendants to put all such documents on a privilege log.” Defendants respectfully submit that Plaintiffs’ motion should be denied as moot as the Court has issued numerous orders and directives pertaining to documents relating to the E&Y Compliance Engagement, requiring some documents to be logged and some to be reviewed by the Court *in camera*. However, should the Court wish, Defendants will be prepared to submit an opposition to this motion.

Pursuant to the Court’s direction, on April 24 Defendants submitted *in camera* an affidavit of John M. Keller, a partner in E&Y since May 2002, describing the scope of the Compliance Engagement undertaken by E&Y at the request of Household’s General Counsel and

E&Y's related work papers (which are contained in the boxes at issue). In particular, Mr. Keller described in considerable detail the contents of approximately 278 boxes that Defendants have described as the preliminary work papers of E&Y — those reflecting E&Y's data validation and sampling/data integrity work that was a necessary prerequisite to its detailed analysis of Household's real estate secured loans. (Pursuant to the Court's direction, Defendants provided Plaintiffs with a redacted copy of the Keller Affidavit on April 25.)

With respect to the E&Y work papers, and in compliance with other Court orders and directives, Defendants also have accomplished the following:

a. On April 23, we provided Plaintiffs with two versions of the E&Y index to the boxes of their work papers: (i) the annotated index that Defendants had previously provided *in camera* to the Court, and (ii) the index as prepared by E&Y.

b. On April 18, we provided the Court for its *in camera* review, with 16 entries from our 215-page privilege log of approximately 115 boxes of E&Y's work papers that, for the most part, contain the review and analyses prepared by E&Y during the Compliance Engagement. (Defendants previously provided the complete privilege log to Plaintiffs and the Court.) On April 20, Defendants complied with the Court's directive to provide Plaintiffs with an addendum to our privilege logs containing, in part, the January 2004 draft final E&Y report and the E&Y index of its work papers.

c. Our review of the 115 boxes confirmed that with very few exceptions they contain E&Y's analysis of Household's compliance with company policies/state laws with respect to particular loan attributes. These analyses implemented the privileged Compliance Engagement initiated by Household's General Counsel in July 2002, and with only a minor

exception (which we have already produced to Plaintiffs), this material was created after the start of this lawsuit, *i.e.*, after August 16, 2002. The logged material is therefore protected by the attorney-client privilege for the reasons spelled out in this Court's December 6, 2006 Order and affirmed by Judge Guzman, and is not subject to production under the fiduciary exception for the reasons explained in this Court's February 27, 2007 ruling, which has also been sustained by the District Court. Accordingly, any demand by Plaintiffs for this privileged material should be denied.

d. On March 23, Defendants submitted to Plaintiffs and the Court proposals for the Court's *in camera* review of a subset of the remaining approximately 278 boxes containing the data validation and sampling materials that E&Y collected and/or prepared in the preliminary stages of the Compliance Engagement. Now that the Court has the work papers index (with the data validation and sampling boxes identified by the letters "DV" and "S"), as well as the Keller Affidavit describing these processes, the Court will be able pick any number and combination of these boxes to review in the first instance and at any time can instruct that additional boxes be provided for its review.

e. On March 28, in response to the Court's request during the March 20 conference, Defendants provided the Court with authority to support a finding that the boxes of E&Y work papers assembled and created by E&Y in the course of their privileged Compliance Engagement for Household's General Counsel to assist in rendering legal advice, are privileged in their entirety, without the necessity of a document by document analysis. Household recognizes the Court's need to understand the nature of E&Y's output, and respectfully suggests that the detailed 215-page privilege log created and amended by Defendants confirms that these materials were all part of the privileged Compliance Engagement.

2. Jefferson Wells and PriceWaterhouseCoopers Documents

During the March 30 telephone status conference, Plaintiffs for the first time raised a question about work performed for Household by two accounting firms, Jefferson Wells and PriceWaterhouseCoopers (“PwC”), stating that they had been unaware of such work before taking the deposition of former Household employee Robin Allcock on March 7-8, 2007. In fact, Ms. Allcock gave no substantive testimony about such work, and the exhibits she was shown had been produced months or years earlier. After argument on this new request during the April 12 status conference, the Court directed the parties to meet and confer to try to resolve the parties’ differences as to PwC and Jefferson Wells documents. A meet and confer was held on April 16, but the parties were unable to reach accord on Plaintiffs’ insistence that Defendants undertake an expansive new document search, weeks after the close of fact discovery, for cumulative material of questionable relevance. It became evident during the meet and confer that Plaintiffs are trying to bootstrap their untimely demand for Jefferson Wells and PwC documents on Request No. 34 of their Third Document Demand, which reads:

“Documents that track, analyze or describe refunds related to **state regulatory examination and investigations**, including, but not limited to, refunds for prepayment penalties, origination fees, single premium credit life insurance, discount points, EZ Pay, finance charge, recording fees, and administration fees.” (emphasis added)

As the Court is aware, Household has produced virtually mountains of materials regarding state regulatory examinations, investigations, settlements, payments and refunds, and apart from some skirmishing about certain states’ restrictions on disclosure of their reports of examinations and related materials, Plaintiffs had no quarrel during the discovery period with Defendants’ good faith compliance with Request No. 34.

In fact, neither Request No. 34, nor any of Plaintiffs’ other document requests on their face called for production of Jefferson Wells or PwC audit documents. Plaintiffs implicitly

acknowledged this during the April 16 meet and confer, by suggesting that Request No. 34 be reframed to call specifically for documents “not authored by Household but authored or generated by PriceWaterhouseCoopers or generated by Jefferson Wells.” (Transcript of April 16 Meet and Confer, p. 22; a copy of which is attached at Tab A to this Status Report).¹

Plaintiffs’ insistent that Defendants respond to a new document request almost three months after the close of fact discovery is unacceptable. Plaintiffs never asked for this information, never followed up before fact discovery closed and offered no compelling reason during the meet and confer to demonstrate that this is anything other than an attempt to drag out discovery, delay expert reports and expert discovery, and prolong the eventual resolution of this action on the merits.

In addition, as Defendants explained in their April 11 Status Report and during the April 12 telephonic status conference, the alleged bases for Plaintiffs’ belated request for these documents is spurious and provides an alternate basis for the Court to deny Plaintiffs’ current request for Jefferson Wells and PwC documents. During the March 30 conference, and in their March 29 status report, Plaintiffs gave the misleading impression that audits or other work involving these two entities were mentioned for the first time in this action during the March 7-8, 2007 deposition of Robin Allcock and that Plaintiffs are promptly following up on Ms. Allcock’s testimony. In fact projects involving these two entities were referred to in several documents marked as exhibits at Ms. Allcock’s deposition — documents that had been produced to Plaintiffs months, and in some cases years, prior to the deposition. They were not disclosed

¹ Every meet and confer between the parties is recorded by a company chosen by Plaintiffs. Each party receives a copy of that recording and, separately, can prepare a written transcript of the meet and confer from the recording. Tab A contains an excerpt from the transcript prepared by Defendants of the recorded April 16 meet and confer.

for the first time in Ms. Allcock's deposition testimony.² Ms. Allcock had no information about Jefferson Wells and PwC audits apart from what was contained in the documents shown to her and her testimony added nothing to what appears on the face of the documents.

Plaintiffs' belated request for further discovery should be denied. If Plaintiffs are allowed to pursue their untimely new request for Jefferson Wells and PwC audit documents, Plaintiffs will only be emboldened to seek further discovery in this case and fact discovery will continue unabated, the barrage of follow up motions and objections will never end, and Defendants' time to seek judgment on Plaintiffs' overblown fraud charges will be even further delayed.

3. Plaintiffs' Depositions

All depositions of current and former Household employees, including the four individual Defendants, have been completed, and two of the four remaining non-party depositions have been scheduled. The depositions of one Morgan Stanley representative took place on April 20 and the second and final Morgan Stanley deposition is scheduled for a half day on May 1. The deposition of Wells Fargo will also proceed on May 1, in Minneapolis. However, the depositions of John Keller and Christopher Bianucci, each of whom worked for both Arthur Andersen and E&Y during the Class Period, have yet to be scheduled. It was anticipated that each would be examined in one day about both Andersen and E&Y matters, but Plaintiffs did not proceed on the dates originally scheduled because counsel for the witnesses

² The documents marked as exhibits at Ms. Allcock's deposition that mention Jefferson Wells or PwC were provided to Plaintiffs by Household on April 13, 2005, October 12, 2005 and February 28, 2006, years before the close of fact discovery. And on February 28, 2005, Household provided a New York mortgage tax audit prepared by PwC as HHS 02617676-02617778. Plaintiffs questioned another deponent, Mr. Stephen Hicks, about Jefferson Wells in his December 9, 2006 deposition.

quite reasonably objected to Plaintiffs' request to bifurcate the depositions with Andersen issues covered on April 26 and 27, and E&Y issues covered on later dates to be determined after resolution of their never-ending motion practice about E&Y documents. These depositions now are the subject of a motion filed by Plaintiffs on April 24.

In their motion, Plaintiffs seek to compel Messrs. Keller and Bianucci to appear for depositions no later than May 15, 2007. (The motion notes that in their status report for the April 27 conference, Plaintiffs "will propose a revised expert discovery schedule commencing on June 8, 2007 and concluding on October 22, 2007.") Plaintiffs claim in their motion that counsel representing both Andersen and E&Y will only offer dates upon resolution of the issues surrounding the E&Y work papers and E&Y's internal document search. Plaintiffs note that bifurcating each deposition — one day on Andersen matters and one day on E&Y issues — is the "best course" but say they are prepared to proceed with depositions on both Andersen and E&Y topics "as soon as possible" and "[i]f after the E&Y issues are resolved the Class has good cause for further questioning, it will seek relief at that time." (Plaintiffs' Motion at 3) In other words, even with the protracted schedule Plaintiffs propose they promise no surcease of fact discovery. Plaintiffs' motion also seeks to compel E&Y to complete its document production no later than May 7, 2007.

Now that Judge Guzman has affirmed this Court's E&Y-related rulings in all respects, Defendants do not see any reason why the depositions of Mr. Keller and Mr. Bianucci cannot go forward on the same day as to both Arthur Andersen and E&Y matters, as Plaintiffs originally represented would occur. The Court agreed to allow each of these depositions (Mr. Keller and Mr. Bianucci) to count as only one of Plaintiffs' allotted 55 depositions because they would each occur only on a single day, irrespective of subject matter. The issues raised in

Plaintiffs' current motion are between Plaintiffs and counsel for Andersen/E&Y. Defendants note, however, that they would object to a second deposition of Mr. Keller or Mr. Bianucci as to E&Y matters, as (i) it is not an efficient way to proceed; and (ii) it would result in Plaintiffs exceeding their allotted 55 depositions.

4. Plaintiffs' Responses to Defendants' Interrogatories

Pursuant to Orders from this Court dated March 9 and 14, Plaintiffs' counsel provided responses to two sets of interrogatories on March 23 and 29. As noted during the last status conference, Plaintiffs' responses continue to be deficient in a number of respects. The parties agreed to meet and confer as to these issues on April 12, prior to the status conference with the Court on the same day. However, on April 11, Plaintiffs informed Defendants that they would not participate in the meet and confer, preventing these issues from being addressed during the April 12 telephonic status conference. In accordance with the Court's April 12 order instructing Plaintiffs to meet and confer with Defendants, the parties held a telephonic conference on Monday, April 16.

Pending receipt of revised responses from Plaintiffs, some issues may be resolved as a result of the parties' discussions on these subjects during the meet and confer. Plaintiffs agreed to provide amended answers to certain of Defendants' interrogatories by Wednesday, April 25, which they did. Plaintiffs continue, however, to refuse to quantify the claimed percentage or number of loans that Plaintiffs claim contain alleged illegal prepayment penalties — in contravention of the Court's March 14, 2007 Order to this express effect. At the April 27 conference, Defendants will request a briefing schedule for a motion to compel proper responses from Plaintiffs to this Interrogatory, and possibly other interrogatories to the extent that

Plaintiffs' April 25 amended responses, currently being reviewed by Defendants, are inadequate to resolve the deficiencies explained and discussed during the meet and confer.

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Respectfully submitted,

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