

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LAWRENCE E. JAFFE PENSION PLAN, ON
BEHALF OF ITSELF AND ALL OTHERS SIMILARLY
SITUATED,,

Plaintiff,

- against -

HOUSEHOLD INTERNATIONAL, INC., ET. AL.,

Defendants.

Lead Case. No. 02-C5893
(Consolidated)

CLASS ACTION

Judge Ronald A. Guzman

**DECLARATION OF THOMAS J. KAVALER IN FURTHER
SUPPORT OF HOUSEHOLD DEFENDANTS' *DAUBERT*
MOTION TO EXCLUDE THE "EXPERT" TESTIMONY OF
CATHERINE A. GHIGLIERI, CHARLES CROSS AND
HARRIS L. DEVOR**

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

THOMAS J. KAVALER, declares as follows:

1. I am a member of the bar of the State of New York and a member of the firm Cahill Gordon & Reindel LLP, attorneys for defendants Household International, Inc., Household Finance Corporation, William F. Aldinger, David A. Schoenholz, and Gary Gilmer, Defendants in this action. I have been admitted to appear before this Court *pro hac vice*. I submit this declaration to place before the Court certain information and documents referenced in Defendants' *Daubert* Motion to Exclude "Expert" Testimony of Catherine A. Ghiglieri.

2. Attached hereto is as Exhibit 1 is a true and correct copy of the Transcript of the Deposition of John L. Bley (excerpted), dated March 14, 2008.

3. Attached hereto is as Exhibit 2 is a true and correct copy of the Transcript of the Deposition of Robert E. Litan (excerpted), dated February 27, 2008.

Executed this 13th day of February, 2009, in New York, New York.

/s / Thomas J. Kavalier
Thomas J. Kavalier

EXHIBIT 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION
Lead Case No. 02-C-5893

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LAWRENCE E. JAFFE PENSION PLAN,
on Behalf of Itself and A 1 Others
Similarly Situated,

Plaintiff,

vs.

HOUSEHOLD INTERNATIONAL, INC.,
et al.,

Defendants.

-----x
VIDEOTAPE DEPOSITION of JOHN BLEY,
taken by the Plaintiffs at the offices of Cahill
Gordon & Reindel, 80 Pine Street, New York, New York
10005, on March 14, 2008, at 9:38 a.m., before Lisa
Forlano, a Notary Public and Certified Court Reporter.

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<p>1 form of the question because I think it's 2 ambiguous.</p> <p>3 THE WITNESS: I'll do my best based on 4 what my subjective understanding of your 5 question is. As one of the participants that 6 was engaged in this public policy discussion, 7 this stage one, if you will, of the public 8 policy formation process, it did not surprise 9 me when I would hear what a community group's 10 definition of predatory lending was and that 11 was usually a very broad definition because 12 that was their mission as an organization and 13 God bless them for it.</p> <p>14 On the other hand, it would not 15 surprise me that participants in the financial 16 services industry, licensees, would be 17 interested in the topic, would want to engage 18 in the topic and would also have a somewhat 19 narrower definition of predatory lending than 20 what the consumer groups would have. And that 21 I'd have my definition and Miss Ghiglieri 22 might have her definition, et cetera, et 23 cetera. But it would not surprise me if the 24 definition from a person with the 25 responsibility of a senior management position</p>	<p>1 question again because it's ambiguous and I 2 think the last answer was very responsive to 3 an ambiguous question.</p> <p>4 THE WITNESS: Mr. Baker, I've given you 5 the best possible answer I could provide you 6 to that question. I don't know how else I 7 could say it.</p> <p>8 BY MR. BAKER:</p> <p>9 Q Yes, I am expressing opinion; no, I'm 10 not; I'm not sure what your question is. Those are 11 three possible answers.</p> <p>12 A And each one of those answers I would 13 feel would be deceptive.</p> <p>14 Q Okay. Do you have any opinion as to 15 whether statements made in Household's SEC filings, 16 the 10-Ks, the 10-Qs, filings with respect to 17 securitizations were accurate?</p> <p>18 A There are other experts that address 19 the issue of accuracy of securities filings. Our 20 responsibility was to focus primarily, and I'd say 21 to the point of exclusively on Sections A and B of 22 Miss Ghiglieri's report dealing with predatory 23 lending.</p> <p>24 Q If you go to Exhibit 1, which is your 25 report, specifically Appendix A.</p>
<p>Page 59</p> <p>1 of a financial institution, whether that's a 2 sub prime lender like Household or a bank 3 would come up with a definition that's similar 4 to the definitions I've seen senior management 5 of Household undertake. I don't think those 6 are unreasonable definitions at all coming 7 from that particular part of the industry. 8 And I think it would be a definition that 9 would be generally understood by those 10 sophisticated in the financial institutions 11 industry, including sophisticated investors.</p> <p>12 MR. BAKER: Motion to strike that 13 answer.</p> <p>14 BY MR. BAKER:</p> <p>15 Q The question I asked you is -- 16 MR. OWEN: Object to the motion to 17 strike anything. Go ahead.</p> <p>18 MR. BAKER: Just pipe down.</p> <p>19 BY MR. BAKER:</p> <p>20 Q Are you expressing -- the question was 21 simple, are you expressing any opinion, it's a yes 22 or no question. Are you expressing any opinion as 23 to whether Household's public statements regarding 24 engagement in predatory lending were accurate? 25 MR. OWEN: I'm going to object to the</p>	<p>Page 61</p> <p>1 A Uh-huh.</p> <p>2 Q Does this list reflect all the 3 documents that you and Mr. LaSusa relied upon for 4 the opinions expressed in the report?</p> <p>5 A To be more precise, this is a list of 6 documents that were cited in our report.</p> <p>7 Q Are there documents that you and 8 Mr. LaSusa -- let me be more specific. You'll see 9 there's a category here that says case specific 10 documents. That's the first heading there.</p> <p>11 A Yes.</p> <p>12 Q And you understand those to be 13 documents generated or exchanged during this case, 14 is that correct?</p> <p>15 A I believe this case which I guess would 16 include depositions we viewed in Luna. That's all 17 part of this case.</p> <p>18 MR. OWEN: Generated for this case, 19 they were produced in this case.</p> <p>20 MR. BAKER: Just as long as we have a 21 common understanding.</p> <p>22 BY MR. BAKER:</p> <p>23 Q So I want to know, under the case 24 specific documents, are all the documents that you 25 relied upon for the opinions expressed in the joint</p>

EXHIBIT 2

Litan, Ph. D., Robert E.

2/27/2008

Confidential - Pursuant To The Protective Order

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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LAWRENCE E. CAFFE PENSION PLAN, :

Or Behalf of itself and All :
Others Similarly Situated, :

Plaintiffs, :

va. : Lead Case No.

HOUSEHOLD INTERNATIONAL, INC., : 02-C-5893

Defendant. :

----- x

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

Washington, D.C.

Wednesday, February 27, 2008

Videotaped Deposition of ROBERT E. LITAN,
PH.D., a witness herein, called for examination by
counsel for Plaintiffs in the above-entitled matter,
pursuant to notice, the witness being duly sworn by
KAREN YOUNG, a Notary Public in and for the District

1 where it says, "What's predatory," and the Federal
2 Reserve Board governor, late Edward Gramlich, is
3 quoted there as saying, "The fact that we can't get
4 a precise definition shouldn't stop us." He says,
5 "It doesn't mean that this isn't a problem." Do
6 you see that?

7 A. Yes.

8 Q. And do you agree with that?

9 A. I think that was a regulatory attitude
10 that was not only reflected in Mr. -- or in
11 Dr. Gramlich's statement, but it was reflected in a
12 variety of states that were testing the boundaries
13 of what predatory lending should be, and all that
14 illustrates is -- this was made during the class
15 period, by the way. It illustrates that the whole
16 issue was in flux and regulators throughout the
17 country were trying to define what it meant and what
18 it did not mean.

19 Q. Okay, but if you go on right after that
20 paragraph, it says, "But if there is disagreement
21 over the definition of predatory lending" --

22 A. Uh-huh.

23 Q. -- "there is at least consensus on
24 practices considered predatory," and then you're
25 quoted.

1 A. -- 5, and if we look on page 2 of her
2 testimony, toward the bottom, she has a quote, or
3 I'm quoting now from her report that says, "A
4 predatory loan typically combines several" -- I want
5 to underscore the word "several," "of the following
6 features," and then she lists a variety of things,
7 some of which are the same as the HUD-Treasury, but
8 others are different, and that's exactly the point.
9 Here you've got the chief regulator and the thrifts
10 giving a different list than what HUD- Treasury is
11 doing. That's a perfect example.

12 And second, in Ms. Seidman's view, a loan
13 isn't predatory unless it typically combines several
14 of these features. What Ms. Ghiglieri is talking
15 about in her report, or at least the implicit
16 assumption is that individual activities of this
17 nature, even though they may be legal, are predatory
18 in her view.

19 She never makes the point to my knowledge,
20 and you can correct me if I'm wrong, that something
21 is predatory only if you have several or a bunch of
22 these things happening at once, yet in Ms. Seidman's
23 view, you need several. Ms. Ghiglieri thinks well,
24 maybe only one at a time. I don't know what
25 Dr. Gramlich was thinking. I mean, you can't tell

1 A. Uh-huh.

2 Q. The article that you wrote --

3 A. Yeah.

4 Q. -- saying that last year, he issued a
5 report that identified these practices as predatory,
6 and practices listed there include loan flipping --

7 A. Uh-huh.

8 Q. -- excessive fees, including large
9 up-front charges and prepayment penalties that are
10 not related to the risk posed, extension of
11 unaffordable loans based on the assets, not the
12 income of the borrower, outright fraud or deception.
13 Do you agree these practices are predatory?

14 MR. OWEN: I want to object to the form of
15 the question. It doesn't appear that there are any
16 quotations here and I'm not sure that he is in fact
17 quoting Dr. Litan.

18 A. He's characterizing my report, and my
19 report, as in fact you pointed out earlier, cites
20 the HUD-Treasury study as identifying these
21 practices. I did not conclude that there was any
22 definitive list. In fact, a perfect evidence of
23 that is let's go in Ms. Seidman's statement that is
24 Exhibit Number --

25 MR. OWEN: Five.

1 directly from his statement, but I think there was
2 fair to say a range of views about how many of these
3 activities, which activities would take place. It
4 just underscores my point there was no consensus on
5 what practices and how many of them would constitute
6 predatory lending, coupled with the thing that you
7 pointed out fairly, context matters. So again we're
8 back to you know it when you see it.

9 Q. So if you turn to page 3 of Exhibit 6 --

10 A. Okay, 3 of 6.

11 Q. Exhibit 6.

12 A. Okay, okay.

13 Q. And the second to last paragraph, which is
14 quoting Senator Sarbanes, and the paragraph I'm
15 looking at is, "Others question whether new laws can
16 do much good." I'm sorry. He's not quoting Senator
17 Sarbanes, but Neil Milner, who is the executive VP
18 of the Conference of State Bank Examiners, who says,
19 "If you look at lenders engaged in predatory
20 practices, you find that their paperwork is
21 absolutely excellent," commented Milner. "Every I
22 is dotted and every T is crossed. Every regulation
23 is complied with, so the problem isn't complying
24 with the law, but with an unscrupulous practice."
25 Do you see that?