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# **TAB A-1**

21 and fees and misleading customers into buying insurance.

22 Do you remember that series of questions?

23 A. Yes, I do.

24 Q. Those aren't facts, are they, Mr. Aldinger? Those are Mr.

11:00:35 25 Drosman's assumptions?

Aldinger - cross

3082

1 MR. DROSMAN: Objection, your Honor.

2 BY THE WITNESS:

3 A. Those are allegations.

4 THE COURT: Sustained as to the form of the question.

11:00:41 5 MR. KAVALER: I'll a rephrase, your Honor.

6 BY MR. KAVALER:

7 Q. Were you aware, Mr. Aldinger, that any significant number

8 of employees were engaged in any of those practices?

9 A. No.

11:00:50 10 Q. Did you believe any significant number of employees were

11 engaged in those practices?

12 A. I did not.

13 Q. Did you believe it was the practice of the company to

14 misrepresent interest rates?

11:01:01 15 A. I did not.

16 Q. Did you believe it was the practice of the company to

17 employ an effective rate presentation?

18 A. No, I did not.

19 Q. Did you believe it was the practice of the company to

11:01:11 20 mislead people regarding points and fees?

21 A. No, I did not.

22 Q. Did you believe it was the practice of the company to

23 mislead people into buying insurance?

24 A. I did not.

11:01:20 25 Q. Now, Mr. Drosman asked you some questions which involved

3 840.

4 (Tendered.)

5 BY MR. KAVALER:

6 Q. And I ask you, are these also securitization documents  
7 filed with the SEC?

8 A. Yes, they are.

9 MR. KAVALER: I offer Defendants' 837 and 840, your  
01:40:14 10 Honor.

11 THE COURT: Admitted without objection.

12 MR. KAVALER: Now, I'm handing you Defendants' 839  
13 and 859. A copy for counsel.

14 (Tendered.)

15 BY MR. KAVALER:

16 Q. And I'll ask you the same question, Mr. Aldinger. Are  
17 these securitization documents filed with the SEC?

18 A. Yes, they are.

19 MR. KAVALER: I offer 8 -- Defendants' 839 and 859 in  
01:40:42 20 evidence, your Honor.

21 THE COURT: Admitted.

22 MR. KAVALER: I'm now handing counsel Defendants' 838  
23 and Defendants' 841. And I'm handing copies to you,  
24 Mr. Aldinger.

25 (Tendered.)

Aldinger - cross

3155

1 BY MR. KAVALER:

2 Q. I'll ask you, are these all securitization documents filed  
3 with the SEC?

4 A. Yes, they are.

01:41:20 5 MR. KAVALER: Your Honor, I offer Defendants' 841 and  
6 838.

7 THE COURT: Admitted.  
Page 122

8 MR. KAVALER: I'm handing counsel a copy of  
9 Defendants' 697. I'm handing you a copy, Mr. Aldinger.

10 (Tendered.)

11 BY MR. KAVALER:

12 Q. Is that also a securitization document filed with the SEC?

13 A. Yes, it is.

14 MR. KAVALER: I offer Defendants' 697, your Honor.

01:41:54 15 THE COURT: Admitted.

16 MR. KAVALER: And I'm handing counsel Defendants' 695  
17 and Defendants' 880, and I'm handing copies of both of those  
18 to Mr. Aldinger.

19 (Tendered.)

01:42:21 20 BY MR. KAVALER:

21 Q. And I ask you, sir, are those copies of securitization  
22 documents filed with the SEC?

23 A. Yes, they are.

24 MR. KAVALER: Your Honor, I offer Defendants' 880 and  
01:42:30 25 Defendants' 695.

Aldinger - cross

3156

1 THE COURT: Admitted.

2 MR. KAVALER: Last two. Now I'm handing counsel a  
3 copy of Defendants' 741 and Defendants' 881. And I'm handing  
4 these to you, Mr. Aldinger.

5 (Tendered.)

6 BY MR. KAVALER:

7 Q. I ask you whether these are also securitization documents  
8 filed with the SEC?

9 A. Yes, they are.

01:43:18 10 MR. KAVALER: I offer Defendants' 881 and Defendants'  
11 743, your Honor.



12

13 BY MR. KAVALER:

14 Q. Okay. Mr. Aldinger, you were here when Mr. Schoenholz  
01:44:00 15 testified?

16 A. Yes, I was.

17 Q. And do you remember when counsel asked him about the 2001  
18 10-K and he said -- this is at Page 1928 of the transcript --  
19 Question: Okay. Did you tell anybody in this 10-K, did you  
01:44:25 20 tell your investors or Wall Street or anybody that used your  
21 financial statements that you would actually re-age loans on  
22 one payment?

23 And Mr. Schoenholz said: Not when this 10-K was  
24 filed?

01:44:36 25 Do you remember that?

Aldinger - cross

3157

1 A. Yes, I do.

2 Q. All right. And did you understand the point of that  
3 exchange to be there was no disclosure in the 2001 10-K of the  
4 one-payment practice?

01:44:47 5 A. That's what I understood.

6 Q. But it was in a 1999 securitization prospectus that you  
7 have in front of you?

8 A. Yes.

9 Q. Let's look at that and let's see if we can do this  
01:44:59 10 expeditiously. Turn to Exhibit 880, which I believe you have  
11 there.

12 A. Are we going to --

13 Q. It's one of the ones I just gave you.

14 A. Okay. I'm going to look at it on the board.

01:45:09 15 Q. Even better. Then we go to the page ending in 968.

16 And can we highlight the language there that says --  
Page 124

17 paragraph -- in the middle of the page beginning, The master  
18 servicer.

19 Do you see that paragraph? There you go.

01:45:35 20 At the bottom of the screen, Brian. That's it.

21 And halfway down there it says, The master servicer  
22 may in its discretion, and it says one, two, and three. I  
23 want to focus your attention on three. It says, Treat a home  
24 equity loan as current if the borrower has made one scheduled  
01:45:54 25 payment to cure the delinquency status of the home equity

Aldinger - cross

3158

1 loan.

2 Do you see that?

3 A. Yes, I do.

4 Q. This was a disclosure by Household to the world as of the  
01:46:04 5 time it filed this prospectus that it engaged in one-payment  
6 re-age?

7 A. That's correct.

8 Q. And this was a 1999 prospectus?

9 A. That's what I understand, yes.

01:46:14 10 Q. And Mr. Schoenholz was being questioned about the 2001  
11 10-K, correct?

12 A. That's correct.

13 Q. Okay. Mr. Schoenholz was also questioned about the  
14 same -- well, the subsequent 10-K, the 2002 10-Q and the  
01:46:32 15 questioning there had to do with automatic re-age.

16 Do you remember that?

17 A. Yes, I do.

18 Q. And, again, he said it was not in the 2002 10-K?

19 A. That's my recollection.

01:46:44 20 Q. Okay. Let's look at 695. Is that one of the exhibits you

21 have up there?

22 A. It is.

23 Q. Defendants' 695. And let's go to page 335.

24 335, Brian.

01:47:09 25 And two paragraphs up from the bottom beginning with  
Aldinger - cross

3159

1 the words, Delinquent accounts. Right there.

2 Delinquent accounts may be restructured (deemed  
3 current) every six months. Accounts are automatically  
4 restructured if the customer has made the equivalent of one  
01:47:32 5 payment equal to at least 95 percent of a full standard  
6 payment. Once restructured, the account is deemed current;  
7 however, the credit limit is zero.

8 Do you see that?

9 A. I do.

01:47:43 10 Q. Is that disclosure by Household in a document filed with  
11 the SEC on August 3, 2001, according to its cover sheet?

12 A. Yes, it was.

13 Q. And that relates to automatic re-age?

14 A. Yes, it does.

01:48:00 15 Q. And that's before the 2002 10-K was filed?

16 A. That's correct.

17 Q. All right. So, Mr. Aldinger, if the company was trying to  
18 conceal these practices, by leaving them out of the 2001 or  
19 2002 10-K a couple of years after -- in one case two years  
01:48:21 20 after, in one case one year after -- it had disclosed them to  
21 the world in filings with the SEC, how were you going to  
22 conceal them?

23 A. It's hard to conceal anything that you've filed with the  
24 SEC. It's a public record after that.

01:48:35 25 Q. And we know that Mr. Ryan, at least among the analysts,

1 that when they --

2 A. Yes, I did.

3 Q. Were you concerned that in bringing in a new auditor, they  
4 might discover whatever misdeeds you had been doing and  
5 misdeeds that Andersen had been covering up for years?

6 A. No, I was not.

7 Q. Why not?

8 A. Because I think we do the right thing. I know we do the  
9 right thing. And we had relied as well on Andersen  
10 throughout.

11 Q. And KPMG came in and conducted this audit going back to  
12 1994?

13 A. That's correct.

14 Q. With what results?

15 A. Well, it resulted in a dispute between Arthur Andersen,  
16 who had audited us for decades, and KPMG on the four credit  
17 card contracts that you have heard about over the last few  
18 days. And the basic dispute was that Arthur Andersen had  
19 reviewed -- had their highest technical people review and had  
20 supported basically amortizing expenses for those credit cards  
21 over three or four years.

22 KPMG came back and, in my view, a little bit like a  
23 Monday morning quarterback and said many years after, well, we  
24 think you ought to charge that off in one year, not three or  
25 four years. And so the result would be that in all of those

1 given years, you would have not expensed enough.

2 So the company had a dilemma of, we've got one

3 accountant telling us it's okay, one accountant telling us  
4 it's not okay. Lou Levy, the head of audit, certainly Dave  
5 and myself, we didn't really agree with KPMG. But the problem  
6 is that in the end, we couldn't go back, fire KPMG and put  
7 Arthur Andersen back in place. And we had to make a decision.  
8 And if KPMG was going to sign our statements, we had to  
9 essentially agree to their view of the world.

10 Q. Was it important to you that KPMG sign your statements?

11 A. It was, because of the liquidity issue I mentioned before.  
12 Essentially we issue paper every day in the marketplace and  
13 frequently are issuing notes and longer-term bonds. And you  
14 can't do that without certified financial statements.

15 So while everybody can say it's your accounting,  
16 that's true. And we do actually have to be the people who  
17 sign the accounts. In the end, it's with consultation with  
18 your auditors and with advice from the outside auditors. And  
19 here we had a dispute.

20 So my view is, fire them and go back to Arthur  
21 Andersen. Couldn't do that. Couldn't bring in a new firm and  
22 wait four more months. And in the end, we decided that for  
23 shareholders, we couldn't risk becoming illiquid while we  
24 debated this issue out. So we agreed to effectively restate.

25 Q. So in the years that Andersen was your auditor, did you

Aldinger - cross

3218

1 take Andersen's advice?

2 A. We did.

3 Q. And in the years that KPMG was your auditor, did you take  
4 KPMG's advice?

5 A. We did.

6 Q. Did you understand exactly what the difference was between  
7 Andersen and KPMG?

8 A. I did.

9 Q. All right. What business unit did this problem arise in?

10 MR. KAVALER: You want me to quit, your Honor?

11 THE COURT: Well, go ahead and finish.

12 MR. KAVALER: I'll finish this topic momentarily.

13 BY MR. KAVALER:

14 Q. What business unit did this problem arise in?

15 A. This was in the Visa/MasterCard business.

16 Q. Let's put up Plaintiffs' Demonstrative 37. Can we do  
17 that?

18 You see this chart that the plaintiffs prepared,  
19 Mr. Aldinger?

20 A. I do.

21 Q. The unit in the middle there, consumer lending, that's  
22 Mr. Gilmer's unit?

23 A. That's Mr. Gilmer's unit, yes.

24 Q. Where do I look to find the unit where the problem that  
25 gave rise to the restatement occurred?

Aldinger - cross

3219

1 A. I would look to the very far right, credit card services,  
2 where we had 17-plus billion dollars of loans.

3 Q. And Mr. Gilmer had nothing to do with that unit?

4 A. He had nothing to do with that unit.

5 Q. Did he have anything to do with the decisions to restate?

6 A. He did not.

7 MR. KAVALER: Your Honor, this would be a good time  
8 to break.

9 THE COURT: Very well. Let's take our afternoon  
10 break, ladies and gentlemen. 15 minutes.

11 (Jury out.)

12 THE COURT: You may step down, sir.

13 Okay. We're on break.

14 (Recess taken.)

03:20:38 15 THE COURT: Ready for the jury?

16 MR. KAVALER: Yes, your Honor.

17 THE COURT: Very well.

18 (Jury enters courtroom.)

19 THE CLERK: Please be seated.

03:21:44 20 THE COURT: You may resume.

21 MR. KAVALER: Thank you, your Honor.

22 BY MR. KAVALER:

23 Q. Mr. Aldinger, just before we broke, I asked you a

24 question. I wasn't sure I heard your answer, or if I did, I

03:22:00 25 might have misheard it.

Aldinger - cross

3220

1 My question was did you understand all the details of  
2 this argument between Arthur Andersen and KPMG?

3 A. I think I'm fluent with the argument, but I'm not an  
4 accountant to be in a position to decide who's the ultimate  
03:22:19 5 right answer.

6 Q. Did you rely on the accountants, the outside accountants,  
7 for this?

8 A. I did.

9 Q. Now, when you announced -- when the company announced the  
03:22:30 10 restatement, was there a reaction in the market reflected in  
11 the price of the company's stock?

12 A. Yes, there was.

13 Q. And what happened to the stock?

14 A. It went up.

03:22:40 15 Q. Do we have a demonstrative that shows that process?

16 A. I believe we do.

17 Q. Can we look at DDX 230-02?

18 what does this demonstrative show us, Mr. Aldinger?

19 First of all, what is the date 8-13, 2002?

03:22:57 20 A. That's the day before the announcement.

21 Q. What is 8-14-02?

22 A. That's the date of the announcement.

23 Q. What's 8-15-02?

24 A. The day after the announcement.

03:23:05 25 Q. And what does this show the stock market -- the price of  
Aldinger - cross

3221

1 the company's stock expressed in dollars doing in response to  
2 the restatement?

3 A. It went up.

4 Q. And did the analysts comment on the restatement?

03:23:19 5 A. Yes, they did.

6 Q. Before I ask you that, Mr. Aldinger, let me ask you this:

7 we were talking about compensation earlier, and now we're

8 talking about the restatement and it reminded me when

9 Mr. Gilmer was on the stand, he was asked something about

03:23:39 10 whether the restatement, which lowered the company's earnings  
11 for several past years, didn't mean that he hadn't met his  
12 goals.

13 Do you remember that question?

14 A. I do remember the question.

03:23:51 15 Q. Explain the impact of the restatement on compensation for  
16 the senior officers who had targets to hit?

17 A. Well, first of all, as I mentioned earlier today, the way  
18 the bonus pool worked, we had a much higher maximum bonus than  
19 anybody was paid.

03:24:09 20 So even if the restatement took some of their



1 didn't get the house back.

2 Q. Now, again, Mr. Aldinger, you understand that the theory  
3 of the people who are suing you is that Household used  
4 restructuring policies to conceal its credit quality or

03:50:07 5 manipulate its earnings in some fashion.

6 Do you understand that's what they say?

7 A. I understand that that's what they say.

8 Q. Did Household do any such thing?

9 A. No. I don't -- I don't agree with that at all.

03:50:17 10 Q. Are you sure?

11 A. I'm sure.

12 Q. How come?

13 A. Because I have faith in the team that runs the business,  
14 because we've seen that the cash flow is maximized by doing

03:50:27 15 re-aging. We know that it certainly helps customers, and it  
16 fulfills our goals; and, most importantly, because in the end  
17 it's all about reserves, and we reserved for re-age, we  
18 reserved enough to protect this company.

19 Q. So if what investors' counsel is suggesting for the last  
03:50:47 20 several weeks had been going on down at the level they like to  
21 focus on, down at the low level --

22 A. Right.

23 Q. -- how would you have been able to see that up at the  
24 level you were at?

03:50:55 25 A. Well, I wouldn't see what happens day-to-day. You know,

1 as we back up for a second, there are five major businesses,  
2 and we've got 48 million customers and 33,000 employees. So

**TAB A-2**

Page 1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

---

LAWRENCE E. JAFFE PENSION )  
 PLAN, on Behalf of Itself and )  
 All Others Similarly Situated, )  
 )  
 Plaintiffs, )  
 vs. ) Lead Case No. 02-C-5893  
 )  
 HOUSEHOLD INTERNATIONAL, )  
 INC., et al., )  
 )  
 Defendants. )

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VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION  
OF  
CHARLES CROSS  
CONFIDENTIAL

---

9:02 A.M.  
APRIL 9, 2008  
1515 COMMERCE STREET  
TACOMA, WASHINGTON

REPORTED BY: JULIE R. HEAD, CRR, RPR, CCR No. 3119

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A P P E A R A N C E S

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1 A. Yes.

2 Q. Okay. Now, is it correct that the report that

3 is Cross 3 was based on complaints that had been made or

4 you found over a 22-month period, from May 2000 to

5 February 2002?

6 A. Largely.

7 Q. All right. And when you say largely, let me

8 just point out to you -- not that it's necessarily

9 inconsistent with it -- with what you've just said --

10 but at -- if you'd look at Cross 2, the second day, page

11 279, eight to 17.

12 It's a little unclear from this -- and maybe

13 you should just read lines eight to 17 -- but I gleaned

14 from it, and I want to make sure I understand it, that

15 the complaints were from May 2000 to February 2002. So,

16 correct me if I'm wrong on that and give me the right

17 dates.

18 A. Well, this is talking about when the start of

19 the first complaint contained within the report --

20 Q. Yeah, that's what I'm asking about. The --

21 The -- That's what I'm really asking about. The report

22 itself is based -- I'm not asking about any other things

23 outside the report, just, on the report itself, they

24 were based upon the complaints over this -- The

25 question, here -- math is not as good -- I called a

1 18-month period. I think it was a 22-month period. But

2 is that right, the time period, May 2000 to

3 February 2002?

4 A. Well, you asked a couple of different

5 questions there. First, you asked the question you

6 asked --

7 Q. Answer any of them.

8 A. Okay. Answer to the first one is, again,

9 largely. And the answer to the second one is: I

10 believe you had these dates accurate.

11 Q. Thank you.

12 Now, the report itself says this, but I just

13 want to make sure that the record's clear on this. The

14 statements and findings in the report were based on a

15 review -- part, in any event -- of documents that were

16 conducted -- that were reviewed in July 2001 at a

17 Household storage facility in Elmhurst, Illinois. It

18 says it right on page one of the report.

19 A. You're talking about the report that preceded

20 this report?

21 Q. No. I'm talking about this report itself.

22 If you look at the third paragraph of Cross

23 Exhibit 3, it actually says that. I just wanted to make

24 sure that that was accurate.

25 A. No. What you said is not accurate. What the

1 report says is accurate. But paragraph three is

2 referencing the report that preceded this report.

3 Q. I see. Okay. Then I didn't understand it

4 correctly.

5 And this report -- that is, Cross 3 -- and I

6 should have made -- understood that from the way it's

7 actually said there, but I apologize -- this report, was

8 it based upon any further review of documents of

9 Household?

10 MR. BAKER: Objection as to form.

11 A. What do you mean?

12 MR. SLOANE: What's your objection to the

13 form?

14 MR. BAKER: Further review. I don't think

15 he's ever said that there was any --

16 MR. SLOANE: Just then take out the word

17 further. Still got the objection?

18 MR. BAKER: I like my objection.

19 A. I think the answer is yes, then. Because,

20 without further, it would be is this based on any review

21 of documents from Household.

22 Q. (BY MR. SLOANE:) Okay. Yes.

23 Let me get -- Let me ask it a little

24 different. It's very imprecise.

25 MR. BAKER: So unlike you.

1 MR. SLOANE: Thank you.

2 Q. (BY MR. SLOANE:) You -- Did you go back to

3 any storage facilities or any other facilities of

4 Household to review any additional documents prior to

5 issuing this report; that is, Cross 3?

6 A. No -- No, I did not go to any Household

7 facilities.

8 Q. Okay. We'll get to the other stuff later. I

9 understand where you're going with that.

10 Okay. Now --

11 A. I didn't finish, though. But to review any

12 documents --

13 Q. I understand. I just -- I'm trying to get

14 through where I want to go and I'll -- I'll certainly

15 give you a chance to say whatever you want, but you'll

16 see, I'll -- I'll get you a chance to answer that

17 question.

18 A. I don't need to say anything. I just want to

19 make sure I was accurate in what I said.

20 Q. Okay. Good. Good. I think that's important.

21 Now, if you -- if you look at the report, page

22 one, it references, in the fine -- in the penultimate

23 paragraph, that Household had more than 400,000 customer

24 accounts and 2.3 billion in financing to Washington

25 consumers in 2001. Did you see that?

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1 A. Yes.

2 Q. And do you have any basis for believing that

3 statement -- or did you, at the time, have any basis for

4 believing that statement was not true?

5 A. That statement would be based on information

6 provided to the department by Household, and I have no

7 reason to believe it is not true.

8 Q. Okay. And, as I understand it, there were --

9 there was a response given by Household which we'll mark

10 as Cross 4.

11 (Cross Exhibit 4 was marked for

12 identification.)

13 MR. SLOANE: Take them all. I don't --

14 MR. BAKER: Okay. So, you have the cover -- a

15 cover letter, too, with it? Is that what you got on it?

16 MS. MARTIN: Looks like a July 1, 2002 cover

17 letter --

18 MR. BAKER: All right.

19 MS. MARTIN: -- followed by a response that's

20 marked confidential.

21 MR. BAKER: Right.

22 Close, but no cigar. All right. It didn't

23 have the cover letter.

24 MR. SLOANE: You had time to mark that?

25 THE REPORTER: Yes, I have.

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1 number of loans made. Now, did you -- or do you have

2 any basis for believing that any of the numbers, there,

3 on the number of complaints and the number of loans made

4 were or are inaccurate?

5 A. Today, I have no reason to believe that I --

6 You know, I can't tell you whether they reconcile

7 accurately or not, but I have no reason to believe,

8 today, that -- I don't remember them -- then being

9 inaccurate when I looked at them --

10 Q. Okay.

11 A. -- umpteen years ago.

12 Q. Why don't you look at Cross 2, page 395, 11 to

13 22.

14 MS. MARTIN: I apologize, Counsel, you said

15 lines what? 11 --

16 MR. SLOANE: 11 to 22.

17 MS. MARTIN: Thank you.

18 Q. (BY MR. SLOANE:) There's a colloquy there

19 and -- about what I will represent to you is the same

20 exhibit in page four and there's a statement, lines 21

21 to 22: "Do you have any reason to disagree with those

22 numbers?" And they're referring to part of the numbers

23 on this page. And you testified, quote, "They appear

24 accurate," unquote.

25 Was that your testimony at the time?

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1 Q. (BY MR. SLOANE:) Do you recognize this

2 document, without going page by page, Mr. Cross?

3 A. Yes.

4 Q. Okay. Now, if you turn to page four of the

5 document.

6 MS. MARTIN: Of the underlying document?

7 MR. SLOANE: Yes.

8 MS. MARTIN: Okay.

9 MR. BAKER: So, it's Bates number ending in

10 63; is that right?

11 MR. SLOANE: No, it's Bates number ending in

12 75. At least -- I may have a different copy, so -- Yes,

13 it's 63, absolutely.

14 MS. MARTIN: Yeah, okay.

15 MR. SLOANE: Shame on you for giving me

16 another copy with another Bates number so you could --

17 MS. MARTIN: There's a xerox person somewhere

18 who's --

19 MR. SLOANE: You know what they're trying to

20 do? It's because I'm old. They're trying to confuse

21 me.

22 Don't get that on the record.

23 If you -- Back on the record.

24 Q. (BY MR. SLOANE:) Do you -- You see down in --

25 There's a tabular column with number of complaints,

Page 36

1 A. It was, and I would trust that -- This -- If

2 you're looking for accuracy, that would be accurate.

3 Today, I couldn't tell you. So, if I thought they were

4 accurate at that time, then I -- I would say they were

5 probably accurate.

6 Q. Okay. Now, in connection with the -- with the

7 examination that occurred at that time, there was

8 some -- I'll just represent this to you -- and I can

9 show you the pages -- but there was some reference to

10 the number of loans made in the period of 2000 to 2001,

11 and, if you look at -- at Exhibit -- whatever we just

12 looked at -- the response, Cross 4, if you look at page

13 four, you'll see, in 2000, 2001, respectively, there

14 were 8,817 loans and 8,674 loans, which my math,

15 double-checked, equals 17,591 loans.

16 Now, in 2000, this document reflects that

17 there were 17 complaints -- and I can show you the

18 testimony if you want, but the -- and 2001, 22

19 complaints for a total of 39 complaints in that time

20 period. Does that -- To the best of your recollection,

21 was that accurate?

22 A. Yes. I don't have much recollection about

23 these numbers, but I -- I think that -- at the time, I

24 think I was comfortable that everything was accurate.

25 Q. Okay. Now, if you want to look -- I'll show

1 Would you look at page 399 of Exhibit 2, and  
2 lines ten to 11, and, in connection with a question, you  
3 gave the answer: "I think the report doesn't attempt to  
4 make any statistical analysis," end of quote.

5 Did you give that answer and was it accurate  
6 at the time?

7 A. I gave that answer. That's kind of a goofy  
8 answer.

9 Q. Was it accurate at the time?

10 A. I think -- I was being truthful.

11 Q. That's all I want to know.

12 A. I was being truthful at the time.

13 Q. Would you agree with me that the 19 complaints  
14 that you looked at was a woefully inadequate population  
15 to draw from?

16 A. That sounds like something I would have said.

17 Q. Let's look at it so I'm not misquoting you or  
18 mischaracterizing it.

19 If you look at page 398 of Exhibit 2, and you  
20 were asked the following question, line 22:

21 "Do you have any opinion whether a sample of  
22 19 complaints out of a population of thousands and  
23 thousands of complaints would be statistically  
24 significant?"

25 Answer: "I would say, without having any

1 remote claimed expertise in this area, that anybody who  
2 was a statistician or knew anything about statistics  
3 would tell you that that was a woefully inadequate  
4 population to draw from."

5 Did you give that answer and was it accurate  
6 at the time?

7 A. Yes, and yes. And, remember -- The reason I  
8 remembered this is because you said -- you quoted this  
9 to me just a little while ago, before we -- earlier on  
10 in my deposition, so --

11 Q. Yes.

12 Would you agree with me, notwithstanding the  
13 number of complaints that -- Well -- Well, let me  
14 withdraw the question. This is not your testimony,  
15 here, but I'm asking you a little different question.

16 Would you agree with me that 19 complaints out  
17 of a total of the number of loans that you looked at or  
18 that -- I'm sorry -- that were made by Household in the  
19 time period that you reviewed was a woefully inadequate  
20 statistical sample?

21 MR. BAKER: Objection as to form.

22 A. If you're -- If you're trying to say that  
23 it -- that it --

24 Q. (BY MR. SLOANE:) I'm not -- Let me -- Let me  
25 interrupt you.

1 I'm not trying to say anything. I'm asking  
2 you a question, and that's all you have to do, is answer  
3 the question to the best of your knowledge.

4 You want to read it back? I didn't mean to  
5 interrupt you, but --

6 You seem to suggest that I was trying to put  
7 words in your mouth. I'm not. I just want to know your  
8 answer.

9 (Record read as follows:

10 Q. "Would you agree with me that 19  
11 complaints out of a total of the number  
12 of loans that you looked at or that were  
13 made by Household in the time period  
14 that you reviewed was a woefully  
15 inadequate statistical sample?")

16 MR. BAKER: Same objection.

17 A. I'm not sure how you're using statistical  
18 sample. And I notice that I used it -- I think  
19 previously -- or they asked me the question about it,  
20 but -- And a --

21 Q. (BY MR. SLOANE:) Why don't you answer it in  
22 your own words.

23 A. Okay.

24 Q. Maybe we can get there easier.

25 A. All right. In a classic sense of doing

1 statistical analysis, yes, I think -- as I said, here,  
2 anybody who does stats would say, "Well, you can't use  
3 19 out of a giant population to say this is  
4 statistically representative of something," but I don't  
5 think I ever did say that, so, I would say yes to you,  
6 and I apparently said yes back then, so -- Yeah. Yes.

7 Q. Okay.

8 In the work that you did in connection with  
9 this report, did you make any effort to determine the  
10 number of complaints in reference to the total amount of  
11 loans in any particular year?

12 A. I knew the number of complaints in each year  
13 and I knew the number of loans in each year. I don't  
14 think I needed to make any -- and I knew that, so, I'm  
15 not sure I needed to make an attempt to do it.

16 MR. SLOANE: Reask the question -- Let me have  
17 the question reread and maybe you've answered it or  
18 maybe you've not. Let's see.

19 A. Okay.

20 (Record read as follows:

21 Q. "In the work that you did in  
22 connection with this report, did you  
23 make any effort to determine the number  
24 of complaints in reference to the total  
25 amount of loans in any particular

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1 controlled by Household, contained within a certain  
 2 environment or picture that they had -- had painted, and  
 3 I know that -- that to the extent that an agency not  
 4 being a person can lose sort of patience with that  
 5 process, we had reached a point where we had -- where we  
 6 had lost patience with it. We were no longer interested  
 7 in -- in having the dialogue that they kept insisting  
 8 that they wanted to have.

9 Q. (BY MR. SLOANE:) Would you look at page 246  
 10 of Exhibit 2, lines 15 to 25.

11 Question: "So, as of the time that you sent  
 12 out this expanded report, you had made your findings and  
 13 opinions and you were not interested in revisiting them,  
 14 were you?"

15 There's an objection.

16 The Witness: "Personally, no, I wasn't too  
 17 interested in that because I had done my job and was  
 18 ready to move to the next stage. As far as what the  
 19 director was interested, I would have to leave that to  
 20 him to answer."

21 Did you give that testimony and was it  
 22 accurate at the time?

23 A. Yes and yes.

24 Q. Let me direct your attention to Exhibit 2,  
 25 page 371. It actually starts -- Let's start at page

Page 87

1 complaints.

2 Q. And if you had credited, in any respect,  
 3 Household's word over the word of the borrowers, that  
 4 would be in the report; isn't that right?

5 A. Not necessarily, no.

6 Q. Well, would you look at page 391, line 21 of  
 7 Exhibit 2.

8 A. Line number?

9 Q. Line number 21.

10 A. Thank you.

11 Q. 391. I'm going to go from 391, 21, to 392, 2.  
 12 The question was asked: "Can you recall any instance in  
 13 discussing the 19 loans that are at issue in this report  
 14 that's Exhibit C where you took Household's word over  
 15 the word of the borrower as to what facts occurred?"

16 Answer: "I don't remember. I also have to  
 17 let the report speak for itself. If I did do that, it's  
 18 probably in there."

19 Did you give that testimony and was it  
 20 accurate?

21 A. I gave the testimony. There's two huge  
 22 qualifiers in there: I don't remember and probably.  
 23 But, to the best of my ability, I was giving a truthful  
 24 answer at that time.

25 Q. Okay. And let me continue on a little bit to

Page 86

1 371. You can read as much as you want. I'm focused on  
 2 lines ten to 13. And the question was asked: "In other  
 3 words, your report is just dealing with problems and  
 4 negative issues, not the positive side of the business?"

5 Answer: "Absolutely."

6 Did you give that testimony at that time and  
 7 was it accurate?

8 A. Yes.

9 Q. Yes to both?

10 A. Yes to both.

11 Q. Okay.

12 Off the record.

13 (A discussion was held off the record.)

14 Q. (BY MR. SLOANE:) Is it accurate to say that,  
 15 of the 19 reports -- 19 complaints and loans listed in  
 16 your report, there wasn't a single instance, in  
 17 connection with those loans, in which you took  
 18 Household's word over that of the borrower as to what  
 19 had occurred?

20 A. Boy, hum. I don't recall, but that -- It  
 21 would be uncommon for me to take a hundred percent of  
 22 what the borrowers' said and nothing of what Household  
 23 said, but, generally, as -- as the complaints supported  
 24 the violations or harms we were noting, I believed the  
 25 consumers more than I believed Household in those

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1 short-circuit this and see if, again, this is something  
 2 that you testified to and you believe was accurate.

3 It continues on line -- on page 392 of  
 4 Exhibit 2.

5 The Witness: "No, maybe from your" -- dash,  
 6 dash -- "I understand you have a different perspective  
 7 than from my perspective" --

8 And here's the part I wanted to ask you about:  
 9 "I don't know how that's -- it wouldn't have been  
 10 relevant to me. This is not a report about good things  
 11 Household did or the things that Household and us were  
 12 in agreement on. It's the things" -- dash, dash --  
 13 "it's about the harmful things Household did and the  
 14 things" that were -- "that we were in disagreement on."

15 Did you give that testimony and was it  
 16 accurate at the time?

17 A. Yes and yes.

18 Q. Would you look at page 393, lines two to 13.  
 19 The question was asked: "And are you telling me that,  
 20 with respect to those 19 complaints and that analysis,  
 21 you would have excluded any of the information that was  
 22 favorable to Household just as you did in the more  
 23 general discussion about Household?"

24 There's an objection.

25 The witness says, "Yeah, likely. Unless it

1 was relevant to the argument of the point I was trying  
2 to make, there would be no point to put it in."

3 Question: "What was the argument of the point  
4 you were trying to make?"

5 Answer: "That these consumers were harmed."

6 Did you give that testimony and was it  
7 accurate at the time?

8 A. Yes and yes.

9 MR. SLOANE: Okay. I'm told we have about  
10 five minutes left on the tape, so, why don't we change  
11 it now, and I guess it would be a good idea to take a  
12 short break just because of that, if that's all right.

13 A. Sure.

14 THE VIDEOGRAPHER: We are now going off the  
15 record in the continuing deposition of Charles Cross.  
16 This is the end of tape one. The time is now 11:06 a.m.

17 (Off the record at 11:06 a.m.)

18 (Back on the record at 11:23 a.m.)

19 THE VIDEOGRAPHER: We are now back on the  
20 record in the continuing deposition of Charles Cross.  
21 This is the beginning of tape two. The time is now  
22 11:23 a.m.

23 Q. (BY MR. SLOANE:) Mr. Cross, let me ask you  
24 this question: Is it correct to say that the purpose of  
25 your report, which is Exhibit 3, was not to come to the

1 relevant, it might be another question, but you didn't  
2 ask that, so --

3 Q. (BY MR. SLOANE:) And is it also fair to say  
4 that -- that in connection with your work, that it was  
5 not a significant part of your examination to review any  
6 of the Household policies or training manuals or  
7 bulletins about practices that it should or should not  
8 engage in?

9 A. I -- I don't believe so, in the writing of  
10 this report. I believe, subsequent to this report,  
11 we -- using that term loosely -- spent more time in that  
12 area.

13 Q. Okay. At the time that you did this report  
14 and investigation, was it your view that a company  
15 should be held responsible for the acts of a single  
16 individual employee?

17 A. Yes.

18 Q. And would, as you -- as you -- If you want to  
19 expand on that, go ahead. I don't want to interrupt  
20 you.

21 A. Depends -- The acts being done within the  
22 company. They're not responsible for the guy owning a  
23 home and, you know, kicking the dog or something.

24 Q. Yeah, I understand.

25 And would that -- those acts, in your

1 fairest overall appraisal of all of Household's  
2 practices as to all of its borrowers in the state of  
3 Washington?

4 A. Yes.

5 Q. That was not the purpose of this report?

6 A. That was not the purpose of the report.

7 Q. Okay. Did you think, in connection with the  
8 work you did for Household, that it was relevant for you  
9 to know about what Household's actual policies were  
10 about how it communicate -- communicated information to  
11 its customers, question mark?

12 MR. BAKER: Objection. Vague. Objection as  
13 to form.

14 MR. SLOANE: Could I have the question reread?  
15 Re may be right, but it's probably wrong.

16 (Record read as follows:

17 Q. "Did you think, in connection with  
18 the work you did for Household, that it  
19 was relevant for you to know about what  
20 Household's actual policies were about  
21 how it communicate -- communicated  
22 information to its customers, question  
23 mark?")

24 MR. SLOANE: It's okay.

25 A. I would say yes, I think it's relevant. How

1 understanding, by that individual, be, in your view, a  
2 company practice?

3 A. Very well could be, yes.

4 Q. Okay. Now, in connection with the  
5 investigative work that you did of Household and -- You  
6 didn't operate under any presumption that borrowers had  
7 a responsibility to review the terms of any documents  
8 they signed; is that correct?

9 A. I think that is incorrect, if I -- if I  
10 understand your question.

11 Q. Well, for the purposes of your regulatory  
12 jurisdiction, you don't operate under any presumption  
13 that borrowers have a responsibility to review the terms  
14 of the documents they sign; is that fair?

15 A. There's a -- There's a -- somewhat of a  
16 complex answer to that.

17 I did not have jurisdiction over borrowers or  
18 borrowers' actions. We -- In the agency's normal course  
19 of reviewing, investigating, resolving complaints, there  
20 was a lot of discussion about the level to which  
21 borrowers had a responsibility to go to -- to -- to  
22 determine if the transaction was appropriate for them,  
23 and so forth. So, there was a lot of -- a lot of  
24 agency, a lot of division, a lot of unit discussion  
25 about that. And all of that would have -- Everything --



**TAB A-3**

17 Q. Regarding Mr. Hueman's video, you wrote, You definitely  
18 need to review the video as Dennis is teaching some practices  
19 that need to be addressed. Besides what we've already talked  
10:59:37 20 about, he has a sales practice called, quote, trap selling,  
21 end quote, where he talks about, quote, trapping the customer,  
22 a very predatory-sounding practice even if that isn't the  
23 objective.

24 That's what you wrote, sir; isn't that correct?

10:59:52 25 A. That is correct.

Detelich - direct

1785

1 Q. Now, you're aware, are you not, that -- I think you  
2 testified that Mr. Hueman trained his branch managers, right,  
3 during this time period?

4 A. Yes.

11:00:03 5 Q. And, in fact, you sometimes went on training missions with  
6 Mr. Hueman, didn't you?

7 A. That's right.

8 Q. Now, you didn't think that the video that Mr. Hueman made  
9 was necessarily harmful to customers, just that it wasn't  
11:00:34 10 approved by the company, right?

11 A. Actually I thought it was pretty outrageous.

12 Q. You didn't think it was harmful to customers though, did  
13 you?

14 A. It wasn't harmful to customers only because we retracted  
11:00:44 15 it before it was ever used with customers.

16 Q. What about all the training that Mr. Hueman did on the  
17 trap selling to all of the branch managers around the country?  
18 what about that?

19 A. There was no evidence that Dennis ever did any training of  
11:00:57 20 what was contained in that video with employees and customers.

21 Q. Okay. Let's take a look at Mr. Hueman's video, clip  
22 number one.

23 (Whereupon said tape was played in open court.)

24 BY MR. BURKHOLZ:

11:02:41 25 Q. That's the video that you observed at the time, right,  
Detelich - direct

1786

1 sir?

2 A. Yes, it is.

3 Q. And you have no knowledge at all, no personal knowledge at  
4 all, of any investigation by Household into Mr. Hueman's  
11:02:53 5 training practices, correct?

6 A. No, that's not correct.

7 Q. Okay. Let's -- you had your deposition taken in this  
8 case, right? We talked about that earlier?

9 A. Yes.

11:03:02 10 Q. You testified truthfully under oath, right?

11 A. Absolutely.

12 Q. I'd like to show you a portion of that deposition, Page  
13 132, Line 10 to 133, Line 18.

14 (Whereupon said tape was played in open court.)

11:03:51 15 BY MR. BURKHOLZ:

16 Q. And that was your testimony in this case, correct, sir?

17 A. That's correct, yes.

18 Q. Now, you were outraged by Mr. Hueman's video, right?

19 A. That's right. I had that tape recalled in a matter of 40,  
11:04:50 20 60 hours.

21 Q. Got all those tapes back, right?

22 A. We did indeed.

23 Q. Outraged by it that he could talk about trap selling a  
24 customer, right?

11:04:58 25 A. That he would use that -- such a phrase, yes.

21 were head of Consumer Lending at Household?

22 A. Neither.

23 Q. Why?

24 A. Because the distinction is slight -- it is, indeed, just a

01:20:29 25 couple of words -- the likelihood of a consumer

Detelich - cross

1835

1 misunderstanding it was too high. So, we did not permit any  
2 discussion of comparing that rate, even when it was absolutely  
3 accurate.

4 Q. Could a Household customer go any place to do an effective  
01:20:54 5 rate calculation on their own? Was the information available  
6 elsewhere, Mr. Detelich?

7 A. Oh, yes. Yes. It's available -- it was available then.  
8 It's available today. These sorts of calculations are on the  
9 Internet, fairly easily attained.

01:21:12 10 And, again, without a purpose of misleading people,  
11 of simply helping somebody understand the comparison of the  
12 amount of interest you would pay on a 30-year loan fully  
13 amortized over 30 years versus paid biweekly.

14 Q. Thank you.

01:21:27 15 If you could dig out of your pile, Mr. Detelich,  
16 Plaintiffs' Exhibit 41, which you were asked about this  
17 morning.

18 A. Not there yet.

19 Did you go further down in the deck?

01:22:21 20 Q. Could be.

21 A. Okay. I have it.

22 Q. And investors' counsel -- you were asked some questions by  
23 investors' counsel about this document.

24 Do you remember that?

01:22:38 25 A. Yeah, I do.

17 sales practices, including verbal and written presentations,  
18 never stray from our approved practices."

19 why was that topic on the agenda, Mr. Detelich?

01:29:38 20 A. If you don't mind, I'll point out you skipped the last  
21 bullet point under the objectives, which I think is very  
22 important: "Discuss and agree to best practices to ensure 100  
23 percent compliance with all of our policies and procedures."  
24 I just want to make sure that was clear.

01:29:55 25 And, again, this was a time when there was, you know,  
Detelich - cross

1841

1 significant discussion and the environment was focused on this  
2 concept, undefined as it was at that time, of predatory  
3 lending and the difference between non-prime lending,  
4 predatory lending, which practices fit into which categories.

01:30:15 5 And our belief was bringing our team together, making  
6 sure we understood the distinction, which policies and  
7 practices we had to examine -- even if they were within our  
8 existing policies -- examine them, and be sure that we had the  
9 best practices in the industry; and, if not, what changes did  
01:30:34 10 we have to make?

11 Q. Mr. Detelich, did you ever believe that Household was a  
12 predatory lender?

13 A. No.

14 Q. Why not?

01:30:41 15 A. I never believed that.

16 Q. Why not?

17 A. Everything we did during this time, before that time and  
18 since that time as an organization was focused on benefitting  
19 the customers. If you look at our practices, the things that  
01:30:56 20 we did around net tangible benefits tests, our practices

21 around insisting on income documentation on every single loan.  
22 No stated income, no adjustable rate mortgages, none of these  
23 loans that just aren't good for customers. Our loans were the  
24 right loans for the right customers. That was the way we  
01:31:14 25 believed this business should be run. We believed it then,

Detelich - cross

1842

1 believe it today.

2 Q. Now, why was this topic on the bottom we just came to, "to  
3 ensure that our sales practices never stray from our approved  
4 practices," why was that on the agenda?

01:31:34 5 A. We had evidence in the period of time, roughly four  
6 months, maybe five months -- not entirely clear, but somewhere  
7 in that relatively compressed time frame -- of an increase in  
8 customer complaints about a sales practice that revolved  
9 around this effective rate issue and, through our compliance  
01:32:02 10 and quality efforts, had discovered documents or sales  
11 documents that were unapproved.

12 So, that was happening in the weeks that preceded  
13 this summit. And we felt it was important that we gathered  
14 together to discuss exactly how that was happening.

01:32:21 15 Q. And when you discovered these unauthorized forms,  
16 Mr. Detelich, did you do any investigation to find out whether  
17 any other customers had been affected by these unauthorized  
18 forms?

19 A. We did that a number of times, yes.

01:32:36 20 Q. What did you do?

21 A. One example was in the Bellingham, Washington, market  
22 where we had good evidence that one branch in particular was  
23 using an effective rate presentation in their sales practices.  
24 And in that branch, we contacted every single customer for

01:32:55 25 every loan made over a period of time. And I don't recall the

01:33:13 1 exact time frame, but it was a matter of several months; that  
2 is, if their loan originated any time in this period of  
3 several months. And in that case if any customer said any  
4 triggering word like "effective rate" -- if that word came  
5 out, the instructions were we were to give them whatever rate  
6 they said they were promised, no questions asked.

7 If they gave -- and even if they didn't use  
8 "effective rate," if they did -- if they made any kind of  
9 statement where they alleged that their rate -- the rate they  
01:33:28 10 were promised -- was something less than what the rate we gave  
11 them, any rate, we gave them that rate. We just lowered the  
12 rate and we backed it up to the date of the loan.

13 And we did that sort of investigation in other  
14 markets, as well.

01:33:41 15 Q. And these were customers who hadn't complained at all,  
16 correct?

17 A. These were customers who would have been hearing from us  
18 and had never complained and maybe not -- and maybe didn't  
19 have any complaint even after we called.

01:33:53 20 Q. And you just lowered their rates to whatever it is they  
21 thought they might have had?

22 A. That's correct.

23 Q. In the midst of this period, Mr. Detelich, did you ever  
24 discover the source of these unapproved or unauthorized forms?

01:34:12 25 A. We dis- --

1 MR. BURKHOLZ: Objection. Leading.

2 BY MS. BUCKLEY:

3 Q. Did you ever discover the source of these unauthorized or  
4 unapproved forms, Mr. Detelich?

01:34:19 5 A. We discovered a number of sources for these forms,  
6 including, we are certain, that when we made an acquisition in  
7 March of 2000 of a business -- Bank One's consumer finance  
8 business -- that they had computers that we inherited through  
9 that acquisition that had this effective rate on the  
01:34:47 10 computers.

11 We also learned from some of our employees of this  
12 notion of the access on the Internet. And several of our  
13 employees went on and investigated and did, indeed, find the  
14 easily available effective rate documentation on the Internet.

01:35:05 15 Q. Investors' counsel asked you this morning about a  
16 direction you gave to destroy and remove unauthorized forms  
17 from the branches.

18 Do you remember that?

19 A. I do.

01:35:20 20 Q. And why did you do that, Mr. Detelich?

21 A. So, this time period, if you kind of picture from roughly  
22 January of 2001, to roughly May, beginning of June of 2001, we  
23 had a case pop up in one state. We did the kinds of things  
24 that I described to you earlier. An investigation, find out

01:35:45 25 what happened, somehow destroy the documents, take whatever

Detelich - cross

1845

1 corrective action we needed.

2 Then it pops up in another state or somewhere else in  
3 onesie, twosies -- one or two -- issues or one employee in a  
4 branch, in one branch in one district. This happened a few  
01:36:03 5 times.

6 Coming into this meeting, my belief was we could be  
7 fighting that battle of somebody getting access to one of



8 these sales techniques from Lord knows where and we could be  
9 fighting this forever; or, we could try in one action,  
01:36:22 10 identify everywhere where these forms might exist, if  
11 anywhere, but to do it in a way that was thorough and in a  
12 very compressed period of time.

13 And, essentially, the direction was to go into the  
14 branches, the district managers, and open every drawer, look  
01:36:39 15 on every filing cabinet, on every shelf space and, if there  
16 was anything that was unapproved, stale dated or outdated, to  
17 remove it and destroy it.

18 Q. And what was the effect of this direction that you gave to  
19 destroy these unauthorized forms?

01:36:54 20 A. The -- almost immediately there were no further -- no  
21 further -- cases where in a quality effort or in any other  
22 audit or state exam or anything else where unapproved sales  
23 documents were present. Almost immediately.

24 Q. So, it worked?

01:37:16 25 A. I believe it worked.

Detelich - cross

1846

1 Q. Did you direct branches to destroy any customer  
2 complaints, Mr. Detelich?

3 A. No.

4 Q. Did you direct branches to destroy any customer loan  
01:37:26 5 forms, Mr. Detelich?

6 A. No.

7 Q. As a matter of fact, from what we learned this morning,  
8 the originals of the loan forms wouldn't even be in the  
9 branches; is that right?

01:37:35 10 A. Not only -- no loan documents, no customer communication  
11 is retained in the branches.

**TAB A-4**

02:39:01 25 A. I was asked to assume that the -- that the -- company  
Devor - direct

2409

1 engaged in improper lending practices; and, therefore, what  
2 were the reporting responsibilities of the company, as a  
3 result of that.

4 Q. And were you also asked to make a determination of amounts  
02:39:25 5 attributable to predatory lending practices between 1999 and  
6 2002?

7 A. I was.

8 Q. Okay.

9 Let me first ask you: what was your conclusion  
02:39:35 10 regarding Household's disclosures regarding predatory lending?

11 A. That they were, in some cases, non-existent and certainly  
12 inadequate.

13 Q. Okay.

14 And let me ask you: Did you also make an effort to  
02:39:51 15 quantify the amount of revenue that Household had recorded,  
16 that was attributable to loan splitting, misrepresenting loan  
17 fees and points, misrepresenting interest rates, insurance  
18 packing and imposing prepayment penalties during the relevant  
19 time frame?

02:40:07 20 MS. BUCKLEY: Objection, your Honor.

21 THE COURT: The basis?

22 MS. BUCKLEY: The subject of your MIL on revenue  
23 recognition.

24 THE COURT: Overruled.

25 BY MR. DOWD:

Devor - direct

2410

1 Q. You can answer.

2 A. Okay.

3 I just have to remember the question.

4 Q. Do you want me to --

02:40:25 5 A. No, I got it.

6 The answer is: Yes, I did.

7 Q. Okay.

8 And what was the amount that you came up with?

9 A. Approximately \$3.2 billion.

02:40:37 10 Q. Okay.

11 And, generally, how did you arrive at that \$3.2  
12 billion number?

13 A. I used computations that were done by the company.

14 Q. Okay.

02:40:46 15 And did you look at that 3.2 billion for -- was that  
16 for the period from 1999 through the second quarter of 2002?

17 A. It was.

18 Q. Okay.

19 And approximately what percentage of Household's  
02:41:11 20 revenues were attributable to improper lending practices  
21 between the beginning of 1999 and the second quarter of 2002?

22 MS. BUCKLEY: The same objection, your Honor.

23 THE COURT: Overruled.

24 MS. BUCKLEY: I'd request a sidebar.

02:41:28 25 THE COURT: Sure.

□

Devor - direct

2411

1 BY MR. DOWD:

2 Q. You can answer.

3 THE COURT: well, we're going to have a sidebar.  
4 Counsel's asked for a sidebar.

02:41:33 5 MR. DOWD: Oh.

6 (Proceedings had at sidebar:)

12 This is the letter from the OCC ombudsman, the step after the  
13 OCC, correct, Mr. Devor?

14 A. I believe so.

11:10:13 15 Q. All right. Let's take a look at the second part under  
16 AFL-CIO.

17 Go down to the second paragraph. The OCC and the  
18 bank agree on the guiding standards under Generally Accepted  
19 Accounting Principles, FASB Statement of Financial Accounting  
11:10:33 20 Concepts No. 5, which require that expenses be allocated in a  
21 systematic and rational manner to the period in which the  
22 related assets are expected to provide benefits.

23 Do you see that, Mr. Devor?

24 A. I do.

11:10:46 25 Q. And then it goes on to say, The OCC concluded that a  
Devor - cross

2537

1 systematic and rational approach is one that recognizes  
2 periodic expense in relationship to the average revolving  
3 receivable balances in the corresponding period. Based on the  
4 bank projections, the OCC determined that an amortization rate  
11:11:04 5 of between 1.1 and 1.3 percent of average revolving balances  
6 would provide this level relationship.

7 And then it goes on.

8 If you skip down to the next paragraph "when  
9 considering." When -- it reads, when considering the criteria  
11:11:25 10 of systematic and rational, the bank applied a concept that  
11 mirrored the economics of an arm's length contract between two  
12 independent parties.

13 And then it goes on to describe the bank, namely here  
14 the Household bank's position.

11:11:40 15 And finally we get to the resolution of the -- or the  
16 comments by the ombudsman on the point, which is in the

17 paragraph beginning "the accounting standards."

18 Do you see that?

19 A. Yes.

11:11:52 20 Q. The accounting standards and principles relevant to this  
21 transaction are not specific. Therefore, when considering the  
22 bank's and OCC's methods, I believe that there exists a  
23 legitimate difference of opinion regarding a systematic and  
24 rational approach to accounting for this very complex  
11:12:08 25 transaction.

Devor - cross

2538

1 Do you agree with that sentence, Mr. Devor?

2 A. Let me just reread it one more time.

3 Q. Okay.

4 (Brief pause.)

11:12:18 5 BY THE WITNESS:

6 A. I believe that there is GAAP, which is just discussed  
7 above by this -- by this ombudsman, that relates and is very  
8 much on point. So I believe actually that -- I don't  
9 necessarily agree. The systematic and rational expensing of  
11:12:52 10 this asset is covered very clearly by FASB Con. 5. Remember,  
11 this company was not amortizing this asset at all.

12 BY MS. BUCKLEY:

13 Q. So you're disagreeing with the OCC ombudsman; am I right?

14 A. I mean, my testimony is exactly as I just stated. You  
11:13:11 15 know, I didn't meet with the ombudsman, so I don't know what  
16 he was considering.

17 But I will tell you that just above, if you look at  
18 the second paragraph, they are very explicit in saying FASB  
19 Statement of Financial Accounting Concept No. 5 requires that  
11:13:28 20 expenses be allocated in a systematic, rational manner to the

21 period in which the related assets are expected to provide  
22 benefits. This asset wasn't being amortized at all.

23 Q. So you don't think it was systematic and rational?

24 A. Leaving an asset on the balance sheet, no, I do not.

11:13:46 25 Q. And the OCC ombudsman thought it was, correct?

Devor - cross

2539

1 A. Well, wait a minute. I'm not sure it says that. Let me  
2 read it again. I don't think they're saying that it is  
3 systematic.

4 They're saying they believe there's a legitimate  
11:14:02 5 difference of opinion regarding what a systematic and rational  
6 approach to accounting this is. I don't agree with that.

7 Q. You don't agree that there's even a -- I want to quote him  
8 correctly -- a legitimate difference of opinion?

9 A. I think, you know, if they were amortizing this asset over  
11:14:22 10 four years instead of two years or seven years instead of five  
11 years, I would say there might be a difference of opinion.

12 But they weren't amortizing this asset at all. They were  
13 leaving this asset on the balance sheet and they weren't  
14 amortizing it at all. You know, that, to me, is not

11:14:42 15 necessarily a difference of opinion. I don't agree with that.

16 Q. You don't agree with the ombudsman?

17 A. I don't, in my humble opinion.

18 Q. Do you consider him an expert in accounting?

19 A. Never met the man before.

11:14:53 20 Q. Wouldn't know if the OCC's ombudsman is an expert in  
21 accounting?

22 A. We're talking about Mr. Golden specifically? I don't  
23 know.

24 Q. All right. Let's go on, Mr. Devor, the same paragraph,  
11:15:16 25 beginning, The accounting standards and principles relevant to

8 the due diligence of Wells Fargo into Household for you  
9 to -- strike that.

11:47:06 10 You think it was important to note, Mr. Devor, that  
11 we had this FFIEC issue vis-a-vis Wells Fargo and Household?  
12 A. I wasn't referring before in these documents to the fact  
13 that they needed this to meet regulatory requirements. I  
14 know, for instance, that Wells Fargo said that they needed to  
11:47:30 15 take a \$600 million hit in the consumer lending division,  
16 which was not to comply with regulatory requirements. That  
17 was GAAP.

18 Q. You don't understand that when -- if Household had been  
19 acquired by Wells Fargo, that certain costs would have been  
11:47:52 20 incurred for Household to be FFIEC compliant as Wells Fargo --  
21 because Wells Fargo was a bank?

22 You don't understand that?

23 A. I do understand that, but I guess what I'm trying to say  
24 is a bad loan is a bad loan. Under GAAP, you have to record  
11:48:09 25 the charge also, not just for regulatory.

Devor - cross

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1 Q. You don't think it was important when presenting the issue  
2 of Wells Fargo acquisition that the -- your opinion also  
3 include the notion that there was a different regulatory  
4 environment?

11:48:26 5 A. I was not commenting on the need to book anything that the  
6 company had with respect to -- first of all, I wasn't talking  
7 about reserves. I was talking about the fact that their  
8 re-aging was so significant and aggressive, which I think they  
9 say. And, secondly, I wasn't taking issue with the regulatory  
11:48:50 10 requirements. So why would I comment on it? I wasn't at all  
11 taking issue with that.



12 Q. You just mentioned reserves, Mr. Devor. You'll agree,  
13 will you not, that Household's loan loss reserves were not  
14 inadequate during this period, correct?

11:49:07 15 A. I would not -- I would not agree with that statement. I  
16 would not agree with that statement at all.

17 Q. You don't agree that Household's loan loss reserves were  
18 not inadequate during the relevant period?

19 A. I believe I concluded in my report that the method that  
11:49:27 20 the company used to estimate its reserves, to come up with its  
21 reserve number, was unreliable. And, furthermore, there were  
22 significant indications in the record that it was also  
23 understated. So when you asked me if I would agree that it  
24 was fine, of course, I wouldn't agree that it's fine.

11:49:48 25 Q. You have not offered an opinion in this case that

Devor - cross

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1 Household's loan loss reserves are inadequate, have you?

2 A. I just gave my opinion. The answer is no, I have not  
3 given that opinion. Instead I've said it's unreliable the way  
4 they did, and there are indications that it is understated. I  
11:50:04 5 can't quantify it because I don't have enough information.

6 Q. As a matter of fact, you told us, didn't you, Mr. Devor,  
7 that the issue of Household's loan loss reserves was way  
8 beyond the scope of your retention in this case, right?

9 A. I -- if you're referring to deposition testimony, you  
11:50:22 10 know, it was a year and a half ago. I don't remember if I  
11 said that or not.

12 Q. Was --

13 A. Again, the focus of my attention was on the reporting of  
14 the two-plus delinquency numbers, the improper lending and the  
11:50:34 15 revenue issues with respect to that and the restatement.

16 Those are my opinions.

12                   And he certainly never said that those numbers were  
13 wrong. He believes that, as an accountant, but he hasn't said  
14 it because there is a ruling on it, and it's a different issue  
01:22:10 15 under the law in accounting.

16                   THE COURT: well, I suspect we are at the point where  
17 we are going to be discussing it on Friday. I just -- I  
18 wanted to bring it up. I think, depending on the ruling, we  
19 may have to give a curative instruction. I don't know. We  
01:22:28 20 may have to give a clarifying instruction as to the purpose  
21 for the testimony. But I suspect it's something that we will  
22 have to take up. It's something we are going to have to take  
23 up on Friday, and you should all be prepared to do so.

24                   MR. DOWD: Thank you, your Honor.

01:22:44 25                   MS. BUCKLEY: Yes, your Honor.

Devor - cross

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1                   THE COURT: Let's bring them out.

2                   (Jury in at 1:23 p.m.)

3                   THE COURT: Proceed.

4                   MS. BUCKLEY: Thank you, your Honor.

5                   HARRIS L. DEVOR, PLAINTIFFS' WITNESS, PREVIOUSLY SWORN

6                   CROSS-EXAMINATION - Resumed

7 BY MS. BUCKLEY:

8 Q. Excuse me, Mr. Devor. I need to back up just a tad and go  
9 back to the first issue we were discussing today and just ask  
01:24:16 10 a couple of follow-up questions.

11                   And that was your opinion concerning Household's  
12 restatement as a result of the credit card agreements that you  
13 and I spent a lot of time discussing.

14                   Are you back there with me?

01:24:29 15 A. I am.

16 Q. You would agree, wouldn't you, Mr. Devor, that the fact

17 that a company restates doesn't mean that fraud took place,  
18 correct?

19 A. It doesn't, but certainly many of the cases I have been  
01:24:46 20 involved in, fraud did take place. But it doesn't necessarily  
21 mean that.

22 A restatement is a correction. It doesn't mean that  
23 it was intended to be wrong. But, again, in a lot of cases I  
24 have been involved in, it has been.

01:25:00 25 Q. Okay. Your experience aside, you will agree that a

Devor - cross

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1 restatement per se doesn't imply the existence of fraud?

2 A. It does not. That's correct.

3 Q. You mentioned in the course of our discussion about the  
4 restatement several times that Arthur Andersen had issued a  
01:25:23 5 clean opinion on Household's financials.

6 Do you remember that?

7 A. I do.

8 Q. Could you describe for the jury what a clean opinion is.

9 A. It's an opinion written by the auditors that relates to  
01:25:35 10 the financial statements saying that the financial statements,  
11 taken as a whole, all the financial statements and all the  
12 accounts that are presented thereon, fairly state the  
13 company's financial position and results of operations for  
14 whatever periods they are.

01:25:52 15 Q. So if Arthur Andersen issued a clean opinion for --  
16 withdrawn.

17 You understand that Arthur Andersen issued a clean  
18 opinion, as you would define it, for 1999, correct?

19 A. Yes.

01:26:04 20 Q. And the same for 2000?

21 A. I believe Arthur Andersen's opinions during the period  
22 were all clean, unqualified.

23 MS. BUCKLEY: No further questions, your Honor.

24 THE COURT: Redirect.

01:26:19 25 MR. DOWD: Thank you, your Honor.

Devor - redirect

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1 REDIRECT EXAMINATION

2 BY MR. DOWD:

3 Q. Mr. Devor, just a few quick things.

4 When you were talking about the restatement before,  
01:26:25 5 you mentioned a guy named Cliff Mizialko; is that right?

6 A. Yes.

7 Q. Okay. And I couldn't tell. I thought you said at one  
8 point he worked for Andersen and at one point he worked for  
9 Household. Could you just clear that up for me?

01:26:39 10 A. Back in the early '90s, Mr. Mizialko -- and this is, of  
11 course, based on depositions and things I have read -- worked  
12 for Arthur Andersen. He was the company's outside accountant,  
13 auditor.

14 And at some point, also in the mid-'90s, I believe,  
01:26:56 15 or late '90s, maybe even a little later than that, took a  
16 position with Household in the company.

17 Q. Sir, I just have -- do you have Defendants' Exhibit 315 in  
18 front of you there?

19 A. What's it look like?

01:27:12 20 Q. It's the letter from OCC.

21 A. Sure. Hang on.

22 Q. We can probably pull it up on the screen. That might be  
23 easier.

24 MR. DOWD: Your Honor, could we have the switch?

01:27:26 25 THE COURT: Yes.