

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

LAWRENCE E. JAFFE PENSION PLAN, On)	Lead Case No. 02-C-5893
Behalf of Itself and All Others Similarly)	(Consolidated)
Situated,)	
Plaintiff,)	<u>CLASS ACTION</u>
vs.)	Judge Ronald A. Guzman
HOUSEHOLD INTERNATIONAL, INC., et)	
al.,)	
Defendants.)	
_____)	

**PLAINTIFFS' REPLY IN SUPPORT OF PLAINTIFFS' RESPONSE TO THE SPECIAL
MASTER'S JULY 11, 2013 REPORT AND RECOMMENDATION**

On July 25, 2013, plaintiffs filed their Response to Special Master's July 11, 2013 Report and Recommendation. Dkt. No. 1862. In that response, plaintiffs advised the court of seven claims, with allowed losses in excess of \$250,000 as calculated by the claims administrator, that had failed to submit the supplemental one-page forms, as required, by September 12, 2011. Six of the seven claimants recently submitted the supplemental forms in connection with the notice sent to claimants with allowed losses less than \$250,000. The seventh never received the supplemental form in connection with its claim. Defendants responded to plaintiffs' filing on August 16, 2013. Plaintiffs file this Reply to respond to defendants' filing and to provide the Court with updated information about two of those seven claims and to address an eighth claim that recently came to the attention of counsel for the Lead Plaintiffs.

As an initial matter, defendants contend that plaintiffs should have filed a motion in lieu of plaintiffs' response to the Special Master's Report and Recommendation. Defendants fail to cite a single case, statute or rule in support of their position. In fact, plaintiffs have not done anything procedurally improper. Plaintiffs learned that certain class members had recently submitted one-page supplemental forms to the claims administrator, which were originally due in September 2011. We believe that the Court and the Special Master must be informed of these developments. Admittedly, these claimants are late; however, they are also victims of a securities fraud perpetrated by the defendants. Defendants' claims of procedural impropriety should be rejected.

We have become aware of new information with respect to certain of these claims, which we wanted to provide to the Court in considering these issues. However, in an effort to provide complete information, we will address the status of all eight claims:

1. Claim No. 631113 - In the Response filed on July 25, plaintiffs alerted the Court to historical information regarding Claim No. 631113, which in plaintiffs' view should have allowed that class member an opportunity to submit a supplemental form. After filing the Response,

plaintiffs' counsel contacted representatives of this class member directly. As detailed in the attached Declaration of Richard Reardon, a Vice President with Bank of America, this claim was filed for a Bank of America Pension Plan. Exhibit A. Mr. Reardon confirmed with Bank of America personnel and a representative of BNY Mellon that Bank of America never received a supplemental form for this claim in advance of the September 12, 2011 deadline.¹ In fact, Bank of America did not learn that it needed to respond to a supplemental form for this claim until Mr. Reardon was contacted by plaintiffs' counsel on August 2, 2013. Bank of America responded quickly after learning of the issue. On August 5, the next business day after learning of this situation, Bank of America completed and returned the supplemental form to the claims administrator. (Reardon Decl., Exhibit 1.)

Bank of America's immediate response demonstrates that had it been apprised of the need to submit a one-page supplemental form in June 2011, it would have promptly complied with this requirement. As such, plaintiffs respectfully request that the Court remove Claim No. 631113 from "List 3" and send the claim back to the Special Master to resolve other objections with respect to this claim.²

¹ As detailed in plaintiffs' July 25 Response, two custodians, BNY Mellon and Bank of America, filed claims for this class member. Based on the data available in June 2011, the claims administrator was unable to detect the relationship between these two claims and believed that the claim submitted by BNY Mellon (Claim No. 621202) had an allowed loss in excess of \$250,000, but calculated the allowed loss of the claim submitted directly by Bank of America as less than \$250,000. Therefore, only BNY Mellon received a supplemental form in July 2011. BNY Mellon did not forward the form to the class member and, therefore, it was never returned. The claims administrator did not complete the processing of these claims until after the September 12, 2011 deadline. In short, Bank of America was never advised that it needed to complete the form.

² Defendants lodged four objections to this claim. If the Court allows the late submission of the supplemental one-page form, defendants' other objections will remain to be resolved by the Special Master.

2. Claim Nos. 619782, 620361, 620530, 620747 and 621214 - Plaintiffs provided the Court with the supplemental forms submitted by these class members in our July 25, 2013 filing. Plaintiffs have not received any additional information in connection with these five claims.

3. Claim No. 620487 – As set forth in Plaintiffs’ July 25 Response, this class member submitted the supplemental one-page form on June 12, 2013. On August 15, 2013, plaintiffs’ counsel received a letter from BNY Mellon which provides additional information with respect to this claim. *See Exhibit B.* In the August 15, 2013 letter, BNY Mellon states:

Some confusion remains as to the exact sequence of events but it seems clear that our client did not receive the initial request to complete the appropriate form to allow them to submit by the deadline but did complete it as soon as the requirement was known to them.

Id.

In short, this class member did not receive the supplemental one-page form in advance of the September 12, 2011 deadline. Therefore, we respectfully request that the Court consider their recent submission as timely.

4. Claim No. 621208 - In following up on Claim No. 631113, BNY Mellon identified one other claim that it submitted on behalf of a Bank of America entity, which had failed to submit the supplemental one-page claim form as of September 12, 2011. Claim No. 621208 was submitted by BNY Mellon in advance of the May 24, 2011 deadline. The claims administrator valued the claim at \$373,488. Gilardi sent the one-page supplemental form for this claim to BNY Mellon in June 2011. Unfortunately, BNY Mellon did not forward the form to Bank of America due to conflicting information at BNY Mellon as to which custodian was following up on this claim. Therefore, the supplemental one-page form was never returned and the claim appears on List 3 to the Special Master’s Report and Recommendation. Plaintiffs’ counsel alerted Bank of America to this problem on August 5, 2013. Bank of America obtained the supplemental form on August 6, 2013,

completed the form and submitted it to the claims administrator that same day. (Reardon Decl., Exhibit 2.) Plaintiffs respectfully request that the Court also remove claim No. 621208 from List 3 and direct the Special Master to resolve the other outstanding objection with respect to this claim.³

CONCLUSION

By reason of the foregoing, plaintiffs respectfully request that all eight of these claims be removed from List 3 of the Special Master's Report and Recommendation and remanded to the Special Master for further proceedings.

DATED: August 20, 2013

Respectfully submitted,

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³ Defendants lodged two objections to this claim in February 2012. If the Court allows the late submission of the supplemental one-page form, defendants remaining objection will need to be resolved by the Special Master.

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I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and employed in the City and County of San Diego, State of California, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 655 W. Broadway, Suite 1900, San Diego, California 92101.

2. That on August 20, 2013, declarant served by electronic mail and by U.S. Mail to the parties the following documents:

PLAINTIFFS' REPLY IN SUPPORT OF PLAINTIFFS' RESPONSE TO THE SPECIAL MASTER'S JULY 11, 2013 REPORT AND RECOMMENDATION

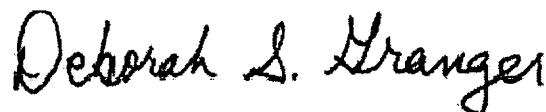
The parties' e-mail addresses are as follows:

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and by U.S. Mail to:

Lawrence G. Soicher, Esq.
Law Offices of Lawrence G. Soicher
110 East 59th Street, 25th Floor
New York, NY 10022

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th day of August, 2013, at San Diego, California.



DEBORAH S. GRANGER