

**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,)	
) <u>CLASS ACTION</u>
Plaintiff,)	
) Judge Ronald A. Guzman
vs.)	Magistrate Judge Nan R. Nolan
)
HOUSEHOLD INTERNATIONAL, INC., et)	
al.,)	
)
Defendants.)	
_____)	

LEAD PLAINTIFFS' STATUS REPORT: JANUARY 6, 2006 STATUS CONFERENCE

Lead plaintiffs hereby submit this Status Report in advance of the January 6, 2006 status conference.

A. Status of the Settlement with Arthur Andersen LLP

On December 15, 2005, plaintiffs appeared before Judge Ronald Guzman to request preliminary approval of their settlement with Arthur Andersen LLP, which was orally granted by the court subject to entry of an order. On December 16, 2005, consistent with the hearing on the prior day, plaintiffs submitted an order for Judge Guzman's approval of the partial settlement. Entry of that order is currently pending.

B. Status of Motions Pending Before This Court

1. Household Defendants' Motion for Partial Reconsideration of the Court's September 28, 2005 Order Regarding Defendants' Motion to Amend the Protective Order: Briefing was completed on October 25, 2005. As outlined in §C.5 of this Status Report, plaintiffs have made several requests to defendants regarding removal of "Confidentiality" designations. Defendants' failure to respond to the majority of these requests provides further support for denial of defendants' motion.

2. Motion to Compel the Household Defendants to Produce Source Logs for Documents Produced in This Litigation: Plaintiffs filed this motion on June 6, 2005, seeking to compel source logs as well as verification that document production pursuant to individual requests was complete. Following plaintiffs' filing, defendants produced source logs. Plaintiffs withdrew that part of the motion. Briefing on the remainder of the motion was completed by July 21, 2005. At the August 24, 2005 hearing, the Court ordered defendants to file by September 2, 2005, a supplemental response verifying completion of document production. Instead of filing a response, defendants sent a letter to the Court describing generally their efforts in gathering documents. Defendants, however, failed to verify the completion of any individual request.

Consistent with plaintiffs' representations at the October 26, 2005 status conference, plaintiffs provided defendants on November 1, with a non-exclusive list of responsive documents that appeared to be missing from defendants' purportedly complete hardcopy production. Defendants' November 14, 2005 response acknowledged that there remained a large volume of responsive documents that defendants had not produced and indicated that defendants had located and would produce certain of the missing documents. Despite this acknowledgement, defendants did not indicate that they would search for and produce the remaining missing documents, but rather stated "should any be located they will be produced." On December 2, 2005, plaintiffs again requested that defendants produce all missing documents on or before December 15, 2005. Defendants did not do so. Plaintiffs thus renew their motion requesting that the Court order defendants to verify the completion of document production by individual request. Plaintiffs also anticipate filing a motion to compel production of certain outstanding relevant documents.

C. Status of Discovery

1. Rule 30(b)(6) Housemail Deposition

On December 2, 2005, plaintiffs took the deposition of Christine Cunningham pursuant to plaintiffs' Rule 30(b)(6) Housemail deposition notice. While the deposition is not complete due to Ms. Cunningham's lack of knowledge regarding certain topics,¹ her testimony has provided plaintiffs with useful information regarding both potential spoliation and the status of existing Housemail files, which plaintiffs summarize below.

The Housemail system was the primary email system used by Household and included a bulletin board function and a calendaring function. Exhibit A attached hereto (December 2, 2005,

¹ As the result of correspondence between the parties, Household has agreed to produce Carol Werner to testify on these topics. The parties have not yet set a date for this deposition.

Deposition Transcript of Christine Cunningham) at 83 (primary email system); *id.* at 39 (bulletin board feature); *id.* at 43 (calendar function). “Live” Housemail files had a six-month retention period and due to the technology at issue were stored on external hardware (centralized computer disks). *Id.* at 19, 42. The user could reset the “date” of an email so as to extend this six-month period. If not reset, a purge program would delete email files older than six months on a daily basis. *Id.* at 56-58. Household backed up the entire system every Saturday, and on Monday through Friday, Household only did an incremental backup. *Id.* at 65-66. This backup system was on a 21-day cycle as the backup tapes were re-used every three weeks to make new backups. *Id.* at 37.

During the late October-early November 2002 timeframe, well after the commencement of this litigation, Household conducted a company-wide migration from Housemail to LotusNotes. *Id.* at 176-77 and Ex. 84. (As part of that migration, Household also upgraded its LotusNotes program and hardware. Ex. A at 152.) Not all Housemail files were migrated, including archived notelogs and other Housemail files. *See, e.g., id.* at 156-57, 170 (no migration of bulletin board files). During the migration, Household did not create a separate, searchable set of Housemail files. *Id.* at 164-65, 173 (migration process created a single Mail.Nsf file for all migrated files for each user). After migration, the Housemail system remained in use until December 31, 2002, when it was shut down. *Id.* at 159.

Thereafter, in July 2003, Household turned over custody of the centralized computer disks to IBM. *Id.* at 26. Prior to releasing custody of the centralized computer disks, Household did not make a copy of them. *Id.* at 167. Plaintiffs do not know whether these disks contained live Housemail files at the time or whether the files were purged either as a result of direct Household action or as a result of the automatic six-month purge program. *Id.* at 167-69, 182-83. In any event, at this juncture, Household does not have access to any live Housemail files except to the extent such files were migrated into LotusNotes in 2002.

The earliest Housemail backup tapes are those of August 31, 2002. *Id.* at 75. The August 31, 2002 backup tapes are a Saturday backup set and were saved as a result of a September 20, 2002 directive to retain Housemail files issued for this case. *Id.* at 75-76. The September 20, 2002 directive did not contain any instruction to Housemail users to “reset the clock on old e-mails.” *Id.* at 111. Despite this and despite the directive itself, Household continued to run the six-month purge function on the Housemail systems. *Id.* at 102, 110-11. Additionally and again despite the directive, Household did not retain all backup tapes subsequent to the September directive resulting from this litigation until November 2002 as part of Household’s retention of documents for a Securities and Exchange Commission (“SEC”) investigation:

Q: Now, after [September 20] directive was issued, were all the tapes, the backup tapes after August 31, 2002 saved?

A: No.

* * *

Q: Do you know why not?

A: The directives – the directive stated that employees would be saving their e-mails. It didn’t state that we were to at that point retain the tapes. We did take those steps later.

Q: When did you start taking the steps?

A: In November.

Q: And why did you start taking those steps in November?

A: We wanted to make sure that as much information as possible was retained.

Q: And did that have anything to do with the SEC investigation?

A: Yes.

Q: So in November you started saving all the backup tapes in response to the SEC investigation, is that correct?

A: Yes.

Q: *But before that you were not saving all of the backup tapes in response to this litigation, is that correct?*

A: *Yes.*

Id. at 104-05 (emphasis added). Thus, there are only sporadic and potentially unusable backups from August 31 to October 24, 2002. *Id.* at 125-26. From that date, Housemail backup tapes were

more routinely saved, including a December 31, 2002 yearly backup of all Housemail files. *Id.* at 70.

In addition to these backup tapes, Household has Housemail files for 47 specific users in readable text format. *Id.* at 145-46. Household sent these files to a vendor, Applied Discovery, in order for it to run word searches on those files for the SEC. *Id.* at 148. Plaintiffs have since requested that Household provide plaintiffs with basic information regarding the status of these files, including: (i) whether it has commenced, or will commence, running word searches of these Housemail files using the search terms authorized by the Court; (ii) whether Household has already produced them to plaintiffs; (iii) the location of the files searched for the SEC; and (iv) whether plaintiffs can inspect them. Household has neither responded to this request nor has it responded to any of the related requests on this issue.²

2. Other Depositions

In addition to taking the Housemail deposition of Christine Cunningham and requesting the deposition of Carol Werner with respect to topics on which Ms. Cunningham lacked knowledge, plaintiffs have taken the following actions since the October 26, 2005 status conference:

(a) On December 15, 2005, plaintiffs requested that defendants provide dates in the latter half of January 2006 for the depositions of Walter Rybak and Curt Cunningham. To date, defendants have not responded.

(b) Plaintiffs noticed the deposition of Lew Walter, a current employee of defendants, for January 26, 2006.

(c) Plaintiffs noticed via subpoena the depositions of Louis Levy and John Nichols, both former directors of Household. These depositions are set for January 18 and 20, 2006, respectively, with earlier dates for the production of documents. Counsel for defendants has requested that these dates be moved as they are “inconvenient” proposing dates in late January or mid-to-late February for Levy, but not for Nichols.

² Interestingly, 45 of these 47 individuals were already included in the list of custodians approved by the Court’s order on October 31, 2005.

(d) Plaintiffs served a 30(b)(6) deposition notice upon defendants seeking testimony on January 19, 2006 with respect to internally generated financial data prepared by Household and the processes and procedures for compiling and reporting financial data. The parties are currently meeting and conferring regarding the deposition.

3. Interrogatories

a. First Set of Interrogatories

On November 11, 2005, the Court entered an order granting in part and denying in part plaintiffs' motion to compel answers to the first set of interrogatories. The Court ordered defendants to amend their interrogatory answers to identify witnesses with knowledge of the facts underlying the affirmative defenses and to identify documents supporting the affirmative defenses by December 6, 2005. Thereafter, on December 6, 2005, the parties filed their Stipulation for Leave to File an Amended Answer whereby defendants agreed to amend their Answer to the [Corrected] Amended Consolidated Class Action Complaint for Violation of the Federal Securities Laws to withdraw all but five of the originally asserted 22 affirmative defenses, and served Defendants Household International, Inc., Household Finance Corporation and J.A. Vozar's Second Amended Responses and Objections to Plaintiffs' First Set of Interrogatories, limiting their response to their remaining five affirmative defenses. On December 8, 2005, defendants filed the First Amended Answer of Household International, Inc., Household Finance Corporation, William F. Aldinger, David A. Schoenholz, Gary Gilmer, and J.A. Vozar to [Corrected] Amended Consolidated Class Action Complaint.

The Court also ordered defendants to identify the principal and material facts supporting each of their affirmative defenses by January 13, 2006.

b. Second Set of Interrogatories

On September 21, 2005, plaintiffs served Lead Plaintiffs' Second Set of Interrogatories Propounded to Defendants Household International, Inc., Household Finance Corporation, William F. Aldinger, David A. Schoenholz, Gary Gilmer, and J.A. Vozar, which includes Interrogatory Nos.

4 through 18. On October 24, 2005, defendants served objections and responses, which consisted principally of the objection that plaintiffs had exceeded the 25 interrogatory limit set forth in Fed. R. Civ. P. 33 and included no substantive responses. The parties met and conferred regarding the number of interrogatories plaintiffs could propound, during which Household refused to commit to provide supplemental responses by a date certain until after the issue regarding the number of interrogatories was resolved. On November 3, 2005, Household proposed a response date of December 16, 2005, which plaintiffs accepted out of professional courtesy and based on the understanding that Household would respond substantively at that time.

Instead, on December 16, 2005, Household raised new objections and failed to respond to five interrogatories. Further, it did not provide any responses to subparts of five more. Even where Household did respond, the response provided was inadequate on its face. For example, when asked to identify documents used to calculate Household's credit loss reserve, Household identified a letter from one of its attorneys to the SEC that purported to describe the process. *See* Interrogatory No. 13 and response thereto. Household has justified its position on, *inter alia*, the objection that it "does not maintain information in the normal course of its business in the manner requested by Plaintiffs." *See, e.g.*, Interrogatory No. 6 and response thereto. By letter dated December 19, 2005, plaintiffs pointed out the deficiencies in Household's objections and responses.

On December 23, 2005, Household supplemented its responses to include substantive responses to Interrogatory Nos. 5(a) and 8(a) and to modify the response to Interrogatory No. 17. By letter dated December 27, 2005, plaintiffs again addressed the deficiencies in Household's responses. Via telephonic conference on December 28, 2005, plaintiffs requested that Household agree to correct all of the identified deficiencies by January 12, 2006. Household has not yet agreed to this proposal.

4. Confidentiality Designations

Pursuant to the Protective Order, plaintiffs requested that defendants de-designate a number of allegedly “Confidential” documents. By letter dated November 14, 2005, plaintiffs identified the Investor-Relations reports and other documents as inappropriately designated as Confidential. Defendants did not respond to this request until December 14, 2005, when counsel indicated that defendants were still studying this issue and would respond promptly. Defendants still have not responded to plaintiffs’ request.

Additionally, plaintiffs requested de-designation of all exhibits used in the December 2, 2005 deposition of Christine Cunningham and subsequently all documents produced in conjunction with that deposition. The documents are old and contain only stale, non-sensitive information. Defendants have agreed to de-designate all but one of the deposition exhibits, which the parties are still discussing. However, to date, defendants have not responded with respect to the other documents produced in response to the deposition notice.

5. Document Production and Motions to Compel

Defendants currently represent that their document production, including native format documents responsive to plaintiffs’ first request for production of documents, will not be complete until April 7, 2006 – just over one month prior to the current fact discovery cut-off of May 12, 2006. Given the length of time the discovery has been pending and the limited time frame within which to complete discovery, plaintiffs believe production in response to both plaintiffs’ first and second requests for production of documents should be completed on or before January 31, 2006.

In addition to the ongoing delays in production and the failure to complete production discussed above, defendants’ production has been deficient for failure to produce relevant documents from outside the Class Period. Plaintiffs narrowed the scope of the time period requested in their document requests to the period January 1, 1997 through December 31, 2003 – the same period

defendants demanded in document requests to plaintiffs. Defendants have agreed to produce documents outside the Class Period for only a select few categories of documents. In light of defendants' cherry-picking documents outside the Class Period, plaintiffs expect to move to compel complete production as documents from this period are relevant to plaintiffs' claims.

Plaintiffs have proposed that defendants include the following individuals whom defendants have identified as having knowledge regarding key issues in this case in their search for both hardcopy and electronic files: Patricia Bliss, Ronald L. Bryar, Paul Creatura, Mike Eden, Ned Hennigan, and Celeste Murphy. Plaintiffs also requested the files of Tom Shelly and Jorge Cordon, 2 of the 47 users whose Housemail files were converted in readable format.

Defendants have also flatly refused to produce numerous documents responsive to Plaintiffs' Second Request for Production of Documents. Having exhausted meet and confer avenues, plaintiffs believe their only recourse is to move to compel production of such responsive documents.

DATED: January 4, 2006

Respectfully submitted,

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DECLARATION OF SERVICE BY UPS OVERNIGHT OR BY EMAIL

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 Francisco, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 100 Pine Street, Suite 2600, San Francisco, California 94111.

2. That on January 4, 2006, declarant served by UPS Overnight (noted on the service list attached) or by email **LEAD PLAINTIFFS' STATUS REPORT: JANUARY 6, 2006 STATUS CONFERENCE** to the parties listed on the attached Service List. The parties' email addresses are as follows:

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I declare under penalty of perjury that the foregoing is true and correct. Executed this 4th day of January, 2006, at San Francisco, California.

/s/ Monina O. Gamboa

MONINA O. GAMBOA

HOUSEHOLD INTERNATIONAL (LEAD)

Service List - 1/3/2006 (02-0377)

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EXHIBIT A

1	3
<p style="text-align: center;">THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION</p> <p>LAWRENCE E. JAFFE PENSION) PLAN, On behalf of Itself and) All Others Similarly Situated,)</p> <p style="padding-left: 40px;">Plaintiff,)</p> <p style="padding-left: 40px;">vs.) No. 02 C 5893</p> <p style="padding-left: 40px;">HOUSEHOLD INTERNATIONAL, INC.,) et al.,)</p> <p style="padding-left: 40px;">Defendants.)</p> <p style="text-align: center;">The videotaped deposition of CHRISTINE CUNNINGHAM, called by the Plaintiff for examination, taken pursuant to the Federal Rules of Civil Procedure of the United States District Courts pertaining to the taking of depositions, taken before Marianne Nee, a Certified Shorthand Reporter of the State of Illinois, CSR License No. 84-2341, taken at Suite 3200, 30 North LaSalle Street, Chicago, Illinois, on the 2nd day of December, 2005, at 9:15 a.m.</p>	<p>1 TABLE OF CONTENTS</p> <p>2 WITNESS PAGE</p> <p>3 CHRISTINE CUNNINGHAM</p> <p>4 By Mr. Baker.....7</p> <p>5</p> <p>6 (p.m. session starts on Page 107)</p> <p>7</p> <p>8 EXHIBITS</p> <p>9 NUMBER PAGE</p> <p>10 Deposition Exhibit</p> <p>11 Exhibit 75 - 30(b)(6) deposition notice 12</p> <p>12 Exhibit 76 - Confidential HHS03298055- 31 HHS03298118</p> <p>13</p> <p>14 Exhibit 77 - Confidential 4-page spreadsheet 86</p> <p>15</p> <p>16 Exhibit 78 - Confidential HHS03298283-8330 117</p> <p>17</p> <p>18 Exhibit 79 - Confidential two-page memo dated 121 11/30/03 to Chris Cunningham, HHS0329823-94</p> <p>19</p> <p>20 Exhibit 80 - Confidential HHS03298274-275 129</p> <p>21</p> <p>22 Exhibit 81 - Confidential e-mail chain 134 HHS03298279-281</p> <p>23 Exhibit 82 - Confidential, Office Vision/VM 172 Migration Tool, Tips and Techniques, HHS03298015</p> <p>24 Exhibit 83 - Confidential, HHS03297278 173</p> <p>25 Exhibit 84 - Confidential, Discussion document, 175 HHS03297245-246</p>
2	4
<p>1 APPEARANCES:</p> <p>2 LERACH COUGHLIN STOIA GELLER</p> <p>3 RUDMAN & ROBBINS LLP</p> <p>4 BY: MR. D. CAMERON BAKER</p> <p>5 100 Pine Street</p> <p>6 Suite 2600</p> <p>7 San Francisco, California 94111</p> <p>8 (415) 288-4545</p> <p>9 cbaker@lerachlaw.com</p> <p>10</p> <p>11 On behalf of the Plaintiff;</p> <p>12</p> <p>13 CAHILL GORDON & REINDEL LLP</p> <p>14 BY: MR. HOWARD G. (PETER) SLOANE</p> <p>15 and MR. JOSHUA M. GREENBLATT</p> <p>16 80 Pine Street</p> <p>17 New York, New York 10005</p> <p>18 (212) 701-3000</p> <p>19 psloane@cahill.com</p> <p>20</p> <p>21 -and-</p> <p>22</p> <p>23 EIMER STAHL KLEVORN & SOLBERG LLP</p> <p>24 BY: MR. ADAM B. DEUTSCH (a.m. only)</p> <p>25 224 South Michigan Avenue</p> <p>26 Suite 1100</p> <p>27 Chicago, Illinois 60604</p> <p>28 (312) 660-7600</p> <p>29 adeutsch@eimerstahl.com</p> <p>30</p> <p>31 On behalf of the Defendants.</p> <p>32</p> <p>33 ALSO PRESENT:</p> <p>34</p> <p>35 MS. DONNA L. MARKS, Associate General</p> <p>36 Counsel, HSBC - North America</p> <p>37 MR. CHRIS GRUENWALD</p> <p>38 MS. CLARISSA CANNAVINO</p> <p>39 MR. MARK SUCHECKI</p> <p>40 MR. DEAN MARIS, Videographer</p> <p>41 (a.m. only)</p> <p>42 MR. MATT FENN, Videographer</p> <p>43</p> <p>44 REPORTED BY: MARIANNE NEE, CSR, RPR, CRR, CM</p> <p>45 Illinois CSR No. 84-2341</p>	<p>1 TABLE OF CONTENTS (Cont.)</p> <p>2 EXHIBITS</p> <p>3 NUMBER PAGE</p> <p>4 Deposition Exhibit</p> <p>5 Exhibit 85 - Confidential document titled 178 EMP069A, HS03297360-365</p> <p>6</p> <p>7 Exhibit 86 - Confidential document to Carol 181 Werner dated 12/13/02, HHS03298337-342</p> <p>8</p> <p>9 Exhibit 87 - Confidential document titled 185 Advanced HouseMail Tips and Tricks, HHS03297292-359</p> <p>10</p> <p>11 Exhibit 88 - Confidential to Carol Werner, 188 HHS03298331</p> <p>12 Exhibit 89 - Confidential document dated 188 9/10/03, HHS03298334336</p> <p>13</p> <p>14 Also attached - Confidential document</p> <p>15 titled OfficeVision/VM Migration</p> <p>16 Tool Tips and Techniques,</p> <p>17 HHS03298011-054</p> <p>18 (Exhibits are attached.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

5	<p>1 PROCEEDINGS:</p> <p>2 THE VIDEOGRAPHER: Here begins the</p> <p>3 videotaped deposition of Christine Cunningham,</p> <p>4 Tape 1 Volume 1 in the matter of Lawrence E.</p> <p>5 Jaffe Pension Plan versus Household</p> <p>6 International, United States District Court,</p> <p>7 Northern District of Illinois, Eastern Division,</p> <p>8 Case No. 02-C-5893. Today's date is Friday,</p> <p>9 December 2, 2005, and the time on the video</p> <p>10 monitor is 9:15.</p> <p>11 The video operator today is Dean</p> <p>12 Maris of Thompson Court Reporters representing</p> <p>13 LiveNote World Service located at 221 Main</p> <p>14 Street, Suite 1250, San Francisco, California</p> <p>15 94105. The phone number is 415/321-2300.</p> <p>16 The court reporter is Marianne Nee of</p> <p>17 Thompson Court Reporters reporting on behalf of</p> <p>18 LiveNote World Service. Today's deposition is</p> <p>19 being taken on behalf of the plaintiff and is</p> <p>20 taking place at Miller Faucher and Cafferty, 30</p> <p>21 North LaSalle, Chicago, Illinois.</p> <p>22 Counsels will now introduce</p> <p>23 themselves and state the parties they represent</p> <p>24 after which the court reporter will administer</p>	7	<p>1 Q And, Ms. Cunningham, do you</p> <p>2 understand that you are here in response to a</p> <p>3 Rule 30(b)(6) deposition notice?</p> <p>4 A Yes, I do.</p> <p>5 Q And have you done any work to prepare</p> <p>6 yourself for this deposition?</p> <p>7 A Yes.</p> <p>8 Q What efforts have you made to prepare</p> <p>9 yourself for this deposition?</p> <p>10 A I've reviewed the documents that have</p> <p>11 been discovered. I've talked with my lawyers</p> <p>12 and I've talked with individuals in the</p> <p>13 technology and services area.</p> <p>14 Q What individuals have you talked with</p> <p>15 at the -- what is it, the technology and</p> <p>16 services area?</p> <p>17 A Carol Werner, Information Security.</p> <p>18 That's it.</p> <p>19 Q What is Ms. Werner's position at the</p> <p>20 company, if any?</p> <p>21 A She is a consultant analyst.</p> <p>22 Q At Household?</p> <p>23 A Correct.</p> <p>24 Q And who did you speak with at</p>
6	<p>1 the oath.</p> <p>2 MR. BAKER: I'm Cameron Baker,</p> <p>3 counsel for the plaintiffs.</p> <p>4 MR. SLOANE: Do you want to identify</p> <p>5 the people with you?</p> <p>6 MR. BAKER: With me are Chris</p> <p>7 Gruenwald, Clare Cannavino and Mark Suchecki.</p> <p>8 MR. SLOANE: Peter Sloane, Cahill,</p> <p>9 Gordon & Reindel LLP for all defendants except</p> <p>10 Arthur Andersen. Josh Greenblatt of our firm is</p> <p>11 with me. Donna Marks of HSBC and Adam Deutsch</p> <p>12 of Eimer Stahl is also present.</p> <p>13 THE COURT REPORTER: Ma'am, would you</p> <p>14 raise your right hand please?</p> <p>15 (Witness sworn.)</p> <p>16 CHRISTINE CUNNINGHAM,</p> <p>17 called as a witness herein, having been first</p> <p>18 duly sworn, was examined and testified as</p> <p>19 follows:</p> <p>20 EXAMINATION</p> <p>21 BY MR. BAKER:</p> <p>22 Q Would you please state your full name</p> <p>23 for the record?</p> <p>24 A Christine Cunningham.</p>	8	<p>1 Information Security?</p> <p>2 A Samuel Dungee.</p> <p>3 Q Anyone else at Information Security?</p> <p>4 A Laurie Ochitwa.</p> <p>5 Q And who amongst your lawyers did you</p> <p>6 speak with?</p> <p>7 MR. SLOANE: I'm sorry. I missed the</p> <p>8 question. Who --</p> <p>9 BY MR. BAKER:</p> <p>10 Q Who amongst your lawyers did you</p> <p>11 speak with?</p> <p>12 A The individuals, Donna Marks, Josh</p> <p>13 and Mr. Sloane.</p> <p>14 Q Approximately how many times did you</p> <p>15 meet with Ms. Werner?</p> <p>16 A We had several conversations.</p> <p>17 Q Were they face to face?</p> <p>18 A Some were face to face, yes.</p> <p>19 Q And why did you feel the need to</p> <p>20 speak with Ms. Werner?</p> <p>21 A She was the system analyst for</p> <p>22 Housemail.</p> <p>23 Q As systems analyst for Housemail,</p> <p>24 what were her responsibilities?</p>

9

1 A Her primary responsibilities for
 2 Housemail were to administer the system.
 3 Q Is it fair to say she was in charge
 4 of the system while it was operating?
 5 A No.
 6 Q Okay. Why not?
 7 A In charge of, maybe you can explain
 8 that a little bit more.
 9 Q Was she the one who handled any
 10 improvements to the system?
 11 A She would implement them, yes.
 12 Q And did she report to management
 13 about the status of the system?
 14 A Yes, she did.
 15 Q Okay. If anyone had a question about
 16 the system, would they go to her?
 17 A Yes.
 18 Q Was there anyone else who you would
 19 think would be more in charge of the system than
 20 her at the time?
 21 A There were other individuals working
 22 on the system over the life of the system. She
 23 was not the only one.
 24 Q At what time period was she the

10

1 systems analyst for Housemail?
 2 A The entire life of the system.
 3 Q Now, in your prior deposition there
 4 was some testimony that you gave about your
 5 responsibilities at Household.
 6 Did -- at any point in time did you
 7 have a responsibility for supervising or working
 8 on the Housemail system?
 9 A Yes, I did.
 10 Q Okay. And when was that?
 11 A That was in the year 2001 and 2002.
 12 Q Okay. And what were your
 13 responsibilities at that time?
 14 A I was the manager of the Household
 15 e-mail system.
 16 Q And am I correct during that time
 17 period the Household e-mail system included both
 18 LotusNotes and Housemail?
 19 A That's correct.
 20 Q And just let me say if for any reason
 21 you don't understand my question, please let me
 22 know and I'll try and rephrase. Okay?
 23 A Okay.
 24 Q During the years 2001, 2002, did

11

1 Ms. Werner report to you?
 2 A Yes, she did.
 3 Q During that time period who did you
 4 report to?
 5 A I reported to Ed Kurtz in 2002 and
 6 2001.
 7 Q So during these three years
 8 Ms. Werner reported to you and you reported to
 9 Mr. Kurtz, is that correct?
 10 A That's correct.
 11 Q Who did Mr. Kurtz report to?
 12 A Bill Watson.
 13 Q Do you recall what Mr. Watson's title
 14 was during this time period?
 15 A He was a director.
 16 Q In what capacity?
 17 A Director of corporate systems.
 18 Q And who did Mr. Watson report to?
 19 A Gerry Vaughan.
 20 Q Is that with a J or --
 21 A Gerald with a G.
 22 Q And what was Mr. Vaughan's title?
 23 A He was vice-president of corporate
 24 systems.

12

1 Q And was Mr. Vaughan within the HTS
 2 division?
 3 A Correct.
 4 Q I assume you were within the HTS
 5 division?
 6 A Yes.
 7 MR. BAKER: Let me mark as Exhibit 75
 8 I believe -- and I apologize. I didn't realize
 9 that we would have such a crowd so I didn't
 10 bring a lot of copies, but hopefully enough.
 11 MR. SLOANE: As long as there is one
 12 for us, it's okay.
 13 (Deposition Exhibit No.
 14 75 was marked for ID.)
 15 BY MR. BAKER:
 16 Q Ms. Cunningham, have you seen Exhibit
 17 75 before?
 18 A Yes, I have.
 19 Q And have you reviewed it before?
 20 A Yes, I did.
 21 Q Okay. And you understand that this
 22 is a deposition notice that you're testifying in
 23 response to, is that correct?
 24 A That's correct.

13	<p>1 Q Okay. Can I turn your attention to</p> <p>2 Page 3 and you'll see there is a Roman numeral</p> <p>3 II, Deposition Subject Matter.</p> <p>4 Do you see that?</p> <p>5 A Yes, I do.</p> <p>6 Q If you could take a moment and just</p> <p>7 review the topics that are listed under subject</p> <p>8 1, Household's Housemail e-mail system, it has a</p> <p>9 bunch of subtopics. Do you see that?</p> <p>10 A Yes.</p> <p>11 Q Okay. The question I'm going to ask</p> <p>12 you is did you consult with Ms. Werner in -- on</p> <p>13 topics within this area?</p> <p>14 A Yes.</p> <p>15 Q Did you consult with Mr. Dungee about</p> <p>16 topics within this area?</p> <p>17 MR. SLOANE: He's just asking you</p> <p>18 about 1.</p> <p>19 BY THE WITNESS:</p> <p>20 A Okay. Yes.</p> <p>21 BY MR. BAKER:</p> <p>22 Q Were there any specific topics,</p> <p>23 subtopics within 1 that you consulted with</p> <p>24 Mr. Dungee on?</p>	15	<p>1 say, on the general policy about preservation of</p> <p>2 Housemails in the face of litigation?</p> <p>3 A No.</p> <p>4 Q What did you speak to Mr. Dungee</p> <p>5 about?</p> <p>6 A I asked him about who was involved in</p> <p>7 determining the policy.</p> <p>8 Q So who set policy?</p> <p>9 A He indicated that it was --</p> <p>10 MR. SLOANE: Wait a minute. Is that</p> <p>11 the question you're asking?</p> <p>12 MR. BAKER: That's the topic. Yeah,</p> <p>13 that was the topic.</p> <p>14 MR. SLOANE: I knew you weren't there</p> <p>15 yet.</p> <p>16 MR. BAKER: That was the topic.</p> <p>17 BY MR. BAKER:</p> <p>18 Q You spoke to him about the topic of</p> <p>19 who set policy?</p> <p>20 A Correct.</p> <p>21 Q So who did he inform you set the</p> <p>22 policy? And your counsel is right. We will get</p> <p>23 there eventually.</p> <p>24 A He indicated that it was a</p>
14	<p>1 A I was just -- I consulted with him on</p> <p>2 policy. I'm looking for that in the subtopics.</p> <p>3 (k) I believe.</p> <p>4 Q Did you also consult with him on</p> <p>5 subtopic (l) which is the general policy</p> <p>6 relating to preservation of Housemail files and</p> <p>7 hardware as a result of pending investigations</p> <p>8 by a governmental entity?</p> <p>9 A No.</p> <p>10 Q Okay. I know I'm not going to say</p> <p>11 her name correctly. Ms. Ochitwa, is that her</p> <p>12 name?</p> <p>13 A Ochitwa.</p> <p>14 Q Ochitwa, is that French?</p> <p>15 A I don't know.</p> <p>16 Q What did you consult with her about?</p> <p>17 A I only consulted with her to find out</p> <p>18 if Sam was the right person to speak with about</p> <p>19 the policy.</p> <p>20 Q And did she say he was?</p> <p>21 A Yes.</p> <p>22 Q And what is Mr. Dungee's position?</p> <p>23 A I don't know his exact title. Sorry.</p> <p>24 Q And you spoke to him, is it fair to</p>	16	<p>1 combination of three individuals; Information</p> <p>2 Security, legal and HTS management.</p> <p>3 Q When you say HTS management, are you</p> <p>4 referring to Mr. Vaughan?</p> <p>5 A Correct.</p> <p>6 Q Was there a specific person within</p> <p>7 legal who had this responsibility?</p> <p>8 MR. SLOANE: Are you asking what he</p> <p>9 said or you're now going over to who had the</p> <p>10 responsibility? I just want to make sure the</p> <p>11 record is clear.</p> <p>12 MR. BAKER: I just asked her in</p> <p>13 general if there was a specific person.</p> <p>14 MR. SLOANE: Okay.</p> <p>15 MR. BAKER: If she knows. Could you</p> <p>16 just read back the question for me?</p> <p>17 (Record read.)</p> <p>18 BY THE WITNESS:</p> <p>19 A I'm not aware of who that is.</p> <p>20 BY MR. BAKER:</p> <p>21 Q Okay. So Mr. Dungee didn't tell you</p> <p>22 any names?</p> <p>23 A No, he didn't.</p> <p>24 Q And you didn't ask him?</p>

17	<p>1 A No.</p> <p>2 Q Did you have any conversations with</p> <p>3 Ms. Marks about who was responsible within legal</p> <p>4 for the setting of the policy?</p> <p>5 A No, I didn't.</p> <p>6 Q Did you have any conversations with</p> <p>7 your lawyers about who was responsible within</p> <p>8 legal for this responsibility?</p> <p>9 A No.</p> <p>10 Q The third group you mentioned -- is</p> <p>11 there anyone other than Mr. Vaughan within the</p> <p>12 HTS management who is responsible for setting</p> <p>13 this policy?</p> <p>14 A No.</p> <p>15 Q Now, let's be clear about one thing.</p> <p>16 Are we talking about the policy specifically for</p> <p>17 retaining Housemail as opposed to other forms of</p> <p>18 documentary evidence?</p> <p>19 A Yes.</p> <p>20 Q And did Mr. Dungee inform you as to</p> <p>21 who within Information Security had the</p> <p>22 responsibility for setting this policy?</p> <p>23 A He mentioned that he was working on</p> <p>24 this information in the time frame of '01.</p>	19	<p>1 rephrase it.</p> <p>2 THE WITNESS: Rephrase it please.</p> <p>3 MR. BAKER: I want her to reread it</p> <p>4 so at least I can hear it and then I can say --</p> <p>5 figure out whether I need to rephrase it or</p> <p>6 whether I think it's good enough on its own.</p> <p>7 (Record read.)</p> <p>8 MR. SLOANE: The time period. I'm</p> <p>9 objecting to the form of the question because</p> <p>10 I'm not sure what time period.</p> <p>11 MR. BAKER: 2001, 2002.</p> <p>12 BY THE WITNESS:</p> <p>13 A The general policy was that e-mail</p> <p>14 was to be retained only for six months. There</p> <p>15 were also statements in the policy regarding</p> <p>16 proper use of the e-mail system.</p> <p>17 BY MR. BAKER:</p> <p>18 Q What does it mean to retain e-mails</p> <p>19 for six months?</p> <p>20 A After six months e-mail would be</p> <p>21 purged from the system.</p> <p>22 Q And we're not talking at this point</p> <p>23 in time about backup tapes, are we?</p> <p>24 A No, we are not.</p>
18	<p>1 Q Did Mr. Dungee identify any documents</p> <p>2 as memorializing this policy?</p> <p>3 A No, he didn't.</p> <p>4 Q Okay. During your efforts to prepare</p> <p>5 for this deposition, did you locate any</p> <p>6 documents that memorialized this policy?</p> <p>7 A There is a document in the set that</p> <p>8 memorializes an e-mail policy.</p> <p>9 Q And did you review that document?</p> <p>10 A Yes.</p> <p>11 Q Do you recall what the title of the</p> <p>12 document is?</p> <p>13 A E-mail Policy I believe.</p> <p>14 Q And what do you recall is the general</p> <p>15 policy for retention of Housemail during this</p> <p>16 time period?</p> <p>17 MR. SLOANE: I'm sorry. I object to</p> <p>18 the form of the question.</p> <p>19 If you understand the question, I'll</p> <p>20 be happy to have you answer.</p> <p>21 BY THE WITNESS:</p> <p>22 A Can you rephrase the question?</p> <p>23 MR. BAKER: Could you reread it?</p> <p>24 MR. SLOANE: She asked you to</p>	20	<p>1 Q We're talking about live files, is</p> <p>2 that --</p> <p>3 A Yes.</p> <p>4 Q Okay. Just so we're clear, could you</p> <p>5 give me an explanation of what you mean by live</p> <p>6 files or what you understand the term live files</p> <p>7 to mean?</p> <p>8 A Live files would be anything that was</p> <p>9 in the online system, accessible online.</p> <p>10 Q Okay. In the case of Housemails,</p> <p>11 would that include archived Housemails?</p> <p>12 A Yes.</p> <p>13 Q Is there a retention policy for</p> <p>14 backup tapes?</p> <p>15 A Yes.</p> <p>16 Q And what is the retention for backup</p> <p>17 tapes?</p> <p>18 MR. SLOANE: Again, time period</p> <p>19 please?</p> <p>20 MR. BAKER: Same time frame.</p> <p>21 BY THE WITNESS:</p> <p>22 A 21 days.</p> <p>23 BY MR. BAKER:</p> <p>24 Q Do you have any understanding why</p>

21	<p>1 there is a difference in terms of retention 2 policy days for backup tapes versus active 3 Housemails -- I'm sorry -- live files? 4 A Well, it's my understanding that the 5 21 days was set with capacity in mind. 6 Q And what is your understanding based 7 on? 8 A Conversations with Carol Werner. 9 Q Going back to Exhibit 75, do you see 10 there is a subject 2 on Page 5? 11 A Yes. 12 Q Are you familiar with that subject? 13 A Yes. 14 Q What efforts did you make to prepare 15 yourself to testify on subject matter 2 there? 16 A I spoke with Carol Werner, also 17 confirmed with a gentleman named Sean Rezentes 18 that Housemail files resided in the Prospect 19 Heights tapes. 20 Q When you say tapes, you're referring 21 to the backup tapes? 22 A Correct. 23 Q And do you know what form these 24 backup tapes reside in? The tape silos that</p>	23
22	<p>1 I've heard of? 2 A There is information in the tape 3 silos, correct. 4 Q Are the backup tapes in the tape 5 silos? 6 A There are two sets of backup tapes. 7 Q Okay. Is one of the sets of backup 8 tapes in the silo? 9 A Correct. 10 Q Where is the other set? 11 A On a rack in the data center. 12 Q And where is the data center located? 13 A Prospect Heights. 14 Q Now, under the general policy 15 relating to retention of backup tapes, is there 16 required to be any notification to the legal or 17 audit department prior to destruction of a 18 particular backup tape? 19 MR. SLOANE: Again, just so we're 20 clear, I don't want to interrupt you but we're 21 talking about the period 2001, 2002? You keep 22 saying is there. You're talking about 2001, 23 2002 throughout all this? 24 MR. BAKER: Yes.</p>	24
21	<p>1 BY THE WITNESS: 2 A I don't recall the policy stating 3 anything like that. 4 BY MR. BAKER: 5 Q Earlier you talked about some 6 documents that were produced and I believe you 7 were talking about produced in conjunction with 8 this deposition, is that correct? 9 A Yes. 10 Q Okay. Were you involved in the 11 effort to locate these documents? 12 A Last year when some of them were 13 produced. 14 Q Did anyone come to you recently and 15 say, Ms. Cunningham, do you have any documents 16 that relate to any of these subjects? 17 A No. 18 Q Do you know if there are documents 19 that show locations where Housemail files 20 currently exist? 21 A Yes. 22 Q Have you seen them? 23 A Yes. 24 Q The third subject matter is -- has to</p>	24
22	<p>1 do with the extent possible to retrieve 2 Housemail files from locations where such files 3 may be found. 4 Do you understand that? 5 A Yes. 6 Q And what steps did you take to 7 prepare yourself on that subject? 8 A I again talked with Carol Werner. 9 Q Anyone else? 10 A We had some secondary conversations 11 with the data center people who are in charge of 12 the silos. 13 Q In preparation for this third subject 14 matter, did you review any documents? 15 A Documents in the set of -- 16 Q Any documents. 17 A I reviewed some e-mails that came 18 from Carol Werner. 19 Q What did Ms. Werner tell you about 20 subject matter 3 during your conversations? 21 A She indicated that the information 22 that's stored on the tapes is not in a readable 23 form. 24 Q Why is it not in readable form?</p>	24

25	<p>1 A The way that the system stores the</p> <p>2 information on the tapes.</p> <p>3 Q Could you expound on that please?</p> <p>4 A It's my understanding that the system</p> <p>5 that writes this information to the tapes is</p> <p>6 just not in a readable form that a human eye</p> <p>7 would make any sense of.</p> <p>8 Q Do you know what software the tapes</p> <p>9 were created using?</p> <p>10 A Yes. There was -- the MVS system was</p> <p>11 used to make one set of tapes which is the ones</p> <p>12 in the silo, and a piece of software called</p> <p>13 VMBackup was used to create the set that's on</p> <p>14 the rack.</p> <p>15 Q And is it your understanding that</p> <p>16 neither set of tapes is in readable form?</p> <p>17 A Correct.</p> <p>18 Q Other than the tapes that we have</p> <p>19 been discussing, do you know of any other</p> <p>20 locations where Housemail files currently exist?</p> <p>21 A No.</p> <p>22 Q At one point in time did these</p> <p>23 Housemail files exist on disks?</p> <p>24 A Yes.</p>	27	<p>1 A Yes.</p> <p>2 Q -- did he inform you as to when other</p> <p>3 hardware used in the Housemail system left?</p> <p>4 A No.</p> <p>5 Q He just knew about the disks?</p> <p>6 A Yes.</p> <p>7 Q This is where the deposition is going</p> <p>8 to get really hard. I'm going to ask you to</p> <p>9 draw me just a schematic diagram just of the</p> <p>10 hardware, the hardware configuration for the</p> <p>11 Housemail system. That would include a server,</p> <p>12 a CPU.</p> <p>13 The reason why is I'm going to ask</p> <p>14 you questions about each part of it and I think</p> <p>15 it would be helpful if we have something that we</p> <p>16 can refer to in an exhibit.</p> <p>17 A I would not be able to draw that</p> <p>18 schematic. It would be my interpretation of it.</p> <p>19 Q Does Household have any documents</p> <p>20 that reflect the schematic?</p> <p>21 A No.</p> <p>22 Q Did you make any efforts to locate</p> <p>23 any schematics?</p> <p>24 A Yes, we did.</p>
26	<p>1 Q Do you know what happened to those</p> <p>2 disks?</p> <p>3 A No, I do not.</p> <p>4 Q Did you ask anyone what happened to</p> <p>5 those disks?</p> <p>6 A No, I didn't.</p> <p>7 Q To your knowledge, when did the disks</p> <p>8 leave Household's possession?</p> <p>9 A At the very end of 2002. I'm sorry.</p> <p>10 Can I reanswer that?</p> <p>11 MR. SLOANE: You can always correct</p> <p>12 your testimony.</p> <p>13 BY MR. BAKER:</p> <p>14 Q Yes, of course.</p> <p>15 A Okay. The disks actually left in</p> <p>16 July of '03.</p> <p>17 Q And how do you know that?</p> <p>18 A I inquired about when the hardware</p> <p>19 was removed from the environment.</p> <p>20 Q And who did you inquire that of?</p> <p>21 A Sean Rezentes.</p> <p>22 Q Was this a recent conversation?</p> <p>23 A Yes.</p> <p>24 Q Okay. Did Mr. Rezentes --</p>	28	<p>1 Q Okay. Well, is it fair to say that</p> <p>2 there would be a -- well, first let me take a</p> <p>3 step back. The Housemail system as I understand</p> <p>4 is an IBM system, is that correct?</p> <p>5 A That's correct.</p> <p>6 Q That means it uses IBM software and</p> <p>7 IBM hardware, is that correct?</p> <p>8 A Yes.</p> <p>9 MR. SLOANE: You have to wait until</p> <p>10 he finishes his question and let the court</p> <p>11 reporter get it down.</p> <p>12 MR. BAKER: Peter may not be able to</p> <p>13 follow us either so slow down.</p> <p>14 MR. SLOANE: I'm an old man.</p> <p>15 MR. BAKER: Not that old.</p> <p>16 BY MR. BAKER:</p> <p>17 Q What is the IBM software that the</p> <p>18 Housemail system used?</p> <p>19 A It was called Office Vision/Virtual</p> <p>20 Machine. The acronym is OV/VM.</p> <p>21 Q And did Household make any changes to</p> <p>22 that system? In other words, did they add some</p> <p>23 program features that were not available from</p> <p>24 IBM?</p>

29

1 A Yes.
 2 Q And how did -- were these add-on
 3 programs from other vendors?
 4 A It's my understanding that they were
 5 written in house.
 6 Q So there was some in-house
 7 improvements, is that fair to say?
 8 A Yes.
 9 Q Do you have any knowledge as to who
 10 made these in-house improvements?
 11 A Carol did mention that she was
 12 involved in some of them.
 13 Q Does Ms. Werner have knowledge about
 14 programming Office Vision/Virtual Machine?
 15 A Yes.
 16 Q What were the improvements that you
 17 knew about that Household made to that system?
 18 A I didn't get into detail about what
 19 they were, but one I do know of was involving
 20 the calendaring functionality.
 21 Q And could you describe that
 22 improvement?
 23 A I could not.
 24 Q Okay. If I wanted to know that

30

1 improvement, should I discuss that with
 2 Ms. Werner?
 3 A Yes.
 4 Q In addition to the IBM Office
 5 Vision/Virtual Machine program, were there other
 6 programs that Housemail used in conjunction with
 7 that program to establish its Housemail system?
 8 A Yes.
 9 Q What were those other software
 10 programs?
 11 A Racf, ISPF, the backup software I
 12 mentioned earlier.
 13 Q And that's VMBackup?
 14 A Correct, and the VM/ESA.
 15 Q To your knowledge, did Household use
 16 a product called VM Archiver?
 17 A I'm not aware of that.
 18 Q Have you ever heard of a program VM
 19 Archive?
 20 A No.
 21 Q Earlier we talked about Housemail
 22 being archived. Do you remember that?
 23 A Yes.
 24 Q Was that feature supported by the

31

1 initial Office Vision/Virtual Machine software?
 2 A I'm not sure.
 3 Q Who would I ask to find out that
 4 question?
 5 A It possibly is in the IBM manuals
 6 that we presented, as the document said.
 7 Q And those are the documents that were
 8 provided I believe on CD disk, is that correct?
 9 A That, yes, and I believe there was
 10 also a hard copy manual provided.
 11 MR. BAKER: Let me mark this next
 12 which I guess is 76.
 13 (Deposition Exhibit No.
 14 76 was marked for ID.)
 15 MR. BAKER: And I apologize for the
 16 illegibility of the first couple pages, but
 17 that's the way we got it. So I bring that to
 18 counsel's attention that perhaps in the future
 19 we can hopefully resolve some of these issues
 20 because obviously I don't think you can read
 21 that.
 22 BY MR. BAKER:
 23 Q Why don't we go a couple pages into
 24 the exhibit, Ms. Cunningham. The third page,

32

1 can you read that page?
 2 A It says --
 3 Q No. I don't need you -- I just want
 4 to know is it possible for you to read it?
 5 A Excuse me. Yes, I can read it.
 6 Q I don't need you to read it. If I
 7 want you to read, I'll ask you to read it out
 8 loud. Thank you.
 9 Have you seen a document like this
 10 before?
 11 A Yes.
 12 Q And can you explain to me what this
 13 document is?
 14 A It's my understanding that it is a
 15 log of backups taken.
 16 Q Does it serve any other purpose
 17 within Household?
 18 A I don't know.
 19 Q And at the top of this page it talks
 20 about, it says, "VM/Housemail Coverage for week
 21 of" it looks like 12/10/01. Do you see that?
 22 A No, I don't. I'm sorry.
 23 Q Right here.
 24 A Yes.

33

1 Q And you understand this was a weekly
 2 document?
 3 A I'm not familiar with this document
 4 in detail.
 5 Q Okay.
 6 MR. SLOANE: Let me say for the
 7 record the document is stamped Confidential, so
 8 for present purposes we'll designate any
 9 discussion about this document, as we will any
 10 discussion about any other confidential
 11 documents, as confidential under the terms of
 12 the protective order.
 13 BY MR. BAKER:
 14 Q Okay. Ms. Cunningham, was this
 15 document provided to you in your capacity as
 16 manager of the Household e-mail system?
 17 A No.
 18 Q So during the years 2001, 2002, you
 19 wouldn't have been reviewing this document?
 20 A No.
 21 Q Do you know who this document was
 22 provided to?
 23 A No.
 24 Q The first -- sorry. First item says,

34

1 "Issue GETSAR and GETSURRO to pull in certain
 2 rdr files." Do you see that?
 3 A Yes, I do.
 4 Q What's an RDR file?
 5 A I know that RDR stands for reader.
 6 That's all I know.
 7 MR. SLOANE: Oops.
 8 (Brief interruption.)
 9 MR. SLOANE: Sorry. I let my kids
 10 call me on my phone.
 11 MR. BAKER: Do you want to take a
 12 break?
 13 MR. SLOANE: That's okay.
 14 MR. BAKER: We can take a break.
 15 MR. SLOANE: No. I appreciate it.
 16 I'll turn it off. It's not a number I recognize
 17 as my kids.
 18 BY MR. BAKER:
 19 Q Who would I ask to find out what an
 20 RDR file is?
 21 A Again, it might be in the technical
 22 manuals.
 23 Q Okay. Is there someone at Household
 24 who knows the answer?

35

1 A Carol Werner would know.
 2 Q Do you know if an RDR file is
 3 something that's particular to the Office
 4 Vision/Virtual Machine software?
 5 A I'm not sure about that.
 6 Q The second item says, "Note time of
 7 IPL." Do you see that?
 8 A Yes.
 9 Q What does IPL stand for?
 10 A It's a technical term referred to
 11 when a mainframe is rebooted.
 12 Q And do you know what the acronym
 13 stands for?
 14 A No, I don't.
 15 Q Does it stand for Initial Program
 16 Launch?
 17 A I don't know.
 18 Q Item 4 says, "Indicate RDR totals."
 19 Do you see that?
 20 A Yes.
 21 Q And then there is a series of numbers
 22 there. The first line is Files, Q Files. Do
 23 you see that?
 24 A Yes.

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1 Q Do you know what that refers to?
 2 A No.
 3 Q The next line is RC -- RSCS. Do you
 4 see that?
 5 A Yes.
 6 Q Do you know what that refers to?
 7 A No.
 8 Q How about SFS percentage?
 9 A No.
 10 Q Who would I ask at Housemail to
 11 determine the answers to those questions?
 12 MR. SLOANE: I think you misspoke.
 13 You said Housemail.
 14 BY MR. BAKER:
 15 Q Sorry. Who would I ask at Household
 16 to answer those questions?
 17 A Carol.
 18 Q You said this document does refer to
 19 backup tapes. Was I correct about that?
 20 A I believe that it has something to do
 21 with verifying, you know, backup success.
 22 Q Okay. What on this document refers
 23 to backup tapes, if you know?
 24 A No. 13.

37	<p>1 Q No. 12 says, "Note number scratched 2 tapes." Do you see that? 3 A Yes. 4 Q Do you know what that's a reference 5 to? 6 A No. 7 Q It's my understanding, and you 8 correct me if I'm wrong, that when Housemail 9 backup tapes were used, there was a cycle of 21 10 days; that every 21 days you would basically 11 write over a prior tape, is that correct? 12 A Yes. 13 Q And in the process of writing over 14 old tapes, would they get scratched? 15 A I'm not sure if scratched and 16 overwriting is the same term. 17 Q No. I'm not saying that overwriting 18 causes them to be scratched, but tapes get old 19 and they do get scratched from wear and tear and 20 what not. 21 I'm just saying could this reference 22 to scratched tapes be a reference to scratched 23 backup tapes? 24 A I don't know.</p>	39	
38	<p>1 Q Do you know if scratching of backup 2 tapes was an issue that Household faced during 3 this time period? 4 A No. 5 Q Just so we're clear on the record, 6 what are the tapes that were used to do the 7 backups? And if you need to break it down under 8 the two sets, that's fine. 9 A Can you restate the question please? 10 Q There is a product that's used. It's 11 a tape, right? 12 A Hm-hm. 13 Q And the tape has a name. It has a 14 manufacturer and a model number. 15 A Yes. 16 Q So could you give that to me please? 17 A The tape models are StorageTek or 18 STK, and there was a model No. 3290. 19 Q Line 14 says, "Note number of purged 20 files." Do you see that? 21 A Yes. 22 Q Do you know what that's a reference 23 to? 24 A No.</p>	<p>1 Q Item 7 refers to bulletin board disk. 2 Do you see that? 3 A Yes. 4 Q Do you know what that refers to? 5 A I know that bulletin boards were a 6 feature of Housemail. 7 Q Now, we -- earlier we were talking 8 about disks as storage devices. 9 Can you tell me what you know about 10 the type of disks that were used? 11 A From memory, I'm sorry, I can't 12 recall that, but I do know that we did produce 13 that as part of the document set. 14 Q Have you heard the term disk map? 15 A No. 16 Q Have you heard of directory map? 17 A No. 18 Q Do you understand that at some point 19 in time there was a map or directory that 20 referenced what was stored on which disk? 21 A No. 22 Q If I wanted to know if Household had 23 ever had a directory map or a disk map, who 24 would I ask?</p>	40

41	<p>1 Q So this is 2001, 2002.</p> <p>2 A Yeah, I don't know.</p> <p>3 Q Put yourself back in that time</p> <p>4 period. If you wanted to ask the question how</p> <p>5 many disks were you using, and let's start on</p> <p>6 it, who would you go to ask?</p> <p>7 A I don't have a name. I don't know.</p> <p>8 Q Do you recall anyone who was working</p> <p>9 in computer operations at that time?</p> <p>10 A I never had a reason to call so I</p> <p>11 don't have knowledge of that.</p> <p>12 Q Did Mr. Kurtz know that knowledge?</p> <p>13 A I don't know.</p> <p>14 Q Is Mr. Kurtz still with the company?</p> <p>15 A No.</p> <p>16 Q Is Mr. Vaughan still with the</p> <p>17 company?</p> <p>18 A Yes.</p> <p>19 Q To your knowledge, when did Mr. Kurtz</p> <p>20 leave the company?</p> <p>21 A 2005.</p> <p>22 Q Ms. Cunningham, do you have any</p> <p>23 understanding as to whether it would be possible</p> <p>24 to operate the Housemail system today?</p>	43	<p>1 Q Now, you mentioned that there was a</p> <p>2 bulletin board function within Household --</p> <p>3 within Housemail, is that correct?</p> <p>4 A Yes.</p> <p>5 Q And would the files relating to the</p> <p>6 bulletin boards also be stored centrally on</p> <p>7 those disks?</p> <p>8 A Yes.</p> <p>9 Q The Housemail system also had a</p> <p>10 calendaring function, is that correct?</p> <p>11 A Yes.</p> <p>12 Q And would the files relating to the</p> <p>13 calendaring function also be stored centrally?</p> <p>14 A Yes.</p> <p>15 Q Have you heard the term a 191 disk?</p> <p>16 A No.</p> <p>17 Q Have you heard of the term Notelog?</p> <p>18 A Yes.</p> <p>19 Q What does Notelog refer to?</p> <p>20 A It refers to a folder in Housemail.</p> <p>21 Q And is that the place where I could</p> <p>22 store old e-mails or -- e-mails talking about --</p> <p>23 not old e-mails but e-mails that I had read that</p> <p>24 related to a certain subject if I was a user?</p>
42	<p>1 A Yes.</p> <p>2 Q Okay. And what is your</p> <p>3 understanding?</p> <p>4 A My understanding is that the</p> <p>5 Housemail system is no longer in existence at</p> <p>6 Household.</p> <p>7 Q Do you have any understanding as to</p> <p>8 whether Household has all the hardware devices</p> <p>9 necessary to run that system?</p> <p>10 THE WITNESS: Can you repeat that</p> <p>11 please?</p> <p>12 (Record read.)</p> <p>13 BY THE WITNESS:</p> <p>14 A No, they do not.</p> <p>15 BY MR. BAKER:</p> <p>16 Q Okay. What pieces of hardware is</p> <p>17 Household missing?</p> <p>18 A Additional disk, CPUs, and that's it.</p> <p>19 Q Now, in the time period of 2001 and</p> <p>20 2002, if I was a Housemail user, would my</p> <p>21 Housemail be stored locally, that is, on my</p> <p>22 terminal, my PC, or centrally in the disks that</p> <p>23 we've been talking about?</p> <p>24 A Centrally.</p>	44	<p>1 A Yes.</p> <p>2 Q And I understand that under the</p> <p>3 Housemail system a user had the ability to</p> <p>4 archive in Notelog as well, is that correct?</p> <p>5 A Yes.</p> <p>6 Q Do you know what software Household</p> <p>7 used to archive Notelogs?</p> <p>8 A It's my understanding that that was</p> <p>9 part of the OV system.</p> <p>10 Q Part of the OV/VM system?</p> <p>11 A Yes.</p> <p>12 MR. BAKER: Why don't we take a short</p> <p>13 break? By the way, if you do need to take a</p> <p>14 break or you need to take a break or you need to</p> <p>15 take a break --</p> <p>16 THE VIDEOGRAPHER: This is the</p> <p>17 videographer. The time is 10:05 a.m. We're</p> <p>18 going off the record.</p> <p>19 (Recess had.)</p> <p>20 THE VIDEOGRAPHER: Going on the</p> <p>21 record. The time is -- going on the record.</p> <p>22 The time is 10:31.</p> <p>23 BY MR. BAKER:</p> <p>24 Q Ms. Cunningham, is there anything you</p>

45	<p>1 want to add to your prior testimony?</p> <p>2 A Yes. There was one thing. I wanted</p> <p>3 to mention that I also met with Abra Siegel in</p> <p>4 reviewing for this case.</p> <p>5 Q Abra Siegel?</p> <p>6 A Siegel.</p> <p>7 Q Is that a him or her?</p> <p>8 A A him -- a her. It's a her.</p> <p>9 Q And is Ms. Siegel currently employed</p> <p>10 by Household?</p> <p>11 A Yes.</p> <p>12 Q And what -- I guess what did you meet</p> <p>13 to talk with her about?</p> <p>14 MR. SLOANE: Tell him the general</p> <p>15 subject. She is a lawyer.</p> <p>16 You can tell him the general subject.</p> <p>17 BY THE WITNESS:</p> <p>18 A Just in general preparation for the</p> <p>19 deposition.</p> <p>20 BY MR. BAKER:</p> <p>21 Q Not about any of the specific subject</p> <p>22 matters that we discussed about on the notice?</p> <p>23 Do you remember that? Exhibit 75.</p> <p>24 A Yes. It was in preparation for those</p>	47	<p>1 Q Now, prior to 2001 did you have any</p> <p>2 involvement in the Housemail system?</p> <p>3 A No.</p> <p>4 Q Commencing I think you said in 2001</p> <p>5 you were the manager of the Household e-mail</p> <p>6 system in general, is that correct?</p> <p>7 A Yes.</p> <p>8 Q And did you have two teams under you,</p> <p>9 one team that was dealing with LotusNotes and</p> <p>10 one team that was dealing with Household --</p> <p>11 Housemail?</p> <p>12 A Yes.</p> <p>13 Q And were there heads of each of those</p> <p>14 teams?</p> <p>15 A No.</p> <p>16 Q Was there a head of the Housemail</p> <p>17 team?</p> <p>18 A I was the head of the Housemail team.</p> <p>19 Q Let me see if I can get this. So</p> <p>20 there was a Housemail team, period, right? Was</p> <p>21 there also a LotusNotes team?</p> <p>22 A Yes.</p> <p>23 Q And you were head of the LotusNotes</p> <p>24 team too?</p>
46	<p>1 subject matters, yes.</p> <p>2 Q Okay. Was there any specific subject</p> <p>3 matters you discussed with -- on that list that</p> <p>4 you discussed with Ms. Siegel?</p> <p>5 A Specifically, no. We went over all</p> <p>6 of them.</p> <p>7 Q Have you based any of your prior</p> <p>8 answers on information that Ms. Siegel gave you?</p> <p>9 A No.</p> <p>10 Q Just let me clarify a couple things.</p> <p>11 I think we talked about -- and if I've already</p> <p>12 asked you this question, I apologize. We talked</p> <p>13 about the documents that were produced as part</p> <p>14 of this deposition and you said you reviewed</p> <p>15 them, is that correct?</p> <p>16 A Yes.</p> <p>17 Q Did any of those documents come from</p> <p>18 your files?</p> <p>19 A No.</p> <p>20 Q Going back to just the general</p> <p>21 Housemail system, do you know when that was put</p> <p>22 in place, put into use at Household as the</p> <p>23 e-mail system?</p> <p>24 A 1985.</p>	48	<p>1 A Yes.</p> <p>2 Q And did you have someone under you</p> <p>3 who was responsible for reporting to you what</p> <p>4 was going on in terms of the Housemail, sort of</p> <p>5 a subteam leader?</p> <p>6 A Several.</p> <p>7 Q How many people were on the Housemail</p> <p>8 team?</p> <p>9 A When?</p> <p>10 Q 2001, 2002.</p> <p>11 A 2001 there were four and in 2002</p> <p>12 there was one.</p> <p>13 Q Is this throughout 2002 or just at</p> <p>14 the end of 2002?</p> <p>15 A Throughout 2002.</p> <p>16 Q Okay. How many people were working</p> <p>17 on the LotusNotes team in 2001?</p> <p>18 A Approximately ten.</p> <p>19 Q And in 2002?</p> <p>20 A Approximately the same number.</p> <p>21 Q Do you recall as you sit here today</p> <p>22 who were the four members of the Housemail team</p> <p>23 in 2001?</p> <p>24 A Park Basham, Carol Werner, Molly</p>

49	<p>1 Murray and Gina Dunne.</p> <p>2 Q Dunne?</p> <p>3 A Dunne.</p> <p>4 Q Was there a Frank Buss?</p> <p>5 A No.</p> <p>6 Q Did Frank Buss report to you?</p> <p>7 A Yes.</p> <p>8 Q And was he on the LotusNotes team?</p> <p>9 A Yes.</p> <p>10 Q And in 2001 how many employees --</p> <p>11 were all these I guess -- let me start again.</p> <p>12 In 2002 was Ms. Werner the lone</p> <p>13 Housemail person on your team?</p> <p>14 A Yes.</p> <p>15 Q What happened to Mr. Basham?</p> <p>16 MR. SLOANE: Object to the form of</p> <p>17 the question.</p> <p>18 BY MR. BAKER:</p> <p>19 Q Did he migrate to some other position</p> <p>20 within Household at that time?</p> <p>21 A Yes.</p> <p>22 Q And what position did he have?</p> <p>23 A I'm not sure.</p> <p>24 Q But he no longer reported to you?</p>	51	<p>1 A No.</p> <p>2 Q Was there any order as to who was on</p> <p>3 LotusNotes versus who was on Housemail?</p> <p>4 A LotusNotes access was granted only</p> <p>5 with departmental management approval.</p> <p>6 Q Do you have any understanding as to</p> <p>7 whether specific individuals were on one program</p> <p>8 or another? For example, Mr. Schoenholz?</p> <p>9 A No, I don't.</p> <p>10 Q Do you know Mr. Gilmer? Have you</p> <p>11 heard the name Gary Gilmer?</p> <p>12 A Yes.</p> <p>13 Q Do you happen to know in the year</p> <p>14 2001, 2002 which program he was on?</p> <p>15 A All employees had Housemail.</p> <p>16 Q Okay. But they might also have</p> <p>17 LotusNotes, is that correct?</p> <p>18 A Yes.</p> <p>19 Q And were there any rules within</p> <p>20 Household as to which should be used for what?</p> <p>21 In other words, LotusNotes should be used for</p> <p>22 this and Housemail should be used for that?</p> <p>23 A No.</p> <p>24 Q To your recollection, does Housemail</p>
50	<p>1 A He no longer reported to me.</p> <p>2 Q Now, during the time period we're</p> <p>3 talking about, 2001, 2002, there are two systems</p> <p>4 in place for the Housemail. There is a</p> <p>5 LotusNotes, right, and a Housemail system, is</p> <p>6 that correct?</p> <p>7 A Yes.</p> <p>8 Q Was there any division as to who</p> <p>9 within the overall Household corporate structure</p> <p>10 would be on one program as opposed to another?</p> <p>11 A I don't understand the question.</p> <p>12 Q Well, there are different divisions</p> <p>13 within Household, is that correct?</p> <p>14 A Correct.</p> <p>15 Q There is a Mortgage Service Division</p> <p>16 I believe?</p> <p>17 A Correct.</p> <p>18 Q Okay. Do you refer to those as</p> <p>19 divisions or business units?</p> <p>20 A Business units.</p> <p>21 Q Okay. Business units. Was a</p> <p>22 division made between -- by business unit as to</p> <p>23 who would be on LotusNotes versus who would be</p> <p>24 on Housemail?</p>	52	<p>1 support or I should say did it support the</p> <p>2 ability to attach a document to an e-mail?</p> <p>3 A It did not support that.</p> <p>4 Q Okay. Does Housemail have a document</p> <p>5 database feature?</p> <p>6 MR. SLOANE: Again we're talking</p> <p>7 2001, 2002?</p> <p>8 MR. BAKER: No point talking about it</p> <p>9 now I don't think.</p> <p>10 MR. SLOANE: Well, you keep saying</p> <p>11 does it. That's why I kind of keep making sure</p> <p>12 the record is clear.</p> <p>13 MR. BAKER: Okay.</p> <p>14 BY THE WITNESS:</p> <p>15 A No, not that I'm aware of.</p> <p>16 BY MR. BAKER:</p> <p>17 Q Did you ever use Housemail yourself</p> <p>18 as a user when you were there?</p> <p>19 A Yes.</p> <p>20 Q And in the course of your using it if</p> <p>21 you wanted to exchange information about a</p> <p>22 particular document with someone using the</p> <p>23 Housemail system, how would you do it?</p> <p>24 A The only way to exchange the</p>

53	<p>1 information would be through text.</p> <p>2 Q You would basically place the text of</p> <p>3 the document in your message, is that correct?</p> <p>4 A Correct.</p> <p>5 Q Okay. You didn't refer to a document</p> <p>6 that was stored centrally elsewhere by a path</p> <p>7 name or something like that?</p> <p>8 A Yes. I had access to a LAN drive.</p> <p>9 Q So is it fair to say that during the</p> <p>10 year 2001, 2002, there was no one -- well, let</p> <p>11 me just paraphrase it.</p> <p>12 There was at some point in the later</p> <p>13 part of 2002 where there was a migration, is</p> <p>14 that correct?</p> <p>15 A Yes.</p> <p>16 Q So let's talk a little bit</p> <p>17 pre-migration. During the period 2001 to 2002</p> <p>18 there was no one that was using LotusNotes</p> <p>19 exclusively, to your knowledge?</p> <p>20 A That's correct.</p> <p>21 Q Again, was there any policy directing</p> <p>22 individuals to use LotusNotes in specific</p> <p>23 instances?</p> <p>24 A No.</p>	55	<p>1 Q And were the LotusNotes retention</p> <p>2 policies the same?</p> <p>3 A No.</p> <p>4 Q Okay. How did they differ?</p> <p>5 A I mentioned Housemail had the 21-day</p> <p>6 retention. LotusNotes did not have that.</p> <p>7 Q Why not, do you know?</p> <p>8 A It was a different system.</p> <p>9 Q You said that the disks that were</p> <p>10 used to support the Housemail system were --</p> <p>11 left Household's custody in July of 2003, is</p> <p>12 that correct?</p> <p>13 A Yes.</p> <p>14 Q Okay. Did you have any role in the</p> <p>15 decision to let those disks go?</p> <p>16 A No.</p> <p>17 Q Do you know who made that decision?</p> <p>18 A No, I don't.</p> <p>19 Q At that point in time, July of 2003,</p> <p>20 did Household have the CPU necessary to run the</p> <p>21 Housemail system?</p> <p>22 A I'm sorry. In July of 2003?</p> <p>23 Q 2003.</p> <p>24 A No.</p>
54	<p>1 Q Was there any policy directing people</p> <p>2 to use Housemail in particular instances?</p> <p>3 A The policy did say that Housemail was</p> <p>4 our primary e-mail system.</p> <p>5 Q So essentially it was up to the</p> <p>6 user's choice as to which system he or she</p> <p>7 wanted to use?</p> <p>8 A If they had both.</p> <p>9 Q Yeah, okay. You're right. I assumed</p> <p>10 that in my question.</p> <p>11 A Yes.</p> <p>12 Q Now, in the hardware architecture we</p> <p>13 don't have the diagram for, is it fair to say</p> <p>14 that the LotusNotes architecture is separate and</p> <p>15 apart from the Housemail architecture?</p> <p>16 A Yes.</p> <p>17 Q At that time was the LotusNotes</p> <p>18 centrally stored as well?</p> <p>19 A Yes.</p> <p>20 Q And did LotusNotes use the same</p> <p>21 backup system?</p> <p>22 A No.</p> <p>23 Q Okay. It had its own backup system?</p> <p>24 A Yes.</p>	56	<p>1 Q When did Household lose the CPU? And</p> <p>2 I mean not lost it by accident in a sense, but</p> <p>3 when did it lose custody of the CPU to run the</p> <p>4 Household system?</p> <p>5 A In July of 2003.</p> <p>6 Q Did I say the CPU? You said the same</p> <p>7 year, 2003?</p> <p>8 A I'm interpreting your question, and</p> <p>9 CPU and hardware is the same thing.</p> <p>10 Q Okay. Is the CPU part of the disks</p> <p>11 in the Housemail system?</p> <p>12 A Yeah, I believe so.</p> <p>13 Q Okay. Now, you mentioned the 20-day</p> <p>14 retention policy.</p> <p>15 MR. SLOANE: 21. You said 20. She</p> <p>16 said 21.</p> <p>17 MR. BAKER: No. I thought I said 21.</p> <p>18 BY MR. BAKER:</p> <p>19 Q You mentioned the 21-day retention</p> <p>20 policy. You also mentioned that for Housemail</p> <p>21 there was a six-month retention period for live</p> <p>22 files I believe, is that correct?</p> <p>23 A Yes.</p> <p>24 Q And how did that policy come to be</p>

<p style="text-align: right;">57</p> <p>1 implemented? In other words, was there an 2 automatic program set up such that after six 3 months an e-mail was automatically deleted? 4 A Yes. 5 Q Did the user have any discretion as 6 to whether to extend a particular e-mail file 7 for longer than the six-month period? 8 A Yes. 9 Q And how did the user do that? 10 A The six-month retention had to do 11 with the Notelogs, and if a user updated a 12 Notelog, the clock would be reset. 13 Q And how would one update a Notelog? 14 A They would add or remove information 15 from the Notelog. 16 Q If I archived a Notelog, would that 17 have anything to do with the six-month 18 retention? 19 A Yes. 20 Q Could that extend the six-month 21 retention by archiving it as well? 22 A Only if the archive file was brought 23 back online. 24 Q So I had to use it within the</p>	<p style="text-align: right;">59</p> <p>1 A No. 2 Q I can leave it just stand alone? 3 A Yes. 4 Q And at the end of six months, that 5 e-mail would be deleted? 6 A No. 7 Q Was there a limit as to how many 8 e-mails I could have in my In box? 9 A Yes. 10 Q And what was that limit? 11 A It was a limit based on file space, 12 not number of e-mails. 13 Q And file space, you're referring 14 again to the files that were allocated to that 15 particular user in the central disk, is that -- 16 A A set amount of space allocated to a 17 user. 18 Q Okay. Have you heard the expression 19 A disk space? 20 A Yes. 21 Q And that's what we're talking about, 22 right? 23 A Yes. 24 Q During the period 2001, 2002, do you</p>
<p style="text-align: right;">58</p> <p>1 six-month period sort of? 2 A It needed to be retrieved from the 3 archive. 4 Q Let me ask you another question. Is 5 there any reason that you can't give your 6 testimony truthfully and honestly today? 7 A No. 8 Q So you're not under any medication 9 that would impair your ability to testify? 10 A No. 11 Q With the six-month deletion, was this 12 on a daily basis? 13 A Yes. The program would run every 14 day. 15 Q And the system was based on the 16 Notelogs as opposed to the individual e-mails, 17 is that correct? 18 A Yes. 19 Q Okay. Maybe -- I understand this is 20 a relatively old system, but let me ask you some 21 questions about it. 22 I'm a user and I receive an e-mail in 23 my Housemail In box. Once I read it, do I have 24 to put it in a Notelog?</p>	<p style="text-align: right;">60</p> <p>1 know how much space an individual was generally 2 allocated as A disk space? 3 A No, I don't. 4 Q Who would know the answer to that 5 question? 6 A Carol Werner. 7 Q As a user, could I request a larger A 8 disk space? 9 A Yes. 10 Q And who was that request made to 11 during this time period? 12 A I don't recall. 13 Q It didn't come to you? 14 A No, it did not. 15 Q Okay. Now, does the A disk space 16 also include the space for archived Notelogs? 17 A My recollection is that it did not. 18 Q Now, as a Housemail user, if I sent 19 an e-mail, did that e-mail automatically get 20 stored in my A disk space? 21 A No. 22 Q Okay. What happened to my -- if I 23 didn't do anything, would I lose the ability to 24 recall that message?</p>

61	<p>1 A Yes.</p> <p>2 Q Okay. So I would affirmatively have</p> <p>3 to put that message -- would I have to cc</p> <p>4 myself? Is that normally how I would do it?</p> <p>5 A No.</p> <p>6 Q How would I save my outgoing messages</p> <p>7 if I wanted to?</p> <p>8 A You would save it in a Notelog.</p> <p>9 Q And would that be one of the options</p> <p>10 I would have as a user prior to sending the</p> <p>11 message?</p> <p>12 A Yes.</p> <p>13 Q Now, under the Housemail system could</p> <p>14 you reply to a message?</p> <p>15 A Yes.</p> <p>16 Q Okay. And would it attach like in</p> <p>17 LotusNotes? Would I have the option to attach</p> <p>18 the prior e-mail?</p> <p>19 A Yes.</p> <p>20 Q So you could get e-mail chains in</p> <p>21 Housemail as well?</p> <p>22 A Yes.</p> <p>23 Q Okay. But again unless I put that in</p> <p>24 a Notelog, I would lose that as a user?</p>	63	<p>1 allocated to them for their use of LotusNotes?</p> <p>2 A No.</p> <p>3 Q Okay. Was there any capacity limit</p> <p>4 on the LotusNotes for e-mail users at this time?</p> <p>5 A No.</p> <p>6 MR. SLOANE: Counsel, I'm going to</p> <p>7 allow you some latitude here, but as you know,</p> <p>8 this is a deposition about Housemail. To the</p> <p>9 extent you're trying to draw some contrast, I</p> <p>10 understand and I've given you latitude, but I</p> <p>11 just caution you that we're really dealing with</p> <p>12 Housemail here.</p> <p>13 MR. BAKER: I appreciate it, but I</p> <p>14 also appreciate that this is the witness perhaps</p> <p>15 the most knowledgeable about the LotusNotes</p> <p>16 system.</p> <p>17 MR. SLOANE: That's not what this</p> <p>18 deposition is about.</p> <p>19 MR. BAKER: Well, that may be the</p> <p>20 case, but the fact that the witness has relevant</p> <p>21 knowledge of a related subject allows me to ask</p> <p>22 the witness questions.</p> <p>23 MR. SLOANE: No, they don't. This is</p> <p>24 a deposition pursuant to a specific judicial</p>
62	<p>1 A Yes.</p> <p>2 Q My understanding is that there was a</p> <p>3 gateway server between the LotusNotes system and</p> <p>4 the Housemail system. Is that your</p> <p>5 understanding?</p> <p>6 A That's my understanding.</p> <p>7 Q Okay. Did that gateway server make a</p> <p>8 copy of e-mails as they went through?</p> <p>9 A No.</p> <p>10 Q Okay. So it was more in the nature</p> <p>11 of a conduit?</p> <p>12 A Correct.</p> <p>13 Q And I assume the testimony that you</p> <p>14 just gave about Housemail, LotusNotes does not</p> <p>15 work the same way, is that correct? Well, under</p> <p>16 LotusNotes if I send an outgoing e-mail, is it</p> <p>17 automatically saved in my files? During this</p> <p>18 time period I should say.</p> <p>19 A I believe it was.</p> <p>20 Q Okay. And I believe at that time</p> <p>21 LotusNotes had the capacity to attach a document</p> <p>22 to it as part of an e-mail message?</p> <p>23 A Yes.</p> <p>24 Q And did users have A disk space</p>	64	<p>1 ruling and the scope of this deposition is</p> <p>2 confined by what the Judge indicated it should</p> <p>3 be.</p> <p>4 Please continue. I've given you some</p> <p>5 latitude. I'm not going to give you a lot of</p> <p>6 latitude on LotusNotes.</p> <p>7 MR. BAKER: I appreciate the</p> <p>8 latitude. I don't believe you have the</p> <p>9 discretion to give it to me, but if that's the</p> <p>10 way it's going to be, that's the way it's going</p> <p>11 to be.</p> <p>12 BY MR. BAKER:</p> <p>13 Q Continuing about the hardware, do you</p> <p>14 happen to know how many -- well, is there a</p> <p>15 server that's used as part of the Housemail</p> <p>16 system?</p> <p>17 MR. SLOANE: Again, 2001, 2002?</p> <p>18 MR. BAKER: Yes.</p> <p>19 BY THE WITNESS:</p> <p>20 A No.</p> <p>21 BY MR. BAKER:</p> <p>22 Q We have those disks and we have the</p> <p>23 CPU, is that correct?</p> <p>24 A Can you expound on that please?</p>

65	<p>1 Q We talked earlier about the Housemail 2 system has disks, right? 3 A Hm-hm. 4 Q And we talked about the Housemail 5 system having a CPU, right? 6 A Yes. 7 Q But those two components are not 8 included in any sort of server? 9 A They're included in a mainframe. 10 Q At this point in time, 2001, 2002, 11 how many mainframes did Household use to support 12 its Housemail functions? 13 A One primary and one backup. 14 Q Was the backup the same as a 15 fail-over? 16 A No. It was a disaster recovery. 17 Q In addition to this, was there a 18 separate mainframe that was used to back up the 19 tapes? 20 A No. 21 Q How were the tapes backed up? During 22 the time period 2001, 2002, how did Household 23 backup its e-mail tapes, Housemail e-mail tapes? 24 I'm sorry.</p>	67	<p>1 Q What other functions? 2 A There was a form function. 3 Q And what did the form function allow 4 one to do? 5 A It was a way to automate a piece of 6 paper. 7 Q Did Household use this for forms? 8 A Yes. 9 Q Okay. What forms did Household use 10 this for? 11 A Generally they were administrative 12 forms. 13 Q Can you give me an example? 14 A I can't recall. 15 Q Did Household use these for any 16 common loan documents? 17 A No. 18 Q During the time period 2001, 2002, 19 what would the -- well, were the satellite 20 offices, satellite loan offices part of the 21 Housemail system? 22 A Yes. 23 Q And did everyone in Household have 24 access to the Housemail system?</p>
66	<p>1 A It used the software VMBackup to 2 write the information to the StorageTek tapes. 3 Q And did this do it once daily? 4 A It did it daily Monday through Friday 5 and also weekly on Saturday. 6 Q And were the Monday through Friday 7 tapes incremental tapes? 8 A Yes. 9 Q And the Saturday captured the whole 10 week? 11 A Yes. Saturday was a snapshot of 12 everything there on Saturday. 13 Q And that would include the bulletin 14 board data? 15 A Yes. 16 Q Any data that was in the Housemail 17 system? 18 A Yes. 19 Q We talked about the bulletin board 20 function, we talked about the e-mails, we talked 21 about the calendaring function. 22 Did Housemail include any other 23 functions? 24 A Yes.</p>	68	<p>1 A Employees were given access. 2 Q Okay. So if I'm a loan processor in 3 Kalamazoo, Michigan, I would have access to that 4 system if I was there during that time period? 5 A Yes. 6 Q Was a Housemail system used to 7 transfer loan information between offices, if 8 you know? 9 A I don't know. 10 Q Do you know if it was used to 11 transmit financial information relating to the 12 status of the company at this time? 13 A Generally the system was for general 14 correspondence. I'm not aware of loan 15 information that was transmitted with Housemail. 16 Q Was there any policy precluding the 17 transmittal of loan information in these 18 e-mails? 19 A I don't recall the policy stating 20 such. 21 Q Did the Household e-mail policy 22 preclude the use of Housemail for any particular 23 subjects? 24 A Yes.</p>

69	<p>1 Q And what subjects were those?</p> <p>2 A Inappropriate subject matters, you</p> <p>3 know --</p> <p>4 Q Off color jokes?</p> <p>5 A Yes.</p> <p>6 Q Any other subject matters that you</p> <p>7 can recall as you sit here today?</p> <p>8 A The policy I believe even states, you</p> <p>9 know, offensive material.</p> <p>10 Q Did the Housemail system support any</p> <p>11 other additional functionality besides this form</p> <p>12 functionality and the other three that we</p> <p>13 discussed earlier?</p> <p>14 A Possibly, but I don't recall what</p> <p>15 they are.</p> <p>16 Q But whatever the functionality was,</p> <p>17 whatever data was within that system, that would</p> <p>18 be backed up, a snapshot taken of all that data</p> <p>19 on Saturday, is that correct?</p> <p>20 A Yes.</p> <p>21 Q And so when we have a 21-day period,</p> <p>22 that would give us three Saturdays, I assume?</p> <p>23 A Yes.</p> <p>24 Q So we would have three snapshots and</p>	71	<p>1 BY THE WITNESS:</p> <p>2 A No, not under the normal policy.</p> <p>3 BY MR. BAKER:</p> <p>4 Q Under the policy if there was</p> <p>5 litigation that required the use or the</p> <p>6 preservation of a weekly snapshot, how would the</p> <p>7 relevant individuals within Household be</p> <p>8 notified of that need?</p> <p>9 A Legal would notify through a</p> <p>10 directive to preserve relevant documents.</p> <p>11 Q Do you know in the case of Housemail</p> <p>12 who the directive would go to during the period</p> <p>13 2001, 2002?</p> <p>14 A That was up to the lawyer who was</p> <p>15 involved in the case.</p> <p>16 Q Would they have notified you or</p> <p>17 should I say in this case did they notify you?</p> <p>18 A No.</p> <p>19 MR. SLOANE: I'm sorry. I object to</p> <p>20 the form of the question. You said in this</p> <p>21 case. You mean in the Jaffe case?</p> <p>22 MR. BAKER: In this very case.</p> <p>23 BY MR. BAKER:</p> <p>24 Q Were you notified of any need to</p>
70	<p>1 the rest would be incremental tapes?</p> <p>2 A Yes.</p> <p>3 Q Were there any monthly backups taken?</p> <p>4 A No.</p> <p>5 Q Were there any yearly backups taken?</p> <p>6 A There was one.</p> <p>7 Q And what year was that?</p> <p>8 A 2002.</p> <p>9 Q At the end of the year 2002?</p> <p>10 A Yes.</p> <p>11 Q And why was that snapshot taken?</p> <p>12 A It was the last backup prior to</p> <p>13 shutting the system down.</p> <p>14 Q Now, under the Household retention</p> <p>15 policy as it pertained to Housemail backups, did</p> <p>16 there need to be any specific authorization</p> <p>17 from -- let me put it this way.</p> <p>18 Did there need to be any notification</p> <p>19 to the audit department or to the legal</p> <p>20 department prior to destroying or writing over a</p> <p>21 Saturday weekly snapshot?</p> <p>22 MR. SLOANE: I believe you asked that</p> <p>23 question before, but if the witness can answer</p> <p>24 it.</p>	72	<p>1 retain Housemails for this case?</p> <p>2 A I was not on the direct memo from</p> <p>3 legal, no.</p> <p>4 Q But you weren't involved in the</p> <p>5 cycling of these retention tapes, is that</p> <p>6 correct? I'm sorry, the backup tapes.</p> <p>7 A I'm sorry. Can you repeat that?</p> <p>8 Q Did you have custody of the backup</p> <p>9 tapes?</p> <p>10 A The company does, yes.</p> <p>11 Q Did you, Christine Cunningham, during</p> <p>12 2001, 2002, did you have custody of the backup</p> <p>13 tapes?</p> <p>14 A No, I did not.</p> <p>15 Q Were they within your</p> <p>16 responsibilities as the Housemail manager?</p> <p>17 A Yes.</p> <p>18 Q Was there someone else who had</p> <p>19 responsibility for them, for instance, a storage</p> <p>20 individual?</p> <p>21 A Yes.</p> <p>22 Q Did that person have primary</p> <p>23 responsibility for those tapes?</p> <p>24 A The tapes are secured in the data</p>

<p style="text-align: right;">73</p> <p>1 center. The implementation of any backup 2 routines would be, you know, the responsibility 3 of the system administration team. 4 Q During this time period who was the 5 head of the systems administration team? 6 A Me. 7 Q You were? You mentioned the name of 8 Mr. Rezentes, is that right? 9 A Rezentes. 10 Q Rezentes, sorry. What was his 11 capacity during the period 2001, 2002? 12 A He was a manager in the capacity 13 planning department. 14 Q As a head of the systems 15 administration team during this time period, did 16 you have any responsibility for establishing the 17 21-day retention period for Housemail backup 18 tapes? 19 A No, I didn't. 20 Q Okay. So when you inherited that 21 responsibility, that policy had already been 22 set? 23 A Yes. 24 Q During the time you were the head of</p>	<p style="text-align: right;">75</p> <p>1 A HTS took action on the directive. I 2 don't know the specific individual who received 3 specific instructions. 4 Q Now, did the directive specifically 5 pertain to Housemail or was it a general 6 directive? 7 A There was a general directive. 8 Q To your knowledge, did legal ever 9 issue a directive specific to Housemail? 10 A Yes. 11 Q Okay. When did that occur? 12 A I'm aware of one case where the 13 directive was to retain a specific week of 14 backups. 15 Q Okay. What is the week in question? 16 A The end of August. 17 Q Is this the August 31, 2002 backups? 18 A Correct. 19 Q To your knowledge, does Household 20 have any backup tapes relating to Housemail 21 prior to August 31, 2002? 22 A We do not. 23 Q Okay. Do you know why not? 24 A They were on the normal retention</p>
<p style="text-align: right;">74</p> <p>1 the systems administration team, was there any 2 discussion of lengthening that 20-day -- 21-day 3 period? 4 A Yes. 5 Q Okay. When did that discussion take 6 place? 7 A After we received the directive from 8 legal. 9 Q And you're referring to the directive 10 in this case? 11 A Yes. 12 Q And when you say "we," who was the 13 person that you know received the directive from 14 legal not to destroy extant backup tapes? 15 A Can you repeat the question please? 16 Q Well, I think I asked you earlier did 17 you receive the directive from legal in this 18 case and the answer I thought was no. 19 A Right. 20 Q And then you told me that you -- that 21 there was an extension of the days after we 22 received the directive from legal. I don't 23 understand. You told me it wasn't you, so who 24 did receive the directive?</p>	<p style="text-align: right;">76</p> <p>1 cycle. 2 Q Well, I guess maybe I need to 3 rephrase my question. 4 Do you know why August 31, 2002 is 5 the first backup date that you have? 6 A It was on special retention from a 7 case. I don't know what the case was, but it 8 was from a directive, and when the directive 9 came from this case, those tapes were in 10 existence and, therefore, they were part of the 11 set to be retained. 12 Q Okay. Do you know the date of the 13 directive? 14 A It was the September time frame. 15 Q Well, can we add -- is it fair to say 16 we could add 21 days to August 31; would that 17 give us the date? 18 MR. SLOANE: I don't understand your 19 question. I object to the form. 20 BY MR. BAKER: 21 Q Would it be September 20, 2002? 22 A That's my recollection, yes. 23 Q To your knowledge, was there any 24 directive issued in this case prior to September</p>

77	<p>1 20, 2002 to retain Housemails? 2 A No. 3 Q Under the policy for retaining 4 documents as it pertained to Housemail, was 5 there any time frame in which a directive was to 6 be issued upon receipt of a summons? 7 MR. SLOANE: Could I have the 8 question reread? 9 (Record read.) 10 MR. SLOANE: You're asking a general 11 policy, right? 12 MR. BAKER: Yes. 13 BY THE WITNESS: 14 A I don't know what it means on receipt 15 of a summons. 16 BY MR. BAKER: 17 Q Okay. Well, I'll give you my two 18 cents of legal education. Unless your counsel 19 feels I'm misdescribing things, I will. 20 Generally what happens is a plaintiff 21 files a complaint and then he serves the summons 22 on the defendant and the summons is generally 23 served at the same time as the complaint. 24 Have you ever heard the term summons</p>	79	<p>1 have an agreement that you're talking about 2 2001, 2002 unless you say some other time 3 period? Because you often ask questions in the 4 present tense and you're asking about 2001, 5 2002. And I don't like to interrupt your 6 questions with constant objections, so can we 7 have some general understanding that if you 8 don't indicate a time period, we're talking 9 2001, 2002? 10 MR. BAKER: No. 11 MR. SLOANE: Then I'll just object to 12 every question if you don't indicate a time 13 period. Sorry. Go ahead. Read back the 14 question to the witness. I thought we had that 15 understanding. 16 MR. BAKER: Well, I've been trying to 17 phrase my questions during the relevant time 18 period. I'm including that phrase to avoid 19 that. 20 MR. SLOANE: Let's not argue about 21 it. I asked you a specific thing and you said 22 no, so let's go on. 23 BY MR. BAKER: 24 Q Do you recall the question,</p>
78	<p>1 before? 2 A I've heard of it before, yes. 3 Q Do you have any understanding as to 4 whether the service of a summons under the 5 general policy for retaining documents triggers 6 a directive to retain documents? 7 A I'm not sure. No, I don't have an 8 understanding of that. 9 Q Okay. Do you know who I would go to 10 ask within the Household system to find the 11 answer to that question? 12 A I would direct you to someone in 13 legal. 14 Q Do you have any knowledge if there is 15 anyone within the legal department who has 16 responsibility, specific responsibility for 17 document retention? 18 MR. SLOANE: The time period again 19 2001, 2002, or are you talking about today? 20 MR. BAKER: Let's start with in 21 general. 22 MR. SLOANE: Let's have some ground 23 rules. Every question you ask I would ask you 24 to either specify the time period or we could</p>	80	<p>1 Ms. Cunningham? 2 A No. Could you please repeat it? 3 (Record read.) 4 MR. SLOANE: Object to the form of 5 the question. No time period. 6 Do you understand the question? 7 BY THE WITNESS: 8 A No. Can you please restate the 9 question? 10 BY MR. BAKER: 11 Q If you had a question about document 12 retention and you wanted to call the legal 13 department, is there any one member of the legal 14 department that springs to mind as having that 15 responsibility? 16 MR. SLOANE: Today? 17 MR. BAKER: Today. I'm asking 18 actually at any time, not today. 19 BY MR. BAKER: 20 Q If at any point of time during your 21 career at Household, if you wanted to know the 22 answer to that question, who would you ask? 23 MR. SLOANE: Fair enough. 24 MR. BAKER: That's why I didn't</p>

81	<p>1 specify a time period.</p> <p>2 BY THE WITNESS:</p> <p>3 A No. There isn't anybody that comes</p> <p>4 to mind in the legal department that I would</p> <p>5 call.</p> <p>6 BY MR. BAKER:</p> <p>7 Q Is there an individual within the</p> <p>8 legal department who is assigned or who at the</p> <p>9 time period was assigned to work with your team</p> <p>10 on Housemail issues?</p> <p>11 MR. SLOANE: Again, 2001, 2002?</p> <p>12 MR. BAKER: Yes.</p> <p>13 BY THE WITNESS:</p> <p>14 A I understand that there was a lawyer</p> <p>15 who was assigned to work with HTS. I do not</p> <p>16 have an understanding if that individual was</p> <p>17 assigned specifically to work on Housemail</p> <p>18 issues.</p> <p>19 BY MR. BAKER:</p> <p>20 Q Do you recall the name of that</p> <p>21 lawyer?</p> <p>22 A I believe it was Alison Shank.</p> <p>23 Q Does Ms. Shank still work there?</p> <p>24 A I'm not sure.</p>	83	<p>1 know -- well, let me see. Let me ask the</p> <p>2 question.</p> <p>3 BY MR. BAKER:</p> <p>4 Q I think you told me that they were</p> <p>5 not exclusively using LotusNotes, is that</p> <p>6 correct?</p> <p>7 A Correct.</p> <p>8 Q So all these individuals, if they</p> <p>9 were employed at Household at the time, could</p> <p>10 have used the Housemail system if they wanted</p> <p>11 to?</p> <p>12 MR. SLOANE: Object to the form of</p> <p>13 the question. You may answer.</p> <p>14 BY THE WITNESS:</p> <p>15 A They could have used it.</p> <p>16 BY MR. BAKER:</p> <p>17 Q It was their choice which one to use,</p> <p>18 is that right?</p> <p>19 A Well, like I said before, the</p> <p>20 Housemail system was the primary e-mail system</p> <p>21 and people were encouraged to use that system as</p> <p>22 their primary means of communicating internally.</p> <p>23 Q Have you heard the term DASD, the</p> <p>24 acronym?</p>
82	<p>1 Q So it's fair to say you didn't</p> <p>2 consult with Ms. Shank about the policy as it</p> <p>3 pertained to e-mail prior to this deposition?</p> <p>4 A That's correct.</p> <p>5 Q During the time period that you were</p> <p>6 the head of the Housemail team, did the software</p> <p>7 used to back up the Housemail system ever</p> <p>8 change?</p> <p>9 A No.</p> <p>10 Q It was always done using the same</p> <p>11 system?</p> <p>12 A Yeah.</p> <p>13 Q Ms. Cunningham, if I gave you a list</p> <p>14 of individuals who worked at Household, would</p> <p>15 you be able to tell me which, if any of them,</p> <p>16 were using the LotusNotes system in 2001?</p> <p>17 A It depends on what list you showed</p> <p>18 me.</p> <p>19 Q I'll show you a list.</p> <p>20 MR. BAKER: I only have one copy but,</p> <p>21 counsel, you can --</p> <p>22 MR. SLOANE: Well, this is a question</p> <p>23 about LotusNotes?</p> <p>24 MR. BAKER: Yeah, because I want to</p>	84	<p>1 A Yes.</p> <p>2 Q What does DASD stand for?</p> <p>3 A DASD is how we pronounce it and it</p> <p>4 refers to a disk on a mainframe.</p> <p>5 Q So those were the storage disks we</p> <p>6 talked about earlier in relation to the A disk</p> <p>7 space?</p> <p>8 A Yes.</p> <p>9 Q Have you heard of the term IOCP?</p> <p>10 A No, I have not.</p> <p>11 Q Okay. Have you heard the term</p> <p>12 input-output configuration program?</p> <p>13 A No.</p> <p>14 Q Do you know if the Housemail system</p> <p>15 used the Mailbox Manager?</p> <p>16 A I've heard of that term before. I</p> <p>17 don't have the details about what its function</p> <p>18 was.</p> <p>19 Q Okay. Do you know if that system was</p> <p>20 employed with the Housemail system?</p> <p>21 A I believe so, yes.</p> <p>22 Q Do you know what specific features of</p> <p>23 the Mailbox Manager's feature were used?</p> <p>24 A No, I don't.</p>

85	<p>1 Q If I wanted to know what portions, if 2 any, of the Mailbox Manager were used by 3 Housemail during the period 2001, 2002, who 4 would I ask? 5 A Carol Werner or Park Basham. 6 Q Do you know if Mr. Basham is still 7 employed by Household? 8 A Yes, he is. 9 MR. BAKER: Why don't we take a 10 break. It looks like we're at the end of a 11 tape. 12 THE WITNESS: Okay. 13 MR. BAKER: By the way, if you do 14 want to take a break, let me know. 15 MR. SLOANE: I'll ask her if she's 16 feeling all right. 17 THE VIDEOGRAPHER: This marks the end 18 of Videotape 1, Volume 1 in the deposition of 19 Christine Cunningham. The time is 11:23. Going 20 off the record. 21 (Recess had.) 22 THE VIDEOGRAPHER: This marks the 23 beginning of video -- wait a minute. This marks 24 the beginning of Videotape No. 2, Volume 1 in</p>	87	<p>1 HHS-N 006106. 2 MR. SLOANE: I just -- I don't know 3 what questions you have about this, but there is 4 a protocol that has been agreed to with respect 5 to native format documents and what happens in a 6 deposition with respect to them, and I may be 7 mischaracterizing it, and if I do, it's totally 8 innocent, but my understanding was that to the 9 extent a native format document was one which 10 was going to be shown to a witness, that it had 11 to be shown in a format in which you, the 12 plaintiffs, bear the burden of authenticity in 13 establishing for both counsel and any witness to 14 whom such documents are shown the steps taken in 15 producing or preparing the hard copy exhibits, 16 and there is a representation that is to be made 17 by you, again pursuant to a written agreement 18 between the parties which you may not be 19 knowledgeable about -- 20 MR. BAKER: Before you go on further, 21 do you have any reason to doubt the authenticity 22 of this document? 23 MR. SLOANE: I don't know. I have no 24 reason to doubt it or not doubt it, but there</p>
86	<p>1 the deposition of Christine Cunningham. The 2 time is now 11:42. Going on the record. 3 MR. BAKER: Let's mark this next in 4 order. 5 (Deposition Exhibit No. 6 77 was marked for ID.) 7 MR. SLOANE: You don't want this 8 yellow sticker, Completed? 9 THE WITNESS: Yeah, I'm not sure what 10 this is. 11 MR. BAKER: That's fine. 12 BY MR. BAKER: 13 Q Ms. Cunningham, have you had a chance 14 to look at Exhibit 77? 15 A Yes. 16 Q And let me represent this is one -- 17 several spreadsheets were produced to us. This 18 is a part of one of those spreadsheets. 19 MR. SLOANE: Just let me ask, 20 Mr. Baker, is this a document that was produced 21 in hard copy or is this -- 22 MR. BAKER: No. It was produced -- I 23 think it says up there. Do you see it actually 24 does have a Bates number, believe it or not,</p>	88	<p>1 was an agreement that was reached with respect 2 to that after lengthy negotiations. 3 MR. BAKER: All right. Let me just 4 represent to you that this is a document that we 5 printed out. All we did was print it out. 6 MR. SLOANE: Again, I'm not going to 7 argue with you and I'm not going to waste 8 Ms. Cunningham's time. That is not the 9 agreement that was reached. You are obviously 10 not knowledgeable about the agreement and I'm 11 not faulting you for that. 12 All I'm saying to you is if you have 13 some limited questions about it, I'll allow it, 14 but I would ask that you become knowledgeable 15 over the break or some other time and that if 16 there is a lot of native format documents, you 17 consult with your office -- I believe Azra is 18 well aware of the agreement -- so that we aren't 19 treading on some prior agreement of counsel. 20 It's memorialized. It's not something which has 21 any controversy. 22 In any event, I've made my point. If 23 you have some questions, I'm going to allow you 24 to continue with the reservations I indicated.</p>

89	<p>1 BY MR. BAKER:</p> <p>2 Q Ms. Cunningham, have you seen a</p> <p>3 document like this before?</p> <p>4 A No.</p> <p>5 Q Do you know what this is?</p> <p>6 A No, I don't.</p> <p>7 Q Well, on the far left is there a list</p> <p>8 of names? Do you see a list of names?</p> <p>9 A Yes.</p> <p>10 Q And about midway through the document</p> <p>11 right under the words CONF on the very top of</p> <p>12 the heading -- do you see that?</p> <p>13 A Yes.</p> <p>14 Q There are some initials, I guess</p> <p>15 letters and numbers. Do you see that?</p> <p>16 A Yes.</p> <p>17 Q And it's my understanding that the</p> <p>18 Housemail system user identities were assigned</p> <p>19 in this fashion.</p> <p>20 Is that possible that those, that row</p> <p>21 there indicates the user identity of the</p> <p>22 Housemail system?</p> <p>23 A Yes.</p> <p>24 Q There is another list on the far</p>	91	<p>1 defendants remove the confidentiality</p> <p>2 designation pursuant to the terms of the</p> <p>3 protective order.</p> <p>4 MR. SLOANE: Well, when I review the</p> <p>5 protective order and determine what those</p> <p>6 procedures are, we will take it under</p> <p>7 advisement. I have only indicated with respect</p> <p>8 to one other document you've shown her that was</p> <p>9 confidential, so I guess you're referring to two</p> <p>10 documents at this point.</p> <p>11 MR. BAKER: Do you want to repeat the</p> <p>12 question?</p> <p>13 (Record read.)</p> <p>14 BY THE WITNESS:</p> <p>15 A These letters and numbers are again</p> <p>16 designate of a Housemail ID.</p> <p>17 BY MR. BAKER:</p> <p>18 Q Could a given Household employee have</p> <p>19 more than one Housemail ID?</p> <p>20 A No.</p> <p>21 Q Within the Housemail system I</p> <p>22 understand that there were also generic</p> <p>23 mailboxes.</p> <p>24 A Yes.</p>
90	<p>1 right. Do you know what that is? That has</p> <p>2 similar initials -- I'm sorry -- letters and</p> <p>3 numbers.</p> <p>4 MR. SLOANE: I will note for the</p> <p>5 record that this document is also marked</p> <p>6 Confidential and any testimony with respect to</p> <p>7 it should also be considered confidential.</p> <p>8 MR. BAKER: Counsel, could you just</p> <p>9 explain to me what the confidentiality of this</p> <p>10 document is?</p> <p>11 MR. SLOANE: No, I can't, nor will I.</p> <p>12 There is a procedure in the protective order for</p> <p>13 indicating confidential documents. There is a</p> <p>14 procedure in the protective order for objecting</p> <p>15 to them. We should follow that procedure agreed</p> <p>16 to and so ordered by the Court.</p> <p>17 MR. BAKER: I'm invoking that</p> <p>18 procedure. I'm notifying you now that I don't</p> <p>19 believe the document is confidential. I don't</p> <p>20 believe any of the other documents I previously</p> <p>21 showed the witness are confidential and -- can I</p> <p>22 finish, counsel?</p> <p>23 MR. SLOANE: Sure.</p> <p>24 MR. BAKER: I would request that the</p>	92	<p>1 Q Okay. What is a generic mailbox?</p> <p>2 A It was a mailbox that was accessible</p> <p>3 by multiple parties.</p> <p>4 Q During the time period that we're</p> <p>5 talking about, 2001, 2002, do you have any</p> <p>6 understanding as to how many generic mailboxes</p> <p>7 there were in existence?</p> <p>8 A I don't.</p> <p>9 Q Earlier you referenced a set of tapes</p> <p>10 dated August 31, 2002, backup tapes. Do you</p> <p>11 recall that?</p> <p>12 A Yes.</p> <p>13 Q And my understanding is there is two</p> <p>14 sets; one was stored in the data center and the</p> <p>15 other one that's stored in the tape silos. Is</p> <p>16 that correct or did I misunderstand?</p> <p>17 A There are two sets, but for that</p> <p>18 particular date I'm not sure if the second set</p> <p>19 is in the tape silo or not.</p> <p>20 Q And each set was created using a</p> <p>21 different software, is that right?</p> <p>22 A Yes.</p> <p>23 Q To your knowledge, have there been</p> <p>24 any attempts by Household since the directive</p>

93	<p>1 came out about retaining those documents --</p> <p>2 sorry -- retaining those backup tapes, any</p> <p>3 attempt by Household to restore those files on</p> <p>4 the backup tapes?</p> <p>5 A Yes.</p> <p>6 Q Okay. How many efforts did Household</p> <p>7 make?</p> <p>8 A One effort.</p> <p>9 Q And when was that effort made?</p> <p>10 A That was in the latter half of 2002.</p> <p>11 Q And were you involved in that effort?</p> <p>12 A Yes.</p> <p>13 Q Were you in charge of that effort?</p> <p>14 A No.</p> <p>15 Q Who was in charge of that effort?</p> <p>16 A Ed Kurtz.</p> <p>17 Q And at that time Mr. Kurtz was your</p> <p>18 boss, is that correct?</p> <p>19 A Yes.</p> <p>20 Q Was there a team put together to make</p> <p>21 that effort?</p> <p>22 A Yes.</p> <p>23 Q Okay. And who was on that team?</p> <p>24 A Carol Werner and individuals from the</p>	95	<p>1 Q Do you still have a copy of that</p> <p>2 list?</p> <p>3 A The list that I have is in reference</p> <p>4 to restorations request for LotusNotes.</p> <p>5 Q Am I correct that the effort we're</p> <p>6 talking about, the restoration, was this for</p> <p>7 Housemail or just for LotusNotes?</p> <p>8 A It was for Housemail as well.</p> <p>9 Q Okay. At this time period did you</p> <p>10 restore any specific files from the Housemail</p> <p>11 system?</p> <p>12 A Can you repeat that please?</p> <p>13 Q Well, I was confused. You said you</p> <p>14 had a list but it was for restorations for</p> <p>15 LotusNotes.</p> <p>16 A What I said was the list that -- I</p> <p>17 don't recall seeing the list in this set of</p> <p>18 documents for this case.</p> <p>19 Q Okay. And that's because the list,</p> <p>20 as you recall it, related to restorations from</p> <p>21 LotusNotes as opposed to Housemail?</p> <p>22 A Yes.</p> <p>23 Q Did you use that list as guidance for</p> <p>24 which Housemail files to restore?</p>
94	<p>1 data center.</p> <p>2 Q At this time do you recall who the</p> <p>3 individuals from the data center were?</p> <p>4 A I recall correspondence with Sean</p> <p>5 Rezentes but there were tape operators who would</p> <p>6 have been involved and I don't have their names.</p> <p>7 Q And was that effort successful?</p> <p>8 A Yes.</p> <p>9 Q How many tapes did you restore at</p> <p>10 that time?</p> <p>11 A I don't recall the exact number.</p> <p>12 Q Okay. What did you do with the</p> <p>13 restored tapes?</p> <p>14 A We were asked to restore specific</p> <p>15 individuals.</p> <p>16 Q Was there a list of those individuals</p> <p>17 provided to you?</p> <p>18 A Yes.</p> <p>19 Q In reviewing the documents that were</p> <p>20 provided to plaintiffs with respect to this</p> <p>21 litigation -- sorry -- with respect to this</p> <p>22 deposition, did you see that list?</p> <p>23 A I don't recall seeing that list in</p> <p>24 that set of documents, no.</p>	96	<p>1 A Yes.</p> <p>2 Q And can you tell me the steps that</p> <p>3 you took to restore these specific Housemail</p> <p>4 files?</p> <p>5 A The company or me?</p> <p>6 Q How about the company.</p> <p>7 A During this time period the Housemail</p> <p>8 system was still around and those facilities</p> <p>9 were used to restore the tapes where those</p> <p>10 individuals were located.</p> <p>11 Q What do you mean when you say</p> <p>12 facilities? Are you talking about specific</p> <p>13 hardware?</p> <p>14 A Yes.</p> <p>15 Q What hardware were you referring to?</p> <p>16 A That was the IBM mainframe.</p> <p>17 Q And I think I understood that from</p> <p>18 after this effort in the latter half of 2002,</p> <p>19 there has been no other efforts to restore these</p> <p>20 specific tapes, is that correct?</p> <p>21 A That's correct.</p> <p>22 Q Okay. At the time that you made this</p> <p>23 effort to restore these backup tapes, did you or</p> <p>24 anyone else at Household notice any issue about</p>

97	<p>1 the operability of these particular tapes?</p> <p>2 A The tapes that we used to restore</p> <p>3 were operable.</p> <p>4 Q At this point in time did you</p> <p>5 determine that the tapes used to store the</p> <p>6 backup files were, in fact, not damaged?</p> <p>7 A Yes.</p> <p>8 Q Okay. Since that effort in the</p> <p>9 latter half of 2002, has there been any other</p> <p>10 efforts at least by Household to test whether</p> <p>11 these tapes are still in good condition?</p> <p>12 A The weekly full tapes were the ones</p> <p>13 that were migrated to the MVS system, so those</p> <p>14 tapes were operable when we did that migration.</p> <p>15 Q Okay. Is this the same effort you</p> <p>16 talked about loading these up, bringing the</p> <p>17 backup tapes back to active files?</p> <p>18 A No.</p> <p>19 Q Okay. And again maybe I'm being</p> <p>20 obtuse. What I'm trying to figure out is after</p> <p>21 the latter half of 2002 did anyone subsequently</p> <p>22 do a test to see if these tapes were still okay?</p> <p>23 A Not specifically, no.</p> <p>24 Q Okay.</p>	99	<p>1 it still exist on the MVS system?</p> <p>2 A Yes.</p> <p>3 Q And where is that MVS system located?</p> <p>4 A Primary copy Prospect Heights and</p> <p>5 secondary copy Vernon Hills, Illinois.</p> <p>6 Q And what specific backup tapes were</p> <p>7 copied and placed on the MVS system?</p> <p>8 A We did the weekly fulls.</p> <p>9 Q And the weekly fulls that you're</p> <p>10 talking about included the August 31, 2002</p> <p>11 weekly fulls?</p> <p>12 A I believe it did, yes.</p> <p>13 Q Okay. Did it include other -- any</p> <p>14 other weekly fulls for the calendar year 2002?</p> <p>15 A Yes.</p> <p>16 Q Is there a document somewhere that</p> <p>17 reflects the specific backup tapes that were</p> <p>18 copied and migrated to the MVS system?</p> <p>19 A I believe there is a printout of what</p> <p>20 was moved over.</p> <p>21 Q Okay. And did you see that document</p> <p>22 as you were reviewing documents in preparation</p> <p>23 for this deposition?</p> <p>24 A Yes.</p>
98	<p>1 A My assumption would be that when we</p> <p>2 moved the data from the full tape -- the full</p> <p>3 backups to the MVS system, that that indicated</p> <p>4 the tapes were operable.</p> <p>5 Q What is this MVS system you're</p> <p>6 talking about?</p> <p>7 A MVS is a current production mainframe</p> <p>8 operating system.</p> <p>9 Q After you -- again, I'm still not</p> <p>10 following you entirely, but hopefully I'm</p> <p>11 getting there.</p> <p>12 This migration that you're talking</p> <p>13 about took place in the latter half of 2002 or</p> <p>14 was this a subsequent migration?</p> <p>15 A Perhaps I used the wrong word,</p> <p>16 migration. It was a copy movement of the data</p> <p>17 from the tapes to MVS and that took place after</p> <p>18 the latter half of 2002.</p> <p>19 Q And what was the date of this copy?</p> <p>20 A I can't remember the exact date.</p> <p>21 Q Was it in 2003?</p> <p>22 A I think it was the end of '03.</p> <p>23 Q And do those -- the copy of the tapes</p> <p>24 that was moved or made onto the MVS system, does</p>	100	<p>1 Q I didn't ask you. Did you bring any</p> <p>2 documents to this deposition?</p> <p>3 A No.</p> <p>4 Q When this copy of tapes was made at</p> <p>5 the end of 2003 approximately, what steps were</p> <p>6 taken by Household to make this copy?</p> <p>7 A On MVS we needed to allocate space,</p> <p>8 processing power, mounting of the original tapes</p> <p>9 from which we were copying and the actual copy</p> <p>10 process.</p> <p>11 Q Did you need to license any software</p> <p>12 to make copies of these?</p> <p>13 A No.</p> <p>14 Q And were these copies made of both</p> <p>15 sets of the backups that exist of the August 31,</p> <p>16 2002 tapes or only one set?</p> <p>17 A I don't understand what you mean by</p> <p>18 both sets.</p> <p>19 Q Well, you have two sets of the August</p> <p>20 31, 2002 tapes, is that correct?</p> <p>21 A We do now.</p> <p>22 Q Okay. At the time prior to this</p> <p>23 copying did you have more than two sets or just</p> <p>24 one set?</p>

<p style="text-align: right;">101</p> <p>1 A Just one set. 2 Q Just one set, okay. I see. Now, 3 these tapes, the set that you just made, the 4 copied set, do you recall what software those 5 documents are stored in? 6 A The MVS set, correct? 7 Q Yes. 8 A I don't know. 9 Q Do you know if the MVS set is 10 searchable using the document -- using words? 11 A No, it's not. 12 Q So you can't do a text search? 13 A No. 14 Q On the set that exists on the MVS 15 system is there metadata attached to the files? 16 A No. 17 Q On the MVS set is it organized by 18 mail user? 19 A I don't know how it's organized. 20 Q Who would I ask if I wanted to know 21 how it's organized? 22 A Carol. 23 Q But you do know it's not text 24 searchable?</p>	<p style="text-align: right;">103</p> <p>1 A That's correct. 2 Q Do you know why that didn't occur? 3 A Because the information was on tape. 4 Q If I were a Housemail user in 2001 5 and a document, I lost my document because of 6 the six-month period, how would I -- put it this 7 way. Was it possible for me to get that 8 document back? 9 A I don't recall whether we allowed 10 that. It would have been possible but I don't 11 recall that we were allowing that. 12 Q How would it occur? 13 A If -- the information would have been 14 brought back from a tape. 15 Q And if I missed the three-week tape 16 period, was I -- was it impossible to restore 17 that particular e-mail? 18 A Yes. 19 Q Now, the general retention policy 20 that we've been discussing, does that apply to 21 hardware as well? 22 A No. 23 Q So there was no directive as far as 24 you're aware of that hardware should be</p>
<p style="text-align: right;">102</p> <p>1 A Yes. 2 Q Have you been part of any effort to 3 extract specific e-mails from that copy set? 4 A No. 5 Q Do you know if Household has 6 attempted to do that? 7 A We have not. 8 Q This -- now, this going back to the 9 direction -- sorry -- the directive that you 10 received or that your group received on or about 11 September 20, 2002, did that directive have 12 anything -- well, put it this way. 13 When you started to implement that 14 directive, did that include a hold on the 15 60-day -- sorry -- the six-month e-mail, live 16 e-mail retention period? 17 A No. 18 Q So after that directive the six-month 19 retention period continued to apply? 20 A Yes. 21 Q Okay. So there was no effort to 22 disconnect or turn off whatever automatic 23 programming feature was deleting e-mails after 24 six months, is that correct?</p>	<p style="text-align: right;">104</p> <p>1 preserved? 2 A No, there wasn't. 3 Q Earlier we've been talking about the 4 disks that the A space was on -- I'm sorry, the 5 A space disk -- A disk space, sorry, and we 6 talked about those disks. 7 Do you remember that? 8 A Yes. 9 Q Okay. Was there any directive that 10 those disks should be saved? 11 A No. 12 Q Now, after the directive was issued, 13 were all the tapes, the backup tapes after 14 August 31, 2002 saved? 15 A No. 16 Q Did the directive call for the saving 17 of all those tapes? 18 A No. 19 Q After the directive was issued was -- 20 were all the weekly, full weekly tapes saved for 21 the remainder of calendar year 2002? 22 A No. 23 Q Do you know why not? 24 A The directives -- the directive</p>

105	<p>1 stated that employees should be saving their</p> <p>2 e-mails. It didn't state that we were to at</p> <p>3 that point retain the tapes. We did take those</p> <p>4 steps later.</p> <p>5 Q When did you start taking the steps?</p> <p>6 A In November.</p> <p>7 Q And why did you start taking those</p> <p>8 steps in November?</p> <p>9 A We wanted to make sure that as much</p> <p>10 information as possible was retained.</p> <p>11 Q And did that have anything to do with</p> <p>12 the SEC investigation?</p> <p>13 A Yes.</p> <p>14 Q So in November you started saving all</p> <p>15 the backup tapes in response to the SEC</p> <p>16 investigation, is that correct?</p> <p>17 A Yes.</p> <p>18 Q But before that you were not saving</p> <p>19 all of the backup tapes in response to this</p> <p>20 litigation, is that correct?</p> <p>21 A Yes.</p> <p>22 MR. SLOANE: Could -- I want to take</p> <p>23 a break.</p> <p>24 MR. BAKER: Sure.</p>	107	<p>1 AFTERNOON SESSION</p> <p>2 THE VIDEOGRAPHER: Going on the</p> <p>3 record. The time is 12:02.</p> <p>4 MR. SLOANE: It's 1:24.</p> <p>5 THE VIDEOGRAPHER: 1:24.</p> <p>6 CHRISTINE CUNNINGHAM,</p> <p>7 called as a witness herein, having been</p> <p>8 previously duly sworn and having testified, was</p> <p>9 examined and testified further as follows:</p> <p>10 EXAMINATION (Resumed)</p> <p>11 BY MR. BAKER:</p> <p>12 Q To follow up, before the break we</p> <p>13 were talking about the MVS copy.</p> <p>14 MR. SLOANE: I think she had some</p> <p>15 clarification she wanted to make.</p> <p>16 BY MR. BAKER:</p> <p>17 Q Okay.</p> <p>18 A Yeah. When we were talking about the</p> <p>19 six months and the directives, I felt like I</p> <p>20 wasn't exactly clear on what the processes were</p> <p>21 so I wanted to clarify that.</p> <p>22 Q Okay.</p> <p>23 A The directives came out in September,</p> <p>24 as we discussed, and those directives were given</p>
106	<p>1 THE VIDEOGRAPHER: The time is 12:13.</p> <p>2 Going off the record.</p> <p>3 (Proceedings recessed</p> <p>4 at 12:13 and scheduled</p> <p>5 to resume at 1:15 p.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	108	<p>1 to the employees to save relevant, you know,</p> <p>2 information. That relevant information included</p> <p>3 Housemail, and regardless of that six-month</p> <p>4 cycle that we also discussed, the instructions</p> <p>5 for the employees were to do what they could to</p> <p>6 preserve the information and they had ways to do</p> <p>7 that so that the six-month purge would not</p> <p>8 affect those documents that they kept.</p> <p>9 Q Okay.</p> <p>10 A And then in -- we also discussed the</p> <p>11 other directive in regards to the SEC case,</p> <p>12 specifically November, and that directive</p> <p>13 included us taking steps to preserve backup</p> <p>14 tapes, and that's how we end up with the tapes</p> <p>15 from August, October, November and December.</p> <p>16 Q All right. So let me see if I got</p> <p>17 this. The SEC directive you're saying was</p> <p>18 broader than the prior September directive?</p> <p>19 A Broader? No. It was --</p> <p>20 Q Well, you seemed to suggest the SEC</p> <p>21 directive --</p> <p>22 A Was different.</p> <p>23 Q -- was different, and that included</p> <p>24 backup tapes where the prior directive had not?</p>

109	<p>1 A Yes.</p> <p>2 Q Do you know if the general policy</p> <p>3 provided for this distinction between backup</p> <p>4 tapes? Let me rephrase that.</p> <p>5 There was a general policy regarding</p> <p>6 document retention in the case of litigation,</p> <p>7 right, and there was a general policy regarding</p> <p>8 retention of documents in the case of</p> <p>9 investigations by governmental entities, right?</p> <p>10 A There was a policy, yes.</p> <p>11 Q Did the policy regarding pending</p> <p>12 litigation include the retention of backup</p> <p>13 tapes?</p> <p>14 A The policy included that legal would</p> <p>15 give the directive on what instructions to take.</p> <p>16 Q Okay. So the decision was legal --</p> <p>17 was made by legal as to whether to retain backup</p> <p>18 tapes or not?</p> <p>19 A They would give the directive. They</p> <p>20 would give the instructions.</p> <p>21 Q And you're telling me that you</p> <p>22 interpreted the September 20, 2002 directive not</p> <p>23 to include backup tapes?</p> <p>24 A Correct.</p>	111	<p>1 or your team as part of the administration</p> <p>2 change Housemail in such a way that the</p> <p>3 six-month purge did not apply to my April</p> <p>4 e-mail?</p> <p>5 A No.</p> <p>6 Q Okay. So I the user would have to do</p> <p>7 something to keep the document current or I</p> <p>8 think you said reset the clock?</p> <p>9 A Yes.</p> <p>10 Q Okay. And did employees know that</p> <p>11 they would have to do that?</p> <p>12 A Yes.</p> <p>13 Q Okay. So the directive included</p> <p>14 instructions to employees to reset the dock on</p> <p>15 old e-mails?</p> <p>16 A No.</p> <p>17 Q So it wasn't -- you're saying it</p> <p>18 wasn't explicit in the directive?</p> <p>19 A Correct.</p> <p>20 Q They would have to infer that?</p> <p>21 A Yes.</p> <p>22 Q Okay. Was there any supplemental</p> <p>23 directive from anyone on your side or from legal</p> <p>24 saying, By the way, don't forget you need to</p>
110	<p>1 Q But that in your view the SEC</p> <p>2 directive did?</p> <p>3 A Yes.</p> <p>4 Q And then I also didn't quite</p> <p>5 understand it. Okay. Let's go for the</p> <p>6 hypothetical in the six-month process, the</p> <p>7 six-month purge you said.</p> <p>8 So I'm a Household user. I have a</p> <p>9 document, an e-mail in my file that came -- I</p> <p>10 guess I'm going to have to work my way back --</p> <p>11 April. April is the right month because that</p> <p>12 six months means in October if I don't do</p> <p>13 anything, it's going to be deleted, is that</p> <p>14 right, under the six months?</p> <p>15 A If that's six months back, yes.</p> <p>16 Q April being the fourth month, October</p> <p>17 being the tenth month. I am a lawyer, but I</p> <p>18 think I can get the basic math. All right. So</p> <p>19 let's assume I got the math right.</p> <p>20 The six-month purge, how would that</p> <p>21 not affect -- what would I need to do to</p> <p>22 preserve the document in the case of -- well,</p> <p>23 let's take a step back.</p> <p>24 Under the directive did you as the --</p>	112	<p>1 reset the dates for old Housemails?</p> <p>2 A Not to my knowledge.</p> <p>3 Q To your knowledge, did that issue</p> <p>4 come up in the course of discussing how to</p> <p>5 preserve documents for this case?</p> <p>6 A All employees were aware of the</p> <p>7 six-month cycle. I'm not aware of any specific</p> <p>8 instructions as you say to reset any clocks.</p> <p>9 Q How would the six-month policy affect</p> <p>10 old Notelogs? Would it be the same way?</p> <p>11 A The six-month policy affected</p> <p>12 Notelogs and archived Notelogs. It did not</p> <p>13 include the In box.</p> <p>14 Q All right. So did the directive have</p> <p>15 any -- we're talking about the directive for</p> <p>16 this case -- have any language about preserving</p> <p>17 old Notelogs that could be potentially purged</p> <p>18 under the six-month policy?</p> <p>19 A No.</p> <p>20 Q And I guess the assumption again was</p> <p>21 that employees would recall the need to update</p> <p>22 the clock on those particular old Notelogs?</p> <p>23 A Yes.</p> <p>24 Q And during the time period that we're</p>

113	<p>1 talking about, do you recall whether there was</p> <p>2 any discussion about either one of these issues</p> <p>3 like in the September through November time</p> <p>4 period?</p> <p>5 A Which issues were those again?</p> <p>6 Q About whether we should remind</p> <p>7 Housemail users to reset the log date or reset</p> <p>8 an old e-mail date.</p> <p>9 MR. SLOANE: You mean specifically</p> <p>10 about resetting the date --</p> <p>11 MR. BAKER: Yeah.</p> <p>12 MR. SLOANE: --as opposed to</p> <p>13 preserving documents?</p> <p>14 MR. BAKER: Well, in the context of</p> <p>15 preserving documents.</p> <p>16 BY THE WITNESS:</p> <p>17 A I don't recall any discussions, no.</p> <p>18 BY MR. BAKER:</p> <p>19 Q Do you recall if you had any concern</p> <p>20 at that time that you may be -- documents may be</p> <p>21 potentially destroyed because a reminder wasn't</p> <p>22 being sent out?</p> <p>23 A No.</p> <p>24 Q I'm going to shift gears and go back</p>	115	<p>1 the costs that's been made?</p> <p>2 A It's in the over \$500,000 range.</p> <p>3 Q As you sit here today, do you know</p> <p>4 why it costs so much?</p> <p>5 A The software and the disk in the CPU,</p> <p>6 in the programs, all of that put together and an</p> <p>7 analyst's time, an expert's time all went into</p> <p>8 that estimate.</p> <p>9 Q What kind of CPU would you need to</p> <p>10 get?</p> <p>11 A The CPU we would use is one that</p> <p>12 currently exists in our data center.</p> <p>13 Q And what kind of CPU is that?</p> <p>14 A That would be from the MVS system. I</p> <p>15 don't recall the exact model.</p> <p>16 Q Is that an IBM CPU?</p> <p>17 A I believe it is.</p> <p>18 Q Does Household have any other IBM</p> <p>19 mainframe systems other than the one we're</p> <p>20 talking about right now?</p> <p>21 A It has many.</p> <p>22 Q Does it have the disk space necessary</p> <p>23 to be used to restore the system, the MVS</p> <p>24 system?</p>
114	<p>1 to what I was trying to ask you about before.</p> <p>2 The MVS copy that you have, I</p> <p>3 assume -- you said that still exists somewhere</p> <p>4 within the mainframe?</p> <p>5 A It exists in the tape silos.</p> <p>6 Q Okay. What steps would an individual</p> <p>7 take to extract e-mails from that for a</p> <p>8 particular user, if you know?</p> <p>9 A The tapes need to be brought back</p> <p>10 onto the live MVS system and appropriate space</p> <p>11 and CPU and connections established, programs</p> <p>12 written to put the information in a readable</p> <p>13 format where you'd be able to identify an e-mail</p> <p>14 and who it was from, who it was to.</p> <p>15 Q Do you know if that process could be</p> <p>16 done on a mailbox level?</p> <p>17 A I believe it's possible to go through</p> <p>18 a tape and find a specific mailbox or set of</p> <p>19 tapes.</p> <p>20 Q Has there been any exploration made</p> <p>21 by Household as to the cost of taking these</p> <p>22 steps?</p> <p>23 A Yes.</p> <p>24 Q And what is the current estimate of</p>	116	<p>1 A No. The extra disk space would need</p> <p>2 to be purchased.</p> <p>3 Q And when we're talking about disks,</p> <p>4 are we talking about the same disks that we were</p> <p>5 talking about about the A space -- A disks or</p> <p>6 are these modern disks?</p> <p>7 A These would be modern.</p> <p>8 Q Okay. You also mentioned software.</p> <p>9 What software would you need to have?</p> <p>10 A There is a piece of software called</p> <p>11 zVM, and the -- let's see what else -- software</p> <p>12 to extract the data from the tapes.</p> <p>13 Q Is it the cost of licensing the</p> <p>14 software that you're talking about?</p> <p>15 A In the zVM case it's cost of that and</p> <p>16 it's the -- the other programs that would need</p> <p>17 to be written, that software, that would be the</p> <p>18 time to develop that software.</p> <p>19 Q So, to your knowledge, there is no</p> <p>20 off-the-shelf product that could be used in</p> <p>21 conjunction with zVM software to restore these</p> <p>22 MVS tapes to a log?</p> <p>23 A That's correct.</p> <p>24 Q And what is your understanding based</p>

117	<p>1 on?</p> <p>2 A My understanding of --</p> <p>3 Q Of this --</p> <p>4 A -- whether there is off the shelf?</p> <p>5 Q Yeah.</p> <p>6 A In speaking with Carol Werner who</p> <p>7 would be doing the work.</p> <p>8 Q To your knowledge, does Ms. Werner</p> <p>9 have the knowledge and the technical ability to</p> <p>10 write the software that you would need to have</p> <p>11 written?</p> <p>12 A She indicated she did not have all of</p> <p>13 the expertise that she would need.</p> <p>14 Q So she could write some of the</p> <p>15 software but not all?</p> <p>16 A Yes.</p> <p>17 MR. BAKER: Let's mark this next one.</p> <p>18 I believe it's 78.</p> <p>19 (Deposition Exhibit No.</p> <p>20 78 was marked for ID.)</p> <p>21 MR. SLOANE: I note for the record</p> <p>22 that this has a Confidential stamp on it and I</p> <p>23 would designate any portions of the transcript</p> <p>24 relating to it confidential as well.</p>	119	<p>1 an attachment?</p> <p>2 A Yes, it is.</p> <p>3 Q In fact, that's what it says, "See</p> <p>4 attached file."</p> <p>5 MR. BAKER: And that's on Page 2 just</p> <p>6 so you can see that, Mr. Sloane, up there.</p> <p>7 MR. SLOANE: I'm sorry?</p> <p>8 MR. BAKER: On Page 2 there is a</p> <p>9 parenthetical, "See attached files" on the first</p> <p>10 line of the text.</p> <p>11 MR. SLOANE: Please go ahead.</p> <p>12 MR. BAKER: I want to make sure</p> <p>13 you're caught up with us.</p> <p>14 MR. SLOANE: I am. You're doing a</p> <p>15 good job.</p> <p>16 MR. BAKER: Thank you.</p> <p>17 BY MR. BAKER:</p> <p>18 Q Is the list commencing on Page 4 a</p> <p>19 set of tapes, backup tapes in the possession of</p> <p>20 Household?</p> <p>21 A I guess I'd like to clarify and say</p> <p>22 that each line item is a file on the tape.</p> <p>23 Q And does each line reference where or</p> <p>24 which tape one could find that item on?</p>
118	<p>1 MR. BAKER: At this point in time I'd</p> <p>2 would like to make a request under the</p> <p>3 protective order that you reconsider this</p> <p>4 confidentiality designation.</p> <p>5 MR. SLOANE: I will take that request</p> <p>6 under advisement and act in accordance with the</p> <p>7 protective order.</p> <p>8 MR. BAKER: I can ask for nothing</p> <p>9 more. Thank you.</p> <p>10 MR. SLOANE: You can ask for more.</p> <p>11 That's all you're going to get.</p> <p>12 BY MR. BAKER:</p> <p>13 Q Ms. Cunningham, have you had a chance</p> <p>14 to look at Exhibit 78?</p> <p>15 A Yes.</p> <p>16 Q Have you seen this document before?</p> <p>17 A Yes.</p> <p>18 Q Before we go on, the first page has a</p> <p>19 little icon upon it. Do you see that?</p> <p>20 A Hm-hm.</p> <p>21 Q Do you know what that refers to?</p> <p>22 A I believe it refers to the contents</p> <p>23 of what you see starting on Page 4.</p> <p>24 Q So that looks like it's an icon for</p>	120	<p>1 A Yes.</p> <p>2 Q And was that information under VOLSER</p> <p>3 or VLSEQ?</p> <p>4 A VOLSER, yes.</p> <p>5 Q And just so I'm clear, what does</p> <p>6 VOLSER refer to?</p> <p>7 A Volume serial number.</p> <p>8 Q Okay. And does that reference a</p> <p>9 specific tape within the tape silo or the data</p> <p>10 center?</p> <p>11 A It references a tape, yes.</p> <p>12 Q So I can take this number and go to</p> <p>13 the appropriate individual and say, Could I see</p> <p>14 that tape?</p> <p>15 A It would -- this number would help an</p> <p>16 individual locate a tape.</p> <p>17 Q And what does the next column VLSEQ</p> <p>18 stand for?</p> <p>19 A Volume sequence.</p> <p>20 Q And what does that refer to?</p> <p>21 A I believe it refers to a set of tapes</p> <p>22 that go together.</p> <p>23 Q But you're telling me that each line</p> <p>24 is not a separate tape, is that correct?</p>

121	<p>1 A I believe that's correct.</p> <p>2 Q It's not necessarily a separate tape?</p> <p>3 A It's not necessarily.</p> <p>4 Q And in the body of this e-mail, am I</p> <p>5 correct in reading, this is an e-mail from</p> <p>6 Ms. Werner to Mr. Kurtz and a Ms. Hartman --</p> <p>7 A Yes.</p> <p>8 Q -- dated 2003? Do you see that?</p> <p>9 A Yes.</p> <p>10 Q Who is Ms. Hartman?</p> <p>11 A She was at the time an analyst</p> <p>12 helping or working for Ed Kurtz.</p> <p>13 Q I would like to give you another</p> <p>14 document I would like you to look at in</p> <p>15 conjunction with this one. This is Exhibit 79.</p> <p>16 (Deposition Exhibit No.</p> <p>17 79 was marked for ID.)</p> <p>18 BY MR. BAKER:</p> <p>19 Q Do you see that exhibit,</p> <p>20 Ms. Cunningham?</p> <p>21 A Yes.</p> <p>22 Q Is that your handwriting there on the</p> <p>23 middle of the first page?</p> <p>24 A No, it's not.</p>	123	<p>1 A The very first line second column</p> <p>2 says 2002/08/31.</p> <p>3 Q And that runs all the way</p> <p>4 through Page -- starting on Page 5?</p> <p>5 A Right. That's the date of the backup</p> <p>6 which encompasses this first line in the Ed</p> <p>7 Kurtz memo where it says Housemail and the date</p> <p>8 of 8/31/2002.</p> <p>9 Q Do you know why Mr. Kurtz has labeled</p> <p>10 that tape as monthly full?</p> <p>11 A Because it was only for the date 8/31</p> <p>12 and it happened to be at the end of the month.</p> <p>13 Q Was there -- but there was not</p> <p>14 separately a practice of keeping monthly backup</p> <p>15 tapes, is that correct?</p> <p>16 A There really wasn't monthly backups.</p> <p>17 The last week of the month was referred to often</p> <p>18 as a monthly, but it wasn't any different than a</p> <p>19 weekly. It was just the last week of the month.</p> <p>20 Q The next set of things, there is a</p> <p>21 PENJ_Notes. Do you see that?</p> <p>22 A Yes.</p> <p>23 Q Am I correct in assuming that has to</p> <p>24 do with LotusNotes as opposed to Housemail?</p>
122	<p>1 Q Okay. This e-mail was addressed to</p> <p>2 you, is that correct?</p> <p>3 A Yes, it is.</p> <p>4 Q And you do recall receiving it?</p> <p>5 A Yes, I do.</p> <p>6 Q Now, the e-mail from Mr. Kurtz, do</p> <p>7 you recall -- which is Exhibit 79, do you recall</p> <p>8 why he was sending it to you?</p> <p>9 A We had been asked to find custodians</p> <p>10 and we were looking across all the tapes that we</p> <p>11 had, and this was a listing of those.</p> <p>12 Q Okay. And Mr. Kurtz's e-mail has a</p> <p>13 set. The first thing there says Server and it</p> <p>14 says Server Housemail. Do you see that?</p> <p>15 A Yes.</p> <p>16 Q Are these taped sets?</p> <p>17 A These are the dates that the backup</p> <p>18 would have been taken.</p> <p>19 Q Okay. So can you take Mr. Kurtz's</p> <p>20 list and cross-reference it to the list that</p> <p>21 Ms. Werner put together approximately a month</p> <p>22 earlier?</p> <p>23 A On Page 4.</p> <p>24 Q Yes, starting on Page 4.</p>	124	<p>1 A It is LotusNotes.</p> <p>2 Q And that's true for the remainder of</p> <p>3 these items that are listed in Mr. Kurtz's</p> <p>4 e-mail?</p> <p>5 A That's correct.</p> <p>6 Q Do you recognize whose handwriting</p> <p>7 this is?</p> <p>8 A No, I don't.</p> <p>9 Q Are you familiar with Mr. Kurtz's</p> <p>10 handwriting?</p> <p>11 A No. It's been --</p> <p>12 Q Not at this moment?</p> <p>13 A No.</p> <p>14 Q So you wouldn't happen to know if</p> <p>15 this is his or not?</p> <p>16 A I don't know.</p> <p>17 Q I notice that if we go back to</p> <p>18 Exhibit 78, I'm looking at Page 5, that it looks</p> <p>19 like there was one line referenced for September</p> <p>20 4th. Do you see that?</p> <p>21 A Yes.</p> <p>22 Q That's not referenced in Mr. Kurtz's</p> <p>23 e-mail. Do you know why?</p> <p>24 A I believe it's because Mr. Kurtz only</p>

125	<p>1 listed the weekly fulls and I'm going to assume, 2 I'd like to look at a calendar, but 9/4 is 3 probably not a week end. It's most likely a 4 daily. 5 Q Do you know why -- I mean, if we look 6 at this Exhibit 78, there is one item for 7 September 4th, one item for September 13th, one 8 item for September 20th. 9 Do you know why those specific days 10 were chosen to be retained or if there was a 11 reason? 12 A There was no specific reason. When 13 we retained the tapes, we took what existed. 14 Q But under the 21-day cycle, shouldn't 15 these have been written over? 16 A Yes. Perhaps there was a mistake in 17 the cycle. I don't know what those tapes are. 18 Q Well, if you look back at the text of 19 Ms. Werner's e-mail in the second -- the third 20 paragraph, she writes, "Tapes created prior to 21 10/26/2002 are not part of any complete set of 22 full backups with their incrementals, so some of 23 them may not be usable." 24 Do you see that?</p>	127	<p>1 could be applied on top of that. 2 Q Okay. So which weekly tape would I 3 need? Let's assume September 4th is a 4 hypothetically speaking Monday. 5 Do I need the Sunday -- sorry -- the 6 weekly that preceded that week or the weekly at 7 the end of that week? 8 A The end of that week. 9 Q The end of that week. Has Household 10 made any efforts to determine whether 11 Ms. Werner's beliefs are accurate, in other 12 words, that you could in fact use these tapes 13 for some purpose? 14 A We have not investigated if we can do 15 anything with that one tape without the -- let 16 me restate that. 17 The data on that tape, we have not 18 done any investigation to see if we could do 19 anything with that specific data. 20 Q Okay. If you did want to try and 21 make this data usable or capable of being 22 searched, would you take the same steps that you 23 would do for the stuff that's on the MVS system? 24 A Well, it would be more involved</p>
126	<p>1 A Yes. 2 Q Do you know what she is referring to? 3 A Yes. The -- she's referring to 4 anything created on this report prior to 10/26 5 don't have a weekly full associated with them. 6 It's just the daily. 7 Q So what does that mean? Does it not 8 have all of the files that were on the system as 9 of that particular date? 10 A Which particular date? 11 Q Well, let's look -- one of the dates 12 was September 4th I believe 2002. 13 A That would be -- if that is Monday 14 through Friday -- 15 Q Right. 16 A -- then that would be a backup of 17 that particular day. 18 Q The entire files that were created on 19 that particular day? 20 A I believe so, yes. 21 Q And why wouldn't it be useful just to 22 look at that? 23 A According to Carol the weekly tape 24 needed to be restored first before the daily</p>	128	<p>1 because these weeklies are not on the MVS 2 system. I'm sorry. The dailies are not on the 3 MVS system. 4 Q Is it fair to say if we looked at 5 Mr. Kurtz's e-mail, there's a series of dates 6 which are monthly or weekly fulls according to 7 his definition? 8 A Hm-hm. 9 Q Did -- well, let me ask you. Are all 10 the e-mails that are referenced in Mr. Kurtz's 11 e-mail on the MVS system? 12 A Yes. 13 Q Does that include the LotusNotes 14 stuff as well or just the Housemail stuff? 15 A Just the Housemail stuff. 16 Q So every -- all the Housemail files 17 that are referenced in his e-mail there on the 18 first page does have to be restored to the MVS 19 system? 20 A Yes. These weekly fulls are on the 21 MVS system. 22 Q But they are not in the live portion 23 of the system, they're in some other portion, is 24 that correct?</p>

129	<p>1 A I don't know what you mean.</p> <p>2 Q You said something had to be done to</p> <p>3 make them live.</p> <p>4 A I said that something needed to be</p> <p>5 done to them to make them readable --</p> <p>6 Q Okay.</p> <p>7 A -- in text.</p> <p>8 Q So they're active files, they're just</p> <p>9 not readable?</p> <p>10 A The files are on tapes in the tape</p> <p>11 silo.</p> <p>12 MR. BAKER: Why don't we mark this as</p> <p>13 Exhibit 79.</p> <p>14 THE COURT REPORTER: I think it's 80.</p> <p>15 (Deposition Exhibit No.</p> <p>16 80 was marked for ID.)</p> <p>17 MR. SLOANE: Can we have an</p> <p>18 understanding, so we don't burden the record,</p> <p>19 that if a document is marked Confidential I'm</p> <p>20 designating that portion of the transcript as</p> <p>21 confidential, and you are asking me to</p> <p>22 reconsider that in light of the protective order</p> <p>23 and I've agreed to take that under advisement?</p> <p>24 MR. BAKER: That was relatively</p>	131	<p>1 would we be able to find that somewhere or is</p> <p>2 that a reference to those e-mails -- sorry --</p> <p>3 the backup tapes that are listed later on in the</p> <p>4 body of her e-mail?</p> <p>5 A I don't think that JSM2061W is a</p> <p>6 tape.</p> <p>7 Q What do you think it is?</p> <p>8 A I think it's a program name.</p> <p>9 Q Okay. Then could you explain to me</p> <p>10 what she is asking someone to do in that first</p> <p>11 sentence?</p> <p>12 A I believe she is asking somebody to</p> <p>13 change the program to extend the retention to</p> <p>14 180 days.</p> <p>15 Q Okay. And she was specifically</p> <p>16 asking, it could be a Dennis Theisen, is that</p> <p>17 right?</p> <p>18 A Yes.</p> <p>19 Q And do you know who Mr. Theisen is or</p> <p>20 was at that time?</p> <p>21 A Yes. Dennis Theisen worked in the</p> <p>22 data center.</p> <p>23 Q Earlier you had talked about a couple</p> <p>24 of individuals that you had worked with about</p>
130	<p>1 succinct. Fine.</p> <p>2 MR. SLOANE: I'm always succinct.</p> <p>3 MR. BAKER: That's good. Efficient</p> <p>4 too. That's what I like to see.</p> <p>5 BY MR. BAKER:</p> <p>6 Q Have you had a chance to review</p> <p>7 Exhibit 80?</p> <p>8 A Yes.</p> <p>9 Q I have a question about this. Is</p> <p>10 this -- this e-mail looks like it was sent using</p> <p>11 LotusNotes but also sent to people on Housemail,</p> <p>12 is that correct, just looking at the To lines?</p> <p>13 A Yes. It appears that the original</p> <p>14 e-mail was a Housemail note.</p> <p>15 Q And I don't know if you need these</p> <p>16 other exhibits, but in the first line of this --</p> <p>17 this is an e-mail from Ms. Werner, is that</p> <p>18 correct?</p> <p>19 A Yes, it is.</p> <p>20 Q And she is talking about a specific</p> <p>21 -- it looks like a tape, JSM2061W, is that</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q Now, if we went back to her list,</p>	132	<p>1 restoring I think certain tapes.</p> <p>2 Was Mr. Theisen one of those</p> <p>3 individuals?</p> <p>4 A Yes.</p> <p>5 Q And did Mr. Theisen have</p> <p>6 responsibility for taking steps to preserve</p> <p>7 documents for a longer period of time?</p> <p>8 THE WITNESS: Can you reread that</p> <p>9 question please?</p> <p>10 (Record read.)</p> <p>11 BY THE WITNESS:</p> <p>12 A He was being given responsibility in</p> <p>13 this e-mail to take some action.</p> <p>14 BY MR. BAKER:</p> <p>15 Q Okay. Now, if you go back to Exhibit</p> <p>16 78 -- let me ask. Maybe you know the answer to</p> <p>17 this right away.</p> <p>18 Are these different tapes than the</p> <p>19 ones that Ms. Werner was referring to earlier in</p> <p>20 Exhibit 78?</p> <p>21 A It appears that the naming convention</p> <p>22 of what's in Ms. Werner's e-mail in Exhibit 80</p> <p>23 follows the pattern she describes on Page 3 in</p> <p>24 Exhibit 78 at the bottom.</p>

133	<p>1 Q So these would be MVS FDR backups?</p> <p>2 A It appears that, yes.</p> <p>3 Q And what does FDR stand for?</p> <p>4 MR. SLOANE: Franklin Delano</p> <p>5 Roosevelt.</p> <p>6 BY THE WITNESS:</p> <p>7 A I don't know that acronym. I don't</p> <p>8 know that acronym.</p> <p>9 BY MR. BAKER:</p> <p>10 Q Does the DNR stand for disaster</p> <p>11 recovery?</p> <p>12 A No, it doesn't.</p> <p>13 Q What does the phrase system resonance</p> <p>14 volume refer to?</p> <p>15 A Well, reading from Page 3 again,</p> <p>16 these are necessary to make a full backup</p> <p>17 completely useful as they contain the directory</p> <p>18 of users on the system in the tape catalog.</p> <p>19 Q Okay. So you need these and you want</p> <p>20 to marry them with the actual backup tapes that</p> <p>21 contain the e-mails themselves?</p> <p>22 A Yes.</p> <p>23 Q To your knowledge, are the backup</p> <p>24 tapes referenced in Exhibit 80 still in</p>	135	<p>1 Q What was the purpose of that</p> <p>2 conference call if you recollect? Well, let me</p> <p>3 take a step back.</p> <p>4 Were you part of that conference</p> <p>5 call?</p> <p>6 A Yes, I was.</p> <p>7 Q Okay. And were the individuals who</p> <p>8 were referenced in the To line including</p> <p>9 Mr. Kurtz part of that conference call, if you</p> <p>10 have any recollection?</p> <p>11 A I don't recall exactly who was in the</p> <p>12 room.</p> <p>13 Q Was it a conference call or was it a</p> <p>14 meeting?</p> <p>15 A I'm sorry. I don't recall who was on</p> <p>16 the conference call.</p> <p>17 Q Was there a conference -- a bunch of</p> <p>18 people collected in a particular conference room</p> <p>19 and others on the phone?</p> <p>20 A Yes, because these individuals are in</p> <p>21 different locations.</p> <p>22 Q Do you recall whether Ms. Werner</p> <p>23 participated in this conference call? Her name</p> <p>24 is mentioned in the second line.</p>
134	<p>1 Household's custody and control today?</p> <p>2 A Yes.</p> <p>3 MR. BAKER: This will be 81.</p> <p>4 (Deposition Exhibit No.</p> <p>5 81 was marked for ID.)</p> <p>6 BY MR. BAKER:</p> <p>7 Q Ms. Cunningham, have you had a chance</p> <p>8 to look at this document?</p> <p>9 A Yes.</p> <p>10 Q At least somewhere in this you are</p> <p>11 referenced a couple times as being part of this</p> <p>12 e-mail chain. Do you see your name?</p> <p>13 A Yes, I do.</p> <p>14 Q Okay. And do you recall this</p> <p>15 discussion taking place or these e-mail</p> <p>16 communications taking place within Household in</p> <p>17 November of 2002?</p> <p>18 A Yes.</p> <p>19 Q The start of the chain starts on Page</p> <p>20 2, if I have this right, and it's an e-mail from</p> <p>21 Mr. Kurtz to a number of individuals including</p> <p>22 yourself in preparation for a conference call at</p> <p>23 11:00 o'clock. Do you see that?</p> <p>24 A Yes.</p>	136	<p>1 A I'm sure she did.</p> <p>2 Q And Mr. Kurtz?</p> <p>3 A Yes.</p> <p>4 Q Mr. Theisen is also listed. Do you</p> <p>5 see him? Was he also participating?</p> <p>6 A The people are listed, but whether</p> <p>7 they showed up or sent a designate, I don't</p> <p>8 know.</p> <p>9 Q How about Mr. Rezentes? Did I say</p> <p>10 the name correctly?</p> <p>11 A Yes, you did. Again, it's likely</p> <p>12 that these people were there, but I don't recall</p> <p>13 exactly a roll call or any meeting minutes</p> <p>14 stated that they were actually there.</p> <p>15 Q Okay. Was there any meeting minutes</p> <p>16 prepared for this particular meeting?</p> <p>17 A I don't know.</p> <p>18 Q Would it have been Household's</p> <p>19 pattern and practice to have created meeting</p> <p>20 minutes for a meeting of this sort?</p> <p>21 A Not by practice, no.</p> <p>22 Q I see that Mr. Watson and Mr. Vaughan</p> <p>23 are cc'd on this. Do you see this?</p> <p>24 A Yes.</p>

137	<p>1 Q Do you know if either one of those</p> <p>2 gentlemen participated in this conference call?</p> <p>3 A I do remember Bill Watson</p> <p>4 participating.</p> <p>5 Q Do you know who put together this</p> <p>6 list of things that needed to be done in order</p> <p>7 to prepare the VM Housemail system?</p> <p>8 A Well, the memo was written by Ed</p> <p>9 Kurtz but the discussions around what needed to</p> <p>10 be done involved the individuals who knew about</p> <p>11 Housemail, how Housemail operated.</p> <p>12 Q Okay. Under Hardware there is -- the</p> <p>13 first thing is a, "Processor to perform restores</p> <p>14 and mail searches." Do you see that?</p> <p>15 A Yes.</p> <p>16 Q Is that a reference to a CPU?</p> <p>17 A Yes.</p> <p>18 Q And under that subheading there is a</p> <p>19 reference to an acronym LPAR?</p> <p>20 A Yes.</p> <p>21 Q What does LPAR stand for?</p> <p>22 A I don't know the exact letters what</p> <p>23 they stand for, but it designates a partition on</p> <p>24 the mainframe.</p>	139	<p>1 tapes, is that correct?</p> <p>2 A This e-mail is discussing how -- you</p> <p>3 know, what we need to do to comply.</p> <p>4 Q Well, the second sentence of this --</p> <p>5 of the e-mail from Mr. Kurtz says, "Housemail is</p> <p>6 involved in litigation that requires the</p> <p>7 retention of all existing and current e-mail</p> <p>8 backups while the case is open."</p> <p>9 Do you see that?</p> <p>10 MR. SLOANE: You misspoke. You said</p> <p>11 Housemail.</p> <p>12 MR. BAKER: Sorry.</p> <p>13 MR. SLOANE: Household.</p> <p>14 BY THE WITNESS:</p> <p>15 A Okay. The second paragraph?</p> <p>16 BY MR. BAKER:</p> <p>17 Q Yes.</p> <p>18 A Yes.</p> <p>19 Q What is the litigation that Household</p> <p>20 was involved in at that time?</p> <p>21 A That was the SEC litigation.</p> <p>22 Q Is it the SEC litigation or SEC</p> <p>23 investigation?</p> <p>24 MR. SLOANE: If you know, you know.</p>
138	<p>1 Q Within the disk space of the</p> <p>2 mainframe?</p> <p>3 A I don't know that.</p> <p>4 Q Is this part of a general effort by</p> <p>5 Household to figure out what they needed to do</p> <p>6 if they were going to restore backup e-mails for</p> <p>7 litigation for the SEC investigation?</p> <p>8 A That is part of it, yes.</p> <p>9 Q On the top of this page, Page 2,</p> <p>10 there is a sentence from I guess one of the</p> <p>11 later e-mails. It says, "The VM system uses</p> <p>12 approximately 125 tapes per week."</p> <p>13 Do you see that?</p> <p>14 A Yes.</p> <p>15 Q What does that refer to?</p> <p>16 A It refers to how many tapes during a</p> <p>17 backup during the weekly and the daily, how many</p> <p>18 tapes would be used to hold all of that data.</p> <p>19 Q Is this a reference to -- my</p> <p>20 understanding is at this point in time you have</p> <p>21 received a directive regarding the SEC</p> <p>22 investigation, is that correct?</p> <p>23 A Right.</p> <p>24 Q And so now you're saving all your</p>	140	<p>1 If you don't understand the difference, just</p> <p>2 say.</p> <p>3 BY THE WITNESS:</p> <p>4 A Yeah, I don't. I really don't know</p> <p>5 the difference.</p> <p>6 BY MR. BAKER:</p> <p>7 Q Is it your understanding there was</p> <p>8 some SEC litigation?</p> <p>9 A Litigation, investigation, I don't</p> <p>10 know. If there is a difference in meaning in</p> <p>11 there --</p> <p>12 Q No one has explained to you that</p> <p>13 there is a distinction?</p> <p>14 A No.</p> <p>15 Q Okay. So in that paragraph Mr. Kurtz</p> <p>16 is explaining that under that -- because of that</p> <p>17 litigation, everything is going to have 180-day</p> <p>18 retention, is that correct?</p> <p>19 A Yes.</p> <p>20 Q And the person who is responding I</p> <p>21 guess who is Ms. Werner is saying, Oh, do you</p> <p>22 realize that's going to cost us 125 tapes for a</p> <p>23 week? Is that what --</p> <p>24 MR. SLOANE: Are you reading</p>

141	<p>1 something?</p> <p>2 MR. BAKER: I was paraphrasing.</p> <p>3 MR. SLOANE: Okay.</p> <p>4 MR. BAKER: It's on the very top.</p> <p>5 BY THE WITNESS:</p> <p>6 A She was referring to if the VM system</p> <p>7 is currently using 125 tapes, the ongoing</p> <p>8 retention of that, she is saying it is possible</p> <p>9 that if this continues, that MVS tape management</p> <p>10 system, TMC, would have to be expanded.</p> <p>11 BY MR. BAKER:</p> <p>12 Q Was there an expansion made of the</p> <p>13 TMC?</p> <p>14 A I don't recall that.</p> <p>15 Q Do you recall how Household dealt</p> <p>16 with this particular issue?</p> <p>17 A By the end of '02 we were not using</p> <p>18 Housemail anymore, so the number of tapes was</p> <p>19 not continuing to grow.</p> <p>20 Q As part of the SEC litigation, did</p> <p>21 Household ever search their existing backup</p> <p>22 tapes?</p> <p>23 MR. SLOANE: Are you talking about</p> <p>24 Housemail?</p>	143	<p>1 Q Okay. And did we talk about that</p> <p>2 earlier?</p> <p>3 A Yes.</p> <p>4 Q And that was the effort that was made</p> <p>5 in the latter half of 2002?</p> <p>6 A I believe I said it was '03.</p> <p>7 Q '03, okay. So it actually is after</p> <p>8 the date of these e-mails that we're just</p> <p>9 looking at right now, am I right? Yeah, the</p> <p>10 e-mail that we're looking at now is from</p> <p>11 Mr. Kurtz's '02, am I right?</p> <p>12 A Yes.</p> <p>13 Q So it's after the date of this</p> <p>14 e-mail. '03 is when the efforts were made.</p> <p>15 Were, in fact, any Housemail e-mail</p> <p>16 files from the backup tapes produced as part of</p> <p>17 the SEC investigation?</p> <p>18 MR. SLOANE: If you know.</p> <p>19 BY THE WITNESS:</p> <p>20 A I don't know. We sent the</p> <p>21 information to a production company and that was</p> <p>22 the end of our responsibility.</p> <p>23 BY MR. BAKER:</p> <p>24 Q Which was the production company you</p>
142	<p>1 MR. BAKER: I'm sorry. Yes,</p> <p>2 Housemail.</p> <p>3 MR. SLOANE: I assume you're using</p> <p>4 the phrase litigation because the witness did</p> <p>5 not draw a distinction between --</p> <p>6 MR. BAKER: I am not. She referred</p> <p>7 to it as litigation.</p> <p>8 MR. SLOANE: She said she didn't know</p> <p>9 the difference so --</p> <p>10 MR. BAKER: I try to use the terms</p> <p>11 that --</p> <p>12 MR. SLOANE: She said she didn't know</p> <p>13 the difference. We both know there is no</p> <p>14 litigation. So why don't we just --</p> <p>15 BY MR. BAKER:</p> <p>16 Q All right. You understand if I say</p> <p>17 SEC investigation, I'm referring to what you</p> <p>18 know to be SEC litigation?</p> <p>19 A I'm fine with that.</p> <p>20 Q Okay. Jumped over that particular</p> <p>21 hurdle. As part of that SEC investigation, did</p> <p>22 Household make any efforts to retrieve Housemail</p> <p>23 files from the backup tapes?</p> <p>24 A Yes.</p>	144	<p>1 sent that to?</p> <p>2 A Applied Discovery.</p> <p>3 Q Are they here in the Chicago area?</p> <p>4 A No.</p> <p>5 Q Do you know where they are and where</p> <p>6 this particular branch is?</p> <p>7 A They were in Washington state.</p> <p>8 MR. BAKER: Why don't we take a short</p> <p>9 break here and give counsel a chance to</p> <p>10 recuperate?</p> <p>11 MR. SLOANE: You're younger than I</p> <p>12 am.</p> <p>13 THE VIDEOGRAPHER: The time is 2:12.</p> <p>14 Going off the record.</p> <p>15 (Recess had.)</p> <p>16 THE VIDEOGRAPHER: Going on the</p> <p>17 record. The time is 2:25.</p> <p>18 BY MR. BAKER:</p> <p>19 Q I was confused about something you</p> <p>20 testified earlier about. First of all, do you</p> <p>21 want to change any of your prior testimony or</p> <p>22 make any additional comments?</p> <p>23 A No.</p> <p>24 Q I will give you the opportunity if</p>

145	<p>1 you do.</p> <p>2 A Thank you, but no.</p> <p>3 Q I was confused about some of the</p> <p>4 testimony you gave about Applied Discovery.</p> <p>5 What precisely did Household send to</p> <p>6 Applied Discovery?</p> <p>7 A We sent them files, first of all,</p> <p>8 that were readable.</p> <p>9 MR. SLOANE: I think he is asking</p> <p>10 about Housemail, so insofar as that is the</p> <p>11 relevant line of inquiry, you can answer it.</p> <p>12 BY THE WITNESS:</p> <p>13 A In order to get information to</p> <p>14 Applied Discovery, first of all, we had to take</p> <p>15 it into a different media from the tapes.</p> <p>16 BY MR. BAKER:</p> <p>17 Q So you sent Applied Discovery files</p> <p>18 that were in a different media other than the</p> <p>19 backup format they were in before?</p> <p>20 A Yes.</p> <p>21 Q Okay. What was the media that you</p> <p>22 sent them to Applied Discovery in?</p> <p>23 A CDs.</p> <p>24 Q Were the Housemail files readable in</p>	147	<p>1 tapes that you were looking through?</p> <p>2 A In that particular instance we looked</p> <p>3 through the weeklies and the dailies.</p> <p>4 Q And I think -- was this in calendar</p> <p>5 year 2003 that the materials were sent to</p> <p>6 Applied Discovery?</p> <p>7 A Yes.</p> <p>8 Q Okay. And so these were the -- this</p> <p>9 is the time period in the 2003 effort to restore</p> <p>10 these backup tapes?</p> <p>11 A Yes.</p> <p>12 Q Okay. And did you look at the</p> <p>13 totality of the extant 2002 weeklies and</p> <p>14 dailies?</p> <p>15 A What do you mean by extant?</p> <p>16 Q Existing. It's a fancy legal word.</p> <p>17 It normally gets you 50 cents in a court of law.</p> <p>18 THE WITNESS: Could you repeat the</p> <p>19 question then please?</p> <p>20 (Record read.)</p> <p>21 BY THE WITNESS:</p> <p>22 A We looked at the weeklies and dailies</p> <p>23 that we had for 2002.</p> <p>24</p>
146	<p>1 those CDs?</p> <p>2 A Yes.</p> <p>3 Q And what was the native format or</p> <p>4 software that those files were stored in on the</p> <p>5 CDs?</p> <p>6 A They were text.</p> <p>7 Q So they were text files?</p> <p>8 A Yes.</p> <p>9 Q Okay. And was this the totality of</p> <p>10 the -- well, so basically, if I'm understanding</p> <p>11 it, some of the backup tapes were converted to</p> <p>12 text files, is that correct?</p> <p>13 A No.</p> <p>14 Q No. What am I missing?</p> <p>15 A Certain individuals, custodians, were</p> <p>16 retrieved from tape and that was what was sent.</p> <p>17 Q As you sit here today, do you</p> <p>18 remember which individuals' files were selected?</p> <p>19 A I remember there were 47 of them.</p> <p>20 Q And was the entirety of these</p> <p>21 individuals' mailboxes restored?</p> <p>22 A It's my recollection that we</p> <p>23 retrieved what we could find.</p> <p>24 Q And what was the set of tape, backup</p>	148	<p>1 BY MR. BAKER:</p> <p>2 Q So if I went back to the exhibit that</p> <p>3 we looked at earlier from Ms. Werner, her e-mail</p> <p>4 where she had a list of those and we could just</p> <p>5 find all the ones for 2002 that related to</p> <p>6 Housemails and you looked through those?</p> <p>7 A Yes.</p> <p>8 Q And you did that for 47 individuals?</p> <p>9 A Yes.</p> <p>10 Q And you sent CDs to Applied Discovery</p> <p>11 with those files on them?</p> <p>12 A Yes.</p> <p>13 Q Do you have any awareness as to</p> <p>14 whether the files from those CDs have been</p> <p>15 produced in the course of this litigation?</p> <p>16 A I don't know.</p> <p>17 Q What was the task that Applied</p> <p>18 Discovery was to do with these files?</p> <p>19 A They were to put them in a searchable</p> <p>20 format and I believe they were also given a set</p> <p>21 of search terms to search those files.</p> <p>22 Q And I believe -- my understanding is</p> <p>23 that you were part of this effort in 2002 to</p> <p>24 take these backup tapes and put them onto the</p>

149	<p>1 CDs, is that correct?</p> <p>2 A That was in 2003.</p> <p>3 Q Sorry, 2003. You're right.</p> <p>4 A I was involved in that, yes.</p> <p>5 Q Were you part of the team that was</p> <p>6 working on that?</p> <p>7 A Yes.</p> <p>8 Q Who else was working on that?</p> <p>9 A Ed Kurtz, Carol Werner and some folks</p> <p>10 in the data center helping us with the tapes.</p> <p>11 Q Were they more like helping you</p> <p>12 locate the tapes as opposed to doing substantive</p> <p>13 work on the tapes?</p> <p>14 A Locating them and mounting them,</p> <p>15 granting us the space to put them, you know,</p> <p>16 back onto the system so we could do something</p> <p>17 with them.</p> <p>18 Q Okay. So they were in charge of like</p> <p>19 the physical arrangements?</p> <p>20 A Yes.</p> <p>21 Q Now, were you using -- you were using</p> <p>22 the backup tapes, not the disaster recovery set,</p> <p>23 is that correct?</p> <p>24 A Correct.</p>	151	<p>1 MR. SLOANE: You mean today or back</p> <p>2 then?</p> <p>3 BY MR. BAKER:</p> <p>4 Q For the -- to license it in 2003, how</p> <p>5 much was spent?</p> <p>6 A I recall it coming up as us wanting</p> <p>7 to know how much it costs, but who exactly knew</p> <p>8 that I'm not sure.</p> <p>9 Q Do you recall if you ever knew that</p> <p>10 at one point in time?</p> <p>11 A No, I never did.</p> <p>12 Q At this point in time was Mr. Kurtz</p> <p>13 still your boss?</p> <p>14 A No.</p> <p>15 Q What was Mr. Kurtz's role at this</p> <p>16 point in time?</p> <p>17 A He's retired.</p> <p>18 Q Sorry. When I said at this point in</p> <p>19 time, I don't mean today. I mean when you were</p> <p>20 working on this project in 2003.</p> <p>21 A Okay. He was my boss in 2003 so he</p> <p>22 was the manager of LotusNotes.</p> <p>23 Q We've been talking about a migration</p> <p>24 that took place in the latter part of 2002 where</p>
150	<p>1 Q Did you need to license any software</p> <p>2 to make this conversion into a different media?</p> <p>3 A Yes, we did.</p> <p>4 Q Okay. Who did you license the</p> <p>5 software from?</p> <p>6 A IBM.</p> <p>7 Q Do you recall what software was</p> <p>8 licensed from IBM?</p> <p>9 A zVM.</p> <p>10 Q Okay. Did you need to license any</p> <p>11 other software from any other vendors besides</p> <p>12 IBM?</p> <p>13 A Not that I recall.</p> <p>14 Q Okay. Did you need to license any</p> <p>15 software from Computer Associates?</p> <p>16 A For this effort I'm not sure.</p> <p>17 Q Would either Mr. Kurtz or Ms. Werner</p> <p>18 have a better understanding of that issue?</p> <p>19 A Ms. Werner would be able to tell you</p> <p>20 more specifics on what software was licensed.</p> <p>21 Q Do you have any recollection of how</p> <p>22 much it costs to license the software from IBM?</p> <p>23 A No, I don't.</p> <p>24 Q Would Mr. Kurtz know that issue?</p>	152	<p>1 individuals were migrated from the Housemail</p> <p>2 system on to LotusNotes, is that correct?</p> <p>3 A We did do a migration, yes.</p> <p>4 Q And at the same time this migration</p> <p>5 was taking place, there was a migration of</p> <p>6 individuals who were using the old LotusNotes</p> <p>7 system, the old LotusNotes servers to a new</p> <p>8 platform as well, is that correct?</p> <p>9 A That's correct.</p> <p>10 Q And then did Household engage in a</p> <p>11 lot of planning in preparation for this</p> <p>12 migration?</p> <p>13 A Yes.</p> <p>14 Q And were the migrations from these</p> <p>15 two systems onto the new LotusNotes -- can I</p> <p>16 call it a new LotusNotes system?</p> <p>17 A Sure.</p> <p>18 Q And those were sequenced to happen</p> <p>19 all at once, is that correct, or over a period</p> <p>20 of time as part of the same general migration?</p> <p>21 A We did it in separate stages.</p> <p>22 Q What were the stages that you did it</p> <p>23 in?</p> <p>24 A There were a number of individuals</p>

153	<p>1 who didn't have LotusNotes and they were</p> <p>2 migrated directly onto the new hardware. The</p> <p>3 people with existing mailboxes were migrated</p> <p>4 over a period of time, existing LotusNotes</p> <p>5 mailboxes.</p> <p>6 Q When did the process of planning for</p> <p>7 the migration start?</p> <p>8 A Early 2001.</p> <p>9 Q And what was the purpose of this</p> <p>10 migration? What business function did it serve?</p> <p>11 A The Housemail system was being</p> <p>12 retired by the vendor and no longer supported.</p> <p>13 Q By vendor you mean IBM?</p> <p>14 A I mean IBM.</p> <p>15 Q Okay.</p> <p>16 A I'd like to correct. I misstated the</p> <p>17 year. The planning began late '01, early '02.</p> <p>18 Q How long did the planning process</p> <p>19 last?</p> <p>20 A The planning process lasted about</p> <p>21 through first quarter of '02.</p> <p>22 Q Okay. And prior to doing the actual</p> <p>23 migration did you or other individuals at</p> <p>24 Household do test runs or practices to see how</p>	155	<p>1 days?</p> <p>2 A Yes.</p> <p>3 Q Okay. Do you recall what the dates</p> <p>4 were when the migration started and when it</p> <p>5 ended?</p> <p>6 A We started towards the end of October</p> <p>7 and finished I believe by the second week of</p> <p>8 November.</p> <p>9 Q You said the second week of November?</p> <p>10 A Hm-hm.</p> <p>11 Q And the migration, if I understood</p> <p>12 the documents, generally took place after hours?</p> <p>13 A Oh, yes.</p> <p>14 Q And it was also limited by the</p> <p>15 capacity of the machines that you were using to</p> <p>16 do the migration, is that correct?</p> <p>17 A That's correct.</p> <p>18 Q So you can only do so much on a given</p> <p>19 night?</p> <p>20 A Right.</p> <p>21 Q And as a result, so there was</p> <p>22 migration taking place generally and I don't</p> <p>23 mean exactly every day, but almost every day</p> <p>24 during this two week or three-week time period?</p>
154	<p>1 the migration process would work in a simulated</p> <p>2 environment?</p> <p>3 A Yes, we did.</p> <p>4 Q And when did you commence to do these</p> <p>5 simulations?</p> <p>6 A I don't recall those dates.</p> <p>7 Q Would it be after 1Q of '02?</p> <p>8 A Yes.</p> <p>9 Q And about how long did that process</p> <p>10 of doing these test runs last?</p> <p>11 A I recall doing many of them. As we</p> <p>12 did test runs, we would find issues and fix</p> <p>13 those issues.</p> <p>14 Q It was an iterative process?</p> <p>15 A Yeah.</p> <p>16 Q Who were the individuals who were</p> <p>17 involved in doing test runs besides yourself?</p> <p>18 A Most of the LotusNotes team and Carol</p> <p>19 on the Housemail side.</p> <p>20 Q When did the -- now, was there one</p> <p>21 day in which you migrated everyone onto the new</p> <p>22 LotusNotes system?</p> <p>23 A No.</p> <p>24 Q Okay. It took place over a series of</p>	156	<p>1 A Yes.</p> <p>2 Q Okay. Were -- was the migration</p> <p>3 sequenced by business unit? Do you need to take</p> <p>4 a break?</p> <p>5 A I just need a little water.</p> <p>6 Q Quick, answer the question.</p> <p>7 A Sequenced by. I remember we took</p> <p>8 logical groupings, but I'm not sure that it was</p> <p>9 by business unit.</p> <p>10 Q When did you or -- when did Household</p> <p>11 start telling people that there was this</p> <p>12 migration and then they would be no longer using</p> <p>13 Housemail?</p> <p>14 A People were aware of the project in</p> <p>15 early '02.</p> <p>16 Q Go back to the example. I'm a</p> <p>17 Housemail user in September. What files of mine</p> <p>18 would be migrated as part of the general</p> <p>19 migration policy?</p> <p>20 A We migrated the In box and the</p> <p>21 current Notelog by default and for exception</p> <p>22 reasons we gave individuals a facility to</p> <p>23 specify other Notelogs to be migrated if they</p> <p>24 wished.</p>

157	<p>1 Q Were my archived Housemails migrated?</p> <p>2 A No.</p> <p>3 Q Were my archived Notelogs migrated?</p> <p>4 A That's the same thing you referred to</p> <p>5 as archive before, no.</p> <p>6 Q Sorry. I thought I said archived</p> <p>7 e-mails. If I archived a file, would it be</p> <p>8 archived automatically as a part of the Notelog?</p> <p>9 A Yes.</p> <p>10 Q So I couldn't separately archive an</p> <p>11 individual e-mail?</p> <p>12 A No.</p> <p>13 Q So anything I archived would be part</p> <p>14 of a Notelog?</p> <p>15 A Yes.</p> <p>16 Q Okay. Thank you for that</p> <p>17 clarification. So the archived Notelogs would</p> <p>18 not be migrated, is that correct?</p> <p>19 A Correct.</p> <p>20 Q Did I have the ability as a user to</p> <p>21 make one of my archived Notelogs current and,</p> <p>22 therefore, designated for migration?</p> <p>23 A Yes.</p> <p>24 Q Was there any limit on the amount of</p>	159	<p>1 each individual e-mail from Housemail, convert</p> <p>2 it and put it in the In box of LotusNotes. The</p> <p>3 Notelogs came across as a folder in LotusNotes</p> <p>4 and all the e-mails in that Notelog were put</p> <p>5 into that folder in LotusNotes.</p> <p>6 Q So assuming I was migrated on October</p> <p>7 31, I would -- the day of October 31 I would</p> <p>8 leave the office, I would be on Housemail, and</p> <p>9 when I'd come back then I'd be on LotusNotes, is</p> <p>10 that correct?</p> <p>11 A Correct.</p> <p>12 Q And would I still have the capacity</p> <p>13 to go back and look at my old Housemail files?</p> <p>14 A Yes.</p> <p>15 Q Okay. And how long did I have that</p> <p>16 capacity?</p> <p>17 A Until the very end of '02.</p> <p>18 Q '02. And that's when the whole</p> <p>19 Housemail system was shut down?</p> <p>20 A Correct.</p> <p>21 Q During the time period between the --</p> <p>22 when I as a user was migrated and the end of</p> <p>23 2002, how would I go about looking at my old</p> <p>24 Housemail files that had not been migrated?</p>
158	<p>1 files I could migrate or the quantity I should</p> <p>2 say?</p> <p>3 A I think there might have been a limit</p> <p>4 on the number of Notelogs that we would allow to</p> <p>5 come across.</p> <p>6 Q Now, as I understand it, you used a</p> <p>7 piece of hardware called a Domino server during</p> <p>8 the migration or Domino engine?</p> <p>9 A It was a piece of software.</p> <p>10 Q Piece of software, sorry. But that</p> <p>11 was used to assist in the migration?</p> <p>12 A The Domino Migration Engine, yes.</p> <p>13 Q And what did the migration engine do?</p> <p>14 A It took the e-mails that were to be</p> <p>15 migrated and converted them into a format that</p> <p>16 LotusNotes understood.</p> <p>17 Q Now, would it take -- as I'm sitting</p> <p>18 here, I'm a Housemail user, I have Notelogs, I</p> <p>19 have an active In box.</p> <p>20 It would compress all those into a</p> <p>21 single file and shoot it over to LotusNotes?</p> <p>22 A No. I don't think it did that.</p> <p>23 Q What did it do?</p> <p>24 A It would look at the In box and take</p>	160	<p>1 A Users still had access to Housemail</p> <p>2 through normal means and they would use the</p> <p>3 Housemail interface to look at those e-mails.</p> <p>4 Q Okay. So it was still up -- was</p> <p>5 there an icon like a PC that I could click on</p> <p>6 and where I would open it up and be ready to go?</p> <p>7 A Yes.</p> <p>8 Q Okay. Now, did I have the ability to</p> <p>9 take an old Housemail file that I decided I had</p> <p>10 not migrated and I wanted to migrate and move it</p> <p>11 forward?</p> <p>12 A After the actual migration took</p> <p>13 place, a user could select individual notes in</p> <p>14 Housemail and send it through the gateway you</p> <p>15 mentioned earlier.</p> <p>16 Q So I can send another -- I can send</p> <p>17 an e-mail to myself essentially?</p> <p>18 A Yes.</p> <p>19 Q And that would attach or I would be</p> <p>20 replying to an earlier e-mail and I'd get the</p> <p>21 text in that? That's how I would do it or do I</p> <p>22 just hit Forward? Is there a Forward feature?</p> <p>23 A Right. I suppose you could hit Reply</p> <p>24 and reply to yourself using the correct address</p>

161	<p>1 so it would get to LotusNotes. Forward would 2 work as well.</p> <p>3 Q Now, let's say it's the end of 2002. 4 We're in January 2003 and I'm a Housemail -- I'm 5 on LotusNotes and I suddenly discover I wanted 6 this one Housemail. It's got all this 7 information I need. I didn't migrate it.</p> <p>8 Did I have any choice starting in 9 January 2003 to go back and get this Housemail 10 that wasn't migrated?</p> <p>11 A No, not as a general rule. No.</p> <p>12 Q Okay. Was it -- do you recall if 13 anyone was able to get any Housemails back after 14 the end of 2002?</p> <p>15 A I recall one instance when 16 individuals were on extended leave of absence 17 during the migration, and when they came back 18 from that leave of absence after the migration, 19 we allowed them to -- we actually initiated a 20 special migration just for that one person.</p> <p>21 Q Did you follow the same process that 22 you had used to migrate the other people?</p> <p>23 A Yes.</p> <p>24 Q When did this last person get</p>	163	<p>1 ask. At any point in time during the planning 2 of this migration through July of 2003, did the 3 issue ever come up of we should save this 4 hardware because we might need it for our 5 litigation?</p> <p>6 A No.</p> <p>7 Q At any point in time were you 8 instructed -- at any point in time from say 9 during the planning process through to July 2003 10 did you receive a directive from the legal 11 department that you should not release the 12 mainframe or these -- because these files might 13 be needed for this litigation?</p> <p>14 A No.</p> <p>15 Q And you did not ask that question to 16 legal?</p> <p>17 A I don't recall asking that question.</p> <p>18 MR. BAKER: Why don't we go off the 19 record and change tapes?</p> <p>20 THE VIDEOGRAPHER: This marks the end 21 of Videotape No. 2, Volume 1 in the deposition 22 of Christine Cunningham. The time is 2:54. 23 Going off the record.</p> <p>24 (Discussion had off the</p>
162	<p>1 migrated, if you recall?</p> <p>2 A I recall we didn't have much of that 3 and anything that was done was early in '03.</p> <p>4 Q To make the migration did you use the 5 backup tapes, to make the migration for this 6 person?</p> <p>7 A No.</p> <p>8 Q What -- how did you access her old or 9 his old -- making assumptions here -- this 10 employee's old Housemail files?</p> <p>11 A The system access was shut off to the 12 general public but the hardware and the system 13 remained for a small period of time.</p> <p>14 Q Is this those disks that we were 15 talking about?</p> <p>16 A Yes.</p> <p>17 Q How long did Housemail have those 18 disks after the end of the use of Housemail as a 19 system?</p> <p>20 A Well, I know that we released the 21 hardware, the mainframe back to IBM in July of 22 '03.</p> <p>23 Q At the time the hardware was released 24 back to IBM in July of 2003 -- actually let me</p>	164	<p>1 record.)</p> <p>2 THE VIDEOGRAPHER: This marks the 3 beginning of Videotape No. 3, Volume 1 in the 4 deposition of Christine Cunningham. The time is 5 2:57. Going on the record.</p> <p>6 BY MR. BAKER:</p> <p>7 Q During the planning of the migration 8 and through the migration itself, did anyone 9 consider the possibility that the migration 10 might be a good means of collecting e-mails to 11 be collected and searched as part of this 12 litigation?</p> <p>13 MR. SLOANE: I'm sorry. Can I have 14 it read back?</p> <p>15 (Record read.)</p> <p>16 BY THE WITNESS:</p> <p>17 A No.</p> <p>18 BY MR. BAKER:</p> <p>19 Q Did anyone consider that in the 20 context of the SEC investigation?</p> <p>21 A It was discussed that there may be 22 migrated e-mail in LotusNotes perhaps relevant 23 to the SEC investigation.</p> <p>24 Q So to the extent it came up, the</p>

165	<p>1 context was we can look in the migrated 2 LotusNotes for old Housemails? 3 A Right. 4 Q But there was no one saying, Because 5 these documents and files are being streamed 6 across the way, there is a way just to capture 7 them as they go through? 8 A No. 9 Q Would it have been difficult at that 10 time just to save those on a separate disk? 11 A Save what? 12 Q Well, as I understand it, the way it 13 worked is at night this Domino Migration Engine 14 is churning through, collecting people's e-mail 15 accounts and spitting them out of the Housemail 16 system into the LotusNotes system. Is that what 17 was happening? 18 A Yes. 19 Q In electrons? 20 A Yes. 21 Q Electrons and electronic currents 22 going there. 23 And it would seem to me it would have 24 been possible as this process is happening just</p>	167	<p>1 notion that Household should make a copy of 2 those disks prior to releasing that hardware to 3 IBM? 4 A No. 5 Q Was there any discussion of whether 6 this would -- that the files contained on the 7 hardware would be relevant and easily -- more 8 easily searchable than the backup tapes? 9 A No. We had no discussions on that. 10 Q Okay. Do you have any opinion on 11 that issue? 12 A I'm not a system administrator. I 13 don't have an opinion. 14 Q Do you know if the disks were erased 15 prior to them being released to IBM? 16 A I don't know. 17 Q Who would know the answer to that 18 question? 19 A If I were to ask somebody, I would be 20 asking computer operations. 21 Q Well, those disks contained personal 22 e-mails, right, from Household? 23 A Yes. 24 Q And was it Household's policy to</p>
166	<p>1 to at the same time it writes it to LotusNotes, 2 it writes it to a tape or writes it to a disk or 3 some other medium where it could have been 4 stored and searched later on. 5 I'm wondering, did anyone think about 6 that idea? 7 A No. 8 Q Would it have been hard to implement 9 that idea? 10 A Yes. 11 Q How so? 12 A That infrastructure didn't exist, and 13 in order to create a backup you need some sort 14 of system to put it on anyways and that system 15 would have needed to be created. 16 Q You don't think you could just have 17 saved it to a storage device like a backup tape 18 as it were but not -- 19 A Not directly, no. 20 Q Okay. During the migration was the 21 six-month purge policy changed? 22 A Not that I'm aware of. 23 Q When the mainframe and related disks 24 were released in July of 2003, was there any</p>	168	<p>1 relinquish information regarding its business to 2 third parties such as IBM? 3 A I'm sorry. Can you repeat that? 4 Q Was it Household's policy to 5 relinquish information regarding it and the 6 personal e-mails of its employees to a third 7 party such as IBM? 8 A No. 9 Q So wouldn't you think the policy 10 would have been to erase the -- 11 MR. SLOANE: Object to the form of 12 the question. Please don't browbeat the 13 witness. You asked. She said she didn't know. 14 We don't know what terms and 15 conditions existed between IBM and Household. 16 You're just browbeating her. Sorry. 17 BY MR. BAKER: 18 Q Upon further reflection, do you think 19 it was likely that the disks were, in fact, 20 erased prior to the time that they were released 21 to IBM? 22 MR. SLOANE: If you know, you can 23 answer. If you don't know, just say you don't 24 know.</p>

169	<p>1 BY THE WITNESS:</p> <p>2 A It's likely but --</p> <p>3 BY MR. BAKER:</p> <p>4 Q You don't know for certain?</p> <p>5 A I don't know for certain.</p> <p>6 Q And you think the best person to ask</p> <p>7 would be someone in computer operations?</p> <p>8 A Yes.</p> <p>9 Q Do you know who at computer</p> <p>10 operations I should ask that question?</p> <p>11 A Today?</p> <p>12 Q I guess today. Let's start with</p> <p>13 today. We could go to tomorrow tomorrow.</p> <p>14 MR. SLOANE: Monday.</p> <p>15 BY THE WITNESS:</p> <p>16 A I would use the same reference that</p> <p>17 I've used in the past which is Sean Rezentes.</p> <p>18 BY MR. BAKER:</p> <p>19 Q Were there any files migrated</p> <p>20 relating to the calendar function?</p> <p>21 A Yes.</p> <p>22 Q Were the individuals' calendar files</p> <p>23 forwarded or migrated?</p> <p>24 A Hm-hm, yes.</p>	171	<p>1 process?</p> <p>2 A Yes.</p> <p>3 Q Were they consulted in the decision</p> <p>4 as to what files would be migrated?</p> <p>5 A Yes.</p> <p>6 Q And they were consulted in the</p> <p>7 decision what files were not to be migrated?</p> <p>8 A Yes.</p> <p>9 Q Do you know if either of these two</p> <p>10 individuals had any role in the decision to</p> <p>11 release the hardware to IBM in July 2003?</p> <p>12 A No, I don't know.</p> <p>13 Q Do you know who made the decision to</p> <p>14 release the hardware to IBM in July 2003?</p> <p>15 A No.</p> <p>16 Q Do you know who I would ask to find</p> <p>17 out the answer to that question?</p> <p>18 A I got the date from Sean Rezentes. I</p> <p>19 would start with him.</p> <p>20 MR. BAKER: Why don't we take a</p> <p>21 ten-minute break? It's going to come down to</p> <p>22 your benefit, Mr. Sloane.</p> <p>23 MR. SLOANE: With that</p> <p>24 representation --</p>
170	<p>1 Q And my understanding is there was</p> <p>2 also a calendar function for rooms?</p> <p>3 A Yes.</p> <p>4 Q And that was migrated as well?</p> <p>5 A Yes.</p> <p>6 Q Was the information for bulletin</p> <p>7 boards migrated?</p> <p>8 A No.</p> <p>9 Q What happened to the files, the</p> <p>10 bulletin board files that were not migrated?</p> <p>11 Would they just stay on the disks where they</p> <p>12 were?</p> <p>13 A Yes, and they would also be on the</p> <p>14 backups.</p> <p>15 Q Was there any one person in charge of</p> <p>16 the migration?</p> <p>17 A There were two project sponsors.</p> <p>18 Q Okay. And who were the project</p> <p>19 sponsors?</p> <p>20 A Gerald Vaughan and Maren Miller.</p> <p>21 Q Did they have any hands-on</p> <p>22 involvement in the migration itself?</p> <p>23 A No.</p> <p>24 Q Were they consulted in the planning</p>	172	<p>1 THE VIDEOGRAPHER: The time is 3:07</p> <p>2 p.m. Going off the record.</p> <p>3 (Recess had.)</p> <p>4 (Deposition Exhibit No.</p> <p>5 82 was marked for ID.)</p> <p>6 THE VIDEOGRAPHER: Going on the</p> <p>7 record. The time is 3:27.</p> <p>8 BY MR. BAKER:</p> <p>9 Q The question I'm going to ask you</p> <p>10 about, Ms. Cunningham, is if you look on Exhibit</p> <p>11 82 --</p> <p>12 MR. BAKER: I just note for the</p> <p>13 record our stipulation, counsel, that you'll</p> <p>14 look into this issue?</p> <p>15 MR. SLOANE: Yes.</p> <p>16 BY MR. BAKER:</p> <p>17 Q There is a series of bullet points</p> <p>18 under, "The rate of user migration depends on,"</p> <p>19 and the last bullet point there says, "The</p> <p>20 network speed which will gate the transfer of</p> <p>21 MAIL.NSF files from the Domino Migration Engine</p> <p>22 to your mail servers."</p> <p>23 Do you see that?</p> <p>24 A Yes.</p>

173	<p>1 Q Does that refresh your recollection 2 as to whether the Domino Migration Engine spit 3 out a single MAIL.NSF file for each user? 4 A Each user, yes, did have one MAIL.NSF 5 file. 6 Q And within that MAIL.NSF file for 7 that user would be all the migrated Housemail 8 information including the e-mails, bulletin 9 board information, calendar information? 10 A We didn't migrate bulletin boards so 11 -- 12 Q Well, what was migrated within that 13 MAIL.NSF file for that user? 14 THE COURT REPORTER: I'm sorry. Can 15 you repeat that? 16 BY MR. BAKER: 17 Q What was in that MAIL.NSF file would 18 be what was migrated for that user? 19 A Yes. 20 (Deposition Exhibit No. 21 83 was marked for ID.) 22 MR. BAKER: It looks like I have 23 another one if you guys want two over there. 24 I apologize for the legibility of the</p>	175	<p>1 Q Were there two separate LotusNotes 2 servers that these were being migrated to? 3 A There were more than two servers but 4 the servers were located in the two data 5 centers. 6 Q Okay. And according to this it took 7 ten days to migrate that. Do you see that? 8 A Yes. 9 Q I'm going to show you another 10 document I think, if I can refresh your 11 recollection as to the dates on which the 12 migration took place. This would be I believe 13 Exhibit 84. 14 (Deposition Exhibit No. 15 84 was marked for ID.) 16 BY MR. BAKER: 17 Q Have you seen Exhibit 84? 18 A Yes. 19 Q And this is a document that you 20 apparently posted, is that right? 21 A Yes. 22 Q Is this one of these bulletin board 23 information that we were talking about before? 24 A No.</p>
174	<p>1 exhibit. That's the way we got it and if I 2 could make a request perhaps on the exhibits 3 that we've seen today that are illegible, if we 4 could get clean copies. 5 MR. SLOANE: We will certainly try 6 and see if there are better copies we have. 7 MR. BAKER: Thank you. 8 BY MR. BAKER: 9 Q Have you looked at that exhibit? 10 A Yes. 11 Q Okay. I just want to see if I got 12 this right. There is a number here. It says -- 13 it's in one of the shaded areas -- "Total Users 14 whose data got migrated over from Housemail," 15 and it says 27,753. Do you see that? 16 A Yes. 17 Q Is that an accurate number, to the 18 best of your knowledge? 19 A Yes. 20 Q Okay. What is it -- why do we 21 have -- above that there is two separate 22 categories; Total data migrated to VH. What 23 does that mean? 24 A VH stands for Vernon Hills.</p>	176	<p>1 Q This is an e-mail? 2 A No. 3 Q What is this? 4 A This is a document in a LotusNotes 5 repository. 6 Q I see. And that's why it's entitled 7 Main Document above? 8 A Yes. 9 Q And was this part of old LotusNotes 10 or new LotusNotes or could you do this document 11 depository function in both systems? 12 MR. SLOANE: Does this have anything 13 to do with Housemail? 14 MR. BAKER: I'm just trying to find 15 the origin of this particular document. 16 MR. SLOANE: As long as there is only 17 one or two questions about it, I'll allow it. 18 MR. BAKER: To upset your travel 19 plans, I have a lot. 20 BY MR. BAKER: 21 Q Did you understand the question? 22 A This document was able to be created 23 in both old and new LotusNotes. 24 Q Okay. And this document shows a</p>

177	<p>1 calendar roughly from October 24th through looks 2 like November 3rd roughly. There is other 3 dates, but those are the only dates that are 4 filled in. Do you see that? 5 A Yes. 6 Q Does this refresh your recollection 7 as to the dates on which the migration actually 8 took place? 9 A Yes. 10 Q Did it take place on these dates? 11 A Yes. 12 Q And in each date there it looks like 13 there is a number and some alphabetical. Does 14 that refer to a business unit? For instance, 15 under October 24 it says RS-2227. Do you see 16 that? 17 A Yes. RS refers to a business unit. 18 Q Retail Services, is that correct? 19 A Yes. 20 Q And this projects how many retail 21 service employees would be migrated at that 22 time, is that correct? 23 A Yes. 24 Q Housemail also included third-party</p>	179	<p>1 BY MR. BAKER: 2 Q Are you ready for the tough 3 questions? 4 A Yes, I'm ready. 5 Q Is this the printout that comes out 6 of the Domino engine after the night you've done 7 migrating individuals? 8 A I don't know if this came out of the 9 Domino Migration Engine. 10 Q Well, is this a printout reflecting 11 people who were migrated on 10/27? I can't read 12 it but it looks like it's 10/27. 13 A Yes. 14 Q Then we have a user ID and when they 15 were started to migrate and when they were 16 completed and all this kind of information, is 17 that right? 18 A Yes. 19 Q What does the heading MDF Size refer 20 to? 21 A I think that when the Domino 22 Migration Engine started the migration for a 23 user, it created an MDF file. 24 Q And does this reflect the size of</p>
178	<p>1 vendors, did it not? 2 A Yes. 3 Q Were they migrated as well? 4 A Yes. 5 Q Did these vendors include Arthur 6 Andersen, if you know? 7 A I don't know. 8 Q Do you know if Arthur Andersen had an 9 e-mail account on the Housemail system? 10 A No, I don't. 11 Q Who would I ask to get the answer to 12 that question? 13 A There would be other information I 14 would need in order to even attempt to answer 15 the question. 16 Q A name? 17 A A name. 18 (Deposition Exhibit No. 19 85 was marked for ID.) 20 MR. BAKER: I'll represent this is an 21 excerpt from a larger document. 22 MR. SLOANE: I'm sorry. From a 23 migrated document? 24 MR. BAKER: From a larger.</p>	180	<p>1 that file? 2 A That would be the size of that file. 3 Q And how is the size of that file 4 measured? 5 A I don't know. 6 Q Are we talking bits, bytes or some 7 IBM equivalent? 8 A The heading doesn't say. I'm not 9 sure. 10 Q Okay. Is it fair to say that the 11 larger the size -- the larger the number rather, 12 the larger the size of the file that was 13 migrated? 14 A Yes. 15 Q This is a printout I guess associated 16 with Employee 069A. Do you see that on the very 17 first page? I'm sorry. The very first page. 18 A No. 19 Q It says EMPO69A and then here User ID 20 EMP069. Sorry. The ones that say Job Name and 21 User ID. 22 A Can you restate the question please? 23 Q Who is, if you know, the individual, 24 the individual EMP069?</p>

181	<p>1 A EMP069 is who ran this report.</p> <p>2 Q Right. Do you know who that</p> <p>3 individual is?</p> <p>4 A No, I don't.</p> <p>5 (Deposition Exhibit No.</p> <p>6 86 was marked for ID.)</p> <p>7 MR. SLOANE: Is there some particular</p> <p>8 page you want to point her to because it's a</p> <p>9 long document?</p> <p>10 MR. BAKER: It is a long document.</p> <p>11 No, I want to just ask her a couple general</p> <p>12 questions about the document. I think she needs</p> <p>13 to look at it.</p> <p>14 THE WITNESS: Okay.</p> <p>15 BY MR. BAKER:</p> <p>16 Q Have you had a chance to review it?</p> <p>17 Okay. As I understand it -- well, first of all,</p> <p>18 you are a recipient of at least the last e-mail.</p> <p>19 Do you see that?</p> <p>20 A Yes.</p> <p>21 Q And it's dated according to this</p> <p>22 December 13, 2002. Do you see that?</p> <p>23 A Yes.</p> <p>24 Q From Mr. Kurtz. Do you recall</p>	183	<p>1 updating it, no one was resetting those clocks</p> <p>2 or those dates?</p> <p>3 A It would have, yes, run as designed</p> <p>4 against the Notelogs.</p> <p>5 Q So in July, if my supposition is</p> <p>6 correct, in July of 2003 the tapes at least</p> <p>7 pertaining to the Housemail files would have</p> <p>8 been purged as a result of the program without</p> <p>9 any active step on the part of Household</p> <p>10 employees, is that correct?</p> <p>11 A Not the tapes, no.</p> <p>12 Q The disks I'm saying.</p> <p>13 A The -- yes, the Notelogs because</p> <p>14 that's what the purge ran on, yes.</p> <p>15 Q And do you see in sort of the second</p> <p>16 page of this there is a reference to an e-mail</p> <p>17 from a Mr. Burt asking about this.</p> <p>18 "Are we really terminating? I</p> <p>19 thought we had to keep the software running</p> <p>20 because of a lawsuit?" Do you see that?</p> <p>21 A Yes.</p> <p>22 Q And then there was a response by</p> <p>23 Mr. Nogle, "What lawsuit? Can anyone shed some</p> <p>24 light on this?"</p>
182	<p>1 receiving this e-mail?</p> <p>2 A No.</p> <p>3 Q Okay. Do you recall ever a</p> <p>4 discussion within Household about return of an</p> <p>5 IBM Z27 Loaner Box for Housemail?</p> <p>6 A Yes. I recall discussions.</p> <p>7 Q And I believe you stated that, is</p> <p>8 this correct, this particular piece of hardware</p> <p>9 was not returned to IBM until July of 2003? Is</p> <p>10 that correct?</p> <p>11 A That's correct.</p> <p>12 Q Okay. Am I right that you did not</p> <p>13 turn off the six-month purge program during the</p> <p>14 migration, is that correct?</p> <p>15 A I never asked that question so I</p> <p>16 really don't know.</p> <p>17 Q Okay. Well, let's assume you didn't.</p> <p>18 You didn't turn it off during the migration and</p> <p>19 then the files sit there from I guess January 1,</p> <p>20 2003, through July sometime of 2003.</p> <p>21 If the six-month purge program is</p> <p>22 still running, would at the end of the date it</p> <p>23 have deleted all the e-mails that were on the</p> <p>24 system because no one was using it, no one was</p>	184	<p>1 Do you recall at that time whether</p> <p>2 there was any discussion about whether the IBM</p> <p>3 Z27 loaner box should be retained or not because</p> <p>4 of the lawsuit?</p> <p>5 A There is discussion happening in this</p> <p>6 e-mail.</p> <p>7 Q Were you part -- but you weren't part</p> <p>8 of that discussion?</p> <p>9 A No, I wasn't.</p> <p>10 Q Okay. And am I correct the IBM Z27</p> <p>11 loaner box, that's a reference to the CPU, is</p> <p>12 that correct?</p> <p>13 A Yes.</p> <p>14 Q And there is also a discussion about</p> <p>15 an Amdahl CPU, is that correct?</p> <p>16 A Yes, I saw that.</p> <p>17 Q And was the Amdahl CPU, was that</p> <p>18 retained --</p> <p>19 A No.</p> <p>20 Q -- by Household?</p> <p>21 Was that given back also in calendar</p> <p>22 year 2003?</p> <p>23 A I don't know when that one was given</p> <p>24 back.</p>

185	<p>1 Q Was that given back to IBM or to some 2 other -- or to Amdahl or some other person? 3 A I don't believe this one was an IBM 4 machine. 5 Q Okay. Does the CPU that Household 6 currently has, was that acquired after the one 7 that was given back to IBM in July of 2003? 8 A I don't know. 9 Q Was there an explanation of why you 10 would give away one and then get another one? 11 A We didn't get another one specific 12 for Housemail. It was one that existed in 13 production already. 14 Q Okay. So it was being used for other 15 things and you were able to take it and use it 16 for your project? 17 A Right. 18 Q Let me just ask a question about this 19 document which we'll mark as 87. 20 (Deposition Exhibit No. 21 87 was marked for ID.) 22 MR. BAKER: I apologize. I don't 23 have many copies. 24</p>	187	<p>1 today. 2 A I don't know. 3 Q Did you have any input in the 4 preparation of this document? 5 A No. 6 Q And the reason I was asking you about 7 it before is was there a beginning Housemail 8 manual? This is the advanced Housemail one. 9 I'm wondering if there is a Housemail for 10 beginners. 11 A Perhaps. 12 Q Do you know of one? 13 A I don't know of one. 14 Q Okay. To the best of your knowledge, 15 this is the only user manual that was prepared 16 for users of Housemail? 17 A This is the only one that existed 18 when we were asked to discover, you know, if we 19 had a manual. 20 Q Do you have any reason to believe 21 that there was another one other than this one? 22 A Yes. 23 Q Okay. Why is that? 24 A I'd presume that there would be a</p>
186	<p>1 (Discussion had off the 2 record.) 3 BY MR. BAKER: 4 Q Ms. Cunningham, have you seen this 5 document before? 6 A Yes. 7 Q And is this a manual prepared by 8 Ms. Werner on Tips and Tricks for the Housemail 9 system? 10 A Yes. 11 Q And was this a document that was 12 given to Housemail users? 13 A Yes. 14 Q Were Housemail users given any other 15 document as a user manual? 16 A I believe it was policy that 17 everybody had to go through Housemail training. 18 Q Okay. And in this document do you 19 know if there is a reference to the 60 -- sorry 20 -- to the six-month purge policy? 21 A I don't know. I haven't read this 22 entire document. 23 Q I'm not going to ask you to. I'm 24 just asking you if you know as you sit here</p>	188	<p>1 beginner manual and you wouldn't go right to the 2 advanced course. 3 Q During the course of your work at 4 Household, have you ever seen a beginner manual? 5 A No. 6 MR. BAKER: Why don't we mark these 7 two next in order. 8 (Deposition Exhibit 9 Nos. 88 and 89 were 10 marked for ID.) 11 BY MR. BAKER: 12 Q Have you had a chance to look at 13 these two exhibits? 14 A Yes. 15 Q Exhibit 88, does that refresh your 16 recollection as to the specific mainframe being 17 used by Household to support its Housemail 18 system during 2001, 2002? 19 A Yes. 20 Q And it's that particular what, 21 9672-Z27 serial number, do you see that? 22 A Yes. 23 Q That's the one? 24 A That's the one.</p>

189	<p>1 Q And that's the one that was referred</p> <p>2 to in that e-mail that we were talking about,</p> <p>3 Exhibit 86, about retaining a particular -- that</p> <p>4 was an e-mail involving Mr. Kurtz?</p> <p>5 A Yes.</p> <p>6 Q In Exhibit 89 if you go to the second</p> <p>7 page, there is an e-mail from you to Ms. Warner.</p> <p>8 Do you see that?</p> <p>9 A Yes.</p> <p>10 Q And this is in September 2003 where</p> <p>11 you were asked or you were in the process of</p> <p>12 pulling together information about the hardware</p> <p>13 devices used at Household for e-mail files and</p> <p>14 attachments. Do you see that?</p> <p>15 A Yes.</p> <p>16 Q And under Hardware you list CPU,</p> <p>17 which is I guess that's the same IBM Z27 one we</p> <p>18 just looked at. Do you see that?</p> <p>19 A Yes.</p> <p>20 Q And then there is an Amdahl 700 which</p> <p>21 I guess was later upgraded. Do you see that?</p> <p>22 A Yes.</p> <p>23 Q Was that a reference to the Amdahl</p> <p>24 CPU that we were looking at earlier in Exhibit</p>	191	<p>1 Q And these are the disks that we were</p> <p>2 talking about where the A disk space was stored,</p> <p>3 is that correct?</p> <p>4 A Yes.</p> <p>5 Q Okay. There is two, at least in the</p> <p>6 first line there is EMC and Hitachi raid</p> <p>7 devices. Do you see that?</p> <p>8 A Yes.</p> <p>9 Q Defined as 3390-3. To your</p> <p>10 recollection, which one was in use during the</p> <p>11 2001, 2002 time period?</p> <p>12 A I know for sure EMC was.</p> <p>13 Q And that would be the EMC model 5430?</p> <p>14 A Yes.</p> <p>15 Q Was that a device that you could add</p> <p>16 disks to as your system grew or shrank as the</p> <p>17 case may be?</p> <p>18 A In this case I'm not sure.</p> <p>19 Q Okay. After that there is a list of</p> <p>20 software. Do you see that?</p> <p>21 A Yes.</p> <p>22 Q Okay. And that lists the software</p> <p>23 that was used or some of it that was used for</p> <p>24 Housemail, is that correct?</p>
190	<p>1 82?</p> <p>2 A Yes.</p> <p>3 Q What are these IBM 3090-J and 3090-S?</p> <p>4 A It wasn't in Exhibit 82.</p> <p>5 Q I'm sorry. Exhibit 86 I thought I</p> <p>6 said.</p> <p>7 A Yes. Exhibit 86.</p> <p>8 Q So my question, continuing on that</p> <p>9 CPU line there is a reference to an IBM 3090-J</p> <p>10 and then 3090-S: Do you see that?</p> <p>11 A Yes.</p> <p>12 Q What are those CPUs for?</p> <p>13 A Those were the previous version --</p> <p>14 the previous CPUs used prior to the 9672.</p> <p>15 Q Okay. So they were no longer in use</p> <p>16 in 2001, 2002?</p> <p>17 A No.</p> <p>18 Q Do you know when those servers were</p> <p>19 -- sorry -- those CPUs were retired from use at</p> <p>20 Household?</p> <p>21 A No, I don't.</p> <p>22 Q The next is a difference to DASD. Do</p> <p>23 you see that?</p> <p>24 A Yes.</p>	192	<p>1 A Correct.</p> <p>2 Q Was any of this software that's</p> <p>3 listed under there relating only to LotusNotes</p> <p>4 during this time period?</p> <p>5 A No.</p> <p>6 Q So this is all Housemail software?</p> <p>7 A Yes.</p> <p>8 Q And the term VM Archiver is not</p> <p>9 listed, is it?</p> <p>10 A No.</p> <p>11 Q And neither is VM Archive, is that</p> <p>12 correct?</p> <p>13 A Correct.</p> <p>14 Q And this information was being</p> <p>15 compiled to be provided to the SEC, is that</p> <p>16 correct, and the heading is, if you look at the</p> <p>17 subject matter, "Another response for legal,</p> <p>18 please read"?</p> <p>19 A I believe it was for that SEC, yes.</p> <p>20 MR. BAKER: I want to go off the</p> <p>21 record just very quickly.</p> <p>22 THE VIDEOGRAPHER: The time is 3:53</p> <p>23 and we're going off the record.</p> <p>24</p>

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1 (Discussion had off the
 2 record.)
 3 THE VIDEOGRAPHER: Going on the
 4 record. The time is 3:54 p.m.
 5 BY MR. BAKER:
 6 Q Ms. Cunningham, I'm just going to
 7 show you two documents. I'm not going to mark
 8 them as an exhibit but I will refer to them on
 9 the record.
 10 One is a series of documents, at
 11 least the first page is entitled Office
 12 Vision/VM Migration Tool Tips and Techniques.
 13 It runs Bates No. HHS03298011 through 8054, and
 14 the other document is something that's entitled
 15 Install -- sorry -- IBM Office Vision/VM to
 16 LotusNotes Migration Tools. It's a manual
 17 that's apparently put out by IBM. It's Bates
 18 No. HHS03298159 through 8261.
 19 Let's deal with the IBM document
 20 first if we may. Is this a manual that you at
 21 Household used to help plan for the migration?
 22 A Yes.
 23 Q And this includes information on how
 24 to use the Domino engine called for, is that

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1 correct?
 2 A The migration engine, yes.
 3 Q Okay. If you'd just turn the page to
 4 the second page of this particular document,
 5 there is some handwriting. Do you see that?
 6 A Yes.
 7 Q Is that your handwriting?
 8 A No.
 9 Q Just put that aside. Let's look at
 10 the other document if we may.
 11 The other document -- actually it
 12 looks like it's kind of a compilation of
 13 documents, but it came to us as one document.
 14 Do you understand it to be one
 15 document?
 16 A It looks to me like a compilation of
 17 different things.
 18 Q Was this a set of materials that were
 19 put together by someone, I don't know who, but
 20 that relate to the migration?
 21 A It appears that way, yes.
 22 Q Just look at the first page if we
 23 can. It looks like there is a questions asked
 24 and then there is an answer. Do you see that?

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1 A Yes.
 2 Q Were these materials prepared by an
 3 outside vendor or by people within Household?
 4 Just looking at these types of materials.
 5 A No. This looks like it must have
 6 come from a manual.
 7 MR. BAKER: I don't have any further
 8 questions.
 9 MR. SLOANE: Okay. Let's just take a
 10 short break and see if we have anything.
 11 (Brief interruption.)
 12 THE VIDEOGRAPHER: The time is 3:57
 13 p.m. Going off the record.
 14 (Discussion had off the
 15 record.)
 16 THE VIDEOGRAPHER: The time is 3:59
 17 p.m. Going on the record.
 18 MR. SLOANE: We have no questions.
 19 MR. BAKER: Just let me say one thing
 20 for the record, Mr. Sloane.
 21 In the correspondence with Ms. Best,
 22 as you know, part of this deposition was to
 23 include inspection of hardware and software.
 24 The hardware portion of the inspection was

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1 deferred because we were told that it was not
 2 operable.
 3 I think we now have a better
 4 understanding, but if we should have further
 5 questions relating to or that inspection should
 6 take place, we would reserve the right to call
 7 Ms. Cunningham back to testify on that
 8 particular issue.
 9 MR. SLOANE: If that issue arises, we
 10 will deal with it appropriately.
 11 THE COURT REPORTER: Signature?
 12 MR. SLOANE: We'll waive signing -- I
 13 don't know what the stipulations have been in
 14 this case, but we'll -- we'd like it signed but
 15 we'll waive signing before you.
 16 THE VIDEOGRAPHER: Off the record.
 17 (Proceedings adjourned
 18 at 4:02 p.m.)
 19 FURTHER DEPONENT SAITH NOT.
 20
 21
 22
 23
 24

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1 IN THE UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF ILLINOIS
 3 EASTERN DIVISION
 4 LAWRENCE E. JAFFE PENSION)
 PLAN, On behalf of Itself and)
 5 All Others Similarly Situated,))
 6 Plaintiff,)
 vs.) No. 02 C 5893
 7 HOUSEHOLD INTERNATIONAL, INC.,)
 et al.,)
 8 Defendants.)

9 I hereby certify that I have read the
 10 foregoing transcript of my deposition given at
 11 the time and place aforesaid, consisting of
 12 Pages 1 to 196, inclusive, and I do again
 13 subscribe and make oath that the same is a true,
 14 correct and complete transcript of my deposition
 15 so given as aforesaid, as it now appears.
 16
 17
 18 CHRISTINE CUNNINGHAM
 19
 20
 21 SUBSCRIBED AND SWORN TO
 before me this _____ day
 22 of _____, A.D., 200__.
 23
 24 _____
 Notary Public

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1 indirectly in the outcome of this action.
 2 I further certify that this
 3 certificate applies to the original signed IN
 4 BLUE and certified transcripts only. I assume
 5 no responsibility for the accuracy of any
 6 reproduced copies not made under my control or
 7 direction.
 8 IN WITNESS WHEREOF, I do hereunto set
 9 my hand at Chicago, Illinois, this _____ day
 10 of _____, 2005.
 11
 12
 13 _____
 Marianne Nee
 Certified Shorthand Reporter
 14
 15 C.S.R. Certificate No. 84-2341.
 16
 17
 18
 19
 20
 21
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1 STATE OF ILLINOIS)
) SS:
 2 COUNTY OF C O O K)
 3 I, MARIANNE NEE, a Certified
 4 Shorthand Reporter of the State of Illinois,
 5 C.S.R. No. 84-2341, do hereby certify:
 6 That previous to the commencement of
 7 the examination of the witness, the witness was
 8 duly sworn to testify to the whole truth
 9 concerning the matters herein;
 10 That the foregoing deposition
 11 transcript was reported stenographically by me,
 12 was thereafter reduced to typewriting under my
 13 personal direction and constitutes a true record
 14 of the testimony given and the proceedings had;
 15 That the said deposition was taken
 16 before me at the time and place specified and
 17 was recessed/adjourned as stated herein;
 18 That the reading and signing by the
 19 witness of the deposition transcript, if
 20 applicable, was agreed upon as stated herein;
 21 That I am not a relative or employee
 22 or attorney or counsel, nor a relative or
 23 employee of such attorney or counsel for any of
 24 the parties hereto, nor interested directly or

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1 STATE OF ILLINOIS)

) SS:

2 COUNTY OF C O O K)

3 I, MARIANNE NEE, a Certified
4 Shorthand Reporter of the State of Illinois,
5 C.S.R. No. 84-2341, do hereby certify:

6 That previous to the commencement of
7 the examination of the witness, the witness was
8 duly sworn to testify to the whole truth
9 concerning the matters herein;

10 That the foregoing deposition
11 transcript was reported stenographically by me,
12 was thereafter reduced to typewriting under my
13 personal direction and constitutes a true record
14 of the testimony given and the proceedings had;

15 That the said deposition was taken
16 before me at the time and place specified and
17 was recessed/adjourned as stated herein;

That the reading and signing by the
witness of the deposition transcript, if
applicable, was agreed upon as stated herein;

That I am not a relative or employee
or attorney or counsel, nor a relative or
employee of such attorney or counsel for any of
the parties hereto, nor interested directly or

1 indirectly in the outcome of this action.

2 I further certify that this
3 certificate applies to the original signed IN
4 BLUE and certified transcripts only. I assume
5 no responsibility for the accuracy of any
6 reproduced copies not made under my control or
7 direction.

8 IN WITNESS WHEREOF, I do hereunto set
9 my hand at Chicago, Illinois, this 5th day
10 of December, 2005.

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Marianne Nee
Marianne Nee
Certified Shorthand Reporter

C.S.R. Certificate No. 84-2341.