

**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.)	
_____)	

**THE CLASS' STATUS REPORT FOR THE NOVEMBER 30, 2006
STATUS CONFERENCE**

The Class submits the following Status Report in advance of the November 30, 2006 Status Conference:

A. Defendants' Document Production

There are three issues regarding defendants' document production that the Class would like the Court to address at this juncture. The first issue concerns the completeness of defendants' document production. The second issue relates to the Class' follow-up document requests. The third issue relates to defendants' use of different Bates numbers in the document productions made to the Securities and Exchange Commission ("SEC") and to the Class in this litigation.

1. Certification that Defendants' Production Is Complete

As this Court is aware, as of today's date defendants have not certified that their document production is complete and indeed, refuse to make such certification. As the Class recently learned, defendants have had a good reason not to certify, namely that they could not in good faith make the required certification. On November 21, 2006, two and a half years after discovery commenced in this litigation, defendants provided the Class with over 1,000 pages that had not been produced from their SEC production. Defendants provided no explanation as to why these documents had not been previously produced in this case. Neither were these documents previously withheld for privilege. Defendants have likewise refused to make any representation that they had produced all of the documents previously provided to the SEC. The Class has moved at least three times before this Court to request certification of defendants' document production. *See* Docket Nos. 229, 555, 670. Defendants' latest production once again underscores the need for such certification. In the meantime, the Class is taking depositions that may need to be reopened to address defendants' untimely production of documents.

2. Defendants' Responses to the Class' Follow-up Document Requests

Defendants have taken a similar approach with respect to the Class' follow-up document requests (the fourth and fifth requests), which identify and request production of narrow categories of documents. Defendants object to these document requests as duplicative but refuse to confirm complete production and identify the responsive documents. Simultaneously, defendants object to these requests as calling for the production of additional documents and refuse to produce any such documents. On November 10, 2006, the parties met and conferred regarding these requests. On November 13, 2006, the Class sent defendants a detailed letter responding to the issues identified during the meet and confer. Two weeks have passed, and defendants have not informed the Class whether they intend to produce any responsive documents.

Similarly, although defendants agreed on November 16, 2006, to produce documents responsive to the Class' fifth request for production they have not produced these documents and do not anticipate doing so until December 15, 2006. Defendants offer no reason as to why this production will not begin until more than 60 days after the requests were served.

3. Translation of the Bates Numbering for the SEC Production

The third issue relates to the fact that defendants have, for reasons known only to themselves, elected to use different Bates numbers in this litigation than those used in the SEC investigation. However, defendants' prior correspondence with the SEC, including position papers and factual summaries, as well as the depositions taken in that investigation, cite documents using the SEC Bates numbers. The result is that only Household knows which documents are referenced in their prior testimony and communications with the SEC, while the Class is left in the dark.

Disregarding repeated requests by the Class, defendants refuse to provide any means for the Class to "translate" its Bates numbers to the SEC Bates numbers. By letter dated October 10, 2006, the Class identified a number of specific documents from SEC correspondence and depositions that

it wanted defendants to identify using the Bates numbers in this case. Despite the passage of close to two months, ongoing depositions, and an impending fact discovery cut-off, defendants have not yet provided any response other than the November 21, 2006 production, which, as noted above, was produced without any explanation. Accordingly, the Class requests that this Court direct defendants to provide the requested information and provide the means to “translate” the SEC Bates numbers. Alternatively, the Class requests leave to file two interrogatories directed at clarifying this situation.

B. Privilege Issues

The Class wishes to alert the Court to two additional issues related to defendants’ privilege assertions.

The first issue was discussed at the October 19, 2006 Status Conference where the Class advised the Court that the parties had reached an impasse with respect to several documents which defendants produced but now seek to recall on privilege grounds. The Class disputes defendants’ privilege assertion as to these documents, but pursuant to the Protective Order cannot use such documents until the dispute is resolved. The Court instructed defendants to “figure this out within the next two weeks . . . even if you’ve got people on it around the clock. Because I can’t be having any more inadvertent issues here nor can you.” *See* Ex. A attached hereto (October 19, 2006 hearing transcript at 112). The Court also instructed defendants to “Bring me a motion and tell me this is an issue” *Id.* Defendants have done neither. In fact, when the parties met and conferred on October 26, 2006 to discuss this issue, defendants refused to even inform the Class whether they intended to file a motion seeking the return of the disputed documents. Although the Class adamantly believes that the burden is on defendants to explain why these documents are privileged and why they were inadvertently produced, the Class can no longer afford to wait for defendants to take action and intends to file a motion on this subject by Friday, December 1, 2006.

The Class' motion will also address a second, related issue, namely defendants' failure to include on their privilege logs thousands of documents that have been withheld in their entirety or redacted. Despite the Class' repeated requests, defendants have refused to notify the Class whether and when they will produce a privilege log concerning these documents. Having chosen to ignore their discovery obligations years after they claimed privilege, defendants should immediately produce all withheld or redacted documents that are not on their privilege log.

C. Depositions

Since the October 19, 2006 Status Conference, the Class has taken five depositions (one of which was the two-day deposition of Dan Pantelis), with an additional deposition scheduled for November 30, 2006. There are ten depositions scheduled for December.

The Class discusses issues with respect to the scheduling of the third-party depositions of Wilmer Cutler & Pickering, Ernst & Young, LLP, former Arthur Andersen LLP employees and Andrew Kahr below:

1. Ernst & Young and Wilmer Cutler & Pickering

The Class' motions to compel production of documents and testimony related to the Ernst & Young, LLP ("E&Y") and Wilmer Cutler & Pickering ("WCP") investigations are fully briefed and the Class will be prepared to respond to any additional questions the Court may have with respect to these issues at the Status Conference. The Class has deferred scheduling third-party depositions related to the E&Y and WCP investigations pending the outcome of the motions. The deferred depositions include 30(b)(6) depositions of E&Y and WCP, as well as depositions of individuals who worked for Arthur Andersen LLP ("Andersen") and subsequently moved to E&Y and participated in the E&Y investigation. The depositions of former Andersen employees also have been deferred pending ruling on objections before Judge Guzman. If the motions are granted, the Class anticipates taking the third-party depositions related to the E&Y and WCP investigations in January.

2. Deposition of Andrew Kahr

The Class has identified Andrew Kahr as one of remaining deponents. Mr. Kahr served as a consultant to Household during the Class Period. Documents produced by the defendants, including communications between Mr. Kahr and Household CEO William Aldinger, indicate that Mr. Kahr was instrumental in formulating a number of the improper predatory lending practices identified in the Class' Complaint.¹ Following several unsuccessful attempts to serve a subpoena on Mr. Kahr at two different residences in California, the Class located Mr. Kahr who is currently living abroad. Due to the importance of Mr. Kahr's testimony, the Class anticipates filing a motion pursuant to the Walsh Act for permission to serve Mr. Kahr with a subpoena for production of documents and to compel his return to the United States to sit for a deposition. 28 U.S.C. §1783. (In the interest of justice, a court may order the issuance of a subpoena requiring the deposition of a national or resident of the United States who is in a foreign country.) Defendants have rejected the Class' request for cooperation in obtaining Mr. Kahr's deposition even though they lack standing on this issue.

D. Discovery from HSBC

During the week of November 13, 2006, the Court received a letter from the Central Authority in the United Kingdom stating the Letters of Request were deficient for two reasons, one procedural and one substantive. On Tuesday, November 21, 2006, counsel for defendants and the Class participated in a conference call with the Court's law clerk, Ms. Allison Engel, to provide an update on the status of the Letters of Request. The Class informed Ms. Engel that (i) the Class had apprised HSBC Holdings plc's ("HSBC") counsel, Cleary Gottlieb Steen & Hamilton LLP

¹ "Class' Complaint" refers to the [Corrected] Amended Consolidated Class Action Complaint for Violation of the Federal Securities Laws.

(“Cleary”), of the situation; (ii) HSBC and the Class agreed to continue cooperating provided HSBC continues its rolling document production and the Class continues to pursue the Letters of Request; and (iii) the Class is pursuing the Letters of Request by seeking the assistance of local counsel in the United Kingdom. HSBC has agreed to produce another installment of documents on December 1, 2006. Plaintiffs recommend maintaining the *status quo*: continuing the Rule 34(a) motion so long as the Class and HSBC continue to cooperate.

E. State Agency Issues

To date, defendants have not produced the documents relating to the various state agencies authorized by the Court in its November 16, 2006 Order.

The Class is scheduled to review the Wisconsin state agency documents in Chicago on Wednesday, November 29, 2006. Subsequently, the Class will prepare an initial draft of the stipulation and work with defendants to negotiate a final version.

DATED: November 27, 2006

Respectfully submitted,

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DECLARATION OF SERVICE BY EMAIL AND BY U.S. MAIL

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 November 27, 2006, declarant served by electronic mail and by U.S. Mail to the parties the: **THE CLASS' STATUS REPORT FOR THE NOVEMBER 30, 2006 STATUS CONFERENCE**. 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 27th day of November, 2006, at San Francisco, California.

s/ Monina O. Gamboa

MONINA O. GAMBOA