IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

LAWRENCE E. JAFFE PENSION PLAN, ON BEHALF OF ITSELF AND ALL OTHERS SIMILARLY SITUATED. Plaintiff, *- against -* HOUSEHOLD INTERNATIONAL, INC., ET AL., Defendants.	Lead Case No. 02-C-5893 (Consolidated) Judge Ronald A. Guzman Magistrate Judge Nan R. Nolan

HOUSEHOLD DEFENDANTS' MOTION FOR LEAVE TO FILE *INSTANTER* MEMORANDUM OF LAW IN EXCESS OF TEN PAGES

Defendants Household International, Inc., Household Finance Corp. and former officers and directors William F. Aldinger, David A. Schoenholz, Gary Gilmer, and J.A. Vozar (the "Household Defendants" or "Defendants"), by and through their attorneys, hereby move this Court for leave to file their memorandum of law in support of Household Defendants' Motion to Compel Responses to Defendants' Interrogatories Nos. 56 and 64 in excess of ten pages, attached hereto. In support thereof, the Household Defendants state as follows:

Comprehensively addressing the inadequacy of Plaintiffs' responses and objections requires more than ten pages. While Defendants have attempted to fairly and completely address the factual and legal issues raised by Plaintiffs' responses and objections with as much brevity as possible, any further reduction would impact the quality and clarity of the presentation made to the Court.

WHEREFORE, for the reasons stated above, Defendants respectfully request that they be granted leave to file a Memorandum of Law of eleven pages.

Dated: May 4, 2007
Chicago, Illinois

Respectfully submitted,

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UNITED STATES DISTRICT COURT

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LAWRENCE E. JAFFE PENSION PLAN, ON BEHALF OF ITSELF AND ALL OTHERS SIMILARLY SITUATED, Plaintiff, *- against -* HOUSEHOLD INTERNATIONAL, INC., ET AL., Defendants.	Lead Case No. 02-C-5893 (Consolidated) CLASS ACTION Judge Ronald A. Guzman Magistrate Judge Nan R. Nolan

MEMORANDUM OF LAW IN SUPPORT OF THE HOUSEHOLD DEFENDANTS' MOTION TO COMPEL RESPONSES TO DEFENDANTS' INTERROGATORIES NOS. 56 AND 64

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This memorandum is respectfully submitted on behalf of Defendants Household International, Inc., Household Finance Corp., William F. Aldinger, David A. Schoenholz, Gary Gilmer and J.A. Vozar (collectively, "Household" or "Defendants") in support of the Household Defendants' Motion to Compel Responses to Defendants' Interrogatories Nos. 56 and 64 (the "Interrogatories").[1]

INTRODUCTION

On March 14 this Court ordered Plaintiffs to identify "the percentage or number of Household loans that included improperly imposed or undisclosed prepayment penalties," holding that Defendants are entitled to Plaintiffs' quantification of their own claims. (Owen Aff., Ex. 4 at 3). As the Court noted in quoting Defendants' briefing and referencing the voluminous documents and reports produced to Plaintiffs in this case: "these reports can be quantified and distinguished from Household's reported performance, and it is Plaintiffs' burden to do so." (*Id.*)

Despite this Order, Plaintiffs new response still refused to quantify anything, again responding only that the undisclosed figure is a "substantial percentage and/or number":

> [D]ocuments produced in this litigation, including government reports and customer complaints, indicate that a *substantial percentage and/or number* of Household loans included prepayments penalties which were not disclosed or which were actively concealed, or whose existence or imposition was misrepresented in some fashion, as well as prepayment penalties that were in violation of state or federal law."

(Owen Aff., Ex. 5 (Plaintiff's Response To Interrogatory No. 56) (emphasis supplied)). They do not provide any objective parameters that would allow testing (or even comprehension) of their use of the term "substantial." If in fact Plaintiffs' review of "documents . . . government reports, and customer complaints" have led them to conclude that the number or percentage of loans in such categories is "substantial", they should be able to say what that number or percentage is, as the Court expressly ordered them to. If they are just guessing that it is "substantial", and have no facts to back up this

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[1] "Interrogatories" refers to Household Defendants' Interrogatories Nos. 56 and 64 served on December 22, 2006 and January 31, 2007, respectively. (See Affidavit of David R. Owen dated May 4, 2007 ("Owen Aff."), Ex. 1 and 7.)

accusation, they should say so, rather than continuing to rely on the very conclusory allegations that these contention interrogatories were designed to explore.

The reason for Plaintiffs' stonewalling became evident during the meet and confer process that preceded this second motion: Plaintiffs would prefer to keep their findings secret because they do not make out their case. As their counsel acknowledged: "If we were just to list the . . . violations they found on prepayment penalties, that would dramatically understate what we contend the problem was." (Owen Aff., Ex. 6 at 36:24 - 37:5 (meet and confer held on April 16, 2007.))

That the number Plaintiffs are withholding is lower than they would have liked is all the more reason for them to comply with this contention interrogatory and the Court's related Order. Their acknowledgement that the millions of pages of documents they have received and dozens of depositions they have taken did not yield sufficient proof of the "problem" (*i.e.*, a supposed management-directed illegal lending scheme) speaks volumes about the validity of their going-in assumptions on this subject, and Defendants are entitled to a contention interrogatory answer spelling out Plaintiffs' conclusions. Indeed, the Court has already ordered it. Plaintiffs' refusal to comply with the express Order to quantify their allegation of "a substantial number or percentage" of tainted loans should preclude them from submitting any proof on this subject.

Plaintiffs also provided a non-response to Interrogatory No. 64, which was meant to establish how Plaintiffs intend to comply with the loss causation standard outlined by the Supreme Court in *Dura Pharmaceuticals, Inc.* v. *Broudo*, 544 U.S. 336 (2005) ("*Dura*"). Interrogatory No. 64 asks Plaintiffs to disclose what "truth" they contend was revealed to the market in each of 14 alleged "corrective disclosure" previously identified by Plaintiffs. Instead of providing any substantive explanation, Plaintiffs' response merely repeats (with only three minor variations) the same boilerplate phrase 14 times: "This disclosure revealed partial information about Household's true financial and operating condition with respect to lending policies and practices". (Owen Aff., Ex. 8 at 8-11) The question was: What truth do you contend each of the fourteen disclosures revealed? Merely repeating that *something* corrective was disclosed is not a good faith answer.

Plaintiffs' repetitive and meaningless response is flatly inconsistent with recent Seventh Circuit law on the subject. In *Tricontinental Industries, Ltd.* v. *PricewaterhouseCoopers, LLP*, 475 F.3d 824, 843 (7th Cir. 2007) ("*Tricontinental*"), the Court confirmed that to establish loss causa-

tion a plaintiff must show that the relevant corrective disclosures actually revealed previously misrepresented or concealed information and that the disclosures made the claimed truth "generally known". Plaintiffs therefore cannot refuse in discovery to explain their theory of how the truth about the alleged fraud became generally known to the public. Eventually, Plaintiffs will no longer be able to hide behind expansive discovery requests and dilatory motion practice, and will be required to address the merits, *vel non*, of their contentions. The time to specify those contentions is now.

ARGUMENT

Contention interrogatories seek to clarify the basis or scope of an adversary's legal claims and require the answering party to commit to a position and give factual support for that position. *Ziemack* v. *Centel Corp.*, No. 92 C 3551, 1995 WL 729295, at *2 (N.D. Ill. Dec. 7, 1995).

Plaintiffs have no valid basis for refusing to provide the information sought by these Interrogatories, and certainly have no excuse for ignoring the direct Orders of this Court. All of Plaintiffs' objections have been considered and rejected by this Court. Any new objections that Plaintiffs may assert are untimely and waived. Fed. R. Civ. P. 33(b)(4); *In re Industrial Gas Antitrust Litigation*, No. 80 C 3479, 1985 U.S. Dist. LEXIS 15646, at *4 (N.D. Ill. Sept. 24, 1985) ("The interrogatories presently before the court are the same as when the parties appeared before . . . . All of the plaintiffs' objections at that time were overruled. The failure of plaintiff to raise any additional objections at that time constitutes a waiver.").[2]

A. Plaintiffs Must Quantify the Fraud They Allege (Interrogatory No. 56)[3]

Plaintiffs' fraud claims assert the existence of illegal practices that they allege were widely employed at Household (*e.g.*, "concealing" prepayment penalties). Plaintiffs do not indicate, however, how widespread they contend the alleged practices were. With regard to "prepayment penalties," for example, Plaintiffs have offered only the unquantifiable contention:

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2 On April 16, 2007, Defendants met and conferred with Plaintiffs, complying with their obligations under Fed. R. Civ. P. 37(a)(2)(B) and Local Rule 37.2.

3 Plaintiffs continue to renumber Defendants' Interrogatories despite the Court's September 19, 2006 Order rejecting Plaintiffs' numbering and District Judge Guzman affirming that order. Reference herein will always be to Defendants' original numbering unless otherwise stated.

> "Household [loans] included prepayment penalties that were not disclosed or which were actively concealed, or whose existence or imposition was misrepresented in some fashion, as well as loans where prepayment penalties that were in violation of state or federal laws."

(Owen Aff. Ex. 3 at 20) To better understand the extent of Plaintiffs' claims, including—as the Court noted —"whether the alleged illegality occurred 1% or 100% of the time" (Owen Aff., Ex. 4 at 3 (quoting Defendants' brief)), Defendants served Interrogatory No. 56 which asks:

> "Identify the percentage and/or number of Household' loans which included prepayment penalties which Plaintiffs contend 'were not disclosed or which were actively concealed, or whose existence or imposition was misrepresented in some fashion, as well as prepayment penalties that were in violation of state or federal law'"

(Owen Aff., Ex. 1 at 3) (citations omitted).

Rejecting Plaintiffs' first response upon a motion to compel, the Court ordered Plaintiffs to respond again, stating:

> "The Court agrees that Plaintiffs should provide factual support for the allegation, including (1) the percentage or number of Household loans that included improperly imposed or undisclosed prepayment penalties . . . ."

(Owen Aff., Ex. 4 at 3).[4]

In responding a second time, Plaintiffs' again stated only that a "substantial number and/or percentage" of Household loans contained illegal prepayment penalties with no elaboration. (Owen Aff., Ex. 5 at 130) The response also repeated the same objections that this Court had already rejected. Plaintiffs' waiver aside, the materiality, *vel non*, of the alleged illegal practices hinges in part on how often they allegedly occurred. Without the objective quantification ordered by the Court, it is impossible to evaluate the claims of fraud. Indeed, it becomes impossible to tell whether

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[4] Plaintiffs had been previously cautioned at the January 10, 2007 status hearing not to provide evasive or non-responsive answers, stating:

> Please do not come in here with generic answers because I'm going to be very unhappy with you because I'm telling you I would never have let this happen if I did not think that you were going to fully answer me because it is the end of discovery here.

(Owen Aff., Ex. 2 at 121:17-21)

anyone lied at all. Plaintiffs' conclusory assertion that a "substantial" number of loans were illegal is meaningless; Substantial to whom? Substantial compared to what? *See Bell* v. *Woodward Governor Co.*, No. 03 C 50190, 2005 U.S. Dist. LEXIS 19602, at *10 (N.D. Ill. Sept. 8, 2005) ("Defendant is not asking Plaintiffs about their case in a general matter. Defendant is after specifics.").

Plaintiffs have deposed more than fifty witnesses and received voluminous discovery including more than a quarter of a million pages relating to prepayment penalty policies, practices and records at Household. In response to Interrogatories Nos. 18 and 45, Plaintiffs have themselves identified over 35,000 documents that they contend support or relate to the alleged pervasiveness of Household's illegal prepayment penalties. These documents include federal and state regulatory agency communications, internal records of customer complaints and follow-up, and Attorneys General Settlement documents. In ordering Plaintiffs to disclose their own quantification of the alleged illegal uses of prepayment penalties, the Court echoed Defendants' observation that "these reports can be quantified and distinguished from Household's reported performance, and it is Plaintiffs burden to do so." (Owen Aff., Ex. 4 at 3).

Plaintiffs have no excuse for their refusal to obey this Order. If they are unable to explain how their own cited evidence demonstrates the pervasiveness of the alleged fraud, how can they possibly prove at trial that any such "scheme" actually took place, much less that it was material?

As this voluminous discovery suggests, however, Plaintiffs do in fact have an idea about what their numbers might be when added up, and that is the reason why they continue to resist in the face of a court order. Indeed, in the meet and confer of April 16, 2007, Plaintiffs conceded that they could quantify all such allegations of illegality but refused to do so because the numbers would be unacceptably low (or would require an as-yet-undisclosed explanation of the difference between their theory and their evidence). (Owen Aff., Ex. 6 at 36:24 - 37:5 ("If we were just to list the — from the state examination documents the violations they found on prepayment penalties, that would dramatically understate what we contend the problem was.")). Contention interrogatories at the very end of a lengthy discovery period are designed to find out the nature and limitations of a party's claims to prevent surprise at trial. *See Portis* v. *City of Chicago*, No. 02 C 3139, 2005 U.S. Dist. LEXIS 7972, at *9-10 (N.D. Ill. Apr. 15, 2005) (Nolan, M.J.). Plaintiffs cannot continue to assert vaguely that illegal practices at Household were "widespread" or "substantial" without providing de-

tailed factual information to support that claim. This Court has already rejected Plaintiffs' strategy of evasion, and Plaintiffs' refusal to quantify the alleged illegality prejudices Defendants and adversely affects the efficient adjudication of this case.

Nor can the absence of any quantification in Plaintiffs' response be dismissed as a failed good faith effort or even a mistake. Indeed, at the meet and confer on April 16, 2007, Plaintiffs acknowledged both the Order and the identified deficiency of their responses and nevertheless insisted that they would not comply. (Owen Aff., Ex. 6 at 38:3-39:22 ("We do not have to specify or quantify a number" (38:3-7); "we're not going to give you a number" (38:23-24) "whether the court orders it or not, we can't do something we can't do" (39:20-22)). Apparently, when counsel for Plaintiffs says "we can't", he really means "we won't" because the number "would dramatically understate what we contend the problem was." (*Id.* at 36:24 - 37:5).

Purposeful contempt of this kind is routinely sanctioned with dismissal. *Farrar* v. *City of Chicago*, 61 Fed. Appx. 967, 969 (7th Cir. 2003) ("Dismissal under Rule 37 is appropriate when a plaintiff fails to comply with a discovery order and that failure results from willfulness, bad faith, or fault."); *In re Thomas Consolidated Industries, Inc.*, 456 F.3d 719, 726 (7th Cir. 2006) ("[T]he courts below . . . relied in part on the fact that [plaintiff] repeated the same non-responsive, inadequate answers that the bankruptcy court expressly warned him were unacceptable. This blatant disregard of the bankruptcy court's order was more than sufficient to demonstrate the bad faith finding that justified dismissal.").[5]

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[5] This is the second time Defendants have had to seek relief from the Court for Plaintiffs' refusal to provide this precise information. Sanctions are warranted. Fed. R. Civ. P. 37(d). At the very least, Plaintiffs' willful disregard for the Court's Order warrants the payment of costs and fees for bringing this motion, and a recommendation to Judge Guzman that Plaintiffs be precluded from introducing evidence regarding the quantification or materiality of the alleged illegal practices at trial or summary judgment. Fed. R. Civ. P. 37(b)(2); *In re Industrial Gas*, 1985 U.S. Dist. LEXIS 15646, at *6 n.3 (ordering plaintiffs to pay costs and fees incurred in bringing a second motion to compel after the court had ordered them to respond to the interrogatory and recommending that the district judge bar plaintiffs from proving at trial any fact that was not disclosed.). There must be repercussions for willfully ignoring the Orders of this Court.

B. In Response to Interrogatory No. 64 Plaintiffs Must Specify the Relevant "Partial Information" and Explain What "Truth" It Revealed About the Alleged Fraud to the Market

To succeed in this litigation Plaintiffs must demonstrate "loss causation" by showing that that Household's "share price fell significantly after the truth became known." *See Dura,* 544 U.S. at 342, 347. These principles explained in *Dura* made clear that if the "truth" does not become generally known to the market, a claim of "fraud" by investors cannot succeed. Addressing this general principle of *Dura*, the Seventh Circuit recently affirmed the dismissal of a securities fraud claim because the facts revealed in the "corrective disclosure" relied upon by plaintiffs did not actually relate to the misrepresentations that the plaintiffs had alleged. *Tricontinental*, 475 F.3d at 842-45 (noting that factual revelations about defendant's 1998 and 1999 financial statements did not correct a claimed fraud relating to 1997 statements and affirming dismissal of 10b-5 claims on that basis).

Attempting to learn the specifics of Plaintiffs' claims regarding loss causation, Defendants previously served Interrogatories Nos. 31-33, which asked Plaintiffs to identify the corrective disclosures that Plaintiffs contend revealed the frauds to the market. Plaintiffs objected and this Court compelled them to respond. In responding, Plaintiffs identified 14 disclosures which they contend each "partially" revealed the truth about the frauds they assert. Consistent with the holding of *Tricontinental*, Defendants served Interrogatory No. 64, which asks:

> "For each Disclosure identified in response to Interrogatory Nos. 31-33, set forth the 'truth' that you contend was revealed to the market by the Disclosure."

(Owen Aff., Ex. 7 at 2)

Again, Plaintiffs objected and again this Court compelled them to respond. (Owen Aff. Ex. 12 at 2 (holding that "[t]he court finds Plaintiffs' position unfair and unfounded. . . . The court has reviewed the interrogatories and is satisfied that Nos. 63, 64, 74, 75 and 76 are proper follow-up questions")). Instead of explaining how each disclosure revealed the truth about an alleged prior misrepresentation, however, Plaintiffs repeated (virtually verbatim) the same uninformative recitation 14 times:

> "This disclosure revealed partial information about Household's true financial and operating condition with respect to lending policies and practices."

(Owen Aff. Ex. 8 at 8 -10). When Defendants complained in a meet and confer that this boilerplate recitation did not actually explain what the relevant "partial information" was or specify what truth it exposed about an alleged misrepresentation, Plaintiffs insolently served an "amended" version with the exact same words in a slightly different order.[6]

As this Court has repeatedly held, the purpose of contention interrogatories is to ascertain the specifics of a plaintiff's allegations. (November 10, 2005 Order, Owen Aff., Ex. 10 at 3-4) Evasive, vague or incomplete responses to an interrogatory are treated as a failure to respond. *Jones v. Syntex Laboratories, Inc.*, No. 99 C 3113, 2001 U.S. Dist. LEXIS 17926, at *4, 6 (N.D. Ill. Oct. 24, 2001) (Nolan, M.J.); *see also, e.g., Bell*, 2005 U.S. Dist. LEXIS 19602, at *10 ("Defendant is not asking Plaintiffs about their case in a general matter. Defendant is after specifics."); *see also* Fed. R. Civ. P. 37(a)(3). Under the Federal Rules, Plaintiff may not evade an interrogatory requesting specific information by the mere repetition of meaningless boilerplate. Indeed, Plaintiffs' generic response could apply to *any* disclosure in any securities fraud case.

This Court has already ordered Plaintiffs to provide specifics regarding their theory of loss causation. (*See* September 19, 2006 Order, Owen Aff., Ex. 11 at 2-3). Indeed, on this very subject, the Court has pointedly ruled that:

> "The court agrees that facts and documents setting forth the disclosures that purportedly put the market on notice of Household's allege fraud, as requested in Interrogatory Nos. 30-33, are relevant and discoverable. *See In re Initial Public Offering Sec. Litig.*, 399 F. Supp.2d at 266 (if 'plaintiffs do not allege that the scheme was ever disclosed, they fail to allege loss causation.')"

(*Id.* at 4) Given this background, Plaintiffs' persistent refusal to provide information on this subject is a further abuse of the Court's time, forcing everyone to thresh old straw.

The information sought by this Interrogatory will reveal essential information about how Plaintiffs contend investors came to know they had been defrauded. For one of the alleged cor-

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[6] Plaintiffs simply transposed two of the clauses, stating instead: "This disclosure revealed partial information about Household's improper lending policies and practices and the Company's true financial and operating condition." (Owen Aff., Ex. 9 at 8-10) It is apparent from this dilatory "revision" that Plaintiffs' promise to provide better responses was made in bad faith.

rective disclosures — the August 14, 2002 restatement of previously reported credit card program expenses — the presumed "truth" relied upon by Plaintiffs is clear from the face of the Company's announcement. However, that is not the case for the 13 other corrective disclosures Plaintiffs have identified. These consist of press publications identifying contemporaneous events (*e.g.*, reporting a lawsuit filed against the Company) or other third-party reporting containing few if any "facts" about the Company, much less any facts that actually revealed a prior fraud. Indeed, apart from the lone restatement, not a single disclosure even alludes to any alleged prior misstatement at all.

For example, Plaintiffs claim that a press report about the filing of a lawsuit by the advocacy group ACORN in California on February 6, 2002 "revealed partial information" about Household's "true financial and operating condition with respect to lending policies and practices." (Owen Aff., Ex. 8 at 8). But they do not specify what the relevant "partial information" was or draw any connection to a prior misrepresentation alleged in this case. Do Plaintiffs claim that the allegations in the lawsuit revealed the "truth" about particular Household loans or specific concealed policies? Do Plaintiffs claim the allegations in the lawsuit revealed exposed a nationwide scheme, or only with respect to particular states, products or years during the class period? Plaintiffs will be required to take positions of this kind to demonstrate a causal connection between the alleged misrepresentations and their alleged loss that flowed from the revelation thereof. *See, e.g., Tricontinental*, 475 F.3d at 843.

In *Tricontinental*, the plaintiffs provided precisely the explanation that is absent from Plaintiffs' responses here. There, plaintiffs argued that the claimed misrepresentations in 1997 financial statements were factually revealed to the public in later disclosures relating to 1998 and 1999 financial statements because "the 1997 fraud was part of an on-going scheme to over-represent revenue". *Id.* at 842. The Court rejected this explanation, concluding that the plaintiffs had not plausibly connected the claimed "corrective disclosure" of the truth with the alleged misrepresentation to establish the requisite causation of the claimed loss. *Id.* at 843 ("Tricontinental had to allege that PwC's 1997 audit contained a material misrepresentation which caused Tricontinental to suffer a loss when ***that*** material misrepresentation 'became generally known.'") (emphasis added). If a disclosure reveals the truth as to only a part of the alleged fraud, Plaintiffs can recover only for that portion. *See Id.* at 844 (noting that "Tricontinental has alleged only that it experienced loss as a result of the ex-

posure of misrepresentations contained in Anicom's 1998 and 1999 financial statements" and finding this insufficient to reveal the alleged fraud with respect to 1997 financial statements).

Defendants are not presently asking the Court to consider the question of whether Plaintiffs' "truth" (whatever that may be) will ultimately satisfy the requirements of *Dura* and *Tricontinental*. In discovery, however, at a minimum, Plaintiffs must specify the relevant "partial information" they reference in their present response and explain how it revealed the "truth" to the public about an alleged misrepresentation. The Seventh Circuit panel observed:

> "*Dura* stresses that the complaint must "'specify' each misleading statement," *Dura*, 544 U.S. at 345, and that there must be 'a causal connection between the material misrepresentation and the loss," *id.* at 342, not simply that the misrepresentation "'touches upon' a later economic loss," *id.* at 343."

Tricontinental, 475 F.3d at 843. In response to Defendants' Interrogatory, Plaintiffs have refused to allege any connection between each alleged corrective disclosure and any alleged misrepresentation or omitted fact.

In dismissing the 10b-5 claims, the Court in *Tricontinental* specifically addressed the lack of any connection between the facts revealed in the plaintiffs' identified "corrective disclosure" and the 1997 fraud plaintiffs had claimed. While the complaint alleged disclosures that revealed that statements made in the 1998 and 1999 financial statements were false, "Tricontinental, however, has not identified any statements by [defendants] that made 'generally known' any problems or irregularities in the 1997 audited financial statement." *Id.*; *see also Lentell* v. *Merrill Lynch & Co.*, 396 F.3d 161, 173 (2d Cir. 2005) (requiring plaintiff to demonstrate "that the misstatement or omission concealed something from the market that, *when disclosed*, negatively affected the value of the security") (emphasis added) (citations and internal quotation marks omitted). *In re Initial Public Offering Securities Litigation*, 399 F. Supp. 2d 298, 307 (S.D.N.Y. 2005) ("Where the alleged misstatement conceals a condition or event which then occurs and causes the plaintiff's loss, it is the materialization of the undisclosed condition or event that causes the loss.").

Plaintiffs non-substantive response is an effort to evade scrutiny on this central issue by refusing to make the disclosures that have been ordered. In response to other interrogatories,

Plaintiffs have identified many dozens of statements that purportedly misrepresented or concealed alleged facts about the Company. Plaintiffs assert that the existence of this scheme was revealed to the market in pieces through 14 separate disclosures. Consistent with the prior rulings of this Court, the alleged truth Plaintiffs contend was revealed by these "corrective disclosures" are discoverable.

Plaintiffs should therefore be compelled to specify the relevant "partial information" they say was contained in these 14 corrective disclosures and explain what "truth" the information revealed about the alleged misrepresentations by the Company. If Plaintiffs claim that a disclosure only corrected part of a misrepresentation or revealed only part of an omitted fact then they should be required to specify that part.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that Defendants' motion to compel be granted and that the Court:

(a) order Plaintiffs to respond forthwith to Interrogatory No. 64 by specifying the relevant "partial information" contained in the 14 corrective disclosures and explaining what "truth" the relevant information revealed about the alleged misrepresentations of Defendants;

(b) order Plaintiffs to comply forthwith to the Court's March 14, 2007 Order to answer Interrogatory No. 56, and/or make a recommendation that the Court grant Defendants' motion pursuant to Fed. R. Civ. P. 37(b)(2)(B) and 37(d) to bar Plaintiffs from introducing any evidence that a "substantial" or otherwise material number or percentage of Household's loans were improper or violated state or federal laws; and

(c) grant Defendants' motion, pursuant to Fed. R. Civ. P. 37(b)(2) and 37(d), for sanctions and order Plaintiffs to pay the reasonable expenses, including attorney's fees, incurred in bringing this motion.

Dated: May 4, 2007
New York, New York

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