

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

	)	
	)	
LAWRENCE E. JAFFE PENSION PLAN, ON	)	
BEHALF OF ITSELF AND ALL OTHERS SIMILARLY	)	
SITUATED,	)	Lead Case No. 02-C-5893 (Consoli-
	)	dated)
Plaintiffs,	)	CLASS ACTION
	)	
- <i>against</i> -	)	Judge Ronald A. Guzman
	)	
HOUSEHOLD INTERNATIONAL, INC., ET AL.,	)	
	)	
Defendants.	)	
	)	

**DECLARATION OF THOMAS J. KAVALER IN SUPPORT  
OF DEFENDANTS' SUPPLEMENTAL MEMORANDUM OF  
LAW IN OPPOSITION TO PLAINTIFFS' MOTION IN  
LIMINE NO. 4**

STATE OF ILLINOIS             )  
                                           : ss.:  
COUNTY OF COOK             )

I, THOMAS J. KAVALER, declare as follows:

1. I am a member of the general and trial bars of this Court and a member of the firm of Cahill Gordon & Reindel LLP, attorneys for Household International, Inc., William F. Aldinger, David A. Schoenholz and Gary Gilmer, Defendants in this action. I submit this declaration to place before the Court certain information and documents referenced in Defendants' Supplemental Memorandum of Law in Opposition to Plaintiffs' Motion *In Limine* No. 4.
2. Attached hereto as Exhibit A is a true and correct copy of the document bearing production control numbers HHS 03007059- HHS 03007061 produced in this litigation.
3. Attached hereto as Exhibit B is a true and correct copy of the document bearing production control number HHS 02139766 produced in this litigation.

4. Attached hereto as Exhibit C is a true and correct copy of the of the documents bearing production control numbers HHS 02529583- HHS 02529585 produced in this litigation.

5. Attached hereto as Exhibit D is a true and correct copy of the of the document bearing production control numbers HHS 02881829- HHS 02881830 produced in this litigation.

6. Attached hereto as Exhibit E is a true and correct copy of the of the document bearing production control number HHS 02645839 produced in this litigation.

7. Attached hereto as Exhibit F is a true and correct copy of the of the document bearing production control numbers HHS 03096666- HHS 03096667 produced in this litigation as marked by Plaintiffs as Exhibit 34 to the Deposition of Kathleen Curtin taken by Plaintiffs on January 25, 2007.

8. Attached hereto as Exhibit G is a true and correct copy of the of the document bearing production control numbers HHS 02857664- HHS 02857675 produced in this litigation.

9. Attached hereto as Exhibit H is a true and correct copy of the of the document bearing production control numbers HHS 02881829- HHS 02881830 produced in this litigation.

10. Attached hereto as Exhibit I is a true and correct excerpt of the Transcript of the Deposition of Thomas Schneider, taken by Plaintiffs on May 4, 2006.

11. Attached hereto as Exhibit J is a true and correct excerpt of the Transcript of the Deposition of Robin Allcock, taken by Plaintiffs on March 7, 2007.

Executed this 12th day of March, 2009, in Chicago, Illinois.

/s / Thomas J. Kavalier  
Thomas J. Kavalier

# Exhibit A

HouseNet About HI Working at HI Info for you News Shop HI Business Units Support

# 15.0 Office of the General Counsel



A  
Kam  
11/99

## 15.0 OFFICE OF THE GENERAL COUNSEL

Noted

### Charter:

The Office of the General Counsel (HI's law department) directs, on a worldwide basis, the total spectrum of law and related services (excluding corporate taxation) to assure corporate compliance with all applicable laws and regulations and to assist the corporation in achieving its business objectives in a lawful, professional and proper manner.

### Policies:

#### 15.1 Reporting Relationship

Each attorney in the Office of the General Counsel reports on a solid line basis directly to the HI General Counsel, or indirectly through other attorneys, to the HI General Counsel. An HI Assistant General Counsel and the General Counsel for a business segment or corporate function has the responsibility for the legal affairs of that segment or function and as such reports on a dotted line basis to the managing director or executive responsible for that segment or function. The HI General Counsel will, accordingly, consult with each relevant managing director or executive in making the following key decisions for his direct reports: performance appraisals, hiring, promotion, demotion, termination, MBO setting, award determination, and compensation levels.

#### 15.2 Legal Services

All legal services for HI shall be provided exclusively by, or under the management and control, of the Office of the General Counsel, except for certain routine collection matters which have been delegated to the management of the consumer lending business segment. The retention of any

attorney or law firm to represent HI, or any of its subsidiaries, must be approved by the appropriate HI Assistant General Counsel or General Counsel for the applicable business segment or corporate function.

#### 15.3 Record Retention

Records that are of value to the corporation's objectives or that fulfill legal requirements must be retained and preserved in accordance with the information and records management manual.

#### 15.4 Legal Compliance

<http://...:F1F54BF040D6868689838540968640A3888540C785958599819340C396A495A2859> 11/8/99

HI shall cooperate fully with all federal, state, and local governmental agencies and officials, both domestic and foreign, in connection with lawful and proper inquiries and investigations. The Office of the General Counsel of HI shall be promptly informed of all such inquiries and investigations before any response thereto is transmitted to the agency or the official.

On the same day that any employee is served with notice of a lawsuit (or of a counterclaim in a collection matter) against HI, the Office of the General Counsel shall be orally advised of such notice and the summons, complaint or other legal process shall be forwarded to an Office of the General Counsel member by express mail. Foreclosures, garnishments and bankruptcy notices are excluded from this policy.

15.5 Affiliate Transactions/Record keeping

Prior to entering into any transaction between any two or more subsidiaries of HI, the transaction must be reviewed by the respective General Counsel of each of the subsidiaries. It will be the responsibility of such General Counsel to

---

obtain approval of the transaction by the Board of Directors of either or both subsidiaries when required by a policy of such subsidiaries. Records must be maintained so as to support the business judgment and propriety of the transaction.

15.6 Conflicts of Interest

Whenever a law firm requests that HI waive a conflict of interest, the requesting law firm must fully inform HI in writing of the nature of the conflict. Any HI Assistant General Counsel or business unit General Counsel, after consultation with the HI General Counsel, can waive a conflict of interest if he or she determines, from the information provided in writing by the requesting law firm, that the conflict is neither materially nor reasonably likely to become materially adverse to the best interests of HI or any of its subsidiary corporations. If the conflict involves two business units, both General Counsels must consent. HI's General Counsel may waive any conflict without further consents.

The waiver of a conflict of interest must also be in writing and must require the requesting law firm to advise HI promptly if subsequent events cause the conflict to become materially adverse to HI's best interest. In such an event, HI retains the right to withdraw the earlier waiver of the conflict of interest.

All waivers of conflict will contain the following language:

This waiver is subject to the law firm's commitment to advise HI promptly if subsequent events cause the conflict to become materially adverse to HI's best interest, and in such event HI retains the right to withdraw the earlier waiver of the conflict of interest. The law firm warrants that it has so informed its prospective client and that the

<http://...:F1F54BF040D6868689838540968640A3888540C785958599819340C396A495A2859> 11/8/99

15.0 Office of the General Counsel

Page 3 of 3

prospective client has consented to this continuing restriction.

Copies of all letters concerning conflicts of interest and the waiver or non-waiver thereof will be kept in a central file maintained by HI's General Counsel.

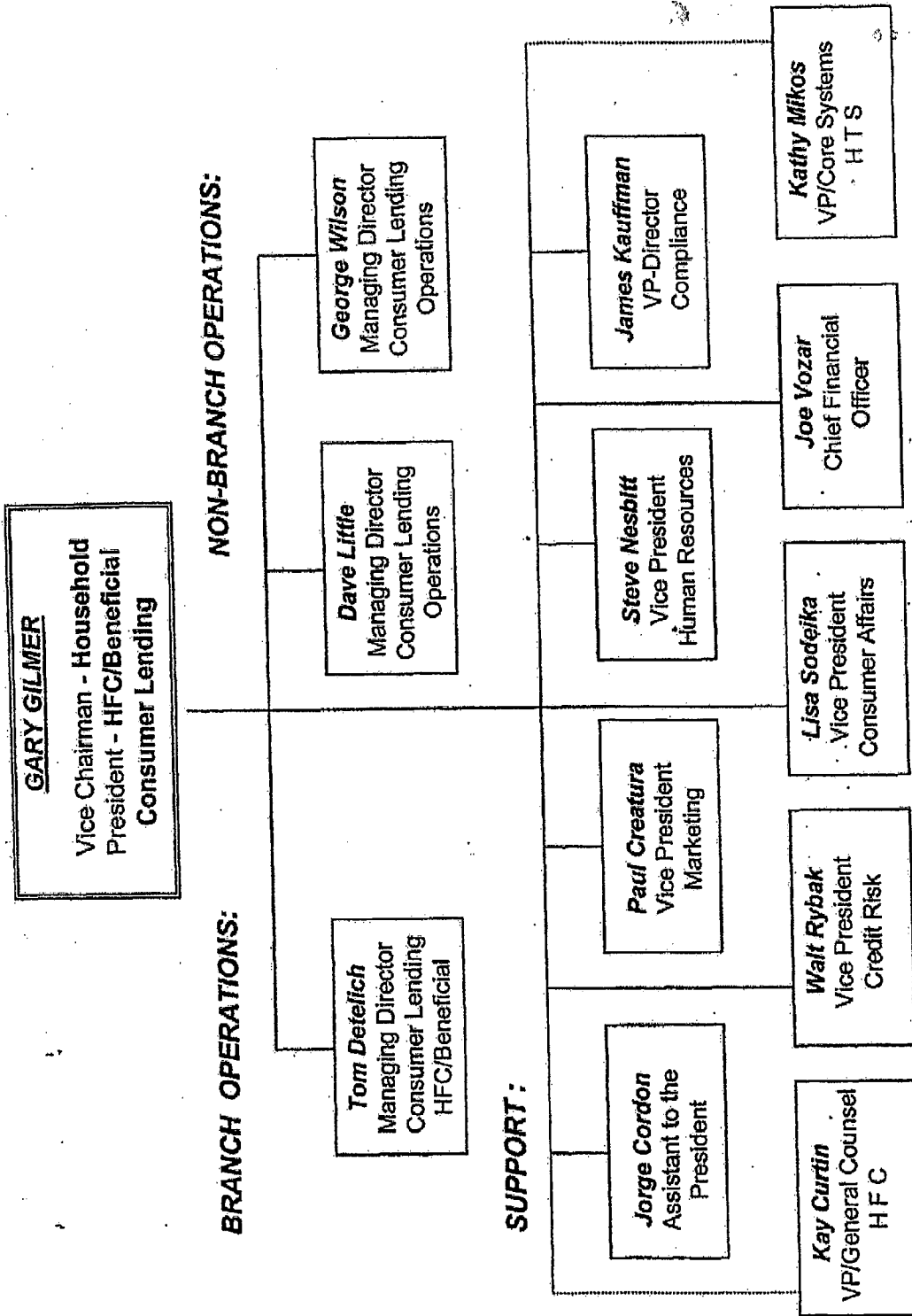
04/95



<http://...:F1F54BF040D6868689838540968640A3888540C785958599819340C396A495A2859> 11/8/99



# Exhibit B



July 2002



# Exhibit C

Originating Manager: Ray Bulandri P&C'S COVER SHEET Admin Asst: Sheryl Revised 03/27/01  
 Project Name: MA - Max APR for OE 2 Effective Date: 11/15/01  
 Bulletin Board Message  Vision Loan Charts / or List "W" ONLY  
 Create Master File ONLY  Added to HFC P&C Manuals Back-up Archive (Month of \_\_\_\_\_ 2001)

HFC Bulletin Board  BENE Bulletin Board  
 Date Archived 11/15/01  
 Date Copied to Bookmanager Bulletin Board Directory 11/15/01  
 Date Added to Lotus Notes Policy Database 11/15/01  
 Date RightFAXed 11/15/01

Date to Distribute: 11/15/01 Time: ASAP (if other than 6:00 a.m.) BBISapr.mA

To: MA Sales Office(s) & HFCPS Department Managers or BENE Managers

From: Paul Pichoske - SWS

Vision Loan Charts / or List "W" ONLY to Mail Room

Date to be processed: 11/15/01 Date sent to mail room: 11/15/01

MANUAL SECTION(S) - you MUST select 1 of the following:

Products Manual  Servicing Manual  UOM Manual  
 1) \_\_\_\_\_ 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_

Comments: \_\_\_\_\_

Date Submitted for Approval: 11/15/01 & Initials \_\_\_\_\_ (Team Leader)  
 Date Approved for Inclusion: 11/15/01 & Initials \_\_\_\_\_ (Ron Stanko, Tom Schneider, Carla Madura, Dave Philipps, April Thome, Dan Doyle, Cindy Weaver, Jim Pommier, John Kennerty and Robin Smith ONLY!)

EXTERNAL SIGN OFF'S - MUST have BEFORE give to secretary - (HFCPS, HIG, Legal, Marketing, Sales).

Name: Paul Pichoske Dept: SWS Date: 11/15/01

Name: Peter Fajette Dept: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Liz DeMMA - Arias Dept: Legal Date: 11/14/01

Name: \_\_\_\_\_ Dept: \_\_\_\_\_ Date: \_\_\_\_\_

MASTER FILE CHECKLIST

- |                                                         |                                                       |                                                                                |
|---------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Required Sign Off's | <input type="checkbox"/> Law Records Updated          | <input type="checkbox"/> Form Revisions (Original & Final)                     |
| <input checked="" type="checkbox"/> Original Request    | <input type="checkbox"/> Forms Table Updated          | <input type="checkbox"/> Manual Revisions (Original & Final)                   |
| <input type="checkbox"/> Law Memo                       | <input type="checkbox"/> Payment Schedules Closed-End | <input type="checkbox"/> Printed Vision Loan Charts included by state manager! |
| <input type="checkbox"/> Across State Line Program (ST) | <input type="checkbox"/> Correspondence               | <input type="checkbox"/> Other _____                                           |

P & CS Sign Off's  
 Reviewing Manager's Sign Off: [Signature] Date: \_\_\_\_\_  
 Department Manager's Sign Off: [Signature] Date: \_\_\_\_\_

P&CS/SECRETARY/P&CSCOVERSHEET!

Date: November 15, 2001  
To: All MA HFC Sales Offices and HFCPS Managers  
From: Paul Pichoske - HFC Sales  
Subject: MA - Maximum APR for Closed-End Real Estate and  
PHL/PEL Loans

---

#### Introduction

Effective immediately, the maximum APR on all closed-end real estate and PHL/PEL loans put into Rescission are being changed as noted below. The APR is based on the contract rate plus Points that are charged.

---

#### Maximum APR's

The maximum APR for all 1<sup>st</sup> lien closed-end real estate and PHL/PEL loans as well as all 2<sup>nd</sup> lien closed-end real estate and PHL/PEL loans with an assessed property value over \$40,000 is 20%.

The maximum APR for all 2<sup>nd</sup> lien closed-end real estate and PHL/PEL loans with an assessed property value less than or equal to \$40,000 is 18%. No Points can be assessed.

Reminder: The property value for a PHL loan can be determined from the verbal value provided by the customer or by the sales office knowledge of the area for PHL loans where no appraisal is obtained.

---

#### Loans Put Into Rescission

For loans put into Rescission the APR from the Payment Calculation run prior to SAVE TERMS cannot exceed the maximum APR's as noted above. If the APR exceeds the maximum APR, sales offices MUST change the contract rate so the APR is less than or equal to the maximum APR.

To allow for loans currently in Rescission to be funded, the maximum APR fields on the SAFE Program Code have not yet been updated. Once the Program Codes have been updated, Vision will begin returning an "E-INTEREST RATE" error message whenever the APR is over 20% when doing a Payment Calculation. Until the Program Codes are updated, sales offices must ensure the APR does not exceed the maximum APR for any loan put into Rescission.

For loans that cannot exceed an APR of 18%, sales offices will ALWAYS need to ensure the APR does not exceed 18% when putting a loan into Rescission. Since the same Program Codes, regardless of APR, will be used, they will all be updated with 20%.

CONFIDENTIAL

HHS 02529584

NOTE: The maximum APR restrictions should not effect closed-end real estate loans. Since all MA closed-end real estate loans are made below the High Cost Home Loan thresholds, which are currently under the maximum APR's, no real estate loans should be put into Rescission over the maximum APR.

---

Questions

Please refer all questions to your District Sales Manager.

---

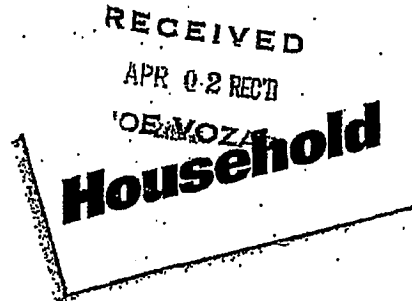
RGB  
Bulletin/Jim/BB15MAapr.bb

# Exhibit D

Household Processing  
A Household International  
Company

961 Welgel Drive  
Elmhurst, IL 60126

630.617.7000



DATE: March 30, 1998.  
TO: Gary Gilmer  
FROM: Robin Allcock *RW*  
Kathy Madison  
SUBJECT: Points Assessment

The assessment of points on the full balance of refinanced HFC loans (PRS loans) was discussed today with the following agreed upon parameters:

*assumed  
refinanced*

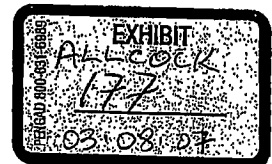
- 5 points (5% origination fee) or state maximum must be assessed on the entire balance (refinanced balance and new money), where authorized;
- no buydown option (until we start charging the appropriate fees, buydowns should be deferred);
- 6 month PHL/12 month RE point assessment moratorium (i.e. don't assess points on the refinanced balance if rewriting a PHL within 6 months or a RE within 12 months);
- no recharging of points on collection rewrite loans; and
- understand if there are any compensation issues.

HFC P&CS can implement this change when refinancing revolving to revolving, revolving to closed-end, or closed-end to revolving without system changes. System changes are necessary when refinancing closed-end to closed-end.

The current time estimate for the CE to CE system changes is 3 weeks.

To implement as soon as practical, the following tasks must be completed:

- HFC Law Dept. review of state laws (1 week);



CONFIDENTIAL

HHS 02881829

- HTS review and system changes to closed-end system (3 weeks);
- revision of each state's Compliance Checklist (2 weeks) (4 checklists per state);
- revision of current law records (1 week); and
- Implementation memo and manual change sign-off (1 week).

Critical path tasks are system changes and checklist revisions. All tasks, with the exception of HFC Law review, can be completed simultaneously. Therefore, projected implementation date for change is 3 weeks, by 4/20/98.

#### ADDITIONAL FEES UNDER REVIEW

The fee assessment group will provide a timeline for implementing the recommended fees by April 7.

The fees under review are:

- RL Annual Fees (increase NRE & RE to \$50 where authorized)
- RL Bad Check Charge (increase NRE & RE to \$25 where authorized)
- PPP from 3 to 5 years in AZ, CT, GA, NH (target completion date is 4/20/98)
- Late Charges (state review to increase maximum)
- Document Preparation Fee
- Tax Service Fee
- Commitment Fee
- Application Fee
- Over Credit Limit Fee
- Bad Check Charge on closed-end accounts (SPR has already been submitted)
- Loan Processing Fee

CC: Greg Snyder  
Joe Vozar  
Cheryl Wengroff  
Kay Curtin  
Kathy Mikos

CONFIDENTIAL

HHS 02881830

# Exhibit E





Jean S Raisbeck  
04/19/2002 07:49 AM

To: Gary D. Rauenbuehler/US/Household@HFN  
cc:  
Subject: Re: form for PA and US

Yes, Andy Budish approved this already.

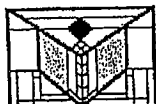
Gary D. Rauenbuehler

HOUSEHOLD

Gary D. Rauenbuehler  
04/19/2002 06:53 AM

To: Jean S Raisbeck/US/Household@HFN  
cc:  
Subject: Re: form for PA and US

Has the law department reviewed and approved this form ?  
Jean S Raisbeck



Jean S Raisbeck  
04/18/2002 03:50 PM

To: Gary D. Rauenbuehler/US/Household@HFN  
cc:  
Subject: form for PA and US

Gary,  
this is the form we need added to flat forms for the whole US, except PA. It should print at application complete with the GFE.

I can add the verbiage you have for PA to the bottom of this.



RatePoint\_bars.p

*(CR/RL)*  
*Rec'd 5/1/02*

# Exhibit F

**Household**

Robin L. Allcock  
05/18/2000 04:46 PM

To: Joe A. Vozar/Household International@HFN  
cc: Tom X. Schneider/Household International@HFN, Carin M. Rodemoyer/Household International@HFN  
Subject: Variable Rate Revolving PHL Loans

Talked to Tom and he said the max variable and fixed rate would be the same in all these states.....exception being NC where fixed is 15% while variable is 15%. Forwarded by Robin L. Allcock/Household International on 05/18/2000 04:46 PM

**Household**

Robin L. Allcock  
05/18/2000 02:53 PM

To: Joe A. Vozar/Household International@HFN, Ronald L. Brucker/Household International@HFN, Thomas M. Detelich/Household International@HFN, Kathryn X. Madison/Household International@HFN  
cc: Kim S. Schneider/Household International@HFN, Susan R. Mocerino/Household International@HFN, Kathleen K. Curtin/Household International@HFN  
Subject: Variable Rate Revolving PHL Loans

We need your input on the attached. As reference it's come to our attention (via AG complaint) that in some states our RL variable PHL's have a disclosed rate that so far exceeds a state max that the state could argue (and has in the case of NC) that our product is not a variable rate loan. NC is the most extreme case but we have other states as attached with the same issues. For example, in NC the rate is capped at 16% while some of our variable rate products are at prime + 16.% therefore we'd need (short of prime being negative) get down on a variable basis to a product less than 16%. We've laid out a few options below. Specifically, we'd suggest that a variable rate RL PHL product not be offered in these states. I'd appreciate your thoughts on these as well as any other suggestions. Thanks.

Forwarded by Robin L. Allcock/Household International on 05/18/2000 02:20 PM

*Tora X. Schneider* 05/18/2000 01:28 PM

To: Robin L. Allcock/Household International@HFN  
cc:  
Subject: Variable Rate Revolving PHL Loans

There is currently a situation in a number of states whereas our revolving PHL loans have a disclosed rate (Margin + Prime) that far exceeds the state's maximum APR. For instance, the account in North Carolina disclosed a Margin of 16.9% with a prime of 8% even though the maximum 2nd mortgage rate in North Carolina is 16%. You may remember that this situation was the subject of a recent letter from the North Carolina AG who questioned whether our variable rate revolving loan was, in fact, truly variable.

Listed below are the states where we experience a similar problem due to low state maximum rates.

CONFIDENTIAL

*Curtin*

HHS 03096666

DEP. EXH. # 34  
Date: 1/25/07 AD

STATE	MAX RATE
Colorado	21%
Florida	18%
Indiana	21%
Iowa	21%
Kentucky	21%
Louisiana	21%
Massachusetts	18%
Maine	18%
Nebraska	21%
North Carolina	15% (1st) 16% (2nd)
Oklahoma	21%
Rhode Island	21%
Wyoming	21%

I have discussed this situation with Legal. It appears that we have only a small number of viable options available to us to eliminate this issue.

1. Eliminate the variable rate option and offer only fixed rate revolving PHL loans in the affected states. This is my recommended course of action. I've obtained the following percentages from Marketing regarding how many RL PHL loans are made on a variable rate basis versus a fixed rate basis.

Entity	Fixed	Variable	Total	Percentage Variable
HFC	50,729	37,000	87,729	42%
Benz	18,883	27,000	45,883	58%

Although the variable rate percentage is fairly high in both entities, my gut feeling is that the elimination of the variable rate loan would not dramatically impact our ability to "sell" revolving PHL loans in these states. The sales office would quickly switch to the remaining fixed rate product without a drop-off in business. This change would not impact our ability to utilize Parity since in the HFC world we still have a balloon payment feature which would qualify the loans as "alternative mortgages".

2. Instruct the sales offices to reduce the amount of the Margin used with inputting the loan so that the Prime + margin will not exceed the state rate maximum. Thus, in the North Carolina example above the sales office would enter Prime (9%) + a margin of 7% in order to match the 16% state maximum rate. I do not favor this option as it provides no upward movement in a rising rate environment and only benefits the customer by providing a possibility of a lower rate should the Prime drop.

3. A third option would be similar to option 2, to price the initial rate of Prime plus the margin to a rate slightly above the state maximum. Using the above example, we would price the loan to Prime (9%) + 8% to make the initial rate 1% above the state maximum. This would permit a drop in the Prime with no resulting drop in the customer's rate. Legal has indicated that this could be a problem since the initial disclosed rate would be above our rate cap and any small downward movement in the Prime would not result in a rate decrease for the customer.

Your comments

CONFIDENTIAL

HHS 03096667

# Exhibit G

PAGE 02

992271009

MAY 23 2002 07:42

Household Finance  
A Household International  
Company

577 Lamont Road  
Elmhurst, IL 60126

Office: 630.617.7000



*Jul*

**Household**

May 21, 2002

Mr. Paul Swierczek  
Chief Examiner  
State of New Jersey  
Department of Banking and Insurance  
Division of Banking  
P O Box 40  
Trenton, NJ 05625

Re: Official Examination-2001  
Household Finance Corporation III  
Reference # 8500041C20

Dear Mr. Swierczek:

We are in receipt of your examination report dated April 17, 2002 regarding the examination that was conducted in October 2001. Thank you for providing us the opportunity to respond to your findings.

**VIOLATIONS Statute/Regulation**

**First Mortgage**

**1. N.J.S.A. 46:10B - Mortgage Loans:**

- 2. Prepayment of mortgage loan may be made by or on behalf of a mortgagor at any time without penalty...
- 3. Any holder of a mortgage loan or agent acting on behalf of the holder of a mortgage loan who shall knowingly demand and receive prepayment fees...shall be liable to the mortgagor for the return of the whole amount of the prepayment fees so received, plus interest thereon from the date of such receipt at the rate of 6% per annum.

A review of the mortgage loans disclosed that the licensee is currently charging prepayment penalties on its closed-end first and second mortgage "pay right reward loan products". This loan program has been in existence since November 1, 1999 and allows for an adjustment to the contract rate of 50 basis points (25 basis points as of 12/27/99) at the end of the 36 months, 48 months and 60 months if all payments are made within 30 days of their due date. Although this loan product does allow for a rate reduction, there is no provision in the note for a rate increase, as would typically be found in a variable rate loan product. If the borrower does not make all payments within 30 days of the due date, the loan rate is not reduced leaving the loan with a fixed rate. If the loan has paid off within 3 years of the loan agreement date, a prepayment penalty has been and will be assessed. It must be noted that the potential downward variation in the interest rate is not determined by any independent index outside of the control of the lender and the borrower, but is instead triggered only by the completion of specific action by the borrower-36 months of timely payments. Typical variable rate loan products provide for both upward and downward movement of the interest rate based upon a particular index that is identified at the outset of the loan. The Department asserted in the February 27, 2002 meeting and again asserts that it appears that the pay right reward loan products are, in reality, as they have functioned to date, fixed rate loan products.

P.02

May 23 2002 7:08

Fax:6306177266

HFC P C

**CONFIDENTIAL**

**HHS 02857664**

Mr. Swierczek  
 May 21, 2002  
 Page 2

The licensee's position has been that these loans are, in fact, variable rate loans as defined under the Alternative Mortgage Transaction Parity Act ("AMTPA"). The licensee therefore has maintained it may charge prepayment penalties on these loan products under the preemptive effect of AMTPA on New Jersey's law prohibiting penalties.

The prepayment penalty under this program will be assessed if the entire balance is prepaid at any time within 3 years of the loan agreement date (5 years prior to October 15, 2001). The penalty assessed is equal to 6 months' interest at the contract rate of the original amount financed not the existing balance before payoff. Although basing the prepayment penalty on the amount financed usually results in a benefit to the borrower, it is possible that the existing balance before payoff could be lower than the amount financed. In addition, if the loan is paid off with proceeds from another loan with Household Finance Corporation III, no prepayment penalty is imposed.

A review of the licensee's records disclosed that since this product has been in existence (November 1, 1999 through February 3, 2002), 3,175 "Pay Right Reward" loan products have been consummated for a total amount financed of \$371,978,432.03. During this same period, 642 pay right reward loans have been paid off for a grand total of \$62,167,491.91. Also, of the 642 accounts that paid off, there were 291 or 45.33% which reflected a principal payoff balance of \$26,720,755.98, were charged prepayment penalties totaling \$1,557,720.65. These accounts represent the borrowers that did not elect to refinance with Household Finance Corporation III.

Since all of the loans on the prepayment penalty printout provided were paid off within three years of the loan agreement date, there was no opportunity for any of the 291 borrowers to see an interest rate reduction since they had not yet had 36 months of payments. Therefore, since the interest rate could not move during the above period of time, it is the position of this Department that the loans listed on the prepayment penalty printout should be deemed to be and classified as fixed rate, closed-end loans, which under state law, are exempt from prepayment penalties. The Department is requesting that the licensee refund all prepayment penalties assessed to New Jersey borrowers who have paid off pay right reward loans since the inception of the program. It is our understanding that certain changes proposed to this program may serve to address the assessment of prepayment penalties for pay right rewards loan program borrowers in the future. Additional explanatory information about those proposed changes is requested.

It is noted that a violation of the statutory prohibition against prepayment penalties was cited during the previous examination that was conducted as of September 17, 1999. At that time, the licensee's notes for first and second closed-end, fixed rate mortgage loans contained a clause that provided for a prepayment penalty. However, as of the date of that examination, there had been no prepayment penalties assessed against the borrowers due to the newness of the program that had begun on June 1, 1999 for second mortgages and on September 1, 1999 for first mortgages.

A review of the paid, open-end or revolving fixed and variable rate mortgage loans disclosed that the prepayment penalty which is asserted to be allowed under AMTPA is being based on the credit limit and not the balance prior to prepayment of the loan.

Also, a random sample of paid revolving first and secondary mortgage loans revealed that, in several instances, the prepayment penalty that was calculated by applying the monthly periodic rate to the credit limit resulted in the borrower being charged a prepayment penalty that exceeded the penalty that would have been assessed if it were based on the balance prior to prepayment of the loan.

According to a printout that was obtained from the licensee, 590 New Jersey loan accounts were charged prepayment penalties totaling \$1,406,828.40 during the period from November 1, 1999 to November 30, 2001.

Mr. Swierczek  
May 21, 2002  
Page 3

The issue of the manner in which the prepayment penalty is calculated on open-end mortgage loans was discussed during a telephone conference call that took place on January 28<sup>th</sup>, 2002 and again during a meeting held at the department on February 27<sup>th</sup>, 2002. During the telephone conference call, the department was advised that a change in the method by which the prepayment penalty would be calculated on open-end loans would be changed effective February 4, 2002 to base the calculation on the lesser of the balance prior to payoff or the credit limit. The Department is pleased with the licensee's decision to change the procedure for new loans. However, the Department requests that the licensee review all such open-end loans paid off since the last examination to determine how many borrowers may have been required to pay a higher prepayment penalty based upon a calculation using the credit limit rather than the balance prior to payoff. It is further requested that such borrowers be refunded any difference in the prepayment penalty that would be due utilizing a calculation based upon the balance prior to payoff.

**Response:**

As the Department is aware, there have been ongoing written and oral discussions concerning Household's "Pay Right Rewards Loan Products" ("PRR Product"), most recently at the February 27, 2002 meeting. As we have indicated previously, while our PRR Product is not one of the traditionally recognized "alternative mortgage transaction products" (such as a closed-end Adjustable Rate Mortgage ("ARM Loan"), a closed-end balloon term loan, or a variable rate home equity line of credit tied to an index), it does meet the definition of an "alternative mortgage transaction" under the Alternative Mortgage Transactions Party Act ("AMTPA").

Household's closed-end first and secondary mortgage loan PRR Products are alternative mortgage transactions within the definition of 12 U.S.C. Section 3802(1) as they provide for "adjustments to the interest rate" in compliance with Office of Thrift Supervision ("OTS") regulation 12 C.F.R. Section 560.35. This regulation, which deals with adjustments to home loans, provides as follows:

*"Adjustments to the interest rate shall correspond directly to the movement of an index satisfying the requirements of paragraph (d) of this section. A Federal savings association also may increase the interest rate pursuant to a formula or schedule that specifies the amount of increase, the time at which it may be made and which is set forth in the loan contract. A Federal savings association may decrease the interest rate at any time."*

Household's PRR Product complies with this requirement. Both in this examination report as well as at our February 27<sup>th</sup> meeting, the Department has asserted that it appears that the PRR Products are, in reality, as they have functioned to date, fixed rate loan products. I think it's important to understand that there is nothing in AMTPA which would require that the feature which makes a loan product an "alternative mortgage transaction" (i.e. something other than a traditional fixed-rate, fixed-term loan) be operative or have the ability to be exercised, before a borrower pays off their loan. As Household noted at the February 27<sup>th</sup> meeting, many alternative mortgage products have the potential to be paid off by a borrower before the feature making them an "alternative mortgage transaction" is triggered. Many customers pay off balloon term loans before the final balloon payment becomes due. Where Prime has remained constant, such as was seen several years ago, borrowers with ARM Loans or variable rate home equity lines of credit may have seen no adjustments to the interest rate on their loans before prepaying them. None of these circumstances change the fact that these products are "alternative mortgage transactions" by definition and entitled to AMTPA preemption.

It should also be noted that the OTS opined, in a November 27, 1996 opinion letter, that a fixed rate mortgage product, which provided for an increased interest rate upon a specified event of default under the loan contract, constituted an "alternative mortgage transaction" within the definition of AMTPA. The OTS felt that because the interest rate on the loan "may be adjusted" within the plain meaning of 12 USC § 3802(1)(A); and the loan's

May 23 2002 7:08 P.04

Fax:6306177266

HFC P C

**CONFIDENTIAL**

**HHS 02857666**



Mr. Swierczek  
May 21, 2002  
Page 4

default rate constituted a "variation" that affected the interest rate and that was "not common to traditional, fixed-rate, fixed-term transactions" as outlined in 12 USC § 3802(1)(C), this was an "alternative mortgage transaction". It is significant to note that the OTS was made aware of the fact that the default rate would be triggered only after the borrower became delinquent for more than thirty days twice in a revolving twelve-month period. Thus, for those customers who made all monthly payments timely or were not delinquent more than thirty days twice in a twelve-month period, the default rate would not be triggered.

As we have noted previously, the chief counsel of the OTS specifically opined that AMTPA preempted prepayment penalties in its February 10, 1997 opinion, as follows:

Section 560.34 of the OTS regulations requires that any prepayment on a real estate loan must be applied directly to reduce the balance on the loan, unless the loan contract specifies otherwise. This section also authorizes federal thrifts to impose a fee for any prepayment of a loan, subject to the terms of the loan contract. The OTS recently concluded that prepayment penalty restrictions imposed by a state law on variable rate loans were preempted by the Parity Act and that state lenders (other than state banks and credit unions) that originate variable rate loans under the Parity Act and in conformity with all applicable OTS regulations need not to comply with the state restrictions.

State licensed lenders such as Household would be considered a housing creditor under AMTPA. Since housing creditors are required to follow the OTS guidelines and the OTS has opined that late charges and prepayment penalties are permitted and that state law prohibitions are preempted, Household is permitted to utilize the preemption set forth under AMTPA to preempt New Jersey's prohibition against prepayment penalties as well as its 5% of the unpaid amount of the installment late charge limitation.

It should also be noted that two state challenges to the preemptive authority of AMTPA have been unsuccessful. In the Virginia district court case of Home Equity Mortgage Association v. Face, 64 F.Supp.2d 584 (E.D.Va.1999), the district court held that Virginia statutes limiting prepayment penalties for alternative mortgage transactions were preempted by AMTPA. In Face, the district court examined the issue of whether the federal regulations and the OTS interpretive opinions should be given deference. The Face court, citing Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 842-43, 104 S.Ct. 2778, 81 L.Ed.2d 694(1984), applied the Chevron two-part test: first, whether the plain language of the statute addresses the precise issue; and second, if the statute is silent on the question, the agency's interpretation will be upheld if it is a permissible interpretation of the statute. The Face court found that AMTPA on its face preempted state laws restricting the making, purchasing and enforcement of alternative mortgage transactions. It also held that, to the extent that any such preemption was thought controversial as applied to prepayment penalties, the OTS' determination that AMTPA does preempt these state laws was entitled to deference because it was a reasonable agency interpretation of AMTPA. Face was affirmed on appeal (239 F.3d 633(4<sup>th</sup> Cir.(VA) Feb 07, 2001) and Certiorari was denied (122 S.Ct 58, 151 L.Ed.2d 26, 69 USLW 3791, 70 USLW 3037, 70 USLW 3222, 70 USLW 3234 (U.S. Oct 01, 2001)).

In the New Jersey district court case Shinn v. Encore Mortgage Services, Inc., 96 F.Supp.2d 419, the court held that New Jersey's mortgage prepayment law, which prohibits penalties for prepayment of mortgage loans, was preempted by AMTPA. In Shinn, the court examined the issue of the OTS' authority to issue the regulations at issue. In its opinion, the court noted that it agreed with the reasoning of the district court in Face. The court also stated that Congress had delegated to the Director of the OTS broad authority to "regulate state housing creditors engaged in alternative mortgage transactions coextensive with the OTS' authority to regulate comparable federal housing creditors." Id at \*4. The court went on to note that Congress vested the Director of the OTS with the authority to "prescribe such regulations and issue such orders as the Director may determine necessary for carrying out this chapter and all other laws within the Director's jurisdiction." Id. At \*4. The court concluded that the Director of the OTS had the authority to promulgate 12 C.F.R. §560.220 and to issue the 1996 opinion letter.

Mr. Swierczek  
May 21, 2002  
Page 5

Based on the above information, it is our continuing position that Household's PRR Product is an "alternative mortgage transaction" under AMTPA. As such, the prepayment penalties and late charges contracted for and collected since the initial roll-out of this program are clearly authorized by law and therefore, we respectfully disagree with the Department that any refunds of prepayment penalties or late charges collected are due to borrowers.

It was our understanding that this issue, i.e. whether Household's PRR Product was in fact an "alternative mortgage transaction" under AMTPA, had been resolved at the February 27, 2002 meeting. At that meeting, Tom Schneider outlined the new Best Practices, which included substantial revisions to the PRR Product. In discussing the new PRR Product, legal counsel for Household specifically raised the issue as to whether the existing, as well as the new PRR Product (as outlined in the new Best Practices initiatives) would be considered an "alternative mortgage transaction" by the Department or whether this would remain an issue of disagreement. Susan Toth, the then Deputy Commissioner, conceded that our PRR Product was an "alternative mortgage transaction" and noted that the Department was not suggesting that Household had violated any laws, as our PRR Product met the technical requirements of AMTPA. Instead, it was the Department's hope that we would be willing to work the Department in implementing products and practices that the Department felt would best serve the needs of New Jersey consumers.

At your request, Household has extensively reviewed the open-end real estate secured loans on which we had previously assessed a prepayment penalty based on the account's credit limit. We looked at the following loan characteristics in making the review - credit limit, balance at time of pay-off and high balance during the life of the loan. It was determined that there was a total of 732 open-end accounts (includes both the HFC and Beneficial brand) that were paid in full between January 24, 2000 and February 10, 2002 on which a prepayment penalty was assessed. The total dollar amount of prepayment penalties assessed on these accounts was \$1,806,368.00.

Our review indicated that of the total of 732 accounts, only 243 had a balance at the time of pay-off that would have resulted in a lesser penalty if calculated under our new prepayment policy. If Household voluntarily chose to refund prepayment penalties in excess of our current methodology (lesser of credit limit or pay-off balance), the total would be \$95,158.71 or an average of \$389.99 per account.

At the February meeting, an example was discussed of a customer who had borrowed only a small percentage of the available credit limit, but was assessed a penalty on the entire credit limit. To determine if this was a common occurrence, we looked at accounts where the "high balance" over the life of the loan was less than 70% of the available credit limit. We found that there were only 45 accounts with prepayment penalties of \$62,644.90 (3.47%) that fell into this category. Obviously, this type of situation was the rare exception.

As always, Household is willing to work with the Department to reach a mutually acceptable resolution. We believe the new Best Practices initiatives will benefit New Jersey consumers.

## 2. N.J.A.C. 3:2-1.4 (b) 6 - Advertising:

This regulation states in part that the advertisement of a mortgage loan by a mortgage banker must include the name, address, and telephone number of the licensee and the words "licensed by the NJ Department of Banking and Insurance".

A review of the licensee's mortgage loan advertising indicated that it does not contain the phrase "licensed by the NJ Department of Banking and Insurance".

The licensee stated that this correction would be made to all future advertisements.

Mr. Swierczek  
May 21, 2002  
Page 6

**Response:**

Thank you for bringing this omission to our attention. This has been reviewed by our legal counsel and marketing department. Effective January 9, 2002, the mail advertisements include the verbiage, "New Jersey: Household Finance Corporation III is licensed by the N.J. Department of Banking and Insurance. Enclosed is a copy, please refer to Exhibit A.

**3. N.J.A.C. 3:15-6.9a - Documentation:**

"The borrower, or an agent applying on behalf of a borrower, shall sign each loan application. If more than one borrower applies, each borrower and each agent applying on behalf of a borrower shall sign the application."

A review of the licensee's loan files revealed that all applicants are still computer generated by the system and are not signed and dated by the borrowers. Therefore, unless this document is signed and dated by the borrowers, the accuracy and legality of the document is being compromised.

Management stated that prior to changing their operating procedures, they would like to wait until the task force that was put together by the New Jersey Department of Banking and Insurance finishes the e-documents/e-signatures study.

**Response:** We believe that no change in operating procedures should be implemented until such time as the task force established by the New Jersey Department of Banking and Insurance completes its study and issues its results.

**Secondary Mortgage**

**4. N.J.S.A. 17:11c-26a - Instrument Evidencing Secondary Mortgage Loan; Form and Contents:**

"An instrument evidencing a secondary mortgage loan shall;

- a. Be in the form of a promissory note for a closed-end loan, and in the form of a loan agreement for an open-end or revolving loan and shall be identifiable by the use of the words "Secondary Mortgage Loan" printed prominently, in 14-point or larger, centered and at the top of the promissory note or loan agreement."

A review of the licensee's secondary mortgage loan notes indicated that the licensee's revolving fixed and variable secondary mortgage loan notes contain the phrase "This promissory note is subject to the provisions of the Secondary Mortgage Loan Act" directly beneath the 14-point bold "Secondary Mortgage Loan" phrase which is centered and at the top of the promissory note or loan agreement.

Management stated that the secondary mortgage loan notes will be modified to comply with the above statute.

**Response:**

To comply with the N.J.S.A. 17:11c-26a statute, the appropriate correction has been made to the Secondary Mortgage Loan notes (January 28, 2002). Enclosed is a copy. Please refer to Exhibit B.

Mr. Swierczek  
May 21, 2002  
Page 7

5. N.J.S.A 17:11C-28c – Secondary Lenders; Authorized Fees, Points, Charges:

"Licensees shall also have the authority to charge and collect a late charge in any amount as may be provided in the note or loan agreement, but no late charge shall exceed 5% of the amount of payment in default. Not more than one late charge shall be assessed on any one payment in arrears."

A review of the licensee's closed-end, fixed rate secondary mortgage loan note indicated that it contained the following late charge clause:

"If you don't pay any payment in full within 15 days after it's due, you will also pay a late charge equal to 10% of the monthly payment or \$29, whichever is greater."

In addition, an inspection of the open-end or revolving secondary mortgage loan note revealed that it contained the 5% late charge clause.

This violation was cited during the previous examination. The representatives of Household Finance Corporation III stated during the February 27<sup>th</sup> meeting that this matter would be taken under consideration and a solution to the problem would be forthcoming.

Response: Please see response to question number 1.

6. N.J.S.A. 17:11C-30 – Instrument, Documents, Receipts to be Provided to Borrowers; Refunds or Credits:

"A secondary lender shall...

- f. When a closed-end loan is paid in full, or when an open-end loan is paid in full...
- (2) Stamp or write on the face of the promissory note or loan agreement evidencing the borrower's secondary mortgage loan indebtedness "Paid in Full" or Canceled, "the date paid and the name and address of the licensee and, within 45 days, return the promissory note or loan agreement to the borrower.
- (3) Release any lien on real property and cancel the same of record...and, at the time the promissory note or loan agreement evidencing the borrower's secondary mortgage loan indebtedness is returned, deliver to the borrower such good and sufficient assignments, releases or any other certificate, instrument or document as may be necessary to vest the borrower with complete evidence of title...."

A review of 28 paid-in-full secondary mortgage loans revealed that there is no evidence contained in the file that the licensee stamps or writes on the face of the note "paid in full" or "canceled," the date paid and the name and address of the licensee. Furthermore, there is also no indication in the file when or if the lien on the borrower's property was released.

However, the licensee does keep a record of the date the loan was paid in the transactional history and the customer comment page does provide the date the promissory note was sent back to the borrower and the date the mortgage was sent to the county court house to be released.

Management has indicated that corrective action will be taken immediately.

Mr. Swierczek  
May 21, 2002  
Page 8

**Response:**

This matter has been brought to the attention of Loretta Abrams, Director of our Record Administration Department. A process has been implemented to ensure that we are in compliance. Effective December 2001, a complete copy of the entire release package and customer package was imaged to become a permanent part of our records. The contents of each of these packages are as follows:

- Release package: release to county, copy of release fee check
- Customer package: note "stamped paid", copy of release sent to county, copy of release check and copy of mortgage.

**Consumer Loan**

**7. N.J.S.A. 17:11C-34d - Duties of Lender Incident to Closed-End Consumer Loan:**

"Every consumer lender, incident to a closed-end consumer loan, shall:

- d. Upon repayment of the loan in full, mark indelibly every obligation and security signed by the borrower, or a copy thereof, with the word "paid" or "canceled", and...cancel and return any note..."

A review of 20 paid consumer loans disclosed that there is no evidence in the file to show that the licensee marked indelibly every paid loan with the word "paid" or "canceled".

However, the licensee's transactional history does provide the date the loan was paid off and the customer comment page contains the date the note was sent back to the borrower.

The management of the licensee indicated that the above situation will be corrected immediately.

**Response:**

As previously addressed, a process has been implemented to ensure that we are in compliance with statute N.J.S.A. 17:11C-34d.

**COMMENTS**

**8. Closed-end Consumer Loan Death Claims:**

It is the responsibility of the licensee to pay off the account balance for any borrower who dies with life insurance on their closed-end consumer loan account. Furthermore, any additional monies from the life insurance company should be forwarded to the estate or beneficiary.

A review of 54 closed-end consumer loan death claims disclosed the estate or beneficiary on the following account is due additional money:

Account #	Borrower	Additional Amount due Beneficiary
631728-00-116005	Phillip Fasso	\$1,178.92

PAGE.10

6306177266

MAY 23 2002 07:43

May 23 2002 7:10 P.10

Fax:6306177266

HFC P C.

**CONFIDENTIAL**

**HHS 02857672**

Mr. Swierczek  
 May 21, 2002  
 Page 9

Also, Ester Parker (account # 631717-00-990136) had a remaining balance of \$983.49 subsequent to the account being credited with the death claim benefits. This account should be reflecting a "zero" balance.

In addition, a review of the death claim accounts revealed that copies of the checks that are issued to the estate or beneficiaries are not contained in the files. This information, along with the death certificate and the transactional history sheet should be kept together in the files in order to expedite the examination process. Management has agreed to supply this information for all future death claims.

Furthermore, per Terry Price (Policy & Compliance Support Manager), the refund for the Fasso account will be send out immediately and the outstanding account balance on the Ester Parker account will be paid-off.

**Response:**

When Mr. Fasso's claim was processed, the employee inadvertently typed an incorrect benefit code and as a result the claim was processed incorrectly. On January 10, 2002, a check for \$1,183.51, including interest, was issued to the estate of Philip Fasso. Enclosed is a copy of the check and letter, please see Exhibit C. We have addressed this matter with Catherine Cholish, Director of Claims, and she has assured us that this was an isolated situation and this situation has been addressed with the employee.

Ms. Parker's claim was paid correctly according to the date of death. However, while the death claim was being processed, a non-sufficient funds charge was assessed to the account. As a result, the claim was insufficient to pay the balance in full. On January 10, 2002, the account was corrected to reflect a zero balance. Enclosed is a copy of the payment history reflecting a zero balance, please see Exhibit C.

**First Mortgage**

**9. Policies and Procedures Pertaining to Good Faith Estimates:**

12 CFR 226.19 (a) (1) 1. Which related to certain residential mortgage transactions requires early disclosure of credit terms for transactions that are also subject to the Real Estate Settlement Procedures Act (RESPA) and its implementing regulation, Regulation X, administered by the Department of Housing and Urban Development (HUD).

Section 19 (a) (1) 2 pertains to timing and the use of estimates. This section states in part that truth-in-lending disclosures must be given (a) before consummation or (b) within three business days after the creditor receives the consumer's written application, whichever is earlier. The three-day period for disclosing credit terms coincides with the time period within which creditors subject to RESPA must provide good faith estimates of settlement costs. If the creditor does not know the precise credit terms, the creditor must base the disclosures on the best information reasonably available and indicate that the disclosures are estimates under section 226.17 (c) (2).

A review of 27 closed-end fixed rate first mortgage loans indicated that although the good faith estimates were received by the borrowers within three business days after the licensee received the consumer's written application, most of the estimates did not seem to be based on the best information reasonably available.

In particular, nine good faith estimates contained an estimate of points in the form of a range that went from 0 to as high as \$15,500. These estimates accounted for 33.33% of the samples taken and the final points assessed to the borrowers were all very close to the highest range estimate. Furthermore, in four

Mr. Swierczek  
May 21, 2002  
Page 10

cases, the points charged exceeded the highest range estimate and in five cases, they were under the highest range estimate. Also, the good faith estimate that was sent to Eddie Bell (account # 630100-00-22023) was \$7,106.51 over the highest range limit of 0 to \$2,625.00 which was the estimate that was given for points being charged at closing.

The remaining 18 good faith estimates were over the estimate 11 times or 61% and under six times or 33.33% and one estimate of \$6,743.47 that was made to Brenda Brown (account # 638102-00-904044) was the exact amount of the points that were charged to her at closing.

In view of the above, it appears that in many cases the licensee's estimates were not reasonable. This is particularly evident in the nine good faith estimates that were made with range estimates that went from 0 to as high as \$15,500. It is interesting to note, that in every instance the points were charged at closing were all very close to the highest range estimate.

The most glaring example of a difference between an estimate and the points that were actually charged was in the case of a good faith estimate that was sent out to Eddie Bell (Acct # 630100-00-22023). Mr. Bell's closed-end fixed rate first mortgage loan close on October 20, 1999. A perusal of the HUD-1 disclosed that Mr. Bell was charged discount points in the amount of \$9,731.51, which was in excess of the good faith estimate of 0 to \$2,625 by \$7,106.51.

In addition, Jun Chan (Acct # 635100-00-830643) was referred to our Department as a direct complaint from the borrower. Apparently, the borrower was very upset that the estimated range for the discount points was 0 to \$9,532.50 and she was charged \$9,814.71 at the loan closing.

Therefore, it appears that the above examples show to a great degree that the good faith estimates (especially the ranges that start from 0) that are being issued by the licensee are in many cases not being based on the best information reasonably available.

Refund the points charged to borrowers at closing that exceeded the amount reflected on the good faith estimate of borrowers.

This issue was discussed at great length with representatives of Household Finance Corporation III during the February 27<sup>th</sup> meeting which was held at the Department of Banking and Insurance. During the meeting, the representatives concurred that this matter would be considered and a solution to the problem would be transmitted to the Department.

**Response:**

In response to the concerns raised by the Department, Household has changed its policy concerning disclosure of ranges for points on its Good Faith Estimate. Under the new policy, a dollar amount range will be entered on the GFE based on the number of points that will be charged on the amount applied for with a 10% (above or below) range. For example: Assume a \$100,000 loan with 5% points. The 5% points would be based on \$90,000 and \$110,000 amounts, so a range of \$4,500 to \$5,500 would be disclosed. If the loan size changes after application such that the maximum amount disclosed on the GFE would be exceeded, the customer will receive a revised GFE at the time of loan approval.



Mr. Swierczek  
May 21, 2002  
Page 11

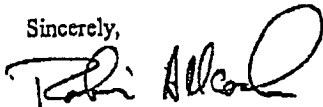
**Household Finance/Beneficial Settlement with  
State of California Department of Corporations**

We understand the Department's concern regarding the California State Department of Corporations' action. We plan to address the issues that were part of the California action and are relative to the licensed activities conducted in the State of New Jersey under the New Jersey Licensed Lenders Act. This will be addressed under separate cover.

We would like to set up a face to face meeting with the Department in early June in order to discuss our responses to the Examination Report as well as any additional concerns you may have. We will contact you in the near future to schedule this meeting.

If you have any further questions, do not hesitate to let us know.

Sincerely,



Robin Allcock

Enclosures

cc: Pat Zlogar

# Exhibit H

Page 1	Page 3
<p>1 IN THE UNITED STATES DISTRICT COURT                  2 FOR THE NORTHERN DISTRICT OF ILLINOIS                  3 EASTERN DIVISION                  4                  5 LAWRENCE E. JAFFE PENSION PLAN, )                  6 on behalf of itself and All )                  7 Others Similarly Situated, )                  8 Plaintiffs, )                  9 Vs. ) No. 02 C 5893                  10 HOUSEHOLD INTERNATIONAL, INC., )                  11 et al., )                  12 Defendants. )                  13                  14 The videotaped deposition of THOMAS G. SCHNEIDER,                  15 taken before Richard H. Drogdigan, Illinois CSR No.                  16 084-000035, Notary Public, Cook County, Illinois,                  17 pursuant to the Federal Rules of Civil Procedure for                  18 the United States District Courts pertaining to the                  19 taking of depositions, at Suite 3200, 30 North LaSalle                  20 Street, Chicago, Illinois, commencing at 8:51 a.m. on                  21 the 4th day of May 2006.                  22                  23                  24</p> <p style="text-align: center; font-size: 24pt; font-weight: bold;">Certified Copy</p>	<p>1 INDEX                  2 May 4, 2006                  3 THE WITNESS EXAMINATION BY COUNSEL FOR                  4 PLAINTIFFS DEFENDANTS                  5 THOMAS G. SCHNEIDER                  6 (By Ms. Winkler) 9                  7                  8                  9 SCHNEIDER DEPOSITION EXHIBITS                  10 NUMBER DESCRIPTION PAGE                  11 Exhibit 1 E-mail from Kim A. Shawke dated 32                  12 11/8/01 to various parties; Subject:                  13 Policy &amp; Compliance and Quality                  14 Assurance Compensation Studies                  15 Exhibit 2 Communic. from Commonwealth of Virginia 61                  16 To Tom Schneider dated 3/11/02;                  17 Subject: License Nos. ML-18 &amp; MLB-111                  18 Exhibit 3 Communic. from Tom Schneider to David 65                  19 Cobney, Consumer Compliance Unit; Re:                  20 Report of Exam., etc., Aug. 5, 1999                  21 Exhibit 4 E-mail string, 12/5/01 forward; Subject: 68                  22 Missouri State Exam, and attachment                  23                  24</p>
Page 2	Page 4
<p>1 APPEARANCES:                  2 LERACH, COUGHLIN, STOIA, GELLER,                  3 RUDMAN &amp; ROBBINS, LLP, by:                  4 MS. MONIQUE C. WINKLER and                  5 MS. SYLVIA SUM,                  6 100 Pine Street, Suite 2600                  7 San Francisco, California 94111                  8 (415) 288-4545                  9 E-mail: moniquew@lerachlaw.com                  10 on behalf of the Plaintiffs;                  11                  12 CAHILL, GORDON &amp; REINDEL, LLP, by:                  13 MR. H. G. SLOAN and                  14 MS. KIM A. SMITH,                  15 80 Pine Street                  16 New York, New York 10005                  17 (212) 701-3000                  18 E-mail: ksmith@cahill.com                  19 on behalf of the Defendants.                  20                  21 ALSO PRESENT:                  22 MR. DEAN MARIS, The Videographer;                  23 MS. DONNA L. MARKS, HSBC                  24 Associate General Counsel</p>	<p>1 INDEX TO EXHIBITS(cont'd)                  2 NUMBER DESCRIPTION PAGE                  3 Exhibit 5 Communic. from Minnesota Dept. of 76                  4 Commerce to Tom Schneider dated                  5 9/7/01; Subject: Complaint by                  6 Larry Hougum                  7 Exhibit 6 E-mail string from George Wilson 61                  8 dated 7/6/00; Subject: 4 Month                  9 Restructure on HFC and attachment                  10 Exhibit 7 Restructuring Policy Memo dated 8/2/99 86                  11 Exhibit 8 Communic. from State of Wash. DFI 95                  12 dated 2/22/02 to Tom Schneider                  13 Exhibit 9 Communic. from State of Wash. DFI 100                  14 dated 5/17/02 to Tom Schneider                  15 Exhibit 10 Washington DFI Expanded Report of 102                  16 Examination for HFC III as of                  17 4/30/02                  18 Exhibit 11 P&amp;C's Cover Sheet from Tom Schneider 137                  19 dated 5/24/01; Project Name:                  20 Prohibited Sales Practices                  21 Exhibit 12 Communic. from Tom Schneider to 150                  22 Wash. DFI dated 3/19/01 Re:                  23 Julian and Terry Johnston, etc.                  24</p>

Page 73

1 said good faith estimates?  
 2 A Complaints about the good faith estimates.  
 3 Q Okay. If you will see here -- on status, where  
 4 it says, "Last reviewed 2/19 of 53 accounts showed 16  
 5 errors, 26 percent?"  
 6 A Uh hum.  
 7 Q Is it your understanding that that refers to the  
 8 good faith estimate and completion of settlement statement?  
 9 MR. SLOANE: You are asking him to interpret a  
 10 document that he didn't write, and his name is listed on it,  
 11 I mean -- I'm not sure what value there is to his  
 12 understanding of this document. But if you know, you can  
 13 answer.  
 14 A It would be a guess on my part.  
 15 BY MS. WINKLER:  
 16 Q Do you recall what you would have done in  
 17 response to this particular aspect of the Missouri exam  
 18 where you are listed with specific areas of responsibility?  
 19 MR. SLOANE: You mean him personally?  
 20 MS. WINKLER: Yes.  
 21 A I would have called Carla over. We would have  
 22 reviewed some examples that they gave us and, then, we would  
 23 try to develop a course of action, whether this was in fact  
 24 a true issue or an issue where the State misinterpreted

Page 74

1 something.  
 2 BY MS. WINKLER:  
 3 Q Take, for example, if this was one -- first where  
 4 a state misinterpreted something, what would have been your  
 5 course of action?  
 6 MR. SLOANE: Him personally or the department?  
 7 MS. WINKLER: First him and, then, your department.  
 8 A Again, I would have discussed this with Carla and  
 9 also maybe Ron or April, or even one of their subordinates.  
 10 And, then, most likely we would have called our  
 11 Law Department and asked for their input, if we made any  
 12 decision which way to go.  
 13 BY MS. WINKLER:  
 14 Q And then what would your department have done if  
 15 it discovered that this was an actual problem?  
 16 A Typically on this, it would generate a -- it  
 17 could generate a reminder memorandum that went out to all  
 18 the branches saying that there is -- you are missing  
 19 something, you should be doing this, and we are finding out  
 20 that some of the people are doing that.  
 21 We would have tried to determine whether it was a  
 22 single individual in a single branch, or it was more  
 23 widespread.  
 24 And more likely than not, we would have also

Page 75

1 contacted someone in our Sales Training Department to say  
 2 that next time you do a training session, you ought to take  
 3 a look at this, if it was an issue.  
 4 Q What would you have done to determine whether it  
 5 was a single individual or multiple individuals?  
 6 A The first thing that comes to mind is if there  
 7 is 53, and they are all in one branch, out of a thousand,  
 8 pretty much one branch has a problem. That's the first  
 9 thing.  
 10 Beyond that, it could go down any number of  
 11 avenues. I hate to tell you which one.  
 12 Q Did you ever send people out to branch offices to  
 13 investigate an issue?  
 14 A No.  
 15 Q Did you have a specific point of contact within  
 16 the Sales Department? I think you said, for example, you  
 17 might tell the Sales Department that they need to focus on  
 18 this issue.  
 19 A I cannot remember the person who headed it. It  
 20 was -- for a while -- there was a number of different  
 21 people, but whoever was in charge at the time, we would have  
 22 probably e-mailed him, saying there is an issue.  
 23 Q So you probably would have -- you are saying you  
 24 probably would have e-mailed the person who was in charge of

Page 76

1 the whole Sales Department, whoever was at the top?  
 2 A Sales Training Department.  
 3 Q Okay. Was the Sales Training Department a  
 4 department within the Sales Department?  
 5 A I think so.  
 6 Q Okay. Do you recall the names of any individuals  
 7 who worked in the Sales Training Department from 1999 to  
 8 2002?  
 9 A I can remember what they looked like. I can't  
 10 remember names.  
 11 MS. WINKLER: Okay. Next I'm going to ask the court  
 12 reporter to mark HHS 02836574 through 75 as Schneider  
 13 Exhibit 5.  
 14 (Schneider Deposition Exhibit  
 15 No. 5 was marked as  
 16 requested.)  
 17 BY MS. WINKLER:  
 18 Q Mr. Schneider, let me know when you've had a  
 19 chance to take a look at this document.  
 20 A Okay.  
 21 Q Do you recognize this document, Mr. Schneider?  
 22 A No, I don't.  
 23 Q Was it typical that state agencies sent letters  
 24 to you or your department that involved just a single

# Exhibit I

Allcock, Robin - Volume I

3/7/2007

Page 1	Page 2
IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION Lead Case No. 02-C-5893 (Consolidated) CLASS ACTION Judge Ronald A. Guzman Magistrate Judge Nan R. Nolan  LAWRENCE E. JAFFE PENSION PLAN, on behalf of Itself and All Others Similarly Situated, Plaintiff,  VS. HOUSEHOLD INTERNATIONAL, INC., et al.,  Defendants.  VIDEOTAPE DEPOSITION OF ROBIN ALLCOCK Wednesday, March 7, 2007 9 AM to 6 PM Charlotte, North Carolina	1 APPEARANCES: 2 FOR THE PLAINTIFFS: 3 LAWRENCE E. JAFFEE, et al. 4 BY: D. CAMERON BAKER 5 LERACH COUGHLIN STOIA GELLER RUDMAN & ROBBINS 6 100 Pine Street 7 Suite 2600 8 San Francisco, CA 94111 9 415.288.4545 - Telephone 10 415.288.4534 - Fax 11 cbaker@lerachlaw.com 12 FOR THE DEFENDANTS: 13 HOUSEHOLD, et al. 14 BY: LANDIS C. BEST, NICOLE SERRATORE 15 -and- KIM A. SMITH 16 CAHILL GORDON & REINDEL 17 80 Pine Street 18 New York, NY 10005 19 212.701.3000 - Telephone 20 212.269.5420 - Fax 21 lbest@cahill.com 22 23 24 25

Page 3	Page 4
1 EXHIBIT INDEX 2 EXHIBIT 3 Exhibit 1 HHS 01242495 THROUGH HHS 01242500 4 Exhibit 2 CORPORATE STRUCTURE, HHS 03160292 THROUGH HHS 02257720  5 Exhibit 3 BULLETIN BOARD, HHS 02071479 THROUGH HHS 02071481 6 Exhibit 4 HHS 02917300 THROUGH HHS 02917302 7 Exhibit 5 HHS 03276758 THROUGH HHS 03276759 8 Exhibit 6 HHS 02414944 THROUGH HHS 02414945 9 Exhibit 7 HHS 03438427 10 Exhibit 8 HHS 02992062 THROUGH HHS 02992064 11 Exhibit 9 HHS 02905362 THROUGH HHS 02905369 12 Exhibit 10 HHS 02072321 THROUGH HHS 02072325 13 Exhibit 11 HHS 03244020 14 Exhibit 12 HHS 03282625 THROUGH HHS 03282626 15 Exhibit 13 FOIC-0881 THROUGH FOIC-0883 16 Exhibit 14 HHS-E 0029827.0001 THROUGH HHS-E 0029817.0004  17 Exhibit 15 BULLETIN BOARD, HHS 02382263  18 Exhibit 16 HHS 02858841 THROUGH HHS 02858843  19 Exhibit 17 HHS-ED 491434 THROUGH HHS-ED 491437  20 Exhibit 18 HHS 03438910 THROUGH HHS 03438911  21 Exhibit 19 JUNE 6, 2002 MEMO SUBJECT: MAY REFUND REPORT 22 Exhibit 20 HHS 03426058 THROUGH HHS 03426060 23 Exhibit 21 HHS-ED 001076 THROUGH HHS-ED 001080	1 Exhibit 22 HHS 03420867 THROUGH HHS 03420869 108 2 Exhibit 23 HHS 03072056 110 3 Exhibit 24 HHS 02861363 THROUGH HHS 02861371 114 4 Exhibit 25 HHS 0342117 117 5 Exhibit 26 HHS 03303651 AND HHS 03303652 118 6 Exhibit 27 HHS 02613377 AND HHS 02613378 119 7 Exhibit 28 HHS 02911263 THROUGH HHS 02911271 120 8 Exhibit 29 HHS 02881878 AND HHS 02881879 121 9 Exhibit 30 HHS 03436994 THROUGH HHS 03437003 123 10 Exhibit 31 HHS 02908098 THROUGH HHS 02908113 126 11 Exhibit 32 HHS 03437013 THROUGH HHS 0343723 128 12 Exhibit 33 HHS 03437096 THROUGH HHS 03437108 132 13 Exhibit 34 HHS 03437077 THROUGH HHS 03437079 133 14 Exhibit 35 HHS 03437112 THROUGH HHS 03437127 135 15 Exhibit 36 HHS 03437146 THROUGH HHS 03437156 136 16 Exhibit 37 HHS 03437158 THROUGH HHS 03437169 137 17 Exhibit 38 HHS 03432535 THROUGH HHS 03432542 139 18 Exhibit 39 HHS 03437080 THROUGH HHS 03437095 141 19 Exhibit 40 HHS 03437080 THROUGH HHS 03437095 141 20 Exhibit 41 HHS-ED 490957 147 21 Exhibit 42 HHS 01774347 THROUGH HHS 01774350 153 22 Exhibit 43 HHS 02946594 THROUGH HHS 02946599 164 23 Exhibit 44 HHS 02946717 THROUGH HHS 02946722 166 24 Exhibit 45 HHS 03049621 THROUGH HHS 03049623 173 25 Exhibit 46 HHS 03451610 THROUGH HHS 03451624 178

Pages 1 to 4

Page 265

1 Q. It never reached the issue where you felt  
 2 obliged to talk to the law department about it?  
 3 A. Not that I recall.  
 4 Q. Was there a lawyer that was assigned to  
 5 your particular group?  
 6 A. All of them are assigned, depending on  
 7 the issue.  
 8 I don't know, four lawyers for Household  
 9 at the time, all of them.  
 10 Q. And when say Household, you are referring  
 11 to the consumer lending group --  
 12 A. Yes.  
 13 Q. -- that was headed by Ms. Curtain; is  
 14 that correct?  
 15 A. Yes.  
 16 Q. Was Nancy Bromley already working?  
 17 A. She --  
 18 MS. BEST: What time period are you  
 19 talking about?  
 20 You say "already working." This is in  
 21 2002?  
 22 MR. BAKER: Yes.  
 23 A. She worked for Kaye Curtain.  
 24 Q. If we go to page nine, the top of it, and  
 25 maybe I'm just misreading the back, if you could

Page 267

1 I recall that form being put in that  
 2 format.  
 3 Q. And the last page refers to enhancing  
 4 controls to insure timely updating of the loss  
 5 surveys?  
 6 MS. BEST: Page 11?  
 7 MR. BAKER: Page 11.  
 8 Q. Were there any steps within -- taken  
 9 within your department, or by you, to enhance  
 10 controls to insure timely updating of the loss  
 11 surveys?  
 12 A. The law department handled that.  
 13 Q. And so -- and the recommendation we  
 14 talked about, back-end reviews, that was -- would  
 15 have been done within the law department, as opposed  
 16 to someone else?  
 17 A. Yes.  
 18 MR. BAKER: Let's mark this as next in  
 19 order, Exhibit 74.  
 20 Q. I'm going to ask you some general  
 21 questions about the document.  
 22 And if you feel the need to review the  
 23 entirety of the document to answer them, feel free.  
 24 So, hopefully it's not the case. But why  
 25 don't you take a few moments to read the

Page 266

1 help me there.  
 2 It talks about in -- the situation  
 3 section at the very top -- talks about policy and  
 4 compliance implementing new procedures to enhance  
 5 the tracking, monitoring, testing and reviewing  
 6 changes made to systems and policy manuals in  
 7 January of 2002; do you see that?  
 8 A. Yes.  
 9 Q. What new procedures were implemented in  
 10 January, 2002?  
 11 A. To the best of my recollection, it was  
 12 simply that form you showed me earlier.  
 13 And it was -- that form was being  
 14 followed, it just wasn't attached. It wasn't in  
 15 that format and attached -- you showed me a couple  
 16 of documents back.  
 17 Q. That would be Exhibit 66?  
 18 A. Yes. Most, if not all, of that was being  
 19 done.  
 20 But there was not a document you could  
 21 pull out for each project.  
 22 Q. So, there were no new procedures that  
 23 were actually being --  
 24 A. I don't recall any, but -- one way or the  
 25 other.

Page 268

1 introduction.  
 2 It talks about the scope, the executive  
 3 summary, which is the second and third pages of this  
 4 document.  
 5 MS. BEST: The draft document is  
 6 attached?  
 7 MR. BAKER: Uh-huh.  
 8 Q. Did you have a chance to read the  
 9 introduction?  
 10 A. Yes.  
 11 MS. BEST: By introduction do you mean --  
 12 Q. The executive summary. I explained that  
 13 earlier, yes. That's exactly what I referenced.  
 14 Going back, the first page is -- the  
 15 lower half is an e-mail from Jeannine Bandaccari to  
 16 yourself, among others, attaching for your review  
 17 and response, a draft copy of the consumer lending  
 18 credit initiation audit report; do you see that?  
 19 A. Yes.  
 20 Q. Do you recall whether you reviewed and  
 21 provided any comments on this report?  
 22 A. I would have to read it. I don't recall.  
 23 Q. In general, did you ever provide any --  
 24 let me ask a much broader question -- did you ever,  
 25 to your knowledge, provide any edits or responses to