

FILED

JULY 7, 2005

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

LAWRENCE E. JAFFE PENSION PLAN, ON
BEHALF OF ITSELF AND ALL OTHERS SIMILARLY
SITUATED,

FILED

JUL - 7 2005 WH
Plaintiff,

- against MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

HOUSEHOLD INTERNATIONAL, INC., ET. AL.,
Defendants.

Lead Case No. 02-C-5893
(Consolidated)

CLASS ACTION

Judge Ronald A. Guzman
Magistrate Judge Nan R. Nolan

**AFFIDAVIT OF DAVID OWEN IN OPPOSITION TO LEAD
PLAINTIFFS' MOTION TO COMPEL THE HOUSEHOLD
DEFENDANTS TO PRODUCE DOCUMENTS IMPROPERLY
WITHHELD ON THE BASIS OF PRIVILEGE**

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

DAVID OWEN, being first duly sworn, deposes and says:

I am a member of the bar of the State of New York, admitted to this Court *pro hac vice* in connection with the above captioned matter and associated with the firm Cahill Gordon & Reindel LLP, co-counsel for defendants Household International, Inc., Household Finance Corporation, William F. Aldinger, David A. Schoenholz, Gary Gilmer and J.A. Vozar in this action. I make this affidavit to put before the Court certain documents in support of Defendants' Memorandum of Law in Opposition to Lead Plaintiffs' Motion to Compel the Household Defendants to Produce Documents Withheld on the Basis of Privilege.

1. Attached hereto as Exhibit 1 is a true and correct copy of the June 10, 2005 Order of Judge Nan R. Nolan in this case.

2. Attached hereto as Exhibit 2 is a true and correct copy of the June 16, 2005 Letter of Azra Mehdi, Esq. to Landis C. Best, Esq.

3. Attached hereto as Exhibit 3 is a true and correct copy of the June 27, 2005 Letter of Azra Mehdi, Esq. to Landis C. Best, Esq.

4. Attached hereto as Exhibit 4 is a true and correct copy of the June 28, 2005, 9:26 p.m. Email of Amy Barabas, Esq. to Azra Mehdi, Esq.

5. Attached hereto as Exhibit 5 is a true and correct copy of the June 29, 2005, 1:13 p.m. Email of Azra Mehdi, Esq. to Amy Barabas, Esq.

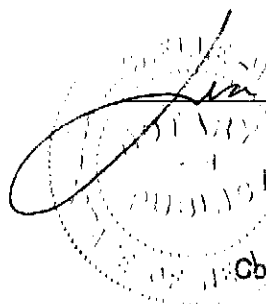
6. Attached hereto as Exhibit 6 is a true and correct copy of the June 29, 2005, 2:30 p.m. Email of Amy Barabas, Esq. to Azra Mehdi, Esq.

7. Attached hereto as Exhibit 7 is a true and correct copy of the June 29, 2005, 6:18 p.m. Email of Azra Mehdi, Esq. to Amy Barabas, Esq.



David Owen

Sworn to before me this
6th day of July, 2005.



Lisa Michelle Mackie
Notary Public
LISA MICHELLE MACKIE
Notary Public, State of New York
No. 01MA6053274
Qualified in New York County
Commission Expires January 8, 2007

TAB 1

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 2.4
Eastern Division**

Lawrence E Jaffe, et al.

Plaintiff,

v.

Case No.: 1:02-cv-05893

Hon. Ronald A. Guzman

Household International Inc., et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Friday, June 10, 2005:

MINUTE entry before Judge Nan R. Nolan :Motion hearing held on 6/9/2005 regarding plaintiffs' motion to compel the Household defendants to produce documents improperly withheld on the basis of privilege; plaintiffs' motion to compel the Household defendants to produce source logs for documents produced in this litigation; and plaintiffs' motion to compel the Household defendants to produce electronic evidence in native electronic format. Parties are ordered to meet and confer to try and resolve some of the issues. Responses to the above listed motions are due by 6/30/2005; replies are due by 7/14/2005. Motion Hearing set for 8/11/2005 at 10:00 AM. Judicial staff mailed notice(hmb,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

TAB 2

Jun-16-05 04:08pm From



SAN DIEGO • SAN FRANCISCO
LOS ANGELES • NEW YORK • BOCA RATON
WASHINGTON, DC • HOUSTON
PHILADELPHIA • SEATTLE

Azra Z Mehdi
azram@lerachlaw.com

June 16, 2005

VIA FACSIMILE

Landis Best, Esq.
CAHILL GORDON & REINDEL LLP
Eighty Pine Street
New York, NY 10005-1702

Re: *Lawrence E. Jaffe Pension Plan v. Household International, Inc., et al.*
Case No. 02-CIV-5893 (N.D. Ill)

Landis:

This letter memorializes plaintiffs' understanding of the June 14, 2005 meet and confer regarding the source log and privilege log motions to compel filed by plaintiffs on June 3, 2005. It also includes plaintiffs' responses to certain questions raised during the session.

1. **Motion to Compel Source Logs and Verification That Document Production Complete:**

The Household Defendants agreed to provide plaintiffs by June 17, 2005 a source log for the production to date in the form of a chart identifying by Bates number the person whose file the documents came from or department where the document was located. Plaintiffs will inform the Household Defendants by June 22, 2005, if the source log is satisfactory. The Household Defendants will inform plaintiffs of any objections they may have to the production of source logs for the document production going forward.

The Household Defendants deferred discussion of the issue of verification that production was complete pursuant to each document request until the conclusion of their internal discussions.

2. **Motion to Compel Production of Certain Documents Withheld in Privilege Log III:**

The Household Defendants disagree that any of the documents challenged by plaintiffs should be produced. You proposed that Household Defendants would select a representative sample of the documents being challenged under each category for Magistrate Judge Nolan's review. You also proposed that plaintiffs could add a few additional documents to this sample list.

Jun-16-05

04:08pm

From-

T-297

P. 02/03

F-647

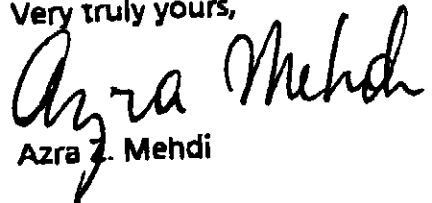


Landis Best, Esq.
June 16, 2005
Page 2

Plaintiffs believe that this approach is not reasonable given that each deficient category includes many different types of documents, such as training materials, HUD materials, complaints, AG investigations, etc., making it impossible to evaluate the privilege assertion for all documents in the category based upon sample documents. For example, the rationale supporting the claimed privilege for documents regarding AG investigations may not apply to a privilege asserted for documents regarding training materials. Without the advantage that the Household Defendants have of being able to see the documents, plaintiffs are in no better position now than they were on May 18, 2005, when you produced Log III or on June 6, 2005, when plaintiffs filed the motion to compel. Accordingly, plaintiffs would like to know if the Household Defendants are willing to provide more detailed descriptions of the withheld documents to allow plaintiffs to eliminate some of their challenges. For instance, the Household Defendants have refused to identify any of the members of the control group despite the fact that this information may eliminate a number of entries challenged by plaintiffs. We are also willing to meet and confer for a document-by-document discussion, if the Household Defendants are willing to provide more information rather than conclusory statements that the documents reflect a "lawyer's legal analysis." Plaintiffs would like to know the basis for the Household Defendants' determination that education and training documents withheld constitute legal advice, rather than business advice.

Finally, plaintiffs raised the possibility of mediating the case before Magistrate Judge Nolan, as communicated by Judge Nolan's willingness to do so at the June 9, 2005 motion hearing. You informed me that your client is considering it. As I mentioned in the call on Tuesday, plaintiffs are absolutely willing to mediate before Judge Nolan.

Very truly yours,


Azra Mehdi

AZM:mog

cc: Marvin Miller, Esq.
David Owen, Esq.
Adam Deutsch, Esq.

T:\cases\SF\household Intl\corres\Best_061605 doc



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FACSIMILE

		<u>Fax No.</u>	<u>Telephone No.</u>
To:	Landis Best, Esq. Cahill Gordon & Reindel LLP	212/269-5420	212/701-3000
cc:	Marvin A. Miller, Esq. Miller Faucher And Cafferty LLP	312-782-4485	312-782-4880
	David Owen, Esq. Cahill Gordon & Reindel LLP	212-269-5420	212-701-3000
	Adam B. Deutsch, Esq. Eimer Stahl Klevorn & Solberg LLP	312-692-1718	312-660-7600

From:	Azra Z. Mehdi	Date:	June 16, 2005
Case Code:	020377-00001		
Subject:	Lawrence E. Jaffe Pension Plan v. Household International, Inc., et al. Case No. 02-CIV-5893 (N.D. Ill.)		

Message/Document(s) faxed:

Please call fax operator at 415/288-4545 if all pages are not received.

ORIGINAL DOCUMENTS: Will follow by mail courier - OR - Will not follow unless requested.

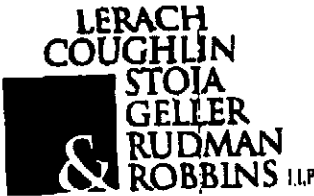
CONFIDENTIALITY NOTE: This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

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Ext: 4482

TAB 3



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WASHINGTON, DC • HOUSTON
PHILADELPHIA • SEATTLE

Azra Z. Mehdi
azram@lerachlaw.com

June 27, 2005

VIA FACSIMILE

Landis Best, Esq.
CAHILL GORDON & REINDEL LLP
Eighty Pine Street
New York, NY 10005-1702

Re: *Lawrence E. Jaffe Pension Plan v. Household International, Inc., et al.*
Case No. 02-CIV-5893 (N.D. Ill.)

Landis:

Based upon the expanded descriptions in defendants' Third Revised First Privilege Log ("Log IV") provided to plaintiffs on June 23, 2005, plaintiffs will withdraw all challenges to the following 23 entries, except their challenge upon the basis that defendants had no expectation of privacy with respect to these documents and the communication contained therein: 2, 7-9, 11-13, 20, 37, 44-47, 61, 78, 88, 97, 106-110, and 112.

For entries 63-70 and 72-73, plaintiffs will withdraw their challenge to these documents as improperly withheld when intended for publication or disclosure to third parties, but maintain their challenge to these documents for waiver of the work-product privilege and as documents for which defendants had no expectation of privacy.

Additionally, for entries 83-84 and 87, plaintiffs' only challenge was that these were documents for which defendants had no expectation of privacy. In Log IV, defendants have belatedly asserted work-product protection for these entries. Plaintiffs' position is that defendants have waived protection under work-product, and documents 83-84 and 87 must, therefore, be produced.

Plaintiffs maintain their challenge to the following entries: 5, 7-9, 11-12, 22-25, 27, 29, 60, 74-76, 79-82, 91, 92-96, 99, 102-103, 105, and 111. Additionally, please note that it was agreed between the parties that plaintiffs' challenges based upon defendants' failure to establish that they had an expectation of confidentiality would be presented for resolution by Magistrate Judge Nolan.

Finally, documents 2, 16, 28, and 49 were listed in Log IV as redacted documents. However, the Household Defendants have not produced these documents at all. Instead, a slip sheet was inserted with the Bates number stating it was "withheld for privilege." See



Landis Best, Esq.
June 27, 2005
Page 2

attached Exhibit A. Please produce these documents in redacted form promptly so that plaintiffs may determine whether or not to withdraw their challenge.

Very truly yours,

Azra Mehdi
Azra Z. Mehdi

AZM:mog
Enclosure

cc: Marvin Miller, Esq.
Adam Deutsch, Esq.

T:\Case\SF\Household Intl\Corres\Best_062705.doc

Exhibit A

**Production number
HHS02201551
has been withheld for privilege.**

Production Numbers

HHS 02291884 - HHS 02291898

have been withheld for privilege

Production Numbers

HHS 02301553 – HHS 02301555

have been withheld for privilege

Production Numbers

HHS 02305238 – HHS 02305241

have been withheld for privilege



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FACSIMILE

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cc:	Marvin A. Miller, Esq. Miller Faucher And Cafferty LLP	312-782-4485	312-782-4880
	Adam B. Deutsch, Esq. Eimer Stahl Klevorn & Solberg LLP	312-692-1718	312-660-7600

From:	Azra Z. Mehdi	Date:	June 27, 2005
Case Code:	020377-00001		
Subject:	Lawrence E. Jaffe Pension Plan v. Household International, Inc., et al. Case No. 02-CIV-5893 (N.D. Ill.)		

Message/Document(s) faxed:

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FAX OPERATOR: Return originals to: Monina

Ext: 4482

TAB 4

Barabas, Amy

From: Barabas, Amy
Sent: Tuesday, June 28, 2005 9:26 PM
To: 'azram@lerachlaw.com'
Cc: Best, Landis C.; 'LukeB@lerachlaw.com'; 'Deutsch, Adam'; Owen, David
Subject: Jaffe v. Household International

Dear Azra,

I have a few questions about your letter of June 27, 2005.

In the first paragraph, you write that "Plaintiffs will withdraw all challenges to the following 23 entries, except their challenge upon the basis that defendants had no expectation of privacy with respect to these documents and the communication contained therein: ...7-9, 11-13....". However, in the fourth paragraph, you write that "Plaintiffs maintain their challenge to the following entries: ...7-9, 11-12...". Please clarify.

Additionally, in the fourth paragraph, you write that you maintain your challenge to document 29. As that document has been produced and is no longer listed on the privilege log, I assume the objection has also been dropped.

Finally, you make no reference to documents 14, 19, 26, 30-36, 38, 39, 48, 50-52, 56, 58-59, 86, 89, 90, and 98. I interpret your letter to mean that documents 14, 19, 30-36, 38, 48, 50-52, 56, 58-59, 90, and 98 still fall under the control group objection. Please correct me if this understanding is incorrect. Additionally, please also clarify the grounds on which you are challenging documents 26, 39 and 86, which fall into other categories of objection in addition to the control group.

Thank you,

Amy Barabas

Amy Barabas
Cahill Gordon & Reindel LLP
80 Pine Street
New York, NY 10005
Tel: (212) 701-3374
Fax: (212) 378-2551
Email: abarabas@cahill.com

TAB 5

Barabas, Amy

From: Azra Mehdi [Azram@lerachlaw.com]
Sent: Wednesday, June 29, 2005 1:13 PM
To: Barabas, Amy
Cc: Owen, David; Best, Landis C.; adeutsch@EimerStahl.com; Luke Brooks
Subject: Re: Jaffe v. Household International

Amy:

The inclusion of documents 7-9, 11-12 in the 4th paragraph of my letter was inadvertent. The 1st paragraph appropriately communicates plaintiffs' position with respect to these documents. Similarly the reference to document 29 in the 4th paragraph was inadvertent. Paragraph 4 of my June 27 letter should be revised to include the following entries: 5, 22-25, 27, 60, 74-76, 79-82, 91-96, 102-103, 105, and 111.

As noted in my letter plaintiffs have not withdrawn their challenge upon the basis that defendants had no expectation of confidentiality for all the documents noted in their motion to compel filed on June 6, 2005. We expect this issue to be presented to Magistrate Judge Nolan for resolution.

Finally, plaintiffs retain their original challenges to documents 26, 39, and 86. With respect to document 86, we also believe that defendants have waived protection under work-product.

Azra Mehdi
Attorney at Law
LERACH COUGHLIN STOIA GELLER RUDMAN & ROBBINS LLP
100 Pine Street, Suite 2600
San Francisco, CA 94111
(415) 288-4545
(415) 288-4534 (fax)
AzraM@lerachlaw.com

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>>> "Barabas, Amy" <ABarabas@Cahill.com> 06/28/05 6:25 PM >>>

Dear Azra,

I have a few questions about your letter of June 27, 2005.

In the first paragraph, you write that "Plaintiffs will withdraw all challenges to the following 23 entries, except their challenge upon the basis that defendants had no expectation of privacy with respect to these documents and the communication contained therein: ...7-9, 11-13.....". However, in the fourth paragraph, you write that "Plaintiffs maintain their challenge to the following entries: ...7-9, 11-12...". Please clarify.

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7/1/2005

Jaffe v. Household International

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Thank you,

Amy Barabas

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Cahill Gordon & Reindel LLP
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New York, NY 10005
Tel: (212) 701-3374
Fax: (212) 378-2551
Email: abarabas@cahill.com

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TAB 6

Barabas, Amy

From: Barabas, Amy
Sent: Wednesday, June 29, 2005 2:30 PM
To: 'Azra Mehdi'
Cc: Owen, David; Best, Landis C.; adeutsch@EimerStahl.com; Luke Brooks; Newville, Josh
Subject: RE: Jaffe v. Household International

Dear Azra,

Thank you for your response. I have one more question.

In the second paragraph of your letter, relating to documents 63-70 and 72-73, you write that "plaintiffs will withdraw their challenge to these documents as improperly withheld when intended for publication or disclosure to third parties, but maintain their challenge to these documents for waiver of work-product protection and as documents for which defendants had no expectation of privacy." Please specify whether Plaintiffs have withdrawn their initial challenge to documents 66-68, 70, and 72-73 on the grounds that they do not reflect confidential client communications.

Thank you,

Amy Barabas

From: Azra Mehdi [mailto:Azram@lerachlaw.com]
Sent: Wednesday, June 29, 2005 1:13 PM
To: Barabas, Amy
Cc: Owen, David; Best, Landis C.; adeutsch@EimerStahl.com; Luke Brooks
Subject: Re: Jaffe v. Household International

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Finally, plaintiffs retain their original challenges to documents 26, 39, and 86. With respect to document 86, we also believe that defendants have waived protection under work-product.

Azra Mehdi
Attorney at Law
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(415) 288-4534 (fax)
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Thank you,

Amy Barabas

Amy Barabas
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80 Pine Street
New York, NY 10005
Tel: (212) 701-3374
Fax: (212) 378-2551
Email: abarabas@cahill.com

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* * * * *

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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TAB 7

Jaffe v. Household International

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Sent: Wednesday, June 29, 2005 6:18 PM
To: Barabas, Amy
Cc: Owen, David; Newville, Josh; Best, Landis C.; adeutsch@EimerStahl.com; Luke Brooks
Subject: RE: Jaffe v. Household International

That is correct Amy.

>>> "Barabas, Amy" <ABarabas@Cahill.com> 06/29/05 11:29 AM >>>
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Azra Mehdi
Attorney at Law
LERACH COUGHLIN STOIA GELLER RUDMAN & ROBBINS LLP

7/1/2005

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San Francisco, CA 94111
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