

Defendants Household International, Inc., Household Finance Corp., William F. Aldinger, David A. Schoenholz, Gary Gilmer and J.A. Vozar (collectively “Defendants”) submit the following Status Report in advance of the January 6, 2006 status conference. References herein to “Plaintiffs” are to Lead Plaintiffs Glickenhau & Company, PACE Industry Union Management Pension Fund and The International Union of Operating Engineers Local No. 132 Pension Plan.

A. Status of Pending Motions Before the Honorable Ronald A. Guzman

1. Defendants’ Motion to Dismiss Pursuant to the Supreme Court’s Recent Decision in *Dura Pharmaceuticals, Inc. v. Broudo*

Briefing on this motion was completed on September 16, 2005. On December 13, 2005 Plaintiffs filed a Motion for Leave to File a Notice of Recent Authority and Request for Judicial Notice in Further Support of their response to Defendants’ motion to dismiss. On December 15, Judge Guzman stated orally that he would accept submissions of new authority but denied Plaintiffs’ request to take judicial notice of certain documents produced by Defendants, stating that he would not consider matters outside the complaint pending further notice to the Parties.

2. Defendants’ Motion Pursuant to the Seventh Circuit’s Recent Decision in *Foss v. Bear Stearns* to Dismiss the Complaint In Part

Briefing on this motion was completed on September 16, 2005.

B. Status of Pending Motions Before the Honorable Nan R. Nolan

1. Defendants' Motion for Costs, Expenses and Fees

On October 13, 2005, Defendants filed a motion for costs, expenses and fees pursuant to Federal Rule of Civil Procedure 30(g)(1) and 28 U.S.C. § 1927 in connection with Plaintiffs' last-minute unilateral cancellation of the previously-noticed depositions of Walt Rybak and Curt Cunningham and despite the fact that Defendants told Plaintiffs repeatedly that the documents they claimed were not produced did not exist. At the October 26, 2005 status conference, the Court entered and continued the motion until the Housemail issue is resolved. Plaintiffs have requested another deposition on the Housemail issue, and simply to save the Court from yet another motion from Plaintiffs on the issue, Defendants have agreed to that. Therefore, the Housemail issue is not resolved at this time; thus, this motion should be continued until a later date.

2. Defendants' Motion for Partial Reconsideration of the Court's September 28, 2005 Order Regarding Defendants' Motion to Amend the Protective Order

Briefing on this motion was completed on October 25, 2005. Defendants seek reconsideration of one issue in the Court's Order — the requirement that Defendants re-review their entire document production (over 3 million pages to date) to ensure "confidential" designations were appropriately made. As set forth more fully in our papers, Defendants believe that the proper course is that set out in the Protective Order itself — that Plaintiffs should contact Defendants if they have questions about any designations, and the parties should attempt to resolve any disputes on a case by case basis (and present any disputes to the Court if necessary). This process has worked to date. Plaintiffs have asked Defendants to de-classify three

categories of documents and Defendants expect to respond this week. Defendants therefore believe that the process as outlined in the Protective Order should continue to be pursued by the parties.

3. Plaintiffs' Motion to Compel Responses to First Set of Interrogatories From Household Defendants

Briefing on this motion was completed on September 27, 2005. On November 10, 2005, the Court granted in part Plaintiffs' motion and ordered Defendants to amend their responses. Specifically, the Court directed Defendants to identify by December 6, 2005 the individuals with knowledge of each of the affirmative defenses raised in Defendants' Answer as well as to identify the documents on which Defendants rely for those defenses. Further, Defendants were directed to identify the major facts on which they base the affirmative defenses by January 13, 2006. Additionally, the Court advised Defendants to consider amending their Answer to limit the affirmative defenses to those for which the burden of proof is typically assigned to Defendants.

Subsequently, on December 6, 2005, by stipulation of the Parties, Defendants amended their Answer, removing 17 of the initial 22 affirmative defenses. On the same date, Defendants served their Second Amended Responses and Objections to Plaintiffs' First Set of Interrogatories, identifying the individuals and documents, where applicable, relied upon for the remaining five affirmative defenses. Defendants will submit their additional responses on January 13, 2006 pursuant to the Court's Order.

4. Plaintiffs' Motion to Compel the Household Defendants to Produce Source Logs for Documents Produced in this Litigation

Plaintiffs have acknowledged that there is no existing dispute with regard to Plaintiffs' request that Defendants produce "source logs" and withdrew that part of their motion. The sole issue outstanding on this motion was Plaintiffs' request that Defendants verify completion of the production of documents pursuant to Plaintiffs' First Document Demand. Briefing on this issue was completed on July 21, 2005. Pursuant to the Court's direction at the August 24, 2005 status conference, Defendants filed a supplemental response on September 2, 2005 informing the Court, *inter alia*, that Defendants expected to complete targeted follow-up with respect to the production of hard copy documents responsive to Plaintiffs' First Document Demand by September 30, 2005, which targeted follow-up was completed by that date.

At the October 26, 2005 status conference, the Court directed Plaintiffs to document in writing by November 1, 2005 any claims as to inadequacy of Defendants' production of hard-copy documents in response to the Plaintiffs' First Document Demand and to do the same after Defendants' completion of production in response to Plaintiffs' Second Document Demand. Further, the Court directed the parties to try to resolve these issues without the Court's intervention. Plaintiffs addressed certain alleged deficiencies as to the production of documents in response to the First Demand in a letter dated November 1, 2005, to which Defendants responded on November 14, 2005.

The parties have continued to exchange correspondence and are involved in the meet and confer process on the issues raised by Plaintiffs. Defendants expect to produce additional documents by January 20, 2006. There is one item of dispute that bears mention. As a gen-

eral matter, Plaintiffs claim that Defendants have improperly withheld documents dated before and after the Class Period. As set forth more fully below (*see C.4., infra*), Defendants believe that, with certain exceptions that have been negotiated as part of the meet and confer process with Plaintiffs, documents dated prior to and after the Class period are not relevant to matters involved in this litigation. The parties are continuing to meet and confer on this issue, but may need guidance from the Court if agreement cannot be reached.

C. Status of Discovery

1. Document Production

Defendants have produced more than 3.3 million pages of hard copy documents, more than 7,400 native format spreadsheets, more than 8000 native format e-mails and attachments, and more than 33,000 pages of other electronic documents in response to Plaintiffs' First and Second Document Demands. As of December 15, 2005, Defendants have substantially completed production of native format spreadsheets and anticipate completing production of other electronic documents and hard copy documents by January 20, 2006, with the exception of documents responsive to a limited amount of requests as to which the parties are continuing to negotiate with respect to the scope. Defendants anticipate completing production of native format emails by April 7, 2006.

2. Depositions

(i) At the October 26, 2005 status conference, the Court permitted the parties to go beyond the limitation of 10 depositions under Rule 30(a)(2)(B) of the Federal Rules of

Civil Procedure, allowing each side a total of 35 depositions, without prejudice to request leave of court for additional depositions. Plaintiffs have thus far taken four depositions (including two separate 30(b)(6) depositions of Christine Cunningham).

(ii) On December 2, 2005, pursuant to the Court's direction, Plaintiffs re-deposed Christine Cunningham regarding the Housemail system and the preservation of Housemails for this litigation and the related SEC investigation. Plaintiffs' account of Christine Cunningham's deposition testimony in their January 4 Status Report is consistently misleading and inaccurate. While Defendants do not believe this is the appropriate place to argue the merits of Plaintiffs' strenuous but baseless effort to build a spoliation claim at this point other than to note that the amount of time and attention that Plaintiffs spend on this frivolous claim speaks volumes about the lack of support for the claims actually pled here), Defendants highlight just a few examples of the blatant omissions and inaccuracies embodied in Plaintiffs' Status Report:

* Plaintiffs state that "[i]f not reset, a purge program would delete email files older than six months on a daily basis." (Plaintiffs' Report at 3) Likewise, Plaintiffs state that Household's September 20, 2002 document hold directive "did not contain any instruction to Housemail users to 'reset the clock on old emails'" and that, despite the directive, "Household continued to run the six-month purge function on the Housemail systems." (Plaintiffs' Report at 4) In fact, however, reference to Ms. Cunningham's testimony makes clear that Household's six-month retention policy did not apply to all "email files" but rather only "had to do with the Notelogs." (12/2/05 Deposition of Christine Cunningham at 57) ("Cunningham

Dep.”) Indeed, during her deposition Ms. Cunningham clarified the limited parameters of the policy for Plaintiffs’ counsel, as the following colloquy makes clear:

“Q. I’m a user and I receive an e-mail in my Housemail In box. Once I read it, do I have to put it in a Notelog?

A. No.

Q. I can leave it just stand [sic] alone?

A. Yes.

Q. And at the end of six months, that email would be deleted?

A. No.”

(Cunningham Dep. at 58-59)

* Moreover, Ms. Cunningham specifically explained that the six-month deletion function continued in place after the document hold directive “[b]ecause the information was on tape” (Cunningham Dep. at 103) and offered the following statement to which Plaintiffs do not refer in their Status Report:

“A. The directives came out in September as we discussed, and those directives were given to the employees to save relevant, you know, information. That relevant information included Housemail, and regardless of that six-month cycle that we also discussed, the instructions for the employees were to do what they could to preserve the information and they had ways to do that so that the six-month purge would not affect those documents that they kept.”

(Cunningham Dep. at 107-08)

* Likewise, while Plaintiffs vaguely state that “[n]ot all Housemail files were migrated, including archived notelogs and other Housemail files” (Plaintiffs’ Report at 3), they omit to mention Ms. Cunningham’s explicit testimony that Housemail users could migrate anything they chose (Cunningham Dep. at 157) and even had the ability, *after* the migration was complete, to return to their archived files and send files of their choosing to their new Lotus Notes file. (Cunningham Dep. at 160)

(iii) Plaintiffs now seek to depose an additional 30(b)(6) witness on the Housemail issue, Carol Werner, on the grounds that Ms. Cunningham was unable to answer several highly

technical questions regarding the Housemail system, to which she responded that Werner might be more knowledgeable. Defendants proposed a simple solution that would save time and money — Defendants would submit to Plaintiffs written answers from Ms. Werner regarding those technical questions Ms. Cunningham was unable to answer. Plaintiffs declined this simple solution. Again, to save the Court from yet another application from Plaintiffs, Defendants are going to produce Ms. Werner for yet another Housemail deposition on these highly technical points.

(iv) Plaintiffs have recently requested the rescheduling of the depositions of Walt Rybak and Curt Cunningham — the two witnesses whose depositions were cancelled by Plaintiffs at the last minute in October. Defendants are in the process of getting possible dates for these rescheduled depositions.

(v) Without attempting to work with Defendants to expedite and simplify the deposition scheduling process, Plaintiffs noticed/subpoenaed the depositions of three additional individuals: Louis Levy, John D. Nichols, Jr., and Lew Walter. The depositions of Levy and Nichols were noticed for January 18, 2006 and January 20, 2006. Defendants have informed Plaintiffs that those dates do not work for the witnesses (Levy and Nichols are not company employees and Walter is on disability) and the Parties are in the process of determining mutually convenient dates. The deposition of Walter has been noticed for January 26, 2006 and Defendants are working to determine Walter's availability.

(vi) Plaintiffs have also served a Rule 30(b)(6) notice requesting testimony regarding all of Household's internally generated financial data and its processes and procedures for

compiling and reporting data for its publicly reported financial statements, which was served on December 15, 2005. Although styled as an “Amended Notice of Deposition of Household International, Inc. Pursuant to Federal Rule of Civil Procedure 30(b)(6),” Defendants note that the broad categories of testimony requested were not included in Plaintiffs original 30(b)(6) notice, which was served June 7, 2004. Thus, Plaintiffs have in effect served an additional 30(b)(6) notice without requesting leave of Court, as required under Rule 30(a)(2)(B). The parties are in the process of meeting and conferring regarding the scope of this notice, which, as written, would require testimony from numerous individuals from Household’s corporate level and each of its business units.

3. Additional Interrogatories

(i) Plaintiffs served their Second Set of Interrogatories on September 21, 2005. Defendants responded on October 24, 2005, objecting primarily on the grounds that the interrogatories exceeded the 25 interrogatory limit imposed by the Federal Rules. At the October 26, 2005 status conference, the Court Ordered the parties to meet and confer on the issue. The parties thereafter agreed that 82 interrogatories would be permitted. Defendants understand that agreement to apply to both parties, while Plaintiffs contend that the agreement does not apply to Defendants, and that Defendants are only entitled to 25 interrogatories. Defendants will continue to meet and confer on this issue, but see no reason why Plaintiffs will not agree that the limit on interrogatories should run to both parties. Just as the Court ruled that the additional depositions (35 total) should be provided to both parties, so too should the interrogatory limit.

(ii) Defendants served Amended Responses and Objections to the Second Set of Interrogatories on December 16, 2005. Plaintiffs raised objections as to the adequacy of those responses on December 19. Defendants thereafter served second amended responses on December 23. Plaintiffs again raised objections to Defendants responses in a letter dated December 27. The parties are in the process of meeting and conferring regarding the issues raised.

4. Relevant Time Period

In letters regarding Defendants' production of documents in response to the First Document Demand and Defendants' answers to the Second Set of Interrogatories, Plaintiffs have raised objections to Defendants' partial limitation of the relevant time period for discovery to the Class Period (October 23, 1997 through October 11, 2002). Plaintiffs contend they are entitled to all documents within the time period January 1, 1997 through December 31, 2003, and that they are entitled to interrogatory responses covering information post-dating the Class Period. Plaintiffs have also served deposition notices requesting documents up to the present. Defendants dispute that such documents and information beyond the Class Period are relevant to the claims in this litigation, with the exception of certain specific document requests as to which Defendants have agreed to produce documents dated both before and after the Class Period, and as to which such documents have in fact been produced. Defendants believe Plaintiffs are attempting to renegotiate an issue that has already been resolved through the meet and confer process, wherein Plaintiffs expressed their understanding that Defendants would produce documents beyond the Class Period for some, but not all, of the requests. The parties are continuing to meet and confer on this issue, but in the absence of

some agreement, this Court may need to rule on the appropriate time period for Plaintiffs' discovery requests.

Dated: January 4, 2006

s/ Adam B. Deutsch

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CERTIFICATE OF SERVICE

Adam B. Deutsch, an attorney, certifies that on January 4, 2006, he served copies of The Household Defendants' Status Report: January 6, 2006, to the parties listed below via the manner stated.

s/ Adam B. Deutsch

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