

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

LAWRENCE E. JAFFE PENSION PLAN, On)	Lead Case No. 02-C-5893
Behalf of Itself and All Others Similarly)	(Consolidated)
Situated,)	
) <u>CLASS ACTION</u>
Plaintiff,)	
) Judge Ronald A. Guzman
vs.)	Magistrate Judge Nan R. Nolan
)
HOUSEHOLD INTERNATIONAL, INC., et)	
al.,)	
)
Defendants.)	
_____)	

**DECLARATION OF D. CAMERON BAKER EVIDENCING COMPLIANCE WITH
LOCAL RULE 37.2 AND IN SUPPORT OF THE CLASS' MOTION TO COMPEL
RESPONSES TO SECOND SET OF INTERROGATORIES FROM HOUSEHOLD
DEFENDANTS**

I, D. CAMERON BAKER, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California, New York and am admitted to the General Bar of the United States District Court in the Northern District of Illinois. I am of counsel at the law firm of Lerach Coughlin Stoia Geller Rudman & Robbins LLP, lead counsel for plaintiffs and the Class in the above-entitled action. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

2. On September 21, 2005, the Class propounded its Second Set of Interrogatories to Defendants Household International, Inc., Household Finance Corporation, William F. Aldinger, David A. Schoenholz, Gary Gilmer and J.A. Vozar (“Interrogatories”). I attach hereto a true and correct copy of the Interrogatories as Exhibit 1.

3. On October 24, 2005, the Household defendants served Defendants Household International, Inc., Household Finance Corporation, William F. Aldinger, David A. Schoenholz, Gary Gilmer and J.A. Vozar’s Responses and Objections to Lead Plaintiffs’ Second Set of Interrogatories. I attach hereto a true and correct copy of this document as Ex. 2.

4. In early November 2005, I participated in the meet and confer process with counsel for defendants, Landis Best of Cahill Gordon & Reindel LLP, as to the number of interrogatories that plaintiffs could propound in this proceeding. As part of this process, Ms. Best and I discussed when defendants would provide supplemental responses to the Interrogatories. On November 3, 2005, Household International, Inc. and Household Finance Corporation (collectively, “Household”) agreed to provide supplemental responses to the Interrogatories on December 16, 2005. During the meet and confer, Ms. Best represented that defendants needed the month-and-a-half to prepare the responses and that the responses would be meaningful. By letter dated November 4, 2005, I advised Ms. Best that pursuant to Fed. R. Civ. P. 33, Household could not raise new objections to the

Interrogatories. I attach hereto a true and correct copy of my November 4, 2005 letter to Ms. Best as Ex. 3.

5. On December 15, 2005, the day before the supplemental responses were due, Ms. Best contacted one of my colleagues, Luke Brooks, to request an extension of time to respond to the Interrogatories. Mr. Brooks, who had had no previous involvement with this issue, referred Ms. Best's request to me. As I had been provided with no basis for an extension, I informed Ms. Best that plaintiffs would not give a further extension in light of the circumstances. Ms. Best responded with an email containing a request for an extension "into next week." Due to this lack of specificity, I declined to grant the extension and requested that she apprise me of the date on which plaintiffs would receive the responses. Ms. Best then offered Wednesday, December 21, 2005. By response, I indicated that the date was too late, anticipating that Ms. Best would make a counter-proposal for Tuesday. However, by the time that I responded to Ms. Best, she had already left work for the evening. During this time frame, Ms. Best did not telephone me nor did she telephone me on December 16, 2005 regarding the requested extension. I attach hereto true and correct copies of the email correspondence as Ex. 4.

6. On December 16, 2005, Household served its supplemental response to the Interrogatories. I attach hereto a true and correct copy of Defendants Household International, Inc., Household Finance Corporation and J.A. Vozar's Second Amended Responses and Objections to Lead Plaintiffs' Second Set of Interrogatories as Ex. 5. I attach hereto a true and correct copy of Ms. Best's cover letter as Ex. 6. In that cover letter, Ms. Best represented that defendants would further supplement their responses to the Interrogatories by "mid-week."

7. By letter dated December 19, 2005, I raised with Ms. Best the Class' concerns about the adequacy of Household's substantive responses and the merit of its objections. I attach hereto a true and correct copy of my December 19, 2005 letter as Ex. 7.

8. Despite Ms. Best's December 16, 2005 letter and prior email, Household did not supplement its response on December 21, 2005. Instead, on that date, plaintiffs received a letter from Ms. Best purporting to defend Household's supplemental responses and objections. I attach hereto a true and correct copy of Ms. Best's December 21, 2005 letter as Ex. 8.

9. On Friday, December 23, 2005, defendants served their second supplemental responses to the Interrogatories. I attach hereto a true and correct copy of Defendants Household International, Inc., Household Finance Corporation and J.A. Vozar's Second Amended Responses and Objections to Lead Plaintiffs' Second Set of Interrogatories as Ex. 9. I attach hereto a true and correct copy of Ms. Best's December 23, 2005 cover letter as Ex. 10, which requests a meet and confer on Interrogatory Nos. 5(b), 6, 7(b), 8(b) and 9-12, to which Household provided no responsive information. By letter dated December 27, 2005, I reiterated the Class' concerns about the adequacy of Household's responses, even as supplemented on December 23, 2005, and responded to Ms. Best's letter of December 21, 2005. I attach hereto a true and correct copy of that letter as Ex. 11.

10. On December 28, 2005, I telephoned Ms. Best to follow up on my December 27, 2005 letter. I was informed that she was not available and that no one was available to participate in a meet and confer discussion regarding defendants' responses.

11. Commencing on January 4, 2006 and continuing through January 19, 2006, the parties engaged in a series of meet and confer discussions via telephone, email and letter. As discussed in greater depth below, the January 4, 2006, telephonic meet and confer involved all of the interrogatory responses and objections at issue. This meet and confer generally consisted of 1) plaintiffs requesting that Household provide specific information together with an explanation as to why the information sought was relevant and not unduly burdensome to provide and 2) Household responding that it would not do so or would need further time to evaluate plaintiffs' requests and

supporting arguments prior to responding, principally the latter. During the subsequent telephonic meet and confers, plaintiffs would request if Household had completed its evaluation and was prepared to make a substantive response. In these subsequent meet and confers, Household's response invariably and despite the passage of time was "we are still evaluating" and "we need to talk with our client."

12. The telephonic meet and confers occurred on January 4, 5 and 10, 2006. On January 4, 2006, I, together with Sylvia Sum of my firm, participated in a telephonic meet and confer with Ms. Best and two colleagues, Jason Otto and Laura Fraher. On January 5, 2006, I, together with Bing Ryan of my firm, participated in a second telephonic meet and confer with Ms. Best and Mr. Otto. This meet and confer was relatively brief as Mr. Otto and Ms. Best indicated that they had had insufficient time to obtain responses to the issues discussed the prior day. On January 10, 2006, Ms. Ryan and I participated in a third telephonic meet and confer with Ms. Best, Mr. Otto and a third attorney, Elizabeth Silver.

13. During the meet and confer process, the parties discussed Household's response and objections to Interrogatory No. 4, which requests that Household identify departments and individuals responsible for training employees in lending practices at Household during the Relevant Period. In response, Household identified only those "primarily responsible" for training employees at Household's Consumer Lending business unit. On January 4, 2006, I explained that Household's response was inadequate because Household was aware of individuals responsible for training employees regarding lending practices, such as Lew Walter, who were not identified. Counsel for Household acknowledged this, but on January 10, 2006, asserted that to identify all individuals "responsible" for training would be unduly burdensome. As to the limitation to Household's Consumer Lending business unit, during the meet and confer on January 10, 2006, plaintiffs stated that they would accept this limitation if Household provided a representation that the other business

units, such as the Mortgage Services business unit, *received* no training on lending practices. Household initially indicated this representation could be provided but later substituted a representation to the effect that no individuals within the Mortgage Services business unit *provided* such training. See J. Otto email of January 11, 2006, a true and correct copy of which is attached hereto as Ex. 12. During the telephonic meet and confer process, Household did not state any objection to producing responsive information based on any alleged ambiguity as the terms “responsible” and “lending practices and policies.”

14. On Interrogatory Nos. 5(a)-8(a), the parties discussed Household’s refusal to provide information from 1997 and 1998 and information after October 2002. As to the 1997 and 1998 information, Household stated that this information is no longer maintained electronically and would be difficult to obtain. As to information after October 2002, Household refused to provide any such information on the basis of relevance despite plaintiffs’ arguments to the contrary. For part (b) of these interrogatories, Household stated that because this information was not on the general ledger, it would require a computer search on a different database. Household asserted that running such a search would be unduly burdensome. Plaintiffs responded that this information should be produced despite the slight burden because this basic information, the quarterly number of loans, is relevant to the pervasiveness and materiality of these practices over time. On Interrogatory No. 6(a), the parties discussed Household’s failure to provide any information regarding discount points. On January 4, 2006, Household stated that it had such information but only as blended with origination fee information. Plaintiffs requested that Household break out the discount points from origination fees, noting that origination fees tend to be standard charges. Household expressed a concern about the difficulty because the origination fee could differ from year to year or state to state. During the subsequent telephonic discussions, Household repeatedly indicated it was still investigating this issue.

15. As to Interrogatory Nos. 9-12, which pertain to the EZ Pay Plan and to “piggyback” second loans in excess of 20%, on January 4, 2006, the parties discussed Household’s assertion that the requested information “is not maintained in this manner in the ordinary course of the Company’s business.” During this meet and confer, Ms. Best and Mr. Otto explained that this phrase means the information is not tracked as part of Household’s general ledger and that acquiring the information would require Household to run a computer search on internal databases. In order to confirm Ms. Best’s and Mr. Otto’s statements, plaintiffs requested via letter that they provide an electronic version of the list of general ledger accounts and subaccounts. This document should have been produced in response to one of plaintiffs’ prior document requests, specifically Document Request Nos. 17-18 of the First Request for Production of Documents. To date, Household has not provided plaintiffs with this document. I attach hereto a true and correct copy of this January 12, 2006 letter as Ex. 13. As to these interrogatories, plaintiffs repeatedly asked Household to identify alternative information that was available. Despite these requests and Household’s representations that it would look into the availability of alternative information, Household has never done so. As part of the discussion on these interrogatories, on January 5, 2006, plaintiffs clarified that Interrogatory Nos. 11-12 pertain only where both the first and second loan address the same real estate and where the date of the second loan was within 15 days of the date of the first loan.

16. By letter of January 12, 2006, I identified those areas where the parties did not reach agreement during our prior telephonic discussions. I received a responsive letter from Jason Otto of Cahill Gordon & Reindel LLP on January 13, 2006. I attach hereto true and correct copies of these letters respectively as Exs. 14 and 15. In Mr. Otto’s letter, he indicated that Household would be prepared to meet and confer on these issues on January 17, 2006. On the morning of January 17, 2006, I contacted Ms. Best via telephone to discuss these letters. During that conversation, I sought to establish whether the parties still had disagreements regarding Household’s responses to

Interrogatory Nos. 4-12 as detailed in my own letter. On Interrogatory No. 4, I requested that Ms. Best confirm whether Household would identify all individuals “responsible” for the described training and whether Household would identify those departments and individuals responsible for training employees in business units other than the Consumer Lending business unit. Similarly, I sought to confirm with Ms. Best that Household would commit to provide 1997 and 1998 information as requested in subpart (b) to Interrogatory Nos. 5-9. On Interrogatory No. 6(a), I requested that Ms. Best commit to Household’s production of discount point revenue information that was not blended with origination fee revenue information. As to Interrogatory Nos. 9-12, I requested that Ms. Best commit to providing responsive information. As to each of these items, Ms. Best stated that she was not in a position to commit to the provision of any of the referenced information. However, she believed that she would have further information after a conference call with her client later that day and would provide a substantive response to my request for a commitment by Household as to production of the requested information. During our discussion, I explained to Ms. Best that, in light of the passage of time from November 3, 2005, plaintiffs believed Household should have completed its investigation into these issues and that, in light of the number and length of the parties’ discussions commencing with my December 19, 2005 letter, Household’s refusal to commit was improper and would be treated by plaintiffs as a refusal to produce the information. Ms. Best stated that she understood plaintiffs’ position.

17. Following my telephonic discussion with Ms. Best on January 17, 2006, I requested via letter that she confirm that Household has already searched these archived files in response to plaintiffs’ prior document requests, which would cover documents containing responsive information. I attach hereto a true and correct copy of my January 17, 2006 letter to Ms. Best as Ex. 16. To date, Ms. Best has not responded to this request.

18. After our telephone conversation, I received an email from Ms. Best dated January 17, 2006 wherein she stated that Household was unable to provide any substantive responses on any of the issues we had discussed, but that she hoped to do so on January 18, 2006. I attach hereto a true and correct copy of Ms. Best's email as Ex. 17. By responsive email, I requested that Ms. Best try to provide the substantive responses as soon as possible. In my email, I particularly emphasized the need for responses on the disputes pertaining to Interrogatory No. 4. I attach hereto a true and correct copy of that email as Ex. 18.

19. On January 18, 2006, I received another email from Ms. Best. In that email, she again indicated her inability to provide any substantive response on any of the disputes discussed on January 17, 2006. In that email, Ms. Best expressed her belief that she could provide those responses by later that day or the following day (the 19th). I attach hereto a true and correct copy of that email as Ex. 19.

20. On January 19, 2006, I tried to contact Ms. Best via telephone to see if she had any further information as suggested in her last email. I was informed that Ms. Best was out of the office. Accordingly, I left a message for Ms. Best and for Mr. Otto, who was also unavailable at the time but in the office. Later that day, Mr. Otto contacted me via telephone and we discussed the status of the parties' disputes on the Interrogatories. Mr. Otto was unable to provide me with any additional information regarding Household's position on these disputes except to state that Household would not provide any representation that only employees within the Consumer Lending business unit received training on lending practices. Mr. Otto also stated that Household was planning on supplementing its response to Interrogatory No. 4, but could not commit to including individuals "responsible" for the training. Mr. Otto further stated that Household would not be supplementing its responses to this interrogatory on January 23, 2006, as they had previously indicated but would be doing so at the end of that week. Finally, Mr. Otto stated that Household

