
Avagliano v. Sumitomo: On Remand to the
District Court

Sumitomo Shoji America, Inc. v. Avagliano, 457
US 176 - Supreme Court 1982

12-31-1985

Defendant's Response to Plaintiff's Request for Documents of November 5, 1985

Lewis M. Steel '63

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

12/31/85

-----X	
LISA M. AVAGLIANO, et al.,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
SUMITOMO SHOJI AMERICA, INC.,	:
	:
Defendant.	:
-----X	
PALMA INCHERCHERA,	:
	:
Plaintiff,	:
	:
-against-	:
	:
SUMITOMO CORP. OF AMERICA,	:
	:
Defendant.	:
-----X	

77 Civ. 5641 (CHT)

82 Civ. 4930 (CHT)

DEFENDANT'S RESPONSES TO
PLAINTIFFS' REQUEST FOR
PRODUCTION OF DOCUMENTS
DATED NOVEMBER 5, 1985

Defendant Sumitomo Corporation of America, Inc. ("SCOA") by their attorneys, and pursuant to the Federal Rules of Civil Procedure, hereby respond to Plaintiffs' Request For the Production Of Documents, dated November 5, 1985. Documents to be produced in response to such requests are hereby designated as confidential and will be submitted to plaintiffs' counsel with all the protections for documents so designated which are specified in the confidentiality order in these actions issued by Magistrate Harold J. Raby, dated March 7, 1984.

General Objections

1) Plaintiffs' counsel throughout many of the document requests has sought documents from the period prior to December, 1974. Such requests are improper, overly broad, irrelevant and unduly burdensome in that they seek information beyond the scope of these actions. Further, plaintiffs' counsel agreed in the Stipulation and Order approved October 24, 1985 ("Stipulation") to defer requests for such documents. Document requests in this category include, but are not limited to, numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13.

2) Plaintiffs' counsel also seek documents which are redundant of prior discovery. Some of the requests seek documents previously agreed to be produced in the Stipulation, most of which has already been produced. Document requests in this category include, but are not limited to, numbers 7, 14, 19, 20 and 21.

3) Plaintiffs' counsel seek document requests for which were agreed in the Stipulation would be deferred. Document requests in this category include, but are not limited to, request numbers 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 23 and 24.

4) Many of plaintiffs' requests are over-broad, vague, indefinite, or seek irrelevant data. Document requests in this category include, but are not limited to, numbers 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 23 and 24.

5) Many of plaintiffs' requests are so broadly worded that they may appear to seek documents which are protected from disclosure by the work product, attorney-client and critical self-evaluation privileges. Document requests in this category, include numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 23 and 24.

Defendant has conducted a diligent search for all documents properly requested. If any additional documents of the type sought by any request are discovered they will thereafter be produced or an appropriate objection made.

DOCUMENT REQUESTS

1. All documents which relate in any manner to any trainee programs which were utilized to train any employees of defendant, including rotating and non-rotating staff at any level (clerical level as well as the sales, managerial, supervisory, executive, and professional levels) from April 1, 1969 to date. The documents sought under this request, include, but are not limited to those that reflect how the trainee programs came into being, who supervised the programs, which employees were in the programs, by name, title, department, and location, and designations such as rotating staff, non-rotating staff, how long the training programs were in existence, evaluations of the programs, and documents which discuss why training programs were needed and why they were terminated.

RESPONSE: Defendant does not possess any such documents which are not subject to the objections previously made.

2. All documents relating to the training, including on-the-job training, given rotating staff employees after being assigned to defendant, from April 1, 1969 to date.

RESPONSE: Defendants objections heretofore stated in General Objections Numbers 1, 4 and 5 constitute entire objections to this request. In addition, defendant believes that document request number 2 is redundant of request number one.

3. Any documents which describe or relate to any Japanese language training programs offered by defendant from April 1, 1969 to date.

RESPONSE: All documents not the subject to an objection previously made which exist either have been or will be produced.

4. All documents which evaluate, study or comment on how the defendant corporation functions and/or performs in terms of structure, management, strengths and weaknesses, personnel performance and/or meeting objectives from April 1, 1969 to date.

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 1, 3, 4 and 5 constitute objections to the entire request.

5. Any documents containing any studies of work functions at defendant, including but not limited to evaluations, job analyses, job efficiency reviews which reflect upon how rotating and/or non-rotating employees function and what work they perform from April 1, 1969 to date.

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 1, 3, 4 and 5 constitute objections to the entire request.

6. Any documents which discuss or consider the relationship of defendant's employees, including rotating and non-rotating staff, and the employees of the parent corporation, and/or reflect or discuss the interrelationship between rotating staff employees and non-rotating staff employees from April 1, 1969 to date.

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 1, 3, 4 and 5 constitute objections to the entire request.

7. Any company-wide and/or office-wide (e.g., New York) documents containing material concerning personnel performance and/or practices which in any way discuss rotating and/or non-rotating staff, from April 1, 1969 to date.

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 1, 2, 3, 4 and 5 constitute objections to the entire request.

8. Any documents which in any way deal with the question of the need for foreign language proficiency in any language for rotating and/or non-rotating staff from April 1, 1969 to date.

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 1, 3, 4 and 5 constitute objections to the entire request.

9. Any documents which in any way discuss what employees or categories of employees, including rotating and non-rotating staff, should have knowledge of Japanese customs and/or business practices from April 1, 1969 to date.

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 1, 3, 4 and 5 constitute objections to the entire request.

10. Any documents which contain any information concerning how and/or on what basis rotating staff are sent to the defendant and are reassigned away from the defendant from April 1, 1969 to date.

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 1, 3, 4 and 5 constitute objections to the entire request.

11. Any documents which discuss or reflect upon how and/or on what basis rotating staff and/or non-rotating staff receive promotions and/or different assignments while working for the defendant, from April 1, 1969 to date.

RESPONSE: Defendant has no documents not already produced for rotating staff personnel which are not the subject of a previously stated objection. The majority of such documents for non-rotating staff personnel are located in these individual's personnel files or in the general working documents of the company. Accordingly, defendant objects to the production of these documents based on the objection in General Objection Number 3. Without waiving the objections previously stated, identifiable documents for non-rotating staff personnel will be produced.

12. Any documents which discuss overall personnel or company performance by defendant from April 1, 1969 to date.

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 1, 3, 4 and 5 constitute objections to the entire request.

13. Any documents which discuss overall personnel or performance by office of the defendant (for example, New York, Los Angeles, San Francisco, etc.), or unit of defendant.

RESPONSE: Defendant's objection heretofore stated in General Objections Numbers 1, 3, 4 and 5 constitutes an objection to the entire request.

14. All documents which describe how defendant evaluates its employees, both rotating and non-rotating staff, in terms of productivity, efficiency, qualifications, performance, etc., from April 1, 1969 to date.

RESPONSE: Defendant's objection heretofore stated in General Objections Numbers 1, 2, 3, 4 and 5 constitute objections to the entire request.

15. Any documents which discuss or relate to recruiting or hiring practices for any jobs or job categories of defendant from December 1, 1974 to date.

RESPONSE: As this request pertains to recruitment and hiring, defendant's objection heretofore stated in General Objections Numbers 4 and 5 constitute objections to the entire request.

16. Any advertisements of any nature utilized by the defendant from December 1, 1974 to date by which the defendant has sought candidates for employment for any job.

RESPONSE: As this request pertains to recruitment, defendant's objection heretofore stated in General Objection Number 4 constitutes an objection to the entire request.

17. Any job postings and/or other notifications to employees which defendant has posted at any of its places of business or distributed in any manner to any of its employees which announce job openings and/or promotional opportunities from December 1, 1974 to date.

RESPONSE: Without waiving any objections previously stated no documents relating to postings, openings and/or notification of promotional opportunities exist.

18. Any documents which contain information about any women who sought employment at defendant from December 1, 1974 to date, but who did not receive employment.

RESPONSE: As this request pertains to recruitment, defendant's objection heretofore stated in General Objections Numbers 4 and 5 constitute objections to the entire request.

19. Any documents which discuss or relate to how the defendant places a new employee, whether on rotating or non-rotating staff in his or her initial assignment, from December 1, 1974 to date.

RESPONSE: Defendant's objection heretofore stated in General Objections Numbers 2 and 5 constitute objections to the entire request.

20. Any document which relates to or discusses how any employee of defendant, whether rotating or non-rotating staff, may obtain a promotion or transfer after becoming an employee of the defendant, from December 1, 1974 to date.

RESPONSE: Defendant's objection heretofore stated in General Objections Numbers 2 and 5 constitute objections to the entire request.

21. Any document which contains information about any female employees, from December 1, 1974 to date, who sought, but did not receive, promotions, including, but not limited to, jobs above the clerical level.

RESPONSE: Defendant's objection heretofore stated in General Objections Numbers 2 and 5 constitute objections to the entire request.

22. Any documents, including, but not limited to, agreements, contracts, or pledges which the defendant entered into from December 1, 1974 to date with the Office of Federal Contract Compliance of the United States Government or with any state or local governmental unit performing the same or similar function to the Federal Contract Compliance Office.

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 3, 4 and 5 constitute objections to this entire request.

23. Any document which discusses and/or analyzes the defendant's purchasing, brokering and/or trading activities in the United States from December 1, 1974 to date (for example, which indicates the volume or percentage of the defendant's business which is based upon making domestic purchases in the United States).

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 3, 4 and 5 constitute objections to this entire request. Without waiving any of these objections, defendant is in the process of determining whether some documents sought by this request exist and could properly be produced without objection.

24. Any documents which discuss or analyze the disposition of goods and commodities purchased, brokered and/or traded by defendant in the United States from December 1, 1974 to date (for example, any document which gives any information as to what percentage of goods purchased in the United States are disposed of in the United States, what percentage of goods are disposed of in Japan, what percentage of goods are disposed of in other countries).

RESPONSE: Defendant's objections heretofore stated in General Objections Numbers 3, 4 and 5 constitute objections to this entire request. Without waiving any of these objections, defendant is in the process of determining whether some documents sought by this request exist and could properly be produced without objection.

Dated: December 31, 1985

SUMITOMO CORPORATION OF AMERICA

By: 

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
77 Civ. 5641 (CHT)
82 Civ. 4930 (CHT)

LISA M. AVAGLIANO, et al.,

Plaintiffs,

v.

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DATED NOVEMBER 5, 1985

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