

2-1986

## Correspondences: February 3-28, 1986

Lewis M. Steel '63

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EPSTEIN BECKER BORSODY & GREEN, P.C.

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February 3, 1986

<sup>†</sup>P.C. NEW YORK, WASHINGTON, D.C.  
AND VIRGINIA ONLY

Lewis M. Steel, Esq.  
Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America;  
Incherchera v. Sumitomo Corporation of America

Dear Mr. Steel:

This letter is in reference to our conversation concerning the confidentiality of local staff personnel records that we have produced for your review.

At the Magistrate's conference on January 23, 1986, you advised me that although the local staff documents that you received were not specifically stamped as confidential pursuant to Magistrate Raby's Confidentiality Order of November 7, 1984, you would, nevertheless, treat them as though they had been so stamped.

I appreciate your recognition of the fact that the documents produced (i.e., personnel files) clearly fall within paragraph 1(1) of the aforementioned Confidentiality Order which classifies as confidential "information, the disclosure of which would unfairly invade the privacy of [Sumitomo Corporation of America's] employees." It appears that, due to a clerical error, they were not specifically designated confidential prior to the release to you of copies. We apologize for any inconvenience our error has occasioned.

Please be assured that any further confidential material to be produced in these litigations will be designated as such pursuant to the Confidentiality Order. If you have any questions with regard to the above, please let me know.

Yours truly,

  
Gregory K. Hiestand

GKH/ln

**STEEL & BELLMAN, P.C.**

Attorneys at Law

351 Broadway, New York, New York 10013

(212) 925-7400

Richard F. Bellman  
Lewis M. Steel  
Susan Fitz

February 3, 1986

Mark Reinharz, Esq.  
Epstein Becker Borsody  
& Green, P.C.  
250 Park Avenue  
New York, New York 10171

Re: Avagliano, et al. v. Sumitomo Shoji America, Inc.  
Incherchera v. Sumitomo Corp. of America

Dear Mark:

This letter follows up on our conversation of January 30, 1986.

I would be most appreciative if you would provide me with a copy of the article written by Ron Green in the Japan Times. I believe the article was published on March 16, 1984 and the topic is compliance with American civil rights laws by Japanese companies doing business here.

Sincerely yours,

  
Lewis M. Steel

LMS:PC

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February 4, 1986

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AND VIRGINIA ONLY

Lewis M. Steel, Esq.  
Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America;  
Incherchera v. Sumitomo Corp. of America

Dear Lew:

This letter will list the various documents you requested that we photocopy regarding your requests for production of documents. As you will recall, on Friday, January 17, 1986 you and Dick Bellman examined numerous documents at our offices and selected the documents which need to be copied. These documents are:

- 1) All EEO-1 reports for the period December, 1974 to date (including worksheets);
- 2) Various documents relating to training including:
  - a) Orientation program for new rotating staff;
  - b) Non-rotating staff training program for employees in business divisions, (e.g. programs pertaining to letters of credit);
  - c) Application for approval for employees and rotating staff to attend various seminars;
  - d) Miscellaneous documents regarding previous trainees at Sumitomo Corporation of America, (Mr. Takahashi, Mr. Obana and Mr. Hojima).

In addition to the documents described above, you examined in detail on January 17, 1986 documents relating to

Lewis M. Steel, Esq.  
February 4, 1986  
Page Two

rotating staff personnel which are listed in the Stipulation and Order dated October 24, 1985 ("Stipulation"). As you will recall, these documents were produced and examined by you on December 9, 1985. The documents you have now requested copies of include:

- 1) All Notice of Personnel Change forms produced (see ¶ 2(5) of the Stipulation). These forms include both rotating and non-rotating staff;
- 2) All Notice of Personnel Change forms for New York Bulletin produced (see ¶ 2(6) of the Stipulation);
- 3) Designated Chain of Command and Assignment Charts produced (see ¶ 2(7) of the Stipulation);
- 4) The SCOA Inter-office Telephone Directory for 1985 produced (see ¶ 2(9) of the Stipulation);
- 5) One of each of the Performance Evaluation Forms for rotating staff produced (blank) (see ¶ 2(14) of the Stipulation);
- 6) All Recommendation letters for visa applications produced (see ¶ 2(16) of the Stipulation);
- 7) Designated SCOA company policy documents (employee handbooks) (see ¶ 2(17) of the Stipulation);

In addition, pursuant to your letter of January 7, 1986, we will be sending you copies of the payroll records for the last pay periods in the months of December and June, since December, 1974. At your request, we will not at this time provide you with copies of any W-2 forms.

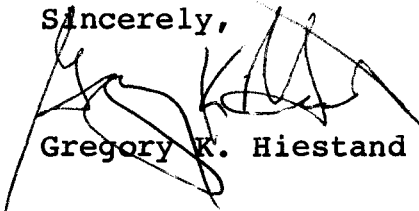
You have now requested a large amount of documents to be copied. Nevertheless, we will have these documents copied and sent to you in the near future. Finally, pursuant to the confidentiality order of November 7, 1984 defendant believes

Lewis M. Steel, Esq.  
February 4, 1986  
Page Three

that many, if not all, of the material designated herein is designated confidential.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Gregory K. Hiestand

GKH/ljh

**STEEL & BELLMAN, P.C.**

Attorneys at Law

351 Broadway, New York, New York 10013

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Richard F. Bellman  
Lewis M. Steel  
Susan Fitz

February 4, 1986

Gregory Hiestand, Esq.  
Epstein Becker Borsody  
& Green, P.C.  
250 Park Avenue  
New York, New York 10171

Re: Avagliano, et al. v. Sumitomo Shoji America, Inc.  
Incherchera v. Sumitomo Corp. of America

Dear Greg:

This letter follows up on our meeting of January 30, 1986, and deals with discovery issues as well as the translator issue.

Discovery

We are anxious to begin receiving the documents which were the subject of our meeting. We understand that certain documents will be produced in the very near future in accordance with a letter which you indicated you are in the process of writing which memorializes our requests for rotating staff documents. We do understand that your firm does have a significant task in readying documents for turn-over, in terms of numbering them, redacting certain information in accordance with the October 24, 1985 Stipulation, etc. However, we do believe that you should give us a schedule as to when you will be able to turn over certain categories of documents to us, such as EEO-1 documents, training documents, evaluation documents, pay records, staff promotion and reassignment documents, etc. The lack of a schedule is of serious concern to us as it makes it difficult for us to measure our progress and also to schedule the analysis work which must be done in this office after receipt of documents.

For example, under the October 24, 1985 Stipulation, we are entitled to all self-evaluations of the rotating staff (with the exceptions built into the Stipulation). As these documents are in Japanese, and as you are only translating a very small proportion of them, we need the remainder of the self-evaluations so that our translator can work with us on them. Each self-evaluation is only one page long, so that this project should not be time consuming. Please see our January 30, 1986 letter to Mark Reinharz in this regard.

Further, we would like a schedule with regard to when we can expect the translations of the self-evaluations we have designated, as well as the Sumitomo overseas manual which is being translated.

The Issue of Our Use of Japanese Language Translators

At our January 30 meeting, we also discussed the question as to whether the confidentiality order signed by Magistrate Raby was intended to cover our employment of Japanese language translators under paragraph 2 or under paragraph 4(a). Rather than litigate this question, we both recognized that it made sense to attempt to agree on procedures which protect SCOA's interests and to meet this firm's need to obtain translators quickly. In this spirit, I propose the following resolution.

This firm will give you notice of any person whom we intend to utilize as a translator of confidential documents which you have provided to us in this case. We will provide you with the proposed translator's name, work address, by whom he or she is presently employed and the position of the translator at said place of employment. No contact with the proposed translator's employer shall be made by SCOA or its representatives, without our prior approval. If SCOA believes that there may be a conflict of interest between our proposed translator's present employment and the translator's working on confidential Sumitomo documents, you will notify us within two business days of receipt of our notice. If you object to a particular translator, and we do not agree with your objection, defendant may seek a protective order from the Magistrate prohibiting this firm from utilizing the translator in question. As we believe that this question would be a relatively simple one for the Magistrate to decide, we would ask you to bring the issue to the Magistrate's attention immediately upon notification that we do not accept your objection and ask that the Magistrate give us the earliest possible return date. Under this agreement, we would be entitled to bring the issue to the Magistrate's attention if you do not. In the event that you do not object to our utilizing a particular translator, we will, of course, have this person sign the confidentiality form pursuant to the confidentiality order.

Frankly, I do not believe that we will have many disputes, if any, under the above provision as this firm intends to screen out prospective translators who may have conflicts of interest. As I am sure you understand, we wish to insure that the confidentiality order is not violated. The above procedure, however, provides you with a mechanism to insure that we have not overlooked a meaningful objection which you may have to our utilization of a particular person as a translator.

Please give me your thoughts with regard to the above at your earliest opportunity.

Sincerely yours,

  
Lewis M. Steel

LMS:PC



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AND VIRGINIA ONLY

February 4, 1986

Lewis M. Steel, Esq.  
Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America, Inc.  
77 Civ. 5641 (CHT);  
Incherchera v. Sumitomo Corp. of America,  
82 Civ. 4930 (CHT)

Dear Lew:

Please find enclosed personnel files that we found subsequent to our sending you copies of past nonrotating staff employee personnel files (document production nos. 100001 - 104044) and present nonrotating staff personnel files (document production nos. 104108 - 107081) for Sumitomo Corporation of America's New York office.

The following list is a breakdown of the newly discovered documents:

<u>File - Description</u>	<u>Doc. Prod. Nos.</u>
Y. Tsutsumi (present nonrotating staff-NY)	107083-107098
Temporary Employees File	107099-107124
Telex Part Timers	107125-107144
L. Dawson (past nonrotating staff-NY)	107145-107152
N. Babcock (past nonrotating staff-NY)	107153-107161
C. Fass (past nonrotating staff-NY)	107162-107171
M. Urlich (past nonrotating staff-NY)	107173-107177
L. Silveira (past nonrotating staff-NY)	107178-107191
S. Kung (former male exempt employee)	107192-107198
A. Kawano (former male exempt employee)	107199-107218
A. Knittel (former male exempt employee)	107219-107223

Lewis M. Steel, Esq.  
February 4, 1986  
Page 2

File-Description

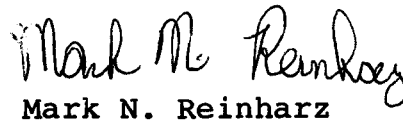
Doc. Prod. Nos.

W. Frank (former male exempt employee)	107224-107333
J. Bistreich (former male exempt employee)	107334-107397
F. Cramer (former male exempt employee)	107398-107440
I. Levish (former male exempt employee)	107441-107524
S. Cohen (former male exempt employee)	107525-107586

Thus, we are sending you a total of 503 documents. Pursuant to Paragraph 1(1), (3) of Magistrate Raby's Confidentiality Order of November 7, 1984, the enclosed are confidential. Pursuant to our previous arrangements, please forward to us, at your earliest convenience, a check in the amount of \$75.45 (503 X .15 = \$75.45) payable to Epstein Becker Borsody & Green, P.C.

Thank you.

Sincerely,

  
Mark N. Reinharz

MNR/sg  
Enclosures

EPSTEIN BECKER BORSODY & GREEN, P.C.

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February 5, 1986

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Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America;  
Incherchera v. Sumitomo Corp. of America

Dear Lew:

Enclosed please find copies of Sumitomo Corporation of America's EEO-1 reports for the period 1975 through and including 1985. For your records, this includes documents numbers 107587-108387. These records should be considered confidential pursuant to paragraph 1(1), (2) and (3) of the Confidentiality Order dated November 7, 1984.

Pursuant to our previous arrangements, please forward to us at your earliest convenience a check in the amount of \$420 (2800 x .15 = \$420) payable to Epstein Becker Borsody & Green, P.C.

Very truly yours,

*Mark N. Reinharz*

Mark N. Reinharz

MNR:pg  
Enclosures

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February 7, 1986

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AND VIRGINIA ONLY

Lewis M. Steel, Esq.  
Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America, Inc.  
77 Civ. 5641 (CHT)  
Incherchera v. Sumitomo Corp. of America  
82 Civ. 4930 (CHT)

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Dear Lew:

You have requested, in your Notice of Motion to Compel Defendant to Turn Over Documents of Its Subsidiary Corporations of January 21, 1986, that Sumitomo Corporation of America ("SCOA") produce documents that are, as we have informed you, in the possession of other corporations. As we have further discussed, there are a number of issues raised by your motion which could require excessive litigation. In order to see if there is a method by which such motion practice can be avoided, and the documents which you seek are provided in a manner which is as timely and inexpensive as possible, we are sending letters to the three corporations in possession of these documents inquiring whether they would produce the documents in response to a subpoena served directly upon them. Copies of those letters are enclosed.

In the event that we have, in any way, misstated your request, or if there is any other reason why the three corporations should not spend the time or expense necessary to consider our inquiry, please notify us at once.

Very truly yours,



Gregory K. Hiestand  
Attorney for Sumitomo  
Corporation of America

Enclosures

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February 11, 1985

\*P.C. NEW YORK, WASHINGTON, D.C.  
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Re: Avagliano v. Sumitomo Shoji America;  
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Dear Lew:

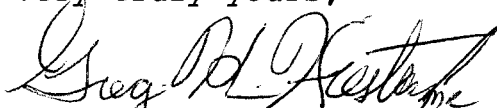
This letter is to indicate our procedure for compliance with Judge Tenney's Order of February 2, 1986 regarding the disclosure of "pertinent telephone numbers" by February 14, 1986.

We will begin producing the home telephone numbers of past and present non-rotating employees from Sumitomo Corporation of America's ("SCOA") New York office. As we discussed during our meeting on February 6, 1986, we will produce the personnel files of past and present non-rotating staff from SCOA's other offices, complete with the employees' home telephone numbers, as soon as we receive these files.

Pursuant to Magistrate Dolinger's Order of December 23, 1986, we will provide you with emergency contact information for those class members who you have been unable to contact. The Magistrate has granted you great discretion as to when to request such data. We will rely on your determination of need and we are prepared to respond promptly to such requests on a case by case basis.

It is our hope that this procedure will comply with the manner of disclosure dictated by the Court while still safeguarding the privacy interests of those designated as emergency contacts. Should you have any questions regarding the above, please contact me.

Very truly yours,

  
Gregory K. Hiestand

GKH:jsm

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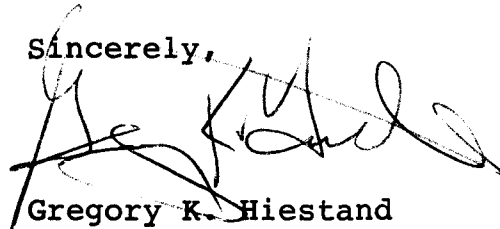
Re: Avagliano v. Sumitomo Shoji America, Inc.  
77 Civ. 5641 (CHT)  
Incherchera v. Sumitomo Corp. of America  
82 Civ. 4930 (CHT)

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Dear Mr. Steel:

I am confirming our discussion of February 4, at my office, that you have previously received copies of documents responsive to your request made in Nos. 33 and 34 of Plaintiffs' Second Set of Interrogatories and Request for Production of Documents, and in your November 5, 1985 letter. These documents were inspected by Gina Novendstern and copies requested were numbered 002138-002247. These documents were made available to you in April 1985.

Sincerely,



Gregory K. Hiestand

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Re: Avagliano v. Sumitomo Shoji America;  
Incherchera v. Sumitomo Corp. of America

Dear Lew:

This letter is to confirm our discussions on January 15, 1986, and is in response to your letter of January 6, 1986. As you will recall, that letter was in response to our letter of December 30, 1985 which in turn was a reply to your request for prior discovery requests, dated November 5, 1985.

At our meeting on January 15, 1986, we discussed a number of questions you had about our various responses to your November 5 letter. You also specified the kind of material which is of most interest to you. You agreed, however, that in all of your requests you are not seeking any material covered by the attorney-client communication or attorney work product privilege doctrines. Therefore, in responding to your requests we will not specify documents which are covered by such a privilege, nor will we indicate whether or not such documents exist. Accordingly, whenever a diligent search of our client's files reveal that no document exist, other than these covered by these privileges, we will state that "No requested documents exist."

With regard to the critical self-evaluation privilege, however, we have indicated to you that wherever such a privilege is being asserted, we will, when applicable, pursuant to Local Rule 46, attempt to list such documents to permit further discussion and possible resolution of any dispute.

Lewis M. Steel, Esq.  
February 11, 1986  
Page Two

Without waiving any of the objections listed in our letter of December 30, 1985, we wish to add the following responses. These responses will coincide with the numbering used in your letters of November 5, 1985 and January 6, 1986.

1 & 2) On January 17, 1986 we produced for inspection the EEO-1 reports for all offices of Sumitomo Corporation of America ("SCOA") and work sheets with respect thereto for the years you have requested. Copies were made available to you on February 5, 1986 and delivered on February 6. In addition, since you examined SCOA's payroll sheets on December 9, 1985 and have requested various copies of such (see your letter to Mark Reinharz dated January 7, 1986), you will be able to determine the precise number of rotating staff individuals in each particular office.

3) In addition to providing you with the company handbook, on January 17, 1986 we produced to you a number of training related or orientation materials. Included are materials used to inform and orient new rotating staff individuals, additional Japanese language training program information for non-rotating staff individuals, instructional material (mostly for non-rotating staff in the business divisions) regarding letters of credit, approval forms to go to seminars (both rotating and non-rotating staff) and miscellaneous documents relating to Mr. Takahashi, Mr. Obana and Mr. Hojima. We have also informed you that there are other documents relating to training or orientation which we have recently located but which contain information provided by our firm. This material includes information on seminars for newcomers as well as material for individuals promoted to Level 6 and above. Such documents will be produced as soon as the privileged documents are removed.

4) Many of the benefit policies you have requested were previously produced to you by Wender Murase & White. See Document numbers 000758-001016. We have agreed to provide you with any updated policies.

In addition, you have examined the medical insurance booklet (see subparagraph 2(10) of the Stipulation and Order, approved October 24, 1985) on January 17, 1986. Also, we will be providing you with a copy of the Rules for Overseas Employees which will provide additional information on this topic.

5) We will provide you with copies of these documents.



Lewis M. Steel, Esq.  
February 11, 1986  
Page Three

6) This information was produced to you on December 7, 1985. (See subparagraph 2(7) of the Stipulation.) In addition you examined this material in depth on January 17, 1986 and have requested copies.

7) Defendant will produce these documents.

8) This information was produced to you on December 7, 1985. (See subparagraphs 2(4) - 2(7) of the Stipulation.) In addition you have examined this material in depth on January 17, 1986 and have requested copies.

Interrogatory 32

SCOA has no recordings between members of the plaintiffs classes and rotating staff personnel.

Interrogatories 33 and 34

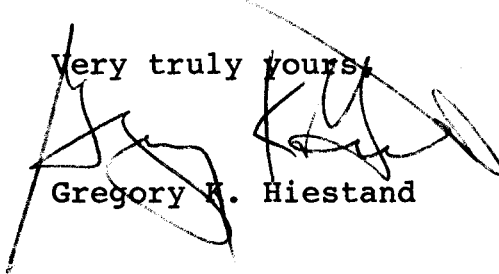
Pursuant to our conversations at our meeting on January 15, 1986 you have agreed to give us an additional 30 days to further evaluate the counterclaims and produce documents identified in the response to these interrogatories. Our review of this matter indicated that the documents indeed were produced to you in August 1984, copied, and provided to you in April 1985. They are numbered 002138-002247.

Interrogatories 35 and 36

Pursuant to our conversation at our meeting on January 15, 1986 you have agreed to give us an additional 30 days to provide you with a fuller response, and agree to discuss with us ways to provide such information which will give you usable information.

If you have any questions with respect to any part of the foregoing, please call me at your earliest convenience. It is our understanding that these responses, and our production of the above designated material at the times indicated will obviate a need for motion practice regarding these matters.

Very truly yours,

  
Gregory R. Hiestand

GKH/ljh

EPSTEIN BECKER BORSODY & GREEN, P.C.

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BY HAND

<sup>†</sup>P.C. NEW YORK, WASHINGTON, D. C.  
AND VIRGINIA ONLY

February 14, 1986

Lewis M. Steel, Esq.  
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351 Broadway  
New York, New York 10013

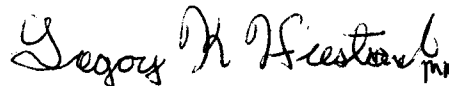
Re: Avagliano v. Sumitomo Shoji America;  
Incherchera v. Sumitomo Corp. of America

Dear Lew:

This is to confirm that pursuant to our oral conversations, you have agreed to provide us with additional time in which to prepare responses to requests numbers 35 and 36 of your second set of interrogatories and request for production of documents. As you will recall, in your letter of November 5, 1985 you asked for additional information regarding our assertions of bona fide occupational qualification and business necessity defenses.

In addition, I informed you that our response will simply be a "starting point" in asserting the bases of these defenses, as at this point in time, it is too early to set forth a comprehensive response on these matters. Please call me if you have any questions.

Sincerely,



Gregory K. Hiestand

GKH/ljh

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AND VIRGINIA ONLY

February 14, 1986

Lewis M. Steel, Esq.  
Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America;  
Incherchera v. Sumitomo Corp. of America

Dear Mr. Steel:

Enclosed please find the personnel cover sheets of past and present New York non-rotating staff employees of Sumitomo Corporation of America ("SCOA"), which include the telephone numbers, but not, as previously agreed, the emergency contact data of such individuals. These are document numbers 108388 through 108980. Pursuant to subparagraphs 1(1) and 1(3) of the Confidentiality Order of November 7, 1984, these documents shall be designated confidential.

As you know, we are in the process of gathering the non-rotating staff files from SCOA's other offices in the United States. As soon as we receive these files, we will produce the personnel information that you seek which will include the employees' home telephone numbers.

As we discussed in our meeting on February 13, 1986, we are attempting to compile a listing of home telephone numbers for the non-rotating staff employees from each of SCOA's offices in the United States. We hope to be able to forward such a list to you in approximately ten (10) days and, in any event, no later than the date we produce the personnel files from SCOA's other United States offices.

Lewis M. Steel, Esq.  
February 14, 1986  
Page Two

This is to confirm that the above procedure, in your view, complies with Judge Tenney's order regarding the production of home telephone numbers. Should you have any questions, please contact me.

Sincerely,

  
Gregory R. Hiestand

GKH/ln  
Enclosure

RECEIVED FEB 20 1986

EPSTEIN BECKER BORSODY & GREEN, P.C.

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<sup>+</sup>P.C. NEW YORK, WASHINGTON, D.C.  
AND VIRGINIA ONLY

February 14, 1986

Lewis M Steel, Esq.  
Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America, Inc. (S.D.N.Y.)  
Incherchera v. Sumitomo Corp. of America (S.D.N.Y.)

Dear Lew:

This is to record our understanding, pursuant to your request, that (i) you will withdraw plaintiffs' motion in the above-referenced cases to compel defendant to produce certain personnel documents of its subsidiary corporations, and (ii) in return, defendant will subpoena the records from these subsidiaries, which have informed us that they will comply with a proper subpoena, and share with plaintiffs the documentation produced under the Confidentiality Order applicable to discovery in these cases.

We understand that your withdrawal of the motion will be without prejudice. If you find it necessary to reinstate the motion at a later date, we will not object to it being done on an expedited basis, provided that defendant is allowed a reasonable time in which to prepare its response.

Sincerely yours,



Stanley Futterman  
Attorney for Sumitomo Corporation  
of America

cc: Y. Nakayama  
G. K. Hiestand, Esq.  
R. M. Green, Esq.

EPSTEIN BECKER BORSODY & GREEN, P.C.

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RECEIVED FEB 19 1986  
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<sup>†</sup>P.C. NEW YORK, WASHINGTON, D.C.  
AND VIRGINIA ONLY

February 18, 1986

Lewis M. Steel, Esq.  
Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America;  
Incherchera v. Sumitomo Corp. of America

Dear Mr. Steel:

Enclosed please find the personnel file cover sheets of past and present New York employees of Sumitomo Corporation of America ("SCOA"), who are members of the plaintiff classes in the above-referenced actions. These cover sheets include the telephone numbers, but not, pursuant to the Court's Order, the emergency contact data pertaining to such individuals.

The cover sheets have been stamped with discovery document numbers 108388 through 108837. Pursuant to subparagraphs 1(1) and 1(3) of the Confidentiality Order of November 7, 1984, these documents are designated and stamped "Confidential".

As you know, we are in the process of gathering the non-rotating staff files from SCOA's other offices in the United States. As soon as we receive these files, we will produce similar personnel file cover sheets for the non-New York class members.

As we discussed in our meeting on February 13, 1986, we are attempting to compile a listing of home telephone numbers of all class members. We hope to be able to forward such a list to you in approximately ten (10) days and, in any event, no later than the date we produce the personnel file cover sheets of non-New York class members.

Lewis M. Steel, Esq.  
February 18, 1986  
Page 2

We understand that the above procedure, in your view, complies with Judge Tenney's order regarding the production of home telephone numbers. Should you have any questions, please contact me.

Sincerely,



Gregory K. Hiestand

GKH/lm  
Enclosure

**STEEL & BELLMAN, P.C.**

Attorneys at Law  
351 Broadway, New York, New York 10013  
(212) 925-7400

Richard F. Bellman  
Lewis M. Steel  
Susan Ritz

February 19, 1986

Mark Reinharz, Esq.  
Epstein Becker Borsody  
& Green, P.C.  
250 Park Avenue  
New York, New York 10171

Re: Avagliano, et al. v. Sumitomo Shoji America, Inc.  
Incherchera v. Sumitomo Corp. of America

Dear Mark:

This is to confirm that on February 13, 1986 Jonathan Moore and I gave you the attached list of documents which we inspected and wanted produced. The documents in question are issues of Sumitomo Corp. News, Sumitomo Quarterly, The SCOA News, SCOA Today, Annual Reports, the Handbook for Foreign Exchange and Financing for Personnel of Overseas Offices, the Handbook for Cargo Transportation for Personnel of Overseas Offices and the Guide to Sumitomo Corp. for Personnel of Overseas Offices. I believe that the two Handbooks contain inserts in the rear covers, which we also requested.

I would be most appreciative if you have extra copies of some of these materials, for example, the Handbooks and Guides, that you could provide us with these rather than photocopies.

We have also requested that you provide us with a key to the various department and division codes which are utilized by SCOA in various records which have already been turned over to us. Generally speaking, these are three letter codes.

Sincerely,

*Lewis M. Steel*  
Lewis M. Steel

LMS:PC  
Enclosure



**STEEL & BELLMAN, P.C.**

Attorneys at Law

351 Broadway, New York, New York 10013

(212) 825-7400

Richard F. Bellman  
Lewis M. Steel  
Susan Ritz

February 19, 1986

Gregory Hiestand, Esq.  
Epstein Becker Borsody  
& Green, P.C.  
250 Park Avenue  
New York, New York 10171

Re: Avagliano, et al. v. Sumitomo Shoji America, Inc.  
Incherchera v. Sumitomo Corp. of America

Dear Greg:

This confirms our agreement to shift the date of our interview with Mr. Roberts from Thursday, February 20 to Thursday, February 27. I understand that you will have to confirm both Mr. Roberts' and Mr. Stripey's availability at that time.

We have also tentatively scheduled the depositions of Mr. Nitta and Mr. Kamajima for Wednesday, February 26 at 10 a.m. and Thursday, March 6 at 10 a.m., respectively. I understand that these dates must be confirmed. We would like to move forward, however, with the actual taking of depositions and if these dates are unavailable, we would like firm dates.

For the convenience of Mr. Nitta and Mr. Kamajima, we would agree to the taking of their depositions at your offices. Please let me know at your earliest convenience your position with regard to who should provide and pay for a translator at these depositions, as I understand that you believe a translator is necessary.

Sincerely yours,

*Lewis M. Steel*  
Lewis M. Steel

LMS:PC

**STEEL & BELLMAN, P.C.**

Attorneys at Law  
351 Broadway, New York, New York 10013  
(212) 925-7400

Richard F. Bellman  
Lewis M. Steel  
Susan Fitz

February 24, 1986

Stanley Futterman, Esq.  
Epstein Becker Borsody  
& Green, P.C.  
250 Park Avenue  
New York, New York 10170

Re: Avagliano, et al. v. Sumitomo Shoji America, Inc.  
Incherchera v. Sumitomo Corp. of America

Dear Stan:

I enclose a copy of my letter to Magistrate Dolinger with regard to the subsidiary corporations motion.

We have agreed that the subsidiary corporations will produce in response to your subpoena their analagous documents to those listed in ¶¶ 2 and 4 of the October 24, 1985 stipulation at this time. We will also receive an appropriate certification that the documents which we are receiving are complete and authentic, and may be utilized in this litigation without any objection based upon their authenticity.

We have also agreed that if we have further need of documents from the named subsidiary corporations, the same procedure will be utilized to enable us to obtain them.

I understand that you are sending out subpoenas to the various corporations which will require that the documents be produced in your offices on March 20, 1986. I further understand that you will send me copies of these subpoenas and/or notices to take depositions when they are mailed.

I trust this sets forth our agreement.

Sincerely,

  
Lewis M. Steel

LMS:PC  
Enclosure

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Attorneys at Law  
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Richard F. Bellman  
Lewis M. Steel  
Susan Ritz

February 24, 1986

Hon. Michael H. Dolinger  
United States Magistrate  
United States District Court  
Southern District of New York  
Foley Square  
New York, New York 10007

Re: Avagliano, et al. v. Sumitomo Shoji America, Inc.  
77 Civ. 5641 (CHT)  
Incherchera v. Sumitomo Corp. of America  
82 Civ. 4930 (CHT)

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Dear Magistrate Dolinger:

I am in receipt of Mr. Futterman's letter of February 14, 1986, a copy of which I understand was sent to you.

This is to confirm that plaintiffs have agreed to withdraw their motion based upon the agreement set forth in Mr. Futterman's February 14 letter, which has been further developed in a follow-up letter which I have written to Mr. Futterman, dated February 24, 1986.

Respectfully yours,

  
Lewis M. Steel

LMS:PC  
cc: Stanley Futterman, Esq.

**STEEL & BELLMAN, P.C.**

Attorneys at Law

351 Broadway, New York, New York 10013

(212) 825-7400

Richard F. Bellman  
Lewis M. Steel  
Susan Fitz

February 24, 1986

Gregory Hiestand, Esq.  
Epstein Becker Borsody  
& Green, P.C.  
250 Park Avenue  
New York, New York 10170

Re: Avagliano, et al. v. Sumitomo Shoji America, Inc.  
Incherchera v. Sumitomo Corp. of America

Dear Greg:

This letter responds to your letter of February 21, 1986. I am enclosing at your request the unstamped copies of the evaluation instructions to rotating staff personnel (in Japanese and with English translations) which you have replaced and stamped S800095-S800143.

I have also received the translation of the Overseas Handbook to Rotating Staff Personnel. With regard to this Handbook, I note on p. 51 (S800054) there is a comment that Articles 96-100 are missing. Please let me know when these Articles will be produced, or if there is a reason for their non-production, the basis of the reason.

Sincerely yours,

  
Lewis M. Steel

LMS:PC  
Enclosures

RECEIVED FEB 25 1986

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Confidential Settlement Discussions

February 24, 1986

<sup>+</sup>P.C. NEW YORK, WASHINGTON, D.C.  
AND VIRGINIA ONLY

Lewis M. Steel, Esq.  
Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America;  
Incherchera v. Sumitomo Corp. of America

Dear Lew:

This letter is in response to your questions raised during our February 6 meeting regarding the files of certain former employees of Sumitomo Corporation of America ("SCOA") who were transferred in 1980 to the Ipanema Shoe Corporation ("Ipanema"), a wholly owned subsidiary. Apparently, the obsolete personnel files of persons originally employed by SCOA were included in the production of SCOA's personnel files for "present" New York non-rotating staff.

I have checked with Mr. Nitta and he has examined the original files. He confirmed that six of the personnel files of SCOA employees who transferred in 1980 to Ipanema were retained in the same place as the personnel files of SCOA's present non-rotating staff. The files of 10 others, transferred at the same time, however, were retained among the personnel files of SCOA's former non-rotating staff. The files of all of these persons should accordingly be regarded as files of "former" SCOA employees, which were also produced to you pursuant to the Stipulation and Order of October 24, 1985.

If you have any further questions, do not hesitate to contact me.

Very truly yours,

  
Gregory K. Niestand

GKH:jsm

EPSTEIN BECKER BORSODY & GREEN, P.C.

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February 28, 1986

<sup>†</sup>P.C. NEW YORK, WASHINGTON, D.C.  
AND VIRGINIA ONLY

Lewis M. Steel, Esq.  
Steel & Bellman, P.C.  
351 Broadway  
New York, New York 10013

Re: Avagliano v. Sumitomo Shoji America;  
Incherchera v. Sumitomo Corp. of America

Dear Mr. Steel:

Enclosed please find the payroll sheets concerning rotating staff assigned to the New York and Houston offices of Sumitomo Corporation of America ("SCOA"). Pursuant to the Stipulation and Order approved by Magistrate Dolinger on October 24, 1985, these documents do not pertain to SCOA's Chairman of the Board, President, Executive Vice-President and General Managers.

The New York payroll sheets are numbered 108838-110268. The Houston payroll sheets are numbered 110269-110510. These documents are considered confidential pursuant to subparagraphs 1(1), 1(2) and 1(3) of the Confidentiality Order dated November 7, 1984 and have been so stamped.

Sincerely,

  
Gregory K. Hiestand

GKH/ln  
Enclosures