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8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 WELLS FARGO BANK, N.A., and WELLS)
12 FARGO HOME MORTGAGE, INC.,)

13 Plaintiffs,)

14 vs.)

15 DEMETRIOS A. BOUTRIS, in his official)
16 capacity as Commissioner of the California)
17 Department of Corporations,)

18 Defendant.)
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Civil Action No. S-03-0157 GEB JFM

) DECLARATION OF YOLANDA CHERRY IN
) SUPPORT OF DEFENDANT'S OPPOSITION
) TO PLAINTIFFS' MOTION FOR
) PRELIMINARY INJUNCTION

) Hearing Date: March 10, 2003
) Time: 9:00 a.m.
) Location: Courtroom 10

) **Hearing Requested**

1 I, YOLANDA CHERRY, declare as follows:

2 1. I make the following statements based on personal knowledge. If called as a witness, I
3 could and would competently testify as follows.

4 2. I have been employed by the California Department of Corporations (“Department”)
5 since September 1985. I make this declaration in my official capacity as a Department employee,
6 and not otherwise.

7 3. Since January 1999, I have been a Senior Examiner for the California Residential
8 Mortgage Lending Act (“CRMLA”) unit of the Financial Services Division of the Department. In
9 this position, my job duties include scheduling regulatory examinations of CRMLA licensees,
10 reviewing examiners’ regulatory examination reports of CRMLA licensees, keeping track of
11 correspondence between the Department and CRMLA licensees relating to regulatory examinations,
12 keeping track when CRMLA licensees file annual reports required under CRMLA including audited
13 financial statements, and training new examiners.

14 4. On or about February 4, 2003, I was assigned to analyze pertinent documents from the
15 15 Wells Fargo Home Mortgage, Inc. (“WFHMI”) loan files that were the exhibits to the
16 examination reports for WFHMI’s April 2001 regulatory examination and April 2002 follow-up
17 examination to ascertain when the per diem overcharges occurred, prior to or after the loan closing.
18 I prepared a schedule of my findings. For purposes of preparing this schedule, I assumed that the
19 closing date on the settlement statement, i.e., the HUD-1 Statement, was the date that the settlement
20 agent disbursed the funds for the borrower’s use.

21 5. Based upon this assumption, I determined that the per diem overcharges occurring in 14
22 of the 15 loans were prior to the date the funds were disbursed for the borrower’s use, i.e., the
23 closing date on the HUD-1 Statement, and were caused by early funding of the loan on the part of
24 WFHMI. The schedule that I prepared detailing my review of the 15 loans files is attached as
25 Exhibit 1 and incorporated by reference.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Los Angeles, California this 21st day of February 2003.

YOLANDA CHERRY
Declarant