

1 VIRGINIA JO DUNLAP (CA BAR NO. 142221)  
Assistant Commissioner  
2 ALAN S. WEINGER (CA BAR NO. 86717)  
Supervising Counsel  
3 JUDY L. HARTLEY (CA BAR NO. 110628)  
Senior Corporations Counsel  
4 KIMBERLY L. GAUTHIER (CA BAR NO. 186012)  
Corporations Counsel  
5 Department of Corporations  
320 West 4<sup>th</sup> Street, Suite 750  
6 Los Angeles, California 90013-2344  
Telephone: (213) 576-7604  
7 Facsimile: (213) 576-7181

8 Attorneys for Defendant

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

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

14 Plaintiffs, )

15 vs. )

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

19 Defendant. )  
20 )  
21 )

Civil Action No. S-03-0157 GEB JFM

) OBJECTIONS TO DECLARATIONS OF  
) PETER J. WISSINGER, DAVID  
) MOSKOWITZ, AND JOHN G. STUMPF IN  
) SUPPORT OF PLAINTIFFS' MOTION FOR  
) SUMMARY JUDGMENT

) Hearing Date: May 5, 2003  
) Time: 9:00 a.m.  
) Location: Courtroom 10

) **Hearing Requested**  
) [15 minutes each side]

22 Defendant, Demetrios A. Boutris, in his official capacity as California Corporations  
23 Commissioner ("Commissioner") hereby submits his Objections to the Declarations of Peter J.  
24 Wissinger, David Moskowitz, and John G. Stumpf, in Support of Plaintiffs' Motion for Summary  
25 Judgment as follows:  
26  
27  
28

**Objections to the Declaration of Peter J. Wissinger:**

Page 2, paragraph 2, lines 8 – 12. Impermissibly provides expert testimony of a lay witness that goes beyond opinions or inferences which are rationally based upon the perception of the witness. Fed. R. Evid. § 701(a).

Page 2, paragraph 3, lines 15 – 19. Impermissibly provides expert testimony of a lay witness that goes beyond opinions or inferences which are rationally based upon the perception of the witness. Fed. R. Evid. § 701(a).

Page 3, paragraph 5, lines 1 - 5. Impermissibly provides expert testimony of a lay witness that goes beyond opinions or inferences which are rationally based upon the perception of the witness. Fed. R. Evid. § 701(a).

Page 3, paragraph 5, lines 10 – 11. Impermissibly provides expert testimony of a lay witness that goes beyond opinions or inferences which are rationally based upon the perception of the witness. Fed. R. Evid. § 701(a).

Page 3, paragraph 6, line 12. Impermissibly provides expert testimony of a lay witness that goes beyond opinions or inferences which are rationally based upon the perception of the witness. Fed. R. Evid. § 701(a).

Page 3, paragraph 7, lines 16 – 17. Impermissibly provides expert testimony of a lay witness that goes beyond opinions or inferences which are rationally based upon the perception of the witness. Fed. R. Evid. § 701(a).

Page 3, paragraph 7, lines 23 – 24. Impermissibly provides expert testimony of a lay witness that goes beyond opinions or inferences which are rationally based upon the perception of the witness. Fed. R. Evid. § 701(a).

Page 4, paragraph 10, lines 11 – 20. Not relevant and therefore inadmissible. Fed. R. Evid. § 402

Page 4, paragraph 12, lines 24 – 28, Attachment 1. Hearsay. Fed. R. Evid. §§ 801(c), 802.

Page 5, paragraph 13, lines 3 – 7, Attachment 2. Hearsay. Fed. R. Evid. §§ 801(c), 802.

Page 5, paragraph 14, lines 8 - 11. Not relevant and therefore inadmissible, impermissibly provides expert testimony of a lay witness that goes beyond opinions or inferences which are

1 rationally based upon the perception of the witness. Fed. R. Evid. §§ 402, 701(a).

2 Page 5, Paragraph 15, lines 12 – 16. Lacks personal knowledge. Fed. R. Evid. § 602.

3 **Objections to the Declaration of David Moskowitz:**

4 Exhibit 1. Letter is inadmissible hearsay. Fed. R. Evid. § 802.

5 **Objections to the Declaration of John G. Stumpf:**

6 Page 2, paragraph 2, lines 6 – 11. Impermissibly provides expert testimony of a lay witness  
7 that goes beyond opinions or inferences which are rationally based upon the perception of the  
8 witness. Fed. R. Evid. § 701(a).

9 Page 2, paragraph 3, lines 12 – 16. Impermissibly provides expert testimony of a lay witness  
10 that goes beyond opinions or inferences which are rationally based upon the perception of the  
11 witness. Fed. R. Evid. § 701(a).

12 Page 3, paragraph 6, lines 8 - 9. Impermissibly provides expert testimony of a lay witness  
13 that goes beyond opinions or inferences which are rationally based upon the perception of the  
14 witness. Fed. R. Evid. § 701(a).

15 Page 3, paragraph 7, lines 10 – 16. Lacks foundation, calls for speculation and therefore the  
16 witness lacks personal knowledge, impermissibly provides expert testimony of a lay witness that  
17 goes beyond opinions or inferences which are rationally based upon the perception of the witness.  
18 Fed. R. Evid. §§ 104(a), 602, 701(a).

19 Dated: April 18, 2003

VIRGINIA JO DUNLAP (CA BAR NO. 142221)  
Assistant Commissioner  
ALAN S. WEINGER (CA BAR NO. 86717)  
Supervising Counsel

22 By: \_\_\_\_\_  
23 JUDY L. HARTLEY (CA BAR NO. 110628)  
Senior Corporations Counsel  
24 KIMBERLY L. GAUTHIER (CA BAR NO. 186012)  
Corporations Counsel  
25 320 West 4<sup>th</sup> Street, Ste. 750  
26 Los Angeles, California 90013-2344  
27 Telephone: (213) 576-7604  
28 Fax: (213) 576-7181

ATTORNEYS FOR DEFENDANT