

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

7 Attorneys for Defendant

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. )  
19 )  
20 )

Civil Action No. S-03-0157 GEB JFM

) OBJECTIONS TO DECLARATIONS OF  
) JOHN G. STUMPF AND PETER J.  
) WISSINGER IN SUPPORT OF PLAINTIFFS'  
) MOTION FOR PRELIMINARY INJUNCTION

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

21 Defendant, Demetrios A. Boutris, in his official capacity as California Corporations  
22 Commissioner ("Commissioner") hereby submits his Objections to Declarations of John G. Stumpf  
23 and Peter J. Wissinger in Support of Plaintiffs' Motion for Preliminary Injunction as follows:

24 **The Declaration of John G. Stumpf is objectionable for the following reasons:**

25 Page 2, paragraph 2, lines 8 – 11: Impermissibly provides expert testimony of a lay witness  
26 that goes beyond opinions or inferences which are rationally based upon the perception of the  
27 witness. Fed. R. Evid. 701(a).  
28

1 Page 2, paragraph 3, lines 13 – 16. Impermissibly provides expert testimony of a lay witness  
2 that goes beyond opinions or inferences which are rationally based upon the perception of the  
3 witness. Fed. R. Evid. 701(a).

4 Page 2, paragraph 4, lines 22 – 25. Contains inadmissible hearsay. Fed. R. Evid. 802.

5 Page 3, paragraph 5, lines 4 – 5. Impermissibly provides expert testimony of a lay witness  
6 that goes beyond opinions or inferences which are rationally based upon the perception of the  
7 witness. Fed. R. Evid. 701(a).

8 Page 3, paragraph 7, lines 17 – 24: Impermissibly provides expert testimony of a lay witness  
9 that goes beyond opinions or inferences which are rationally based upon the perception of the  
10 witness. Fed. R. Evid. 701(a).

11 Page 4, paragraph 8, lines 2 – 4: Impermissibly provides expert testimony of a lay witness  
12 that goes beyond opinions or inferences which are rationally based upon the perception of the  
13 witness. Fed. R. Evid. 701(a).

14 **The Declaration of Peter J. Wissinger is objectionable for the following reasons:**

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

18 Page 2, paragraph 3, lines 14 – 17. Impermissibly provides expert testimony of a lay witness  
19 that goes beyond opinions or inferences which are rationally based upon the perception of the  
20 witness. Fed. R. Evid. 701(a).

21 Page 2, paragraph 4, lines 20 – 21. Impermissibly provides expert testimony of a lay witness  
22 that goes beyond opinions or inferences which are rationally based upon the perception of the  
23 witness. Fed. R. Evid. 701(a).

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

27 Page 4, paragraph 10. Irrelevant. Fed. R. Evid. 401, 402.  
28

1 Page 5, paragraph 13, lines 8 - 10. Impermissibly provides expert testimony of a lay witness  
2 that goes beyond opinions or inferences which are rationally based upon the perception of the  
3 witness. Fed. R. Evid. 701(a).

4 Page 6, paragraph 14, lines 15 – 16. Impermissibly provides expert testimony of a lay  
5 witness that goes beyond opinions or inferences which are rationally based upon the perception of  
6 the witness. Fed. R. Evid. 701(a).

7 Pages 6 –7, paragraph 18. Irrelevant. Fed. R. Evid. 401, 402.

8 Page 7, paragraph 19, lines 8 – 9. Irrelevant. Fed. R. Evid. 401, 402.

9 Page 7, paragraph 19, lines 10 – 11: Lacks personal knowledge and impermissibly provides  
10 expert testimony of a lay witness that goes beyond opinions or inferences which are rationally based  
11 upon the perception of the witness. Fed. R. Evid. 602, 701(a).

12 Page 7, paragraph 20. Impermissibly provides expert testimony of a lay witness that goes  
13 beyond opinions or inferences which are rationally based upon the perception of the witness. Fed.  
14 R. Evid. 701(a).

15 Page 7, paragraph 20, lines 16 - 24. Calls for speculation and therefore, the witness lacks  
16 personal knowledge. Fed. R. Evid. 602.

17 Exhibits A-G. Attached to the exhibit without reference, and therefore the witness lacks  
18 personal knowledge of the documents. Fed. R. Evid. 602. Documents contain inadmissible hearsay.  
19 Fed. R. Evid. 802.

20 Dated: February 24, 2003

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

21  
22  
23  
24  
25  
26  
27  
28  

---

VIRGINIA JO DUNLAP  
320 West 4<sup>th</sup> Street, Ste. 750  
Los Angeles, California 90013-2344  
Telephone: (213) 576-7604  
Fax: (213) 576-7181

ATTORNEYS FOR DEFENDANT