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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

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