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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.)
19)
20)

Civil Action No. S-03-0157 GEB JFM

) DECLARATION OF JUDY L. HARTLEY IN
) SUPPORT OF DEFENDANT’S OPPOSITION
) TO PLAINTIFFS’ MOTION FOR SUMMARY
) JUDGMENT

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

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

21 I, JUDY L. HARTLEY, declare as follows:

22 1. I make the following statements based upon my own personal knowledge and if
23 called as a witness I could competently testify to each of them.

24 2. I am an attorney duly licensed by the State of California to practice law, and I am
25 admitted to practice in the Eastern District of California. I am a member of the Enforcement and
26 Legal Services Division of the Department of Corporations of the State of California and I represent
27 the California Corporations Commissioner (“Commissioner”) in the above-captioned case. I am also
28

1 the attorney for the Commissioner primarily responsible for the prosecution of the administrative
2 actions described in paragraph 3 below.

3 3. On February 4, 2003, the Commissioner commenced administrative proceedings to
4 revoke the residential mortgage lender and servicer license and finance lender licenses of Wells
5 Fargo Home Mortgage, Inc. (“WFHMI”). The administrative action to revoke the CRMLA license
6 of WFHMI was commenced following WFHMI’s refusal to abide with the demands of the
7 Commissioner to comply with the California Residential Mortgage Lending Act (“CRMLA”)
8 (California Financial Code § 50000 et. seq.) by conducting an audit and making refunds to
9 customers who had been overcharged per diem interest. Additionally, WFHMI expressly stated its
10 intention not to comply with the provisions of the CRMLA and the California Finance Lenders Law
11 (“CFLL”) when it filed this action. Compliance with both laws is necessary to maintaining licenses
12 thereunder. The hearing for the administrative action was scheduled for March 11, 2003 at the
13 Sacramento office of the Office of Administrative Hearings.

14 4. This Court, in its March 10, 2003 Order granting plaintiffs’ preliminary injunction,
15 specifically stated that "however, the portion of Plaintiffs’ motion seeking to preliminarily enjoin the
16 Commissioner from revoking WFHMI’s California issued licenses is denied.”

17 5. On March 11, 2003, the Commissioner, pursuant to the Court’s March 10, 2003
18 Order, proceeded with an administrative hearing on the revocation of WFHMI’s CRMLA and CFLL
19 licenses based upon the allegations contained in the accusations. The CRMLA accusation contains
20 specific allegations of the violations of the CRMLA by WFHMI during its licensure, in particular,
21 California Financial Code section 50204(o), and California Financial Code section 50204,
22 subsections (i), (j), and (k), which were based upon violations of the Truth In Lending Act.

23 6. The administrative matter was submitted for decision on March 11, 2003. A decision
24 by the Commissioner has not yet been rendered, but could possibly include findings of violations of
25 the CRMLA, in particular, California Financial Code section 50204, subsections (i), (j), (k), and (o),
26 as the Commissioner proceeded on the accusations in their entirety.

27 7. During the administrative proceedings, WFHMI objected to the proceedings as being
28 in violation of the Court’s March 10, 2003 preliminary injunction order if the Commissioner revoked

1 WFHMI's licenses for any reason other than WFHMI's claim that it was preempted from having to
2 comply with the CRMLA and/or the CFLL. A true and correct copy of the pages of the
3 administrative hearing transcript wherein WFHMI objected to the hearings as in violation of this
4 Court's March 10, 2003 Order are attached and incorporated herein as Exhibit 1.

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

7 Executed at Los Angeles, California this 16th day of April 2003.

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10 JUDY L. HARTLEY
11 Declarant
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