

BRENDA LINDLIEF HALL  
REYNOLDS, MOTL AND SHERWOOD, PLLP  
401 North Last Chance Gulch  
Helena, MT 59601  
(406) 442-3261 (telephone)  
(406) 443-7294 (facsimile)  
bllh@rmslaw.net  
*Attorney for Plaintiffs*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

\*\*\*\*\*

JENNIFER FINSTAD, MICHELLE	)	
JONES, MERIDITH	)	Cause No.: CV-09-46-CCL
MCWILLIAMS, LORI ELLIOTT,	)	
KELSEY GEORGE and GEORGIA	)	<b>REPLY SUPPORTING</b>
ARNOLD,	)	<b>PLAINTIFFS'</b>
	)	<b>MOTION TO COMPEL THE</b>
Plaintiffs,	)	<b>DEPOSITION TESTIMONY OF</b>
	)	<b>WELLS FARGO &amp; COMPANY</b>
vs.	)	<b>EMPLOYEE QUYEN CHAU</b>
	)	<b>AND COMPELLING</b>
WELLS FARGO & COMPANY, and	)	<b>DEFENDANTS TO ANSWER</b>
WELLS FARGO BANK, NA,	)	<b>PLAINTIFFS'</b>
	)	<b>INTERROGATORY NO. 14</b>
Defendants.	)	

\*\*\*\*\*

**INTRODUCTION**

COME NOW, Plaintiffs in the above-captioned matter, and respectfully submit their Reply supporting their Motion to Compel Wells Fargo & Company to answer the questions it instructed Quyen Chau not to answer and to answer

Plaintiffs' Interrogatory No. 14 requesting that Wells Fargo state "with specificity what public laws, regulations, regulatory noncompliance issues, and/or public policy violations . . . were implicated by the activity investigated in this case . . . ."

This question is pivotal to Plaintiffs' case, yet Wells Fargo is throwing up roadblocks and red herrings at every turn, refusing to answer the question, and now in briefing informing the Court that the answer to Plaintiffs Interrogatory No. 14 and to the questions posed to Quyen Chau about regulatory noncompliance issues was only with regard to fidelity bonds, citing 12 C.F.R. § 7.2013. (Def's Response Br., p. 5.) Wells Fargo also discusses Suspicious Activity Reports (SARs), indicating that it cannot answer Plaintiffs' questions because it is prohibited from discussing SARs by regulation, even though Wells Fargo raised the issue of SARs, not Plaintiffs. (*See* Def's Response to Pl's Motion to Compel, pp. 6-7; *see also* Ex. A, Chau Aug. 10, 2010 Depo., pp. 69:25 & 70:1-25, attached to Pls' Memo. Supporting Motion to Compel.) As discussed in detail in their memorandum supporting their motion to compel, Wells Fargo is not prohibited from disclosing information that may have been contained in a SAR. (*See* Pl's Memo. Supporting Motion to Compel, pp. 5-8.) Wells Fargo appears to simply be attempting to throw Plaintiffs off track and prevent them from uncovering information critical to their claims.

## ARGUMENT

The Montana Wrongful Discharge From Employment Act provides: (1) A discharge is wrongful . . . if: (a) it was in retaliation for the employee’s refusal to violate public policy or for reporting a public policy violation.” § 39-2-904(1)(a), MCA, Mont. Code Ann. The remedies section of the Wrongful Discharge From Employment Act provides: “[t]he employee may recover punitive damages otherwise allowed by law if it is established by clear and convincing evidence that the employer engaged in actual fraud or actual malice in the discharge of the employee in violation of § 39-2-904(1)(a), Mont. Code Ann.—that is for reporting a public policy violation.

Plaintiff Georgia Arnold filed an EthicsLine complaint with Wells Fargo, questioning the way her manager was asking her and the other employees, including the other Plaintiffs, to telephone Wells Fargo customers about their debit cards and how to handle debit cards that they had not activated or used. Arnolds’ EthicsLine complaint sparked an investigation, interrogations, and the termination of nine (9) women, including Plaintiffs. In trying to determine if Plaintiffs’ termination from employment by Wells Fargo was wrongful as defined in § 39-2-904(1)(a), Mont. Code Ann., Plaintiffs have taken the deposition of Wells Fargo’s senior investigative agent, Quyen Chau, the man who conducted the investigation

and interrogated Plaintiffs in this case<sup>1</sup>. Chau has been deposed twice, providing conflicting testimony in each instance. Mr. Chau initially testified on August 10, 2010 that, yes, there were regulatory noncompliance issues, and when questioned as to what those specific issues were, Wells Fargo's attorney instructed him not to answer and discussed the filing of SARs. (*See* Pls' Memorandum Supporting Motion to Compel (Doc. 43) and Ex. A Chau Depo, pp.69-71 attached thereto.) Wells Fargo again instructed Mr. Chau not to answer during the continuance of his deposition on September 9, 2010. (*See* Chau 9/09/10 depo. pp. 148:23-25, 149:1-25, and 150:1-22 attached hereto as Exhibit F.)

Wells Fargo also failed to provide a substantive answer to Plaintiffs' Interrogatory No. 14, which pointedly asked what "public laws, regulations, regulatory noncompliance issues, and/or public policy violations . . . were implicated by the activity investigated in this case and the subsequent June 2009 investigation." Wells Fargo skirted the issue by stating the obvious—that the documents, which were plainly cited for reference purposes only, did not specifically reference any public law, regulation, regulatory noncompliance issues. (*See* Ex. C attached to Pls' Memorandum Supporting Motion to Compel (Doc. 43).) Had the documents themselves indicated what laws, regulations, or policies

---

<sup>1</sup> Wells Fargo employee Scot Washington sat in on the interrogations and helped with the investigation, but Quyen Chau is the person who actually interrogated Plaintiffs.

were implicated, it would have obviated the need for Plaintiffs' to ask the question in Interrogatory No. 14 and during Mr. Chau's deposition.

Based on the foregoing, and based on Mr. Chau again being instructed not to answer when his deposition was reconvened on September 9, 2010 (*see* Ex. F, Chau 9/09/10 depo. pp. 148:23-25, 149:1-25, and 150:1-22) it appears that there were indeed public policy violations—very possibly violations of federal or state laws and/or regulations—for which all six Plaintiffs were terminated after Plaintiff Georgia Arnold filed her EthicsLine Complaint.

If Plaintiffs were terminated for the reporting of public policy violations, which based on Mr. Chau's 8/10/10 deposition testimony appears to be the case, then Plaintiffs were plainly wrongfully discharged, and Plaintiffs may be entitled to punitive damages. Yet Wells Fargo has successfully evaded providing a substantive answer by failing to properly answer Plaintiffs' Interrogatory No. 14, and by twice instructing Mr. Chau not to answer. Wells Fargo now attempts to say that it has answered the question of what regulatory noncompliance issues were uncovered in the investigation into Georgia Arnolds' EthicsLine Complaint by citing to 12 C.F.R. § 7.2013:

**12 C.F.R. § 7.2013 Fidelity bonds covering officers and employees.**  
(a) *Adequate coverage.* All officers and employees of a national bank must have adequate fidelity coverage. The failure of directors to require bonds with adequate sureties and in sufficient amount may make the directors liable for any losses that the bank sustains because

of the absence of such bonds. Directors should not serve as sureties on such bonds.

It is difficult to fathom how this was an issue involved in Georgia Arnolds' EthicsLine Complaint and the ensuing investigation. (*See* EthicsLine Complaint attached hereto as Exhibit I.) Citation to this regulation appears to be a mere distraction. The issues in this case focused on Wells Fargo's manager of the Helena East Branch giving employees lists and having them contact customers about their debit cards, and proper consent and identification from customers when they were issued debit cards. (*See* Exhibit I; *see also* Exhibit G, Chau 8/10/10, Depo. pp. 68-69 stating, "It's a matter of getting customer consent. We cannot send out products to customers without talking to them, that's the issue here.")

Wells Fargo first instructed Mr. Chau not to answer deposition questions during his deposition taken August 10, 2010. Plaintiffs' counsel asked Mr. Chau "were you aware of any regulatory noncompliance issues involved in this investigation?" Mr. Chau clearly answered "Yes." Plaintiffs' counsel did not ask about Suspicious Activity Reports (SARs). (*See* Exhibit A, Chau Depo., pp. 69:25, 70:1-20, attached to Memorandum Supporting Pls' Motion to Compel, Doc. 43.) Wells Fargo raised the issue of SARs, not Plaintiffs. It is a mystery why Mr. Chau and Wells Fargo's counsel would even raise the issue of SARs when Plaintiffs' counsel did not ask about SARs and did not even know about SARs until Mr. Chau and Wells Fargo's counsel raised the issue in Mr. Chau's August 10, 2010

deposition. *See id.* Wells Fargo could have simply said there were violations of law, stated what the violations were, and not even mentioned SARs. Nonetheless, Wells Fargo stated that the issues were related to SARs, and then Mr. Chau clearly testified that “yes,” he was aware of regulatory noncompliance issues.

During the continuance of Mr. Chau’s deposition, however, Mr. Chau changed his testimony, stating he was not aware of any regulatory noncompliance issues, but he brought up the issue of SARs again. When asked if he was aware of any regulatory noncompliance issues involved in this investigation, Mr. Chau testified “It has to do with the SAR reporting . . . (Ex. F, Chau Depo., p. 150:1-6.) It was Wells Fargo, not Plaintiffs, who first raised the issue of SARs during the August 10, 2010 Chau deposition, and Wells Fargo’s senior investigative agent who again raised the issue during the continuance of his deposition on September 9, 2010. But the SAR issue aside, we now have conflicting testimony from Mr. Chau.

And more importantly, Wells Fargo did not properly answer, nor has it properly supplemented its Answer, to Plaintiffs’ Interrogatory No. 14. Based on the two depositions of Mr. Chau wherein Wells Fargo’s counsel instructed Mr. Chau not to answer questions, Plaintiffs do not think they will get anywhere taking Mr. Chau’s deposition again. Wells Fargo’s legal counsel has twice instructed Mr. Chau not to answer questions, and was frustrating the continuance of Mr. Chau’s

deposition taken on September 9, 2010, instructing Mr. Chau again not to testify, and when Plaintiffs' counsel introduced the text of the Electronic Funds Transfer Act (Act) and its implementing regulations as a deposition exhibit and attempted to question Mr. Chau about the Act and its implementing regulations, Wells Fargo's counsel asked: "Do you want him to read this entire document right now?"

Plaintiffs' counsel responded "No, I'm going—," and before she could continue Wells Fargo's counsel interrupted saying:

"Let me tell you. He has not read this document; he has not gone through Regulation E; he has not discussed with anybody. His knowledge it is pretty much what you've already asked him. I'm going to object to every question to the extent that it requires a legal conclusion, but I'm not going to have him—[.]"

(Ex. F, p. 154:15.) At that, point, wholly exasperated with Wells Fargo's counsel frustrating the taking of Mr. Chau's deposition, and with the now conflicting testimony, Plaintiffs' counsel said "Okay. We're done. This deposition is concluded. Thank you." (Ex. F, p. 154:8-23.) By that time, it was clear that Wells Fargo's counsel was not going to be cooperative, and that Plaintiffs' counsel was running into a wall with regard to taking Mr. Chau's deposition. Plaintiffs have already expended extensive resources attempting to get to the bottom of the regulatory noncompliance issues that are implicated in this case. Incurring any further expense by continuing with a deposition that was being frustrated and interrupted at every turn was untenable. As the Court can see from the excerpts of

Mr. Chau's September 9, 2010 deposition, Wells Fargo's counsel testified and spoke more than Mr. Chau. (*See generally* Ex. F.) Wells Fargo's counsel again instructed Mr. Chau not to testify: "Quyen, just so we're clear, you are not to speak specifically to any SAR issues in this case or any other specific case of Wells Fargo . . ." (*See* Wells Fargo's Response Br. at 3.) Wells Fargo's counsel also clearly interrupted and impeded the deposition. (Ex. F, pp. 143-144, 148, 150-54.)

But Wells Fargo itself raised the issue of SARS, and more importantly, 31 U.S.C. § 5318(g) **does not prohibit Wells Fargo from disclosing information contained in SARs**. It only prohibits Wells Fargo from disclosing that SARs themselves have been filed, and the prohibition only applies in certain circumstances. 31 U.S.C. § 5318(g). Plaintiffs thoroughly discussed this issue in their Memorandum supporting their Motion to Compel, at pp. 5-8. Wells Fargo appears to be purposefully obstructing Plaintiffs from obtaining information by relying on SAR regulations as a basis for instructing Mr. Chau not to answer, when there is not legal authority prohibiting Mr. Chau from testifying. He did not need to say that there were SARs filed. He only needed to state what regulatory noncompliance issues were revealed during the investigation of Plaintiffs that arose from Georgia Arnold filing an EthicsLine Complaint.

Tellingly, however, Mr. Chau testified in his August 10, 2010 deposition and during the continuance of his deposition on September 9, that customer

consent was the primary concern in this case. When Mr. Chau was asked, “So this wasn’t a matter of getting sales credit,” he stated: “**It’s a matter of getting customer consent. We cannot send out products to customers without talking to them, that’s the issue here.**” (See 8/10/10 Chau Depo. p. 69:8-12, attached as Ex. A to Pls’ Memo. Supporting Motion to Compel Chau Testimony and Answer to Interrog. No. 14 (emphasis added).) The Electronic Funds Transfer Act, and regulation 12 C.F.R. § 205.5 controls when and how banks may issue “access devices” such as debit cards. Debit cards are defined as “access devices” under 12 C.F.R. § 205.2(a)(1). 12 C.F.R. § 205.5 provides:

(a) *Solicited issuance.* Except as provided in paragraph (b) of this section, a financial institution may issue an access device to a consumer only:

- (1) In response to an oral or written request for the device; or
- (2) As a renewal of, or in substitution for, an accepted access device whether issued by the institution or a successor.

(b) *Unsolicited issuance.* A financial institution may distribute an access device to a consumer on an unsolicited basis if the access device is:

- (1) Not validated, meaning that the institution has not yet performed all the procedures that would enable a consumer to initiate an electronic fund transfer using the access device;
- (2) Accompanied by a clear explanation that the access device is not validated and how the consumer may dispose of it if validation is not desired;

(3) Accompanied by the disclosure required by §205.7, of the consumer's rights and liabilities that will apply if the access device is validated; and

(4) Validated only in response to the consumer's oral or written request for validation, after the institution has verified the consumer's identity by a reasonable means.

12 C.F.R. § 205.5. In this case, Plaintiffs' manager was printing out lists and giving them to Plaintiffs and making them place telephone calls to the customers telling them they would send them new debit cards when the customer had not activated or used the originally issued debit card. Clearly, the issue that Plaintiff Georgia Arnold complained of in her EthicsLine complaint was that her supervisor was making them call and issue unsolicited access devices that had already been validated by Wells Fargo, that were not accompanied by the disclosures required in § 205.7, and that were not "validated only in response to the consumer's oral or written request for validation, after the institution has verified the consumer's identity." 12 C.F.R. § 205.5.

On September 9, when Plaintiffs' counsel attempted to elicit more specific information about this case, about the consent issue raised by Mr. Chau on August 10, 2010 and specifically implication of the Electronic Funds Transfer Act and its implementing regulations, Wells Fargo's counsel made it clear that he would object and would not even let Plaintiffs' counsel ask the questions without interrupting. (See Exhibit F, Chau Depo. pp 152:13-15, 153:1-25, 154:1-25, 155:1-

25, 156:1-7.) Wells Fargo's counsel clearly instructed Mr. Chau not to testify, impeded the intended line of question regarding the Electronic Funds Transfer Act, and Plaintiffs' counsel therefore ended the deposition.

Plaintiffs do not wish to incur any further expense or expend addition time in again trying to elicit testimony from Mr. Chau. But Wells Fargo has not been forthcoming, has not answered Plaintiffs' Interrogatory No. 14, and there are pivotal questions in this case that Wells Fargo is refusing to answer. Plaintiffs deserve to have Interrogatory No. 14 properly answered in a forthright manner.

WHEREFORE, Plaintiffs respectfully request that Wells Fargo be compelled to answer Plaintiffs' Interrogatory No. 14 and specifically state what public laws, regulations, regulatory noncompliance issues, and/or public policy violations were implicated by the activity investigated in this case and the subsequent June 2009 investigation.

RESPECTFULLY submitted this 17th day of September, 2010.

BY: /s/ Brenda Lindlief Hall  
Brenda Lindlief Hall  
REYNOLDS, MOTL AND SHERWOOD, P.L.L.P.  
*Attorney for Plaintiffs*

*CERTIFICATE OF COMPLIANCE*

Counsel for Plaintiffs hereby certifies that the foregoing Reply Memorandum Supporting Plaintiffs' Motion To Compel complies with L.R.7.1(d)(2)(A). The Memorandum, excluding the caption and Certificate of Service is 2,603 words.

BY: /s/ Brenda Lindlief Hall  
Brenda Lindlief Hall  
REYNOLDS, MOTL AND SHERWOOD, P.L.L.P.  
*Attorney for Plaintiffs*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

JENNIFER FINSTAD, MICHELLE	)	CAUSE CV-09-46-CCL
JONES, MEREDITH McWILLIAMS,	)	
LORI ELLIOTT, KELSEY GEORGE,	)	
and GEORGIA ARNOLD,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
WELLS FARGO & COMPANY, and	)	
WELLS FARGO BANK, NA,	)	
	)	
Defendant.	)	

VIDEO DEPOSITION OF QUYEN CHAU, VOLUME II

BE IT REMEMBERED, that Volume II of the video deposition upon oral examination of QUYEN CHAU, appearing by video, at the instance of Plaintiffs, was heard at the Office of Lesofski Court Reporting, 7 West Sixth Avenue, Suite 2, Helena, Montana, on the 9th day of September, 2010, beginning at the hour of 12:45 p.m., pursuant to the Montana Rules of Civil Procedure, before Laurie Crutcher, Registered Professional Reporter, Notary Public.

\* \* \* \* \*

APPEARANCES:

ATTORNEY APPEARING ON BEHALF OF THE PLAINTIFF:

MS. BRENDA LINDLIEF-HALL, ESQ  
Attorney at Law  
Reynolds, Motl & Sherwood, PLLP  
401 North Last Chance Gulch  
Helena, MT 59601

ATTORNEY APPEARING ON BEHALF OF THE DEFENDANT:

MR. OLIVER H. GOE, ESQ. (By video from  
Billings)  
Attorney at Law  
Browning, Kaleczyc, Berry & Hoven, PC  
P.O. Box 1697  
Helena, MT 59624-1697

ALSO PRESENT: Steve Schmitz (In Helena)  
Carisa Fisher (In Billings)

1 WHEREUPON, the following proceedings were  
2 had and testimony taken, to-wit:

3 \* \* \* \* \*

4 **VIDEOGRAPHER FISHER:** If you guys --  
5 actually before we get started, I like to always  
6 do a very brief little introduction here.

7 My name is Carisa, and I'm the tech here  
8 in Billings at Fisher. Obviously we're all  
9 familiar with video conferencing, but I'd like to  
10 remind everybody how it works in a deposition.

11 It's very, very important to wait and  
12 not talk over each other, particularly for the  
13 Court Reporter, because it can cut out crucial  
14 yeses, and nos, and that kind of things. If you  
15 step on each other, those will not come through,  
16 and it's very important to catch all of those. So  
17 if you could just take a breath, and really let  
18 each other finish completely, even if you're  
19 anticipating what your answer is going to be,  
20 that's very important.

21 The other thing I like to say is it is  
22 technology, so depending on certain connections  
23 and equipment, things happen on occasion. If that  
24 should happen, don't fret. We take a very quick  
25 break, and redial. So just make sure you let your

I N D E X

3	WITNESS	PAGE
4	QUYEN CHAU	
5	Examination (Continued) by Ms. Lindlief-Hall	143

E X H I B I T S

11	Exhibit No.	Marked:
12	Exhibit No. A-3 . . . . .	157

1 techs know if something should happen. It's  
2 better to adjust any issues right away versus  
3 fight with them and struggle with them.

4 So with that said, we may proceed.

5 **MR. GOE:** I will stipulate that this is  
6 a continuation of the deposition that began  
7 previously on August 10th, 2010; that Mr. Chau is  
8 under oath; and the specific purpose of the  
9 deposition is to address the regulatory issues for  
10 which objections were made and which were later  
11 part of a motion to compel.

12 **MS. LINDLIEF-HALL:** So with that, I  
13 guess we can get started.

14  
15 QUYEN CHAU,  
16 Appearing by video having been first duly sworn,  
17 was examined and testified as follows:

18  
19 **EXAMINATION**  
20 **BY MS. LINDLIEF-HALL:**

21 Q. Good afternoon, Quyen. We met  
22 previously, but just for the record, again, my  
23 name is Brenda Lindlief-Hall, and I represent the  
24 Plaintiffs in this matter. And as has already  
25 been discussed, this is a continuation of your

1 deposition from August 10th of this year, August  
 2 10th of 2010.  
 3 The reason for this continuance is that  
 4 Wells Fargo's attorney instructed you not to  
 5 answer a couple of questions, and under the  
 6 Federal Court rules, I have a right to have those  
 7 questions answered. And so as you know, you are  
 8 under oath here today, and this is being  
 9 videotaped. This deposition, like your other  
 10 deposition, may be used in a court of law at trial  
 11 in this matter or another proceeding.  
 12 And I think that the person at Fisher  
 13 Court Reporting already went through the rules,  
 14 groundrules, well enough about letting one person  
 15 finish talking before the other one starts, and so  
 16 I'll just go ahead with that, and ask you for the  
 17 record to please state your name.  
 18 **A. Quyen Chau.**  
 19 Q. Could you please spell that?  
 20 **MR. GOE:** Brenda, before you proceed any  
 21 further, I don't totally agree with your  
 22 introductory comments. Wells Fargo is maintaining  
 23 any objections and all objections it has to  
 24 questions relating to SARs, whether or not a SAR  
 25 was produced in this case, whether or not the

1 what my questions specifically were. So I asked  
 2 you --  
 3 **MS. LINDLIEF-HALL:** And Ollie, this is  
 4 at Page 69 of his deposition that I'm starting at.  
 5 It will be Pages 69 through 70 primarily.  
 6 **MR. GOE:** Thank you.  
 7 Q. (By Ms. Lindlief-Hall) And so Quyen, I  
 8 asked you: "If a Wells Fargo employee orders a  
 9 debit card on a joint account, and doesn't get the  
 10 customer consent, do they get sales credit?" And  
 11 your answer was, "Yes, they would."  
 12 I then asked, "Would they get sales  
 13 credit if they had obtained consent?" and you  
 14 said, "Yes, they would."  
 15 And then I asked, "So this wasn't a  
 16 matter of getting sales credit then?" and your  
 17 answer was, "It's a matter of getting customer  
 18 consent. We cannot send out products to customers  
 19 without talking to them. That's the issue here."  
 20 I then asked, "Why can't you do that?,"  
 21 and your answer was, "You can't order product  
 22 without customer consent. That's the policy  
 23 that's set forth by the company."  
 24 And I asked you, "Are there any banking  
 25 regulations that govern customer consent for

1 reasons for why a SAR may have been produced  
 2 specific to this case, or the reverse, why one  
 3 might have been not prepared and provided. We are  
 4 maintaining all of the objections that we  
 5 previously had relating to SAR issues.  
 6 It is my understanding from our  
 7 discussions earlier that the scope of this  
 8 deposition would be related to the regulatory  
 9 non-compliance issues involved in this case, and  
 10 what Mr. Chau meant by that.  
 11 **MS. LINDLIEF-HALL:** That is correct, and  
 12 for the record, I did not ask during Mr. Chau's  
 13 previous deposition or at any time about SARs, and  
 14 so I do not intend to ask about SARs. I have not  
 15 and I do not intend to.  
 16 Q. (By Ms. Lindlief-Hall) And so Quyen,  
 17 would you please for the record spell your name.  
 18 **A. Sure. It's Quyen, Q-U-Y-E-N; last name**  
 19 **Chau, C-H-A-U.**  
 20 Q. Thank you. And Quyen, during your  
 21 deposition of August 10th, 2010, I asked you some  
 22 specific questions, and I'm just -- so that we can  
 23 proceed from there and have an understanding, I'm  
 24 just going to read from the transcript of that  
 25 deposition, what led up to my questioning, and

1 products?," and you answered, "Not that I'm aware  
 2 of."  
 3 And I then asked, "What about any  
 4 banking regulations that require customer consent  
 5 for issuing or selling them products that have  
 6 fees attached?," and you answered, "I'm sure there  
 7 are, but not that I'm aware of."  
 8 I then asked, "Were you aware of any  
 9 regulatory compliance issues involved in this  
 10 case?," and then you said, "Please expand that."  
 11 I then asked, "Well, if you look at --  
 12 and let me find the exhibit number, if you'll bear  
 13 with me here -- Exhibit No. 7, Wells Fargo  
 14 document 1489," and then you said "Yes."  
 15 "Have you seen this document?," and you  
 16 said "Yes."  
 17 And then I said, "At the bottom, it  
 18 says, 'Due to possible regulatory noncompliance  
 19 issues,'" and then it goes on and contains more  
 20 information.  
 21 Then I asked, "Do you have any idea what  
 22 the regulatory non-compliance issues in this case  
 23 were?" You responded that you didn't prepare the  
 24 document.  
 25 I then asked you, "So were you aware of

1 any regulatory non-compliance issues involved in  
2 this investigation?," and your response was "Yes."

3 **MR. GOE:** Brenda, just to go back there,  
4 I think you paraphrased one of his answers. "I  
5 didn't prepare this document. Therefore I don't  
6 know what Tom, Mr. Fox, was talking about."

7 **MS. LINDLIEF-HALL:** That's right. Thank  
8 you.

9 Q. (By Ms. Lindlief-Hall) And then I asked  
10 you, "So were you aware of any regulatory  
11 non-compliance issues involved in this  
12 investigation?," and your response was yes.

13 And I then asked, "And what were the  
14 regulatory non-compliance issues involved?"

15 At that point, your attorney -- Wells  
16 Fargo's attorney. Excuse me -- Christy McCann  
17 instructed you not to answer. She objected, and  
18 then instructed you not to answer. So I'm posing  
19 that question to you again today, Quyen.

20 What were the regulatory non-compliance  
21 issues involved in this investigation and in this  
22 case?

23 **MR. GOE:** Quyen, just so we're clear,  
24 you are not to speak specifically to any SAR  
25 issues in this case or any other specific case of

1 Q. So Quyen, when I asked you back on  
2 August 10th, "Were you aware of any regulatory  
3 non-compliance issues involved in this  
4 investigation?," and you said yes, what did you  
5 mean?

6 **A. It has to do with the SAR reporting that  
7 is governed by -- that's my responsibility. That  
8 is my department's responsibility of the SAR  
9 reporting.**

10 Q. But there were SARs filed in this case?

11 **MR. GOE:** Objection, and advise him not  
12 to answer. Instruct him not to answer.

13 **MS. LINDLIEF-HALL:** I understand.

14 Q. (By Ms. Lindlief-Hall) Why would there  
15 be a SAR filed in this case if there were no  
16 suspected violations of the federal law, if there  
17 was no suspicious transaction related to money  
18 laundering, or a violation of the Bank Secrecy  
19 Act?

20 **MR. GOE:** Objection, and instruct him  
21 not to answer. You've already said you wouldn't  
22 ask anything specific about SARs in this case.

23 **MS. LINDLIEF-HALL:** And I wasn't asking  
24 about the SARs.

25 **MR. GOE:** That was part of the

1 Wells Fargo, but you can generally answer that  
2 question.

3 **THE WITNESS:** Okay.

4 **A. Every case that comes to investigation,  
5 there is a potential SAR reporting that we need to  
6 file, and it all depends on the case.**

7 Q. (By Ms. Lindlief-Hall) If we can -- I  
8 don't want to know about SARs. I'm just wanting  
9 to know in this specific case if there were any  
10 regulatory non-compliance issues. Did the  
11 activity that the Plaintiffs in this case were  
12 terminated for, was that activity a violation of  
13 any federal laws or regulations?

14 **A. I'm not aware of that.**

15 Q. So when I say, "Were there any  
16 regulatory non-compliance issues?," then are you  
17 saying that you don't know if there were any  
18 violations of any public laws or regulations?

19 **A. That is correct.**

20 Q. So to the best of your knowledge, there  
21 were no suspected violations of any federal laws?

22 **A. That is correct.**

23 Q. And no violations of any federal  
24 regulations?

25 **A. Again, that is correct.**

1 agreement.

2 **MS. LINDLIEF-HALL:** Yes, it was.

3 **MR. GOE:** You asked him about this case.

4 **MS. LINDLIEF-HALL:** I'm asking him about  
5 this case, and I'm asking why there would -- now  
6 he's not going to answer -- why he'd said there  
7 was a regulatory non-compliance issue, why he  
8 answered yes, and why there would be a SAR  
9 reported, when clearly those are the only reasons  
10 under which one would be filed.

11 **MR. GOE:** Brenda, I tried to explain  
12 this earlier, and while I can't speak for Mr.  
13 Chau, but just to try to clear up any confusion,  
14 the only regulatory non-compliance issue that he  
15 was looking at, or -- yes -- the regulatory  
16 non-compliance issues he was looking at was  
17 whether or not he would have to file a SARs.

18 Is that accurate, Quyen?

19 **THE WITNESS:** That is correct.

20 **MS. LINDLIEF-HALL:** Okay. Then I'm  
21 going to move on.

22 **MR. GOE:** So every case he gets -- well,  
23 never mind. Go ahead.

24 **MS. LINDLIEF-HALL:** All right. I'm  
25 going to move on.

1 Q. (By Ms. Lindlief-Hall) Quyen, are you  
2 familiar with the Electronic Funds Transfer Act?

3 A. **Not completely.**

4 Q. But are you familiar with some of it?

5 A. **Yes.**

6 Q. Can you please describe to me your  
7 familiarity with the Electronic Funds Transfer  
8 Act. What do you know about it?

9 A. **If a customer has an unauthorized  
10 transaction out of his or her account, they could  
11 go file a claim with the bank basically saying, "I  
12 did not do this transaction."**

13 Q. So I want to tie that in specifically,  
14 though, the Electronic Funds Transfer Act, to this  
15 case, and to the Epic line complaint that Georgia  
16 Arnold filed, and to the reasons that the women in  
17 this case were terminated. Were any of those  
18 activities prohibited under the Electronic Funds  
19 Transfer Act or the regulations promulgated by the  
20 OCC or the Federal Reserve Board?

21 **MR. GOE:** I will object first to the  
22 extent that it requires Mr. Chau to provide a  
23 legal opinion and analysis. He can answer to the  
24 best of his ability.

25 A. **I don't look into that on this case. If**

1 **MS. LINDLIEF-HALL:** It's A-3.

2 **MR. GOE:** A-3. I'm sorry. I missed  
3 what you said at the beginning there. And I did  
4 provide Mr. Chau with the documents that you asked  
5 me to provide him, and he did bring it with him,  
6 so he's got it there.

7 **MS. LINDLIEF-HALL:** Okay. Good.

8 Q. (By Ms. Lindlief-Hall) So Quyen, if you  
9 would please look at those documents, and in  
10 particular look at 15 USC 1693a, Definitions.

11 A. **(Complies)**

12 **MR. GOE:** Do you want him to read this  
13 entire document right now?

14 **MS. LINDLIEF-HALL:** No, I'm going --

15 **MR. GOE:** Let me tell you. He has not  
16 read this document; he has not gone through  
17 Regulation E; he has not discussed with anybody.  
18 His knowledge of it is pretty much what you've  
19 already asked him. I'm going to object to every  
20 question to the extent that it requires a legal  
21 conclusion, but I'm not going to have him --

22 **MS. LINDLIEF-HALL:** Okay. We're done.  
23 This deposition is concluded. Thank you.

24 **MR. GOE:** So we're done with the  
25 deposition?

1 **I have any question with regard to any regulatory  
2 issue, I would go in-house to one of our  
3 attorneys, and have them respond to that question.**

4 Q. (By Ms. Lindlief-Hall) And so you did  
5 not believe that there were any violations of the  
6 Electronic Funds Transfer Act in this case; is  
7 that what you're saying?

8 **MR. GOE:** I'd object. That misstates  
9 his testimony.

10 A. **Again, I did not look into Reg. E when  
11 we investigated this case.**

12 **MS. LINDLIEF-HALL:** And so I would like  
13 to just kind of walk through the Electronic Funds  
14 Transfer Act and Regulation E. I would like to  
15 have 15 USC 1693a, and then regulations  
16 12 CFR 205.2, 205.3, 205.4, 205.5, 205.6, and  
17 205.67 admitted as exhibit -- I believe we are at  
18 A-3.

19 **MR. GOE:** Where are we at? I'm sorry.

20 **MS. LINDLIEF-HALL:** We're at Exhibit  
21 A-3.

22 **MR. GOE:** What did --

23 **MS. LINDLIEF-HALL:** It's 15 USC 1693a.

24 **MR. GOE:** No, I got that part. I was  
25 wondering what the exhibit number is.

1 **MS. LINDLIEF-HALL:** We are done with the  
2 deposition. That's it. I was going to ask him a  
3 few questions, Ollie, but if you're going to sit  
4 and object to everything, that's obstructing my  
5 ability to take a deposition, and we'll just be  
6 done. Thank you. Thank you, Quyen.

7 **MR. GOE:** Brenda, I am not obstructing  
8 you from doing this. If you want to ask him  
9 questions about this document that you have, you  
10 are more than -- you can do so, but --

11 **MS. LINDLIEF-HALL:** I know that I can,  
12 but I'm not going to sit here if you are going to  
13 object and obstruct my ability to take a  
14 deposition, Oliver.

15 **MR. GOE:** I have not done that. I will  
16 object to it to the extent that it requires him to  
17 issue a legal conclusion. I think that's a fair  
18 objection, it's an honest objection, it's one  
19 that's well recognized by the Court. He's not an  
20 attorney. You're asking him to interpret a legal  
21 document. He can do the best he can, and you can  
22 ask your questions, but I'm going to maintain my  
23 objection to every one of your questions along  
24 this line.

25 **MS. LINDLIEF-HALL:** And as the senior

United States Code of Federal Regulations

- United States Code of Federal Regulations**
- TITLE 12 C.F.R. — Banks and Banking**
- CHAPTER II — FEDERAL RESERVE SYSTEM**
- SUBCHAPTER A — BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**
- PART 205 — ELECTRONIC FUND TRANSFERS (REGULATION E)**

Page

12 C.F.R. § 205.5 Issuance of access devices.

(a) *Solicited issuance.* Except as provided in paragraph (b) of this section, a financial institution may issue an access device to a consumer only:

- (1) In response to an oral or written request for the device; or
- (2) As a renewal of, or in substitution for, an accepted access device whether issued by the institution or a successor.

(b) *Unsolicited issuance.* A financial institution may distribute an access device to a consumer on an unsolicited basis if the access device is:

- (1) Not validated, meaning that the institution has not yet performed all the procedures that would enable a consumer to initiate an electronic fund transfer using the access device;
- (2) Accompanied by a clear explanation that the access device is not validated and how the consumer may dispose of it if validation is not desired;
- (3) Accompanied by the disclosures required by §205.7, of the consumer's rights and liabilities that will apply if the access device is validated; and
- (4) Validated only in response to the consumer's oral or written request for validation, after the institution has verified the consumer's identity by a reasonable means.

Report# 805272865

WELLS FARGO

Page 1 of 2

This report is limited to those copied on the initial communication and those who have permission to access it from a designated shared file. Due to regulatory compliance requirements, further dissemination of this report is prohibited, without the prior approval of Corporate Security or the Law Department. Failure to comply may result in corrective action, including termination of employment.

**EthicsLine**

**General Information**

Caller Name: Declined Type: Not Specified	Client Name: Wells Fargo Location #: 4607 DBA: Wells Fargo Address: 2950 Prospect Ave City,State,Zip: Helena - MT 59601-9726 Country: USA Phone:	Report #: 805272865 Priority: 2 Trans #: 1 Rpt Date: 05/27/2008 Time: 12:03PM Origin: Internet
--	--	---

**Summary Information**

<b>WHO:</b>	Caller, name declined, reported CHRISTINE REISS.
<b>WHAT:</b>	Product Quality Concern
<b>WHEN:</b>	DURING WORK HOURS
<b>WHERE:</b>	SALES FLOOR

**Incident Description**

5/27/2008 12:03:00 PM - Original Call  
 Caller, DECLINED, reported my manager came to me and said she had figured a way to get customers new debits that they haven't activated and used by calling them letting them know we will send them new debits and then we mark it as lost and close it and then we go to recommendations and re-order it so we get sales credit. I won't lie but I had called on some of these but was making sure that it was misplaced lost and I feel it is a un-ethical way to get sales and when she brings me these leads I just shred because I do think it is wrong to do this just for sales. I do know she passes these leads to all employees at our branch.  
 REPORTED PARTY NAME CHRISTINE REISS IS RESPONSIBLE FOR THIS INCIDENT

How does the caller know about the incident?: Involved  
 What documentation is available?: NOT PROVIDED  
 Will it happen within the next 24 hours?: YES  
 If so, when: HELENA EAST SALES FLOOR  
 If so, where: DEPENDS ON WHO SHE GIVES THE LEADS TO??

**Product Quality Concern:**  
 If so, when? HELENA EAST SALES FLOOR  
 If so, where? DEPENDS ON WHO SHE GIVES THE LEADS TO??  
 Do you know if there are plans for this to occur again within the next 24 hours? YES

**Involved Parties**

Reported Individuals:  
 Name: CHRISTINE REISS  
 Title: STORE MANAGER

Management Notified: YES  
 Date: 05/27/2008  
 Name: RANDY RILEY  
 Title: STORE MANAGER  
 Action Taken: NO RESPONSE YET

Involved/Aware Parties : NO