

EXHIBIT 2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION**

_____))
MAYOR AND CITY COUNCIL)
OF BALTIMORE,)

Plaintiff,)

v.)

WELLS FARGO BANK, N.A.)

and)

WELLS FARGO FINANCIAL)
LEASING, INC.,)

Defendants.)
_____)

No. 1:08-cv-00062-BEL

DECLARATION OF ELIZABETH M. JACOBSON

1. I, Elizabeth M. Jacobson, hereby attest that I am over the age of eighteen and I am competent to testify with respect to the matter below.

2. In 1998, I was hired by Wells Fargo Home Mortgage as a "Home Mortgage Consultant" or loan officer. I worked for Wells Fargo Home Mortgage ("Wells Fargo") until December, 2007. After a period of time, I was promoted to Sales Manager.

3. For much of the time that I worked for Wells Fargo my office was located in Federalsburg, Maryland. I worked directly with loan applicants to make subprime loans. The geographic area that I covered was known as Region 12. This area included Northern Virginia, Baltimore, and Prince George's County, among other places. Much of my business came from referrals from Wells Fargo loan officers who were on the prime



side of the business. That means that they dealt with prime loan customers. These loan officers were known as "A reps." Many of these referrals came to me over the telephone from the A reps. Once I got the referrals, I would work directly with the loan customer to get them a subprime loan.

4. I was very successful in making subprime loans. I received many awards from Wells Fargo for originating a very high volume of subprime loans. For several years I was the top subprime loan officer at the company. In 2004 I made more subprime loans than any other loan officer at Wells Fargo anywhere in the country. I was always one of the top three Wells Fargo subprime loan producers in the country.

5. Between 2003 and 2007 I completed approximately \$50 million in subprime loans per year. This translated to about 180 loans per year.

6. My pay was based on commissions and fees I got from making these loans. Fees and commissions were based on the size of the loan and the interest rate. In 2004, I grossed more than \$700,000 in sales commissions. In 2005 I grossed more than \$550,000 in commissions and pay. I was happy to remain a sales manager and not move any higher up at Wells Fargo because I could make more money working directly with customers to originate loans.

7. Because of the high volume of subprime loans that I made and the length of time that I worked at Wells Fargo, I learned all of the "ins and outs" of the subprime loan process at the company. I used this knowledge to find ways to qualify customers for subprime loans.

8. The commission and referral system at Wells Fargo was set up in a way that made it more profitable for a loan officer to refer a prime customer for a subprime

loan than make the prime loan directly to the customer. The commission and fee structure gave the A rep a financial incentive to refer the loan to a subprime loan officer. Initially, subprime loan officers had to give 40% of the commission to the A rep who made the referral; later on A reps received 50 basis points of the available commission. Because commissions were higher on the more expensive subprime loans, in most situations the A rep made more money if he or she referred or steered the loan to a successful subprime loan officer like me. A reps knew about my success in qualifying customers for subprime loans; as a result, I received hundreds of referrals.

9. When I got the referrals, it was my job to figure out how to get the customer into a subprime loan. I knew that many of the referrals I received could qualify for a prime loan. If I had access to Wells Fargo's loan files right now and could review these files, I could point out exactly which of these customers who got a subprime loan could have qualified for a prime loan.

10. Because I worked on the subprime side of the business, once I got the referral the only loan products that I could offer the customer were subprime loans. My pay was based on the volume of loans that I completed. It was in my financial interest to figure out how to qualify referrals for subprime loans. Moreover, in order to keep my job, I had to make a set number of subprime loans per month.

11. Wells Fargo, like any other mortgage company, had written underwriting guidelines and pricing rules for prime and subprime loans. There was, however, more than enough discretion to allow A reps to steer prime loan customers to subprime loan officers like me. Likewise, the guidelines gave me enough discretion to figure out how to qualify most of the referrals for a subprime loan once I received the referral.



12. In many cases A reps used their discretion to steer prime loan customers to subprime loan officers by telling the customer, for example, that this was the only way for the loan to be processed quickly; that there would be less paperwork or documentation requirements; or that they would not have to put any money down. Customers were not told about the added costs, or advised about what was in their best interest.

13. Once I received a referral from an A rep, I had discretion to decide which subprime loan products to offer the applicant. Most of the subprime loans I made were 2/28s. A 2/28 loan allowed the borrower to pay a lower fixed rate of interest for the first two years of the loan (the "teaser rate") and then the interest would reset periodically with the market for the remaining 28 years of the loan. These loans typically included a prepayment penalty for two or three years which ultimately made it more difficult for the borrower to refinance later out of the loan. For those loans where the prepayment penalty extended beyond the teaser rate period, the borrower would be unable to refinance her loan even after her interest rate re-set because she could not afford to pay the prepayment penalty. I know that some loan officers encouraged customers to apply for these loans by telling them that they should not worry about the pre-payment penalty because it could be waived. This was not true – the pre-payment penalty could not be waived.

14. According to company policy, we were not supposed to solicit 2/28 customers for re-finance loans for two years after we made a 2/28 subprime loan. Wells Fargo reneged on that promise; my area manager told his subprime loan officers to ignore this rule and go ahead and solicit 2/28 customers within the two year period, even though this violated our agreement with secondary market investors. The result was that Wells

Fargo was able to cash in on the pre-payment penalty by convincing the subprime customer to re-finance his or her 2/28 loan within the initial two year period. I complained to senior managers about this practice. I am not aware of any corrective action that was taken.

15. In addition to 2/28 loans, we had at least three types of low or no document subprime loan products that we marketed to customers: (1) "stated income" loans; (2) no income, no asset loans; and (3) no ratio loans. Stated income loans were ones in which the customer did not have to show what his or her income was with verifying documentation, but could merely say he or she made a certain amount of money. No income, no asset loans did not require the customer to list any employment. For a no ratio loan, the loan officer only had to put down the borrower's job title and did not have to list any income or debt-to-income ratio. Although the underwriting guidelines with respect to these products changed from time to time, loan officers always had discretion to use different compensating factors to get the customer into one of these subprime loan products. If, for example, a customer had a high credit score that would make them a good candidate for a prime loan, it was a simple matter to get them qualified for a subprime loan by telling the underwriting department that the customer did not want to provide documentation for the loan, had no source or seasoned assets, or needed to get the loan closed quickly.

16. Wells Fargo loan officers encouraged loan applicants to apply for stated income loans, no income – no asset loans, and no ratio loans because these loans had higher interest rates and fees and would allow the loan officer to receive a higher commission. Wells Fargo qualified borrowers for subprime loans by underwriting all

adjustable rate mortgage (ARM) loans, including 2/28 loans, with the assumption that the borrower would pay the teaser rate for the full life of the loan even though this lower rate only applied during the first two or three years of the loan. Wells Fargo also did not require subprime borrowers to escrow for taxes and insurance and most subprime borrowers did not.

17. There were various techniques that were used to qualify the A rep referrals for subprime loans. Each of the techniques involved taking advantage of the discretion we had in applying the underwriting guidelines. One way was to tell customers not to put any money down on the loan and borrow the entire amount, even if they could afford a big enough down payment to qualify for a prime loan. As soon as the loan was submitted without a down payment, it would "flip" from prime to subprime and a subprime loan officer would be able to get the loan qualified as a subprime loan. Another technique would be to tell the customer that the only way to get the loan closed quickly would be to submit it as a subprime loan. A third technique would be to put a person into a "stated income" loan, even if they had a W-2 statement that verified their income. By doing this, the loan was flipped from a prime to a subprime loan. I know that through some of these techniques borrowers with credit scores as high as 780 were steered into expensive subprime loans with as many as four points, even though they could have qualified for a prime loan.

18. I also know that there were some loan officers who did more than just use the discretion that the system allowed to get customers into subprime loans. Some A reps actually falsified the loan applications in order to steer prime borrowers to subprime loan officers. These were loan applicants who either should not have been given loans or who

qualified for a prime loan. One means of falsifying loan applications that I learned of involved cutting and pasting credit reports from one applicant to another. I was aware of A reps who would “cut and paste” the credit report of a borrower who had already qualified for a loan into the file of an applicant who would not have qualified for a Wells Fargo subprime loan because of his or her credit history. I was also aware of subprime loan officers who would cut and paste W-2 forms. This deception by the subprime loan officer would artificially increase the creditworthiness of the applicant so that Wells Fargo’s underwriters would approve the loan. I reported this conduct to management and was not aware of any action that was taken to correct the problem.

19. Prior to 2004, Wells Fargo did not make any effort to determine if subprime loans were being made to customers who qualified for prime loans. In 2004 a “filter” was put in place that was supposedly to help keep subprime loans from being made to prime customers. The filter did not work, and everyone knew it. There were lots of ways for loan officers to get around the filter because of the discretion that we had. If a subprime loan was flagged by the filter as one that had gone to a customer who qualified for a prime loan, the loan officer would simply give the underwriting department one of a set of stock responses, such as “the customer has no assets,” or the customer’s assets were not “sourced and seasoned.” (“Sourced and seasoned” refers to verification of where the money comes from for the down payment and whether it has been in the customer’s bank account long enough). These responses were widely used, and as soon as they were given to the underwriter, he or she would just override the filter and approve the subprime loan.



20. High ranking Wells Fargo managers knew that this practice was going on, because after about a year of these standby explanations being given, underwriters in the underwriting department were told to call the customers directly rather than contact the loan officer who was working with the customer. The loan officers quickly figured out how to work around this by warning customers that underwriters might call them and then coaching the customers about what to say. For example, customers were told that they should just tell the underwriter that they did not have much in the way of assets or documentation for their income, because otherwise the underwriter would deny their loan or force them to fill out additional paperwork to document their financials. The point was to get the customer to say whatever would allow them to qualify for a subprime loan, even if it was not true. The customers went along with this because they thought it would expedite the process of getting them the loan that they had been told was the right one for them.

21. Underwriters, like loan officers, had a financial incentive to approve subprime loans than, even if the customer could qualify for a prime loan, because they too got paid more if a subprime loan went through.

22. Wells Fargo charged higher interest rates and fees not only on its 2/28 and 3/27 subprime loans, but also on its subprime fixed-rate loans, than it did for prime loans. Subprime loan officers had discretion to decide what interest, points and fees to charge a borrower. For example, for approximately the first five years that I worked at Wells Fargo, I could charge as many points on a loan as I decided. Pricing sheets included different "add-ons" or fees that might be added to the price of the loan depending on the circumstances of the loan.

23. Federal Housing Administration (FHA) loans, like other government-insured loans, offered lower interest rates that are closer to prime rates. Subprime loan officers were required to have a subprime borrower sign a "Benefit to Borrower" Statement that stated that the borrower may qualify for a government-insured loan, but did not want it because it was too much paperwork. In fact, subprime loan officers were never trained in how to make FHA or government-insured loans. We asked for this training, but Wells Fargo refused to provide it.

24. For most of my employment, Wells Fargo did not restrict or regulate the fees that loan officers could charge. Only in 2007 did Wells Fargo begin to regulate and set the amount of fees such as processing fees and underwriting fees. Despite this regulation, subprime loan officers still had discretion to determine which fees to include as costs to the borrower and had a financial incentive to add fees because doing so increased their commission. There was always a big financial incentive to make a subprime loan wherever one could.

25. Once the subprime loan transaction with the customer was closed and we and Wells Fargo received our fees, closing costs and commissions, the loans were sold on the secondary market. This meant that Wells Fargo was no longer exposed to any risk of default or delinquency in payment on these subprime loans. In many cases, Wells Fargo continued to service these same subprime loans, and was paid a fee for doing that, but to my knowledge that did not expose the company to any risk beyond the first three months if the loans went bad. The risk of default rested with the companies that bought the loans from Wells Fargo, such as Fannie, Freddie, and Wall Street investment banks.



26. Many of the customers who were referred to me by A reps came from Prince George's County. Some came from Baltimore. I would estimate that a large majority of my customers were African American. Subprime managers joked that Prince George's County was the "subprime capitol of Maryland." I remember managers saying that they felt "so lucky to have P.G. County because it is the subprime capitol of Maryland."

27. I know that Wells Fargo Home Mortgage tried to market subprime loans to African Americans in Baltimore. I am aware from my own personal experience that one strategy used to target African-American customers was to focus on African-American churches. The Emerging Markets unit specifically targeted black churches. Wells Fargo had a program that provided a donation of \$350 to the non-profit of the borrower's choice for every loan the borrower took out with Wells Fargo. Wells Fargo hoped to sell the African American pastor or church leader on the program because Wells Fargo believed that African American church leaders had a lot of influence over their ministry, and in this way would convince the congregation to take out subprime loans with Wells Fargo.

28. I remember being part of a conference call that took place in 2005 where Wells Fargo sales managers discussed the idea of going into black churches in Baltimore to do presentations about our subprime products. Everybody on that call was a subprime loan officer. Two of the individuals on the call were branch managers. On that call we were told that we "have to be of color" to come to the presentation. The idea was that since the churchgoers were black Wells Fargo wanted the loan officers to be black. I was

told that I could attend only if I “carried someone’s bag.” The point was clear to me: Wells Fargo wanted black potential borrowers talking to black loan officers.

29. Wells Fargo also targeted African Americans through special events in African-American communities called “wealth building” seminars. At some point in 2005 before the conference call discussed above, I remember preparing to participate in a wealth building seminar that was to be held in Greenbelt, Maryland. It was understood that the audience would be virtually all black. The point of the seminar was to get people to buy houses using Wells Fargo loans. At the seminar, the plan was to talk to attendees about “alternative lending.” This was code language for subprime lending, but we were not supposed to use the word “subprime.” I was supposed to be a speaker at this seminar, but was told by the Emerging Markets manager that I was “too white” to appear before the audience. I was offended by these statements and complained to several higher ranking managers about what had been said. The company did not respond to my complaints and no action was taken.

30. Subprime loan officers did not market or target white churches for subprime loans. When it came to marketing, any reference to “church” or “churches” was understood as a code for African-American or black churches.

31. I complained many times about what I thought were unethical or possibly predatory loan practices that Wells Fargo was engaged in. Managers never took any action to respond to my concerns. In my office we morbidly joked that we were “riding the stagecoach to Hell.”

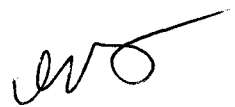
32. The culture at Wells Fargo was focused solely on making as much money as possible. Even as foreclosures were increasing in recent years, the company continued

to lavish expensive trips and gifts on successful subprime loan officers. I attended all expense paid trips to Cancun, Orlando, Palm Springs, Vancouver and the Bahamas where we were entertained by Aerosmith, the Beach Boys, the Eagles, Cheryl Crow, Elton John, Jimmy Buffett and James Taylor. When we would return to our rooms at night we would find gifts of artwork, crystal platters, steak of the month club memberships and IPODs left for us.

33. Although I did not work in the part of the company known as Wells Fargo Financial ("Financial"), I am aware that Financial did mainly re-finances, not home purchase loans. Many of Financial's loans were extremely high priced with lots of points and fees. Wells Fargo management did not allow loan officers to solicit customers with high-priced Wells Fargo Financial loans for purposes of refinancing, even though this would have been in the borrower's best interest.


34. I left Wells Fargo in December 2007 because at that time the subprime market was contracting and I was getting fewer referrals. I wanted to move from Federalsburg to Easton, Maryland, but Wells Fargo said it wasn't opening any new offices. I gave my notice to the company at that point.

35. There are many other current and former Wells Fargo employees who have knowledge of the practices that I have discussed in this Declaration and, if compelled to testify, would, I believe, agree with what I have said. Many current and former Wells Fargo employees may well be reluctant to come forward voluntarily to tell what they know for fear of retaliation, reprisal or other actions that could adversely affect their future careers in the lending industry.



I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

EXECUTED WITHIN THE UNITED STATES ON: April 20, 2009

BY: 
Elizabeth M. Jacobson