IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
	)	
v.	)	
	)	
WELLS FARGO BANK, NA,	)	
	)	
	)	
Defendant.	)	
	)	

COMPLAINT

The United States of America alleges:

INTRODUCTION

1. The United States brings this action against Wells Fargo Bank, NA ("Wells Fargo" or "the Bank") for discriminating against more than 34,000 African-American and Hispanic borrowers in the operation of its residential mortgage lending. The action is brought under the Fair Housing Act (FHA), 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691-1691f, to redress the discrimination based on race and national origin that Wells Fargo engaged in from at least 2004 to 2009, during the mortgage boom.

2. As a result of Wells Fargo's policies and practices, between 2004 and 2008, approximately 4,000 qualified African-American and Hispanic wholesale borrowers, who received Wells Fargo loans through mortgage brokers, received subprime loans rather than prime loans from Wells Fargo because of their race or national origin, not based on their

creditworthiness or other objective criteria related to borrower risk. These African-American and Hispanic borrowers were placed into subprime loans, with adverse terms and conditions such as high interest rates, excessive fees, pre-payment penalties, and unavoidable future payment hikes, when similarly-qualified non-Hispanic white ("white") borrowers received prime loans. For example, between 2004 and 2008, highly qualified prime retail and wholesale applicants for Wells Fargo residential mortgage loans[1] were more than four times as likely to receive a subprime loan if they were African-American and more than three times as likely if they were Hispanic than if they were white. Conversely, during the same time period, borrowers with less favorable credit qualifications were more likely to receive prime loans if they were white than borrowers who were African-American or Hispanic.[2]

3. Additionally, between at least 2004 and 2009, approximately 30,000 African-American and Hispanic wholesale borrowers paid Wells Fargo higher fees and costs for their home mortgages than white borrowers because of their race or national origin, not based on their creditworthiness or other objective criteria related to borrower risk.

4. Wells Fargo was one of the largest single-family mortgage lenders in the United States between 2004 and 2009. Since 2008, Wells Fargo has been the largest residential home mortgage originator in the United States, and according to the Bank, now originates one out of every four mortgages in the country.

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[1] For purposes of this paragraph, highly qualified prime applicants for Wells Fargo residential mortgage loans had the following characteristics: FICO scores equal to or greater than 680, debt-to-income ("DTI") ratios less than or equal to 45% of the loan amount, loan-to-value ("LTV") ratios less than or equal to 80% of the loan amount, and no history of bankruptcy.

[2] For purposes of this paragraph, Wells Fargo borrowers with less favorable credit qualifications had the following characteristics: FICO scores between 620 and 680, DTI between 45% and 55% of the loan amount, and LTV between 80 and 90% of the loan amount.

5. Between 2004 and 2009, Wells Fargo's policies allowed its loan originators both to set the loan prices charged to borrowers and to place borrowers into loan products in ways that were not connected to a borrower's creditworthiness or other objective criteria related to borrower risk. Wells Fargo made money based on the interest rates and fees it charged to borrowers and the premiums it earned from investors to whom it sold the bulk of its loans. Wells Fargo adopted loan pricing and origination policies that allowed the personnel who originated its loans both to set the loan prices charged to borrowers and to place borrowers into loan products in ways unconnected with credit risk. Wells Fargo created financial incentives for its employees and mortgage brokers by sharing increased revenues with them.

6. For example, from at least 2004 through mid-2008, Wells Fargo frequently originated short-term hybrid adjustable-rate mortgages (ARMs). These subprime loan products typically featured a relatively low nominal interest rate, sometimes called a "teaser" rate, for the first two or three years of the loan, after which the rate adjusted to a higher rate every six or twelve months. The most common types of short-term hybrid ARMs were "2/28" loans, with interest rates resetting after two years. Borrowers with 2/28 ARM loans often faced payment shock when the rate adjusted sharply upward. Wells Fargo was aware that many of these borrowers with 2/28 ARM loans qualified for more standard loans, such as 30-year fixed rate loans or less risky ARMs with more favorable rates that did not carry pre-payment penalties.

7. Wells Fargo had information about each borrower's race and national origin. Wells Fargo also knew or had reason to know based on its own internal monitoring and reporting that its policies of giving unguided discretion to its loan originators was resulting in discrimination. For example, Wells Fargo knew that its lending policies and practices encouraged the improper placement of qualified applicants into subprime rather than prime loan products and that its A-

Paper Filter, an internal system designed to ensure that all prime-eligible borrowers were referred to the Bank's prime division, was ineffective and subject to easy manipulation. Wells Fargo's internal documents reveal that senior officials were aware of the numerous tactics that subprime originators employed to keep loans in the subprime division, and that a significant percentage of borrowers were receiving subprime loans when they could have qualified for prime loans. Wells Fargo did not act to adequately compensate borrowers who were victims of discrimination nor did it take effective action to change its policies or practices to eliminate the discrimination.

8. African-American and Hispanic customers of Wells Fargo in at least 82 geographic markets across at least 36 states and the District of Columbia were victims of Wells Fargo's discriminatory practices. Approximately 3,500 of these victims resided in the Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Statistical Area ("Washington MSA").[3] Additionally, the statistical analyses discussed below found approximately 4,500 victims in the Los Angeles MSA; approximately 4,100 victims in the Miami MSA; approximately 4,000 victims located in the New York MSA; approximately 3,200 in the Chicago MSA; approximately 2,100 in the San Francisco MSA; approximately 1,400 in the Atlanta MSA; approximately 1,300 in the Riverside MSA; approximately 1,170 in the Houston MSA; approximately 1,030 in the Philadelphia MSA; and approximately 1,000 in the Baltimore MSA.

9. The higher borrowing costs that Wells Fargo imposed on thousands of African-American and Hispanic families – whether paid as higher up-front fees, unfavorable loan products, pre-payment penalties, or otherwise – put increased economic burdens on those families. For the African-American and Hispanic families Wells Fargo placed in subprime loans when those same

[3] All references to metropolitan statistical areas ("MSAs") are based on data released from the U.S. Census Bureau in 2005.

families could have received prime loans, the economic burdens and risks, including the increased risk of delinquency or foreclosure, were particularly high. A survey of large national lenders by the Office of the Comptroller of the Currency (OCC) reported that as of June 30, 2011, 28.1% of subprime loans nationwide are seriously delinquent or in foreclosure, compared to only 5.5% of prime loans. As of June 30, 2011, Wells Fargo's overall foreclosure rate on residential mortgage loans was 7.44%. According to Wells Fargo, the highest risk segment of this portfolio is the subprime loans originated in 2006 and 2007.

10. The United States brings this lawsuit to hold Wells Fargo accountable for its violations of law and to remedy the substantial and widespread harmful consequences of Wells Fargo's discriminatory lending policies and practices.

JURISDICTION

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345, 42 U.S.C. § 3614, and 15 U.S.C. § 1691e(h). Venue is appropriate pursuant to 28 U.S.C. § 1391.

PARTIES

12. Wells Fargo is a wholly owned subsidiary of Wells Fargo & Company, one of the nation's largest bank holding companies. Wells Fargo, its principal subsidiary, is a national banking association headquartered in Sioux Falls, South Dakota, with its principal place of business in California. Wells Fargo previously was subject to the regulatory authority of the OCC. As of July 21, 2011, Wells Fargo is subject to the regulatory authority of the OCC and the Consumer Financial Protection Bureau (CFPB).

13. Wells Fargo engages in business typical of a financial depository and lending institution, including extending credit and making loans for the purchase of dwellings, and making loans secured by residential real estate. Wells Fargo offers residential home mortgages to borrowers

through its Wells Fargo Home Mortgage division. Wells Fargo Home Mortgage was a separately owned subsidiary of Wells Fargo & Company until May 5, 2004, when it was merged into Wells Fargo Bank, NA. From 2004 to 2006, Wells Fargo Home Mortgage reported total net earnings of $13.5 billion.

14. By the fourth quarter of 2004, Wells Fargo was one of the nation's top ten originators of subprime home mortgage loans. In 2006, Wells Fargo originated approximately $74.2 billion in subprime loans, more than any other lender in the nation. Wells Fargo sometimes referred to its higher-cost lending as "nonprime," rather than "subprime."

15. Wells Fargo is and has been a "creditor" within the meaning of section 702(e) of ECOA, 15 U.S.C. § 1691a(e), and has engaged in "residential real estate-related transactions" within the meaning of section 805 of the FHA, 42 U.S.C. § 3605. Accordingly, Wells Fargo is subject to federal laws governing fair lending, including the FHA and ECOA and their respective implementing regulations, the fair housing regulations of the Department of Housing and Urban Development, 24 C.F.R. § 100.1, *et seq.*, and Regulation B of the Consumer Financial Protection Bureau, 12 C.F.R. § 1002.1, *et seq.* The FHA and ECOA prohibit financial institutions from discriminating on the basis of, *inter alia*, race and national origin in their lending practices.

REFERRAL FROM THE OFFICE OF THE COMPTROLLER OF THE CURRENCY

16. In 2009, the OCC conducted an examination of the lending practices of Wells Fargo. As a result of that examination, the OCC determined that it had reason to believe that Wells Fargo engaged in a pattern or practice of discrimination on the basis of race or color, in violation of the FHA and ECOA. Specifically, the OCC found that there was reason to believe that Wells Fargo placed African-American applicants in the subprime mortgage lending channel in the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV Combined Statistical Area

("Washington CSA") more frequently than similarly-situated white applicants during the period from 2004 to 2008. Additionally, the OCC found reason to believe that, after controlling for credit factors, applicants from minority census tracts (census tracts with greater than or equal to 80% non-Hispanic African-American population) in the Washington CSA were more likely to be underwritten in the subprime channel than applicants from non-minority census tracts (census tracts with greater than or equal to 80% white population).

17. Following its determination in Paragraph 16, and pursuant to 15 U.S.C. § 1691e(g), the OCC referred the matter to the United States Department of Justice on December 14, 2010.

18. Along with the parallel OCC investigation referenced above in Paragraph 16, the Department of Justice has engaged since 2009 in an extensive investigation of Wells Fargo's lending policies, practices, and procedures, including reviewing internal Bank documents and non-public loan-level data on more than 2.7 million Wells Fargo loans originated between 2004 and 2009.

FACTUAL ALLEGATIONS

19. Between 2004 and 2009, Wells Fargo originated retail and wholesale residential home mortgage loans in numerous geographic markets in the United States, including several hundred metropolitan areas ("MSAs") as well as the less-populated areas of each state outside of MSAs.

20. From at least 2004 to 2009, Wells Fargo originated residential mortgage loans nationwide through both a retail channel and a wholesale channel. During this time period, Wells Fargo Home Mortgage was divided into two major divisions – Retail (National Consumer Lending) and Institutional Lending ("IL"), of which Wells Fargo Wholesale Lending was a business line. Within the retail channel, Wells Fargo had "Distributed Retail" and "Centralized Retail" lines. The Distributed Retail line operated as a traditional retail channel that had face-to-face contact

with customers in branch offices and originated both prime and subprime loans. The subprime division of the Distributed Retail line was known as the Mortgage Resources (MoRe) division; in early 2005, its name was changed to Home Credit Solutions (HCS). Loan officers within the Distributed Retail line were assigned to either the prime or MoRe/HCS divisions. Until the two divisions were merged in 2008, no retail loan officer originated both prime and subprime loans. The Centralized Retail line primarily handled prime loan products and operated through telephone calls and internet applications. Wells Fargo referred to both prime and subprime loan officers in its Distributed Retail and Centralized Retail lines as "Home Mortgage Consultants" or "HMCs." The same prime pricing policies applied to both the Centralized and Distributed Retail lines.

21. Through its retail and wholesale channels, Wells Fargo originated virtually every type of loan product that was available in the residential lending market. These products included: (a) traditional prime loans; (b) subprime loans, typically designed for borrowers with credit scores or other credit characteristics deemed too weak to qualify for prime loans; and (c) "Alt-A" loans, those with application requirements or payment terms less restrictive than traditional prime loan terms or requirements, such as interest-only terms, reduced documentation requirements, or balloon payments. Subsequent to origination, Wells Fargo sold or securitized for sale the bulk of the loans it originated in the secondary market, either to government-sponsored entities Fannie Mae and Freddie Mac or to private investors. On July 24, 2007, Wells Fargo announced that it would no longer originate 2/28 ARMs. On July 31, 2007, Wells Fargo ceased making subprime loans through its wholesale channel. In January 2008, the subprime sales force was integrated into the prime sales force and ceased to be a separate division within Wells Fargo Home

Mortgage. On May 16, 2008, Wells Fargo Home Mortgage closed its retail subprime loan division and originated its last subprime loan on July 9, 2008.

22. From at least 2004 through 2009, Wells Fargo applied its pricing policies on a nationwide basis, although it issued state-specific rate sheets to comply with various state requirements.

Product Placement

23. Between 2004 and 2008, Wells Fargo placed approximately 2,350 African-American and 1,650 Hispanic wholesale borrowers, as well as additional retail borrowers, into subprime loans even though white borrowers who had similar credit qualifications were placed into prime loans. As a result of being placed in a subprime loan, an African-American or Hispanic borrower paid, on average, tens of thousands of dollars more for a Wells Fargo loan, and was subject to possible pre-payment penalties, increased risk of credit problems, default, and foreclosure, and the emotional distress that accompanies such economic stress. It was Wells Fargo's business practice to allow its HMCs and mortgage brokers to place an applicant in a subprime loan even when the applicant qualified for a prime loan according to Wells Fargo's underwriting guidelines. Wells Fargo also gave its HMC's and mortgage brokers originating Wells Fargo loans discretion to request and grant exceptions to underwriting guidelines. These policies and practices resulted in the placement of African-American and Hispanic borrowers into subprime loans, when similarly-situated white borrowers were placed into prime loans, both on a nationwide basis and in dozens of geographic markets across the country where Wells Fargo originated a large volume of loans.

24. Wells Fargo's product placement monitoring efforts, while inadequate to remedy discriminatory practices against African-American and Hispanic borrowers through 2008, were sufficient to put it on notice of widespread product placement disparities based on race and

national origin. Even when Wells Fargo had reason to know there were disparities based on race and national origin, however, Wells Fargo did not act to determine the full scope of these product placement disparities, nor did it take prompt and effective action to eliminate those disparities. As described in further detail below, at all times relevant to this action, Wells Fargo had in place a system, called the "A-Paper Filter" or the "Enhanced Care Filter," whose stated purpose was ensuring that all prime-eligible borrowers were referred to the Bank's prime division. The A-Paper Filter was highly susceptible to manipulation because individual subprime loan originators were responsible for entering a borrower's information into the Filter. Further, internal Wells Fargo documents indicate that senior Wells Fargo officers were aware that the Bank's compensation structure incentivized loan originators to manipulate the data they entered into the A-Paper Filter in order to keep prime-eligible borrowers within the subprime division. Since at least 2005, senior Wells Fargo officers were aware that this manipulation was in fact occurring on a systematic basis, but failed to take appropriate corrective action.

25. From at least 2004 to 2008, Wells Fargo published underwriting guidelines that purported to establish the objective criteria an applicant had to meet in order to qualify for a particular type of loan product. These underwriting guidelines were available to Wells Fargo's underwriters, as well as its loan originators who had entered into contracts with Wells Fargo to enable them to select loan products for individual borrowers with differing credit-related characteristics. These underwriting guidelines were intended to be used, for example, to determine whether a loan applicant qualified for a prime loan product, a referral from the prime division to the subprime division, a subprime loan product, or for no Wells Fargo loan product at all.

26. Loan terms and conditions, including prices, generally are most favorable for a borrower with a prime loan product, and least favorable for a borrower with a subprime loan product,

which often included terms such as initial short-term teaser interest rates that suddenly rise to produce substantially increased and potentially unaffordable payments after two to three years, as well as substantial pre-payment penalties.

27. In mortgage lending commission structures, loan officers typically receive commissions in terms of "basis points," with one basis point being equivalent to 0.01% of the loan amount. From 2004 to 2005, Wells Fargo's subprime HMCs earned between 95 and 180 basis points, depending on loan amount and monthly origination volume, for originating a subprime loan. From 2006 to 2007, subprime HMCs earned between 75 and 175 basis points, depending on loan amount and monthly origination volume, for originating a subprime loan. From 2004 to 2007, a subprime HMC earned only 50 basis points for referring a prime-eligible borrower to the prime division. Accordingly, a subprime HMC lost between 25 and 130 basis points for referring a prime-eligible borrower to the prime division rather than originating the loan as subprime. This policy and practice created a financial incentive for HMCs to originate loans as subprime rather than prime, even when the applicant could have qualified for a prime loan.

28. Wells Fargo's cap on the amount of total compensation that a mortgage broker could receive on an individual loan also varied, in part, based on whether the loan was a subprime product or a prime product. From 2004 through 2007, total broker compensation for prime loans was capped at 4.5% of the loan amount. However, total broker compensation for subprime loans was capped at 5% of the total loan amount, giving brokers a financial incentive to originate a subprime loan where possible. The higher cap means, for example, that a broker originating a $300,000 loan could make $1,500 more by originating the loan as subprime rather than prime.

29. Wells Fargo's compensation structure provided a strong incentive for HMCs and wholesale mortgage brokers to originate a loan as subprime, even if the borrower could qualify

for a more favorable prime loan. This compensation structure, combined with the substantial discretion that subprime loan originators had to qualify prime-eligible borrowers for subprime loans, resulted in discrimination on the basis of race and national origin against African-American and Hispanic borrowers.

30. For each residential loan that Wells Fargo's HMCs and mortgage brokers originated from at least 2004 to 2008, information about each borrower's race and national origin was known by or available to Wells Fargo.

31. Wells Fargo's A-Paper Filter was intended to ensure that all prime-eligible borrowers were referred to the Bank's prime division, but the Filter was highly susceptible to manipulation. Until late 2004, the A-Paper Filter was a manual, handwritten checklist that underwriters were required to apply to every loan originally underwritten in the subprime division. Wells Fargo switched to an automated computerized filter for approximately 15 months, and then returned to the manual checklist format in January 2006.

32. Subprime loan originators had the ability to enter incorrect information into the A-Paper Filter to prevent a borrower from being identified as prime-eligible, thereby ensuring that the loan would remain in the subprime division. The incorrect information included, but was not limited to: (1) stating a reduced income in order to make a borrower's debt-to-income ratio ("DTI") appear higher than it actually was; (2) omitting assets to create the appearance that a borrower had no reserves; and (3) misstating the borrower's length of employment. The A-Paper Filter was not capable of identifying situations wherein information was entered into the Filter incorrectly for purposes of ensuring that a loan could remain in the subprime channel.

33. Subprime loan originators could also simply state that a borrower was unable to provide income documentation when a borrower had provided, or would have been able to provide, such

documentation; reduced documentation loans were not required to go through the A-Paper Filter process at all.

34. Subprime loan originators were not prohibited from encouraging prime-eligible borrowers to take steps that would disqualify them from receiving prime loans, including, but not limited to: (1) encouraging borrowers to forego providing income and/or asset documentation; and (2) encouraging borrowers to take out additional cash or forego making a down payment, thereby increasing the borrower's loan-to-value ratio ("LTV"). Internal Wells Fargo documents indicate that Wells Fargo senior managers were aware that loan originators were encouraging borrowers to take these and other steps adverse to borrowers' interests on a systematic basis. As a result, the A-Paper Filter was not able to identify situations wherein prime-eligible borrowers were encouraged by loan originators to take steps that would disqualify them from receiving prime loans.

35. Even with these limitations, the internal Wells Fargo audits of the A-Paper Filter identified multiple problems. These audits indicated that data inputted into the Filter was often inconsistent with the information contained in the loan files, and that many loans were originated as subprime although no subprime qualifiers existed in the loan files. The documents also indicated that Wells Fargo had marginal controls in place to meet the requirements of the A-Paper Filter policy.

36. In late 2004, when the A-Paper Filter was changed from a manual checklist to an automated system, audit reports show a significant decline in the error rate. After the automated system was implemented, the new audit system simply checked to ensure that there was a subprime qualifier present in the file, without regard to whether that subprime qualifier was accurate. Many times, the "subprime qualifier" was "stated income" or "borrower choice."

37. For each subprime loan that had a pre-payment penalty, an interest-only feature, or reduced documentation, Wells Fargo required borrowers to sign a disclosure form, called the "Product/Feature Selection Disclosure." This form purported to explain how these features impacted the borrower's financing and to explain that the borrower was receiving a subprime loan, and required the borrower to confirm that a Wells Fargo loan originator had discussed all available Wells Fargo home mortgage options with the borrower.

38. This disclosure form was not effective in preventing loan originators from steering borrowers to the subprime division. Wells Fargo subprime loan originators often failed to discuss all available loan options with borrowers before having them sign the disclosure form. Further, Wells Fargo subprime loan originators were not required to inform prime-eligible customers who received a subprime loan that they did in fact qualify for a more favorable loan. Rather, Wells Fargo required all subprime borrowers to sign the Product/Feature Selection Disclosure, without specific knowledge as to whether they were in fact prime-eligible.

39. Statistical analyses of loan data for prime and subprime wholesale loans originated by Wells Fargo for the time period of 2004 to 2008 demonstrate that, measured on a nationwide basis, the odds that an African-American borrower who obtained a wholesale loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 8.3 times as high as the odds for a white borrower. For the same time period, the odds that an African-American borrower who obtained a retail loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 5.6 times as high as the odds for a white borrower.

This demonstrates a pattern of statistically significant[4] differences between African-American and white borrowers with respect to their product placement by Wells Fargo. These statistically significant disparities existed in numerous geographic markets across the nation as well.

40. Statistical analyses of loan data for prime and subprime wholesale loans originated by Wells Fargo for the time period of 2004 to 2008 demonstrate that, measured on a nationwide basis, the odds that a Hispanic borrower who obtained a wholesale loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 1.7 times as high as the odds for a white borrower. For the same time period, the odds that a Hispanic borrower who obtained a retail loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 2.4 times as high as the odds for a white borrower. This demonstrates a pattern of statistically significant differences between Hispanic and white borrowers with respect to their product placement by Wells Fargo. These statistically significant disparities existed in numerous geographic markets across the nation as well.

41. After controlling for major risk-based factors relevant to determining loan product placement, including credit history, LTV, and DTI, African-American and Hispanic borrowers remained more likely to receive subprime loans from 2004 to 2008 than similarly-situated whites. These disparities are statistically significant.

42. For the combined time period of 2004 to 2008, nationwide, the odds that an African-American borrower who obtained a wholesale loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 2.9 times as high as the odds for a similarly-

[4] Statistical significance is a measure of probability that an observed outcome would not have occurred by chance. As used in this Complaint, an outcome is statistically significant if the probability that it could have occurred by chance is less than 5%.

situated white borrower, after accounting for the same factors. For the same time period, the odds that an African-American borrower who obtained a retail loan from Wells Fargo would receive a subprime loan rather than a prime loan were approximately 2.0 times as high as the odds for a similarly-situated white borrower, after accounting for the same factors. These odds ratios demonstrate a pattern of statistically significant differences between African-American and white borrowers with respect to their product placement by Wells Fargo, even after accounting for objective credit qualifications.

43. For the combined time period of 2004 to 2008, nationwide, the odds that a Hispanic borrower who obtained a wholesale loan from Wells Fargo would receive a subprime loan instead of a prime loan were approximately 1.8 times as high as the odds for a similarly-situated white borrower, after accounting for the same factors. For the same time period, the odds that a Hispanic borrower would receive a subprime retail loan rather than a prime retail loan were approximately 1.3 times as high as the odds for a similarly-situated white borrower, after accounting for the same factors. These odds ratios demonstrate a pattern of statistically significant differences between Hispanic and white borrowers with respect to their product placement by Wells Fargo, even after accounting for objective credit qualifications.

44. These statistically significant disparities also existed in numerous geographic markets across the nation.[5] In 2004, African-American wholesale borrowers had statistically significant odds ratio disparities in approximately 68% (17 of 25) of high loan-volume markets, defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo

[5] The inclusion throughout this Complaint of statistical analyses for high-volume markets is intended only to provide examples of Wells Fargo's violation of lending discrimination laws. The United States' allegations that Wells Fargo violated lending discrimination laws are not limited to these high-volume markets.

made at least 300 total wholesale loans during the year, including at least 30 subprime loans to both white and African-American wholesale borrowers. Statistically significant odds ratio disparities disfavoring African-American borrowers occurred in approximately 60% (18 of 30) of these markets in 2005; approximately 77% (23 of 30) of these markets in 2006; and approximately 88% (7 of 8) of these markets in 2007. For the combined time period of 2004 to 2007, in the high-volume markets with statistically significant odds ratio disparities, the odds of an African-American borrower receiving a subprime wholesale loan in a given year were up to 8.3 times as high as the odds for a similarly-situated white borrower. There were no markets with statistically significant disparities favoring African-American wholesale borrowers over similarly-situated white borrowers. These results, when aggregated, indicate that nearly 2,350 African-American borrowers in the high loan-volume markets from 2004 to 2007 received subprime, rather than prime, wholesale loans from Wells Fargo because of their race, not because of their objective credit characteristics.

45. In 2004, Hispanic wholesale borrowers had statistically significant odds ratio disparities in approximately 38% (6 of 16) of high loan-volume markets, defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo made at least 300 total wholesale loans during the year, including at least 30 subprime loans to both white and Hispanic wholesale borrowers. Statistically significant odds ratio disparities disfavoring Hispanic borrowers occurred in approximately 67% (12 of 18) of these markets in 2005; approximately 71% (10 of 14) of these markets in 2006; and approximately 67% (4 of 6) of these markets in 2007. For the combined time period of 2004 to 2007, in the high-volume markets with statistically significant odds ratio disparities, the odds of a Hispanic borrower receiving a subprime wholesale loan in a given year were up to 6.1 times as high as the odds for a similarly-

situated white borrower. From 2004 to 2007, only one market had statistically significant disparities favoring Hispanic wholesale borrowers over similarly-situated white borrowers. These results, when aggregated, indicate that nearly 1,650 Hispanic borrowers in the high loan-volume markets from 2004 to 2007 received subprime, rather than prime, wholesale loans from Wells Fargo because of their national origin, not because of their objective credit characteristics.

46. These odds ratio disparities mean, for example, that for the combined time period of 2004 to 2007, Wells Fargo placed approximately 320 African-American and Hispanic wholesale borrowers in the Los Angeles MSA into subprime loans even though white borrowers in Los Angeles with similar credit risk characteristics received prime loans. For the same time period, Wells Fargo placed approximately 335 African-American and Hispanic wholesale borrowers in the Washington, DC MSA into subprime loans even though white borrowers in Washington, DC with similar credit risk characteristics received prime loans. Similarly, for the same time period, Wells Fargo placed approximately 435 African-American and Hispanic wholesale borrowers in the Chicago MSA into subprime loans even though white borrowers in Chicago with similar credit characteristics received prime loans.

47. In addition to higher direct economic costs, the victims of discrimination suffered additional consequential economic damages resulting from having a subprime loan rather than a prime loan, including possible pre-payment penalties, increased risk of credit problems, default, and foreclosure, and other damages, including emotional distress.

48. The disparate placement of both African-American and Hispanic borrowers whom Wells Fargo determined had the credit characteristics to qualify for a home mortgage loan into subprime loan products, when compared to similarly-situated white borrowers, resulted from the implementation and interaction of Wells Fargo's policies and practices that: (a) permitted Wells

Fargo subprime loan originators to place an applicant in a subprime loan product even if the applicant could qualify for a prime loan product; (b) provided a financial incentive to Wells Fargo subprime loan originators to place loan applicants in subprime loan products; (c) did not require Wells Fargo subprime loan originators to justify or document the reasons for placing an applicant in a subprime loan product even if the applicant could qualify for a prime loan product; (d) did not require Wells Fargo subprime loan originators to notify subprime loan applicants when they did in fact qualify for a more favorable loan product; and (e) failed to monitor these discretionary practices to ensure that borrowers were being placed in loan products on a nondiscriminatory basis. Wells Fargo continued to use these product placement, compensation, and discretionary underwriting policies until it exited the subprime lending business in 2008.

49. Wells Fargo's policies or practices identified in Paragraphs 23-38 were not justified by business necessity or legitimate business interests. There were less discriminatory alternatives available to Wells Fargo that would have achieved the same business goals as these policies and practices.

50. As early as 2005, Wells Fargo's senior officers had knowledge that its lending policies and practices identified in Paragraphs 23-38 resulted in the placement of prime-qualified minority applicants in subprime rather than prime loan products and that its A-Paper Filter was ineffective. For example, an internal Wells Fargo document from 2005 sent from a Wells Fargo Vice President of Retail Underwriting, National Programs to a number of senior and executive vice presidents revealed concerns about A-Paper Filter manipulation and listed various tactics that subprime originators routinely employed to keep loans in the subprime division, rather than send them to the prime channel. Another internal Wells Fargo document from 2005 concluded that loans were being originated as subprime, even though the borrowers had prime

characteristics. Nonetheless, Wells Fargo continued to implement those policies and practices and did not take effective action to change the discriminatory policies or practices to eliminate their discriminatory impact. Nor did it act to identify or compensate the individual borrowers who were victims of its discriminatory product placement policies or practices.

Wholesale Mortgage Broker Fees

51. Between 2004 and 2008, Wells Fargo charged more than 12,850 African-American wholesale borrowers higher fees and costs than white borrowers, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their race. Similarly, between 2004 and 2008, Wells Fargo charged more than 17,150 Hispanic wholesale borrowers higher fees and costs than white borrowers, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their national origin. It was Wells Fargo's business practice to allow its mortgage brokers who generated loan applications through its wholesale channel to vary a loan's interest rate and other fees from the price set based on a borrower's objective credit-related factors. This unguided and subjective pricing discretion resulted in African-American and Hispanic borrowers paying more than white borrowers with similar credit characteristics both on a nationwide basis and in dozens of individual geographic markets across the country where Wells Fargo originated a large volume of loans. As a result of Wells Fargo's discriminatory practices, an African-American or Hispanic borrower paid on average hundreds of dollars more for a Wells Fargo wholesale loan.

52. Wells Fargo's wholesale pricing monitoring efforts, while inadequate to remedy discriminatory practices against African-American and Hispanic borrowers through 2008, were sufficient to put it on notice of widespread pricing disparities based on race and national origin. Even when Wells Fargo had reason to know there were disparities, however, Wells Fargo did not

act to determine the full scope of these wholesale pricing disparities, nor did it take prompt and effective action to eliminate those disparities. Between at least 2004 and 2008, Wells Fargo had a policy or practice of periodically monitoring in a limited manner the pricing of wholesale home mortgage loans for discrimination based on race or national origin at the geographic market level and for some individual brokers. However, Wells Fargo's monitoring for racial and national origin disparities in its wholesale loans was inadequate. Although Wells Fargo's wholesale pricing monitoring efforts were inadequate, they were sufficient to put it on notice of widespread pricing disparities based on race and national origin. Wells Fargo did not act to determine the full scope of these wholesale pricing disparities, nor did it take prompt and effective action to eliminate those disparities.

53. From at least 2004 to 2008, Wells Fargo originated and funded residential loans of all types through its Wholesale Lending Division ("WLD"). Applications for these loans were brought to Wells Fargo by mortgage brokers throughout the United States who entered into contracts with Wells Fargo for the purpose of bringing loan applications to it for origination and funding.

54. Wells Fargo required prospective brokers to submit a document entitled "Intent to Act as a Broker" and to enter into a Broker Origination Agreement in order to be approved as a Wells Fargo broker. According to Wells Fargo, the process of obtaining and maintaining approved broker status involved its careful analysis of the broker's financial condition; experience level; operational scope and operational methodology; and thorough consideration of the broker's organization, staff, organization principals, licensing, agency standing, and regulatory approvals based upon documents and information provided by the broker.

55. Wells Fargo's brokers were required to adhere to the provisions set forth in its Wholesale Lending Broker Origination Guide, and Wells Fargo's contracts with brokers required representations and warranties that they would comply with applicable federal, state, and local laws and regulations, including fair lending requirements. Wells Fargo required its brokers to attest that all mortgage loans submitted conformed to the Bank's applicable requirements and to all of the guidelines for a particular loan program.

56. Wells Fargo authorized brokers to inform prospective borrowers of the terms and conditions under which a Wells Fargo residential loan product was available. Wells Fargo did not require the mortgage brokers to inform a prospective borrower of all available loan products for which he or she qualified, of the lowest interest rates and fees for a specific loan product, or of specific loan products best designed to serve the interests expressed by the applicant. Upon receipt of a completed loan application from a broker, Wells Fargo evaluated the proposed loan using its underwriting guidelines and determined whether to originate and fund the loan.

57. Wells Fargo was directly and extensively involved in setting the complete, final terms and conditions of wholesale loan applications generated by mortgage brokers that Wells Fargo approved and originated. At the time of originating each loan, Wells Fargo was fully informed of the loan terms and conditions, including the fees it passed along to brokers, and it incorporated those terms and conditions into the wholesale loans it originated.

58. From at least 2004 through 2009, Wells Fargo's policies and practices established a two-step process for the pricing of wholesale loans that it originated. The first step was to establish a base or par rate for a particular type of loan for an applicant with specified credit risk characteristics. In this step, Wells Fargo accounted for numerous objective credit-related characteristics of applicants by setting a variety of prices for each of the different loan products

that reflected its assessment of individual applicant creditworthiness, as well as the current market rate of interest and price it could obtain for the sale of such a loan from investors.

59. From at least 2004 to 2009, Wells Fargo set terms and conditions, including interest rates, for its various home mortgage loan products available through its wholesale loan channel. Wells Fargo accounted for numerous applicant credit risk characteristics by setting a range of prices for each of the different loan products it offered that reflected applicant creditworthiness. It communicated these loan product prices to its brokers through rate sheets. Wells Fargo made prime rate sheets available to brokers on a daily basis via email or the "Brokers First" website that communicated the effective date, time, and product pricing that was released with a specific price change. The rate sheets also established price caps that limited the level of broker compensation. According to Wells Fargo's Wholesale Pricing Policy, price changes were initiated by Wells Fargo's Capital Markets Group as a result of rate movements or by the Wholesale Pricing Group to adjust profit expectations or alter competitive position. Wells Fargo distributed its Traditional Nonprime rate sheets once a week.

60. Wells Fargo's second step of pricing wholesale loans permitted mortgage brokers to exercise subjective, unguided discretion in setting the amount of broker fees charged to individual borrowers, unrelated to an applicant's credit risk characteristics. Mortgage brokers who supplied Wells Fargo with loan applications that Wells Fargo funded were compensated in two ways. One was through a yield spread premium ("YSP"), an amount paid by Wells Fargo to the brokers based on the extent to which the interest rate charged on a loan exceeded the base or par rate for that loan to a borrower with particular credit risk characteristics fixed by Wells Fargo and listed on its rate sheets. The YSP is derived from the present dollar value of the difference between the credit risk-determined par interest rate a wholesale lender such as Wells Fargo

would have accepted on a particular loan and the interest rate a mortgage broker actually obtained for Wells Fargo. Wells Fargo benefitted financially from the loans it made at interest rates above the par rates set by its rate sheets. For those loans that it sold or securitized, higher interest rates meant sales at prices higher than it otherwise would have obtained; for loans it retained, higher interest rates meant more interest income over time. The second way brokers were compensated was through direct fees and origination fees charged to the borrower. Wells Fargo directed its closing agents to pay direct fees to brokers out of borrowers' funds at the loan closing. Taken together, these two forms of compensation are referred to in this Complaint as "total broker fees."

61. Wells Fargo had written policies placing a ceiling on total broker fees. From 2004 through 2009, the maximum total broker fee that a broker could earn from originating a prime Wells Fargo loan was 4.5% of the total loan amount. From 2004 through 2007, the maximum total broker fee that a broker could earn from originating a subprime Wells Fargo loan was 5.0% of the total loan amount. Wells Fargo stopped originating subprime loans from its wholesale channel in July 2007. Wells Fargo also permitted pricing exceptions for reasons wholly unrelated to creditworthiness, such as customer service issues or competitive reasons, and required approval based on the amount of the exception (e.g., exceptions over $2,000 required Vice President approval).

62. According to Wells Fargo's stated policy, screening for broker compensation caps was automated within the origination system to prevent users from generating closing documents if broker compensation exceeded the caps. Wells Fargo maintained this pricing policy through at least April 2009.

63. Other than these caps, Wells Fargo did not establish any objective criteria, or provide guidelines, instructions, or procedures to be followed by brokers (a) in setting the amount of direct fees they should charge or (b) in determining to charge an interest rate for a loan above that set by its rate sheet, which in turn determined the amount of YSP that Wells Fargo would pay the broker. Mortgage brokers exercised this pricing discretion that Wells Fargo gave them, untethered to any objective credit characteristics, on every loan they brought to Wells Fargo for origination and funding. Wells Fargo affirmed or ratified these discretionary pricing decisions for all the brokered loans it originated and funded.

64. From 2004 to 2009, Wells Fargo was fully informed of all broker fees to be charged with respect to each individual residential loan application presented to it. Wells Fargo also required brokers to disclose to the borrower all compensation and all other fees expected to be received by the broker in connection with the mortgage loan. Wells Fargo required brokers to disclose their fees on the Good Faith Estimate, the HUD-1, and other disclosures as applicable. Total broker fees raised the annual percentage rate charged on a loan, and could increase the note interest rate and the total amount borrowed.

65. For each residential loan application obtained by mortgage brokers and subsequently funded by Wells Fargo, information about each borrower's race and national origin and the amount and types of broker fees paid was available to and was known by Wells Fargo. Wells Fargo was required to collect, maintain, and report data with respect to certain loan terms and borrower information for residential loans, including the race and national origin of each wholesale residential loan borrower, pursuant to HMDA. 12 U.S.C. § 2803.

66. Statistical analyses of data kept by Wells Fargo on its wholesale loans between 2004 and 2008 demonstrate statistically significant discriminatory pricing disparities in both prime and

subprime loans based on both race (African-American) and national origin (Hispanic). These disparities existed both at the national level and in numerous geographic markets across the country.

67. Measured on a nationwide basis in each year between 2004 and 2008, Wells Fargo charged African-American borrowers whom Wells Fargo determined had the credit characteristics to qualify for a home mortgage loan more in total broker fees for prime wholesale loans than white borrowers. The annual total broker fee disparities ranged up to 78 basis points, and they are statistically significant.

68. Measured on a nationwide basis in each year between 2004 and 2008, Wells Fargo charged Hispanic borrowers whom Wells Fargo determined had the credit characteristics to qualify for a home mortgage loan more in total broker fees for prime wholesale loans than white borrowers. The annual total broker fee disparities ranged up to 55 basis points, and they are statistically significant.

69. Measured on a nationwide basis in each year between 2004 and 2007, Wells Fargo charged African-American borrowers whom Wells Fargo determined had the credit characteristics to qualify for a home mortgage loan more in total broker fees for subprime wholesale loans than white borrowers. The annual total broker fee disparities ranged up to 53 basis points, and they are statistically significant.[6]

70. In approximately 86% of its high prime loan-volume markets in 2004 (18 of 21), defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo made more than 300 total prime wholesale loans, 30 or more such loans to African-

[6] Due to major changes in the housing market, Wells Fargo ceased subprime wholesale lending in July 2007.

American borrowers, and 30 or more such loans to white borrowers in a given year, Wells Fargo charged African-American borrowers more in total broker fees not based on borrower risk for wholesale prime loans than white borrowers by a statistically significant amount. In 2005, approximately 79% of such markets (19 of 24); in 2006, approximately 88% of such markets (22 of 25); in 2007, approximately 84% of such markets (21 of 25); and in 2008, 100% of such markets (19 of 19) showed statistically significant total broker fee disparities disfavoring African-American prime wholesale borrowers. The disparities in total broker fees not based on borrower risk resulted in African-American borrowers in these markets paying up to 122 basis points more than white borrowers for prime wholesale loans in a given year. In all five years, there were no high loan-volume markets in which Wells Fargo charged white borrowers statistically significantly higher total broker fees for prime wholesale loans than African-American borrowers in a given year. These results, when aggregated, indicate that Wells Fargo charged more than 7,660 individually identifiable African-American borrowers in the high loan-volume markets from 2004 to 2008 higher prices of varying amounts than white borrowers for their prime wholesale loans, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their race.

71. In approximately 89% of its high prime loan-volume markets in 2004 (31 of 35), defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo made more than 300 total prime wholesale loans, 30 or more such loans to Hispanic borrowers, and 30 or more such loans to white borrowers in a given year, Wells Fargo charged Hispanic borrowers more in total broker fees not based on borrower risk for wholesale prime loans than white borrowers by a statistically significant amount. In 2005, approximately 71% of such markets (25 of 35); in 2006, approximately 80% of such markets (28 of 35); in 2007,

approximately 89% of such markets (33 of 37); and in 2008, approximately 92% of such markets (22 of 24) showed statistically significant total broker fee disparities disfavoring Hispanic prime wholesale borrowers. The disparities in total broker fees not based on borrower risk resulted in Hispanic borrowers in these markets paying up to 99 basis points more than white borrowers for prime wholesale loans in a given year. In all five years, there were no high loan-volume markets in which Wells Fargo charged white borrowers statistically significantly higher total broker fees for prime wholesale loans than Hispanic borrowers in a given year. These results, when aggregated, indicate that Wells Fargo charged more than 17,150 individually identifiable Hispanic borrowers in the high loan-volume markets from 2004 to 2008 higher prices of varying amounts than white borrowers for their prime wholesale loans, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their national origin.

72. In approximately 91% of its high subprime-loan-volume markets in 2004 (10 of 11), defined for purposes of this paragraph as those MSAs and non-MSA areas in each state where Wells Fargo made more than 300 total subprime wholesale loans, 30 or more such loans to African-American borrowers, and 30 or more such loans to white borrowers in a given year, Wells Fargo charged African-American borrowers more in total broker fees not based on borrower risk for wholesale subprime loans than white borrowers by a statistically significant amount. In 2005, approximately 88% of such markets (14 of 16); and in 2006, approximately 85% of such markets (11 of 13) showed statistically significant total broker fee disparities disfavoring African-American subprime wholesale borrowers. The disparities in total broker fees not based on borrower risk resulted in African-American borrowers in these markets paying up to an average of 83 basis points more than white borrowers for subprime wholesale loans in a

given year. In all four years, there were no high subprime-loan-volume markets in which Wells Fargo charged white borrowers statistically significantly higher total broker fees for subprime wholesale loans than African-American borrowers in a given year. These results, when aggregated, indicate that Wells Fargo charged approximately 5,190 individually identifiable African-American borrowers in the high subprime-loan-volume markets from 2004 to 2007 higher prices of varying amounts than white borrowers for their subprime wholesale loans, not based on their creditworthiness or other objective criteria related to borrower risk, but because of their race.

73. These disparities in total broker fees mean, for example, that in 2007, Wells Fargo charged the average prime wholesale customer borrowing $300,000 about $2,064 more in broker fees not based on borrower risk if she were African-American, and an average of about $1,251 if she were Hispanic, than the average amount charged to a white prime wholesale customer. In specific MSAs, these disparities in total broker fees mean that in 2007 Wells Fargo charged a prime wholesale customer in the Chicago MSA borrowing $300,000 on average about $2,937 more in broker fees not based on borrower risk if she were African-American, and an average of about $2,187 more if she were Hispanic, than the average amount charged to a white prime wholesale customer. Comparable average disparities in 2007 for African-American and Hispanic prime wholesale customers in the Miami MSA borrowing $300,000 were approximately $3,657 and $2,538 higher, respectively, than the average amount Wells Fargo charged to a white prime wholesale customer in Miami borrowing the same amount.

74. These disparities in total broker fees also mean, for example, that in 2005, Wells Fargo charged the average subprime wholesale customer borrowing $300,000 about $1,212 more in broker fees not based on borrower risk if she were African-American than the average amount

charged to a white subprime wholesale customer. In specific MSAs, these disparities mean that in 2005, Wells Fargo charged an African-American subprime wholesale customer in the Los Angeles MSA borrowing $300,000 on average about $1,992 more in total broker fees not based on borrower risk than the average amount charged to a white subprime wholesale customer in Los Angeles. In 2005, Wells Fargo charged an African-American subprime wholesale customer in the Houston MSA borrowing $300,000 on average about $1,020 more in total broker fees not based on borrower risk than the average amount Wells Fargo charged to a white subprime wholesale customer in Houston borrowing the same amount.

75. In setting the terms and conditions for its wholesale loans, including interest rates, Wells Fargo accounted for individual borrowers' differences in credit risk characteristics by setting the prices shown on its rate sheets for each loan product for borrowers with specified credit qualifications. These adjustments based on credit risk characteristics were separate from and did not control for either component of the total broker fees – the interest rate deviations that Wells Fargo's policy allowed mortgage brokers to make from the par prices, which already fully accounted for borrower risk according to Wells Fargo's own standards, nor the amount of brokers' direct fees that were driven by a borrower's credit risk factors. Accordingly, the race and national origin total broker fee disparities described in Paragraphs 66-74 are not adjusted for borrowers' credit risk characteristics. Wells Fargo reviewed these broker fees and then authorized its brokers to charge them to borrowers in the loans it originated and funded.

76. The statistically significant race and national origin-based disparities in broker fees described in Paragraphs 66-74 for African-Americans and Hispanics resulted from the implementation and interaction of Wells Fargo's policies and practices that: (a) included pricing terms based on the subjective and unguided discretion of brokers in setting broker fees not based

on borrower risk in the terms and conditions of loans that Wells Fargo originated after par rates had been established by reference to credit risk characteristics; (b) created a financial incentive for brokers to charge interest rates above the par rates that Wells Fargo had set; (c) did not require mortgage brokers to justify or document the reasons for the amount of broker fees not based on borrower risk; and (d) failed to adequately monitor for and fully remedy the effects of racial and ethnic disparities in those broker fees. Broker fees specifically measure the pricing variation caused by the subjective and unguided pricing adjustments not based on borrower risk. Wells Fargo continued to use these discretionary wholesale broker fee pricing policies, to inadequately document and review the implementation of that pricing component, and to incentivize upward broker adjustments to the par interest rate at least through the end of 2008.

77. Wells Fargo's policies and practices identified in Paragraphs 51-65 were not justified by business necessity or legitimate business interests. There were less discriminatory alternatives available to Wells Fargo that would have achieved the same business goals as these policies and practices.

78. Wells Fargo had knowledge that the unguided and subjective discretion it granted to mortgage brokers in its wholesale pricing policies and practices was being exercised in a manner that discriminated against African-American and Hispanic borrowers, but continued to implement its policies and practices with that knowledge. Wells Fargo did not take effective action to change the broker fee policies and practices to eliminate fully their discriminatory impact. Wells Fargo did not act to identify or compensate any individual borrowers who were victims of its discriminatory wholesale pricing policies and practices.

FAIR HOUSING ACT AND EQUAL CREDIT OPPORTUNITY ACT VIOLATIONS

79. Wells Fargo's residential lending-related policies and practices and the policies and practices it followed in residential credit transactions as alleged herein constitute:

a. Discrimination on the basis of race and national origin in making available, or in the terms or conditions of, residential real estate-related transactions, in violation of the FHA, 42 U.S.C. § 3605(a);

b. Discrimination on the basis of race and national origin in the terms, conditions, or privileges of sale of a dwelling, in violation of the FHA, 42 U.S.C. § 3604(b); and

c. Discrimination against applicants with respect to credit transactions, on the basis of race and national origin, in violation of ECOA, 15 U.S.C. § 1691(a)(1).

80. Wells Fargo's residential lending-related policies and practices as alleged herein constitute:

a. A pattern or practice of resistance to the full enjoyment of rights secured by the FHA, as amended, 42 U.S.C. §§ 3601-3619, and ECOA, 15 U.S.C. §§ 1691-1691f; and

b. A denial of rights granted by the FHA, as amended, to a group of persons that raises an issue of general public importance.

81. Between 2004 and 2009, tens of thousands of persons throughout the nation have been victims of Wells Fargo's pattern or practice of discrimination and denial of rights as alleged herein. They are aggrieved persons as defined in the FHA, 42 U.S.C. § 3602(i), and aggrieved applicants as defined in ECOA, 16 U.S.C. § 1691e, and have suffered damages as a result of Wells Fargo's conduct. Attachment A depicts the states where these aggrieved persons described in Paragraphs 44-45 and 70-72 were located when the discrimination occurred.

82. Wells Fargo's policies and practices, as described herein, had the purpose and the effect of discriminating on the basis of race or national origin. These policies and practices were intentional, willful, or implemented with reckless disregard for the rights of African-American and Hispanic borrowers.

RELIEF REQUESTED

WHEREFORE, the United States prays that the Court enter an ORDER that:

(1) Declares that Wells Fargo's challenged lending policies and practices constitute violations of the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f;

(2) Enjoins Wells Fargo, its agents, employees, and successors, and all other persons in active concert or participation with the Bank, from:

(a) Discriminating on the basis of race and national origin against any person in any aspect of its lending business practices;

(b) Discriminating on the basis of race and national origin in the terms, conditions, or privileges of the provision of services in connection with the sale of dwellings;

(c) Discriminating on the basis of race and national origin against any person with respect to any aspect of a credit transaction;

(d) Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Wells Fargo's unlawful conduct to the position they would have been in but for the discriminatory conduct; and

(e) Failing or refusing to take such actions as may be necessary to prevent the recurrence of any such discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of Wells Fargo's unlawful practices.

(3) Awards monetary damages, including punitive damages, to all victims of Wells Fargo's discriminatory policies and practices for the injuries caused by the Bank, pursuant to 42 U.S.C. § 3614(d)(1)(B) and 15 U.S.C. § 1691e(h);

(4) Requires payment of pre-judgment interest on monetary damages to all of the victims of Wells Fargo's discriminatory policies and practices starting from the date that the discrimination occurred; and

(5) Assesses a civil penalty against Wells Fargo in an amount authorized by 42 U.S.C. § 3614(d)(1)(C), in order to vindicate the public interest..

DEMAND FOR JURY TRIAL

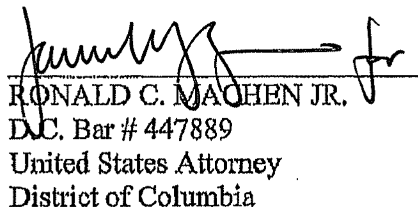
Plaintiff, United States of America, demands a trial by jury on all issues so triable in this matter.

The United States further prays for such additional relief as the interests of justice may require.

Dated: July 12, 2012

Respectfully submitted,

ERIC H. HOLDER, JR.
Attorney General



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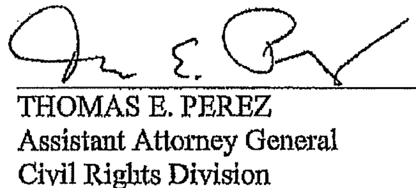

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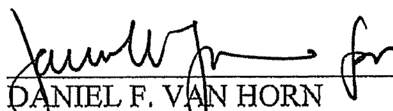

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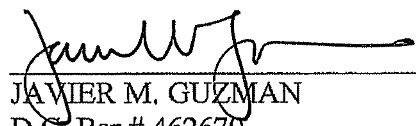

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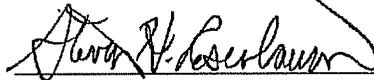

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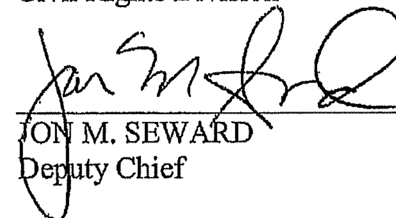

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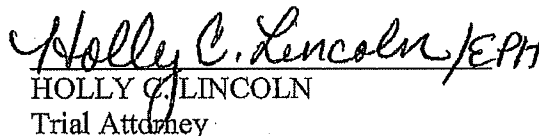

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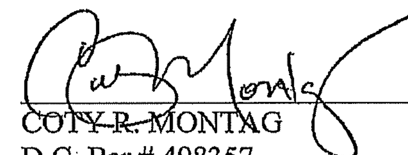

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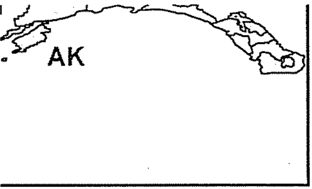
ATTACHMENT A

Jurisdictions With Wholesale Aggrieved Persons (36 States and the District of Columbia)



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