



**JOSEPH KELLY**  
TREASURER AND TAX COLLECTOR

# COUNTY OF LOS ANGELES TREASURER AND TAX COLLECTOR

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September 12, 2016

TO: Supervisor Hilda L. Solis, Chair  
Supervisor Mark Ridley-Thomas  
Supervisor Sheila Kuehl  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

FROM: Joseph Kelly   
Treasurer and Tax Collector

SUBJECT: **WELLS FARGO SETTLEMENT REGARDING ALLEGED UNLAWFUL,  
UNFAIR AND FRAUDULENT SALES PRACTICES**

## **Background**

On September 1, 2016, Wells Fargo and the People of the State of California, by and through the Office of the Los Angeles City Attorney, settled a complaint against Wells Fargo that the City Attorney had filed in the Los Angeles Superior Court in May 2015. The complaint alleged that Wells Fargo engaged in unlawful, unfair, and fraudulent sales and related business acts and practices. Spurred by sales targets and compensation incentives, it is alleged that employees boosted sales figures by covertly opening accounts and funding them by transferring funds from consumers' authorized accounts without their knowledge or consent, often racking up fees or other charges.

Wells Fargo did not admit fault or liability.

Wells Fargo is a National Banking Association whose operations are overseen by federal regulators, including the Consumer Financial Protection Bureau (CFPB), with which the City Attorney worked collaboratively on this complaint. As discussed later in this memorandum, the CFPB fined Wells Fargo for the alleged activity.

## **Corrective Actions**

Wells Fargo agreed to undertake a number of corrective actions, as follows.

The first set of actions focus on customers.

1. Wells Fargo will provide written notice of the matter for each account opened by an employee in the State of California for deposit accounts, credit cards and lines of credit. Wells Fargo will also send an e-mail to the primary e-mail address for the account.
2. Wells Fargo has retained the services of an independent third-party consulting firm to identify potentially unauthorized accounts opened between May 2011 and July 2015 (or September 2015, in the case of credit cards) as a result of which current or former customers may have sustained a direct monetary loss.
3. Wells Fargo will reimburse those fees or other charges paid by customers for the potentially unauthorized account.
4. A mediation procedure will be available to current or former customers who contend that they incurred fees or were otherwise harmed as a result of an unauthorized account. The mediator will be provided by an independent third-party mediation service.

Wells Fargo customers should visit the following Wells Fargo website for more information on these actions - <https://www.wellsfargo.com/commitment/faqs/>

The second set of actions focus on Wells Fargo employees.

- Wells Fargo is obligated to implement a detailed and specific compliance and risk mitigation plan, designed to deter, detect, and remedy improper sales practices.

That compliance and risk mitigation plan must address: (i) employee training, (ii) monitoring to detect sales integrity issues, (iii) policies and procedures designed to ensure consent is obtained before any account is opened for a consumer, and (iv) performance-management and sales goals consistent with the objective of avoiding incentives for improper sales practices.

- For a period of two (2) years, Wells Fargo will conduct an internal audit every six (6) months to report on compliance, and prepare a written report of each such audit.

### **Restitution and Monetary Fines**

Wells Fargo agreed to pay the following restitution and monetary fines, totaling \$190 million.

- Wells Fargo will pay full restitution to all customers impacted. (In its press release, Wells Fargo estimated this at \$5 million.)
- Wells Fargo will pay a total of \$50 million in civil penalties, pursuant to California Business and Professions Code section 17206. \$25 million of this will be paid to my office, and \$25 million will be paid to the Treasurer of the City of Los Angeles. These funds must be used for the enforcement of consumer protection laws.
- The Consumer Financial Protection Bureau (CFPB) fined Wells Fargo Bank, N.A. \$100 million for the widespread illegal practice of secretly opening unauthorized deposit and credit card accounts.
- The bank will also pay an additional \$35 million penalty to the Office of the Comptroller of the Currency.

### **Impact to the County Treasury**

Wells Fargo is a long-standing financial partner of the County Treasurer. Currently, Wells Fargo provides various treasury services, has a role in debt issuance as a member of underwriting pools, and serves as the directed trustee for the County's deferred compensation plans. The Treasurer also purchases securities for its Treasury Pool from a Wells Fargo affiliate. None of these programs is at risk, because these are "institutional" business dealings, whereas the behavior alleged in the complaint was solely related to "retail" business dealings.

However, in conjunction with County Counsel, I am evaluating Wells Fargo's participation in the County's Group Banking Program. This Program allows banks with which the Treasurer has contractual relationships to offer County employees special bank products and services. Given the alleged sales practices, it is problematic that Wells Fargo had the potential to gain County employees as clients through this Program. I will report back separately to your Board on this.

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Wells Fargo's press release, the Los Angeles City Attorney Stipulation Agreement, and pertinent information from the CFPB can be found at the links listed below.

Los Angeles City Attorney Stipulation Agreement

- <http://freepdfhosting.com/29677883a9.pdf>

Consumer Financial Protection Bureau

- <http://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-fines-wells-fargo-100-million-widespread-illegal-practice-secretly-opening-unauthorized-accounts/>
- [http://files.consumerfinance.gov/f/documents/092016\\_cfpb\\_WFBconsentorder.pdf](http://files.consumerfinance.gov/f/documents/092016_cfpb_WFBconsentorder.pdf)

Wells Fargo Press Release

- [https://www.wellsfargo.com/about/press/2016/sales-practices-agreements\\_0908.content](https://www.wellsfargo.com/about/press/2016/sales-practices-agreements_0908.content)

If you have any questions, please contact me directly.

JK:sld

c: Chief Executive Officer  
Executive Officer, Board of Supervisors  
Auditor-Controller  
County Counsel  
Consumer and Business Affairs