CALIFORNIA DEPARTMENT OF INSURANCE
LEGAL DIVISION
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CALIFORNIA DEPARTMENT OF INSURANCE

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of the Licenses and Licensing Rights of WELLS FARGO BANK, N.A. and WELLS FARGO INSURANCE, INC., Respondents.	File No. LA201600665-AP **ACCUSATION**

The California Department of Insurance ("Department") alleges that:

PARTIES

1. Respondent, WELLS FARGO BANK, N.A., License Number 0800827, has been licensed to transact insurance as an Accident and Health Agent and Life-Only Agent since September 24, 1990, with Variable Contracts Authority since January 28, 1992. WELLS FARGO BANK, N.A. has also been licensed to transact insurance as a Property Broker-Agent and Casualty Broker-Agent since January 6, 2003.

2. Respondent, WELLS FARGO INSURANCE, INC., License Number 0831603, has been licensed to transact insurance as a Property Broker-Agent and Casualty Broker-Agent since March 19, 1992. WELLS FARGO INSURANCE, INC. has also been licensed to transact insurance as an Accident and Health Agent and Life-Only Agent since June 21, 1995, with Variable Contracts Authority since August 27, 2001.

BACKGROUND OF RESPONDENTS' IMPROPER SALES PRACTICES

3. WELLS FARGO BANK, N.A. is the U.S. operating subsidiary of Wells Fargo & Company, founded in 1852. Wells Fargo & Company is regularly listed among the ten largest banks in the world by assets. As a diversified financial services company, it offers access to insurance products to its customers in California through licenses such as those granted to Respondents.[1]

4. In September 2016, WELLS FARGO BANK, N.A. reached settlements with the federal Consumer Financial Protection Bureau, the federal Office of the Comptroller of the Currency, and the Office of the Los Angeles City Attorney following the government entities' review of improper sales practices of financial products.[2] The settlements contained the following specific findings, which WELLS FARGO BANK, N.A. neither admitted nor denied:

- WELLS FARGO BANK, N.A.'s business model emphasized sales of the bank's products and services to bank customers. As part of this model, the bank set sales goals and established an incentive compensation program that

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[1] Respondents WELLS FARGO BANK, N.A. and WELLS FARGO INSURANCE, INC. are affiliates of Wells Fargo & Company, and will be collectively referred to as "Respondents" or "bank" throughout the rest of this Accusation. Due to the Respondents' affiliate status, a reference to one of the Respondents will encompass any actions that may be ascribed to the other Respondent.

[2] The settlement with the Los Angeles City Attorney resolved a civil law enforcement action filed in May 2015.

emphasized sales of bank products and services to customers by bank employees.

- The incentive compensation program fostered unsafe, unsound, and otherwise improper sales practices by pressuring bank employees to sell products not authorized by the customer. Bank management failed to adequately oversee sales practices.

- Improper sales practices included the selling and unauthorized opening of unwanted deposit or credit card accounts, transferring funds from authorized, existing accounts to unauthorized accounts (i.e. "simulated funding"), enrolling customers in online-banking services that they did not request, and ordering and activating debit cards using customers' information without their knowledge or consent.

- Between May 2011 and July 2015, WELLS FARGO BANK, N.A. employees opened approximately 2.1 million unauthorized deposit and credit card accounts incurring approximately $2.4 million in fees for bank customers.[3]

- WELLS FARGO BANK, N.A. terminated roughly 5,300 employees for engaging in improper sales practices.

As part of the settlements, WELLS FARGO BANK, N.A. paid a total of $185 million in fines to the government entities above, and pledged to issue refunds to affected customers as well as implement extensive measures to ensure that such improper sales practices do not occur in the future.

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[3] WELLS FARGO BANK, N.A. has since extended its review to the period of January 2009 through September 2016, and found bank employees opened a total of approximately 3.5 million unauthorized deposit and credit card accounts during this time.

WELLS FARGO SALES PRACTICES REPORT

5. On April 10, 2017, the Independent Directors of the Board of Wells Fargo & Company issued a report following an internal investigation of sales practices at the bank. The report outlined the existence of the improper sales practices that were mentioned in the settlements above. The report concluded that the main cause of the improper sales practices was the "distortion of the Community Bank's sales culture and performance management system, which, when combined with aggressive sales management, created pressure on employees to sell unwanted or unneeded products to customers and, in some cases, to open unauthorized accounts." The report also concluded that bank leadership "resisted and impeded outside scrutiny or oversight and, when forced to report, minimized the scale and nature of the problem."

6. Footnote 15 of the report stated:

> Sales practice concerns also have been implicated with respect to the Community Bank's online insurance referral program, in which customers could purchase insurance directly from third-party carriers via a link on the Wells Fargo website and branch kiosks.... *Insurance referrals did count toward employee incentive compensation goals*....
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> (*Emphasis added.)*

ONLINE INSURANCE REFERRAL PROGRAM

7. Improper insurance sales practices were concentrated in Respondents' "online insurance referral program" mentioned in Paragraph 6 ("Program"). The Program consisted of insurance products that required little to no underwriting prior to issuance, such as renters insurance and "simplified-issue" term life insurance. Most customers paid the premiums for such policies via electronic funds transfer from their deposit accounts. To date, the Department has determined that Respondents caused a total of 1,469 unauthorized policies to be issued to California consumers due to improper sales practices between 2008 and 2016.

AMERICAN MODERN INSURANCE GROUP

8. On November 1, 2003, WELLS FARGO INSURANCE, INC. entered into an agreement with American Modern Insurance Group, Inc. ("AMIG") to sell AMIG policies to bank customers. By 2008, Respondents' customers could purchase AMIG renters insurance policies through the Program. Such policies typically offered personal property coverage from $10,000 to $40,000, with monthly premiums from $12 to $28, and deductibles from $250 to $1,000.

9. Due to concerns about Respondents' employees transacting insurance without a license, employees discussing insurance products that were part of the Program were to refrain from any action that implies that they were "selling" such products. Employees were to simply "refer" customers to visit a specific website, which customers could access through self-service computer kiosks inside bank branches. Employees were not even allowed to "swivel" their computer monitors when seated at their desks to explain any aspects of the products to customers; they were simply to refer customers to the website. Moreover, Respondents' training materials for their employees stated that "[c]ustomers who are interested in only renters or term life insurance can get quotes and purchase at the Online Banking Station. *Do not complete any part of the application for the customer.*" (*Emphasis added.)*

10. To date, the Department has determined that, between 2008 and 2012, Respondents caused the issuance of 1,258 unauthorized AMIG renters insurance policies to bank customers. Many customers complained they simply had no knowledge of ever signing up for such policies. Some customers complained that Respondents' employees entered the customers' information on a policy application with the assurance that customers were merely receiving a quote, when in fact such applications were later submitted to AMIG for approval (which was a formality due to the minimal underwriting standards). Such actions by Respondents' employees went beyond simple "referrals."

11. In February 2011, AMIG notified Respondents that it had received complaints from bank customers who had been issued policies without their authorization. Respondents informed AMIG that they were addressing the complaints. Nonetheless, unauthorized policies continued to be regularly issued to Respondents' customers through September 2012, when AMIG stopped participating in the Program.

ASSURANT

12. In approximately September 2012, Assurant, Inc. ("Assurant") replaced AMIG in the Program as a renters insurance provider to Respondents' customers. Assurant renters insurance policies were similar in scope to AMIG's policies in coverage and cost.

13. To date, the Department has determined that, between September 2012 and January 2015, Respondents caused the issuance of 6 unauthorized Assurant renters insurance policies to bank customers. Following one particular meeting with Respondents, Assurant noted that, as of 2014, Respondents' business priorities were cross-selling (selling a number of diverse financial products to customers) followed by revenue, with quality as the lowest priority.

GREAT-WEST FINANCIAL

14. In 2010, Great-West Financial ("Great-West") joined the Program as a "simplified-issue" term life insurance provider. Great-West's term life insurance policies were for 10 or 20 year terms with coverage amounts from $25,000 to $250,000. As with the Program's renters insurance policies, these term life insurance policies required minimal underwriting, with premiums largely determined by basic information such as age, gender, and whether the applicant was a smoker. For reference, a 20 year term policy with $150,000 in coverage had a monthly premium from $29 to $37.

15. Similar to the practice surrounding AMIG renters insurance policies, Respondents' employees were not allowed to "swivel" their computer monitors when seated at their desks to explain any aspects of the product to customers; they were simply to refer customers to a specific website.

16. To date, the Department has determined that, between 2011 and June 2014, Respondents caused the issuance of 187 unauthorized Great-West term life insurance policies to bank customers. Customer complaints following the issuance of these unauthorized policies were similar to those Respondents received regarding AMIG renters insurance policies, such as that Respondents' employees, who were not licensed to transact insurance, were entering customers' information on insurance applications in violation of Program policy.

17. In January 2013, Great-West notified Respondents that it had received complaints from bank customers who had been issued policies without their authorization. Respondents informed Great-West that they were addressing the complaints. Throughout 2013, Great-West continued to document customer complaints and share new complaints with Respondents. Nonetheless, unauthorized policies continued to be regularly issued to Respondents' customers through June 2014, when Great-West terminated its agreement with Respondents to participate in the Program.

PRUDENTIAL

18. In June 2014, Pruco Life Insurance Company ("Prudential") replaced Great-West in the Program as a "simplified-issue" term life insurance provider to Respondents' customers. Prudential's simplified-issue term life insurance policies were similar in scope to Great-West's policies in coverage and cost.

19. The June 2, 2014 agreement between Respondents and Prudential setting forth the terms of Prudential's participation in the Program allowed Respondents' employees to only mention to customers that a policy may be purchased at a self-service computer kiosk located in the branch (or otherwise via visiting a specific website at the customer's convenience). The agreement prohibited Respondents' employees from being "involved in the sales, solicitation or negotiation of a [p]olicy...no discussions can take place concerning the need for any specific amount of life insurance coverage nor any specific type of insurance policy."

20. To date, the Department has determined that, between June 2014 and June 2016, Respondents caused the issuance of 18 unauthorized Prudential term life insurance policies to bank customers. Customers who were issued these unauthorized policies made similar complaints as those described in Paragraph 10. Specifically, Respondents' employees, who were not licensed to transact insurance, entered customer information on applications in the guise of merely issuing a quote, when in fact such applications were later submitted to Prudential for approval. Prudential suspended its referral agreement with Respondents in December 2016.

STATUTORY ALLEGATIONS

21. The facts alleged in Paragraphs 3 through 20 show that it would be against public interest to permit Respondents to continue transacting insurance business in the State of California, and constitute grounds for the Insurance Commissioner to suspend or revoke their licenses and licensing rights pursuant to the provisions of Insurance Code §§ 1668(b) and 1738.

22. The facts alleged in Paragraphs 3 through 20 show that Respondents are not of good business reputation, and constitute grounds for the Insurance Commissioner to suspend or revoke their licenses and licensing rights pursuant to the provisions of

Insurance Code §§ 1668(d) and 1738.

23. The facts alleged in Paragraphs 3 through 20 show that Respondents are lacking in integrity, and constitute grounds for the Insurance Commissioner to suspend or revoke their licenses and licensing rights pursuant to the provisions of Insurance Code §§ 1668(e) and 1738.

24. The facts alleged in Paragraphs 3 through 20 show that Respondents have previously engaged in a fraudulent practice or act or have conducted any business in a dishonest manner, and constitute grounds for the Insurance Commissioner to suspend or revoke their licenses and licensing rights pursuant to the provisions of Insurance Code §§ 1668(i) and 1738.

25. The facts alleged in Paragraphs 3 through 20 show that Respondents have shown incompetency or untrustworthiness in the conduct of any business, or have by commission of a wrongful act or practice in the course of any business exposed the public or those dealing with Respondents to the danger of loss, and constitute grounds for the Insurance Commissioner to suspend or revoke their licenses and licensing rights pursuant to the provisions of Insurance Code §§ 1668(j) and 1738.

26. The facts alleged in Paragraphs 9, 10, 19, and 20 show that Respondents knowingly misrepresented the terms or effect of an insurance policy or contract, and constitute grounds for the Insurance Commissioner to suspend or revoke their licenses and licensing rights pursuant to the provisions of Insurance Code §§ 1668(k) and 1738.

27. The facts alleged in Paragraphs 9, 10, 15, 16, 19, and 20 show that Respondents permitted persons in their employ to violate provisions of the Insurance Code, to wit, transacting insurance without a license, as defined by Insurance Code §§

35 and 1631, and constitute grounds for the Insurance Commissioner to suspend or revoke their licenses and licensing rights pursuant to the provisions of Insurance Code §§ 1668(o) and 1738.

Dated: November 30, 2017

CALIFORNIA DEPARTMENT OF INSURANCE

By:________________________________

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