# CPM Files Lawsuit Against Wells Fargo Executives and Board Members for Creation of Over 2 Million Phony Accounts which Defrauded Consumers

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Wells Fargo shareholder William Sarsfield today filed a lawsuit in San Francisco County Superior court on behalf of the Company, and against Wells Fargo officers and directors, over the creation of over 2 million phony accounts and charging unknowing customers unwarranted fees. The complaint alleges that Wells Fargo's senior management allowed the bank to commit a major fraud on consumers resulting in serious harm to the bank. The shareholder is represented by the law firm of **Cotchett, Pitre & McCarthy.**

On September 8, 2016, the Consumer Financial Protection Bureau (CFPB) fined Wells Fargo Bank $100 million for unlawful sales practices, the largest penalty ever imposed by the CFPB. The CFPB said that Wells Fargo employees, for years, were pressured to secretly open unauthorized accounts in order to sales targets and allow **executives to receive bonuses**. The bank used a sales strategy was called "cross-selling," where employees were told to sell existing bank customers up to **eight** different bank products. The complaint alleges this strategy was approved with the knowledge of the Board of Directors and the CEO, John Stumpf. The bank allegedly was informed of complaints of sales abuses resulting from this strategy as far back as 2012, if not earlier, yet did not stop the practice.

On September 8, 2016, the Office of the Comptroller of the Currency also announced its own investigation into Wells Fargo's sales practices, resulting in two separate Consent Orders against the bank: (1) a "cease and desist" order designed to immediately stop the "unsafe" sales practices by the bank, and (2) an order requiring the bank to pay a civil monetary penalty of $35 million.

### Attorneys

Mark C. Molumphy

### Practice Areas

Securities / Financial Fraud

Shareholder Rights / Corporate Governance

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> **Plaintiff's Attorney, Joseph Cotchett, said, "This case represents a glaring example of a major bank that takes advantage of consumers all in the name of greed – it represents the culture of Wall Street to drive the stock price up in the name of false profits."**

Wells Fargo CEO John Stumpf reportedly said of the fraud,

> ***"I feel accountable and our leadership team feels accountable – and we want all our stakeholders to know that."***

However, during a Senate Committee Hearing on Tuesday, September 20, 2016 on the alleged fraud, Senator Elizabeth Warren expressed skepticism at Stumpf's claim of accountability,

> ***"And when it all blew up, you kept your job, you kept your multimillion dollar bonuses and you just went on television to blame thousands of $12 an hour employees who were just trying to meet cross-sell quotas that made you rich. This is your accountability. You should resign. You should give back the money that you took while this scam was going on and you should be criminally investigated by both the Department of Justice and the Securities and Exchange Commission."***

The complaint alleges that Carrie Tolstedt headed the division at Wells Fargo where the fake accounts were created. She announced her retirement in July. Tolstedt will reportedly take with her $124.6 million in stock and options when she retires later this year. At the time of her retirement announcement, Stumpf called Tolstedt his "dear friend, role model and standard-bearer for our culture." The complaint alleges that other executives or managers are retiring or have been terminated, though Wells Fargo refuses to name them or their severance packages.

In 2014, Wells Fargo set a record in reporting net income of $23.1 billion, on revenue of $84.3 billion. The unit headed by Tolstedt accounted for nearly $14 billion of that year's net income. According to bank proxy statements, for every year of the CFPB's investigation (2011 – 2016), Tolstedt collected $5.5 million in stock as her portion of the performance share award split among Wells Fargo's top executives. The complaint requests that the Bank "claw-back" all of the severance packages for the retiring or dismissed employees participating in the fraud, as well as senior executive compensation and director fees paid during that period.

> **Mark Molumphy who is leading the case at Cotchett, Pitre & McCarthy, said of the conduct, "This is a case about accountability. As alleged, the bank's officers knew about the conduct years ago, but did not stop it. At the same time, they paid themselves millions, while terminating only lower-level employees. To this day, no officer has been fired nor given up a cent of compensation for this conduct. The buck needs to stop at the top."**

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As alleged, Wells Fargo fired 5,300 employees over the last few years related to this scandal. According to Wells Fargo, about 10% of the terminated employees **were branch managers or senior to such managers**. However, no senior officers have been terminated. As alleged in the complaint, employees would go so far as to create phony PIN numbers and fake email addresses to enroll customers in online banking services. According to the CFPB, Wells Fargo employees would move funds from customers' existing accounts into newly created ones without their knowledge. Customers would then get charged for insufficient funds or overdraft fees because there would not be enough money in their existing accounts. The CFPB also revealed Wells Fargo opened accounts without the consumer's consent and then funded the new accounts through unauthorized transfers of funds between the consumer's accounts; submitted tens of thousands of credit card applications without the consumer's consent; issued debit cards without the consumer's consent; and enrolled consumers in online-banking services without the consumer's consent. The CFPB concluded that this conduct violated the Consumer Financial Protection Act of 2010 and provided the basis for the Consent Order.

Wells Fargo sought to distinguish itself as a leader in "cross-selling" banking products and services to its existing customers. As alleged in the complaint, the bank set sales goals and implemented sales compensation incentives to increase the number of banking products and services that its employees sold to its customers. Wells Fargo's internal motto for cross-selling was "Eight is Great," and it was common knowledge within the bank that the goal was to have existing customers use at least eight Wells Fargo financial products.

However, according to the complaint, much of Wells Fargo's touted success with cross-selling was the product of rampant, illegal fleecing of the bank's own customers.

As alleged, **Wells Fargo's senior management knew of, encouraged, and closely monitored compliance with the "Eight is Great" program**. **Nancy Fineman, also of the Cotchett firm, called the conduct of the officers alleged in the complaint, "a total breach of fiduciary duty to the Company, its shareholders and its banking customers."**