

EXHIBIT 1

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

MAYOR AND CITY COUNCIL
OF BALTIMORE,

Plaintiff,

v.

WELLS FARGO BANK, N.A.

and

WELLS FARGO FINANCIAL
LEASING, INC.,

Defendants.

No. 1:08-cv-00062-BEL

1. I, Tony Paschal, hereby attest that I am over the age of 18 years and that I am competent to testify with respect to the matter below.

2. Between September, 1997 and September, 2007, during two separate periods of employment and for a total of eight years, I worked as a home mortgage consultant, or loan officer, in the Annandale, Virginia office of Wells Fargo Home Mortgage ("Wells Fargo").

3. My first period of employment with Wells Fargo was from September, 1997 to June, 1999. I was initially hired by Norwest Mortgage which merged with Wells Fargo in the middle of 1998. As a loan officer in Wells Fargo's Sales and Marketing section, my duties included contacting existing Wells Fargo borrowers in forty-eight (48) states to solicit them to refinance their home mortgage loan. Other Wells Fargo loan

officers also referred to me mortgage loan applicants that they were unable to qualify for “prime” loans because the applicants had blemished credit. I worked with these applicants to see if they would qualify for a prime conventional loan or a Federal Housing Administration (“FHA”) loan. As loans insured by the federal government, FHA loans have interest rates that are a little higher than the prime rate, but are significantly less expensive than subprime loans.

4. I also worked during much of this period as a Community Development Representative. In this capacity, I contacted and worked with community groups with the goal of expanding Wells Fargo’s business, particularly in minority communities. I am African American.

5. In June, 1999, I left Wells Fargo to take a position with Ardent Communication, a telecommunications business. I left Wells Fargo for two reasons. First, I was uncomfortable with how Wells Fargo treated its minority employees and customers. Wells Fargo’s managers were almost entirely White and there was little to no opportunity for advancement for minorities. Wells Fargo also discriminated against minority loan applicants by advising them that the interest rate on their loan was “locked”, when in fact, Wells Fargo had the ability to lower the interest rate for the applicant if the market rates dropped prior to the loan closing. I believe this was deceptive and discriminatory, particularly since Wells Fargo loan officers lowered interest rates for White loan applicants when market rates dropped after the application but prior to a loan closing. Even though I complained about this differential treatment of minorities to the branch manager, Jennifer Bowman, Wells Fargo did nothing to change



the practice. I also left Wells Fargo because Ardent Communications offered me a higher salary and more opportunities as a minority employee for advancement.

6. After Ardent Communications went out of business, in November 2001, I returned to work as a loan officer in the Sales and Marketing section of Wells Fargo's Annandale, Virginia office. Although I still had concerns about Wells Fargo's treatment of minority employees and customers, I thought that because there was a new branch manager, Dave Margeson, in the Annandale office, the working environment may have improved.

7. By the time I returned to Wells Fargo, the company was targeting existing customers for refinance loans to a much greater extent than it had during my first period of employment. As during my first period of employment, I contacted existing Wells Fargo borrowers nationally to solicit them to refinance their loans into a prime or FHA loan. When the borrower did not qualify for those loans, I would refer the borrower to the Mortgage Resource division, which is known by the acronym MORE and exclusively originates higher interest rate subprime loans. The employees working for MORE were located on the same floor as I was and I communicated with them every day.

8. In addition to taking referrals from other loan officers, MORE employees in the Annandale office targeted minority consumers for both purchase and refinance subprime loans. The MORE division targeted zip codes in Washington, D.C. east of the Anacostia River, Prince George's County, Maryland and the City of Baltimore with predominantly African-American populations. I heard employees in the MORE division comment that Howard County was not good for subprime loans because it has a predominantly White population. I also heard MORE employees on several occasions

mimic and make fun of their minority customers by using racial slurs. They referred to subprime loans made in minority communities as “ghetto loans” and minority customers as “those people have bad credit,” “those people don’t pay their bills,” and “mud people.”

9. In 2002, Dave Johnson, a former colleague with whom I had worked at Wells Fargo in 1997 and 1998, asked me if I could help him return to Wells Fargo. Mr. Johnson left Wells Fargo in 1998 to work at another mortgage lender. I spoke with Dave Margeson, my branch manager, and suggested that he hire Dave Johnson. Wells Fargo hired Mr. Johnson as a manager in the MORE division. Although I had also applied for a management position, Wells Fargo hired Mr. Johnson, who is White, instead of promoting me. I believe that Wells Fargo did not promote me for two reasons. First, Wells Fargo’s management culture was White. Mr. Margeson is White and so is his immediate supervisor, area manager John Goulding. Indeed, I know of only one Wells Fargo African-American manager. Second, Wells Fargo management knew that I treated Wells Fargo customers well by offering to refinance them to prime and FHA loans when they qualified for those products. Wells Fargo management did not believe that I was doing enough to promote the subprime business, which was far more profitable because of the higher interest rates and fees. John Goulding told me that I was not doing enough to promote subprime loans and managers told me and others in the Sales and Marketing section that if we could not initially qualify a borrower for an FHA loan, we should refer them to the MORE division for a subprime loan even if with additional time or assistance the borrower would qualify a prime or an FHA loan.

10. Wells Fargo promoted its subprime business by targeting subprime loans to minorities. It did so in two ways, first, by sending marketing materials to minority



communities; second, by using minority subprime loan officers to solicit loans in those same communities. Wells Fargo targeted marketing materials to zip codes with predominantly minority populations. Wells Fargo's Annandale office targeted African American zip codes in Washington, D.C., Prince George's Country and Baltimore.

11. Wells Fargo even had software to generate marketing materials to minorities. For example, if a Wells Fargo loan officer anywhere in the United States wanted to send a flyer to consumers in an African-American neighborhood soliciting subprime loans, he could access software on his computer that would print out a flyer to persons speaking the language of "African American." I discovered this practice and attach a screen shot from my computer as an illustration of how a Wells Fargo employee could generate a flyer targeting African Americans. The document attached as Exhibit A is a true and accurate copy of the screen shot I printed on January 17, 2006. Only after I complained about this practice, did Wells Fargo agree to remove the African American option from the menu of languages.

12. Wells Fargo also marketed subprime loans to minorities by hiring minority employees to solicit these higher cost loans. Wells Fargo hired African-American loan officers exclusively from other subprime lenders. In the Annandale office, all the MORE loan officers were African-American, even though their two managers were White. In Silver Spring, Maryland, Wells Fargo had an "Affinity Group Marketing" section which consisted entirely of African-American employees. The Affinity Group targeted African-American churches and their members for loans. The Affinity Group Marketing section also hired an African-American employee specifically for the purpose of targeting African-American churches. Because the MORE group only had authority to make

subprime loans, they regularly originated subprime loans to African Americans and other minority borrowers who could have qualified for a lower cost prime loan or FHA loan. I had access to Wells Fargo customers' loan records and application files for my work in the Sales and Marketing division and regularly saw minority customers who had good credit scores and credit characteristics in subprime loans who should have qualified for prime or FHA loans.

13. Because Wells Fargo made a higher profit on subprime loans, the company put "bounties" on minority borrowers. By this I mean that loan officers received cash incentives to aggressively market subprime loans in minority communities. If a loan officer referred a borrower who should have qualified for a prime loan to a subprime loan, the loan officer would receive a bonus. Loan officers were able to do this because they had the discretion to decide which loan products to offer and to determine the interest rate and fees charged to the borrower. Since loan officers made more money when they charged higher interest rates and fees to borrowers, there was a great financial incentive to put as many minority borrowers as possible into subprime loans and to charge these borrowers higher rates and fees. I knew many loan officers who made more than \$600,000 a year and a few who made more than \$ 1 million.

14. Wells Fargo discriminated against minority loan applicants by not offering them its better or newer products which had lower fixed interest rates and fees. Instead, Wells Fargo offered its higher cost loan products, including its adjustable rate mortgage (ARM) loans to minority applicants. Wells Fargo's loan officers also discriminated against minority refinance applicants by encouraging them to take out more cash from their home equity. By taking out more cash, the borrower would unwittingly increase the

commission the loan officer received on the loan, while at the same time eliminating his ability to qualify for a prime or FHA loan. By encouraging the borrower to take out more cash, the loan officer knowingly increased the borrower's risk of foreclosure because of the higher loan amount.

15. In trainings, Wells Fargo loan officers were encouraged to omit pertinent information about a subprime loan in talks with applicants because discussing loan terms could cost a loan officer a sale. For example, it was implied in trainings that Wells Fargo loan officers should not mention that subprime loans included a prepayment penalty if the borrower paid off or refinanced his loan before the prepayment penalty period ended or that the monthly payments on ARM loans would substantially increase. When an applicant asked a loan officer about prepayment penalties or monthly payment increases, the loan officer would tell the applicant not to worry because Wells Fargo would later be able to refinance him into a prime or an FHA loan.

16. Wells Fargo's management also tolerated a culture of discrimination. In addition to being almost entirely White, the company promoted at least one manager who used racial slurs. Dave Zoldak, who succeeded Dave Margeson as my branch manager in 2005, used the word "nigger" at the office. Although Wells Fargo knew Mr. Zoldak used racial slurs, it promoted him to area manager after I complained about his discriminatory comments. On October 21, 2005, I complained by email to Mr. Zoldak directly about his use of the word "nigger" and speaking about how African Americans lived in "hoods" and "slums." Mr. Zoldak replied that he had used the slurs in a humorous way, just as the African-American comedian Dave Chapelle did on television and thought that I would find the use of these terms humorous. I attach as Exhibit B a true and accurate

copy of my October 21, 2005 email to Mr. Zoldak and his response later the same day. On December 9, 2005, I complained by email to Joe Rogers, an Executive Vice President, and two Human relations employees at Wells Fargo about the use of the word "nigger" and other slurs by Wells Fargo employees. I also verbally informed Mr. Rogers's of Mr. Zoldak's racial slurs, including the use of the word "nigger." Although Mr. Rogers agreed with me by email that racial epithets were unacceptable, he questioned why I was raising the issue with him. I attach as Exhibit C a true and accurate copy of my December 9, 2005 email to Mr. Rogers and others, and his December 12, 2005 response. Despite these complaints, Wells Fargo promoted Mr. Zoldak.

17. Even the underwriting of subprime loans fostered their discriminatory impact on minorities. The subprime underwriting group was located in a different city than the prime underwriting group. The subprime underwriters were located initially in Baton Rouge, Louisiana and later Ft. Mill, South Carolina. Subprime loan officers with MORE and elsewhere within Wells Fargo pressured underwriters to approve subprime loans.


18. In late 2004 and early 2005, in response to the complaints of discrimination by such groups as ACORN (the Association of Community Organizations for Reform Now) and the Center for Responsible Lending, Wells Fargo implemented so-called "filters" in their lending programs that purportedly would discourage loan officers from steering minorities to subprime loans. Wells Fargo implemented these filters for public consumption only and not to actually restrict discriminatory practices. The filters were ineffective because they did not have any "teeth" (no punishment for violating) and because they were easy for loan officers to circumvent. I do not believe these filters had

any impact on steering because subprime loan officers continued to receive large financial incentives for making subprime loans to minority borrowers and were encouraged by their managers to do so because these loans were profitable. These filters also did not have an impact on steering because, notwithstanding any written rules, loan officers had discretion to make decisions about products and pricing.

19. Wells Fargo ultimately fired me in September, 2007 asserting that my loan production was low. My loan production was lower than many other loan officers because I tried to do the right thing by Wells Fargo customers by putting them in loans they could afford. If a customer did not qualify for a loan or could not afford an estimated monthly payment, I did not originate the loan. I was verbally reprimanded by John Goulding, my indirect supervisor, for placing too many customers in FHA loans, when the company wanted me to refer them to a subprime loan officer, for example in the MORE group, so that the company could make a greater profit on the loan.

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

EXECUTED WITHIN THE UNITED STATES ON: April 9, 2009

BY: 

Tony Paschal

Exhibit A

Search for Items

Standard Search (* You must at least select a Type of Item or enter a Subject)

* What Type Of Item Are You Looking For?

* What Subject Are You Looking For?

Personalized

Strategy

Language

Item Color

Item Size

Audience

Product / Program / Feature

High Trust Sales and Marketing

SALE ITEMS

Search

Searching Hints

Here are some helpful searching hints to help you find the items you're looking for.

> For the fastest results, if you know the item number, enter it in the Quick Search section.

> For best results using Standard Search, select a minimum of one search criteria as appropriate, such as a Type of Item AND a Subject. At a minimum, you must select either a Type of Item or enter a Subject.

> For more targeted results, also include search criteria as appropriate, such as a language, etc. At a minimum, you must select either a Type of Item or enter a Subject.

Quick Search (Use This When You Know the Item ID)

Item ID (do not include NMFL#, etc.)

Search

Custom Requests

For custom design requests, click on the button below. Please note that custom requests are not tracked as orders through Easy Order. You should contact Ad Services directly at 515-213-4000 or by email at adservices@wellsfargo.com for questions regarding custom requests.

Custom Requests/Reviews

Exhibit B

Paschal, Tony

From: Zoldak, David
Sent: Friday, October 21, 2005 8:47 AM
To: Paschal, Tony
Subject: RE: Workflow

I'm only trying to provide you options to help lessen an obviously frustrating situation. I would rather suggest as many resources I know of to help you be proactive with your loans instead of making excuses to let these loans go to the wayside. As far as the rest of your comments are concerned, I believe you are referring to our many rehashings of the Dave Shappel(spelling) show...which, I assumed you enjoyed. If something I said had ever offended you, I'm sorry. They next time I say something that you feel is offensive to you or anyone, I would encourage you to address it at that time. I would like you to focus on working with me and our team in Ohio to resolve your loan problems instead of wasting your time and energy in some other direction.

David J. Zoldak
Branch Manager
Wells Fargo Home Mortgage
MAC M8602-031
7620 Little River Turnpike, Ste. 300
Annandale, VA 22003
703.333.5555 Tel
866.333.5540 ext. 5555 Toll Free
703.333.5590 Fax
david.zoldak@wellsfargo.com

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Wells Fargo Home Mortgage-2701 Wells Fargo Way-Minneapolis, MN 55467-8000

From: Paschal, Tony
Sent: Friday, October 21, 2005 6:49 AM
To: Zoldak, David
Subject: Workflow
Importance: High

As soon as my email functionality is restored I will forward the email I sent to Ms. Noble over a week ago informing her about my computer situation. If I were able to access the information she has been requesting in her email, (cell phone numbers, work numbers, etc) I would have used loan status not LIS to get that information. Since neither of those systems has been available on a consistent basis for the past two weeks, and since loans in aptaker are reciprocally linked to loan status, getting back to Ms. Noble has been difficult at best. I feel her emails have been returned in a timely fashion, however if this situation is being approached as Shirley Temple and Bill (Bojangles) Robinson we have a problem. Speaking of problems, since you were comfortable enough to use a quote in front of me several months ago using the word "nigger" you'll understand when I say that I am nobody's "nigger" and I do not live in anyone's "hood" and I am not from anyone's slums. If you have any questions feel free to contact me. Thank's

Tony Paschal
Home Mortgage Consultant
Wells Fargo Home Mortgage
M8602-031
7620 Little River Turnpike Suite 300
Annandale, Virginia 22003
703.333.5549 Office
866.333.5540 ext.5549 Toll Free

Exhibit C

Paschal, Tony

From: Rogers, Joe
Sent: Monday, December 12, 2005 10:34 AM
To: Paschal, Tony
Cc: White, Julie M. - HR; Williams, Mark S (HR)
Subject: RE:

Tony,

I believe all on this chain would agree with you. My question is one of context. What prompts you to ask that question at this time. While I would want to send an across the board agreement, questions like yours below, could be an example of the use of this word. In other words, indicating a totally unacceptable practice.

Joe Rogers
Ph: (410) 872-1935

-----Original Message-----

From: Paschal, Tony
Sent: Friday, December 09, 2005 4:03 PM
To: Rogers, Joe
Cc: White, Julie M. - HR; Williams, Mark S (HR)
Subject:
Importance: High

Is there any time when it is appropriate to use the word "Nigger" in the workplace? Is it ever appropriate to reference where an African American employee and his family live as the "slums" or the "hood"? This word is so vile and filthy that our email system will not allow it to leave our own network. After reading every employee handbook since Wells Fargo Home Mortgage was Norwest Mortgage, I cannot find any instance where any racial epithet is allowed at Wells Fargo. At least that what the handbook says.

Tony Paschal
Home Mortgage Consultant
Wells Fargo Home Mortgage
M8602-031
7620 Little River Turnpike Suite 300
Annandale, Virginia 22003
703.333.5549 Office
866.333.5540 ext.5549 Toll Free
703.333.5590 Fax
tony.paschal@wellsfargo.com

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