

1 Sonya D. Winner, SB # 200348
 David M. Jolley, SB # 191164
 2 Margaret G. May, SB # 234910
 COVINGTON & BURLING LLP
 3 One Front Street
 San Francisco, CA 94111
 4 Telephone: (415) 591-6000
 Facsimile: (415) 591-6091
 5 E-mail: mmay@cov.com

6 Attorneys for Defendant
 WELLS FARGO BANK, N.A.
 7
 8

9 UNITED STATES DISTRICT COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 VERONICA GUTIERREZ, *et al.*,

12 Plaintiffs,

13 v.

14 WELLS FARGO & COMPANY, *et al.*,

15 Defendants.
 16

Civil Case No.: CV-07-5923 WHA (JCSx)

~~PROPOSED~~ ORDER RE
 ELECTRONIC DATA SECURITY

Honorable William H. Alsup

17
 18 On December 10, 2008, at 2:00 p.m., the Court heard the Motion for Protective
 19 Order (“Motion”) of Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) in the above-captioned
 20 action. After oral argument and consideration of the pleadings and all documents relating to this
 21 Motion, the Court rules as follows:

22 IT IS ORDERED that Wells Fargo shall provide plaintiffs with access to the
 23 following data:

- 24 A. For a random sample of 10,000 California customers, electronic transaction data
 25 from May 14, 2008, to June 13, 2008, from the following sources:
- 26 1. The BMG data from the V_Trان_Detail_HD table.
 - 27 2. The BMG data from the V_Trان_Detail_EP table.
 - 28 3. The BMG data from the V_Trان_Detail_CK table.

- 1 4. The BMG data from the V_Trان_Detail_TQ table.
- 2 5. The BMG data from the V_Trان_Detail_EW table.
- 3 6. The BMG data from the V_Trان_SUM_YYYYMM_OL table.
- 4 7. The electronic transaction data stored by the Settlement System.
- 5 8. The transaction data from the BEV database.

6 Wells Fargo shall provide plaintiffs with the algorithm used to generate the
7 random sample of 10,000 customers.

- 8 B. For the same random sample of 10,000 customers, electronic transaction data
9 from May 26, 2005, to June 1, 2005, from the BMG data sources listed in
10 paragraphs A-1 though A-6 above.
- 11 C. The BR-14 and XR-Memo reports in electronic format for California customers
12 from May 14, 2008, to June 13, 2008.
- 13 D. Electronic data from the RDS system for all California customer transactions
14 from October 27, 2008, and October 31, 2008.

15
16
17 IT IS FURTHER ORDERED that, to protect the security of the personal
18 financial data of Wells Fargo's customers, the data shall be produced in a "clean room" at a
19 secure Wells Fargo facility in San Francisco, California. The following conditions shall apply:

- 20 A. The clean room shall remain locked at all times with cardkey access for an audit
21 trail or with a passcode lock to be set by plaintiffs. The room shall be accessible
22 to plaintiffs' counsel and their employees, retained experts, and consultants who
23 sign an agreement to be bound by the Protective Order issued in this case on
24 April 8, 2008. No Wells Fargo staff, contractors, or cleaning crew may be
25 allowed access to the room.¹

26
27 ¹ Fire marshals and/or emergency responders may, however, be allowed access after a
28 reported safety issue.

1 B. Plaintiffs may bring into the room any hardware or software they wish other than
2 modems or other devices to broadcast outside the room. The hard drives that
3 plaintiffs use shall be inventoried prior to use, and shall be accounted for and
4 destroyed after completion.

5 C. Plaintiffs' system shall be loaded with the requested electronic customer
6 transaction data.

7
8 D. Plaintiffs may encode or encrypt their system so that no Wells Fargo personnel
9 will have access to plaintiffs' work product. Wells Fargo shall not "spy" on the
10 work conducted by plaintiffs in the clean room. Wells Fargo shall, if plaintiffs
11 request it, provide a disaster-proof safe (with the combination to be set by
12 plaintiffs) for plaintiffs to lock keys, software, backups, passwords, or other
13 confidential property.

14 E. Plaintiffs shall not remove individual customer financial transaction data of any
15 kind from the clean room. Plaintiffs may remove from the room work product
16 reflecting aggregate analyses based on the data so long as no customer-specific
17 information is disclosed in, or can be ascertained from, the removed material.
18 Any such work product that plaintiffs remove from the clean room shall be
19 designated "HIGHLY CONFIDENTIAL" under the Protective Order issued in
20 this case on April 8, 2008.

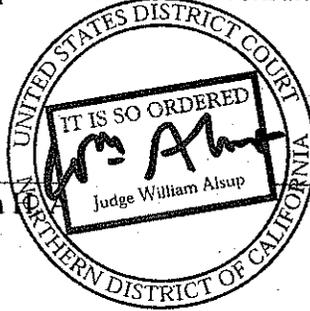
21
22 With these security measures in place, the Court finds there to be no need to
23 provide notice to Wells Fargo customers that their financial data is being analyzed by plaintiffs
24 and their consultants.

25 IT IS FURTHER ORDERED that plaintiffs and their consultants shall be
26 provided access to the clean room from 6:00 am until midnight each day until the close of fact
27 discovery in this matter. Plaintiffs shall provide Wells Fargo with reasonable advance notice of
28 those occasions when they will need such access outside of regular business hours.

1 IT IS FURTHER ORDERED that Wells Fargo shall designate a liaison who shall
2 be reasonably available to resolve logistical problems that plaintiffs and their consultants may
3 encounter in connection with their use of the clean room.

4
5 DATED: December 16, 2008

6 Hon. William



7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28