

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

|                                     |   |                     |
|-------------------------------------|---|---------------------|
| DATATREASURY CORPORATION            | § |                     |
| <i>PLAINTIFF</i>                    | § |                     |
| vs.                                 | § | No. 2:06cv72        |
|                                     | § |                     |
| WELLS FARGO & COMPANY, <i>et al</i> | § | JURY TRIAL DEMANDED |
| <i>DEFENDANTS</i>                   | § |                     |

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**AFFIDAVIT OF BEN KING**

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STATE OF TEXAS           §  
  §  
COUNTY OF BOWIE       §

BEFORE ME, the undersigned notary public, on this day personally appeared before me Ben King who, being by me first duly sworn, on oath stated as follows:

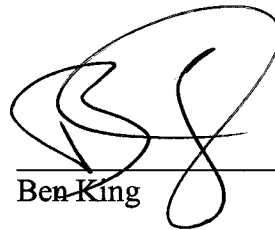
1. My name is Ben King. I am over the age of 18 and competent to make this affidavit. I am an attorney at Nix, Patterson & Roach LLP, counsel for DataTreasury Corporation in this action. I am a member of good standing of the State Bars of Texas and Arkansas, and I am admitted to practice in this District. I have personal knowledge of the facts set forth in this Affidavit.
2. Attached as Exhibit A is a true and correct copy of UnionBanCal Corporation's 2005 10-K SEC Filing. Relevant portions thereof have been electronically highlighted and have been accurately explained in the body of the Response filed with this Affidavit.
3. Attached as Exhibit B is a true and correct copy of UnionBanCal Corporation's 2005 Annual Report. Relevant portions thereof have been

electronically highlighted and have been accurately explained in the body of the Response filed with this Affidavit.

4. Attached as Exhibit C is a true and correct copy of the deposition transcript of David Anderson taken on February 7, 2007. Relevant portions thereof have been electronically highlighted and have been accurately explained in the body of the Response filed with this Affidavit.
5. Attached as Exhibit D is a true and correct copy of an Order filed November 16, 2004 in *DataTreasury v. SVPCo*
6. Attached as Exhibit E is a true and correct copy of a press release from SVPCo obtained from the website [http://www.theclearinghouse.org/press\\_releases/svpc0\\_2005/001389.php](http://www.theclearinghouse.org/press_releases/svpc0_2005/001389.php).  
The relevant portions have been accurately explained in the body of the Response filed with this Affidavit.
7. Attached as Exhibit F is a true and correct copy of a printout of the web address <https://www.snl.com/irweblinkx/corporateprofile.aspx?IID=1022285>.  
The relevant portions have been accurately explained in the body of the Response filed with this Affidavit.
8. Attached as Exhibit G is a true and correct copy of UnionBanCal Corporation's 2005 Proxy. Relevant portions thereof have been electronically highlighted and have been accurately explained in the body of the Response filed with this Affidavit.

9. Attached as Exhibit H is a list of directors provided to DataTreasury by UnionBanCal Corporation's counsel. Relevant portions have been accurately explained in the body of the Response filed with this Affidavit.
10. Attached as Exhibit I is a true and correct copy of selected excerpts of UnionBanCal Corporation's Bylaws as of September 30, 2003. Relevant portions thereof have been electronically highlighted and have been accurately explained in the body of the Response filed with this Affidavit.
11. Attached as Exhibit J is a true and correct copy of selected excerpts of UnionBanCal Corporation's 10-Q SEC Filing for the time period ending June 30, 2005. Relevant portions thereof have been electronically highlighted and have been accurately explained in the body of the Response filed with this Affidavit.
12. Attached as Exhibit K is a true and correct copy of selected excerpts of UnionBanCal Corporation's 10-Q SEC Filing for the time period ending March 31, 2004. Relevant portions thereof have been electronically highlighted and have been accurately explained in the body of the Response filed with this Affidavit.

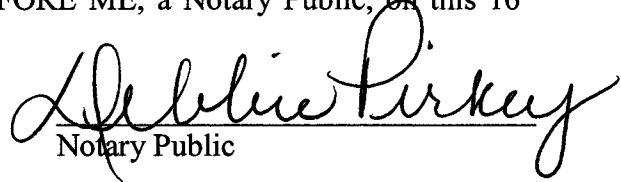
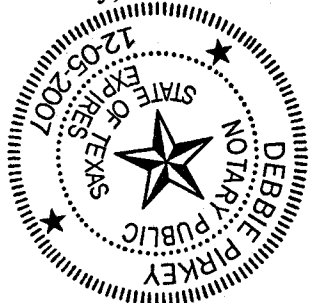
Further Affiant sayeth not.



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Ben King

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 16<sup>th</sup> day of February, 2007.



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Notary Public

My Commission Expires: 12:05-07