

Exhibit A

Cause No.: 2:06-CV-72 DF
DataTreasury Corporation
v.
Wells Fargo & Company, et al.

Transcript of the Testimony of
David Anderson

February 7, 2007

By: Lisa Gretarsson, CSR

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

| | | | | |
|---|---------------------------|---|---|------------------|
| 3 | DATATREASURY CORPORATION, |) | (| |
| | |) | (| |
| 4 | Plaintiff, |) | (| |
| | |) | (| |
| 5 | VS |) | (| CIVIL ACTION NO. |
| | |) | (| 2:06-CV-72 (DF) |
| 6 | WELLS FARGO & COMPANY, |) | (| |
| | et al., |) | (| |
| 7 | |) | (| |
| | Defendants. |) | (| |

VIDEOTAPED ORAL DEPOSITION OF DAVID ANDERSON
FEBRUARY 7, 2007

VIDEOTAPED ORAL DEPOSITION OF DAVID ANDERSON,
produced as a witness at the instance of the Plaintiff,
and duly sworn, was taken in the above-styled and
above-numbered cause on the 7th day of February, 2007,
from 9:21 a.m. to 4:27 p.m., before Lisa J. Gretarsson,
CSR in and for the state of Texas, reported by machine
shorthand, at the offices of Pillsbury, Winthrop, Shaw,
Pittman, LLP, 50 Fremont, Suite 400, located in the city
of San Francisco, state of California, pursuant to the
Federal Rules of Civil Procedure and the provisions
stated on the record.

1 A. He described the departments that I would be 09:37
2 in charge of and the general roles and responsibilities 09:37
3 that would go to administer those departments. 09:37

4 Q. And at that time what departments did 09:38
5 Mr. Matson indicate that you would be in charge of? 09:38

6 A. Controller's department, accounts payable and 09:38
7 payroll department. 09:38

8 Q. And what entity were those departments of? 09:38
9 Were those -- let me rephrase that. Were those 09:38
10 departments of UnionBanCal or Union Bank of California? 09:38

11 A. Union Bank. 09:38

12 Q. Okay. Is there a controller's department of 09:38
13 UnionBanCal? 09:38

14 A. No. 09:38

15 Q. Is there an accounts payable department of 09:38
16 UnionBanCal? 09:38

17 A. No. 09:39

18 Q. Is there a payroll department of UnionBanCal? 09:39

19 A. No. UnionBanCal has no employees. 09:39

20 Q. You also indicated that Mr. Matson -- you'd 09:39
21 also indicated that Mr. Matson stated that your general 09:39
22 roles and responsibility would be to administer those 09:39
23 departments. What were your general roles and 09:39
24 responsibilities, as Mr. Matson laid them out, in 09:39
25 regards to administering the controller's department? 09:39

1 400 California Street in San Francisco? 11:05

2 A. Its offices are at 400 California Street. 11:05

3 Q. Do you know how many offices there are for 11:06

4 UnionBanCal Corporation at 400 California Street? 11:06

5 A. There are none that are specifically 11:06

6 designated as UnionBanCal Corporation offices. 11:06

7 Q. But UnionBanCal Corporation does maintain 11:06

8 offices at 400 California Street; is that correct? 11:06

9 A. That is the mailing address and its corporate 11:06

10 headquarters. 11:06

11 Q. Okay. 11:06

12 A. There are no separate designated offices that 11:06

13 are only for UnionBanCal Corporation as UnionBanCal 11:06

14 Corporation has no employees. 11:06

15 Q. Does Union Bank of California have any offices 11:07

16 at 400 California Street? 11:07

17 A. Yes. 11:07

18 Q. And do you know approximately how many people 11:07

19 are officed for Union Bank of California at 400 11:07

20 California Street? 11:07

21 A. Eighteen floors, 50 people on a floor, 11:07

22 approximately. I'll let you do the math. 11:07

23 Q. I would defer on the math right now. 11:07

24 If I were to send a -- if I were to send 11:08

25 correspondence to UnionBanCal Corporation at 400 11:08

1 employee of Union Bank of California, and now 12:47
2 understanding that this is a joint committee of 12:47
3 UnionBanCal and Union Bank of California, do you believe 12:48
4 that a policy developed at the hands of the policy 12:48
5 committee of UnionBanCal Corporation would not be 12:48
6 adopted by Union Bank of California? 12:48
7 MR. SWEIGART: Object to the form. 12:48
8 A. I still -- I don't change my answer, and the 12:48
9 reason is, is that there are certain policies that would 12:48
10 only be applicable to UnionBanCal Corporation and 12:48
11 therefore they wouldn't be applicable to Union Bank of 12:48
12 California. Some would be and that's why it's a joint 12:48
13 committee. 12:48
14 Q. (BY MR. KING) To the extent -- 12:48
15 A. For instance -- 12:48
16 Q. Let me -- let me ask a question, and then 12:48
17 I'll -- well, I tell you what, go ahead and -- go ahead 12:49
18 and give me your -- 12:49
19 A. Equal opportunity, equal employment 12:49
20 opportunity, there are no employees of UnionBanCal, it 12:49
21 wouldn't be applicable to UnionBanCal. 12:49
22 Business standards for ethical conduct by 12:49
23 an employee, there are no employees of UnionBanCal 12:49
24 Corporation, it would not be applicable. 12:49
25 The laws governing UnionBanCal 12:49

1 of control over the compensation of employees of Union 12:56

2 Bank of California? 12:56

3 MR. SWEIGART: Object to the form. 12:56

4 A. Could you define "control"? It seems to be 12:57

5 very broad. 12:57

6 Q. (BY MR. KING) How would you define "control"? 12:57

7 A. I -- I suppose I wouldn't define "control." I 12:57

8 guess I'd rather have you ask me a specific question. 12:57

9 Q. So you can't define the word "control"? 12:57

10 MR. SWEIGART: I've got to object to the 12:57

11 form, argumentative. 12:57

12 A. The -- the -- the committee's function is to 12:57

13 approve recommendations of management, so I guess that's 12:57

14 how I would define control for you. 12:57

15 Q. (BY MR. KING) Would it be fair to say that 12:57

16 the executive compensation and benefits committee has 12:57

17 final say as to the compensation of employees of 12:57

18 UnionBanCal Corporation? 12:57

19 MR. SWEIGART: Object to the form. 12:57

20 A. There is no employees of UnionBanCal 12:58

21 Corporation. 12:58

22 Q. (BY MR. KING) I'm sorry. Would it -- let me 12:58

23 rephrase that question. 12:58

24 Would it be fair to say that the 12:58

25 executive compensation and benefits committee has final 12:58

1 A. Yes. 01:04

2 Q. Does this give you an understanding of what 01:04

3 the role of the corporate governance committee's 01:04

4 function is for UnionBanCal Corporation? 01:04

5 A. Basic understanding, yes. 01:04

6 Q. It says, UnionBanCal, if you look at the 01:04

7 second paragraph -- 01:04

8 A. Uh-huh (affirmative). 01:04

9 Q. -- it says, UnionBanCal has adopted a code of 01:04

10 ethics and conduct entitled the business standards for 01:04

11 ethical conduct -- 01:05

12 A. Uh-huh (affirmative). 01:05

13 Q. -- which is applicable to all officers and 01:05

14 employees. 01:05

15 A. Uh-huh (affirmative). 01:05

16 Q. UnionBanCal has also adopted a code of ethics 01:05

17 for senior financial officers and a code of ethics 01:05

18 applicable to its directors. These codes are subject to 01:05

19 an annual certification process to review compliance. 01:05

20 A. Uh-huh (affirmative). 01:05

21 Q. Now, earlier, when we were talking about 01:05

22 different policies that may be developed by UnionBanCal 01:05

23 Corporation, you indicated that business standards for 01:05

24 ethical conduct by an employee was one such policy that 01:05

25 UnionBanCal Corporation would not develop because there 01:05

1 are no employees of UnionBanCal Corporation. 01:05

2 A. Uh-huh (affirmative). 01:05

3 Q. Is that correct? 01:05

4 A. Right. 01:05

5 Q. Do you -- in light of reading the second 01:05

6 paragraph there, do you still believe that that's an 01:05

7 accurate statement? 01:05

8 A. Yes, I do. It says covers officers and 01:05

9 employees. It is applicable to the officers of 01:05

10 UnionBanCal Corporation. 01:06

11 Q. But UnionBanCal Corporation's -- the code of 01:06

12 ethics and conduct that it adopted, it didn't -- 01:06

13 UnionBanCal Corp. did, in fact, adopt a code of ethics 01:06

14 and conduct, did it not? 01:06

15 A. Yes, it did. 01:06

16 Q. Okay. And right here it says that it is 01:06

17 applicable to all officers and employees, correct? 01:06

18 A. That's right. 01:06

19 Q. And earlier you had said that UnionBanCal 01:06

20 Corporation would have no reason to adopt standards for 01:06

21 ethical conduct by an employee, correct? 01:06

22 A. For an employee, that's correct. 01:06

23 Q. But here it's stating that UnionBanCal has 01:06

24 adopted a code of ethics and conducted -- 01:06

25 A. For officers. Stop, officers. 01:06

1 Q. Well, it doesn't stop right here on the 01:06
2 company's proxy statement, though. It continues and 01:06
3 says employees, does it not? 01:06

4 A. That's correct. 01:06

5 Q. Whoever wrote this document could've stopped 01:06
6 at officers, correct? 01:06

7 A. It's a policy that -- as you can see, it is 01:06
8 for UnionBanCal and is applicable to any employees of 01:06
9 any of the subsidiary corporations, which I also stated 01:07
10 to you earlier. 01:07

11 Q. Is that what it says in that sentence, that 01:07
12 it's applicable to employees of UnionBanCal 01:07
13 subsidiaries? 01:07

14 A. UnionBanCal is used in this term as the -- I 01:07
15 believe, in this case, applies to also its subsidiary 01:07
16 employees. 01:07

17 Q. And how do you have that understanding? 01:07

18 A. It's just my -- my understanding from reading 01:07
19 this. 01:07

20 Q. Is there anything in the document that 01:07
21 limits -- that says that UnionBanCal here is referring 01:07
22 to its -- itself and its subsidiaries? 01:07

23 A. I do not have that in front of me to be able 01:07
24 to read it. 01:07

25 Q. Well, you have the entire document in front of 01:07

1 you, Mr. Anderson. 01:07

2 A. No, the code of ethics is what I'm referring 01:07

3 to. 01:07

4 Q. Okay. But here in its proxy statement -- who 01:07

5 is the proxy statement provided to, Mr. Anderson? 01:07

6 A. Shareholders of UnionBanCal Corporation. 01:07

7 Q. And is it for the benefit of shareholders of 01:08

8 UnionBanCal Corporation? 01:08

9 A. Yes, it is. 01:08

10 Q. Is it for the benefit of the public at large 01:08

11 who may be interested in investing in UnionBanCal 01:08

12 Corporation? 01:08

13 A. Yes. 01:08

14 Q. And is it important that if you're going to 01:08

15 make -- that if UnionBanCal Corporation makes 01:08

16 representations to its shareholders and the public at 01:08

17 large, that those statements be correct and accurate? 01:08

18 A. It is accurate. 01:08

19 Q. Okay. So Union -- 01:08

20 A. UnionBanCal. 01:08

21 Q. Excuse me. This document is accurate when it 01:08

22 says, UnionBanCal has adopted a code of ethics and 01:08

23 conduct entitled the business standards for ethical 01:08

24 conduct, which is applicable to all officers and 01:08

25 employees, correct? 01:08

1 A. Yes. 01:08

2 Q. It does not say and employees of its 01:08

3 subsidiaries there, does it not? 01:08

4 A. UnionBanCal has no employees. If it did, it 01:08

5 would've been applicable to those employees. It does 01:08

6 not. 01:08

7 Q. But it doesn't say here that it doesn't have 01:08

8 employees, correct? 01:08

9 A. It does not and it is not necessary, in my 01:09

10 view. 01:09

11 Q. And it doesn't define employees as being 01:09

12 limited to employees of UnionBanCal Corporation 01:09

13 subsidiaries, does it? 01:09

14 A. No. I don't think it is necessary to. 01:09

15 Q. If you're just the average person on the 01:09

16 street that had no knowledge of UnionBanCal 01:09

17 Corporation -- 01:09

18 A. Uh-huh (affirmative). 01:09

19 Q. -- would you -- and you read this sentence, 01:09

20 would you read it to believe that UnionBanCal 01:09

21 Corporation has no employees? 01:09

22 MR. SWEIGART: Object to the form. 01:09

23 A. I'm not sure the reader would understand 01:09

24 whether it had any employees or not. 01:09

25 Q. (BY MR. KING) And, in fact, if -- if 01:09

1 Mr. Smith, in Marshall, Texas, happened to pick up this 01:09
2 proxy statement and look at it and read this sentence, 01:09
3 he -- it would be -- it would appear that UnionBanCal 01:09
4 Corporation does have employees, would it -- would it 01:09
5 not? 01:09

6 MR. SWEIGART: Object to the form. 01:09

7 A. He might. 01:10

8 Q. (BY MR. KING) Mr. Smith, in Marshall, Texas, 01:10
9 has no reason to believe that employees is only limited 01:10
10 to UnionBanCal subsidiaries if he read that sentence, 01:10
11 correct? 01:10

12 MR. SWEIGART: Object to the form. 01:10

13 A. They might. 01:10

14 Q. (BY MR. KING) They might what? They might 01:10
15 think it was limited to UnionBanCal Corporation? 01:10

16 A. Officers and employees, I would find -- 01:10
17 probably feel it was irrelevant to -- it'd give him 01:10
18 comfort to know that it covered any functioning people 01:10
19 within the organization, glad to know that anyone that 01:10
20 serves in this company, in any capacity, would be 01:10
21 covered by a code of ethics. 01:10

22 Q. Including employees of UnionBanCal 01:10
23 Corporation, if they have them. 01:10

24 A. I think that's the important part of what the 01:11
25 reader would want to understand, that anyone that serves 01:11

1 in any capacity within UnionBanCal would be covered by a 01:11
2 code of ethics. 01:11
3 Q. Including employees. 01:11
4 A. If there were some, yes. 01:11
5 MR. KING: I'm going to go to page 9. 01:11
6 MR. SWEIGART: Is that the Adobe page? 01:11
7 MR. KING: That is the proxy page. 01:11
8 MR. SWEIGART: Proxy page. Okay. 01:11
9 THE WITNESS: In many cases they're 01:11
10 sync'd up, or pretty close, depending what part of the 01:12
11 page you're on. 01:12
12 MR. SWEIGART: Okay. I think I've got 01:12
13 it. 01:12
14 THE WITNESS: I need my glasses. 01:12
15 MR. KING: I hit the wrong button. I 01:12
16 couldn't have told you anything about that page. I'm 01:12
17 afraid I went to the wrong page. I want to go to page 01:13
18 13 of the proxy. 01:13
19 Q. (BY MR. KING) Do you see where it says, 01:13
20 Election of Directors, Mr. Anderson? 01:13
21 A. Yes. 01:13
22 Q. Okay. I'd like to direct you to that first 01:13
23 paragraph. 01:13
24 A. Uh-huh (affirmative). 01:13
25 Q. And we'll talk in a minute about the election 01:13

1 A. And I think this is very clear. And I think 01:21
2 those things should stand as my answers. If I gave an 01:21
3 incorrect -- by my math, I apologize. 01:21

4 Q. Hey, I understand. I'm an Aggie and I make 01:21
5 mathematical errors all the time, so -- 01:21

6 A. Okay. Your apology is accepted. 01:21

7 Q. I appreciate it. 01:21

8 Do you see the first full paragraph on 01:22
9 page 14 that begins with, The board of directors has 01:22
10 adopted? 01:22

11 A. Yes. 01:22

12 Q. It says, The board of directors has adopted a 01:22
13 policy which provides that any director who is employed 01:22
14 full-time by UnionBanCal or Union Bank of California 01:22
15 shall retire from the board at age 65, and any director 01:22
16 who is not employed full-time by UnionBanCal or Union 01:22
17 Bank of California, and it goes on from there. 01:22

18 A. Uh-huh (affirmative). 01:22

19 Q. Are there any directors who were employed 01:22
20 full-time by Union Bank of -- UnionBanCal? 01:22

21 A. There are no directors of UnionBanCal that are 01:23
22 employed full-time by UnionBanCal as UnionBanCal has no 01:23
23 employees. 01:23

24 Q. Are there any directors who were employed 01:23
25 part-time by UnionBanCal? 01:23

| | | | |
|----|----|--|-------|
| 1 | A. | As I said, there are no employees of | 01:23 |
| 2 | | UnionBanCal. That covers full-time and part-time. | 01:23 |
| 3 | Q. | Has there ever been an employee of | 01:23 |
| 4 | | UnionBanCal? | 01:23 |
| 5 | A. | Not that I'm aware of. | 01:23 |
| 6 | Q. | Full-time or part-time. | 01:23 |
| 7 | A. | Full-time or part-time. | 01:23 |
| 8 | Q. | As you sit here today, you're not aware of any | 01:23 |
| 9 | | prior -- or any individual being employed full-time or | 01:23 |
| 10 | | part-time by UnionBanCal Corporation. | 01:23 |
| 11 | A. | That's correct. | 01:23 |
| 12 | Q. | Is there an intent to hire any employees by | 01:23 |
| 13 | | UnionBanCal Corporation? | 01:23 |
| 14 | A. | Not -- not that I'm aware of. | 01:24 |
| 15 | Q. | Why is there a policy that provides that any | 01:24 |
| 16 | | director who is employed full-time by UnionBanCal or | 01:24 |
| 17 | | Union Bank of California -- | 01:24 |
| 18 | A. | Because -- | 01:24 |
| 19 | | MR. SWEIGART: Object to the form. | 01:24 |
| 20 | | Go ahead. | 01:24 |
| 21 | | THE WITNESS: I'm sorry. | 01:24 |
| 22 | A. | I suppose that there is the possibility that | 01:24 |
| 23 | | an employee could be hired by UnionBanCal Corporation. | 01:24 |
| 24 | Q. | (BY MR. KING) There's nothing to prohibit | 01:24 |
| 25 | | that, correct? | 01:24 |

1 A. Not that I'm aware of. 01:24

2 MR. KING: I'm going to go to page 23 of 01:24

3 the proxy. 01:24

4 Q. (BY MR. KING) Mr. Anderson, I'd like for you 01:25

5 to look at the heading Senior Management Bonus Plan in 01:25

6 that paragraph underneath that. 01:25

7 A. Yes. (Reviewing document.) 01:25

8 Q. Have you had a chance to look through that? 01:25

9 A. Yes. 01:25

10 Q. Do you see that first sentence where it says, 01:25

11 The senior management bonus plan provides the means 01:26

12 whereby certain senior management employees of 01:26

13 UnionBanCal and Union Bank of California may be given 01:26

14 the opportunity to earn performance-based cash annual 01:26

15 incentives? 01:26

16 A. Yes. 01:26

17 Q. If there are no employees of UnionBanCal, why 01:26

18 is there a need for a senior management bonus plan that 01:26

19 provides for employees of UnionBanCal to earn 01:26

20 performance-based cash annual incentives? 01:26

21 MR. SWEIGART: Object to the form. 01:26

22 A. So that if there were employees of UnionBanCal 01:26

23 Corporation, it would be a policy in place to cover that 01:26

24 rather than revising policies if an employee was hired. 01:26

25 Q. (BY MR. KING) I'd like to go down just a 01:27

1 FOR THE PLAINTIFF:

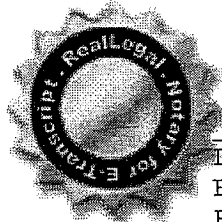
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11
 12 I further certify that I am neither attorney nor
 13 counsel for nor related to or employed by any of the
 14 parties to the action in which this deposition is taken,
 15 and further that I am not a relative or employee of any
 16 attorney or counsel employed by the parties hereto or
 17 financially interested in the action.

18 In witness whereof, I have hereunto set my hand
 19 and affixed my seal this _____ day of _____,
 20 2007.



Lisa J. Grejarsson

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