

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFF
The City of Farmington Hills Employees Retirement System, Individually and on Behalf of All Others Similarly Situated

DEFENDANT
Wells Fargo Bank, N.A.

(b) County of Residence of First Listed Plaintiff Oakland County, MI (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Minnehaha County, SD (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
David M. Cialkowski
Zimmerman Reed, P.L.L.P.
651 Nicollet Mall, Suite 501
Minneapolis, MN 55402
[See attached for complete list.]

Attorneys (If Known)
Lawrence T. Hofmann
Zelle Hofmann Voelbel & Mason LLP
500 Washington Avenue South, Suite 4000
Minneapolis, Minnesota 55415
[See attached for complete list.]

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
PTF DEF
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal categories like Insurance, Real Estate, Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332 and "federal" laws of the United States including the Investment Company Act of 1940, as asserted by Plaintiff.
Brief description of cause: Breach of contract action

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
FEE DEMAND: In excess of \$75,000 and/or \$5,000,000
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): COPIC Insurance Company, N.A.
JUDGE: The Honorable Walker D. Miller
DOCKET NUMBER: 09-cv-00041-WDM-BNB (D. Colo.)

DATE: October 26, 2010
SIGNATURE OF ATTORNEY OF RECORD: [Signature] for Defendant
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

<p>ATTORNEYS FOR PLAINTIFF THE CITY OF FARMINGTON HILLS EMPLOYEES RETIREMENT SYSTEM, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED</p>	<p>ATTORNEYS FOR DEFENDANT WELLS FARGO BANK, N.A.</p>
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STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

THE CITY OF FARMINGTON HILLS)
EMPLOYEES RETIREMENT SYSTEM,)
Individually and on Behalf of All Others)
Similarly Situated)
Plaintiff,)
v.)
WELLS FARGO BANK, N.A.,)
Defendant.)

Case No. _____

SUMMONS

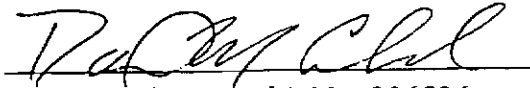
The State of Minnesota to the Above-Named Defendants:

You are hereby summoned and required to serve upon plaintiff's attorney an answer to the complaint which is herewith served upon you within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so judgment by default will be taken against you for the relief demanded in the complaint.

SCANNED
OCT 26 2010
U.S. DISTRICT COURT MPLS

DATED: October 15, 2010

ZIMMERMAN REED, P.L.L.P.



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Attorneys for Plaintiff

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

THE CITY OF FARMINGTON HILLS)
EMPLOYEES RETIREMENT SYSTEM,)
Individually and on Behalf of All Others)
Similarly Situated)

Plaintiff,)

v.)

WELLS FARGO BANK, N.A.,)

Defendant.)

Case No. _____

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff The City of Farmington Hills Employees Retirement System ("City of Farmington Hills" or "Plaintiff") files this complaint against Defendant Wells Fargo Bank, N.A. ("Wells Fargo" or "Defendant"), on behalf of participants in Wells Fargo's securities lending program who were damaged thereby (the "Class"), based upon information and belief and the investigation of their counsel, alleges and states as follows:

INTRODUCTION

1. Plaintiff brings this action against Wells Fargo to recover losses it and other similarly situated parties incurred through participation in Defendant's securities lending program.

2. In the financial community, securities lending or stock lending refers to the lending of securities by one party to another. The terms of the loan will be governed by a

"Securities Lending Agreement," under which the borrower provides the lender with collateral, in the form of cash, government securities, or a letter of credit of value equal to or greater than the loaned securities.

3. As payment for the loan, the parties negotiate a fee, quoted as an annualized percentage of the value of the loaned securities. If the agreed form of collateral is cash, then the fee may be quoted as a "rebate," meaning that the lender will earn all of the interest which accrues on the cash collateral, and will "rebate" an agreed rate of interest to the borrower.

4 In essence, investors, in exchange for a fee, contract with Wells Fargo to safeguard their securities. Wells Fargo, in turn, lends its clients' securities to third parties.

5. Plaintiff was a party to a substantially similar securities lending agreement ("SLA") with Wells Fargo. Pursuant to a SLA, Wells Fargo loaned securities owned by Plaintiff to third-party borrowers in return for cash collateral. Then, Wells Fargo invested, at its sole discretion, the cash collateral in order to earn an investment return in excess of the rebate paid to the third-party borrowers. In return, Defendant received as compensation a percentage of the revenues generated for each Class member. Defendant referred to these activities as its "Securities Lending Program."

6. Problems arise, however, when a custodian like Wells Fargo elects to place its clients' cash in risky investments since institutional investors want a secure investment vehicle as to not risk their capital.

7. Cognizant of this, Wells Fargo touted this business as a highly secure way for its institutional clients to maximize portfolio returns and offset fees. Furthermore, Wells Fargo agreed that it would act as an investment fiduciary, discharge its duties solely in the interest of the participants and act with the duties of care, skill, prudence and diligence.

8. Given this, at all times relevant hereto, Wells Fargo was a fiduciary of Plaintiff because it exercised authority and/or control with respect to the management of the assets entered into the securities lending program.

9. Wells Fargo ultimately invested the collateral into risky and illiquid securities that have declined greatly in value and were purchased by the Defendant in violation of its fiduciary duties.

10. Thus, Wells Fargo is liable for these losses because it served as a "fiduciary" on behalf of the Plaintiff. As a fiduciary, Wells Fargo was required to discharge its obligations with respect to the Plaintiff: (a) solely in the interest of Plaintiff; (b) for the exclusive purpose of providing benefits to the Plaintiff; (c) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an

enterprise of a like character and with like aims; and (d) in accordance with all applicable documents and instruments.

11. These fiduciary duties are commonly referred to as the duties of loyalty, exclusive purpose and prudence.

12. Furthermore, because the funds invested for the Plaintiff consisted of collateral that must be returned to borrowers upon repayment of the underlying securities loans, the SLA required Wells Fargo to, *inter alia*: (a) safeguard principal; (b) maintain adequate liquidity; and (c) discharge its duties with respect to the investment of the collateral with care, skill, prudence, and diligence.

13. Wells Fargo's actions, specifically investing Plaintiff's assets in risky investments, constituted a breach of its: (a) fiduciary and common law duties; (b) contractual obligations; and (c) duties as set forth in the SLA. As a direct result of Wells Fargo's breaches, Plaintiff suffered significant losses.

PARTIES

14. Plaintiff The City of Farmington Hills Employees Retirement System is based in Oakland County, Michigan.

15. Defendant Wells Fargo Bank, N.A., a Delaware corporation, is a nationwide, diversified, community-based financial services company with \$1.2 trillion in assets. Founded in 1852 and headquartered in San Francisco, Wells Fargo provides banking, insurance, investments, mortgage, and consumer and commercial finance

through more than 10,000 banking stores, 12,000 ATMs, the Internet, and other distribution channels across North America and internationally. With more than 278,000 team members, Wells Fargo serves one in three households in America.

JURISDICTION AND VENUE

16. Jurisdiction is proper in this District pursuant to Minn. Stat. §§ 484.01, Subd. 1(1) and 543.19.

17. Venue is proper in Hennepin County pursuant to Minn. Stat. § 542.09 because, among other things, Wells Fargo has an office, resident agent, and business agent in this District and the causes of action, or some part, thereof, arose in this District. In addition, Wells Fargo's securities lending agreement provides that the "Agreement and all transactions hereunder shall be governed by, interpreted, construed and enforced in accordance with the laws of the State of Minnesota."

RELEVANT FACTS

18. Plaintiff brings this action on behalf of itself and the Class against Wells Fargo to recover losses it and the Class incurred through participation in Defendant's securities lending program.

I. Securities Lending Programs

19. For decades, banks and other financial institutions have offered securities lending programs to provide their clients with a nominally extra return for agreeing to lend their securities to brokers.

20. The securities lending programs are generally described as adhering to extremely conservative risk-management programs. As a result, many institutional investors-including corporations, pension funds, public funds and entities, insurance companies, mutual funds, and foundations and endowments-have participated in securities lending programs for many years.

21. "Securities lending" is the practice of lending of securities owned by one party to another party ("the borrower") for reasons such as market making, hedging and arbitrage. In cases such as this one, the process is facilitated by a financial institution such as Wells Fargo. The financial institution lends its customers' securities out to third parties, which in exchange provide collateral to the financial institution. The financial institution in turn invests all of its clients' collateral in a collective pool and splits the revenue with the customer. Traditionally, the reinvestment income has been used by security lending participants to offset the expenses of maintaining its portfolio, including custodial costs and brokerage commissions. The investment of collateral through the Securities Lending Program was focused on preservation of capital and liquidity to ensure that the cash collateral could be returned to the investors upon the termination of the securities loans.

22. The terms of the loan are governed by a "Securities Lending Agreement," which requires that the borrower provide the lender with collateral in the form of cash, government securities or a letter of credit of value equal to or greater than the loaned

securities. Each Class Member, including the City of Farmington Hills Employees Retirement System, was a party to a substantially similar securities lending agreement with Wells Fargo (each a "Securities Lending Agreement").

II. Wells Fargo's Securities Lending Program

23. Wells Fargo began its securities lending program in 1982. By approximately 2006, the Wells Fargo program reached \$23 billion in loaned securities.

24. Wells Fargo marketed its securities lending program to institutional clients as a way to earn incrementally higher returns on securities that they already earned. Wells Fargo claimed that it would hold its clients' securities in their custodial accounts and make temporary loans of these securities to brokers, who would borrow them to support their trading activities, such as short sales and option contracts. To protect Wells Fargo's clients in this lending program, the brokers would post collateral, which was primarily cash, worth at least 102% of the value of the loaned securities.

25. To induce institutional clients into lending out their securities, Wells Fargo assured clients that they would be acting as their agent and fiduciary, which imposed upon the Defendant various duties, including the duty to act in the utmost good faith and the duty to invest prudently. Additionally, Wells Fargo assured its clients, including Plaintiff, that they would have the right to recall their loaned securities at any time and for any reason on short notice.

26. In its capacity as a lending agent for the Class, Wells Fargo further acknowledged its fiduciary responsibility to always put its clients' interests first. Additionally, in the Securities Lending Agreement, Wells Fargo accepted the fiduciary responsibility to act as an agent for purposes of securities lending. Wells Fargo's responsibilities as agent include, but are not limited to: entering into loan agreements with borrowers of securities, consummating loans to borrowers, and taking possession of cash collateral from borrowers and investing that collateral.

27. Wells Fargo further assured the institutional investors that it would invest the cash collateral received from the brokers in conservative, safe and liquid investments, which Wells Fargo represented as "short-term money market instruments," which purportedly would allow Wells Fargo to pay back promptly the institutional participants in the securities lending program requesting that their securities be returned.

28. Money market instruments are short term, highly liquid, easily converted to cash, and relatively risk free.

III. Wells Fargo's Conduct After Plaintiff Entered Their Securities Lending Program And Plaintiff's Injuries As A Result Of This Relationship

29. After Plaintiff decided to participate in Wells Fargo's securities lending program, Wells Fargo knowingly and purposely failed to abide by the promises it made to induce the City of Farmington Hills to participate in the program.

30. While it assured and promised Plaintiff that it would only invest in money market instruments, Wells Fargo invested a substantial portion of the collateral in

extremely risky securities. Additionally, Wells Fargo invested in highly illiquid securities, including but not limited to structured investment vehicles ("SIVs"), asset-backed securities, and mortgage-backed securities, described in more detail below.

1. Structured Investment Vehicles ("SIVs")

31. SIVs are complex investments that have been called "some of the most confusing, opaque and illiquid debt investments ever devised."

32. Typically, SIVs are off-shore companies created by banks and other investment firms. SIVs borrow money by issuing short-term securities, usually commercial paper, at low interest rates. The SIVs then lend money by buying long-term assets at higher interest rates. The SIVs make a profit off the spread between the two interest rates.

33. Because SIVs borrow short-term but invest long-term, their debt frequently becomes due before the underlying assets mature. To survive, SIVs need a constant infusion of new short-term refinancing, at favorable rates. By their very nature, therefore, SIVs have a built in illiquidity risk.

34. SIVs do not file with the SEC and are not required to publicly disclose audited financial statements. Another peculiarity of SIVs is that the sponsoring banks often kept them off their balance sheets.

35. Ultimately, the mortgage crisis caused a liquidity crunch in the short-term commercial paper market, and by the beginning of 2008, the market was almost

completely illiquid. This caused a crisis among SIVs.

36. To make matters worse, there was increased concern at the same time about the quality of the asset pools backing the SIVs. In fact, SIVs are among the largest buyers of pools of mortgages and other complex securities. Thus, when the infusion of short-term financing disappeared, SIVs could not obtain new financing to support their long-term debt and could not sell off the underlying pools of distressed assets.

37. Notwithstanding the inherent risks, Wells Fargo heavily invested cash collateral from the securities lending program in SIVs. In fact, by February 2008, almost one-quarter of the total assets of two of the Funds were in SIVs.

38. Two of the SIVs that Wells Fargo invested heavily in included the Cheyne Finance SIV and the Stanfield Victoria SIV. The Cheyne Finance SIV - controlled by the London-based Cheyne Capital - entered into receivership in late 2007 and ultimately defaulted on its debts. The Stanfield Victoria SIV - a Cayman-Islands based fund - defaulted on its debts in January 2008 and is now in receivership as well.

39. Currently, Wells Fargo's remaining investments in SIVs are largely illiquid, with limited or no short-term financing.

2. Asset-Backed Securities ("ABS") and Mortgage-Backed Securities ("MBS")

40. Wells Fargo also invested heavily in asset-backed and mortgage-backed securities, which are another complex, structured financial product that is typically

created by pooling a large number of assets and issuing medium-term or long-term bonds backed by these asset pools.

41. For example hundreds or thousands of home mortgages - many of them with subprime loans extended to borrowers with troubled credit - were bundled in a security pool, and bonds backed by this pool were sold to investors. Oftentimes, there would be virtually no due diligence or verification of data as to the soundness of the underlying loans.

42. In theory, an ABS or MBS transformed relatively illiquid, individual financial assets (such as home mortgages) into more liquid, tradable market instruments. However, with the problems in the mortgage market, the current ABS and MBS markets have become increasingly troubled and illiquid.

3. Corporate Bonds

43. Wells Fargo also invested securities lending collateral in corporate bonds. There are many types of corporate bonds, offering a wide range of safety and liquidity. Wells Fargo's bond investments included numerous unsafe and illiquid corporate bonds. These include devalued bonds issued by Bear Stearns, Lehman Brothers, Merrill Lynch, Morgan Stanley, and SLM Corp.

44. Wells Fargo also classified SIVs as corporate bonds in its collateral investment pools. This even further concealed the true nature of a complex and risky investment.

CLASS ACTION ALLEGATIONS

45. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who participated in Wells Fargo's securities lending program and who were damaged thereby. Excluded from the Class is the Defendant entity and its subsidiaries, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendant have or had a controlling interest.

46. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendant's wrongful conduct in violation of the state and federal law that is complained of herein.

47. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class, securities and commercial litigation.

48. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- (a) Whether the federal and state laws were violated by Defendant's acts as alleged herein;

(b) Whether corporate practices performed by Defendant constituted unfair and fraudulent business practices under certain state commercial protection statutes; and

(c) To what extent the members of the Class have sustained damages and the proper measure of damages.

49. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

CLAIMS FOR RELIEF

COUNT I

Breach of Fiduciary Duty

50. Plaintiff restates and incorporates the allegations contained in each paragraph above as though fully set forth herein.

51. Wells Fargo undertook to act as an agent and fiduciary for the Plaintiff and each member of the Class.

52. At all relevant times, as alleged above, Defendant owed a fiduciary duty to the Plaintiff and the Class.

53. Because of the fiduciary duty owed to the Plaintiff and the Class, Defendant was required – contractually and by virtue of common law – to ensure that all investments of collateral were consistent with the conservative investment guidelines established for the portfolio, including the diversification requirements, and also required to continuously monitor all such investments to ensure that such investments remained prudent throughout the period of the investment. Defendant was obligated to act solely in the interests of the Plaintiff and the Class, for the exclusive purpose of providing benefits to them, and with the care, skill, prudence and diligence that a prudent person acting in a like capacity would have in a similar situation.

54. Thus, if the investment became imprudent due to its excessive risk and/or the inadequate level of diversification within the portfolio or for any other reason, Defendant was obligated to take action to protect the assets of Plaintiff and the Class.

55. Defendant breached its fiduciary duties, including the duty to prudently and loyally manage the assets. As described herein, Defendant failed to adequately protect the Plaintiff and the Class from the inevitable losses that they knew or should have known would ensue, due to Defendant's imprudent management of the assets of Plaintiff and the Class.

56. Defendant breached the fiduciary duties it owed to the Plaintiff and the Class by, *inter alia*: (a) failing to timely engage independent fiduciaries who could make independent judgments concerning the high-risk investments; (b) imprudently investing

the collateral received by the Plaintiff in inappropriate and unsuitable investments for the investment of the cash collateral; (c) failing to properly monitor the investments, which if prudently done, would have revealed excessive risks in the investing strategy; (d) imprudently maintaining the investments in risky financial vehicles; (e) imprudently maintaining investments in risky financial vehicles after becoming aware of warnings concerning these types of investments; and (f) by otherwise disloyally placing its own interests above the interests of the City of Farmington Hills and the Class.

57. As a direct and proximate result of the breaches of fiduciary duties alleged herein, Plaintiff and the Class sustained substantial losses. Accordingly, Plaintiff and the Class seek relief from Wells Fargo.

COUNT II

Breach of Contract

58. Plaintiff restates and incorporates the allegations contained in each paragraph above as though fully set forth herein.

59. Plaintiff and the Class had contracts with Wells Fargo relating to the securities lending program.

60. Plaintiff and the members of the Class had performed their obligations under the contract.

61. Wells Fargo materially breached its contract with Plaintiff and other Class members in numerous ways, including, without limitation: (a) failing to invest the cash

collateral in accordance with the SLAs; (b) failing to invest the cash collateral in "short-term money market instruments"; (c) failing to divest collateral investments after Wells Fargo knew, or reasonably should have known, that the investments were unsafe, risky, and/or illiquid; (d) failing to adhere to liquidity requirements in the investment of the cash collateral; (e) failing to calculate the collateral investments in accordance with the Investment Company Act of 1940 and at "current market value"; (f) concealing its misconduct from members of the Class; and (g) acting in bad faith, with negligence, gross negligence, willful misconduct, fraud and/or reckless disregard of its duties.

62. As a direct and proximate consequence of Wells Fargo's material breaches of contract, Plaintiff and other members of the Class suffered damages and are entitled, among other things, to recover their damages and obtain a Court Order directing the immediate return of the securities of the Class members returned to them.

COUNT III

Violation of Minnesota Prevention of Consumer Fraud Act - Minn. Stat. § 325F.69

63. Plaintiff restates and incorporates the allegations contained in each paragraph above as though fully set forth herein and further alleges as follows:

64. Wells Fargo used fraud, false promises, false pretenses, misrepresentations, misleading statements, and/or deceptive practices in connection with the sale of its securities lending program, including, without limitation, selling its services and intangibles, including but not limited to its representations in regards to the safety of

principal and the liquidity of collateral investments, as alleged herein.

65. Wells Fargo intended that Plaintiff rely on those false promises, false pretenses, misrepresentations, misleading statements, and/or deceptive practices in connection with the securities lending program.

66. Wells Fargo's securities lending program constitutes an investment contract, and it sold that contract to the Plaintiff and the Class.

67. By reason of the conduct alleged herein, Wells Fargo violated the provisions of Minn. Stat. § 325F.69, Subd. 1.

68. Plaintiff has been damaged and injured by, on account of, and as a direct, proximate and foreseeable result of Wells Fargo's violations of this statute in an amount to be determined at trial. Plaintiff is not required to plead or prove that individual class members have been injured by means of evidence of individual reliance, and does not so plead here.

69. Wells Fargo's violations of the law have also harmed the public. Wells Fargo's actions in violation of Minn. Stat. § 325F.69, including but not limited to fraud and deceptive practices, which practices were aimed at the investing public at large, and the successful prosecution of which advances state interests, even if the group of persons benefitting from monetary relief obtained through the lawsuit is small, which in this case it is not. There is a strong public interest in preventing fraud and deceptive practices in financial markets and the result of a successful investigation in this action into Wells

Fargo's unlawful conduct regarding its securities lending program would be available to law enforcement officers. Moreover, preventing investment institutions from defrauding pension funds and similarly situated entities would benefit the financial markets, the economy, and people's retirement funds. Thus, the claims and relief sought herein would benefit the public.

70. By reason of such violations and pursuant to Minn. Stat. § 8.31, Subd. 3a and § 325F.69, Plaintiff demands compensatory damages, attorneys' fees and costs, injunctive and equitable relief, and other remedies as determined by the Court pursuant to Minn. Stat. § 8.31, Subd. 3a and §325F.68 *et seq.*

COUNT IV

Unlawful Trade Practices - Minn. Stat. § 325D.13

71. Plaintiff restates and incorporates the allegations contained in each paragraph above as though fully set forth herein and further alleges as follows:

72. Wells Fargo, in connection with the sale of its securities lending program as previously alleged herein, knowingly misrepresented, directly and/or indirectly, the true nature and actual quality of the securities lending program, as well as the collateral investments that it made, which is alleged herein and, more generally, through its representations in regard to the safety of principal and liquidity of collateral investments, violating Minn. Stat. § 325D.13.

73. Plaintiff has been damaged and injured by, on account of, and as a direct, proximate and foreseeable result of Wells Fargo's violations of this statute in an amount to be determined at trial. Plaintiff is not required to plead or prove that individual class members have been injured by means of evidence of individual reliance, and does not so plead here.

74. Wells Fargo's violations of the law also have harmed the public. Wells Fargo's actions in violation of Minn. Stat. § 325D.13, including but not limited to fraud and deceptive practices relating to the financial markets, which practices were aimed at the investing public at large, and the successful prosecution of which advances state interests, even if the group of persons benefitting from monetary relief obtained through the lawsuit is small, which in this case it is not. Our nation's financial markets are in turmoil, due in part to unscrupulous conduct by financial institutions. There is a substantial public interest in preventing fraud and deceptive practices in financial markets and the result of a successful investigation in this action into Wells Fargo's unlawful conduct regarding its securities lending program would be available to law enforcement officers. The Minnesota Legislature has specifically determined, through Minn. Stat. § 325D.09, that the practices prohibited by Minn. Stat. § 325D.13, *inter alia*, misled consumers and that "the public policy of the state requires, and that the general welfare of the state will be benefitted by the suppression of the trade practices" defined within the statute.

75. By reason of such violations and pursuant to Minn. Stat. § 8.31, Subd. 3a and § 325D.13 and § 325D.15, Plaintiff demands compensatory damages, attorneys' fees and costs, injunctive and equitable relief, and other remedies as determined by the Court pursuant to Minn. Stat. § 8.31, Subd. 3a and §325D.09 *et seq.*

COUNT V

Deceptive Trade Practices - Minn. Stat. § 325D.44

76. Plaintiff restates and incorporates the allegations contained in each paragraph above as though fully set forth herein and further alleges as follows:

77. Wells Fargo represented that the services it provided to participants in regards to the securities lending program and the collateral investments had, or have, characteristics, uses, and/or benefits that they did/do not have, violating Minn. Stat. § 325D.44, Subd. 1(5).

78. Wells Fargo represented that the services it provided to participants in regards to the securities lending program and the collateral investments were, or are, of a particular standard, quality, and/or grade that they did/do not possess, violating Minn. Stat. § 325D.44, Subd. 1(7).

79. Wells Fargo advertised its services related to the securities lending program and the collateral investments with the intent not to sell them as advertised, violating Minn. Stat. § 325D.44, Subd. 1(9).

80. Wells Fargo engaged in other conduct relating to the services it provided to participants in the securities lending program and relating to the collateral investments which similarly created a likelihood of confusion or misunderstanding, violating Minn. Stat. § 325D.44, Subd. 1(13).

81. Wells Fargo's violations of the law also have harmed the public. Wells Fargo's actions in violation of Minn. Stat. § 325D.44, including but not limited to fraud and deceptive practices relating to the financial markets, implicate consumer protection concerns and harm the public, which practices were aimed at the investing public at large, and the successful prosecution of which advances state interests, even if the group of persons benefitting from monetary relief obtained through the lawsuit is small, which in this case it is not. Our nation's financial markets are in turmoil, due in part to unscrupulous conduct by financial institutions. There is a substantial public interest in preventing fraud and deceptive practices in financial markets and the result of a successful investigation in this action into Wells Fargo's unlawful conduct regarding its securities lending program would be available to law enforcement officers. Thus, the claims and relief sought herein would benefit the public.

82. Wells Fargo willfully engaged in the conduct in violation of Minn. Stat. § 325D.44, knowing it to be deceptive.

83. Plaintiff has been damaged and injured by, on account of, and as a direct, proximate and foreseeable result of Wells Fargo's violations of this statute in an amount

to be determined at trial. Plaintiff is not required to plead or prove that individual class members have been injured by means of evidence of individual reliance, and does not so plead here.

84. By reason of such violations and pursuant to Minn. Stat. § 8.31, Subd. 3a and § 325D.44 and § 325D.45, Plaintiff demands compensatory damages, attorneys' fees and costs, injunctive and equitable relief, and other remedies as determined by the Court pursuant to Minn. Stat. § 8.31, Subd. 3a and §325D.45. Minn. Stat. § 325D.44 is, by title and on its face, a law of Minnesota respecting "unfair" and "other unlawful practices in business, commerce, or trade" and is a law "against false or fraudulent advertising." Minn. Stat. §8.31, subd. 1.

COUNT VI

Civil Theft - Minn. Stat. § 604.14

85. Plaintiff restates and incorporates the allegations contained in each paragraph above as though fully set forth herein and further alleges as follows:

86. Wells Fargo intentionally committed acts that constitute stealing personal property, violating Minn. Stat. § 604.13, Subd. 1, including but not limited to:

(a) Wells Fargo obtained and/or deprived the securities of the Plaintiff and the Class by swindling, trick, artifice, device, or any other means;

(b) Wells Fargo converted the securities of the Plaintiff and of the Class;

(c) Wells Fargo intentionally and without claim of right took, used, transferred or retained possession of the securities of the Plaintiff and the Class without consent and with the intent to exercise temporary control, and the control exercised manifested an indifference to the rights of the securities of the Plaintiff and the Class;

(d) Wells Fargo intentionally and without claim of right took, used, transferred or retained possession of the securities of the Plaintiff and the Class without consent and with the intent to exercise temporary control, and Wells Fargo intended to restore the assets of the Plaintiff and the Class on the condition that Plaintiff and the Class make compensation to Wells Fargo;

(e) Wells Fargo, with or without having a legal interest in the securities of the Plaintiff and the Class, intentionally and without consent, took the property out of the possession of the Plaintiff and the Class and/or deprived Plaintiff and the Class of their property with the intent to exercise temporary control over these securities, even though Plaintiff and the Class had a superior right of possession. Moreover, the control exercised by Wells Fargo manifested an indifference to the rights of the Plaintiff and the Class;

(f) Wells Fargo, with or without having a legal interest in the securities of the Plaintiff and the Class, intentionally and without consent, took the property out of the possession of the Plaintiff and the Class and/or deprived Plaintiff and the

Class of their property with the intent to exercise temporary control over these securities, even though Plaintiff and the Class had a superior right of possession, and Wells Fargo intended to restore the securities of the Plaintiff and the Class only on the condition that Plaintiff and the Class make compensation to Wells Fargo;

(g) Wells Fargo obtained possession or custody of the securities of the Plaintiff and the Class and/or deprived the Class and the Plaintiff of their securities by intentionally deceiving them with false representations and fraudulent nondisclosures that Wells Fargo knew were false and made with the intent to defraud, and which did defraud the Plaintiff and the Class.

87. As a direct and proximate result of such conduct, Plaintiff and the Class has suffered damages as alleged herein.

88. As a direct and proximate consequence of Wells Fargo's civil theft of the personal property of the Class and the Plaintiff, the Class and Plaintiff are entitled to recover the value of the securities when stolen plus punitive damages of up to 100% of their value when they were stolen under Minn. Stat. § 604.14, Subd. 1.

JURY DEMAND

89. Plaintiff demands a trial by jury as to all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in Plaintiff's favor that:

- A. Declaration that Defendant has breached its duties to the Plaintiff and the Class;
- B. An Order compelling the Defendant to make good to Plaintiff and the Class all losses suffered by both as the result of Defendant's breaches of their fiduciary duties, including losses to Plaintiff and the Class resulting from imprudent investment of the assets of the Plaintiff and the Class, and to restore to the Class and Plaintiff all profits Defendant made through use of their assets, and to restore to the Class and the Plaintiff all profits which these parties would have made if the Defendant had fulfilled its fiduciary and other legal obligations;
- C. Imposition of a Constructive Trust on any amount by which Defendant was unjustly enriched at the expense of the Plaintiff and the Class as a result of breaches of fiduciary duty and violations of contract law;
- D. Actual damages in the amount of any losses the Plaintiff or the Class suffered;
- E. An Order awarding costs and interests;
- F. An Order awarding attorneys' fees and interest; and

G. An Order for equitable restitution and other appropriate equitable or legal relief against Defendant.

DATED: October 15, 2010

Respectfully submitted,

ZIMMERMAN REED, P.L.L.P.



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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2 to the party against whom the allegations in this pleading are asserted.

DATED: October 15, 2010


David M. Cialkowski