

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN THE MATTER OF:)	
)	
FEDERICO GUEVARA III)	
HERLINDA GUEVARA)	
Plaintiffs,)	CHAPTER 13 CASE NO. 07-32604
_____)	
)	
FEDERICO GUEVARA III)	
HERLINDA GUEVARA)	
Plaintiffs,)	ADV. PROC. NO. 08-03191
)	
VS.)	
)	
WELLS FARGO BANK, N.A.,)	
SUCCESSORS BY MERGER TO)	
WELLS FARGO HOME MORTGAGE,)	
INC., ASSIGNS AND/OR)	
SUCCESSORS IN INTEREST)	
Defendant.)	

ORAL DEPOSITION OF
TAMARA SAVERY
JULY 15, 2009

ORAL DEPOSITION OF TAMARA SAVERY, produced as a witness at the instance of the Plaintiffs, taken in the above-styled and -numbered cause on the 15th day of July, 2009, from 10:11 a.m. to 4:10 p.m., before Sherry Patterson, a Certified Shorthand Reporter in and for the State of Texas, reported by machine shorthand, at the offices of Hermes, Sargent, Bates, 901 Main Street, Suite 5200, Dallas, Texas, pursuant to the agreements as stated on the record and/or the Federal Rules of Civil Procedure.

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1 P R O C E E D I N G S

2 (Reading of Rule 30(b)(5) was waived by
3 agreement of Counsel.)

4 TAMARA SAVERY,
5 having been first duly sworn, testified as follows:

6 EXAMINATION

7 BY MR. BARTHOLOW (10:11 a.m.):

8 Q. Good morning, Ms. Savery.

9 A. Good morning.

10 Q. Just as a preliminary matter, let's go through a
11 little bit of the formalities. I understand you're
12 familiar with the process, but generally I'm going to
13 ask you a series of questions. I'd ask that you let me
14 finish asking each question before responding so that
15 the court reporter can be sure to get your answer fully.

16 Please also be sure to respond using words rather
17 than head nods or uh-huhs and huh-uhs. Although the
18 court reporter I'm sure is adept at reporting those,
19 it's easier if we have yeses and nos. And I'd ask that
20 you limit your response to the question that's asked.
21 Other than that, let's proceed with a little bit of
22 background information to begin with.

23 A. Okay.

24 Q. Let's talk about your educational background.

25 A. Okay. Within the mortgage business?

1 Q. Well, let's just start generally.

2 A. Okay. I was in a two-year community college. I
3 did not finish college with a degree. I've been in the
4 mortgage business for about 15 years now. Extensive
5 areas within Wells Fargo and the mortgage business from
6 customer service to accounting to client relations to
7 cross selling mortgage products, so I have some
8 extensive background. And of course now I'm in the
9 litigation default operation support area, so I have an
10 extensive background in the mortgage industry.

11 Q. Okay. And you indicated that you've worked other
12 places than Wells Fargo, correct?

13 A. Correct.

14 Q. How long have you worked for Wells Fargo?

15 A. I'm going on eight years with Wells Fargo.

16 Q. Okay. So then you began eight years ago, just to
17 be clear?

18 A. That is correct, in 2001, correct.

19 Q. All right. Prior to working for Wells Fargo who
20 did you work for?

21 A. I worked for Worldcom, which is a
22 telecommunications company. Prior to that I worked for
23 First Nationwide Mortgage; and prior to that I worked
24 for Bechtel Power Corporation, which was in
25 telecommunications.

1 Q. Okay. So little bit of telecommunications, a
2 little bit of mortgage experience?

3 A. Correct.

4 Q. What were your responsibilities at First
5 Nationwide?

6 A. At First Nationwide I worked in the payment
7 processing area, monetary research, researching payments
8 and application of payments.

9 Q. Okay.

10 A. So basically -- basically at First Nationwide it
11 was all payment -- payment processing and payment
12 research.

13 Q. Okay. And then eight years is a long time to be
14 at one place, so I imagine you've worn a few different
15 hats --

16 A. I have.

17 Q. -- in your time at Wells Fargo?

18 A. Yes.

19 Q. So let's start with your first position at Wells
20 Fargo.

21 A. Okay.

22 Q. What was that?

23 A. When I came on board with Wells Fargo there was a
24 program where we were doing refinancing; and those
25 refinances were done over the -- via the telephone, rush

1 on demand, so to speak. It was a program for easy
2 refinancing. And from that area I went onto --

3 Q. Quickly, where were you -- where was that office
4 located?

5 A. That was in Frederick.

6 Q. So that would be Frederick --

7 A. All of the positions that I have held have been
8 in Frederick, Maryland.

9 Q. Okay. So is that -- am I correct that that is a
10 facility that houses both ASC and Wells Fargo employees?

11 A. That is correct.

12 Q. Okay. And so in working in that division, was
13 your role technically with Wells Fargo or ASC in the
14 refi department?

15 A. ASC.

16 Q. ASC, okay.

17 A. Yes.

18 Q. All right. Sorry to interrupt you. What was the
19 next thing that you did?

20 A. The next area that I went into was an area that
21 no longer exists; but it was cross selling where we
22 would solicit, explain to our customers the different
23 products we had to offer such as credit cards or
24 additional insurance and that type of thing. And that
25 incorporated into your customer service -- when we had

1 cross selling it incorporated into customer service.

2 And so I went from that position into customer service.

3 Q. Okay. Let me stop you there.

4 A. Okay.

5 Q. Was that mortgage related to cross selling?

6 A. It was mortgage related products, yes.

7 Q. Okay. So you mentioned insurance and credit
8 cards. Was it homeowners' insurance, or was it --

9 A. No. It could be life insurance. It could be --
10 we had products -- Servpro, which was --

11 Q. Home clean-up?

12 A. Home clean-up, that type of thing. Different
13 things we could offer them.

14 Q. And credit cards?

15 A. Correct.

16 Q. Okay. How did the credit card system work?

17 We're getting a little bit afield, but I'm just --

18 A. As far as the credit -- it was a Wells Fargo
19 credit card. If they were interested in credit cards,
20 we could send them to -- basically I would explain some
21 of our products if they were interested; and then I
22 would send them onto someone who could explain the
23 details of that.

24 Q. And then you moved to your third position which
25 was in customer service?

1 A. Correct.

2 Q. What was your title within -- in that position
3 initially?

4 A. I was the -- I was a lead customer service
5 representative. And at that point with our -- back to
6 the rush on demand refinancing, that grew; and we
7 brought on several new people in a new group that were
8 doing the refinancing and taking the applications over
9 the telephone. And I was a lead over certain amount of
10 people within that group.

11 And what I did was train -- trained them on that
12 product, and I trained in different areas of -- I went
13 to Minneapolis and trained personnel. Different areas
14 of customer service that I trained in rush on demand
15 refinancing, and I monitored for quality and trained
16 when necessary.

17 Q. What does monitored for quality mean?

18 A. Monitoring their telephone conversations to make
19 sure that, you know, they were -- the verification was
20 proper, the questions they were answering was proper, we
21 were in line of what we could say and could not say.

22 Q. Must have been a guilty pleasure.

23 Okay. And how long were you -- well, what were
24 the years that you served in that role?

25 A. Good question. Okay. I started -- and forgive

1 me for not having my dates in my head. But with the
2 customer service position, that was -- with that role
3 I'm going to say it was close to three years, because
4 within that -- after rush on demand started to phase
5 out, we went back in -- I went back into the customer
6 service role.

7 And at that point I was a lead customer service
8 representative that would handle where -- our group was
9 in servicing. We were customer service. And if there
10 was a -- I was an escalation representative. If the
11 representative was unable to handle a particular call or
12 did not know the information or if they wanted to speak
13 to a more senior representative, that phone call would
14 come to me.

15 Q. Okay. And so again, I'm sorry, what -- do you
16 know what specific years that would have been? Or I
17 guess was the next job the job you're currently in?

18 A. No. The next job that I went to from that was in
19 client relations or client services, and I was a
20 consultant. And that was for ASC. And my duties at
21 that point was a consultant for certain investors that
22 we -- that we acquired their pools of loans.

23 And I was that go-to person for that investor,
24 and it was Morgan Stanley and Goldman Sachs at the time.
25 And we acquired -- we didn't acquire, but I acquired

1 Ohio [phonetic] Savings as one of my relationships that
2 I had; and they -- I was the go-to person for any of
3 their reporting, any questions they may have had on one
4 of their loans in their pools that we were servicing.
5 So I was that go-to person in client relations, and that
6 position --

7 Q. Can you define what being a go-to person
8 entailed?

9 A. Basically if there -- again, if there was
10 questions on a particular loan in the pool, if there was
11 an acquisition or they were selling a certain pool of
12 loans, you know, they'd send me up the numbers reports.

13 Q. Okay. For example, you say questions regarding a
14 particular loan in a certain pool. What would be an
15 example of a type of question that you might get?

16 A. I may get a phone call from the investor, I've
17 got this particular loan that perhaps is in foreclosure,
18 REO, I need some details of what's going on, where that
19 loan is at in the process of foreclosure, or perhaps it
20 was an REO. And then my job was to go to those
21 different areas, those different departments and get the
22 details for the client.

23 Q. Okay. And forgive me, but let's decode the
24 acronym REO.

25 A. I apologize. That would be real estate -- or

1 real estate -- after it goes into foreclosure, that's
2 real estate owned properties. And that department --
3 and I apologize for the acronym. We call it REO. So if
4 any of those properties at that point was a real estate
5 owned property and if they needed information on either,
6 you know, the selling of that property, any visit we may
7 have had on that property, again, they would come to me.

8 And then I would outsource the different areas --
9 Wells Fargo is a very large company with a lot of
10 different departments, so it was much more feasible to
11 have that one central person that could go to those
12 different areas and answer those questions for that
13 particular client.

14 Q. Okay. And so how long did you do that job?

15 A. I did that job a little over two years. I want
16 to say two and a half years.

17 Q. All right. And then?

18 A. And then I went onto the default operation
19 support group.

20 Q. Which is where you are now?

21 A. Which is where I am now. And I have been there
22 -- it was a year in April, so it was April 2008 I came
23 on board with the default operations support group.

24 Q. Okay. And so this case landed on your desk just
25 a few short months later then, correct?

1 A. Well, a year later. I've been with the
2 department a year, so yes, it did.

3 Q. Okay, all right. So you began with the default
4 operation support group. Let's talk about training.
5 Were you trained to be a default operations
6 support person?

7 A. Yes, there was training involved. One of the
8 reasons -- one of the key reasons that I was brought
9 onto that department was some of my knowledge and
10 understanding servicing agreements with our subprime
11 portfolio.

12 And of course, working in the mortgage industry,
13 I do have your basic knowledge of mortgage. And some of
14 the training did require the processes of bankruptcy,
15 because I came into a small group of bankruptcy
16 litigation representatives. We've now incorporated out
17 to include foreclosure litigation specialists is
18 actually what my title is.

19 Q. Okay. So what did that training entail?

20 A. The training entailed, of course, going through
21 the basics of bankruptcy, going through basically how we
22 handle the file from start to finish. And again, with
23 that position we have files assigned to us that's
24 litigated. There is an attorney assigned to it. But
25 you know, I go back to that go-to person.

1 We're assigned that case, and that -- and an
2 attorney will come to us if there's information needed,
3 if they need certain documentation. We monitor that
4 file of where it stands in the litigation process.

5 Q. Would this be an attorney at Wells Fargo?

6 A. No. This would be an outsourced attorney from
7 our direct source.

8 Q. Okay.

9 A. Which are most of the attorneys --

10 Q. For example -- for example, counsel in this case;
11 would that be an example of your attorney contact?

12 A. That's correct, yes.

13 Q. Okay, okay. And so you operate as a go-to person
14 or an ombudsman basically for that attorney?

15 A. Well, and for Wells Fargo. I'm monitoring that
16 litigated file.

17 Q. Okay.

18 A. You know, and I track it on a weekly or monthly
19 basis depending on where it is in the process of
20 litigation. I also -- our group also is the group that
21 if a witness for either mediation, a hearing, a trial or
22 a deposition is needed, we're called upon to represent
23 the company in that manner.

24 Q. Okay. Let's go back to tracking.

25 A. Okay.

1 Q. Tell me what tracking entails.

2 A. Well, when I say tracking, it just -- we're
3 monitoring that case of where it is in the litigation
4 process. Has an answer been filed, have we produced
5 documentation that we needed to. And we track it within
6 a data base, you know; what's the root cause of that
7 litigation, who is the attorney assigned to it.

8 And we're monitoring the steps of the attorney.
9 We're just literally entering that information in the
10 data base. If there's settlement requirements, if the
11 attorney says, you know, I think we might be able to
12 settle this case, here's what we're looking at, then we
13 gather that information for our VP level that would make
14 that decision on settlement; and we present that
15 information to them.

16 Q. Okay. And who is the VP level? Is there a
17 person that you would report to as the VP?

18 A. Jose Pinto.

19 Q. Jose Pinto, okay. Is Kim Miller also at your
20 facility?

21 A. Kim Miller is at our Fort Mill.

22 Q. Fort Mill facility, okay.

23 A. Correct.

24 Q. So you do not report to her?

25 A. Not directly under Kim Miller, no.

1 Q. Okay, all right. So how -- how would you first
2 see a case? How would a case first come to you?

3 A. We have what is a litigation mailbox, so to
4 speak, an e-mail.

5 Q. Okay. Is there a name for that program?

6 A. It's not a program. We do have a foreclosure
7 litigation mailbox. We also have a bankruptcy
8 litigation mailbox, which is monitored by our managers
9 or supervisors within our group.

10 Q. Is that just simply an e-mail address or --

11 A. It is.

12 Q. Okay. So for example, I filed a complaint in
13 this case. From your perspective, what did it have to
14 do to get to you?

15 A. Okay. Within this particular case it --

16 MR. ALFIERI: I'm going to have to caution
17 the witness that we're getting into the realm of
18 attorney-client privileged information. So I want you
19 to --

20 MR. BARTHOLOW: I wouldn't instruct the
21 witness in terms of, you know, how to answer. And
22 frankly, I'm not sure I understand what would be
23 privileged about it.

24 MR. ALFIERI: I'm reminding the witness that
25 there are privileges that the bank has with respect to

1 communications with respect to this case and counsel.

2 MR. BARTHOLOW: And I'm not asking her to
3 tell me about the contents of communication.

4 MR. ALFIERI: Okay.

5 MR. BARTHOLOW: I'm asking her to tell me
6 about the pathway.

7 MR. ALFIERI: All right. Okay.

8 A. Okay. Again, something is assigned to me or
9 comes to me. It is through -- it is assigned through a
10 mailbox. And we handle certain states, and if it comes
11 to us we're assigned to that to add into our data base
12 to work that file.

13 Q. (By Mr. Bartholow) Okay. And so it would come
14 to that mailbox. Do you know who would send it to the
15 mailbox?

16 A. I can't -- well, if you -- you know, sometimes
17 with our foreclosure litigation, if our foreclosure
18 attorney is noticed, whether it be, you know, a TRO was
19 filed or there's -- or this process is going into
20 litigation, they make us aware of it; and then we're
21 assigned that.

22 Q. Okay. So you had bankruptcy counsel in this
23 case, correct? Was Barrett -- was the Barrett Burke,
24 now Barrett Daffin Firm the firm that was bankruptcy
25 counsel for Wells Fargo in this case?

1 A. To my knowledge they were bankruptcy counsel in
2 this case.

3 Q. Okay. Would the notification of this lawsuit
4 have come from them then?

5 A. That, I can't answer. I can't answer that,
6 because it did not come directly to me.

7 Q. Okay. Who did it go directly to?

8 A. I don't know who it went directly to.

9 Q. Okay. Could you find out for me?

10 A. Yes.

11 Q. Who then did bring a file to you?

12 A. When I was brought into this, you know -- in
13 other words, how did it get here today, putting it
14 simply?

15 Q. Well, no. More specifically, when you first
16 learned of the case was it -- you know, did it just
17 appear on your desk; or did somebody hand it to you and
18 say okay, Tamara, I want you to handle this? If it was
19 somebody, who was that somebody?

20 A. Okay. When the case was brought to my attention,
21 because I signed the verification, it was brought to me
22 by John Grissom.

23 Q. Okay. Is that typical?

24 A. It -- it's not as typical as some other files I
25 get from either foreclosure or bankruptcy attorneys; but

1 yes, I would say yes, it's typical.

2 Q. Okay. How many times has that happened?

3 A. For me personally?

4 Q. Yes.

5 A. This would be the first time.

6 Q. Okay. And how many other cases have you handled
7 in your year and a half since you've been there?

8 A. Well, a total -- I don't have the exact total
9 number. I can tell you in my case load I believe at
10 this point it's about 94 cases.

11 Q. About 94?

12 A. Right.

13 Q. All of them bankruptcy cases?

14 A. They are not. They're bankruptcy and
15 foreclosure.

16 Q. Okay.

17 A. And some are small claims as well.

18 Q. Okay. How many bankruptcy cases have you
19 handled?

20 A. I cannot -- I mean, we -- we -- they come, they
21 go, they get settled. I can guesstimate a number for
22 you. But I would say, you know, 30 to 40.

23 Q. Okay, 30 to 40. And none of those came to you
24 through Mr. Grissom, correct?

25 A. No.

1 Q. Okay.

2 A. Not directly, no.

3 Q. All right. Now, I am aware that this is getting
4 into attorney-client communications -- well, I guess
5 Mr. Grissom is Wells Fargo, correct?

6 A. Correct.

7 Q. Okay. He's general counsel there, so probably
8 there isn't an issue there. I guess what is the process
9 once Mr. Grissom gives you a case? What is -- what are
10 you instructed to do?

11 A. I was instructed when this was brought to my
12 attention -- first time it was brought to my attention
13 to review and sign a verification. And when a person
14 was needed to be deposed or requested to be deposed in
15 this matter, it came to me as a request to be that
16 person.

17 Q. Okay. When was that?

18 A. That was -- I can't recall the exact date. I
19 want to say early June.

20 Q. Okay. This might help.

21 MR. BARTHOLOW: I'd like to mark this as
22 Plaintiffs' Exhibit 1.

23 (Exhibit No. 1 was marked.)

24 Q. (By Mr. Bartholow) If you want to take a look,
25 and once you've had a chance to look that over if I

1 could have it back.

2 I see you're looking at the last page of
3 Plaintiffs' Exhibit 1, and that's entitled verification?

4 A. Correct.

5 Q. Is that your signature?

6 A. That is my signature.

7 Q. Okay. And Tamara, something I meant to ask you
8 earlier that I didn't, have you ever gone by any other
9 name besides Tamara -- and how do you pronounce your
10 last name?

11 A. Savery.

12 Q. Savery, okay. Just like I would think. Nice
13 name.

14 A. Thank you.

15 Q. Have you gone by any other name?

16 A. No.

17 Q. Okay, all right. So that is your signature. And
18 what is the date of the notary here?

19 A. The note of the notary is April 9th.

20 Q. Okay. Does that refresh your recollection?

21 A. It refreshes my -- and I'm going to retract that
22 and say that I misspoke. When it first came as part of
23 being we need you to represent and being a deposition,
24 that would have been early June. But yes, so I -- I
25 misspoke on that when this first came to me in this

1 form. It was April; and yes, I do recall this.

2 Q. Okay. I'm going to read just the statement
3 that's on the verification. I have read the above and
4 foregoing Objections and Answers to Plaintiffs'
5 Interrogatories, and the facts set therein are, to the
6 best of my knowledge, true and correct. Is that
7 accurate?

8 A. That is accurate.

9 Q. Okay. Did you read these interrogatories?

10 A. I did read the interrogatories, yes.

11 Q. Okay. And at the time that you signed this, did
12 you believe the facts contained there to be true and
13 correct?

14 A. At the time I signed it, I believed it to be true
15 and correct.

16 Q. Okay. Tell me why you believed it to be true and
17 correct.

18 A. Okay. The reason I believed it to be true and
19 correct, relying on the personnel and expertise of
20 others that reviewed this to be accurate. And to go a
21 little bit further, we realized that it was a mistake.

22 Q. Well, wait, wait, wait --

23 A. Okay.

24 Q. So relying on the expertise of others, so
25 somebody told you it was true and correct; is that what

1 you're saying?

2 A. No. When I read this -- when it came to me,
3 the -- the research that had been done and the expertise
4 of that person that had sent this to me to verify, I
5 believed it to be true and correct, yes.

6 Q. Okay. Now, when it came to you, did it come to
7 you in the form that we see here? Was this -- was this
8 what you received the first time that you saw this?

9 A. Correct, yes.

10 MR. BARTHOLOW: And actually -- is that
11 the -- is that the one labeled "my copy" at the top? I
12 apologize. No, it's not, okay. Good. Apparently I
13 don't have a my copy. That's fine.

14 MR. ALFIERI: Did you highlight your copy?

15 THE WITNESS: Did you highlight your copy in
16 red?

17 MR. BARTHOLOW: I did highlight my copy in
18 red.

19 THE WITNESS: Then this is your copy.

20 MR. BARTHOLOW: May we mark this one also,
21 and I'll just trade. I'm sorry. That would be helpful.
22 Appreciate it.

23 (Exhibit No. 1 was re-marked.)

24 MR. BARTHOLOW: Okay, there we go. Is that
25 the same document that you were just looking at?

1 THE WITNESS: Yes.

2 MR. ALFIERI: Go completely through it.

3 Q. (By Mr. Bartholow) And you're looking through it
4 right now to confirm that?

5 A. I am looking through it to confirm that, correct.

6 Q. Okay. And as we were just discussing, when you
7 received this document it was in essentially the same
8 form with a blank verification attached; is that
9 correct?

10 A. That is correct.

11 Q. Okay. So then it would follow that you did not
12 in fact write any of the responses that are in there; is
13 that correct?

14 A. That is correct.

15 Q. Okay. And so now we need to go back to how did
16 you make the determination that this was true and
17 correct?

18 A. I made the determination that it was true and
19 correct based off the expertise and the research done by
20 the person that entered the answers.

21 Q. Who would be?

22 A. This came to me from Carol Davis who is a
23 paralegal in our Des Moines office.

24 Q. Okay. And did Carol prepare it?

25 A. I know our attorney I believe prepared it. As

1 far as assisting in preparing it, I would say Carol
2 Davis did assist in preparing it and gathering the
3 information.

4 Q. Do you know why Carol didn't sign it then?

5 A. I do not know why Carol didn't sign it.

6 Q. Who is Carol? What is her role with the company?

7 A. She's a paralegal in our Des Moines legal office.

8 Q. The Des Moines legal office, okay. What types of
9 matters does that office handle?

10 A. That is our corporate legal department.

11 Q. Corporate legal department, okay. And who would
12 Carol report to?

13 A. John Grissom.

14 Q. Okay. So this came to you via Carol Davis who
15 reports to John Grissom. Had you spoken with any
16 attorney prior to receiving this document?

17 A. I did not.

18 Q. You did not?

19 A. No.

20 Q. Okay. Had you reviewed any document prior to
21 receiving this document?

22 A. I did not review any document prior to receiving
23 this. I read the interrogatories. And again, I based
24 my signing of this on the expertise that reviewed the
25 documents. And to my belief, it -- and that -- the

1 proper document -- it was a failure of reviewing the
2 proper documentation, and we made a mistake.

3 Q. Okay. Now, have you seen the Proof of Claim
4 filed in this case?

5 A. I have.

6 Q. You have, okay. And who does it identify as the
7 creditor?

8 A. Wells Fargo.

9 Q. Wells Fargo, okay. Does it mention Freddie Mac?

10 MR. ALFIERI: I'm going to object. If you
11 want her to -- if you're asking her about a document,
12 please place the document in front of her.

13 MR. BARTHLOW: Okay. I'd like to mark
14 Plaintiffs' Exhibit 2.

15 (Exhibit No. 2 was marked.)

16 Q. (By Mr. Bartholow) And I will represent to you
17 that this is the Proof of Claim filed in this case.
18 I'll also represent to you that it does not contain the
19 exhibits that were attached to it. This is simply the
20 claim form.

21 A. Okay.

22 Q. Okay. Do you agree that that's what this is?

23 A. I agree.

24 Q. Okay. You said that you have reviewed this
25 document; is that correct?

1 A. That is correct.

2 Q. Okay. And I was just asking you whether this
3 document references Freddie Mac anywhere.

4 A. This document --

5 MR. ALFIERI: Take a look at it. Take a
6 look at the entire document and look and see if it
7 references Freddie Mac.

8 A. This document does not reference Freddie Mac.

9 Q. (By Mr. Bartholow) Okay. Are you familiar with
10 the claims preparation process, how claims get prepared
11 for bankruptcy?

12 A. I'm not.

13 Q. Okay. Let's go back to your training then. You
14 mentioned that you were trained in general bankruptcy
15 matters. Was the claims process a part of that training
16 at all?

17 A. You know, we briefly touched on that; but I don't
18 prepare the Proof of Claims, that's not on a daily basis
19 that I do. So to say that I'm, you know, an expert in
20 that area, I cannot.

21 Q. Okay.

22 A. And it's not that often that -- let's just say I
23 don't see this on a daily basis.

24 Q. Okay. So this may be outside the scope of your
25 knowledge, and if so that's okay. But in your

1 experience in cases where Wells Fargo is acting as
2 servicer for another entity, is it typical for a claim
3 to omit any reference to the entity for whom it is
4 serviced?

5 MR. ALFIERI: Objection, form.

6 Q. (By Mr. Bartholow) You can answer the question
7 if you know.

8 A. I cannot answer that.

9 Q. Okay. And you can't answer that, is it because
10 you're unfamiliar with claims generally; is that right?

11 A. In -- correct. You know, I could answer to
12 perhaps what would be in front of me and if I could say
13 that is typical. But as far as, you know, knowing
14 exactly if it is or if it isn't, I cannot answer that.

15 Q. Okay. And then would it also be accurate to say
16 that you can't answer whether Wells Fargo instructs its
17 attorneys generally to reference the owner of a loan as
18 opposed to simply listing its own name on a claim?

19 MR. ALFIERI: Objection, form.

20 A. Correct.

21 Q. (By Mr. Bartholow) Okay. So you didn't review
22 the claim when you signed the verification, correct?
23 Did you -- and you didn't review any other document when
24 you signed the verification?

25 A. Correct.

1 Q. Okay. And so you were relying on the preparation
2 work by another person in signing a verification; is
3 that how you typically sign verifications?

4 MR. ALFIERI: Objection, form.

5 Q. (By Mr. Bartholow) Have you ever relied on
6 someone else's representation in signing a verification?

7 MR. ALFIERI: Objection, form.

8 A. I have.

9 Q. (By Mr. Bartholow) You have?

10 A. Uh-huh.

11 Q. How many times?

12 A. Yes, excuse me. I couldn't tell you that. I
13 couldn't guesstimate on how many times.

14 Q. Would it be every time?

15 A. No.

16 Q. Okay. In the times where you have not relied on
17 somebody else's representation, what was the process for
18 verifying a document?

19 MR. ALFIERI: Objection, form.

20 A. What I would use to verify documentation would be
21 the Fidelity System that I use on a daily basis, it's
22 one of our software systems, documentation that's imaged
23 on our system. And it depends on what I'm being asked
24 to verify as to what I would look at to answer that --
25 to answer that particular question.

1 Q. (By Mr. Bartholow) Okay. And why didn't you do
2 that in this case?

3 MR. ALFIERI: Objection, form.

4 A. Again, I signed that verifying the information
5 that was provided was to the best of my knowledge to be
6 true and correct, given that -- after it was reviewed,
7 the -- the preparer -- I was relying on their expertise
8 and their knowledge as to being true and correct.

9 Q. (By Mr. Bartholow) Okay. How would you
10 determine whether Freddie Mac or Wells Fargo owned a
11 given loan?

12 MR. ALFIERI: Objection, form.

13 A. Well, of course, one of the things we would look
14 at the documentation as far as the note, the deed of
15 trust. And we may look at our system, if it's in our
16 system as being an investor.

17 Q. (By Mr. Bartholow) Okay. And in this case was
18 it in your system as being an investor?

19 A. It was.

20 Q. It was?

21 A. (Witness nods head.)

22 Q. Okay. And what system would that be?

23 A. That would be our Fidelity System.

24 Q. The Fidelity System, okay. Does that system go
25 by any other names like MSP or anything else like that?

1 You just called it Fidelity?

2 A. Fidelity. I call it Fidelity. I'm not familiar
3 with MSP System.

4 Q. Okay. Let's talk about that system a little bit
5 then. What does it do?

6 A. Our Fidelity System?

7 Q. Uh-huh.

8 A. It tracks our loans. It's a data base where our
9 loans are set up. We can review histories. We can
10 review payments that are received. It has -- it has
11 different screens that enable us to see where that loan
12 is at, I mean, where -- you know, where -- any
13 information pertaining to that loan would be on that
14 system.

15 Q. Including an investor?

16 A. Including an investor.

17 Q. Okay. And do the bankruptcy attorneys have
18 access to that system?

19 A. I cannot answer if they have access to that
20 system or not.

21 Q. Okay. Do you know how bankruptcy attorneys
22 acquire the information they use to prepare claims?

23 A. The bankruptcy attorneys, if there's any other
24 system that they use I'm not aware of that, because I
25 don't prepare the Proof of Claims.

1 Q. Okay.

2 A. I would say they were -- would be in conjunction
3 with this system within Wells Fargo, that our bankruptcy
4 system would use this. But there's -- and there are
5 other bankruptcy screens. All of those screens I can't
6 answer to because I don't use -- if I'm not using that
7 or I'm not preparing that, I'm not familiar with that
8 screen. It may not be something that I use.

9 Q. Okay.

10 A. So I wouldn't answer to that.

11 Q. Okay.

12 MR. BARTHLOW: I'll mark this as Exhibit
13 Number 3.

14 (Exhibit No. 3 was marked.)

15 Q. (By Mr. Bartholow) I'll represent to you these
16 are the Amended Objections and Answers.

17 A. Okay.

18 Q. Do you agree that that's what this is?

19 A. I agree.

20 Q. Okay. And when did you first see this document?

21 A. I don't recall the exact date that I first saw
22 this document.

23 Q. Okay. Originally we mentioned the date in
24 June --

25 A. Correct.

1 Q. -- as being the date that you thought the file
2 had first come to you.

3 MR. BARTHLOW: I'm marking as Exhibit 4 a
4 verification.

5 (Exhibit No. 4 was marked.)

6 Q. (By Mr. Bartholow) Do you recognize that as your
7 signature?

8 A. I do, yes.

9 Q. And is that the verification you signed in
10 connection with these amended responses?

11 A. Yes, sir.

12 Q. Okay. What's the date on that?

13 A. The date is June 12th, 2009.

14 Q. Okay. Would that be the day that you first saw
15 these amended responses?

16 A. Correct.

17 Q. So you didn't write these responses either; is
18 that correct?

19 A. Correct.

20 Q. Okay. And how did these responses come to you?

21 A. If I recall, these were, again, sent to me from
22 Carol Davis.

23 Q. Okay. And when you signed this version, did you
24 review any documents?

25 A. No, I did not review the documents.

1 Q. Okay. Why did you believe this version to be
2 true and correct?

3 A. Because again, I relied on the expertise and
4 the -- the investigation of the prior person reviewing
5 this information. And the first -- in looking at the
6 amended complaint, it did state that we were not the
7 owner of the note.

8 And I do believe that the person reviewing this
9 information was not fully using their full scope of
10 reviewing the documentation, and it was simply a
11 mistake. But once we realized that, we corrected it.

12 Q. How do you know that it was a mistake?

13 A. Because after it was -- it -- in discussions with
14 this, after it was explained to me that we realized that
15 certain documentation was not reviewed, it was a lack of
16 reviewing the proper documentation.

17 Q. Do you know what documentation was reviewed?

18 A. Particularly what documentation was reviewed, I
19 cannot. I can speculate as to how they may have -- how
20 this answer prior to the amended answer may have come
21 about, but I'm speculating.

22 Q. Okay. So then sort of same for both, if I'm
23 understanding correctly, that you executed a
24 verification without having reviewed anything; is that
25 correct?

1 A. I reviewed the verification itself that I signed.

2 Q. Okay. And did you --

3 MR. SOULE: Just for clarification -- I'm
4 sorry. When you say you didn't review anything, you're
5 not talking about reviewing the answers?

6 MR. BARTHOLOW: No, I'm not talking about
7 reviewing -- that's a fair clarification.

8 Q. (By Mr. Bartholow) Aside from this set of
9 interrogatories, Exhibit 3, the amended, did you review
10 any document whatsoever?

11 A. Not documents. What I did review with the second
12 set, I did review information on our system, but a
13 particular document, I did not.

14 Q. What information did you review on your system?

15 A. Basically verifying that the name, you know --

16 Q. I'm sorry. Let's be -- let's be real kind of
17 meticulous about this process.

18 A. Okay, certainly.

19 Q. Okay. So clearly there's an issue at this point,
20 right?

21 A. (Witness nods head.)

22 Q. And you're saying you did do a -- you reviewed
23 something. What -- I mean, let's -- very rudimentary,
24 what was the first step? You turned to your keyboard
25 and --

1 A. When this came to me, you know, yes, I looked at
2 the system. I looked at the notes on the system.

3 Q. Would that be the Fidelity System?

4 A. I apologize. Yes, it would be the Fidelity
5 System.

6 Q. Okay. And which notes are you referring to? Are
7 there one set of notes for the whole file?

8 A. No. Well, not -- yes, there is one set of notes.
9 There's screens that pertain notes to the account. The
10 screen that I looked at was just verifying the names on
11 this document. Just -- I looked at what I call -- it's
12 a screen I call the SER1 screen. And that just
13 verified -- I verified --

14 Q. Hang on one second.

15 A. Okay.

16 Q. That's S, as in Sam, E, as in eggs, R, as in
17 Robert?

18 A. 1, yeah.

19 Q. 1, okay.

20 A. And it's just simply a screen that I used
21 verifying the name on this account, verifying --

22 Q. Do you know what that code -- that code means as
23 an acronym for something?

24 A. No. It's generally one of our customer service
25 screens --

1 Q. Okay.

2 A. -- that we use. Which is a basic screen with
3 general knowledge of -- you know, it has the customer's
4 name, we have the customer's address. It would have the
5 last payments received, that type of thing.

6 Q. How does that information get onto that screen?
7 Where is it stored?

8 MR. ALFIERI: Objection, form.

9 A. Where that information is stored from that
10 screen?

11 Q. (By Mr. Bartholow) Uh-huh.

12 A. I can't answer that, as far as that expertise of
13 that Fidelity System, I cannot.

14 Q. Okay. Does your office maintain servers?

15 A. We do.

16 Q. Okay. Do you know whether the computer accesses
17 those servers in order to pull up information?

18 MR. ALFIERI: Objection, form.

19 A. Again, I'm not an expert in how our -- you know,
20 how it -- the information is pulled onto that screen.
21 When we acquire loans, the information is loaded into --
22 you know, I'm not a technical person; so I can't get
23 into technicalities of it. But that information is
24 uploaded to that system when we acquire --

25 Q. (By Mr. Bartholow) Okay. Do you know who

1 uploads the information?

2 A. I do not.

3 Q. Okay. Sorry to go off on that rabbit trail. But
4 you looked at the SER1 screen, and what did it indicate?

5 A. It's just basically for my knowledge. I just --
6 I went -- when this document came to me, I pulled it up
7 to be, you know, familiar with making -- you know,
8 reviewing the names on the document. It's just
9 something that I do with every loan. That is the only
10 screen that I recall looking at when I -- when I
11 re-signed this.

12 Q. Okay. And what -- what was the information that
13 you found?

14 A. Again, it's basically -- you know, when I'm
15 looking at a case --

16 Q. No. I mean, in this case what did you find?

17 A. Okay.

18 Q. What did it say?

19 A. Again, that screen just tells us general
20 information on the account. It did not have investor
21 information on that screen.

22 Q. Okay. Did it say investor on that screen?

23 A. It did not.

24 Q. What else did you review?

25 A. That is about -- at that point when this was

1 signed, that's all that I reviewed at that time.

2 Q. Okay. So would you agree that these amended
3 answers indicate that there is an investor?

4 A. I agree.

5 Q. Okay. However, the screen that you referenced
6 did not indicate there was an investor; is that correct?

7 A. Correct.

8 Q. Would it normally indicate that there's an
9 investor? Is there a field for that?

10 A. There is another investor screen that you can
11 review, yes.

12 Q. Okay. Were you aware of the differences between
13 these amended responses and the original response?

14 A. I was.

15 Q. Okay. Then would you agree that one of the
16 differences was that the original response said Wells
17 Fargo owned the loan, and this one says Freddie Mac owns
18 the loan?

19 A. Yes, I agree that is a difference, yes.

20 Q. Okay. Would you agree that that means that
21 Freddie Mac is an investor for purposes of your system?

22 A. Freddie Mac is the owner of this loan.

23 Q. Okay.

24 A. The investor, the owner.

25 Q. Okay. Same -- same for purposes of this

1 conversation?

2 A. Correct.

3 Q. Okay. So knowing that to be the difference, you
4 didn't look at any screen that would indicate whether
5 there was an investor; is that correct?

6 A. At that -- at the time of filing -- of signing
7 this --

8 Q. That's the question.

9 A. At the time of signing this, no.

10 Q. Okay. Let's -- let's move on. Have you ever
11 seen the note in this case?

12 A. I have.

13 Q. Have you in fact brought the note here today?

14 A. We do have a copy of the note, yes, we do.

15 Q. Is -- is it the original note in this case?

16 A. Yes, it is.

17 Q. Okay. Do you believe it to be true and correct
18 in every respect?

19 A. I do.

20 MR. BARTHOLOW: Okay. I've got a copy. I
21 assume we don't want to mark the original as an exhibit.
22 If I can --

23 THE WITNESS: Can we call for a break, or
24 should we wait for after?

25 MR. BARTHOLOW: Sure. You're welcome to --

1 I'm sorry, I meant to give you that information.
2 Anytime you need to use the restroom or get a glass of
3 water you're welcome to do that.

4 THE WITNESS: Okay, thank you.

5 MR. BARTHOLOW: That's fine.

6 MR. ALFIERI: Ten minutes?

7 MR. BARTHOLOW: Sure. Obviously you
8 understand that you're not to speak with your attorneys
9 about your testimony.

10 THE WITNESS: Oh, yeah.

11 (Recess, 10:56 a.m. to 11:08 a.m.)

12 Q. (By Mr. Bartholow) Okay. Ms. Savery, we just
13 went on a quick break; is that correct?

14 A. Yes.

15 Q. And did I ask you not to discuss this case with
16 your counsel during the break?

17 A. Yes.

18 Q. Is that correct?

19 A. Correct.

20 Q. Okay. And did you?

21 A. No.

22 Q. No, okay. Did you go into your counsel's office
23 during the break?

24 A. I did.

25 Q. Okay. Since it wasn't about the case, what did

1 you discuss?

2 MR. ALFIERI: I'm going to object with
3 respect to attorney-client privilege to the disclosure
4 of any information that was talked -- that was discussed
5 between Ms. Savery and her counsel, and I instruct her
6 not to answer.

7 MR. BARTHLOW: What would be the basis for
8 the privilege?

9 MR. ALFIERI: Attorney-client.

10 MR. BARTHLOW: Well, I know. But you know,
11 is there some general -- if you're not talking about the
12 case --

13 MR. ALFIERI: Any communications between an
14 attorney and their client is privileged. Let's move
15 onto the next topic, please.

16 MR. BARTHLOW: Okey-dokey.

17 Q. (By Mr. Bartholow) All right. We were about to
18 go to the note.

19 MR. BARTHLOW: Let me see if I can procure
20 that. Here we go. And we're up to 5 now.

21 (Exhibit No. 5 was marked.)

22 MR. BARTHLOW: Counsel, do you want to take
23 a look at that?

24 Q. (By Mr. Bartholow) Okay. Do you recognize the
25 document that I've put in front of you?

1 A. Yes. I recognize it to be the note.

2 Q. Okay. And by the note you mean the note executed
3 by Federico and Herlinda Guevara in this case -- that is
4 the subject of this case?

5 A. Correct.

6 Q. And you brought with you today the actual
7 original note or what you've represented to me to be the
8 actual original note; is that correct?

9 A. That is correct.

10 Q. Okay. Now, having looked at the copy that I've
11 given you and this actual original, are they identical
12 in every respect?

13 A. May I?

14 Q. Absolutely.

15 A. Thank you. Okay. Yes, they --

16 MR. ALFIERI: For the record, the original
17 has yellow highlights where the signature of the general
18 counsel of Lone Star Realty signed. And on the back
19 appears to be a stamp of -- from Wells Fargo Home
20 Mortgage, Inc., without recourse pay to the order of.
21 That is not on the copy. It is on the original.

22 Q. (By Mr. Bartholow) Okay. So this is not a true
23 and correct copy of the note?

24 A. Not a complete true and correct copy of the note,
25 no.

1 Q. Okay. When did you first obtain the original
2 note that we have here today?

3 A. We obtained that --

4 Q. You in particular. When did it first come to
5 your hands?

6 A. It didn't come directly to my hands.

7 Q. Oh, it didn't?

8 A. It did not.

9 Q. So today would be the first time that you've
10 actually seen this document?

11 A. No. I saw this document yesterday.

12 Q. Oh.

13 A. In reviewing documents.

14 Q. Okay. Do you recognize the copy of the note as
15 being the copy that was produced in connection with the
16 discovery request in this case?

17 A. I do recognize the note.

18 Q. Okay. Let me, I guess, lay a little better
19 foundation for that question.

20 Did you review the documents that were produced
21 in connection with the discovery request that the
22 Plaintiffs made in this case?

23 A. I have.

24 Q. Okay. Have you reviewed every one of those
25 documents?

1 A. Can you clarify "every one of those documents" as
2 produced in what was requested in the discovery?

3 Q. Yes.

4 A. Yes, I have.

5 Q. Okay. And that included this copy?

6 A. Correct.

7 Q. Okay. And so your testimony is that the copy
8 that was produced in discovery differs from the original
9 in that there's an endorsement that appears on the
10 original that does not appear in the copy; is that
11 correct?

12 A. That is correct.

13 Q. Okay. The endorsement that's on the back of this
14 document appears to be a stamp; would you agree?

15 A. I would agree.

16 Q. Okay. When was that stamped?

17 A. I do not know.

18 Q. Okay. So it could have been yesterday?

19 A. I do not know when it was stamped.

20 Q. Could have been the day the mortgage was signed,
21 right?

22 MR. ALFIERI: Objection, form.

23 Q. (By Mr. Bartholow) You don't know?

24 A. Correct.

25 Q. Okay. When did Freddie Mac acquire this loan?

1 A. The exact date that Freddie Mac bought or
2 acquired this loan, I want to say that it was in March
3 of 2001; or it could have been May of 2001. And I'm
4 going back to documentation that I reviewed, but the
5 exact date I do not know.

6 Q. Okay. What document would you have reviewed to
7 determine that?

8 A. Pooling documents when this --

9 Q. Pooling documents?

10 A. Right.

11 MR. BARTHLOW: Okay. Is that something
12 that's been produced?

13 MR. ALFIERI: (Nodding head.)

14 A. It has.

15 MR. BARTHLOW: Mark, is that part of what
16 was produced in June I guess, or about 16 pages that
17 came through?

18 MR. ALFIERI: Yes.

19 MR. BARTHLOW: Okay.

20 MR. ALFIERI: And I think it's Bates Stamp
21 Number WFB00404 to 420 or so.

22 Q. (By Mr. Bartholow) All right. I'm going to hand
23 to you -- indeed they are WFB00404 through WFB00419 for
24 your review.

25 A. Thank you.

1 MR. BARTHLOW: And I'd like to mark that as
2 Plaintiffs' Number 6, Exhibit Number 6. If you would
3 allow the reporter to mark that, please.

4 (Exhibit No. 6 was marked.)

5 Q. (By Mr. Bartholow) Okay. Take a minute to look
6 at it.

7 A. (Reading document.)

8 Q. Okay. Have you seen those documents before?

9 A. Yes.

10 Q. Okay. How did you come to -- or did you -- did
11 you gather those documents for purposes of this case?

12 A. I personally did not gather these documents for
13 this case, no.

14 Q. Who did?

15 A. Carol Davis would have produced these documents.

16 Q. Carol Davis, okay. So do you know where -- how
17 Carol got these documents?

18 A. I don't, no.

19 Q. Do you know what data base they came from?

20 A. I do not, no.

21 Q. Do you know how the information that's contained
22 in them was populated?

23 A. I do not.

24 Q. Okay. Do you know what they are?

25 A. Yeah. It appears -- it is pool details from

1 loans that we -- that were sold to -- it appears that
2 were sold to Freddie Mac.

3 Q. How do you know that they're -- what is -- what
4 is pool details?

5 A. Basically when pool deals -- pool loans that we
6 acquired for servicing that were sold to Freddie Mac.

7 Q. Okay. Well, looking at Page 2, this looks to me
8 like a screen shot. Would you agree that that's what
9 this is?

10 A. I would agree, yes.

11 Q. Okay. Is this what the Fidelity System looks
12 like?

13 MR. ALFIERI: Objection, form.

14 A. Not to -- this is not a familiar screen to me,
15 no.

16 Q. (By Mr. Bartholow) Okay. Would you have any way
17 of seeing this screen within the scope of your duties?

18 A. Not within the scope of my duties, no.

19 Q. Okay. Let's move on.

20 MR. BARTHOLOW: And I'm handing to you a
21 document I would like to have marked as Plaintiffs'
22 Exhibit 7.

23 (Exhibit No. 7 was marked.)

24 Q. (By Mr. Bartholow) Have you seen this document
25 before?

1 A. I have.

2 Q. You have, okay. And do you recognize it to be
3 Wells Fargo's response to the qualified written request
4 letter that I sent?

5 A. I do.

6 Q. Okay. I've highlighted some language on this
7 page. Could you read the highlighted language please?

8 A. I would also like to confirm that Wells Fargo
9 Home Mortgage is the current holder of the mortgage for
10 this loan and that the loan has a current interest rate
11 of 7.125 percent.

12 Q. Okay. And who is the person that signed this?

13 A. Hanna Tomlinson.

14 Q. Is that somebody you know?

15 A. I know of her, yes.

16 Q. Okay. Have you spoken with her regarding this
17 matter?

18 A. I have not.

19 Q. You have not, okay. All right. Let's go back to
20 briefly the -- it is the Amended Objections.

21 A. Okay.

22 Q. So looking again at Exhibit 3; is that correct?

23 A. Correct.

24 Q. Okay. Looking at Interrogatory Number 2, the
25 answer here indicates that Wells Fargo is researching to

1 determine whether Plaintiffs' mortgage is part of a
2 whole loan servicing agreement. Have you participated
3 in any research to determine that?

4 A. I did not.

5 Q. Okay. Are you aware of any research that is
6 ongoing regarding that?

7 A. I do not.

8 Q. Okay. Who would be responsible for conducting
9 that kind of research?

10 A. This -- as far as conducting that research, I
11 would go back to Carol Davis or John Grissom.

12 Q. Okay. So in your capacity as a litigation
13 specialist, you would effectively outsource research of
14 that nature?

15 MR. ALFIERI: Objection, form.

16 A. That depends on the circumstance, if it's --
17 whether it was a case directly assigned to me or not.

18 Q. (By Mr. Bartholow) Okay. So are you testifying
19 that this case was not directly assigned to you?

20 A. Correct.

21 Q. Well, at least you get to be in Dallas.

22 Were you involved in the preparation of any of
23 the responses in these amended responses to
24 interrogatories? I already asked you that; didn't I?

25 A. You did.

1 Q. I apologize.

2 Okay. Have you been involved in any of the
3 research that is referenced anywhere in these amended
4 interrogatories?

5 MR. ALFIERI: Objection, form.

6 A. I have been involved in researching information.

7 Q. (By Mr. Bartholow) Okay. Such as?

8 A. Part of what I participated in in gathering
9 information -- if I can rephrase from saying research,
10 but gathering information; I would rephrase that to
11 gathering information -- in preparation for -- and not
12 these answers. So I'm going to say no. I'm going to
13 retract that and say no.

14 Q. Okay. What information have you gathered?

15 A. Information -- gathered information such as, you
16 know, check copies where payments were made as far as
17 fees on the account, you know, different information
18 pertaining -- the request that was required from us,
19 documentation, I assisted in locating that information
20 in preparation for -- for this file today.

21 Q. And who did you assist?

22 A. I assisted Carol Davis.

23 Q. You assisted Carol Davis?

24 A. Correct.

25 Q. Okay. She's not in Dallas today; is that

1 correct?

2 A. That is correct.

3 Q. Okay. Well, so what I'm gathering is that what
4 you are -- I don't know if this is fair to say, more
5 knowledgeable about would be the pay history of the
6 loan; or would that -- would that be more within the
7 scope of what you have prepared for in preparation for
8 today?

9 A. I am knowledgeable of the pay history.

10 Q. Okay. Well, we'll go through that in a minute.

11 A. Okay.

12 Q. And hopefully that will go a little bit smoother.

13 MR. ALFIERI: Objection to the side bar.

14 Q. (By Mr. Bartholow) Is Wells Fargo presently the
15 custodian of this note?

16 A. That is correct.

17 Q. How do you know that?

18 A. When we obtained the note, the custodian that we
19 retrieved the original note from was Wells Fargo.

20 Q. Did you retrieve it?

21 A. I participated in retrieving the note.

22 Q. What did your participation involve?

23 A. The participation was having a verification form
24 signed by a VP level that would allow us to retrieve
25 that document from the custodian.

1 Q. Do you have that verification form?

2 A. I do not.

3 Q. Okay. Can you produce that for me, please?

4 A. I believe I could. That's simply a form that we
5 would use to enable us to retrieve a document from the
6 custodian.

7 Q. Okay. And that was signed by somebody at the VP
8 level?

9 A. Correct.

10 Q. Do you know who that person was?

11 A. I do.

12 Q. And it was --

13 A. Reginald Watkins.

14 Q. Reginald Watkins, okay.

15 MR. SOULE: On your request for documents,
16 all those are obviously subject to production requests
17 and --

18 MR. BARTHOLOW: Which have been made already
19 in the original request to produce.

20 MR. SOULE: For the verification of the
21 release of the note?

22 MR. BARTHOLOW: Absolutely.

23 MR. SOULE: Where was that?

24 MR. BARTHOLOW: All of these Freddie forms
25 that are required in order to release a note are

1 specifically requested and identified.

2 MR. SOULE: Okay. Just so long -- I just
3 want to make sure we -- either we have the request on
4 file and they have to go through our office is fine, but
5 I just want to make sure that you're not asking her to
6 do something that -- without -- she needs to make sure
7 that it's okay with counsel.

8 MR. BARTHLOW: It has been requested.

9 MR. SOULE: Okay, thank you.

10 Q. (By Mr. Bartholow) I'm going to go through a
11 little bit of a technical part where I'm going to ask
12 you about various forms. If you don't know about them,
13 obviously that's what you'll tell me.

14 MR. BARTHLOW: But I'm marking Exhibit 8.

15 (Exhibit No. 8 was marked.)

16 Q. (By Mr. Bartholow) Okay. Now, you have already
17 testified that you were involved in information
18 gathering but not production of documents; is that
19 correct?

20 A. Correct.

21 Q. Okay. So I'm not going to ask you whether you
22 produced documents, but I would like you to turn to --
23 and I'm sorry. I've again given you my marked copy.
24 Sorry about that.

25 (Exhibit No. 8 was re-marked.)

1 Q. (By Mr. Bartholow) Okay. I am proffering that
2 the document I've given to you is the amended objections
3 and responses to our first request for production. Have
4 you seen this document before?

5 A. Yes.

6 Q. Okay. Is it that document?

7 A. Yes.

8 Q. Okay. I'd like you to look at Request Number 6.

9 MR. ALFIERI: I'm going to have to object to
10 this, Thad, because this is not within the topics that
11 this witness was brought to Dallas to testify to. Now,
12 you did ask that she be able to testify on topic 2 and 3
13 with respect to the interrogatories, and we have done
14 that.

15 And you know, obviously she's available for
16 further testimony; but there's nothing in this Exhibit A
17 that would indicate she has been requested or that we've
18 produced a witness to testify to the production of
19 documents in this case.

20 MR. BARTHLOW: I'm not asking her to
21 testify to the production of documents.

22 MR. ALFIERI: Okay. Then --

23 MR. BARTHLOW: And I haven't even asked her
24 a question yet, so --

25 MR. ALFIERI: Then let me rephrase it.

1 There is nothing in Topic A whereby you have asked for
2 any knowledge of a witness with respect to the requests
3 for production that Plaintiffs served on Wells Fargo.

4 MR. BARTHLOW: Okay. I'm using this as a
5 basis for questions relating to the note. And to the
6 extent that this witness is here to testify regarding
7 information relied on -- well, the transaction history,
8 the computer systems employed in connection with
9 servicing the loan, the relationship between Freddie Mac
10 as it pertains to the mortgage loan, which is what the
11 subject of these questions are going to be, I think I'm
12 well within my rights to ask her.

13 MR. ALFIERI: Okay. I would ask you then to
14 withdraw Exhibit 8 from this deposition. And you can
15 continue to ask her any questions with respect to any
16 topic that was duly noticed under the deposition. And
17 to the extent your questions touch on those topics,
18 she's here to answer.

19 But I will object and ask her not to testify with
20 the exhibit in front of her or to the extent that you
21 draw her attention to any question --

22 MR. BARTHLOW: Wait a minute, Mark. Wait a
23 minute. She has already testified that she's reviewed
24 this document. Why can't she testify as to the document
25 that she's reviewed if she has knowledge of it? I mean,

1 what's -- what is gained by limiting that? We'll notice
2 up another deposition.

3 MR. ALFIERI: Okay. I'm -- you know, my --
4 you've asked us to produce a witness with respect to the
5 topics in Exhibit A.

6 MR. BARTHLOW: She can testify that she
7 doesn't know if she doesn't know. She's here. We may
8 as well --

9 MR. ALFIERI: I think we're going to --
10 again, I'm going to instruct the witness not to answer,
11 not to look through that document, to please proffer it
12 back to Counsel. And then we can continue with whatever
13 questions --

14 MR. BARTHLOW: Do we need to get a ruling
15 on it? Is that -- is that where we are? Do we need to
16 get a ruling from the Court on it?

17 MR. ALFIERI: Well, if that's what you're
18 insisting upon, yeah.

19 MR. BARTHLOW: First of all, I just don't
20 understand why this is a big deal. I don't get it.
21 Maybe you could explain to me why there's a benefit
22 here.

23 MR. ALFIERI: Well, she made -- she made a
24 comment with respect to her review of this document.
25 She reviewed it by looking to see what it was in front

1 of her.

2 MR. BARTHOLOW: She also made a comment that
3 she reviewed it in preparation for today and that she
4 reviewed all of the documents that were produced in
5 connection with this previously. We can have that read
6 back from the record if you like. I think it's within
7 the scope of her knowledge.

8 MR. ALFIERI: Okay. I would disagree. I'll
9 get a -- you know, if you want to get a ruling from the
10 Court on that, we can do that. But I'm going to
11 instruct this witness not to testify to any -- and to
12 use that as an exhibit --

13 MR. SOULE: Why don't -- just to kind of
14 bring it back to the middle. Why don't you just ask her
15 the questions that you were going to related to the
16 documents -- or the topic areas that are on Exhibit A.
17 It sounds like you're going to get to the same point
18 anyway.

19 MR. BARTHOLOW: Well, I agree. Which is
20 part of why I don't understand the objection.

21 MR. SOULE: Well, why don't you take it from
22 that -- if it's possible, if you could take it from
23 that -- from that angle and work that direction as
24 opposed to -- I think what Mark is saying is that as a
25 corporate rep you've asked for a person to testify on

1 Numbers 1 through 11, which is fine.

2 And to the extent that some of those documents
3 were attached to the request for production to me is not
4 really relevant. It's the documents that have --
5 themselves are what's relevant and not necessarily the
6 request for production.

7 MR. BARTHLOW: Fair enough. We'll do that.
8 Exhibit 8 withdrawn I suppose for the moment.

9 Q. (By Mr. Bartholow) Have you seen any pooling and
10 servicing agreement that this loan is a part of?

11 A. I have not.

12 Q. Okay. Do you know whether this loan is subject
13 to a pooling and servicing agreement?

14 A. I do not.

15 Q. Would you be able to find out?

16 A. I could.

17 Q. How would you do that?

18 A. I would have to go back through some research and
19 different departments and acquire that from other areas
20 that would handle that. I do not handle that.

21 Q. Okay. What departments would that include?

22 A. Again, I don't know exactly. I would have to
23 research who would actually handle that. I cannot
24 answer that.

25 Q. Have you seen an original of any assignment of

1 the note or deed of trust?

2 A. An original copy?

3 Q. Uh-huh.

4 A. I have not.

5 Q. Okay. What documents establish that Freddie Mac
6 is the owner of the note in this case?

7 A. The document that establishes that Freddie Mac is
8 the owner of -- the actual document -- the document that
9 we do have -- we have the original note that has Freddie
10 Mac at the bottom of the note, but it's assigned to
11 Wells Fargo. The document that --

12 Q. Wait, wait, wait, wait.

13 A. The only --

14 Q. I'm sorry. I think that the note that we've got
15 here is endorsed and blank; is that correct?

16 A. Correct.

17 Q. Okay. It doesn't say Freddie Mac anywhere on it,
18 right?

19 A. Only at the bottom of the note.

20 Q. That it's a Freddie Mac form, right?

21 A. As a Freddie Mac instrument, yes.

22 Q. I mean, that doesn't mean anything --

23 A. It doesn't.

24 Q. -- regarding Freddie Mac's ownership, does it?

25 A. Correct.

1 Q. Okay. So what document does Wells Fargo have
2 that shows that Freddie Mac owns this loan?

3 A. I cannot answer that. I don't know.

4 Q. What document does Wells Fargo have that shows
5 that Wells Fargo owns this loan?

6 A. Wells Fargo doesn't own this loan.

7 Q. What document do you have that shows that Wells
8 Fargo had possession of this note on the day this case
9 was filed?

10 A. The document that we have in possession of --
11 that we have -- let me ask you to repeat that again. I
12 apologize.

13 Q. Do you have a document that establishes that
14 Wells Fargo was in possession of this note on the day
15 this bankruptcy case was filed?

16 A. The documents that we have are copies of the note
17 and the security instrument that we had possession of
18 the note the day this was filed. We do have the
19 original note.

20 Q. You've got it today.

21 A. Correct.

22 Q. How do we know that you had it when the case was
23 filed?

24 MR. ALFIERI: Objection, form.

25 A. I don't.

1 Q. (By Mr. Bartholow) Okay. Do you have any
2 document that establishes that Freddie Mac had
3 possession of the note on the day the case was filed?

4 A. I don't.

5 Q. Are you familiar with the term P309 transaction
6 history?

7 A. I am.

8 Q. What is that?

9 A. That is one of our screens that houses our
10 payment history.

11 Q. Okay.

12 A. The payment history transactions on this
13 particular loan.

14 Q. Okay. And has one of those been produced in this
15 case?

16 A. The P309 screen shots in this case, I don't
17 believe so, no.

18 Q. Okay. But it's something that could be produced?

19 A. Correct.

20 Q. Okay. And it's something that obviously you're
21 familiar with?

22 A. Correct.

23 Q. Okay. Is it Wells Fargo's practice to produce
24 Excel spreadsheets to document loan histories?

25 A. It is.

1 Q. It is, okay. And are they produced on a regular
2 basis, or are they produced only upon demand?

3 A. Upon demand.

4 Q. Okay. Do you know how many times an Excel
5 spreadsheet has been produced in connection with this
6 loan?

7 A. I'm only aware of one.

8 Q. Only aware of one, okay. Now, is there only one
9 kind of Excel spreadsheet that can be produced, or are
10 there more than one kind? And without -- I'm not trying
11 to bait you here. I'm familiar with something that's
12 called a bankruptcy transaction history that appears to
13 be an Excel spreadsheet. Is that different from a
14 normal Excel spreadsheet transaction history? Are you
15 familiar with the bankruptcy -- excuse me. Strike the
16 question.

17 Are you familiar with a bankruptcy transaction
18 spreadsheet, transaction history spreadsheet?

19 A. Transaction bankruptcy history spreadsheet, yes.

20 Q. You are, okay. Does that differ from the typical
21 Excel spreadsheet that's produced?

22 MR. ALFIERI: Objection, form.

23 A. I'm only aware of one transaction spreadsheet --
24 bankruptcy history spreadsheet in relation to this case
25 or any case. I'm only familiar with one spreadsheet.

1 MR. BARTHOLOW: Let me -- I'll make it
2 easier. I'm not trying to be tricky with that. I'm
3 afraid I just have one copy here. But we'll mark this
4 as I guess Exhibit 8.

5 (Exhibit No. 8 was re-marked.)

6 Q. (By Mr. Bartholow) Do you recognize that
7 document?

8 A. Yes.

9 Q. Okay. And are you familiar with how that
10 document is generated?

11 A. I am.

12 Q. Okay. Who generates that document?

13 A. We have a qualified written response group that
14 handles these payment histories --

15 Q. Okay.

16 A. -- in producing the spreadsheet.

17 (Exhibit No. 9 was marked.)

18 Q. (By Mr. Bartholow) And I'm going to give you
19 Exhibit 9. Keep that one handy. Do you recognize that
20 document?

21 A. No.

22 Q. Okay. Do you recognize the title Customer
23 Account Activity Statement that appears on it?

24 A. I do. I understand what that statement means.

25 Q. Okay. Have you seen this type of document

1 before? Without regard to this particular case, but a
2 customer account activity statement like this?

3 A. I have.

4 Q. You have, okay. So it's your testimony that
5 you've never seen this one, though?

6 A. Correct.

7 Q. Okay. But you did review all of the documents
8 that were produced in connection with this case?

9 A. This is the history that I reviewed.

10 Q. Okay. Not the question. The question was did
11 you review all of the documents that Wells Fargo
12 produced in connection with this case?

13 A. I did.

14 Q. Okay. Did you review all the documents --

15 MR. ALFIERI: Objection, form.

16 Q. (By Mr. Bartholow) Did you review all of the
17 documents that I produced on behalf of the Guevaras in
18 connection with this case?

19 A. I have.

20 Q. Okay. And so it's your testimony that you have
21 never seen that document before?

22 A. I do not recall looking at this particular
23 account activity statement.

24 Q. Okay. Do you know how Wells Fargo determines
25 when and whether to charge a late fee?

1 A. I do.

2 Q. Okay. How do they do it?

3 A. Okay. After the -- after the 15-day grace period
4 -- and this is typical. Some notes can vary, but it's
5 typical that the payment is due on the 1st of the month;
6 and after 15 days a late fee is assessed on the 16th of
7 the month. And typically that's 5 percent of what their
8 payment is.

9 Q. Is it assessed every time?

10 A. Every -- each time the payment is late, yes, a
11 late fee is assessed if it's not received by the due
12 date or the grace period that's been granted.

13 Q. Are there any exceptions that would be made?

14 A. Not that I'm aware of.

15 Q. Okay. Are you aware of any changes to Wells
16 Fargo's accounting practices following April of 2007?

17 MR. ALFIERI: Objection, form.

18 A. I am not.

19 Q. (By Mr. Bartholow) Okay. And specifically with
20 regard to how Wells Fargo books receipts and pays late
21 fees from those receipts, have you ever heard of any
22 changes being made?

23 A. I have not.

24 Q. Okay. Are you familiar with Freddie Mac
25 Servicing Guidelines?

1 A. If it pertains to what I do on a daily basis,
2 yes.

3 Q. Okay. And what does that include?

4 A. General servicing of the loan. I do -- I have
5 some knowledge of how the custodial files are held.

6 Q. How are the custodial files held?

7 A. It's designated by Freddie Mac who the custodian
8 would be.

9 Q. I'm sorry, what is designated?

10 A. Who the custodial facility would be, who the
11 custodian would be.

12 Q. Where would that designation be, or how does
13 that designation -- I mean, does it appear on a computer
14 screen? Is it in a file?

15 A. It -- in general I'm just -- no, it would not
16 be -- it would not be -- are you asking in relation to
17 this loan or just in general?

18 Q. I want to know what your knowledge is --

19 A. Okay.

20 Q. -- regarding the custodial procedures pertaining
21 to Freddie Mac and their guidelines.

22 MR. ALFIERI: Okay. Ask -- wait for the
23 question.

24 THE WITNESS: Thank you.

25 MR. ALFIERI: Mr. Bartholow will ask you a

1 question. Answer the question.

2 A. Okay. Could you re-ask the question, please?

3 Thank you.

4 Q. (By Mr. Bartholow) Okay. You stated a moment
5 ago that you were familiar with the custodian -- custody
6 guidelines for Freddie Mac, correct?

7 A. Yes, correct.

8 Q. Okay. What are the custody guidelines for
9 Freddie Mac? What is your knowledge of them anyway?

10 MR. ALFIERI: Ask a specific question to my
11 witness, please.

12 MR. BARTHOLOW: That is as specific as I can
13 get.

14 Q. (By Mr. Bartholow) Please answer the question if
15 you can.

16 MR. ALFIERI: Objection, form.

17 Q. (By Mr. Bartholow) You can answer if you know,
18 if you're able. If you're unable, that's fine. We
19 can -- I can pull out some Freddie guidelines and we can
20 talk about them specifically.

21 A. Okay. Let's move forward.

22 (Exhibit No. 10 was marked.)

23 Q. (By Mr. Bartholow) The document I am handing you
24 is a custodian certification schedule summary form
25 1034S. Have you seen this form before?

1 A. I have not.

2 (Exhibit No. 11 was marked.)

3 Q. (By Mr. Bartholow) Okay. Let's do 11. And the
4 document I'm now proffering to you is custodian
5 certification schedule summary for multipurchase
6 contracts Freddie Mac form 1034SM. Have you seen this
7 form before?

8 A. I have not.

9 Q. Okay. This is going to be kind of like a pop
10 quiz. But do you know when Freddie Mac considers
11 delivery to be complete, what is required to complete
12 delivery of loan documents? I'm specifically referring
13 to mortgage notes and the mortgage file.

14 A. I do not.

15 Q. Okay. Do you know how a custodian would certify
16 to Freddie Mac that the documents had in fact been
17 delivered to it?

18 A. I do not.

19 Q. So as a consequence it follows that you do not
20 know whether this custodian of the Guevaras' loan had
21 certified this loan as having been delivered to Freddie
22 Mac; is that correct?

23 A. Correct.

24 Q. Are you familiar with a program called Midanet?

25 A. I am not.

1 Q. I'll spell it. It's, M-i-d-a-n-e-t.

2 A. I'm not familiar with that.

3 Q. Okay. Do you know what the proper form of
4 endorsement that would appear on a note would look like
5 in order for it to be enforceable by Freddie Mac?

6 A. The endorsement from Freddie Mac? Could you --
7 is that the question?

8 Q. No.

9 A. I'm sorry.

10 Q. Do you know whether Freddie Mac has any
11 requirement regarding the type of endorsement that must
12 appear on notes that it acquires?

13 A. From my knowledge, Freddie Mac does not
14 require -- Freddie Mac requires an endorsement to the
15 server. To my knowledge, Freddie Mac does not require
16 from the server to Freddie Mac. I believe that there is
17 a waiver involved to where that is not required, to my
18 knowledge.

19 Q. Okay. And what is that knowledge based on?

20 A. Based on the guidelines that I've reviewed.

21 Q. Okay. Would those be the Freddie Mac Servicing
22 Guidelines?

23 A. Correct.

24 MR. BARTHOLOW: When did you guys think you
25 waned to break for lunch?

1 MR. ALFIERI: Do you feel like you want to
2 break?

3 THE WITNESS: That's fine.

4 MR. ALFIERI: Now or whenever. We haven't
5 talked about it, so --

6 MR. BARTHOLOW: I'm a little early here, but
7 I've been --

8 MR. ALFIERI: Is this a good stopping point?

9 MR. BARTHOLOW: This is probably a good
10 stopping point for me, if that's all right.

11 MR. ALFIERI: That's fine. We can go off
12 the record.

13 (Recess, 11:51 a.m. to 1:07 p.m.)

14 Q. (By Mr. Bartholow) All right. Ms. Savery, I
15 found --

16 MR. BARTHOLOW: Well, let's mark this I
17 suppose.

18 (Exhibit No. 12 was marked.)

19 Q. (By Mr. Bartholow) This I will represent to you
20 is a printout from spoke.com, which is a business
21 networking site; and it mentions a Tamara Savery who
22 works for Wells Fargo in San Francisco. Is that a
23 different person?

24 A. I've never seen -- never seen anything like this.
25 I couldn't tell you if there's another Tamara Savery or

1 not.

2 Q. Have you ever had that address that's on there?

3 A. In San Francisco?

4 Q. Uh-huh.

5 A. I have not.

6 Q. Have you ever lived in San Francisco?

7 A. No.

8 Q. Okay. We'll assume it's somebody else. Just
9 asking.

10 A. Nope, never lived in San Francisco.

11 Q. Okay. Now onto some meatier things.

12 MR. ALFIERI: Oh, can we take a break for a
13 second? I thought John may want to join us. Hold on
14 one second. Let me get his number. I apologize.

15 (Recess, 1:09 p.m. to 1:10 p.m.)

16 (Exhibit No. 13 was marked.)

17 MR. ALFIERI: John, we're back on the record
18 now.

19 MR. GRISSOM: Okay. I may have to drop off
20 pretty quick, but go ahead.

21 MR. ALFIERI: Okay. Well, do what you need
22 to do; and we're going to continue the deposition.

23 MR. GRISSOM: All right, thanks.

24 MR. BARTHOLOW: And Mark, if I could trouble
25 you at some point -- it doesn't have to be right now.

1 Would it be possible for me to get a copy of this
2 exhibit made? I thought I brought two of them.

3 MR. ALFIERI: Absolutely, absolutely.

4 MR. BARTHLOW: I'm referencing Exhibit 8,
5 for the record.

6 MR. ALFIERI: Yeah, absolutely. Do you want
7 me to bring it out now?

8 MR. BARTHLOW: Yeah. We can hang on for
9 just a second.

10 MR. ALFIERI: Let me go get it.

11 MR. BARTHLOW: Okay, thank you.

12 MR. ALFIERI: The secretary will bring it
13 down.

14 MR. BARTHLOW: Thank you.

15 MR. ALFIERI: Or are you going to use that?

16 MR. BARTHLOW: No, no, that's fine. We can
17 move on.

18 Q. (By Mr. Bartholow) I have marked Plaintiffs'
19 Exhibit 13 here, which was produced by you in connection
20 with my request. It's Bates stamped 00310, and it is
21 entitled Crossland Mortgage Corp. Limited Power of
22 Attorney. Ms. Savery, have you seen this document
23 before?

24 A. I have not.

25 Q. Okay. And I apologize, I'm not trying to beat on

1 you here. But the testimony before was that you had
2 reviewed all of the documents that had been produced to
3 me. And this, as you'll notice, is Bates stamped which
4 means it was produced to me. I guess it's -- you
5 overlooked it in reviewing it or --

6 A. Unfortunately I believe I misspoke. But no, I
7 have not reviewed this document.

8 Q. Okay. Well, then we will move on.

9 MR. BARTHOLOW: I'd like to mark Exhibit 14.

10 (Exhibit No. 14 was marked.)

11 Q. (By Mr. Bartholow) Ms. Savery, I will represent
12 to you that this is a corporation assignment of deed of
13 trust that purports to transfer the deed of trust and
14 note from Lone Star Realty to Wells Fargo. Have you
15 seen this document before?

16 A. Yes, I have.

17 Q. You have, okay. Do you know where it came from?

18 A. Who produced the document, no, I do not.

19 Q. Okay. You'll see that it identifies -- well,
20 first of all, are you a notary?

21 A. I am not.

22 Q. You are not a notary, okay. You'll see that it
23 identifies somebody named Paula Hester, general counsel
24 for Lone Star --

25 A. Uh-huh.

1 Q. -- on there.

2 A. Correct.

3 Q. Okay. What is your -- do you know what this
4 document is?

5 A. It's an assignment of deed of trust from Lone
6 Star to TD Service Company.

7 Q. Okay. You -- okay. It's an assignment from Lone
8 Star to TD Service Company?

9 A. Excuse me. It's -- the undersigned herein grants
10 and assigns transfer to Wells Fargo Mortgage, so it's
11 transferring -- transferring the assignment to Wells
12 Fargo.

13 Q. Okay. And when is it dated?

14 A. The date on the document is March 1st, 2001.

15 Q. Okay. In addition to Ms. Hester's name, this
16 document appears to have a name that is marked out by a
17 single line. Do you see that?

18 A. I do.

19 Q. Okay. What is that name?

20 A. From what I can make out, it -- Fiary [phonetic]
21 Yarbrough.

22 Q. Perhaps Gary Yarbrough?

23 A. Perhaps Gary. It looks like an F, but yes, Gary
24 Yarbrough, okay.

25 Q. And above the signature line it indicates his

1 title. Can you make that out? On the right side.

2 A. General counsel senior vice president -- or
3 senior vice president is what's crossed out.

4 Q. Is what's stricken, okay.

5 A. Right.

6 Q. All right. Now, I know you're not a handwriting
7 expert -- or I don't know that actually. Are you a
8 handwriting expert?

9 A. I am not.

10 Q. If you look at the name Paula Hester as it's
11 handwritten in here, does it appear to be written in the
12 same hand, just based on your nonexpert opinion, as the
13 name for Mr. Yarbrough on here?

14 A. Okay. If you could clarify. You're asking if
15 both the signature for Gary Yarbrough and Paula Hester
16 are the same -- does it appear --

17 Q. Does the handwriting for where, yeah, his name is
18 written and her name is written above it, does that
19 appear to be the same handwriting?

20 A. I can't make that determination. To me it
21 doesn't appear to be the same.

22 Q. Okay. That's all I'm asking. The date on the
23 left side where it says March 1, 2001, does it resemble
24 the handwriting that says Gary Yarbrough beneath it or
25 the handwriting that says Paula Hester? Again, in your

1 amateur opinion.

2 A. In my opinion it does not.

3 Q. Okay. Now, let's go back, though, to the Exhibit
4 13. With the understanding that you're not familiar
5 with this document, I would like you to turn to the
6 second page. Do you see handwritten beneath the word
7 broker a name?

8 A. Yes, I do.

9 Q. A corporate name, what is that?

10 A. The name under the broker is Lone Star Realty
11 Investments, Incorporated.

12 Q. Okay. And then there's a by line. Is there a
13 signature on the by line?

14 A. There is not.

15 Q. Okay. And what is the name beneath the by line?

16 A. Gary T. Yarbrough, Sr. Vice President.

17 Q. Okay. Now let's move down to the notary. It
18 appears to me to say State of Texas, County of Tarrant.
19 Does that seem plausible to you? It's a little hard to
20 read.

21 A. From what I can make out, it does, correct.

22 Q. Okay. And can you make out the date beneath
23 that?

24 A. The date looks to be the 11th day of October,
25 1999.

1 Q. Okay. And what does it say after that?

2 A. Hereby before the undersigned Notary Public in
3 and for said county and state this 11th day of October,
4 1999 personally appeared Gary T. Yarbrough, the Sr. Vice
5 President of Lone Star Realty Investments, Incorporated.

6 Q. Okay. Keep going.

7 A. Broker herein, who after been duly sworn --

8 THE REPORTER: Slow down a little bit when
9 you're reading, please.

10 THE WITNESS: Okay. I apologize.

11 A. Broker herein, who after having been duly sworn
12 upon his/her/then [sic] oath acknowledged the execution
13 of the foregoing limited Power of Attorney for and on
14 above [sic] said corporation and stated that the
15 representations contained therein are true.

16 Q. Okay. And beneath that is it signed by a notary?

17 A. Yes.

18 Q. Okay. So would you agree that we have a document
19 that is not signed by Gary Yarbrough and a notary who
20 says that Gary Yarbrough signed the document?

21 A. I would agree.

22 Q. Okay. Do you have the original bankruptcy
23 payment history? Oh, this one's it. It looked like a
24 copy, excuse me.

25 I'm handing back to you Plaintiffs' Exhibit 8,

1 which is the bankruptcy payment history. And
2 unfortunately this is going to be the tedious part of
3 the process. But I'm going to ask you to go through it
4 with me in great detail. Are you familiar with this
5 document?

6 A. I am familiar with this document.

7 Q. Did you prepare this document?

8 A. I did not prepare this document.

9 Q. Do you know who prepared this document?

10 A. This particular document, I do not know who
11 prepared this.

12 Q. Okay. Do you know what department would
13 typically prepare it?

14 A. Our quality written response correspondence
15 department.

16 Q. QWR for short?

17 A. Yes.

18 Q. Okay. And it is entitled Bankruptcy Payment
19 History. What is the purpose of this document?

20 A. The purpose of this document is to put in ledger
21 form from our payment histories on the system -- our
22 bankruptcy payment histories to format it in a ledger
23 form to make it a little bit easier to read and
24 understand and follow.

25 Q. Okay. Now, it appears that the first date on

1 here is April 9th, 2001. And again, I apologize, I
2 didn't have the larger paper to print this on. It's
3 small. Are you able to read this?

4 A. Yes. It's a little difficult; but yes, I am.

5 Q. I'm sorry to do that to you. Hopefully we won't
6 go blind in this process.

7 Okay. So it appears to begin on April 9th. And
8 skipping to the last page, which is for this document
9 Page 10 of 10, correct?

10 A. Correct.

11 Q. It appears to -- that the ending balance on April
12 9th, 2009 is on -- 2009, that's the final line of the
13 ledger?

14 A. Correct.

15 Q. And then beneath that there are -- there's a line
16 for unapplied funds; is that correct?

17 A. That is correct.

18 Q. Okay. From the debtor and from the trustee.
19 Let's start with that.

20 A. Okay.

21 Q. What are unapplied funds from the debtor?

22 A. Unapplied funds from the debtor -- what would be
23 the easiest way to explain this. When we get a payment
24 in the bankruptcy, we're getting payments from the
25 debtor. We're getting payments from the trustee. Once

1 those payments go to our processing center, then we have
2 an allotted amount of time to apply those funds.

3 These are remaining funds that at the time this
4 was created appears not to have been applied at this
5 particular time it was created. That doesn't mean
6 they're not going to be applied. But at this -- the way
7 I am seeing this, this is the -- this is moneys left
8 that have not at the date this was done been applied yet
9 to the particular loan.

10 Q. Okay. Now, looking at this document is there a
11 way for me to tell when this was done?

12 A. Well, you would look at -- if I'm reading this
13 correctly, the 04/09 -- the very last date on this
14 payment history of 04/09/09, is that the last date that
15 you have?

16 Q. Yes.

17 A. Okay. And your question is, is there a way to
18 tell if this has been applied given off of this
19 spreadsheet?

20 Q. No, no, no.

21 A. Okay.

22 Q. My question was simply is there a way to tell
23 when this document was prepared?

24 A. Oh, I apologize. Not -- I don't believe so.

25 Q. Okay. We know it was at least prepared on or

1 after April 9th, correct?

2 A. Correct.

3 Q. Okay. Now, let's -- I -- and again, it's a
4 really bad copy. But I see \$167.64 on that unapplied
5 funds from the debtor line.

6 A. I see the same thing.

7 Q. Is there a way for me to identify that number
8 somewhere in the bankruptcy payment history above?

9 A. No. These are simply funds that -- after the
10 last payment was received from the borrower applied,
11 these are remaining funds that have not yet been applied
12 to wherever we deem that they need to be applied. So
13 from looking at this number and versus the bankruptcy,
14 there's not a way to tell --

15 Q. Okay.

16 A. -- from this ledger.

17 Q. Okay. Are you familiar with the term suspense
18 account?

19 A. I am.

20 Q. Okay. What is a suspense account?

21 A. Basically the suspense account -- again, going
22 back and kind of to the process. When we receive
23 payments from the debtor or receive payments from the
24 trustee, we receive interest payments from the trustee
25 as well.

1 Once that goes to our processing center -- you
2 know, we may get a check from the trustee. We may get a
3 check from the debtor. And it will go to our bankruptcy
4 department so they can identify where these funds need
5 to be applied. If it's funds from the debtor, they're
6 going to be applied to that portion of where it needs to
7 be applied to.

8 If it's interest from the trustee, then it's
9 going to be applied to interest of the trustee. Or if
10 it's a payment from the trustee, it's going to be
11 applied. And until then -- we receive the funds.
12 They're put into a hold account or a suspense account
13 until it's determined where those funds need to be
14 applied.

15 And per RESPA we do have -- we have to apply the
16 funds within 48 hours. And then it's taken -- when it's
17 in bankruptcy, then it's taken to our bankruptcy
18 department. And they analyze given off the bankruptcy
19 case, you know, if this is debtor and trustee payments
20 coming in, then we need to make sure and determine where
21 those payments are going and they're applied correctly,
22 whether it be trustee interest, trustee payment or
23 debtor payment.

24 So when you hear suspense account and you see
25 suspense account, it's those funds going into that hold

1 account until it's determined where they need to be
2 properly applied.

3 Q. Okay. And that determination is made by whom?

4 A. In this case that would be our bankruptcy
5 department that's processing the payment.

6 Q. Okay. Where is that located?

7 A. South Bend Fort -- South -- Fort Mills, South
8 Carolina.

9 Q. Okay. Say that three times fast.

10 A. Right.

11 Q. So in this case we have unapplied trustee funds.
12 Now, what I guess I don't understand then is if we
13 have -- if we have unapplied funds from the trustee,
14 should there be a line on this payment history that
15 shows where the money just came in and was placed in the
16 unapplied account?

17 A. Well, let's go back up to -- I'm going -- I'm
18 going to say that you're asking me if a column should be
19 added to determine when those funds come in. And
20 basically it is -- unfortunately, I mean, it stops here
21 the day this was completed.

22 The day this is completed this is the exact
23 amount we have unapplied fund -- funds from the debtor
24 and unapplied funds from the trustee. Part of that
25 could be interest payments. We don't know that by

1 looking at this.

2 Q. Okay.

3 A. So you know, following this bankruptcy history,
4 you're going to see, you know, trustee funds being
5 received and applied and if -- whether it was going to
6 interest. And you're also going to see the debtor funds
7 received and applied and how those payments were
8 applied.

9 Looking at this box, what is remaining and left
10 -- because it's not continued. This was done to the
11 04/09 of '09, it -- I cannot determine where those funds
12 are going to be at yet. We cannot determine.

13 Q. Would you be able to give me an updated
14 bankruptcy payment history?

15 A. You can obtain -- yes. We can obtain an updated
16 bankruptcy history, yes.

17 MR. BARTHLOW: Any objection to that, Mark?

18 MR. ALFIERI: No, not at all.

19 MR. BARTHLOW: Thanks.

20 Q. (By Mr. Bartholow) Okay. So turning back to the
21 first page; and it looks like we're going all the way
22 back to 2001, April of 2001. Am I reading it correctly
23 that it shows that \$1,012.94 was received on April 9th
24 from the debtor funds?

25 A. That is correct.

1 Q. Okay. And then moving three columns to the
2 right, the amount applied to principal was \$120.24?

3 A. Correct.

4 Q. Amount applied to interest was \$892.70?

5 A. That's correct.

6 Q. The principal balance at that time was
7 \$150,229.76?

8 A. That is correct.

9 Q. There is zero in escrow, zero Proof of Claim
10 balance, zero outstanding fee balance, and zero
11 outstanding corporate advance balance. Is that all
12 correct?

13 A. That is all correct.

14 Q. Okay. And the comment for this line says monthly
15 mortgage payment, MMP.

16 A. Correct.

17 Q. Okay. And although the -- I think my
18 understanding is that the amount of principal paid
19 increases while the amount of interest paid decreases
20 with each subsequent payment; is that accurate?

21 A. Yes.

22 Q. Okay. And aside from the standard amortization
23 of principal and interest, would you agree that from
24 that date, the April 9th through looks like August 16th,
25 the debtor has made payments of 1,012. And those

1 payments have been applied to interest and principal;
2 and the principal balance has been reduced accordingly
3 and that there have been zero charges at any point up to
4 that point for escrow balance, Proof of Claim balance,
5 outstanding fee balance and outstanding corporate
6 advance balance? Do you agree that's all proceeded
7 normally?

8 A. I agree.

9 Q. Okay. Then -- and actually I think that even
10 includes September 16th; would you agree, of 2002, the
11 next one?

12 A. I agree.

13 Q. Okay. Then we have on October 16th, 2002 what
14 appears to be a \$50.65 late fee; is that correct?

15 A. Yes.

16 Q. Okay. And that is reflected -- it appears in two
17 columns, the column for fees assessed or recovered,
18 correct?

19 A. Yes.

20 Q. And the column for outstanding fee balance; is
21 that correct?

22 A. That is correct.

23 Q. Okay. Then we see on October 21st of 2002, it
24 appears that a payment comes in, that it is applied to
25 principal and interest, and that there's no change to

1 the late charge; is that correct?

2 A. That is correct.

3 Q. Okay. Now I'm looking at November 18th, 2002.

4 It appears that a payment in the amount of \$1,063.58; is
5 that correct, that amount?

6 A. Correct.

7 Q. Comes in and is applied to principal and interest
8 and to the recovery of fees in the amount of \$50.65 for
9 the fees?

10 A. That is correct.

11 Q. Okay. And the comment on the right-hand side is
12 monthly mortgage payment with additional funds applied
13 to late charges, correct?

14 A. Correct.

15 Q. Okay. What I think has happened there is the
16 payment came in, it was sufficient to cover the monthly
17 mortgage payment and outstanding late charges; is that
18 correct?

19 MR. ALFIERI: Objection, form.

20 Q. (By Mr. Bartholow) What do you think happened
21 with that payment?

22 MR. ALFIERI: Objection, form.

23 Q. (By Mr. Bartholow) You can answer, if you can --
24 if you know.

25 A. Could you restate the question for me, please?

1 Q. Okay. Well, let me ask it this way. We agree
2 that \$1,063.58 came in, correct?

3 A. Correct.

4 Q. Okay. That \$134.55 of that was applied to
5 principal?

6 A. Correct.

7 Q. And \$878.39 of it was applied to interest?

8 A. Correct.

9 Q. And that \$50.65 was applied to cover the late
10 charges?

11 A. Correct.

12 Q. Okay. And flipping back to the previous page,
13 the last entry for 10/21/02 shows an outstanding fee
14 balance of \$50.65, correct?

15 A. Correct.

16 Q. Okay. And then flipping back to Page 2, this
17 first entry now shows an outstanding fee balance of zero
18 dollars; is that correct?

19 A. The very first entry, that line does show an
20 outstanding fee balance of zero.

21 Q. Okay. And then when we read the comment, it says
22 monthly mortgage payment with additional funds applied
23 to late charges. What does that mean?

24 A. The additional funds -- if any additional funds
25 were received, it was applied to a late charge to pay a

1 late charge.

2 Q. Okay. And the funds received this time it
3 appears are \$1,063.58?

4 A. That is correct.

5 Q. And it appears that the previous payment amount
6 had been \$1,012.94?

7 A. That is correct.

8 Q. Okay. So would you therefore agree that the
9 debtors paid sufficient money to pay the late fee as
10 well as their regular payment?

11 A. I agree.

12 Q. And that in fact the fee balance was reduced to
13 zero as a result?

14 A. Correct.

15 Q. Okay. I think that's pretty uncontroversial, but
16 you've --

17 A. It is.

18 Q. -- got to --

19 A. It is. I'm just -- my lines are running
20 together, so I apologize.

21 Q. No, I apologize for the small printout.

22 Okay. It appears that a late charge is assessed
23 on December 16th of 2002; is that correct?

24 A. Yes.

25 Q. Okay. When we were talking about this before,

1 you indicated that late charges are automatic; is that
2 right? That they're automatically applied to the
3 account?

4 A. Well, they're assessed if the payment is not
5 received --

6 Q. Timely?

7 A. -- timely.

8 Q. Sorry for interrupting.

9 Okay. So in the case of December '02, it appears
10 that the payment didn't come in until December 23rd; is
11 that correct?

12 A. Correct.

13 Q. And that's why on the 16th the late fee was
14 charged in December. The payment amount was sufficient
15 to cover the payment plus the outstanding late charge;
16 is that correct?

17 A. Okay. So we're looking at -- on the 23rd?

18 Q. Correct.

19 A. Another late charge was assessed, okay, because
20 it came in after the -- the due date and the grace
21 period. And then we received 1,063 on the 23rd, and
22 that payment included paying a late charge as well.

23 Q. Okay. And that's what the comments reflect as
24 well?

25 A. That is what the comments reflect, correct.

1 Q. Okay, all right. And then it looks like they
2 were late in January and that they paid on the 17th; is
3 that correct, January of '03?

4 A. That is correct.

5 Q. Okay. And it appears to be the same thing where
6 they did pay the late charge along with the payment?

7 A. That is correct.

8 Q. Okay. Then it appears that the late charge was
9 assessed on February 18th, 2003; is that correct?

10 A. Correct.

11 Q. Can you tell me why it would be assessed on the
12 18th rather than the 16th?

13 A. I cannot.

14 Q. Okay.

15 A. I know it's after the due date. It's after the
16 grace period, because the payment was received on the
17 21st.

18 Q. Okay. It does appear -- yeah, like you said, it
19 was received on the 21st. Again, it was sufficient to
20 cover the late fee, correct?

21 A. Correct.

22 Q. Okay. Again on March 17th there was a late fee,
23 of 2003?

24 A. Correct.

25 Q. And on March 25th of 2003 there was a payment

1 that covered the late fee?

2 A. Correct.

3 Q. Again on April 16th of '03, late fee?

4 A. Correct.

5 Q. And April 28th of '03 another payment that
6 covered the late fee?

7 A. Correct.

8 Q. All right. May 16th, late fee. May 27th there
9 was a payment that appears to be just a bit short of
10 covering the late fee, 65 cents short of covering the
11 late fee; is that correct?

12 A. Correct.

13 Q. However, it appears that all but 65 cents was
14 applied to the late fee, correct?

15 A. Correct.

16 Q. Okay. And is it your understanding that at this
17 point this was a no escrow loan and that there were no
18 taxes being taken out or insurance being paid?

19 A. Correct.

20 Q. At this -- at this point in time, okay. And then
21 let's see, they were late again in June of 2003, but
22 their June 27th, 2003 payment appears was sufficient to
23 cover that late fee as well as the little bit that was
24 remaining from the previous month?

25 A. That is correct.

1 Q. Okay. It appears that they were late again in
2 July of '03, but their July 21st payment was sufficient
3 to cover the late fee?

4 A. That is correct.

5 Q. And August they were on time it appears.

6 A. It does appear, yes.

7 Q. And the payment was a full payment amount with no
8 late fee, correct?

9 A. Correct.

10 Q. Okay. Then they made a payment on September
11 17th, which means they were late and charged a late fee
12 for September 16th of 2003, correct?

13 A. That is correct.

14 Q. One of my questions going back to -- what was it,
15 was it January 18th of 2003, there was an 18th which was
16 when the late fee was charged -- I guess it was charged
17 despite a payment made on the 17th. Actually I'm sorry,
18 we need to look at February. That's what I was looking
19 at. The late fee was charged on the 18th in February;
20 is that correct?

21 A. That is correct.

22 Q. Okay. So what I don't understand is why in
23 September in the one up from the bottom, payment's made
24 on the 17th and the late fee was still charged; whereas
25 it appears the late fee was not charged until the 18th

1 back in February. Do you know why that would be?

2 A. I do not.

3 Q. Okay. The payment in September did not include a
4 late fee; is that correct?

5 A. The payment in September that was received?

6 Q. Correct.

7 A. Did not include enough to cover a late payment,
8 correct.

9 Q. Okay. It was a -- for a mortgage payment,
10 correct?

11 A. Yes.

12 Q. And then in October -- and we've got to straddle
13 two pages here. But October 16th a late fee was applied
14 to the account, and on October 20th it appears that
15 there was a payment made that was in the amount of 1,104
16 -- or \$1,114.24. Is that what you've got?

17 A. Correct.

18 Q. Okay. And it appears that that was sufficient to
19 pay down the late fee balance?

20 A. Correct.

21 Q. Okay. Now, on November 17th we have a payment in
22 the amount of \$1,063.59, correct?

23 A. I's hard to determine if that's 1,063 or 1,083,
24 but I'm going to go with 63 since the others are 63; but
25 in that particular line it looks like it's kind of

1 running together.

2 Q. I agree. But if we look at the next line, also
3 November 17th, the amount that appears to have been
4 applied to principal was \$50.65; is that correct?

5 A. Correct.

6 Q. Okay. So that would mean that it was probably
7 1,063, right?

8 A. I agree.

9 Q. Okay. Do you know why a late fee wasn't charged
10 there?

11 A. On the 17th?

12 Q. Uh-huh.

13 A. I do not know. I cannot answer that.

14 Q. Okay. Then it looks like they were late in
15 December, and a late fee was charged; and then on
16 Christmas eve, December 24th they paid 1,063 and paid
17 off the late fee?

18 A. Correct.

19 Q. Okay. I apologize for the tedium, but this will
20 be useful in the long run.

21 Okay. Looking again at January of '04, on the
22 16th there was a late fee applied. On the 20th a
23 payment came in that covered the late fee, correct?

24 A. Correct.

25 Q. Okay. February on the 17th a late fee was

1 assessed; and on the 24th a payment came in that covered
2 the late fee, correct?

3 A. Correct.

4 Q. Okay. March, late fee on the 16th; payment on
5 the 26th. Payment covered the late fee?

6 A. Correct.

7 Q. April 6th, late fee; April 23rd, payment that
8 covered the late fee?

9 A. Correct.

10 Q. May 17th, 2004, late fee; 21st -- May 21st, 2004,
11 payment that covered the late fee?

12 A. Correct.

13 Q. Okay. June 16th, late fee; June 21st, 2004
14 payment that covered it?

15 A. Correct.

16 Q. And then it looks like on July 15th they made a
17 timely payment that included a late fee. There's no
18 late fee balance, so on July 15th, \$50 was applied to
19 principal; is that correct?

20 A. That is correct.

21 Q. \$50.65. And then a late fee in August of '04,
22 and a payment including the late fee on August 23rd of
23 '04?

24 A. Correct.

25 Q. September 16th, '04, late fee; September 17th,

1 '04, payment including late fee?

2 A. Correct.

3 Q. October 14th, '04, regular payment, no late fee?

4 A. Correct.

5 Q. November 16th, '04, late fee; November 19th, '04,
6 payment including the late fee?

7 A. Correct.

8 Q. And then timely payments on December 15th, '04,
9 January 10th, '05, February 15th, '05?

10 A. Correct.

11 Q. Late fee March 16th, '05; regular payment not
12 including the late fee on March 17th, '05. Is that
13 correct?

14 A. Payment on the 17th as a regular payment.

15 Q. Uh-huh.

16 A. And on March 17th --

17 Q. I'm not there yet.

18 A. I apologize.

19 Q. Just those two lines, the 16th and 17th.

20 A. Okay. Correct, okay.

21 Q. 16th there's a late charge assessed, and 17th
22 there's a payment made that does not include a late fee;
23 is that correct?

24 A. That is correct.

25 Q. Okay. And then on the 17th of '05 there is a

1 line that says adjustment.

2 A. Uh-huh.

3 Q. Tell me what adjustment means.

4 A. There was an adjustment to the account. And it
5 appears that a late fee was -- or the funds were put
6 back to the account. The late fee was not assessed. It
7 was -- it's adjusting -- it's adjusting that late fee
8 amount.

9 Q. Okay. Do you know why that would have been done?

10 A. I do not.

11 Q. Do you know where the funds would have come from
12 to do that?

13 A. For this particular -- no, I do not. I do not.

14 Q. Okay. Would you be able to find that out?

15 A. Yes.

16 Q. How would you go about finding it out?

17 A. I would probably research the -- in finding that
18 out I could look at history on the payment screen if any
19 notes pertain as to why that was credited back.

20 Q. Okay. And I understand there are a lot of notes
21 on this account, but in your review of the notes do you
22 recall anything --

23 A. I don't recall.

24 Q. -- relating to this payment?

25 A. I do not.

1 Q. And understanding that we're talking about a
2 large number of payments, so --

3 A. Right, I do not recall.

4 Q. Next we have an April 18th, 2005 payment that was
5 a regular payment amount?

6 A. Uh-huh.

7 Q. With no late fee, and it appears that no late fee
8 was charged for April of '05; is that correct?

9 A. April of '05 -- is that '05 or the 18th?

10 Q. It's April 18th, 2005 I think.

11 A. Okay, okay.

12 Q. And it seems to be applied to contractual due
13 date April 1st, 2005. It's the next line after that
14 March 17th we were just talking about.

15 A. Okay. Correct, okay, yes. Monthly mortgage
16 payment made, yes.

17 Q. No late fee included?

18 A. No late fee included.

19 Q. That was on the 18th?

20 A. Yes.

21 Q. Do you know why that would be?

22 A. No. I can't answer as to why that late fee was
23 not assessed in April.

24 Q. And I think I probably need to ask you for each
25 one of those lines, unless you're -- you're able to and

1 your attorneys are willing to allow you to answer this
2 question, which is for each such late fee for which no
3 fee is charged, do you think you could tell me why there
4 would be no fee -- or late payment for which no fee is
5 charged, would you be able to tell me why any of those
6 late payments did not have a late fee?

7 A. I cannot.

8 Q. Okay. Is that -- did the question make sense?

9 A. It did.

10 Q. It was a little convoluted.

11 A. It did make sense.

12 MR. ALFIERI: You know, she doesn't have
13 voluminous knowledge of each of the notes -- the daily
14 notes that were done. I do know that some -- that this
15 information probably can be extracted not only from
16 those daily notes, but also from the documents that you
17 produced.

18 MR. BARTHOLOW: Okay. Well, let --

19 MR. ALFIERI: I mean, notwithstanding, we
20 will endeavor to find out for you.

21 MR. BARTHOLOW: Okay.

22 MR. ALFIERI: But the information is
23 available.

24 MR. BARTHOLOW: Okay. We'll get -- that's I
25 think something that, you know, going forward will be

1 helpful if we can get that worked out.

2 MR. ALFIERI: Yeah.

3 Q. (By Mr. Bartholow) Looks like a regular payment
4 in May of '05 that was made on the 16th. Then there's a
5 late fee on June 16th, 2005, correct?

6 A. Correct.

7 Q. Okay. Then there's a payment made on June 27th,
8 2005 that appears to include the late fee, or most of it
9 anyhow.

10 A. Correct.

11 Q. All but 59 cents it appears?

12 A. Uh-huh.

13 Q. Okay. I'm thinking -- just trying to figure this
14 out right now. Does it -- do you know whether there's
15 anything in Wells Fargo's system that makes a
16 determination of whether to apply a late fee based on
17 the degree of lateness?

18 I mean, there's a grace period already. But if a
19 payment is made, as in June of '05 on the 27th as
20 opposed to, for example, April of '05 on the 18th, is
21 there something in the system that tracks that and makes
22 a decision about whether to apply a late fee?

23 A. Is the question is there an indicator that would
24 indicate to us that the payment was coming in late and
25 assess a late fee?

1 Q. Yeah, fair enough. Not a great question.

2 A. Because I cannot answer that.

3 Q. To your -- to the best of your knowledge, a late
4 fee is automatically assessed on the day after the grace
5 period, correct?

6 A. Correct.

7 Q. Okay. So whether it was really late or only kind
8 of late, a late fee normally would be assessed, correct?

9 A. I'm not quite understanding what kind of late and
10 really late -- I don't -- I don't understand what you
11 mean by that.

12 Q. Whether it was on the 17th or the 27th, the late
13 fee will have already been assessed on the 16th in most
14 cases, correct?

15 A. To the best of my knowledge in answering that, it
16 should be assessed unless there was a -- it -- what --
17 the answer is yes. Yes.

18 Q. Okay.

19 A. To the best of my knowledge after the grace
20 period and the 16th, a late fee would be assessed.

21 Q. Okay. To your knowledge, is there a way if a
22 debtor calls in and says the check's in the mail or some
23 other way of coding in or making an exception?

24 A. Not to my knowledge.

25 Q. Okay. I think we're getting into taxes here with

1 the July 8th, 2005. There are two entries for July 8th,
2 2005?

3 A. Correct.

4 Q. Okay. And combined they appear to equal
5 \$5,528.73. And I'm getting that number from looking at
6 the escrow balance line.

7 A. To me it looks like 53 cents; but again, it's
8 kind of hard to determine that last digit.

9 Q. I'm looking at the second entry for July 8th,
10 5,528 -- and you think it's 53?

11 A. Now that I see it, it does appear to be 73.

12 Q. Okay. And that represents -- if you go three
13 columns to the left and add escrow applied disbursed
14 amounts, 1,528.53 and \$4,000.20?

15 A. Correct.

16 Q. Would you agree that this is where an escrow
17 account is created for this loan?

18 A. I would agree that this is where we paid their
19 county taxes.

20 Q. Okay. So you would not agree that this is where
21 an escrow account is created for the loan?

22 A. What I would agree to is this is where the county
23 taxes were paid, and this would establish the fact that
24 if we pay the county taxes then we need to establish an
25 escrow account.

1 Q. Okay. So I think what you're telling me is that
2 there are two steps there. There's paying the taxes,
3 and there's establishing the escrow account; is that
4 correct?

5 A. Correct.

6 Q. Okay.

7 A. Because at this point when we've got the county
8 taxes paid, we've already established a negative escrow
9 balance.

10 Q. Balance, okay.

11 A. We've got a negative -- we've got -- we've got
12 funds that have come out -- has an escrow, but there's a
13 negative amount; so we have to recoup that money
14 somehow.

15 Q. Okay. This -- yeah. This is a little bit of a
16 tricky area for mortgages. And it's -- you know,
17 it's -- and I think I get that. But when funds are paid
18 out on behalf of a debtor, for example, for taxes --
19 strike that.

20 How is the decision made to pay funds on behalf
21 of a debtor?

22 A. If we get notification that -- in regards to
23 taxes, if the taxes are delinquent, then -- and we don't
24 have proof that they've been paid, we need to pay those
25 taxes.

1 Q. Is there a standard or some reference point for
2 determining when those taxes are to be paid?

3 A. If we get a delinquent notice from the taxing
4 authority, the taxes have not been paid.

5 Q. Then they're paid with -- is there a specific
6 period of time within which they must be paid?

7 A. I don't know the exact period of time which it
8 must be paid, but I think it's fair to say that they
9 need to be paid by, you know --

10 Q. What department at Wells Fargo receives that
11 notice?

12 A. That would be our tax department.

13 Q. Your tax department?

14 A. Correct.

15 Q. Okay. So presumably somebody in the tax
16 department would be knowledgeable about those things?

17 A. That is correct.

18 Q. And would you agree that that's not an area that
19 you're knowledgeable about?

20 A. That is correct.

21 Q. Okay. It appears on July 18th of '05 there is a
22 payment that comes in that is in the amount of
23 \$1,013.53?

24 A. Correct.

25 Q. And that appears to be sufficient to satisfy the

1 running 59 cents late fee balance; is that correct?

2 A. Correct.

3 Q. Okay. Also I want to note that no late fee was
4 assessed in July, correct, of '05?

5 A. That is correct.

6 Q. Okay. And then in June of '05, a timely payment
7 comes in that appears to be 59 cents in excess, and so
8 that 59 cents is applied to it appears outstanding
9 principal; is that correct?

10 A. Correct.

11 Q. Now, just stepping away from this giving our eyes
12 a little bit of a rest, is there a specific order for
13 application of funds when they come in from the debtor?
14 For example, do you apply them first to principal or
15 first to late fees or --

16 A. Your principal and interest, and then it will go
17 to late fees if there's any fees assessed.

18 Q. Okay. Does it matter whether it's principal or
19 interest?

20 A. It's going to -- you mean which is applied first?

21 Q. Uh-huh.

22 A. Your interest is applied first.

23 Q. Interest is applied first, okay.

24 A. That is correct.

25 Q. Okay. And do you know what determines that order

1 of payment application?

2 A. That's outlined in the deed of trust.

3 Q. It's in the deed of trust, okay.

4 A. Yes.

5 Q. And have you looked at that for this particular
6 loan, that provision of the deed of trust for this
7 particular loan?

8 A. I have reviewed the deed of trust for this loan,
9 yes.

10 Q. Okay. I brought it with me, but I do have an
11 excerpt for it.

12 MR. BARTHOLOW: And if Counsel will indulge
13 me, I might read a part of that. And if that doesn't
14 work, then Counsel will let me know.

15 Q. (By Mr. Bartholow) And if you don't know, you
16 simply can say I don't know if that's correct. But it
17 appears to me that funds are to be applied first to
18 principal, then to amounts due under Section 3, which
19 would be escrow items.

20 And then -- or no, I'm sorry. First to interest,
21 then to principal, and then to escrow items. Is that
22 your understanding of the order of payment application
23 for this loan?

24 A. For -- after -- in general speaking, after an
25 escrow is established, that is correct, yes.

1 Q. Right.

2 A. If an escrow account is established, correct.

3 Q. Right. And the escrow account would go last
4 anyway, correct?

5 A. Correct.

6 Q. And then any remaining amounts after those three
7 items are applied go to late charges and other amounts
8 due --

9 A. Correct.

10 Q. -- under the note? Okay. Now, there's a
11 difference between principal due, for example, or
12 interest due under the note and simply payments towards
13 principal. And can you explain what that difference is?

14 A. Right. Any -- if -- you mean as far as
15 curtailment? I believe that's what you're asking me, if
16 there's extra funds after all of the above said is paid?
17 If there's any extra funds would it go to additional
18 principal; is that the question?

19 Q. I think that that's the question. So if, for
20 example, the debtor is behind, then funds would not go
21 to pay unpaid principal that's not due yet, correct?

22 A. Correct.

23 Q. Okay. Or put differently, they should only be
24 paid -- funds should only be paid towards outstanding
25 amounts first, correct?

1 A. That is correct.

2 Q. All right. So I think we're back at the top of
3 this page. September 14th, 2005, timely payment and
4 paid in full; is that correct?

5 A. That's correct, yes.

6 Q. October 17th, late charge is assessed?

7 A. That's correct.

8 Q. October 18th, a new payment amount appears,
9 \$1,588.82. The comments identify that as a monthly
10 mortgage payment. Can you tell me what happened there
11 that caused the payment to change from 1,012 to
12 \$1,588.82?

13 A. It's not specified in the ledger; but what would
14 occur in a payment change is if we have to start
15 collecting for an escrow account, if we have to start
16 collecting additional funds with an escrow account.

17 Q. Okay. Now, looking again at the entry above this
18 one where on October 17th a late fee was assessed and
19 then the entry below the first October 18th it appears
20 there's another adjustment that I think removes the late
21 fee; is that correct?

22 A. Correct.

23 Q. And I guess you've already testified that you
24 wouldn't know why that adjustment was made?

25 A. Not looking at this, correct.

1 Q. However, with the first October 18th, 2005 entry
2 if we move across, we see the debtor funds received. We
3 see an amount applied to principal, an amount applied to
4 interest, and then a column that says escrow applied
5 disbursed. What does that mean?

6 A. That means that portion of that payment went into
7 to repay that escrow balance.

8 Q. Okay. And so I can see on the page, for example,
9 that when we go three columns to the right in the escrow
10 balance column that it's been reduced by the amount
11 three columns to the left.

12 A. Correct.

13 Q. So on the page that makes sense to me. What I'd
14 like to understand is where is the money flowing at this
15 point? Is the money paid to Wells Fargo as servicer?
16 Is it paid to Freddie Mac as the owner of the loan or
17 investor or however we care to characterize them? What
18 happens with that \$573.88?

19 A. That's being paid back to Wells Fargo.

20 Q. Okay. And how does Wells Fargo track that money?
21 Does it have a master ledger of all of the escrow
22 disbursements that it's made and every time one of these
23 comes in that master ledger is reduced by that amount in
24 addition to it appearing here or --

25 A. You're going to see that on the payment history.

1 You're also going to see those amounts when they were
2 disbursed or coming in on an escrow analysis that the
3 debtor would get a copy of as well.

4 Q. Okay. Now let's talk about principal and
5 interest.

6 A. Okay.

7 Q. It's my understanding that Wells Fargo keeps a
8 fraction of a regular mortgage payment as its
9 compensation for servicing a loan. I believe it's .025
10 percent. Does that sound correct to you?

11 MR. ALFIERI: Objection, form. I think
12 we're going outside the topics. And I say that
13 respectfully, but I'm not sure how this witness has been
14 designated as to knowledge with respect to the breakdown
15 between the fees -- the investor fees that Wells may pay
16 to the owner of the loan.

17 MR. BARTHLOW: Well, I guess I've described
18 in Number 6 the relationship between Defendant and
19 Freddie Mac as it pertains to the Plaintiffs' mortgage
20 loan.

21 MR. ALFIERI: Okay. And we've disclosed
22 that by showing you the original note.

23 MR. BARTHLOW: Which is a -- which is
24 responsive to the Exhibit B --

25 MR. ALFIERI: Right.

1 MR. BARTHOLOW: -- which is request for
2 documents.

3 MR. ALFIERI: Right.

4 MR. BARTHOLOW: But I'm asking her under the
5 presumption that she's knowledgeable as to the
6 compensation arrangement, the relationship between Wells
7 and Freddie.

8 MR. ALFIERI: Okay. Ask her that question.

9 Q. (By Mr. Bartholow) If you don't know, tell me
10 you don't know. That's fine.

11 A. I'm not knowledgeable of that.

12 Q. Okay. And to rephrase the question, just so --
13 because we've been talking a little bit. The question
14 was what happens to money that comes in for -- to Wells
15 Fargo for a mortgage payment when Freddie owns the loan?
16 So does Wells Fargo pay them something, or what is paid?

17 A. I'm not knowledgeable of that.

18 Q. Okay. Who would be knowledgeable as to that?

19 A. I do not know that.

20 MR. BARTHOLOW: Okay. Could we identify
21 somebody who would be knowledgeable about that process?

22 MR. ALFIERI: You know, we can talk about
23 that off the record. I definitely would be willing to
24 talk with you about that off the record.

25 MR. BARTHOLOW: Okay.

1 Q. (By Mr. Bartholow) Well, that'll save us some
2 time.

3 Let's see, it appears that we were -- well, looks
4 like I can go from January '06 through May '06, the
5 payments were made in that \$1,588.82, correct?

6 A. Correct.

7 Q. And they weren't all timely with January and I
8 guess March and April being a couple of days late, a day
9 or two late depending; but otherwise -- but there were
10 no late fees charged for any of those months, correct?

11 A. Correct.

12 Q. Then on June 16th of '06 there's a late fee
13 assessed. And June 30th there's a monthly mortgage
14 payment that is in the amount of \$1,591.35?

15 A. Correct.

16 Q. It's booked in the comments field as monthly
17 mortgage payment. That's a different amount by a few
18 dollars from the previous amount. Do you know why that
19 would -- that amount would be different?

20 A. No. For this particular line I cannot answer why
21 that amount is different, no.

22 Q. And then it appears that on the 17th there's
23 another late fee assessed; and then on the 25th there's
24 a payment made in the amount of \$1,692.65, correct?

25 A. Uh-huh.

1 Q. And the comment there is unapplied funds. And it
2 appears the next day the funds are applied to the
3 mortgage payment and late charges and to satisfy the
4 remaining late fee balance, correct?

5 A. Correct.

6 Q. Okay. August 16th, '06, late fee?

7 A. Correct.

8 Q. August 28th, 2006 payment that covers the late
9 fee?

10 A. Correct.

11 Q. September 18th, 2006, late fee; and September
12 22nd, 2006, a payment covering the late fee?

13 A. Correct.

14 THE WITNESS: Would I be able --

15 MR. ALFIERI: Want to take a break?

16 MR. BARTHLOW: Want to take a little break?

17 Sure.

18 MR. ALFIERI: Actually we've been going past
19 an hour, so --

20 MR. BARTHLOW: Sure, Off the record.

21 (Recess, 2:10 p.m. to 3:14 p.m.)

22 Q. (By Mr. Bartholow) Okay. We're on 5 of 10. I
23 guess just for the sake of -- actually, no, I think
24 we're on 6 of 10.

25 A. Okay.

1 Q. And I don't know exactly where we are, so let's
2 just start at the top of the page.

3 A. Okay.

4 Q. Late charge on October 16th, '06; and monthly
5 payment including the late charge on October 31st, '06,
6 correct?

7 A. Correct.

8 Q. Okay. And we have late charges on November 16th
9 and December 18th, correct?

10 A. Correct.

11 Q. And it looks like Wells Fargo paid the -- would
12 that be the 2006 or the 2007 taxes on December 19th of
13 '06?

14 A. Looking at this, I can't verify if it was for
15 the -- I would say it would be for the 2006 taxes.

16 Q. Okay. And you can -- you kind of said you
17 couldn't verify?

18 A. It's not specifying in the payment history for
19 what taxes were paid for what period.

20 Q. Okay. And have you looked at anything else that
21 would provide that information?

22 A. Yeah. Notes on the system would provide that
23 information.

24 Q. Okay. But without looking at those, you wouldn't
25 know?

1 A. Right.

2 Q. Then it looks like another late charge on
3 December 27th -- oh, an adjustment?

4 A. An adjustment. And I'm going to say -- and I
5 know we -- if we looked further back and we had some
6 adjustments; but this appears to me, and this would also
7 be duly noted, that we are waiving those late charges.
8 That's a late charge that was -- that's an adjustment,
9 so that's a positive. So it appears we were waiving
10 that late charge.

11 Q. You were waiving, okay.

12 A. Right. And I would say that on the other
13 adjustments as well prior. And looking at those, we see
14 another adjustment; and I'm going to say with some
15 certainty it appears by looking at this -- and we can
16 certainly verify that as well, that these are waived.
17 These are being waived when we see an adjustment.

18 Q. Okay. And what --

19 A. It doesn't spell out --

20 Q. What would you reference to determine whether
21 they were waived?

22 A. We could certainly look back at the notes and see
23 if it's -- if it's noted -- if it's duly noted in the
24 notes of the account.

25 Q. Okay.

1 A. It is not specifying on this history.

2 Q. Right, right.

3 A. But it appears that these are late charges that
4 are being waived.

5 Q. Okay. Now, on January 5th of 2007 we have a line
6 for unapplied funds in the amount of \$1,514, correct?

7 A. Correct.

8 Q. Can you -- okay. And then on the 30th it appears
9 that funds in -- well, I don't think that -- oh, no, I
10 guess it does. Funds in the amount of \$1,514 are
11 applied to escrow and late charges with \$1,463.35
12 applied to escrow and \$50.65 applied to late charges?

13 A. Correct.

14 Q. Going back to our conversation about the deed of
15 trust and the order of payment provisions, it would
16 appear that at this juncture there is a pretty serious
17 arrearage going on, meaning that there are -- there's
18 principal and interest due; is that correct?

19 A. That is correct.

20 Q. Okay. Can you tell me why funds that were
21 received would have been applied to late charges then?

22 A. What -- what I would gather from this -- and
23 again, it's not -- it's not noted on this history that
24 I'm looking at, that perhaps arrangement was made -- a
25 repayment plan of some sort or an agreement that was set

1 up in a payment plan. And this could have been included
2 in the payment plan that a certain amount of down
3 payment or certain amount of funds would have went to
4 escrow or uncollected funds.

5 Q. Okay. In your review of this account, were there
6 repayment plans made?

7 A. In noting -- in looking at the notes on the
8 account, I did -- did note and did see that we had
9 discussed and set up repayment plans, verbal repayment
10 plans with down payments with the debtor.

11 Q. Okay. Were there any written ones?

12 A. No. I don't believe that I recall seeing any
13 written -- of course, I can certainly -- we can
14 certainly go back and double-check; but I do not recall
15 seeing any written modifications being done.

16 We're talking about a repayment plan where we've
17 agreed -- a repayment plan would be where we've agreed,
18 okay, we need X amount of funds to bring you up to this
19 date; and we need this amount each month, which may be a
20 little bit more than what their monthly payment is in
21 order to bring them back current.

22 Q. Okay. In your prior -- and this I think maybe
23 gets into some of your experience at Wells in other
24 capacities. Did you ever do repayment -- verbal
25 repayment plans with people?

1 A. I did not. I did not.

2 Q. You did not?

3 A. Because I did not work in the collection
4 department, so --

5 Q. Okay. How would we know what the terms of a
6 verbal repayment plan contained in terms of, so we're
7 agreeing to apply some of your money towards late fees?

8 A. Typically those plans are noted in the system
9 where we have -- and they also would be -- to my
10 knowledge a letter is sent confirming that plan to the
11 debtor.

12 Q. Including the late fee portion?

13 A. If that is the case where we've agreed that --
14 and I'm not saying that's this situation, because it's
15 not noted on the bankruptcy history. But it would be
16 included in the plan. Any agreement that we made would
17 be included in the plan.

18 Q. Okay.

19 A. And it should -- it would be noted in the system
20 of that plan.

21 Q. Okay. Regarding specifically the late fee?

22 A. That is correct.

23 Q. Okay. And then we see on January 30th it appears
24 that homeowners' insurance was paid?

25 A. That is correct.

1 Q. For \$4,442.31?

2 A. Correct.

3 Q. I think the original loan amount in this case was
4 around \$150,000, and I'm assuming that this was forced
5 place insurance; is that correct?

6 A. It appears that it is, correct, because the
7 account was not escrowed.

8 Q. Okay. Tell me a little bit about why forced
9 place insurance is this amount.

10 A. If we have to -- any time that we place insurance
11 -- forced insurance or, you know, or are forced to place
12 insurance on the account, the premiums from -- are -- do
13 seem to be a lot higher than what, you know, your
14 home -- your regular homeowners' insurance would be.

15 Q. Okay.

16 A. The premiums are always higher.

17 Q. Is it correct that Wells Fargo places with ZC
18 Sterling its forced place insurance?

19 A. I do believe that is --

20 Q. Or in this case that's who it was placed with?

21 A. I believe so, yes.

22 Q. Does Wells Fargo have any contractual -- or
23 rather any ownership stake in ZC Sterling?

24 A. I do not know that.

25 Q. Okay. And in your experience have you seen -- is

1 \$4,442 typical of an amount of insurance that would be
2 charged for forced place insurance on a \$140,000 loan?

3 A. I'm going to say that's a little hard to answer.
4 Yes, it's typically much higher. I mean, you can almost
5 see a double, if not triple, sometimes in the premium.
6 But in my experience -- in other loans that I may have
7 been working with in my experience, I do see that that
8 -- that amount is not untypical.

9 Q. Okay. Let's move down to the next entry.
10 February 12th, 2007. We have a payment in the amount of
11 \$1,881.47?

12 A. Correct.

13 Q. And it appears to have been unapplied on the 12th
14 when received?

15 A. Uh-huh.

16 Q. And then it looks like on the 13th it was
17 applied?

18 A. Uh-huh.

19 Q. And it looks like it was applied to the November
20 2006 payment; is that correct?

21 A. That is correct.

22 Q. Okay. And then February 16th it appears that a
23 late charge is assessed?

24 A. Correct.

25 Q. I'm confused. It appears that a payment was made

1 on February 12th. Why would a late charge have been
2 assessed on February 16th?

3 A. The payment that was made -- the payment that was
4 made were -- from the 1,800 was a payment for November,
5 and that was applied in February; so therefore a late
6 charge is assessed.

7 Q. Okay. Is that Wells Fargo's typical practice?

8 A. And again, this might be written in -- without
9 seeing that plan, it could be incorporated in that plan
10 if a late fee is assessed.

11 Q. In the verbal agreement?

12 A. Correct.

13 Q. Is that what you're saying?

14 A. Correct.

15 Q. Okay. I guess we'll need to see that, if you
16 can -- can you get ahold of it?

17 MR. ALFIERI: Actually the agreements are in
18 your production.

19 MR. BARTHLOW: Okay. Do you recall
20 anything about late fees?

21 MR. ALFIERI: I don't recall the contents,
22 but I do recall two letters sent to your clients from
23 Wells wherein the parties agreed to modify terms of
24 payment. And you know, I just note -- you know,
25 you're -- we have agreed that you will pay X amount on,

1 you know, these certain days of the month.

2 MR. BARTHOLOW: Okay.

3 Q. (By Mr. Bartholow) Then Ms. Savery, without
4 seeing the agreements, I know that we're a little bit
5 limited in terms of what we know; but in your experience
6 have you seen agreements that provide for repayment and
7 for late fees to continue to accrue? Have you ever seen
8 that happen?

9 A. I have not.

10 Q. Okay.

11 A. In my experience, I have not.

12 Q. That's all I can ask you. Okay. So then on
13 February 19th -- again, with a payment received on
14 February 12th, it appears that on February 19th a \$15
15 inspection fee is assessed.

16 A. Correct.

17 Q. My understanding of inspection fees, especially
18 of the \$15 variety is that their purpose is to verify
19 occupancy; is that correct?

20 A. That is correct.

21 Q. Can you tell me why occupancy would need to be
22 verified when a payment was received, say, seven days
23 prior?

24 A. Once an account goes into a delinquent status
25 more than a month or two months, we're going to -- and

1 this, again, is from the deed of trust. We have the --
2 we have the right, shall I say, to just ensure that yes,
3 the property is occupied and that -- you know, we're
4 inspecting the property, too, to make sure that there
5 isn't any hazards outside the properties.

6 Typically they're drive-bys. It's not -- we're
7 not going to get a full scope because they're not
8 interior. So --

9 Q. I guess my question is a little bit different.
10 In the light of a payment received seven days prior,
11 what was it that would make the inspection reasonable?

12 MR. ALFIERI: Objection, form.

13 A. I'm not -- I don't think I can answer that.

14 Q. (By Mr. Bartholow) Okay, that's fine.

15 A. To answer it reasonably, I cannot answer as to
16 whether it's reasonable or not as far as why after seven
17 days of a payment --

18 Q. Okay.

19 A. -- being received.

20 Q. And this is going to sound -- well, I'll just
21 ask. Is it acceptable for Wells Fargo to make
22 inspections when it would be unreasonable to do so?

23 A. Okay. Could you repeat that once again?

24 Q. Strike the question. We'll move on.

25 All right. And then let's look at February 19th.

1 It appears that unapplied funds are applied to late
2 charges?

3 A. Correct.

4 Q. Can you tell me where that money comes from?

5 A. The money on the -- the --

6 Q. The second February 19th line.

7 A. Okay. Again, this -- it -- we may go back to a
8 suspense or hold account. But if this was on a
9 repayment plan and funds are coming in, a certain amount
10 is held; then to incorporate for the next payment that
11 is received from the debtor --

12 Q. Let me -- let me clarify my question.

13 A. Okay.

14 Q. Can you tell me where on this line -- because
15 generally on these lines you'll see money coming out and
16 money going in, right?

17 A. Right.

18 Q. Is there another line on here that shows money
19 coming out of something?

20 A. It is not, no.

21 Q. Okay.

22 A. So in that respect to answer the question where
23 did these funds come from, I do not know.

24 Q. Well, let's look at February 20th.

25 A. Okay.

1 Q. We have \$15 that appears to have been applied to
2 inspection fees; is that correct?

3 A. That is correct.

4 Q. Okay. Again, with reference to the deed of trust
5 and the payment application provisions, and I guess with
6 a note that's in arrears, how does money get paid to
7 inspection fees?

8 A. Again, without looking to see if this is on a
9 repayment plan or if that was in the provision, I cannot
10 answer that as to why that --

11 Q. Have you ever seen a repayment plan in which
12 inspection fees are included as a provision?

13 A. Not to my -- not that I've seen.

14 Q. Okay. And let's see, it looks like on March 1st,
15 \$224.47 are applied to escrow. Again, we don't have an
16 unapplied -- a running unapplied funds line on this
17 chart; so I guess it's hard to tell, right? Is there
18 any way to tell from this chart where that money came
19 from, other than an unapplied funds bucket that's not on
20 here?

21 A. Unapplied funds to escrow, which the -- we're
22 looking at the 224.47, correct?

23 Q. Yes.

24 A. Okay. So we've got escrow amount -- escrow
25 applied disbursed, and so those unapplied funds were

1 going back into the escrow account. And where they come
2 from with looking at this, I cannot answer that.

3 Q. Okay. And then on the 13th of March we see
4 \$3,272.04. Do you know what that is?

5 A. This appears to be escrow funds received and
6 placed into the escrow account.

7 Q. Okay. Is it possible that that is a partial
8 refund of the forced place hazard insurance?

9 A. That could be. It's not noted on the account,
10 but it could be, correct.

11 Q. Okay. Now, let's see, it appears in April of '07
12 there's a late charge assessed?

13 A. Correct.

14 Q. On the 16th. On the 18th it appears there's
15 another inspection fee assessed?

16 A. Correct.

17 Q. And then on the 16th it appears there's a late
18 charge assessed -- the 16th of May, excuse me, of '07?

19 A. Correct.

20 Q. And May 21st of 2007 there's another inspection
21 fee?

22 A. Correct.

23 Q. It looks to me like the inspection fees are
24 assessed more or less on a 30-day cycle. Would that be
25 accurate?

1 A. Correct.

2 Q. Okay. Are those automatically generated
3 inspections? Is there a computer system that orders
4 them up?

5 A. I don't have knowledge of that, so I would not
6 know that.

7 Q. Okay. Is there -- is there somebody whose job it
8 is to say every 30 days go get an inspection?

9 A. There would be.

10 Q. Okay. Who would that person be?

11 A. A particular name, I don't know; but we have a
12 department that would handle that.

13 Q. Okay. What's that department called?

14 A. That department, we have property preservation
15 department.

16 Q. Okay. And is it the department itself who does
17 the drive-by inspection, or do they outsource that?

18 A. That would be outsourced.

19 Q. Okay. And how much is the outsource provider
20 paid for each inspection?

21 A. I do not know that.

22 Q. Okay. So you don't know whether it's \$15 or some
23 other amount?

24 A. I do not, correct.

25 Q. Back over to Page 7. On June 4th of '07 it

1 appears that the bankruptcy case was filed.

2 A. Correct.

3 Q. Okay. Have we already -- have we got this Proof
4 of Claim? Would you mind referring back to the Proof of
5 Claim, which is Exhibit Number 2. I'll see if I can
6 find mine. Do you mind if I just take a quick look at
7 it, it would be quicker.

8 Okay. When I look at this Proof of Claim and I
9 look at the escrow advance shortage amount, it appears
10 that the claim lists \$6,041.36?

11 A. Correct.

12 Q. And it appears that this payment history lists
13 \$6,804.03?

14 A. Correct.

15 Q. Can you explain why those amounts are different?

16 A. The amounts are different --

17 MR. ALFIERI: There -- we produced a
18 document to you -- excuse me.

19 MR. BARTHLOW: I'd like her to testify.

20 MR. ALFIERI: We've produced a document to
21 you that will walk you through the calculation, and I
22 think it will help her testimony.

23 THE WITNESS: I think it would be very
24 helpful as well to you, so --

25 MR. BARTHLOW: Okay.

1 MR. ALFIERI: It's in what I gave you today.

2 MR. BARTHLOW: Which I'm sure is in here.

3 MR. ALFIERI: Very last page.

4 MR. BARTHLOW: Okay. This one is
5 handmarked WFB00478. It's what appears to be an Excel
6 spreadsheet with some handwriting on it. I'll mark it
7 as Plaintiffs' Number 15.

8 (Exhibit No. 15 was marked.)

9 MR. ALFIERI: If you want to go off the
10 record I'll make a copy. I think that may be the only
11 copy we've got.

12 MR. BARTHLOW: Okay, sure.

13 (Recess, 3:37 p.m. to 3:38 p.m.)

14 Q. (By Mr. Bartholow) Okay. So let me -- do you
15 have a copy as well?

16 A. I do.

17 Q. Ms. Savery, can you identify Exhibit Number 15
18 for us?

19 A. This is basically a little calculation sheet of
20 how -- it's kind of a chart that shows, you know, what
21 our escrow advance was, what our balance would be. And
22 it kind of helps us determine how we've come to that
23 figure on the Proof of Claim.

24 Q. Okay. Where is this -- is this a chart that you
25 created for today, or is this part of a system that you

1 use? Where does this come from?

2 A. This chart came from our bankruptcy department,
3 something they supply us in assisting in how the
4 calculation is derived from.

5 Q. And numbers are not my thing; so if you can
6 explain to me what this says, that would be wonderful.

7 A. Okay. I'll try to make it -- as we discussed,
8 it's a little hard to explain; but I'll try to make it
9 as easy as possible. At the time of the filing, which
10 was 06/04/07, the escrow balance -- and as you can see
11 here on the payment history is in a negative 6,804.03.

12 Okay. Now, we know that from the time of -- we
13 look at the next line -- we'll look at the escrow
14 balance. So we know at the time of the filing we have
15 to project this account from January to June, so going
16 six months forward. We're going to have to say how much
17 do we need for that escrow in order to pay the taxes.

18 And by doing that, \$410.77 is what we projected
19 would be given off the year prior, what the taxes were
20 and what we would need going forward six months. And
21 that was \$2,464.62.

22 Q. Okay.

23 A. We also -- and by RESPA Guidelines, we can put a
24 two-month cushion in there; and that allots for if
25 there's any changes in the taxing -- in the tax

1 payments. It's a little cushion, if you will.

2 Q. Which RESPA Guideline would you be referring to?

3 A. Which guideline?

4 Q. Uh-huh.

5 A. What do you mean?

6 Q. You said that you're entitled to a two-month --

7 A. Per RESPA Guidelines, it does state in the RESPA
8 Guidelines that we can provide a two-month cushion.

9 Q. And if I wanted to go find that in the RESPA
10 Guidelines, where would I look?

11 A. I don't know exactly where you would look for
12 that.

13 Q. Okay. Have you read that guideline yourself?

14 A. No, I have not.

15 Q. Okay. And -- but based on those assumptions, you
16 arrived at this figure of 3,286.20?

17 A. That is correct. That is the balance. So we
18 know that seven payments -- we're seven payments in
19 arrearage. And out of those seven payments is the
20 escrow that was due from the principal and interest
21 already delinquent, \$448 -- I mean, \$4,048.87, okay.

22 So we have to back that out of this escrow
23 advance, because we don't want to include -- we're
24 taking that out of the payment from the POC. So we have
25 to back that out of that amount, which leaves us

1 \$2,755.16. So backing that amount out of the payment is
2 leaving us with the \$6,041.36 that's an additional --
3 that's not additional escrow, but the remaining escrow
4 that we have to still collect on.

5 Q. Okay. So I understand the \$2,755.16 is the
6 difference between the escrow portion of the missed
7 payments and the outstanding escrow balance; is that
8 accurate?

9 A. Yes.

10 Q. Okay. That number makes sense to me. The other
11 number you're saying is projected escrow that would be
12 collecting through the rest of the year?

13 A. No. For only six months going forward.

14 Q. Which this was filed in June, and so that would
15 be for the remaining six months --

16 MR. ALFIERI: Objection, form.

17 Q. (By Mr. Bartholow) -- Of the year?

18 MR. ALFIERI: That's not what she said.

19 Listen to the question.

20 THE WITNESS: Okay.

21 MR. ALFIERI: Please restate the question.

22 Q. (By Mr. Bartholow) The question is what you said
23 for the next six months --

24 MR. ALFIERI: Objection, form.

25 Q. (By Mr. Bartholow) Okay. What I'm -- you've

1 perhaps already told me this, but I'm not following.
2 410.77 times 6 is what -- not the -- not the number, but
3 what does that represent?

4 A. Okay. The 410.77 is from -- in order to pay the
5 taxes going forward, we've projected from January to
6 June of what we paid in taxes prior to the bankruptcy
7 filing. So that amount -- we're going back what we paid
8 prior. We're taking that projection -- okay, your tax
9 is X amount, and we're going to times that by 6 months
10 because we're going forward from the time of filing.

11 So we know we're going to need that balancer.
12 We're going to need to include six months of that escrow
13 because we're looking at from January to June at the
14 time of filing. And we know what this -- this balancer
15 is giving us what we need -- what we're going to have to
16 have in our account. We have to come to a positive
17 balance of what we have to have in our account going
18 forward to pay the taxes.

19 Q. Okay.

20 A. And that calculation is derived from six -- six
21 payments of 410.77, which again is a calculation based
22 off the prior taxes that we've paid and the two-month
23 cushion that we're allowed to have; and that balancer is
24 3,286.20.

25 Q. Okay.

1 A. So the true -- the total true escrow shortage is
2 \$10,000. But the principal -- the escrow portion of the
3 seven payments that the -- the account is down, out of
4 that there's 4,048 -- \$4,048.87. So we back that out of
5 that escrow advance because we don't want to -- we're
6 backing that out of the escrow advance already on the
7 account. That's already in the negative.

8 Q. Okay. Now, so turning back to the debtor's
9 monthly payment amount, what is comprised of the
10 postpetition monthly payment amount? You've got
11 principal, interest and escrow?

12 A. Correct.

13 Q. Postpetition?

14 A. It wouldn't be postpetition. It would be -- or
15 postpetition, you're correct, yes.

16 Q. Okay.

17 A. Not prepetition because we're -- the escrow
18 shortage, we've backed that out. We're -- well, the
19 time of the filing the escrow balance was in the
20 negative \$6,804.

21 Q. Right.

22 A. Okay. So we at some point won't have to come to
23 a positive balance; but we're not -- we're not including
24 that escrow balance, that negative balance in future
25 payments going forward. So we've backed this 4,048 out,

1 which is seven payments they're already down, okay.

2 We've backed that out of what the escrow advance
3 is, okay. And we've also projected -- we have our
4 balancer, what we need going forward, okay. So the true
5 total escrow balance would be -- or shortage would be
6 10,000. And we're taking back out that 4,048 we've
7 already recouped from payments in the Proof of Claim.
8 So we're recouping that in the payments in the Proof of
9 Claim.

10 So we back that out because we're recouping that
11 already in that payment in the Proof of Claim; and that
12 brings us to the difference of a negative 6,041, so
13 we're still in the negative there. That's why you would
14 see that escrow advance shortage listed separately on
15 the claim.

16 Q. Okay.

17 A. Because that amount has already been backed out
18 of that payment because we're going to recoup that in
19 the payment through Proof of Claim.

20 Q. Okay. And so the -- it appears that moving to --
21 well, actually let's start at the top of Page 7 of 10.

22 A. Okay.

23 Q. It looks like two days after the case was filed
24 there are one, two, three, four, five, six, seven,
25 eight, nine -- I'm sorry, eight charges to the account

1 on June 6th relating to attorney fees for foreclosure,
2 sale costs for foreclosure, document retrieval for
3 foreclosure, recorder for foreclosure, notice of sale,
4 recorder of substitute trustee, certified mail of the
5 foreclosure and title charges for the foreclosure. Do
6 you know what each of those items represent?

7 A. I do not. I didn't prepare any foreclosure
8 documentation, so I do not.

9 Q. Okay. Do you know why foreclosure fees would be
10 charged to an account after a bankruptcy was filed?

11 A. Well, it looks like they were posted to the
12 account after. But that's -- it could possibly be that
13 we were billed that after the fact that they were --
14 that -- I mean, obviously the foreclosure sale would
15 have -- would have -- would have halted, but that
16 doesn't alleviate the fact there wasn't fees incurred
17 in -- in that -- in that foreclosure.

18 Q. Okay. And do you know how, for example, an
19 attorney fee is determined?

20 A. I do not.

21 Q. Okay. What about the next line, sale cost
22 foreclosure posting?

23 A. I do not.

24 Q. Okay. The next line, document retrieval
25 foreclosure?

1 A. I do not.

2 Q. Okay. And same for all of these charges relating
3 to the foreclosure?

4 A. That is correct.

5 Q. Okay. Do you know how the Proof of Claim fee is
6 determined?

7 A. I do not.

8 Q. Okay. It appears on 06/29/07 that there was a
9 \$250 fee charged for Proof of Claim. Is that what you
10 see?

11 A. That's correct. That is what I see, yes.

12 Q. Okay. And then we have on July 6th of 2007
13 debtor funds received in the amount of \$1,423.71?

14 A. Correct.

15 Q. And that goes into the unapplied bucket, correct?

16 A. Correct.

17 Q. And then on the 9th of July of 2007 it appears
18 that those unapplied funds are applied to the July 2007
19 payment; is that correct?

20 A. That's correct.

21 Q. Okay. And then in August on the 10th we have
22 unapplied funds, and then on the 13th again they go to
23 the August '07 monthly mortgage payment?

24 A. Correct.

25 Q. And then on August 28th, 2007 we have an attorney

1 fee for filing an objection to confirmation. Do you
2 know why the objection to confirmation was filed in this
3 case?

4 A. I do not.

5 Q. Okay. Do you know what an objection to
6 confirmation is?

7 A. I do.

8 Q. Okay. And then on September 11th of 2007,
9 unapplied funds; and then on the 12th it appears that
10 they're applied to the September payment?

11 A. Correct.

12 Q. October 15th, unapplied; October 16th, October
13 payment?

14 A. October payment on the 16th, okay, correct.

15 Q. And then November 14th, '07 unapplied funds;
16 November 15th, applied to the November payment?

17 A. Correct.

18 Q. Okay. On December 5th, '07 we have escrow
19 applied disbursed for county taxes?

20 A. Correct.

21 Q. Which would be the \$4,515.19. And it looks like
22 that disbursement was added to the escrow balance; is
23 that correct?

24 A. That is correct, yes.

25 Q. Okay. And then the 17th we have unapplied funds

1 received?

2 A. Correct.

3 Q. And the 18th they're applied to a monthly
4 mortgage payment?

5 A. That is correct.

6 Q. On the 20th we have a late charge assessed?

7 A. Correct.

8 Q. January of '08, unapplied funds -- or January '08
9 unapplied funds; and on the 14th we have -- we have the
10 funds applied. And then on the 18th a late charge is
11 assessed, and then on the 30th it's adjusted?

12 A. Yes. That was reimbursed. That was reversed
13 back off there.

14 Q. Do you know what happened there?

15 A. I do not.

16 Q. Okay. February 14th, unapplied funds; on the
17 15th applied to monthly mortgage payment for February
18 '08. And then it appears that Wells Fargo began
19 receiving trustee payments on February 28th of '08?

20 A. That is correct.

21 Q. Okay. And then on February 14th of '08 it looks
22 like another payment was made which was applied on the
23 17th?

24 A. Correct.

25 Q. And more trustee money on April 8th of '08?

1 A. Correct.

2 Q. Followed by a regular payment on the 14th of
3 April, '08?

4 A. Correct.

5 Q. And applied on April 15th of '08. Another
6 trustee payment on May 2nd of '08. Another regular
7 payment on May 15th of '08, which was applied on May
8 16th. Regular payment June 12th, '08. Am I correct so
9 far?

10 A. Correct, yes.

11 Q. Applied on June 13th of '08. Then on July 11th
12 of '08 we have unapplied funds received; July 14th of
13 '08, applied. August of '08 unapplied funds received;
14 August 18th of '08 applied to a monthly payment,
15 correct?

16 A. Correct.

17 Q. Okay. Then on August 19th a late charge is
18 assessed. Does that make sense?

19 A. I can't answer as to why that late charge was
20 assessed.

21 Q. Okay. Would you agree it appears that the
22 payment was timely?

23 A. Correct.

24 Q. September 11th of '08 payment received,
25 unapplied; September 12th applied to the September '08

1 payment, correct?

2 A. Correct.

3 Q. October 7th of '08 trustee money; October 8th of
4 '08 -- what happened October 8th of '08?

5 A. Unapplied funds to monthly mortgage payment. So
6 there's trustee interest from the prior line where we
7 see trustee interest remaining unapplied. And again I'm
8 going to revert back to the beginning where on -- when
9 those payments come in we would ensure they're applied
10 properly.

11 And once they are reviewed and the bankruptcy
12 department is aware that they need to be applied,
13 whether it be debtor payment, the trustee payment or
14 trustee interest; and it appears that -- that then they
15 were applied to the monthly mortgage payment.

16 Q. Okay. So a trustee payment was applied to a
17 monthly mortgage payment; is that what you're saying?

18 A. Yeah. The remaining -- the trustee interest and
19 the remaining funds were applied to the monthly mortgage
20 payment. That's what it does appear to be, correct.

21 Q. Okay. Am I correct that trustee money represents
22 prepetition arrears, money received from the trustee
23 prepetition arrears and interest on prepetition arrears?

24 A. The money in this particular claim, what it
25 appears -- and then again these could be -- once those

1 payments go into the central payment processing center,
2 whether from the debtor or the trustee, but it appears
3 that the payments coming from the debtor is the payments
4 -- prepetition payments. And the payments coming in
5 from the trustee is going toward postpetition payments
6 and interest. Not interest towards the account but
7 interest we're getting from the trustee.

8 Q. Okay. So is there a way to see where the money
9 that is being applied on October 8th is coming from?

10 A. Yeah. If you looked at the -- we also have
11 bankruptcy history and bankruptcy notes, but that would
12 be duly noted in the bankruptcy notes or bankruptcy
13 history.

14 Q. Okay.

15 A. It's not specified on this particular ledger.

16 Q. But it would be in the unapplied funds bucket?

17 A. Correct.

18 Q. Okay. And looking at the entry above that on
19 10/07, it says trustee interest and then something about
20 remaining funds unapplied. Perhaps this is what you
21 just answered for me, but I'm not sure I understood. If
22 Wells Fargo receives money from the trustee, does it
23 place it in any bucket other than trustee funds?

24 A. When payments come into -- when payments are
25 received in our processing center -- payment processing

1 center, until those payments are determined where they
2 need to go -- in fact, we're going to send it down to
3 the bankruptcy department; is this a check from the
4 debtor or a check from the trustee. And of course the
5 trustee determines what amount is going towards payment
6 for us and what amount is going towards interest.

7 But in the interim it's going to go in that
8 suspense or hold account until the bankruptcy processing
9 center applying those payments determines where those
10 funds come from and where they need to be applied,
11 whether it's a debtor payment or a trustee payment.

12 Q. Okay.

13 A. So when you see suspense or unapplied funds,
14 that's because -- and we have 48 -- 48 hours that we
15 need to apply those funds. We need to put them
16 somewhere. We have to place those funds somewhere. So
17 you may see it go into a suspense or hold account until
18 the bankruptcy department that does the payment
19 processing would review the account and consider okay,
20 we're looking at this -- this bankruptcy; this is where
21 these funds need to go, this is where these funds need
22 to go.

23 Q. But when I look at that entry on the 7th -- and
24 I'm not trying to argue. I just really am not sure that
25 I get it. Some of the money was immediately routed to

1 trustee, and the rest went to unapplied.

2 A. And we're looking at the 7th again?

3 Q. Yes.

4 A. Okay. Trustee fund -- received trustee funds
5 interest, remaining funds unapplied. So the 840.21 --
6 yes, it does appear those were -- were applied and the
7 interest -- the trustee interest -- what it appears how
8 it's noted the trustee interest was applied but the
9 remaining funds were unapplied.

10 And again, without going back and looking at the
11 notes from the bankruptcy history, the bankruptcy notes,
12 it would be hard to determine because it's not spelled
13 out on this as far as -- and this particular history
14 doesn't show that suspense bucket, so to speak.

15 Q. This is part of what -- if we keep going I think
16 you'll see why I'm so confused.

17 A. Okay.

18 Q. Then on the 14th it looks like you get debtor
19 funds?

20 A. Correct.

21 Q. Okay. They're immediately placed in unapplied,
22 and on the 15th of October they are applied --

23 A. Correct.

24 Q. -- to the November mortgage payment.

25 A. Correct.

1 Q. Does -- that seems unusual to me that they would
2 be applied a month in advance.

3 A. Well, if you look back, though, the payment that
4 was made in October was for the past due October '08; so
5 your next postpetition due was November '08.

6 Q. And they make November '08 payment, which is
7 subsequently applied to December '08. So going back to
8 those trustee funds, it would appear that some of those
9 trustee funds were used to pay not a prebankruptcy debt
10 but a current monthly mortgage payment.

11 A. Okay. Without looking at how it was noted on the
12 account, I'm not going to be able to answer as to why
13 that occurred without looking at it closer, which would
14 be noted on our bankruptcy history or bankruptcy notes.

15 Q. Okay. And then with the account current through
16 November of '08 it appears that on November 17th of 2008
17 a late charge was assessed. Does that make sense?

18 A. Again, I cannot answer as to why that late charge
19 was assessed.

20 Q. Do you agree that it appears that the account was
21 current for November of '08?

22 A. Yes.

23 Q. Okay. Then on the same day that the late charge
24 was assessed it appears that unapplied funds were
25 received; is that right, on the 17th of '08?

1 A. Unapplied funds to December 18th of '08, yes,
2 unapplied funds to the monthly mortgage payment,
3 correct.

4 Q. Then on the 18th it's applied to monthly mortgage
5 payment, correct?

6 A. Correct.

7 Q. Then on December 4th we receive trustee money?

8 A. Correct.

9 Q. Then on December 11th a county tax disbursement
10 is made?

11 A. That is correct.

12 Q. December 15th, unapplied funds?

13 A. Correct.

14 Q. December 16th they're applied?

15 A. That is correct.

16 Q. Then here on the 26th you have another trustee
17 disbursement with remaining funds unapplied.

18 A. Uh-huh.

19 Q. Okay. Would you agree again looking at the
20 December 16th entry that the account is current through
21 January '09 at this point?

22 A. Would you repeat that?

23 Q. Looking at the December 16th, '08 entry, it
24 appears that the funds received on the 15th were applied
25 towards the January '09 payment; is that correct?

1 A. That is correct.

2 Q. Okay. And then it appears that on January 15th
3 the payment came in; is that correct?

4 A. That's correct.

5 Q. And then on January 16th it appears that those
6 funds were applied?

7 A. Correct.

8 Q. January 30th of 2009 -- we're almost there --
9 trustee payment?

10 A. Correct.

11 Q. January -- or February 18th there is a payment
12 that comes in?

13 A. Correct.

14 Q. I don't see a late charge here, do you? It's a
15 payment that came in on the 18th.

16 A. No late charge.

17 Q. Okay. On the 20th it appears that the funds are
18 applied. On the 25th we have an adjustment. Can you
19 tell me what that adjustment represents?

20 A. It was an adjustment in funds that more -- it's
21 not noted on this; so without looking, again, back at a
22 closer history or notes on the account, I cannot
23 determine what that adjustment would be. It could be
24 potentially late fees that were adjusted and put on the
25 account.

1 Q. If we go over to the outstanding fee balance
2 line, it doesn't appear there's any change there,
3 correct?

4 A. Correct.

5 Q. Then on March 6th something called a reversal of
6 payment?

7 A. Uh-huh.

8 Q. Can you tell me what that is?

9 A. Again, it is a reversal of funds. As to why that
10 occurred, without looking at the notes or the further
11 history on it because it's not explained in this ledger,
12 I cannot answer that.

13 Q. Okay. On March 9th we have trustee interest and
14 unapplied funds?

15 A. Correct.

16 Q. March 10th the comments line says reversal of
17 funds to trustee interest, and it appears that -- as a
18 positive entry in the amount of \$956.50?

19 A. Correct.

20 Q. What does that mean?

21 A. Again, there was funds reversed and put back into
22 trustee interest; but without looking at why that
23 occurred or notes on the account, I cannot determine why
24 that happened.

25 Q. Okay. Let's go back -- well, I was thinking

1 maybe that was somehow a correction of the payment in
2 October that we identified that appeared to maybe use
3 trustee funds to make a payment?

4 A. It could possibly be. But again, without looking
5 -- since I did not apply the funds, without looking at
6 the notes on the account I cannot answer that.

7 Q. Understood. You'd agree, though, that's after
8 this lawsuit was filed, right? This lawsuit was filed
9 in I believe June of '08.

10 A. Well, this payment history goes up to April
11 of '09; so you're correct, yes.

12 Q. Okay.

13 A. Yes. Am I still looking at the last page?

14 Q. Yeah. Almost there, almost there.

15 A. Okay.

16 Q. March 9th, trustee money for interest and other
17 funds which are unapplied. Then March 10th is the
18 reversal of trustee interest we just discussed. March
19 16th, unapplied funds from the debtor?

20 A. Correct.

21 Q. And then March 18th it appears that the funds are
22 applied to the March '09 payment?

23 A. Correct.

24 Q. Okay. So we're running a month ahead, and now
25 we're back on schedule presumably because of that

1 payment reversal?

2 A. That is what it appears, correct.

3 Q. Can you tell me what the adjustment on March 20th
4 is?

5 A. Again, since I didn't apply these funds, without
6 looking at the notes I would not be able to answer that.

7 Q. Okay. And then can you tell me why on March 26th
8 with the account current postpetition an inspection fee
9 was assessed?

10 A. I cannot answer as to why that was assessed.

11 Q. Okay. In your experience is it typical to assess
12 inspection fees when an account is current postpetition
13 in bankruptcy?

14 A. Again, to answer if it's typical, that's not --
15 it's not something that I have seen personally or what I
16 would say that I've seen personally be typical. But you
17 know, that --

18 Q. Okay.

19 A. Without -- again, without looking at the notes on
20 it, it's hard for me to determine why that was assessed.

21 Q. Okay. Now we've made it through. In reviewing
22 the account, did you identify any payments that were
23 late postpetition?

24 A. Off of the payment history?

25 Q. Well, in your review for today are you aware of

1 any late payments postpetition?

2 A. Not that I can recall.

3 Q. Okay.

4 A. Without having --

5 Q. But you would agree that we've seen late charges
6 assessed postpetition?

7 A. I would agree that they are assessed on this,
8 correct.

9 MR. BARTHOLOW: Okay. I will pass the
10 witness. Thank you.

11 MR. ALFIERI: We will reserve our questions
12 for trial.

13 With respect to the note, do you want me to make
14 you a copy of the original note? Have I given you a
15 copy?

16 MR. BARTHOLOW: I would like you to make a
17 copy of that note for me, please, yes.

18 MR. ALFIERI: I will do that.

19 MR. BARTHOLOW: We're not stipulating as to
20 its originality, though.

21 MR. ALFIERI: I will make a copy of what
22 we -- of what Wells Fargo represents to be the original
23 note, and I will deliver that to Mr. Bartholow as soon
24 as the meeting is over.

25 (Deposition concluded, 4:10 p.m.)

1 CORRIGENDA AND SIGNATURE

2 WITNESS: TAMARA SAVERY DATE: JULY 15, 2009

3 PAGE/LINE CORRECTION REASON

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1 I, TAMARA SAVERY, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.

4 _____
TAMARA SAVERY

5
6 STATE OF _____)

7 COUNTY OF _____)

8 BEFORE ME, _____, on this day

9 personally appeared TAMARA SAVERY, known to me (or

10 proved to me under oath or through

11 _____) (description of identity

12 card or other document) to be the person whose name is

13 subscribed to the foregoing instrument and acknowledged

14 to me that they executed the same for the purposes and

15 consideration therein expressed.

16 GIVEN UNDER my hand and seal of office this

17 _____ day of _____, 2009.

18

19

20 _____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____

21 MY COMMISSION EXPIRES ON: _____

22

23 _____No Changes Made _____Amendment Sheet(s) Attached

24 FEDERICO GUEVARA III, ET AL. VS. WELLS FARGO BANK, N.A.

25

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN THE MATTER OF:)
)
 FEDERICO GUEVARA III)
 HERLINDA GUEVARA)
 Plaintiffs,) CHAPTER 13 CASE NO. 07-32604
 _____)
)
 FEDERICO GUEVARA III)
 HERLINDA GUEVARA)
 Plaintiffs,) ADV. PROC. NO. 08-03191
)
 VS.)
)
 WELLS FARGO BANK, N.A.,)
 SUCCESSORS BY MERGER TO)
 WELLS FARGO HOME MORTGAGE,)
 INC., ASSIGNS AND/OR)
 SUCCESSORS IN INTEREST)
 Defendant.)

 REPORTER'S CERTIFICATION
 ORAL DEPOSITION OF
 TAMARA SAVERY
 JULY 15, 2009

I, Sherry Patterson, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, TAMARA SAVERY, was duly sworn
by the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

That the original deposition was delivered to MR.
THEODORE O. BARTHLOW, III.

1 COUNTY OF DALLAS)

2 STATE OF TEXAS)

3 I hereby certify that the witness was notified on
4 _____ that the witness has 30 days or (_____
5 days per agreement of Counsel) after being notified by
6 the officer that the transcript is available for review
7 by the witness and if there are changes in the form or
8 substance to be made, then the witness shall sign a
9 statement reciting such changes and the reason given by
10 the witness for making them;

11 That the witness' signature was/was not returned
12 as of _____.

13 Subscribed and sworn to on this, the _____
14 day of _____, 2009.

15

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25

SHERRY PATTERSON
Texas CSR No. 7607
Date of Expiration: 12/31/10
Firm Registration No. 345
2929 Carlisle Street, Suite 150
Dallas, Texas 75204
(214) 954-0352