

January 26, 2017

Acting Secretary Edward Hugler  
Department of Labor  
200 Constitution Ave NW  
Washington, DC 20210

Dear Acting Secretary Hugler:

I am writing to ask for an update on the wage and hour investigation and “top to bottom” review your agency is conducting at Wells Fargo in the wake of the fraudulent account scandal that resulted in Wells reaching a nearly \$200 million settlement with federal and state regulators.<sup>1</sup> I am concerned that the Department of Labor has removed the website where Wells Fargo’s employees who were victims of the company’s fraudulent actions could file labor complaints or report illegal activity. Taking down this website enables Wells Fargo to escape full responsibility for its fraudulent actions and the Department to shirk its outstanding obligations to American workers.

On January 24, 2017, I observed that [www.dol.gov/wellsfargo](http://www.dol.gov/wellsfargo), the webpage that the Department created to aid all Wells Fargo employees in reporting any potential labor violations, filing complaints, and obtaining resources about their rights under the law, had been taken down. The webpage, which was up and running as of January 20, 2017, remains down as of the time of writing, giving users a “Page Not Found” error.<sup>2</sup> This action was taken despite (1) several new allegations regarding Wells Fargo employees who were retaliated against for attempting to report or stop illegal activities on the job,<sup>3</sup> (2) allegations involving employees who were asked to work through the night to shred evidence of maleficence in advance of internal risk inspections,<sup>4</sup> and (3) reports that, in late 2016, “an attorney representing Wells Fargo tried to hamper an investigation into the bank’s treatment of employees and in doing so cited a possible role in the coming Trump administration.”<sup>5</sup>

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<sup>1</sup> Patrick Rucker and Dan Freed, “Wells Fargo will pay \$190 million to settle customer fraud case,” *Reuters* (Sept. 9, 2016) (online at <http://www.reuters.com/article/us-wells-fargo-settlement-idUSKCN11E2CJ>).

<sup>2</sup> <https://www.dol.gov/wellsfargo>

<sup>3</sup> Matt Egan, “Wells Fargo admits to signs of worker retaliation,” *CNN Money* (Jan. 24, 2017) (online at <http://money.cnn.com/2017/01/23/investing/wells-fargo-retaliation-ethics-line/>).

<sup>4</sup> Emily Glazer, “At Wells Fargo, Bank Branches Were Tipped Off to Inspections,” *Wall Street Journal* (Jan. 24, 2017) (online at <http://www.wsj.com/articles/at-wells-fargo-bank-branches-were-tipped-off-to-inspections-1485253800>).

<sup>5</sup> Emily Glazer, “Wells Fargo Investigation Hampered by Outside Attorney Citing a Trump Tie, Labor Department Claims,” *Wall Street Journal* (Jan. 6, 2017) (online at <http://www.wsj.com/articles/wells-fargo-investigation-hampered-by-outside-attorney-citing-a-trump-tie-labor-department-claims-1483646713>).

I first wrote to the Department of Labor on September 22, 2016, shortly after the Consumer Financial Protection Bureau fined Wells Fargo for opening 1.5 million unauthorized deposit accounts.<sup>6</sup> The CFPB's agreement cited a sales culture at Wells Fargo characterized by stringent quotas and in the wake of the scandal current and former employees came forward in droves to describe threats of termination, mandated unpaid overtime, and other forms of retaliation that they experienced when these quotas weren't met.<sup>7</sup> Given these first-hand accounts, academic reports describing similar incidences at Wells Fargo and across the industry,<sup>8</sup> and a number of legal cases citing wage and hour violations at Wells Fargo,<sup>9</sup> I, along with seven of my Senate colleagues, asked the Department of Labor to open a formal investigation to ensure that all current and former employees were fully paid for every hour they worked.<sup>10</sup>

The Department replied on September 26, 2016, agreeing to begin a "top to bottom" review<sup>11</sup> of all labor violations at the company and opened a webpage, "Resources for Current or Former Wells Fargo Employees," ([www.dol.gov/wellsfargo](http://www.dol.gov/wellsfargo)) to help current and former Wells Fargo employees learn their rights under the law and report any labor abuses, including wage theft, that they may have experienced at Wells Fargo.<sup>12</sup> As of early January, the Department's investigations into possible wage and hour violations at Wells Fargo were ongoing.<sup>13</sup>

Since that time, I have become aware of three additional allegations involving potential harm to Wells Fargo employees that I want to bring to your attention.

1. On January 23, 2017, ProPublica reported that Wells Fargo mortgage division employees were instructed to improperly charge clients to extend their contracted,

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<sup>6</sup> "Consumer Financial Protection Bureau Fines Wells Fargo \$100 Million for Widespread Illegal Practice of Secretly Opening Unauthorized Accounts," *CFPB* (Sept. 8, 2016) (online at <http://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-fines-wells-fargo-100-million-widespread-illegal-practice-secretly-opening-unauthorized-accounts/>).

<sup>7</sup> Matt Egan, "Workers tell Wells Fargo horror stories," *CNN Money* (Sept. 9, 2016) (online at <http://money.cnn.com/2016/09/09/investing/wells-fargo-phony-accounts-culture/>); "Wells Fargo settled over its bogus accounts. but it still faces a fight from customers and ex-employees," *Los Angeles Times* (September 10, 2016) (online at <http://www.latimes.com/business/la-fi-wells-lawsuits-20160909-snap-story.html>).

<sup>8</sup> See, e.g., Anastasia Christman, "Banking on the Hard Sell: Low Wages and Aggressive Sales Metrics Put Bank Workers and Customers at Risk," *National Employment Law Project* (June 2016).

<sup>9</sup> Alex Lawson, "Wells Fargo To Pay \$15M in Wage-and-Hour MDL," *Law 360* (Mar. 26, 2014) (online at <https://www.law360.com/articles/521998/wells-fargo-to-pay-15m-in-wage-and-hour-mdl>); Matt Egan, "Wells Fargo made me work overtime without extra pay," *CNN Money* (Sept. 30, 2016) (online at <http://money.cnn.com/2016/09/30/investing/wells-fargo-workers-wage-theft-overtime/>).

<sup>10</sup> Senator Elizabeth Warren, "Letter to Secretary Perez and Administrator Weil" (Sept. 22, 2016) (online at [http://www.warren.senate.gov/files/documents/2016-9-22WellsFLSAletter\\_OCR.pdf](http://www.warren.senate.gov/files/documents/2016-9-22WellsFLSAletter_OCR.pdf)).

<sup>11</sup> Elizabeth Dexheimer, "Wells Fargo Face 'Top-to-Bottom' Review, Labor Department Says," *Bloomberg* (Sept. 26, 2016) (online at <https://www.bloomberg.com/news/articles/2016-09-27/wells-fargo-faces-top-to-bottom-review-labor-department-says>).

<sup>12</sup> <https://www.dol.gov/wellsfargo>; Sarah N. Lynch, "U.S. Labor Department launches review of all Wells Fargo complaints," *Reuters* (Sept. 27, 2016) (online at <http://www.reuters.com/article/us-wells-fargo-labor-complaints-idUSKCN11W2I0>).

<sup>13</sup> Emily Glazer, "Wells Fargo Investigation Hampered by Outside Attorney Citing a Trump Tie, Labor Department Claims," *Wall Street Journal* (Jan. 6, 2017) (online at <http://www.wsj.com/articles/wells-fargo-investigation-hampered-by-outside-attorney-citing-a-trump-tie-labor-department-claims-1483646713>).

locked-in interest rate if Wells Fargo delayed submitting their mortgage paperwork, resulting in a rate increase.<sup>14</sup>

2. On January 24, 2017, the Wall Street Journal reported that Wells Fargo managers and employees were given 24 hours' notice of internal risk inspections at Wells Fargo. During this time they were asked to destroy any possible evidence of fraudulent activity, including by shredding and backdating documents. Employees interviewed for the article reported working around the clock, raising additional concerns about Wells Fargo violating labor laws relating to overtime pay and rest breaks.<sup>15</sup>
3. Also on January 24, 2017, CNN Money reported that several Wells Fargo employees were terminated for calling the ethics line at Wells Fargo to report phony account practices.<sup>16</sup>

In addition, on January 6<sup>th</sup>, 2017, the Wall Street Journal reported that your Department's ongoing wage and hour investigation into labor violations at Wells Fargo was being hampered by Tammy McCutchen, an attorney representing Wells Fargo with possible ties to President Trump's transition team.<sup>17</sup> Ms. McCutchen, who is rumored to be a potential high-ranking DOL appointee,<sup>18</sup> "tried to block an agency investigator from accessing records or conducting interviews at a Wells Fargo facility" in December 2016.<sup>19</sup>

Given the widespread and continuing nature of management problems at Wells Fargo, and the substantial harm done to workers as a result of these problems, I am concerned that the Department has eliminated the website they created in response to my initial request. It is imperative that current and former Wells Fargo employees retain access to information on their rights under federal labor law and their ability to file a complaint if their rights are violated.

The Department of Labor collected nearly \$1.6 billion dollars in back wages for more than 1.7 million American workers across the country during President Obama's eight years in

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<sup>14</sup> Jesse Eisinger, "Here's Another Way Wells Fargo Took Advantage of Customers," *ProPublica* (Jan. 23, 2017) (online at <https://www.propublica.org/article/heres-another-way-wells-fargo-took-advantage-of-customers>).

<sup>15</sup> Emily Glazer, "At Wells Fargo, Bank Branches Were Tipped Off to Inspections," *Wall Street Journal* (Jan. 24, 2017) (online at <http://www.wsj.com/articles/at-wells-fargo-bank-branches-were-tipped-off-to-inspections-1485253800>).

<sup>16</sup> Matt Egan, "Wells Fargo admits to signs of worker retaliation," *CNN Money* (Jan. 24, 2017) (online at <http://money.cnn.com/2017/01/23/investing/wells-fargo-retaliation-ethics-line/>).

<sup>17</sup> Emily Glazer, "Wells Fargo Investigation Hampered by Outside Attorney Citing a Trump Tie, Labor Department Claims," *Wall Street Journal* (Jan. 6, 2017) (online at <http://www.wsj.com/articles/wells-fargo-investigation-hampered-by-outside-attorney-citing-a-trump-tie-labor-department-claims-1483646713>).

<sup>18</sup> David Fortney and H. Juanita Beecher, "What Can Federal Contractors Expect Under the Trump Administration? Here's What We Know So Far," *HR Daily Advisor* (Jan. 18, 2017) (online at <http://hrdailyadvisor.blr.com/2017/01/18/can-federal-contractors-expect-trump-administration-heres-know-far/>).

<sup>19</sup> Emily Glazer, "Wells Fargo Investigation Hampered by Outside Attorney Citing a Trump Tie, Labor Department Claims," *Wall Street Journal* (Jan. 6, 2017) (online at <http://www.wsj.com/articles/wells-fargo-investigation-hampered-by-outside-attorney-citing-a-trump-tie-labor-department-claims-1483646713>).

office.<sup>20</sup> Robust Department of Labor enforcement of wage and hour laws meant that 1.7 million hardworking Americans were finally paid the wages they were owed for their hard work. I hope that the Department will continue this important work under President Trump, and will ensure that every Wells Fargo employee that was cheated out of wages for their work or illegally retaliated against will be provided all of the remedies available under current federal labor law. To this end, I respectfully request a response to this letter by February 3, 2017.

1. Will the Department continue all ongoing investigations at the Wage and Hour Division of the Department of Labor involving Wells Fargo to ensure that the men and women who are already on their way to being made whole will not suffer a setback as a result of the agency transition?
2. Will you extend your investigation to include the additional labor allegations that came to light earlier this month, in particular, the possible retaliation for whistleblowers and the employees who may have worked overtime without pay to destroy documents in advance of internal risk inspections?
3. Will you reinstate [www.dol.gov/WellsFargo](http://www.dol.gov/WellsFargo) to ensure that all current and former employees regain access to this important resource?
4. To ensure that there are no conflicts of interest at the Department, will you notify Congress if Tammy McCutcheon, and any attorneys or other officials who have defended parties to ongoing labor investigations involving Wells Fargo are a part of the Department's landing teams, or are nominated to any other political positions in the Department, and will you require that they recuse themselves from any work relating to or affecting Wells Fargo?

Thank you for your attention to this letter. Please contact Lindsay Owens of Senator Warren's staff ([Lindsay\\_Owens@warren.senate.gov](mailto:Lindsay_Owens@warren.senate.gov)) if you have any questions about this letter.

Sincerely,



Senator Elizabeth Warren

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<sup>20</sup> Secretary Thomas Perez, "Department of Labor: Memorandum to the American People," *Department of Labor* (Jan. 5, 2017) (online at <https://www.dol.gov/sites/default/files/dol-exit-memo.pdf>).