Ex-Wells advisors' suit describes pressure to 'cross-sell' bank products

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A pair of ex-Wells Fargo advisors allege in a new lawsuit they had been required by their former managers to collect personal information from clients who might be good candidates for the sale of bank products.

According to the suit, the advisors were told they should not let their customers know that details concerning estate and trust plans, real estate holdings and relationships with lawyers and accountants had been gathered for use by the firm's private bank. All that ran contrary, the pair allege, to an internal policy requiring them to fill out attestations that they had in fact gotten clients to sign off on the collection of the personal data.

In their suit filed on March 4 in California state court in Los Angeles, Karen Keusayan and Richard Green contend they brought concerns about these practices to their supervisors and suffered retaliation as a result. The pair, who had managed roughly $1.2 billion while at Wells, say they left the firm

in disgust in July 2021. Now they're suing to retrieve nearly $1.5 million in deferred compensation they maintain they're still owed.

According to the suit, "among various other retaliatory actions, the job security for each Plaintiff was threatened, Mr. Green was berated by a yelling supervisor in front of fellow employees, and Ms. Keusayan was informed that the bank would not issue a routine credit card to her sister (a customer)."

A spokesperson for Wells Fargo said: "We deny the allegations in this case, and we will vigorously defend our position." Montgomery Griffin, a lawyer representing the plaintiffs, declined to comment.

The case is merely the latest to expose the undue pressures wirehouse advisors can at least perceive themselves as coming under when they're enlisted in the sale of bank products. Bill Singer, a longtime securities lawyer and recently retired author of the Broker and Broker blog, said too many wealth managers seem to view their clients as akin to burger joint customers who should always be "upsold" a larger drink or order of fries.

"Sometimes all people want is a quarter-pounder," Singer said. "And we need to demand more from Wall Street, because they're not selling burgers and sodas."

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Keusayan and Green allege in their lawsuit that they were subjected to pressures to share customer information with other parts of the firm without the clients' knowledge. In Wells Fargo's 2018 compensation plan for financial advisors, according to the lawsuit, the firm began requiring wealth

managers to fill out a certain number of "client discovery reviews" every year.

These CDRs, as the forms are known for short, were completed using personal information gathered during their standard discussions and dealings with investors. According to the complaint, Keusayan and Green were expected to complete CDRs for at least half of all their "in focus" clients, defined as those with balances of at least $5 million.

The client details they were expected to submit, the suits says, included: the names and contact information of clients' attorneys and tax advisors; the addresses of their real estate holdings; the names, birthdates and educational attainments of relatives including grandchildren; whether they had established trusts or estate plans; and whether they had drawn up health care plans and awarded power of attorney to anyone. According to the suit, Keusayan and Green resisted submitting CDR reports in part because they didn't know exactly what the information would be used for.

Their lawsuit contends that these details were not needed to fulfill an advisor's common duty to "know your customer." Keusayan and Green pointed in the suit to their "glowing" performance reviews as evidence that they were doing all they needed to do to carry out their fiduciary responsibilities.

The suit argues that the pair were put in an "impossible position" by the requirement that they attest the CDRs had been reviewed by clients before being submitted to the firm.

"In fact, high-ranking compliance personnel at Wells Fargo Advisors repeatedly told Plaintiffs to never deliver or present the CDR to the client since, as it was explained by compliance, the CDR was a bank document," according to the complaint. "In addition, Plaintiffs were told not to inform the client that a CDR had been prepared."

Among other things, the pair are accusing Wells of a "constructive discharge in violation of public policy." This occurs when an employer

makes the conditions of employment so hostile or at odds with professional duties that a person is virtually forced to quit.

Singer said proving constructive discharge in a case like this can mean the difference between being able to obtain deferred compensation and having to forfeit it. He said advisors should not feel pressured into decisions simply because their pay might depend on it.

"What they're alleging shows the sort of leverage pull the brokerage industry has over professionals that it should not have," Singer said.

Besides being yelled at, the pair contend they suffered retaliation in the form of being denied access to certain banking products for their clients. The suit also alleges that Wells Fargo terminated a relationship with a large institutional client that Green had been cultivating for years and required him to inform the account holders of the change.

"Not surprisingly, this extreme, outrageous and retaliatory treatment caused Plaintiffs increasingly elevated and unhealthy levels of emotional distress, substantial anxiety and even difficulty in their personal/family lives," according to the complaint.

After moving their practice to Morgan Stanley in 2021, Keusayan was told by Wells Fargo that her departure meant she was forfeiting more than $662,000 in deferred compensation. Green likewise was told he would be losing out on more than $813,000 in deferred comp.

Brian Hamburger, the chief counsel of the Hamburger Law Firm, said it should come as little surprise that firms like Wells do their best to promote all the products under their roof, whether they be related to wealth management, banking or insurance.

"That's the business model of these large banks," he said. Hamburger also said he doesn't quite understand how the two advisors in this case could claim to have been blindsided by the loss of their deferred comp after leaving Wells.

According to the suit, Wells Fargo had a "gatekeeping" policy saying that employees were entitled to deferred payments only if they left the firm after their age plus their years of employment added up to more than 60. Keusayan easily met that criteria since she was 48 when she departed and had joined Wells in 2001, giving her 20 years of service.

Green meanwhile fell just short. He was 40 when he left and had been at Wells only since 2004, or 17 years in total. Still, the complaint alleges the firm's gatekeeping was never made clear to the two advisors.

The pair's suit against Wells Fargo levels charges not only of retaliation and constructive discharge but also breach of contract and of the implied covenant of good faith and good dealing. Keusayan and Green are asking the courts to provide them with their deferred compensation as well as damages and attorney's fees and costs.

"This is not the 'sour grapes' case of a disgruntled employee(s) who sought a promotion and did not get one," according to the suit. "Neither Ms. Keusayan nor Mr. Green ever wanted to leave Wells Fargo. The goal for each had always been to retire at Wells Fargo."