

EXHIBIT E

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:09-MD-02036-JLK

**IN RE: CHECKING ACCOUNT
OVERDRAFT LITIGATION**

MDL No. 2036

**THIS DOCUMENT RELATES TO:
FIFTH TRANCHE ACTION**

Childs, et al. v. Synovus Bank, et al.

N.D. Ga. Case No. 1:10-CV-03027-ODE

S.D. Fla. Case No. 1:10-CV-23938-JLK

**DECLARATION OF ARTHUR OLSEN IN SUPPORT OF FINAL APPROVAL
OF CLASS ACTION SETTLEMENT WITH SYNOVUS BANK**

I, Arthur Olsen, declare as follows:

Summary of My General Qualifications

1. I have nearly 20 years of professional information technology experience, specializing in the areas of data analysis, database development, database administration and database support. I have received extensive training related to Oracle Corporation (“Oracle”) database software in the areas of relational database design, architecture and administration, as well as SQL and PL/SQL, application tuning, database tuning and advanced database concepts. I was also trained by Microsoft Corporation (“Microsoft”) in database architecture and administration, database tuning and TSQL.

2. For three years, I worked as a database engineer for Microsoft where my responsibilities primarily involved database design and administration. Among other duties at Microsoft, I participated in the design, implementation and support of an extensive data warehousing solution for Microsoft's licensing division, and managed and supported numerous databases throughout the company. I received multiple awards and recognitions from Microsoft for my database-related work at the company.

3. In addition to my experience working for Microsoft, I worked for six years at Hewlett-Packard Company ("Hewlett-Packard") as a database engineer. Among other responsibilities at Hewlett-Packard, I served as the primary database administrator for both Oracle and SQL Server systems that supported multiple divisions. My responsibilities at Hewlett-Packard also included serving as lead analyst in charge of compiling, analyzing and processing data from various internal database systems throughout the company for use in litigation support.

4. In addition to my work for Microsoft and Hewlett-Packard, I have provided database services to a number of other large corporations, including Cisco Systems, Inc. My responsibilities in that regard have included utilizing database systems for financial reporting services. I have also managed the development of data integration solutions for small to mid-size companies, and developed a solution for integrating an automated process for the calculation of inventory reserves with Oracle Financials.

5. My qualifications and background are set forth in more detail in my consultant profile, which is attached hereto as **Exhibit A**.

6. In addition to my general qualifications set forth above and in the attached consultant profile, I have specific experience that is directly relevant to my assignments in

this litigation. I was retained by plaintiffs as a consultant and expert in the case *Gutierrez v. Wells Fargo Bank, N.A.*, Case No. 07-05923WHA (N.D. Cal.) (“*Gutierrez*”), a class action brought on behalf of Wells Fargo California customers challenging Wells Fargo’s high-to-low re-sequencing practices. Similar to my assignment here, in *Gutierrez* I was asked to review and analyze the historical transactional data maintained by Wells Fargo, and to provide my opinion regarding the feasibility of using such data to recreate alternative posting orders for the customers’ transactions (*i.e.*, where the same transactions are sequenced in a different order than the order in which the bank actually posted them) for the purpose of comparing the number of overdraft charges Wells Fargo assessed each customer pursuant to its actual posting order with the number of overdraft charges Wells Fargo would have assessed had the alternative posting order been used. Having determined that it was, in fact, feasible to do so on an automated basis using the available data, I was ultimately asked to perform calculations using class-wide data to: (a) identify the Wells Fargo California customers who were assessed additional overdraft fees due to Wells Fargo’s high-to-low posting order (as compared with certain alternative posting orders) during the class period in that case (November 15, 2004 through June 30, 2008); and (b) calculate the amount of the additional overdraft charges each such customer was charged during that time period.

7. After I completed my comprehensive analysis and it was provided to Wells Fargo in advance of trial, Wells Fargo sought to exclude my analysis from trial, submitting competing expert testimony and raising various challenges to my qualifications and the methodology that I used to perform my analysis. Judge William H. Alsup, who presided over *Gutierrez*, rejected Wells Fargo’s attacks on my methodology and found that, given

my background and experience, I was “clearly qualified to perform” the tasks I was asked to perform.

8. I presented my comprehensive analysis at the *Gutierrez* bench trial on April 29, 2010. I was subjected to cross-examination by Wells Fargo’s counsel during the trial. Moreover, Wells Fargo presented competing testimony from its own experts who attempted to challenge my methodology and the reliability of my results. After trial, Wells Fargo submitted proposed findings to the Court. In its proposed findings, Wells Fargo again sought to discredit my analysis and the methodology that I used.

9. On August 10, 2010, Judge Alsup issued his findings after the *Gutierrez* bench trial. Judge Alsup found that I did “a professional and careful job in laying out the impacts of various alternative posting protocols,” and adopted one of my analyses as the basis for his \$203 million class restitution award.

10. In addition to my work in the *Gutierrez* case, I have performed similar work in this multidistrict litigation during the past four years. Among other things, I have analyzed the historical transactional data maintained by a number of other defendant banks to determine the feasibility of identifying the customers affected by those banks’ debit card sequencing practices and the amount of such harm, have conducted damages analysis, and submitted numerous declarations in those cases supporting motions for class certification and/or settlements.

Scope of My Assignments in This Litigation

11. Class counsel retained me to perform data extraction, data analysis and damage calculations in connection with the litigation, settlement negotiations, and effectuation of the class action settlement (“Settlement”) with Synovus Bank (“Synovus”).

12. The scope of my assignments were to: (1) determine whether it was possible, using historical customer data maintained by Synovus, to identify on a class-wide basis Synovus consumer accounts affected by high-to-low debit card sequencing and to calculate each such account's corresponding harm; (2) estimate what the total class wide damages would be assuming that the debit card transactions were sorted chronologically by authorization date and time in order to determine the Settlement Class Members' estimated recovery percentage if this case were to proceed to trial; and (3) review and analyze historical customer transactional data that Synovus maintained for the litigation class period by (a) identifying those Synovus consumer accounts that were assessed additional overdraft fees as a result of the practice of posting debit card transactions in the order of high-to-low in dollar amount instead of in low-to-high order, and (b) calculating the amount of corresponding harm each such consumer account incurred as a result of such practice.

Use of Historical Data to Determine Affected Accounts on a Class-Wide Basis

13. In February 2013, I was asked by class counsel to embark on the assignment described above (*i.e.*, identify Synovus consumer accounts that paid additional overdraft fees as a result of high-to-low debit-card transaction sequencing and calculate each such account's corresponding impact). After conferring with class counsel, I received and reviewed several preliminary documents that were produced by Synovus. I also reviewed the transcript of the deposition testimony of Synovus' Robert Moody, which was taken on March 28, 2013.

14. In February 2013, I received and reviewed sample transactional data provided by Synovus regarding the transactions and accounts of certain named Plaintiffs

in this litigation. In addition, I received and reviewed documents provided by Synovus that identified and described the various transaction codes, (*i.e.*, the type of transactions that are described by each transaction code), included in the data sources that Synovus provided.

15. Based on Mr. Moody's testimony and a detailed analysis of the sample data and information, I determined that Synovus maintained data sufficient to perform a class-wide analysis to identify which accounts were charged additional overdraft fees as a result of high-to-low debit card sequencing and calculate each such account's corresponding impact. In July 2013, I submitted a declaration in support of Plaintiffs' motion for class certification summarizing these findings.

Analysis of Sample Data and Aggregate Data to Estimate Potential Damages

16. In September 2013, at class counsel's direction, I performed an analysis of summary data received from Synovus regarding overdraft fees it charged to consumer accounts between August 2004 and August 2010 ("Aggregate Data"), as well as seven random months (between September 2004 and December 2009) of transactional data for all Synovus consumer accounts for all days on which at least one overdraft fee was caused or assessed ("Sample Data").

17. The Aggregate Data included monthly totals for each of the following:
- a. Total number of Synovus' consumer accounts;
 - b. Total number of Synovus' consumer accounts with at least one overdraft fee;
 - c. Total number of overdraft fees charged to Synovus' consumer accounts;
 - d. Total amount of overdraft fees charged to Synovus' consumer accounts;
 - e. Total number of reversals of overdraft fees charged to Synovus' consumer accounts;
 - f. Total amount of overdraft fees charged to Synovus' consumer accounts that were charged off by the bank.

18. The Sample Data contained the following data fields for each transaction:

- a. Account number;
- b. Transaction code;
- c. Posting date;
- d. Transaction amount;
- e. Daily ledger balance;
- f. Daily deposit holds in effect, which was used to calculate collected balance; and
- g. Date and time of authorization for many of the debit card transactions.

19. I analyzed the Aggregate Data and Sample Data, and provided class counsel with a series of potential damage scenarios for use in connection with settlement negotiations.

Confirmation of Analysis of Data by Synovus to Effectuate the Settlement

20. In August 2014, I was advised by class counsel that the parties had reached an agreement to resolve the litigation through the Settlement. At that time, I was also advised that Synovus' consultants had already performed the full analysis in order to identify the accounts that were charged additional overdraft fees as a result of high-to-low debit card sequencing, as well as the corresponding amount of that harm. I was asked to review that analysis and confirm the results.

21. In September 2014, I was provided with the class-wide data that was used by Synovus' consultants to perform the full analysis. This data was provided to me via secure download and contained the following data sets:

- a. The transaction data contained all of the transactions for all consumer accounts for all days on which at least one overdraft fee was caused or assessed. This information was broken out by state, and covered the class periods as detailed in section 24 of the Settlement Agreement.

b. The balance data contained the daily ledger balance for the accounts included in the transaction data.

c. The hold data contained all of the daily deposit holds in effect for the accounts included in the transaction data.

d. The charge off and collection data contained the overdraft fee amounts written off by the bank as being uncollectable, as well as the overdraft fee amounts that were subsequently recovered by the bank, for all consumer accounts.

e. The refund data contained all of the overdraft fee refunds that were credited to consumer accounts.

f. The final results data set contained the net damages for each account included in the transaction data, as calculated by Synovus' consultants.

22. Synovus' data included the following relevant information for all of the customer transactions, including the overdraft transactions:

- a. The posting date of the transaction;
- b. The dollar amount of the transaction; and
- c. A "transaction code," which identified the type of transaction.

23. In addition, the reports included the daily ledger balance and daily deposit holds, which were used to calculate daily collected balance, (ledger balance net of deposit holds).

24. With the available data from these sources, I was able to: (a) identify the specific customers who were affected by Synovus' high-to-low debit card posting practice during the various class periods, as compared to the alternative posting order where debit

card transactions are posted in low-to-high order; and (b) calculate the amount of such harm to each such customer.

25. My analysis consisted of the following steps:

a. The transaction detail was reviewed, and based upon the transaction code, overdraft fees were identified. This allowed me to identify all instances where a customer was assessed multiple overdraft fees on a given day.

b. For each instance where a customer was assessed multiple overdraft fees on a given day, using software code that I developed, I programmatically re-sorted the transactions to match the alternative posting order that I was provided, and calculated the number of overdraft fees that would have been assessed under the alternative posting order. Specifically, for the alternative posting order, I sorted all debit card transactions low-to-high, (as opposed to the original order of high-to-low), then all other debits left in the original order of high-to-low.

c. Next, I calculated the differential between the overdraft fees that would have been assessed to each customer under the alternative posting order and the overdraft fees that Synovus actually assessed under its actual posting order. I then added up the differentials for all of the customers to calculate the gross damages.

26. Through this analysis, I was able to identify the customers who would have had fewer overdrafts under the alternative posting order and the amount of the impact during the class period.

27. To measure accurately the damages for each customer, I applied methodologies to adjust the gross amount to account for “reversals” (where Synovus reverses the assessed overdraft fee); and (b) “uncollectables” (where the customer closes

the account with a negative balance and Synovus does not collect the assessed overdraft fee).

28. For reversals, the data that I was provided contained the amount and reversal posting date (*i.e.*, when the reversed amount was credited to the account) for overdraft fee reversals. The Synovus data did not indicate which overdraft fee reversals were tied to which assessed overdraft fees, making it impossible to determine precisely the impact of reversals on the additional fees charged as a result of Synovus' posting order. I thus used the "30 day" method to adjust for fee reversals.

29. Under the 30-day method, all overdraft fee reversals that occurred in the 30 days after any "differential" (*i.e.*, after any instance where the customer would have had fewer overdraft charges under the alternative posting order) were used to offset such "differential." If the overdraft fee reversals equaled or exceeded the "differential," then the customer was not considered to have been affected by high-to-low posting of debit card transactions. If the overdraft fee reversals were less than the "differential," then the "differential" was reduced by the amount of the reversals.

30. For uncollectables, I was told to assume that if an account was closed after a write-off for a negative balance, it was to be considered uncollectable. In such instances, I reduced the customer's total damage by the amount of such negative balance attributable to uncollected overdraft fees, net of subsequent recoveries. If the remaining damage after this adjustment was less than or equal to zero, then the customer's damage was reported as zero.

31. I then worked directly with Synovus' consultants in order reconcile my results with theirs. After several conversations, Synovus' consultants made minor adjustments to their analysis, bringing our results in line with each other.

32. Based on the final analysis of Synovus' data, a total of 46,663 accounts have been identified that were affected by Synovus' high-to-low debit card sequencing, of which 42,185 accounts had damages totaling \$10,541,213.04 after deducting uncollectable amounts charged off or written off during the following litigation class periods: (i) 8/14/04 through 8/13/10 for Alabama and Tennessee; (ii) 8/14/05 through 8/13/10 for Florida; and (iii) 8/14/07 through 8/13/10 for South Carolina.

33. I understand that the Settlement Administrator mailed individual class notice to substantially all of the persons named on the 46,663 accounts that have been identified. I also understand that if the Settlement becomes effective, payments will be made to the 42,185 eligible account holders pursuant to the Settlement Agreement.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 3rd day of February, 2015, at Seattle, WA.



ARTHUR OLSEN

Exhibit A – Arthur Olsen Consultant Profile

IT CONSULTANT PROFILE: ARTHUR OLSEN

BACKGROUND

Specializing in the areas of database development, administration, and support, Mr. Olsen has over 15 years of professional IT experience. He has a strong background in both Oracle and Microsoft database technologies, with a focus in developing web-based applications. Additionally, he has had valuable experience in analyzing and processing large amounts of data for use in litigation support.

SKILLS

- ◆ Extensive training and experience creating functional designs and logical data models.
- ◆ Proficient in the wide range of database development and administration technologies including: Windows 2000, 2003, and 2008 administration; Microsoft SQL Server 2000, 2005 & 2008; Microsoft TSQL; Oracle RDBMS 9.x, 10.x, and 11.x; Oracle PL/SQL; and Microsoft clustering software for Windows.
- ◆ Relevant experience designing, implementing and maintaining large scale database solutions on Oracle and SQL Server, including both online transaction based systems and data warehouses.
- ◆ Reporting specialist with experience developing custom reporting solutions based on financial systems such as Microsoft Great Plains / Dynamics and Oracle Financials, as well as custom applications.
- ◆ Considerable experience compiling, analyzing and processing data in support of corporate litigation.

AWARDS

- ◆ Award for Operation Excellence | Microsoft
Recognized for outstanding contribution to the design and implementation of the data warehousing solution for the Microsoft Licensing division.

CERTIFICATIONS

- ◆ Oracle Certified Professional
- ◆ Certified Oracle Database Administrator

EXPERIENCE

Database Engineer: Reporting Specialist | under contract at various clients

- ◆ Processed and analyzed data in support of class action litigation, (*Veronica Gutierrez et. al. v. Wells Fargo Bank, N.A.*, N.D. Cal. Case No. 07-05923 WHA), that resulted in \$203 million class restitution award.
- ◆ Developed a custom Chart of Accounts management solution that integrates with Microsoft Great Plains for small to mid-size companies.
- ◆ Designed and implemented several custom financial reporting solutions, including one for a Fortune 500 company, based on Microsoft Business Intelligence, MOSS, and Excel Services.
- ◆ Architected a solution for a large corporation that integrated with Oracle Financials and automated the process of calculating inventory reserves.

Database Administrator, Developer & Litigation Support Specialist | under contract at Hewlett Packard, Cupertino, CA

- ◆ Primary Database Administrator responsible for both Oracle and SQL Server support for three divisions, including 20+ applications spread out over a total of 30+ development, test and production servers.
- ◆ Lead analyst responsible for compiling, analyzing and processing data from various systems throughout HP for use in litigation support.
- ◆ Participated as the principal authority in the composition and implementation of SQL Server database standards across the three divisions, including security models, backup and recovery plans, DTS programming standards, and general database naming conventions.
- ◆ Performed extensive SQL development on various systems, consisting primarily of stored procedures and DTS packages.
- ◆ Created data models for several key internal systems and their related data repositories.
- ◆ Implemented an Oracle replication model consisting of a source system in California and several remote manufacturing sites located all over the world.

Database Engineer | Microsoft Licensing, Inc., Reno, NV

- ◆ Participated in the design, implementation and support of an extensive data warehousing solution for Microsoft's licensing division. System included nearly twenty data sources and several thousand end users, including select customers who accessed the system remotely via the Internet.
- ◆ Developed numerous DTS packages to pull delta information from various source systems, process and denormalize data and push it to one of several data repositories.
- ◆ Created and documented plans for database maintenance, backup and recovery, and high availability.

Database Engineer | under contract at Microsoft Corporation, Redmond, WA

- ◆ Lone Oracle database administrator and general Oracle resource for all teams associated with an enterprise level online end user billing system, including: Management, Development, Testing, Production Support and Infrastructure.
- ◆ Primary owner of a 24 x 7 production database that resided on a DEC Alpha failover cluster with over 800 Gigabytes of raw storage.
- ◆ Monitored and analyzed all Oracle databases for tuning and troubleshooting purposes using Oracle Enterprise Manager, Oracle Intelligent Agent and custom monitoring applications.
- ◆ Coordinated and implemented backup and recovery strategies for databases, including both offline and online backups, database exports and database replication.
- ◆ Created custom scripts that were used by the cluster during failover scenarios.
- ◆ Designed replication model using Oracle replication to satisfy extensive reporting requirements.
- ◆ Ensured system security through the use of NT authentication, roles and privileges, and user activity audit.
- ◆ Tuned SQL statements as written by members of the development team. Developed PL/SQL triggers, stored procedures, SQL scripts and NT scripts as needed to enhance applications and to correct problems as discovered.
- ◆ Acted as liaison between Microsoft and Oracle for all technical issues related to the databases, and between Microsoft and Digital for all technical issues related specifically to the Alpha cluster.

EDUCATION

- ◆ Microsoft Internal Training – Redmond, WA | March 2000
Instructor led SQL Server training, including courses on Database Architecture and Administration, Database Tuning, and Microsoft's TSQL
- ◆ ARIS Education Center – Bellevue, WA | June 1996
Oracle DBA Program, including courses on Relational Database Design, Database Architecture and Administration, SQL and PL/SQL, Application Tuning, Database Tuning, and Advanced Database Concepts
- ◆ University of Washington – Seattle, WA | June 1989
BA in Business Administration with a concentration in Finance.