

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Rules and Regulations Implementing the) CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)

**INITIAL COMMENTS OF PATRICK MAUPIN ON THE
MORTGAGE BANKERS ASSOCIATION PETITION FOR EXEMPTION
AUGUST 28TH, 2016**

Per [FCC Public Notice DA 16-883](#), this comment addresses the [MBA Petition](#).

1 Thank you for the opportunity to comment on this matter of current interest. I represent only myself, but I believe my interests and experiences are aligned with the great majority of Americans who own homes subject to mortgages. For example, I pay my bills on time, and my home has never been subject to foreclosure or short sale. It remains unclear whether the Mortgage Bankers Association [can credibly make the same claims](#).

2 For all the reasons why the TCPA was passed by Congress in the first place, **this petition should be denied in its entirety, and if certain claims in the petition about the current state of regulation are correct, the regulations should be amended to further restrict calls by lenders.**

3 **A mortgage is a serious undertaking.** Consumers do not enter into them lightly – mortgages are major, long-term commitments and are costly to acquire and costly to replace. Unfortunately, it is practically impossible to find a loan from a customer-friendly lender who guarantees that the loan will not be sold. So **a consumer with a loan at a bad servicer is stuck.** In theory, if the consumer has good credit, is not underwater, and is employed, *and* current interest rates are not unfavorable, he could potentially spend a lot of money to refinance elsewhere. Even then, however, he has zero guarantees that his new loan will not be immediately sold back to the bad servicer. For example, I have had two loans sold to Wells Fargo, a terrible loan servicer.

4 **Black-letter law defines “collection” in terms of delinquent debt.** Too many lenders already abuse borrower contact information for purposes other than collection, even after the lenders have been explicitly and repeatedly told not to use it for such purposes.

5 The petition states “The federal agencies responsible for regulating residential mortgages learned through the experience of the financial crisis that telephonic communications with borrowers are critical to maintaining homeownership. These agencies require mortgage servicers to place outbound telephone calls to borrowers at various times throughout a loan.” **The petition then speciously morphs this into a putative mandate to deliver prerecorded messages to customers with performing loans, even though the petition does not give a single example of an agency call mandate that starts before delinquency, and even though prerecorded robocalls do not in any way satisfy any real-world requirement for real two-way communications.**

6 The petition envisions preemptive prerecorded calls for debt reminders and other “mortgage servicing calls” for mortgages that are not delinquent. We are not yet living in *Minority Report*, and **unsolicited reminders for borrowers who are not, and have never been, delinquent, are offensively paternalistic and will ultimately be self-defeating**, once borrowers use quickly maturing call-blocking technology to block abusive calls from their lenders.

I, and I suspect, the vast majority of borrowers, do not want to block our lenders.

7 But if we give our lenders contact information to help insure that we remain compliant with the provisions of the loan, then in return, we need the lenders to use that information responsibly. We want to block “Rachel from Cardholder Services” and her ilk, but we want and need to know if there was a problem with our payment, so we cannot countenance our lenders acting like Rachel.

8 **Consumers cannot enjoy the peace and privacy promised us by the TCPA unless lenders responsibly refrain from bombarding us with unwanted calls, texts, and emails.** Unfortunately, in my experience, this does not always happen, and direct requests to lenders to be left in peace go unheeded.

9 Contrary to the MBA’s self-serving statements that “The TCPA threatens that dream by impeding the ability of mortgage servicers to fulfill federal and state requirements for communicating with borrowers by telephone” and “MBA respectfully submits this petition to ensure mortgage borrowers receive these important pro-consumer communications regardless of who owns or insures their mortgage” **it is the MBA and its members who threaten to turn the dream into a nightmare** by saddling every borrower with incessant prerecorded messages (which Congress and the Commission have correctly identified as much more invasive than live operator calls). If the lenders were truly pro-consumer, they would honor the customers’ wishes. Instead, they fight the customers’ wishes at every turn, at the Commission, in court, in Congress, and in intrusive direct unwanted and unneeded communications with the customers, **and they have the gall to call themselves “pro-consumer.”**

10 The MBA offers additional conclusions such as “Consequently, mortgage servicing calls to borrowers have an undeniably positive micro- and macro-economic impact” but they are completely missing steps in their logic, such as any sort of proof that prerecorded outreach calls actually reduce foreclosures. **None of their conclusory statements are directly supported by any of their arguments or facts**, and even if they were, it is still unethical cost-shifting to reach out with prerecorded robocalls instead of real people.

11 The MBA also offers the bald self-serving assertion that “Currently, mortgage servicing calls to residential landlines are exempt from the consent requirements because they do not include an advertisement and do not constitute telemarketing.” While it is possible to theoretically envision such a non-advertising call, I do not believe I have yet encountered one of those.

12 What I *did* encounter – last month – was a call on my residential line that said (I paraphrase because I don’t have a recording) “**We haven’t heard from you yet after the recent disaster in your area. Please call the Wells Fargo Disaster Recovery Team at 888-818-9147 if you have property damage or are experiencing financial hardship.**” The call sounded exactly like typical telephone spam, so imagine my surprise when I googled the number and found that it really, truly was a call from Wells Fargo.

13 By both the plain text of the statute and the Commission’s copious examples in previous orders, **this call clearly advertised the commercial availability of a service**. Yet Wells Fargo claims that it was not an advertisement, but was a “servicing related outreach phone call.” (page 6). **If my analysis is wrong and Wells Fargo and the MBA are correct that this sort of call is already exempt for residential telephones, the Commission should immediately act to rectify this issue, because this call was not related to collecting my debt**, which is not, and never has been, in arrears.

14 And if there had been an actual emergency situation, listening to my mortgage company tie up my phone would have been the last thing I needed. I know of no nearby disaster, but obviously **there is always a disaster somewhere, so I certainly hope the MBA is wrong about this being an exempt call**, or I could be receiving two or three of these calls a day.

15 One other noteworthy thing about this call from Wells Fargo is that **the caller-ID information was blocked** (page 6). This tactic may be useful for mitigating the number of complaints received from people who slam down the telephone before hearing the announcement of the callback number, but it seems curiously counterproductive if the actual objective is to connect with people who really need help. **If my house had blown away and I didn’t have a pen, a valid number on the caller ID would have arguably been the most useful part of the call.**

16 When I later contacted Wells Fargo about the call, they insisted, and continue to insist, that the call was service-related. Nonetheless, they graciously agreed not to call me again – unless there are service-related issues (page 6). In other words, **they have either made a completely empty promise, or contradicted themselves about whether the call was service-related.** This is exactly the same cognitive dissonance we see in MBA’s petition.

17 It may seem unfair to tar MBA and Wells Fargo with the same brush, but **Wells Fargo is one of the MBA’s largest members,** and Wells Fargo’s Michael J. Heid is on the MBA board of directors. So I use Wells Fargo, not as an example of what lenders *might* do if the MBA’s petition is granted, but rather as an example of what the MBA lenders *will* do. Or rather, what they are already doing, and, via this petition, belatedly seeking permission for.

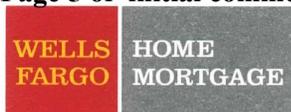
18 **Wells Fargo cannot be trusted – they have broken similar promises to leave me alone in the past.** In 2010, I phoned them and asked them to stop emailing me. They told me I needed to put the request in writing, so I sent them a fax, telling them to leave me alone unless there was a problem with my mortgage. I do not have a copy of the original fax handy, but you can see from their response (page 5) that they received it. They even falsely claimed that they discarded my email address. **This was all a pack of lies – they continued to email me for months after I received this letter, and only stopped after I threatened legal action.**

19 Now Wells Fargo has pulled the same trick with their do-not-call list – **despite acknowledging in 2010 (page 5) and again in 2011 (via email, not attached) that I don’t want to be bothered, here they are sending prerecorded robocall advertisements.** It remains to be seen whether the new do-not-call list I am now on is really “the” list, or how many more times they must be told to desist. In any case, it is a laughable proposition that they are, as they claim, doing all this for my benefit, so **please do not give Wells Fargo and other lenders any excuses that allow them to think or pretend that it might possibly be OK to contact me against my express wishes when my mortgage is current.**

Respectfully submitted,

/s/ Patrick Maupin

Patrick Maupin



Wells Fargo Home Mortgage
MAC X2302-017
1 Home Campus
Des Moines, IA 50328-0001

November 17, 2010

Patrick Maupin

ADDRESS AND ACCOUNT REDACTED

Dear Patrick Maupin

RE: Loan Number

Thank you for your recent inquiry regarding the above referenced mortgage account.

At this time, we have removed your information from solicitation lists for calls, mail and email. We have also removed your email address from your account. Please notify us if you continue to receive any such solicitations.

As a valued member of the Wells Fargo Home Mortgage family, you possess the ability to shape our strategy in providing the service you expect and deserve. Our organization continually looks to and relies upon customers like you for your opinions about how we are performing as a company. Success is not attained until each customer is completely confident in our abilities to serve his or her needs.

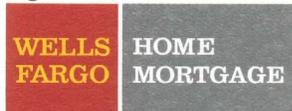
If we can be of further assistance, please call one of our servicing representatives at (866) 234-8271, Monday through Friday, 6 AM to 10 PM; or Saturday, 8 AM to 2 PM, Central Time.

Sincerely,

Melanie Hallin
Written Correspondence
Wells Fargo Home Mortgage

Together we'll go far





Wells Fargo
PO Box 10335
Des Moines, IA 50306-0335

August 18, 2016

Patrick Maupin

ADDRESS AND ACCOUNT REDACTED

Subject: Resolution to the inquiry received about account number

Dear Patrick Maupin

Thank you for the opportunity to address your concern. We've carefully researched this matter and are providing you with a response.

Receiving a call from a blocked number

Based on our research, we've determined your account was handled appropriately and no adjustments are needed.

In the inquiry you expressed concerns about receiving a call from a blocked number. Per the Telephone Consumer Protection Act, a servicing related outreach phone call from our disaster team would not fall into that definition of a solicitation or advertisement. We apologize for any frustration this may have caused you.

Please note, we've reviewed your solicitation preferences, and are confirming that you will only be contacted if there are service-related issues with your mortgage.

We value your feedback and appreciate the time and effort you took to contact us. It's been my goal to fully address the concern you've brought to our attention.

Going forward

If you have any questions, I'm here to help. You may reach me directly at 1-800-853-8516, extension 1335621621. I am available to assist you Monday through Friday, 8:00 a.m. to 5:00 p.m. Central Time. If you require immediate assistance and I am unavailable, other representatives are available to assist you at 1-800-853-8516, Monday through Friday, 7:00 a.m. to 7:00 p.m. Central Time.

Sincerely,

A handwritten signature in black ink that reads "Samantha Hill".

Samantha Hill
Executive Resolution Specialist
Customer Care and Recovery Group

EX003/D54/co1852474/ge5748389/cl936