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June 20, 2017

The Honorable Mark Stone
Chair, Assembly Judiciary Committee
State Capitol, Room 3146
Sacramento, CA 95814

RE: Senate Bill 33 (Dodd) – Arbitration agreements – Co-Sponsor
As Amended June 13, 2017

Dear Assemblymember Stone:

The Consumer Federation of California (CFC) writes as co-sponsor of Senate Bill 33, authored by Senator Dodd, which would prevent financial institutions from forcing consumers to sign away their rights to go to court when a financial institution commits fraud based on the wrongful use of personal identifying information or identity theft.

The need for this legislation is manifest. Since 2011 or earlier, Wells Fargo employees illegally used their customers' personal identifying information to open 1.5 million unauthorized bank and credit card accounts in the names of individual customers, and perhaps as many as another 500,000 business accounts. Wells Fargo paid a pittance to settle misconduct charges brought by government agencies. As customers have attempted to sue to recover losses and restore their credit, the bank has successfully invoked mandatory arbitration clauses included in the consumers' initial customer agreements requiring that they waive their right to sue and to enter class actions for that account, or any other subsequent Wells Fargo account, including accounts that were opened fraudulently and without their knowledge or consent. By enforcing binding arbitration language in contracts to which the consumers were never a party, Wells Fargo has achieved the absurd and unfair outcome of shielding itself from its victims through its very act of committing identity theft.

Binding arbitration in a contract of adhesion is a private alternative to justice that provides an uneven playing field, benefiting financial institutions. The opaque arbitration process, in addition to being skewed in favor of corporate interests, deprives consumers of crucial information related to this large-scale wrongdoing, thereby exacerbating the misconduct, as well as undermining the public trust. Allowing businesses to deny consumers who did not even know that the company was establishing fake accounts in their name to have their day in court and their right to participate in class action lawsuits, leaves little deterrent effect against the practice occurring in the future.

This legislation will ensure that financial institutions are not permitted to shirk accountability for the wrongful use of their customers' information.

We respectfully urge your "Aye" vote on SB 33.

Sincerely,

A handwritten signature in black ink that reads "Richard Holober". The signature is written in a cursive, flowing style.

Richard Holober
Executive Director