

The group of blog articles that you will find in this section called, “Things That Make You Go Hmm...” are devoted to the folks, entities, and practices that get under my skin, and cause me to say, “Are you kidding me?!”

So, without further ado, I give you my first article on the subject.

In Romania, the country where my ancestors are from, there is an expression, “Don’t go trying to be more Catholic than the Pope.” And when it comes to Wells Fargo and Wachovia, as you will see below, that is exactly what they are doing. They are acting more like bankruptcy officials than what they are, a bank.

If you read my last blog article titled, [Bankruptcy And Your Bank’s Right to Rob You](#) then you know that a bank has the right, in certain instances, to a setoff. As explained in my previous blog article, a setoff is a legal right afforded to your bank whereby it is permitted to seize the money out of your bank account the moment that you have defaulted on a loan with your particular bank. In the bankruptcy context the bank’s right to a setoff will occur as follows: You have a checking account and a car loan with Big Bank. You are current on your car loan with Big Bank. Say you file for bankruptcy. The moment that you file for bankruptcy you are deemed to have defaulted on your car loan with Big Bank. As a result, Big Bank can now freeze your bank account and eventually can take your money that was in your account.

What Wachovia and Wells Fargo now do is take the concept of a setoff to a whole new level. According to Wachovia and Wells Fargo, if you file for chapter 7 bankruptcy, they will freeze your bank accounts that you have with them, regardless of whether or not you have any loans with them. I repeat, you do not need to have a credit card, car loan, mortgage or any other type of loan with Wachovia and Wells Fargo for them to freeze your account. The moment that Wachovia/Wells Fargo discover that you have filed for chapter 7 bankruptcy they claim to have the right to “freeze” your bank accounts and await the guidance of the chapter 7 bankruptcy trustee to see if and when they should release those funds back to you. Meanwhile, weeks go by during which you cannot access your money, your outstanding checks have bounced, and your automatic monthly payments are no longer being honored by Wachovia/Wells Fargo.

Wells Fargo and Wachovia take the position that its policy is a sound one that benefits the bankruptcy system because they believe that your money in your bank account is property of estate. Meaning when you file for chapter 7 bankruptcy everything that you own, theoretically, now belongs to the trustee, whose job is to administer all of your assets on behalf of your creditors, subject to certain exemptions, allowing you to keep certain property. Their misguided notion is that the money in your bank account is property of the estate and that they have a duty to preserve it for the bankruptcy trustee.

Hey, Wells Fargo/Wachovia, what gives you the right to play both judge and jury?! Why are you taking on the role of a bankruptcy trustee? When someone files for chapter 7 bankruptcy and exempts the funds that they have in your bank, it is up to the trustee to decide if those exemptions were properly taken. And if the trustee happens to decide –in those rarest of cases- that the exemption taken by the filer was improper weeks after the bankruptcy case was filed, then believe me, the trustee will not be shy about making that objection and coming after the

individual who filed for bankruptcy. And what of the fact that no other bank in the United States has such a policy at this time? You think that might be an indicator that you might be acting a bit too overzealously?! What's next, freezing my bank accounts because your computer system just found out that I have some outstanding parking tickets? After all, there is a chance that when the law finally catches up to me, I may not have the funds to pay for those tickets.

Now, in Wells Fargo/Wachovia's "defense", their policy also states that they will not employ this draconian measure unless the individual has at least \$5,000.00 in their bank account(s). However, out of an abundance of caution, if you are contemplating filing for bankruptcy, take your money out of your Wells Fargo/Wachovia accounts and place it elsewhere. After all, as much as it might be interesting for you to take your case all the way up to the Supreme Court, you probably would rather avoid that fight.