Wells Fargo: We can't be sued for lying to shareholders because it was obvious we were lying

Wells Fargo has asked a court to block a shareholder lawsuit that seeks to punish the company for lying when it promised to promptly and completely disclose any new scandals; Wells Fargo claims that the promise was obvious "puffery," a legal concept the FTC has allowed to develop in which companies can be excused for making false claims if it should be obvious that they are lying (as when a company promises that they make "the best-tasting juice in America).

The lawsuit stems from [Wells Fargo's crooked car-loan program] that used deceptive tactics to defraud 800,000 customers, ultimately stealing 25,000 of their cars through fraudulent repossessions.

The shareholders argue that when Wells Fargo CEO Tim Sloan misled investors in 2016, when he said that he was "not aware" of lurking sales scandals (this was four years after the company's internal investigations revealed the car ripoffs and a year before they were made public after a leak to the New York Times).

The company argue that Sloan was making "generic statements...on which no reasonable investor could rely" and thus the shareholders should not be able to sue for the losses they suffered when the scandal became public.

In other words, as the LA Times's Michael Hiltzik puts it, "We can’t be sued because no one believed us anyway."

> The shareholder lawsuit focuses on the efforts by Sloan and his fellow executives to conceal the auto-loan scandal from the public. While they were trying to clean up the splatter from the bank’s most prominent scandal, in which sales representatives secretly opened millions of accounts for consumers in order to meet punishing work quotas, the executives consistently stated that they were investigating high and low to make sure the bank was otherwise clean and would fully disclose anything they discovered.
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> “We want to leave no stone unturned,” Sloan told investment analysts during a conference call in January 2017. “If we find something that’s important, we’ll communicate that.... I think given our desire to be very transparent, we’ll probably err on the side of overcommunicating as opposed to undercommunicating.”
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> Yet by then, Sloan had received a report from the consulting firm Oliver Wyman that laid out the auto-loan scandal in great detail.
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> The scandal stayed out of the public eye until the Oliver Wyman report was leaked to the New York Times, which published a story about it July 27, 2017; Wells Fargo issued a news release fessing up to the matter that very day.

Wells Fargo says its promises to restore consumer trust were just ‘puffery.’ But they look more like lies [Michael Hiltzik/LA Times]