

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STEPHEN SULLIVAN, WHITE OAK FUND LP,
CALIFORNIA STATE TEACHERS' RETIREMENT
SYSTEM, SONTERRA CAPITAL MASTER FUND, LTD.,
FRONTPOINT PARTNERS TRADING FUND, L.P., AND
FRONTPOINT AUSTRALIAN OPPORTUNITIES TRUST
on behalf of themselves and all others similarly situated,

Plaintiffs,

- against -

BARCLAYS PLC, BARCLAYS BANK PLC, BARCLAYS
CAPITAL INC., BNP PARIBAS S.A., CITIGROUP, INC.,
CITIBANK, N.A., COÖPERATIEVE CENTRALE
RAIFFEISEN-BOERENLEENBANK B.A., CRÉDIT
AGRICOLE S.A., CRÉDIT AGRICOLE CIB, DEUTSCHE
BANK AG, DB GROUP SERVICES UK LIMITED, HSBC
HOLDINGS PLC, HSBC BANK PLC, ICAP PLC, ICAP
EUROPE LIMITED, J.P. MORGAN CHASE & CO.,
JPMORGAN CHASE BANK, N.A., THE ROYAL BANK OF
SCOTLAND PLC, SOCIÉTÉ GÉNÉRALE SA, UBS AG AND
JOHN DOE NOS. 1-50,

Defendants.

Docket No. 13-cv-02811 (PKC)

ECF Case

JOINT DECLARATION OF VINCENT BRIGANTI AND CHRISTOPHER LOVELL

Vincent Briganti and Christopher Lovell, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. We, Vincent Briganti and Christopher Lovell, are members of the Bar of this Court and, respectively, are a shareholder with the law firm Lowey Dannenberg, P.C. (“Lowey”) and a partner with the law firm Lovell Stewart Halebian Jacobson LLP (“Lovell,” and with Lowey, “Class Counsel”). Class Counsel represent Plaintiffs the California State Teachers’ Retirement System (“CalSTRS”), Stephen Sullivan, White Oak Fund LP, Sonterra Capital Master Fund, Ltd., FrontPoint Partners Trading Fund, L.P., and FrontPoint Australian Opportunities Trust (“FrontPoint”) and are the court-appointed Class Counsel of the Settlement Class in the above-captioned action (“Action”). We have personal knowledge of the matters set forth herein involving our respective firms, based on our active supervision of and participation in the prosecution and settlement of the claims asserted in this Action.

2. We submit this Joint Declaration in support of Plaintiffs’ Motion for Final Approval of the Class Action Settlement (“Settlement”) with Defendants Citigroup Inc. and Citibank, N.A. (collectively, “Citi”) and JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (collectively, “JPMorgan” and together with Citi, “Settling Defendants”) and Class Counsel’s Motion for Award of Attorneys’ Fees and Reimbursement of Expenses from the common fund created by the Settlement.

3. Below, we describe the work of Class Counsel relevant to this Settlement in this Action. As a result of Class Counsel’s work, the settlement fund available to Plaintiffs and the Settlement Class now totals \$491,500,000, an increase of 60% over the \$309,000,000 in settlements Class Counsel previously achieved.

4. We also provide the total hours worked and lodestar of Class Counsel and additional Plaintiffs’ Counsel in this Action, including the hours and lodestar of their work since February 28,

2018, the cutoff date in Class Counsel's last fee motion. See ECF No. 403 ¶¶ 107-15. A summary of recent expenses is also provided. We refer the Court to our previous joint declaration dated March 23, 2018 filed in connection with the settlements involving Barclays,¹ Deutsche Bank² and HSBC³ (ECF No. 403) for details of Class Counsel's other work in this Action.

I. CLASS COUNSEL'S WORK ON BEHALF OF THE PLAINTIFFS AND THE SETTLEMENT CLASS RELATING TO THE SETTLEMENT

The Review by CalSTRS' General Counsel of Class Counsel's Work

5. In September 2014, CalSTRS engaged Class Counsel to bring claims on its behalf in this Action relating to the alleged manipulation of Euribor by Citi, JPMorgan and others. Since then, CalSTRS has been an active and engaged named Plaintiff, involved in nearly every aspect of the litigation. As the largest educator-only pension fund in the world and the second largest pension fund in the United States with over 950,000 members, CalSTRS has a keen interest in protecting its members and ensuring financial markets are free from manipulative and anticompetitive forces.

6. Class Counsel provided regular briefings to CalSTRS concerning relevant legal developments and factual discovery, as well as Class Counsel's most up-to-date view of the strengths and risks involved in the litigation. Class Counsel collaborated with CalSTRS' staff to understand the impact of the Euribor manipulation on CalSTRS' investments and drafted allegations that were added to the Third Amended Complaint. Consistent with its fiduciary duties, CalSTRS closely supervised Class Counsel's work in the Action, including the work described herein, and was involved in nearly every strategic decision in this case. For example, CalSTRS reviewed pleadings and motion papers in advance of their filing, provided direction in terms of settlement strategy and, where possible, attended settlement mediations and negotiations. Additionally, Class Counsel

¹ "Barclays" means Barclays plc, Barclays Bank plc and Barclays Capital Inc.

² "Deutsche Bank" means Deutsche Bank AG and DB Group Services (UK) Ltd.

³ "HSBC" means HSBC Holdings plc, and HSBC Bank plc.

regularly provided CalSTRS with their detailed time records to review, giving CalSTRS another means to monitor the efforts of Class Counsel.

Class Counsel's View of the Litigation Risks in Prosecuting Citi and JPMorgan

7. Class Counsel recognized early on that there would be significant challenges in prosecuting claims against Citi and JPMorgan, greater than those faced with respect to other Defendants.

8. In late 2013, the European Commission (“EC”) announced settlements, fines and investigations against certain banks relating to the existence of the Euro interest rate derivatives (“EIRD”) cartel. The EC found that the cartel “aimed at distorting the normal course of pricing components for these [Euro interest rate] derivatives. Traders of different banks discussed their bank’s submissions for the calculation of the EURIBOR as well as their trading and pricing strategies.”⁴

9. Two previously-settling Defendants, Barclays and Deutsche Bank, admitted to being members of the EIRD cartel. The European Commission alleged that Barclays and Deutsche Bank were long-time participants in the EIRD cartel, conspiring with other members for a total of 32 months.⁵

10. Deutsche Bank paid €465,861,000 to settle charges with European regulators for its participation in the EIRD cartel,⁶ and a former Deutsche Bank employee pled guilty to conspiracy to defraud in connection with Euribor manipulation.⁷

⁴ See Press Release, European Commission, AMENDED - Antitrust: Commission fines banks € 1.49 billion for participating in cartels in the interest rate derivatives industry (Dec. 4, 2013), http://europa.eu/rapid/press-release_IP-13-1208_en.htm.

⁵ *Id.*

⁶ *Id.*

⁷ See *EX-DEUTSCHE BANK TRADER CHRISTIAN BITTAR PLEADS GUILTY TO CONSPIRACY TO DEFRAUD OVER EURIBOR RIGGING-SFO* (March 15, 2018), available at: <https://uk.reuters.com/article/ex->

11. Barclays avoided a fine from the EC for cooperating with the regulator. The Antitrust Division of the DOJ, pursuant to Antitrust Criminal Penalty Enhancement and Reform Act (Pub. L. No. 108-237, tit. II, 118 Stat. 661, 665, extended by Pub. L. No. 111-190, 124 Stat. 1275) (“ACPERA”), granted Barclays conditional leniency for alleged anticompetitive conduct relating to Euribor and Euribor-based derivatives.⁸ Barclays ultimately agreed to cooperate with Plaintiffs in the context of this Action. In addition, one former Barclays employee has been convicted, and at least three others have been tried in U.K. courts for their roles in manipulating Euribor.⁹

12. By contrast, while we believed that regulatory investigations indicated Citi’s involvement in coordinating with other banks to manipulate Euribor, Citi was not among the banks settling with or being investigated by the EC. Regulators have not accused Citi of participating in the EIRD cartel, and no Citi employees have been charged in connection with manipulating Euribor.

13. The EC did open an investigation as to JPMorgan’s involvement in the EIRD cartel. As a result of its investigation, the EC accused JPMorgan of participating in the EIRD cartel for five months and fined JPMorgan €337,196,000 (approximately \$360 million).¹⁰

14. JPMorgan has contested its fine, publicly challenging the Commission’s findings that it acted with the intent to manipulate Euribor.¹¹ Unlike other banks, including Barclays and

deutsche-bank-trader-christian-bittar/ex-deutsche-bank-trader-christian-bittar-pleads-guilty-to-conspiracy-to-defraud-over-euribor-rigging-sfo-idUKMT1ALTL8N1QX64T1.

⁸ See *Barclays Bank PLC Settlement with Authorities* (June 27, 2012), available at: <https://www.sec.gov/Archives/edgar/data/312069/000119312512284977/d373814dex991.htm>.

⁹ *Former Deutsche Bank and Barclays traders jailed for global rate-rigging plot* (July 19, 2018), available at: <https://www.businessinsider.com/former-deutsche-bank-and-barclays-traders-jailed-for-global-rate-rigging-plot-2018-7>.

¹⁰ See Press Release, European Commission, Antitrust: Commission fines Crédit Agricole, HSBC and JPMorgan Chase € 485 million for euro interest rate derivatives cartel (December 7, 2016), http://europa.eu/rapid/press-release_IP-16-4304_en.htm.

¹¹ See Application, *JPMorgan Chase and Others v. Commission*, Case No. T-106/17 (Eur. Ct. of Justice Feb. 17, 2017), available at

Deutsche Bank, JPMorgan has not admitted to any misconduct relating to Euribor or participation in the EIRD, and its challenge of the EC's findings remains ongoing.

15. Further, none of the Euribor criminal trials have targeted any current or former JPMorgan employees.

16. From the outset of discovery, there was no smoking gun evidence on which to rely with respect to Citi or JPMorgan. Class Counsel accordingly marshalled its resources to seek evidence of involvement in the alleged manipulation of Euribor and the prices of Euribor-based derivatives.

Plaintiffs' Discovery Efforts

17. After sustaining certain claims against Citi and JPMorgan, the Court entered an order on April 10, 2017 directing the schedule for discovery. Citi and JPMorgan were to produce all of their regulatory productions by June 9, 2017, the parties' document requests were to be served by August 1, 2017, and transaction data were to be produced by October 2017. The deadline to complete all class certification expert discovery was originally June 28, 2018, and later extended to August 10, 2018. All fact discovery was to be completed by December 4, 2018.

18. Based on the discovery schedule, Class Counsel had only 16 months to prepare for class certification, and approximately 20 months to develop informed document requests, review, and act on any fact discovery to be provided. In Class Counsel's experience, fact discovery and class certification in a case of this magnitude could easily last several years. To achieve maximum results in a minimum amount of time, Class Counsel deployed all of its resources, human and technological, to obtaining and analyzing all available documents and data.

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=189908&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=4951726>.

19. Teams of attorneys spent long hours reviewing documents in this very complex case. They analyzed the documents and synthesized them with other information to help Class Counsel create a roadmap of Citi and JPMorgan's involvement in the alleged manipulation, and identify what information gaps still needed to be addressed.

20. Class Counsel had access to technology-aided review capabilities that effectively narrowed the documents produced by Citi, JPMorgan and others into manageable groups of documents that were likely to have relevant information.

21. For example, Lowey leveraged in-house technological expertise to locally deploy Relativity, a sophisticated document review platform. This afforded Lowey unlimited access to Relativity's powerful analytics engine. Additionally, Lowey avoided unnecessary document hosting costs by deploying Relativity locally. These analytic capabilities meant that Lowey could search smarter, using elements of the alleged Euribor manipulation of which Class Counsel were aware to train the search engine on how to identify other relevant documents. Developing an analytics-based workflow enabled Lowey to layer several techniques simultaneously to greatly cut down the hours required to prioritize the review of more than 24,000 audio files.

22. Lovell used technologically assisted document review software to leverage and exploit potential key terms through smart searches, "relational searching" and other analytic tools. These tools identified relevant documents, followed themes and dates of conversations, and cross-referenced and matched them to significant individuals. Using these tools, Lovell identified more than 1,400 potential instances of agreement or manipulation, more than 400 instances of potential admissions of manipulation, and more than 100,000 relevant documents.

23. For both of these efforts, the cooperation we obtained from other settling defendants and other sources provided the critical knowledge base that allowed Class Counsel to use their resources more effectively.

24. Documents and data from Deutsche Bank and Barclays, both admitted participants in the EIRD cartel, provided information about the operation and scope of the Euribor manipulation. The instances of manipulation found in the Barclays and Deutsche Bank productions gave Class Counsel the ability to make targeted searches of Citi's and JPMorgan's productions. The searches allowed Class Counsel to assess the Settling Defendants' own involvement with particular cartel members and on particular dates.

25. Equally important, information from Barclays' and Deutsche Bank's productions helped Class Counsel identify information that had not been produced. Class Counsel engaged in regular and extensive meet-and-confers with Citi and JPMorgan to obtain any information.

26. In July 2017, Class Counsel met with Citi to discuss Citi's limited regulatory production. Class Counsel took the position that the Court's order directing production of documents produced to regulators did not limit Citi's production obligation to documents from the Class Period only. Citi resisted producing the additional documents and, in an August 2017 correspondence, asserted that the order did not require production of regulatory documents from outside the Class Period. After several months and additional meet and confers, Citi ultimately agreed to and did produce the remaining regulatory materials in March 2018.

27. In October 2017, Class Counsel requested that Citi provide organizational charts relating to the relevant Euribor traders and submitters. Such information had not been produced to that point and was integral to facilitating Class Counsel's understanding of the positions and/or employees potentially involved in Euribor manipulation. Citi responded, noting the challenges involved with providing certain organizational chart information, but agreed to investigate what information could be made available. After renewing its request in February 2018, Class Counsel received organizational charts from Citi in April 2018.

28. As part of a separate October 2017 meet and confer, Class Counsel also requested from both Citi and JPMorgan documents reflecting risk analyses, exposure reports and profit and loss statements relevant to the Euribor manipulation. After additional negotiations, JPMorgan produced its profit and loss reports in March 2018. Citi provided exposure reports and profit and loss statements in April 2018.

29. Because Citi's and JPMorgan's documents and data would potentially be produced from data sources in multiple countries, foreign data privacy laws were implicated. Class Counsel had several negotiations with Citi and JPMorgan to determine how to navigate the various legal and regulatory restrictions that would apply.

30. Additionally, Class Counsel began negotiating with Citi and JPMorgan in October 2017 over the scope of search terms to be used for additional document productions. Reaching an agreement on search terms proved to be among the more difficult discovery challenges. Class Counsel were at an informational disadvantage based on the limited documents that had been produced to date in October 2017. Both Citi and JPM suggested that the regulatory productions were a sufficient basis from which to create search terms. Proposals were made, but none agreed upon. Later during discovery, Class Counsel presented a new proposal that involved receiving the files of certain key custodians for a specified period of time, and using focused search terms to search for other potentially relevant materials from within the Class Period. Citi and JPMorgan did not agree to Class Counsel's proposal and instead offered alternate search proposals. While the scope of the disagreement regarding search terms had been narrowed over the course of the discussions, the parties were still negotiating search terms when the Settlement was reached.

31. To complement the insights gained from its discovery work, Lowey sent lawyers to observe the trial in the United Kingdom involving current and former employees of Barclays and Deutsche Bank accused of manipulating Euribor. Lowey attorneys and investigators were able to

quickly analyze evidence and testimony for new areas of investigation and immediately report back to the teams stateside conducting the day-to-day discovery work.

32. Class Counsel ultimately reviewed more than one million pages of documents, tens of thousands of audio files and other data received from Citi, JPMorgan, Barclays, Deutsche Bank, and HSBC.

33. Class Counsel reviewed almost 30,000 documents, consisting of 134,000 pages, and more than one gigabyte of data (reflecting hundreds of thousands of transactions) from Citi and JPMorgan. Notably, one-third of JPMorgan's documents and more than 90% of Citi's documents were produced in 2018, including during the months leading up to service of the expert reports.

34. As discovery progressed, Class Counsel began preparing witness lists, correlating witnesses to significant documents in Settling Defendants' production. Teams of attorneys also located documents supporting Class Counsel's experts' analyses, including Defendants' codes of conduct, and relevant industry-wide statistics, standards and practices.

35. With the help of experts, Class Counsel identified the relevant sources of transaction data that would be integral in developing a class-wide model of price impact due to the alleged Euribor manipulation. The transaction data provided critical information about the size of Citi's and JPMorgan's Euribor Products positions, and therefore what Plaintiffs viewed to be their alleged motivations on any particular day to move Euribor in their favor. The first challenge in analyzing Settling Defendants' data (as well as the data from other cooperating defendants) was to get a near-uniform set of data that could be used to make comparisons of positions within and across banks. Class Counsel combed through the productions to find the appropriate data set for their experts, and when such data set was missing, renewed requests with the producing party or obtained alternate data sources from which their experts could derive the necessary information. Data

reflecting hundreds of thousands of transaction records were cleaned and harmonized to create standard fields and formats that could then be used to perform Class Counsel's analyses.

36. While document discovery was ongoing, Class Counsel prepared Rule 30(b)(6) Notices for the depositions of Citi's and JPMorgan's corporate representatives. The drafting of the Rule 30(b)(6) Notices was a time-consuming exercise that not only involved Class Counsel's attorneys, but also financial and economic experts as Class Counsel thought ahead to obtaining testimony that would be useful in expert reports, class certification motions, and ultimately at trial. Over the course of several weeks, Class Counsel drafted and revised topics covering, among other issues, Settling Defendants' policies and procedures with respect to communications, setting and submitting Euribor, and trading Euribor Products; personnel, organizational structure, and compensation; trade data, models and analyses; availability of position reports to traders; profit and loss statements; and government investigations or inquiries.

37. Plaintiffs served their Rule 30(b)(6) Notices upon Settling Defendants in January 2018. After extensive negotiations with Settling Defendants, Plaintiffs agreed to accept written answers to topics in their Rule 30(b)(6) Notices.

38. Citi and JPMorgan produced 120 pages of answers in response to the topics in the Rule 30(b)(6) Notice between March and May 2018. Class Counsel promptly reviewed these responses. After "meet and confers" Citi and JPMorgan agreed, among other things, to provide (without witness questioning) answers to the data portion of the subject matter in the Rule 30(b)(6) notices.

Plaintiffs' Responsive Discovery Efforts

39. Class Counsel performed its prosecutorial work while also complying with its own discovery obligations. Class Counsel worked closely with CalSTRS and FrontPoint to identify responsive documents to Settling Defendants' document requests.

40. Lowey worked with former FrontPoint personnel to identify and collect relevant documents. Communications with these individuals also assisted with preparing Plaintiffs' Responses and Objections to Defendants' First Set of Interrogatories, and responding to Defendants' 30(b)(6) Notice of Deposition directed to FrontPoint.

41. The document collection process for FrontPoint involved both a hard copy and electronic review of documents and data stored at an offsite physical location. Lowey reviewed boxes of documents held in storage for information responsive to Settling Defendants' document requests and interrogatories.

42. Additionally, Class Counsel took forensic images of FrontPoint hard drives that were also in storage and uploaded more than 457,000 documents to Class Counsel's Relativity platform. This time-consuming, elaborate process was further complicated because additional time was spent identifying which of the relevant hard drives would have responsive information before imaging and loading the data. After the data was located and loaded to Relativity, a team of attorneys performed targeted searches of key dates, personnel and transactions to identify responsive documents.

43. Between January 31, 2018 and June 12, 2018, FrontPoint made five rolling productions of documents to Settling Defendants, totaling over 44,000 pages in response to Citi's and JPMorgan's document requests and interrogatories. Lowey also began preparing a witness to serve as the FrontPoint Rule 30(b)(6) corporate representative in response to Settling Defendants' Rule 30(b)(6) Notice.

44. CalSTRS worked with Class Counsel and Berman Tabacco to identify and produce CalSTRS' responsive transactional data. Class Counsel and Berman Tabacco engaged in ongoing discussions with CalSTRS' in-house portfolio managers to assist CalSTRS in collecting all of the necessary transaction data and also to respond to the questions raised by the data. In addition, CalSTRS built a historical document repository to collect documents potentially responsive to

Settling Defendants' document requests. Class Counsel and Berman Tabacco reviewed numerous documents, and CalSTRS produced approximately 5,000 pages of documents from the repository.

45. In total, FrontPoint and CalSTRS produced 3,901 documents, totaling more than 49,000 pages. Class Counsel responded to Citi and JPMorgan's ongoing inquiries regarding Plaintiffs' document productions and specific interrogatory responses through early July 2018, via meet-and-confer calls and through correspondence.

Development of the Class-Wide Models of Alleged Violative Conduct and Price Impact and Preparation of Class Certification Reports

46. Even before all the necessary data and documents were available to begin any analysis, Class Counsel engaged in comprehensive internal and external discussions with industry and economic experts to outline a strategy for success at class certification. After extensive analysis, Class Counsel decided to use two experts to develop expert reports to show a predominance of common questions under Rule 30(b)(6) of the Federal Rules of Civil Procedure. This included through expert opinions that set forth (a) the objective customs and standards in the euro-denominated interbank loan market and the Euribor-based derivatives market, along with examples of categories of alleged violations of those standards; (b) objective conditions in which a long term agreement among insiders (allegedly like the Defendants here) may allegedly operate to manipulate prices to the detriment of outsiders (allegedly like Plaintiffs and Class members here); and (c) statistical regression models allegedly demonstrating class wide evidence of artificial impact on Euribor and Euribor derivatives.

47. To assist the expert preparing the report on Settling Defendants' alleged violations of market customs and standards, Class Counsel provided relevant policy and procedure guides produced by Citi and JPMorgan, as well as communications relating to those Defendants' policies and procedures. The policies Class Counsel identified were consistent with the expert's knowledge and experience in the industry as background information, and such policies along with Settling

Defendants' relevant communications were relied on in his ultimate opinion. Class Counsel reviewed this report multiple times, with a particular eye toward identifying and addressing any potential *Daubert* concerns.

48. After evaluating the allegations and based on his understanding of economic markets, Plaintiffs' second expert elected to employ a benchmark comparison approach to demonstrate how Plaintiffs could attempt to show common impact and common proof of damages. To assist Plaintiffs' second expert in preparing his report, Class Counsel also retained an economic consulting firm and other economists. Class Counsel obtained nearly a decade's worth of historical Euribor submissions data, and benchmark data that could be used to demonstrate the artificiality caused by Euribor manipulation. Plaintiffs' expert developed and recommended applying a regression analysis of the relationship between Euribor and the benchmark during alleged manipulated and unmanipulated periods to assess whether artificiality could be objectively observed. To ensure that the model arising out of this work was robust, Class Counsel took numerous other steps including working with the consulting firm, other economists, performing legal research, and otherwise analyzing the premises and conclusions of the model. Class Counsel researched the use of control periods in expert analysis to understand the standards applied to such data. This legal research helped Class Counsel to ensure the expert report properly framed the inquiry concerning common impact and common proof of damages and confirm that the model developed could ultimately be deemed reliable.

49. As the expert reports were developed, Class Counsel kept CalSTRS and its counsel, Berman Tabacco, apprised of the development of the reports. Before the reports were served, Class Counsel and Plaintiffs' economist made a presentation to CalSTRS' General Counsel concerning the

substance of the expert report and model. Following this, Plaintiffs served their expert reports on April 23, 2018.¹²

Defendants' Depositions of Plaintiffs' Experts

50. Citi and JPMorgan deposed Plaintiffs' expert witnesses during two separate all-day depositions. Class Counsel prepared and defended each witness at the depositions.

51. After service of Plaintiffs' expert reports on April 23, 2018, Class Counsel organized and conducted deposition preparation for Plaintiffs' experts prior to their respective June 1, 2018 and June 8, 2018 deposition dates. Class Counsel obtained input from consultants and then spent more than a week total with each expert examining him about the contents of his report and posing difficult hypotheticals and questions which Class Counsel believed would be the likely areas of inquiry for Citi and JPMorgan.

52. Class Counsel believed that their experts were well prepared to answer the questions and issues raised by Defendants during the depositions. Following the conclusion of their own depositions in early June 2018, Plaintiffs' experts continued to work with Class Counsel to develop their own expert reports to rebut the assertions of Defendants' expert economist. Plaintiffs' experts also worked with Class Counsel in our preparation for taking the deposition of Defendants' expert and in preparing for and advancing Plaintiffs' arguments during the mediation. Both of Plaintiffs' testifying experts were present throughout the mediation sessions.

Settlement Negotiations with Citi and JPMorgan

53. Citi first approached Plaintiffs regarding a potential settlement in 2015. On June 4, 2015, Class Counsel met with Citi's counsel for preliminary settlement discussions, which continued over the next several months. Plaintiffs described their analysis of the developing case law in benchmark litigation actions, and how such law supported their arguments concerning Citi's

¹² Plaintiffs served corrected copies of the expert reports on May 10, 2018 and May 14, 2018.

potential liability and exposure. Citi repeatedly asserted that it was not liable for the alleged misconduct. By October 2016, the parties' negotiations had stalled.

54. On April 28, 2017, Plaintiffs, Citi, and JPMorgan informed the Court of their agreement to pursue private mediation pursuant to the Court's April 10, 2017 Scheduling Order. The parties selected nationally recognized mediator David Geronemus, Esq. On November 21, 2017, Mr. Geronemus held an in-person mediation session between Plaintiffs, Citi, and JPMorgan. Brian J. Bartow, CalSTRS' General Counsel, attended the mediation.

55. Over the course of this first mediation session, Class Counsel were well informed regarding the strengths and weaknesses of Plaintiffs' claims. Among other sources of information, Plaintiffs had the benefit of: (a) Lowey's and Lovell's extensive factual and legal research regarding the best possible claims; (b) ACPERA and settlement cooperation from Barclays and settlement cooperation from HSBC and Deutsche Bank; (c) government orders revealing various facts and findings; and (d) economic analyses concerning the alleged Euribor manipulation.

56. After a full day of negotiations, this first mediation session ended in impasse. In the weeks and months following the impasse, Mr. Geronemus continued engaging with the parties to assess their interest in resuming mediation at a later date.

57. Following the exchange of expert reports and the deposition of Plaintiffs' experts, but before Citi and JPMorgan's expert was deposed, the parties met again on July 11 and 12, 2018 for a second and third mediation session with Mr. Geronemus.

58. In preparation for the July 11-12 mediation, Class Counsel prepared and served a comprehensive mediation statement. This mediation statement was based on all of the earlier work Class Counsel had performed, including in discovery, preparing the expert reports, deconstructing Defendants' expert report, and otherwise. Class Counsel sought to provide Citi, JPMorgan and the

mediator with a data-driven analysis seeking to support class certification and link the alleged conduct of Citi and JPMorgan to the manipulation of Euribor.

59. The mediation statement also previewed Plaintiffs' forthcoming motion to certify the Class and described in detail how Class Counsel believed the Class met requirements for certification under Rule 23. In particular, Class Counsel's analysis concluding that Plaintiffs satisfied the requirements for class certification was based on the then-recent decision in *LIBOR VII*. See *In re LIBOR-Based Financial Instruments Antitrust Litigation*, 299 F. Supp. 3d 430 (S.D.N.Y. 2018) ("*LIBOR VII*"). *LIBOR VII* confirmed, among other things, that finding proof of a conspiracy to manipulate LIBOR was a *per se* antitrust violation that was subject to common proof among class members, *id.* at 590, and netting issues did not cause individual questions to predominate over common ones. *Id.* at 594-95. Class Counsel also explained why they believed other aspects of *LIBOR VII* did not apply in this Action.

60. Mr. Bartow again traveled to New York to attend both of these mediation sessions on behalf of CalSTRS. In addition to the information they had at the first mediation session, Class Counsel now had expert reports developed both by Plaintiffs and Settling Defendants, a well-developed discovery record from Citi and JPMorgan, and analysis of recent cases evaluating similar claims. Again, Plaintiffs' experts attended the mediations in July 2018 to provide advice and rebut Citi and JPMorgan's expert analyses during settlement negotiations.

61. Class Counsel believe that all of their work, culminating in their mediation statement, their data-driven approach, and their presentations during the mediations were well-grounded in precedent and evidence. We believe they were significant factors in moving the July 2018 settlement negotiations beyond the impasse that had existed in 2017.

After Another Impasse, the Parties Reached a Settlement Number Just as the Deposition of Defendants' Expert Is About to Start

62. However, despite the progress made in negotiations during the course of the two-day mediation session, by its conclusion on July 12, 2018, the parties were still at an impasse.

63. With no agreement in sight, Class Counsel informed Citi and JPMorgan that they intended to continue with the scheduled deposition of Citi and JPMorgan's expert witness on Tuesday, July 17, 2018 at 9:30 a.m.

64. While a team of attorneys for Class Counsel prepared for the deposition and consulted with Plaintiffs' experts on strategy and weaknesses in Citi's and JPMorgan's expert report, the parties agreed to continue negotiations on their own. Plaintiffs, Citi, and JPMorgan resumed negotiating on Friday, July 13, 2018, and these negotiations continued until 9:30 a.m. on Tuesday, July 17, 2018, when Plaintiffs, Citi, and JPMorgan reached an agreement in principle to settle the case.

65. The Settlement occurred just minutes before the start of the deposition of Citi and JPMorgan's expert.

Class Counsel's Subsequent Efforts to Finalize the Settlement

66. Between late July 2018 and October 4, 2018, Plaintiffs and Settling Defendants sought to overcome very substantial differences concerning the non-financial terms and conditions of the Settlement, the availability, scope and timing of cooperation, access to witnesses, and other matters. Each side extensively argued for their position regarding the disputed terms and conditions. For more than two months, Class Counsel and Settling Defendants' counsel prioritized their respective competing interest to gradually compromise and, finally, resolved their disputes in a creative manner.

67. On October 4, 2018, counsel for Plaintiffs, Citi, and JPMorgan signed a Term Sheet. In addition to paying \$182,500,000 to Plaintiffs and the Class, Citi and JPMorgan agreed to provide

cooperation that may assist with reinstating and prosecuting the claims against Defendants previously dismissed from this Action on personal jurisdiction grounds.

68. On October 5, 2018, the Parties reported to the Court that a settlement had been reached.

69. Following additional weeks of arm's-length negotiations, consisting of teleconferences and the exchanges of draft settlement terms, Class Counsel, on behalf of Plaintiffs, counsel for Citi, and counsel for JPMorgan entered into the Settlement Agreement on November 21, 2018.

70. The Settlement Agreement was the result of arm's length negotiations that took place over many months (and in Citi's case, years) with each of the Settling Defendants. We were personally involved in the settlement negotiations and were well informed about the legal risks, factual uncertainties, potential damages, and other aspects of the strengths and weaknesses of the claims against the Settling Defendants. At no time was there any collusion or bad faith; on the contrary there were months and years of hard bargaining.

71. While Class Counsel's work since February 28, 2018 was integral in achieving the Settlement with Citi and JPMorgan, it built upon Class Counsel's previous work. Class Counsel's earlier efforts laid the evidentiary and strategic foundation and otherwise put in place many of the conditions that enabled Class Counsel to achieve this.

Objections and Requests for Exclusions

72. To date, Class Counsel have received no objections to the Settlement and three potential Settlement Class Members have excluded themselves from the Settlement. The Settlement Administrator will notify the Court of the total number of exclusions in accordance with the schedule set by the Court.

II. ATTORNEYS' FEES AND EXPENSES

73. CalSTRS, which is a very experienced and sophisticated class action litigant, originally negotiated a sliding scale contingent fee agreement with Class Counsel in the event we were able to achieve any settlements in this complex case. Class Counsel have constrained our prior fee request as well as this one to comply with the declining percentage fee which we originally negotiated with CalSTRS. Pursuant to that agreement and after this Court granted Plaintiffs' amended preliminary approval motion (which included recitation of the amount and an explanation of the proposed attorneys' fee), Class Counsel stated in the Class Notice that they would seek attorneys' fees of no more than 19% of the common fund created by the Settlement as well as reimbursement costs and expenses in an amount no more than \$1.3 million. See ECF No. 452-3 at 7.

74. Class Counsel now respectfully request that this Court award attorneys' fees in the amount of 19% of the \$182,500,000 common fund created by the Settlement with JPMorgan and Citi. This is \$34.675 million. Granting this award will effectuate the market negotiated declining percentage fee which CalSTRS originally agreed to with Class Counsel.

75. Second, CalSTRS' general counsel, Brian Bartow Esq., has also reviewed on a monthly basis Class Counsel's time, including for the period from March 1, 2018 until the present. *See* Bartow Decl. ¶ 24. At the same time, Mr. Bartow has been actively involved in analyzing the risks of prosecution and observing the skillfulness of Class Counsel's efforts to prosecute the claims. Based upon all of Mr. Bartow's observations, work, and the specific circumstances that now exist, CalSTRS has determined to affirmatively support Class Counsel's fee request. *Id.* ¶¶ 24-29.

76. Third, the agreement that CalSTRS negotiated with Class Counsel also includes a further constraint on any fee which Class Counsel may obtain. That is, the fee must be the lesser of the declining percentage amount or a multiplier of 3.5 times the lodestar value of Class Counsel's

time and services performed in creating the common fund. Class Counsel believe that the 3.5 multiplier cap reflects the litigation risks that existed when CalSTRS entered its agreement with Class Counsel.

77. Thus, in further support of Class Counsel's Motion for Award of Attorneys' Fees and Reimbursement of Expenses Class Counsel have submitted declarations from the different counsel of their firm's work, attorneys' fees and expenses incurred in prosecuting this Action. *See* Declaration of Geoffrey M. Horn; Declaration of Christopher M. McGrath; Declaration of Todd A. Seaver; Declaration of David E. Kovel; Declaration of Jennifer W. Sprengel; and Declaration of Linda P. Nussbaum, filed herewith. The requested fee of 19% of the Settlement fund (for an award of \$34.675 million) represents substantially less than a 3.5 risk multiplier. Even if the lodestar value of Class Counsel's services is limited to those services performed from March 1, 2018 forward, the risk multiplier would be 2.39. That risk multiplier declines substantially, to 1.55, if the lodestar is based on the services performed from the outset of the case and the risk multiplier is calculated by comparing the total lodestar to the sum of the earlier fee award and this requested fee award. *See* Mem. in Support of Class Counsel's Motion for Award of Attorneys' Fees and Reimbursement of Expenses at Argument, Part I.D. (filed herewith).

78. In the latter respect, each attorneys' declaration includes a schedule that summarizes the hours and lodestar of the firm from inception of this Action to February 28, 2019 and also from March 1, 2018 through February 28, 2019, reflecting the period since Class Counsel's previous motion seeking an award of attorneys' fees in this Action. To the extent a certain Plaintiffs' Counsel did not accrue additional hours or lodestar between March 1, 2018 and February 28, 2019, Class Counsel relies on such Plaintiffs' Counsel's prior declaration submitted in this Action. *See* ECF No. 407 (reflecting the hours and lodestar of Glancy Prongay & Murray LLP). Lodestar calculations are based on the firm's current hourly rates and, as each declaration states, were prepared based upon

daily time records maintained by attorneys and professional support staff at the firm. Lodestar figures do not include charges for expense items.

79. The declarations accompanying this Motion also include each firm's costs and expenses by category for the period of March 1, 2018 through February 28, 2019. Expense items are billed separately, and such charges are not duplicated in the firm's current billing rates. Further, expense items do not contain any general overhead costs and do not contain a surcharge over the amount the firm paid the respective vendor.

80. From the spring of 2012 through February 28, 2019, Lowey's total compensable time for which it seeks an award of attorneys' fees is 53,932.50 hours, which includes 7,878.80 hours spent from March 1, 2018 through February 28, 2019. The lodestar value of these professional services based on current rates is \$30,320,356.25, which includes \$4,415,561.50 of lodestar value for professional services provided from March 1, 2018 through February 28, 2019. Lowey incurred costs and expenses totaling \$515,515.29 from March 1, 2018 through February 28, 2019. *See* Horn Decl.

81. From the initiation of this Action through February 28, 2019, Lovell's total compensable time for which it seeks an award of attorneys' fees is 74,103.18 hours, which includes 19,925.10 hours spent from March 1, 2018 through February 28, 2019. The lodestar value of these professional services is \$31,256,011.80, which includes \$8,490,522.75 of lodestar value for professional services provided from March 1, 2018 through February 28, 2019. Lovell incurred costs and expenses totaling \$490,068.85 from March 1, 2018 through February 28, 2019. *See* McGrath Decl.

82. We understand from the declaration of Todd A. Seaver that Berman Tabacco expended 8,033.05 hours from the initiation of this Action through February 28, 2019 on work assigned by Class Counsel, which includes 2,599.40 hours for professional services provided from

March 1, 2018 through February 28, 2019. The lodestar value of these professional services is \$3,736,555.75, which includes \$1,231,753.00 of lodestar value for professional services provided from March 1, 2018 through February 28, 2019. Berman Tabacco incurred costs and expenses totaling \$69,561.07 from March 1, 2018 through February 28, 2019.

83. We understand from the declaration of David E. Kovel that Kirby McInerney LLP expended 2,151.80 hours from the initiation of this Action through February 28, 2019 on work assigned by Class Counsel, which includes 794.80 hours for professional services provided from March 1, 2018 through February 28, 2019. The lodestar value of these professional services is \$1,140,733.50, which includes \$296,314.75 of lodestar value for professional services provided from March 1, 2018 through February 28, 2019. Kirby McInerney LLP incurred costs and expenses totaling \$221.06 from March 1, 2018 through February 28, 2019.

84. We understand from the declaration of Jennifer W. Sprengel that Cafferty Clobes Meriwether & Sprengel LLP expended 159.80 hours from the initiation of this Action through February 28, 2019 on work assigned by Class Counsel, which includes 22.10 hours for professional services provided from March 1, 2018 through February 28, 2019. The lodestar value of these professional services is \$122,347.50, which includes \$14,202.50 of lodestar value for professional services provided from March 1, 2018 through February 28, 2019. Cafferty Clobes Meriwether & Sprengel LLP incurred costs and expenses totaling \$253.51 from March 1, 2018 through February 28, 2019.

85. We understand from the declaration of Linda P. Nussbaum that Nussbaum Law Group, P.C. expended 467.60 hours from the initiation of this Action through February 28, 2019 on work assigned by Class Counsel, which includes 186.60 hours for professional services provided from March 1, 2018 through February 28, 2019. The lodestar value of these professional services is \$177,139.00, which includes \$68,662.50 of lodestar value for professional services provided from

March 1, 2018 through February 28, 2019. Nussbaum Law Group, P.C. incurred costs and expenses totaling \$30.05 from March 1, 2018 through February 28, 2019.

86. In total, Plaintiffs' Counsel have, as of February 28, 2019, expended 139,185.78 hours, with a lodestar value of \$66,910,561.30 in prosecuting this Action. This total includes the lodestar of certain Plaintiffs' Counsel that worked on this Action and previously filed declarations. *See* ECF No. 407. Of this amount, Plaintiffs' Counsel worked 31,406.80 hours from March 1, 2018 through February 28, 2019, the lodestar value of which is \$14,517,017.00.

87. Based on our experience, we believe that there were substantial risks of non-payment for the services performed by Plaintiffs' Counsel from March 1, 2018 forward (as well as the work performed from the inception of the case). The percentage of the common fund requested for attorneys' fees in this Settlement is, pursuant to the constraints of the retainer agreement we originally entered with CalSTRS, less than the percentage we requested and were awarded by the Court with respect to the prior three settlements.

88. Plaintiffs' Counsel's reimbursable costs and expenses total \$1,074,649.73.

We each declare under penalty of perjury that the foregoing is true and correct.

Dated: March 22, 2019

/s/ Vincent Briganti
Vincent Briganti

/s/ Christopher Lovell
Christopher Lovell