

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

JEFFREY LAYDON, on behalf of himself and all
others similarly situated,

Plaintiff,

- against -

MIZUHO BANK, LTD., THE BANK OF TOKYO-
MITSUBISHI UFJ, LTD., THE SUMITOMO TRUST
AND BANKING CO., LTD., THE NORINCHUKIN
BANK, MITSUBISHI UFJ TRUST AND BANKING
CORPORATION, SUMITOMO MITSUI BANKING
CORPORATION, RESONA BANK, LTD., J.P.
MORGAN CHASE & CO., J.P. MORGAN CHASE
BANK, NATIONAL ASSOCIATION, J.P. MORGAN
SECURITIES PLC, MIZUHO CORPORATE BANK,
LTD., DEUTSCHE BANK AG, MIZUHO TRUST
AND BANKING CO., LTD., THE SHOKO CHUKIN
BANK, LTD., SHINKIN CENTRAL BANK, UBS AG,
UBS SECURITIES JAPAN CO. LTD., THE BANK OF
YOKOHAMA, LTD., SOCIÉTÉ GÉNÉRALE SA, THE
ROYAL BANK OF SCOTLAND GROUP PLC,
ROYAL BANK OF SCOTLAND PLC, RBS
SECURITIES JAPAN LIMITED, BARCLAYS BANK
PLC, CITIBANK, NA, CITIGROUP, INC.,
CITIBANK, JAPAN LTD., CITIGROUP GLOBAL
MARKETS JAPAN, INC., COÖPERATIEVE
CENTRALE RAIFFEISEN-BOERENLEENBANK
B.A., HSBC HOLDINGS PLC, HSBC BANK PLC,
ICAP PLC, R.P. MARTIN HOLDINGS LIMITED
AND JOHN DOE NOS. 1-50,

Defendants.

Docket No. 12-cv-3419 (GBD)

STIPULATION AND AGREEMENT OF SETTLEMENT

THIS STIPULATION AND AGREEMENT OF SETTLEMENT (the “**Settlement Agreement**”) is made and entered into on December 03, 2014. This Settlement Agreement is entered into on behalf of Representative Plaintiff Jeffrey Laydon (as defined in Section 1(m) hereof) and the Settlement Class (as defined in Section 1(c) hereof), by and through

Representative Plaintiff's Lead Counsel (as defined in Section 1(k) hereof), and on behalf of R.P. Martin Holdings Limited and Martin Brokers (UK) Ltd., and their subsidiaries and affiliates (collectively, "R.P. Martin").

WHEREAS, Representative Plaintiff has alleged, among other things, that Defendants (as defined in Section 1(f) hereof), including R.P. Martin, from January 1, 2006 through December 31, 2010, acted unlawfully by, *inter alia*, manipulating, and aiding and abetting the manipulation of, Yen-LIBOR, Euroyen TIBOR, and the prices of Euroyen-Based Derivatives (as defined in Section 1(g) hereof), in violation of the Commodity Exchange Act ("CEA"), 7 U.S.C. § 1 *et seq.*, the Sherman Antitrust Act 15 U.S.C. § 1 *et seq.*, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, and the common law.

WHEREAS, Lead Counsel has conducted an investigation of the facts and the law regarding the Action (as defined in Section 1(a) hereof) and considers the settlement set forth herein to be fair, reasonable, adequate and in the best interests of Representative Plaintiff and the Settlement Class, and has determined that it is in the best interests of the Class to enter into this Settlement Agreement in order to avoid the uncertainties of complex litigation and to assure a benefit to the Settlement Class;

WHEREAS, R.P. Martin has warranted and represented that it does not have the financial wherewithal to further defend itself against the claims asserted by Representative Plaintiff nor to pay any Judgment that may arise against it from this Action;

WHEREAS, arms-length settlement negotiations have taken place between Representative Plaintiff, Lead Counsel and R.P. Martin, and this Settlement Agreement has been reached, subject to the final approval of the Court; and

WHEREAS, for purposes of this Settlement Agreement only, the parties hereto stipulate

to certification of the Settlement Class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure as defined in Section 2 hereof;

NOW, THEREFORE, R.P. Martin and Lead Counsel on behalf of Representative Plaintiff and the Settlement Class agree that the Action and Released Claims (as defined in Section 1(n) hereof) be settled, compromised, and dismissed on the merits and with prejudice as to R.P. Martin and without costs as to Representative Plaintiff, the Settlement Class or R.P. Martin, subject to the approval of the Court, on the following terms and conditions:

1. Terms Used In This Agreement.

The words and terms used in this Settlement Agreement, which are expressly defined below, shall have the meaning ascribed to them.

- (a) **“Action”** means *Laydon v. Mizuho Bank, Ltd. et al.*, No. 12-cv-3419 (S.D.N.Y.).
- (b) **“Any”** means one or more.
- (c) **“Settlement Class”** means all Persons that transacted in Euroyen-Based Derivatives during the period of January 1, 2006 through December 31, 2010 (the “Class Period”). Excluded from the Settlement Class are (i) Defendants and (ii) the Released Parties (as defined in Section 1(o) hereof).
- (d) **“Class Notice”** means notice given to the Settlement Class pursuant to the program and form of notice approved by the Court.
- (e) **“Court”** means the United States District Court for the Southern District of New York.
- (f) **“Defendants”** means the Defendants named in the Action.
- (g) **“Euroyen-Based Derivatives”** mean (a) a purchase or sale of a Euroyen TIBOR futures contract on the Chicago Mercantile Exchange (“CME”); (b) a purchase or sale of a

Euroyen TIBOR futures contract on the Tokyo Financial Exchange, Inc. (“TFX”), Singapore Exchange (“SGX”), or London International Financial Futures and Options Exchange (“LIFFE”) by a U.S. Person, or by a Person from or through a location within the U.S.; (c) a purchase or sale of a Japanese Yen currency futures contract on the CME; (d) a purchase or sale of a Yen-LIBOR and/or Euroyen TIBOR based interest rate swap entered into by a U.S. Person, or by a Person from or through a location within the U.S.; (e) a purchase or sale of a Japanese Yen currency forward agreement entered into by a U.S. Person, or by a Person from or through a location within the U.S.; and/or (f) a purchase or sale of a Yen-LIBOR and/or Euroyen TIBOR based forward rate agreement entered into by a U.S. Person, or by a Person from or through a location within the U.S.

(h) **“U.S. Person”** means a citizen or resident of the United States; a corporation, including a limited liability company, either incorporated or headquartered in the United States; a partnership created or resident in the United States; other entity created and/or formed under the laws of the United States, or any other entity resident in the United States.

(i) **“Effective Date”** means the date when this Settlement Agreement becomes final as set forth in Section 9 of this Settlement Agreement.

(j) **“Information”** means all documents and knowledge of persons within R.P. Martin’s possession, custody or control relating to manipulation of Yen-LIBOR and/or Euroyen TIBOR during the period January 1, 2006 through and including December 31, 2010.

(k) **“Lead Counsel”** means Lowey Dannenberg Cohen & Hart, P.C., acting pursuant to the authority conferred by the Order Appointing Interim Lead Class Counsel (ECF No. 99 in the Action) and subsequent stipulations and orders.

(l) **“Person”** means an individual, corporation, partnership, association,

proprietorship, trust, governmental or quasi-governmental body or political subdivision or any agency or instrumentality thereof, or any other entity or organization.

(m) **“Representative Plaintiff”** means Jeffrey Laydon and any other Person named as a named plaintiff in the Action who was not subsequently withdrawn as a named plaintiff.

(n) **“Released Claims”** means those claims described in Section 4 of this Settlement Agreement.

(o) **“Released Parties”** mean (i) R.P. Martin Holdings Limited and Martin Brokers (UK) Ltd. (collectively “R.P. Martin”); (ii) any present or former limited partners, general partners, joint ventures, partnerships, members, parents, subsidiaries, affiliates and associates (as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934) of R.P. Martin, and (iii) any present or former principals, officers, directors, employees, or agents of R.P. Martin. Released Parties does not include any Defendant other than R.P. Martin in the Action. Released Parties also does not include the following former R.P. Martin employees: James Gilmour, Terry Farr or Lee Aaron. All rights of the Representative Plaintiff and other members of the Settlement Class against Defendants, alleged co-conspirators, or any other person or entity other than the Released Parties are specifically reserved by the Representative Plaintiff and other members of the Settlement Class.

(p) **“Settling Class Members”** means Representative Plaintiff and other members of the Settlement Class who do not timely exclude themselves from the Settlement Class pursuant to FED. R. CIV. P. 23(c).

(q) **“Financial Information”** means the information R.P. Martin agrees to provide to Lead Counsel reflecting R.P. Martin’s financial condition including, but not limited to, accounting records, audited financial statements, and declarations attesting to the financial

condition of R.P. Martin including availability or lack thereof, of any insurance. Financial Information shall be provided to Lead Counsel subject to the confidentiality provisions of Section 10. Financial Information shall be provided to Lead Counsel within five (5) business days from execution of this Settlement Agreement. Following the provision of all Financial Information to Lead Counsel, Lead Counsel shall have thirty (30) days to terminate this Settlement Agreement.

2. Stipulation of Settlement Class.

Solely for the purposes of this Settlement Agreement, and without prejudice to the parties' positions in the event the Settlement Agreement is terminated for any reason pursuant to this Settlement Agreement, and for the exclusive benefit of Settling Class Members, R.P. Martin hereby stipulates to the certification of a class for settlement purposes pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure (*i.e.*, the Settlement Class defined in Section 1(c) hereof), and the parties further agree that the obligation is solely upon the Representative Plaintiff to propose such Settlement Class to the Court and to provide appropriate evidentiary support therefor as part of the parties' efforts to obtain approval of this Settlement Agreement.

3. Cooperation.

(a) R.P. Martin shall provide reasonable cooperation in the Action, including discovery cooperation, requested by Lead Counsel, to benefit the Class. All cooperation shall be coordinated in such a manner so that all unnecessary duplication and expense is avoided. Notwithstanding any other provision of this Agreement, in the event that R.P. Martin believes that Lead Counsel has unreasonably requested cooperation, R.P. Martin and Lead Counsel agree to meet and confer regarding such disagreement and seek resolution from the Court if necessary. If Court resolution is sought, the disputed aspect of cooperation shall be held in abeyance until

such resolution by the Court and such abeyance shall not constitute a breach of this Settlement Agreement. Lead Counsel agrees to use any and all of the information and documents obtained from R.P. Martin only for the purpose of the Action, and agrees to be bound by the terms of the protective orders entered in the Action. R.P. Martin will cooperate as necessary to authenticate and otherwise make usable at trial the documents and information provided pursuant to this Settlement Agreement, electronically-stored information, and audio recordings, including providing access to current and/or former R.P. Martin directors, officers, and employees where possible.

(b) Subject to the terms of this Settlement Agreement and in settlement and release of all claims of the Settlement Class as set forth in this Settlement Agreement, R.P. Martin agrees to:

(i) provide a full account of all facts known to R.P. Martin relating to the allegations set forth in the Action, including those facts alleged in the proposed Third Amended Complaint dated June 17, 2014;

(ii) produce to Lead Counsel all documents responsive to Plaintiff's First Request for Production of Documents, served on June 18, 2014; all audio tapes of voice brokerage communications for the period of January 1, 2006 through December 31, 2010 maintained by R.P. Martin; all transaction data reflecting trades of Euroyen-Based Derivatives for the period of January 1, 2006 through December 31, 2010 maintained by R.P. Martin; all documents relied on and/or created in connection with internal investigations performed by or at the request of R.P. Martin concerning the allegations set forth in this Action; all transcripts, notes, compilations, or recordings of any interviews or depositions of former and/or current R.P. Martin employees concerning the allegations set forth in this Action; and all declarations,

affidavits or other sworn statements of former and/or current R.P. Martin directors, officers, or employees concerning the allegations set forth in this Action; and

(iii) make available to Lead Counsel any individual within its possession, custody or control knowledgeable about manipulation of Yen-LIBOR or Euroyen TIBOR during the period January 1, 2006 through and including December 31, 2010. R.P. Martin will allow Lead Counsel to interview, depose, or take trial or other testimony from any such person as requested by Lead Counsel. R.P. Martin shall also provide all Information in its possession, custody or control about any current or former directors, officers, or employees. If any person refuses to cooperate under this paragraph, R.P. Martin shall use best efforts to make such person available to Lead Counsel.

(c) R.P. Martin agrees that Lead Counsel, upon reasonable notice to R.P. Martin, may supplement the documentation and information requested in Section 3(b) above.

(d) R.P. Martin agrees to waive all privileges, including any attorney-client communication or attorney work product privilege, it has in connection with any documents or information provided to Lead Counsel pursuant to this Settlement Agreement.

(e) The cooperation obligations of R.P. Martin pursuant to this Settlement Agreement are joint and several as to each of the entities that are defined collectively as R.P. Martin. In the event of default or initiation of bankruptcy, administrative, or reorganization proceedings, or their equivalent, by any one or more of the entities that are defined collectively as R.P. Martin, the remaining entities or their agents, successors or assigns, shall jointly and severally continue to be obligated to fulfill the obligations of this Settlement Agreement.

4. Release and Covenant Not To Sue.

(a) Settling Class Members finally and forever release and discharge from, and

covenant not to sue the Released Parties for or with respect to, all manner of claims, demands, rights, actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, judgments, extents, executions, and causes of action in law, admiralty or equity, whether class, derivative, individual, or otherwise in nature, any damages, whenever incurred (including costs, expenses, penalties and attorneys' fees), liabilities of any nature whatsoever, known or unknown, suspected or unsuspected, concealed or hidden, or in law, admiralty or equity, that the Settling Class Members, individually, or as a class, ever had, now has or hereafter can, shall or may have, against the Released Parties (whether or not they make a claim upon or participate in the Settlement Fund) arising from or relating in any way to conduct alleged in the Action against the Released Parties concerning Euroyen-Based Derivatives by Settling Class Members, including, but not limited to, any purported manipulation of Yen-LIBOR or Euroyen TIBOR under the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, any purported conspiracy or collusion between R.P. Martin and any other Defendant including, but not limited to, all claims under Section 1 of the Sherman Antitrust Act 15 U.S.C. § 1 *et seq.*, and any purported violations by the Released Parties of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968, or other federal or state statute or common law, or the law of any foreign jurisdiction.

5. Motion for Preliminary Approval.

(a) Within 30 days following (i) R.P. Martin furnishing Financial Information to Lead Counsel and Lead Counsel not exercising its right to terminate this Settlement Agreement as provided in Section 1(q); (ii) R.P. Martin providing the Cooperation described in Section 3 herein, and (iii) execution of a settlement in this Action wherein any Defendant(s) or potential Defendant(s) agrees to provide at least the sum of \$10,000,000 in cash to the Class, Lead

Counsel shall submit to the Court this Settlement Agreement and shall move the Court for entry of an order requesting, *inter alia*, preliminary approval of the settlement, including certification of the Settlement Class. The motion will include a proposed form of, and method, of dissemination of notice to the Settlement Class, and a proposed order, for settlement purposes only, certifying the Action to proceed as a Class Action.

(b) Lead Counsel shall request that the Court certify solely for settlement purposes the Settlement Class as defined in Section 1(c) hereof, that a decision be made promptly on the motion for preliminary approval of the settlement, or that a hearing on the motion for preliminary approval of the settlement be held within 20 days of the date of such motion.

6. Settlement Notice.

In the event that the Court preliminarily approves the Settlement, Lead Counsel shall, in accordance with Rule 23 of the Federal Rules of Civil Procedure, provide members of the Settlement Class whose identities can be determined after reasonable efforts with notice of the date of the hearing scheduled by the Court to consider the fairness, adequacy and reasonableness of the proposed Settlement. The Notice may be sent solely for this Settlement or combined with notice of other settlements or of any litigation class. Representative Plaintiff and Lead Counsel shall be solely responsible for providing all necessary notice to the Settlement Class in the manner directed by the Court. R.P. Martin shall have no responsibility or duty to identify any member of the Settlement Class and shall share no responsibility or duty, financial or otherwise, for identifying or providing notice.

7. Motion for Final Approval and Entry of Final Judgment.

If the Court approves notice of Settlement to the Class, and if after notice to the Settlement Class, the Court approves this Settlement Agreement, then the parties hereto shall

jointly seek entry of an order and final judgment:

(a) finally certifying solely for settlement purposes the Settlement Class as defined in Section 1(c) hereof;

(b) finding that the Notice constituted the best notice practicable under the circumstances and complied in all respects with the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process;

(c) finally approving this Settlement Agreement and its terms as being a fair, reasonable and adequate settlement of the Settlement Class' claims under Rule 23 of the Federal Rules of Civil Procedure;

(d) directing that, as to the Released Parties, the Action be dismissed with prejudice and without costs as against the Settling Class Members;

(e) determining pursuant to FED. R. CIV. P. 54(b) that there is no just reason for delay and directing that the judgment of dismissal shall be final and appealable;

(f) reserving the Court's continuing and exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of this settlement.

8. Best Efforts to Effectuate This Settlement.

Representative Plaintiff, Lead Counsel, and R.P. Martin agree to recommend approval of this Settlement Agreement by the Court. They agree to undertake their best efforts, including all steps and efforts contemplated by this Settlement Agreement and any other steps and efforts that may reasonably be necessary or appropriate, pursuant to order of the Court or otherwise, to obtain Court approval of this settlement and to carry out the terms of this Settlement Agreement.

Representative Plaintiff, Lead Counsel, and R.P. Martin agree that the terms of this Settlement Agreement satisfy the requirements for injunctive relief and specific performance.

9. Finality.

Unless terminated earlier as provided in this Settlement Agreement, this Settlement Agreement shall become final (the “Effective Date”) upon the occurrence of all of the following three events:

(a) approval in all respects by the Court as required by Rule 23(e) of the Federal Rules of Civil Procedure;

(b) entry by the Court of the Final Judgment of dismissal with prejudice as to the Released Parties against Representative Plaintiff and Settling Class Members who have not timely excluded themselves from the Class; and

(c) expiration of the time for appeal or the time to seek permission to appeal from the Court’s approval of this Settlement Agreement as described in (a) hereof and entry of a Final Judgment as described in (b) hereof or, if appealed, either (i) the Final Judgment has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review, or (ii) such appeal has been withdrawn or dismissed with prejudice.

10. Confidentiality Protection.

Representative Plaintiff, Lead Counsel, and R.P. Martin agree to keep private and confidential the terms of this Settlement Agreement, except for disclosure at the Court’s direction or disclosure *in camera* to the Court, until this document is filed with the Court, provided, however, that nothing in this Section shall prevent R.P. Martin from making any disclosures it deems necessary to comply with any relevant laws, subpoena or other form of

judicial process.

11. Termination.

(a) R.P. Martin shall have the right, but not the obligation, in its sole discretion, to terminate this Settlement Agreement within twenty-one (21) business days' notice to Lead Counsel if any of the following events occur:

(i) the Court denies, in whole or in part, Representative Plaintiff's motion for preliminary approval pursuant to Section 5 or Representative Plaintiff's motion for final approval pursuant to Section 7;

(ii) the Final Judgment and Order is withdrawn, rescinded, reversed, vacated, or modified by the Court or on appeal; or

(iii) the Court declines to enter the Final Judgment.

In the event that this Settlement Agreement is terminated pursuant to sub-sections (a)(i)-(iii) above, then: (i) this Settlement Agreement shall be null and void and of no further effect, and neither R.P. Martin, the Representative Plaintiff, or members of the Settlement Class shall be bound by any of its terms; (ii) any and all releases shall be of no further force and effect; (iii) the parties shall be restored to their respective positions in the Action as of the Execution Date, with all of their respective legal claims and defenses, preserved as they existed on that date; and (iv) any judgment or order entered by the Court in accordance with the terms of this Settlement Agreement shall be treated as vacated, *nunc pro tunc*.

12. Binding Effect.

This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of R.P. Martin, the Released Parties, Representative Plaintiff, and Settling Class Members.

13. Integrated Agreement.

This Settlement Agreement contains the entire, complete, and integrated statement of each and every term and provision agreed to by and among the parties and is not subject to any condition not provided for herein. This Settlement Agreement shall not be modified in any respect except by a writing that is executed by Lead Counsel and R.P. Martin. This Settlement Agreement supersedes all prior or contemporaneous discussions, agreements, and understandings among the Parties.

14. No Conflict Intended.

Any inconsistency between the headings used in this Settlement Agreement and the text of the Sections of this Settlement Agreement shall be resolved in favor of the text.

15. Neither Party is the Drafter.

None of the parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that might cause any provision to be construed against the drafter hereof.

16. Choice of Law.

All terms of this Settlement Agreement shall be governed by and interpreted according to the substantive laws of the State of New York without regard to its choice of law or conflict of laws principles.

17. Execution in Counterparts.

This Settlement Agreement may be executed in counterparts. Facsimile signatures shall be considered as valid signatures as of the date hereof although the original signature pages shall thereafter be appended to this Settlement Agreement.

18. Submission to and Retention of Jurisdiction.

R.P. Martin and Representative Plaintiff, in their individual capacity, hereby irrevocably submit, to the fullest extent permitted by law, to the jurisdiction of the United States District Court for the Southern District of New York for any suit, action, proceeding or dispute between them arising out of or relating to the enforcement of this Settlement Agreement. Solely for purposes of such suit, action or proceeding, to the fullest extent permitted by law, the parties hereto irrevocably waive and agree not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the jurisdiction of such Court, or that such Court is, in any way, an improper venue or an inconvenient forum or that the Court lacked power to approve this Settlement Agreement or enter any of the orders contemplated hereby.

19. Reservation of Rights.

This Settlement Agreement does not settle or compromise any claims by Representative Plaintiff or any member of the Settlement Class or any Settling Class Member asserted in the Action against any Defendant or any potential defendant other than the Released Parties. All rights of any Class Member against any other Person other than the Released Parties are specifically reserved by Representative Plaintiff and Settling Class Members.

20. Notices.

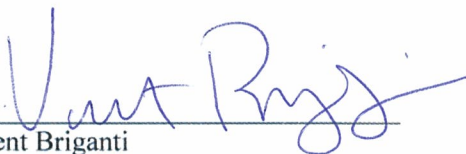
All notices under this Agreement shall be sent to the parties to this Agreement at their address set forth on the signature page hereof, viz, if to Representative Plaintiff, then to Vincent Briganti, Lowey Dannenberg Cohen & Hart, P.C., One North Broadway, Suite 509 White Plains, New York 10601 and if to R.P. Martin, then to Stephen Welch RP Martin Holdings Ltd, Cannon Bridge, 25 Dowgate Hill, London, EC4R2BB or such other address as a party to this Agreement may designate in writing, from time to time, in accordance

with this Agreement.

21. Authority.

In executing this Settlement Agreement, Lead Counsel represent and warrant that they have been fully authorized to execute this Settlement Agreement on behalf of the Representative Plaintiff and the Settlement Class (subject to final approval by the Court after notice to all Class members), and that all actions necessary for the execution of this Settlement Agreement have been taken. R.P. Martin represents and warrants that the undersigned has been fully empowered to execute the Settlement Agreement on behalf of R.P. Martin, and that all actions necessary for the execution of this Settlement Agreement have been taken.

Dated: December 8, 2014

By: 
Vincent Briganti
Geoffrey M. Horn
Peter D. St. Phillip
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Lead Counsel for Plaintiff and the Proposed Class

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