

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Laydon v. Mizuho Bank, Ltd., et al.

No. 12-cv-3419 (GBD)

Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al.

No. 15-cv-5844 (GBD)

**DECLARATION OF BRIAN J. BARTOW IN SUPPORT OF
PLAINTIFFS' MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENTS WITH DEUTSCHE BANK AG, DB GROUP
SERVICES (UK) LTD., JPMORGAN CHASE & CO., JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION, AND J.P. MORGAN SECURITIES PLC AND CLASS
COUNSEL'S MOTION FOR AWARD OF ATTORNEYS' FEES**

I, Brian J. Bartow, pursuant to 28 U.S.C. §1746, hereby declare as follows:

1. I am General Counsel and Chief Compliance Officer of the California State Teachers' Retirement System ("CalSTRS"). I joined CalSTRS in 2008 as Assistant General Counsel and served as Acting General Counsel before being appointed to my current role in 2010.

2. I have personal knowledge of the facts set forth in this Declaration, which I make in support of Plaintiffs' motion for final approval of the class action settlements with Defendants Deutsche Bank AG and DB Group Services (UK) Ltd. (collectively, "Deutsche Bank") and JPMorgan Chase & Co., JPMorgan Chase Bank, National Association, and J.P. Morgan Securities plc (collectively, "JPMorgan," and together with Deutsche Bank, the "Settling Defendants") and Class Counsel's motion for approval of an award of attorneys' fees, now before the Court in *Laydon v. Mizuho Bank, Ltd., et al.*, No. 12-cv-3419 (GBD) ("Laydon") and *Sonterra Capital Master Fund Ltd., et al. v. UBS AG, et al.*, No. 15-cv-5844 (GBD) ("Sonterra").

3. As CalSTRS General Counsel, I am the chief legal advisor to the Teachers' Retirement Board, which sets CalSTRS's policies, oversees CalSTRS investments, and makes rules for the system, in addition to ensuring that members' and beneficiaries' benefits are paid in accordance with law. One of my principal duties in this capacity is to evaluate, recommend, and supervise all complex CalSTRS litigation, including securities and antitrust litigation involving CalSTRS's investment portfolio.

4. **Background:** CalSTRS was established by legislation in 1913 to provide retirement benefits to California's public school educators from prekindergarten through community college. CalSTRS has grown significantly since its inception and, as of July 31, 2017, was the largest educator-only pension fund in the world and the second largest pension fund in the United States, with almost 1 million members and an investment portfolio worth approximately \$213.5 billion.

5. **Retention of Counsel and Negotiated Fee Agreement:** As a fiduciary to its members in the management of their retirement assets, CalSTRS has a strong interest in ensuring that financial markets, including the market for financial instruments priced, benchmarked and/or settled based on Yen-LIBOR and Euroyen TIBOR (“Euroyen-based derivatives”), are free from anticompetitive practices and are not being manipulated. When I learned of the *Laydon* action and alleged wrongdoing in the Euroyen-based derivatives market, I recognized that CalSTRS would have a strong interest in both pursuing damages and in helping to ensure that the Euroyen-based derivatives market is free from anticompetitive and manipulative behavior. My staff and I recommended to the full Board of Directors of CalSTRS that it move to join the litigation as a named plaintiff. The Board approved my recommendation to join the litigation.

6. Based upon a careful review of the experience and qualifications of counsel, CalSTRS decided to retain Lowey Dannenberg, P.C. (“Class Counsel”) and Berman Tabacco (“Berman”) (collectively “Counsel”) in September 2014 to prosecute claims related to the tens of thousands of Euroyen-based derivatives, including those that CalSTRS transacted directly with several Defendants, including, UBS, Citibank, Deutsche Bank, RBS, HSBC, JPMorgan, Société Générale, and Barclays.

7. Consistent with its regular practice in complex cases, CalSTRS negotiated a contingent fee structure at arm’s-length with Counsel prior to their retention.¹ This fee structure employs a graduated fee scale that provides for a 25% fee on the first \$100 million recovered, 23% on the next \$200 million recovered, and lower fee percentages on subsequent amounts. It also caps the maximum amount of fees requested by Class Counsel at 3.5 times the value of aggregate lodestar reasonably incurred by all plaintiffs’ counsel in the case. While these terms are similar to fee agreements CalSTRS has negotiated in other engagements with outside counsel, the fee agreement

¹ Should the Court request, CalSTRS is prepared to submit its fee agreement with Counsel for *in camera* review.

here was carefully calibrated to capture the unique challenges and substantial risks associated with this specific case. I and representatives of Counsel extensively discussed the posture of the litigation, its risk profile, CalSTRS' approach to negotiating legal fees, the historical levels of fees to which CalSTRS has agreed to, and fees for comparable legal services prior to arriving at the negotiated fee structure.

8. **CalSTRS's Oversight of the Litigation:** Since September 2014 when CalSTRS joined the litigation, CalSTRS has actively overseen the work of Counsel and has participated in all aspects of litigation, beginning with Plaintiffs' reply brief in support of leave of amend Laydon's Second Amended Complaint ("SAC") - the first time CalSTRS sought to join the Laydon action. See *Laydon* ECF Nos. 387, 388-1 (including allegations regarding CalSTRS' Euroyen-based derivatives transactions).

9. Since then, I have reviewed the significant pleadings in *Laydon* and *Sonterra*, where CalSTRS is now a lead plaintiff, and have had numerous telephonic and face to face discussions and email communications with Counsel regarding the allegations made and arguments raised in opposition to Defendants' several motions to dismiss.

10. I have received updates regarding the status of the litigation from Counsel on a regular basis and conferred with Counsel, both in person and telephonically, prior to settlement discussions and important court hearings. I previously participated in mediated settlement negotiations that led to Plaintiffs' settlement with HSBC in these actions.

11. I played a direct role in Plaintiffs' settlement negotiations with Deutsche Bank, participating in extensive discussions with Counsel regarding the strengths and weaknesses of Plaintiffs' claims, potential defenses and litigation strategy relevant to a potential settlement with Deutsche Bank. I traveled from California to attend Plaintiffs' mediation with Deutsche Bank in New York on January 9, 2017, which was supervised by the Honorable Daniel Weinstein. At the

outset of the mediation, on behalf of CalSTRS and the Class I presented a statement to my counterpart at Deutsche Bank, the mediator, and all counsel regarding CalSTRS' view of the Defendants' alleged conduct, the litigation and the importance CalSTRS places on the *Laydon* and *Sonterra* actions. I remained throughout the day-long mediation with Deutsche Bank and participated with Counsel in the settlement negotiation strategy, and ultimately authorized acceptance of the mediator's proposal of settlement.

12. CalSTRS' legal and investment staff were also involved in this process and, at my direction, worked closely with Class Counsel to identify its Euroyen-based derivatives transactions, analyzing account statements and other transactions records covered by the Class Period in *Laydon* and *Sonterra*. In addition, CalSTRS Deputy Chief Investment Officer offered sworn testimony in the form of a declaration to provide factual support for the claims being advanced on behalf of the Class.

13. **CalSTRS Supports the Proposed Settlements and Fee Request:** Throughout this litigation, including in preparation for the Deutsche Bank mediation and in subsequent meetings, I have had numerous discussions with Counsel regarding the work of its experts and the preliminary damages model constructed in this case. Based on my experience overseeing complex securities and antitrust class action litigation for CalSTRS, I understand that constructing a rigorous, data-driven damages model is a challenging process that requires extensive expert work and analysis. I also recognize the risks posed by litigating complex class action cases, like this one, where Plaintiffs must ultimately prove damages on a class-wide basis, through class certification and trial.

14. Given this experience, I consider the partial settlements obtained here to be an important and valuable step for CalSTRS and the Class. I expect the monetary compensation received in connection with Deutsche Bank's and JPMorgan's settlements will provide an immediate measure of compensation for Class member's claims. I recognize that the additional non-monetary

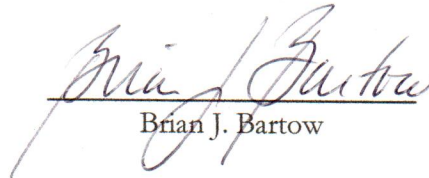
consideration, most importantly the cooperation provided by Deutsche Bank and JPMorgan, combined with the cooperation already provided through R.P. Martin, Citibank and HSBC settlements, has significantly aided, and will continue to aid, in the prosecution of the actions.

15. In light of these factors, CalSTRS supports Plaintiffs' motion for final approval of these settlements.

16. I have also reviewed Class Counsel's motion for an award of attorneys' fees. The attorneys' fees requested exactly match the fee schedule that is part of the retainer agreement that CalSTRS negotiated with Counsel before becoming involved in the litigation. Thus, CalSTRS believes that such an award of attorneys' fees is fair and reasonable to the Class.

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

Executed on October 30, 2017


Brian J. Bartow