

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

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

Plaintiff,

- against -

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, J.P. MORGAN CHASE & CO.,
J.P. MORGAN CHASE BANK, NATIONAL
ASSOCIATION, J.P. MORGAN SECURITIES PLC,
MIZUHO CORPORATE BANK, LTD., DEUTSCHE BANK
AG, THE SHOKO CHUKIN BANK, LTD., SHINKIN
CENTRAL BANK, UBS AG, UBS SECURITIES JAPAN CO.
LTD., THE BANK OF YOKOHAMA, LTD., SOCIETE
GENERALE SA, THE ROYAL BANK OF SCOTLAND
GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC,
RBS SECURITIES JAPAN LIMITED, BARCLAYS BANK
PLC, CITIBANK, NA, CITIGROUP, INC., CITIBANK,
JAPAN LTD., CITIGROUP GLOBAL MARKETS JAPAN,
INC., COOPERATIEVE CENTRALE RAIFFEISEN-
BOERENLEENBANK B.A., HSBC HOLDINGS PLC, HSBC
BANK PLC, LLOYDS BANKING GROUP PLC, ICAP
EUROPE LIMITED, R.P. MARTIN HOLDINGS LIMITED,
MARTIN BROKERS (UK) LTD., TULLETT PREBON PLC,
AND JOHN DOE NOS. 1-50,

Defendants.

Docket No. 12-cv-3419
(GBD)

FUND LIQUIDATION HOLDINGS LLC as assignee and successor-in-interest to Sonterra Capital Master Fund, Ltd., HAYMAN CAPITAL MASTER FUND, L.P., JAPAN MACRO OPPORTUNITIES MASTER FUND, L.P., and CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM, on behalf of themselves and all others similarly situated,

Docket No. 15-cv-5844
(GBD)

Plaintiffs,

- against -

UBS AG, UBS SECURITIES JAPAN CO. LTD., SOCIÉTÉ GÉNÉRALE S.A., NATWEST GROUP PLC, NATWEST MARKETS PLC, NATWEST MARKETS SECURITIES JAPAN LTD, NATWEST MARKETS SECURITIES, INC., BARCLAYS BANK PLC, BARCLAYS PLC, COÖPERATIEVE RABOBANK U.A., LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, NEX INTERNATIONAL LIMITED, ICAP EUROPE LIMITED, TP ICAP PLC, BANK OF AMERICA CORPORATION, BANK OF AMERICA, N.A., MERRILL LYNCH INTERNATIONAL, AND JOHN DOE NOS. 1-50,

Defendants.

**DECLARATION OF STEVEN STRAUB IN SUPPORT OF PLAINTIFFS' MOTION
FOR ENTRY OF AN ORDER APPROVING DISTRIBUTION OF THE NET
SETTLEMENT FUNDS TO AUTHORIZED CLAIMANTS**

Pursuant to 28 U.S.C. § 1746, I, Steven Straub, declare:

1. I am the Claimant Operations Director of A.B. Data, Ltd.'s Class Action Administration Company ("A.B. Data"), which has its corporate office in Milwaukee, Wisconsin. I am over 21 years of age and am not a party to these actions. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and would testify competently thereto.

2. Pursuant to the Preliminary Approval Orders dated June 22, 2016 (ECF No. 659), August 3, 2017 (ECF No. 782), September 14, 2017 (ECF No. 796), March 8, 2018 (ECF No. 854), and September 11, 2019 (ECF No. 970) (collectively, the “Preliminary Approval Orders”), the Court authorized A.B. Data to act as the Settlement Administrator in connection with the Settlements of the above-captioned actions (the “Actions”).¹

3. Following the dissemination of the Class Notices and a fairness hearing on the respective Settlements, the Court entered Orders finally approving the respective Settlements and the Plan of Allocation on November 10, 2016 (ECF No. 720), December 7, 2017 (ECF No. 838), July 12, 2018 (ECF No. 891), and December 19, 2019 (ECF No. 1014).

4. In accordance with the Settlements and Plan of Allocation, A.B. Data has now completed processing all Proofs of Claim (“Claims”) received and submits its administrative determinations accepting and rejecting the Claims and proposed procedures for distributing the Net Settlement Funds.²

5. This Declaration describes the following actions that A.B. Data took in administering the Settlements: (i) disseminating the Class Notices and Claim form (collectively, the “Notice Packet”) to potential Class Members; (ii) processing the Claims received; (iii) determining Claim eligibility, identifying Claim- and transaction-level deficiencies in the Claims, and notifying Claimants of any deficiencies; (iv) selecting Claims for further auditing; (v) issuing final disposition letters; (vi) performing a quality assurance review; (vii) processing of Late But Otherwise Eligible Claims; and (viii) proposing a procedure to distribute the Net Settlement Funds.

¹ Unless noted, ECF citations are to the docket in *Laydon*.

² “Net Settlement Funds” means the Settlement Funds provided by the eight settlements included in Plaintiffs’ motion for distribution plus any accrued interest, less deductions for tax payments, claims administration and escrow costs, and any Court-approved awards. As of January 31, 2023, the Net Settlement Funds total \$230.6 million.

I. DISSEMINATION OF NOTICES TO POTENTIAL CLASS MEMBERS

6. As more fully described in the Affidavits of Eric Miller on Behalf of A.B. Data, Ltd. dated September 27, 2016 (ECF No. 684), October 30, 2017 (ECF No. 819), June 1, 2018 (ECF No. 873), and November 6, 2019 (ECF No. 994), and in accordance with the Preliminary Approval Orders, A.B. Data distributed Notice Packets to potential Class Members and caused the Publication Notices to be published in the *Financial Times*, *The Wall Street Journal*, *Investor's Business Daily* and released via *PR Newswire*, among other financial news outlets and websites.

7. A.B. Data established, and continues to maintain, a case-specific website (www.EuroyenSettlement.com) (the "Settlement Website"), a case-specific email address (info@EuroyenSettlement.com), and a toll-free telephone helpline (1-866-217-4453). The Settlement Website provides access to important documents relevant to the Settlements, and the email address and telephone helpline enable Class Members to obtain information about the Settlements.

II. A.B. DATA'S PROCESSING OF CLAIMS RECEIVED

8. Under the terms of the Preliminary Approval Orders, and as set forth in the Class Notices and Plan of Allocation, each Class Member who wished to receive a distribution from the Net Settlement Funds was required to submit a Claim to A.B. Data by no later than March 3, 2020.³ Class Members seeking to share in the Net Settlement Funds were directed to mail their

³ The deadline for filing Claims for the Citi, HSBC, and R.P. Martin Settlements was January 24, 2017. The deadline for filing Claims for the Deutsche Bank and JPMorgan Settlements was February 20, 2018. The deadline for filing Claims for the BTMU and MUTB Settlements was September 25, 2018. The deadline for filing Claims for the BOY, Shinkin, Shoko Chukin, Sumitomo, and Resona Settlement, and the Mizuho, Norinchukin, and SMBC Settlement was March 3, 2020. All Claims submitted by March 3, 2020 were considered timely as to all Settlements.

completed Claim form to a dedicated P.O. Box or to coordinate with A.B. to facilitate electronic claims filing. Through October 1, 2022, A.B. Data received 30,603 Claims.

9. In preparation for receiving and processing Claims, A.B. Data: (i) conferred with Class Counsel to define the project guidelines for processing Claims; (ii) created a unique database to store Claim details, images of Claims, and supporting documentation; (iii) trained staff in the specifics of the project; (iv) formulated a system to properly respond to telephone and email inquiries; (v) developed various computer programs and screens for entry of Class Members' transactional and identifying information; (vi) developed a proprietary calculation module that calculates each Authorized Claimant's share of the Net Settlement Funds pursuant to the Plan of Allocation; and (vii) collaborated at least weekly with subject matter experts from Williamsburg Expert Financial Analysis, LLC ("WEFA") to both verify the implementation of the Plan of Allocation and confirm the accuracy of the output of the Plan of Allocation on Claims filed.

A. Processing of Paper Claims Received

10. Of the 30,603 Claims A.B. Data received, 1,005 paper Claims were mailed. Once the paper Claims had been processed, they were scanned into a database together with all submitted documentation. Each paper Claim was then assigned a unique Claim number.

11. Once scanned, the information from each Claim form (including the Claimant's name, address, and account number/information from the supporting documentation) and the Claimant's transactions were entered into a database developed by A.B. Data to process Claims submitted for the Settlements.

12. A.B. Data reviewed each paper Claim added to the database to verify that all required information was provided. If required information was missing, A.B. Data flagged the

deficiency for purposes of providing notice to the Claimants and an opportunity to cure the deficiency (as further discussed below). The documentation provided by the Claimant was also reviewed for authenticity and used to verify the Claimant's identity.

B. Processing of Bulk Filer Claims

13. The remaining 29,598 Claims were submitted electronically to A.B. Data, primarily by bulk filers. Bulk filers are financial institutions, claims aggregators and law firms that submit Claims on behalf of their customers and clients ("Bulk Filer Claims"). Bulk Filer Claims were either submitted on a flash drive by mail, via email, or through a secure FTP site. A.B. Data sent bulk filers a confirmation email upon receipt of their Claims.

14. A.B. Data's Electronic Claim Filing Team ("ECF Team") coordinates and supervises the receipt and handling of all Bulk Filer Claims. In this case, the ECF Team analyzed each electronic file to ensure that the formatting was consistent with A.B. Data's requirements and to identify any data issues or inconsistencies within the file that may require issuing a deficiency notice to the Claimant (as further discussed below). If the electronic file format was acceptable, it was then loaded to A.B. Data's database.

C. Authorized Claims

15. A total of 30,411 Claims were submitted on or before the Claim deadline of March 3, 2020. Of those Claims, 6,847 Claims were determined by A.B. Data to have eligible Euroyen-Based Derivatives transactions. When the Plan of Allocation was applied to these 6,847 Claims, a total of 3,382 Claims calculated to a Negative Net Artificiality (*i.e.*, Net Artificiality Paid) and are therefore eligible for payment pursuant to the Plan of Allocation (the "Timely Eligible Claims"). These Claims are listed in Exhibit A. The remaining 3,465 Claims did not calculate to a Net Artificially Paid and are therefore not eligible for payment under the Plan of

Allocation. These Claims are listed in Exhibit B (“Timely Eligible Claims With No Net Artificiality Paid”).⁴

16. A total of 192 Claims were submitted after the Claim submission deadline of March 3, 2020 (“Late Claims”). Of those, 128 had eligible Euroyen-Based Derivatives transactions. Of these otherwise eligible Late Claims, forty-six Late Claims calculated to a Net Artificiality Paid and are recommended for payment because the late submission did not delay the distribution of the Net Settlement Funds (“Late But Otherwise Eligible Claims”). Eighty-two Late Claims did not calculate to a Net Artificiality Paid (“Late Claims With No Net Artificiality Paid”) and are therefore not eligible for payment under the Plan of Allocation. The Late But Otherwise Eligible Claims are listed in Exhibit C and the Late Claims With No Net Artificiality Paid are listed in Exhibit D. Sixty-four Late Claims were ineligible for other reasons (*see* §III.A.) and are listed in Exhibit E (“Rejected Claims”).

17. Accordingly, there are a total of 6,975 Claims with eligible Euroyen-Based Derivatives transactions that A.B. Data recommends that the Court accept. Of these, 3,428 Claims calculate to a Net Artificiality Paid (*see* Exhibits A and C) and are eligible to receive a *pro rata* payment pursuant to the Plan of Allocation and the proposed distribution procedures below (*see* section VII) (the “Authorized Claims”). The remaining 3,547 Claims are ineligible to receive payment because the transactions on the Claims do not calculate to a Net Artificiality Paid under the Plan of Allocation (*see* Exhibits B and D). A.B. Data recommends that the Court reject the remaining 23,628 Claims, which are listed on Exhibit E (the “Rejected Claims”). These Rejected Claims include Claims that: did not have eligible transactions or failed to provide

⁴ For privacy reasons, the exhibits attached hereto reflecting Claimants’ status provide only the Claimant’s Claim number and (if applicable) the Reason for Ineligibility. The exhibits do not disclose names, addresses, or social security or other taxpayer identification numbers, or other financial information.

the acceptable documentation (16,824); have been withdrawn (467); have been replaced with a new submission (5,382); or were submitted in duplicate (955).

III. IDENTIFICATION OF ELIGIBLE CLAIMS AND TRANSACTIONS

18. A.B. Data processed the Claims to determine whether submissions satisfied the Claim- and transaction-level requirements. If a Claim did not satisfy one or more of the eligibility criteria, A.B. Data assigned internal codes (“flags”) to the Claim and/or transactions within a Claim that would be used to notify the Claimant of the deficiency or ineligibility conditions.

A. Claim-Level Eligibility Criteria

19. Claims were required to meet the following criteria to be eligible to receive a payment from the Net Settlement Funds.

20. Eligible Transaction During the Class Period: A Claim must include at least one eligible Euroyen-Based Derivatives transaction during the Class Period to be considered for payment under the Plan of Allocation. If a Claim was submitted without an eligible Euroyen-Based Derivatives transaction, A.B. Data notified the Claimant that this deficiency could be cured by providing transaction data containing Euroyen-Based Derivatives. If a Claimant failed to provide any eligible transactions, the Claim was rejected. A total of 16,787 Claims were rejected for this reason.

21. Documentation Provided to Support the Claim: A Claimant must also submit documentation, including, among other things, broker confirmations, monthly brokerage statements, or letters signed by their broker on brokerage letterhead, supporting the transaction data provided in the Claim. Claims that did not include any documentation to support the information provided or included inadequate documentation were marked as deficient. To resolve this deficiency, A.B. Data asked the Claimant to provide acceptable documentation to

support the transactions in the Claim. If the Claimant did not provide any information satisfying this requirement, the Claim was rejected in its entirety. Twenty-three (23) Claims were rejected for this reason.

22. Transaction(s) Has a United States Connection: To be eligible, the Euroyen-Based Derivatives transactions in each Claim had to be entered into by a U.S. Person, or by a Person from or through a location within the U.S. If the Claimant did not provide information demonstrating this requirement, A.B. Data issued a deficiency notice requesting information about the Persons involved in the eligible transactions and where the transactions were executed. If the Claimant did not provide information satisfying this requirement, the Claim was rejected in its entirety. One (1) Claim was rejected for this reason.

23. Withdrawn, Replaced, or Duplicate Claims: After submitting their Claims, 467 Claimants withdrew their Claims. Replacement transaction data and supporting information was submitted for 5,382 Claims. Upon receiving the replacement Claim, A.B. Data marked the original submission as deficient and considered the replacement Claim as the operative submission. Finally, a Claimant may not submit more than one Claim involving the same Euroyen-Based Derivatives transactions. A.B. Data identified a total of 955 duplicate Claims. When this occurred, the duplicate Claim was marked as ineligible.

B. Transaction-Level Eligibility Criteria

24. A.B. Data separately determined whether each transaction submitted as part of the Claims were individually eligible under the Plan of Allocation. Certain flags were used by A.B. Data to identify transaction-level deficiencies or ineligibility conditions. These flags would indicate to A.B. Data that the specific transactions could not be included in the artificiality calculation unless the deficiency was cured. Transaction-level deficiencies included:

- (a) The transaction was not a Euroyen-Based Derivative;

- (b) The transaction occurred outside of the Class Period;
- (c) The transaction reflected internal transfers within the Claimant's organization;
- (d) The maturity date preceded the transaction date of the Euroyen-Based Derivatives transaction;
- (e) The transaction reflected a modification of a transaction that was already taken into account in the artificiality calculation; and/or
- (f) Missing transaction data.

C. Issuance of Deficiency Letters

25. For Claimants whose Claims were incomplete or had one or more deficiencies, A.B. Data notified Claimants via email or mail (the "Deficiency Letter") of the applicable deficiency or ineligibility and provided instructions on how to cure the relevant deficiency.

26. The Deficiency Letter:

- (a) Identified one or more of the defects summarized in sections III.A. (claim-level deficiencies) and III.B. (transaction-level deficiencies) above that were present in the Claim and described what, if anything, was necessary to cure the defect(s) in the Claim;
- (b) Stated that any claim-level deficiencies that were not corrected within the time period specified would result in the rejection of the Claim in its entirety, and any transaction-level deficiencies that were not corrected within the time period specified would result in the rejection of the transaction from the artificiality calculation under the Plan of Allocation;
- (c) Advised Claimants of the right to contest the rejection of their Claims or certain transaction(s) in their Claims by requesting Court review of A.B. Data's administrative determination of deficiencies or ineligibility; and

(d) Provided instructions on how to submit corrections (if applicable), or contest the rejection, and specified what supporting documentation should be provided.

27. For each Claim that included one or more underlying transaction(s) flagged as deficient or ineligible, as discussed in III.B., the Deficiency Letter informed the Claimant of each defect on a transaction-by-transaction basis.

28. When requested, A.B. Data also provided support to Claimants who needed technical assistance in resolving deficiencies.

29. Claimants' responses to the Deficiency Letters were loaded into A.B. Data's database and associated with the corresponding Claims. The responses were then evaluated by A.B. Data's team of processors. If a Claimant's response corrected the defect(s), A.B. Data updated the database to reflect the changes in the status of the Claim or transaction. If claim-level deficiencies were not cured, such Claims were rejected and included in Exhibit E (Rejected Claims). If transaction-level deficiencies were not cured, such transactions were excluded from the calculation of artificiality under the Plan of Allocation.

30. No Claimant has disagreed with A.B. Data's deficiency determinations, nor has any Claimant requested Court review of A.B. Data's deficiency determination.

IV. TRANSACTION-LEVEL AND DOCUMENTATION AUDITS

A. Transaction-Level Audit of Designated Claims and Identification of Deficiencies in Transactions Submitted

31. The Claim form required all Claimants to submit supporting documentation for their Euroyen-Based Derivatives transactions. The Electronic Claims Filing Instructions provided that following receipt of a Claim, the Claims Administrator may require a Claimant to submit additional trade confirmation data or other information that underlies the eligible transactions.

32. To ensure the integrity of the claims process, A.B. Data performed various targeted audits, including of the Electronic Claims. A.B. Data used criteria such as the calculated Net Artificiality Paid to identify a selection of Electronic Claim Filers from which A.B. Data requested confirmation slips or other transaction-specific supporting documentation. These targeted audits helped to ensure that transaction data supplied by Claimants did not contain inaccurate information. The Claims selected to submit their underlying confirmations for audit included:

(a) Large Claims: A.B. Data requested supporting documentation from the Claimants that submitted Claims collectively accounting for the top 85% of Net Artificiality Paid under the Plan of Allocation. This criterion was tested on several different dates to account for revisions to Claims received or later-filed Claims;

(b) Unusually Large Individual and/or Questionable Claims: A.B. Data requested supporting documentation from all Claimants that had been previously identified as questionable claim filers (*see* ¶ 45 below) and from other individual Claimants, whose Claims had an unusually large notional value based on A.B. Data's or WEFA's review; and

(c) Bulk Filer Claims: Consistent with A.B. Data's regular practice, A.B. Data selected certain Bulk Filer Claims to be included in the audit. Based on the volume of transaction data they submit, Claims submitted by bulk filers require additional attention to ensure all of the filing requirements have been met.

33. A.B. Data sent an email (or letter) to each auditee (the "Audit Letter"), asking that these Claimants provide the requested trade confirmation data in the format specified in the Electronic Filing Guidelines for each transaction selected for audit. Each Claimant was advised

that failing to timely respond and provide the requested trade confirmation data within a specified time period would result in the Claim being rejected in its entirety.

34. In total, A.B. Data audited forty-six Claims (the “Audited Claims”).

35. Forty-five Claimants responded to the Audit Letter. Upon receiving data from the Audited Claims, the ECF Team evaluated the eligibility of each transaction. A.B. Data evaluated all transaction-level data provided for the Audited Claims.

36. As a result of the audit, thirty-three of the Audited Claims passed with no rejections or adjustments. These Claims are included in either Exhibit A (Timely Eligible Claims) or Exhibit C (Late But Otherwise Eligible Claims).

37. Thirteen of the Audited Claims were fully rejected. This includes (a) the one Claim for which no response was submitted at all and (b) twelve Claims where the Claimants were unable to provide requested documentation concerning the transactions in the Claims. These Claims are included in Exhibit E as rejected in full.

B. Claims Selected for Documentation Audit

38. As part of A.B. Data’s auditing of Claims, A.B. Data identified and required certain Claimants to submit a sampling of documentation to support their electronic data. This audit allowed A.B. Data to further review the eligibility of the transactions and confirm compliance with the Settlement Class definition.

39. A.B. Data selected the 20 largest claims based on their Net Artificiality Paid and requested that they provide statements for a sampling of identified transactions. The statements were required to be from a broker/custodian and must have contained the appropriate identifying information for the transaction, such as beneficial owner name, account number, date of transaction, maturity date and notional value, among other things. No Claims were deemed ineligible after this audit.

V. **FINAL DISPOSITION LETTERS**

40. After completion of the deficiency and audit processes outlined above, A.B. Data sent a letter to all Claimants that provided a final disposition of the Claim (the “Final Disposition Letters”). If the Claim or certain transactions were rejected, the reason for the rejection and the previous deficiency letter were referenced. The Final Disposition Letters also provided the Net Artificiality calculation (if applicable) for each Claimant if the Claim was accepted.

41. The Final Disposition Letters also advised Claimants of their right to request additional review of their Claim if they objected to either A.B. Data’s administrative determination to reject their Claim in whole or in part or the calculation of their artificiality under the Plan of Allocation. The letters explained that any Claimant desiring to object to A.B. Data’s administrative determination was required to submit a written statement to A.B. Data requesting additional review of their Claim and setting forth the basis for the objection. A sample Final Disposition Letter is attached hereto as Exhibit F.

42. A.B. Data received one objection from HAP Financial (SGX Trader) Pte Ltd (the “Objecting Claimant”) to A.B. Data’s determination of its Claim. A copy of the Statement of Objections (the “Statement”) and related materials and correspondence are attached as Exhibit G. The Objecting Claimant asserted that the calculation of its Net Artificiality varies from the Plan of Allocation.

43. A.B. Data consulted with its experts from WEFA, Vladimir Atanasov, Ph.D. and John J. Merrick, Jr., Ph.D, and together we concluded that the Objecting Claimant’s objection is without merit. *See* Joint Declaration of Vladimir Atanasov, Ph.D. and John J. Merrick, Jr., Ph.D. in Support of Plaintiffs’ Motion for Entry of an Order Approving Distribution of the Net Settlement Funds to Authorized Claimants. WEFA analyzed the Objecting Claimant’s transaction data using two alternative calculation methodologies and confirmed the accuracy of

the Net Artificiality calculation. A.B. Data then provided the analyses to the Objecting Claimant. *See* Ex. G-16. The Objecting Claimant did not provide any documentation or other supporting data for its assertion that A.B. Data and WEFA incorrectly applied the Plan of Allocation to its Claim, either before or after A.B. Data provided WEFA's analyses. *See generally* Ex. G.

VI. QUALITY ASSURANCE REVIEW

44. Throughout the administration process, A.B. Data's Quality Assurance Department verified that Claims were properly processed by checking that information was entered correctly into the database, deficiency and/or rejection flags were assigned accurately, and deficiency and/or rejection notifications were sent appropriately. In effect, the Quality Assurance Department operated as an independent auditor to ensure that the settlement administration occurred according to the Plan of Allocation and commonly accepted practices. A.B. Data's supervisors and managers in the Quality Assurance Department performed additional Quality Assurance Reviews ("QARs") to assess the correctness and completeness of all Claims prior to preparing this Declaration and all of A.B. Data's final documents in support of distribution of the Net Settlement Funds. After completing its QARs, A.B. Data notified Claimants (if applicable) of any results that impacted their Claims. As part of the QARs, A.B. Data:

- (a) Verified that all Claims had signatures of authorized individuals;
- (b) Verified that true duplicate Claims were identified, verified, and rejected;
- (c) Verified that persons and entities excluded from the Class or particular Settlements did not file Claims and, if such persons or entities did file Claims, that their Claims were rejected or properly excluded from the *pro rata* calculation of the applicable Net Settlement Fund(s);

- (d) Performed a final Quality Assurance audit of Claims and all supporting documentation to ensure completeness of Claims;
- (e) Performed a review of deficient or invalid Claims;
- (f) Determined that all Claimants requiring deficiency and/or rejection notification were sent such notification;
- (g) Performed additional review of Claims with a high *pro rata* share of the Net Settlement Funds;
- (h) Audited Claims whose calculation determined that they had a Net Artificiality Paid equal to zero;
- (i) Performed other auditing based on Claims completion requirements and the approved calculation specifications based on the Plan of Allocation; and
- (j) Re-tested the accuracy of the program that calculated the allocation from the Net Settlement Funds.

45. As part of its due diligence, A.B. Data also, among other things, cross-checked all Claims filed in the Settlements against its database of known questionable filers (the “Questionable Claim Filer Database”), which contains names, addresses, and aliases of individuals or entities that have been investigated by government agencies for questionable claim filing. A.B. Data updates this Questionable Claim Filer Database on a regular basis. In addition, A.B. Data’s claim processors are trained to identify any potentially inauthentic documentation when processing claims, including claims submitted by Claimants not previously captured in the Questionable Claim Filer Database. Processors are instructed to flag any questionable claims and escalate them to management for review. A.B. Data issued an Audit Letter to four Questionable

Claim Filers that submitted a Claim. A.B. Data did not receive the requested information from the Questionable Claim Filers and has rejected these Claims.

VII. PROCESSING OF LATE BUT OTHERWISE ELIGIBLE CLAIMS

46. Of the Claims, 192 were received or postmarked after the March 3, 2020 Claim submission deadline established by the Court. A.B. Data processed all late Claims received through October 1, 2022, and 46 have been found to be otherwise eligible in whole or in part (the “Late But Otherwise Eligible Claims”). A.B. Data has not rejected any Claim received through October 1, 2022 solely based on its late submission, and A.B. Data believes no delay has resulted from the provisional acceptance of these Late But Otherwise Eligible Claims because the processing of timely received Claims was still ongoing. Thus, to the extent these Claims are eligible, but for the fact that they were late, they are recommended for payment.

47. However, there must be a final cut-off date after which no more Claims will be accepted so that there may be a proportional allocation of the Net Settlement Funds and the distribution may be accomplished. Acceptance of additional Claims or responses to notices of deficiency received during the finalization of the administration and the preparation of this application would necessarily require a delay in the distribution. Accordingly, A.B. Data also respectfully requests that this Court order that no Claim received after October 1, 2022 be eligible for payment from the Net Settlement Funds for these Settlements for any reason whatsoever and that no further adjustments or corrections to Claims submitted after October 1, 2022 may be accepted. To the extent there are subsequent settlements, any Claims filed in compliance with the applicable claims filing deadline of those settlements may only participate in those subsequent settlements.

VIII. PROPOSED PROCEDURE TO DISTRIBUTE THE NET SETTLEMENT FUNDS

48. Should the Court approve A.B. Data's determinations concerning the accepted and rejected Claims, A.B. Data recommends the following procedure to distribute the Net Settlement Funds (the "Distribution Procedure"):

(a) A.B. Data will conduct an initial distribution (the "Initial Distribution") of the Net Settlement Funds, which I understand is estimated at \$230,597,865 as of January 31, 2023. A portion of the Net Settlement Funds will be reserved to address any tax liability and claims administration-related contingencies that may arise. The Initial Distribution will be determined as follows:

(1) A.B. Data will calculate award amounts for all Authorized Claimants as if the entire Net Settlement Funds were to be distributed now. In accordance with the Plan of Allocation, A.B. Data will calculate each Authorized Claimant's *pro rata* share of the Net Settlement Funds (the "Distribution Amount"). The Distribution Amount is equal to the Authorized Claimant's Net Artificiality Paid divided by the total Net Artificiality Paid of all Authorized Claimants (the "*pro rata* fraction") multiplied by the amount of the Net Settlement Funds.

(2) A.B. Data recommends, pursuant to the terms of the Plan of Allocation, that any Authorized Claimant whose Distribution Amount is greater than \$0 and less than \$100.00 shall receive a minimum payment of \$100.00 (the "Minimum Payment") from these Settlements. This Minimum Payment was determined by evaluating the amount of the fund that would be reallocated by setting this threshold and the administrative savings of implementing this payment floor. Under the Plan of Allocation, 2,015 Claimants will receive the

Minimum Payment. The total amount of this Minimum Payment comprises approximately 0.087% of the Net Settlement Funds, or \$201,500. In contrast, if these Authorized Claimants were paid their award amount based on their *pro rata* fraction, the payments would total \$33,743.49 or approximately 0.015% of the Net Settlement Funds. Setting the Minimum Payment at \$100.00 will reallocate just 0.072% of the Net Settlement Funds towards paying these Claimants.

(3) After excluding Authorized Claimants who will receive the Minimum Payment, A.B. Data will recalculate the Distribution Amounts for Authorized Claimants who would have received awards of \$100.00 or more pursuant to the calculations described in subparagraph (a)(1) above.

(4) Authorized Claimants whose Distribution Amount calculates to less than \$20,000.00 will be paid their full *pro rata* Distribution Amount in the Initial Distribution.

(5) After deducting the payments for the Claims above, 90% of the remaining balance of the Net Settlement Funds will be distributed *pro rata* to Authorized Claimants whose Distribution Amount calculates to \$20,000.00 or more. For example, if an Authorized Claimant's Distribution Amount is \$200,000, it will receive \$180,000 in the Initial Distribution.

(6) The remaining 10% of the Net Settlement Funds will be held in reserve to address any further tax liability, administration costs, and claims administration-related contingencies that may arise. The practice of creating a reserve with a portion of the net settlement funds is a routine and customary

practice among claims administrators to account for any contingencies that may arise during the administration process. To the extent the reserve is not depleted, the remainder will be distributed in the “Second Distribution” described in subparagraph (d) below.

(b) To encourage Authorized Claimants to deposit their payments promptly, all distribution checks in the Initial Distribution will bear a notation: “CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY [DATE 90 DAYS AFTER ISSUE DATE].” For Authorized Claimants whose checks are returned as undeliverable, A.B. Data will endeavor to locate new addresses by running the undeliverable addresses through address-lookup services. Where a new address is located, A.B. Data will update the database accordingly and reissue a distribution check to the Authorized Claimant at the new address. In the event a distribution check is lost or damaged or otherwise requires reissuance, A.B. Data will issue a replacement. Distribution reissues will be undertaken only upon written instructions from the Authorized Claimant, provided that the Authorized Claimant returns the previous check where appropriate. For all reissued checks, A.B. Data will void the initial payment prior to reissuing a payment. To avoid delaying further distributions to Authorized Claimants who have timely cashed their checks, A.B. Data’s outreach program shall end 30 days after the initial void date. Authorized Claimants will be informed that, if they do not cash their Initial Distribution checks within 90 days of the mail date, or do not cash reissued checks within 30 days of the mailing of such reissued checks, their checks will lapse, their entitlement to recovery will be irrevocably forfeited, and the funds will be reallocated to other Authorized Claimants. Reissue requests for lost or damaged checks will be granted after the void date on the checks as long as the request for the reissue is received no later than 45 days prior to the next planned distribution.

Requests for reissued checks in connection with any subsequent distributions (should such distributions occur) will be handled in the same manner. Subsequent distributions will have a 30-day stale date.

(c) Authorized Claimants who do not cash their Initial Distribution checks within the time allotted or on the conditions set forth in subparagraph (b) will forfeit all recovery from the Settlements. A.B. Data anticipates that there will be a number of void, stale-dated, or returned checks, and failed wire transfers. The funds allocated to all such void, stale-dated, or returned checks, and failed wire transfers will be available to be reallocated in the Second Distribution. Similarly, Authorized Claimants who do not cash their second or subsequent distribution checks (should such distributions occur) within the time allotted or on the conditions set forth in subparagraph (b) will irrevocably forfeit any further recovery from the Net Settlement Funds.

(d) After A.B. Data has made reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, which efforts shall consist of the follow-up efforts described in subparagraph (b), A.B. Data will, after consulting with Class Counsel, conduct a second distribution of the Net Settlement Funds (the "Second Distribution") in a reasonable period of time. Any amounts remaining in the Net Settlement Funds after the Initial Distribution (including a funds held in reserve and the proceeds from all void, stale-dated, or returned checks and failed wire transfers), after deducting the payment of any additional Court-approved costs, estimated taxes, the costs of preparing appropriate tax returns, any escrow and administrative fees, and appropriate contingency reserves, will be distributed to all Authorized Claimants (i) whose *pro rata* Distribution Amount in the Initial Distribution calculated to \$20,000.00 or more pursuant to subparagraph (a)(5) above, (ii) who cashed their

first distribution check, and (iii) who would receive at least \$100.00 from such distribution based on their *pro rata* share of the remaining funds. Additional distributions, after deduction of costs and expenses as described above and subject to the same conditions, may occur after a reasonable period of time until Class Counsel, in consultation with A.B. Data, determines that further distribution is not cost-effective.

(e) If necessary, the remaining balance of the Net Settlement Funds, after payment of any unpaid fees or expenses incurred in administering the Net Settlement Funds and after the payment of any estimated taxes, the costs of preparing appropriate tax returns, and any escrow fees, shall be contributed to nonsectarian, not-for-profit 501(c)(3) organization(s), recommended by Class Counsel in consultation with Plaintiffs and approved by the Court.

(f) Unless otherwise ordered by the Court, A.B. Data asks that it be permitted to destroy paper and electronic copies of the Claims and all supporting documentation one year after all funds from these Settlements and any later approved settlements have been distributed, and the Actions have finally terminated.

49. To date, the costs of notice and administration for the Settlements total \$5,396,714.12, for which A.B. Data has been or will be paid in full. A.B. Data anticipates that the additional cost to complete the administration for these Settlements and distribution of the Net Settlement Funds will be \$105,506.66. This estimate covers A.B. Data's future work in distributing the Net Settlement Fund, as described above.

CONCLUSION

50. A.B. Data respectfully requests that the Court enter an Order approving its administrative determinations accepting and rejecting the Claims submitted herein and approving the proposed Distribution Procedure.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed in Milwaukee, Wisconsin on February 15, 2023.

A handwritten signature in purple ink, appearing to read 'S. Straub', with a long horizontal line extending to the right.

Steven Straub