

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

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

Docket No. 12-cv-3419
(GBD)

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.

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,

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.

Docket No. 15-cv-5844
(GBD)

DECLARATION OF BRIAN J. BARTOW IN SUPPORT OF REPRESENTATIVE PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENTS WITH (1) BARCLAYS BANK PLC, BARCLAYS CAPITAL INC., AND BARCLAYS PLC; (2) NEX INTERNATIONAL LIMITED (F/K/A ICAP PLC) AND ICAP EUROPE LIMITED; AND (3) TP ICAP PLC (F/K/A TULLETT PREBON PLC AND N/K/A TP ICAP FINANCE PLC), AND CLASS COUNSEL'S MOTION FOR AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF EXPENSES AND REQUEST FOR SERVICE AWARD

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

1. I am General Counsel 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 Representative Plaintiffs' Motion for Final Approval of Class Action Settlements with: (i) Barclays Bank PLC, Barclays Capital Inc., and Barclays PLC ("Barclays"); (ii) Nex International Limited (f/k/a ICAP Plc) and ICAP Europe Limited (collectively, "ICAP"); and (iii) TP ICAP Plc (f/k/a Tullett Prebon Plc and n/k/a TP ICAP Finance Plc) ("Tullett Prebon" and collectively with Barclays and ICAP, the "Settling Defendants") and Class Counsel's Motion for Award of Attorneys' Fees, Reimbursement of Expenses and Request for Service Award now before the Court in the above-captioned actions (collectively, the "Actions" or "Litigation").

3. I am the chief legal advisor to CalSTRS' Teachers' Retirement Board, which sets CalSTRS's policies, oversees CalSTRS's 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 today is the largest educator-only pension fund in the world and the second largest pension fund in the United States, with over 980,000 members and beneficiaries and an investment portfolio with a market value of \$302.1 billion as of December 31, 2022.

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 pursuing damages and in helping to ensure that the Euroyen-Based Derivatives market is free from anticompetitive and manipulative behavior, despite the risk of pursuing complex litigation, particularly against well-established financial institutions.

6. In light of this interest, in September 2014 CalSTRS retained Berman Tabacco and Lowey Dannenberg, P.C. (collectively “Counsel”) to prosecute claims related to tens of thousands of Euroyen-Based Derivatives, including those that CalSTRS transacted directly with several Defendants, including Barclays.

7. Consistent with CalSTRS’ regular practice in complex cases, I negotiated a contingent fee structure at arm’s-length with Counsel prior to their retention.¹ The 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, 20% on the next \$200 million recovered and a lower fee percentage on any additional sums recovered. 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.

8. CalSTRS is accustomed to negotiating fee agreements with outside litigation counsel. The fee agreement here was carefully calibrated to capture the unique challenges and substantial risks associated with this specific case, especially as those risks could be measured in 2014. I took into account and discussed with Counsel the posture of the Litigation, its risk

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

profile, CalSTRS's 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. These Actions are not the kind of litigation, and do not involve the kind of market, typically prosecuted by public institutional investors. I was cognizant of that in negotiating what I think is a fair and reasonable contingent-fee agreement.

9. As a fiduciary for thousands of current and retired California public school teachers, CalSTRS scrupulously and vigorously protects the rights of its teacher members. For this reason, CalSTRS has one of the toughest corporate governance surveillance programs of any public pension fund. For the same reason, CalSTRS also adheres to strict conflicts-of-interest policies intended to avoid the least suggestion of political or other influence on its operations and discharge of its fiduciary obligations. For example, in addition to the existing legal strictures, CalSTRS has for many years imposed additional strict prohibitions on not accepting vendor gifts including political and other contributions from any of its contracted vendors. CalSTRS requires detailed, annual publicly available filings by each of its vendors confirming compliance. The office of General Counsel at CalSTRS oversees all such compliance.

10. **CalSTRS's Oversight of the Litigation:** Since September 2014 when CalSTRS joined the Action, CalSTRS has actively overseen the work of Counsel and has participated in all aspects of litigation, beginning with Representative Plaintiffs' reply brief in support of leave to amend the Second Amended Complaint ("SAC") in *Laydon*, the first time CalSTRS sought to join the Actions. *See Laydon*, ECF No. 387, 388-1 (including allegations regarding CalSTRS' Euroyen-based Derivative Products transactions). CalSTRS oversight of the Litigation has been described in my previous declarations submitted to the Court. *See Laydon*, ECF Nos. 280, 373, 411, and 993.

11. I have reviewed and approved advance drafts of all significant pleadings in the Litigation 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' motions to dismiss, the approach to class certification, expert testimony and appellate strategy. I also supervised the Office of General Counsel's participation in responding to party discovery.

12. **Settlement Negotiations:** As to Representative Plaintiffs' settlement negotiations with the Settling Defendants, I participated in extensive discussions with Counsel regarding the strengths and weaknesses of Representative Plaintiffs' claims, potential defenses and litigation strategy relevant to a potential settlement. As each of the negotiations progressed, Counsel communicated all relevant developments, and I provided CalSTRS's views on the fairness and adequacy of the three settlement proposals. I ultimately authorized acceptance of the \$17.75 million settlement from Barclays, the \$2.375 million settlement from ICAP; and the \$2.375 million settlement from Tullett Prebon.

13. **Monitoring of Counsel's Work:** As General Counsel I insist upon complete hands-on management of any litigation in which CalSTRS becomes involved. In this Litigation, in addition to the direct involvement described above, I require and receive detailed briefings from Counsel on substantive legal issues and litigation and settlement strategy. Indeed, the Berman Tabacco firm has been selected to represent CalSTRS in a number of different matters and is in very frequent, sometimes daily, contact with the office of General Counsel, including discussions of strategy about this Litigation. I personally review the time records of outside attorneys that CalSTRS retains, even those employed, as here, on a percentage contingent fee basis. I review the detailed time records so that I can discharge my supervisory obligations as a

plaintiff and putative class representative of the Class and also to monitor litigation activities in which the lawyers are engaged.

14. I received updates regarding the status of the Litigation from Counsel on a frequent basis when the Litigation was highly active, and on a regular basis thereafter. I conferred with Counsel, both in person and telephonically, prior to settlement discussions and important court hearings. I have requested from Counsel and received long-term and short-term litigation management plans, which I required to be updated periodically to better help me monitor this complex Litigation and Counsel's efforts.

15. **CalSTRS Supports the Proposed Settlements and Fee Request:** Throughout this Litigation, I have had numerous discussions with Counsel regarding the scope of potential damages, and the scope of the work of damages experts. 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 Representative Plaintiffs must ultimately prove damages on a class-wide basis, through class certification and trial.

16. Given this experience, I consider these settlements to be an important and valuable step for CalSTRS and the Class. I expect the monetary compensation received in connection with these 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 the Settling Defendants will aid in the continued prosecution of the Action.

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

18. I have also reviewed Class Counsel's motion for an award of attorneys' fees and reimbursement of expenses. 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 January 24, 2023.


Brian J. Bartow