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

SONTERRA CAPITAL MASTER FUND, LTD., HAYMAN CAPITAL MANAGEMENT, 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., 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., JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, J.P. MORGAN SECURITIES PLC, MIZUHO CORPORATE BANK, LTD., DEUTSCHE BANK AG, DB GROUP SERVICES UK LIMITED, MIZUHO TRUST AND BANKING CO., LTD., THE SHOKO CHUKIN BANK, LTD., SHINKIN CENTRAL BANK, THE BANK OF YOKOHAMA, LTD., SOCIÉTÉ GÉNÉRALE SA, THE ROYAL BANK OF SCOTLAND GROUP PLC, THE ROYAL BANK OF SCOTLAND PLC, RBS SECURITIES JAPAN LIMITED, RBS SECURITIES INC., BARCLAYS BANK PLC, BARCLAYS PLC, BARCLAYS CAPITAL INC., CITIBANK, NA, CITIGROUP, INC., CITIBANK, JAPAN LTD., CITIGROUP GLOBAL MARKETS JAPAN, INC., COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A., HSBC HOLDINGS PLC, HSBC BANK PLC, LLOYDS BANKING GROUP PLC, LLOYDS BANK PLC, ICAP PLC, ICAP EUROPE LIMITED, R.P. MARTIN HOLDINGS LIMITED, MARTIN BROKERS (UK) LTD., TULLETT PREBON 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) (HBP)

DECLARATION OF VINCENT BRIGANTI

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

1. I am a shareholder with the law firm Lowey Dannenberg Cohen & Hart, P.C. ("Lowey"). I submit this Declaration in connection with the pending Motion for Preliminary Approval of the settlements reached with R.P. Martin and Citi.

2. A true and correct copy of the Stipulation and Agreement of Settlement dated December 3, 2014 (the "R.P. Martin Settlement"), among Plaintiffs and Defendants R.P. Martin Holdings Limited and Martin Brokers (UK) Ltd., and their subsidiaries and affiliates (collectively "R.P. Martin") is attached as Exhibit 1.

3. A true and correct copy of the Stipulation and Agreement of Settlement dated August 11, 2015 (the "Citi Settlement"), among Plaintiffs and Defendants Citigroup Inc., Citibank, N.A., Citibank Japan Ltd., Citigroup Global Markets Japan Inc., and their subsidiaries and affiliates (collectively "Citi") is attached as Exhibit 2.[1]

4. A true and correct copy of the U.S. Commodity Futures Trading Commission's Order Instituting Proceedings Pursuant to Section 6(c) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions against R.P. Martin is attached as Exhibit 3.

5. A true and correct copy of the U.K. Financial Conduct Authority's Final Notice to Martin Brokers (UK) Ltd. is attached as Exhibit 4.

6. **Experience**. At the time the proposed R.P. Martin and Citi Settlements (collectively, "Settlements") were being negotiated, my firm and I were experienced in prosecuting claims under the Commodity Exchange Act ("CEA"), 7 U.S.C. §§ 1 *et seq.*, Sherman Antitrust Act, 15 U.S.C. §§ 1 *et seq.*, and Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961 *et seq.*

7. I have nearly twenty years of experience in successfully developing and leading the

[1] Capitalized terms used herein that are not otherwise defined in this Declaration have the same meaning as in the Citi Settlement.

prosecution of commodity manipulation, antitrust, and federal securities litigation matters. This experience includes cases in which my firm and I have successfully prosecuted, as court-appointed lead or co-lead counsel or individual plaintiff's counsel, what were at the time the first, second, third, and fourth largest class action recoveries under the Commodity Exchange Act: *In re Sumitomo Copper Litigation*, Master File No. 96 CV 4854 (S.D.N.Y.) (Pollack, J.) ($149 million settlement); *Hershey v. Pacific Investment Management Corp.*, Case No. 05-C-4681 (RAG) (N.D. Ill.) ($118.75 million settlement); *In re Natural Gas Commodity Litigation*, Master File No. 03 CV 6186 (S.D.N.Y.) (Marrero, J.) ($101 million settlement); and *In re Amaranth Natural Gas Commodities Litigation*, Master File No. 07 Civ. 6377 (S.D.N.Y) (Scheindlin, J.) ($77.1 million settlement). Currently, my firm and I are prosecuting, as court-appointed class counsel, cases alleging anticompetitive conduct and manipulation of the world's most important financial benchmarks, including the London Interbank Offered Rate ("LIBOR") for the Swiss Franc (*Sonterra Capital Master Find Ltd. et al. v. Credit Suisse Group AG et al.*, Case No. 15-cv-871 (SHS) (S.D.N.Y.)), the Euro Interbank Offered Rate ("Euribor") (*Sullivan et al. v. Barclays PLC et al.*, Case No. 13-cv-2811 (PKC) (S.D.N.Y.)), the WM/Reuters FX benchmark ("FX")(*In re Foreign Exchange Benchmark Rate Antitrust Litig.*, Case No. 13-cv-7789 (LGS) (S.D.N.Y.)), and the London Silver Fixing (*In re: London Silver Fixing Ltd., Antitrust Litigation*, Case No. 14-md-2573 (VEC) (S.D.N.Y.). In the *Euribor* litigation, Judge Castel preliminarily approved a $94 million settlement with Barclays plc and related Barclays' entities on December 15, 2015. As part of the December 15 Order, Judge Castel appointed my firm and I as Co-Class Counsel to the Settlement Class. *See Sullivan v. Barclays plc*, No. 13-cv-2811 (PKC), Order Preliminarily Approving Class Action Settlement and Conditionally Certifying a Settlement Class (ECF No. 234).

8. Lowey's Firm Resume is attached hereto as Exhibit 5.

9. **Well-Informed**. Before reaching the Settlements, Plaintiffs' counsel was well-

informed regarding the strengths and weaknesses of Plaintiffs' claims. My firm and I extensively reviewed and analyzed the following documents and information: (i) government settlements, including plea, non-prosecution and deferred prosecution agreements; (ii) publicly available information relating to the conduct alleged in Plaintiffs' complaints; (iii) expert and industry research regarding Yen-LIBOR, Euroyen TIBOR and Euroyen-Based Derivatives futures and over-the-counter markets; and (iv) prior decisions of this Court and others deciding similar issues. In addition, my firm and I: (a) conducted an extensive investigation into the facts and legal issues in this action; (b) engaged in extensive negotiations with Citi and R.P. Martin; and (c) took many other steps to research and analyze the strengths and weaknesses of the claims, including ongoing consultations with a leading commodity manipulation consulting expert.

10. **Procedural History**. On April 30, 2012, Plaintiff Jeffrey Laydon ("Laydon") filed a class action complaint against Citibank, N.A. and Citibank Japan Ltd. and other Defendants.[2] ECF No. 1. Thereafter, on December 3, 2012, Laydon filed a corrected first amended class action complaint adding certain bank defendants, including Citigroup Inc. and Citigroup Global Markets Japan Inc. ECF No. 124. Laydon filed a second amended class action complaint on April 15, 2013 adding other defendants, including R.P. Martin. ECF No. 150. Defendants filed their motion to dismiss and thirteen separate memoranda of law on June 14, 2013. ECF Nos. 204, 205-06, 208-14, 217-18, 220-21. Laydon filed his opposition to Defendants' motions to dismiss on August 13, 2013. ECF No. 226. Defendants filed reply memoranda on September 27, 2013. ECF No. 232-243. Laydon filed a sur-reply memorandum on October 9, 2013. ECF No. 245.

11. On March 5, 2014, the Court held an all-day oral argument on Defendants' motion to dismiss. On March 28, 2014, the Court granted in part and denied in part Defendants' motion to dismiss Laydon's second amended complaint. ECF No. 270. Defendants moved for

[2] Unless otherwise noted, all docket citations are to *Laydon v. Mizuho Bank, Ltd. et al.*, 12-cv-3419 (GBD) (S.D.N.Y.).

reconsideration of their motions to dismiss on April 11, 2014. ECF Nos. 275, 277, 278, 282. Laydon opposed the reconsideration motions on May 9, 2014. ECF No. 290. Defendants filed reply memoranda on May 30, 2014. ECF Nos. 292, 293, 295, 296. The Court denied the motions for reconsideration on October 20, 2014. ECF No. 398.

12. On April 21, 2014, the Court granted Laydon leave to file a motion to amend the second amended complaint and file a proposed third amended complaint. ECF No. 286. Laydon filed his motion to amend on June 17, 2014. ECF No. 301. The proposed third amended complaint added Oklahoma Police Pension & Retirement System ("OPPRS"), and Stephen P. Sullivan ("Sullivan") as proposed plaintiffs and added claims under RICO and for breach of good faith and fair dealing against certain Defendants. The proposed third amended complaint also sought to cure certain pleading deficiencies identified by the Court in its March 28, 2014 Order. On August 15, 2014, Defendants filed a joint opposition to the motion to amend. ECF No. 361. Laydon filed his reply memorandum on September 22, 2014. ECF Nos. 387-388. As part of his reply, Laydon also sought to add the California State Teachers' Retirement System ("CalSTRS") as a named plaintiff. The Court granted in part and denied in part Laydon's motion to amend on March 31, 2015. ECF No. 448. In the March 31 Order, the Court denied CalSTRS' application to intervene without prejudice and ordered CalSTRS to renew its application within 30 days. CalSTRS filed its letter motion to intervene on April 29, 2015. ECF No. 460. Defendants filed their opposition on May 13, 2015. ECF No. 471. CalSTRS filed its reply on May 26, 2015. ECF No. 475. The Court denied CalSTRS' motion to intervene on October 8, 2015. ECF No. 525. CalSTRS timely filed a notice of appeal on November 9, 2015. ECF No. 535.

13. While the parties briefed arguments addressing Plaintiff Laydon's motion for leave to amend, fourteen Defendants filed motions to dismiss for lack of personal jurisdiction and a stay of discovery on August 10, 2014. ECF Nos. 310, 315, 323, 331, 334, 337, 341, 344. Laydon opposed

these motions to dismiss on August 29, 2014. ECF Nos. 366-370. Fourteen Defendants filed their reply memoranda on September 15, 2014. ECF Nos. 375-379, 381-384. On September 30, 2014, the Court held oral argument on the fourteen Defendants' motions to dismiss for lack of personal jurisdiction. On March 31, 2015, the Court granted the four Stipulating Defendants' motions to dismiss and denied the ten Non-Stipulating Defendants' motions to dismiss. ECF Nos. 446-447. Defendants' motion for reconsideration was filed on April 14, 2015. ECF No. 452. The Court denied the motion for reconsideration on July 24, 2015. ECF No. 490. The ten Non-Stipulating Defendants filed a petition for writ of mandamus on September 25, 2015. *See In re: Mizuho Corporate Bank*, 15-3014 (2d Cir.). The Second Circuit denied the mandamus petition on January 20, 2016. *Id.*

14. On April 28, 2015, Laydon moved for an order entering final judgment under Fed. R. Civ. P. 54(b) as to the dismissal of the four Stipulating Defendants on personal jurisdiction grounds. ECF No. 457. On April 30, 2015, Laydon, with proposed plaintiffs OPPRS and Sullivan, sought leave to file an interlocutory appeal under 28 U.S.C. § 1292(b) for immediate review of the Court's order denying Laydon leave to further amend the complaint to add the RICO claims and proposed plaintiffs OPPRS and Sullivan. ECF No. 461. The Court denied both motions on July 24, 2015. ECF Nos. 489, 491.

15. Plaintiff served his First Request for the Production of Documents on Defendants on June 17, 2014. While the parties were briefing Plaintiff Laydon's motion for leave to amend and fourteen Defendants' motions to dismiss for lack of personal jurisdiction, the U.S. Department of Justice also filed a motion to intervene and for a stay of discovery on September 15, 2014. ECF No. 380. The Court granted the U.S. Department of Justice's motion to intervene and ordered a stay of discovery until May 15, 2015. ECF No. 451. Defendants served their responses and objections to Plaintiff's First Request for the Production of Documents on December 19, 2014.

16. Following the lifting of the stay of discovery on May 15, 2015, Magistrate Judge

Pitman held a discovery conference on June 25, 2015. Judge Pitman set a schedule by which Defendants were to brief and Plaintiff was to oppose Defendants' discovery objections based on the foreign data privacy laws of, among others, Japan. ECF No. 483.

17. Certain Defendants then moved on August 6, 2015 for an order sustaining their discovery objections under the foreign data privacy or bank secrecy laws of the United Kingdom and Japan. ECF Nos. 495, 501. On September 11, 2015, Plaintiff Laydon filed his opposition, including an expert declaration, to certain Defendants' motion to sustain their discovery objections under the laws of the United Kingdom. ECF Nos. 512-513. On September 11, 2015, Plaintiff Laydon and certain other Defendants also notified Magistrate Judge Pitman that they had reached an agreement to table Defendants' motion under the foreign data privacy laws of Japan. ECF No. 511.

18. On July 24, 2015, Sonterra Capital Master Fund, Ltd. and Hayman Capital Management, L.P. filed their initial complaint against Defendants. *Sonterra Capital Master Fund Ltd. et al. v. UBS AG et al.*, 15-cv-5844 (S.D.N.Y.) ("*Sonterra* Action") ECF No. 1. The *Sonterra* Action was assigned to this Court on August 5, 2015 as related to the *Laydon* action. On October 8, 2015, the Court denied, without prejudice, Plaintiffs' request to consolidate the *Sonterra* and *Laydon* Actions. ECF No. 524.

19. On December 18, 2015, Plaintiff Laydon filed his Third Amended Class Action ("TAC") complaint. ECF No. 547. On January 8, 2016, the Court granted Defendants' request to strike the TAC and directed Plaintiff to submit a letter request with a new proposed complaint TAC by January 28, 2016. ECF No. 558. Plaintiff filed a letter request with a new proposed TAC on January 28, 2016. ECF No. 564.

20. On December 18, 2015, Sonterra Capital Master Fund, Ltd. and Hayman Capital Management, L.P. and CalSTRS filed their amended class action complaint. *Sonterra* Action, ECF No. 121.

21. **Arm's-Length**. Negotiations leading to the Settlements were entirely non-collusive and strictly arm's-length. During the course of negotiations, Plaintiffs had the benefit of developing information from various sources, including government settlements and orders, other public accounts of manipulation involving Yen-LIBOR and Euroyen TIBOR, counsel's investigation into Plaintiffs' claims, industry and expert analysis, and information shared by Settling Defendants during the negotiations. *See* ¶ 9. I was involved in all aspects of the settlement negotiations on behalf of Plaintiffs.

22. **R.P. Martin Settlement Negotiations**. The negotiations with R.P. Martin took place over four months starting approximately in September 2014 and continuing until the R.P. Martin Settlement was executed in December 2014.

23. Settlement discussions began in September 2014 after Lowey learned that R.P. Martin was facing insolvency, which would potentially impact, among other things, access to relevant documents and information.

24. R.P. Martin and Plaintiffs engaged in a number of phone calls and email exchanges to discuss the scope and terms of any settlement agreement during September and October 2014.

25. On November 5, 2014, my partner Geoffrey Horn and I traveled to London, England to meet in person with representatives of R.P. Martin, including R.P. Martin's Chairman and CEO Stephen Welch. During this meeting, R.P. Martin described the results of its investigation into its role in manipulating Yen-LIBOR, Euroyen-TIBOR and Euroyen-Based Derivatives, and discussed white papers it had prepared for government investigators describing its findings. R.P. Martin detailed their role in brokering various yen products including cash products, interest rate swaps, forward exchange and forward rate agreements in the voice broker market. It also provided information about its brokers' relationships with and manipulative activities (including wash trades) on behalf of Defendants such as UBS, RBS, and JPMorgan. R.P. Martin showed us audiotapes

containing conversations between R.P. Martin brokers and Defendants; the same recordings provided much of the information released by the various governments investigating the manipulation.

26. Following the November 5, 2014 meeting, R.P. Martin and Plaintiffs exchanged drafts of a proposed settlement agreement. After several rounds of revisions, R.P. Martin and Plaintiffs agreed on the final language and executed the R.P. Martin Settlement on December 3, 2014.

27. On December 4, 2014, Lowey had a conference call with R.P. Martin to specifically discuss the financial information and cooperation to be provided pursuant to the R.P. Martin Settlement. R.P. Martin agreed to produce, among other items, corporate declarations from R.P. Martin's C.E.O. describing, *inter alia*, R.P. Martin's involvement in manipulation; drafts of year-end audited financials; emails; voice recordings; electronic chat room data; transaction data; R.P. Martin's internal investigation files; and details of a plan to sell some assets of R.P. Martin and enter into insolvency proceedings.

28. Plaintiffs informed the Court and Defendants of the R.P. Settlement on December 9, 2014.

29. On December 15, 2014, Lowey had a conference call with R.P. Martin CEO and Chairman Stephen Welch to discuss the acquisition of certain R.P. Martin assets by BGC Partners, Inc. and the placement of the remaining assets under the supervision of a court-appointed administrator pursuant to British administration (insolvency) law.

30. On December 17, 2014, Lowey received some of the required information from R.P. Martin. Pursuant to the existing stay of discovery and an agreement with the U.S. Department of Justice, R.P. Martin's cooperation materials, other than information relating to R.P. Martin's financial condition, asset sale and insolvency, were embargoed and were not viewed until the Court-

ordered stay of discovery was lifted on May 15, 2015.

31. Over the next several months, Lowey continued to work with R.P. Martin's agents to obtain all of the required documents. Lowey also confirmed R.P. Martin's representations that it was unable to pay any monetary settlement.

32. R.P. Martin's settlement cooperation has provided a wealth of information previously unavailable to Plaintiffs. For example, as part of its settlement cooperation, R.P. Martin produced its internal investigation files compiled as part of its investigation into the manipulation of Yen-LIBOR, Euroyen TIBOR, and the prices of Euroyen-Based Derivatives. These internal investigation files included interview notes with former brokers. These interview notes provide specifics on the means by which R.P. Martin and other Defendants manipulated Yen-LIBOR, the identities of R.P. Martin's principal co-conspirators, and specific examples of instances in which R.P. Martin and other Defendants manipulated Yen-LIBOR.

33. Aside from R.P. Martin's interview notes, R.P. Martin also provided the underlying documents and audio files that it produced directly to global regulators during the course of the regulators' investigation of Yen-LIBOR and Euroyen TIBOR manipulation. These underlying source documents have helped identify the names of Yen traders and submitters at other Defendants who were active participants in the manipulation. These materials also provide additional examples of the manipulation of Yen-LIBOR.

34. R.P. Martin also produced its "BOSS" database which included over twelve gigabytes of market data and prices that has helped Plaintiffs analyze the level of artificiality caused by Defendants' manipulation in the market on a daily basis. This market data will also help build a proposed Distribution Plan.

35. **Citi Settlement Negotiations**. The negotiations with Citi occurred over approximately four months, beginning in early April 2015 and continuing until the Citi Settlement

was executed in August 2015.

36. Following initial phone calls with Citi's counsel during the first week of April 2015, Lowey and Citi met in person on April 9, 2015. At the April 9 meeting, Lowey presented to Citi's counsel and a representative for Citi what Lowey perceived to be the strengths and weaknesses of the litigation as well as Citi's litigation exposure. The April 9 meeting did not result in a settlement.

37. Over the next several weeks, Lowey and counsel for Citi had numerous phone calls and continued to present to each other the perceived strengths and weaknesses of the litigation.

38. On May 26, 2015, counsel for Citi and Lowey signed a Memorandum of Understanding ("MOU"). The MOU set forth the terms on which the parties agreed, subject to the preparation of a full Settlement Agreement, to settle Plaintiffs' claims against Citi. At the time the MOU was executed, Lowey was well-informed about the legal risks, factual uncertainties, potential damages and others aspects of the strengths and weaknesses asserted herein.

39. Following months of arm's-length negotiations, consisting of in-person meetings and presentations to Citi, teleconferences, exchanges of draft settlement terms, Lowey, on behalf of Plaintiffs and Citi entered into the Citi Settlement on August 11, 2015. The Citi Settlement was the culmination of arms-length settlement negotiations that had extended over many months. On that same day, the Parties reported to the Court and Defendants that a settlement had been reached.

40. The Settlements were not the product of collusion. Before any financial numbers were discussed in the settlement negotiations and before any demand or counter-offer was ever made, I was well informed about the legal risks, factual uncertainties, potential damages, and other aspects of the strengths and weaknesses of the claims against R.P. Martin and Citi.

41. The Settlements involve a structure and terms that are common in class action settlements in this District.

42. The consideration that Citi has agreed to pay in the initial, "ice-breaker" settlement is

within the range of that which may be found to be fair, reasonable, and adequate at final approval.

43. Lowey has strong reason to believe that there are at least hundreds of geographically dispersed persons and entities that fall within the Settlement Class definition. This belief is based on data from the Bank of International Settlements which shows that trillions of dollars of Euroyen-based interest rate swaps and forward rate agreements were traded within the United States from 2006 through 2011.

44. Lowey has diligently represented the interests of the Class in this litigation. They investigated and brought the *Laydon* and *Sonterra* actions. Lowey preserved the statute of limitations. Lowey negotiated with R.P. Martin and Citi. They performed all of the necessary work to prosecute this litigation for the past 45 months. Lowey will continue to zealously represent the Class to prosecute the Class' claims against the non-settling Defendants.

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

Executed on February 1, 2016
White Plains, New York

Vincent Briganti

EXHIBIT 1

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
LOWEY DANNENBERG COHEN & HART, P.C.
One North Broadway
White Plains, New York 10601
Telephone: (914) 997-0500
Facsimile: (914) 997-0035

Lead Counsel for Plaintiff and the Proposed Class

By: _____
Stephen Welch
Chair & CEO
RP MARTIN HOLDINGS LTD
Cannon Bridge
25 Dowgate Hill, London, EC4R2BB
Telephone: +44 20 7469 9248
Facsimile: +44 20 7469 9153

EXHIBIT 2

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) (HBP)

STIPULATION AND AGREEMENT OF SETTLEMENT

TABLE OF CONTENTS

STIPULATION AND AGREEMENT OF SETTLEMENT

THIS STIPULATION AND AGREEMENT OF SETTLEMENT (the **"Settlement Agreement"**) is made and entered into on August 11, 2015. This Settlement Agreement is entered into on behalf of Representative Plaintiffs Jeffrey Laydon, Oklahoma Police Pension & Retirement System, Stephen P. Sullivan, the California State Teachers' Retirement System, Sonterra Capital Master Fund, Ltd., and Hayman Capital Management, L.P. ("Representative Plaintiffs") and the Settlement Class (as defined in Section 1(F) herein), by and through Representative Plaintiffs' Interim Lead Counsel (as defined in Section 1(W) herein), and on behalf of Citigroup Inc., Citibank, N.A., Citibank Japan Ltd., and Citigroup Global Markets Japan Inc., and their subsidiaries and affiliates (collectively, "Citi"), by and through their undersigned counsel of record in this Action.

WHEREAS, Representative Plaintiffs have filed civil class actions, *e.g.*, *Laydon v. Mizuho Bank, Ltd., et al.*, Case No. 12-cv-3419 (GBD) (HBP) (S.D.N.Y) and *Sonterra Capital Master Fund, Ltd., et al. v. UBS AG, et al.*, Case No. 1:15-cv-05844 (S.D.N.Y.), and have alleged, among other things, that Defendants (as defined in Section 1(L) herein), including Citi, from January 1, 2006 through June 30, 2011, acted unlawfully by, *inter alia*, manipulating, aiding and abetting the manipulation of, and conspiring, colluding or engaging in racketeering activities to manipulate Yen-LIBOR, Euroyen TIBOR, and the prices of Euroyen-Based Derivatives (as defined in Sections 1(Q), 1(P), and 1(SS) respectively herein), in violation of the Commodity Exchange Act, 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 federal and state common law;

WHEREAS, Representative Plaintiffs further contend that they and the Settlement Class suffered monetary damages as a result of Citi's and other Defendants' conduct;

WHEREAS, Citi denies the material allegations in plaintiffs' pleadings and maintains that it has meritorious defenses to the claims of liability and damages made by Representative Plaintiffs;

WHEREAS, arms-length settlement negotiations have taken place between Representative Plaintiffs, Interim Lead Counsel and Citi, and this Settlement Agreement has been reached, subject to the final approval of the Court;

WHEREAS, Citi agrees to cooperate with Representative Plaintiffs and Interim Lead Counsel as set forth below in this Agreement;

WHEREAS, Interim Lead Counsel conducted an investigation of the facts and the law regarding the Action (as defined in Section 1(A) herein), considered the settlement set forth herein to be fair, reasonable, adequate and in the best interests of Representative Plaintiffs and the Settlement Class, and determined that it is in the best interests of the Settlement 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, Citi, despite believing that it is not liable for the claims asserted against it in the Action and that it has good and meritorious defenses thereto, has nevertheless agreed to enter into this Agreement to avoid further expense, inconvenience, and distraction of burdensome and protracted litigation, thereby putting this controversy to rest and avoiding the risks inherent in complex litigation; and

NOW, THEREFORE, Representative Plaintiffs, on behalf of themselves and the Settlement Class by and through Interim Lead Counsel, and Citi, by and through the undersigned

counsel, agree that the Action and Released Claims (as defined in Section 1(II) herein) be settled, compromised, and dismissed on the merits and with prejudice as to Citi and without costs as to Representative Plaintiffs, the Settlement Class or Citi, 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 Stipulation and Settlement Agreement, which are expressly defined below, shall have the meaning ascribed to them.

(A) **"Action"** means *Laydon v. Mizuho Bank, Ltd. et al.*, Case No. 12-cv-3419 (GBD) (HBP) (S.D.N.Y.) and *Sonterra Capital Master Fund, Ltd., et al. v. UBS AG, et al.*, Case No. 1:15-cv-05844 (S.D.N.Y.), collectively.

(B) **"Agreement"** or **"Settlement Agreement"** means this Stipulation and Agreement of Settlement, together with any exhibits attached hereto, which are incorporated herein by reference.

(C) **"Any"** means one or more.

(D) **"Authorized Claimant"** means any Class Member who, in accordance with the terms of this Agreement, is entitled to a distribution from the Net Settlement Fund pursuant to any Distribution Plan or order of the Court.

(E) **"Citi"** means Citigroup Inc., Citibank, N.A., Citibank Japan Ltd., and Citigroup Global Markets Japan Inc., and their subsidiaries and affiliates.

(F) **"Class"** or **"Settlement Class"** means all Persons that engaged in a Class Contract during the Class Period. Excluded from the Class are: (i) Defendants and any parent, subsidiary, affiliate, or agent of any Defendant; (ii) the Released Parties (as defined in Section 1(JJ) herein); and (iii) any Class Member who files a timely and valid

request for exclusion.

(G) **"Class Contract"** means a transaction in Euroyen-Based Derivatives or any other similar financial instruments priced, benchmarked, settled to or otherwise affected by Yen-LIBOR or Euroyen TIBOR entered into by a U.S. Person, or by a Person from or through a location within the U.S.

(H) **"Class Member"** or **"Settlement Class Member"** means a Person who is a member of the Class.

(I) **"Class Period"** means the period of January 1, 2006 through June 30, 2011.

(J) **"Class Notice"** means the form of notice of the proposed Settlement to be distributed to the Settlement Class as provided in this Agreement and the Preliminary Approval Order.

(K) **"Court"** means the United States District Court for the Southern District of New York.

(L) **"Defendants"** means the defendants currently named in the Action and any parties that may be added to the Action as defendants through amended or supplemental pleadings.

(M) **"Distribution Plan"** means any plan or formula of allocation of the Net Settlement Fund, to be approved by the Court, upon notice to the Class as may be required, whereby the Net Settlement Fund shall in the future be distributed to Authorized Claimants.

(N) **"Effective Date"** means the date when this Settlement Agreement becomes final as set forth in Section 18 of this Settlement Agreement.

(O) **"Escrow Agent"** means any person jointly designated by Interim Lead Counsel and Citi and approved by the Court to act as escrow agent for the Settlement Fund.

(P) **"Euroyen-Based Derivatives"** means (i) a purchase or sale of a Euroyen TIBOR futures contract on the Chicago Mercantile Exchange ("CME"); (ii) 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.; (iii) a purchase or sale of a Japanese Yen currency futures contract on the CME; (iv) 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.; (v) 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 (vi) 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.

(Q) **"Euroyen TIBOR"** means the Euroyen Tokyo Interbank Offered Rate.

(R) **"Execution Date"** means the date on which this Agreement is executed by the last Party to do so.

(S) **"Fairness Hearing"** means a hearing scheduled by the Court following the issuance of the Preliminary Approval Order to consider the fairness, adequacy and reasonableness of the proposed Settlement and Settlement Agreement.

(T) **"Final"** means, with respect to any court order, including, without limitation, the Final Judgment, that such order represents a final and binding

determination of all issues within its scope and it not subject to further review on appeal or otherwise. An order becomes "Final" when: (i) no appeal has been filed and the prescribed time for commencing any appeal has expired; or (ii) an appeal has been filed and either (a) the appeal has been dismissed and the prescribed time, if any, for commencing any further appeal has expired, or (b) the order has been affirmed in its entirety and the prescribed time, if any, for commencing any further appeal has expired. Any appeal or other proceeding pertaining solely to any order adopting or approving the Distribution Plan, and/or any order issued in respect of an application for attorneys' fees and expenses pursuant to Sections 5 and 6 below, shall not in any way delay or prevent the Judgment from becoming Final.

(U) **"Final Approval Order"** means an order from the Court approving of the Settlement following (i) preliminary approval of the Settlement Agreement, (ii) the issuance of the Class Notice pursuant to the Preliminary Approval Order, and (iii) the Fairness Hearing.

(V) **"Incentive Award"** means any award by the Court to Representative Plaintiffs as described in Section 5.

(W) **"Interim Lead Counsel"** means Lowey Dannenberg Cohen & Hart, P.C., acting pursuant to the authority conferred by the Order Appointing Interim Lead Class Counsel (Dkt. No. 99), and subsequent stipulations and orders.

(X) **"Final Judgment"** means the order of judgment and dismissal of the Action with prejudice as to Citi, the form of which shall be mutually agreed upon by the Parties and submitted to the Court for approval thereof.

(Y) **"LIBOR"** means the London Interbank Offered Rate.

(Z) **"Net Settlement Fund"** means the Settlement Fund less Court-approved disbursements, including: (i) notice, claims administration and escrow costs; (ii) any attorneys' fees and/or expenses awarded by the Court; (iii) any Incentive Award(s) awarded by the Court; (iv) subject to prior Court approval, up to five hundred thousand dollars ($500,000) to defray current and future litigation expenses, including discovery related expenses and expert fees, that accrue during the course of prosecuting claims against Defendants in this Action; and (v) all other expenses, costs, taxes and other charges approved by the Court.

(AA) **"Non-Settling Defendants"** means any and all Defendants in this Action, excluding Citi.

(BB) **"Other Settlement"** means any stipulation and settlement agreement Representative Plaintiffs reach with any other Defendant involving this Action that will be submitted to the Court for notice and approval purposes at the same time as this Settlement Agreement.

(CC) **"Parties"** means Citi and Representative Plaintiffs collectively, and "**Party**" applies to each individually.

(DD) **"Person"** means an individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint-stock company, estate, legal representative, trust, unincorporated association, proprietorship, municipality, state, state agency, entity that is a creature of any state, any government, governmental or quasi-governmental body or political subdivision, authority, office, bureau, agency or instrumentality of the government, any business or legal entity, or any other entity or organization; and any spouses, heirs,

predecessors, successors, representatives or assignees of any of the foregoing.

(EE) **"Plaintiffs' Counsel"** means Interim Lead Counsel and other counsel for the Representative Plaintiffs.

(FF) **"Preliminary Approval Order"** means an order by the Court issued in response to the Motion for Preliminary Approval in Section 13 providing for, *inter alia*, preliminary approval of the Settlement, including certification of the Settlement Class for purposes of the Settlement only, and for a stay of all proceedings in the Action against Citi until the Court renders a final decision on approval of the Settlement.

(GG) **"Proof of Claim and Release"** means the form to be sent to Class Members, upon further order(s) of the Court, by which any Class Member may make a claim against the Net Settlement Fund.

(HH) **"Regulatory Agencies"** means any local, state, provincial, regional, or national regulatory, governmental or quasi-governmental agency or body that was authorized, is authorized or will be authorized to enforce laws and regulations concerning the conduct at issue in this Action, including, but not limited to, the United States Department of Justice, United States Commodity Futures Trading Commission, United Kingdom Financial Conduct Authority (formerly, United Kingdom Financial Services Authority), the European Commission, Japanese Financial Services Agency, Japanese Securities and Exchange Surveillance Commission, Swiss Competition Commission, Canadian Competition Bureau, New York Department of Financial Services, and their predecessors or successors.

(II) **"Released Claims"** means those claims described in Section 12 of this Settlement Agreement.

(JJ) **"Released Parties"** means Citi; as well as their parents, subsidiaries, affiliates, officers, directors, employees and agents, including former employee Thomas Hayes for the time period he was employed by Citi. Claims against Thomas Hayes arising from his conduct during the time he was not employed by Citi are not released herein. In addition, claims against the Non-Settling Defendants are not released herein.

(KK) "**Releasing Parties**" means Settling Class Members on behalf of themselves and (as applicable) their heirs, executors, administrators, agents, members, trustees, participants, and beneficiaries, and their respective predecessors, successors, representatives, principals, and assigns.

(LL) **"Representative Plaintiffs"** means Jeffrey Laydon, Oklahoma Police Pension & Retirement System, Stephen P. Sullivan, the California State Teachers' Retirement System, Sonterra Capital Master Fund, Ltd., and Hayman Capital Management, L.P., and any other Person named as a named plaintiff in the Action who was not subsequently withdrawn as a named plaintiff, and any named plaintiff who may be added to the action through amended or supplemental pleadings. This Settlement Agreement is entered with each and every Representative Plaintiff. In the event that one or more Representative Plaintiff(s) fails to secure court approval to act as a Representative Plaintiff, the validity of this Settlement Agreement as to the remaining Representative Plaintiffs, the Settlement Class, and Interim Lead Counsel shall be unaffected.

(MM) **"Settlement"** means the settlement of the Released Claims set forth herein.

(NN) **"Settlement Administrator"** means any Person that the Court approves to perform the tasks necessary to provide notice of the Settlement to the Class and to otherwise administer the Settlement Fund, as described further herein.

(OO) **"Settlement Amount"** means twenty-three million dollars ($23,000,000).

(PP) **"Settlement Fund"** means the Settlement Amount plus any interest that may accrue.

(QQ) **"Settling Class Members"** means Representative Plaintiffs and other members of the Settlement Class who do not timely exclude themselves from the Settlement pursuant to Fed. R. Civ. P. 23(c).

(RR) **"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; any other Person or entity created and/or formed under the laws of the United States, or any other Person or entity residing in the United States.

(SS) **"Yen-LIBOR"** means the London Interbank Offered Rate for the Japanese Yen.

2. Settlement Class

Representative Plaintiffs will file an application seeking the certification of the Settlement Class as described herein pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

3. Settlement Payment

Citi shall pay by wire transfer to the Escrow Agent five million dollars ($5 million) of the Settlement Amount into the Settlement Fund within seven (7) business days after the Preliminary

Approval Order is entered. The balance of the Settlement Amount, which shall be eighteen million dollars ($18 million), shall be paid into the Settlement Fund by Citi within seven (7) business days after entry of the Final Approval Order. All interest earned by any portion of the Settlement Amount paid into the Settlement Fund shall be added to and become part of the Settlement Fund. Upon occurrence of the Effective Date, no funds may be returned to Citi through a reversion or other means. The Escrow Agent shall only act in accordance with instructions mutually agreed upon by the Parties in writing, except as otherwise provided in this Agreement.

4. Cooperation

(A) Citi shall provide reasonable cooperation in the Action, including discovery cooperation, requested by Interim Lead Counsel, to benefit the Class. All cooperation shall be coordinated in such a manner so that all unnecessary duplication and expense is avoided. Interim Lead Counsel shall tailor its requests for the production of documents with a view towards minimizing unnecessary burdens and costs to Citi in connection with collecting, reviewing and producing materials that have not already been collected in the course of related settlements, reports and/or investigations by Regulatory Agencies.

(B) Notwithstanding any other provision of this Agreement, in the event that Citi believes Interim Lead Counsel has unreasonably requested cooperation, or Interim Lead Counsel believes Citi has unreasonably withheld cooperation, Citi and Interim 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. Interim Lead Counsel agrees to use any and all of the information and documents

obtained from Citi only for the purpose of the Action, and agrees to be bound by the terms of the protective orders entered in the Action.

(C) Subject to the terms of this Settlement Agreement, and in settlement and release of all claims of the Settling Class Members as set forth in this Settlement Agreement, Citi agrees to do the following, to the extent not prevented from doing so by any court order or any law, regulation, policy, or other rule of any regulatory agency or governmental body restricting disclosure of documents or information:

(i) provide attorney proffers regarding the facts and information that Citi has found in the course of its investigations concerning the Yen LIBOR and Euroyen TIBOR issues raised in the Action;

(ii) produce to Interim Lead Counsel:

(a) all underlying documents and communications related to or concerning the subject matter of this Action that have been provided to Regulatory Agencies in connection with investigations concerning the Yen LIBOR and Euroyen TIBOR issues raised in the Action (and to the extent additional productions of such documents are made to Regulatory Agencies after this Agreement is signed, Citi will provide copies of such documents to Interim Lead Counsel within a reasonable period of time thereafter);

(b) reasonably available information concerning Citi's total volume in the interest rate and foreign derivatives market for Yen-denominated financial

instruments between 2006 and 2011;

(c) reasonably available transaction data reflecting trades of Euroyen-Based Derivatives for the period of January 1, 2006 through June 30, 2011 maintained by Citi;

(d) all documents produced to any Defendant or third party during the course of the prosecution of this Action concerning the subject matter of this Action; and

(e) all declarations, affidavits, witness statements, or other sworn or unsworn statements of former and/or current Citi directors, officers, or employees concerning the allegations set forth in this Action, subject to any claim of attorney-client privilege that has not been waived.

(iii) provide Interim Lead Counsel reasonable access to witnesses within Citi's possession, custody or control knowledgeable about the Yen-LIBOR or Euroyen TIBOR conduct alleged in the Action. Citi will allow Interim Lead Counsel to interview, depose, or take trial or other testimony from any such Person (up to 4 Persons) as requested by Interim Lead Counsel; provided, however, that Citi shall not be required to cause any such Person who resides outside the U.S. to travel to the U.S. in connection with such access;

(iv) designate witness(es) to serve as Citi's corporate representative pursuant to the framework of Rule 30(b)(6) of the Federal

Rules of Civil Procedure in connection with any depositions, hearing or trial of the Defendants without issuance of a subpoena; and

(v) cooperate as necessary to authenticate and otherwise make usable at trial the documents and information provided pursuant to this Settlement Agreement, including electronically-stored information, and audio recordings.

(D) Citi agrees to consider in good faith reasonable requests from Interim Lead Counsel for additional documents and information beyond the items specified in Subsection C above.

(E) Citi agrees to begin producing documents pursuant to this section within fourteen (14) days following the Execution Date, and agrees to begin providing other elements of the cooperation contemplated by this Agreement within forty-five (45) days of the Execution Date. Such other elements of cooperation will focus initially on issues pertinent to the proposed plan of allocation, and will extend to other issues after preliminary approval is granted.

(F) Citi and Interim Lead Counsel agree to work in good faith to resolve any issues relating to electronic discovery, including the form of production for electronic data files.

(G) Notwithstanding any other provision in this Agreement, Citi may assert, where applicable, the attorney work-product doctrine, the attorney-client privilege, the common interest doctrine, the joint defense privilege, or any other applicable privilege or protection with respect to any documents, interviews, declarations and/or affidavits, depositions, testimony, material, and/or information requested under this Agreement. Any information provided to Interim Lead Counsel pursuant to this provision shall be covered by the protective orders in place in the Action. None of the cooperation provisions are intended to, nor do they, waive any such

privileges or protections. Citi agrees that its counsel will meet with Interim Lead Counsel as is reasonably necessary to discuss any applicable privilege, protection or restriction. Any disputes regarding privilege, protection or restriction that cannot be resolved amongst the parties shall be reserved for resolution by the Court.

(H) If any document protected by the attorney-client privilege, attorney work-product doctrine, common interest doctrine, joint defense privilege any other applicable privilege or protection, law, regulation, policy and/or rule of any regulatory agency or governmental body restricting disclosure of such documents is accidentally or inadvertently produced, the document shall promptly be returned to Citi's counsel, and its production shall in no way be construed to have waived any privilege, protection or restriction attached to such document or information.

5. Payment of Attorneys' Fees and Reimbursement of Expenses, and Application for Incentive Award

(A) Subject to Court approval, Representative Plaintiffs and Interim Lead Counsel shall be reimbursed and paid solely out of the Settlement Fund for all fees and expenses including, but not limited to, attorneys' fees, and past, current or future litigation expenses, and any incentive award approved by the Court. Citi shall have no responsibility for any costs, fees, or expenses incurred for or by Representative Plaintiffs' or Class Members' respective attorneys, experts, advisors, agents, or representatives. Nothing in this provision shall expedite the date(s) for Citi's payments as set forth in Section 3.

(B) Interim Lead Counsel, on behalf of all Plaintiffs' Counsel, may apply to the Court for an award from the Settlement Fund of attorneys' fees, plus interest. Interim Lead Counsel also may apply to the Court for reimbursement from the Settlement Fund of Plaintiffs' Counsels' litigation expenses, plus interest. Representative Plaintiffs may make an application to the Court

for an award in connection with their representation of the Settlement Class in this litigation, which amount constitutes the Incentive Award.

(C) The Released Parties shall have no responsibility for, and no liability with respect to, the attorneys' fees, litigation expenses, or Incentive Award that the District Court may award in the Action.

(D) The procedures for, and the allowance or disallowance by the Court of, any application for approval of fees, expenses and costs or an Incentive Award (collectively, "Fee and Expense Application") are not part of the Settlement set forth in this Agreement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of the Settlement set forth in this Agreement. Any order or proceeding relating to a Fee and Expense Application, or the reversal or modification thereof, shall not operate to terminate or cancel this agreement, or affect or delay the finality of the Judgment and the Settlement of the Action as set forth herein. No order of the Court or modification or reversal on appeal of any order of the Court concerning any Fee and Expense Application or the Distribution Plan shall constitute grounds for termination of this agreement.

(E) In connection with this Settlement, Interim Lead Counsel may, subject to prior Court approval, withdraw up to $500,000 from the Escrow Account to defray current and future litigation expenses, including discovery expenses and expert fees, for prosecuting the claims asserted against Defendants in this Action.

(F) At least thirty (30) calendar days prior to the Fairness Hearing, Interim Lead Counsel and Representative Plaintiffs shall file any motions seeking awards from the Settlement Fund for payment of attorneys' fees and reimbursement of costs and expenses, and for the payment of an Incentive Award as follows:

(i) Plaintiffs' Counsel shall seek attorneys' fees of no more than one-fourth (*i.e.*, 25%) of the Settlement Fund;

(ii) Interim Lead Counsel shall seek reimbursement for their costs and expenses incurred as of the date the Motion for Final Approval and Entry of Final Judgment is filed pursuant to Section 16; and

(iii) Representative Plaintiffs may make an application to the Court for an award in connection with their representation of the Settlement Class in this litigation, which amount constitutes the Incentive Award.

(G) Upon the Court's approval of an award of attorneys' fees, costs and expenses, Interim Lead Counsel may immediately withdraw up to thirty percent (30%) of any such approved amount from Subsections (F)(i) and (F)(ii), above. The remainder may be withdrawn from the Settlement Fund only upon occurrence of the Effective Date. If an event occurs that will cause the Settlement Agreement not to become final pursuant to Section 18 or if Representative Plaintiffs or Citi terminates the Settlement Agreement pursuant to Sections 21 through 23, then within ten (10) business days after receiving written notice of such an event from counsel for Citi or from a court of appropriate jurisdiction, Interim Lead Counsel shall refund to the Settlement Fund any attorneys' fees, costs and expenses (not including any non-refundable expenses as described in section 9(b)) that were withdrawn plus interest thereon at the same rate at which interest is accruing for the Settlement Fund.

6. Application for Approval of Fees, Expenses, and Costs of Settlement Fund Administration

Interim Lead Counsel may apply, at the time of any application for distribution to Authorized Claimants, for an award from the Settlement Fund of attorneys' fees for services

performed and reimbursement of expenses incurred in connection with the administration of the Settlement after the date of the Fairness Hearing. Interim Lead Counsel reserves the right to make additional applications for payment from the Settlement Fund for attorneys' fees for services performed and reimbursement of expenses incurred.

7. No Liability for Fees and Expenses of Interim Lead Counsel

The Released Parties shall have no responsibility for, and no liability whatsoever with respect to, any payment(s) to Interim Lead Counsel for attorneys' fees, costs and expenses and/or to any other Person who may assert some claim thereto, or any fee and expense award the Court may make in the Action.

8. Distribution of and/or Disbursements from Settlement Fund

The Settlement Administrator, subject to such supervision and direction by the Court and/or Interim Lead Counsel as may be necessary, shall administer the Proof of Claim and Release forms submitted by the Settling Class Members and shall oversee the distribution of the Settlement Fund pursuant to the Distribution Plan. Upon the Effective Date (or earlier if provided in Section 5 herein), the Settlement Fund shall be applied as follows:

(i) to pay costs and expenses associated with the distribution of the Class Notice and Administration of the Settlement as provided in this Section and Section 6, including all costs and expenses reasonably and actually incurred in assisting Class Members with the filing and processing of claims against the Net Settlement Fund at any time after Citi makes the payments described in Section 3;

(ii) to pay Escrow Agent costs;

(iii) to pay taxes assessed on the Settlement Fund, and tax preparation fees in connection with such Taxes;

(iv) to pay any attorneys' fees, costs and expenses approved by the Court upon submission of a Fee and Expense Application, as provided in Sections 5;

(v) to pay the amount of any Incentive Award for Representative Plaintiffs, as provided in Section 5; and

(vi) to pay the Net Settlement Fund to Authorized Claimants as allowed by the Agreement, any Distribution Plan, or order of the Court.

9. Disbursements Prior to Effective Date

(A) Except as provided in Subsection (B) herein or by Court order, no distribution to any Settlement Class Member or disbursement of fees, costs and expenses of any kind may be made from the Settlement Fund until the Effective Date. As of the Effective Date, all fees, costs and expenses and Incentive Awards as approved by the Court may be paid out of the Settlement Fund.

(B) Upon written notice to the Escrow Agent by Interim Lead Counsel with a copy to Citi, the following may be disbursed prior to the Effective Date: (i) reasonable costs of Class Notice and Administration may be paid from the Settlement Fund as they become due (up to a maximum of $500,000); (ii) reasonable costs of the Escrow Agent may be paid from the Settlement Fund as they become due; (iii) taxes and tax expenses may be paid from the Settlement Fund as they become due; and (iv) up to thirty percent (30%) of Plaintiff's Counsel's attorneys' fees and costs and expenses as approved by the Court. In the event the Settlement does not become final, Citi shall be entitled to return of all such funds, except for up to $500,000

for reasonable costs of Class Notice and Administration that have been actually disbursed prior to the date the Settlement was terminated.

(C) Interim Lead Counsel will attempt in good faith to minimize the costs of the Escrow Agent, Class Notice and Administration.

10. Distribution of Balances Remaining in Net Settlement Fund to Authorized Claimants

The Net Settlement Fund shall be distributed to Authorized Claimants and, except as provided in Section 9(B), there shall be no reversion to Citi. The distribution to Authorized Claimants shall be in accordance with the Distribution Plan to be approved by the Court upon such notice to the Class as may be required. Any such Distribution Plan is not a part of this Agreement. No funds from the Net Settlement Fund shall be distributed to Authorized Claimants until the later of (i) the Effective Date or (ii) the date by which the Distribution Plan has received final approval and the time for any further appeals with respect to the Distribution Plan has expired. Should there be any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, or otherwise), Interim Lead Counsel shall submit an additional distribution plan to the Court for its approval.

11. Administration/Maintenance of Settlement Fund

(A) The Settlement Fund shall be maintained by Interim Lead Counsel under supervision of the Court and shall be distributed solely at such times, in such manner and to such Persons as shall be directed by subsequent orders of the Court (except as provided for in this Agreement) consistent with the terms of this Settlement Agreement. The Parties intend that the Settlement Fund be treated as a "qualified settlement fund" within the meaning of Treasury Regulation § 1.468B. Interim Lead Counsel shall ensure that the Settlement Fund at all times complies with Treasury Regulation § 1.468B in order to maintain its treatment as a qualified

settlement fund. To this end, Interim Lead Counsel shall ensure that the Settlement Fund is approved by the Court as a qualified settlement fund and that any Escrow Agent, Settlement Administrator or other administrator of the Settlement Fund complies with all requirements of Treasury Regulation § 1.468B-2. Any failure to ensure that the Settlement Fund complies with Treasury Regulation § 1.468B-2, and the consequences thereof, shall be the sole responsibility of Interim Lead Counsel.

12. Release and Covenant Not To Sue

(A) The Releasing Parties finally and forever release and discharge from and covenant not to sue the Released Parties for any and all manner of claims, including unknown claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, attorneys' fees, and damages, whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, suspected or unsuspected, asserted or unasserted, which Settling Class Members or any of them ever had, now has, or hereafter can, shall or may have, representatively, derivatively or in any other capacity, against the Released Parties arising from or relating in any way to conduct alleged in the Action or which could have been alleged in the Action against the Released Parties concerning Class Contracts held by the Representative Plaintiffs, Class Members, and/or Settling Class Members, including, but not limited to, any alleged manipulation of Euroyen TIBOR and/or Yen-LIBOR under the Commodity Exchange Act, 7 U.S.C. § 1 et seq., or any purported conspiracy, collusion, racketeering activity, or other improper conduct relating to Euroyen TIBOR and/or

Yen-LIBOR (including, but not limited to, all claims under Section 1 of 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 any other federal or state statute or common law).

(B) This release constitutes a waiver of Section 1542 of the California Civil Code (to the extent it applies to the Action), which provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

This release also constitutes a waiver of any and all provisions, rights, and benefits of any federal, state or foreign law, rule, regulation, or principle of law or equity that is similar, comparable, equivalent to, or which has the effect of, Section 1542 of the California Civil Code. The Settling Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of this Agreement, but that it is their intention to release fully, finally, and forever all of the Released Claims, and in furtherance of such intention, the release shall be irrevocable and remain in effect notwithstanding the discovery or existence of any such additional or different facts. In entering and making this Agreement, the Parties assume the risk of any mistake of fact or law and the release shall be irrevocable and remain in effect notwithstanding any mistake of fact or law.

13. Motion for Preliminary Approval

As soon as practicable after the Execution Date, at a time to be mutually agreed by Citi and Interim Lead Counsel, Interim Lead Counsel shall submit this Settlement Agreement to the Court and shall file a motion for entry of the Preliminary Approval Order.

14. Class Notice

In the event that the Court preliminarily approves the Settlement, Interim Lead Counsel shall, in accordance with Rule 23 of the Federal Rules of Civil Procedure, provide Class Members, whose identities can be determined after reasonable efforts, with notice of the date of the Fairness Hearing. The Class Notice may be sent solely for this Settlement or combined with notice of Other Settlements or of any litigation class. The Class Notice shall also explain the general terms of the Settlement Agreement, the general terms of the proposed Distribution Plan, the general terms of the Fee and Expense Application, and a description of Class Members' rights to object to the Settlement, request exclusion from the Class and appear at the Fairness Hearing. The text of the Class Notice shall be agreed upon by the Parties before its submission to the Court for approval thereof. Citi agrees to provide Interim Lead Counsel with reasonably available contact information for counterparties to Euroyen-Based Derivatives it transacted with during the Class Period, to the extent not prevented from doing so by any court order or any law, regulation, policy, or other rule of any regulatory agency or governmental body restricting disclosure of such information.

15. Publication

Interim Lead Counsel shall cause to be published a summary in accord with the Class Notice submitted to the Court by the Parties and approved by the Court. Citi shall have no responsibility for providing publication or distribution of the Settlement or any notice of the Settlement to Class Members or for paying for the cost of providing notice of the Settlement to Class Members except as provided for in Section 9(B). The Parties shall mutually agree on any content relating to Citi that will be used by Interim Lead Counsel and/or the Settlement

Administrator in any Settlement-related press release or other media publication, including on websites.

16. Motion for Final Approval and Entry of Final Judgment

(A) After Class Notice is issued, and at least thirty (30) calendar days prior to the Fairness Hearing, the parties hereto shall jointly move for entry of a Final Approval Order and Final Judgment:

(i) finally certifying solely for settlement purposes the Settlement Class as defined in Section 1(F) herein;

(ii) finding that the Class 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;

(iii) 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;

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

(v) discharging and releasing the Released Claims as to the Released Parties;

(vi) 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;

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

(viii) containing such other and further provisions consistent with the terms of this Agreement to which the Citi and Representative Plaintiffs expressly consent in writing.

(B) At least thirty (30) calendar days prior to the Fairness Hearing, as provided in Section 5, Interim Lead Counsel will timely request by separate motion that the Court approve its Fee and Expense Application. The Fee and Expense Application and the Distribution Plan (as defined in Section 1(M)) are matters separate and apart from the Settlement between the Parties. If the Fee and Expense Application or the Distribution Plan are not approved, in whole or in part, it will have no effect on the finality of the judgment.

17. Best Efforts to Effectuate This Settlement

The Parties agree to cooperate with one another to the extent reasonably necessary to effectuate and implement the terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the terms and conditions of this Agreement.

18. Effective Date

Unless terminated earlier as provided in this Settlement Agreement, this Settlement Agreement shall become effective and final as of the date upon which all of the following conditions have been satisfied:

(A) The Settlement Agreement has been fully executed by the Citi and Representative Plaintiffs through their counsel;

(B) The Court has certified a Settlement Class, granted preliminary approval of this Settlement Agreement, and approved the program and form for the Class Notice;

(C) Class Notice has been issued as ordered by the Court;

(D) The Court has finally approved the Settlement Agreement in all respects as required by Rule 23(e) of the Federal Rules of Civil Procedure; however, this required approval does not include the approval of the Fee and Expense Application and the Distribution Plan;

(E) The Court has entered its Final Judgment of dismissal with prejudice as to the Released Parties with respect to Representative Plaintiffs and Settling Class Members; and

(F) The time to appeal or seek permission to appeal the Court's Final Approval Order and or Final Judgment has expired or, if appealed, either (i) the Settlement Agreement and the Final Judgment of dismissal have been affirmed in their 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.

19. Occurrence of Effective Date

Upon the occurrence of all of the events in Section 18, any and all remaining interest or right of Citi in or to the Settlement Fund, if any, shall be absolutely and forever extinguished, and the Net Settlement Fund shall be transferred from the Escrow Agent to the Settlement Administrator at the written direction of Interim Lead Counsel.

20. Failure of Effective Date to Occur

If any of the conditions specified in Section 18 are not satisfied, then this Agreement shall be terminated, subject to and in accordance with Section 21, unless the Parties mutually agree in writing to continue with it for a specified period of time.

21. Termination

(A) Citi shall have the right, but not the obligation, in its sole discretion, to terminate this Settlement Agreement by providing written notice to Interim Lead Counsel within fifteen (15) business days of any of the following events:

(i) the Court denies, in whole or in part, Representative Plaintiffs' Motion for Preliminary Approval pursuant to Section 13 or the Motion for Final Approval pursuant to Section 16;

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

(iii) the Court declines to enter Final Judgment.

(B) Interim Lead Counsel, acting on behalf of the Representative Plaintiffs, shall have the right, but not the obligation, in their sole discretion, to terminate this Settlement Agreement by providing written notice to Citi's counsel within fifteen (15) business days of any of the following events, provided that the occurrence of the event substantially deprives Plaintiffs of the benefit of the Settlement:

(i) the Court denies, in whole or in part, Representative Plaintiffs' Motion for Preliminary Approval pursuant to Section 13 or the Motion for Final Approval pursuant to Section 16;

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

(iii) the Court declines to enter Final Judgment; and

(iv) Citi, for any reason, fails to comply with Section 3 and fails to cure such non-compliance as contemplated by Section 21(c) below.

(C) In the event that Citi, for any reason, fails to comply with Section 3, then on ten (10) business days written notice to Citi's counsel, during which ten-day period Citi shall have the opportunity to cure the default without penalty, Representative Plaintiffs, by and through Interim Lead Counsel, may terminate this Settlement Agreement or elect to enforce it as provided by the Federal Rules of Civil Procedure.

22. Effect of Termination

Unless otherwise ordered by the Court, in the event that the Effective Date does not occur or this Agreement is terminated or cancelled, or otherwise fail to become effective for any reason, including, without limitation, in the event that the Settlement as described herein is not finally approved by the Court or the Final Judgment is reversed or vacated following any appeal, then:

(A) Within fifteen (15) business days after written notification of such event is sent by counsel for Citi or Interim Lead Counsel to all Parties and the Escrow Agent, the Settlement Amount, and all interest earned in the Settlement Fund will be refunded, reimbursed, and repaid by the Escrow Agent to Citi, except as provided in Section 9(B);

(B) The Escrow Agent or its designee shall apply for any tax refund owed to the Settlement Fund and pay the proceeds to Citi, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund;

(C) 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

(D) Upon termination of this Settlement Agreement, then:

(i) this Agreement shall be null and void and of no further effect, and neither Citi, the Representative Plaintiffs, 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*.

23. Supplemental Agreement

In addition to the provisions contained in Section 21(A) herein, Citi shall have the right, but not the obligation, in its sole discretion, to terminate this Settlement Agreement pursuant to the terms and conditions of a Supplemental Agreement to be filed with the Court under seal at the same time as the motion for entry of the Preliminary Approval Order.

24. Impact of Any Other Settlement

(A) If any Other Settlement (as defined in Section 1(BB)) is reached, the "Settlement Class" definition in Section 1(F), as well as the terms contained within the "Cooperation," "Release and Covenant Not to Sue," and "Termination" provisions herein (as described in Sections 4, 12, and 21 respectively) shall be no less favorable to Citi than the corresponding term or provision applicable to any Other Settlement.

(B) If Citi believes one or more terms or provisions referenced in subsection (A) is less favorable than a corresponding term or provision in the Other Settlement, Citi will provide

written notice of such belief to Interim Lead Counsel as prescribed in this Settlement Agreement within ten (10) business days of the filing of the Other Settlement with the Court. Following receipt of the written notice, Citi and Interim Lead Counsel will confer as to whether the relevant term or provision in this Settlement Agreement is less favorable as compared to the Other Settlement. If there is agreement between Citi and Interim Lead Counsel that the provision at issue is less favorable, Citi and Interim Lead Counsel will execute an amendment to the Settlement Agreement, adopting and incorporating the provision as drafted in the Other Settlement into the Settlement Agreement, and will submit the amendment to the Court for its approval. If Citi and Interim Lead Counsel are unable to reach an agreement on the relevant provision, Citi or Interim Lead Counsel may move the Court to resolve the dispute.

25. Confidentiality Protection

Representative Plaintiffs, Interim Lead Counsel, and Citi 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 Citi, upon notice to Interim Lead Counsel, from making any disclosures it deems necessary to comply with any relevant laws, subpoena or other form of judicial process.

26. Binding Effect

(A) This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Citi, the Released Parties, the Representative Plaintiffs, and Settling Class Members.

(B) The waiver by any Party of any breach of this Settlement Agreement by another Party shall not be deemed a waiver of any other prior or subsequent breach of this Settlement Agreement.

27. Integrated Agreement

This Settlement Agreement, including any exhibits hereto and agreements referenced herein, 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 or referenced herein. This Settlement Agreement supersedes all prior or contemporaneous discussions, agreements, and understandings among the Parties to this Settlement Agreement with respect hereto. This Settlement Agreement may not be modified in any respect except by a writing that is executed by all the Parties hereto.

28. No Conflict Intended

The headings used in this Settlement Agreement are for the convenience of the reader only and shall not have any substantive effect on the meaning and/or interpretation of this Settlement Agreement.

29. No Party is the Drafter

None of the Parties shall be considered to be the drafter of this Settlement Agreement or any provision herein 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.

30. Choice of Law

All terms within the Settlement Agreement and its exhibits hereto 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.

31. Execution in Counterparts

This Settlement Agreement may be executed in one or more counterparts. Facsimile and scanned/PDF signatures shall be considered valid signatures. All executed counterparts shall be deemed to be one and the same instrument. There shall be no agreement until the fully signed counterparts have been exchanged and delivered on behalf of all Parties.

32. Submission to and Retention of Jurisdiction

The Parties, Released Parties and the Settlement Class irrevocably submit, to the fullest extent permitted by law, to the exclusive jurisdiction of the United States District Court for the Southern District of New York for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement, or the exhibits hereto. For the purpose of such suit, action, or proceeding, to the fullest extent permitted by law, the Parties, Released Parties and the Settlement Class 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.

33. Reservation of Rights

This Settlement Agreement does not settle or compromise any claims by Representative Plaintiffs or any Settlement Class Member asserted against any Defendant or any potential defendant other than Citi and the Released Parties. The rights of any Settlement Class Member against any other Person other than Citi and the Released Parties are specifically reserved by Representative Plaintiffs and the Settlement Class Members.

34. Notices

All notices and other communications under this Settlement Agreement shall be sent to the Parties to this Settlement Agreement at their address set forth on the signature page herein, *viz*, if to Representative Plaintiffs, then to: Vincent Briganti, Lowey Dannenberg Cohen & Hart, P.C., One North Broadway, White Plains, NY 10601 and if to Citi, then to Andrew A. Ruffino, Covington & Burling LLP, 620 Eighth Avenue, New York, NY 10018-1405, or such other address as each party may designate for itself, in writing, in accordance with this Settlement Agreement.

35. Authority

In executing this Settlement Agreement, Interim Lead Counsel represent and warrant that they have been fully authorized to execute this Settlement Agreement on behalf of the Representative Plaintiffs 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

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

Agreement have been taken. Citi represents and warrants that the undersigned is fully empowered to execute the Settlement Agreement on behalf of Citi, and that all actions necessary for the execution of this Settlement Agreement have been taken.

Dated: August 11, 2015

By: _____
Vincent Briganti
LOWEY DANNENBERG COHEN & HART, P.C.
One North Broadway
White Plains, New York 10601
Telephone: (914) 997-0500

Interim Lead Counsel for Representative Plaintiffs and the Proposed Class

Dated: August 11, 2015

By: _____
Andrew A. Ruffino
COVINGTON & BURLING LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
Telephone: (212) 841-1097

Counsel for Citi

EXHIBIT 3

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:	)	
	)	
RP Martin Holdings Limited and Martin Brokers (UK) Ltd.,	)	CFTC Docket No. 14 – 16
	)	
Respondents.	)	
	)	
	)	

ORDER INSTITUTING PROCEEDINGS PURSUANT TO SECTIONS 6(c) AND 6(d) OF THE COMMODITY EXCHANGE ACT MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS

I.

The Commodity Futures Trading Commission (the "Commission" or the "CFTC") has reason to believe that RP Martin Holdings Limited and Martin Brokers (UK) Ltd. (collectively, "Respondents" or "RP Martin"), have violated Sections 6(c), 6(d) and 9(a)(2) of the Commodity Exchange Act (the "Act" or the "CEA"), 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondents engaged in the violations set forth herein, and to determine whether any order shall be issued imposing remedial sanctions.

II.

In anticipation of the institution of an administrative proceeding, Respondents have submitted an Offer of Settlement ("Offer"), which the Commission has determined to accept. Without admitting or denying the findings or conclusions herein, except to the extent Respondents admit those findings in any related action against RP Martin by, or any agreement with, the Department of Justice or any other governmental agency or office, Respondents herein consent to the entry and acknowledge service of this Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act Making Findings and Imposing Remedial Sanctions ("Order").[1]

[1] Respondents consent to the entry of this Order and to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that Respondents do not consent to the use of the Offer, or the findings or conclusions in this Order, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order or where Respondents have admitted findings as set forth above. Nor do Respondents consent to the use of the Offer or this Order, or the findings or conclusions in this Order consented to in the Offer, by any other party in any other proceeding.

III.

The Commission finds the following:

A. Summary

During a period encompassing nearly twelve months, from at least September 2008 through at least August 2009 ("relevant period"), RP Martin, through certain of its brokers on the Yen desk, knowingly disseminated false and misleading information concerning Yen borrowing rates to market participants in attempts to manipulate, at times successfully, the official fixing of the daily Yen London Interbank Offered Rate ("Yen LIBOR"). RP Martin brokers engaged in this misconduct primarily to aid and abet a senior Yen derivatives trader ("Senior Yen Trader") employed at UBS Securities Japan Co., Ltd. ("UBS") and later at another bank, in his attempts to manipulate Yen LIBOR to benefit his derivatives trading positions that were tied to this benchmark.[2]

Yen LIBOR, one of the British Banker's Association's ("BBA") benchmark rates, is established each day based on information submitted by banks who are members of the Yen LIBOR panel. The rates contributed by the panel banks are supposed to reflect each bank's assessment of the costs of borrowing unsecured funds in the London interbank market. Before panel banks make their rate submissions each day, certain interdealer brokers, such as RP Martin, which intermediate over-the-counter ("OTC") cash and LIBOR-based derivatives transactions between banks and other institutions, provide banks with their trading insight on cash pricing trends in the market and on assessments of likely LIBOR rates. Brokers provide this type of market information as a service to clients to solicit and maintain business, and are thus well-situated to influence the fixing of Yen LIBOR. During the financial crisis of late 2007 through 2009 ("2007-2009 financial crisis"), panel banks became increasingly reliant on such market information from RP Martin and other brokers to inform their LIBOR submissions. Accordingly, RP Martin brokers' market views could and did have an impact on Yen LIBOR submissions.

As one of his many manipulative schemes, the Senior Yen Trader asked RP Martin's Yen brokers to exploit their relationships with submitters and traders at Yen LIBOR panel banks to achieve his manipulative goals. At times, RP Martin's Yen brokers accommodated these requests, particularly whenever the Senior Yen Trader offered to generate extra commissions for

---

[2] On December 19, 2012, the Commission issued an Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act Making Findings and Imposing Remedial Sanctions against UBS AG and UBS, finding, among other things, that UBS AG and UBS, through the Senior Yen Trader, attempted to manipulate Yen LIBOR, at times successfully, through multiple methods. The Commission's Order against UBS AG and UBS found that one of the Senior Yen Trader's strategies included enlisting the aid of interdealer brokers to attempt to influence the rates submitted by Yen LIBOR submitters at other panel banks. In that Order, RP Martin was identified as Brokerage B and the RP Martin broker referenced was identified as Derivatives Broker B1. *See In re UBS AG et al.*, CFTC Docket No. 13-09 (CFTC filed December 19, 2012), at http://www.cftc.gov/ucm/groups/public/@lrenforcementactions/documents/legalpleading/enfubsorder121912.pdf.

them through the use of high-dollar wash trades. Specifically, on a limited number of occasions, the Senior Yen Trader entered into two identical trades with a Yen Trader at another bank where each took opposing positions in each trade, thus resulting in a net zero trading position for each trader, but generating commissions for the entire RP Martin Yen desk, all in anticipation of or reward for the RP Martin brokers' assistance in the Senior Yen Trader's attempts to manipulate Yen LIBOR. These bogus wash trades generated more than $400,000 in commissions for RP Martin's Yen desk over the relevant period.

To try to achieve the Senior Yen Trader's manipulative goals, at times, the RP Martin Yen brokers disseminated false Yen LIBOR information to Yen LIBOR submitters by providing them with misleading market information concerning Yen LIBOR borrowing rates. *First*, the RP Martin Yen desk provided misleading recommendations regarding where the Yen LIBOR submitters should set certain Yen LIBOR tenors. Market participants believed that these recommended LIBORs reflected the RP Martin brokers' assessment of how Yen LIBOR should be fixed based on their unbiased evaluations of borrowing costs in the interbank market. RP Martin brokers spoke on a daily basis with several of the panel banks' Yen LIBOR submitters. Some submitters relied on the market information RP Martin provided when making their own Yen LIBOR submissions. However, at certain times during the relevant period, RP Martin's Yen brokers skewed their Yen LIBOR recommendations to benefit the Senior Yen Trader, rather than provide an objective, unbiased assessment of this benchmark interest rate.

Second, at times, RP Martin Yen brokers contacted submitters at certain panel banks and asked them directly to move their Yen LIBOR submissions in a manner that would benefit the Senior Yen Trader. At times, some of these submitters agreed to help the brokers.

Finally, RP Martin Yen brokers occasionally offered "spoof" bids to their clients, including clients who were Yen LIBOR submitters. These nonexistent cash bids gave the false impression that a bank in the market was willing to trade Yen cash at a particular price. RP Martin Yen brokers knew that Yen LIBOR submitters might consider such market information when determining what rates to submit for Yen LIBOR, and hoped that the misleading "spoof" bids might influence their eventual Yen LIBOR submissions to the benefit of the Senior Yen Trader.

RP Martin's ineffectual supervision of the Yen desk, and its complete failure to audit the Yen derivatives desk or adequately review the Yen brokers' communications with clients, among other internal controls and supervisory deficiencies, allowed this misconduct to continue throughout the relevant period.

****

In accepting RP Martin's Offer, the Commission recognizes Respondents' cooperation in the final stages of the Division of Enforcement's investigation and the resolution of this matter.

B. Respondents

1. RP Martin Holdings Ltd. ("RP Martin Holdings") is a privately-owned holding company, whose businesses consist of wholesale money brokers who operate in the interdealer broker market transacting business on behalf of market participants. The company's brokers act as voice brokers, arranging deals over the telephone between buyers and sellers of bonds, currency and financial derivatives, and generating revenue from the commission earned on each trade. RP Martin Holdings is not registered with the Commission in any capacity.

2. Martin Brokers (UK) Ltd. ("Martin Brokers") is a wholly owned subsidiary of Martin Brokers Group Ltd., a wholly owned subsidiary of RP Martin Holdings, and is headquartered in London, England. It manages a cash, foreign exchange, and off-balance sheet brokering business in the United Kingdom, including the brokering business conducted by Yen brokers and other brokers engaged in the unlawful conduct found herein. Martin Brokers is not registered with the Commission in any capacity.

C. Facts

1. LIBOR and the Fixing of LIBOR

LIBOR is the most widely used benchmark interest rate in the world and affects market participants and consumers throughout the world, including in the United States. LIBOR is used as a barometer to measure strain in money markets and is often a gauge of the market's expectation of future central bank interest rates. LIBOR is used in interest rate transactions with a notional value of $500 trillion, such as OTC swaps, loans and exchange-traded interest rate futures and options contracts.

During the relevant period, under the auspices of the BBA,[3] LIBORs were issued on a daily basis for ten currencies, including Yen, with fifteen tenors (*i.e.*, durations for interest rates) ranging from overnight through twelve months. Certain currencies, including Yen, are more widely referenced in interest rate contracts. One, three and six months are the most common tenors referenced in LIBOR-indexed transactions.

According to the BBA, LIBOR "is based on offered inter-bank deposit rates contributed in accordance with the Instructions to BBA LIBOR Contributor banks." The BBA requires that:

> [a]n individual BBA LIBOR Contributor Panel Bank will contribute the rate at which it could borrow funds, were it to do so by asking for and then accepting inter-bank offers in reasonable market size just prior to [11:00 a.m. London time].[4]

---

[3] On February 1, 2014, the ICE Benchmark Administration Limited was appointed as the new administrator for LIBOR, following authorization by the Financial Conduct Authority ("FCA").

[4] This definition of LIBOR has been used by the BBA from 1998 to the present.

Every business day shortly before 11:00 a.m. London time, the banks on the LIBOR panels submit their rates to Thomson Reuters. A trimmed averaging process is used to exclude the top and bottom quartile of rates and the remaining rates are averaged for each tenor. That average rate becomes the official BBA daily LIBOR (the "LIBOR fixing").

The BBA makes public the daily LIBOR fixing for each currency and tenor, as well as the daily submissions of each panel bank, through Thomson Reuters and the other data vendors licensed by the BBA. This information is made available and relied upon by market participants and others throughout the world, including in the United States.

By its definition, LIBOR requires that the submitting panel banks exercise their judgment to determine the rates at which they may obtain unsecured funds in the London interbank market. These definitions require that submissions relate to funding and do not permit consideration of factors unrelated to the costs of borrowing unsecured funds, such as the benefit to a bank's derivatives or money market trading positions.[5]

2. RP Martin's Role as an Interdealer Broker

RP Martin, a relatively small, United Kingdom-based cash and derivatives broker with less than 200 employees and 5 offices world-wide, intermediates cash trades in the money markets and derivatives transactions. Interdealer brokers, like RP Martin, act as intermediaries between major dealers in the money markets and the OTC derivatives markets to facilitate execution of interdealer trades. Because of their role in the financial markets, interdealer brokers, including RP Martin, have a significant impact on panel banks' views of the interbank markets for cash deposits, and, therefore, have a potential impact on panel banks' LIBOR submissions. Interdealer brokers assist banks in obtaining funding by facilitating the negotiation of deposits and loans, and in hedging those transactions with derivatives trades often referenced to LIBOR. Brokers match buyers and sellers in return for commissions, and provide market information for banks. Typically, broker commissions are based on a percentage of the notional value of consummated transactions. Therefore, higher commissions are generated from brokering larger trades.

In order to find matching counterparties, brokers provide bid or offer prices for a financial transaction. Brokers use "squawk boxes" or speakerphones which allow them to speak to numerous trading desks of their bank clients and simultaneously to disseminate broadly bid and offer prices. Brokers also frequently use Bloomberg instant message chats and other messaging platforms, email and dedicated telephone lines.

In addition to brokering transactions, as part of their client services, interdealer brokers, including RP Martin, frequently provide clients with their views and advice on market pricing and trends, often called "market color." Clients, including LIBOR submitters and interest rate

---

[5] In June 2008, the BBA clarified that panel banks could not contribute a rate based on the pricing of any derivative financial instrument. BBA guidelines issued in October 2009 further clarified that LIBOR submitters "should not ask intermediaries where they believe LIBOR rates will set on a given day and use this as a basis for submissions. This misses the point of the benchmark, and is a circular process that would rapidly lead to inaccurate rates."

derivatives traders at panel banks, rely on brokers for such information. Because brokers speak to multiple clients at different financial institutions and share internally the information learned from clients, they have particular market insight about cash market prices and trends in otherwise opaque markets, offering an important price discovery function. In providing this market information, interdealer brokers are implicitly representing that such market information reflects their third-party unbiased assessment of borrowing costs and market pricing based on objective, observable data, some of which they uniquely possessed.

During the relevant period, certain interdealer brokers, including RP Martin, provided, and still provide, predictions or suggestions of where they believe key benchmark interest rates, such as LIBOR, would fix on specific days. These were known as "Suggested LIBORs". Interdealer brokers, including RP Martin, also at times shared with some panel banks the intended LIBOR submissions of other panel banks.

During the 2007-2009 financial crisis, LIBOR submitters became increasingly reliant on interdealer brokers for their market information, including specific information about the level at which other panel banks intended to submit LIBORs, and the brokers' Suggested LIBORs. This reliance was due to limited interbank lending occurring upon which submitters could base their LIBOR submissions. Some panel banks believed at times during the financial crisis that such market information provided by RP Martin and other interdealer brokers was possibly the only meaningful market information available to assess their ability to borrow funds in the interbank markets.[6]

3. RP Martin Brokers Disseminated False and Misleading Suggested LIBORs in an Effort to Manipulate Yen LIBOR to Benefit Panel Banks, at Times Successfully

At specific times during the relevant period, certain RP Martin Yen brokers, acting together, knowingly disseminated false and misleading market information including false Suggested LIBORs, in attempts to influence the Yen LIBOR submissions made by panel banks and thereby manipulate the official fixing of Yen LIBOR. These RP Martin Yen brokers engaged in such false reporting primarily to assist the Senior Yen Trader at UBS (and later at another bank) in his efforts to manipulate Yen LIBOR to benefit his Yen derivatives trading positions, which were valued based on the Yen LIBOR fixings. The Senior Yen Trader believed that RP Martin brokers could influence certain of the Yen panel banks' submissions to levels favorable to the Senior Yen Trader's positions, and thereby affect the direction and level Yen LIBOR would fix at various tenors to benefit the Senior Yen Trader's positions. By beneficially affecting the Yen LIBOR fixings, the Senior Yen Trader could increase his profits or reduce his losses on his trading positions. At times, the collective efforts of the RP Martin Yen brokers and the Senior Yen Trader were successful in influencing Yen LIBOR submissions made by the panel banks, and thereby manipulating Yen LIBOR.

---

[6] Yen LIBOR submitters' reliance on interdealer brokers for market information was not consistent with BBA guidelines. *See supra* note 5.

a. RP Martin Brokers Provided Unlawful Assistance to the Senior Yen Trader By Providing False Suggested LIBORs to Yen LIBOR Submitters

In 2006, RP Martin assigned a RP Martin broker manager to be the new Yen forwards desk manager ("Yen Desk Head"). The new Yen Desk Head had little to no experience working in Yen products. RP Martin also merged the Yen forwards desk with the Yen money market desk to create a new foreign exchange forward Yen desk ("Yen Desk"). The Yen Desk consisted of several brokers, including Yen Broker 1, who was promoted to "Manager of Yen Money Markets" in January 2007. Yen Broker 1's mandate was to grow both the money market business and the off-balance-sheet ("OBS") or Yen derivatives business on the Yen Desk. Yen Broker 1 supervised another broker ("Yen Broker 2"), who was also responsible for money market and derivatives products. A third broker focused on forward Yen contracts but spent some of his time brokering derivatives products. The remaining five brokers on the Yen Desk exclusively brokered Yen forward contracts.

In the fall of 2006, shortly after joining UBS, the Senior Yen Trader requested that RP Martin assign to him one of its junior Yen brokers, whom he could mold into the type of broker he wanted. He was assigned to Yen Broker 1, who had been working as a cash broker for a number of years, but who had no experience in the derivatives market. The Senior Yen Trader, based in Tokyo, was then a relative newcomer to the Yen market but quickly became known as a high volume, aggressive and dominant Yen derivatives trader who was injecting significant liquidity into a previously illiquid market. Because he commanded a large trading volume, the Senior Yen Trader was a highly desirable and sought after client of interdealer brokers. This was especially true for Yen Broker 1.

Commencing in October 2006 and continuing throughout the relevant period, the Senior Yen Trader frequently asked Yen Broker 1 to assist him in manipulating Yen LIBOR. Specifically, the Senior Yen Trader wanted Yen Broker 1 to ask other Yen LIBOR submitters to increase or decrease their submissions for the Yen LIBOR rate. If Yen Broker 1 was out of the office, the Senior Yen Trader directed such requests to Yen Broker 2, who covered Yen Broker 1's clients in his absence. At times during the relevant period, Yen Brokers 1 and 2 complied with the Senior Yen Trader's requests. To accomplish this, Yen Broker 1 simply provided misleading market information to Yen LIBOR submitters, such as oral Suggested LIBORs that he skewed to benefit the Senior Yen Trader's trading positions.

For example, on July 18, 2008, in a Bloomberg chat, the Senior Yen Trader requested that Yen Broker 1 help him lower the one-month Yen LIBOR submission:[7]

Senior Yen Trader:	1m mate *** whats it looking like need ity lower
Yen Broker 1:	lower

[7] The communications quoted in this Order are from telephone calls, emails, instant messages, and the like. Some contain shorthand trader language and typographical errors. The shorthand and errors are explained in brackets within the quotations only when necessary to understand the discussion.

Senior Yen Trader:	rabo[8] moved UP to 71 they are offered at 49!
Yen Broker 1:	ill have a work with rabo agn then
Senior Yen Trader:	please have a word that is wrong
***	
Senior Yen Trader:	[Yen Broker 1] have you spoken to rabo re his 1m fix its a joke i need your help on 1m icap are suggesting 63 today pls do the same
Yen Broker 1:	ok mate il. do tyeh same i did iyt yesterday too
***	
Senior Yen Trader:	thx its killing me mate i am losing so much cash then i can't pay you
Yen Broker 1:	thats is not gonna help anyone [Yen Broker 2] is trying to pull a favour with rabo now
Senior Yen Trader:	ta
Yen Broker 1:	roite yu owe him a beer wednesday h [Yen Broker 2] 63 rabo going ok?> fosters top he likes extra chilled
Senior Yen Trader:	ok mate ta for that dude

During this Bloomberg chat, Yen Broker 1 telephoned the Yen LIBOR submitter at Bank 1 and provided Suggested LIBORs, including the recommendation that the one-month Yen LIBOR be set at 0.60. Similarly, Yen Broker 2 telephoned the Yen LIBOR submitter at Rabobank, and convinced him to move his one-month LIBOR down to 0.63, from 0.71 the previous day:

Rabobank Submitter:	I don't know what do you reckon?
Yen Broker 2:	65?
Rabobank Submitter:	I don't know. I ain't got a clue, 65. He wants me to set 98 in the 6's.
Yen Broker 2:	That low, yeah? What does he want you setting 1's then?
Rabobank Submitter:	Nothing he hasn't told me.
Yen Broker 2:	65 then. That's good. Well, got someone asking here.
Rabobank Submitter:	Oh ok.
Yen Broker 2:	If you can?
Rabobank Submitter:	Do you want me to set 65?
Yen Broker 2:	Yeah, or as low as possible basically.
Rabobank Submitter:	Well, why didn't you say that then? *** Well, I'll set to 63 if you want.

[8] This is a reference to Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A. ("Rabobank"). On October 19, 2013, the Commission issued an Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act Making Findings and Imposing Remedial Sanctions against Rabobank, finding, among other things, that Rabobank attempted to manipulate Yen LIBOR, at times successfully, through multiple methods. In that Order, Yen Broker 2 was identified as Derivatives Broker A1. *See In re Cooperatieve Centrale RaiffeisenBoerenleenbank B.A.*, CFTC Docket No. 14-02 (CFTC filed October 29, 2013), at http://www.cftc.gov/ucm/groups/public/@lrenforcementactions/documents/legalpleading/enfrabobank102913.pdf.

Yen Broker 2: Yeah? Alright then. Cool.
Rabobank Submitter: Yeah, it makes no odds to me.
***
Rabobank Submitter: Who's that?
Yen Broker 2: It's a geezer at UBS, [Senior Yen Trader]
Rabobank Submitter: Alright well make sure he knows *** You know, scratch my back, yeah, and all.

Yen Broker 1 issued skewed Suggested LIBORs on other occasions. For example, on October 31, 2008, the Senior Yen Trader instructed Yen Broker 1 to push Yen LIBOR submissions for the one, three and six month tenors downward (Senior Yen Trader: "Yes, or actually 3's down 12. Yes, 12 or 13 for 3's, 7 or 8 for 6's, like, 19 or 20 for 1's."). Yen Broker 1 then telephoned Yen LIBOR submitters at three different panel banks, Bank 1, Bank 2 and Bank 3. During the telephone calls to each Yen LIBOR submitter, Yen Broker 1 strongly recommended submitting a lower Yen LIBOR submission for the one-month, three-month, and six-month tenors, based on what he claimed were the prices he was hearing in the market. Yen Broker 1 stated the following to the Yen LIBOR submitter at Bank 3: "I'm calling LIBORs down maybe about 17, 18 points in 1's, 3's around 12, 6's around 8."

Yen Broker 1 also spoke with other brokers on the RP Martin Yen Desk and the Arbitrage Desk, to ensure that the Yen LIBOR submitters at RBS[9] and Bank 4 received a similar directive to lower their LIBORs based on "market information". However, the RBS Yen LIBOR submitter admonished an Arbitrage Desk broker that his Yen LIBOR recommendations were "much too much too [low]. I reckon about between three and five off, across the board".

These telephone conversations demonstrate that submitters at panel banks often sought advice from brokers such as RP Martin when attempting to make benchmark interest rate submissions that reflected an assessment of the costs of borrowing funds in the interbank Yen market. However, such submitters may have passed on false or misleading submissions because they used RP Martin brokers' purported unbiased assessments of Yen borrowing rates and Suggested LIBORs to inform their submissions. Their reliance on RP Martin brokers meant that their submissions did not actually reflect borrowing costs, but rather the Senior Yen Trader's desired rates.

[9] On February 6, 2013, the Commission issued an Order Instituting Proceedings Pursuant to Sections 6(c) and 6(d) of the Commodity Exchange Act Making Findings and Imposing Remedial Sanctions against The Royal Bank of Scotland plc and RBS Securities Japan Ltd. (collectively "RBS"), finding, among other things, that RBS, through its Yen LIBOR submitters and other yen traders, attempted to manipulate Yen LIBOR, at times successfully, through multiple methods. In the Commission's Order, RP Martin is identified as Interdealer Broker B. *See In re The Royal Bank of Scotland plc et al.*, CFTC Docket No. 13-14 (CFTC filed February 6, 2013), at http://www.cftc.gov/ucm/groups/public/@lrenforcementactions/documents/legalpleading/enfrbsorder020613.pdf.

b. RP Martin Contacted Submitters Directly and Coordinated with Other Brokers on the Yen Desk to Ensure the Senior Yen Trader's Demands Were Met

At times, Yen Broker 1 and Yen Broker 2 also contacted their Yen LIBOR submitter clients directly and asked them to move their Yen LIBOR submissions as a "favor" to the Senior Yen Trader. Yen Broker 1 also enlisted the help of certain other brokers at RP Martin, including managers of certain trading desks, to reach out to additional Yen LIBOR submitters, in an effort to further manipulate the daily Yen LIBOR fixing. For example, on February 25, 2009, Yen Broker 1 contacted several Yen LIBOR submitters directly and through his colleagues when the Senior Yen Trader offered to "pay" Yen Broker 1 if he helped lower the three-month Yen LIBOR fixing. They first spoke via Bloomberg chat:

Yen Broker 1:	anything cookjing i can try desperate for a decent trade gone pear shaped this month
Senior Yen Trader:	we can switch 2yrs today i'll talk later in mean time low 1m and 3m we must keep 3m down and high 6m act 6m unchanged today try for low on all of em from tomorrrow need 6m high as a drug addict
Yen Broker 1:	ok ill do my best for those tday hahahha like it ok

Next, Yen Broker 1 and Senior Yen Trader further discussed their scheme by telephone:

Yen Broker 1:	Yes, I know, you need the LIBOR stuff. I know that's really important. I know how important it is, you know how it is so
***	
Senior Yen Trader:	I mean I'm just trying to think who you might be able to f*cking lean on a bit today.
Yen Broker 1:	yes, go on give me some names.
Senior Yen Trader:	it's really important to get the 3's down for me.
Yen Broker 1:	3's more than anything else.
Senior Yen Trader:	Yes. Really, well, I mean today I need them all low but, I mean, 3's particularly. *** Right [Bank 5] put his at 64, mate. Can you get him down?
Yen Broker 1:	64 [Bank 5]. Okay, I'll have a word with him.
Senior Yen Trader:	[inaudible] up to 65
Yen Broker 1:	Who's that? [Bank 2]?
Senior Yen Trader:	Yes.
Yen Broker 1:	Right, I'll go and ask him for a – [Yen Broker 2] off today but I'll go in and I'll get a favor.
Senior Yen Trader:	Yes, ask him if he can move it to 63 for the day or something. *** Who else is [inaudible]?
Yen Broker 1:	Rabo is all done out of Utrecht now, even though it's still under London.
Senior Yen Trader:	RBS is 64 *** you don't talk to RBS, do you?

Yen Broker 1:	No but the guy in the arbi does, I'll see if he can, sort of, see if he can have a word with him for us *** So [Bank 2], [Bank 5] and RBS, yes? See if I can get that down some, yes?
Senior Yen Trader:	Yes, if you could mate. *** And you don't speak to [Bank 6], do you?
Yen Broker 1:	He's on the arbi so I could have a word with the guy that speaks to him and see if he can have a word. See if he can drop his LIBOR a couple of pips today ...
Senior Yen Trader:	He's at f*cking 68 dude *** if he went to 60 that would be f*cking massive.
Yen Broker 1:	Okay, I'll have a word with that as well, mate, alright?

Yen Broker 1 next ensured that he or another RP Martin broker made contact with multiple Yen LIBOR submitters to ensure that their Yen LIBOR submissions were consistent with the Senior Yen trader's needs. That same day, Yen Broker 1 personally contacted submitters at Bank 1 and Bank 2. Yen Broker 1 enlisted the assistance of a desk head from RP Martin's Arbitrage Desk ("Arbitrage Desk Head"), who had a relationship with the Yen LIBOR submitter at Bank 6. The Arbitrage Desk Head agreed to make the call, although he expressed concern about "auditors" listening in on calls.

Telephone call between Yen Broker 1 and Yen LIBOR submitter at Bank 1:

Yen Broker 1:	I need a favor.
Bank 1 Submitter:	yes.
Yen Broker 1:	*** basically I got stuffed in something earlier in an IRS and it would have cost me about 40,000 to get out of it, yes. Geezer [referring to the Senior Yen Trader] dug me out, as a favor back to him he's asked me, for one day today, he's got a couple of fixings coming. He wants to see if he can get LIBORs down a little bit. I've said I'll try and do what I can. Is there any way you might be able to set them a little bit lower today just to return the favor? ***
Bank 1 Submitter:	Yeah, well cash is a little bit easier, isn't it so I'll
Yen Broker 1:	Yes, if you could get them down a couple of ticks or something today that would be f*cking, like the 3's *** I mean if you could do that for me mate that would be a personal favor to you.
Bank 1 Submitter:	Yes, yes, but yes cash is easier so I'll fix a couple up.

Telephone call between Yen Broker 1 and Yen LIBOR submitter at Bank 2:

Yen Broker 1:	Can I ask you a small favor?
Bank 2 Submitter:	Yeah.
Yen Broker 1:	What are you going to set in your LIBOR 3's today?
Bank 2 Submitter:	Ah, same, 65.

Yen Broker 1: Is there any way you might be able to set them down a pip 'cause I'm getting a big trade out of it?
Bank 2 Submitter: Sorry?
Yen Broker 1: I'm getting someone do me a big trade if they said if I help them sort of get LIBORs down a tick today.
Bank 2 Submitter: Yeah, okay. ***
Yen Broker 1: Ah, mate, I appreciate that.

Telephone calls related to contacting Yen LIBOR submitter at Bank 6:

1st telephone call:

Yen Broker 1: Can you do me a favor?
Arbitrage Desk Head: Only if you tick the arbi box on that deal.
Yen Broker 1: We've got a f*cking, yes, we've got a f*cking huge deal but on the back of it he's asked me to do him a favor and see if I can have a word with a couple of people, see if LIBOR, see if I could get it down a pip. Would you - Bank 6 is setting his at 68 at the moment, do you reckon he might, ask him if he might be able to set it at 67 just today for us?
***
Arbitrage Desk Head: 3's LIBOR at 67?
Yen Broker 1: Yes, instead of 68. It would be a big favor. ***
Arbitrage Desk Head: All right, all right.

2nd telephone call:

Arbitrage Desk Head: Where you setting 3's Yen LIBOR? Today. Do you set the LIBOR?
Bank 6 Submitter: Yes.
Arbitrage Desk Head: Where are you setting it?
Bank 6 Submitter: Actually f*cking can't even remember what I set it yesterday.
Arbitrage Desk Head: 68, I think.
***
Arbitrage Desk Head: So you wouldn't be setting it at 67?
Bank 6 Submitter: Why is that a request or?
Arbitrage Desk Head: Well sort of an underlying –
Bank 6 Submitter: Yes. Potentially. I don't know, it's not going to be a lot different. If anything, yes, I mean, it's not going to go higher, let's put it that way.
***
Arbitrage Desk Head: No, someone just said where are people setting the LIBORs today. I think they got some big fixing, they just wondered.
Bank 6 Submitter: Ah, yes, month end isn't it.
Arbitrage Desk Head: Set at 67 by any chance, would it be?

Bank 6 Submitter: Month end doo dah, isn't it? I think, though, that just looking – I've got a funny feeling ours is quite high in the 3's at the moment so it almost gets knocked out of the calculation.

***

Arbitrage Desk Head: *** Alright, well okay, as I said nothing shifty or anything but just wondered whether you was setting it at 67 today.

Bank 6 Submitter: We'll see.

Arbitrage Desk Head: If you catch my drift. Okay.

3rd telephone call (emphasis added):

Arbitrage Desk Head: Did he ask for [Bank 6] in particular?

Yen Broker 1: He's just given me some names whose LIBORs are quite high at the moment to see if I can get them down a bit. No, not him, not that one bank, just a group of banks.

Arbitrage Desk Head: He thinks that I'll be - he thinks that he's out of the equation anyway.

Yen Broker 1: Right, okay. Well it just makes a difference if everyone's putting theirs down a bit because I've got a couple of people to put them ... [Bank 2]'s putting his down a pip; [Bank 1]'s putting his down a couple of pips. I mean, if there's a few people putting them down it should set the average better.

Arbitrage Desk Head: He's- I've asked him and he's said we'll see.

Yen Broker 1: Alright, that's fine.

Arbitrage Desk Head: If I set out on a line then f*cking

Yen Broker 1: Don't push it, no don't ever push it.

Arbitrage Desk Head: Not that, **it's the old auditors as well**.

Yen Broker 1: Absolutely, no problem mate, no problem at all.

Yen Broker 1 kept the Senior Yen Trader informed throughout the day of February 25, 2009, updating him regarding whether Yen LIBOR submitters had agreed to manipulate their Yen LIBOR submissions in a manner that would benefit the Senior Yen Trader.

1st telephone call between Yen Broker 1 and the Senior Yen Trader:

Yen Broker 1: I think I've got [Bank 1] down 2, I've got [Bank 2] down 1.

Senior Yen Trader: Yes.

Yen Broker 1: I think Bank 6's going to come down 1. I'm working on Bank 5.

Senior Yen Trader: Brilliant. Alright mate, I appreciate that.

Yen Broker 1: Alright, so it should definitely have an impact, alright.

2nd telephone call between Yen Broker 1 and the Senior Yen Trader:

Yen Broker 1:	Yes, I've done it. I've tried to call in some favors, mate, and I think I'll be alright.
Senior Yen Trader:	What like the 1's 3's and 6's though?
Yen Broker 1:	Yes. Especially 3's mate, I've made an extra effort on the 3's, alright. I think [Bank 1] will put his down a couple of points for the whole lot. Alright?
Senior Yen Trader:	Alright, great. You're a star [Yen Broker 1], mate.

RP Martin's efforts on February 25, 2009 on behalf of the Senior Yen Trader were successful. All three banks submitted lower three-month Yen LIBOR submissions, resulting in a lower Yen LIBOR fixing for February 25, 2009.

c. RP Martin Yen Broker 1 Also Used "Spoof Bids" to Unlawfully Assist the Senior Yen Trader

On occasion, Yen Broker 1 also attempted to influence Yen LIBOR submitters by providing "spoof" bids over the Yen Desk squawk box. As previously noted, squawk boxes permit brokers to speak to multiple bank traders and disseminate broadly bid and offer prices.

Yen Broker 1, acting on behalf of the Senior Yen Trader, disseminated false bid prices that he called "fictitious" or "spoof" bids. The Senior Yen Trader encouraged such spoof bids, believing that if Yen LIBOR submitters heard over the squawk box that banks were willing to trade Yen cash at the fictitious price, they might factor that information into their determination of their LIBOR submissions and as a result be more likely to move their Yen LIBOR submissions that day in a manner that could benefit the Senior Yen Trader.

For example, during several telephone calls on September 3, 2008, Yen Broker 1 and the Senior Yen Trader discussed presenting spoof bids to Bank 1 and Bank 5. Almost immediately after these calls, Yen Broker 1 was overheard shouting on the squawk box to Bank 1's Yen LIBOR Submitter that he has a bid at the same false price he discussed with the Senior Yen Trader:

1st telephone call:

Yen Broker 1:	I mean I'm still offered at 91 – I mean the reason I think Rabo did put his up he can't get cash anywhere near 88 I mean he's going to be like – the only offers I'm seeing really are 91 for non-Japanese but I'm blagging an offer at 88. RBS is already paying 88 maybe 89 alright. 1's he's offered at like 70 maybe 68, me and [Yen Broker 2] are offering it at 67. OK *** Alright and the 6's is nothing I'm offering at 95 which is a complete spoof alright.
Senior Yen Trader:	OK alright thanks mate.

2nd telephone call:

Yen Broker 1:	Yeah I'm offering 3's at 88 where it ain't offered virtually. I'm only offered at 91.
Senior Yen Trader:	To [Bank 1] and [Bank 5]?
Yen Broker 1:	All of those yeah I mean when I give him a LIBOR run through I'm going to go the 1's I'm going to go 66.
Senior Yen Trader:	Yeah.
Yen Broker 1:	He won't set it there but I'll try. 3's I'm going to go 88, which I doubt he will but I'll have a go anyway right and the 6's I'm going to go 95.
Senior Yen Trader:	OK.
***	
Yen Broker 1:	[shouting over squawk box] I got 88 choice here 3's Yen [Bank 1 Yen LIBOR Submitter] at the moment, 88 either way

d. RP Martin Brokers Accepted Bribes from the UBS Senior Yen Trader, in the Form of Wash Trades, in Return for Their Assisting His Manipulative Scheme

RP Martin Yen brokers were highly incentivized to facilitate the Senior Yen Trader's manipulative schemes. The Senior Yen Trader guaranteed the RP Martin brokers' loyalty and cooperation with his manipulative schemes by making payments to them via wash trades. In such trades, the Senior Yen Trader was the opposing counterparty on identical trades with other traders, resulting in a financial nullity for the counterparties, while generating significant commissions to RP Martin Yen brokers, who brokered both sides of the wash trades. Such commissions were shared by the entire Yen Desk, giving other Yen brokers incentives to assist Yen Broker 1 and Yen Broker 2 in the Senior Yen Trader's manipulative schemes. These wash trades made UBS the second largest client of the Yen Desk during 2008 and 2009, accounting for nearly 9% of the Yen Desk's revenue during that time.

Yen Broker 1 brokered at least nine wash trades between September 2008 and August 2009 on behalf of the Senior Yen Trader. These trades generated more than $412,000 in commission revenue for the Yen Desk. Accordingly, Yen Broker 1 solicited the assistance of multiple members of the Yen Desk, who found counterparties for the wash trades and telephoned additional Yen LIBOR submitters to ensure their Yen LIBOR submissions were consistent with the Senior Yen Trader's wishes.

The telephone calls between the Senior Yen Trader and Yen Broker 1 make clear that the wash trades, referenced in the calls as "switch trades", were a *quid pro quo* for RP Martin's assistance in manipulating Yen LIBOR:

September 18, 2008:

1st telephone call:

Senior Yen Trader:	Mate, right, listen. I don't care right just get me any f*cking trade which pays you basically today, mate. If if you keep 6's unchanged today, yeah. *** I will f*cking do one humongous deal with you. All right? *** Like a 50,000 buck deal, whatever. *** I need you to keep it as low as possible. All right? If you do that, then I'll cross the spread and I'll pay you, you know, $50,000, $100,000 whatever it whatever you want. All right?
Yen Broker 1:	All right.

2nd telephone call:

Senior Yen Trader:	*** have you got any mates, mate, who'll do you like a net trade and I could like, you know, basically give you like f*cking, I don't know, a trillion 3-month LIBOR/TIBOR and take back a trillion 3-month LIBOR/TIBOR and, obviously, you're net it with the other guy.
Yen Broker 1:	Right.
Senior Yen Trader:	Do you know what I mean? I was thinking we could do something like that. That's probably the easiest thing. *** what I'm saying is, look, that if you've got a mate who will like do a flat switch basically. *** I'd go in and out with him, yeah? So I'll pay them in two years or whatever and I'll receive from them in two years. The coupon's the same. *** I'll get charged bro both sides obviously.
***	
Yen Broker 1:	all right. That's excellent.

October 31, 2008:

Senior Yen Trader:	Listen what I need - this is what I need, I need 1's to come off the most because if they are off 20 for 1's which is what they [inaudible]
Yen Broker 1:	Right, yes. That's the one thats f*cking up at the moment as well, isn't it, so you need definitely.
Senior Yen Trader:	Yes and then say 3's are - I don't need it to come off quite so much, like, I don't know down 13 or something.
Yen Broker 1:	Right.
Senior Yen Trader:	And then 6's go well, there's still term and you can't get hold of it so say, like, down 8 or something.
Yen Broker 1:	Right, okay
***	

Senior Yen Trader: Alright mate, if you could sort this out for me, if you can get 1's down - if you could get like a staggered downward move like that then we'll do a f*cking massive ticket next week.

February 25, 2009:

Yen Broker 1: anything cookjing i can try desperate for a decent trade gone pear shaped this month
Senior Yen Trader: we can switch 2yrs *** we can do 150b 2yrs bro both sides ask [RBS Yen Trader] will that help?
Yen Broker 1: ok mate that will make us make3 budget for the month so massive yes.

RP Martin Yen brokers made great efforts to earn the commissions generated from these wash trades, with the assistance of other brokers, including brokers on the Arbitrage Desk. For example, on October 31, 2008, as noted above, RP Martin brokers contacted four Yen LIBOR submitters to convince them to move their LIBORs in a direction that benefitted the Senior Yen Trader's trading position. Similar examples can be found around dates of the other wash trades, during which Yen Broker 1 asked multiple Yen LIBOR submitters for additional favors. A few examples follow:

September 18, 2008 (emphasis added):

Yen Broker 1: *** **if you could get 6's a little lower today, I've got, um, someone that's going to do a huge trade with me today if the if the 6's don't go up too much.** So if you
Bank 3 Submitter: We're going for 1% fix I think today. I think these are all going to edge up just marginally so *** what I'll do is I'll go 103 for 6's it's not too high but it's going to be higher anyway so I can't go too far away from there.

June 29, 2009:

Yen Broker 1: Ummm Mr. [Bank 3 Yen LIBOR Submitter] I just need to ask you a small favor actually. *** I just got completely f*cking buried there in a 3-year anti money freeze. F*cking I got dug out basically. Let off. If there's any way you can stick your LIBOR up to 71 in 6 today it would help me out a great deal because that was going to cost me 50 grand. So yeah I know what you do but if you can get 71 today mate I would appreciate it.
Bank 3 Submitter: Umm I think we were 69; I can probably go to 70 on it.
Yen Broker 1: Yeah? Well, anything, anything.
Bank 3 Submitter: I'll have a look on it. I'll have another look mate.

Yen Broker 1: Thank you very much mate I'm asking a couple of people, thank you mate. Cheers.

e. RP Martin Brokers Persuaded Traders at Other Panel Banks to Participate as Counterparties to the Wash Trades, in Return for Other "Favors" Such as Free Travel and Entertainment

In order to execute the wash trades with the Senior Yen Trader, RP Martin Yen brokers needed to find counterparties at other banks. The Yen Desk brokers contacted many of their cash, OBS and forwards clients, asking for their assistance. For the first set of wash trades that was executed on September 18 and 19, 2008, traders from RBS and Bank 7 both agreed to serve as counterparties. For all of the remaining wash trades executed for UBS, RBS served as the sole counterparty.[10] To ensure the traders' agreement to serve as the counterparty, RP Martin brokers promised free meals, free travel and free entertainment.

September 19, 2008 (emphasis added):

Yen Broker 3: Right, geez, can you do me a favor? You, um, what – **you're not going to get paid any bro for this and we'll send you lunch around for the whole desk. Can you flat – can you switch, er, two years semi at 5 3/4, 100 yards, are you – between UBS. Just get – take it from UBS, give it back to UBS.** He wants to pay some bro. We won't bro you but he wants to put – he wants to give us some bro.

RBS Yen Trader: Yeah, Yeah.

Yen Broker 3: 100 yards, right?

RBS Yen Trader: Yeah. Yeah. UBS on UBS? Right.

Yen Broker 3: Yeah, Yeah. 100 yards – actually can you make it 150 and I'll send lunch around for everybody?

RBS Yen Trader: Yeah.

March 26, 2009:

Yen Broker 3: All right listen. I need you, mate.

RBS Yen Trader: Yeah.

Yen Broker 3: **I need your money. I – oh, you'll be looked after in Vegas. I promise you. It's only a month away. Is there any chance you'll be able to wash this switch through today?**

RBS Yen Trader: Yeah, but I can't do that size. I have to [inaudible]

Yen Broker 3: Yeah that's fine. Mate, listen. I'm – would be grateful mate. I'm – I'll be grateful for anything, mate.

RBS Yen Trader: All right, I'll do 80.

Yen Broker 3: Okay, mate, listen. That's perfectly fine and er, I won't – it's not going to be f*cking every month occurrence. It's –

[10] *See* RBS Order, *supra* note 9, at pages 22-24.

	it's just like it's the end of our quarter now, so I won't pester you with that every month, no way, I appreciate what you're doing anyway, right? You'll be looked after, mate. Don't worry about that. All right. So, um, so do I just – we'll do it today or tomorrow. I'll do it – try and put it through today?
Yen Broker 3:	Yeah, I'll put [inaudible].
***	
RBS Yen Trader:	80, yeah?
Yen Broker 3:	Yeah, 80, yeah. Same rules as the last one, yeah?
RBS Yen Trader:	Yeah.
Yen Broker 3:	Oh, mate you're a superstar. Cheers, dude, ta.

On at least one occasion when the RBS Yen Trader agreed to pay the brokerage commissions for the wash trades, the RP Martin brokers attempted to assist the RBS Yen Trader in manipulating Yen LIBOR to benefit his trading position.

June 26, 2009:

RBS Yen Trader:	Has [Senior Yen Trader] been asking you to put Libors up today?
Yen Broker 3:	[speaking to someone else] What's [Senior Yen Trader] want on Libors today? Is he fixing anything about Libors? What does he want? What way does he want it? [inaudible]
***	
Yen Broker 3:	He wants ones, ones and threes a little bit lower and sixes probably about the same where they are now. He wants them to stay the same.
RBS Yen Trader:	I want them lower.
Yen Broker 3:	You want them lower? What the sixes?
RBS Yen Trader:	Yeah.
Yen Broker 3:	Alright, well, alright, alright, we'll work on it.

June 26, 2009:

Yen Broker 3:	Hello mate, [RBS Yen Trader]? You all set?
RBS Yen Trader:	Yeah.
Yen Broker 3:	Right listen, we've had a couple words with them. You want them lower right?
RBS Yen Trader:	Yeah.
Yen Broker 3:	Alright okay, alright, no we've okay just confirming it. We've, so far we've spoke to [Bank 3]. We've spoke to a couple of people so we'll see where they come in alright. We've spoke, basically *** we spoke to [Bank 3], [Bank 8], [Bank 1], who else did I speak to? [Bank 9]. There's a

	couple of other people that the boys have a spoke to but as a team we've basically said we want a bit lower so we'll see where they come in alright?
RBS Yen Trader:	Cheers.
Yen Broker 3:	Cheers no worries mate.

f. RP Martin Brokers and the UBS Senior Yen Trader Attempted to Conceal Their Improper Conduct Surrounding the Wash Trades

The Senior Yen Trader and Yen Broker 1 were well aware of the improper nature of their conduct. First, they made an effort to avoid any written communications confirming the wash trades, choosing primarily to communicate via telephone. Second, as noted by a UBS trader ("UBS Yen Trader") that assisted the Senior Yen Trader, they tried to hide the wash trades by "staggering" their execution, as noted in the example below, to avoid any "questions" about the trades:

December 3, 2008:

Senior Yen Trader:	**What I'm doing mate, don't f*cking put it on chat.**
Yen Broker 1:	All right. Okay.
Senior Yen Trader:	All right. Okay. 90 and three-eighths.
Yen Broker 1:	Oh, thank you very much, mate. I love you.
Senior Yen Trader:	**I just want it but don't put it on f*cking chat, all right.**

February 25, 2009:

UBS Yen Trader:	That's alright. **I thought it'd be – raise less questions, than if I did them at the same time.**
Yen Broker 1:	Yeah, I understand that, thank you very much.
UBS Yen Trader:	What I even did, I even, put on their, do a [inaudible] like me, [Senior Yen Trader], [UBS Senior Yen Trader's Supervisor] and stuff. That people would actually, I would always put traded it on there anyway.
Yen Broker 1:	Ah, right.
UBS Yen Trader:	**I do it for the people, I even just stagger that. Just so if anyone ever questions it.**
Yen Broker 1:	Yeah. [inaudible] "geezer did us a favor, couple of times, da da da." ***

4. <u>Inadequate Controls and Supervision Allowed Broker Misconduct to Continue for Years</u>

During the relevant period, RP Martin failed to establish an adequate compliance function, failed to adequately supervise and oversee its Yen brokers and the Yen Desk, and failed to implement adequate internal controls and procedures to govern its Yen brokers' communications and interactions with clients and prospective clients.

During the relevant period, and continuing until February 2010, RP Martin had not established a compliance office. Instead, RP Martin assigned employees from other departments to handle compliance issues on a part-time basis. For example, its head of compliance consisted of an inexperienced officer who had other responsibilities that created a conflict of interest with his compliance duties.

RP Martin also failed to ensure that staff were adequately trained and supervised. Staff received little compliance training. Further, desk heads were given almost no instruction regarding their roles and responsibilities in supervising the brokers on their desks. Instead, brokers routinely raised concerns and issues directly with senior management, who had earned reputations for prioritizing the happiness of profitable brokers over ensuring a compliant environment. Within RP Martin, the currency desks, including the Yen Desk, were inadequately supervised. The Yen brokers, including the Yen Desk Head, worked with minimal supervision from senior RP Martin management, who dealt with broker complaints as they arose rather than ensuring pro-active supervision of brokers and desk heads supported by a robust compliance department.

As part of this insufficient system of compliance, RP Martin did not have adequate internal controls, policies and procedures to guide and monitor Yen brokers in their communications with clients, or the provision of market information or market color to clients and others. RP Martin had no procedures for approval of the dissemination of market information, or for review and verification of the basis for the market information being disseminated by RP Martin brokers. Accordingly, although the improper communications between Senior Yen Trader and Yen brokers were well-known by most, if not all, of the brokers on the Yen Desk, and could be heard by all (or nearly all) of the Yen brokers, during the relevant time period no one informed compliance or senior management that such improper conversations were taking place.

RP Martin's lackadaisical attitude towards compliance was evident when the company became aware of the UBS wash trading activity. A RP Martin manager who monitored back-office brokerage activity on a daily basis immediately noticed the unusually large commissions generated by the wash trades between UBS and RBS. However, when he questioned the Yen Desk about these trades, at least one Yen broker said to him, "You really don't want to know". The RP Martin manager discussed the wash trades with at least one member of RP Martin senior management. But this discussion did not generate any action, and no one at RP Martin further investigated why RBS and UBS had agreed to generate unusually large wash trade commissions for the Yen Desk.

RP Martin's lack of specific internal controls and procedures relating to external communications, and distinguishing between permissible and impermissible market information provided by its Yen brokers to clients and others, as well as its overall lax supervision of the Yen Desk, allowed the misconduct to continue unabated throughout the relevant period.

IV.

LEGAL DISCUSSION

A. RP Martin Knowingly Caused Certain Panel Banks to Make False, Misleading or Knowingly Inaccurate Reports Concerning Yen Borrowing Costs in Violation of Section 9(a)(2) of the Act

Section 9(a)(2) of the Act makes it unlawful for any person "knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce . . . ." 7 U.S.C. § 13(a)(2) (2006); *U.S. v. Brooks*, 611 F.3d 678, 691-93 (5th Cir., 2012) *cert. denied*, 2013 U.S. Lexis 434 (U.S. Jan. 7, 2013); *United States v. Valencia*, 394 F.3d 352, 354-355 (5th Cir. 2004); *see also CFTC v. Johnson*, 408 F. Supp. 2d 259, 267 (S.D. Tex. 2005) (same).

At times during the relevant period, certain RP Martin brokers knowingly caused to be delivered through the mails or interstate commerce false or misleading or knowingly inaccurate reports concerning Yen bank borrowing rates, through the form of Suggested LIBORs, which is market information that affects or tends to affect the fixing or pricing of Yen LIBOR, a commodity in interstate commerce.[11] Each business day, Yen panel banks, through the transmission of electronic spreadsheets to Thomson Reuters, made Yen LIBOR submissions in contribution to the daily fixing of Yen LIBOR for various tenors through the mails or interstate commerce. Yen LIBOR panel banks' submissions were delivered through the mails or interstate commerce by the daily dissemination and publication globally, including into the United States, of the panel banks' submissions as well as the daily official Yen LIBOR fixing by Thomson Reuters on behalf of the BBA and by other third party vendors. The panel banks' submissions are used to determine the official published rates for Yen LIBOR, which are calculated based on a trimmed average of the submissions.

The Yen LIBOR panel banks' submissions contain market information concerning the costs of borrowing unsecured funds in Yen in particular tenors, the liquidity conditions and stress in the money markets, and the panel banks' ability to borrow Yen in the London interbank market. Such market information affects or tends to affect the prices of commodities in interstate commerce, including the daily rates at which Yen LIBOR is fixed.

Certain RP Martin Yen brokers understood and expected that at least some, if not many, of the Yen panel banks relied on market information from those RP Martin brokers concerning the Yen borrowing rates in the London interbank market. However, to benefit certain RP Martin clients, specifically the Senior Yen Trader and the RBS Yen Trader, and to assist their efforts to attempt to manipulate the fixing of Yen LIBOR on their behalf, RP Martin Yen brokers at times often knowingly disseminated false, misleading and knowingly inaccurate market information to

---

[11] LIBOR as a benchmark interest rate is a commodity under the Act. *See* Sections 1a(4) and 1a(13) of the Act, 7 U.S.C. §§ 1a(4) and 1a(13) (2006) (pre-Dodd Frank), Sections 1a(9) and 1a(19) of the Act, 7 U.S.C. §§ 1a(9) and 1a(19) (2012) (post-Dodd Frank).

the Yen Panel banks through three primary means: (1) Yen Broker 1 or others provided skewed Suggested LIBORs through oral communications with submitters or traders at the Yen LIBOR panel banks; (2) RP Martin brokers directly pressured Yen LIBOR submitters and traders at panel banks to submit certain rates that were skewed to reflect rates beneficial to the Senior Yen Trader and at times other traders; and (3) RP Martin brokers occasionally offered "spoof" or nonexistent cash bids to their clients, including clients who were Yen LIBOR submitters, to give the false impression that a bank in the market was willing to trade Yen cash at a particular price. At times, certain Yen panel banks used RP Martin's skewed Suggested LIBORs in determining and making their Yen LIBOR submissions to the BBA. As a result, those Yen LIBOR submissions were false, misleading or knowingly inaccurate because the panel banks' submissions purported to reflect the panel banks' perceived costs of borrowing Yen in the interbank market but in reality, reflected in whole or in part the rates that benefited the trading positions of RP Martin's clients.

Accordingly, by certain brokers' actions designed and intended to benefit clients and themselves, RP Martin, through these brokers and a desk manager, knowingly caused the panel banks to deliver through the mails or interstate commerce false or misleading or knowingly inaccurate market information that affects or tends to affect a commodity in interstate commerce, including Yen LIBOR and violated Section 9(a)(2) of the Act, 7 U.S.C. § 13(a)(2) (2006).

B. RP Martin Manipulated Yen LIBOR at Times for Certain Tenors

Together, Sections 6(c), 6(d) and 9(a)(2) of the Act prohibit acts of manipulation or attempted manipulation. Section 9(a)(2) of the Act makes it unlawful for "[a]ny person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity . . . ." 7 U.S.C. § 13(a)(2) (2006). Section 6(c) of the Act authorizes the Commission to serve a complaint and provide for the imposition of, among other things, civil monetary penalties and cease and desist orders if the Commission "has reason to believe that any person ... is manipulating or attempting to manipulate or has manipulated or attempted to manipulate the market price of any commodity, in interstate commerce, or for future delivery on or subject to the rules of any registered entity, ... or otherwise is violating or has violated any of the provisions of [the] Act . . . ." 7 U.S.C. § 9 (2006). Section 6(d) of the Act is substantially identical to Section 6(c). *See* 7 U.S.C. § 13b (2006).

Manipulation under the Act is the "intentional exaction of a price determined by forces other than supply or demand." *Frey v. CFTC*, 931 F.2d 1171, 1175 (7th Cir. 1991). The following four elements must be met, by a preponderance of the evidence, to show a successful manipulation has occurred:

> (1) the [respondent] had the ability to influence market prices;
> (2) the [respondent] specifically intended to do so;
> (3) artificial prices existed; and
> (4) the [respondent] caused an artificial price.

In re Cox, [1986-1987 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 23,786 at 34,061 (CFTC July 15, 1987). The test for manipulation, however, is a practical one:

> We think the test of manipulation must largely be a practical one if the purposes of the Commodity Exchange Act are to be accomplished. The methods and techniques of manipulation are limited only by the ingenuity of man. The aim must be therefore to discover whether conduct has been intentionally engaged in which has resulted in a price which does not reflect basic forces of supply and demand.

Cargill v. Hardin, 452 F.2d 1154, 1163 (8th Cir. 1971).

"[I]ntent is the essence of manipulation." *Indiana Farm Bureau Cooperative Ass'n, Inc.*, [1982-1984 Transfer Binder] Comm. Fut. L. Rep (CCH) ¶ 21,796, at 27,282 (CFTC Dec. 17, 1982). The manipulator's intent separates "lawful business conduct from unlawful manipulative activity." *Id.* at 27,283. To prove the intent element of manipulation, it must be shown that RP Martin "acted (or failed to act) with the purpose or conscious object of causing or effecting a price or price trend in the market that did not reflect the legitimate forces of supply and demand." *Id.*

The Commission has observed that "intent must of necessity be inferred from the objective facts and may, of course, be inferred by a person's actions and the totality of the circumstances." *In re Hohenberg Bros.*, [1975-1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,271 at 21,477 (CFTC Feb. 18, 1977). "[O]nce it is demonstrated that the alleged manipulator sought, by act or omission, to move the market away from the equilibrium or efficient price – the price which reflects market forces of supply and demand – the mental element of manipulation may be inferred." *Indiana Farm Bureau*, ¶ 21,796 at 27,283. "It is enough to present evidence from which it may reasonably be inferred that the accused 'consciously desire[d] that result, whatever the likelihood of that result happening from his conduct.'" *Id.* (quoting *U.S. v. United States Gypsum Co.*, 438 U.S. 442, 445 (1978)). A profit motive may also be evidence of intent, although profit motive is not a necessary element of an attempted manipulation. *See In re DiPlacido* [2007-2009 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,970, at 62,484 (CFTC Nov. 5, 2008) (citing *In re Hohenberg Bros. Co.*, ¶20,271 at 21,478)), *aff'd*, 364 Fed. Appx. 657 (2d Cir. 2009).

An artificial price (also termed a "distorted" price) is one "that does not reflect market or economic forces of supply and demand." *Cox*, ¶ 23,786 at 34,064; *Indiana Farm Bureau*, ¶ 21,796 at 27,288 n. 2. As the Commission noted with approval in *DiPlacido*, ¶ 30,970 at 62,484 (quoting *Indiana Farm Bureau*, ¶ 21,796 at 27,300 (Commissioner Stone concurring)), a Commissioner has commented: "[t]his is more an axiom than a test." In determining whether an artificial price has occurred:

> [O]ne must look at the aggregate forces of supply and demand and search for those factors which are extraneous to the pricing system, are not a legitimate part of the economic pricing of the commodity, or are extrinsic to that commodity market. When the aggregate forces of supply and demand bearing down on a

> particular market are all legitimate, it follows that the price will not be artificial. On the other hand when a price is effected by a factor which is not legitimate, the resulting price is necessarily artificial. Thus, the focus should not be as much on the ultimate price as on the nature of the factors causing it.

Indiana Farm Bureau, ¶ 21,796 at 27,288 n. 2. *See also DiPlacido*, ¶ 30,970 at 62,484 (finding that the placement of uneconomic bids or offers results in artificial prices because those prices are not determined by the free forces of supply and demand on the exchange").

Causation of artificial prices is established when it is demonstrated that artificial market prices resulted from the conduct of a trader, or group of traders acting in concert, rather than legitimate forces of supply and demand. *See Cargill, Inc. v. Hardin*, 452 F.2d 1154, 1171-72 (8th Cir. 1971) (price squeeze "intentionally brought about and exploited by Cargill"); *Cox*, ¶ 23,786 at 34,067 (proof of causation requires the Division to show that "the respondents' conduct 'resulted in' artificial prices").

There can be multiple causes of an artificial price. *DiPlacido*, ¶ 30,970, at 62,485. The manipulator's actions need not be the sole cause of the artificial price. "It is enough for purposes of a finding of manipulation in violation of Sections 6(b) and 9 of the Act that respondents' action contributed to the price [movement]." *In re Kosuga*, 19 A.D. 603, 624 (1960). *See also Cox*, ¶ 23,786 at 34,066 (recognizing there can be multiple causes of an artificial price and holding that a charge of manipulation can be sustained where respondents' acts are a proximate cause of the artificial price).

Here, RP Martin brokers communicated on a daily basis with banks that participated on the Yen LIBOR panel and made submissions that purported to reflect their assessments of their respective banks' costs of borrowing unsecured funds in the London interbank market for Yen across tenors. The official LIBOR fixings are calculated using a trimmed average methodology applied to the rates submitted by the panel banks. By virtue of this methodology, panel banks had the ability to influence or affect the rate that would become the official Yen LIBOR fixing for any tenor. Accordingly, if the RP Martin brokers could influence the rates submitted by the panel banks, then the RP Martin brokers had the ability to influence or affect the rate at which Yen LIBOR would be fixed. As evidenced above, Yen LIBOR panel banks relied upon the market information about Yen borrowing rates and Suggested LIBORs provided by RP Martin Yen brokers, and, at times, at least certain panel banks used the false rates suggested the RP Martin Yen brokers in determining and making their submissions. As a result, at times, certain Yen LIBOR panel banks made false or misleading Yen LIBOR submissions.

As evidenced by the extensive communications and other facts set forth above, in causing certain panel banks at times to make false or misleading Yen LIBOR submissions, RP Martin brokers specifically intended to affect the daily Yen LIBOR fixing for certain tenors, including the one-month, three-month and six-month tenors. Their intent is also evidenced by their expressed interest in earning commissions from the Senior Yen Trader via the wash trades, which was contingent upon their efforts to ensure that Yen LIBOR fixed at rates that benefited their Senior Yen Trader's derivatives trading positions.

As a result of RP Martin brokers' influence on the rates submitted by panel banks, at times some of the panel banks made Yen LIBOR submissions, whether knowingly or not, that did not reflect their bank's costs of borrowing unsecured funds in the London Yen interbank market but instead reflected rates beneficial to the trading positions of the Senior Yen Trader and other traders. Accordingly, through RP Martin brokers' actions, those Yen LIBOR submissions acted as illegitimate factors in the pricing of the daily Yen LIBOR fixings for certain tenors with the result that the official Yen LIBOR for certain tenors were artificial on certain occasions. Thus, the RP Martin brokers' actions were a proximate cause of the artificial Yen LIBOR fixings.

Accordingly, on certain occasions, RP Martin, through the acts of certain brokers and a desk manager, manipulated Yen LIBOR for certain tenors, a commodity in interstate commerce, in violation of Sections 6(c), 6(d) and 9(a)(2) of the Act.

C. RP Martin Attempted to Manipulate Yen LIBOR

To prove attempted manipulation, two elements are required: (1) an intent to affect the market price; and (2) an overt act in furtherance of that intent. *See In re Hohenberg Bros. Co.*, ¶ 20,271 at 21,477 (CFTC Feb. 18, 1977); *CFTC v. Bradley*, 408 F. Supp. 2d 1214, 1220 (N.D. Okla. 2005). The intent standard is the same as that for manipulation. *See Indiana Farm Bureau* and *Hohenberg Bros.*, *supra.*

As evidenced and found above, certain RP Martin Yen brokers each specifically intended to affect the rate at which the daily LIBOR for Yen would be fixed to benefit the derivatives trading positions of traders at panel banks, particularly the Senior Yen Trader at UBS. Each instance of the following constitutes overt acts in furtherance of RP Martin's Yen brokers' intent to affect the Yen LIBOR fixings: (1) the RP Martin brokers' coordination with the Senior Yen Trader; (2) the RP Martin brokers' dissemination of false and misleading Suggested LIBORs skewed to reflect rates beneficial to traders' derivatives trading positions; and (3) the RP Martin brokers' direct contacts with submitters and traders at certain panel banks to try to influence their LIBOR submissions. Accordingly, RP Martin, through the acts of its employees, engaged in repeated acts of attempted manipulation in violation of Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006).

D. RP Martin Aided and Abetted the Attempts of Derivatives Traders to Cause False or Misleading Yen LIBOR Submissions to be Made and to Manipulate Yen LIBOR

Pursuant to Section 13(a) of the Act, RP Martin aided and abetted the attempts of derivatives traders at Yen LIBOR panel banks to manipulate Yen LIBOR in violation of the Act, particularly the Senior Yen Trader. 7 U.S.C. § 13c(a) (2006). Liability as an aider and abettor requires proof that: (1) the Act was violated; (2) the aider and abettor had knowledge of the wrongdoing underlying the violation; and (3) the aider and abettor intentionally assisted the primary wrongdoer. *See In re Nikkhah*, [1999-2000 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,129 at 49,888 n.28 (CFTC May 12, 2000). Although actual knowledge of the primary wrongdoer's conduct is required, knowledge of the unlawfulness of such conduct need not be demonstrated. *See In re Lincolnwood Commodities, Inc.*, [1982-1984 Transfer Binder] Comm.

Fut. L. Rep. (CCH) ¶ 21,986 at 28,255 (CFTC Jan. 31, 1984). Knowing assistance can be inferred from the surrounding facts and circumstances. *Id.*

As evidenced by the extensive communications set forth above, certain RP Martin Yen brokers coordinated with the Senior Yen Trader at UBS to manipulate the official Yen LIBOR fixings for certain tenors by attempting to cause and at times causing panel banks to make Yen LIBOR submissions at rates or levels that that would benefit the Senior Yen Trader's trading positions. The RP Martin brokers knew that the Senior Yen Trader was trying to manipulate Yen LIBOR to benefit his derivatives trading positions.

UBS, through the acts of the Senior Yen Trader, and other panel banks through acts of their derivatives traders, in coordination with RP Martin brokers, attempted to manipulate Yen LIBOR, at times successfully, in violation of Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006). Certain RP Martin brokers had knowledge of, and intentionally assisted, the attempts of the Senior Yen Trader and traders at the other banks to manipulate the rate at which Yen LIBOR was fixed, at times successfully. Accordingly, RP Martin, through the acts of certain brokers and a desk manager, aided and abetted the attempts of traders at panel banks to manipulate Yen LIBOR, at times successfully, in violation of Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006).

E. RP Martin Holdings and Martin Brokers are Liable for the Acts of their Agents

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2006), and Regulation 1.2, 17 C.F.R. § 1.2 (2012), provide that the act, omission or failure of any official, agent or other person acting for any individual, association, partnership, corporation or trust within the scope of his employment or office shall be deemed the act, omission or failure of such individual, association, partnership, corporation or trust. Pursuant to Section 2(a)(1)(B) of the CEA and Commission Regulation 1.2, strict liability is imposed on principals for the actions of their agents. *See, e.g., Rosenthal & Co. v. CFTC,* 802 F.2d 963, 966 (7th Cir. 1986); *Dohmen-Ramirez & Wellington Advisory, Inc. v. CFTC*, 837 F.2d 847, 857-58 (9th Cir. 1988).

RP Martin Holdings and Martin Brokers are liable for the acts, omissions and failures of the brokers and managers who acted as their employees and/or agents in the conduct described above. Accordingly, RP Martin Holdings and Martin Brokers violated Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006), as set forth above.

V.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Respondents violated Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006).

VI.

OFFER OF SETTLEMENT

Respondents, without admitting or denying the findings or conclusions herein, except to the extent Respondents admit those findings in any related action against RP Martin by, or any agreement with, the Department of Justice or any other governmental agency or office, have submitted the Offer in which Respondents:

A. Acknowledge receipt of service of this Order;

B. Admit the jurisdiction of the Commission with respect to all matters set forth in this Order and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;

C. Waive:

1. the filing and service of a complaint and notice of hearing;

2. a hearing;

3. all post-hearing procedures;

4. judicial review by any court;

5. any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;

6. any and all claims that Respondents may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2006) and 28 U.S.C. § 2412 (2006), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission Regulations, 17 C.F.R. §§ 148.1-30 (2012), relating to, or arising from, this proceeding;

7. any and all claims that Respondents may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat. 847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this proceeding; and

8. any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;

D. Stipulate that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondents have consented in the Offer; and

E. Consent, solely on the basis of the Offer, to the Commission's entry of this Order that:

1. makes findings by the Commission that Respondents violated Section 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006);

2. orders Respondents to cease and desist from violating Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006 & Supp. V 2012);

3. orders Respondents, jointly and severally, to pay a civil monetary penalty in the amount of $1,200,000, plus post-judgment interest; and

4. orders Respondents and their successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VII of this Order.

Upon consideration, the Commission has determined to accept the Offer.

VII.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

A. Respondents shall cease and desist from violating Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2006 & Supp. V 2012).

B. Civil Monetary Penalty

1. Respondents shall pay, jointly and severally, a civil monetary penalty in the amount of 1.2 Million U.S. Dollars ($1,200,000) ("CMP Obligation"), plus post-judgment interest. Post-judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Consent Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Consent Order and on the date of each successive payment, pursuant to 28 U.S.C. § 1961 (2012). The Respondents shall satisfy their CMP Obligation by making quarterly payments with post-judgment interest as follows:

   a. The first year, $160,000, plus post-judgment interest, is payable, divided into four equal payments, falling due within 14 days of the date of this Order, or May 29, 2014; on or before August 29, 2014; on or before November 29, 2014; and on or before February 29, 2015.

   b. The second year, $410,000, plus post-judgment interest, is payable, divided into four equal payments, falling due on or before May 29, 2015; on or before August 29, 2015; on or before November 29, 2015; and on or before February 29, 2016.

c. The third year, $630,000, plus post-judgment interest, is payable, divided into four equal payments, falling due on or before May 29, 2016; on or before August 29, 2016; on or before November 29, 2016; and on or before February 29, 2017.

2. Payments shall be deemed made on the date they are received by the Commission. If any payment is not made by the date the payment is required by this Consent Order, the entire outstanding balance of the CMP Obligation, plus any additional post-judgment interest, shall be due and payable immediately, without further application.

3. Respondents shall pay their CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables
DOT/FAA/MMAC/AMZ-341
CFTC/CPSC/SEC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
(405) 954-7262 office
(405) 954-1620 fax
nikki.gibson@faa.gov

If payment by electronic funds transfer is chosen, Respondents shall contact Nikki Gibson or her successor at the address above to receive payment instructions and shall fully comply with those instructions. Respondents shall accompany payment of the CMP Obligation with a cover letter that identifies Respondents and the name and docket number of this proceeding. Respondents shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

C. Respondents and their successors and assigns shall comply with the following conditions and undertakings. Respondents represent that they have already undertaken and implemented, or are implementing certain compliance and supervisory controls or enhancements consistent with the Undertakings.

1. **Market Publications – Policies, Procedures and Controls**:

a. Respondents shall institute, implement and/or strengthen compliance and supervisory policies, procedures and internal controls designed to ensure the

integrity of the Respondents' Market Publications, and to detect, deter and prevent the dissemination of false or misleading market information contained therein. "Market Publication" means: (1) a written communication distributed via any media; (2) that includes predictions, suggestions or opinions regarding the levels at which a Benchmark Interest Rate[12] will set; and (3) that is published on a regular basis and is distributed to more than one customer.

b. Such Policies, Procedures and Controls shall provide that each provision of Market Publications shall be based on upon a rigorous and honest assessment of market data and information, and shall not be influenced by internal or external conflicts of interest or any other illegitimate factors.

c. Policies, Procedures and Controls relating to Market Publications shall include or provide for the following:

   i. That Market Publications shall be based on all definitions, rules and guidance applicable to the relevant Benchmark Interest Rate as provided by the Benchmark Publisher;

   ii. That Market Publications shall be based on transactions, bids and offers, market sentiment, indications of interest, and other relevant market activity information available to the Respondents in the markets relevant to Benchmark Interest Rates. An Author's reliance on and utilization of subjective market activity information should be limited only to information that the Author[13] reasonably and in good faith believes contributes to the accuracy of any predictions, suggestions, or opinions regarding the levels at which a Benchmark Interest Rate will set as contained in the Market Publication;

   iii. A description of the types of market circumstances that require the use of models, correlated market data or related trading instruments in making Market Publications;

---

[12] The following terms are defined as follows:
Benchmark Interest Rate: An interest rate for a currency and maturity/tenor that is calculated based on data received from market participants and published to the market on a regular, periodic basis, such as LIBOR and Euribor;
Benchmark Publisher: A banking association or other entity that is responsible for or oversees the calculation and publication of a Benchmark Interest Rate; and
Submission(s): The interest rate(s) submitted for each currency and maturity/tenor to a Benchmark Publisher. For example, if a panel bank submits a rate for one-month and three-month U.S. Dollar LIBOR, this would constitute two Submissions.

[13] For the purposes of these Undertakings, the term "Author" means any individual within RP Martin who is responsible for the content of Market Publications.

iv. The contemporaneous documentation, including recording the basis for, Market Publications, and retention of the same;

v. The review and approval of Market Publications by a supervisor prior to dissemination;

vi. The inclusion of a supervisor and a representative from the compliance department as an identified recipient on any written Market Publications disseminated;

vii. The disclosure of the following information for Market Publications disseminated shall include at least the following:

1) A statement that any Market Publication represents the predictions, suggestions, opinions or assessments of the Author based on market data and market activity information;

2) Identification of the source(s) of information or data upon which the Market Publication is based; and

3) As appropriate, identification of the use of any models, correlated markets or related trading instruments in the formation of the Market Publications;

viii. Internal controls regarding other improper communications related to Market Publications:

1) Such controls shall be designed to detect, deter and prevent improper communications between and among employees, agents and supervisors of the Respondents, or with any outside party, and to ensure the integrity and reliability of the Market Publications;

2) For these purposes, improper communications shall include, at a minimum: (1) any attempt to improperly influence the content of or alter the views contained in Market Publications; (2) using Market Publications for the benefit of any third party's trading position; or (3) any attempt to influence or affect any panel bank's Submission. For example, Market Publications shall not include, and employees, agents and supervisors of the Respondents shall not disclose, a bank's proposed Submissions to other market participants; and

ix. The periodic but routine review of electronic communications and audio recordings of or relating to the Market Publications and other

related communications between and among employees, agents and supervisors of the Respondents, or with any outside party.

2. **Other Market Communications – Policies, Procedures and Controls**:

a. The Respondents shall institute, implement and/or strengthen compliance and supervisory policies, procedures and internal controls designed to ensure the integrity of the Respondents' Other Market Communications, including provisions for supervision, monitoring, auditing, training and reporting.

b. Other Market Communications shall include, but are not limited to: (1) predictions, suggestions or opinions regarding the levels of Benchmark Interest Rates communicated orally; (2) predictions, suggestions or opinions regarding the levels of pricing in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency; and (3) communications concerning prices of transactions, bids or offers in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency.

c. These Policies, Procedures and Controls shall be designed to detect, deter and prevent improper communications between and among employees, agents and supervisors of the Respondents, or with any outside party, and to ensure the integrity and reliability of these Other Market Communications.

d. For these purposes, improper communications shall include, at a minimum: (1) any attempt to improperly influence the content of or alter the views contained in Other Market Communications; (2) using Other Market Communications improperly for the benefit of any third party's trading position; or (3) any attempt to influence or affect any panel bank's Submission. For example, Other Market Communications shall not include, and employees, agents and supervisors of the Respondents shall not disclose, a bank's proposed Submissions to other market participants.

3. **General Policies, Procedures and Controls**: The Respondents shall institute, implement and/or strengthen the following general policies, procedures and internal controls:

a. The supervision and management of employees, agents and supervisors of the Respondents to ensure compliance with the Respondents' Policies, Procedures and Controls, and these Undertakings;

b. The procedure(s) for the reporting and investigation of any violations of the Undertakings, the Respondents' Policies, Procedures and Controls, or any questionable, unusual or unlawful activity concerning the Respondents' Market Publications or Other Market Communications, including notification

to the appropriate compliance or legal personnel and reporting, as necessary, to authorities;

c. The periodic physical presence of compliance personnel on the brokering floors where Market Publications are prepared, and/or products that are the subject of Market Publications are brokered, and/or cash deposits for G8 currencies and any LIBOR currency are brokered, and/or derivatives products based on Benchmark Interest Rates in G8 currencies and any LIBOR currency are brokered, in connection with these Policies, Procedures and Controls, which shall be conducted at least monthly for main offices (including London, U.K.) and at least every six months for branch offices; and

d. The handling of complaints concerning any improper Market Publications and improper Other Market Communications by any employee, agent or supervisor of the Respondents, including:

i. Memorializing all such complaints; and

ii. Establishing a review and follow-up by the chief compliance officer(s) or a designee of such complaints; and

iii. The reporting of material complaints to the Chief Executive Officer and Board of Directors of the Respondents, relevant self-regulatory organizations, the Commission, and/or other appropriate regulators.

4. **Qualifications of Authors and Supervisors**: All Authors of Market Publications and their supervisors shall:

a. Have significant experience in the markets that are the subject of his or her Market Publication, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency; and

b. Receive training on the definition, rules and guidance surrounding the applicable Benchmark Interest Rate as set by the Benchmark Publisher.

5. **Documentation**: The Respondents shall provide the documents set forth below promptly and directly to the Commission upon request, without subpoena or other process, regardless of whether the records are held outside of the United States, to the extent permitted by law.

a. Requirement to Document Market Publications: The Respondents shall contemporaneously memorialize, and retain in an easily accessible format, for a period of five (5) years after the date of each dissemination, the following:

i. All Market Publications;

ii. The identity of the Authors of the Market Publications disseminated; and

iii. The record basis for the Market Publications, including, but not limited to, the following:

1) The relevant market data and information used, including specific transactions, offers and bids relied upon by in formulating the Market Publications;

2) The source(s) of the information or data relied upon;

3) Any models, correlated market data and data for related trading instruments used in formulating the Market Publications; and

4) Any information regarding market events considered in formulating the Market Publications, including the specific market announcement(s) or event(s) and any effect of such market event(s) on transacted rates, offers or bids in the relevant markets.

b. Transaction Records: The Respondents shall retain for a period of five (5) years trade transaction records related to the brokering activities in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency. The records shall be easily accessible and convertible into the Microsoft Excel file format.

c. Screen Data: Where an office of the Respondents maintains a screen that is utilized to display to customers bids, offers, and/or transactions in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency, the Respondents shall capture and retain for a period of five (5) years a screen shot of such information at the opening and close of the market for such product in the relevant time zone, as well as at the time of the deadline for submitting the Benchmark Interest Rate as imposed by the Benchmark Publisher.

d. Requirement to Record Communications: The Respondents shall record and retain to the greatest extent practicable:

i. All communications of employees, agents or supervisors of the Respondents who primarily broker products in the markets that are the subject of Market Publications, and/or in cash deposit markets related

to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency.

ii. The above communications shall not be conducted in a manner to prevent the Respondents from recording such communications.

iii. Audio communications of Authors of Market Publications and their supervisors shall be retained for a period of one (1) year. Audio communications of other employees, agents or supervisors of the Respondents who primarily broker products in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency shall be retained for a period of six (6) months. Subject to a reasonable time to implement, the Respondents' audio retention requirements pursuant to these Undertakings shall commence within a reasonable period after the entry of this Order and shall continue for a period of five (5) years thereafter.

iv. All communications except audio communications shall be retained for a period of five (5) years.

v. Nothing in these Undertakings shall limit, restrict or narrow any obligations pursuant to the Act or the Commission's Regulations promulgated thereunder, including but not limited to Regulations 1.31 and 1.35, 17 C.F.R. §§ 1.31 and 1.35 (2012), in effect now or in the future.

6. **Monitoring and Auditing**:

a. Monitoring: The Respondents shall maintain or develop monitoring systems or electronic exception reporting systems that identify possible improper or unsubstantiated Market Publications or related communications among employees, agents or supervisors of the Respondents or with any outside party.

i. This monitoring shall include reviews of written communications in any media and shall include supervisors. It shall also include reviews of oral communications of Authors and their supervisors.

ii. Such reports will be reviewed on at least a monthly basis and if any significant issues are identified, then the underlying documentation for the Market Publications shall be reviewed to determine whether the Market Publications are adequately substantiated. If it is not substantiated, the Respondents shall notify their chief compliance officer(s).

b. Periodic Audits: Starting six (6) months from the date of the entry of this Order, and continuing every six (6) months thereafter, unless an annual audit is scheduled at the same time, the Respondents shall conduct internal audits of reasonable, random samples of Market Publications being disseminated, the evidence documenting the basis for such Market Publications, and the related communications of the Market Publications Author in order to verify the integrity and reliability of the Market Publications.

c. Annual Audits By Third Party Auditors: Starting one (1) year from the date of the entry of this Order and continuing annually for four (4) additional years thereafter, the Respondents shall retain an independent, third-party auditor to conduct an audit of the desks brokering products in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency, including employees, agents, supervisors and managing directors (or similarly situated persons with responsibility for desk management or oversight), to ensure they are in compliance with the new Policies, Procedures and Controls implemented as a result of these Undertakings, and to confirm the adequate supervision of these desks. The annual audits shall include, without limitation, the following:

i. Reviewing the clients of each desk and of the employees, agents or supervisors of the desk to determine the most significant corporate and individual clients;

ii. Reviewing communications of employees, agents, and supervisors on the desks, as well as managing directors (or similarly situated persons with responsibility for desk management or oversight). This review shall include the communications between and among employees, agents and supervisors on the desks and communications with the most significant corporate and individual clients of the desk;

iii. Interviewing the employees, agents and supervisors on the desks, to the extent they are still employed by the Respondents;

iv. Reviewing Market Publications being disseminated, the evidence documenting the basis for such Market Publications, and the related communications of the Market Publications Author;

v. Obtaining written verification from the employees, agents and supervisors on desks, to the extent they are still employed by the Respondents, that their Market Publications were consistent with this Order, and the Respondents' Policies, Procedures and Controls; and

vi. Providing a written audit report to the Respondents and the Commission (with copies addressed to the Commission's Division of Enforcement (the "Division")).

7. **Training**: The Respondents shall develop training programs for all employees, agents and supervisors who are involved in creating and/or disseminating Market Publications. Such employees, agents and supervisors shall be provided with preliminary training regarding the Policies, Procedures and Controls developed pursuant to these Undertakings. By no later than October 31, 2014, all employees, agents and supervisors in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency shall be fully trained in the application of these Undertakings to them, as set forth herein. Thereafter, such training will be provided promptly to employees newly assigned to any of the above listed responsibilities, as part of the Respondents' regular training programs. The training shall be based upon the individual's position and responsibilities, and as appropriate, address the following topics:

a. The Undertakings set forth herein;

b. The impropriety of: (1) any attempt to improperly influence the content of and alter the views contained in Market Publications or Other Market Communications; (2) using Market Publications or Other Market Communications improperly for the benefit of any third party's trading position; or (3) any attempt to influence or affect any panel bank's Submission(s);

c. The requirement to conduct all business related to Market Publications, and certain business related to the markets that are the subject of Market Publications, and/or cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency, on the Respondents' recorded telephone and electronic communications systems, and not on personal telephones or other electronic devices, as set forth in Section 5.iv. of these Undertakings;

d. The policies and procedures developed and instituted pursuant to these Undertakings; and

e. The employment and other potential regulatory and criminal consequences if employees act unlawfully or improperly in connection with these Undertakings.

8. **Reports to the Commission**:

a. Compliance with Undertakings: Every four (4) months, starting 120 days from the entry of this Order, the Respondents shall make interim reports to the

Commission, through the Division, explaining its progress towards compliance with the Undertakings set forth herein. Within 365 days of the entry of this Order, the Respondents shall submit a report to the Commission, through the Division, explaining how it has complied with the Undertakings set forth herein. The report shall attach copies of and describe the Policies, Procedures and Controls that have been designed and implemented to satisfy the Undertakings. The report shall contain a certification from a representative of the Respondents' Executive Management, after consultation with the Respondents' chief compliance officers, that the Respondents have complied with the Undertakings set forth above, and that they have established Policies, Procedures and Controls to satisfy the Undertakings set forth in this Order;

b. Compliance with Initial Training: Within two weeks of completing the training required in Section 7 of these Undertakings, the Respondents shall provide to the Commission, through the Division, written affirmation that all employees, agents and supervisors in the markets that are the subject of Market Publications, and/or in cash deposit markets related to and derivatives markets based on Benchmark Interest Rates in G8 currencies and any LIBOR currency have been fully trained in the application of these Undertakings to them; and

c. Disciplinary and Other Actions: The Respondents shall promptly report to the Commission, through the Division, all improper conduct related to any Market Publication or the attempted manipulation or manipulation of a Benchmark Interest Rate, as well as any disciplinary action, or other law enforcement or regulatory action related thereto, unless *de minimis* or otherwise prohibited by applicable laws or regulations.

9. Cooperation with the Commission:

a. The Respondents shall cooperate fully and expeditiously with the Commission, including the Division, and any other governmental agency in this action, and in any investigation, civil litigation, or administrative matter related to the subject matter of this action or any current or future Commission investigation related thereto. As part of such cooperation, the Respondents agree to the following for a period of five (5) years from the date of the entry of this Order, or until all related investigations and litigation are concluded, including through the appellate review process, whichever period is longer:

i. Preserve all records relating to the subject matter of this proceeding, including, but not limited to, audio files, electronic mail, other documented communications, and trading records;

ii. Comply fully, promptly, completely, and truthfully with all inquiries and requests for information or documents;

iii. Provide authentication of documents and other evidentiary material;

iv. Subject to applicable laws and regulations, provide copies of documents within the Respondents' possession, custody or control;

v. Subject to applicable laws and regulations, the Respondents will make their best efforts to produce any current (as of the time of the request) officer, director, employee, or agent of the Respondents, regardless of the individual's location, and at such location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including, but not limited to, requests for testimony, depositions, and/or interviews, and to encourage them to testify completely and truthfully in any such proceeding, trial, or investigation; and

vi. Subject to applicable laws and regulations, the Respondents will make their best efforts to assist in locating and contacting any prior (as of the time of the request) officer, director, employee or agent of the Respondents.

b. The Respondents also agree that they will not undertake any act that would limit its ability to cooperate fully with the Commission. Respondents will designate an agent located in the United States of America to receive all requests for information pursuant to these Undertakings, and shall provide notice regarding the identity of such Agent to the Division upon entry of this Order. Should the Respondents seek to change the designated agent to receive such requests, notice of such intention shall be given to the Division fourteen (14) days before it occurs. Any person designated to receive such request shall be located in the United States of America.

10. <u>Prohibited Or Conflicting Undertakings</u>:

a. Should the Undertakings herein be prohibited by, or be contrary to the provisions of any obligations imposed on the Respondents by any presently existing, or hereinafter enacted or promulgated laws, regulations and regulatory mandates, then the Respondents shall promptly transmit notice to the Commission (through the Division) of such prohibition or conflict, and shall meet and confer in good faith with the Commission (through the Division) to reach an agreement regarding possible modifications to the Undertakings herein sufficient to resolve such inconsistent obligations. In the interim, the Respondents will abide by the obligations imposed by the law, regulations and regulatory mandates.

b. Nothing in these Undertakings shall limit, restrict or narrow any obligations pursuant to the Act or the Commission's Regulations promulgated thereunder, including but not limited to Regulations 1.31 and 1.35, 17 C.F.R. §§ 1.31 and 1.35 (2012), in effect now or in the future.

11. **Public Statements**: The Respondents agree that neither they nor any of their successors and assigns, agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect the Respondents' (i) testimonial obligations, or (ii) right to take legal positions in other proceedings to which the Commission is not a party. The Respondents and their successors and assigns shall undertake all steps necessary to ensure that all of its agents and/or employees under its authority or control understand and comply with this agreement.

The provisions of this Order shall be effective as of this date.

By the Commission.

Melissa D. Jurgens
Secretary of the Commission
Commodity Futures Trading Commission

Dated: May 15, 2014

EXHIBIT 4

Financial Conduct Authority

FINAL NOTICE

To:	**Martin Brokers (UK) Ltd (Martins)**
Address:	Cannon Bridge House, 25 Dowgate Hill, London EC4R 2BB
Reference Number:	187916
Date:	15 May 2014

1. ACTION

1.1. For the reasons given in this notice, the FCA hereby imposes on Martins a financial penalty of £630,000 in accordance with section 206 of FSMA.

1.2. The FCA would have fined Martins £3,600,000, subject to the appropriate discount (if applicable) under the FCA's executive settlement procedures. Given Martins' financial circumstances however, in particular, the fact that Martins would be unable to pay a penalty of this amount (together with the other regulatory liabilities that Martins faces in relation to LIBOR), the FCA has reduced the fine by 75% to £900,000 and has agreed to accept payment in instalments over three years.

1.3. Martins agreed to settle at an early stage of the FCA's investigation and therefore qualified for a 30% (Stage 1) discount under the FCA's executive settlement procedures. Were it not for this discount, the FCA would have imposed a financial penalty of £900,000 on Martins.

2. SUMMARY OF REASONS

2.1. The FCA has taken this action because, during the period from 1 January 2007 to 31 December 2010, Martins breached Principles 5 and 3 through misconduct relating to the calculation of JPY LIBOR.

2.2. In breach of Principle 5, Brokers at Martins colluded with a Trader at UBS (Trader A) as part of a co-ordinated attempt to influence JPY LIBOR submissions made by Panel Banks, in an attempt to manipulate the published JPY LIBOR rate.

2.3. In breach of Principle 3, Martins failed to have adequate risk management systems or effective controls in place to monitor and oversee its broking activity.

LIBOR

2.4. LIBOR is a benchmark reference rate fundamental to the operation of both UK and international financial markets. Its integrity is of fundamental importance to confidence in the financial system.

2.5. LIBOR was, at the relevant time, published daily in a number of currencies and maturities and set according to a definition published by the BBA. It was based on interbank borrowing in the London market and Panel Banks made daily submissions to the BBA to enable LIBOR to be calculated.

Principle 5 breaches

2.6. During the Relevant Period, Brokers at Martins acted improperly and breached Principle 5 by failing to observe proper standards of market conduct. Its Brokers colluded with Trader A as part of a coordinated attempt to influence JPY LIBOR submissions made by Panel Banks, in an attempt to manipulate the final published JPY LIBOR rate.

2.7. Brokers at Martins attempted to influence JPY LIBOR submissions made by Panel Banks by suggesting to the Panel Banks that they make JPY LIBOR submissions at levels requested by Trader A.

2.8. Brokers at Martins knew that the levels requested by Trader A were incorrect or misleading and they understood that Trader A was attempting to manipulate the final published JPY LIBOR rate in order to improve the profitability of his Trading Positions.

2.9. Brokers at Martins were in regular contact with Panel Banks. On occasion, they provided Panel Banks with “Run-Throughs”. A Run-Through was Martins’ assessment (purportedly based on the knowledge it had gained through its participation in transactions in the market and its general view of the market) of the correct level of JPY LIBOR.

2.10. In particular, on or around dates when the level of the final published JPY LIBOR rate was of particular significance to the profitability of Trader A’s Trading Positions, the Brokers:

2.10.1 requested that Panel Banks make specific JPY LIBOR submissions at levels that would benefit Trader A;

2.10.2 provided misleading Run-Throughs to Panel Banks. They were misleading because they did not reflect their independent assessment of the market but instead took into account JPY LIBOR levels requested by Trader A, and

2.10.3 created false (or "spoof") orders, with the aim of influencing Panel Banks' views of the cash market so that they would make JPY LIBOR submissions at levels that benefitted Trader A.

2.11 Martins assisted Trader A because he was a significant client who accounted for a substantial proportion of the revenue of the JPY desk at Martins.

2.12 UBS, through Trader A, also entered into "wash trades" (i.e. risk free trades that cancelled each other out and which had no legitimate commercial rationale) with Martins, in order to facilitate corrupt brokerage payments to Brokers as a reward for their attempts to influence the JPY LIBOR submissions of Panel Banks.

2.13 At least three Brokers, one of whom was also a Manager, colluded with Trader A in attempting to manipulate the published JPY LIBOR rate. At least one other Broker facilitated the wash trades. At least one other Manager was aware that wash trades had been executed to pay Brokers additional brokerage payments.

2.14 In total, UBS made at least 600 requests to Martins during the Relevant Period. Although Brokers did not usually accommodate these requests, they followed them on specific occasions, when Trader A had large fixings or when they were keen to boost their commission.

2.15 Martins' breaches of Principle 5 were extremely serious. Its misconduct gave rise to a risk that the published JPY LIBOR rate would be manipulated and undermined the integrity of that rate. Martins' collusion with UBS, and Martins' provision of misleading Run-Throughs to several Panel Banks, significantly increased the risk of manipulation of the published JPY LIBOR rate. This was because the averaging process applied to submissions as part of the calculation of the published rate means that the risk of manipulation is greater if more than one Panel Bank's submission has been manipulated.

2.16 The use of spoof orders by Brokers further aggravated this risk.

Principle 3 breaches

2.17 During the Relevant Period, Martins breached Principle 3 by failing to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems or effective controls in place to monitor and oversee its broking activity.

2.18 Martins failed to have adequate systems and controls in place during the Relevant Period to address the risk of collusion between Brokers and their clients.

2.19 Martins had minimal policies and procedures in place to govern individual Broker behaviour and those that were in place were inadequately designed and easily circumvented.

2.20 Martins had no effective compliance function with limited training for Brokers and no effective compliance monitoring to detect Broker misconduct. There was an absence of effective transaction monitoring procedures, such as might reasonably have detected the wash trades.

2.21 Martins' reporting lines and responsibilities were unclear at every level, including amongst senior management, meaning that responsibility for compliance oversight of individual Brokers was unclear and effectively uncontrolled as a result.

2.22 Martins' lack of adequate systems, controls, supervision and monitoring throughout the Relevant Period meant that this serious and widespread misconduct went undetected and continued unabated throughout the Relevant Period.

Penalty

2.23 The integrity of benchmark reference rates such as LIBOR is of fundamental importance to both UK and international financial markets. Martins' misconduct could have caused serious harm to other market participants. Martins' misconduct also undermined the integrity of LIBOR and threatened confidence in and the stability of the UK financial system.

2.24 The misconduct of certain Brokers was routine and widely known within the firm. They engaged in this serious misconduct in order to serve their own interests. The duration and extent of Martins' misconduct was exacerbated by its inadequate systems and controls.

2.25 The FCA therefore considers it is appropriate to impose a very significant financial penalty of £900,000 on Martins in relation to its misconduct during the Relevant Period.

3. DEFINITIONS

3.1. The following definitions are used in this notice:

"Arbitrage Desk" means Martins' arbitrage desk;

"Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority;

"BBA" means the British Bankers' Association;

"Broker" means an interdealer broker employed by Martins during the Relevant Period, acting as intermediary in, amongst other things, deals for funding in the cash markets and interest rate derivatives contracts. Brokers A to E are referred to in in this notice. Brokers A and B are as referred to in the UBS Final Notice;

"DEPP" means the FCA's Decision Procedure & Penalties Manual;

"EG" means the FCA's Enforcement Guide;

"ENF" means the FCA's Enforcement Manual;

"FSMA" means the Financial Services and Markets Act 2000;

"JPY" means Japanese Yen;

"JPY Desk" means Martins' JPY desk;

"JYP LIBOR" means the LIBOR for JPY;

"LIBOR" means London Interbank Offered Rate;

"Manager" means a Martins employee with direct line management responsibility over Martins Brokers during the Relevant Period;

"Martins" means Martin Brokers (UK) Ltd;

"Panel Bank" means a bank with a place on the BBA panel for contributing LIBOR submissions in one or more currencies. Panel Banks 1 to 8 are referred to in this notice. Panel Banks 1, 3, 4 and 5 are as referred to in the UBS Final Notice;

"Principle 3" means Principle 3 (Management and control) of the FCA's Principles for Businesses;

"Principle 5" means Principle 5 (Market conduct) of the FCA's Principles for Businesses;

"Relevant Period" means 1 January 2007 to 31 December 2010;

"Run-Through" means the information Martins provided to its clients, concerning bid and offer prices for cash as well as suggestions as to where Martins believed the published LIBOR rate would set for that day;

"Trader" means a person trading interest rate derivatives or trading in the money markets. Three Traders are referred to in this notice, from Traders A to C. Traders A and C are as referred to in the UBS Final Notice;

"Trader-Submitter" means a Trader at a Panel Bank other than UBS who also had responsibility for making LIBOR submissions. Seven Trader-Submitters are referred to in this Notice, from Trader-Submitter A to G;

"Trading Positions" means trading book positions held either in respect of derivative positions or money market positions;

"Tribunal" means the Upper Tribunal (Tax and Chancery Chamber);

"UBS" means UBS AG;

"UBS Final Notice" means the final notice issued to UBS on 19 December 2012.

4. FACTS AND MATTERS

Background

LIBOR and interest rate derivative contracts

4.1. LIBOR is the most frequently used benchmark for interest rates globally; it is referenced in transactions with a notional outstanding value of at least USD 500 trillion. During the Relevant Period, LIBOR was published for ten currencies and fifteen maturities. JPY LIBOR is a widely used benchmark rate.

4.2. Interest rate derivatives contracts typically contain payment terms that refer to benchmark rates. LIBOR is by far the most prevalent benchmark rate used in over-the counter interest rate derivatives contracts and exchange traded interest rate contracts.

4.3. LIBOR was, at the relevant time, published on behalf of the BBA. LIBOR (in each relevant currency) was set by reference to the assessment of the interbank market made by a number of Panel Banks. The Panel Banks were selected by the BBA. Each Panel Bank contributed rate submissions each business day.

4.4. These submissions were not averages of the relevant Panel Banks' transacted rates on a given day. The BBA required Panel Banks to exercise their judgement in evaluating the rates at which money may be available to them in the interbank market when determining their submissions.

4.5. During the Relevant Period, the LIBOR definition published by the BBA and available to participants in UK and international financial markets was as follows:

> "*The rate at which an individual contributor panel bank could borrow funds, were it to do so by asking for and then accepting interbank offers in reasonable market size just prior to 11:00 London time.*"

4.6. The definition of LIBOR required submissions related to funding from the Panel Banks. It did not allow for consideration of factors unrelated to borrowing or lending in the interbank market, such as Trading Positions.

4.7. During the Relevant Period (particularly during the financial crisis), there was very little interbank lending to guide LIBOR submitters at Panel Banks. Submitters at those Panel Banks therefore came to rely increasingly on broker-provided market colour and Run-Throughs to inform their LIBOR submissions.

Martins' role in the financial markets and LIBOR

4.8. Martins is a voice broker, acting for institutional clients transacting in the wholesale financial markets. During the Relevant Period, Martins' main role was to bring together counterparties to execute trades in return for commissions and where necessary, to provide information to clients.

4.9. The information Martins provided to its clients included advice as to where it believed the published LIBOR rates would be set on particular days.

4.10. Amongst other things, as a broker, Martins helps facilitate interbank funding by introducing and assisting clients (including Panel Banks) to negotiate: (i) deposits and loans; and (ii) trades in relation to interest rate derivatives products that are directly referenced to LIBOR rates. This provides Martins with particular market insight into cash trading prices and expected published LIBOR rates. Based on this insight Martins is able to provide clients (including Panel Banks) with suggestions, in Run-Throughs, as to where LIBOR may set on particular dates.

Martins' internal structure

4.11. Martins is organised into various "desks" of Brokers. Each desk specialises in facilitating trades in different currencies and financial products on behalf of its clients.

4.12. In addition to their basic salary, Brokers were also paid a bonus that represented a percentage of net profit generated on a quarterly basis. Any agreed bonus was shared between the Brokers on the desk. During the Relevant Period, 30 percent of this net profit amount was paid to the Brokers and 70 percent was retained by Martins.

4.13. On most desks bonuses were calculated on an individual basis. However, the JPY Desk was different in that commission income from all of its Brokers was pooled. The JPY Desk comprised eight to ten Brokers and the bonus was shared equally between each of these Brokers.

4.14. During the Relevant Period, the Arbitrage Desk was responsible for executing trades for institutional clients (including Panel Banks) in relation to instruments between different currencies, including JPY.

Principle 5 breaches: attempts to manipulate JPY LIBOR rates

Martins' collusion with Trader A

4.15. During the Relevant Period, Brokers colluded with Trader A as part of a co-ordinated attempt to influence JPY LIBOR submissions made by Panel Banks, in an attempt to manipulate the final published JPY LIBOR rate.

4.16. Brokers attempted to influence JPY LIBOR submissions made by Panel Banks by suggesting to the Panel Banks that they make JPY LIBOR submissions at levels requested by Trader A.

4.17. Trader A usually made his requests to Broker A. If Broker A was unavailable he would then make his requests to Broker B, who was one of Broker A's colleagues on the JPY Desk.

4.18. For example, on 18 July 2008, Trader A wanted a lower one month JPY LIBOR rate. In a Bloomberg exchange with Broker A, Trader A identified the JPY LIBOR submission made by Panel Bank 1 the previous day as: "*a joke*". Trader A asked whether Broker A had: "*spoken to* [Panel Bank 1] *re his 1m fix*".

4.19. Panel Bank 1 was a client of Broker B. At Broker A's request, Broker B called Trader-Submitter A, Panel Bank 1's JPY LIBOR submitter. Broker B requested that he set his one month JPY LIBOR submission at: "*65…got someone asking here…if you can…or as low as possible basically*". Trader-Submitter A agreed to set Panel Bank 1's one month JPY LIBOR submission at 0.63.

4.20. Panel Bank 1's one month JPY LIBOR submission was 0.63 that day, down from 0.71 on the previous day. This resulted in Panel Bank 1 moving to equal thirteenth in the ranking of Panel Banks, from equal first on the previous day.

4.21. Occasionally, Broker A was assisted by Brokers on both the JPY Desk and on the Arbitrage desk.

4.22. For example, on 25 February 2009, Trader A telephoned Broker A and stated that he wanted lower JPY LIBOR submissions in each of the one, three and six month maturities (or "tenors"). Trader A added that he was: "*just trying to think who you might be able to ****ing lean on a bit today…it's really important to get the threes down for me…".*

4.23. Trader A asked Broker A to approach various Panel Banks, including Panel Bank 2 and Panel Bank 3, in order to suggest that they lower their three month JPY LIBOR submissions. Later that day, Broker A spoke with Trader-Submitter B, the JPY LIBOR submitter at Panel Bank 2:

Broker A:	*Can I ask you a small favour?*
Trader-Submitter B:	*Yeah.*
Broker A:	*What are you going to set in your LIBOR 3s today?*
Trader-Submitter B:	*Ah, same, 65.*
Broker A:	*Is there any way you might be able to set them down a pip 'cause I'm getting a big trade out of it?*

Trader-Submitter B:	*Sorry?*
Broker A:	*I'm getting someone do me a big trade if they said if I help them sort of get LIBORs down a tick today.*
Trader-Submitter B:	*Yeah, okay.*

4.24 Panel Bank 2's three month JPY LIBOR submission was 0.64 that day, down from 0.65 on the previous day. This resulted in Panel Bank 2 moving to equal seventh in the ranking of Panel Banks, from fourth the previous day.

4.25 Broker A also approached Panel Bank 3 but because Panel Bank 3 was not his client he did so through Broker C, who worked on the Arbitrage Desk and for whom Panel Bank 3 was a client.

4.26 Broker A asked Broker C for: "*a favour…we've got a ****ing huge deal but on the back of it he's asked me to do him a favour and see if I can have a word with a couple of people, see if LIBOR, see if I could get it down a pip*."

4.27 Broker C later spoke with Trader-Submitter C, the JPY LIBOR submitter at Panel Bank 3 to request that he lower Panel Bank 3's JPY LIBOR submission by one basis point from that of the preceding day.

4.28 Later that day, Broker C expressed concern in a telephone call with Broker A about the conduct: "*If I set out on a line…it's the old auditors as well*". Broker A advised Broker C: "*don't push it, no don't ever push it*." The language in the call clearly illustrates that Broker A was aware that his conduct, and that of his colleague on his behalf, was inappropriate.

4.29 Panel Bank 3's three month JPY LIBOR submission was 0.67 that day, down from 0.68 on the previous day. This submission was third in the overall ranking of the Panel Banks, the same as the previous day.

4.30 That day, Broker A also spoke with Trader-Submitter D, the JPY LIBOR submitter at Panel Bank 5. Broker A appears to have fabricated a story as a way to persuade Trader-Submitter D to assist him:

Broker A:	*I need a favour.*
Trader-Submitter D:	*Yes.*
Broker A:	*…Alright, it's got [UNCLEAR] really, what it is, basically I got stuffed in something earlier in an IRS and it would have cost me about 40,000 to get out of it, yes. Geezer dug me out, as a favour back to him he's asked me, for one day today, he's got a couple of fixings coming. He wants to see if he can get LIBORs down a little bit. I've said I'll try and do what I can. Is there any way you might be able to set them a little bit lower today just to return the favour? It was a ****ing big, big, big giant stuffing that I got out of there.*
Trader-Submitter D:	*Yeah, well cash is a little bit easier, isn't it so I'll…*

Broker A:	*Yes, if you could get them down a couple of tickpips or something today that would be ****ing, like the out of 3s…*
Trader-Submitter D:	*Yes, I mean, that's, you know, it's because cash is easier.*
Broker A:	*Yes, it is easier so… yes, I mean if you could do that for me mate that would be a personal favour to you. At least it shows that I've tried to do my best for him, do you know what I mean?*
Trader-Submitter D:	*Yes, yes, but yes cash is easier so I'll fix a couple up.*
Broker A:	*I love you for that, thanks very much mate. I appreciate it, ta.*

4.31 Panel Bank 5's three month JPY LIBOR submission was 0.58 that day, down from 0.6 on the previous day. This submission was fifteenth in the ranking of Panel Banks, the same as the previous day.

4.32 The Brokers who participated in these exchanges understood that Trader A was attempting to manipulate the final published JPY LIBOR rate in order to improve the profitability of his Trading Positions.

Misleading Run-Throughs

4.33 Broker A also attempted to influence JPY LIBOR submitters by providing misleading Run-Throughs. They were misleading because they did not reflect his independent assessment of the market but instead took into account JPY LIBOR levels requested by Trader A.

4.34 For example, on 18 July 2008 Trader A was concerned that other Panel Banks were setting the one month JPY LIBOR rate higher than he would like. He told Broker A that he needed assistance to move it to a lower rate. Specifically, Trader A was concerned that Panel Bank 1 had "*moved up to 71*" and he told Broker A that he would "*need it lower*". Trader A added: "*I am losing so much cash…then I can't pay you*".

4.35 Later that morning, Broker A spoke with Trader-Submitter D, the JPY LIBOR submitter at Panel Bank 5. Trader-Submitter D requested a Run-Through from Broker A. Broker A responded: "*Oh, yeah yeah, while you're here. Okay, one month for the month is going to be 60*".

4.36 The published one month JPY LIBOR rate on 17 July 2008 was 0.65. Broker A therefore suggested that the rate was going to be 5 basis points lower on 18 July. In fact, the published JPY LIBOR rate for one month on 18 July was 0.645, a half basis point lower. The rate that Broker A suggested to Trader-Submitter D therefore reflected Trader A's request, rather than a being a proper assessment of where the rate would actually set on the day.

4.37 In accordance with Broker A's Run-Through, Panel Bank 5's one month JPY LIBOR submission was 0.6 that day. Another example occurred on 31 October 2008, in an exchange between Trader A and Broker A:

Trader A: *Right, okay. Listen what I need – this is what I need, I need 1's to come off the most because if they are off 20 for 1's which is what they* [unclear].

Broker A: *Right, yes. That's the one that's ****ing up at the moment as well, isn't it, so you need definitely.*

Trader A: *Yes and then say 3's are – I don't need it to come off quite so much, like, I don't know down 13 or something.*

Broker A: *Right.*

Trader A: *And then 6's go well, you know, there's still term and you can't get hold of it so say, like, down 8 or something.*

Broker A: *Right, okay.*

Trader A: *See what I mean.*

Broker A: [UNCLEAR].

Trader A: *Alright mate, if you could sort this out for me, if you can get 1's down - if you could get like a staggered downward move like that then we'll do a ****ing massive ticket next week.*

4.38 Shortly after, Broker A told another client that: "*I'm calling LIBORs down maybe about 17, 18 points in 1s, 3s around 12, 6s around 8*."

4.39 A suggested drop of 18 basis points in the one month JPY LIBOR submission rate was extraordinary and unprecedented. An analysis of the daily submission rates for the previous year reveals that the mean average daily movement in one month JPY LIBOR was merely 0.9 basis points. The largest daily rate move in the same period was 8.1 basis points.

4.40 The client asked him to repeat himself because the Run-Through was so unrealistically low. Broker A justified his suggested LIBOR rates by explaining: "*I don't know so much at the moment because I don't have any prices in anything but I'd say 1s are probably going to be down, obviously sort of, about 17, 18, 17 points say, 3s about 12 and 6s about 8. Sounds about sensible, I think*."

4.41 Broker A's Run-Through did not reflect his independent assessment of the market but instead took account of Trader A's request.

4.42 Also on 31 October 2008, Trader-Submitter E, the JPY LIBOR submitter at Panel Bank 4, asked for a LIBOR Run-Through from Broker D on the Arbitrage Desk. Broker D requested this information from Broker A. In response Broker A suggested, as part of his Run-Through, the following JPY LIBOR submissions; one month JPY LIBOR 18 basis points lower, three month JPY LIBOR 13 basis points lower and six month JPY LIBOR 9.5 basis points lower.

4.43 Broker D then communicated these suggested rates to Trader-Submitter E. Trader-Submitter E questioned these levels and told Broker D that he would check elsewhere. Trader-Submitter E called Broker D back and told him that the suggested levels were much too low, and that they should only be about three to five basis points lower across all maturities.

4.44 On 30 October 2008, the published rates for JPY LIBOR in the one, three and six month tenor were 0.91, 0.98 and 1.065 respectively. The published rates for 31 October were 0.85, 0.94 and 1.03 respectively. This means the actual drop in rates was 5.5, 4 and 3.5 basis points. In response to Trader A's requests, using its Run-Throughs, Martins had tried to influence Panel Banks to make JPY LIBOR submissions that were far below what they should have been.

4.45 On occasion, certain fixing dates would have a greater significance for Trader A, and Trader A would remind Broker A that he needed Broker A's assistance. As explained at paragraph 78 of the UBS Final Notice, by 23 June 2009 Trader A held a large number of positions tied to the six month JPY LIBOR rate that were due to mature on 29 June 2009.

4.46 For this reason and as explained at paragraph 80 of the UBS Final Notice, between 23 and 29 June 2009, Trader A made at least 21 requests to four brokers, including Broker A and others not employed by Martins seeking their assistance in influencing the JPY LIBOR submissions of Panel Banks.

4.47 During this six day period, Trader A had numerous conversations with Broker A during which they discussed the importance, for Trader A's positions, of a high six month JPY LIBOR rate on 29 June 2009.

4.48 For example, on 25 June 2009 Trader A told Broker A: "*remember 6m on Monday* [29 June] *is a huge huge priority*". On 29 June 2009, Trader A reminded Broker A that he wanted the six month JPY LIBOR rate to increase and told him: "*do your best and I'll sort u out…*"

4.49 In the days leading up to 29 June 2009 and on the day itself, Broker A contacted a number of submitters at Panel Banks with a view to influencing them to increase their six month JPY LIBOR submissions.

4.50 For example, on the morning of 29 June 2009, Broker A spoke to Trader-Submitter F, the alternative JPY LIBOR submitter at Panel Bank 5. During his LIBOR Run-Through, Broker A suggested 0.75 for the six month published JPY LIBOR rate. This would have represented a rise of 6.1 basis points on the previous days' equivalent rate.

4.51 On 28 June 2009, the published rate for six month JPY LIBOR was 0.68875, which rose to 0.69625 on 29 June 2009, a rise of only 0.75 basis points.

4.52 However, notwithstanding the unrealistic nature of Broker's A Run-Through, on 29 June 2009, Panel Bank 5's six month JPY LIBOR submission was 0.75, in line with Broker A's Run-Through.

Spoof orders

4.53 Broker A created false (or "spoof") orders. This involved calling out prices over a conference-style telephone called the "squawk box" to suggest a potential trade when there was none, such that the conversation could be heard by clients, including Panel Banks.

4.54 Broker A thereby represented that he had genuine interest from bank clients to trade cash at a particular level. He did this by shouting cash prices over the squawk box indicating prices had moved in a particular direction. The direction chosen took account of Trader A's request to move JPY LIBOR rates to benefit Trader A's positions.

4.55 By doing so, Broker A attempted to mislead market participants about the prices at which cash was trading and with the intention that JPY LIBOR submitters would move their submissions accordingly.

4.56 For example, on 3 September 2008 Trader A explained to Broker A that: "*3s is the big one for me mates…I'm getting ****ed on the 3s*."

4.57 Trader A suggested that Panel Bank 5's three month JPY LIBOR submission could be moved down to 0.88. Broker A explained that he would: "*flood* [Trader-Submitter D] *with offers today*" and stated that: "*he does tend to set them where I offer them*." Immediately, Broker A called out an offer to Trader-Submitter D at Panel Bank 5 over the squawk box stating that "*88, at the minute, I'm giving 3s,* [Trader-Submitter D]".

4.58 Later on, Trader A asked Broker A if he was putting offers around in 3s. Broker A told him that: "*I'm offering 3s at 88 where it ain't offered virtually. I'm offered only at 91*." Trader A asked whether that is: "*to* [Panel Bank 5] *and* [Bank C]?"

4.59 Within seconds of the end of this call with Trader A, Broker A again shouted over the squawk box to Trader-Submitter D that: "*I got choice here 3s Yen* [Trader-Submitter D]*, 88 either way*."

4.60 In line with Broker A's "spoof-order" Panel Bank 5's three month JPY LIBOR submission for 3 September 2008 was 0.88.

4.61 Broker A conducted "spoof-orders" in an attempt to influence Panel Banks' views of the cash market so that they would make JPY LIBOR submissions at levels that benefitted Trader A.

Brokers motivated by revenue

4.62 The Brokers assisted Trader A because UBS was a significant client who accounted for a substantial proportion of the revenue of the JPY Desk at Martins. During the Relevant Period, UBS was the JPY Desk's second largest client and represented nearly 9% of its total commission revenue. On occasion, Trader A accounted for over 25% of the monthly commissions generated by Broker A.

Wash trades used to facilitate corrupt brokerage payments

4.63 Between 19 September 2008 and 25 August 2009, Broker A booked nine wash trades between Trader A, another UBS Trader and other clients of the JPY Desk. This was to facilitate corrupt brokerage payments between UBS and Martins as a reward for Brokers' efforts to influence the JPY LIBOR submissions of Panel Banks. These wash trades generated illicit fees of £258,151.09 for Martins.

4.64 For example, on 18 September 2008 Trader A explained to Broker A: *"if you keep 6s* [i.e. the six month JPY LIBOR rate] *unchanged today … I will ****ing do one humongous deal with you … Like a 50,000 buck deal, whatever … I need you to keep it as low as possible … if you do that …. I'll pay you, you know, 50,000 dollars, 100,000 dollars … whatever you want … I'm a man of my word"*.

4.65 Trader A made it clear to Broker A that the wash trade was in return for Broker A assisting him to keep the six month JPY LIBOR rate down, and told him: "*if 6s go up a load, mate I can't afford to do it…but if that…if that happens it's a 62,000 buck trade for you*."

4.66 Later that day, Broker A contacted Trader-Submitter G at Panel Bank 6 to request that he submit a low six month JPY LIBOR: *"I tell you what, if you could get 6s a little lower today, I've got, um, someone that's going to do a huge trade with me today if the ... if the 6s don't go up too much. So if you ...*" Trader-Submitter G confirmed that he would try to assist.

4.67 On 19 September 2008, and in line with the previous day's discussions, Broker A booked two wash trades with Trader A. That day there were a number of communications between Trader A and Broker A.

4.68 Trader A stated: "*If you help me I'll help you."* Broker A explained to Trader A that: *"we get like a bonus out of it…I mean we're batting for ourselves at the moment so we get like 30 percent of the net…so it's good mate. Thanks very much*." Trader A explained that he would continue to use wash trades to pay extra commission to Martins to compensate Broker A for his assistance with Trader A's LIBOR requests but emphasised that: "*it's a two-way street…the main thing for me* [is] *as long as the LIBORs don't go too mad*."

4.69 Broker A told Trader A: "*we always fight your side but yesterday we did make a ****ing extra big effort, mate. Really did. I mean and we…we did sort of take the piss out of it a bit as well and it worked so it's ****ing good work…We had a word with a few people so it's happy days, mate."* Broker A further explained: *"I mean you can't, you can't always do that, like, because they, they just tell us to **** off but every once in a while we get away with doing it but obviously yesterday was a big one so it was worth doing*."

4.70 The facilitation of the wash trades usually involved a number of other Brokers. On occasion the Brokers asked their clients to participate in these trades in exchange for promises of entertainment. For example, on 26 March 2009 Broker E called Trader B at Panel Bank 4 and stated: "*All right listen. I need you mate. … I need your money. I ... oh, you'll be looked after in Vegas. I promise you. It's only a month away. Is there any chance you'll be able to wash this switch through today*?"

4.71 Trader B agreed and Broker E replied: *"Okay, mate, listen. That's perfectly fine and, er, I won't ... it's not going to be ****ing every month occurrence. It's ... it's just like it's the end of our quarter now, so I won't pester you with that every month, no way, I appreciate what you're doing anyway, right? You'll be looked after, mate. Don't worry about that. All right. So, um, so do I just ... we'll do it today or tomorrow. I'll do it ... try and put it through today*?"

Collusion with other Traders

4.72 Even after Trader A left UBS in September 2009, Martins continued to help another trader at UBS attempt to manipulate JPY LIBOR. They did this because Trader A's trading book remained with UBS and was a source of potential business for Martins.

4.73 For example, on 2 December 2009, Trader C at UBS contacted Broker A to say: "*"mate you think 3s can come lower by 1bp tonight?...i may get a bit hurt if not".* Broker A indicated that he would attempt to assist by offering spoof orders to the market*: "I'll try and offer it out a bit ok".*

4.74 Martins assisted Traders at other Panel Banks. For example, Trader B at Panel Bank 4 sought assistance from Martins to manipulate the other Panel Banks' JPY LIBOR submissions in order to benefit his own Trading Positions.

4.75 For example, on 26 June 2009 Trader B called Broker E and asked: "*Has* [Trader A] *been asking you to put LIBORs up today?"* Broker E replied: "*He wants ones and threes a little bit lower and sixes probably about the same as where they are now. He wants them to stay the same*." Trader B stated, "*I want them lower…*". Broker E replied, "*Alright, well, alright, alright, we'll work on it*."

4.76 Later that day, Broker E recounted his efforts to Trader B: "*Alright okay, alright, no we've okay just confirming it. We've, so far we've spoke to* [Panel Bank 6]. *We've spoke to a couple of people so we'll see where they come in alright. We've spoke, basically… basically we spoke to* [Panel Bank 6, Panel Bank 7, Panel Bank 5]*, who else did I speak to?* [Panel Bank 8]. "*There are a couple of other boys I spoke to but as a team we've basically said we want a bit lower so we'll see where they come in alright?"*

Extent of Martins' involvement in JPY LIBOR manipulation

4.77 Whilst Broker A was the principal Broker who colluded with Trader A to attempt to manipulate the published JPY LIBOR rate, the collusion extended to other Brokers on the JPY and Arbitrage Desks. A number of these Brokers were Managers including Brokers C and D.

4.78 Several other JPY Desk Brokers who did not directly participate in the collusive conduct were nevertheless aware that Broker A received requests from Trader A to assist him in his attempts to influence the LIBOR submissions of other Panel Banks.

4.79 A number of the Brokers on the JPY Desk were also aware of the wash trades. They were aware that these trades were exceptionally large and served no legitimate commercial purpose for the counterparties.

Principle 5 – conclusion

4.80 During the Relevant Period, Trader A made at least 600 requests to Martins in an attempt to manipulate the published JPY LIBOR rate.

4.81 The majority of requests were made directly to Broker A but a small number were made to other Brokers on the JPY Desk.

4.82 Martins did not always accommodate Trader A's requests, typically when it believed that those requests were so unreasonable that no Panel Bank would follow such suggestions (and even making them would cost Martins its credibility). But Martins did sometimes accede to Trader A's requests. Particularly on dates where Trader A had large Trading Positions whose profitability would be determined by the published JPY LIBOR rate or when there was a promise of a wash trade with Trader A.

4.83 Martins' motivation for colluding with Trader A to manipulate the published JPY LIBOR rates was to secure additional revenue for the firm and thereby increased bonuses for its Brokers.

Principle 3 breaches: systems and controls failings

4.84 During the Relevant Period, Martins' risk management systems and controls were both inadequate and ineffective to enable the monitoring and oversight of its Brokers' activities.

Inadequate policies and practices

4.85 With the exception of a compliance manual introduced in February 2008, Martins demonstrated a near complete absence of basic policies and practices designed to meet regulatory standards; there was no compliance monitoring programme; there were no risk reviews to assess the adequacy of Martins' systems and controls and there was no staff training and competence programme in place.

Ineffective compliance function and poor compliance culture

4.86 The culture of Martins' business gave undue weight to revenue generation at the expense of promoting a culture of regulatory compliance. Martins' employees and Managers were incentivised to focus heavily on revenue and there were no incentives to reward for adherence to internal controls or to penalise for non-compliance.

4.87 Martins prioritised Broker retention, which made it reluctant to introduce Broker controls for fear that this would prompt them to move to competitor firms. The compliance department was discouraged from introducing initiatives that might affect Brokers. A staff member stated that the compliance department had: "*nothing to do with that front office"* and that any issue with Broker conduct was sorted out amongst the Brokers themselves.

4.88 Martins failed to recognise the risks associated with its brokerage activities including the risk that Brokers would collude with Traders. The compliance culture at Martins was complacent. Managers close to the broking business felt that: "*good common sense could apply and, as and when any issue arose, this would be raised with the appropriate people*." This was an unacceptable approach to risk management.

4.89 Consequently, the compliance culture was exceptionally weak.

Limited training

4.90 Save for training on anti-money laundering in the latter part of the Relevant Period, Martins conducted no other staff compliance training during the Relevant Period. As a result, Brokers were generally unaware of their regulatory obligations.

Transaction Monitoring Systems & Management Information

4.91 During the Relevant Period, Martins failed to conduct any transaction monitoring. There was no regular monitoring of the components or drivers of revenue (interest rates, deal sizes, maturities).

4.92 There was no system in place to monitor for daily revenue spikes. Such fundamental checks almost certainly would have detected the wash trades that were integral to the LIBOR misconduct described above.

4.93 The wash trades would have been readily detectable because of their size. During the Relevant Period the average brokerage per trade for the JPY Desk was £490, whereas the commission for the wash trades ranged from about £6,000 to almost £30,000. Other than to check for "fat-finger" entries, Martins did not have systems in place to identify exceptionally large trades.

4.94 The wash trades also caused very noticeable spikes in revenue for the JPY Desk. During the Relevant Period, the JPY Desk's average daily revenue was about £14,000. On days when wash trades were executed its revenue ranged from about £30,000 to just over £75,000. The majority of such days were in the upper part of this range and a number resulted in revenues making daily records for the JPY Desk.

4.95 Further, the nature of the wash trades should also have marked them out as unusual. The trades were executed on the same day, in the same amount, between the same counterparties and effectively cancelled each other out.

4.96 The wash trades were often executed on dates close to the calculation of desk revenue for bonus purposes.

4.97 Martins' failure to detect the wash trades was not due to an absence of systems. Martin's electronic monitoring system was capable of generating various reports which flagged large or unusual trades. In addition, it could also produce a daily report on desk revenue. But Martins failed to ensure that these daily desk reports were regularly produced and monitored.

4.98 Martins' senior Managers considered that they were close to the Brokers and well-informed about their trading activities. They were content to rely on anecdotal information about individual desks and to do without any formal trade monitoring on the basis that: *"experienced brokers knew what they were doing"* and because senior Managers kept: "*themselves briefed on what went on in the business by inter-acting with the brokers, for example socially after work"*.

Reporting lines

4.99 There was inadequate supervision and oversight by Managers of Brokers. Reporting lines were unclear. Managerial responsibilities were at best poorly defined, if they existed at all. Managers ran their Desks as they saw fit with no upward reporting obligation and no monitoring of their managerial performance. Instead, Martins thought it sufficient simply to monitor financial performance and were unconcerned with any other aspect of Desk or Broker performance.

4.100 Martins' lack of adequate systems, controls, supervision and monitoring throughout the Relevant Period meant that the widespread LIBOR misconduct went undetected and continued unabated throughout the Relevant Period.

Prior Compliance Reviews

4.101 Various weaknesses in Martins' systems and controls had been flagged in a compliance gap analysis completed by independent compliance consultants in 2005 and 2006. Martins was therefore aware of pre-existing weaknesses in its compliance framework but failed to take action to rectify these.

5. FAILINGS

5.1. The regulatory provisions relevant to this Final Notice are referred to in Annex A.

Principle 5

5.2. During the Relevant Period, Martins acted improperly and breached Principle 5 by failing to observe proper standards of market conduct.

5.3. Its Brokers colluded with Trader A as part of a co-ordinated attempt to influence JPY LIBOR submissions made by Panel Banks, in an attempt to manipulate the final published JPY LIBOR rate.

5.4. In particular, on or around dates when the level of the final published JPY LIBOR rate was of particular significance to the profitability of Trader A's Trading Positions, Martins through its Brokers:

5.4.1 requested that Panel Banks make specific JPY LIBOR submissions at levels that would benefit Trader A;

5.4.2 provided misleading Run-Throughs to Panel Banks; and

5.4.3 created spoof orders, with the aim of influencing Panel Banks' views of the cash market so that they would make JPY LIBOR submissions at levels that benefitted Trader A.

5.5 Martins assisted Trader A because he was a significant client who accounted for a substantial proportion of the revenue of the JPY Desk.

5.6 Martins also entered into wash trades with UBS, in order to facilitate corrupt brokerage payments to Martins as reward for its attempts to influence the JPY LIBOR submissions of Panel Banks.

5.7 Martins' misconduct created a significant and unacceptable risk that the published JPY LIBOR rates would be manipulated and the integrity of LIBOR would be impugned.

Principle 3

5.8 During the Relevant Period, Martins breached Principle 3 by failing to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems or effective controls in place to monitor and oversee its broking activity. In summary, Martins;

5.8.1 had minimal policies and procedures in place to govern individual Brokers' behaviour;

5.8.2 had no effective compliance function and a poor compliance culture;

5.8.3 provided limited compliance training for Brokers;

5.8.4 had no effective transaction monitoring; and

5.8.5 had reporting lines and responsibilities which were unclear.

5.9 Martins' lack of adequate systems, controls, supervision and monitoring throughout the Relevant Period meant that the serious and widespread LIBOR misconduct went undetected and continued unabated throughout the Relevant Period.

6. SANCTION

6.1 The FCA's policy on the imposition of financial penalties and public censures is set out in DEPP. The detailed provisions of DEPP are set out in the Annex.

6.2 In determining the financial penalty, the FCA has had regard to this guidance. The FCA's current penalty regime applies to breaches that take place on or after 6 March 2010. However, most of the Relevant Period falls under the previous penalty regime, so DEPP in its pre-6 March 2010 form has been applied. The FCA has also had regard to the provisions of ENF relevant to the pre-28 August 2007 part of the Relevant Period.

6.3 The FCA considers the following DEPP factors to be particularly important in assessing the sanction.

Deterrence - DEPP 6.5.2G(1)

6.4 The principal purpose of a financial penalty is to promote high standards of regulatory and market conduct by deterring persons who have committed breaches from committing further breaches and helping to deter other persons from committing similar breaches, as well as demonstrating generally the benefits of compliant business. The FCA considers that the need for deterrence means that a very significant fine on Martins is appropriate.

Nature, seriousness and impact of the breach - DEPP 6.5.2G(2)

6.5 Martins' breaches were extremely serious. Martins' breaches took place consistently over several years and encompassed numerous incidents involving a number of Brokers and Managers on two separate Desks. Indeed, during the Relevant Period, it was an accepted practice on the JPY Desk to attempt to manipulate the published JPY LIBOR rate for the benefit of Trader A and UBS. In total, at least three individuals (including one Manager) on two desks participated in the attempts to manipulate LIBOR. A further individual was involved in facilitating the wash trades which were executed to compensate Martins for their efforts. The misconduct greatly magnified the impact of Trader A's efforts to manipulate JPY LIBOR by giving him the opportunity to influence a much larger number of Panel Banks than he could influence directly himself.

6.6 The misconduct included the deliberate dissemination of false suggestions of the appropriate JPY LIBOR rate to Panel Banks as part of a co-ordinated attempt to manipulate JPY LIBOR submissions made by Panel Banks.

6.7 There were also serious systemic weaknesses in Martins' systems and controls throughout the Relevant Period. It had no effective compliance function and a poor compliance culture. Martins was overly focussed on revenue and was complacent about the compliance risks it faced.

6.8 LIBOR is a benchmark reference rate in a number of relevant markets, including markets in over-the-counter and exchange-traded derivatives contracts. LIBOR also has a wider impact on other markets. The integrity of benchmark reference rates such as LIBOR is of fundamental importance both to UK and international financial markets. Martins' misconduct threatened the integrity of those benchmarks and confidence in, and the stability of, the UK financial system.

6.9 Martins could have caused serious harm to other market participants if the published LIBOR rates were affected by its actions on any given day. Indeed, by targeting a number of specific Panel Banks to influence their submissions, Martins was therefore more likely to have affected the overall published LIBOR rates than any individual Panel Bank or Trader acting on their own.

The extent to which the breach was deliberate or reckless - DEPP 6.5.2G(3)

6.10 The FCA does not conclude that Martins (as a firm) engaged in deliberate misconduct. Nevertheless, the improper actions of a number of Brokers involved in the misconduct were deliberate and Martins was reckless in failing to ensure that its compliance culture and systems and controls were adequate to meet its regulatory obligations. Martins, because of a poor culture and weak systems and controls, failed to prevent the deliberate, reckless and frequently blatant actions of its employees.

The size, financial resources and other circumstances of the firm DEPP 6.5.2G(5)

6.11 In deciding on the level of penalty, the FCA has had regard to the size and the financial resources of Martins.

The amount of benefit gained or loss avoided - DEPP 6.5.2G(6)

6.12 Martins sought to influence Panel Banks' LIBOR submissions in order to assist one of its clients (UBS) and thereby secure additional revenue for itself. During the Relevant Period, Martins received from UBS approximately £177,654 in commission income for trades Martins facilitated for Trader A, and a further £258,151 in corrupt payments, by way of the wash trades, for assistance with the collusion.

Conduct following the breach - DEPP 6.5.2G(8)

6.13 In determining the appropriate level of penalty, the FCA considered the level of cooperation provided by Martins during the course of the FCA's investigation.

6.14 Martins cooperated with the investigation into its LIBOR misconduct. Importantly, Martins proactively provided information to the FCA regarding the wash trades which assisted this and other LIBOR investigations.

6.15 The FCA's investigation would have taken much longer to conclude without Martins' cooperative approach. In addition, Martins has made significant compliance improvements since the misconduct outlined in this Final Notice was detected. The FCA also notes that there have been significant staff and management changes at the firm.

Other action taken by the FCA - DEPP 6.5.2G(10)

6.16 On 25 September 2013, the FCA issued a final notice against ICAP with respect to the firm's collusion with Panel Banks in the attempted manipulation of LIBOR. The FCA has considered Martins' misconduct relative to ICAP's in determining the appropriate financial penalty.

Quantum of financial penalty

6.17 Taking into account all the factors listed above, in particular the relative seriousness of the conduct, as compared with ICAP and the size and financial resources of Martins as compared with ICAP, the FCA would have imposed a penalty of £3,600,000 on Martins. Given Martins' financial circumstances however, in particular, the fact that Martins would be unable to pay a penalty of this amount (together with the other regulatory liabilities that Martins faces in relation to LIBOR), the FCA has reduced the fine by 75% to £900,000 and has agreed to accept payment in instalments over three years.

7. PROCEDURAL MATTERS

Decision maker

7.1 The decision which gave rise to the obligation to give this notice was made by the Settlement Decision Makers.

7.2 This Final Notice is given under, and in accordance with section 390 of FSMA.

Manner of and time for Payment

7.3 The financial penalty is to be paid over a period of three years, as follows:

7.3.1 The first year, 2014 to 2015 - £105,000 is payable, divided into four equal payments of £26,250, falling due:

a. Within 14 days of 15 May 2014;
b. On or before 29 August 2014;
c. On or before 29 December 2014; and
d. On or before 29 April 2015.

7.3.2 The second year, 2015 to 2016 - £210,000 is payable, divided into four equal payments of £52,500, falling due:

a. On or before 29 August 2015;
b. On or before 29 December 2015;
c. On or before 29 April 2016; and
d. On or before 29 August 2016.

7.3.3 The third year, 2016 to 2017 - £315,000 is payable, divided into four equal payments of £78,750, falling due:

a. On or before 29 December 2016;
b. On or before 29 April 2017;
c. On or before 29 August 2017; and
d. On or before 29 December 2017.

If the financial penalty is not paid

7.4 If any instalment is not paid by the due date for that instalment then the remainder of the financial penalty becomes payable immediately and in full. The FCA may recover the outstanding amount as a debt owed by Martins and due to the FCA.

Publicity

7.5 Sections 391(4), 391(6) and 391(7) of FSMA apply to the publication of information about the matter to which this notice relates. Under those provisions, the FCA must publish such information about the matter to which this notice relates as the FCA considers appropriate. The information may be published in such manner as the FCA considers appropriate. However, the FCA may not publish information if such publication would, in the opinion of the FCA, be unfair to you or prejudicial to the interests of consumers or detrimental to the stability of the UK financial system.

7.6 The FCA intends to publish such information about the matter to which this Final Notice relates as it considers appropriate.

FCA contacts

7.7 For more information concerning this matter generally, please contact Patrick Meaney (ex. 67420) or Maria O'Regan (ex. 67544) at the FCA.

_____

Matthew Nunan

Project Sponsor

Financial Conduct Authority, Enforcement and Financial Crime Division

EXHIBIT 5

Lowey Dannenberg Cohen & Hart, P.C.

New York
White Plains Plaza
One North Broadway
White Plains, NY 10601-2310

914-997-0500 Telephone
914-997-0035 Fax

www.lowey.com

Pennsylvania
Four Tower Bridge
200 Barr Harbor Drive, Suite 400
West Conshohocken, PA 19428-2977

610-941-2760 Telephone
610-862-9777 Fax

RESUME

Since the 1960s, Lowey Dannenberg Cohen & Hart, P.C. ("Lowey Dannenberg") has represented sophisticated clients in complex litigation involving federal securities, commodities and antitrust violations, healthcare cost recovery actions, and shareholder and board actions.

Lowey Dannenberg has recovered hundreds of millions of dollars for these clients, which include Fortune 100 companies such as Aetna, Inc., Anthem, Inc., CIGNA, Humana, and Verizon, Inc.; some of the nation's largest pension funds, *e.g.*, the California State Teachers' Retirement System, the New York State Common Retirement Fund, and the New York City Pension Funds; and sophisticated institutional investors, including Federated Investors, Inc., who has more than $355 billion in assets under management.

For its more than ten years of service to Fortune 100 health insurers in opt-out litigation involving state and federal fraud claims, Aetna and Humana publicly anointed Lowey Dannenberg their "Go To" outside counsel in a 2013 and 2014 survey published in Corporate Counsel Magazine.

LOWEY DANNENBERG'S COMMODITY PRACTICE

LANDMARK COMMODITY CLASS ACTION RECOVERIES

Lowey Dannenberg successfully prosecuted, as court appointed lead or co-lead counsel or individual plaintiff's counsel, the most important and complex commodity manipulation actions since the enactment of the Commodity Exchange Act ("CEA").

Sumitomo

In *In re Sumitomo Copper Litigation* ("*Sumitomo*"), Master File No. 96 CV 4854 (S.D.N.Y.) (Pollack, J.), Lowey Dannenberg was appointed as one of three executive committee members. Stipulation and Pretrial Order No. 1, dated October 28, 1996, at ¶ 13. Plaintiffs' counsel's efforts in *Sumitomo* resulted in a settlement on behalf of the certified class of more than $149 million, which is **the largest** class action recovery in the history of the CEA. *In re Sumitomo Copper Litig.*, 182 F.R.D. 85, 95 (S.D.N.Y. 1998). One of the most able and experienced United States District Court judges in the history of the federal judiciary, the Honorable Milton Pollack, took note of counsel's efforts in *Sumitomo* in various respects, including the following:

> The unprecedented effort of Counsel exhibited in this case led to their successful settlement efforts and its vast results. Settlement posed a saga in and of itself and required enormous time, skill and persistence. Much of that phase of the case came within the direct knowledge and appreciation of the Court itself. Suffice it to say, the Plaintiffs' counsel did not have an easy path and their services in this regard are best measured in the enormous recoveries that were achieved under trying circumstances in the face of virtually overwhelming resistance.

In re Sumitomo Copper Litig., 74 F. Supp. 2d 393, 396 (S.D.N.Y. 1999). What Judge Pollack found to be "the skill and persistence" of counsel in *Sumitomo* will be brought to bear to represent the Class here as well.

In re Natural Gas

Lowey Dannenberg served as co-lead counsel in *In re Natural Gas Commodity Litigation*, Case No. 03 CV 6186 (VM) (S.D.N.Y.) ("*In re Natural Gas*"), which involved

manipulation by more than 20 large energy companies of the price of natural gas futures contracts traded on the NYMEX. Plaintiffs alleged that defendants, including El Paso, Duke, Reliant, and AEP Energy Services, Inc., manipulated the prices of NYMEX natural gas futures contracts by making false reports of the price and volume of their trades to publishers of natural gas price indices across the United States, including Platts. Lowey Dannenberg won significant victories throughout the litigation including:

- defeating defendants' motions to dismiss (*In re Natural Gas*, 337 F. Supp. 2d 498 (S.D.N.Y. 2004));
- prevailing on a motion to enforce subpoenas issued to two publishers of natural gas price indices for the production of trade report data (*In re Natural Gas*, 235 F.R.D. 199 (S.D.N.Y. 2005)); and
- successfully certifying a class of NYMEX natural gas futures traders who were harmed by defendants' manipulation of the price of natural gas futures contracts traded on the NYMEX from January 1, 2000 to December 31, 2002. *In re Natural Gas*, 231 F.R.D. 171, 179 (S.D.N.Y. 2005) (granting class certification), *petition for review denied, Cornerstone Propane Partners, LP, et al. v. Reliant Energy Services, Inc., et al.*, Docket No. 05-5732 (2d Cir. August 1, 2006).

The total settlement obtained in this complex litigation—$101 million—is the **third largest** recovery in the history of the CEA.

Amaranth

Lowey Dannenberg serves as co-lead counsel in *In re Amaranth Natural Gas Commodities Litigation*, Master File No. 07 Civ. 6377 (S.D.N.Y) (SAS) ("*Amaranth*"). *Amaranth* is a certified CEA class action alleging manipulation of NYMEX natural gas futures contract prices in 2006 by Amaranth LLC, one of the country's largest hedge funds, prior to its widely-publicized multi-billion dollar collapse in September 2006. Significant victories achieved by Lowey Dannenberg in the *Amaranth* litigation include:

- On April 27, 2009, plaintiffs' claims for primary violations and aiding-and-abetting violations of the CEA against Amaranth LLC and other Amaranth defendants were sustained. *Amaranth*, 612 F. Supp. 2d 376 (S.D.N.Y. 2009).
- On April 30, 2010, the Court granted plaintiffs' motion for pre-judgment attachment pursuant to Rule 64 of the Federal Rules of Civil Procedure and Section 6201 of the New York Civil Practice Law and Rules against Amaranth LLC, a Cayman Islands company and the "Master Fund" in the Amaranth master-feeder-fund hedge fund family. *Amaranth*, 711 F. Supp. 2d 301 (S.D.N.Y. 2010).
- On September 27, 2010, the Court granted plaintiffs' motion for class certification. *Amaranth*, 269 F.R.D. 366 (S.D.N.Y. 2010). In appointing Lowey Dannenberg as co-lead counsel for plaintiffs and the Class, the Court specifically noted "the impressive resume" of Lowey Dannenberg and that "plaintiffs' counsel has vigorously represented the interests of the class throughout this litigation." On December 30, 2010, the Second Circuit Court of Appeals denied Amaranth's petition for appellate review of the class certification decision.

- On April 11, 2012, the Court entered a final order and judgment approving the $77.1 million dollar settlement reached in the action. The $77.1 million dollar settlement is **more than ten times greater** than the $7.5 million joint settlement achieved by the Federal Energy Regulatory Commission ("FERC") and the Commodity Futures Trading Commission ("CFTC") against Amaranth Advisors LLC and represented the **fourth largest** class action recovery in the 85-plus year history of the CEA.

Pacific Inv. Mgmt. Co. ("PIMCO")

Lowey Dannenberg served as counsel to certified class representative Richard Hershey in a class action alleging manipulation by PIMCO of the multi-billion dollar market of U.S. 10-Year Treasury Note futures contracts traded on the Chicago Board of Trade ("CBOT"). The case settled in 2011 for $118,750,000, the **second largest** recovery in the history of the CEA.

CURRENT PROSECUTION OF COMMODITY CLASS ACTIONS

Lowey Dannenberg continues to prosecute, as court appointed lead or co-lead counsel or individual plaintiff's counsel, the most important and complex commodity manipulation actions since the enactment of the CEA.

Sullivan v. Barclays PLC et al.

Lowey Dannenberg is leading the prosecution against numerous global financial institutions responsible for the setting of the Euro Interbank Offered Rate ("Euribor"), a global reference rate used to benchmark, price and settle over $200 trillion of financial products. Several Defendants in this litigation, which alleges violations of the CEA, Sherman Act and RICO, have already paid billions in fines to regulators for manipulating Euribor, and defendant

Barclays Bank plc has been granted conditional leniency from the DOJ pursuant to ACPERA for alleged anticompetitive conduct relating to Euribor. On December 15, 2015, Judge Castel preliminarily approved a $94 million settlement with Barclays plc and related Barclays' entities and appointed Lowey Dannenberg as Co-Class Counsel to the Settlement Class. *See Sullivan v. Barclays plc*, No. 13-cv-2811 (PKC), Order Preliminarily Approving Class Action Settlement and Conditionally Certifying a Settlement Class (ECF No. 234).

Laydon v. Mizuho Bank, Ltd. et al.; Sonterra Capital Master Fund Ltd. et al. v. UBS AG et al.

Lowey Dannenberg serves as court-appointed sole lead counsel in *Laydon v. Mizuho Bank, Ltd. et al*. 12-cv-03419 (S.D.N.Y.) (Daniels, J.))("*Euroyen*"), a proposed class action against some of the world's largest financial institutions arising from their intentional and systematic manipulation of the London Interbank Offered Rate for the Japanese Yen and Euroyen TIBOR (the Tokyo Interbank Offered Rate). The case alleges violations of the CEA, the Sherman Act, RICO and common law. Several Defendants named in the Euroyen rate-rigging lawsuit have already pled guilty to criminal charges of price fixing and paid billions in fines to regulators, and defendant UBS AG has been granted conditional leniency from the U.S. Department of Justice ("DOJ") pursuant to the Antitrust Criminal Penalty Enhancement and Reform Act ("ACPERA") for alleged anticompetitive conduct relating to the Euroyen market.

Sonterra Capital Master Fund Ltd. v Credit Suisse Group AG et al.

Lowey Dannenberg is court-appointed sole lead counsel against the numerous global financial institutions responsible for the setting of the Swiss Franc LIBOR. The case alleges that

the institutions manipulated Swiss Franc LIBOR and Swiss Franc LIBOR-based derivatives prices, in violation of the CEA, Sherman Act and RICO. The case is currently pending before Judge Sidney H. Stein. *Sonterra Capital Master Fund Ltd. v Credit Suisse Group AG et al.*, Case No. 15-cv-871 (S.D.N.Y.).

Sonterra Capital Master Fund Ltd. v Barclays Bank plc et al.

Lowey Dannenberg is leading the prosecution against the numerous global financial institutions responsible for the setting of Pound Sterling LIBOR, alleging the manipulation of Sterling LIBOR and the prices of Sterling LIBOR-based derivatives, in violation of the CEA, Sherman Act and RICO. The case is currently pending before Judge Vernon S. Broderick. *Sonterra Capital Master Fund Ltd. v Barclays Bank plc et al.*, Case No. 15-cv-3538 (VSB) (S.D.N.Y.).

In re London Silver Fixing Ltd., Antitrust Litig.

Lowey Dannenberg is serving as co-lead counsel on behalf of a class of silver investors, including Commodity Exchange Inc. ("COMEX") silver futures contracts traders, against the banks that allegedly colluded to fix the London Silver Fix, a global benchmark that impacts the value of more than $30 billion in silver and silver financial instruments. The case alleges violations of the CEA and antitrust laws. In appointing Lowey Dannenberg, the Court praised Lowey Dannenberg's experience, approach to developing the complaint, attention to details, and the expert resources that the firm brought to bear on behalf of the class. *See In re London Silver Fixing Ltd., Antitrust Litig.*, Case No. 14-md-2573 (VEC), ECF No. 17 (November 25, 2014) (S.D.N.Y.) (Caproni, J.).

Kraft Wheat Manipulation

Lowey Dannenberg is court-appointed co-lead counsel for a class of wheat futures and options traders pursuing claims against Kraft Foods Group, Inc. and Mondelēz Global LLC alleging Kraft manipulated the prices of Chicago Board of Trade wheat futures and options contracts. The case is currently pending in the Northern District of Illinois before Judge Edmond E. Chang. *Ploss v. Kraft Foods Group, Inc. et al*.,15-cv-2937 (N.D. Ill.).

Optiver

Lowey Dannenberg serves as co-lead counsel in a proposed class action alleging Optiver US, LLC and other Optiver defendants manipulated NYMEX light sweet crude oil, heating oil and gasoline futures contracts prices in violation of the CEA and antitrust laws. *In re Optiver Commodities Litigation*, Case No. 08 CV 6842 (S.D.N.Y.) (LAP), Pretrial Order No. 1, dated February 11, 2009. The Honorable Loretta A. Preska of the Southern District of New York granted final approval of a $16.75 million settlement in June 2015.

In re Rough Rice Futures Litigation

Lowey Dannenberg serves as co-lead counsel in a putative class action involving the alleged manipulation of rough rice futures and options traded on the CBOT, in violation of the CEA. *In re Rough Rice Futures Litigation*, Case No. 11-cv-618 (JAN) (N.D. Ill.). Plaintiffs allege that, between at least October 1, 2007 and July 31, 2008, defendants repeatedly exceeded CBOT rough rice position limits for the purpose of manipulating CBOT rough rice futures and option contract prices. The Honorable John W. Darrah of the Northern District of Illinois granted final approval of the settlement in August 2015.

White v. Moore Capital Management, L.P.

Lowey Dannenberg is counsel to a class representative in an action alleging manipulation of NYMEX palladium and platinum futures prices in 2007 and 2008. *White v. Moore Capital Management, L.P.*, Case No. 10 CV 3634 (S.D.N.Y.) (Pauley, J.). A settlement in the amount of $70 million settlement received final approval in 2015.

In re Crude Oil Commodity Futures Litigation

Lowey Dannenberg is counsel to a proposed class representative and large crude oil trader in a proposed class action involving the alleged manipulation of NYMEX crude oil futures and options contracts. *In re Crude Oil Commodity Futures Litigation*, Case No. 11-cv-03600 (S.D.N.Y.) (Forrest, J.). The Court granted final approval to a $16.5 million settlement in January 2016.

LOWEY DANNENBERG'S OTHER PRACTICE AREAS

ANTITRUST AND PRESCRIPTION OVERCHARGE LITIGATION

Lowey Dannenberg is the nation's premier litigation firm for health insurers to recover overcharges for prescription drug and other medical products and services. Our skills in this area are recognized by the largest payers for pharmaceuticals in the United States, including Aetna, CIGNA, Humana, and Anthem, Inc. (formerly WellPoint), who consistently retain Lowey Dannenberg, either on an individual or a class basis, to assert claims against pharmaceutical manufacturers for conduct, including monopoly and restraint of trade, resulting in overpriced medication.

In 1998, Lowey Dannenberg filed the first-ever generic delay class action antitrust cases for endpayers (a term reflecting consumers and health insurers). Those cases were centralized by the JPML under the caption *In re Cardizem CD Antitrust Litigation*, MDL No. 1278 (E.D. Mich.).

Lowey Dannenberg serves as the lead class counsel for indirect purchaser endpayers in the following generic delay antitrust class action lawsuits (1) prosecuting motions to certify litigation classes; (2) taking depositions of fact and expert witnesses; and (3) prosecuting and/or defended summary judgment motions:

- *In re Cardizem CD Antitrust Litigation*, MDL No. 1278 (E.D. Mich.). Class certification, 200 F.R.D. 326 (E.D. Mich 2001), Affirmance of partial summary judgment for plaintiffs, 332 F.3d 896 (6th Cir. 2003), $80 million class settlement.

- *In re Terazosin Hydrochloride Antitrust Litigation*, MDL No. 1317 (S.D. Fla.). Certification of 17-state litigation class, 220 F.R.D. 672 (S.D. Fla. 2004), Approval of 17-state settlement (after submission of final pretrial order, jury interrogatories and *motions in limine*) for $28.7 million, 2005 WL 251960 (July 8, 2005).

- *In re Wellbutrin XL Antitrust Litigation*, Civ. No. 08-2433. Certification of 6-state litigation class, 282 F.R.D. 126 (E.D. Pa. 2011), Sustaining class pleading of New York antitrust claims, the first post-*Shady Grove* decision to so hold—756 F. Supp. 2d 670 (E.D. Pa. 2010). Partial settlement for $11.75 million (unreported). The case continues against the non-settling defendant.

Lowey Dannenberg has prosecuted and won three landmark decisions in favor of third party payer health insurers in prescription drug cases:

- *In re Avandia Marketing Sales Practices and Products Liability Litigation*, 685 F.3d 353 (3d Cir. 2012), *cert. denied, sub nom. GlaxoSmithKline v. Humana Med. Plans, Inc.*, 81 U.S.L.W. 3579 (Apr. 15, 2013) (establishing Medicare Advantage

Organization's reimbursement recovery rights under the Medicare Secondary Payer Act).

- *Desiano v. Warner-Lambert*, 326 F.3d 339 (2d Cir. 2003) (establishing the direct (non-subrogation) rights of commercial health insurers to recover overcharges from drug companies for drugs prescribed to their insureds). The case was subsequently settled for a confidential amount for 35 health insurers.

- *In re Neurontin Mktg. & Sales Practices Litigation*, 712 F.3d 51 (1st Cir. 2013) (holding drug manufacturers accountable to health insurers for RICO claims attributable to marketing fraud).

Lowey Dannenberg has defended and won dismissals for health insurers in the following class actions: *Wurtz v. Rawlings Co.*, LLC, 933 F. Supp. 2d 480 (E.D.N.Y. 2013; *Meek-Horton v. Trover Solutions*, 910 F. Supp. 2d 690 (S.D.N.Y. 2013); *Potts v. Rawlings Co.*, LLC, 897 F. Supp. 2d 185, 2012 (S.D.N.Y. 2012); *Kesselman v. The Rawlings Company, LLC*, 668 F. Supp. 2d 604 (S.D.N.Y. 2009); *Elliot Plaza Pharmacy v. Aetna U.S. Healthcare*, 2009 WL 702837 (N.D. Okla. March 16, 2009); *Main Drug, Inc. v. Aetna U.S. Healthcare*, 475 F.3d 1228 (11th Cir. 2007), *aff'g, Main Drug, Inc. v. Aetna U.S. Healthcare*, 455 F. Supp. 2d 1323 (M.D. Ala. 2006) and 455 F. Supp. 2d 1317 (M.D. Ala. 2005); and *Medfusion Rx, LLC v. Humana Health Plan, Inc.*, Case No. CV-08-PWG-0451-S (N.D. Ala.) (2008). We are currently defending the class action lawsuit *Roche, et al. v. Aetna, Inc., et al.*, Civ. 13-1377 (JHR) (D.N.J.).

In 2013, America's Health Insurance Plans, a national association representing the health insurance industry, hired Lowey Dannenberg to represent it before the United States Supreme Court as *amicus curiae* in *FTC v. Actavis, Inc.*, 133 S. Ct. 2223 (2013), concerning how "pay-for-delay" agreements between brand name drug companies and generic companies should be evaluated under federal antitrust law. We also successfully secured the first reported precedent

reinvigorating class certification under New York's Donnelly (Antitrust) Act in federal court in the wake of the Supreme Court's S*hady Grove Orthopedic Assocs. v. Allstate Ins. Co*., 130 S. Ct. 1431 (2010) decision. *In re Wellbutrin XL Antitrust Litig*., 756 F. Supp. 2d 670, 677-80 (E.D. Pa. 2010).

Lowey Dannenberg is also currently prosecuting on behalf of its clients the following cases:

- *In re Nexium (Esomeprazole) Antitrust Litig.*, 12–md–02409–WGY (D. Mass.). Lowey Dannenberg represents 116 individual third party payer health insurers who have opted out of the certified litigation class in *Nexium* and filed separate actions in Pennsylvania state court. *Cariten Insurance Company, et al. v. AstraZeneca AB, et al.*, No. 002106 (Pa. Court of Common Pleas); *Time Insurance Company, et al. v. AstraZeneca AB, et al.*, No. 001903 (Pa. Court of Common Pleas). After being removed, our motions for remand were granted by two separate federal courts. *Time Ins. Co. v. AstraZeneca AB*, 2014 U.S. Dist. LEXIS 140110 (E.D. Pa. Oct. 1, 2014); *Cariten Insurance Company et al v. AstraZeneca AB*, 1:14-cv-13873-*WGY*, ECF No. 52 (D. Mass. Nov. 20, 2014). These matters are currently in the early stages of litigation.

- *Aggrenox Litigation*, Lowey Dannenberg represents Humana Inc. in a generic delay antitrust case against defendant Boehringer Ingelheim Pharmaceuticals, Inc., the Aggrenox brand manufacturer, and generic manufacturer Barr Pharmaceuticals Inc. (later acquired by Teva Pharmaceuticals), before Judge Underhill in the District of Connecticut, *Humana Inc. v. Boehringer Ingelheim Pharma GmbH & Co. KG, et al.*, No. 3:14-cv-00572 (D. Conn.) (SRU). Class actions on behalf of direct and indirect purchaser plaintiffs are pending in the same multidistrict litigation. *In re Aggrenox Antitrust Litigation*, MDL No. 2516 (D. Conn.) (SRU). The litigation asserts claims under state antitrust law, claiming a $100 million co-promotion agreement was disguised pay-for-delay, and as a result, Humana has overpaid and continues to overpay for Aggrenox. On March 23, 2015, the Court sustained all but two of Humana's state law antitrust claims. *In re Aggrenox Antitrust Litig.*, 2015 U.S. Dist. LEXIS 35634 (D. Conn. Mar. 23, 2015).

- *Lidoderm Litigation*, Lowey Dannenberg represents Government Employees Health Association ("GEHA") in a generic delay antitrust case pending before Judge Orrick in the Northern District of California, concerning Lidoderm, the brand name for a prescription pain patch for the treatment of after-shingles pain, sold by Endo

Pharmaceuticals, Inc., Teikoku Pharma USA, and Teikoku Seiyaku Co., Ltd. *Government Employees Health Association v. Endo Pharmaceuticals, Inc., et al.*, No. 3:14-cv-02180-WHO (N.D. Cal.). Class actions on behalf of direct and indirect purchaser plaintiffs are pending in the same multidistrict litigation. *In re Lidoderm Antitrust Litigation*, MDL No. 2521 (N.D. Cal.). On May 5, 2015, Judge Orrick granted in part and denied in part defendants' motion to dismiss GEHA's Second Amended Complaint, sustaining GEHA's claims under the laws of 32 states. *In re Lidoderm Antitrust Litig.*, 2015 U.S. Dist. LEXIS 58979 (N.D. Cal. May 5, 2015).

SECURITIES LITIGATION

Our clients' cases have involved financial fraud, auction rate securities, options backdating, Ponzi schemes, challenges to unfair mergers and tender offers, statutory appraisal proceedings, proxy contests and election irregularities, failed corporate governance, stockholder agreement disputes, and customer/brokerage firm arbitration proceedings.

Our investor litigation practice group has recovered billions of dollars in the aggregate. But the value of our accomplishments is measured by more than dollars. We have also achieved landmark, long term corporate governance changes at public companies, including reversing results of elections and returning corporate control to the companies' rightful owners, its stockholders.

Lowey Dannenberg's public pension fund clients include the New York City Pension Funds, the New York State Common Retirement Fund, the Maryland Employees' Retirement System, the Ohio Public Employees' Retirement Plan, and the Commonwealth of Pennsylvania State Employees' Retirement System. Representative institutional investor clients include Federated Investors, Inc., Glickenhaus & Co., Millennium Partners LLP, Karpus Investment

Management LLP, Amegy Bank, Monster Worldwide Inc., Zebra Technologies, Inc., and Delcath Systems, Inc.

Recent Recoveries

Recent achievements for our securities clients include the following:

- *In re Beacon Associates Litigation***,** Civ. Act. No. 09-CV-0777 (S.D.N.Y.); *In re J.P. Jeanneret Associates, Inc., et al.*, 09-cv-3907 (S.D.N.Y.). Lowey Dannenberg represented several unions, which served as Lead Plaintiffs, in litigation arising from Bernie Madoff's Ponzi scheme. On March 15, 2013, the Honorable Colleen McMahon of the United States District Court for the Southern District of New York granted final approval of the $219.9 million settlement of Madoff feeder-fund litigation encompassing the *In re Beacon* and *In re Jeanneret* class actions. Lowey Dannenberg as Liaison Counsel was instrumental in achieving this outstanding result. The settlement covered several additional lawsuits in federal and New York state court against the Settling Defendants, including suits brought by the United States Secretary of Labor and the New York Attorney General. Plaintiffs in these cases asserted claims under the federal securities laws, ERISA and state laws arising out of hundreds of millions of investment losses sustained by unions and other investors in Bernard Madoff feeder funds. The extraordinary recovery represents approximately 70% of investors' losses. This settlement, combined with money the victims are expected to recover from a separate liquidation of Madoff assets, is expected to restore the bulk of the pension funds for the local unions and other class members. In granting final approval, Judge McMahon praised both the result and the lawyering in these coordinated actions, noting that "[i]n the history of the world there has never been such a response to a notice of a class action settlement that I am aware of, certainly, not in my experience," and that "[t]he settlement process really was quite extraordinary." In her written opinion, Judge McMahon stated that "[t]he quality of representation is not questioned here, especially for those attorneys (principally from Lowey Dannenberg) who worked so hard to achieve this creative and, in my experience, unprecedented global settlement." *In re Beacon Associates Litig*., 09 CIV. 777 CM, 2013 WL 2450960, at *14 (S.D.N.Y. May 9, 2013).

- As lead counsel for the New York City Pension Funds, Lead Plaintiff in *In re Juniper Networks, Inc. Sec. Litig.*, No. C-06-04327 JW (N.D. Cal), in 2010 we achieved a settlement in the amount of $169.5 million, one of the largest settlements in an options backdating case, after more than three years of hard-fought litigation.

- We successfully challenged a multi-billion-dollar merger between Xerox Corp. and Affiliated Computer Systems ("ACS") which favored Affiliated's CEO at the expense of our client, Federated Investors, and other ACS shareholders. In following expedited proceedings, we achieved a $69.0 million settlement as well as structural protections in the shareholder vote on the merger. The settlement was approved in 2010. *In re ACS Shareholder Litigation*, Consolidated C.A. No. 4940-VCP (Del. Ch.).

- We represented the New York State Common Retirement Fund as Lead Plaintiff in *In re Bayer AG Securities Litigation*, 03 Civ. 1546 (WHP) (S.D.N.Y.), a securities fraud class action, arising from Bayer's marketing and recall of its Baycol drug. Lowey Dannenberg was appointed as lead counsel for the New York State Common Retirement Fund at the inception of merits discovery, following the dismissal of the New York State Common Retirement Fund's former counsel. The class action was settled for $18.5 million in 2008.

- Lowey Dannenberg's innovative strategy and aggressive prosecution produced an extraordinary recovery in the fall of 2005 for the New York City Pension Funds in the *WorldCom Securities Litigation*, substantially superior to that of any other WorldCom investor in either class or opt-out litigation. Following our advice to opt out of a class action in order to litigate their claims separately, the New York City Pension Funds recovered almost $79 million, including 100% of their damages resulting from investments in WorldCom bonds. *In re WorldCom Securities Litigation*, Master File No. 02 Civ. 3288 (DLC) (S.D.N.Y.).

- In 2008, Lowey Dannenberg successfully litigated an opt-out case on behalf of our client Federated Investors, Inc., arising out of the *Tyco Securities Litigation*. The client asserted claims unavailable to the class (including a claim for violation of § 18 of the Securities Exchange Act of 1934 and a claim for violations of the New Jersey RICO statute). Pursuit of an opt-out strategy resulted in a recovery of substantially more than the client would have received had it merely remained passive and participated in the class action settlement.

- On March 19, 2007, the United States District Court for the Southern District of New York approved a $79,750,000 settlement of a class action, in which Lowey Dannenberg acted as Co-Lead Counsel, on behalf of United States investors of Philip Services Corp., a bankrupt Canadian resource recovery company. $50,500,000 of the settlement was paid by the Canadian accounting firm of Deloitte & Touche, LLP, which Lowey Dannenberg believes is the largest recovery from a Canadian auditing firm in a securities class action, and among the largest obtained from any accounting firm. *In re Philip Services Corp., Securities Litigation*, 98 Civ. 835 (AKH) (S.D.N.Y.) Earlier in the litigation, the United States Court of Appeals for the Second Circuit issued a landmark decision protecting the rights of United States citizens to sue foreign companies who fraudulently sell their securities in the United States. *DiRienzo v. Philip Services Corp.*, 294 F.3d (2d Cir. 2002).

- Lowey Dannenberg acted as co-lead counsel for a class of seatholders seeking to enjoin the merger between the New York Stock Exchange ("NYSE") and Archipelago Holdings, Inc. As a result of the action, the merger terms were revised, providing the seatholders with more than $250 million in additional consideration. In addition, the NYSE agreed to retain an independent financial adviser to report to the Court as to the fairness of the deal to the NYSE seatholders. Plaintiffs also provided the Court with their expert's analysis of the new independent financial adviser's report. Both reports were provided to the seatholders prior to the merger vote. The Court noted that "these competing presentations provide a fair and balanced view of the proposed merger and present the NYSE Seatholders with an opportunity to exercise their own business judgment with eyes wide open. The presentation of such differing viewpoints ensures transparency and complete disclosure." *In re New York Stock Exchange/Archipelago Merger Litigation*, (N.Y. Sup. Ct. December 5, 2005).

- On September 25, 2006, Lowey Dannenberg helped Laddcap Value Partners win an emergency appeal, reversing a federal district court's order disqualifying the votes Laddcap had solicited to replace the board of directors of Delcath Systems, Inc. Prior to our involvement in the case, on September 20, 2006, Laddcap, which was Delcath's largest stockholder, had been enjoined by the district court from submitting stockholder consents it had solicited on the grounds of unproven claimed violations of federal securities law. After losing an injunction proceeding in the district court on September 20, 2006, and with the election scheduled to close on September 25, 2006, Laddcap hired Lowey Dannenberg to prosecute an emergency appeal, which was won on September 25, 2006, the last day of the election period. Shortly thereafter, the case was settled with Laddcap gaining seats on the board, reimbursement of expenses, and other benefits. *Delcath Systems, Inc. v. Laddcap Value Partners*, 2006 WL 27239981 (2d Cir. Sept. 25, 2006).

- Lowey Dannenberg represented Karpus Investment Management in its successful proxy contest and subsequent litigation to prevent the transfer of management by Citigroup to Legg Mason of the Salomon Brothers Municipal Partners Fund. We defeated the Fund's preliminary injunction action which sought to compel Karpus to vote shares it had solicited by proxy but withheld from voting in order to defeat a quorum and prevent approval of the transfer. *Salomon Brothers Mun. Partners Fund, Inc. v. Thornton*, 410 F. Supp. 2d 330 (S.D.N.Y. 2006).

- Lowey Dannenberg represented Glickenhaus & Co., a major registered investment advisor and, at the time, the second largest stockholder of Chrysler, in an individual securities lawsuit against DaimlerChrysler AG. Successful implementation of the firm's opt-out strategy led to a recovery for its clients far in excess of that received by other class members. *See In re DaimlerChrysler AG Sec. Litig.*, 197 F. Supp. 2d 42 (D. Del. 2002); *In re DaimlerChrysler AG Sec. Litig.*, Civ. Action 269 F. Supp. 2d 508 (D. Del. 2003).

- Following a three-day bench trial in a statutory appraisal proceeding, the Delaware Chancery Court awarded our clients, an institutional investor and investment advisor, $30.43 per share plus compounded prejudgment interest, for a transaction in which the public shareholders who did not seek appraisal were cashed out at $28 per share. *Doft & Co. v. Travelocity.com, Inc.*, No. Civ. A. 19734, 2004 WL 1152338 (May 20, 2004), *modified*, 2004 WL 1366994 (Del. Ch. June 10, 2004).

- In *MMI Investments, LP v. NDCHealth Corp., et al.*, 05 Civ. 4566 (S.D.N.Y.), Lowey Dannenberg filed an individual action on behalf of hedge fund, MMI Investments. The client's complaint asserted claims for violations of the federal securities laws and the common law, including claims not available to the class, most notably a claim for violation of § 18 of the Securities Exchange Act of 1934 and a claim for common law fraud. After aggressively litigating the client's claims, the Firm obtained a substantial settlement, notwithstanding the fact that the class claims were dismissed.

- Lowey Dannenberg, as Co-Lead Counsel on behalf of an institutional investor, obtained an injunction from the Delaware Supreme Court, enjoining a proposed merger between NCS Healthcare, Inc. and Genesis Health Ventures, Inc., which accepted our argument that the NCS board had breached its fiduciary obligations by agreeing to irrevocable merger lock-up provisions. As a result of the injunction, the NCS shareholders were able to obtain the benefit of a competing takeover proposal by Omnicare, Inc. of 300% more than that offered in the enjoined transaction, providing NCS's shareholders with an additional $99 million. *Omnicare, Inc. v. NCS Healthcare, Inc.*, 818 A.2d 914 (Del. 2003).

- Lowey Dannenberg successfully represented an affiliate of Millennium Partners, a major private investment fund, in litigation in the Delaware Chancery Court that resulted in the voiding of two elections of directors of meVC Draper Fisher Jurvetson Fund 1, Inc., a NYSE-listed closed end mutual fund, on grounds of breach of fiduciary duty, and in a subsequent proxy contest litigation in the United States District Court for the Southern District of New York, that resulted in the replacement of the entire board of directors with Millennium's slate. *meVC Draper Fisher Jurvetson Fund 1, Inc. v. Millennium Partners*, 260 F. Supp. 2d 616 (S.D.N.Y. 2003); *Millenco L.P. v. meVC Draper Fisher Jurvetson Fund 1, Inc.*, 824 A.2d 11 (Del. Ch. 2002).

- In a case in which Lowey Dannenberg acted as Lead Counsel, we obtained a $27.25 million settlement on behalf of our client the Federated Kaufmann Fund and a class of purchasers of securities of CINAR Corporation. The court found that "the quality of [Lowey Dannenberg's] representation has been excellent." *In re CINAR Securities Litigation*, Master File No. 00 CV 1086 (E.D.N.Y., Dec. 2, 2002).

- In proceedings in which Lowey Dannenberg acted as co-counsel to a Bankruptcy Court-appointed Estate Representative, the firm obtained recoveries in a fraudulent conveyance action totaling $106 million. *In re Reliance Securities Litigation*, MDL 1304 (D. Del. 2002).

LOWEY DANNENBERG'S RECOGNIZED EXPERTISE

The attorneys of Lowey Dannenberg have been repeatedly recognized by the courts as expert practitioners in the field of complex litigation.

For example, on March 15, 2013, the Honorable Colleen McMahon of the United States District Court for the Southern District of New York granted final approval of the $219 million settlement of Madoff feeder-fund litigation encompassing the *In re Beacon* and *In re Jeanneret* class actions. In a subsequent written decision, with glowing praise, Judge McMahon stated:

- "The quality of representation is not questioned here, especially for those attorneys (principally from Lowey Dannenberg) who worked so hard to achieve this creative and, in my experience, unprecedented global settlement."

- "I thank everyone for the amazing work that you did in resolving these matters. **Your clients - all of them - have been well served**."

- "Not a single voice has been raised in opposition to this remarkable settlement, or to the Plan of Allocation that was negotiated by and between the Private Plaintiffs, the NYAG and the DOL."

- "All formal negotiations were conducted with the assistance of two independent mediators - one to mediate disputes between defendants and the investors and another to mediate claims involving the Bankruptcy Estate. Class Representatives and other plaintiffs were present, in person or by telephone, during the negotiations. The US Department of Labor and the New York State Attorney General participated in the settlement negotiations. **Rarely has there been a more transparent settlement negotiation. It could serve as a prototype for the resolution of securities-related class actions, especially those that are adjunctive to bankruptcies**."

- "**The proof of the pudding is that an astonishing 98.72% of the Rule 23(b)(3) Class Members who were eligible to file a proof of claim did so (464 out of 470), and only one Class Member opted out [that Class Member was not entitled to recover anything under the Plan of Allocation]. I have never seen this level of response to a class action Notice of Settlement, and I do not expect to see anything like it again.**"

- "**I am not aware of any other Madoff-related case in which counsel have found a way to resolve all private and regulatory claims simultaneously and with the concurrence of the SIPC/Bankruptcy Trustee**. Indeed, I am advised by Private Plaintiffs' Counsel that the Madoff Trustee is challenging settlements reached by the NYAG in other feeder fund cases [Merkin, Fairfield Greenwich] which **makes the achievement here all the more impressive.**"

In *Juniper Networks, Inc. Securities Litigation*, the Court, in approving the settlement, acknowledged that "[t]he successful prosecution of the complex claims in this case required the participation of highly skilled and specialized attorneys." *In re Juniper Networks, Inc.*, C06-04327, Order dated August 31, 2010 (N.D. Cal.). In the *WorldCom Securities Litigation*, the Court repeatedly praised the contributions and efforts of the firm. On November 10, 2004, the Court found that "the Lowey Firm . . . has worked tirelessly to promote harmony and efficiency

in this sprawling litigation. . . . [Lowey Dannenberg] has done a superb job in its role as Liaison Counsel, conducting itself with professionalism and efficiency. . . ." *In re WorldCom, Inc. Securities Litigation*, 2004 WL 2549682 (S.D.N.Y. Nov. 10, 2004).

In the *In re Bayer AG Securities Litigation*, 03 Civ. 1546 (S.D.N.Y. Dec. 15, 2008), Judge William H. Pauley III, in his order approving a settlement of $18.5 million for the class of plaintiffs, noted that the attorneys from Lowey Dannenberg are "nationally recognized complex class action litigators, particularly in the fields of securities and shareholder representation," that "provided high-quality representation." *In re Bayer AG Securities Litigation*, 2008 WL 5336691, at *5 (S.D.N.Y. Dec. 15, 2008).

In the *In re Luminent Mortgage Capital, Inc. Securities Litigation*, No. C07-4073 (N.D. Cal.), Judge Phyllis J. Hamilton noted in the hearing for final approval of settlement and award of attorneys' fees that "[t]he $8 million settlement…is excellent, in light of the circumstance." Judge Hamilton went on to say that "most importantly, the reaction of the class has been exceptional with only two opt-outs and no objections at all received." *In re Luminent Mortgage Capital, Inc. Securities Litigation*, No. C07-4073-PJH, Hearing on Plaintiff's Motion for Final Approval of Settlement/Plan of Allocation and for an Award of Attorneys' Fees and Reimbursement of Expenses, April 29, 2009.