

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

STEPHEN SULLIVAN, WHITE OAK FUND LP,
CALIFORNIA STATE TEACHERS' RETIREMENT
SYSTEM, SONTERRA CAPITAL MASTER FUND,
LTD., FRONTPOINT PARTNERS TRADING
FUND, L.P., AND FRONTPOINT AUSTRALIAN
OPPORTUNITIES TRUST on behalf of themselves
and all others similarly situated,

Plaintiffs,

- against -

BARCLAYS PLC, BARCLAYS BANK PLC, BARCLAYS
CAPITAL INC., BNP PARIBAS S.A., CITIGROUP,
INC., CITIBANK, N.A., COÖPERATIEVE
CENTRALE RAIFFEISEN-BOERENLEENBANK
B.A., CRÉDIT AGRICOLE S.A., CRÉDIT AGRICOLE
CIB, DEUTSCHE BANK AG, DB GROUP SERVICES
UK LIMITED, HSBC HOLDINGS PLC, HSBC BANK
PLC, ICAP PLC, ICAP EUROPE LIMITED, J.P.
MORGAN CHASE & CO., JPMORGAN CHASE
BANK, N.A., THE ROYAL BANK OF SCOTLAND
PLC, SOCIÉTÉ GÉNÉRALE SA, UBS AG AND JOHN
DOE NOS. 1-50,

Defendants.

Docket No. 13-cv-02811 (PKC)

**DECLARATION OF BRIAN J. BARTOW
IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF THE CLASS
ACTION SETTLEMENT WITH CITIGROUP INC., CITIBANK, N.A., JPMORGAN
CHASE & CO. AND JPMORGAN CHASE BANK, N.A. AND MOTION FOR AWARD
OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**

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

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

2. I have personal knowledge of the facts set forth in this Declaration, which I make in support of Plaintiffs' motion for final approval of the class action settlement with Citigroup Inc. and Citibank, N.A. (collectively, "Citi") and JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (collectively, "JPMorgan") and Counsel's motion for approval of an award of attorneys' fees and reimbursement of expenses now before the Court in *Sullivan v. Barclays plc et al.*, No. 13-cv-2811 (PKC) (S.D.N.Y.) (the "Action").

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

4. **Background:** CalSTRS was established by legislation in 1913 to provide retirement benefits to California's public-school educators from prekindergarten through community college. CalSTRS has grown significantly since its inception and today is the largest educator-only pension fund in the world and the second largest pension fund in the United States, with over 950,000 members and beneficiaries and an investment portfolio with a market value of \$226.5 billion as of February 28, 2019.

5. **Retention of Counsel and Negotiated Fee Agreement:** As a fiduciary to its members in the management of their retirement assets, CalSTRS has a strong interest in ensuring that financial markets, including the market for financial instruments priced, benchmarked and/or

settled based on Euribor (“Euribor Products”), are free from anticompetitive practices and are not being manipulated. When I learned of the Action and alleged wrongdoing in the Euribor Products market, I recognized that CalSTRS would have a strong interest in pursuing damages and in helping to ensure that the Euribor Products market is free from anticompetitive and manipulative behavior.

6. In light of this interest, in September 2014 CalSTRS retained Berman Tabacco, Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP (collectively “Counsel”) to prosecute claims related to tens of thousands of Euribor Products, including those that CalSTRS transacted directly with most of the Defendants, including UBS, Barclays, Citibank, Deutsche Bank, HSBC, JPMorgan, RBS, and Société Générale. By that time, the firms Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP had been prosecuting the Action for over a year. Lowey Dannenberg, P.C. and Lovell Stewart Halebian Jacobson LLP are referred to herein as “Class Counsel.”

7. Consistent with CalSTRS’ regular practice in complex cases, I negotiated a contingent fee structure at arm’s-length with Counsel prior to their retention.¹ The fee structure employs a graduated fee scale that provides for a 23% fee on the first \$100 million recovered, 22% on the next \$200 million recovered, 19% on the next \$200 million recovered and a lower fee percentage on any subsequent amounts. It also caps the maximum amount of fees requested by Class Counsel at 3.5 times the value of aggregate lodestar reasonably incurred by all plaintiffs’ counsel in the case.

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

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

into account and discussed with Counsel the posture of the litigation, its risk profile, CalSTRS's approach to negotiating legal fees, the historical levels of fees to which CalSTRS has agreed to, and fees for comparable legal services prior to arriving at the negotiated fee structure. This Action is not the kind of litigation, and does not involve the kind of market, typically prosecuted by public institutional investors. I was cognizant of that in negotiating what I think is a fair and reasonable contingent-fee agreement.

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

10. **CalSTRS's Oversight of the Litigation:** Since September 2014 when CalSTRS joined the Action, CalSTRS has actively overseen the work of Counsel and has participated in all aspects of litigation, beginning with Plaintiffs' Third Amended Complaint—the first time CalSTRS sought to join the Action. *See* ECF No. 139 (including allegations regarding CalSTRS' Euribor Products transactions).

11. I have reviewed advance drafts of all significant pleadings in the Action and have had numerous telephonic and face to face discussions and email communications with Counsel regarding the allegations made and arguments raised in opposition to Defendants' motion to dismiss, the

approach to class certification, and expert testimony. I also supervised the Office of General Counsel's participation in responding to party discovery.

12. With regard to the Third Amended Complaint and Plaintiffs' opposition to the motion to dismiss the Fourth Amended Complaint, CalSTRS's legal and investment staff were involved and, at my direction, worked closely with Counsel to identify its Euribor Products transactions. In addition, CalSTRS' Director of Fixed Income offered sworn testimony in the form of a declaration to provide factual support for the claims being advanced on behalf of the Class.

13. **Discovery.** At my direction, CalSTRS participated in party discovery. Defendants JPMorgan and Citi directed dozens of interrogatories and document requests to CalSTRS, and noticed a Rule 30(b)(6) deposition consisting of comprehensive and complex topics for testimony.

14. To comply with requests for production of documents, CalSTRS' Office of General Counsel worked with Counsel to collect and produce CalSTRS' historical transaction data. Efforts of various CalSTRS' in-house portfolio managers were necessary to collect and produce the transaction data, and subsequently they worked with Counsel in order to answer comprehensive questions posed by Defendants about the transaction data.

15. The Office of General Counsel, with assistance of attorneys and staff from Berman Tabacco, oversaw the creation of a historical document repository for business records and other documents created during the Class Period litigated in the Action. This repository took over half a year and countless personnel hours to build, including the efforts of staff attorneys, portfolio managers and information technology personnel employed by CalSTRS.

16. The Office of General Counsel also took steps to identify and begin to prepare witnesses who would have been designated to testify in response to the Defendants' 30(b)(6) notice. That deposition(s) was suspended in light of the Settlement.

17. **Class Certification.** I personally was directly involved with Counsel to understand and approve of the approach taken at the class certification stage overall and particularly with regard to expert opinion testimony on the topics of class-wide impact and aggregate damages. I participated in two telephone conferences with Counsel and a proposed testifying expert for Plaintiffs regarding that expert's opinions, bases therefor, and methodologies. I subsequently reviewed closely the expert's draft report in advance of its service on Defendants.

18. **Settlement Negotiation.** I played a direct role in Plaintiffs' settlement negotiations, participating in extensive discussions with Counsel regarding the strengths and weaknesses of Plaintiffs' claims, potential defenses and litigation strategy relevant to a potential settlement.

19. I participated in a first mediation between Plaintiffs and Defendants JPMorgan and Citi in November 2017. I traveled from California to attend the mediation in New York on November 21, 2017, which was supervised by David Geronemus, Esq. At the outset of the mediation, on behalf of CalSTRS and the Class, I presented a statement to my counterparts at Citi and JPMorgan, the mediator, and all counsel regarding CalSTRS's view of the Defendants' alleged conduct, the litigation and the importance CalSTRS places on the Action. I remained throughout the day-long mediation with Citi and JPMorgan and participated with Counsel in the settlement negotiation strategy. The one-day mediation ended with the parties quite far apart, in my view, both in terms of demands and counteroffers but also in perspective at that time on the relative merit of the litigation and the value to all parties of resolution.

20. In the winter of 2017 and spring of 2018 I spoke several times with Counsel regarding settlement talks with JPMorgan and Citi in order to understand and help formulate strategy regarding settlement demands, counter-offers, and the evolving litigation landscape that informed the parties' negotiations. I approved the strategy of once more using mediation because I thought there was a reasonable chance for real progress toward resolution.

21. I again traveled from California to attend Plaintiffs' two-day mediation with Citi and JPMorgan in New York on July 11 and 12, 2018, which was again supervised by Mr. Geronemus. As I did at the prior mediation session, I presented a statement to my counterparts from Citi and JPMorgan, the mediator, and all counsel regarding CalSTRS's view of the Defendants' alleged conduct, the litigation and the importance CalSTRS places on the Action. I remained throughout the two days-long mediation with Citi and JPMorgan and participated with Counsel in the settlement negotiation strategy. At times during the two-day mediation I expressed my views to the mediator, and at every juncture discussed and approved next steps for Plaintiffs in the negotiation.

22. This second mediation also ended with no resolution, but with some headway made toward a potential agreement.

23. In the days following the end of the second mediation, between July 13-17, 2018, I stayed in frequent contact with Counsel as the parties' respective attorneys continued lawyer-to-lawyer negotiations. I remained informed and active with every demand and counteroffer, culminating in an overnight, continuous negotiation carried out by Counsel and attorneys for Defendants that ended with an agreement in principle on July 17, 2018.

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

time records so that I can discharge my supervisory obligations as a plaintiff and putative class representative of the Class and also to monitor litigation activities in which the lawyers are engaged.

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

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

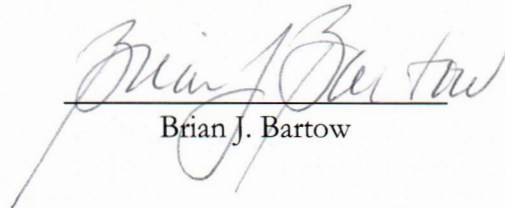
27. Given this experience, I consider the settlement obtained here to be an important and valuable step for CalSTRS and the Class. I expect the monetary compensation received in connection with the Citi and JPMorgan settlement will provide an immediate measure of compensation for Class Member's claims. I recognize that the additional non-monetary consideration, most importantly the cooperation provided by Citi and JPMorgan has significantly aided, and will continue to aid, in the prosecution of the Action.

28. In light of these factors, CalSTRS supports Plaintiffs' motion for final approval of the settlement.

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

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

Executed on March 15, 2019.



Brian J. Bartow