

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

JAMES CONTANT, *et al.*,

*Plaintiffs,*

v.

BANK OF AMERICA  
CORPORATION, *et al.*,

*Defendants.*

No. 17-cv-3139-LGS

(related to No. 13-cv-7789-LGS)

**DECLARATION OF MICHAEL DELL'ANGELO IN SUPPORT OF PLAINTIFFS'  
MOTION FOR FINAL APPROVAL OF SETTLEMENTS, PLAN OF ALLOCATION,  
AND CERTIFICATIONS OF THE PROPOSED SETTLEMENT CLASSES FOR  
SETTLEMENT PURPOSES**

I, Michael Dell'Angelo, hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct to the best of my knowledge, information and belief:

1. I am a Managing Shareholder in the law firm of Berger Montague PC. My firm serves as attorneys of record for Plaintiffs in this matter and is designated as Settlement Class Counsel ("Class Counsel") with respect to the Settlements. *See* ECF Nos. 297, 441 (the "Preliminary Approval Orders").

2. I have been actively involved in prosecuting this action, am familiar with its proceedings, and have personal knowledge of the matters set forth herein. If called upon and sworn as a witness, I could competently testify thereto.

3. The procedural background of the case, history of Plaintiffs' negotiations with Defendants, and additional facts supporting final approval of the Settlements are set forth in the Declaration of Michael Dell'Angelo in Support of Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives, ECF No. 449 ("Dell'Angelo Fee Decl."), filed by Plaintiffs on September 21, 2020. I submit this Declaration to provide supplemental information supporting Plaintiffs' Motion for Final Approval of Settlements, Plan of Allocation, and Certifications of the Proposed Settlement Classes for Settlement Purposes. The Dell'Angelo Fee Declaration; the Declaration of Michael Dell'Angelo in Support of Plaintiffs' Motion for Preliminary Approval of Settlements and Certifications of the Proposed Settlement Classes for Settlement Purposes that Plaintiffs filed in connection with their motion for preliminary approval of the SC, SG, and Group Settlements, ECF No. 418 ("Dell'Angelo SC, SG, and Group Settlement Decl."); and the Declaration of Michael Dell'Angelo in Support of Plaintiffs' Motion for Preliminary Approval of Settlements and Certifications of the Proposed Settlement Classes for Settlement Purposes that Plaintiffs filed

in connection with their motion for preliminary approval of the Citigroup and MUFG Bank Settlements, ECF No. 274 (“Dell’Angelo Citigroup and MUFG Bank Settlement Decl.”); are incorporated by reference.

4. Plaintiffs’ proposed Stipulation and Agreement of Settlement with Citigroup Inc., Citibank, N.A., Citicorp, and Citigroup Global Markets Inc. (collectively, “Citigroup”) (the “Citigroup Settlement”) is attached as Exhibit A to the Dell’Angelo Citigroup and MUFG Bank Settlement Decl. (ECF No. 274-1).

5. Plaintiffs’ proposed Stipulation and Agreement of Settlement with MUFG Bank Ltd. (“MUFG Bank”) (the “MUFG Settlement”) is attached as Exhibit B to the Dell’Angelo Citigroup and MUFG Bank Settlement Decl. (ECF No. 274-2).

6. Plaintiffs’ proposed Stipulation and Agreement of Settlement with Standard Chartered Bank (“SC”) (the “SC Settlement”) is attached as Exhibit A to the Dell’Angelo SC, SG, and Group Settlement Decl. (ECF No. 420-1).

7. Plaintiffs’ proposed Stipulation and Agreement of Settlement with Société Générale (“SG”) (the “SG Settlement”) is attached as Exhibit B to the Dell’Angelo SC, SG, and Group Settlement Decl. (ECF No. 420-2).

8. Plaintiffs’ proposed Stipulation and Agreement of Settlement with Defendants Bank of America Corporation, Bank of America, N.A., and Merrill Lynch, Pierce, Fenner & Smith Inc. (“Bank of America”); Barclays Bank PLC and Barclays Capital Inc. (“Barclays”); BNP Paribas (identified in the Complaint as BNP Paribas Group), BNP Paribas US Wholesale Holdings Corp., previously known as BNP Paribas North America, Inc., and BNP Paribas Securities Corp., which now includes BNP Paribas Prime Brokerage, Inc. (“BNP Paribas”); Credit Suisse AG and Credit Suisse Securities (USA) LLC (“Credit Suisse”); Deutsche Bank AG

(“Deutsche Bank”); The Goldman Sachs Group, Inc. and Goldman, Sachs & Co. (now known as Goldman Sachs & Co. LLC) (“Goldman Sachs”); HSBC Bank PLC, HSBC North America Holdings Inc., HSBC Bank USA, N.A., and HSBC Securities (USA) Inc. (“HSBC”); JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. (“JPMorgan”); Morgan Stanley, Morgan Stanley & Co. LLC, and Morgan Stanley & Co. International plc (“Morgan Stanley”); RBC Capital Markets, LLC (“RBC”); The Royal Bank of Scotland PLC (now known as NatWest Markets PLC) and RBS Securities Inc. (now known as NatWest Markets Securities Inc.) (“RBS”); UBS AG, UBS Group AG, and UBS Securities LLC (“UBS”) (collectively, (“Group Settling Defendants”)) (the “Group Settlement”) is attached as Exhibit C to the Dell’Angelo SC, SG, and Group Settlement Decl. (ECF No. 420-3).

9. Attached as Exhibit A is a true and correct copy of the Declaration of Jeanne C. Finegan, APR, Concerning Class Member Notification (the “Finegan Decl.”).

10. The Preliminary Approval Order required that notice be provided to members of the Settlement Classes in the form and manner set forth in Plaintiffs’ Memorandum in Support of Preliminary Approval and the accompanying Declaration of Jeanne C. Finegan (the “Notice Plan”) (attached as Ex. G to the Dell’Angelo SC, SG, and Group Settlement Decl.) (ECF No. 420-7).

11. Pursuant to the Preliminary Approval Order, the Claims Administrator completed the mailing of Direct Notice to the members of the Settlement Classes on August 12, 2020. On August 10, 2020, the Claims Administrator also commenced Publication Notice through various media outlets—including a press release, social media advertising, Google search advertising, and posted the Long-Form Notice along with other pertinent information and documents on a website devoted to this case ([fxindirectantitrustsettlement.com](http://fxindirectantitrustsettlement.com)). Copies of the postcard and

Long-Form Notices, press release, and exemplar copies of the Google and social media advertisements are attached as Exhibits A, C, and D to the Finegan Decl. The Notices inform all members of the Settlement Classes of, *inter alia*: (1) the nature of the action; (2) the definition of the Settlement Classes that are being certified; (3) the class claims, issues, or defenses; (4) the basic terms of the Settlements; (5) that any member of the Settlement Classes may enter an appearance through an attorney if the member so desires; (6) that the Court will exclude from the class a member of any Settlement Class who requests exclusion; (7) the time and manner for objecting to the Settlement and/or requesting exclusion; (8) the binding effect of a class judgment on members and the terms of the releases; (9) the claims filing process and a description of the Plan of Allocation; and (10) that Class Counsel would be seeking a fee award and reimbursement of expenses in the amounts set forth in Plaintiffs' Motion for Award of Attorneys' Fees, Reimbursement of Litigation Expenses, and Service Awards for Class Representatives.

12. The Claims Administrator completed the mailing and emailing of Direct Notice to the members of the Settlement Classes on August 12, 2020. The Claims Administrator commenced publication and internet advertising notice on August 10, 2020. Internet advertising notice ran through August 31, 2020. The Claims Administrator estimates that Notice reached more than 95 percent of the members of the Settlement Classes. The Notice Plan concluded on August 31, 2020.

13. Pursuant to the schedule set forth in the Court's Order Preliminarily Approving Settlements and Certifying the Proposed Settlement Classes for Settlement Purposes ("Preliminary Approval Order"), ECF No. 441, the deadline for members of the Settlement Classes to object to the Settlements or opt out of the Settlement Classes was October 15, 2020.

No members of the Settlement Classes filed objections to the Settlements, Notice, Plan of Allocation, or Class Counsel's requested attorneys' fees, expenses, and service awards for the Settlement Class Representatives. No members of the Settlement Classes requested exclusion from the Settlement Classes. Class Counsel notified the Court of the absence of objections and exclusions on October 22, 2020. ECF No. 450.

14. As described and explained in my prior declarations, the Settlements were negotiated at arm's length, and the relief obtained is fair, reasonable, and adequate. *See* Dell'Angelo Citigroup and MUFG Bank Settlement Decl. ¶¶ 14-16; Dell'Angelo SC, SG, and Group Settlement Decl. ¶¶ 13-16; Dell'Angelo Fee Decl. ¶¶ 53-64; The proposed *pro-rata* method of allocating the Settlement Fund amongst the members of the Settlement Classes ensures that they will be treated equitably relative to each other. The Total Settlement Amount of \$23,630,000 is well within the range of reasonableness, especially considering the complexity of the litigation, and the risks of establishing liability, aggregate damages, and classwide impact. *See* Dell'Angelo Citigroup and MUFG Bank Settlement Decl. ¶¶ 17, 21, 24-26; Dell'Angelo SC, SG, and Group Settlement Decl. ¶¶ 16, 19, 21, 26; and Dell'Angelo Fee Decl. ¶¶ 59-65. The positive reaction of the Settlement Class members, evidenced by the fact that no members of the Settlement Classes requested exclusion or objected to the Settlements, confirms that the Settlements amply satisfy the *Grinnell* factors. Without these Settlements, there is substantial risk that members of the Settlement Classes would receive no compensation for Defendants' alleged unlawful conduct. *See* Dell'Angelo Citigroup and MUFG Bank Settlement Decl. ¶¶ 15, 17; Dell'Angelo SC, SG, and Group Settlement Decl. ¶¶ 15-16, 21, 24; and Dell'Angelo Fee Decl. ¶¶ 27, 58, 62, 65, 85.

15. In my prior declarations, I described and explained the methodologies used to analyze the proposed Settlements, so I will not repeat them here. *See* Dell’Angelo Citigroup and MUFG Bank Settlement Decl. ¶¶ 17-24; Dell’Angelo SC, SG, and Group Settlement Decl. ¶¶ 15-16, 21, 24; and Dell’Angelo Fee Decl. ¶¶ 55-56, 60-68. In general, Class Counsel utilized a methodology to estimate reasonable settlement ranges in this action premised on the settlement amounts in the *FOREX* direct purchaser action. Class Counsel’s methodologies described in my prior declarations—together with the Court’s orders in *FOREX* finding that those direct purchaser settlements were fair, reasonable and adequate—support the reasonableness of the settlement amounts proposed here. Class Counsel considered the analyses of industry expert Dr. Carol Osler to evaluate the volume of retail FX transactions relative to the volume of spot FX transactions as a whole. Dr. Osler’s analyses indicated that the daily average volume of retail FX trading relative to the overall direct purchaser FX Instrument market at issue in *FOREX* is likely between 10 and 30 percent. Additionally, because the proposed Settlement Classes at issue here are limited to the eight states of New York, Arizona, California, Florida, Illinois, Massachusetts, Minnesota, and North Carolina, the estimate was further reduced to account for the total size of these Classes. According to the U.S. Census Bureau’s Population Estimates, the populations of the eight states at issue in this action account for 37.7 percent of the overall U.S. population.

16. In addition to the analyses discussed in my prior declarations and above, Settling Defendants’ settlements approved in the related Canadian action offer further support of the reasonableness of the Settlement amounts here. *See* Dell’Angelo Citigroup and MUFG Bank Settlement Decl. Ex. I (court-approved notice forms in the Canadian action *Mancinelli et al. v. Royal Bank of Canada et al.*, No. CV-15-536174 (Ontario S.C.J.); and parallel Canadian action *Béland v. Banque Royale du Canada et al.*, No. 200-06-000189-152 (Quebec S.C.J.)), ECF No.

274-9. In the Canadian action, twelve of the same Defendant groups involved in this action—SC, SG, UBS, BNP Paribas, Bank of America, Goldman Sachs, JPMorgan, Citigroup, Barclays, HSBC, RBS, and MUFG Bank—entered into settlements totaling \$106,747,206 Canadian Dollars (“CAD”) with the plaintiffs and proposed nationwide Canadian classes that included direct *and* indirect purchasers. *See id.*<sup>1</sup> The Canadian plaintiffs’ settlements allocated 20 percent of the settlement proceeds to the indirect purchaser Canadian class members. *Id.* Therefore, the Canadian indirect purchasers recovered \$21,349,441.20 CAD from the Settling Defendants’ Canadian settlements (20% of \$106,747,206). The exchange rate as of October 28, 2020, was approximately 0.75 CAD to 1 U.S. dollar (“USD”).<sup>2</sup> Therefore, the Canadian indirect purchaser settlement amounts are \$16,012,080.75 USD for Settling Defendants. Applying a population adjustment factor of 3.44 to those amounts to account for the larger population of the proposed Settlement Class states relative to the Canadian population,<sup>3</sup> a *pro-rata* estimate of a total reasonable settlement amount in this matter for Settling Defendants based on the Canadian indirect purchaser settlement amounts is approximately \$55.1 million. Therefore, the \$23,630,000 Settlement Fund here is approximately 42.9 percent of a *pro-rata* estimate based on

---

<sup>1</sup> Specifically, the settlement amounts for Settling Defendants in the Canadian action were \$21,000,000 CAD for Citigroup; \$450,000 CAD for MUFG Bank; \$4,950,000 CAD for UBS; \$4,500,000 CAD for BNP Paribas; \$6,500,000 CAD for Bank of America; \$6,750,000 CAD for Goldman Sachs; \$11,500,000 CAD for JPMorgan; \$19,677,205 for Barclays; \$15,500,000 for HSBC; \$13,220,000 for RBS; \$900,000 for SC; and \$1,800,000 for SG. *See Dell’Angelo Citigroup and MUFG Bank Settlement Decl. Ex. I* (court-approved notice forms in the Canadian actions *Mancinelli et al. v. Royal Bank of Canada et al.*, No. CV-15-536174 (Ontario S.C.J.); and *Béland v. Banque Royale du Canada et al.*, No. 200-06-000189-152 (Quebec S.C.J.)), ECF No. 274-9.

<sup>2</sup> *See* Federal Reserve Bank of St. Louis, US Dollar to National Currency Spot Exchange Rate for Canada, *available at* <https://fred.stlouisfed.org/series/CCUSSP01CAM650N#0> (last visited Oct. 28, 2020).

<sup>3</sup> The U.S. Census estimates that in 2013, the total population of Canada was 34.57 million, and the total population of the eight Settlement Class states was 118.98 million. *See* U.S. Census, Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2010 to July 1, 2018, *available at* <https://www.census.gov/data/tables/time-series/demo/popest/2010s-state-total.html> (last visited Oct. 22, 2020); U.S. Census, Demographic Overview – Canada, *available at* <https://www.census.gov/data-tools/demo/idb/region.php?N=%20Results%20&T=13&A=separate&RT=0&Y=2013&R=-1&C=CA> (last visited Oct. 22, 2020). Thus, the total population of the Settlement Class states is approximately 344.2% of the population of Canada.



the court-approved Canadian Settling Defendants settlements. The Canadian Settling Defendant settlements further confirm the reasonableness of the Settlements here.

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

Executed on October 30, 2020, in Philadelphia, PA.

/s/ Michael Dell' Angelo  
Michael Dell' Angelo  
**BERGER MONTAGUE PC**  
1818 Market St, Suite 3600  
Philadelphia, Pennsylvania 19103  
Tel: (215) 875-3000  
Fax: (215) 875-4604  
mdellangelo@bm.net