

Made on behalf of: Applicant/Proposed Class Representative  
Name of witness: Adrian Mark Chopin  
Number of statement: 5  
Date: 5 July 2021

IN THE COMPETITION APPEAL TRIBUNAL

Case Number: 1336/7/7/19

BETWEEN:

PHILLIP EVANS

Applicant/Proposed  
Class Representative

and

(1) BARCLAYS BANK PLC  
(2) BARCLAYS CAPITAL INC.  
(3) BARCLAYS PLC  
(4) BARCLAYS EXECUTION SERVICES LIMITED  
(5) CITIBANK, N.A.  
(6) CITIGROUP INC.  
(7) MUFG BANK, LTD  
(8) MITSUBISHI UFJ FINANCIAL GROUP, INC.  
(9) J.P. MORGAN EUROPE LIMITED  
(10) J.P. MORGAN LIMITED  
(11) JPMORGAN CHASE BANK, N.A.  
(12) JPMORGAN CHASE & CO  
(13) NATWEST MARKETS PLC  
(14) THE ROYAL BANK OF SCOTLAND GROUP PLC  
(15) UBS AG

Proposed Defendants

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FIFTH WITNESS STATEMENT OF ADRIAN MARK CHOPIN

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I, **ADRIAN MARK CHOPIN**, of Bench Walk Advisors LLC, 5 Cheapside, London EC2V 6AA, **WILL SAY AS FOLLOWS:**

1. I am a Managing Director of Bench Walk Advisors LLC (**Bench Walk**), the asset manager of Bench Walk Capital LLC, which, in turn, wholly owns Donnybrook Guernsey Limited (the **Funder**), through which Bench Walk is funding Mr Evans's proposed collective proceedings. I am authorised to make this statement on behalf of the Funder.
2. I understand from Hausfeld that, during the pre-hearing review on 21 June 2021 ("**PHR**"), the Tribunal explained that the two PCRs' funding arrangements would form an important part of the Tribunal's analysis of the benefits to the classes the PCRs seek to represent. I make this witness statement to assist the Tribunal in that review.

3. I confirm that, unless otherwise stated, the contents of this witness statement are within my own knowledge, and are true to the best of my knowledge, information and belief. Where the facts are not within my own knowledge, I have indicated my sources of information or belief.
4. I also confirm that in giving this statement I do not disclose any information that is subject to legal professional privilege, nor is any waiver of such privilege intended by this statement.

### **Costs of funding**

5. I understand from Hausfeld that during the PHR, the Tribunal expressed an interest in understanding how the two PCRs' funding arrangements work, including the costs of funding, the benefits returned to the class if the case is successful and the way in which fees are taken out of any pot obtained in any judgment.
6. In Anthony Maton's fourth witness statement dated 23 April 2021, he exhibited a document illustrating potential rates of distribution of damages to class members under various scenarios and the amounts sought out of undistributed damages in respect of costs, including funding costs. Following recent updates to Mr Evans's funding arrangements, Mr Maton has updated that analysis in his sixth witness statement and I confirm that I agree with the updated analysis.
7. I note that in the comparative analysis of Bench Walk and Therium's fees set out in Anthony Maton's sixth witness statement dated 5 July 2021, Bench Walk's pricing is cheaper than Therium's pricing in most recovery outcomes. I have contributed to this analysis and agree with it.
8. Accordingly, I believe that Bench Walk's pricing is fair and reasonable and is most likely in the majority of circumstances to be the cheaper of the two funding options and therefore in the best interests of class members. Nevertheless, if the Tribunal has any concerns about Bench Walk's fee structure and believes that Therium's fee structure is fairer to class members overall, I confirm that Bench Walk and Donnybrook would amend the LFA with Mr Evans to adopt Therium's fee structure.

### **The LFA budget**

9. In my third witness statement I explained that the funder was supportive of any reasonable request to increase the budget by Mr Evans and that I had already obtained in principle approval

for Bench Walk to make further funds available if and when required<sup>1</sup>.

10. Mr Evans has now put in place endorsements for each of his ATE insurance policies that allow him to incept additional anti-avoidance cover. I confirm that the funder has agreed to increase Mr Evans's budget by £2,884,000 so that he can incept that additional cover if required.
11. The additional funding has been included in the updated budget as a contingency. In other words, there is flexibility as to how it may be deployed. For example, if it is not used for additional anti-avoidance cover then it may be appropriate to apply it to other costs. As I said in my third witness statement, I expect to review the budget with Mr Evans and his legal team following certification, at which point we can make any appropriate adjustments to the budget. I can also confirm that if Mr Evans reasonably believes that further increases are necessary to the budget, I would be entirely supportive of those requests.

#### **STATEMENT OF TRUTH**

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:



Date: 5 July 2021

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<sup>1</sup> Chopin 3, paragraph 25.