RETURN DATE: November 25, 2025	:	SUPERIOR COURT
TOM HAYES, Plaintiff, v.	: : :	JUDICIAL DISTRICT OF STAMFORD-NORWALK
UBS AG, UBS AMERICAS HOLDING LLC, AND UBS AMERICAS INC., Defendants.	: : :	AT STAMFORD-NORWALK
	:	October 23, 2025

COMPLAINT

Plaintiff Tom Hayes ("Hayes"), by and through his undersigned counsel, states the following as his Complaint against defendants UBS AG, UBS Americas Holding LLC ("UBS LLC"), and UBS Americas Inc. ("UBS Americas") (collectively, "UBS").

NATURE OF THE ACTION

1. Tom Hayes, diagnosed with autism spectrum disorder, was known for his exceptional aptitude in mathematics and financial modeling. Hayes was hired by UBS in his twenties and was assigned to its Tokyo office to trade Yen derivatives that used LIBOR as a reference rate—a posting considered remote and less desirable, far removed from UBS's central operations in Stamford, Zurich, and London. At UBS, Hayes was regarded as socially atypical and an outsider. Employees referred to him using derogatory nicknames such as "Rain Man" and "Kid Aspergers," reflecting both his cognitive profile and the highly competitive exclusionary culture that pervaded the trading floor. UBS would later use those characteristics as part of its scheme to maliciously frame Hayes as the "evil mastermind" (actual UBS quote) behind alleged

misconduct in UBS's LIBOR submissions.[1]

2. That was not true. At UBS, Hayes received no formal training on LIBOR submissions. Instead, he learned from senior traders, his immediate supervisor, and senior managers. At the time, it was widely accepted throughout UBS (including its senior management) and the financial industry generally that traders could, and should, attempt to influence LIBOR (by making requests to the UBS employees responsible for setting UBS's submissions) to make money for their employer. Acting on that institutional understanding and practice, Hayes was open about his efforts to influence LIBOR, which were well-known to UBS senior management: he discussed his requests for changes to LIBOR in *writing*, at daily meetings with the Yen Desk, and with the *Co-CEO of UBS's Investment Bank*. His conduct reflected not only the practices he had been taught, but also widespread norms in the financial industry during that period.

3. At no point during Hayes's employment did UBS instruct him to refrain from making LIBOR-related requests. To the contrary, Hayes was explicitly directed by his manager, Mike Pieri, to attempt to influence LIBOR submissions to benefit the Yen Desk's positions. Pieri's instructions were consistent with guidance he had received from UBS senior

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[1] "LIBOR" stands for London Interbank Offered Rate. It was a benchmark interest rate at which major global banks lent to each other for short term loans. There were different LIBOR rates for different currencies, indicating the rate at which global banks estimated they could borrow money denominated in that currency from another bank. Each day, a UBS employee would submit an estimate for LIBOR. Some of the most prominent LIBOR rates were for the U.S. dollar, the Euro, and Pound Sterling. LIBOR was phased out of use by June 30, 2023. The discussion here refers to LIBOR as it existed during the relevant period.

management, who had informed him that Yen LIBOR submissions, like those for USD, Euro, and GBP LIBOR, should take into account the bank's commercial interests. On rare occasions when Hayes was told his requests fell outside the submitters' estimates for Yen LIBOR, he accepted this and did not push for the bank to submit rates that would be inconsistent with the submitters' estimates.

4. Consistent with UBS's systemic LIBOR practices, if UBS's submitters refused to consider the Yen Desk's positions, Pieri escalated matters to UBS senior executives for assistance. And when Hayes told Pieri he was considering leaving, UBS senior management acknowledged the strategic benefits of Hayes's connections to LIBOR setters and pleaded with him to stay. Against that backdrop, it is clear that neither Hayes, nor anyone at UBS, thought he was doing anything wrong.

5. It was not until 2010, after Hayes left UBS to join Citigroup, that Hayes was *finally* instructed by Citigroup to stop making requests to LIBOR submitters. And Hayes, constitutionally a rule follower, did so immediately. Yet, by 2012, when financial regulators around the world had started examining historic global LIBOR practices, including at UBS, Hayes became UBS's hand-picked scapegoat. But here's the real story: Tom Hayes did not do anything wrong, and UBS knows it. Even though UBS knew that Hayes acted at its direction and in accordance with longstanding practices, it misrepresented his conduct to authorities as improper and independent. Those mischaracterizations were a foundational element in the wrongful prosecutions that followed.

6. Tom Hayes brings this action for malicious prosecution against UBS. In order to deflect attention from the role played by its senior leadership, UBS made misleading disclosures to U.S. prosecutors with the aim of branding Hayes as the "evil mastermind" behind alleged LIBOR misconduct. As a result, Hayes was prosecuted in the U.S. and U.K. UBS knew its disclosures were misleading. It knew that Hayes had acted at the direction of UBS senior management,[2] consistent with UBS policy, and in line with common practice in the industry. Yet, to save itself from punishment by global authorities who had retroactively decided that ordinary and accepted conduct with respect to LIBOR submissions was "illegal," UBS offered Hayes up on a silver platter. UBS could not do so honestly, given that Hayes had only done as he was told by UBS management. So, UBS presented prosecutors with a false and misleading story that *Hayes* (rather than UBS senior management) had concocted a scheme to influence LIBOR rates to benefit his trading positions. That story has been proven false and though Hayes has *finally* cleared his name, UBS's egregious conduct has irreversibly ruined Hayes's life.

7. In March 2012, nearly three years after Tom Hayes resigned from UBS, UBS publicly announced that it was cooperating with global regulators investigating alleged LIBOR manipulation.

8. That announcement came amid a multiyear, global, investigation into LIBOR-setting practices at major financial institutions. By 2011, U.S. authorities and enforcement

[2] It is hardly a surprise that UBS senior executives were willing to push the boundaries of acceptable conduct. UBS senior management, including its executives in Zurich, have been implicated in numerous illegal and unethical schemes, resulting in billions of dollars of fines.

agencies, including the Department of Justice ("DOJ") and Commodity Futures Trading Commission ("CFTC"), were devoting significant resources to LIBOR investigations. Authorities in the U.K. were initially uninterested in pursuing LIBOR cases because LIBOR submissions were unregulated. However, in 2012, with U.S.-led efforts accelerating toward bringing a headline case, U.K. authorities were triggered into action.

9. UBS and its external counsel saw a major opportunity. UBS faced severe U.S. penalties (including the potential loss of its U.S. dollar license, which would threaten the stability of UBS's global operations), as well as criminal exposure for its parent entity and senior management. But, if UBS became an early cooperator and provided the U.S. authorities with documents and information to support a high-profile criminal charge, it could negotiate leniency and avoid those dire consequences.

10. Never mind that the conduct under investigation had been consistent with rules relating to LIBOR submissions, a common practice at most major financial institutions, and done at the direction of UBS senior management. Or that, up until that point, UBS had defended its LIBOR submission policies and procedures. Or that the conduct Hayes had been accused of was standard practice at UBS for years before Hayes joined and continued to be standard practice after he left. The increasingly aggressive enforcement environment related to LIBOR necessitated UBS's abrupt pivot to "cooperation."

11. So UBS offered its "cooperation" to authorities around the world, committing to investigate itself and report back with its findings. But the "investigation" was nothing more than a theatrical performance by UBS to convince the authorities it was taking the matter seriously. It

was carefully stage-managed by UBS to control the narrative and steer attention away from senior executives. And like all good theater, UBS's show had a hand-picked villain: Tom Hayes, the supposed "evil mastermind" behind UBS's LIBOR practices.

12. Hayes was not cast in that central role by accident. UBS needed a very specific villain for its show. It needed a sufficiently high-profile target to satisfy the regulators, but someone sufficiently removed from leadership to allow UBS to credibly argue that its senior management wasn't in on it. Preferably someone that no longer worked for the bank.

13. Hayes became the perfect scapegoat. Between 2006 and 2009, he was one of UBS's most prominent traders—and yet by the time of prosecution, he had long since left the bank. He had generated huge profits for UBS, but worked from its Tokyo office, removed from UBS's headquarters in Zurich and its major London and U.S. operations. And although he rose to become a senior trader by the time of his departure, he never served in any managerial role. In short, he was vulnerable, visible, and easily isolated—the perfect fall guy for UBS to present to regulators as a lone actor.

14. In December 2012, the DOJ announced that it had reached a deal with UBS. UBS would pay a fine in Connecticut and its Japanese subsidiary would plead guilty in Connecticut based on a "Statement of Facts" that demonstrated UBS had lied to the DOJ to exonerate itself and its senior management. As a result of that agreement, UBS AG would not be prosecuted.

15. At the same time, the DOJ announced it would prosecute, and the U.K. authorities arrested, Hayes. Those prosecutions were engineered to scapegoat Hayes through UBS's intentional false and misleading disclosures. UBS's performance for the DOJ had left out key

facts. UBS had concealed its bank-wide practice of factoring its corporate interests into its LIBOR submissions from authorities. It had produced a curated set of chats and emails intended to show Hayes was one of the few "bad actors, while omitting materially exculpatory evidence showing that senior managers were aware of and directed Hayes's conduct. UBS's internal "investigation" failed to interview Hayes and other key witnesses, mischaracterized UBS's written LIBOR policies, and withheld documents showing that UBS LIBOR submitters *always* considered UBS's trading positions in setting LIBOR rates. That practice was *systematic* in the London office for key currencies, including the USD, GBP, and Euro, as UBS maintained a system that considered trading exposure in its rates submissions for those currencies *every single day*.

16. UBS knew the story it presented about Hayes was false and misleading. It knew that it failed to provide key information that demonstrated Hayes's innocence. It knew that Hayes's actions were consistent with UBS policy and industry practice. Yet, UBS went along with it because its part of the "trade" was to help secure Hayes's conviction and give the authorities the "win" they so desperately wanted. In effect, UBS secured leniency through "cooperation." But UBS's cooperation was biased and engineered to set up a "fall guy": UBS conducted an investigation of itself, hid the involvement of its senior leadership, intentionally misidentified Hayes as the central target, and facilitated his prosecution.

17. At all times, UBS knew that its senior executives had directed its LIBOR submission practices and policies. Traders, including Hayes, trusted and justifiably relied on that direction and those practices, understanding them to be vetted, legal, and in compliance with the

law. UBS believed the same. Consistent with that belief, when senior UBS executives learned of Hayes's efforts to influence LIBOR submissions to benefit UBS trading positions, they didn't tell him to stop. Instead, they acknowledged the value of his contributions and offered him enhanced compensation. After all, Hayes was simply doing what he had been taught at UBS.

18. UBS also knew that Hayes was especially vulnerable, and an especially good scapegoat due to his cognitive profile. That Hayes has been diagnosed with Autistic Spectrum Disorder (Asperger's Syndrome) would not have been a surprise to UBS's management (indeed, it aligned with his UBS nicknames). Hayes's psychiatrist observed that his condition led to perfectionist tendencies, linear one-track thinking, and reliance on explicit instruction, which, combined with the absence of clear managerial guidance and the reinforcing effects of institutional praise, would have led him to not question the instructions he was given by senior UBS personnel.

19. Rather than telling the government that Hayes was following UBS policy, UBS offered Hayes up as a sacrifice and presented him as a rogue actor. The investigation and ensuing prosecution followed a well-trod and corrupt path. The government begins an investigation of a large institution, here UBS, for alleged wrongdoing. The conduct at issue was known to, and approved and authorized by, senior management. The institution and its senior management hire a prominent law firm, here Gibson Dunn, and pay the firm millions of dollars to conduct an "independent" investigation. The government tacitly or openly approves of this (or even requests it), effectively outsourcing its investigation to the bank's lawyers, which become a quasi-deputized arm of the government (knowing that employers can secure the cooperation

from current and former employees in ways the government cannot, for example by threatening to claw back previously paid compensation and because employees may not exercise Fifth Amendment rights in a private investigation). Yet, the "independent" investigation is anything but. It is designed to protect the interests of the corporation, while identifying a handful of scapegoats to get the government off the company's back. And to protect senior management, at the expense of former employees who had followed their directives.

20. Although this story may be routine and well known to many in the legal community, it does not make it any less shameful. UBS's conduct concerning its LIBOR submissions was known to, approved, authorized, and directed by, senior management. Hayes relied on that direction trusting it to be appropriate and legal. However, instead of senior management owning their conduct and defending a former employee who had simply done what he was told, UBS misled prosecutors, retroactively blaming Hayes for conduct it had sanctioned and caused his prosecution for conduct that was neither illegal nor inconsistent with UBS policy.

21. UBS's efforts were successful. Not a single person from its senior management was charged with any crime. Nor were there charges brought against UBS AG or any American-based affiliate, protecting UBS's global operations. Rather, because UBS misled the government into prosecuting Hayes, the DOJ agreed not to criminally prosecute UBS and handed out a comparatively minor fine.

22. As for Hayes, he had his life ruined. Based on UBS's improper acts, he was criminally charged in both the U.S. and the U.K. He was convicted to a lengthy prison sentence in the U.K., spent over five years in jail, and has been financially ruined. After over a decade of

legal fights, he has been exonerated in both the U.S. (his charges were finally dropped in October 2022) and the U.K. (the U.K. Supreme Court vacated his conviction in July 2025). But UBS's misconduct has permanently tarnished Hayes's reputation, ruined personal relationships, cost Hayes *hundreds of millions* in potential earnings, and caused him significant emotional, physical, and mental trauma.

23. UBS's decision to scapegoat Hayes to shield its senior management was shameful, wrong, and morally unconscionable. The law provides a remedy.

24. Hayes seeks redress for UBS's actions. He seeks a sum large enough, in excess of $400 million, to compensate him for the destruction of his career, the inability to work in his profession, the inability to earn a reliable living, the loss of his liberty, the destruction of his reputation, and the emotional and physical harm inflicted upon him and his family, and to deter and punish UBS for its role in intentionally directing the destruction of an innocent man's life for its own selfish reasons.

PARTIES

25. Plaintiff Tom Hayes is an individual residing in the City of London, United Kingdom and a former employee of UBS Securities Japan Co., Ltd.

26. UBS AG is a leading multinational financial services firm, organized under the laws of Switzerland. UBS AG is, indirectly, the corporate parent of UBS Securities Japan Co., Ltd. UBS AG is registered to do business with the Connecticut Secretary of State as a foreign stock corporation under ALEI 0597268. UBS AG's agent for service of process in Connecticut is Corporation Service Company.

27. UBS LLC is a wholly owned subsidiary of UBS AG. UBS LLC is a Delaware limited liability corporation with a principal place of business in New York.

28. UBS Americas is a wholly owned subsidiary of UBS LLC. UBS Americas is a Delaware corporation with a principal place of business in New York. UBS Americas is registered to do business with the Connecticut Secretary of State as a foreign stock corporation under ALEI 0664529. UBS Americas's agent for service of process in Connecticut is Corporation Service Company.

29. UBS AG, UBS LLC, and UBS Americas, together with their affiliates, maintain offices around the world, including in the United States. UBS has dozens of offices in the United States and employs thousands of individuals. UBS has a significant presence in Connecticut through a Stamford office located at 677 Washington Boulevard, which is listed on UBS's website as one of its "Main offices worldwide." UBS maintains seven other offices in Connecticut and UBS AG maintains a Stamford branch. At the relevant time, UBS maintained trading operations in its Stamford offices that benefitted from its LIBOR policies, including certain of Hayes's trades with U.S. counterparties. Further, at the relevant time, UBS maintained a "United States headquarters . . . in New York, New, York and Stamford, Connecticut."

30. Underscoring its connection to Connecticut, when UBS AG was found to have violated its non-prosecution agreement with the DOJ, it was charged, and plead guilty (repeating the same misstatements from the non-prosecution agreement in a "Statement of Facts" appended

to the plea discussed below), in the District of Connecticut to financial crimes related to LIBOR submissions.[3]

FACTUAL ALLEGATIONS

A. Hayes's Pre-UBS Background

31. Tom Hayes was born in West London into a family of modest means. His family lived in the inner-city area of Hammersmith, a working-class neighborhood. Hayes attended local state (public) schools. Hayes's trajectory was hardly one of insular elite advantage. Unlike many of the so-called "City Bankers" in London, he was not born into wealth, and his schooling did not benefit from private tutors, legacy admissions, or extraordinary endowments. That lack of status would reverberate throughout Hayes's career in the financial industry. A witness at Hayes's trial would later refer to him as a "barrow boy"—a derogatory phrase for people seen to have raised themselves above their station, particularly in elite U.K. banking circles.

32. Hayes attended the University of Nottingham, where he studied mathematics and engineering. To support himself, he worked 90-hour weeks during the summer holidays cleaning pots in a local pub for less than $5 an hour.

[3] UBS's breach of the non-prosecution agreement arose from allegedly wrongful tactics related to foreign exchange trading, including "collusive conduct" between UBS traders and traders at other banks to impact exchange rates to benefit UBS's trading positions. There were no further allegations concerning UBS's LIBOR conduct. *See* https://www.justice.gov/criminal/criminal-vns/united-states-v-ubs-ag ("According to the factual statement of breach attached to UBS's plea agreement, UBS engaged in deceptive FX trading and sales practices after it signed the LIBOR NPA").

33. After his second year of university, Hayes interned at UBS in London. Hayes hoped to work as a trader, which satisfied his fascination with numbers and data. But Hayes was unable to break into the exclusive club of London trading floors. Rather, UBS offered him an internship on the collateral management desk. He received a job offer following that internship but did not accept it. Instead, his pathway into trading was through a competitive graduate training program at Royal Bank of Scotland ("RBS"). That program was not glamorous. Hayes spent most of his days making tea and collecting dry cleaning. In return, the traders allowed him to ask them questions for twenty minutes a day.

34. Hayes was a quick learner, and, after a year, RBS permitted him to look after a small Yen derivatives book at times when its main trader in Asia was unavailable. This was a uniquely undesirable job. Hayes's risk limits were tiny, the Yen derivatives market was seen as the "minor leagues," and Hayes often had to work odd hours due to the time difference between London and Tokyo. Rather than trading his own book and taking on risk on behalf of the bank, Hayes was assigned to primarily trade as a "market maker"—a provider of liquidity to market participants, which involved less risk to the bank, but also less potential upside for the trader. Any "risk" on Hayes's book was managed from Tokyo.

35. In 2004, Hayes was recruited to join Royal Bank of Canada ("RBC"). Hayes decided to join RBC for the opportunity to run his own "book." However, while RBC permitted Hayes to manage a small book of his own, he remained a junior trader who primarily acted as a market maker. Few of Hayes's trades involved taking positional risk on behalf of the bank.

36. Hayes received no training at either RBS or RBC on LIBOR submissions. Nor did he have influence over, or involvement in, LIBOR submissions at RBS or RBC. Further because he engaged in very little proprietary trading at RBS and RBC, Hayes had little economic exposure to LIBOR rates (explained below). That meant the profitability of his trading activities did not depend to any significant degree on LIBOR rates and Hayes had little reason or occasion to investigate those banks' LIBOR submission processes.

37. As with UBS (described below), LIBOR submitters at RBS frequently took requests from derivatives traders to submit rates that advantaged RBS's trading positions. Those requests were accepted without controversy.

B. UBS Policy Required LIBOR Submitters to Consider the Bank's Economic Interests in Rate Submissions

38. From well before Hayes joined UBS in 2006, and continuing after he left, UBS policy expressly required LIBOR submitters to consider the bank's economic interests when submitting LIBOR rates—the very conduct for which UBS would later offer Hayes up to prosecutors. That policy was established, implemented, and approved by senior managers, including Sascha Prinz, UBS's Global Co-Head of Rates and a member of the Investment Bank's Executive Committee.

39. LIBOR rates were utilized for numerous purposes, including as reference rates for loans and interest rate derivatives. For example, in a typical interest rate swap (effectively an agreement to exchange interest rate payments) one party would agree to pay a fixed interest rate on an agreed notional amount, while its counterparty would agree to make payments tied to a

floating rate, such as LIBOR. If the LIBOR rate exceeded the fixed rate, the party receiving payments at the floating rate would profit. If the LIBOR rate was below the fixed rate, the party receiving the fixed rate would profit. Thus, changes to LIBOR rates could impact which party profited.

40. The British Bankers Association ("BBA") published LIBOR rates daily for fifteen different periods (*e.g.*, overnight, one week, one month, and three months).

41. To determine LIBOR rates, the BBA accepted daily submissions from "panel banks" (the number varied by currency, but the most prominent currencies tended to have larger panels) that served the roles of "LIBOR submitters" pursuant to rules set out in the "BBA LIBOR Instruction."

42. The BBA LIBOR Instruction required panel banks (through LIBOR submitters) to submit an estimate of what they believed their bank would have to pay to borrow cash from another bank in that currency. The submissions were then averaged—with the highest and lowest submissions being dropped to prevent outlier submissions from skewing the rate (a process known as "trimming")—and published daily by the BBA as the LIBOR rates for the fifteen periods.

43. Before Hayes joined UBS, UBS and many other banks and financial institutions, were already active participants in trading LIBOR-linked products. UBS also served on the LIBOR submission panel for several prominent currencies, including the U.S. dollar ("USD LIBOR"), British Pound Sterling ("GBP LIBOR"), the Euro ("Euro LIBOR"), and Yen ("Yen

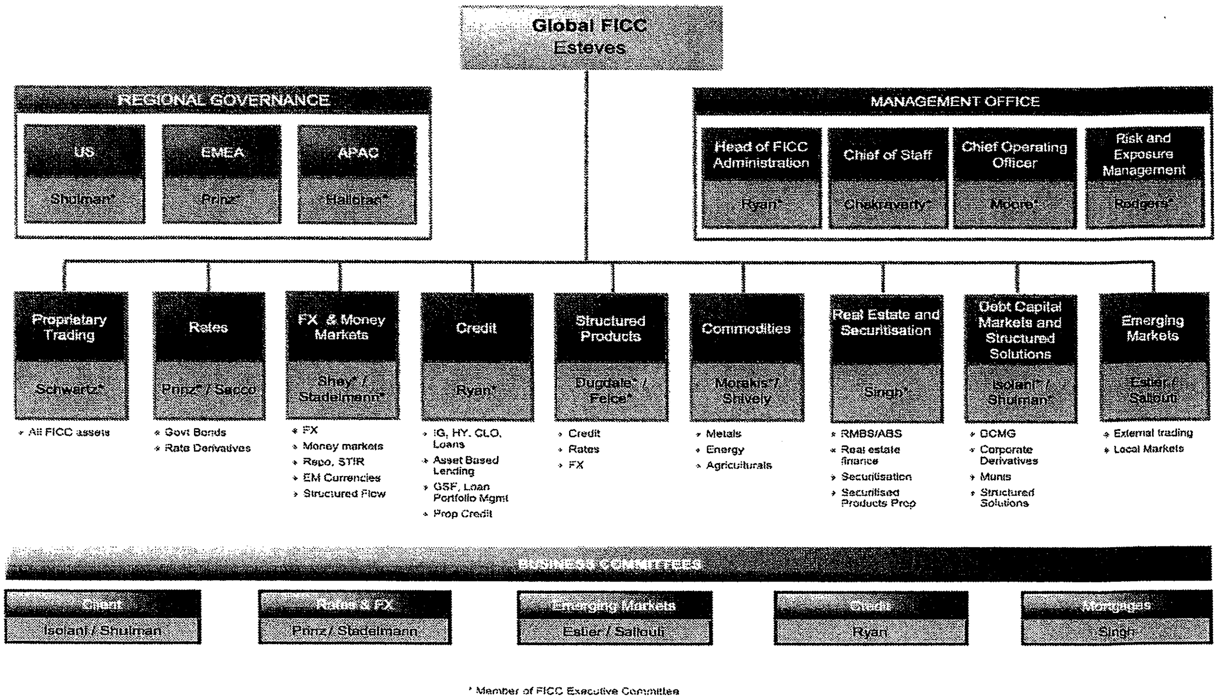
LIBOR"). The bank was familiar with the BBA LIBOR Instruction and had policies and procedures to comply.

44. UBS traders in several different groups traded LIBOR-linked products, including short-term interest rate traders ("STIR Traders") and interest rate derivative traders ("Rates Traders"). Though UBS's corporate structure changed several times throughout the relevant period, the STIR Traders and Rates Traders were always in separate businesses with distinct reporting structures.

45. Below is an organizational chart showing the structure of UBS's Fixed Income, Currencies and Commodities ("FICC") group as of 2007. FICC had various business lines, including Rates (the business where the Rates Traders worked) and FX & Money Markets (the business where the STIR Traders worked).[4]

[4] Prior to 2007, the Rates Traders were in the Fixed Income Group and the STIR Traders were in the Foreign Exchange, Cash and Collateral Trading Group. Those groups, and others, were merged into the broader FICC group in a 2007 restructuring, which did not materially impact UBS's oversight of the LIBOR submissions process.

FICC Organisational Structure



46. As discussed in more detail below, Hayes joined UBS as a Rates Trader in 2006. UBS Rates Traders primarily traded interest rate derivatives, including interest rate swaps, many of which used LIBOR as a reference rate. The Rates Desk was headquartered in London, but there were also Rates Desks in Stamford, Tokyo, and Sydney.

47. UBS STIR Traders focused on managing UBS's short-term cash positions by borrowing and lending money and by trading short-term derivatives products, including interest rates swaps that used LIBOR as a reference rate. The STIR Desk was headquartered in Zurich but had a significant presence in London and Stamford. Reto Stadelmann was the Global Co-Head of the FX & Money Markets group, which housed the STIR Traders, and a member of the FICC Executive Committee.

48. Though they served different purposes, both STIR Traders and Rates Traders had significant exposure to LIBOR-linked products.

49. Until September 1, 2009, UBS's LIBOR submissions were entered by STIR Traders in Zurich ("Trader Submitters"). However, the actual rates to be submitted were determined—depending on the currency and time period—by either a Rates Trader or another STIR Trader. Thus, at all times prior to September 1, 2009, UBS's LIBOR submissions were determined by traders who had exposure to LIBOR-linked products and submitted to the BBA by Trader Submitters in Zurich who also had exposure to LIBOR-linked products. The involvement of traders with exposure to movements in LIBOR was a feature, not a bug. UBS designed the system that way to facilitate the submission of LIBOR rates that would benefit its traders' positions, increasing the bank's profits.

50. It was understood that UBS policy and industry practice dictated that the Rates Traders and STIR Traders responsible for determining the proper LIBOR submission, as well as the Trader Submitters who submitted those rates to the BBA, considered their own economic interests in determining their LIBOR submissions. Among other things, that understanding was evidenced by the open discussions throughout the bank of taking those considerations into account in LIBOR submissions and UBS's lack of any policy prohibiting such considerations.

51. From 2005 through (at least) mid-2008, Rates Traders were formally responsible for determining the appropriate LIBOR submissions for Euro LIBOR, USD LIBOR, and GBP LIBOR. Those were some of the most mature LIBOR derivatives markets and UBS thus had more formal processes surrounding those submissions. UBS senior management was aware that

those Rates Traders would consider their positions when determining the LIBOR rate. For example, a 2005 email exchange involving multiple UBS senior managers demonstrated that the understanding of one senior manager was that Rates Traders determined UBS's LIBOR submissions because "the [rates] desk has large reset risk on its swap positions." Thus, those senior managers wanted to ensure the Rates Traders could exert influence over the LIBOR submissions to benefit those positions.

52. A written UBS policy called "PUBLISHING LIBOR RATES" ("LIBOR Policy") (created in 2005 *before* Hayes joined UBS in Japan) identified the relevant Rates Traders. That policy was broadly circulated to STIR Traders involved in the LIBOR submission process, including Roger Darin and Holger Seger (Co-Head of the STIR Desk).

53. Later, UBS issued a follow-up policy on "PUBLISHING LIBOR RATES" ("Updated LIBOR Policy" and together with the LIBOR POLICY, "LIBOR Policies") with further information on how UBS determined its LIBOR submissions. (**Exhibit 1**.) For Euro LIBOR and USD LIBOR, the Updated LIBOR Policy introduced centrally maintained spreadsheets that tracked the Rates Desk's exposure to LIBOR rates and indicated that UBS's LIBOR submissions should take into account that exposure. Further, the Updated LIBOR Policy indicated that Rates Traders should be contacted directly for further instruction on LIBOR submissions.

54. The Updated LIBOR Policy was explicit, complete with an illustrative example, that UBS's LIBOR submissions should account for the bank's LIBOR exposure to increase UBS's trading profits.

55. The Updated LIBOR Policy instructed that "[f]or EUR Libors" Trader Submitters were to consult a "RiskReports" spreadsheet that contained aggregated trading positions for UBS traders with exposure to Euro LIBOR ("Euro LIBOR Spreadsheet"). Leaving nothing to doubt, the policy instructed that if UBS had more than a defined amount of exposure to a move in LIBOR rates, "we [UBS] need to make changes to fixings on euroLibors . . . . For example, if 3month IBANK/LIBOR is 4,124 this means we are receiving delta libor/libor fixing and therefore we want to increase that fixing by 25 bps. If the number is negative then vice versa." (**Exhibit 1**.) A "bp" is a "basis point," which is one hundredth of a percent.

56. In other words, if UBS had positive "delta" to LIBOR fixings (meaning it would profit from increases to LIBOR), UBS's written policy was to "increase that fixing by 25 bps" (or .25%). And if it had negative "delta" it would systematically decrease its LIBOR submission. The clear purpose was to take into account traders' LIBOR exposure and increase UBS's profits.

57. The Euro LIBOR Spreadsheet was maintained by, among others, Ian Ash, a Euro Rates Trader in UBS's London office. The Updated LIBOR Policy further instructed that if the spreadsheet was unavailable, Ash should be contacted for "any changes to Libors." Given that Ash was a Rates Trader, it was understood that his "changes" would account for his trading positions and the positions of others on the Rates Desk.

58. An excerpt of the Updated LIBOR Policy is below. (**Exhibit 1** (emphasis added).):

> For EUR Libors, open with Harpoon for Broil 10 and add in Broil10.03 the following s/s: X:\Govs&Derivs\SHORTEUR\Euribor\RiskReports\BatchresetriskSWAP&SWNT.
> If your Broil works, the first sheet called fixSWAP&SWNT should recalc automatically. This should then automatically feed data into sheet EuriborvLibor. (set date??)
> If this sheet shows a total of over 10k for IBANK/Libor, we need to make changes to fixings on euroLibors_new s/s.
> For example, if 3month IBANK/LIBOR is 4,124 this means we are receiving delta libor/libor fixing and therefore we want to increase that fixing by 25 bps. If the number is negative then vice versa.
>
> If you cannot access the riskreport sheet, chat Ian Ash or someone on the EUR desk around 10.30 am and ask him if there are any changes to Libors. If any changes, put the basis point change in third

59. Similarly, UBS maintained a "Risk" spreadsheet of "USD_Swaps" ("USD LIBOR Spreadsheet") that was to be consulted before submitting the USD LIBOR rate. The USD LIBOR Spreadsheet was maintained on the shared drive of Sascha Prinz, a UBS senior executive. If the USD LIBOR Spreadsheet was inaccessible, the policy instructed that Graeme Wadsworth, a senior USD Rates Trader (or, alternatively, Shemina Gheewalla, a UBS Managing Director), should be contacted "for libors." (**Exhibit 1**.)

60. Though not mentioned in that UBS policy, testimony from Arif Hussein, a GBP Rates Trader, confirmed that UBS policy required traders to input their positions into an internal spreadsheet that aggregated GBP swaps positions ("GBP LIBOR Spreadsheet" and, together with the Euro LIBOR Spreadsheet and USD LIBOR Spreadsheet, the "LIBOR Spreadsheets") and that Rates Traders used the data in that spreadsheet to determine the appropriate GBP LIBOR submission.

61. Thus, pursuant to written policies, and with the knowledge of senior managers, UBS maintained internal spreadsheets that were used to influence UBS's LIBOR submissions *every single day* for three of the most significant LIBOR currencies (USD, Euro, and GBP). With the purpose of benefitting UBS's aggregated trading positions. And, regardless of those spreadsheets, the LIBOR submissions were determined by Rates Traders with exposure to LIBOR-linked products.

62. LIBOR submissions for less mature derivatives trading markets employed a more informal process. Before 2006, the Yen swaps trading market was less mature than other currencies (and thus had a less formal LIBOR submission process) because Japan had maintained a zero-rates policy from 2001 to 2006 (meaning that overnight interest rates were set at 0%, leading to a limited trading market for short-term rates).

63. For example, Yen LIBOR submissions were determined by Roger Darin, who had been sent the LIBOR Policy and was therefore aware that UBS policy dictated that Rates Traders in London set LIBOR submissions. Darin was a senior STIR Trader who had exposure to LIBOR-linked products and was known to, consistent with UBS policy and the conduct of Rates Traders globally, consider his trading positions when choosing the proper rate to be submitted by the Trader Submitters in Zurich.

64. While it does not appear that Darin maintained a spreadsheet aggregating UBS's exposure to Yen LIBOR derivatives, he employed a customary process whereby Rates Traders would communicate their positions to him, which he would take into account in determining

UBS's LIBOR submission. That process was essentially an informal version of the systematic, centralized, process that UBS senior managers had established in London.

65. The Yen LIBOR submissions process pre-dated Hayes's arrival.

C. Hayes's Work History at UBS

66. In late 2006, at twenty-six years old, Hayes joined UBS's Tokyo office on the Yen derivatives desk ("Yen Desk"), trading various derivative instruments, including interest rate swaps that used LIBOR and TIBOR[5] as their reference rate. Unlike many traders, Hayes's compensation was not directly derived from trading profits. He did not, for example, receive a percentage of his profits. Rather, Hayes received a base salary and an annual discretionary bonus based on performance. Hayes's base salary when he joined UBS was approximately $135,000 and he received a discretionary bonus in the amount of approximately $435,000 for 2006. Over the next three years, Hayes would generate approximately $300 million in profit for UBS.

67. Hayes was recruited to join UBS precisely because of his experience trading short-term Yen derivatives. UBS's traders had limited experience in that type of trading because of the Bank of Japan's years-long zero-rates policy. Meanwhile, Hayes was inexperienced in managing his own proprietary trading "book," and had never handled LIBOR submissions. UBS knew this, describing him as young and with a relative lack of experience. However, upon joining UBS, Hayes received minimal compliance training and none specific to LIBOR

[5] TIBOR stands for "Tokyo Interbank Offered Rate" and was published by the Japanese Bankers Association ("JBA"). The JBA followed a similar process to the BBA to calculate the daily TIBOR rate.

submissions. Nor did UBS provide him any written policies concerning the LIBOR submission process. Without formal training or written policies, Hayes was left to learn on the job from his longer-tenured colleagues, as well as from the common practices of other market participants.

68. Shortly after he joined, Hayes helped to build out the Yen Desk's trading infrastructure, including by developing valuation models and working with members of the IT group to develop Profit-and-Loss ("PnL") monitoring systems that allowed for tracking of daily PnL by product type. Thereafter, Hayes received daily reports on his PnL, which helped him (and others) manage risk and trading decisions. Those daily reports contained a granular breakdown of Hayes's PnL by product type, reference benchmark, and underlying currency, which allowed for an in-depth analysis of how movements in LIBOR rates would impact Hayes's positions.

69. When Hayes joined the Yen Desk, there were approximately six other traders trading Yen derivatives. Several of those traders were senior to him, including Tamura Naomichi, who was a senior trader on the Yen Desk. Mike Pieri was Hayes's supervisor.

70. Until after Hayes departed UBS, Darin was responsible for determining the Yen LIBOR submission. Darin was always senior to Hayes in the UBS hierarchy, though their reporting lines differed. When Hayes joined, it was common practice for the Yen Desk's Rates Traders (consistent with UBS policy, (*supra*, at ¶¶ 48-65)), to communicate with Darin and the Trader Submitters to request Yen LIBOR submissions that would benefit their trading positions.

71. Darin traded derivatives with LIBOR exposure, and it was widely understood within the Yen Desk that his determination of the proper Yen LIBOR submission took into

account his trading positions. Other traders on the Yen Desk, including Naomichi, routinely communicated with Darin about the Yen LIBOR submissions. Pieri was aware of and condoned this practice and exerted pressure on Darin and the Trader Submitters to facilitate requests by traders on the Yen Desk when advantageous.

72. The Rates Traders had no authority to direct Darin or the Trader Submitters to adopt any particular rate submission. Instead, Hayes learned from his colleagues that UBS policy permitted Rates Traders to communicate their positions to Darin and the Trader Submitters, who would consider those requests.

D. Hayes's Requests Concerning Yen LIBOR Submissions

73. Hayes thus understood from the conduct of Darin, Pieri, and senior traders on the Yen Desk that it was permitted and encouraged for Rates Traders to communicate their positions and make requests of the Trader Submitters. That process was similar to the formal process for USD LIBOR, Euro LIBOR, and GBP LIBOR that had been developed with the knowledge of UBS senior management. (*Supra*, at ¶¶ 49-61.)

74. In 2007, Darin was moved from Singapore to Tokyo to facilitate communications between STIR Traders and the Yen Desk, including with respect to Yen LIBOR submissions. Darin resisted the move to Tokyo but was forced to move by UBS management.

75. After some time in Tokyo, Darin was moved to sit next to Hayes to allow the two to communicate more closely about Yen LIBOR submissions. That decision was made by UBS management, not Hayes (who had a contentious relationship with Darin). That seating

arrangement was not uncommon: the Australian Dollar ("AUD") Rates Trader was similarly seated next to the STIR Trader who determined UBS's AUD LIBOR submissions.

76. Hayes's understanding that UBS policy permitted sending requests to Trader Submitters and Darin about the Yen LIBOR submission was bolstered by an email he received on Christmas day in 2007 from Naomichi, the senior trader on the Yen Desk, which directed him to "make sure that we will see lower Libor on 02 and 03Jan." Pieri, Hayes's supervisor, was copied on that email, shown below (**Exhibit 2**):

> Tom,
>
> Please make sure that we will see lower Libor on 02 and 03Jan.
> 3m and 6m Libor looks stopped to come down therefore now I am worrying if those really come down in first 2-3 days after Turn.
>
> Tamura

77. Those types of requests from other Rates Traders, including Naomichi, were common and usually communicated orally.

78. Hayes's communications with other Rates Traders, Darin, and the Trader Submitters about Yen LIBOR submissions were consistent with formal and informal UBS policies and done with the approval of management. Further, Hayes's requests were not always to benefit his positions. About half of the time, Hayes's requests were made to benefit the other traders on the Yen Desk, who frequently asked Hayes to make requests on their behalf. That meant that certain of Hayes's LIBOR requests went *against* his trading positions, which he only did because he was directed by senior UBS employees to ask for LIBOR submissions that benefitted the Yen Desk's aggregate positions. Approximately 40% of Hayes's requests went

against his trading positions and 10% were on occasions where he did not have a trading position that would be impacted.

79. Hayes's communications with Darin and the Trader Submitters usually only provided information about his trading positions and requested that the Yen LIBOR submission take into account those positions (exactly as he had learned from the senior traders on the Yen Desk and his supervisor). For example, in most instances, Hayes simply requested that Yen LIBOR submissions be "high" or "low" within the reasonable range of possible Yen LIBOR estimates. Darin would then determine whether to grant Hayes's request. More than a quarter of the time, UBS's Yen LIBOR submissions were not correlated with Hayes's requests (meaning the Trader Submitters ignored his request). Often, Hayes's requests would be refused because they conflicted with Darin's own trading positions.

80. Occasionally, when Darin and the Trader Submitters refused to take Hayes's positions into account, Pieri would escalate matters to more senior UBS manager to put pressure on Darin and the Trader Submitters to comply with UBS policy and consider the exposure of the Yen Desk in the LIBOR submission.

81. On rare occasions, Hayes requested specific Yen LIBOR submissions. He intended that those submissions be consistent with the reasonable range of estimates for Yen LIBOR. If Darin and the Trader Submitters (who had much more information about UBS's borrowing costs) informed Hayes that those requests were outside their range of estimates for Yen LIBOR, Hayes accepted those responses and confirmed he did not want UBS to enter a Yen LIBOR submission inconsistent with UBS's potential borrowing costs.

82. Additionally, on occasion Hayes communicated with interdealer brokers that UBS managers, including Pieri, had retained to provide "LIBOR Services" for LIBOR submissions and requested that the brokers discuss LIBOR submissions with other panel banks. UBS managers, including Pieri, were aware of Hayes's communications with interdealer brokers and condoned them. Hayes had no authority to retain the interdealer brokers for those services; it was done by Pieri. Similarly, the "wash trades" that authorities accused Hayes of engineering to compensate interdealer brokers for their services were set up and approved by other UBS employees, including Pieri.

83. Hayes occasionally directly communicated with swaps traders at other banks and requested that they ask the submitters at their institution to make submissions that would benefit UBS's trading positions. Hayes did so with the knowledge and approval of Pieri. Hayes also discussed those communications with the entire Yen Desk (about twenty people), including Pieri, at morning meetings and was never instructed that such communications were improper. Further, based on Hayes's experience in the industry, such requests for favors between traders were not uncommon and were ultimately ineffectual, as the requests often do were not passed on to LIBOR submitters at peer banks (most of whom were taking into account their own institution's commercial interests in their LIBOR submissions, which would have taken precedence over Hayes's requests for a "favor").

84. UBS senior management, including Yvan Ducrot (UBS's Global Co-Head of Rates Trading) and Seger (the boss of the Trader Submitters), also were aware of Hayes's communications with interdealer brokers and traders at other banks and did not instruct him to

stop those communications. Instead, Pieri described his connections outside the bank as an asset and recommended that Hayes be paid additional compensation to induce him to stay.

85. Similarly, Hayes's annual employee evaluations contained acknowledgments of his LIBOR-related conduct, including encouragements to coordinate closely with Darin and develop closer "relations with london cash desks" (where many panel banks set their LIBOR submissions).

86. At no point did any of the many UBS managers and senior managers who were aware of Hayes's LIBOR requests indicate that such requests violated UBS policy. Indeed, Hayes's willingness to openly communicate LIBOR requests to management, including by email and internal chats, is clear evidence that UBS did not see anything wrong with his conduct and Hayes did not believe the requests violated UBS policy or any financial regulation. Nor did UBS or its management.

87. In fact, after trading volatility in 2008, UBS AG conducted an internal audit of the Yen Desk and identified no significant issues. Upon information and belief, that report was distributed to UBS AG's Group Executive Board, as well as dozens of other UBS managers across the globe.

E. UBS Prioritizes Low LIBOR Submissions During the Financial Crisis Rather than Submissions to Benefit Trading Positions

88. By August 2007 (after less than a year of Hayes's trading for UBS), in the run-up to the global financial crisis, UBS was eager to demonstrate to the market that it was not suffering from the liquidity issues some other banks were having. One way that UBS determined

it could do that was by submitting low LIBOR rates—a sign that it could freely borrow money at low rates.

89. Thus, Gaspare LaSala, a UBS manager who would later be responsible for UBS's LIBOR submissions after a September 2009 policy change, wrote to three senior managers, including Ducrot and Stadelmann, that UBS should shift its LIBOR submission policy from a focus on benefiting trading positions to a focus on submitting LIBOR rates that indicated UBS's access to cheap cash.

90. LaSala wrote: "It is highly advisable to err on the low side with fixings for the time being to protect our franchise in these sensitive markets. *Fixing risk and PNL thereof is secondary priority for now*." (**Exhibit 3** (emphasis added).) Upon information and belief, none of the senior managers expressed concern with LaSala's plan to adjust UBS's LIBOR submissions for corporate purposes ("to protect our franchise"). Nor did they disagree that UBS had, before that time, prioritized "[f]ixing risk and PNL thereof" in formulating its LIBOR submissions.

91. Undeterred by the shift of priorities, Pieri requested exceptions to that policy to benefit Yen Desk trading positions. In December 2007, Pieri wrote to Sascha Prinz and Peter Walshe (head of Rates Trading in Asia Pacific) requesting that Trader Submitters be directed to alter their submissions to help traders' positions and indicating that "everyone" from other banks would be doing the same. Neither Prinz nor Walshe told Pieri the request was inappropriate. Instead, Prinz promised to talk to Reto Stadelmann to get the Trader Submitters in line.

92. Those communications were an explicit acknowledgment by senior UBS managers (two of whom were on the FICC Executive Committee) that both UBS and other panel

banks were taking their corporate interests into account in LIBOR submissions (including specifically for Yen LIBOR). Another confirmation that individuals far senior to Hayes were aware of and condoned those practices.

F. UBS Reviews its LIBOR Policies

93. *The Wall Street Journal* published an article on LIBOR in April 2008 that warned of concerns that LIBOR was "becoming unreliable." It noted that "bankers and other market participants have quietly expressed concerns to the British Banking Authority, which oversees Libor, about whether banks are reporting rates that reflect their true borrowing costs."

94. Despite the controversy caused by *The Wall Street Journal* article, the BBA—in a June 10, 2008 consultative paper titled "Understanding the construction and operation of BBA – strengthening for the future"— decided to leave its LIBOR definition unchanged. It reasoned that the "trimming process removes outlying data as well as preventing any individual bank from attempting to influence the rates." The BBA did announce one new requirement: banks were required to have rates "submitted by members of staff at a bank with primary responsibility for management of a bank's cash, rather than a bank's derivative book." Later in 2008, the BBA formally updated its policies to implement that change. Before that 2008 update, however, the BBA's own definitions did not prohibit Rates Traders from being LIBOR submitters.

95. The BBA consulted with UBS, as well as other panel banks, before issuing its updated guidance. Originally, the BBA proposed a requirement that LIBOR submitters disregard any information or requests from derivatives traders. Senior UBS derivatives trader Panagiotis Koutsogiannis (better known as "Pete the Greek") was tasked with corresponding with the BBA

about the proposed changes, presumably after consulting with UBS's legal and compliance functions and business leaders.

96. UBS, through Koutsogiannis, repeatedly objected to the BBA's proposed update barring consideration of any information or requests from derivatives traders. UBS took the position in that correspondence that its Trader Submitters should be permitted to continue to consider information from Rates Traders. Ultimately, the BBA accepted UBS's suggestion, and the updated policy did not prohibit communications between the Trader Submitters and the Rates Traders. In effect, UBS had negotiated to allow it to continue making commercially influenced LIBOR submissions (the very behavior UBS would later claim Hayes "masterminded").

97. The BBA also requested feedback from the market on the LIBOR process. In response, the Chicago Mercantile Exchange ("CME"), one of the largest derivatives exchanges, sent a letter to the BBA addressing "the frequent accusation that Contributor Panelists habitually submit false or biased responses to the daily Libor survey," concluding that "[a] Contributor Panelist who can borrow 'in reasonable market size' at any one of a wide range of offered rates commits no falsehood if she bases her response to the daily Libor survey upon the lowest of these (or the highest, or any other arbitrary selection from among them)." That is, in 2008, it was acknowledged that there was a range of LIBOR rates which a given submitter could reasonably proffer and that panel banks could choose within that range for any reason.

98. UBS responded to the media attention on LIBOR with a review of its LIBOR policies ("2008 Review"). The 2008 Review found that there were potential conflicts of interest inherent to UBS's earlier LIBOR policies. UBS made limited changes to its LIBOR submission

processes based on the 2008 Review but did not provide any guidance or training to those involved in LIBOR submissions. And, crucially, those changes did not restrict Trader Submitters from considering the bank's commercial interests in their submissions. Thus, aside from an internal review not broadly shared, UBS's policies and practices remained largely unchanged.

99. UBS continued to allow traders with exposure to LIBOR rates to act as Trader Submitters until after Hayes resigned from UBS. After that, UBS's LIBOR submissions were handled by a separate group that did not have trading exposure. However, that group was led by LaSala, the UBS manager who had directed that UBS "prioritize" low submissions for corporate purposes in 2007 and acknowledged that, prior to that date, UBS had prioritized benefitting its trading positions in formulating LIBOR submissions. Further, Rates Traders were still permitted to influence LIBOR submissions based on their view of "market sentiment." Equally telling, Koutsogiannis, who had been aware of, and participated in, UBS's commercially driven LIBOR submissions, retained an oversight role.

100. Nor did UBS implement any systems and controls to restrict traders from making requests to Trader Submitters. Reportedly, requests to Trader Submitters continued. For example, in June 2009, a group chat including 58 UBS participants, including London traders and a Trader Submitter, involved open discussions of submitting LIBOR rates influenced by trading positions.

101. Even after the 2009 review, and Hayes's departure, the senior UBS managers overseeing LIBOR submissions were the same individuals who had sanctioned and participated in UBS's bank-wide efforts to influence LIBOR rates to benefit trading positions in earlier years.

Though the 2009 policy reallocated submission control, derivatives traders continued to provide input, meaning commercial interests persisted beneath the surface. Other conduct which Hayes would later be criminally prosecuted for, including the facilitation by UBS management of paid outside brokers to influence LIBOR submissions, also continued after Hayes's resignation. All after a review of UBS's LIBOR practices, presumably involving its legal and compliance functions.

G. Hayes Earns Significant Profits for UBS; UBS Seeks to Retain Him

102. Hayes was extremely successful as a trader for UBS and became known to colleagues as "Rain Man" and "Aspergers Kid" for his brainy but socially awkward demeanor.

103. The vast majority of Hayes's profits related to his trading acumen and his employment of advanced valuation models in his trading. Those factors were especially meaningful in the relatively undeveloped Yen swaps market. Little of Hayes's trading profits resulted from the minimal influence he was able to exert over UBS's Yen LIBOR submissions.

104. Hayes's success was reflected by the profits he generated for UBS. In 2007, his first full year trading at UBS, he generated $50 million in profits for UBS. In 2008, Hayes generated nearly $100 million in profits for UBS. And at the time of his resignation in June 2009, Hayes had generated $169 million in profits for UBS in that calendar year.

105. Notably, a significant percentage of Hayes's profits came *after* UBS shifted its LIBOR policies to "prioritize" LIBOR submissions to benefit perceptions of the bank's liquidity position (or achieve other corporate objectives) instead of the bank's historical priority to submit LIBOR rates that benefitted its trading positions.

106. Despite the significant profits he earned for UBS, Hayes was undercompensated compared to industry standards. In 2007, he earned less than $1 million which, while significant, paled in comparison to the $50 million in profits he had earned the bank. As discussed above, Hayes's compensation was not directly or formulaically tied to his trading profits.

107. As a result, Hayes became open to offers that were pouring in from other banks. In 2008, Goldman Sachs attempted to hire Hayes and offered him $5 million upfront and greater responsibility. Hayes ended up declining the offer after UBS offered him a $2.5 million retention bonus. Jerker Johannson, a senior UBS executive in Zurich who was aware of the significant profits Hayes was generating for UBS, personally approved the retention bonus.

108. However, in 2009, Hayes again began considering leaving UBS. Despite the significant profits Hayes was earning for the bank that year, UBS had reneged on the $2.5 million retention bonus, instead paying him $250,000.

109. By mid-2009, Hayes was in discussions with Citibank about joining its Yen derivatives desk. When those discussions progressed, Hayes told Pieri he was considering leaving. Pieri, who was knowledgeable about Hayes's LIBOR requests, tried to convince him to stay. When that didn't work, Pieri asked for help from Ducrot. In On July 3, 2009, Pieri told Ducrot that Hayes was "an important part of UBS" for various reasons, including "[s]trong connection to Libor setters in London" which was "invaluable for the derivatives book." (**Exhibit 4**.) This further confirmed that Hayes's activities were on *behalf of the Yen Desk*, as instructed by management.

From: Pieri, Michael
Sent: Friday, July 03, 2009 6:53 AM
To: Ducrot, Yvan
Subject: tom hayes

Yvan,

I'd like to talk with you about Tom Hayes.

Putting aside the past and future revenue, I think its important to highlight the other factors that make Tom an important part of UBS and particularly the Japan team.

1. Market share

He dominates the interbank market in the front end with a 35% market share. We are clearly the number one liquidity provider in front end derivatives. Japanese banks use us to manage their FRA, fixing and other ALM risks. Our market share in the front end is a calling card for longer duration business.

He exemplifies the type of market maker we desire; with the added benefit of being a skilled risk manager.

2. Excellent risk manager, superb market forsight and feel for the flows.

Its not just the money he can make, its the money he will save UBS (and has done) in times of crisis. During Lehman, we excelled, whilst other banks lost. Having a risk manager of his calibre reduces our tail risk and increases our averages.

The Japan front-end risks are complicated. Its not easy to institutionalise these revenues, but they are consistent and dependable.

Its difficult to find exceptional talent and someone who can think "outside the box."

3. Strong rapport with other members of the desk. Provides an energy and enthusiasm which is a strong morale boost. Having a consistent 'winner' on the desk helps lift everyone's game.

4. Strong connections to Libor setters in London. This information is invaluable for the derivatives books.

5. Critical thinker - He is very rational. I can put him to work on any complicated task, he will identify the key issues/risks and I know he will solve it.

(**Exhibit 4** (emphasis added).)

110. Ducrot forwarded the email to Darin and Seger asking for "balancing point[s] against this bullshit." Darin, who had long feuded with Hayes, responded, including by informing Ducrot that Hayes "sp[oke] to the brokers who are usually asked by the other banks

where to set Libors" and "d[id] also know some of the traders at other banks" and inquiring about the legality of those actions.

111. Ducrot had already been aware of the widespread practice of LIBOR submissions being influenced by trading positions and Hayes's UBS-sanctioned practice of discussing LIBOR submissions with interdealer brokers and peer traders. But Pieri's email, and Darin's response, left nothing to doubt. Upon information and belief, Ducrot never responded to indicate Hayes's actions were inappropriate.

112. Instead, the matter was escalated to other UBS senior managers. The next week, Carsten Kengeter, a member of the UBS AG Executive Board and Co-CEO of UBS's Investment Bank, emailed a group of senior managers, including Alexander Wilmot-Sitwell (the other Co-CEO of UBS's Investment Bank). Kengeter requested that those senior executives "call Tom Hayes in Tokyo" to convince him to stay. Each of those executives, including Ducrot, complied with Kengeter's request and called Hayes to ask him to stay at UBS. (**Exhibit 5**.)

113. Ducrot does not appear to have expressed any concerns about the information Pieri and Darin had given him about Hayes's LIBOR requests. In any event, it would not have mattered; Kengeter had long been aware of Hayes's LIBOR requests, having discussed them at lunch meetings with Hayes.

114. Wilmot-Sitwell also called Hayes and offered him an enhanced financial package to stay at UBS.

115. Ultimately, Hayes decided to leave UBS. Over his approximately three years of trading on UBS's behalf, he had earned it over $300 million in profits. UBS paid Hayes

approximately $2,500,000[6] plus stock options worth about $550,000. Thus, Hayes earned less from UBS in the three years he worked there than what Goldman Sachs had offered him as a signing bonus.

H. Hayes Joins Citigroup; Following his Termination, UBS Interferes With His Job Search

116. In 2009, Hayes joined Citigroup in its Tokyo office as a Rates Trader. He received a $3 million signing bonus and brought with him a reputation as one of the world's top Rates Traders. His compensation would have been in excess of $5 million per year.

117. In June 2010, Hayes was informed that Citigroup was investigating potential influence by Rates Traders, including Hayes, over LIBOR submissions. Hayes was told by his manager at Citigroup that it was not necessary to retain a lawyer.

118. Hayes was interviewed by lawyers from Cleary Gottlieb Steen & Hamilton LLP. He did not have counsel present.

119. In August 2010, Hayes wrote to supervisors at Citigroup that there was no rule or policy concerning communications between Rates Traders and LIBOR submitters and that, if the bank's position was that such interactions were inappropriate, Citigroup should issue a written rule to that effect. Brian McCappin, then-CEO of Citigroup's Japanese investment bank,

[6] Hayes was paid in Yen. The above estimate of $2,500,000 in total compensation is based on the reported exchange rate as of the first day of the following year. For example, for purposes of the above calculations, Hayes's 2006 compensation was converted from Yen to U.S. Dollars at the reported exchange rate on January 1, 2007.

apparently agreed that there were no such rules at Citigroup, writing to himself that "[he] was genuinely not aware of any formal policy/guideline" prohibiting such conduct.

120. Citigroup did not publish any such rules during Hayes's tenure at the bank. However, the Citigroup investigation was *the first time in his career* that *anyone* had told Hayes it may be inappropriate to influence LIBOR submissions to benefit trading positions. Hayes discontinued the practice upon being so informed.

121. In September 2010, Citigroup dismissed Hayes. In a termination letter, the bank accused him of attempting to manipulate Yen LIBOR and TIBOR to benefit his trading positions, which Citigroup claimed to be in violation of its policies.

122. Notably, Citigroup chose not to claw back his signing bonus, despite the dismissal being tied to alleged misconduct. Citigroup also agreed to provide Hayes a neutral reference to prospective employers.

123. Hayes was contacted by many colleagues in the financial services industry following his termination. All of them expressed shock that he had been terminated for industry-standard conduct.

124. Following his dismissal from Citigroup, Hayes sought employment from other banks. However, UBS actively interfered with his job search. For example, in late 2010, Hayes was in advanced talks to join Bank of America in New York City to trade dollar-based derivatives. In January 2011, Hayes flew to New York City to meet in person with Bank of America executives.

125. Ultimately, Bank of America decided not to hire Hayes, despite strong support from the manager who was recruiting Hayes, because Peter Walshe, a senior UBS executive, intervened and convinced Bank of America not to hire Hayes because it was "too risky"—presumably because UBS was already in the process of scapegoating Hayes (as discussed below).

126. Hayes has been unable to find work in the financial industry (or reliable work in any industry) since. Hayes's compensation would have been between $5 million and $10 million a year. Hayes, who was just 30 years old when he interviewed with Bank of America, stood to earn those amounts for *decades* absent UBS's interventions.

I. <u>UBS Cooperates in LIBOR Investigations and Misleads Authorities</u>

127. Beginning in 2010, U.S. regulators began to scrutinize LIBOR submission processes at financial firms across the globe, including UBS, HSBC, JPMorgan, Deutsche Bank, Barclays, and Citigroup. Initially, regulators in the U.K. were uninterested in investigating LIBOR processes. The Financial Services Authority ("FSA") and Serious Fraud Office ("SFO") both declined to devote resources to any such investigations, initially doing little more than acting as a conduit through which information was passed from U.K.-based banks to the DOJ.

128. UBS initially resisted cooperation with the U.S. regulators. However, under increasing pressure from U.S. regulators, UBS decided to conduct a targeted "internal investigation" in late 2010. That investigation (really, investigation theater as it was not designed to "investigate" anything; rather it was for the purpose of justifying Hayes's eventual

prosecution) was confined to Japan and conducted by *Pieri*, showing UBS's intent from the start to represent to authorities that Hayes was the problem.

129. Under increasing scrutiny and knowing that it faced significant potential liability, given its longtime practice of making commercially influenced LIBOR submissions, UBS quickly pivoted to damage control mode. The objective was to protect its senior management and confine exposure to Japan. UBS's plan to achieve those goals was simple: "cooperate" to divert attention from UBS senior management and pin any issues on Hayes.

130. In connection with its cooperation, UBS engaged outside counsel to perform an internal investigation. Initially, Allen & Overy led the investigation, but it was replaced by Gibson Dunn & Crutcher LLP ("Gibson Dunn") in 2011.

131. Gibson Dunn reportedly immediately recognized that UBS's policy of considering its own commercial interests in LIBOR submissions was institutional and global, involving managers and high-ranking executives from London to Zurich to Tokyo. Given the regulators' desire for a high-profile target, Gibson Dunn reportedly advised UBS executives that it was likely to face criminal charges and billions of dollars in fines (or worse). The only way out, Gibson Dunn reportedly advised, was to ramp up UBS's cooperation with authorities.

132. UBS did not make the decision to cooperate out of a sense of altruism. Instead, it cooperated to get on the "inside" of the investigations, allowing it to hand-pick investigative targets for regulators and control the disclosure of information. That achieved the dual purpose of securing leniency as an early cooperator and protecting its senior executives and decisionmakers.

133. Perhaps even more significant than the offers of leniency, UBS gained control over the investigation into its own alleged misconduct. As part of UBS's cooperation agreements, it volunteered to handle the task of reviewing documents, interviewing witnesses, and identifying potential prosecution targets for regulators. This put UBS in a privileged position to decide who would become the focus of prosecutorial attention (and perhaps more importantly, who would not). To that end, UBS's productions to regulators redacted the identities of certain people on key communications to mask the involvement of senior executives. And UBS refused to provide certain documents from individuals in Zurich, where much of its senior management was located, based on assertions of privilege under Swiss banking law. However, UBS did disclose hand-picked documents from Zurich by providing them to FINMA, the Swiss banking authority, which acted as a conduit to foreign regulators. UBS's selective disclosures (and more often withholding) of documents from Zurich laid the groundwork for its later misrepresentations that senior management in Zurich was unaware of alleged LIBOR misconduct.

134. UBS went as far as to first interview employees in Zurich in Switzerland and then *after* hearing their story, re-interviewing junior employees *outside* of Switzerland so it could provide information about those interviews to authorities. This allowed UBS to advance the narrative that only those hand-picked junior employees had relevant knowledge, while shielding information about interviews with senior executives under Swiss bank secrecy laws.

135. UBS's investigation was thus, intentionally, fundamentally flawed. UBS omitted key information, such as the direction from the senior Yen rates trader to Hayes to influence the LIBOR submission (with Hayes's manager copied); UBS failed to interview key figures,

including Hayes; UBS failed to disclose it's the LIBOR Spreadsheets used to aggregate positions for use by the Trader Submitters; and UBS made only selective disclosures of information related to its Zurich headquarters. Those weren't mere oversights. The UBS investigation wasn't for the purpose of learning the truth. It was a theatrically designed witch hunt to set up Hayes and protect UBS.

136. UBS crafted the narrative that Hayes and Darin were the primary wrongdoers based on its own internal investigation and pushed that narrative on the DOJ and SFO. UBS, through its outside counsel, had effectively taken over the investigation of itself, choosing what information to provide (and withhold), identifying Hayes as a target and providing a "road map" for his prosecution.

137. It is clear that, from the outset, UBS focused its discussions with regulators on setting Hayes up as the sole "face" of the "wrongdoing" to protect its global operations, current employees, and senior executives. In fact, in December 2011, *before* UBS had completed its investigation, UBS entered into a settlement with the Japan Financial Services Agency that identified Hayes as the *only* individual involved in alleged LIBOR misconduct in Tokyo.

138. UBS did so despite (or perhaps because of) its full awareness that the conduct it attributed to Hayes was common practice at UBS, done pursuant to UBS written policies, and with the knowledge and approval of management. UBS's disclosures misleadingly omitted UBS senior management's involvement in setting the institutional LIBOR policies that UBS was now "investigating." That suggests UBS intended to, and did, mislead U.S. and U.K. authorities to frame Hayes as the primary wrongdoer.

139. Hayes was in many ways a perfect scapegoat. He hadn't been at UBS for long, and he was not a part of management. He had never been based in the Zurich headquarters, but instead worked in Tokyo, detached from the core leadership centers in Zurich, London and the U.S. Yet he was a highly profitable trader.

140. Those facts alone understate why he was so vulnerable. Colleagues nicknamed him "Rain Man" and "Aspergers Kid"—a nod to his numerical brilliance and perceived social awkwardness—marking him as atypical and isolated in the trading floor culture. He was undercompensated relative to the profits he generated, making him less invested in internal politics during his time at UBS. Further, his geographic and cultural separation reduced his visibility and capacity to challenge narratives set by headquarters or compliance. Together, those factors made Hayes a uniquely malleable target—ideal for UBS to promote as the "face" of misconduct while shielding the institution and its senior leadership.

141. Reportedly, in a meeting with the DOJ, UBS's lawyers introduced the DOJ to Hayes, the villain it had cast, walking the DOJ thorough cherrypicked evidence intended to implicate Hayes as LIBOR's main villain. UBS had to convince the DOJ to criminally pursue Hayes since the DOJ had reportedly told UBS *someone* was going to be prosecuted. And Hayes was the best target for UBS. Following that meeting, the DOJ reportedly resolved to focus its attention on Hayes and his attempts to influence Yen LIBOR, exactly as UBS wanted.

142. Of course, the senior executives who had been running the show while Hayes had been at UBS knew that Hayes had not committed a crime. As discussed above, many were actively involved in UBS's systemic conduct. Even Oswald Grübel, UBS Group CEO from

February 2009 through September 2011, knew that it was common industry practice for banks to submit LIBOR rates influenced by their commercial interests and he did not believe that was a problem. Shortly after leaving the bank, and while UBS was framing Hayes, he said what everyone at UBS already knew—that traders involved in UBS's efforts to influence LIBOR had not acted with "criminal intent." (*See* **Exhibit 6**.)

143. Similarly, in a 2017 interview, Grübel stated that such LIBOR practices "were common practice in the industry and long known" and had been prosecuted criminally only after a shift in regulatory sentiment. He further maintained that the "international practice at the time for setting the Libor reference interest rates followed the principles of a free market." (**Exhibit 7**.)[7] In other words, UBS's *most senior executive* during part of Hayes's tenure was *aware* that the *entire* market was engaging in conduct UBS would later have Hayes prosecuted for and he didn't believe it to be criminal. Yet, despite Grübel overseeing UBS at around the time that it began to cooperate with authorities, UBS *never told the DOJ* that Hayes had not acted with "criminal intent" or that he was following a standard industry practice.

144. UBS's plan worked. Its early cooperation led to a global settlement with worldwide regulators in December 2012. All told, UBS was required to pay $1.5 billion to U.S., U.K., and Swiss regulators. Though $1.5 billion is a significant fine, it paled in comparison to the potential consequences UBS could have faced in a battle with motivated global regulators and enforcement authorities. Further, UBS avoided fines from other regulators, including a $2.5

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[7] The original interview was printed in German. Exhibit 7 is a translation of the original.

billion proposed fine from the European Commission, which granted UBS immunity in February 2013 (just two months after the global settlement). More importantly, the global settlement allowed UBS to avoid prosecution of UBS AG and its senior executives.[8]

145. Moreover, the settlement placed U.S. enforcement focus on Yen LIBOR. UBS avoided prosecution for submissions in other major currencies, such as USD, Euros, or GBP. That was especially significant because UBS had formalized processes through which derivatives traders influenced, at least, USD LIBOR, Euro LIBOR, and GBP LIBOR. (*Supra*, at ¶¶ 49-61.) In effect, UBS's agreement with the U.K. and U.S. authorities to confine enforcement efforts and prosecutions to its Japanese operations constituted a strategic win. By steering regulators toward Japan, UBS successfully avoided liability tied to the more formal and institutionalized LIBOR processes in London and Zurich.

J. **UBS's Non-Prosecution Agreement is Based on Misleading Disclosures**

146. On December 18, 2012, UBS AG, the global parent, entered into a non-prosecution agreement with the DOJ, under which the DOJ agreed not to prosecute UBS AG or any UBS affiliate, with the exception of UBS Japan ("UBS NPA"). Appendix A to the UBS NPA contains a lengthy statement of supposed "facts." ("Statement of Facts"). (**Exhibit 8.**) In connection with the UBS NPA, UBS coordinated with DOJ prosecutors to have UBS Japan plead guilty to wire fraud in Connecticut federal court in Hartford, in exchange for UBS's

[8] As noted above, UBS *was* criminally prosecuted for its LIBOR conduct in 2015. However, that was only because UBS had engaged in *other* misconduct in violation of its non-prosecution agreement with the DOJ.

cooperation in the investigation and UBS's identification of Hayes and Darin as prosecution targets. UBS was required to pay the associated fine in Connecticut. (*See* **Exhibit 9**.)

147. The UBS NPA clearly demonstrates that UBS fundamentally misled the DOJ throughout its "investigation" with the clear intention of scapegoating Hayes. Full disclosure of UBS policies, metadata associated with the LIBOR Spreadsheets, witness-selection memoranda, cooperation slide decks, and DOJ/SFO proffer notes will demonstrate that UBS's disclosures to authorities contained fundamental misrepresentations and misleading omissions.

148. Given that the UBS Japan plea was entered in Connecticut, UBS's significant presence in Stamford, and the references through the Statement of Facts to conduct undertaken in Stamford, it is likely that individuals working out of UBS's Stamford office were integrally involved in UBS's investigation and meetings about, and negotiation of, the Statement of Facts. For example, the Statement of Facts refers to a "senior manager in Group Treasury in Stamford" who was "the manager of the derivatives trading desk that submitted the majority of UBS's LIBOR contributions." (**Exhibit 8**, at ¶ 105.) Further, the Statement of Facts acknowledges that UBS's American operations were headquartered in Stamford.

149. UBS had a careful line to walk in the Statement of Facts. It needed to make admissions to the government that were substantial enough to support UBS Japan's guilty plea, but limited enough to maintain the fiction that *Hayes* was the key figure and other alleged LIBOR misconduct at UBS was limited, episodic, and done without the knowledge of senior management. UBS knew none of that was true, but that sleight-of-hand was crucial to making UBS's plan work.

150. The Statement of Facts begins with, and is largely focused on, a discussion of alleged misconduct by "Trader-1" (Hayes). That is a clear reflection of UBS's campaign to identify *Japan* as the epicenter of alleged LIBOR misconduct, with Hayes as its "evil mastermind." (*E.g.* **Exhibit 8,** at ¶¶ 24, 42–44.) By contrast, UBS admitted to only limited, occasional, misconduct by traders in London and Zurich." (*E.g.*, *id.*, at ¶ 75 (Zurich-based trader made requests for CHF LIBOR on "a handful of occasions"); ¶ 83 (traders "occasionally requested" changes to Euro LIBOR submissions); ¶ 88 (USD LIBOR requests made on "two occasions").) Of course, that was the opposite of reality. UBS was only able to maintain the façade that Hayes's conduct was systemic and conduct by more senior UBS employees was "occasional" because it had withheld evidence, including the LIBOR Spreadsheets, from the DOJ.

151. For example, the misleading omissions concerning the submissions for USD LIBOR involved employees working out of the Stamford office because the Statement of Facts disclosed only that "on two occasions" requests related to USD LIBOR had been made by "derivatives traders in Stamford." (**Exhibit 8**, at ¶¶ 88–90.) UBS failed to disclose its widespread and systematic practices with respect to USD LIBOR.

152. The Statement of Facts further claims that "[t]he majority of UBS Yen LIBOR . . . submitters, Yen derivatives traders, and their supervisors – as well as the more senior managers at UBS who were aware of this conduct - knew that the manipulation of Yen LIBOR . . . submissions was inappropriate." (*Id.*, at ¶ 37.) Also false. UBS's LIBOR Policies, and informal global policies, permitted Rates Traders to influence, and in many cases set, LIBOR

submissions. To facilitate that process, UBS maintained internal spreadsheets tracking LIBOR exposures for the *explicit purpose* of influencing LIBOR submissions *every single day* to benefit UBS's trading positions. (*Supra*, at ¶¶ 49-61.) And it was patently false that "Yen derivatives traders, and their supervisors" were aware that Hayes's actions were inappropriate. In fact, they were the ones who taught Hayes that doing so was perfectly appropriate at UBS. (*Supra*, at ¶¶ 73-87.).

153. Far from "knowing" Hayes's conduct described in the Statement of Facts was "inappropriate," UBS managers and senior managers up through the Co-CEO of its Investment Bank sought to reward Hayes with enhanced compensation to keep doing it. UBS withheld all of that information from the DOJ to scapegoat Hayes. And UBS's "admission" that Hayes knew his conduct was improper could not possibly have been justified as it had *declined to interview* Hayes during the investigation. Those misrepresentations set the stage for Hayes's prosecution, locking in a story on one of the key elements of the charges against Hayes—that he intended to act dishonestly. Rather than the whole truth, UBS had fed the DOJ a story that, in the words of a senior executive conducting a briefing session with journalists about the soon-to-be-announced settlements, Hayes was the "evil mastermind" behind all of UBS's alleged LIBOR issues.

154. Similarly, while UBS admitted that in 2007 and 2008 *its corporate policy* set by "managers and senior managers" (including the so-called "low-balling" policy set by a "senior manager of Group Treasury based in Stamford") was to base UBS's LIBOR submissions on management's assessments of what was best for UBS's corporate interests, the Statement of Facts then misleadingly asserts that the senior managers involved in those efforts "knew that it

was inappropriate." (**Exhibit 8**, at 38, 49, 108.) That admission, again, was only sustainable if UBS failed to present the whole story to the DOJ, including omissions concerning substantial LIBOR-related conduct in UBS's Stamford office.

155. Next, while UBS admitted to limited alleged misconduct "as early as 2001" (**Exhibit 8**, at ¶ 20), the Statement of Facts suggests that that conduct only became "sustained, wide-ranging, and systematic" after Hayes joined UBS. (*Id.*, at ¶ 22.) Again, not true and based on UBS's misleading disclosures and flawed investigation. The LIBOR Policy, a reflection of UBS's bank-wide consideration of commercial interests in LIBOR submissions, was created in *2005*, before Hayes joined. Darin and Rates Traders communicated about LIBOR submissions before Hayes joined and taught him that practice after he joined. Contrary to the misleading assertions in the Statement of Facts, Hayes joined UBS after it had established widespread practices to influence LIBOR submissions based on trading positions.

156. The Statement of Facts also downplays the involvement of UBS senior management. For example, the Statement of Facts contains limited admissions that *certain* "managers, and senior managers" condoned and facilitated Hayes's actions. (*E.g.*, *id.*, at ¶ 36). However, a key footnote to that admission shows that UBS misled the DOJ as to which "senior managers" were aware of that conduct. That footnote, excerpted below, indicates that UBS told the DOJ that "senior manager" and "manager" "do not include members of the board of

directors, executive board, or executive management."

c. *The Role of UBS Managers*

36. Certain UBS managers, and senior managers,[8] were aware of the internal manipulation of Yen LIBOR and Euroyen TIBOR submissions by derivatives traders as described above. For example, Trader-1's manager knew, at least as early as 2007, that internal pressure was placed on UBS Yen LIBOR submitters, and occasionally the Euroyen TIBOR submitters, to contribute submissions to benefit the Yen trading book. Further, certain Zurich-

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[7] The role of cash brokers in the derivatives markets and money markets, along with Trader-1's dealings with Broker-A1, are discussed further below.

[8] The terms "senior manager" or "manager," as used herein, do not include members of the board of directors, executive board, or executive management.

157. UBS's limited admission of the "Role of UBS Managers" contained three qualifiers: only "certain" managers knew, but they were not "executive management"; their knowledge was only of "internal manipulation"; and their knowledge was limited to conduct in Japan. Each of those qualifiers was materially false.

158. UBS's senior management, including Kengeter (member of the UBS AG Executive Board and Co-CEO of UBS Investment Bank), Prinz (UBS's Global Co-Head of Rates Trading and member of the FICC Executive Committee), and Ducrot (UBS's Global Co-Head of Rates Trading) were aware of the systemic consideration of trading positions in UBS LIBOR submissions, pursuant to UBS policy, by Hayes and others. They knew it was done both inside and outside UBS (not just "internally") and across currencies (not just Yen). All of that was omitted from the Statement of Facts because UBS failed to disclose those facts to DOJ.

K. UBS Scapegoats Hayes to Obtain Favorable Treatment from Global Authorities

159. UBS succeeded at walking the careful line. Based on its downplayed "admissions," UBS received a relative slap on the wrist. UBS had successfully protected its global franchise and senior management from aggressive regulatory enforcement.

160. There was no secret about the reasons for that leniency. The DOJ stated that it entered into a non-prosecution agreement with UBS because:

- UBS (supposedly) "ha[d] made a timely, voluntary, and complete disclosure" of the facts;
- "UBS conducted a thorough internal investigation" (led by outside counsel) and "reported all of its findings" to the DOJ;
- "UBS made its self-disclosure before the [DOJ] had contacted UBS regarding the criminal investigation";
- "UBS provided highly valuable information" and its "cooperation has been exceptional in many important respects";
- "UBS ha[d] sought to uncover and disclose evidence of misconduct" to the DOJ and "made substantial efforts to assist the government";
- "UBS ha[d] made important and positive changes in its compliance, training, and overall approach to ensuring its adherence with the law";
- UBS had provided similar cooperation to global financial authorities.

(**Exhibit 9**, at 2–3.)

161. But that "cooperation" was untruthful, wrongfully pinning the blame on Hayes as reflected by the slanted "admissions" in the Statement of Facts.

162. UBS also acknowledged that Hayes's actions "were within the scope of [his] employment at UBS" and Hayes "intended, at least in part, to benefit UBS." (**Exhibit 8** at 51.)

163. The next day, on December 19, 2012, UBS Japan pled guilty in the District of Connecticut to wire fraud for alleged manipulation of LIBOR. UBS Japan's decision to cooperate and plead guilty was approved by its Japanese Board. A DOJ press release announcing that plea again highlighted "UBS AG's substantial cooperation in discovery and disclosing LIBOR misconduct."

164. Also on December 19, 2012, UBS reached settlements with the CFTC, FINMA, and the FSA.

165. In every resolution, UBS wrongfully "admitted" that Hayes had engaged in wrongdoing without disclosing that his actions were consistent with UBS policy and directed by senior managers. UBS used its "cooperation" to control an "investigation" and to mislead authorities into prosecuting Hayes, saving UBS and its senior management from potentially severe consequences.

166. Hayes was arrested in the U.K. on December 11, 2012. The DOJ filed a criminal complaint against him on December 12, 2012. The fact that his prosecutions began at virtually the same time as the global settlement demonstrates a clear *quid pro quo*. UBS gave the authorities the centerpiece of their LIBOR prosecutions and in return received favorable settlements that protected equally culpable executives and the UBS global franchise.

167. Leaving nothing to doubt, the DOJ's December 19, 2012 announcement of the UBS Japan guilty plea begins "**Two Former Senior UBS Traders Face Felony Charges**

Unsealed Today UBS AG to Pay Substantial Penalty in Agreement Reflecting Substantial Cooperation, Significant Changes."[9]

168. Based on UBS's misleading disclosures, on December 12, 2012, the DOJ filed a criminal complaint, pinning the entire "fraudulent scheme" on Hayes and Darin ("Criminal Complaint") (**Exhibit 10.**) The Criminal Complaint asserts that Hayes had committed wire fraud by: (1) asking UBS's LIBOR submitters to take into account his trading positions in their Yen LIBOR submissions; (2) communicating with brokerage firms to influence the Yen Libor submissions of other banks; and (3) directly requesting that traders at other banks seek to influence their bank's Yen LIBOR submissions.

169. As with the Statement of Facts, the Criminal Complaint, based on UBS's misleading representations and omissions, paints Hayes as the main player in that "conspiracy" and as the "mastermind" of UBS's alleged LIBOR misconduct. The Criminal Complaint omits that Hayes had acted with the knowledge of supervisors and senior management supervisors (with the exception of one brief mention of "his supervisor" in a footnote).[10] Similarly, the Criminal Complaint does not reference the fact that Hayes's communications with brokerage

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[9] *See UBS Securities Japan Co. Ltd. to Plead Guilty to Felony Wire Fraud for Long-running Manipulation of LIBOR Benchmark Interest Rates* (Dec. 19, 2012), *available at* https://www.justice.gov/archives/opa/pr/ubs-securities-japan-co-ltd-plead-guilty-felony-wire-fraud-long-running-manipulation-libor.

[10] In a cursory footnote, the Criminal Complaint gives a nod toward the UBS corporate policy in 2007 and 2008 to set LIBOR submissions in line with corporate interests (as UBS acknowledged to the DOJ. (**Exhibit 10**, at 14, note 11.) However, the Criminal Complaint fails to acknowledge other UBS policies where UBS *allowed* considering commercial interests in LIBOR submissions because UBS had misled the DOJ about those policies.

firms were known to, and condoned by, his supervisors, who had *negotiated and signed a contract* with those brokerage firms to *provide those exact services* (a process in which Hayes had no involvement). Instead, the Criminal Complaint repeats the false story UBS had presented to the government—that Hayes and Darin were "lone wolves" who acted in secret to enrich themselves.

170. Further, the Criminal Complaint asserts that UBS's consideration of commercial interests in setting its Yen LIBOR submissions began with Hayes in September 2006. (**Exhibit 10**, at 8.) No mention is made of similar conduct at UBS pre-dating Hayes.

171. The Criminal Complaint also asserts that Hayes's compensation was based on "the profitability of [his] trading positions and was "effectively t[ied]" "to [his] success in predicting the movements of Yen LIBOR." (**Exhibit 10**, at ¶ 18.) That was not true. UBS did not tie Hayes's compensation directly to his trading profits. And nearly half of Hayes's requests (many of which were not honored) were not correlated with his own trading positions. (*Supra*, at ¶¶ 78-79.)

172. As detailed above, and below, those misleading allegations were based on UBS's selective disclosures and outright falsities.

173. It is clear that UBS's omissions significantly impacted the allegations in the Criminal Complaint and the DOJ's decision to charge Hayes.

174. The U.K. arrest and Criminal Complaint resulted in immediate, and significant, restraints on Hayes's freedom of movement. The SFO confiscated his passport at the time of his arrest. Hayes was required to post bail in the U.K. While Hayes was out on bail, Hayes

understood he could not travel because he believed the DOJ had caused an INTERPOL "Red Notice" to be issued, as it did for certain of Hayes's LIBOR co-defendants.

L. The Criminal Complaint Forces Hayes to Cooperate with U.K. Authorities

175. The Criminal Complaint was a significant turning point for Hayes. While he had previously been aware of investigations concerning LIBOR and the possibility that he could face prosecution in the U.K., Hayes did not learn of the Criminal Complaint until December 19, 2012, when U.S. Attorney General Eric Holder announced it on live television (during a press conference about the UBS settlement). When Hayes heard that announcement, he had a visceral, physical reaction. His wife, Sarah Tighe, was so distressed she vomited.

176. Immediately, Hayes realized his situation had become more dire. He was facing prosecution by two global authorities, based on misinformation supplied by UBS. U.S. prosecutors were actively seeking to extradite him for prosecution in the U.S., away from his home and his family. And a review of the Criminal Complaint demonstrated that UBS had targeted him to take the fall for conduct it had condoned. Hayes suffered a mental breakdown as a result of the Criminal Complaint (a fact that would later be recognized by medical experts for both Hayes and the U.K. prosecutors).

177. The threat of being extradited to the U.S. to face significant charges, coupled with Hayes's mental state, left Hayes to believe that he had no choice but to cooperate with the SFO. In early 2013, Hayes had "scoping interviews" with the SFO. During those interviews, the SFO determined that Hayes had sufficient information to assist its investigation into alleged LIBOR manipulation and would be accepted into the Serious Organised Crime and Police Act of 2005

("SOCPA") program. Through that program, Hayes would have received leniency in return for providing information and cooperating with the SFO's investigation.

178. As a condition of receiving leniency under the SOCPA program, Hayes was required to admit to misconduct. Though he always believed he had behaved properly and in accordance with the directions of UBS managers, in order to avoid extradition and be accepted into the program, Hayes held his nose and admitted to certain dishonest conduct in interviews. However, Hayes's admissions were qualified by his understanding that a LIBOR submission was proper so long as it fell within a reasonable range of estimates of the bank's borrowing costs (which Hayes's requests were).

179. However, as Hayes' interviews with the SFO continued, it became increasingly clear to Hayes that he was falsely pleading guilty to a crime he did not commit and that he had been set up to take the fall for UBS. Further, Hayes could not in good conscience continue to supply information that he *knew* was not true to support the prosecutions of his peers and colleagues (all of whom were subsequently acquitted of any criminal misconduct). Hayes was unwilling to make others the scapegoats that UBS had made him. Based on those factors, Hayes withdrew from the SOCPA program and disclaimed his "admissions" of guilt, which had been provided under the coercive threat of joint prosecution by the U.S. and U.K. authorities.

M. The SFO Prosecutes Hayes; UBS Influences the Prosecution and Provides False Information

180. Hayes withdrew from the SOCPA program on October 9, 2013 and entered not guilty pleas to eight counts of conspiracy to defraud in November 2013. The conduct alleged to

be wrongful in the U.K. charges was functionally identical to the conduct charged in the Criminal Complaint.

181. For the next eighteen months, the SFO prepared its case against Hayes. But it was not acting alone. UBS's lawyers remained in regular communication with the SFO. Upon information and belief, they were effectively embedded into the SFO's prosecution, visited the SFO frequently (often weekly), and effectively directed the SFO's investigation, including by limiting disclosures that weren't consistent with UBS's theory of the case. That wrongful conduct led to authorities *continuing* Hayes's baseless prosecution and further demonstrates that it was UBS's intent to set Hayes up to take the blame for its alleged misconduct.

182. At the same time, Hayes prepared his defense. He was, however, significantly hampered by UBS's refusal to provide timely and fulsome disclosures, despite repeated requests by Hayes's defense team. UBS was permitted to control what disclosures it made to prosecutors and to selectively withhold documents. And when UBS did provide information to the SFO, it was often inaccurate and prejudicial. Examples of key actions taken by UBS that prejudiced Hayes's defense include the following:

1. <u>Misleading Evidence Concerning UBS Policies and Practices</u>

183. A central element of Hayes's defense was that his conduct with respect to LIBOR submissions was consistent with the practices and policies that UBS had created and approved. Hayes was simply acting in the way he was taught by more senior members of the trading team and in a manner that was condoned by his manager and UBS senior management.

184. UBS knew that was true. Yet, it continued to mislead prosecutions, providing evidence to the SFO for use in Hayes's trial that sought to characterize Hayes's actions as violating established UBS polices.

185. *First*, as discussed above, UBS's written policies and informal practices directed that the Trader Submitters consider UBS's commercial interests and trading positions when making LIBOR submissions. (*Supra*, at ¶¶ 49-72.)

186. UBS disclosed the LIBOR Policies, but provided misleading testimony concerning their applicability. Wayne Lawson-Turnbull, at the relevant time the EMEA Regional Chief Operating Officer for the UBS Investment Bank, provided a witness statement that claimed the instructions on the LIBOR Policies (to consider trading positions in LIBOR submissions) were inapplicable to the LIBOR submission process, were purely "administrative," and that they hadn't been circulated to the individuals in charge of submitting rates. Of course, they had been distributed to Seger (the boss of the Trader Submitters) and Darin and Trader Submitters routinely considered UBS's commercial interests in their submissions. Despite the clear written evidence to the contrary, Lawson-Turnbull claimed that UBS had "no written procedures" before 2008 for determining LIBOR submissions.

187. As Hayes would testify at his U.K. trial, that was not true: the Updated LIBOR Policy contained an explanation of the mechanics of how to set commercially advantageous LIBOR rates. It contained references to the LIBOR Spreadsheets (which UBS did not disclose during the investigation or Hayes's trial). However, UBS's misleading evidence overshadowed Hayes's testimony, prejudicing him on one of the central issues in his U.K. prosecution.

188. *Second*, and similarly, UBS continued to fail to disclose the LIBOR Spreadsheets, which aggregated the bank's positions so that Trader Submitters could choose a LIBOR rate that benefitted the bank and its trading positions. As set forth above, such spreadsheets existed for, at least, Euro, USD, and GBP LIBOR. And, as discussed below, the SFO failed to provide Prinz's testimony to the Hayes defense team, which could not possibly have been justified had UBS accurately disclosed that at least one of those spreadsheets appears to have been maintained by Prinz.

189. *Third*, despite Lawson-Turnbull providing a witness statement, he became suddenly unavailable to testify shortly before the trial. Instead, UBS handpicked a replacement witness who knew nothing about the LIBOR Policies and Hayes was further hampered in his ability to explore a central aspect of his defense.

190. UBS also continued to withhold other evidence that would have assisted Hayes's defense, including the fact that his communications with interdealer brokers and his peers at other banks were sanctioned by UBS management (*supra*, at ¶¶ 82-84) and that UBS's most senior management tried to induce him to stay despite full knowledge of what UBS would later claim were wrongful acts. (*Supra*, at ¶¶ 112-114.)

191. UBS's continued misrepresentations about its LIBOR submission process and the knowledge of its senior management prejudiced Hayes throughout his U.S. and U.K. prosecutions, ultimately leading to his conviction in the U.K.

2. <u>Other Failures of Disclosure</u>

192. As discussed above, UBS effectively directed the investigation into LIBOR issues at the bank. And that investigation was fundamentally flawed. That continued throughout Hayes's U.K. prosecution. Upon information and belief, UBS used its close ties with the SFO to effectively direct the continued investigation and exert control over the SFO's disclosures to support UBS's misleading narrative. UBS's continued disclosure failures throughout the U.K. prosecution resulted in the SFO wrongfully continuing his prosecution.

193. For example, UBS failed to disclose, despite Hayes's repeated requests, Hayes's PnL statements broken down by product. UBS claimed that it was impossible to comply with that request. That was untrue. As discussed above, Hayes had specifically worked with UBS's IT team to design a system that provided him those daily reports shortly after joining UBS. UBS persisted in that untruth even after the judge in Hayes's case repeatedly asked for the production of Hayes's daily PnL statements. Hayes was prejudiced by UBS's failure to provide that material information. His daily PnL reports would have demonstrated that little of the PnL he generated at UBS related to LIBOR fixings.

194. The SFO failed to make timely and/or complete disclosure of interviews of key UBS employees by the FSA. Those interviews were strongly exculpatory for Hayes. Worse, those interviews, which were unavailable to Hayes until long after he was charged further demonstrated that UBS's representations to the DOJ that resulted in the UBS NPA were false and misleading. Those interviews included:

- **Malou Savelkoul**: A UBS employee who testified she authored the Updated LIBOR Policy and helped administer the spreadsheets used to aggregate trader positions for consideration in Zurich's LIBOR submissions. This confirmed that

UBS's written policies expressly contemplated taking trader exposures into account, contradicting UBS's claim that these policies were "administrative only." Omission of Savelkoul's testimony allowed the prosecution to mischaracterize the Updated LIBOR Policy as irrelevant. That testimony was central to Hayes's defense that UBS policy required considering traders' positions in LIBOR submissions;

- **Ian Ash**: Ash was responsible for maintaining the Euro LIBOR Spreadsheet as a derivatives trader at UBS. Ash testified that he was responsible for inputting positions into the spreadsheet contemplated by the Updated LIBOR Policy for consideration by the Zurich LIBOR submitters and confirmed trading positions were taken into account when setting LIBOR submissions. Ash's testimony would have demonstrated that commercially influenced LIBOR submissions were bank-wide, management-sanctioned practices;

- **Sascha Prinz:** Prinz maintained the USD LIBOR Spreadsheet on his shared drive, confirmed that trader exposures were incorporated into submissions, and confirmed that Rates Traders influenced submissions. Prinz's testimony would have contradicted the "rogue trader" narrative advanced by the SFO by showing that senior executives in London directly sanctioned submission of commercially-influenced LIBOR rates;

- **Arif Hussein**: Hussein, a UBS GBP Rates Trader, provided testimony confirming that UBS maintained an internal GBP LIBOR spreadsheet aggregating trader positions and that this information was used to set UBS's GBP LIBOR submissions. UBS was aware of Hussein's efforts to influence LIBOR rates and Prinz offered him a significant retention bonus to stay at the bank (just as Hayes had been offered). That testimony directly supported Hayes's defense that UBS's LIBOR submissions were influenced by trading positions as a matter of policy and with the knowledge of senior managers; and

- **David Coombs**: Coombs was a Rates Trader who testified in an FSA interview that UBS had conducted compliance-led audits of the LIBOR submission process but no information was provided to Rates Traders about findings of those audits. He further corroborated that UBS offered Rates Traders no training or guidance on LIBOR until 2010.

195. That information demonstrated that UBS's representations in the Statement of Facts were false, misleading, and tailored to target Hayes instead of UBS senior management.

196. Worse, UBS also failed to disclose *millions* of relevant documents from Zurich. UBS's senior management and the Trader Submitters were all based in Zurich. Clearly, that information was central to Hayes's defenses that LIBOR submitters routinely took into account trader requests and senior management was aware of, and directed, commercial considerations for LIBOR submissions.

3. UBS Deceptions

197. UBS behaved deceptively on multiple occasions related to Hayes's prosecution.

198. *First,* in January 2013, shortly after Hayes was charged, UBS executives appeared before the Parliamentary Commission on Banking Standards and provided misleading testimony that "the highest level of the organisation was unaware" of Hayes's actions, that "senior management at the bank were not aware of" that conduct, and that a "small proportion" of UBS employees were aware of attempts to influence LIBOR based on commercial interests. They also testified that traders were "made aware" that attempts to influence LIBOR based on trading exposure were against UBS policy. As discussed above, none of that was true.

199. Alexander Wilmot-Sitwell went as far as to lie to Parliament and claim he did not know Hayes (despite having offered Hayes an enhanced financial arrangement to induce him to stay at UBS).

200. At a later hearing, Jerker Johannson appeared and gave misleading testimony, that he did not know anything about UBS's LIBOR conduct, despite being the CEO of UBS's investment bank starting in March 2008. That testimony is not credible given the knowledge of several of his peers. Further, Johannson provided misleading testimony that he did not know

about the significant profits Hayes had been generating for UBS, despite being aware of Hayes's profitability and personally approving a significant bonus to reward Hayes. The testimony from Johannson and Wilmot-Sitwell further undercut Hayes's ability to demonstrate that his activities were approved by UBS's most senior management.

201. Carsten Kengeter did not appear before Parliament to discuss UBS's LIBOR submissions, despite his intimate knowledge of Hayes's LIBOR-related conduct.

202. In March 2011, a junior trader ("Junior Trader") who had reported to Hayes at UBS called him twice from a spoofed number that appeared to originate in Kazakhstan, despite the fact that the Junior Trader was calling from an FBI field office. The Junior Trader asked Hayes a series of leading questions that were designed to draw a confession from Hayes and/or to entrap Hayes. When Hayes asked if the call was being recorded, the Junior Trader lied and said it was not. Upon information and belief, a UBS lawyer accompanied the Junior Trader to the FBI office for those calls.

N. Hayes is Tried and Convicted Based on UBS's Misleading Narrative

203. Hayes was tried in the U.K. between May and August 2015. UBS's misleading evidence supported the prosecution's central theory: that Hayes was a "lone wolf" that secretly sought to influence LIBOR rates on his own accord, without instruction by, or knowledge of, UBS management. Following the same theme as the Statement of Facts, the prosecution repeatedly emphasized that UBS's attempts to influence LIBOR were limited until Hayes joined

the bank. That argument was based on the same misleading statements and omissions that underpinned the Statement of Facts' misstatements. (*Supra*, at ¶¶ 146-158.)

204. UBS counsel attended the trial and heard the evidence presented. Based on their years-long investigation, they were aware the prosecution's story wasn't true. UBS documents and information made clear that senior management knew of, and facilitated, the bank's attempts to influence LIBOR rates to benefit UBS. Yet, UBS acquiesced to the misleading version of events that permeated Hayes's prosecution. Indeed, that was exactly the point. UBS's years-long effort to control the narrative and insulate its global operations and senior management had been for this exact purpose: pin the blame on Hayes.

205. UBS's misleading evidence directly influenced Hayes's trial and ultimately led to his conviction. For example, John Ewan, the LIBOR manager at the BBA, testified that Hayes's conduct had been against the BBA rules and the BBA was unaware of attempts by panel banks to influence rates to benefit their trading positions. That testimony was inaccurate, and only sustainable because UBS had suppressed evidence of the systemic consideration of its commercial interests in LIBOR submissions (as well as the fact that such conduct was accepted conduct in the industry).

206. Had UBS made the proper disclosures, Ewan (and others) would have been forced to testify accurately, significantly impacting Hayes's trial. For example, Ewan provided trial testimony in the U.K. re-trial of Ryan Reich and Stelios Contogoulas, Barclays traders accused of similar conduct to Hayes, that directly contradicted his testimony in *Hayes*. By the time of that re-trial, evidence had emerged in U.S. criminal proceedings that fatally undermined

the testimony already given by Ewan under oath in *Hayes*. Ewan reversed his stance, testifying (correctly) that (a) there is a range of potential LIBOR submissions and any number drawn from within it is acceptable; (b) requests for rates in a particular direction within the market trading range are acceptable; (c) commercial thoughts and discussions in relation to LIBOR rates drawn from within the market trading range are acceptable; and (d) all of the above, including any eventual submission, were in accordance with the LIBOR definition during the relevant period. Those defendants, Reich and Contogoulas, were acquitted. Ewan's false testimony in *Hayes* would not have been tenable had UBS told the truth to prosecutors.

207. Similarly, the SFO introduced expert testimony that "it was not possible to be a trader in a bank and certainly not a fixed income trader without realising that the Libor submission ought to be set independent of a trader's book or the overall trading position of the bank."

208. Mr. Justice Cooke, who presided over the trial, emphasized that testimony in his instructions to the jury. Mr. Justice Cooke thus informed the jury, relying in part on that expert testimony, that it was categorically improper for trading positions to be considered in LIBOR submissions.

209. That evidence was fundamentally inconsistent with the truth, known to UBS, but misleadingly omitted from its presentation of the evidence.

210. UBS's misleading evidence was thus a significant contributor to the jury's verdict, which found that Hayes had engaged in dishonest practices. Clearly, evidence that Hayes

had acted as directed by UBS policy and practice, with the knowledge of senior management, would have been relevant to that determination.

211. Following the jury's verdict, Mr. Justice Cooke sentenced Hayes to a fourteen-year prison term. Following appeals, Hayes's sentence was reduced to eleven years (and, as discussed below, was later vacated in its entirety).

O. Hayes is Indicted in the U.S. Based On Misleading Evidence

212. On December 8, 2017, Hayes was indicted in the United States. The indictment contains the same misleading narrative advanced in the Criminal Complaint and the Statement of Facts.

213. The indictment paints Hayes and Darin as lone wolves, acting without knowledge of their managers and in violation of UBS corporate policy. (**Exhibit 11**.)

214. As discussed above, none of that was true. The actual, unbiased, evidence would have clearly demonstrated that Hayes at all times conducted himself in accordance with written UBS policy and the informal processes he learned on the job from more senior employees. Dozens of managers and senior managers at UBS were aware of Hayes's LIBOR-related conduct and not one *ever* expressed that he had violated any UBS policy, law, or regulation.

215. From the face of the indictment, none of that information appears to have been presented to the grand jury, resulting in Hayes's baseless indictment.

P. Hayes's UBS-Directed Prosecution Ruins His Life

216. In 2010, when UBS began targeting Hayes, he was a remarkably successful 30-year-old trader with a job offer from Bank of America. He was well positioned to earn $5-10

million a year for decades; given the rate of increase in pay for Wall Street traders since 2010, combined with Hayes's young age and the expectation that his trading book would continue to grow, it is very reasonable to conclude Hayes would have earned well over $200 million between 2010 and today, if not multiples of that. Hayes has earned far less and was even rejected for a bartending job because of UBS's false allegations.

217. In 2010, Hayes was dating the woman who he would soon marry and have a son with. His success was well-earned: Hayes had worked hard and done exactly what his employers had asked of him.

218. That all came to a crashing halt when UBS induced the DOJ and SFO to prosecute Hayes.

219. Shortly after his arrest, major newspapers began referring to Hayes as "the global face of financial crime" and the "Jesse James" of LIBOR. The negative press attention and possibility of being separated from his wife and child caused Hayes significant mental, emotional, and physical trauma. Hayes began having frequent suicidal ideations, wondering whether his family would be better off without him. The extreme stress and emotional trauma of his wrongful prosecutions caused Hayes to develop multiple sclerosis ("MS"), which manifested itself during his examination in his U.K. trial when his feet went numb, leading to further emotional trauma.

220. Hayes's assets were frozen and prosecutors pursued his wife's assets, alleging that he was using her to hide assets. In March 2016, the Crown Court ruled that the transfer of the

Hayes family home to Hayes's wife was a "tainted gift" and ordered that certain of her assets be confiscated.

221. Due to his targeting by UBS, Hayes could not work to earn a reliable living, having been blackballed in the financial industry and even fired from jobs outside the financial industry based on negative press reports.

222. Hayes was also debanked. He could not reliably maintain a bank account, with several institutions, including JP Morgan Chase, either refusing to allow him to open an account or closing the accounts he maintained with them.

223. What limited assets Hayes could access were devoted to an extraordinarily expensive criminal defense. Before long, Hayes had run out of money and was forced to sell his family's home to fund his continued criminal defense. All told, Hayes has spent more than $1 million on his defense, none of which has been reimbursed by UBS.

224. Things only got worse after Hayes was sentenced. Following a short stay in protective custody, Hayes was sent to a high security prison due to the length of his sentence. The prison was full of violent offenders, who went out of their way to target Hayes, a white-collar offender. One of Hayes's cellmates was a violent offender who attempted to kill Hayes, and Hayes was assaulted on multiple other occasions.

225. Just as bad was the separation from his family. Hayes's initial prison facility was five hours from his family's home. His wife and son were able to visit on some occasions, but Hayes could focus only on his case and securing his freedom. Hayes's imprisonment caused

significant strain on his marriage until his wife asked for a divorce. Hayes and Tighe were separated in 2019 and divorced in 2022.

226. The prison conditions and separation from his family caused Hayes significant mental trauma. Hayes eventually would need medication for depression. Medical experts for both the prosecution and the defense agreed that Hayes suffered a mental breakdown shortly after his indictment in the United States.

227. Even after he was released from prison in January 2021, Hayes faced significant restrictions on his movement. Because of the U.S. indictment and his understanding that the DOJ had issued an INTERPOL notice, he remained unable to travel outside the U.K. due to the threat of prosecution by the DOJ.

228. Also in January 2021, Hayes was formally diagnosed with MS, which was triggered by the stress endured throughout his prosecution and imprisonment.

Q. Hayes is Exonerated in Both the U.S. and U.K.

229. In the various LIBOR related trials brought since 2015, governments presented various theories of harm and fraud. In a number of cases, defendants put forth the defense that there was nothing illegal about submitting a rate that accounted for the bank's commercial interest because, consistent with the BBA LIBOR Instruction, the submissions were within a narrow range of acceptable and accurate rates from which to choose. Many of the trials ended in acquittals on that basis.[11] Further, as demonstrated at those trials, it was well known across the

[11] *See, e.g.*, *Libor requests need not break rules, court hears*, BBC News (Mar. 9, 2017), *available at* https://www.bbc.com/news/business-39225858.

industry that traders at various banks would make requests to the LIBOR submitter at their bank to put in "high" or "low" LIBOR rate. If the LIBOR submitter accepted the request, the submitter might adjust the submission up or down (*e.g.*, by a hundredth of a percentage point), within a permissible range determined by many other factors (both objective and subjective).

230. In January 2022, the Second Circuit reversed the conviction of Matthew Connolly, a U.S.-based Deutsche Bank employee who had been prosecuted and convicted for alleged LIBOR manipulation. The Second Circuit further directed the Southern District of New York to enter a judgement of acquittal. The Second Circuit found that even under the heavy burden of Federal Rule of Criminal Procedure 29, construing all evidence in the light most favorable to government, no reasonable trier of fact could convict Connolly because the LIBOR rates submitted were rates at which the bank could have borrowed and therefore squarely within the BBA's rules for submissions and, most significantly, the BBA LIBOR submission rules "said nothing to bar a panel bank's LIBOR submitters from receiving or considering input from that bank's employees who were derivatives traders." *United States v. Connolly*, 24 F.4th 821, 842-43 (2d Cir. 2022). Connolly subsequently brought a malicious prosecution action against Deutsche Bank.

231. On October 27, 2022, a federal judge in New York dismissed the U.S. indictment against Hayes, following a request by the DOJ. The DOJ acknowledged that, in light of the Second Circuit's ruling in *Connolly*, there was no basis to continue Hayes's prosecution. **(Exhibit 12.)**

232. In October 2023, the Southern District of New York declined to dismiss Connolly's malicious prosecution action holding that Connolly sufficiently alleged that Deutsche Bank had induced Connolly's wrongful prosecution by providing false and misleading information to the government. *Connolly v. Deutsche Bank AG*, 2023 WL 7168314 (S.D.N.Y. Oct. 31, 2023).

233. Hayes fought his conviction in the U.K. for years, filing multiple appeals between the date of his conviction and 2025. On July 23, 2025, the U.K. Supreme Court quashed Hayes's conviction, concluding that he had been deprived of a fair trial because Mr. Justice Cooke had improperly instructed the jury that any consideration of commercial interests in LIBOR submission was necessarily wrongful. U.K. authorities announced shortly thereafter that they did not intend to re-try Hayes.

234. At long last, more than thirteen years after UBS hand-picked him for prosecution by two of the world's leading powers, Hayes had finally cleared his name. That vindication came after spending years in prison, losing his family, suffering extreme physical and mental trauma, and having his reputation destroyed. Hayes has been unable to earn a reliable living for over a decade and has been forced to exhaust his assets and spend more than a million dollars on his defense. None of this irreparable harm would have happened had UBS not misled prosecutors, orchestrated his prosecution and sacrificed him to protect its executives.

COUNT ONE
MALICIOUS PROSECUTION

1-234. Plaintiff repeats and realleges the allegations in the preceding Paragraphs 1-234 of this Complaint as Paragraphs 1-234 of Count One as if fully set forth herein.

235. UBS initiated and continued a criminal proceeding against Hayes, including by making materially false representations and misleading omissions to encourage the DOJ to prosecute Hayes. UBS made those false representations to prosecutors and the court in the District of Connecticut for the purpose of obtaining favorable treatment from the DOJ.

236. UBS knew that such representations and omissions were false and misleading.

237. Further, UBS initiated the prosecution by identifying Hayes as the target the DOJ should prosecute. UBS conducted an investigation of itself, falsely identified Hayes as a perpetrator, leading to his prosecution, crafted the narrative that Hayes had acted as a "lone wolf," and actively involved itself in both the U.K. and U.S. prosecutions. UBS's conduct was part of a plan with the DOJ pursuant to which the DOJ agreed to provide leniency to UBS if UBS agreed to facilitate Hayes's prosecution. UBS encouraged the DOJ to prosecute Hayes because it correctly believed that such a prosecution would spare UBS's senior management and global operations from serious consequences.

238. UBS acted with malice by initiating and continuing the prosecution against Hayes due to the wrong and improper motive of limiting its own civil, criminal, and regulatory liability, and to protect its senior management.

239. Further, throughout Hayes's prosecution by the DOJ and SFO, UBS provided false testimony and information in furtherance of its improper motive to scapegoat Hayes and bolster his prosecution.

240. UBS had no probable cause to believe the prosecution of Hayes would succeed because it knew that its representations were false. Further, UBS employees had engaged in the conduct at issue before Hayes joined UBS and after he left. Even after multiple legal reviews of the LIBOR process, oversight responsibilities for the LIBOR submission process remained with individuals who were known to UBS to have engaged in, and condoned, the exact conduct for which UBS would later accuse Hayes of committing. Contrary to its representations to the DOJ, UBS, with the knowledge of senior managers, systemically considered its commercial interests in LIBOR submissions and there was no UBS policy indicating such conduct was wrongful.

241. Hayes's U.S. and U.K. proceedings terminated in his favor: his U.K. conviction, which was based on UBS's false representations and omissions, was overturned, and the DOJ's criminal case against Hayes was dismissed on October 27, 2022.

242. Hayes has suffered significant damages as a result of UBS's malicious conduct, including the loss of hundreds of millions of dollars of potential earnings and extreme emotional and mental trauma, which led to medical issues, including multiple sclerosis, which itself led to further emotional and mental trauma.

COUNT TWO
INDEMNIFICATION

1-242. Plaintiff repeats and realleges the allegations in preceding Paragraphs 1-242 of Count One as Paragraphs 1-242 of Count Two as if fully set forth herein.

243. Hayes acted as UBS's agent throughout the course of his employment there. The LIBOR-related conduct for which Hayes was prosecuted by U.S. and U.K. authorities was part of his responsibilities at UBS and directed by UBS managers and senior managers.

244. UBS admitted in the Statement of Facts that Hayes's conduct was within the scope of Hayes's employment and was for the purpose of benefitting UBS.

245. Hayes has been exonerated in both the U.S. and U.K. and has therefore prevailed in both underlying criminal matters.

246. Hayes has significant unreimbursed legal expenses from the criminal prosecutions in an amount of more than $1 million. UBS has refused to reimburse those expenses.

247. By virtue of the foregoing, UBS is obligated to indemnify and reimburse Hayes for his legal expenses.

PRAYER FOR RELIEF

WHEREFORE, Hayes prays that this Court grant:

(a) an award of damages to Hayes in an amount to be determined at trial of not less than $400,000,000;

(b) exemplary damages to Hayes in an amount to be determined at trial;

(c) awards of pre- and post- judgment interest in favor of Hayes;

(d) an award of attorneys' fees and all other applicable costs of this action to Hayes;

(e) punitive damages; and

(f) such other and further relief as this Court may deem just and proper

October 23, 2025

Respectfully submitted,

ATTORNEYS FOR PLAINTIFF TOM HAYES

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jmillson@hs-law.com
tlapsia@hs-law.com

Attorneys for Plaintiff Tom Hayes

RETURN DATE: November 25, 2025	:	SUPERIOR COURT
TOM HAYES, Plaintiff, v.	:	JUDICIAL DISTRICT OF STAMFORD-NORWALK
	:	AT STAMFORD-NORWALK
UBS AG, UBS AMERICAS HOLDING LLC, AND UBS AMERICAS INC., Defendants.	:	
	:	October 23, 2025

STATEMENT OF AMOUNT IN DEMAND

The amount, legal interest, or property in demand is greater than Fifteen Thousand Dollars ($15,000.00), exclusive of interest and costs.

October 23, 2025

Respectfully submitted,

ATTORNEYS FOR PLAINTIFF TOM HAYES

By: ______________________

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Attorneys for Plaintiff Tom Hayes

EXHIBIT 1

PUBLISHING LIBOR RATES

Every day by 11 am London time, we need to publish LIBOR rates for the BBA to Reuters pages LIBOR01 & LIBOR02.

To do this, you need access to below spreadsheets as well as MDSLite to check the rates.

Open X:\Govs&Derivs\OBSAdmin\PCML_USDEUR_Libor_Contributions.xls and euroLibors_new.xls from PowerPlus Pro.

Procedure

1. Open PCML contribution spreadsheet
2. Ensure to start Optrad (PCML menu should appear. Contact **#PCML** for assistance)
3. Click the "Reserve Rics" checkbox
4. Enter "0" price for all the instruments
5. Click "PCML Contribution Flag" checkbox
6. Confirmation message should appear under "Time_Sent" column
7. Uncheck "PCML Contribution Flag"
8. Enter the original prices for the instruments
9. Check "PCML Contribution Flag"
10. Confirmation message should appear under "Time_Sent" column

For EUR Libors, open with Harpoon for Broil 10 and add in Broil10.03 the following s/s: X:\Govs&Derivs\SHORTEUR\Euribor\RiskReports\BatchresetriskSWAP&SWNT.
If your Broil works, the first sheet called fixSWAP&SWNT should recalc automatically. This should then automatically feed data into sheet EuriborvLibor. (set date??)
If this sheet shows a total of over 10k for IBANK/Libor, we need to make changes to fixings on euroLibors_new s/s.
For example, if 3month IBANK/LIBOR is 4,124 this means we are receiving delta libor/libor fixing and therefore we want to increase that fixing by 25 bps. If the number is negative then vice versa.

If you cannot access the riskreport sheet, chat Ian Ash or someone on the EUR desk around 10.30 am and ask him if there are any changes to Libors. If any changes, put the basis point change in third column and smooth out by slightly changing rate below and above. If no changes leave as it is. Recalculate the sheet by pressing SHIFT + F9. Then copy and paste special values into PCML_USDEUR_Libor_Contributions.xls.
For USD, copy and paste from S:\USD_Swaps\Sascha\Excel97Models\Risk\Libor.
If Graeme is out, chat Shemina Gheewalla on the USD desk around 10.30 for libors. Shemina will print out an updated list, which you then manually enter into the USD column in PCML_USDEUR_Libor_Contributions.xls.

The CCT area (Andy Cusack) takes care of other libors. Any queries on those rates should be directed to him.

To check the rates have published correctly open MDSLite and check pages LIBOR01=UBSL & LIBOR02=UBSL against your spreadsheet.

If any problems with the connection, contact PCML on PCML chat if it is internal.

EXHIBIT 2

From: <Naomichi.Tamura@ubs.com>
To: <Tom.Hayes@ubs.com>, <hayest@btinternet.com>
CC: <Michael.Pieri@ubs.com>, <Mukund.Tatipamula@ubs.com>
Created: 25/12/2007 09:24:38
Subject: 02,03Jan fixing

Attachments:

Tom,

Please make sure that we will see lower Libor on 02 and 03Jan.
3m and 6m Libor looks stopped to come down therefore now I am worrying if those really come down in first 2-3 days after Turn.

Tamura

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<key>date-sent</key>
<real>1198574678</real>
<key>flags</key>
<integer>570686597</integer>
<key>original-mailbox</key>
<string>pop://hayest@mail.btinternet.com/</string>
<key>remote-id</key>
<string>AKS9ktkAAJYoR3DMfArWC0Ne8IY</string>
<key>sender</key>
<string><Naomichi.Tamura@ubs.com></string>
<key>subject</key>
<string>02,03Jan fixing </string>
<key>to</key>
<string><Tom.Hayes@ubs.com>, <hayest@btinternet.com></string>
</dict>
</plist>

From: <michael.pieri@ubs.com>
To: <hayest@btinternet.com>
Created: 25/12/2007 13:28:16
Subject: Out of Office AutoReply: 02,03Jan fixing

Attachments:

I'm currently out of the office.

Please contact Naomichi Tamura (tamurana)for JPY IRS enquiries [+81-3-5208-7500].

I can be contacted on +81-80-3394-9894 or this email address.

Regards,

Mike.

<?xml version="1.0" encoding="UTF-8"?>
<!DOCTYPE plist PUBLIC "-//Apple Computer//DTD PLIST 1.0//EN" "http://www.apple.com/DTDs/PropertyList-1.0.dtd">
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<dict>
<key>date-sent</key>
<real>1198589296</real>
<key>flags</key>
<integer>570686593</integer>
<key>original-mailbox</key>
<string>pop://hayest@mail.btinternet.com/</string>
<key>remote-id</key>
<string>AIC8ktkAAC5fR3EFggZ3yFx04BM</string>
<key>sender</key>
<string><michael.pieri@ubs.com></string>
<key>subject</key>
<string>Out of Office AutoReply: 02,03Jan fixing </string>
<key>to</key>
<string><hayest@btinternet.com></string>
</dict>
</plist>

From: <Naomichi.Tamura@ubs.com>
To: <hayest@btinternet.com>
Created: 25/12/2007 23:44:31
Subject: RE: 02,03Jan fixing

Attachments:

ok. are you in tommorow ?
I think tommorow is the last chance to reduce our deltas.
I am thinking to receive some OIS today.

-----Original Message-----
From: tom hayes [mailto:hayest@btinternet.com]
Sent: Wednesday, December 26, 2007 7:30 AM
To: Tamura, Naomichi
Cc: Hayes, Tom; Pieri, Michael; Tatipamula, Mukund
Subject: Re: 02,03Jan fixing

Hi i'll be in for the 27th we have 3 days to get the fixing lower and i'm sure we can get it down as people won't be in etc, obviously today and tomorrow are london holidays so there isn't much i can do right now. libors won't do too much just before christmas so i wouldn't worry about recent moves but will definately come down over the turn.

thanks tom
On 25 Dec 2007, at 09:24, <Naomichi.Tamura@ubs.com> wrote:

> Tom,
>
> Please make sure that we will see lower Libor on 02 and 03Jan.
> 3m and 6m Libor looks stopped to come down therefore now I am
> worrying if those really come down in first 2-3 days after Turn.
>
> Tamura
> Issued by UBS AG or affiliates to professional investors only.
> Product of a sales/trading desk and not the Research Dept. Opinions
> expressed may differ from those of other divisions of UBS, including
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> valuation purposes. Communications may be monitored.
>
>

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EXHIBIT 3

From: Wadsworth, Graeme
To: Lasala, Gaspare; Koutsogiannis, Panagiotis; Silverman, Marc; Stadelmann, Reto; Ducrot, Yvan
CC: Ash, Ian
Sent: 09/08/2007 16:35:17
Subject: RE: Libor fixings

Attachments:

Thanks Pete for your time and effort in helping to resolve this
Apologies to all for the problem caused

regards Graeme

Graeme Wadsworth
UBS Investment Bank
Fixed Income Rates
100 Liverpool Street - 2nd Floor
London EC2M 2RH
Office Tel: +44-20-7568 5410
Mobile: +44-7798 864275
FAX: +44-20-7567 3501
Email: graeme.wadsworth@ubs.com

-----Original Message-----
From: Lasala, Gaspare
Sent: 09 August 2007 16:05
To: Koutsogiannis, Panagiotis; Silverman, Marc; Stadelmann, Reto; Ducrot, Yvan
Cc: Ash, Ian; Wadsworth, Graeme
Subject: Re: Libor fixings

Great, thanks

Gaspare

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Koutsogiannis, Panagiotis
To: Lasala, Gaspare; Silverman, Marc; Stadelmann, Reto; Ducrot, Yvan
CC: Ash, Ian; Wadsworth, Graeme
Sent: Thu Aug 09 16:56:09 2007

Subject: RE: Libor fixings

We have already co-ordinated our efforts with Yvan and Graeme Wadsworth on the usd libors will be speaking to Joachim Ruh and Ian Ash will be liaising with Balz on the eurolibors before our numbers are input.

Pete

-----Original Message-----
From: Lasala, Gaspare
Sent: 09 August 2007 15:52
To: Silverman, Marc; Koutsogiannis, Panagiotis; Stadelmann, Reto; Ducrot, Yvan
Subject: Libor fixings

Pete,

After the happenings of today with the O/N Libor fixings, can you pls advise whoever contributes fixings on the rates derivs side to co-ordinate the numbers with the STIR desk in Zurich. It is highly advisable to err on the low side with fixings for the time being to protect our franchise in these sensitive markets. Fixing risk and PNL thereof is secondary priority for now.

Thanks
Gaspare

EXHIBIT 4

From: Ducrot, Yvan
Sent: Friday, July 03, 2009 2:43 PM
To: Darin, Roger; Seger, Holger
Subject:

could u pls give me some balancing point against this bullshit

From: Pieri, Michael
Sent: Friday, July 03, 2009 6:53 AM
To: Ducrot, Yvan
Subject: tom hayes

Yvan,

I'd like to talk with you about Tom Hayes.

Putting aside the past and future revenue, I think its important to highlight the other factors that make Tom an important part of UBS and particularly the Japan team.

1. Market share

He dominates the interbank market in the front end with a 35% market share. We are clearly the number one liquidity provider in front end derivatives. Japanese banks use us to manage their FRA, fixing and other ALM risks. Our market share in the front end is a calling card for longer duration business.

He exemplifies the type of market maker we desire; with the added benefit of being a skilled risk manager.

2. Excellent risk manager, superb market forsight and feel for the flows.

Its not just the money he can make, its the money he will save UBS (and has done) in times of crisis. During Lehman, we excelled, whilst other banks lost. Having a risk manager of his calibre reduces our tail risk and increases our averages.

The Japan front-end risks are complicated. Its not easy to institutionalise these revenues, but they are consistent and dependable.

Its difficult to find exceptional talent and someone who can think "outside the box."

3. Strong rapport with other members of the desk. Provides an energy and enthusiasm which is a strong morale boost. Having a consistent 'winner' on the desk helps lift everyone's game.

4. Strong connections to Libor setters in London. This information is invaluable for the derivatives books.

5. Critical thinker - He is very rational. I can put him to work on any complicated task, he will identify the key issues/risks and I know he will solve it.

Most of all, its not often you find someone so bright who also has the courage of his convictions, whilst being a genuinely nice person. He is a pleasure to work with and a valuable member of the team.

Please let me know when you're available to discuss.

Regards,

Mike.

EXHIBIT 5

Those UBS Emails About Tom Hayes

By David Enrich

Updated Sept. 24, 2013 10:50 am ET

Below is an email chain, with messages in reverse chronological order, in which UBS executives discussed efforts to retain a star trader named Tom Hayes. The email chain, obtained by British authorities investigating the Libor case, was reviewed by The Wall Street Journal. Three of the executives' names have been withheld by the Journal.

At the time, Alex Wilmot-Sitwell and Carsten Kengeter were co-heads of UBS's investment bank. Mr. Wilmot-Sitwell today is a top Bank of America Merrill Lynch executive. Mr. Kengeter resigned from UBS earlier this year.

The emails are relevant because Mr. Wilmott Sitwell testified to British lawmakers that he didn't recall Mr. Hayes and that his departure might have preceded Mr. Wilmot-Sitwell's arrival. You can read the full story here.

-----Original Message------
From: UBS Executive 1
Sent: 10 Jul 2009 09:37
To: UBS Executive 2
To: Kengeter, Carsten
Cc: Alex Wilmot-Sitwell
Cc: UBS Executive 3

Subject: RE: Next week

Carsten,

Spoke to him as well and everything looks fine for now, tks all of you for ur help

-----Original Message------
From: UBS Executive 2
Sent: Friday, July 10, 2009 7:26 AM

To: Kengeter, Carsten
Cc: Wilmot-Sitwell, Alexander; UBS Executive 1; UBS Executive 2; UBS Executive 3

Subject: RE: Next week
Carsten,

I spoke with Tom as well and emphasized and endorsed.
His reaction was positive.

Best regards,
UBS Executive 2

-----Original Message------
From: UBS Executive 3
Sent: Friday, July 10, 2009 2:12 PM
To: Kengeter, Carsten
Cc: Wilmot-Sitwell, Alexander; UBS Executive 2; UBS Executive 1

Subject: Next week

Carsten,
I spoke to Tom just now and reiterated the messages you conveyed to him. Overall, he was receptive. I am sure he will become more comfortable as we all speak with one voice and show him some attention.

Regards,

UBS Executive 3

-----Original Message------
From: Kengeter, Carsten
Sent: Friday, July 10, 2009 10:53 PM
To: Wilmot-Sitwell, Alexander; UBS Executive 3; UBS Executive 2; UBS Executive 1

Subject: Next week

I would like you call Tom Hayes in Tokyo please and reiterate my words of comfort to him. He will stay and not go to Citi.

We will speak directly on the phone and I will explain exactly what I told him.

Thanks.

EXHIBIT 6

Former UBS chief doubts criminal intent over Libor

By **Katharina Bart**

July 25, 2012 5:13 PM GMT+1 · Updated July 25, 2012

Aa

By Katharina Bart

ZURICH (Reuters) - The former head of Swiss bank UBS doubts whether traders at global banks acted with criminal intent to manipulate benchmark interest rates and accuses regulators of ignoring warning signs, he told Reuters in an interview.

Gruebel was at the helm of the bank last year when UBS said it had secured leniency from some justice authorities in exchange for its cooperation in probes into some aspects of setting Libor rates.

"I think that if interest-rate traders had acted with criminal intent, they would have hardly recorded it in emails. Traders are accused of many things, but they aren't that short-sighted," Gruebel said.

U.S. prosecutors and European regulators are close to arresting and charging individual traders with colluding in manipulating Libor rates, people familiar with the investigation have told Reuters.

Emails between traders released by Barclays Plc - the first bank to reach a Libor settlement by paying a $450 million penalty - sparked outrage after they showed employees thanking each other for setting rates artificially low.

Gruebel declined to comment on specifics of UBS, the first bank to say last March it had been subpoenaed in a probe into how banks attempted to manipulate the London interbank offered rate, or Libor, a benchmark that underpins an estimated $550 trillion in financial products.

UBS has said its cooperation relates to the setting of yen and euroyen Libor.

WHAT REGULATORS KNEW

Gruebel, who spent nearly 50 years in the industry and ran both UBS and Credit Suisse , was chief executive of UBS from 2009 until last September when he quit after a $2 billion trading scandal unrelated to the Libor affair.

Now an outspoken newspaper columnist, Gruebel said regulators should also be taken to task over their role in the Libor scandal.

"The regulators seem to have known of the allegations. When interbank lending broke down in 2008 - there effectively was no market - regulators didn't ask themselves, 'how are we going to handle Libor rate-setting?'" Gruebel said.

Having retired from Credit Suisse in 2007, Gruebel was brought in to run UBS in 2009 when Switzerland's flagship bank almost collapsed in the financial crisis. He wasn't working as a banker in 2008.

The unfolding scandal over Libor has raised questions about what regulators knew and what actions they took - documents reveal that the Bank of England made minor changes in 2008 after a warning from the U.S. Federal Reserve of Libor manipulation.

"Regulators were aware of the potential to manipulate Libor from the beginning," Gruebel said.

Libor rates are calculated from estimates by large banks of how much they believe they have to pay to borrow from each other. They are compiled by Thomson Reuters , parent company of Reuters, on behalf of the British Bankers' Association.

Analysts estimate the scandal could cost the industry $20-40 billion, further damaging a sector that is struggling to work its way through the aftermath of the 2007-2009 financial crisis, economic downturns in Europe and the United States, and demands from increased regulation.

Reporting By Katharina Bart, editing by Emma Thomasson and Matthew Tostevin

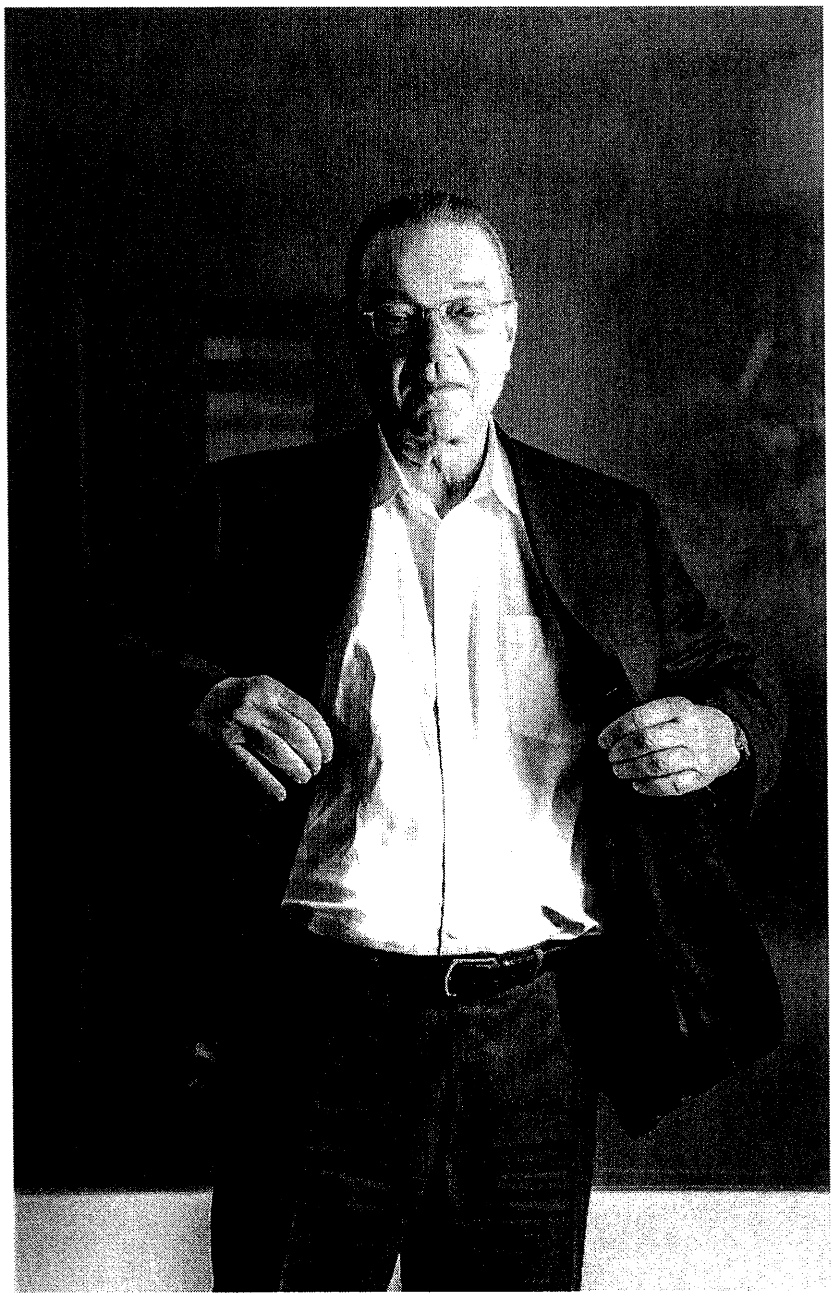
EXHIBIT 7

OSWALD GRÜBEL IN AN INTERVIEW: "One should not dismiss Bitcoin as a mere bubble"

What Bitcoin could become was once the franc, says Oswald Grübel. And the former CEO of Credit Suisse and UBS explains why he likes it when the markets go down.

Daniel Zulauf

December 31, 2017, 7:52 a.m.



Oswald Grübel, photographed in his office in Zurich. (Photo: Nadia Schärli (December 20, 2017))

This is an article from "Ostschweiz am Sonntag." Read the full edition here: www.tagblatt.ch/epaper

Oswald Grübel, your portfolio statement will soon be arriving. How did the 2017 stock market year go for you?
As the saying goes: It could have been better.

Sorry, but the Swiss Market Index gained 15 percent. The Dow Jones even gained 25 percent. What could have gone even better?
You're right. It was actually a fantastic stock market year. However, those investors who did particularly well were those who invested according to the buy-and-hold principle. I, on the other hand, am more of a trader. I like the markets better when they occasionally go down and don't just move in one direction. The same goes for the banks. They haven't achieved any impressive trading results this year either.

How do you actually measure your investment success?
For me, the only thing that matters is how my assets developed, adjusted for inflation. I want to be able to at least maintain them.

That doesn't sound particularly ambitious.
Look, at my age, people become more conservative. When I was younger, my risk tolerance was much greater.

Is this decreasing risk tolerance actually a rational process?
Yes, of course. Anyone who retires from the workforce immediately has less income. Depending on what standard of living someone can still afford during this phase, they need to be able to draw on their assets. For many people, the desire to leave something behind for their descendants also grows with age. As a young person, you have more time and therefore the chance to start over after an "accident." When you're young, you can lose your entire fortune and rebuild it.

Has that happened to you?
Yes, several times. In my twenties and thirties, I speculated a lot and was very risk-averse. Of course, it was relatively small amounts back then. But if you want to make a lot of money from little money in the financial markets, you can't avoid risky investments.

But hand on heart, you've never been able to take losses lightly.
No. I was annoyed by every loss and still am today. The important thing, as always, is to learn from your mistakes.

Behavioral economists say we keep falling into the same traps. Are you any different?
Those who remember their own mistakes also learn from them. That's certainly what happened to me.

What old mistake do you now feel immune to?
As a beginner, I bought and sold when everyone else was doing the same.

But then I learned pretty quickly that it's better to do it the other way around.

Where is the stock market today?
We haven't yet reached the point where everyone just wants to buy. The current cycle could last another one or two years, even though the stock markets have been going up almost exclusively since 2009.

The Federal Reserve managed to turn around interest rates without causing chaos on the stock markets. Will it succeed in Europe as well?
The Fed has prepared the markets well and long ago. When the first interest rate hikes came, it was no surprise to anyone. Therefore, there was no panic in the markets. But if the Fed had been forced to act quickly to curb an unexpectedly rapid rise in inflation, it would certainly have been a shock for the markets. To date, however, there are no signs of such a scenario. From this perspective, the chances are good that the move away from the zero interest rate policy can be achieved without a stock market crash in Europe as well.

Bank stocks look particularly cheap. Are they?
The share prices of many large banks are lower than ever. But the reason for this is that the banks had to issue many new shares to raise fresh capital. That's why you can't compare today's share prices with those of the past. Instead, you have to look at the capitalization, i.e., the total market value, of the banks. Then you'll see that UBS, with a market value of around 70 billion francs, and Credit Suisse, with 45 billion francs, aren't all that cheap when you compare their values to the banks' profits.

Is that any consolation for shareholders, who lost a lot of money on bank stocks?
Unfortunately not.

Explain to us why bank managers earn almost the same amount of money today as they did back then, when profits were twice as high!
This is a mystery to many, but I assume it's due to the general increase in salaries for managers in all industries.

Would banks earn more if interest rates were higher?
In principle, margins increase when interest rates rise. But today we have a special situation: The customer pays 1.5 percent for a ten-year mortgage, and the bank has to pay a penalty interest rate of 0.75 percent from the SNB on its Swiss franc deposits. So that's a healthy margin of 2.25 percent for the bank.

Looking at the recent management changes on the upper floors of UBS, one might indeed think that the bankers are already comfortable enough to afford power struggles. What's your impression?
In general, management is forced to make constant adjustments if a company earns less than shareholders expect or can expect. This leads to constant changes at the highest levels of the hierarchy. Companies should,

however, be able to provide plausible explanations for these.

But that is often not the case, because it is evidently more about power than performance.
Power is always at play, and the higher you go up the hierarchy, the more it matters, that's obvious...

Why is that obvious?
Because that's how we humans are. We all strive for power. The more we have, the more we can shape things and exert influence. I don't believe anyone who says they're not interested in power.

What should one make of all this talk about corporate governance?
Such theories are always helpful when you want to excuse yourself from responsibility. Along the lines of: "We actually did everything right, but we just made a mistake." Incidentally, it's not just banks that do this, but all companies, and politicians too. We justify our mistakes before we've even committed them. And that's big business. We're employing more people than ever for unproductive tasks like this.

Would you call it a fig leaf industry?
Why not? We humans have known the fig leaf since Adam and Eve.

But you say the fig leaf industry has grown. Why?
There's simply more transparency and, with it, an ever-increasing need for explanation.

Speaking of responsibility: Kweku Adoboli, the trader who robbed UBS of 2 billion Swiss francs in 2011, has been free for two years. What did you think when he was released early from prison?
I thought his release wouldn't change the fact that he had destroyed his very young life with his fraudulent dealings. He said himself that he actually enjoyed his job.

Did you meet him?
No. I never spoke to him either.

But he was responsible for your long and successful career ending abruptly at a low point.
That may have been how the public perceived it. But I made the decision to end my career myself. It was essentially a simple decision, because only the CEO can assume ultimate responsibility for such a billion-dollar loss. At the time, it was important for UBS that this story faded from public attention as quickly as possible and that clients were reassured. My immediate resignation was the only right thing to do, especially since, given my age, I would have retired soon anyway.

What have banks learned from the crisis?
They clearly learned from the many, many fines they had to pay, especially in America. They had to accept that certain practices that were common

practice in the industry and long known, even to central banks and regulators, could suddenly be sanctioned as offenses due to a changed societal understanding of fairness and justice. This is what happened in the interest rate business, for example. I still believe today that the international practice at the time for setting the Libor reference interest rates followed the principles of a free market. I don't want to deny that there were mistakes and that some market participants were taken advantage of. But the accusation of systematic manipulation by a global interest rate cartel, which the authorities then made, arose against the backdrop of a political and societal understanding of the law that changed virtually overnight. Interestingly, there is still no better model. Today, only central banks are allowed to manipulate the market.

Are you talking about the Swiss National Bank?
For example. The SNB says we're weakening the franc, whether we like it or not.

But the national bank acts in the overall interest of the country, and a commercial bank only pursues its own interests.
That's what they say. But try to put yourself in the shoes of a trader. It's hard for them to understand that they shouldn't do something that even the highest institution in their country does every day. I honestly wonder how long this can continue. Ultimately, trust in central banks and thus in their own currency is at stake.

We are now witnessing the rise of new global, digital currencies such as Bitcoin. Will you tell us that the Bitcoin boom and the threatened trust in central banks are related?
Yes, of course, that is one of many reasons. The rise in the price of Bitcoin clearly tells us that many people no longer believe in their central banks and traditional paper money. They prefer to hoard their small fortunes in Bitcoin rather than dollars, euros, or francs. In any case, one shouldn't simply join the chorus of the ignorant and dismiss Bitcoin as a mere bubble.

What other good reasons could there be to hold Bitcoin?
First of all, the supply of Bitcoin is clearly limited. I believe there can be a maximum of 21 million units, and of these, a good 16 million are currently in circulation. And Bitcoin is a global currency, the only one of all, because it can be traded online without intermediaries.

Why does that speak in favor of Bitcoin?
There are countries like Venezuela or Zimbabwe that were economically ruined by socialist or dictatorial regimes. But even there, people have savings that they want to keep safe somewhere. This explains why people in these places are even willing to pay a premium to exchange their savings for Bitcoin. As a global currency, Bitcoin can be obtained everywhere. This is why Bitcoin is so popular in Asia, where at one point 80 percent of trading took place.

And the transparency?

That's another reason for many to buy Bitcoin, and not a bad one. After the purchase, the assets become invisible to others.

Bitcoin as a replacement for Swiss banking secrecy?

For the abolition of banking secrecy per se. What Bitcoin could become, the franc used to be. One reason our country became so rich was because many foreigners who were experiencing a crisis in their homeland exchanged their assets for francs. But since banking secrecy no longer exists in our country and our banks exchange their customers' account information with over 100 countries, these people are looking for alternative investments for assets they don't need for daily use. Despite the large price fluctuations, Bitcoin has so far been a better investment for many than leaving money sitting interest-free in an account. And there's a high probability that this will continue to be the case in the future.

How do you come to this prediction?

As I said, there are sufficient reasons to believe that people's trust in their national currencies could erode in the future. Economists say that the country's economy stands behind a so-called proper currency. But that's not a law of nature. Central banks have acted differently in recent years than before. They have deliberately devalued their currencies by printing far more money than the country's economy has grown.

Is the era of gold over?

No, gold remains an important store of value. But perhaps Bitcoin is more like the gold of the younger, globally active generations.

Changing the subject: You've spent your professional life racing around the world at full speed. Six years ago, it was over—from one day to the next. How did you experience that?

What might look like a screeching halt doesn't necessarily feel like one. When you leave a company, you immediately lose power and influence. But then it all depends on what you still want in life. I set up this office here after my first retirement from Credit Suisse so I could stay a bit closer to the markets and manage my assets. I kept the office during my subsequent job at UBS. I meet friends and acquaintances, spend a week a month at my house in Spain, and so on. When I was younger, I enjoyed flying around the world. Now I think that's a waste of time.

As the CEO of a large company, you probably have a lot of friends. How many of those stay behind once the shell has fallen off?

Let's say you have a lot of followers as a CEO. In that role, you can't really have friends in the company; otherwise, you'll also have enemies. As a CEO, you have to remain very neutral in a company. And then it's a question of character whether someone prefers to be surrounded by yes-men. There are a lot of them, of course. But it's helpful to have people you can also argue with. That way you can make better decisions more quickly.

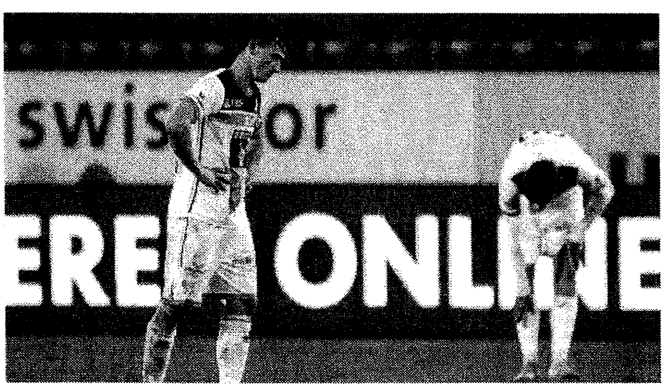
And friends?

Of those who deserve that title, maybe two or three remain in the end.

We meet you every year at the Lucerne Festival. What do you like more, the music or the company?
I love hearing the big orchestras play there. And it's fantastic how, in that space, you can hear the differences between the various symphony orchestras. During the festival season in August, we're there every week. The only thing that always bothers me is the impossible traffic in Lucerne.

What's your New Year's wish?
It's been the same for many years: I wish to stay healthy until I die.

Für Sie empfohlen



FUSSBALL

FCL kassiert gegen zehn Walliser zwei Gegentreffer und muss sich mit einem Unentschieden begnügen

vor 1 Tag

abo+ ÖV

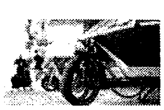
Wird Busfahren in Luzern bald für alle günstiger?

vor 1 Tag

BLACK MONDAY

Stromausfall legte die halbe Stadt Luzern lahm – warum, weiss niemand

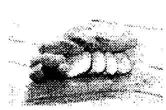
vor 1 Stunde



abo+ VERKEHR

Der SUV der urbanen Hipster gerät ins Visier: Ständerat will Lastenvelofahrer disziplinieren

vor 1 Tag



abo+ GESUNDE ERNÄHRUNG

Essen ohne Reue: Dieser einfache Trick macht Kohlenhydrate gesund

vor 1 Tag

EXHIBIT 8

APPENDIX A

STATEMENT OF FACTS

This Statement of Facts is incorporated by reference as part of the non-prosecution agreement, dated December 18, 2012, between the United States Department of Justice, Criminal Division, Fraud Section, and UBS AG ("UBS"). The parties agree that the following information is true and accurate:

I.

BACKGROUND

A. LIBOR, Euroyen TIBOR, and Euribor

1. Since its inception in approximately 1986, the London Interbank Offered Rate ("LIBOR") has been a benchmark interest rate used in financial markets around the world. Futures, options, swaps, and other derivative financial instruments traded in the over-the-counter market and on exchanges worldwide are settled based on LIBOR. The Bank of International Settlements has estimated that in the second half of 2009, for example, the notional amount of over-the-counter interest rate derivative contracts was valued at approximately $450 trillion. In addition, mortgages, credit cards, student loans, and other consumer lending products often use LIBOR as a reference rate.

2. LIBOR is published under the auspices of the British Bankers' Association ("BBA"), a trade association with over 200 member banks that addresses issues involving the United Kingdom banking and financial services industries. The BBA defines LIBOR as:

> The rate at which an individual Contributor Panel bank 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.

This definition has been in place since approximately 1998.

3. LIBOR rates were initially calculated for three currencies: the United States Dollar, the British Pound Sterling, and the Japanese Yen. Over time, the use of LIBOR expanded, and benchmark rates were calculated for ten currencies, including the original three.

4. The LIBOR for a given currency is the result of a calculation based upon submissions from a panel of banks for that currency (the "Contributor Panel") selected by the BBA. Each member of the Contributor Panel submits its rates every London business day through electronic means to Thomson Reuters, as an agent for the BBA, by 11:10 a.m. London time. Once each Contributor Panel bank has submitted its rate, the contributed rates are ranked. The highest and lowest quartiles are excluded from the calculation, and the middle two quartiles (i.e., 50% of the submissions) are averaged to formulate the resulting LIBOR "fix" or "setting" for that particular currency and maturity.

5. The LIBOR contribution of each Contributor Panel bank is submitted to between two and five decimal places, and the LIBOR fix is rounded, if necessary, to five decimal places. In the context of measuring interest rates, one "basis point" (or "bp") is one-hundredth of one percent (0.01%).

6. Thomson Reuters calculates and publishes the rates each business day by approximately 11:30 a.m. London time. Fifteen maturities (or "tenors") are quoted for each currency, ranging from overnight to twelve months. The published rates are made available worldwide by Thomson Reuters and other data vendors through electronic means and through a variety of information sources. In addition to the LIBOR fix resulting from the calculation,

Thomson Reuters publishes each Contributor Panel bank's submitted rates along with the names of the banks.

7. According to the BBA, each Contributor Panel bank must submit its rate without reference to rates contributed by other Contributor Panel banks. The basis for a Contributor Panel bank's submission, according to a clarification the BBA issued in June 2008, must be the rate at which members of the bank's staff primarily responsible for management of the bank's cash, rather than the bank's derivative trading book, consider that the bank can borrow unsecured inter-bank funds in the London money market. Further, according to the BBA, a Contributor Panel bank may not contribute a rate based on the pricing of any derivative financial instrument. In other words, a Contributor Panel bank's LIBOR submissions should not be influenced by its motive to maximize profit or minimize losses in derivatives transactions tied to LIBOR.

8. The Contributor Panel for United States Dollar ("Dollar") LIBOR from at least 2005 through 2010 was comprised of 16 banks, including UBS. Presently, there are 18 banks on the Dollar Contributor Panel, including UBS. From at least 2005 to the present, UBS has also been a member of the Contributor Panels for, among other currencies, Yen LIBOR, Euro LIBOR, Swiss Franc LIBOR, and Pound Sterling LIBOR.

9. From at least 2005 to the present, UBS has also been a member of the Contributor Panel for the Euro Interbank Offered Rate ("Euribor"). Euribor is a reference rate overseen by the European Banking Federation ("EBF"), which is based in Brussels, Belgium. Since 2005, the Euribor Contributor Panel has been comprised of approximately 42 to 48 banks. Euribor is the rate at which Euro interbank term deposits within the Euro zone are expected to be offered by one prime bank to another, at 11:00 a.m. Brussels time.

10. Thomson Reuters, as an agent of the EBF, calculates and publishes the Euribor rates each business day. Each Euribor Contributor Panel bank submits its contributed rate to Thomson Reuters through electronic means, and then the contributed rates are ranked. The highest and lowest 15% of all the quotes are excluded from the calculation, and the remaining rates (i.e., the middle 70%) are averaged to formulate the resulting Euribor fix for each tenor. The published rates, and each Contributor Panel bank's submitted rates, are made available worldwide through electronic means and through a variety of information sources.

11. From at least 2005 until 2012, UBS was also a member of the Contributor Panel for the Euroyen Tokyo Interbank Offered Rate ("TIBOR"). TIBOR is a reference rate overseen by the Japanese Bankers Association ("JBA"), which is based in Tokyo, Japan. While UBS was a member of the panel, the Euroyen TIBOR Contributor Panel was comprised of 16 banks. The term "Euroyen" refers to Yen deposits maintained in accounts outside of Japan. Euroyen TIBOR is what Contributor Panel banks deem to be prevailing lending market rates between prime banks in the Japan Offshore Market as of 11:00 a.m. Tokyo time. Euroyen TIBOR is calculated by discarding the two highest and two lowest submissions, and averaging the remaining rates. The published rates, and each Contributor Panel bank's submitted rates, are made available worldwide through electronic means and through a variety of information sources.

12. Because of the widespread use of LIBOR and other benchmark interest rates in financial markets, these rates play a fundamentally important role in financial systems around the world.

B. *Eurodollar and Euroyen Futures Contracts, and Interest Rate Swaps*

13. Eurodollar futures contracts are traded on the Chicago Mercantile Exchange ("CME"), and are settled based on LIBOR. Eurodollar futures contracts are highly liquid, and each has a notional value of $1 million. A "Eurodollar" is a Dollar deposit with a bank outside of the United States. A Eurodollar futures contract is essentially the interest that would be paid on a Eurodollar deposit of $1 million for a term of three months. Prior to the settlement date, the price of a 3-month Eurodollar futures contract is an indication of the market's prediction of the 3-month Dollar LIBOR on its settlement date. The actual settlement price of a 3-month contract is calculated as 100 minus the 3-month Dollar LIBOR on the settlement date. Most Eurodollar futures contracts settle on four quarterly International Monetary Market ("IMM") dates, which are the third Wednesday of March, June, September, and December. The last trading days are the second London bank business day prior to the third Wednesday (i.e., usually Monday) in those months. In 2009, according to the Futures Industry Association, more than 437 million Eurodollar futures contracts were traded on the CME.

14. Euroyen futures contracts are also traded on the CME and other exchanges around the world, and are settled based on Euroyen TIBOR. A Euroyen futures contract is essentially the interest that would be paid on a Euroyen deposit of ¥100,000,000 for a term of three months. The actual settlement price of a 3-month contract is calculated as 100 minus the 3-month Euroyen TIBOR on the settlement date. Most contracts settle on the four quarterly IMM dates. From 2007 through 2011, according to the CME, more than 758,000 Euroyen TIBOR futures contracts were traded on the CME.

15. An interest rate swap ("swap") is a financial derivative instrument in which two parties agree to exchange interest rate cash flows. If, for example, a party has a transaction in which it pays a fixed rate of interest but wishes to pay a floating rate of interest tied to a reference rate, it can enter into an interest rate swap to exchange its fixed rate obligation for a floating rate one. Commonly, for example, Party A pays a fixed rate to Party B, while Party B pays a floating interest rate to Party A indexed to a reference rate like LIBOR. There is no exchange of principal amounts, which are commonly referred to as the "notional" amounts of the swap transactions. Interest rate swaps are traded over-the-counter; in other words, they are negotiated in transactions between counterparties and are not traded on exchanges.

C. UBS

16. UBS AG is a financial services corporation with headquarters located in Zurich, Switzerland. UBS AG has banking divisions and subsidiaries around the world, including in the United States, with its United States headquarters located in New York, New York and Stamford, Connecticut. One of its divisions is the Investment Bank, which operates through a number of legal entities including UBS Securities Japan Co., Ltd., – which is a wholly-owned subsidiary of UBS AG that engages in investment banking and wealth management. UBS employs derivatives traders throughout the world – including in Stamford, London, Zurich, and Tokyo – who trade financial instruments tied to LIBOR, Euribor and Euroyen TIBOR, including interest rate swaps and Eurodollar and Euroyen futures contracts ("derivatives traders").[1]

17. UBS AG's Group Treasury section is the part of UBS AG that monitors and oversees the financial resources of the entire bank, including the bank's liquidity and funding.

[1] The term "derivatives traders" includes traders on UBS's Short-Term Interest Rates ("STIR") and Rates desks. The STIR desks were responsible for the bank's short-term funding and handled certain derivatives trades. The Rates desks traded longer-term interest rate products and generally had greater exposure to movements in LIBOR, Euribor and Euroyen TIBOR as compared to the STIR desks.

At all relevant times herein, Asset and Liability Management ("ALM") is the part of the Investment Bank Division which managed the bank's liquidity buffer and issuance of new commercial paper and certificates of deposit. Group Treasury provided guidance to ALM on funding issues. The head of ALM worked for the Investment Bank Division.

D. *UBS's LIBOR, Euroyen TIBOR, and Euribor Submissions*

18. At various times from at least 2001 through June 2010, certain UBS derivatives traders – whose compensation from UBS was directly connected to their success in trading financial products tied to LIBOR, Euroyen TIBOR and Euribor – directly or indirectly exercised improper influence over UBS's submissions for those benchmark interest rates.

19. Up until September 1, 2009, UBS's LIBOR submissions were made by UBS derivatives traders. On September 1, 2009, ALM took over the LIBOR submission process from the derivatives trading desks.[2] This change was the result of a decision of UBS's Compliance Department ("Compliance"), based on the conclusion that there was an inherent conflict of interest in having derivatives traders determine the daily benchmark submissions. Nevertheless, under this new policy, derivatives traders continued to provide input to ALM, which ALM submitters at times considered in determining UBS's LIBOR and Euribor submissions. Each day, approximately 15 minutes before ALM made its LIBOR and Euribor submissions, derivatives traders in a given currency would input their assessment of LIBOR and Euribor changes into a shared spreadsheet. The ALM submitters then considered that input along with the previous day's submission, but also factored in ALM's knowledge of UBS's cost of funds.

[2] In October, 2009 ALM took over the Euribor submission process from the derivatives traders, and in January 2011, ALM took over the Euroyen TIBOR submission process.

II.

UBS'S MANIPULATION OF LIBOR, EUROYEN TIBOR AND EURIBOR SUBMISSIONS

20. From as early as 2001 through at least June 2010, certain UBS derivatives traders requested and obtained benchmark interest-rate submissions which benefited their trading positions. These derivatives traders requested, and sometimes directed, that certain UBS LIBOR, Euroyen TIBOR, and Euribor submitters submit benchmark interest rate contributions that would benefit the traders' trading positions, rather than rates that complied with the definitions of LIBOR, Euroyen TIBOR and Euribor. Those derivatives traders either requested or directed a particular LIBOR, Euroyen TIBOR or Euribor contribution for a particular tenor and currency, or requested that the rate submitter contribute a rate higher, lower, or unchanged for a particular tenor and currency. The derivatives traders made these requests in electronic messages, telephone conversations, and in-person conversations. The LIBOR, Euroyen TIBOR, and Euribor submitters regularly agreed to accommodate the derivatives traders' requests and directions for favorable benchmark interest rate submissions.

A. Yen LIBOR and Euroyen TIBOR

21. The market for derivatives and other financial products linked to benchmark interest rates for the Yen is global and is one of the largest and most active markets for such products in the world. A number of these products are traded in the United States – such as the Euroyen TIBOR futures contract traded on the CME – in transactions involving U.S.-based counterparties. For example, a meaningful portion of the total value of the transactions entered into by UBS's most successful Yen derivatives trader from 2007 through 2009 ("Trader-1") involved U.S.-based counterparties.

22. Beginning in 2006, in Zurich, Tokyo, and elsewhere, several UBS employees engaged in sustained, wide-ranging, and systematic efforts to manipulate Yen LIBOR and, to a lesser extent, Euroyen TIBOR, to benefit UBS's trading positions. This conduct encompassed hundreds of instances in which UBS employees sought to influence benchmark rates; during some periods, UBS employees engaged in this activity on nearly a daily basis. In furtherance of these efforts to manipulate Yen benchmarks, UBS employees used several principal and interrelated methods, including the following:

a) internal manipulation within UBS of its Yen LIBOR and Euroyen TIBOR submissions;

b) use of cash brokers to influence other Contributor Panel banks' Yen LIBOR submissions by disseminating misinformation; and

c) efforts to collude directly with employees at other Contributor Panel banks, either directly or through brokers, in order to influence those banks' Yen LIBOR submissions.

Details and examples of this conduct are set forth below.

1) Manipulation Within UBS of its Yen LIBOR and Euroyen TIBOR Submissions

a. Yen LIBOR

23. Instances of accommodating Yen derivatives traders' requests dated back at least to 2002, when UBS's Yen LIBOR submitter – later promoted to manage UBS's Yen and Swiss Franc derivatives trading desks – occasionally accommodated his/her supervisor's instruction for submissions to benefit the supervisor's Yen derivatives trading positions.

24. The manipulation of Yen LIBOR submissions to benefit UBS derivatives traders' positions began to occur far more frequently after July 2006, when UBS hired Trader-1, a Tokyo-based Yen derivatives trader. Beginning in September 2006, and continuing until soon before he left UBS in September 2009, Trader-1, and occasionally other UBS Yen derivatives

traders, regularly requested that UBS Yen LIBOR submitters contribute LIBOR submissions to benefit their trading books. Trader-1 and his/her colleagues engaged in this conduct on the majority of total trading days during this more-than-three-year period.

25. For example, on Monday, November 20, 2006, Trader-1 asked the UBS Yen LIBOR submitter ("Submitter-3"), who was substituting for the regular submitter ("Submitter-1") that day, "hi . . . [Submitter-1] and I generally coordinate ie sometimes trade if ity [sic] suits, otherwise skew the libors a bit." Trader-1 went on to request, "really need high 6m [6-month] fixes till Thursday." Submitter-3 responded, "yep we on the case there . . . will def[initely] be on the high side." The day before this request, UBS's 6-month Yen LIBOR submission had been tied with the lowest submissions included in the calculation of the LIBOR fix. Immediately after this request for high submissions, however, UBS's 6-monthYen LIBOR submissions rose to the highest submission of any bank in the Contributor Panel and remained tied for the highest until Thursday – as Trader-1 had requested.

26. In early 2007, a new UBS Yen LIBOR submitter ("Submitter-2") received training from Submitter-1, who was also a UBS manager and Yen derivatives trader. During that training, Submitter-2 was instructed that the primary factor in determining UBS's Yen LIBOR submissions each day was the UBS Yen derivatives traders' requests, which were to be accommodated. Submitter-2 followed that directive, and accommodated Trader-1 and other UBS Yen derivatives traders' requests for LIBOR submissions through July 2009, when Submitter-2's responsibilities at UBS changed.

27. From at least August 2007 and at various times through at least September 2009, the manager of one of the Yen derivatives trading desks in Tokyo exerted pressure on Yen LIBOR submitters to take derivatives traders' positions into account when setting Yen LIBOR.

Yen derivatives traders routinely requested that the submitters contribute Yen LIBOR submissions to benefit their trading books, and the submitters, in accordance with the instructions from their superiors at UBS, accommodated derivatives traders' requests.

28. An example of such an accommodation occurred on March 29, 2007, when Trader-1 asked Submitter-1, "can we go low 3[month] and 6[month] pls? . . . 3[month] esp." Submitter-1 responded "ok", and then the two had the following exchange by electronic chat:

> Trader-1: what are we going to set?
>
> Submitter-1: too early to say yet . . . prob[ably] .69 would be our unbiased contribution
>
> Trader-1: ok wd really help if we cld keep 3m low pls
>
> Submitter-1: as i said before - i [don't] mind helping on your fixings, but i'm not setting libor 7bp away from the truth. . . i'll get ubs banned if i do that, no interest in that.
>
> Trader-1: ok obviousl;y [sic] no int[erest] in that happening either . . . not asking for it to be 7bp from reality anyway any help appreciated[.]

Trader-1 received the help he requested. Although Submitter-1's "unbiased contribution" of the 3-monthYen LIBOR submission would have been .69 that day, he lowered his/her submission to .67, as Trader-1 requested.

29. As another example, a series of electronic chats between March 12 and 17, 2008, demonstrates that Trader-1 caused UBS's Yen LIBOR submission to move 3 basis points over a 5 day period. On Wednesday, March 12, 2008, Trader-1 asked Submitter-2 to raise the 3-month Yen LIBOR submission from the previous day's .99 contribution, because "we have [$2 million] usd fix in 3[month] on Monday [March 17] per bp."[3] Submitter-2 responded: "with yesterdays

[3] Although, as stated above, the term "fix" is often used to refer to the calculated and published benchmark rate, in the context of this chat, the trader's "fix" refers to the settlement or "fixing"

.99 i was already on the very high side. i need to go down a touch lower on the back to what happened yesterday. . . thought about .97." Trader-1 responded: "cool no chance of .98? anyway the actual fix is Monady [sic] [March 17] so that's the key day."[4] Although Submitter-2 had intended to drop his/her LIBOR contribution down to .97 on March 12, he instead raised his/her LIBOR submission to .98. The following day, he raised it again to .99, and on Monday, March 17, the following exchange occurred:

> Trader-1: been chatting with [your supervisor] . . . can we go . . . high 3[month] . . . obviously with the size of the fix today and confusion over levels if we could push it a bit more than usual it would be great
>
> ****
>
> Submitter-2: Friday fixed 3mt at 0.99
>
> Trader-1: thx [Submitter-2]
>
> Submitter-2: shall I go fro [sic] 1%?
>
> Trader-1: pls
>
> Submitter-2: ok will do

As promised, Submitter-2 contributed a Yen LIBOR submission of 1% that day, 3 basis points higher than where he had intended to submit a few days earlier.

30. In a March 28, 2008 electronic chat between Trader-1 and Submitter-2, Trader-1 was again successful in manipulating UBS's LIBOR submission to benefit his trading positions:

> Trader-1: just for my guide [Submitter-2] roughly wher are we going to set 3m and 6m?
>
> Submitter-2: 3m0.92 6m 0.96
>
> Trader-1: can we go lower?

---

of derivatives trading positions. The reference to "usd" is to the monetary value of such settled positions, designated in U.S. Dollars.

[4] Monday, March 17, 2008 was a quarterly IMM date, on which trillions of dollars of swaps and futures contracts, in multiple currencies, were settled worldwide for a three-month period.

Submitter-2: sure . . . dont think it will be that low though . . . but can do 090

****

Trader-1: so can we set 6m at .94 too? . . . 6m is much more urgent . . . most urgent of the lot

****

Submitter-2: i just put in 0.95 for 6mt

Trader-1: ok . . . Thx

True to his/her agreement to accommodate Trader-1, Submittter-2 lowered UBS's 3-month Yen LIBOR submission from .92 to .90, and lowered UBS's 6-month submission from .96 to .95.

31. On some occasions, UBS Yen LIBOR submitters would also amend, if possible, previously submitted Yen LIBOR contributions to accommodate UBS's trading positions. For example, in an April 4, 2008 electronic chat between Trader-1 and Submitter-2, the following exchange occurred:

Trader-1: have you put the libors in?

Submitter-2: y[es] . . . any changes?

Trader-1: oh was going to ask high 6m if not too late

Submitter-2: i input 95 . . . which is on the lower side

Trader-1: ok is it too late to change? . . . if not no drama

Submitter-2: i try to change it now but cannot gaurantee if it gets accepted

*****

Submitter-2: just cahnged [sic] it to 0.98

The UBS 6-month Yen LIBOR submission that day was indeed .98, 3 basis points higher than Submitter-2's originally intended submission.

32. As another example, on June 29, 2009, Trader-1 contacted Submitter-2 by electronic chat, explaining that he had huge positions that day and asking, "can we [submit] 6 m

libor high pls." Submitter-2 stated that based on the information he had, he would submit a 6-month Yen LIBOR of .7150. Trader-1 responded by asking, "can we go 74 or 75 [meaning .74 or .75] . . . we have [$2 million per basis point exposure] for the next week." Submitter-2 agreed to accommodate this request, responding, "yes sure will. I go with .75 for you[.]" Thus, the submitter agreed to move his/her 6-monthYen LIBOR submission by 3.5 basis points that day to benefit the derivatives trader's position.

b. <u>Euroyen TIBOR</u>

33. From in or around 2007 through 2009, on some occasions, UBS Yen derivatives traders also requested that UBS Euroyen TIBOR submitters contribute TIBOR submissions to benefit their trading positions. The TIBOR submitters' manager, Submitter-1, routinely provided suggested TIBOR submissions based on the derivatives traders' positions, and the TIBOR submitters relied upon this input.

34. For example, in a November 8, 2007 electronic chat, Submitter-1, who was also a UBS Yen derivatives trader, instructed the TIBOR submitter: "pls remind me tomorrow . . . we need to move the 1mos tibor up . . . maybe +2 tomorrow . . . then 1 bp on each for a few days . . . swap guys having some fixings." The TIBOR submitter responded "ok, noted".

35. As another example, on July 23, 2009, Submitter-1 caused UBS's Euroyen TIBOR submissions to decrease for a different improper purpose. On that day, Submitter-1 had the Euroyen TIBOR submitter drop UBS's 3-month TIBOR submission by 4 basis points simply to damage Trader-1's positions, and not because that is where he perceived Yen cash was trading.[5] In an electronic chat with Trader-B at another Contributor Panel bank,[6] Trader-1

[5] During this period, Trader-1 and Submitter-1 were rivals at UBS and had feelings of animosity towards one another.

[6] Trader-1's dealings with Trader-B are discussed further below.

explained how he would rectify the situation by manipulating TIBOR settings higher the following week:

> [Submitter-1, who caused TIBOR to drop] hates me and is going to zurich . . . [his/her] last day is Friday . . . so [s/he] tried to screw my pos[ition] . . . next week we have control . . . so will try to get it back up . . . or rather will do it . . . monday goes back up

Later that same day, in a separate electronic chat with a cash broker who handled transactions for Trader-1 ("Broker-A1"),[7] Trader-1 described how he successfully reached out to the UBS TIBOR submitters to raise UBS's 3-month submission back up:

Trader-1:	main thing is 3m tibor . . . i went to meet the guys who set it today
Broker-A1:	you can asist there
Trader-1:	they just set where we ask
Broker-A1:	;-) perfect

c. *The Role of UBS Managers*

36. Certain UBS managers, and senior managers,[8] were aware of the internal manipulation of Yen LIBOR and Euroyen TIBOR submissions by derivatives traders as described above. For example, Trader-1's manager knew, at least as early as 2007, that internal pressure was placed on UBS Yen LIBOR submitters, and occasionally the Euroyen TIBOR submitters, to contribute submissions to benefit the Yen trading book. Further, certain Zurich-

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[7] The role of cash brokers in the derivatives markets and money markets, along with Trader-1's dealings with Broker-A1, are discussed further below.

[8] The terms "senior manager" or "manager," as used herein, do not include members of the board of directors, executive board, or executive management.

based managers and more senior managers heading the derivatives desks in all currencies were informed of the pressure the Yen trading desk placed on the LIBOR submitters to contribute Yen LIBOR to benefit the traders' positions.[9]

37. The majority of UBS Yen LIBOR and Euroyen TIBOR submitters, Yen derivatives traders, and their supervisors – as well as the more senior managers at UBS who were aware of this conduct – knew that the manipulation of Yen LIBOR and TIBOR submissions was inappropriate, yet continued to encourage, allow, or participate in this conduct. For example, Trader-1's manager, a senior manager in the Investment Bank, the primary Yen LIBOR and TIBOR submitters, and other derivatives traders knew it is inappropriate, and contrary to the definition of LIBOR or TIBOR, to consider derivative trading positions when contributing LIBOR or TIBOR submissions. Indeed, in an October 9, 2008 email, Submitter-1 complained to several other managers that: "one of the things we signed up for when UBS agreed to join the fixing panel was the condition that fixing contributions shall be made regardless of trading positions."

38. Because UBS's Yen LIBOR submitters, derivatives traders, and their managers knew this conduct was improper, they tried to conceal the manipulation. For example, after an August 10, 2009 Trader-1 email request to lower 6-month Yen LIBOR, a LIBOR submitter ("Submitter-4") complained to Trader-1's manager that these requests should not be in writing. Moreover, Trader-1 would sometimes request that LIBOR submissions be moved in small increments over time to avoid detection.

39. Finally, and for the same reason, a UBS derivatives desk manager sought to obstruct the investigation into LIBOR manipulation. In December 2010, Submitter-4, the UBS

[9] Internal communications during 2007 and 2008 also reflect managers' continuing awareness of this conduct. Examples of such communications are discussed below in paragraphs 132 and 133.

derivatives desk manager who had supervised Submitter-2 in 2009, instructed Submitter-2 to lie when interviewed by UBS attorneys during the investigation into LIBOR manipulation. Among other things, the UBS manager instructed Submitter-2 to:

- falsely claim that the UBS Yen trading desks did not have any derivative positions with exposure to Yen LIBOR;
- avoid mentioning Trader-1;
- falsely indicate that the Yen LIBOR submission process did not take into account trading positions;
- falsely claim that they never moved the Yen LIBOR submissions to benefit the Yen trading desks;
- falsely claim that when contributing Yen LIBOR submissions, UBS tried to be "as close to the market as possible."

2) <u>Use of Brokers to Manipulate Yen LIBOR</u>

40. From at least 2007 and at various times through January 2010, two UBS Yen derivatives traders also used cash brokers to manipulate Yen LIBOR submissions by enlisting these brokers to disseminate misinformation to other Contributor Panel banks regarding Yen LIBOR.

41. Cash brokers track bids and offers of cash in the market and assist derivatives and money market traders in arranging transactions between financial institutions and other market participants. As a result of their positions as intermediaries, some of these brokers developed relationships with traders and LIBOR submitters at various Contributor Panel banks and often possessed knowledge of interbank money market activity. Accordingly, it is not unusual for LIBOR submitters to collect information from cash brokers regarding the availability and price of cash in the money markets and elsewhere. This information can influence the LIBOR submissions of Contributor Panel banks.

a. Use of Brokers to Disseminate Misinformation

42. Certain UBS Yen derivatives traders sought and received assistance from cash brokers by asking them to disseminate false market information to Yen LIBOR submitters at other Contributor Panel banks. In this way, recipients of such misinformation could be influenced, often unwittingly, to contribute Yen LIBOR submissions that benefited UBS Yen derivatives traders' positions.

43. Trader-1 did a large volume of business in the Yen derivatives market, and he used brokers at several firms to help arrange his trades. Trader-1 also used some of those brokers, in different ways, as part of his scheme to manipulate Yen LIBOR. Trader-1 engaged in this conduct beginning in 2007, after discussing the strategy with his manager.

44. Trader-1 carried out one significant part of this scheme through his dealings with Brokerage-A. Trader-1 used Brokerage-A to broker derivative trades, and Broker-A1 serviced Trader-1's account. Another broker at that firm, Broker-A2, distributed a daily email to the Contributor Panel banks, which included "SUGGESTED LIBORS" purporting to represent where that broker thought Yen LIBOR should be set that day based on his/her market knowledge and experience. Trader-1 used Broker-A1 to pass along requests to Broker-A2 to adjust these suggested LIBORs to benefit Trader-1's trading positions. Broker-A2, at least on some occasions, accommodated these requests. Trader-1's manager, who was well-aware of this manipulative tactic, later estimated that during one six-month period in 2007, this scheme was used on a daily basis and had a 50% to 60% success rate.

45. As an example, in a Wednesday, August 15, 2007 electronic chat, Trader-1 and Broker-A1 discuss Trader-1's desire to raise the published 6-month Yen LIBOR fix:

> Trader-1: need to keep 6m up till tues then let it collapse

Broker-A1: doing a good job so far . . . as long as the liquidity remains poor we have a better chance of bullying the fix[.]

46. The next day, Thursday, August 16, 2007, Trader-1 reiterated his need for a high 6-month Yen LIBOR fix:

Trader-1: really really really need high 6m

Broker-A1: yep think i realise that

****

Broker-A1: yes mate, will make myself useful

That day, consistent with Trader-1's request, Broker-A2 again raised his/her suggested LIBOR, this time by an additional 6.5 basis points, where it remained for several days.

47. Moreover, in a May 29, 2008 electronic chat, Trader-1 instructed Broker-A1 to "bring 3[-month LIBOR] down." Broker-A1, acting as an intermediary for Broker A2, responded "[Broker-A2] had knocked 3m down small (already v low and says if it goes any further he will lose credibility)."

48. Further, in a May 12, 2009 electronic chat, Broker-A1 notified Trader-1 that "[Broker-A2] has moved 6m libor up another 1/2bp and [unchanged] for 3m and 1m down small." Indeed, Broker-A2 modified his/her suggested LIBORs in precisely this fashion from the previous trading day.

49. These suggested LIBORs distributed from Brokerage A were influential; indeed, Broker-A2's suggestions appear to have been wholly adopted by Yen LIBOR submitters at three other Contributor Panel banks during certain time periods. For example, of the 523 total trading days between January 1, 2008 and December 31, 2009, there were 308 days in which suggested Yen LIBOR in all 8 tenors listed in Broker-A2's email were identical to those submitted by one Contributor Panel Bank ("Bank-E"). Further, there were many instances when Bank-E's Yen

LIBOR submissions for all 8 tenors changed identically each day with the changes in Broker-A2'ssuggested LIBORs, often matching the suggestions to 5 decimal points.

50. Trader-1 was aware that Broker-A2's suggested LIBORs, when adjusted to benefit UBS's derivatives desk's positions, disseminated false information into the market. The following exchange occurred in an August 12, 2007 electronic chat between Broker-A1 and Trader-1:

> Broker-A1: like [Broker-A2] said to me last night, he can try and tweak [Suggested LIBORs] by a point or 2 when its flyiing [sic] but if he marks too far from the truth the banks tend to ignore him.
>
> Trader-1: ok no probs . . . any help is better than none!

51. Trader-1 also enlisted cash brokers to improperly influence other Contributor Panel banks' Yen LIBOR submissions through telephone conversations between brokers and Yen LIBOR submitters at the other panel banks. For example, in a February 9, 2009 electronic chat, Trader-1 asked Broker-C to cause a colleague to suggest to other Contributor Panel banks to lower their LIBOR submissions by stating that the broker's Yen accounts "look[ed] a little softer." While requesting that Brokerage-C disseminate this misinformation, Trader-1 identified at least two other brokerage houses that also assisted him in manipulating Yen LIBOR, and indicated that he would reward brokers for this type of assistance:

> Trader-1: do you know your cash desk? . . . ie the guy who covers yen on your cash desk
>
> Broker-C: yes mate i do
>
> Trader-1: right from now on i need you to ask him a favour on the fixes . . . i will make sure it comes back to you . . . i alrteady do it with [Brokerage-A] . . . basically can you ask him to broke 3m cash ie libor lower for me today . . . i will look after you off the back of it. . . i do that for [Brokerage-

B] too . . . so emphasise the importance to you . . . just suggest it looks a little softer to his accounts

Broker C: ok mate i understand i will go and speak to him

Trader-1: stuff like that . . . thanks mate . . . is very important to me today

After a five minute break, the two resumed their electronic chat:

Broker-C: just spoke to them and they are on the case

Trader-1: ok mate much appreciated

52. As another example, in a February 25, 2009 electronic chat, Trader-1 instructed Broker-B: "low 1m and 3m . . . we must keep 3m down . . . try for low on all of em." Broker-B responded "ok ill do my best for those tday." Trader-1 then asked Broker-B to arrange for a "massive" trade and Broker-B acknowledged that the trade would generate profits for him/her:

Trader-1: we can do 150 [billion] 2 yrs bro both sides . . . ask [Trader-A2[10]] . . . will that help?

Broker-B: ok mate that will make us make budget for the month so massive yes

Later that morning, Broker-B had a recorded telephone conversation with the Yen LIBOR submitter at Bank-F ("Submitter-F"), requesting that the submitter lower Bank-F's 3-month Yen LIBOR submission, as follows:

Broker-B Could I ask you a small favor?

Submitter-F: Yeah.

Broker-B: Where are you going to set your Libor threes today?

Submitter-F: Uh, same, .65.

Broker-B: Is there any way you might be able to take it down [one basis point] cause I'm getting a big trade out of it? . . . I'm getting someone to do me a big trade if they said I can help 'em sort of get

[10] Trader-A2 was a Yen derivatives trader at Bank A.

Libors down a little bit today.

Submitter-F had already entered the .65 3-month LIBOR submission on a form, which he had passed on to the Swiss Franc submitter sitting next to him. However, Submitter-F can be heard on the recorded conversation requesting the submitter next to him to lower Submitter-F's 3-month Yen LIBOR submission from .65 to .64, pursuant to Broker-B's request: "Yeah, okay. Could you make the threes .64 []?" Bank-F's 3-month LIBOR submission dropped from .65 to .64 that day, lowering the resulting LIBOR fix in favor of Trader-1's positions.

53. As another example, in a March 31, 2009 electronic chat, Trader-1 asked Broker-C to help influence 9 of the 16 Contributor Panel banks by convincing them to lower their LIBOR submissions from the previous day, thus lower the resulting 1-month and 3-month Yen LIBOR fix:

Trader-1:	mate we have to get 1m and 3m down . . . 1m barely fell yesterday . . . real important
Broker-C:	yeah ok
Trader-1:	banks to have a go w in 1m are
Trader-1:	[Bank-F]
Trader-1:	[Bank-G]
Trader-1:	[Bank-H]
Trader-1:	[Bank-E]
Trader-1:	[Bank-I]
Trader-1:	[Bank-C]
Trader-1:	[Bank-A]
Trader-1:	[Bank-J]
Trader-1:	and [Bank-K]
Trader-1:	pls
Broker-C:	got it mate

That day, consistent with Trader-1's request, 6 of the 9 Contributor Panel banks listed above lowered their 1-month Yen LIBOR submissions relative to the previous day, and the resulting published 1-month Yen LIBOR fix dropped by a full basis point from the day before.

54. As another example, in a March 19, 2009 electronic chat, Broker-B confirmed that he accommodated Trader-1's request to influence Yen LIBOR submitters at other Contributor Panel banks:

> Trader-1: need low everything pls try really hard to get [Bank-D] down
> ****
> Broker-B: ok will try mate
> Trader-1: ok try for [Bank-D] and the japanese and [Bank-G] as priority . . . pls
> Broker-B: kkk
> Trader-1: thx . . . pls push really hard

48 minutes later, Broker-B resumed the chat, confirming that he had spoken to the banks:

> Broker-B: yes already had a word with a couple of them [Bank-D] and [Bank-A] said they should be lower . . . workin on [Bank-G] and [Bank-J]

55. Trader-1 also used brokers to disseminate misinformation through a technique known as "spoof bids," whereby brokers, at Trader-1's request, would describe a potential opportunity to engage in certain money market transactions to Contributor Panel banks in an attempt to influence those banks' Yen LIBOR submissions. In truth, there was no intention of going through with the purported money market transactions, and the fictional bids were designed solely to influence Yen LIBOR. During a June 10, 2009 electronic chat, Trader-1 and Broker-B referred to this tactic when discussing efforts they would make that day to manipulate Yen LIBOR:

Trader-1: LOW 1m . . . LOW 3m . . . HIGH 6m . . . 6m is important today mate . . . pls spoof bids

Broker-B: rite ok mate ill make a special effort

Later in the same chat, Broker-B remarked to Trader-1:

> mate yur getting bloody good at this libor game . . . think of me when yur on yur yacht in monaco wont yu

b. UBS's Use of Brokers as Conduits to Other Banks

56. On at least a few occasions, Trader-1 also used cash brokers as conduits to his counterpart traders at other Contributor Panel banks, enlisting the brokers to pass along Trader-1's requests to move Yen LIBOR submissions to benefit UBS's trading book. For example, in a May 21, 2009 electronic chat between Trader-1 and Broker-C, they stated:

Trader-1: can you ask [Trader-A2] for a favour they moved 6m down 2bp yday . . . if they put it back up it would be great

Broker-C: mate not sure if he does libors but i will investigate

Trader-1: yeah i think he can ask a favour . . . it would really help me out . . . ask for me . . . tell him its for [Trader-1]

c. Compensation of Brokers

57. Trader-1 was considered the most successful Yen derivatives trader at UBS,[11] and he compensated these brokers for their assistance in several ways: (1) by providing them with substantial amounts of business, thus generating fees or commissions; (2) by engaging in circular transactions (two equal and opposite transactions that canceled each other out) solely for the purpose of generating commissions for the brokers; and/or (3) by engineering a special compensation deal between UBS and a brokerage house.

[11] Trader-1 generated approximately $40 million in profits for UBS in 2007, $80 million in 2008, and $116 million during the first 9 months of 2009 until he left UBS in September, 2009.

58. For example, Broker-A2 was compensated for assisting Trader-1 in manipulating Yen LIBOR by a special bonus, and other perks, as evidenced in an August 22, 2008 electronic chat:

> Broker-A1: think [Broker-A2] is your best broker in terms of value added :-)
>
> Trader-1: yeah . . . i reckon i owe him a lot more
>
> Broker-A1: he's ok with an annual champagne shipment, a few [drinking sessions] with [his supervisor] and a small bonus every now and then.

d. Knowledge of Yen LIBOR Manipulation Through Cash Brokers

59. Trader-1's use of brokers to manipulate Yen LIBOR was widely known among the traders on the UBS Yen trading desk from 2007 through 2009. In fact, the desk held daily morning meetings before LIBOR was set, in which Trader-1 commonly announced the direction in which he intended to manipulate Yen LIBOR that day.

60. After Trader-1 left UBS in September 2009, the more junior trader who replaced him had discussions with the manager of the Yen trading desk. Based on those discussions, the junior trader felt pressured to continue using brokers to manipulate Yen LIBOR through January 2010.

61. The LIBOR submitters, derivatives traders, and their managers knew this conduct was wrong and therefore attempted to avoid creating evidence of the manipulation. For example, after media reports regarding banks' suspected manipulation of LIBOR, the manager of the Yen derivatives desk cautioned that they should avoid creating written records and should instead use cell phones when contacting brokers. Moreover, to avoid detection of their manipulation, UBS derivatives traders and brokers used coded language in communications to discuss the

dissemination of misinformation to other Contributor Panel banks to influence the ultimate Yen LIBOR fix.

3) Efforts to Collude with Other Banks to Manipulate Yen LIBOR

62. From at least as early as January 2007 and at various times until at least approximately September 2009, Trader-1 communicated with derivatives traders at other Yen LIBOR Contributor Panel banks in an effort to manipulate Yen LIBOR to benefit his trading positions. Trader-1 requested that his counterpart traders at other Contributor Panel banks make requests to their respective Yen LIBOR submitters to contribute a particular LIBOR submission, or to move their submission in a particular direction (i.e., up or down). Trader-1 made these requests to his counterpart traders at other Contributor Panel banks on many occasions.

63. On February 2, 2007, Trader-1 described this method of manipulating LIBOR in an electronic chat with his counterpart Yen derivatives trader ("Trader-A1") at another Contributor Panel bank ("Bank-A"):

Trader-1:	3[month] libor is too high cause I have kept it artificially high
Trader-A1:	how[?]
Trader-1:	being mates with the cash desks, [another Contributor Panel bank, ("Bank-C")] and I always help each other out too.
Trader-A1:	that's useful to know.

64. By April 2007, Trader-1 had requested Trader-A1 to solicit Bank-A LIBOR submitters to contribute submissions which benefited UBS's Yen trading positions. For example, in an April 20, 2007 electronic chat, Trader-1 stated to Trader-A1:

> I know I only talk to you when I need something but if you could ask your guys to keep 3m low wd be massive help as long as it doesn't interfere with your stuff . . . tx in advance.

Approximately 30 minutes later Trader-1 and Trader-A1 had the following chat:

Trader-1:	mate did you manage to spk to your cash boys?
Trader-A1:	yes u owe me they are going 65 and 71
Trader-1:	thx mate yes I do . . . in fact I owe you big time

Approximately 45 minutes later, after checking to see if Bank-A lowered its 3-month Yen LIBOR submission to 65, Trader-1 sent the following message to Trader-A1:

> Mate[y] they set 64! . . . that's beyond the call of duty!

65. Trader-1 also occasionally requested his counterpart derivatives trader ("Trader-B") at another Contributor Panel bank ("Bank-B") to have Bank-B contribute Yen LIBOR submissions to benefit UBS's Yen trading positions. For example, on May 21, 2009 Trader-1 asked Trader-B: "cld you do me a favour would you mind moving you 6m libor up a bit today, I have a gigantic fix." Trader-B – who also sometimes acted as the Yen LIBOR submitter for Bank-B – responded "I can do that." As promised, Trader-B raised Bank-B's 6-month Yen LIBOR submission by 6 basis points that day.

66. Trader-1 also asked his counterpart derivatives trader ("Trader-C") at a third Contributor Panel bank ("Bank-C") to have Bank-C contribute Yen LIBOR submissions to benefit UBS's Yen derivatives trading positions. For example, in a January 29, 2007 electronic chat with Trader-1, Trader-C asked: "[A]nything you need on libors today? High 6m would help me." Trader-1 responded, "high 3m I'll sort our 6m rate for you thanks." As promised, Trader-1 made a request to the UBS Yen LIBOR submitter for a high 6-month contribution.

67. As a final example, Trader-1 also contacted his counterpart derivatives trader ("Trader-D") at a fourth Contributor Panel bank, ("Bank-D"), in an effort to influence Bank-D's Yen LIBOR submissions in order to benefit UBS's trading positions. For example, in a June 28, 2007 electronic chat with Trader-D, Trader-1 asked: "pls ask ur mate for high 6m mate . . . wd

be really really grateful." Trader-D responded: "will do, for the record he's def not my 'mate'! . . . but I'll [send him an electronic chat]." As requested, approximately 15 minutes later, Trader-D sent an electronic chat to the Bank-D Yen LIBOR submitter stating, "high 6m yen libor would be gd according to my brother!" The Yen LIBOR submitter responded, "WILL DO MY BEST."

68. Trader-1 knew that coordinating with other Contributor Panel banks to manipulate Yen LIBOR was wrong. In a July 22, 2009 electronic chat with Broker-A1, Trader-1 described his plan to coordinate Yen LIBOR submissions with other Contributor Panel banks over the next few weeks while staggering drops in submissions so as to avoid detection:

> Trader-1: 11th aug is the big date . . . i still have lots of 6m fixings till the 10th
> ****
>
> Broker-A1: if you drop your 6m dramatically on the 11th mate, it will look v fishy, especially if [Bank D] and [Bank B] go with you. I'd be v careful how you play it, there might be cause for a drop as you cross into a new month but a couple of weeks in might get people questioning you.
>
> Trader-1: don't worry will stagger the drops . . . ie 5bp then 5bp
>
> Broker-A1: ok mate, don't want you getting into sh it
>
> Trader-1: us then [Bank B] then [Bank D] then us then [Bank B] then [Bank D]
>
> Broker-A1: great the plan is hatched and sounds sensible

69. As early as February 2007, certain other UBS derivatives traders and submitters were aware of Trader-1's use of other Contributor Panel banks to manipulate the resulting published Yen LIBOR fix. For example, in a February 15, 2007 electronic chat between Trader-1 and Submitter-1, the following exchange occurred:

> Trader-1: can we keep the fix down and let it jump tomorrow?
>
> Submitter-1: i've asked [submitter who is filling in] to keep it low today . . . tomorrow u tell me what u prefer
>
> Trader-1: ok if we can try to keep our move really really low wd be big help

Submitter-1:	we do our very best ... but will probably fall out [of the middle-two quartiles of submissions averaged to determine the LIBOR fix] anyway
Trader-1:	ok you don't have anyone you know anywhere else you can have a word with? as a favour?
Submitter-1:	got to pass i'm afraid...never having worked in london doesnt' give me that edge; if i was [in the] same poz i'd ask you to have a word with [Bank-C] ;-)
Trader-1:	already done that . . . and [Bank-A]
Submitter-1:	good man

70. The following week, in a February 22, 2007 electronic chat, Trader-1 attempted to enlist Submitter-3 to contact other Contributor Panel banks to manipulate Yen LIBOR submissions to benefit UBS's Yen derivatives book:

Trader-1:	ok hopefully we'll get the fixings down
Submitter-3:	I try
Trader-1:	thanks do you have any contacts in ldn you can ask also? ie other cash traders?
Submitter-3:	other forward traders yes
Trader-1:	thx [Submitter-3] any help appreciated . . . if they set libors!

71. Certain UBS managers were also on notice of Trader-1's communications with his counterpart traders and Yen LIBOR submitters at other Contributor Panel banks about obtaining favorable Yen LIBOR submissions. In a July 3, 2009 email, Trader-1's manager, in an attempt to keep Trader-1 from leaving for another bank, lobbied other UBS managers to award a sizable bonus to Trader-1. In the email, Trader-1's manager listed some of his attributes, such as "strong connections with Libor setters in London. This information is invaluable for the

derivatives books." This email was sent to a senior manager of the Investment Bank in Zurich, who forwarded it to derivatives desk managers, asking for their input. One manager replied:

> [Trader-1] does also know some of the traders at other banks (from his London days) but personally I find it embarrassing when he calls up his mates to ask for favours on high/low fixings . . . it makes UBS appear to manipulate others to suit our position; what's the legal risk of UBS asking others to move their fixing?

72. Despite these communications to UBS managers and senior managers, no one at UBS disciplined or even reprimanded Trader-1, and no one referred this matter to Compliance. Trader-1 continued working as a derivatives trader at UBS until he left on his own accord in September 2009.

B. <u>Swiss Franc</u>

1) <u>Rounding</u>

73. Starting at least as early as 2001, and continuing at least until September 1, 2009, on each trading day on which UBS had Swiss Franc trading positions, UBS's Swiss Franc LIBOR submitters rounded UBS's Swiss Franc LIBOR submissions to benefit UBS's global Swiss Franc trading positions. UBS's Swiss Franc LIBOR submissions were made by Swiss Franc derivatives traders in Zurich. Each day, the derivatives traders determined the Swiss Franc LIBOR submissions by primarily considering the general movement of Swiss National Bank ("SNB") interest rates, UBS cash-flow transactions, and Swiss Franc futures contracts. The Swiss Franc LIBOR submitters then would round that proposed submission up or down by ¼ to ½ a basis point to benefit the entire global Swiss Franc desk's daily net position in the Swiss Franc LIBOR-related derivatives markets.

74. In a February 2005 email, a UBS client complained to the UBS Swiss Franc LIBOR submitter that it was apparent that UBS was submitting LIBOR contributions to benefit

the bank's own trading positions. In a responsive email to the complaining client, the UBS Swiss Franc LIBOR submitter did not deny this practice; rather, the submitter justified such conduct as follows:

> [I]ts our natural right to reflect our interest in the libor fixing process based on our maturity schedule. Any other bank will do the same. In the case we overdo, we will fall off the fixing process anyway.

This email was also copied to a UBS senior manager.

2) Swiss Franc Derivatives Traders' Requests

75. On a handful of occasions in between July 2006 and May 2007, a Zurich-based UBS Group Treasury employee asked the Swiss Franc LIBOR submitters to contribute LIBOR submissions to benefit his/her trading book of derivatives tied to Swiss Franc LIBOR. The UBS Swiss Franc LIBOR submitters responded favorably to these requests, except in two instances.

76. For example, on July 5, 2006, the Group Treasury employee asked the Swiss Franc LIBOR submitter, in Swiss German, "looking for high 1 month fix." The LIBOR submitter responded, also in Swiss German, "no problem, will fix 1 month high."

C. Pound Sterling

77. From at least as early as November 2007 and at various times through approximately July 2009, certain UBS Pound Sterling derivatives traders in London frequently submitted requests for favorable Pound Sterling LIBOR submissions to UBS's LIBOR submitters. Indeed, LIBOR submitters often solicited these requests by asking the traders for their preferred Pound Sterling LIBOR settings. UBS Pound Sterling LIBOR submitters accommodated these requests on numerous occasions.

78. For example, in a May 27, 2009 electronic chat, a UBS Pound Sterling derivatives trader contacted the UBS LIBOR submitter, stating "need these libors to move

higher. . . ." The LIBOR submitter indicated he would submit a higher LIBOR contribution that day to benefit the trader's book, responding: "market is calling 6m fix today at 1.485 . . . . I will fix it at 1.505". That day, the UBS 6-month Pound Sterling LIBOR submission was indeed 1.505, just as the LIBOR submitter had assured the derivatives trader.

79. The next day, May 28, 2009, the UBS Pound Sterling LIBOR submitter asked the same derivatives trader whether he wanted "any special libor fixings today?" The derivatives trader, apparently pleased with the prior day's result, responded: "I would like to see fixings drift higher again . . . yesterday's came in good." The submitter responded that he would again accommodate the derivatives trader's request, stating "ok fix 6m at 1.51" (i.e., .5 basis points higher than the previous day). That day, the UBS 6-month Pound Sterling LIBOR submission was indeed 1.51.

80. As another example, in a September 27, 2007 email, a UBS manager asked ALM why UBS's Pound Sterling LIBOR submissions were particularly high that day. ALM responded that they had issued a "big forward" (i.e., a financial derivative, similar to a swap, that settles based on where LIBOR fixes on a particular day), and that "we're trying to keep the fixing high to increase the first interest payment on that first fixing".

81. This conduct – through which UBS Pound Sterling LIBOR submitters actively solicited derivatives traders for their LIBOR preferences and then accommodated such requests – was a routine feature of UBS's LIBOR setting process. In keeping with such standard practice, on June 3, 2009, a submitter initiated an electronic chat with a Pound Sterling trader by apologizing and inquiring, "sorry forgot to ask [ ] any libor fixings today?"

82. These adjustments to UBS's Pound Sterling LIBOR submissions were intended to benefit derivatives traders' positions, and were unrelated to any legitimate money market

transactions. For example, a June 17, 2009 electronic chat in which, as was typically the case, the LIBOR submitter solicited LIBOR preferences from the trader, contains the following exchange:

Submitter:	Hi libor fixings today?
Trader:	hmm . . . I'm hoping to see a high 3m fix
Submitter:	ok will fix at 26.5 but market expects 25

As the Sterling submitter indicated, UBS's Pound Sterling LIBOR submission was 26.5, 1.5 basis points away from the submitter's assessment of the market.

D. The Euro

83. From at least as early as September 2005 through approximately June 2010, certain UBS Euro derivatives traders occasionally requested that Euribor submitters contribute submissions to benefit the derivatives traders' positions. UBS submitters often accommodated such requests.

84. For example, in an October 2, 2006 electronic chat between a UBS Euro derivatives trader and the UBS Euribor submitter, the submitter solicited the trader's preference for that day's submission, asking, "any special wishes for the fixing?" The trader responded, "I lose 120k of a received fix today . . . so low would be good." The trader then indicated that his/her request for low Euribor applied to both the 3-month and 6-month tenors, to which the submitter responded, "ok we go 42 and 57."

85. As a further example, in a June 25, 2009 internal UBS chat with 58 viewers, including UBS's representative on the BBA FX Money Market Committee ("UBS's BBA Representative"),[12] the Euribor submitter solicited UBS derivatives traders for their submission

[12] The BBA FX Money Market Committee consisted of representatives from the Contributor Panel banks, who met approximately once a month. According to the BBA, as to all currencies,

preferences, asking, "boys, we send the fixings in about 1hr, so let us know pls." A derivatives trader immediately responded with, "low 6s high 12s . . .please." The submitter responded, "noted".

86. The UBS Euribor submitter and UBS's BBA Representative knew this practice of submitting a Euribor contribution for the benefit of derivatives traders' positions was inappropriate. Indeed, as noted above, UBS's BBA Representative was tasked with monitoring such conduct to preserve the integrity of the submission process. Moreover, five minutes after the June 25, 2009 chat described in the previous paragraph, in a separate electronic chat between the Euribor submitter and UBS's BBA Representative, UBS's BBA Representative admonished: "JUST BE CAREFUL DUDE." The submitter responded, "I agree we shouldn't ve been talking about putting fixings for our positions on public chat."

87. UBS's Fall, 2009 transfer of responsibility for LIBOR and Euribor submissions to ALM did not prevent its derivatives traders from attempting to manipulate these benchmarks. For example, in a June 29, 2010 electronic chat between the former Euribor submitter – who was still an active UBS Euro derivatives trader – and another UBS Euro derivatives trader, they stated:

Former submitter:	u got 6mth fix position today?
Trader:	6mth fixing today? . . . nothing.
Former submitter:	ok, gonna set fixing 1bp higher on the 6s for the turn then.
Trader:	didn't think you set it!
Former submitter:	i don't but i give my opinion to the ALM desk . . . regarding change, higher/lower.

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the Committee was responsible for scrutinizing the LIBOR submissions, and the submission process, for discrepancies, and for developing the "best practice for bank reporting standards and adherence to those standards." According to internal UBS memoranda, beginning in June, 2008, UBS's BBA Representative had "overall responsibility for the integrity of the [LIBOR submission] process and for oversight and monitoring of the rates submitted by UBS."

E. *The U.S. Dollar*

88. Internal UBS communications show that on two occasions, UBS U.S. Dollar derivatives traders in Stamford made requests for favorable Dollar LIBOR submissions to the UBS Dollar LIBOR submitters on the derivatives trading desk in Zurich.

89. Specifically, on Friday, December 14, 2007, a Stamford-based UBS U.S. Dollar derivatives trader emailed the UBS Dollar LIBOR submitters in London and Zurich, stating: "only one mission for the London crew on Monday. We need 3mo libor set low." The LIBOR submitter did not accommodate the derivatives trader's request.

90. In addition, on September 8, 2010, after an investigation of UBS's LIBOR submissions was underway, a UBS Dollar derivatives trader in Stamford emailed another UBS Dollar derivatives trader who provided input to ALM's Dollar LIBOR submitter in Zurich, requesting "0.125 lower than yesterday's 3mth level we suggested." In response, the derivatives trader who received this email did not accommodate this request and informed the trader that s/he should not send such a communication; the trader who had made the request to influence the LIBOR submission apologized because s/he knew that there was an ongoing investigation into UBS's LIBOR submissions and that the email was inappropriate.

F. *Implications of The Derivatives Traders' Requests*

91. When UBS derivatives traders made requests of UBS rate submitters in order to influence UBS's benchmark interest rate submissions, and when the submitters accommodated those requests, the manipulation of the submissions affected the fixed rates on various occasions.

92. Likewise, when UBS derivatives traders influenced the submissions of other Contributor Panel banks – either by (1) seeking and receiving accommodations from their counterparts at such banks, or (2) influencing the submissions from other banks with assistance

from cash brokers who disseminated misinformation in the marketplace – the manipulation of those submissions affected the fixed benchmark rates on various occasions.

93. Indeed, the purpose of this activity was to manipulate benchmark submissions from UBS and other banks to influence the resulting fixes and thus to have a favorable effect on the derivatives traders' trading positions. Because traders' compensation was based in part on the profit and loss calculation of the trading books, derivatives traders' requests were intended to benefit their compensation as well.

94. Because of the high value of the notional amounts underlying derivatives transactions tied to LIBOR, Euroyen TIBOR and Euribor, even very small movements in those rates could have had a significant positive impact on the profitability of a trader's trading portfolio, and a correspondingly negative impact on their counterparties' trading positions.

95. UBS entered into interest rate derivatives transactions tied to LIBOR, Euroyen TIBOR and Euribor – such as derivatives, forward rate agreements, and futures – with counterparties to those transactions. Many of those counterparties were located in the United States. Those United States counterparties included, among others, asset management corporations, mortgage and loan corporations, and insurance companies. Those counterparties also included banks and other financial institutions in the United States or located abroad with branches in the United States.

96. In the instances when the published benchmark interest rates were manipulated in UBS's favor due to UBS's manipulation of its own or any other Contributor Panel bank's submissions, that manipulation benefitted UBS derivatives traders, or minimized their losses, to the detriment of counterparties, at least with respect to the particular transactions comprising the trading positions that the traders took into account in making their requests to the rate submitters.

Certain UBS derivatives traders and rate submitters who tried to manipulate LIBOR, Euroyen TIBOR and Euribor submissions understood the features of the derivatives products tied to these benchmark interest rates; accordingly, they understood that to the extent they increased their profits or decreased their losses in certain transactions from their efforts to manipulate rates, their counterparties would suffer corresponding adverse financial consequences with respect to those particular transactions.

97. When the requests of derivatives traders for favorable LIBOR, Euroyen TIBOR and Euribor submissions were taken into account by the UBS rate submitters, UBS's rate submissions were false and misleading. Those false and misleading LIBOR and Euroyen TIBOR contributions affected or tended to affect the price of commodities, including futures contracts. Moreover, in making and in accommodating these requests, the derivatives traders and submitters were engaged in a deceptive course of conduct in an effort to gain an advantage over their counterparties. As part of that effort: (1) derivatives traders and submitters submitted and caused the submission of materially false and misleading LIBOR, Euroyen TIBOR and Euribor contributions; and (2) derivatives traders, after initiating and continuing their effort to manipulate LIBOR, Euroyen TIBOR and Euribor contributions, negotiated and entered into derivative transactions with counterparties that did not know that UBS employees were often attempting to manipulate the relevant rate.

III.

DIRECTIONS BY UBS MANAGERS TO SUBMIT LIBOR CONTRIBUTIONS IN ORDER TO AVOID REPUTATIONAL HARM

98. According to an August 10, 2007 BBA press release, LIBOR closely reflected the real rates of interest being used by the world's large banks, and it reflected the actual rates at which banks borrowed money from each other.

99. Because a bank's LIBOR contributions, even if they are not based entirely on actual money market transactions, should correspond to the cost at which the bank perceives that it can borrow funds in the relevant market, a bank's LIBOR contributions may be viewed as an indicator of a bank's creditworthiness. If a bank's LIBOR contributions are relatively high, those submissions could suggest that the bank is paying more than others to borrow funds. Thus, a bank could be perceived to be experiencing financial difficulties because lenders were charging higher rates to that bank.

100. During 2007 and 2008, certain UBS managers and senior managers in Group Treasury and ALM directed that UBS LIBOR submitters should either "err on the low side" in determining UBS's submissions or should make submissions that would be in "the middle of the pack" of the other Contributor Panel banks. Such directions were conveyed to submitters for multiple LIBOR currencies. The directions were issued, at least in significant part, because of concerns that if UBS submitted higher LIBOR rates relative to other banks, UBS could attract negative attention in the media; during some period of time, UBS personnel believed that such attention was unjustified. UBS sought to avoid negative media attention and, relatedly, sought to avoid creating an impression that it was having difficulty obtaining funds. [13] The directions that

[13] Thus, the directions were issued with the intent to influence UBS's LIBOR submissions, rather than with the intent to affect the published LIBOR fix.

UBS managers issued to avoid such problems, to the extent they were motivated by reputational concerns, were inconsistent with the definition of LIBOR. Moreover, those directions influenced the formulation of UBS's LIBOR submissions during some periods of time.

101. At least some at UBS recognized that during this period, the "pack" of Contributor Panel banks was not a reliable reference point for the bank's LIBOR submissions, as is reflected in a September 22, 2008 electronic chat between an ALM employee and another UBS employee:

UBS Employee:	why is the [Investment Bank] cash curve for USD so much higher than Libor? offered 35bps above libor currently
ALM employee:	because the real cash market isn't trading anywhere near Libor . . . Libors currently are even more ficticious than usual
UBS Employee:	isn't libor meant to represent the rate at which banks lend to each other?
ALM employee:	that's the theory . . . in practise, it's a made up number . . . hence all the critisism it was getting a few months ago[[14]]
UBS Employee:	why do banks undervalue it in times like this?
ALM employee:	so as to not show where they really pay in case it creates headlines about that bank being desparate for cash . . . I suspect[15]

[14] The media criticism of the Contributor Panel banks' LIBOR submissions is discussed below.

[15] The exchange then continued, reflecting the ALM employee's view that LIBOR was particularly "fictitious," at least in part, because of a substantial decline in interbank lending during the financial crisis:

UBS Employee:	crazy . . . when you think of how much cash references these libor rates and the banks don't even have to show a tradable price
ALM employee:	yep . . . thing is – there is no such thing as a tradable price because there are no interbank term money market trades . . . we haven't lent cash for longer than 1-day to any of our counterparties for months and months . . . so it is all hypothetical

A. The Direction to Err on the Low Side Issued in August 2007

102. On August 9, 2007, an ALM senior manager in Zurich sent an email directing U.S. Dollar and Euro LIBOR submitters at UBS to "err on the low side" compared to the LIBOR submissions of other Contributor Panel banks, in order to protect the bank's reputation.

103. The events prompting this direction started on or about August 9, 2007, when UBS increased its overnight-rate U.S. Dollar LIBOR submission by an unusually high amount from the day before. A Bloomberg reporter contacted UBS to ask for comment on the increased submission and told UBS that the reporter intended to discuss the jump in connection with stories regarding the collapse of the commercial paper market. The reporter noted that UBS and another bank had been "hit the worst" and asked for an explanation. The reporter further indicated that this was a "huge story."

104. The inquiry from the Bloomberg reporter caused concern, especially because UBS was scheduled to announce its quarterly results the following week. The UBS press office forwarded the email to a senior manager in Group Treasury observing: "Given that we are announcing our results next week this will need urgent attention." The senior manager in Group Treasury was concerned about these events and asked the head of ALM in Zurich to look into the matter.

105. The head of ALM concluded that the UBS overnight rate LIBOR submission was in fact higher than it should have been. In addition, he was concerned that the public and press could interpret this high submission as an indication that the bank was having trouble funding itself, when in fact it was not. Accordingly, he determined that UBS should be submitting LIBORs "on the low side" relative to other panel banks' submissions. This head of ALM memorialized this decision in an August 9, 2007 email to a senior manager in Group Treasury in

Stamford, the manager of the derivatives trading desk that submitted the majority of UBS's LIBOR contributions, and others. The email stated:

> it is highly advisable to err on the low side with fixings for the time being to protect our franchise in these sensitive markets. Fixing risk and [profit and loss] thereof is secondary priority for now.[16]

The next day, UBS dropped its overnight submission 50 basis points to 5.5.

106. From that point forward, in accordance with instructions contained in the same email from ALM, derivatives traders with experience trading in the short-term money markets coordinated with derivatives traders who were contributing UBS's U.S. Dollar LIBOR submissions. Consistent with this new practice, the next day, August 10, 2007, a Zurich-based derivatives trader, who also traded in the U.S. Dollar short-term money markets ("Submitter Advisor-1"), advised the U.S. Dollar LIBOR submitter that, as to UBS's LIBOR contribution that day, the "aim should really be to be on the lower side of range." When the U.S. Dollar LIBOR submitter described his/her intended LIBOR contribution, Submitter Advisor-1 responded, "this seem probably a tad low right now, but recon that's what we should try to be," and added, "we just don't want to give the market a wrong impression . . . we not struggling to get cash . . . so therefore don't want to be on the highs of libors."

107. Later that day, before leaving for vacation, the U.S. Dollar LIBOR submitter reminded his/her replacement to "Please remember to err on the low side."[17] A month later, on September 5, 2007, the U.S. Dollar LIBOR submitter informed a London-based senior manager in the Investment Bank: "we are fixing on the low side of all other banks in the libor panel in the

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[16] The email's reference to "fixing risk" and profit and loss reflect an awareness that others at UBS were manipulating LIBOR to benefit trading positions, as discussed above.

[17] This reminder was contained in an email which was also sent to a senior manager in London who headed the global derivatives trading desks.

4 – 12 mo period by several bps . . . I can justify my fixings if asked . . . [As a] bank we are erring on the low side."

108. During this period, the direction to "to err on the low side" of LIBOR submissions was well known to various derivatives traders, LIBOR submitters, and managers on the trading desks. The Zurich-based senior manager of the derivatives desks that submitted LIBOR contributions for all currencies interpreted this directive as applying to all currencies, not just U.S. Dollar; this manager also recognized that the purpose of such an "err on the low side" direction was to protect UBS's image, so that the bank would avoid any appearance that it was uncreditworthy. Likewise, the manager of the Yen trading desk understood that this direction to submit low LIBOR contributions was issued by the senior manager of Group Treasury based in Stamford in order to make the bank appear more creditworthy, and that it applied to all currencies.

109. Trader-1 also understood that this direction came from UBS's senior managers. In a September 5, 2007 electronic chat with a cash broker, Trader-1 complained about UBS's low LIBOR submissions, stating: "[A]ll senior management . . . want to show the world we are the strongest bank with loads of liquidity. We'd lend at 0 US! Has been a lot of media focus on barclays libor fixes so they are paranoid."

110. UBS's LIBOR submissions continued to be"on the low side" into April 2008, when UBS was submitting its 3-month U.S. Dollar LIBOR contribution below the rates it was paying to obtain unsecured funding at that maturity, such as by issuing commercial paper. [18] In an April 10, 2008 electronic chat between the senior manager heading ALM and a derivatives trader in London, the derivatives trader asked, "if we are [issuing commercial paper] at 2.81%

[18] Commercial paper or "CP" is one way banks and other entities obtain unsecured short-term funding without borrowing in the interbank market. The issuance rate or "level" for commercial paper is the rate of interest paid to obtain such funding.

and that is 3m libor +10 . . . why aren't we putting our 3m rate in at 2.81% for libors [?]" The ALM senior manager replied, "we should," to which the trader replied, "but then [Group Treasury] will rip our boys a new one for being the highest bank in the poll." Approximately five minutes later, the London derivatives trader engaged in an electronic chat with Submitter-Advisor-1 regarding UBS's expected submission that day:

Derivatives trader:	can you tell me where you put our 3[month] fixing today please?
Submitter Advisor-1:	69.50 I believe I have suggested to [the U.S. Dollar submitter].
Derivatives trader:	can you raise money there? Would you lend there?
Submitter Advisor-1:	forget it.

111. After August 9, 2007, UBS's LIBOR submissions remained generally in the lower half of the Contributing Panel banks' contributions until April 2008.

B. <u>The End of the "Err on the Low Side" Direction</u>

114. On April 16, 2008, the Wall Street Journal reported that U.S. Dollar LIBOR Contributor Panel banks, including UBS, were routinely submitting inaccurately low LIBORs in order to make themselves appear more creditworthy. The next day, April 17, 2008, all of UBS's U.S. Dollar LIBOR submissions rose substantially. For example, UBS's 3-month U.S. Dollar submission rose by 9.5 basis points. That same day, the BBA announced that it would expel any banks from the Contributor Panel if it found that they were deliberately making inaccurate LIBOR submissions. The next day, UBS's LIBOR submissions significantly rose again. For

example, UBS's 3-month U.S. Dollar submission rose by another 8.5 basis points, resulting in a total increase of 18 basis points in two days.[19]

C. *Submitting in the Middle of the Pack and Closer to CD/CP Issuance Levels*

115. After the April 2008 Wall Street Journal article and the BBA announcement, the instruction to "err on the low side" was initially replaced with a new effort to make LIBOR submissions "in the middle of the pack" of the Contributing Panel banks. Thus, on April 17, 2008, Submitter Advisor-2 – who was tasked with advising the U.S. Dollar submitter each day – sent an email to the U.S. Dollar LIBOR submitter informing him/her that "the guidance I got from my management with regards to libors is that we should aim to be in the middle of the pack . . . ([Group Treasury] got on their back again as well)."

116. Immediately after this direction was issued on or about April 17, 2008, UBS's LIBOR submissions were in the middle of the submissions of the Contributor Panel banks for the next several days.

117. Later internal communications within UBS discussed the reasons behind the "middle of the pack" directive. On May 21, 2008, a Wall Street Journal reporter asked UBS, by email, why back in mid-April UBS had been "paying 12 basis points for CP more than it was posting as a Libor quote?" The senior manager heading ALM forwarded a proposed answer to this question to the Group Treasury senior manager in Stamford, stating: "the answer would be 'because the whole street was doing the same and because we did not want to be an outlier in the libor fixings, just like everybody else.'"

118. On April 22, 2008, several days after the middle of the pack directive was issued, a senior manager from Group Treasury in Stamford indicated that UBS should raise its U.S.

[19] Other banks also made higher LIBOR submissions after the April 16, 2008 article. The 3-month U.S. Dollar LIBOR fix rose by 8 basis points on April 17 and 9 basis points on April 18, 2008.

Dollar LIBOR submissions closer to the interest rates they were paying to obtain funds through issuing commercial paper and certificates of deposit ("CD").[20] During this time, while internal communications reflect that effort, such communications also indicate that UBS managers, senior managers, and others remained focused on where UBS's LIBOR submissions fell relative to those of other banks and did not want UBS's submissions to stand out by being too high. Thus, in an April 22, 2008 email from ALM to the senior manager heading the derivatives desks that submitted UBS's LIBORs, and copying the U.S. Dollar submitter-advisors, ALM stated that the Stamford-based Group Treasury senior manager had "requested we fix our libors in $ a few bps higher going [forward] as we still fix below where we post issuance. . . . only [Bank-E] fixes lower than where they post issuance (same as UBS). . . suggest we hike our fixings . . . and we will still not be the highest fixing." Similarly, on May 13, 2008, Submitter-2 advised the U.S. Dollar submitter, "for now we don't want to be the highest [Dollar LIBOR submitter]."

D. <u>UBS's Move Back to Middle of the Pack</u>

119. In late May, 2008, as noted above, the media continued to question whether Contributor Panel banks were intentionally submitting LIBOR contributions below where they were actually obtaining cash. Also in late May, 2008, UBS's BBA representative returned to UBS from a BBA meeting and reported his understanding that the BBA would allow banks to use CD/CP rates to determine LIBOR submissions. Soon thereafter, on June 2, 2008, ALM issued a direction to move U.S. Dollar LIBOR submissions closer to the bank's CD and CP issuance levels. From that date until June 16, 2008, UBS's LIBOR submissions in tenors of 3

[20] CD's are another way that banks obtain short-term unsecured funding. On June 10, 2008 the BBA expanded the definition of LIBOR to include the interest rate that a Contributor Panel bank perceives it can obtain funds through "through primary issuance of interbank Certificates of Deposit."

months or longer shot up dramatically. Apparently, however, other banks did not take the same approach during this two-week period.

120. During the week of June 16, 2008, a Zurich-based UBS senior manager directed U.S. Dollar LIBOR submitters to lower their submissions over the next three days "to get in line with the competition" because, by contributing LIBOR submissions closer to CD and CP issuance levels, UBS was becoming an outlier relative to other Contributor Panel banks. In an electronic chat that occurred on Tuesday, June 17, 2008, ALM and the short-term derivatives trader who advised the U.S. Dollar LIBOR submitter discussed this instruction in the following exchange:

Submitter Advisor-2:	just spoke to [the U.S. Dollar LIBOR submitter] . . . we are both fine . . . we will start lowering over the next few days to get to more or less middle of the pack . . . until further notice
ALM:	we should bring it down fast . . . so we are in line by Friday with the pack
Submitter Advisor-2:	tomorrow I will be around libor +11 in 1 yr . . . today we are at +16
ALM:	ok
Submitter Advisor-2:	we will get there by Friday
ALM:	and out to 6m you can be in line tomorrow
Submitter Advisor-2:	sure

121. As stated by Submitter Advisor-2, on June 18, 2008, UBS's 3-month U.S. Dollar LIBOR submissions immediately dropped 5 basis points, to the "middle of the pack" of the Contributor Panel banks.[21]

[21] On October 21, 2008, Submitter Advisor-2 became the U.S. Dollar LIBOR submitter.

122. From that time, and for approximately the next 10 months, UBS's 3-month U.S. Dollar LIBOR submissions were identical to the published LIBOR fix, and largely consistent with the published LIBOR fix in the other tenors.

123. During this 10-month period, there were significant disruptions in the financial markets, affecting individual financial institutions in different ways. UBS also confronted its own challenges that were not the result of general conditions in the financial industry. For example, in the fall of 2008, UBS received almost $60 billion from the Swiss government and the Swiss National Bank and borrowed more than $77 billion from the Federal Reserve Bank. Further, on February 10, 2009, UBS announced an 8.1 billion CHF loss for the fourth quarter of 2008. Moreover, major credit-rating agencies downgraded UBS in July and December 2008. Despite these events, UBS's LIBOR submissions remained in the middle of the pack during this turbulent 10-month period.

124. Communications reflecting this "middle of the pack" approach to formulating LIBOR submissions continued in late 2008 and early 2009. For instance, on October 9, 2008, Yen LIBOR Submitter-1 received an email asking: "Who in Group Treasury said we need LIBOR fixings within the outcome." The Yen LIBOR submitter implemented this directive by submitting LIBOR contributions in such a way so as to not stand out from where other Contributor Panel banks were submitting. His/her understanding was that if s/he submitted a higher LIBOR contribution, it could have indicated that UBS had potential problems, which could pose a reputational risk to the bank. In fact, the Yen LIBOR submitter had been told by his supervisor to consider the bank's submission relative to the submissions of other banks – absent a countervailing request from Trader-1, which would take precedence.

125. In an October 20, 2008 electronic chat with a cash broker, Trader-1 complained about UBS's unchanging Yen LIBOR submissions, stating "we are under a lot of pressure from above to be close to the fix unfortunately."

126. On December 11, 2008, before the U.S. Dollar LIBOR submitter went on vacation, the submitter sent an email instructing the back-up submitters that "[w]e want our fixings to be roughly in the middle of the pack."

127. In early 2009, the Yen LIBOR submitter was warned by one of his/her supervisors to avoid submitting LIBORs too far away from the anticipated LIBOR fix; otherwise, the submitter would be required to provide an explanation for the variance. The LIBOR submitter understood that this was meant to deter submissions that attracted attention.

128. Another UBS Yen LIBOR submitter was told by his/her manager during the financial crisis that UBS's Group Treasury wanted LIBOR submissions not to be too high because of how the bank would be perceived in the media. The submitter took this direction to mean that UBS's LIBOR submissions should not be outliers relative to those of other Contributor Panel banks and that he should submit UBS's LIBOR contributions within the anticipated middle of the eight submissions averaged to determine the resulting LIBOR fix. Accordingly, in an August 10, 2009 email, the Yen LIBOR submitter stated that UBS "will keep to the old guidelines of keeping close to the fixings and not being an outlier." At the time, s/he did not feel as though s/he was in a position to deviate from this approach.

129. The directive to submit LIBOR contributions to be in the middle of the pack of other banks' anticipated submissions was well known to certain LIBOR submitters and their managers. For example, the manager of UBS's Swiss Franc derivatives trading desk understood that in 2008, UBS Group Treasury instituted a policy of submitting LIBORs for all currencies,

including Swiss Franc, in the middle of the pack of other banks' expected LIBOR submissions. S/he received this direction from the senior manager heading ALM, who in turn indicated that the direction came from the Stamford-based Group Treasury senior manager. The Zurich-based senior manager of all derivatives trading desks shared the understanding that this "middle of the pack" strategy applied to setting LIBORs in all currencies, including U.S. Dollar, Swiss Franc, Yen, Pound Sterling, and Euro.[22]

130. The senior manager heading ALM, LIBOR submitters for different currencies, and others at UBS knew that it was inappropriate to contribute LIBOR submissions for the purpose of avoiding negative attention in the press or in the markets.

131. In April 2009, ALM reinstated the directive of making LIBOR submissions closer to the bank's CD and CP issuance levels, from which point UBS's U.S. Dollar LIBOR submissions were generally above the published LIBOR fix until on or about September 1, 2009, when ALM took over the responsibility of submitting LIBORs for UBS. After that time, however, ALM continued to receive "market color" from the previous U.S. Dollar LIBOR submitter, who was also a derivatives trader.

E. Interference With Ongoing Efforts To Manipulate Yen Libor

132. On some occasions, the directions issued to "err on the low side" or to remain "in the middle of the pack" conflicted with the efforts of derivatives traders to manipulate LIBOR for the benefit of their trading positions, as described above. For example, in December 2007, Trader-1 wished to have UBS Yen LIBOR submitters increase the bank's contribution to benefit

[22]Several internal communications suggest that this practice applied to Euroyen TIBOR submissions as well. For example, in a September 11, 2008 electronic chat between the head of the trading desk and the supervisor of the Euroyen TIBOR submitters, the trading supervisor explained that TIBOR submissions depended "on where others have them" and that UBS did not "wanna stick out from the crowd."

his positions. As a result, the manager of the Yen trading desk emailed London-based senior managers in the Investment Bank, and asked:

> How much pressure can we exert on [the Yen LIBOR submitter] to raise our 3[month] yen fixing over the next week? . . . Currently, we are in the bottom quartile [of the submitting banks], a move into the middle [where we can influence the resulting fix] is worth 500K. . . There is some reluctance on their part to move it higher as they are concerned about the reputational risks of putting in a high fix.

133. The following year, in the fall of 2008, Trader-1 wished to have the Yen LIBOR submitters manipulate Yen LIBOR contributions lower to benefit his derivatives trading positions. As a result, on October 8, 2008, Trader-1's manager emailed the London-based senior manager heading derivatives trading globally, explaining the need to be accommodated:

> We have a large tibor/libor position which loses if libors move higher. 4[million dollars per basis point]. . . .Group treasury has informed [LIBOR submitters] to put all fixings in the middle of the pack. This has resulted in UBS personally contributing to a ½ bp higher fixing today. Last year [in 2007] when we wanted Libors higher, we were told our fixing had to be low to show UBS's comparative strength.

The next day, Trader-1's manager again asked for relief from the "middle of the pack" directive by emailing a senior manager in London and stating: "[W]e really need some co-operation on the yen libors from those who input. The [UBS Yen LIBOR submitters] we are in contact with wont move them down as someone (think its [a Group Treasury senior manager in Stamford]) says we need to be in the middle of the pack." Trader-1's manager, demonstrating his/her understanding that the "middle of the pack" directive applied to multiple currencies, asked: "[I]s it possible to get an exception for Yen?"

IV.

UBS's ACCOUNTABILITY

134. UBS acknowledges that the wrongful acts taken by the participating employees in furtherance of the misconduct set forth above were within the scope of their employment at UBS. UBS acknowledges that the participating employees intended, at least in part, to benefit UBS through the actions described above. UBS acknowledges that due to this misconduct, UBS, including the UBS branches or agencies in the United States, have been exposed to substantial financial risk, and partly as a result of the penalties imposed by this non-prosecution agreement and under agreements reached with other government authorities, has suffered actual financial loss.

EXHIBIT 9

U.S. Department of Justice

Criminal Division

Washington, D.C. 20530

December 18, 2012

Gary R. Spratling, Esq.
Gibson, Dunn & Crutcher LLP
555 Mission Street, Suite 3000
San Francisco, CA 94105

David P. Burns, Esq.
Gibson, Dunn & Crutcher LLP
1050 Connecticut Ave NW
Washington, DC 20036

Re: UBS AG

Dear Mr. Spratling and Mr. Burns:

On the understandings specified below, the United States Department of Justice, Criminal Division, Fraud Section ("Fraud Section") will not criminally prosecute UBS AG and its subsidiaries and affiliates (collectively, "UBS"), with the exception of UBS Securities Japan Co., Ltd. ("UBS Securities Japan"), for any crimes (except for criminal tax violations, as to which the Fraud Section cannot and does not make any agreement) related to UBS's submissions of benchmark interest rates, including the London InterBank Offered Rate (known as LIBOR), the Euro Interbank Offered Rate (known as EURIBOR), and the Tokyo InterBank Offered Rate (known as TIBOR), as described in the attached Appendix A, which is incorporated in this Non-Prosecution Agreement ("Agreement").[1]

It is understood that UBS admits, accepts, and acknowledges responsibility for the conduct set forth in Appendix A and agrees not to make any public statement contradicting Appendix A.

The Fraud Section and UBS further agree that as a term and condition of this Agreement, UBS Securities Japan will plead guilty to one count of wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2, in accordance with the Plea Agreement that is attached as Appendix B, which is incorporated in this Agreement.

The Fraud Section enters into this Agreement based, in part, on its consideration of the following factors:

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[1] Although not addressed in Appendix A, this Agreement also encompasses UBS's submissions for the additional benchmark rates listed in Appendix C, which is also incorporated in this Agreement. The rates listed in Appendix C are the focus of an ongoing investigation and, for that reason, Appendix C will be held in confidence by the parties to this Agreement and will not be made available to the public until the Department of Justice, in its sole discretion, determines that such information can and should be disclosed.

(a) UBS has made a timely, voluntary, and complete disclosure of the facts described in Appendix A.

(b) UBS conducted a thorough internal investigation of the misconduct described in Appendix A, reported all of its findings to the Fraud Section, cooperated fully with the Fraud Section's investigation of this matter, and sought to effectively remediate any problems it discovered.

1. Although UBS was not the first bank to provide the Fraud Section with helpful information, and its self-disclosure and cooperation commenced after the Fraud Section had obtained certain evidence implicating UBS and, in particular, efforts to manipulate Yen benchmarks, UBS made its self-disclosure before the Fraud Section had contacted UBS regarding the criminal investigation.

2. UBS provided highly valuable information that significantly expanded and advanced the criminal investigation. UBS's cooperation has been exceptional in many important respects. Through its internal investigation, UBS has sought to uncover and disclose evidence of misconduct without restricting the focus of its investigation to issues the government had already identified. Over the past two years, it has made substantial efforts to assist the government in obtaining access to sources of evidence located abroad, including documents and witnesses. UBS's extensive cooperation is a particularly significant and favorable consideration in the Fraud Section's decision to enter into this Agreement.

3. The Fraud Section received compelling information from UBS, as well as from regulatory agencies, demonstrating that in recent years, under its new senior leadership, UBS has made important and positive changes in its compliance, training, and overall approach to ensuring its adherence to the law. Moreover, UBS appears to have substantially improved the manner in which it responds to regulatory and criminal investigations and to its discovery of potential misconduct, as the Department of Justice has observed in this matter.

    a. In order to ensure that misconduct of this nature does not recur, UBS has implemented a modified and significantly enhanced control framework for its LIBOR submission process and has expanded that program to encompass all other benchmark interest rate submissions. UBS has also implemented significant remedial measures in response to the misconduct discovered during this investigation.

b. The Fraud Section has also received favorable reports from the Swiss Financial Market Supervisory Authority ("FINMA") and the Japan Financial Services Authority (the "JFSA") describing, respectively, (1) positive progress that UBS has made in its approach to compliance and enforcement, and (2) UBS Securities Japan's effective implementation of the remedial measures previously imposed by the JFSA based on its findings relating to the attempted manipulation of Yen benchmarks.

This recent record is commendable, and partially mitigates the adverse implications of UBS's prior history of misconduct.

This Agreement does not provide any protection against prosecution for any crimes except as set forth above, and applies only to UBS and not to any other entities or to any individuals, including but not limited to employees or officers of UBS. The protections provided to UBS shall not apply to any acquirer or successor entities unless and until such acquirer or successor formally adopts and executes this Agreement.

This Agreement shall have a term of two years from the date of this Agreement, except as specifically provided below. It is understood that for the two-year term of this Agreement, UBS shall: (a) commit no United States crime whatsoever; (b) truthfully and completely disclose non-privileged information with respect to the activities of UBS, its officers and employees, and others concerning all matters about which the Fraud Section inquires of it, which information can be used for any purpose, except as otherwise limited in this Agreement; (c) bring to the Fraud Section's attention all potentially criminal conduct by UBS or any of its employees that relates to violations of U.S. laws (i) concerning fraud or (ii) governing securities and commodities markets; and (d) bring to the Fraud Section's attention all criminal or regulatory investigations, administrative proceedings or civil actions brought by any governmental authority in the United States against UBS or its employees that alleges fraud or violations of the laws governing securities and commodities markets.

Until the date upon which all investigations and prosecutions arising out of the conduct described in this Agreement are concluded, including the investigations of the matters listed in Appendix C, whether or not they are concluded within the two-year term specified in the preceding paragraph, UBS shall, in connection with any investigation or prosecution arising out of the conduct described in this Agreement: (a) cooperate fully with the Fraud Section, the Federal Bureau of Investigation, and any other law enforcement or government agency designated by the Fraud Section; (b) assist the Fraud Section in any investigation or prosecution by providing logistical and technical support for any meeting, interview, grand jury proceeding, or any trial or other court proceeding; (c) use its best efforts promptly to secure the attendance and truthful statements or testimony of any officer, agent or employee at any meeting or interview or before the grand jury or at any trial or other court proceeding; and (d) provide the Fraud Section, upon request, all non-privileged information, documents, records, or other tangible evidence about which the Fraud Section or any designated law enforcement or government agency inquires.

It is understood that, if the Fraud Section determines in its sole discretion that UBS has committed any United States crime subsequent to the date of this Agreement, or that UBS has given false, incomplete, or misleading testimony or information at any time, or that UBS has otherwise violated any provision of this Agreement, UBS shall thereafter be subject to prosecution for any federal violation of which the Fraud Section has knowledge, including perjury and obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against UBS, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the expiration of the term of the Agreement plus one year. Thus, by signing this Agreement, UBS agrees that the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed shall be tolled for the term of this Agreement plus one year.

It is understood that, if the Fraud Section determines in its sole discretion that UBS has committed any United States crime after signing this Agreement, or that UBS has given false, incomplete, or misleading testimony or information at any time, or that UBS has otherwise violated any provision of this Agreement: (a) all statements made by UBS or any of its employees to the Fraud Section or other designated law enforcement agents, including Appendix A, and any testimony given by UBS or any of its employees before a grand jury or other tribunal, whether prior or subsequent to the signing of this Agreement, and any leads derived from such statements or testimony, shall be admissible in evidence in any criminal proceeding brought against UBS; and (b) UBS shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads derived therefrom are inadmissible or should be suppressed. By signing this Agreement, UBS waives all rights in the foregoing respects.

The decision whether any public statement contradicts Appendix A and whether it shall be imputed to UBS for the purpose of determining whether UBS has breached this Agreement shall be in the sole discretion of the Fraud Section. If the Fraud Section determines that a public statement contradicts in whole or in part a statement contained in Appendix A, the Fraud Section shall so notify UBS, and UBS may avoid a breach of this Agreement by publicly repudiating such statement(s) within five business days after notification. This paragraph is not intended to apply to any statement made by any former UBS officers, directors, or employees. Further, nothing in this paragraph precludes UBS from taking good-faith positions in litigation involving a private party that are not inconsistent with Appendix A. In the event that the Fraud Section determines that UBS has breached this Agreement in any other way, the Fraud Section agrees to provide UBS with written notice of such breach prior to instituting any prosecution resulting from such breach. UBS shall, within 30 days of receipt of such notice, have the opportunity to respond to the Fraud Section in writing to explain the nature and circumstances of such breach, as well as the actions UBS has taken to address and remediate the situation, which explanation the Fraud Section shall consider in determining whether to institute a prosecution.

It is understood that UBS, by a branch or agency located in Connecticut, agrees to pay a monetary penalty of $500,000,000. UBS must pay this sum to the United States Treasury within ten days of the sentencing of UBS Securities Japan, in connection with its guilty plea and plea agreement attached as Appendix B. The parties agree that any criminal penalties that might be imposed by the Court on UBS Securities Japan in connection with its guilty plea and plea agreement will be deducted from the $500,000,000 penalty agreed to under this Agreement. UBS acknowledges that no tax deduction may be sought in connection with this payment.

It is further understood that, as noted above, UBS has strengthened its compliance and internal controls standards and procedures, and that it will further strengthen them as required by FINMA, the U.S. Commodity Futures Trading Commission, the JFSA, the United Kingdom Financial Services Authority, and any other regulatory or enforcement agencies that have addressed the misconduct set forth in Appendix A. In addition, in light of active investigations by various regulators of the conduct described in Appendix A and the role that regulators such as those listed above will continue to play in reviewing UBS's compliance standards, the Fraud Section has determined that adequate compliance measures have been and will be established. It is further understood that UBS will report to the Fraud Section, upon request, regarding its remediation and implementation of any compliance program and internal controls, policies, and procedures that relate to its submission of benchmark interest rates. Moreover, UBS agrees that it has no objection to any regulatory agencies providing to the Fraud Section any information or reports generated by such agencies or UBS relating to the submissions of benchmark interest rates. Such information and reports will likely include proprietary, financial, confidential, and competitive business information. Moreover, public disclosure of the information and reports could discourage cooperation, impede pending or potential government investigations, and thus undermine the objectives of the reporting requirement. For these reasons, among others, the information and reports and the contents thereof are intended to remain and shall remain non-public, except as otherwise agreed to by the parties in writing, or except to the extent that the Fraud Section determines in its sole discretion that disclosure would be in furtherance of the Fraud Section's discharge of its duties and responsibilities or is otherwise required by law.

It is further understood that this Agreement does not bind any federal, state, local, or foreign prosecuting authority other than the Fraud Section. The Fraud Section will, however, bring the cooperation of UBS to the attention of other prosecuting and investigative authorities, if requested by UBS.

It is further understood that UBS and the Fraud Section may disclose this Agreement to the public, except with respect to Appendix C as set forth above.

With respect to this matter, from the date of execution of this Agreement forward, this Agreement supersedes all prior, if any, understandings, promises and/or conditions between the Fraud Section and UBS. No additional promises, agreements, and conditions have been entered into other than those set forth in this Agreement and none will be entered into unless in writing and signed by all parties.

Fraud Section and UBS. No additional promises, agreements, and conditions have been entered into other than those set forth in this Agreement and none will be entered into unless in writing and signed by all parties.

Sincerely,

DENIS J. McINERNEY
Chief, Fraud Section
Criminal Division
United States Department of Justice

By: ______________________
Daniel A. Braun, Deputy Chief
Luke B. Marsh, Trial Attorney

AGREED AND CONSENTED TO:

UBS AG

By: ______________________ December 18, 2012
Markus U. Diethelm — Date
Group General Counsel, UBS AG

APPROVED:

By: ______________________ December 18, 2012
Gary R. Sprafling, Esq. — Date
David P. Burns, Esq.
Gibson, Dunn & Crutcher LLP
Attorneys for UBS AG

EXHIBIT 10

12 MAG 3229

Approved:

William Stellmach, Deputy Chief
Daniel Braun, Deputy Chief
Luke Marsh, Trial Attorney
Criminal Division (Fraud Section)

Elizabeth Prewitt, Asst. Chief
Richard Powers, Trial Attorney
Antitrust Division (New York)

Before: HONORABLE FRANK MAAS
United States Magistrate Judge
Southern District of New York

A TRUE COPY
UNITED STATES MAGISTRATE
FOR THE SOUTHERN DISTRICT OF N.Y.
DEPUTY CLERK

UNITED STATES OF AMERICA - v. - TOM ALEXANDER WILLIAM HAYES, and ROGER DARIN, Defendants.	**TO BE FILED UNDER SEAL** **COMPLAINT** 18 U.S.C. §§ 1349, 1343 & 2; 15 U.S.C. § 1 COUNTY OF OFFENSE: New York and elsewhere

SOUTHERN DISTRICT OF NEW YORK, ss.:

MICHAEL J. MCGILLICUDDY, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI") and charges as follows:

COUNT ONE
(Conspiracy to Commit Wire Fraud)

1. From at least in or about September 2006 through in or about September 2009, in the Southern District of New York and elsewhere, TOM ALEXANDER WILLIAM HAYES and ROGER DARIN, the defendants, and others known and unknown, did knowingly combine, conspire, confederate, and agree to commit certain offenses against the United States, that is: to devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that they were false and fraudulent when made, and transmitting and causing to be transmitted certain wire communications in interstate and foreign commerce, for the purpose of executing the scheme, to wit, the defendants engaged in a scheme to defraud counterparties to interest rate derivative trades taken on behalf of their employer by secretly manipulating benchmark interest rates to which the profitability of those trades was tied, in violation of Title 18,

profitability of those trades was tied, in violation of Title 18, United States Code, Section 1343.

Overt Acts

2. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about September 12, 2007 and on or about July 15, 2008, HAYES entered into trades with a counterparty based in Purchase, New York;

b. At various times relevant to this Complaint, including on or about March 29, 2007 and on or about April 28, 2008, DARIN engaged in electronic chats with HAYES; and

c. At various times relevant to this Complaint, HAYES and DARIN, and others known and unknown, caused the publication of manipulated interest rate information in New York, New York.

(Title 18, United States Code, Section 1349)

COUNT TWO
(Wire Fraud)

3. At various times relevant to this Complaint, in the Southern District of New York and elsewhere, TOM ALEXANDER WILLIAM HAYES, the defendant, unlawfully, wilfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, HAYES caused confirmations on or about September 12, 2007 and on or about July 15, 2008, to be transmitted from outside the United States to a counterparty based in Purchase, New York, for transactions involving interest rate derivative products tied to a benchmark interest rate which HAYES was secretly manipulating.

(Title 18, United States Code, Sections 1343 and 2)

COUNT THREE
(Antitrust)

4. In or about May 2009, in the Southern District of New York and elsewhere, TOM ALEXANDER WILLIAM HAYES, the defendant, and his co-conspirators, including an employee at a major financial institution, and others known and unknown, engaged in a combination and conspiracy in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act. The aforesaid combination and conspiracy consisted of an agreement, understanding, and concert of action among HAYES and his co-conspirators, the substantial terms of which were to fix Yen LIBOR, a key price component of Yen LIBOR-based derivative products.

(Title 15, United States Code, Section 1)

Affect on a Financial Institution

5. The scheme alleged in this Complaint had an affect on one or more financial institutions, within the meaning of Title 18, United States Code, Sections 20 and 3293(2).

* * * * *

The bases for my knowledge and the foregoing charges are, in part, as follows:

6. I am a Special Agent with the FBI of the United States Department of Justice. I am thoroughly familiar with the information contained in this Complaint, either through my own direct involvement in investigative work or through conversations with law enforcement agents and others, and my examination of documents, audio recordings, and other records from the various entities identified below. Because this Complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know about the investigation. To the extent that this Complaint contains assertions concerning dates and numbers, such assertions are often approximations based upon information and evidence gathered to date. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

¶

Relevant Background

A. The London Interbank Offered Rate

7. The London Interbank Offered Rate ("LIBOR") is the primary global benchmark for short-term interest rates, and it is calculated by averaging the estimates from leading banks around the world of the rates they would be charged if borrowing from other banks. Many financial institutions, mortgage lenders, and credit card agencies set their own rates relative to LIBOR. Mortgages, credit cards, student loans, and other consumer lending products often use LIBOR as a reference rate.

8. LIBOR is published under the auspices of the British Bankers' Association ("BBA"), a trade association based in London. LIBOR is calculated for ten currencies at fifteen borrowing periods (or maturities), ranging from overnight to one year.

9. The LIBOR for a given currency at a specific maturity is the result of a calculation based upon submissions from a panel of banks for that currency selected by the BBA. According to the BBA, the basis for a panel bank's LIBOR submission must be the rate at which members of the bank's staff primarily responsible for management of the bank's cash perceive that the bank can borrow unsecured funds from another bank in the designated currency over the specified maturity.

10. Each bank on the panel for a particular currency submits its LIBORs every London business day through electronic means to Thomson Reuters, as an agent for the BBA, by 11:10 a.m. London Time. Among other currencies, Thomson Reuters publishes LIBORs for the Japanese Yen. After each Yen panel bank has submitted its rates, Thomson Reuters ranks the contributed rates from highest to lowest, then excludes the top four and bottom four submissions, and finally averages the remaining middle eight submissions to determine the official LIBOR setting (or "fix") for that particular currency at each maturity. Thomson Reuters then publishes those fixings publicly, including to servers and counterparties based in New York, New York.

B. Relevant Individuals and Entities

11. As explained above, each panel bank made daily submissions to the BBA purporting to report the rates at which it could borrow sums of a "reasonable market size" from other banks for specified maturities.

12. The Yen LIBOR panel included, among other banks:

a. Bank A, a global financial services company headquartered in New York, New York;

b. Bank B, a global financial services company headquartered in Frankfurt, Germany;

c. Bank C, a global financial services company headquartered in Edinburgh, Scotland;

d. Bank D, a global financial services company headquartered in New York, New York; and

e. UBS AG, a global financial services company headquartered in Basel and Zurich Switzerland, with eleven principal offices around the world, including New York, New York. At certain times relevant to this Complaint, UBS AG operated, among other wholly-owned subsidiaries, UBS Securities Japan Ltd., an investment bank and financial services firm based in Tokyo, Japan (collectively, "UBS").[1]

13. Brokerage Firm A and Brokerage Firm B (collectively, the "Brokerage Firms") were London-based, inter-dealer brokers that, in exchange for commissions or other fees, matched buyers and sellers in various financial products, enabling them to engage in transactions. The Brokerage Firms provided such services to numerous clients, including Yen LIBOR panel banks, for Yen money market transactions, among other things.

14. At certain times relevant to this Complaint, prior to making Yen LIBOR submissions to the BBA, submitters at various Yen LIBOR panel banks consulted with inter-dealer brokers employed by the Brokerage Firms to learn about transactions,

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[1] At all times relevant to this Complaint, UBS operated branches or agencies within the United States, which were financial institutions, within the meaning of Title 18, United States Code, Section 20. UBS also engaged in transactions with counterparties that included financial institutions. One or more of these financial institutions was affected by the conduct charged in this Complaint, within the meaning of Title 18, United States Code, Section 3293(2).

activity, or trends in the short-term money markets in which banks would lend and borrow Yen. Because the Brokerage Firms had knowledge regarding the interest rates paid in such money market transactions, Yen LIBOR submitters considered such information, at certain times, in determining their banks' submissions.

15. Beginning in or about July 2006 through in or about September 2009, TOM ALEXANDER WILLIAM HAYES, the defendant, worked as a senior Yen swaps trader at UBS in Tokyo. At certain times relevant to this Complaint, he was assisted by a junior trader (the "UBS Junior Trader"). From in or about December 2009 through in or about September 2010, after leaving UBS, HAYES was employed as a senior Yen swaps trader at Bank D in Tokyo.

16. At certain times relevant to this Complaint, ROGER DARIN, the defendant, worked as a short-term interest rates trader at UBS in Singapore, Tokyo, and Zurich. At certain times during his tenure at UBS, in addition to trading, DARIN was also responsible for the bank's Yen LIBOR submissions to the BBA, and supervised two junior short-term interest rate traders ("UBS Junior Submitter 1" and "UBS Junior Submitter 2"), who also submitted UBS's Yen LIBORs to the BBA.

C. UBS's Trading in Yen LIBOR-Based Derivative Products

17. UBS and other Yen LIBOR panel banks engaged in the trading of Yen LIBOR-based derivative products such as futures, forward rate agreements, and interest rate swaps. Interest rate swaps, for example, are a type of financial product in which two parties agree to exchange interest rate cash flows based on a specified notional amount. In one common type of interest rate swap, each party agrees to pay either a fixed or floating rate denominated in a particular currency to the other party. The fixed or floating rate is multiplied by a notional principal amount to calculate the cash flows which must be exchanged at settlement. This notional amount generally does not change hands. LIBOR is a leading global benchmark used to index the floating rate in interest rate swaps.

18. HAYES and DARIN, among other UBS traders, traded in interest rate swaps and other interest rate derivative products indexed to different maturities of Yen LIBOR (such as 3-month or 6-month Yen LIBOR), effectively wagering on the direction in which Yen LIBOR would move. The bank compensated the defendants, in part, based on the profitability of their trading positions, effectively tying the defendants' bonuses to their success in predicting the movements of Yen LIBOR.

The Fraudulent Scheme

19. From at least in or about September 2006 through in or about June 2010, HAYES, together with others known and unknown, orchestrated a scheme to manipulate Yen LIBOR to maximize profits for his trading positions at the expense of his counterparties. Among other fraudulent devices to manipulate Yen LIBOR in a direction favorable to his trading positions, HAYES engaged in the following means and methods to execute his fraudulent scheme:

a. HAYES conspired with DARIN, and others known and unknown within UBS, to cause the bank to make false and misleading Yen LIBOR submissions to the BBA;

b. HAYES caused the Brokerage Firms to disseminate to other Yen LIBOR panel banks false and misleading information about short-term interest rates for Yen which those banks could and did rely upon in formulating their own Yen LIBOR submissions to the BBA; and

c. HAYES made efforts to coordinate with Yen swaps traders at other Yen LIBOR panel banks to likewise cause those banks to make false and misleading Yen LIBOR submissions to the BBA.

20. In this manner, HAYES, together with others known and unknown, devised and carried out a scheme to defraud UBS's and Bank D's counterparties and also globally impacted transactions and financial products tied to Yen LIBOR. Counterparties entering into Yen LIBOR-based derivative trades with HAYES, and therefore UBS and Bank D, did not know about this manipulation and were deceived regarding its occurrence.

A. The Conspiracy to Falsify UBS's Yen LIBOR Submissions

21. Unless otherwise specifically stated, based on my review of business records from UBS, the Brokerage Firms, and other Yen LIBOR panel banks, my participation in interviews, including those with the UBS Junior Trader and UBS Junior

Submitter 2,[2] my review of memoranda of interviews conducted by other agents, my review of summaries prepared by others, including summaries of UBS trading records, and my review of publicly available information, I have learned the following:

a. From at least in or about September 2006 through in or about August 2009, HAYES, DARIN, and others known and unknown, caused UBS repeatedly to provide false and misleading information in its daily Yen LIBOR submissions to the BBA regarding the interest rates at which UBS could borrow reasonable sums denominated in Yen from other banks. As explained above, HAYES and DARIN provided this false and misleading information to cause the final Yen LIBOR fixings published by Thomson Reuters to move in directions favorable to UBS trading positions in Yen LIBOR-based derivative products.

b. For example, in an electronic chat on or about November 20, 2006:[3]

i. HAYES explained to UBS Junior Submitter 1 that HAYES and DARIN "generally coordinate" and "skew the libors a bit." HAYES further stated: "really need high 6m fixes till thursday."

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[2] Both the UBS Junior Trader and UBS Junior Submitter 2 are cooperating with this investigation pursuant to non-prosecution agreements stating that, if these individuals abide by the terms of the agreements, neither the Criminal Division nor the Antitrust Division of the United States Department of Justice will prosecute them for their roles in the conduct alleged in this Complaint.

[3] A redacted copy of this UBS internal chat is attached hereto as Exhibit 1. All exhibits to this Complaint have been redacted to protect the identities and privacy interests of individuals and entities not specifically named in this Complaint. All shorthand, misspellings, and grammatical or typographical errors in the originals have been preserved in the excerpts quoted in this Complaint. As reflected in the attached Exhibits, the ellipses included in the quoted excerpts throughout were either in the original or indicate a line break in the original.

ii. UBS Junior Submitter 1 then responded: "will def be on the high side."

iii. On the trading day preceding this chat, UBS's submission for 6-month Yen LIBOR was tied for the second lowest submission to the BBA. However, following HAYES's request, the bank's submission became among the highest and remained so through the Thursday identified in the request. On or about Friday, November 24, 2006, UBS's submission returned to a level that was tied for the third lowest on the Yen LIBOR panel.

c. In or about early 2007, DARIN trained UBS Junior Submitter 2 and told him that the primary consideration in determining UBS's Yen LIBOR submissions each day was the requests from HAYES and other UBS Yen swaps traders. DARIN advised UBS Junior Submitter 2 that such requests were to be accommodated, and UBS Junior Submitter 2 subsequently complied with DARIN's instruction.

d. DARIN also personally accommodated requests from HAYES and other UBS Yen swaps traders. For example, in an electronic chat on or about March 29, 2007:[4]

i. HAYES requested, among other things, that UBS's 3-month Yen LIBOR submission be "low," to which DARIN responded: "ok."

ii. DARIN subsequently indicated that UBS's "unbiased" 3-month Yen LIBOR submission would be 0.69 percent and that he could not set too far away from the "truth" or he would risk getting UBS "banned" from the Yen LIBOR panel.

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[4] A redacted copy of this UBS internal chat is attached hereto as Exhibit 2.

iii. HAYES then responded, in part: "ok obviousl;y no int in that happening either...not asking for it be 7bp from reality...anyway any help appreciated."

iv. Subsequent to the chat, UBS's 3-month Yen LIBOR submission was 0.67 percent instead of the "unbiased" 0.69 percent that DARIN suggested otherwise would have been submitted. According to BBA records of Yen LIBOR panel bank submissions for that day, the resulting 3-month Yen LIBOR fix was 1/8 of a basis point[5] lower than it otherwise would have been had UBS's submission remained at the "unbiased" 0.69 percent.

e. Although the movements in Yen LIBOR submissions requested by HAYES and the UBS Junior Trader who acted at his direction could be measured in basis points, the yields to HAYES's trading positions were considerable. In fact, at certain times relevant to this Complaint, HAYES indicated in his requests to DARIN or UBS Junior Submitter 2 approximately how much his trading positions would benefit from even relatively slight movements in the resulting Yen LIBOR fix. For example, in a series of electronic chats from on or about Wednesday, March 12, 2008 through on or about Monday, March 17, 2008:[6]

i. On or about Wednesday, March 12, 2008, HAYES asked UBS Junior Submitter 2 for a "high" 3-month Yen LIBOR submission because "we have 2m usd fix in 3m on monday...per bp." UBS's trading records confirm that HAYES had a net trading position on or about Monday, March 17, 2008, that would profit by approximately

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[5] A basis point (or "bp") is equal to 0.01 percent; 100 basis points therefore equals 1.00 percent.

[6] Redacted copies of these UBS internal chats are attached hereto as Exhibit 3.

$2.1 million based on a one basis point increase in the 3-month Yen LIBOR fix on that day.

ii. UBS Junior Submitter 2 then responded that UBS's 3-month Yen LIBOR submission of 0.99 percent had been on the very high side the previous day and, as a result, UBS Junior Submitter 2 needed to go lower and "thought about 0.97." HAYES then inquired whether 0.98 percent was possible, but noted: "anyway the actual fix is monady...so thats the key day."

iii. That same day, notwithstanding UBS Junior Submitter 2's suggestion that a 0.97 percent submission was more appropriate, UBS's 3-month Yen LIBOR submission was 0.98 percent, consistent with HAYES's request.

iv. The following two days--on or about Thursday, March 13, 2008, and on or about Friday, March 14, 2008--UBS Junior Submitter 2 increased the bank's 3-month Yen LIBOR submission to 0.99 percent.

v. On or about Monday, March 17, 2008, the "key day" for his trading position, HAYES noted that he had spoken with DARIN regarding the 3-month Yen LIBOR submission and inquired whether "we could push it a bit more than usual." UBS Junior Submitter 2 then replied: "friday fixed 3mt at 0.99...shall i go fro 1%?" HAYES then answered "pls," to which UBS Junior Submitter 2 replied: "ok will do."

vi. On or about Monday, March 17, 2008, UBS's 3-month Yen LIBOR submission was 1.00%. On that day, alone, the resulting 3-month Yen LIBOR fix generated approximately $793,000 in additional profits for HAYES's trading book and, ultimately, for UBS compared to that which it would have earned had the bank's submission remained at 0.97 percent.

viii. The following day, on or about Tuesday, March 18, 2008, UBS's 3-month Yen LIBOR submission decreased to 0.95 percent.

f. Likewise, in an electronic chat on or about April 28, 2008:[7]

i. HAYES requested a low 6-month LIBOR submission from DARIN and asked: "hi roger i have a 500k usd fix in 6m today, can we try to keep it on the low side pls?"[8]

ii. DARIN then replied: "i'll submit something low...but if u can u should square it up." DARIN then added: "the correct 6m is 1.08."

iii. HAYES subsequently responded: "appreciate the help."

iv. That same day, UBS's 6-month Yen LIBOR submission was 0.98 percent, compared to DARIN's "correct" rate of 1.08 percent. According to BBA records, the resulting 6-month Yen LIBOR fix was 1/4 of a basis point lower than it would have been had UBS submitted the "correct" rate of 1.08 percent.

g. Similarly, in an electronic chat on or about June 29, 2009:[9]

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[7] A redacted copy of this UBS internal chat is attached hereto as Exhibit 4.

[8] In this context, I believe that "500k usd fix" means HAYES had a trading position which would gain or lose $500,000 for each single basis point movement in the resulting 6-month Yen LIBOR fix.

[9] A redacted copy of this UBS internal chat is attached hereto as Exhibit 5.

i. In requesting a high 6-month Yen LIBOR submission from UBS Junior Submitter 2, HAYES inquired: "can we st 6m libor high pls?"

ii. UBS Junior Submitter 2 then responded that, based on available information, UBS's 6-month Yen LIBOR submission likely would be 0.7150 percent.

iii. HAYES then asked: "can we go 74 or 75...we have 2m usd a bp fix."[10]

iv. UBS Junior Submitter 2 then responded: "yes sure will. i go with .75 for you." UBS's 6-month Yen LIBOR submission was indeed 0.75 percent that day, which was 3.5 basis points higher than the rate which UBS Junior Submitter 2 would have submitted.

v. According to BBA records of Yen LIBOR panel bank submissions for that day, UBS's 6-month Yen LIBOR submission of 0.75 percent placed it in the upper quartile, which meant that another bank's submission which would have been otherwise discarded was moved down into the "middle eight" and averaged to determine the final LIBOR fix. As a result of that change, the 6-month Yen LIBOR fix that day was increased by 1/16 of a basis point.

h. On at least approximately 335 of the 738 trading days from in or about November 2006 through in or about August 2009, HAYES or the UBS Junior Trader, at HAYES's direction, requested that DARIN, UBS Junior Submitter 1, or UBS Junior Submitter 2 accommodate HAYES's requests when setting UBS's Yen LIBOR

[10] In this context, I believe that "2m usd a bp fix" means HAYES had a trading position which would gain or lose $2 million for each single basis point movement in the resulting 6-month Yen LIBOR fix.

submissions.[11] At certain times in this period, HAYES requested accommodations for continuous days.

i. HAYES engaged in this conduct both before and after entering into trades with various counterparties.

j. At certain times relevant to this Complaint, counterparties to HAYES's trading positions included entities located in New York, New York which were financial institutions, within the meaning of Title 18, United States Code, Section 20.

22. Based on previously identified sources, I have learned that:

a. At certain times relevant to this Complaint, HAYES engaged in Yen LIBOR-based derivative transactions with a counterparty (the "Counterparty") based in Purchase, New York.

b. For example, on or about September 12, 2007, HAYES entered into two trades with the Counterparty for derivative products tied to 6-month Yen LIBOR. The confirmations for these trades were electronically routed from

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[11] Based on the sources previously identified, I learned that beginning in or about 2007, managers at UBS issued instructions to submitters for various LIBOR currencies, including the Yen and U.S. dollar, to "err on the low side" in their submissions or to make submissions that would be in the "middle of the pack" of other panel bank submissions. These instructions, at least part, were prompted by concerns that if UBS submitted higher LIBORs relative to other banks, UBS could attract negative attention in the media by potentially creating the impression it was paying higher rates of interest due to difficulties in obtaining funds: higher LIBORs might suggest UBS had a credit problem. According to UBS Junior Submitter 2, these instructions from higher levels within UBS, at certain times, prevented HAYES from manipulating Yen LIBOR to benefit his trading positions, leading to multiple complaints by HAYES and at least two attempts by his supervisor to obtain an exception for HAYES. Internal electronic communications recovered during this investigation corroborate this information.

UBS's offices overseas to the Counterparty's primary servers, located in Rye Brook, New York.

c. On the valuation dates prior to the settlement of those trades, HAYES requested that UBS Junior Submitter 2 move UBS's 6-month Yen LIBOR submissions in the direction that maximized HAYES's profits on those trades. According to BBA records, compared to the previous day, the change in UBS's 6-month Yen LIBOR submission was consistent with the direction of HAYES's request on one of those dates.

d. On or about July 15, 2008, HAYES again entered into a Yen LIBOR-based derivative transaction with the Counterparty, and the confirmation was again electronically routed through the Counterparty's servers in this District from overseas.

e. In an interview with another agent, the principal in charge of fixed income rate trading for North America and Asia at the Counterparty stated that he never speculated or observed that a Yen LIBOR panel bank had submitted rates to the BBA that benefitted its trading positions. Instead, the Counterparty's principal assumed that there was a segregation of duties and that the Yen swaps trader at the panel bank on the other side of the Counterparty's trading positions was not involved in the bank's Yen LIBOR submissions because otherwise the swaps trader could influence those submissions at the Counterparty's expense.

B. Dissemination of False and Misleading Interest Rate Information Through the Brokerage Firms

23. Unless otherwise specifically stated, based on previously identified sources, I have learned the following:

a. From at least in or about September 2006 through in or about September 2009, HAYES, and others known and unknown, also enlisted brokers employed at the Brokerage Firms for the purpose of disseminating false and misleading interest rate information into the marketplace. As explained above, such brokers have many contacts at Yen LIBOR panel banks, including Yen swaps traders and Yen LIBOR submitters. Some brokers employed at the Brokerage Firms, because they arrange large money market transactions between major financial institutions, are in a position to obtain knowledge of interbank lending activity and money markets generally. Yen LIBOR submitters at various panel banks, at times, incorporate information furnished by the Brokerage Firms in determining their Yen LIBOR submissions. By disseminating false and misleading information through the Brokerage Firms, HAYES, and others known and unknown, furthered the scheme to manipulate Yen LIBOR to move in directions favorable to HAYES's trading positions.

b. In exchange for this assistance from the brokers, HAYES arranged for the Brokerage Firms to be compensated in the form of increased fees or trading commissions.

24. At certain times relevant to this Complaint, a broker employed at Brokerage Firm A ("Broker A1") assisted HAYES in brokering interest rate derivative trades, and another broker employed at Brokerage Firm A ("Broker A2") distributed suggested LIBORs via a daily email to Yen LIBOR panel bank submitters and others, purporting to disclose where Broker A2, based on his information and experience, believed that Yen LIBOR would or should be set for that day at each specified maturity. HAYES solicited Broker A1 to intercede with Broker A2 to adjust Broker A2's suggested LIBORs to benefit HAYES's trading positions.

a. As the financial crisis unfolded in or about August 2007, interbank lending declined. Based on my participation in interviews with LIBOR submitters employed at various panel banks, I learned that this trend increased the extent to which LIBOR submitters relied on information from the Brokerage Firms in determining their submissions because the individual panel banks were engaged in less interbank lending themselves and consequently relied more on other data. For example, in an electronic chat with Broker A1 on or about August 15, 2007:[12]

i. HAYES noted that he needed "to keep 6m up till tues then let it collapse."

ii. Broker A1 then responded: "doing a good job so far...as long as the liquidity remains poor we have a better chance of bullying the fix."

iii. Later that day, Broker A2's forecast for the 6-month Yen LIBOR included in Broker A2's suggested LIBORs was increased by half of a basis point compared to the previous day.

b. The next day, in an electronic chat with Broker A1 on or about August 16, 2007:[13]

i. HAYES reiterated his need for a high 6-month Yen LIBOR fix and stated: "really really really need high 6m."

ii. Broker A1 then responded: "yep think i realise that" and "yes mate, will make myself useful."

iii. Later that day, Broker A2's forecast for the 6-month Yen LIBOR included in Broker A2's suggested LIBORs was increased by 6.5 basis points compared to the previous day.

c. At certain times relevant to this Complaint, multiple Yen LIBOR panel banks made submissions that mirrored exactly Broker A2's suggested LIBORs for extended periods of time. For example, in the period between January 1, 2008 and December 31, 2009, there

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[12] A redacted copy of this Bloomberg chat is attached hereto as Exhibit 6.

[13] A redacted copy of this Bloomberg chat is attached hereto as Exhibit 7.

were approximately 523 trading days, and on approximately 308 of those trading days, Bank D made submissions in all eight maturities that were identical to the forecasts from Broker A2, at times down to the fifth decimal point.

d. At certain times relevant to this Complaint, HAYES expressed appreciation to Broker A1 for Broker A2's influence. For example, in an electronic chat on or about August 22, 2008:[14]

i. Broker A1 stated: "think [Broker A2] is your best broker in terms of value added :-)."

ii. HAYES then replied: "yeah...i reckon i owe [Broker A2] a lot more."

iii. Broker A1 then responded: "[Broker A2's] ok with an annual champagne shipment, a few pi ss ups with [Broker A2's supervisor] and a small bonus every now and then."

25. At certain times relevant to this Complaint, HAYES engaged in similar contacts with a broker employed at Brokerage Firm B ("Broker B").

a. For example, in an electronic chat with Broker B on or about February 25, 2009:[15]

i. HAYES instructed Broker B: "low 1m and 3m...we must keep 3m down." He then stated: "try for low on all of em."

ii. Broker B then responded: "ok ill do my best for those tday."

iii. To compensate Broker B for that

[14] A redacted copy of this Bloomberg chat is attached hereto as Exhibit 8.

[15] A redacted copy of this Bloomberg chat is attached hereto as Exhibit 9.

assistance, HAYES then asked Broker B to broker a 150 billion Yen trade. Broker B then stated that the commissions the trade would generate would "make us make3 budget for the month so massive yes."

C. Efforts to Coordinate with Traders Employed at Other Yen LIBOR Panel Banks

26. Unless otherwise specifically stated, based on previously identified sources, I have learned the following:

a. From at least in or about January 2007 through in or about July 2009, HAYES regularly contacted Yen swaps traders employed at other Yen LIBOR panel banks, including Bank A, Bank B, and Bank C.

b. HAYES asked such traders either to request particular Yen LIBOR submissions from their banks' respective submitters or to move their banks' submissions in a particular direction (upward or downward).

c. In this way, HAYES not only directly influenced UBS's Yen LIBOR submissions, but also sought to influence the submissions of other Yen LIBOR panel banks. By taking trading positions aligned with HAYES's trading positions, the traders at Bank A, Bank B, and Bank C could likewise profit from manipulating their own respective banks' submissions to move in the same direction that HAYES was requesting for UBS's submissions.

1. Efforts to Influence Bank A's Yen LIBOR Submissions

27. At certain times relevant to this Complaint, HAYES contacted a Yen swaps trader employed at Bank A ("Trader A") in an effort to influence Bank A's Yen LIBOR submissions. For example, in an electronic chat with Trader A on or about January 19, 2007:[16]

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[16] A redacted copy of this chat is attached hereto as Exhibit 10.

a. HAYES asked: "bit cheeky but if you know who sets your libors and you aren't the other way I have some absolutely massive 3m fixes the next few days and would really appreciate a high 3m fix." HAYES then noted: "Anytime i can return the favour let me know as the guys here are pretty accommodating to me."

b. Trader A then replied: "I will try my best."

28. In another electronic chat with HAYES on or about January 29, 2007:[17]

a. Trader A requested: "Anything you need on libors today? High 6m would help me."

b. HAYES then responded: "high 3m i'll sort our 6m rate for you thanks."

c. Following this chat, HAYES contacted UBS Junior Submitter 1 and requested a high 6-month Yen LIBOR submission.

29. HAYES subsequently referenced efforts to coordinate with Trader A to a Yen swaps trader employed at Bank C ("Trader C") to explain why the 3-month Yen LIBOR was high. For example, in an electronic chat on or about February 2, 2007:[18]

a. HAYES explained: "3m libor is too high cause i have kept it artificially high."

b. After Trader C inquired how HAYES had done that, HAYES responded: "being mates with the cash desks, [Bank A] and i always help each other out...too."

2. <u>Efforts to Influence Bank B's Yen LIBOR Submissions</u>

30. At certain times relevant to this Complaint, HAYES contacted a Yen swaps trader employed at Bank B ("Trader B") in a

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[17] A redacted copy of this chat is attached hereto as Exhibit 11.

[18] A redacted copy of this Bloomberg chat is attached hereto as Exhibit 12.

similar effort to influence Bank B's Yen LIBOR submissions. For example, in a series of electronic chats from on or about May 21, 2009 through on or about May 22, 2009:[19]

a. On or about May 21, 2009, HAYES asked Trader B: "cld you do me a favour would you mind moving you 6m libor up a bit today, i have a gigantic fix." UBS's trading records confirm that HAYES had a net trading position that day that would profit by approximately $459,000 based on a one basis point increase in the 6-month Yen LIBOR fix on that day.

b. Trader B then responded: "I can do taht." Bank B's 6-month Yen LIBOR submission then increased by six basis points compared to its submission the previous day.

c. According to BBA records of Yen LIBOR panel bank submissions for that day, the resulting 6-month Yen LIBOR fix was 3/8 of a basis point higher than it otherwise would have been had Trader B left Bank B's submission at the same rate that it had been for the previous 26 trading days. Accordingly, just from the change in Trader B's 6-month Yen LIBOR submission, HAYES generated approximately $172,000 in additional profits for his trading book and, ultimately, for UBS.

d. The following day, on or about May 22, 2009, Trader B asked HAYES: "u happy with me yesterday?" HAYES then replied: "thx."

3. <u>Efforts to Influence Bank C's Yen LIBOR Submissions</u>

31. At certain times relevant to this Complaint, HAYES contacted Trader C in a similar effort to influence Bank C's Yen LIBOR submissions. On occasion, HAYES also agreed to reciprocate and influence UBS's submissions to accommodate requests from Trader C. For example, in a series of electronic chats on or

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[19] Redacted copies of these Bloomberg chats are attached hereto as Exhibit 13.

about March 6, 2007:[20]

a. Trader C requested that HAYES take steps to ensure low UBS Yen LIBOR submissions for all maturities: "can u go fr low everything plse?"

b. HAYES then replied that he would make that request, but he personally needed a high 3-month Yen LIBOR fixing.

c. HAYES then made a request to UBS Junior Submitter 1 consistent with Trader C's request for low 1-month and 6-month Yen LIBOR submissions, while omitting the 3-month maturity which HAYES needed to remain high. Specifically, HAYES stated: "hi pls don't forget low 1m and 6m! :)"

d. That day, compared to the previous day, UBS's 1-month and 6-month Yen LIBOR submissions dropped by 2.0 and 2.5 basis points, respectively, consistent with Trader C's request to HAYES.

32. HAYES also made similar requests of Trader C regarding Bank C's Yen LIBOR submissions. For example, in a series of electronic chats between on or about April 19, 2007 through on or about April 24, 2007:[21]

a. On or about Thursday, April 19, 2007, HAYES requested assistance in lowering 3-month Yen LIBOR and stated: "have some huge huge fixes." He then asked: "can you do me a favour and ask your cash guys for a low 3m?" (In numerous chats, HAYES referred to Yen LIBOR submitters as "cash guys," "cash boys," or the "cash desk.") Trader C then responded: "will do my best i am pretty flat at teh moment so don't really care." That same day, Bank C's 3-month Yen LIBOR

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[20] Redacted copies of these chats are attached hereto as Exhibit 14.

[21] Redacted copies of these Bloomberg chats are attached hereto as Exhibit 15.

submission was 0.65 percent, down from 0.67 percent the previous day.

b. On or about Friday, April 20, 2007, HAYES stated: "hi mate thanks for keeping 3m low y/day wd really appreciate it if u cld try for the same over the next few days." Later that day, HAYES again requested: "i know i only talk to you when i need something but if you could ask your guys to keep 3m low wd be massive help as long as it doesn't interfere with your stuff...tx in adavance." Approximately 30 minutes later, HAYES further inquired: "mate did you manage to spk to your cash boys?" Trader C then responded: "yes u owe me they are going 65 and 71." HAYES then replied: "thx mate yes i do...in fact i owe you big time." Approximately 45 minutes later, HAYES learned that Bank C had made a 3-month Yen LIBOR submission of 0.64 percent that day, below even the number Trader C had previewed to him. Accordingly, HAYES expressed his gratitude and stated: "they set 64!...thats beyond the call of duty!"

c. On or about Tuesday, April 24, 2007, HAYES stated: "hello mate thanks for the help on libors, if you cld ask for a low 3m for one last day wd be a big help, am meeting [a bank] tonight so i'll drop your name into the conversation!"

d. After three consecutive trading days at 0.64 percent, Bank C's 3-month Yen LIBOR submission increased to 0.65 percent the following day, on or about Wednesday, April 25, 2007.

The Agreement to Fix the
<u>Price of Yen LIBOR-Based Derivative Products</u>

33. In furtherance of the price fixing agreement alleged in Paragraph 4, HAYES, together with Trader B and others known and unknown, communicated and agreed with each other, as set forth in Paragraph 30, to fix the price of interest rate derivative products whose price was based on Yen LIBOR. As a result of this price fixing agreement, entities located in the United States and headquartered in New York, New York that were

counterparties to these affected derivative contracts incurred losses.

HAYES's Post-UBS Conduct

34. Unless otherwise specifically stated, based on previously identified sources, I have learned the following:

a. In or about September 2009, HAYES left his employment at UBS and began working as a senior Yen swaps trader at Bank D from in or about December 2009 through in or about September 2010.

b. In or about June 2010, HAYES attempted to cause a Yen LIBOR submitter at Bank D (the "Bank D Submitter") to provide false and misleading information in its daily Yen LIBOR submissions to the BBA.

c. For example, in an exchange of emails on or about June 1, 2010:[22]

   i. HAYES asked a junior Yen swaps trader at Bank D ("Trader D") to request that the Bank D Submitter make Yen LIBOR submissions favorable to HAYES's trading positions and stated: "It really suits our book can we ask if we can just leave it there for a couple of weeks?"

   ii. Trader D then responded: "I will mention it tomorrow morning so [the Bank D Submitter] has it in [the Bank D Submitter's] mind. But to be honest they are really nervous about it, so I don't think we can be too pushy."

d. At certain times during his tenure at Bank D, HAYES remained in contact with, among others, Broker A1, Trader B, and the UBS Junior Trader in a continued effort to solicit Yen LIBOR submissions that were favorable to HAYES's trading positions.

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[22] A redacted copy of this email exchange is attached hereto as Exhibit 16.

e. In an electronic chat with the UBS Junior Trader on or about May 12, 2010:[23]

i. HAYES stated: "libors are going down tonight."

ii. The UBS Junior Trader then asked: "why you think so?"

iii. HAYES then explained: "because i am going to put some pressure on people."

f. While employed at Bank D, HAYES also made efforts to influence Bank C's Yen LIBOR submissions through another broker working at Brokerage Firm A ("Broker A3"). For example, in a series of electronic chats on or about March 3, 2010 through on or about March 4, 2010, HAYES and Broker A3 discussed whether they could cause Bank C's Yen LIBOR submitter (the "Bank C Submitter") to lower Bank C's 3-month Yen LIBOR submission:[24]

i. On or about March 3, 2010, HAYES told Broker A3: "i really need a low 3m jpy libor into the imm[25]...any favours you can get with [Bank C Submitter] would be much appreciated...even if [the Bank C Submitter] on;ly move 3m down 1bp." Broker A3 then agreed to contact Bank C Submitter on behalf of HAYES.

ii. Following HAYES's request, Broker A3 asked the Bank C Submitter: "u see 3m jpy libor going anywhere btween now and imm?" Broker A3 continued: "we hve a

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[23] A redacted copy of this Bloomberg chat is attached hereto as Exhibit 17.

[24] Redacted copies of these Bloomberg chats are attached hereto as Exhibit 18.

[25] In this context, I believe "imm" refers to the International Monetary Market date, which occurs quarterly on the third Wednesday of March, June, September, and December.

mutual friend who'd love to see it go down, no chance at all?" The Bank C Submitter then speculated that the request came from HAYES and replied: "haha TH by chance." Broker A3 then responded: "shhh."

iii. That next day, on or about March 4, 2010, Bank C's 3-month Yen LIBOR submission decreased by one basis point compared to the previous day, consistent with HAYES's request to Broker A3. After the resulting Yen LIBOR fixings were posted, Bank C Submitter told Broker A3: "Libor lower ;)." Broker A3 then responded: "good work!!!!"

35. Based on my participation in interviews with the UBS Junior Trader, along with my review of audio recordings, I also learned the following:

a. On or about March 29, 2011, the UBS Junior Trader informed HAYES that the United States Department of Justice had contacted UBS in order to schedule an interview with the UBS Junior Trader.

b. In response, HAYES then advised the UBS Junior Trader to remove any belongings from Japan and to return to the foreign country where HAYES believed the UBS Junior Trader to be located. HAYES further cautioned that:

> The U.S. Department of Justice, mate, you know, they're like [unintelligible], the dudes who, you know, you know, absolutely like, you know, you know [unintelligible] put people in jail. Why the hell would you want to talk to them?

WHEREFORE, deponent prays that arrest warrants be issued for the above-named defendants and that they be imprisoned or bailed as the case may be.

MICHAEL J. MCGILLICUDDY
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION

Sworn to before me this
12th day of December, 2012

HONORABLE FRANK MAAS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

Given the confidential nature of this investigation, the Government respectfully requests that the Court order that this Complaint be filed under seal.

Respectfully submitted,

DENIS J. MCINERNEY	DEIRDRE A. MCEVOY
Chief	Chief
Fraud Section	New York Field Office
Criminal Division	Antitrust Division

By: ______________________ ______________________

Daniel Braun	Elizabeth Prewitt
Deputy Chief	Assistant Chief
Fraud Section	New York Field Office
Criminal Division	Antitrust Division

SO ORDERED: ______________________

HONORABLE FRANK MAAS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

Exhibit 1

UBS Internal Chat
Group: [PVT MSG]
Viewers UBS Jr. Submitter 1 hayesto

[2006-11-20 02:24:18.0] hayesto: Hi my name is tom, i work on the securities side are you covering for roger this week?

[2006-11-20 02:24:29 UBS Jr. Submitter 1 hi tom

[2006-11-20 02:24:32.0] UBS Jr. Submitter 1 here

[2006-11-20 02:25:10.0] hayesto: hi do you have any fixings today roger and i generally coordinate ie sometimes trade if ity suits, otherwise skew the libors a bit

[2006-11-20 02:25:19.0] hayesto: nice to meet you

[2006-11-20 02:25:30 UBS Jr. Submitter 1 yes i cover for roger next 2 weeks

[2006-11-20 02:25:38 UBS Jr. Submitter 1 in terms of fixing we rather paid

[2006-11-20 02:25:48.0] hayesto: great do you have any 6m fixes today

[2006-11-20 02:25:50.0] hayesto: ?

[2006-11-20 02:25:50 UBS Jr. Submitter 1 (so personally go for high ones) at the moment

[2006-11-20 02:25:55 UBS Jr. Submitter 1 yes think so

[2006-11-20 02:26:15.0] hayesto: great i am paid too, really need high 6m fixes till thursday

[2006-11-20 02:26:33 UBS Jr. Submitter 1 yep we on the case there

[2006-11-20 02:27:18 UBS Jr. Submitter 1 will def be on the high side

[2006-11-20 02:28:04.0] hayesto: thanks ever so much if you are the other way round in the next few days as i wd rather trade with you lower down and get a higher fix, i have about 500b 6m fixes from today till and including thursday

[2006-11-20 02:28:16.0] hayesto: thanks again

[2006-11-20 02:28:58 UBS Jr. Submitter 1 no problem

[2006-11-20 02:29:23 UBS Jr. Submitter 1 I come def back to you if I find myself short

[2006-11-20 02:29:40.0] hayesto: ok shout if you need anything i am not really axed right now but will let you know if that changes

[2006-11-20 02:30:02 UBS Jr. Submitter 1 ok cool

[2006-11-20 02:30:25 UBS Jr. Submitter 1 still settling in here (into systems big time right now - but hope that gets resolved soon)

[2006-11-20 06:48:54.0] hayesto: where you planning on setting 6m lib at the mom pls?

Redacted

[2006-11-20 06:49:20 UBS Jr. Submitter 1 will aim for 60

[2006-11-20 06:49:34.0] hayesto: ok thats great really really really appreciate it

[2006-11-20 06:49:35 UBS Jr. Submitter 1 i.e. higher .75 bp despite rally...

[2006-11-20 06:49:41.0] hayesto: thx

[2006-11-20 06:49:47 UBS Jr. Submitter 1 so try to give it a push really

Redacted

Exhibit 2

Redacted

20070329082117 hayesto hi roger can we go low 3m and 6m pls?
20070329082121 hayesto 3m esp
20070329082326 darinr ok
20070329082407 hayesto what do you like 3m today?
20070329082409 hayesto .66?
20070329082521 darinr .665
20070329082542 darinr actually
20070329082547 darinr cash itself is unchanged
20070329082559 darinr i'd be careful selling
20070329082611 darinr we took most of the turn out y'day so the fixing assumed a non-event turn
20070329083049 hayesto ok thx info, is UBS Jr. Submitter 1 setting them today?
20070329083419 darinr UBS Jr. Submitter 1 is no longer on the jpy book
20070329083445 darinr will be me
20070329083450 darinr be careful on selling 0x3
20070329083521 darinr if people are consistent, we won't see anything below 0.675
20070329083529 darinr and even that would be a result
20070329084657 hayesto ok FYI Redacted are setting .66 and Redacted .67
20070329084721 hayesto what are we going to set?
20070329084730 hayesto got tols cash was 64/62 in 3m?
20070329085159 darinr too early to say yet..prob .69 would be our unbiased contribution
20070329085326 hayesto ok wd really help if we cld keep 3m low pls
20070329085355 darinr think Redacted paying .6675 / Bank C 66.25 bid out there
20070329085441 darinr as i said before - i dun mind helping on your fixings, but i'm not setting libor 7bp away from the truth
20070329085453 darinr i'll get ubs banned if i do that, no interest in that
20070329085524 hayesto ok obviousl;y no int in that happening either
20070329085553 hayesto not asking for it to be 7bp from reality
20070329085625 hayesto anyway any help appreciated

Redacted

Exhibit 3

Redacted

20080312080326	hayesto	hi UBS Jr. Submitter 2
20080312080331	UBS Jr. Submitter 2	hi
20080312080346	hayesto	any chance high 3m and 6m today
20080312080346	hayesto	?
20080312080351	hayesto	we have 2m usd fix in 3m on monday
20080312080357	hayesto	per bp
20080312080405	hayesto	after that we are out
20080312080441	UBS Jr. Submitter 2	with yesterdays 0.99 i was already on the very high side. i need to go a touch lower on the back to what happened yesterday.
20080312080445	UBS Jr. Submitter 2	thought about 0.97
20080312080514	UBS Jr. Submitter 2	yday lows were fixed at 0.92
20080312080526	hayesto	cool no chance of .98?
20080312080537	hayesto	anyway the actual fix is monady
20080312080543	hayesto	so thats the key day
20080312080559	hayesto	anyway thx for any help
20080312080619	UBS Jr. Submitter 2	ok

Redacted

Redacted

Redacted

20080317C93008 hayesto hi UBS Jr. Submitter 2
20080317C93014 hayesto been chatting with roger
20080317C93018 hayesto can we go
20080317C93020 hayesto high 3m
20080317C93029 hayesto low 6m pls
20080317C93033 hayesto he thinks that should be fine
20080317C93049 hayesto obviously with the size of the fix today and confusion over levels
20080317C93103 hayesto if we could push it a bit more than usual it would be great

Redacted

Redacted

Redacted

20080317100955	UBS Jr. Submitter 2	friday fixed 3mt at 0.99
20080317100956	hayesto	thx UBS Jr. Submitter
20080317100959	hayesto	will you send the ticket
20080317101002	hayesto	pls?
20080317101003	UBS Jr. Submitter 2	shall i go fro 1*?
20080317101008	hayesto	pls
20080317101011	UBS Jr. Submitter 2	ok will do
20080317101011	UBS Jr. Submitter 2	tks
20080317101012	hayesto	anything high!
20080317101038	UBS Jr. Submitter 2	good

Redacted

Exhibit 4

UBS Internal Chat
Group: [PVT_MSG]
Viewers: darinr, hayesto

[2008-04-28 08:25:43.943] hayesto: hi roger i have a 500k usd fix in 6m today, can we try to keep it on the low side pls?

[2008-04-28 08:28:58.186] darinr: i'll submit something low ... but if u can u should square it up

[2008-04-28 08:29:05.507] darinr: the correct 6m is 1.08

[2008-04-28 08:29:32.678] hayesto: ok mate i can't do anything here very easily

[2008-04-28 08:29:38.449] hayesto: but i'll try

[2008-04-28 08:29:56.153] hayesto: appreciate the help

[2008-04-28 08:30:01.102] hayesto: again

[2008-04-28 08:30:08.785] darinr: perhaps u lucky and nobody noticed ... but risk is def on upside

[2008-04-28 08:44:10.656] hayesto: yeah hoping this holiday keeps it calm

[2008-04-28 08:44:16.606] hayesto: are you off tomorrow?

[2008-04-28 08:44:34.902] darinr: i'll be leaving early but be in till UBS Jr. Submitter 2 gets here or so

Redacted

Redacted

Exhibit 5

Date	User	Message
20090629095323	hayesto	hi
20090629095329	UBS Jr. Trader	hi
20090629095330	hayesto	pls alt k this convo
20090629095335	hayesto	after i finish
20090629095337	UBS Jr. Trader	sure
20090629095401	hayesto	i was in a mtg this am cause i been offered a decent job away
20090629095411	hayesto	will talk to you later
20090629095419	hayesto	pls alt k this
20090629095423	UBS Jr. Trader	k
20090629095433	UBS Jr. Trader	ctrl k
20090629163004	hayesto	hi UBS Jr. Submitter 2
20090629163014	UBS Jr. Submitter 2	hi mate
20090629163027	hayesto	6m cash crosses the year end
20090629163029	hayesto	today
20090629163036	hayesto	we have huge fixings
20090629163041	UBS Jr. Submitter 2	indee
20090629163043	UBS Jr. Submitter 2	d
20090629163046	hayesto	can we st 6m libor high pls
20090629163049	hayesto	?
20090629163054	hayesto	roger is off desk
20090629163102	hayesto	but i assume he is ok with it
20090629163107	UBS Jr. Submitter 2	yes just trying to finde out levels. first one i got at 0.7150
20090629163115	UBS Jr. Submitter 2	we dont have any fix at mom
20090629163131	hayesto	can we go 74 or 75
20090629163141	hayesto	we have 2m usd a bp fix
20090629163149	hayesto	for the next week
20090629163208	hayesto	i think a lot of people are going to move it up today
20090629163213	hayesto	well i hope
20090629163214	hayesto	:)
20090629163251	UBS Jr. Submitter 2	yes sure will. i go with 0.75 for you. another question
20090629163305	hayesto	sure go for it
20090629163310	hayesto	thanks UBS Jr. Submitter 2

Redacted

Redacted

Exhibit 6

Redacted

08/15/2007 23:16:24 TOM HAYES, UBS SECURITIES JAPAN Says ok mate
08/15/2007 23:16:34 TOM HAYES, UBS SECURITIES JAPAN Says Redacted article o/n again
08/15/2007 23:16:41 TOM HAYES, UBS SECURITIES JAPAN Says but they are idiots
08/15/2007 23:17:03 Broker A1 Says haven't seen it,what did they say?
08/15/2007 23:25:07 TOM HAYES, UBS SECURITIES JAPAN Says that they are going to hike in august
08/15/2007 23:25:14 Broker A1 Says Redacted wants a call if 1/2y gets to 15..if it does i think he will receive in equal amounts.Must try and remember!!
08/15/2007 23:25:23 Broker A1 Says b ollocks!
08/15/2007 23:25:25 TOM HAYES, UBS SECURITIES JAPAN Says thats great
08/15/2007 23:25:37 TOM HAYES, UBS SECURITIES JAPAN Says would suit me to pay that in like amnts
08/15/2007 23:25:45 Broker A1 Says exactly!!
08/15/2007 23:42:12 TOM HAYES, UBS SECURITIES JAPAN Says need to pay 1y today
08/15/2007 23:42:20 TOM HAYES, UBS SECURITIES JAPAN Says wish i had yesterday
08/15/2007 23:42:26 TOM HAYES, UBS SECURITIES JAPAN Says with 6m going up
08/15/2007 23:42:45 TOM HAYES, UBS SECURITIES JAPAN Says or give the 1y18m2y fly
08/15/2007 23:43:07 Broker A1 Says they did a good job for you...help slightly with those 2yrs (slightly!)
08/15/2007 23:46:13 Broker A1 Says hopefuly they will read 1y right down again though i think yesterdays libors will make people a lot more wary.
08/15/2007 23:56:58 TOM HAYES, UBS SECURITIES JAPAN Says need to keep 6m up till tues then let it collapse
08/15/2007 23:57:13 Broker A1 Says doing a good job so far
08/15/2007 23:57:46 Broker A1 Says as long as the liquidity remains poor we have a better chance of bullying the fix
=====End Message=====
=====Begin Message=====

Exhibit 7

Redacted

08/16/2007 04:15:08 Broker A1 Says trying to pay 2/5y and 2/10y looking for outright bid 2yy??
08/16/2007 04:24:16 TOM HAYES, UBS SECURITIES JAPAN Says really really really need high 6m
08/16/2007 04:24:33 Broker A1 Says yep think i realise that
08/16/2007 04:25:02 Broker A1 Says what you expecting?
08/16/2007 04:25:49 TOM HAYES, UBS SECURITIES JAPAN Says well from roger about down 0.5
08/16/2007 04:26:02 TOM HAYES, UBS SECURITIES JAPAN Says short dated cash is tighter tioday which should help
08/16/2007 04:26:49 TOM HAYES, UBS SECURITIES JAPAN Says think london will pay tonars too
08/16/2007 04:26:59 Broker A1 Says yes mate,will make myself useful..

Redacted

Exhibit 8

Redacted

08/22/2008 05:20:26 TOM HAYES, UBS SECURITIES JAPAN Says obv cld do with low 6m tonight
08/22/2008 05:20:32 TOM HAYES, UBS SECURITIES JAPAN Says after all that 3yrs
08/22/2008 05:20:42 TOM HAYES, UBS SECURITIES JAPAN Says i am so juch ha[ppier w/out Redacted its untrue
08/22/2008 05:20:49 Broker A1 Says :-) yep with you mate, low everything
08/22/2008 05:21:05 Broker A1 Says make sure Roger doesn't put them back up
08/22/2008 05:21:25 Broker A1 Says line still out...thought it was just yesterday
08/22/2008 05:21:56 Broker A1 Says makes my life easier as well , you are much more chilled
08/22/2008 05:22:13 TOM HAYES, UBS SECURITIES JAPAN Says no lkine out till next week
08/22/2008 05:22:17 TOM HAYES, UBS SECURITIES JAPAN Says at earliest
08/22/2008 05:22:23 TOM HAYES, UBS SECURITIES JAPAN Says i am fed up with them
08/22/2008 05:22:37 TOM HAYES, UBS SECURITIES JAPAN Says i reckon over the last 2 yrs they have cost me in excess of 1m usd
08/22/2008 05:22:46 Broker A1 Says ok with you...don't forget Redacted taking you monday
08/22/2008 05:22:47 TOM HAYES, UBS SECURITIES JAPAN Says from their screen blackmail
08/22/2008 05:22:55 TOM HAYES, UBS SECURITIES JAPAN Says thats fine
08/22/2008 05:23:05 Broker A1 Says it takes a lot of good broking to get that back
08/22/2008 05:23:15 TOM HAYES, UBS SECURITIES JAPAN Says yeah you are not wrong
08/22/2008 05:23:44 Broker A1 Says think Broker A2 is your best broker in terms of value added :-)
08/22/2008 05:24:04 TOM HAYES, UBS SECURITIES JAPAN Says yeah
08/22/2008 05:24:12 TOM HAYES, UBS SECURITIES JAPAN Says i reckon i owe him a lot more

Redacted

08/22/2008 05:25:09 Broker A1 Says he's ok with an annual champagne shipment, a few pi ss ups with Redacted and a small bonus every now and then.His missus is loaded evidently
08/22/2008 05:25:36 TOM HAYES, UBS SECURITIES JAPAN Says good hopefully not so loaded he can retire
08/22/2008 05:26:29 Broker A1 Says think he likes the broker life
08/22/2008 05:28:55 TOM HAYES, UBS SECURITIES JAPAN Says that workwed so well today
08/22/2008 05:29:03 TOM HAYES, UBS SECURITIES JAPAN Says i am in a really good mood
08/22/2008 05:29:30 Broker A1 Says good way to be heading into the weekend....try not to upset you from here on in
08/22/2008 05:33:27 TOM HAYES, UBS SECURITIES JAPAN Says thats Redacted job
08/22/2008 05:33:39 TOM HAYES, UBS SECURITIES JAPAN Says oh i forgot i am not talking to them
08/22/2008 05:34:18 Broker A1 Says :-)
08/22/2008 06:05:09 Broker A1 Says 1/7's imm 94.25-94
08/22/2008 06:08:12 Broker A1 Says care
08/22/2008 06:57:05 TOM HAYES, UBS SECURITIES JAPAN Says pls remind me to ask roger low 1m and 6m
08/22/2008 06:57:37 Broker A1 Says yep will do, encouraging nobody has bid 0/6's any better
08/22/2008 07:08:21 Broker A1 Says 1/2/3y -2.75/-3
08/22/2008 07:10:59 Broker A1 Says 2.875/3
08/22/2008 07:47:03 Broker A1 Says 2y 98.25-97.875
08/22/2008 09:26:54 Broker A1 Says don't forget to ask Roger low libors
08/22/2008 15:39:09 TOM HAYES, UBS SECURITIES JAPAN has left the room
08/22/2008 15:41:10 Broker A1 has left the room

Exhibit 9

Redacted

02/25/2009 06:39:48 Broker B Says helo mate mng

02/25/2009 06:40:21 Broker B Says anything cookjing i can try desperate for a decent trade gone pear shaped this month

02/25/2009 06:42:56 TOM HAYES, UBS SECURITIES JAPAN Says we can switch 2yrs

02/25/2009 06:42:58 TOM HAYES, UBS SECURITIES JAPAN Says today

02/25/2009 06:43:04 TOM HAYES, UBS SECURITIES JAPAN Says i'll talk later

02/25/2009 06:43:16 TOM HAYES, UBS SECURITIES JAPAN Says in mean time

02/25/2009 06:43:20 TOM HAYES, UBS SECURITIES JAPAN Says low 1m and 3m

02/25/2009 06:43:26 TOM HAYES, UBS SECURITIES JAPAN Says we must keep 3m down

02/25/2009 06:43:30 TOM HAYES, UBS SECURITIES JAPAN Says and high 6m

02/25/2009 06:43:38 TOM HAYES, UBS SECURITIES JAPAN Says act 6m unchanged today

02/25/2009 06:43:42 TOM HAYES, UBS SECURITIES JAPAN Says try for low on all of em

02/25/2009 06:43:57 TOM HAYES, UBS SECURITIES JAPAN Says from tomorrow need 6m high as a drug addict

02/25/2009 06:44:02 Broker B Says ok ill do my best for those tday

02/25/2009 06:44:08 Broker B Says hahahha like it

02/25/2009 06:44:09 Broker B Says ok

02/25/2009 06:44:14 TOM HAYES, UBS SECURITIES JAPAN Says we can do 150b 2yrs bro both sides

02/25/2009 06:44:17 TOM HAYES, UBS SECURITIES JAPAN Says ask Redacted

02/25/2009 06:44:29 TOM HAYES, UBS SECURITIES JAPAN Says will that help?

02/25/2009 06:44:43 Broker B Says ok mate that will make us make3 budget for the month so massive yes

02/25/2009 06:44:48 Broker B Says if he agrees to do it yeah

02/25/2009 06:45:22 Broker B Says hasnt helped Redacted being off for 2weeks he generates most of our fx biz

02/25/2009 07:17:42 Broker B Says Bank B fkin june tibor libor

02/25/2009 07:26:01 TOM HAYES, UBS SECURITIES JAPAN Says Redacted will show

02/25/2009 07:26:11 Broker B Says got it cheers

02/25/2009 07:26:56 Broker B Says 0.5 h gvs cheers mate

02/25/2009 07:27:04 TOM HAYES, UBS SECURITIES JAPAN Says np

02/25/2009 09:31:59 Broker B Says ok tom im gonna do that this afemoon that think ok get si to put it in

02/25/2009 09:32:23 Broker B Says isnthat ok mate

02/25/2009 09:49:13 TOM HAYES, UBS SECURITIES JAPAN Says yeah

02/25/2009 09:49:15 TOM HAYES, UBS SECURITIES JAPAN Says 150b

02/25/2009 09:49:39 Broker B Says love yu mate
02/25/2009 13:40:53 TOM HAYES, UBS SECURITIES JAPAN has left the room
=====End Message=====
=====Begin Message=====

Redacted

Exhibit 10

From: Trader A
Sent: Friday, January 19, 2007 4:24 AM
To: TOM HAYES <hayesto@bloomberg.net>
Subject:

Trader A bit cheeky but if you know who sets your libors and you aren't the other way I have some absolutely massive 3m fixes the next few days and would really appreciate a high 3m fix Redacted were one of the lowest y/day at .51. Anytime i can return the favour let me know as the guys here are pretty accomodating to me.
cheers tom
Reply:
I will try my best, but really fed up with my guys, wanted a hig
h 6m yesterday, but came in really low (our guys one of the main
culprits) - got quite badly hit on that.

Redacted

Exhibit 11

Message Sent: 01/29/2007 04:22:46
From: HAYESTO@bloomberg.net|TOM HAYES|UBS SECURITIES JAPAN|1113|92545
To: Trader A
Subject:

Anything you need on libors today? High 6m would help me.
Reply:
high 3m i'll sort our 6m rate for you thanks Trader A

Redacted

UBS Internal Chat
Group: [PVT MSG]
Viewers UBS Jr. Submitter 1 hayesto

[2007-01-29 07:16:26.0] hayesto: hi

[2007-01-29 07:16:47 UBS Jr. Submitter 1 hi

[2007-01-29 07:16:50.0] hayesto: if you have no 3m fixing can you set 3m high for me pls

[2007-01-29 07:16:54.0] hayesto: thx

[2007-01-29 07:17:04 UBS Jr. Submitter 1 ok will do

[2007-01-29 07:25:35.0] hayesto: thx

[2007-01-29 10:24:53.0] hayesto: hi

[2007-01-29 10:25:02.0] hayesto: also can you pls set 6m high as well

[2007-01-29 10:25:07.0] hayesto: thanks for the help

[2007-01-29 10:25:40 UBS Jr. Submitter 1 6s we are the other way

[2007-01-29 10:26:03.0] hayesto: ok no worries then

[2007-01-29 10:26:16.0] hayesto: don't have much in it

[2007-01-29 10:26:27.0] hayesto: only 25b

[2007-01-29 10:26:32.0] hayesto: thx looking

[2007-01-29 10:26:34 UBS Jr. Submitter 1 we got a bit more

[2007-01-29 10:26:39 UBS Jr. Submitter 1 no problem

Redacted

Exhibit 12

Redacted

02/02/2007 02:23:08 Trader C Says Redacted telling me the spread will widen over golden week ??
02/02/2007 02:27:39 TOM HAYES, UBS SECURITIES JAPAN Says no way
02/02/2007 02:28:08 Trader C Says thats what i thought he pays 15.5 too for that spread if u wanna do any
02/02/2007 02:28:10 Trader C Says more
02/02/2007 02:29:38 TOM HAYES, UBS SECURITIES JAPAN Says he is an idiot
02/02/2007 02:29:53 TOM HAYES, UBS SECURITIES JAPAN Says if they hike 3m tonar is .54 3m libor is .65
02/02/2007 02:30:17 Trader C Says yeah thats what i thought
02/02/2007 02:31:06 TOM HAYES, UBS SECURITIES JAPAN Says if not the spread may fix round 15 at the worst, but 3m libor is too high cause i have kept it artificially high
02/02/2007 02:31:17 Trader C Says how
02/02/2007 02:31:35 TOM HAYES, UBS SECURITIES JAPAN Says being mates with the cash desks, Bank A and i always help each other out
02/02/2007 02:31:39 TOM HAYES, UBS SECURITIES JAPAN Says too
02/02/2007 02:31:58 Trader C Says ok thats useful to know so i assume come 1s4s it will be soft
02/02/2007 02:32:57 TOM HAYES, UBS SECURITIES JAPAN Says well i am long libor in 1v4m so will try to keep high then but basically is 1bp too high right now adn come may i'll get it 1bp too low net net a 2bp

swing in the fix
02/02/2007 02:33:21 | Trader C | Says good man

Redacted

Redacted

Exhibit 13

Redacted

05/21/2009 06:29:34 TOM HAYES, UBS SECURITIES JAPAN Says cld you do me a favour would you mind moving you 6m libor up a bit today, i have a gigantic fix
05/21/2009 06:29:39 TOM HAYES, UBS SECURITIES JAPAN Says i am limit short
05/21/2009 06:29:44 TOM HAYES, UBS SECURITIES JAPAN Says can't sell anymore
05/21/2009 06:29:54 TOM HAYES, UBS SECURITIES JAPAN Says just watch
05/21/2009 06:30:44 Trader B Says i can do taht
05/21/2009 06:31:18 TOM HAYES, UBS SECURITIES JAPAN Says thx

Redacted

Redacted

Redacted

05/22/2009 02:13:33 Trader B says:
u happy with me yesterday?

05/22/2009 02:16:01 TOM HAYES, UBS SECURITIES JAPAN says:

Redacted

thx

Redacted

Redacted

Exhibit 14

Redacted

03/06/2007 07:46:16 Trader C Says where do u think the 6s fix is going to be ??
03/06/2007 07:46:24 TOM HAYES, UBS SECURITIES JAPAN Says .705ish?
03/06/2007 07:47:15 Trader C Says yeah can u go fr low everything plse
03/06/2007 07:47:17 Trader C Says i am
03/06/2007 07:47:36 TOM HAYES, UBS SECURITIES JAPAN Says will do cld do with high threes but won't get it we are the lowest

Redacted

UBS Internal Chat
Group: [PVT_MSG]
Viewers UBS Jr. Submitter 1 hayesto

[2007-03-06 11:06:24.0] hayesto: hi pls don't forget low 1m and 6m! :)

[2007-03-06 11:06:30.0] hayesto: have lots fixing

[2007-03-06 11:06:32 UBS Jr. Submitter 1 mate I wont

[2007-03-06 11:06:39 UBS Jr. Submitter 1 those fixings have been too high for long

[2007-03-06 11:06:45 UBS Jr. Submitter 1 so more than happy to go for low

[2007-03-06 11:07:13.0] hayesto: thx

Redacted

Redacted

Exhibit 15

Redacted

04/19/2007 08:29:47 TOM HAYES, UBS SECURITIES JAPAN Says yeah have some huge huge fixes
04/19/2007 08:29:58 TOM HAYES, UBS SECURITIES JAPAN Says need cash to stay offered for about 3 weeks
04/19/2007 08:30:26 TOM HAYES, UBS SECURITIES JAPAN Says can you do me a favour and ask your cash guys for a low 3m?
04/19/2007 08:31:30 Trader C Says will do my best i am pretty flat at teh moment
04/19/2007 08:31:35 Trader C Says so dont really care
04/19/2007 08:31:50 TOM HAYES, UBS SECURITIES JAPAN Says well it would really really help me!
04/19/2007 08:31:54 Trader C Says I think for what its worth though that these spreads might start to widen a bit

From: TOM HAYES Account Name: UBS SECURITIES JAPAN Account Number: Bloomberg UUID: Firm Number:

Sent: Friday, April 20, 2007 1:46 AM

To: Trader C Bloomberg UUID: Redacted

hi mate thanks for keeping 3m low y/day wd really appreciate it if u cld try for the same over the next few days, anyway let me know, cheers tom

Redacted

Redacted

04/20/2007 09:20:59 Trader C hi
04/20/2007 09:21:24 TOM HAYES, UBS SECURITIES JAPAN Says i know i only talk to you when i need something but if you could ask your guys to keep 3m low wd be massive help as long as it doesn't interfere with your stuff
04/20/2007 09:21:37 TOM HAYES, UBS SECURITIES JAPAN Says tx in adavance
04/20/2007 09:22:03 TOM HAYES, UBS SECURITIES JAPAN Says thanks god for todays sell off
04/20/2007 09:22:08 TOM HAYES, UBS SECURITIES JAPAN Says needed that
04/20/2007 09:36:18 Trader C Says yeah cool wot u think from here
04/20/2007 09:36:27 Trader C Says i think might rally now a bit
04/20/2007 09:37:20 TOM HAYES, UBS SECURITIES JAPAN Says 99 is key key level in mar, i am less short but favout trading slightly short
04/20/2007 09:37:33 TOM HAYES, UBS SECURITIES JAPAN Says i have put on some big steepeners
04/20/2007 09:37:56 TOM HAYES, UBS SECURITIES JAPAN Says tjink the next sell off will be Redacted led and the EY spreads will have to steepen
04/20/2007 09:38:29 TOM HAYES, UBS SECURITIES JAPAN Says also am short red pack t/l
04/20/2007 09:39:13 TOM HAYES, UBS SECURITIES JAPAN Says seeing int fron h/fs to sell them
04/20/2007 09:40:23 TOM HAYES, UBS SECURITIES JAPAN Says but slightly above here which gives me confidence
04/20/2007 09:45:40 Trader C Says do u speak to Redacted at Redacted
04/20/2007 09:45:43 Trader C Says i do too
04/20/2007 09:46:03 TOM HAYES, UBS SECURITIES JAPAN Says yes

04/20/2007 09:46:16 TOM HAYES, UBS SECURITIES JAPAN Says was that you y/day in the steepening atrde?
04/20/2007 09:46:20 TOM HAYES, UBS SECURITIES JAPAN Says trade
04/20/2007 09:46:37 Trader C Says no but i was looking at it
04/20/2007 09:46:46 Trader C Says i have already got it on sep sep though
04/20/2007 09:46:47 TOM HAYES, UBS SECURITIES JAPAN Says yeah i was reducing my risk
04/20/2007 09:46:57 TOM HAYES, UBS SECURITIES JAPAN Says but reestablished it today
04/20/2007 09:47:04 TOM HAYES, UBS SECURITIES JAPAN Says have dec dec
04/20/2007 09:47:51 Trader C Says sorry where about
04/20/2007 09:48:36 TOM HAYES, UBS SECURITIES JAPAN Says sorry?
04/20/2007 09:49:14 Trader C Says where did u put on the dec dec
04/20/2007 09:50:00 TOM HAYES, UBS SECURITIES JAPAN Says oh no level as such just through trades
04/20/2007 09:50:10 TOM HAYES, UBS SECURITIES JAPAN Says have about 8000 fut
04/20/2007 09:50:15 TOM HAYES, UBS SECURITIES JAPAN Says of it
04/20/2007 09:50:24 TOM HAYES, UBS SECURITIES JAPAN Says but then book is so huge
04/20/2007 09:50:31 TOM HAYES, UBS SECURITIES JAPAN Says hard to keep track
04/20/2007 09:50:38 TOM HAYES, UBS SECURITIES JAPAN Says should get a prop book
04/20/2007 09:50:59 Trader C Says yeah its easier to keep track of strategic trades with a seperate book .
04/20/2007 09:52:51 TOM HAYES, UBS SECURITIES JAPAN Says mate did you manage to spk to your cash boys?
04/20/2007 09:54:33 Trader C Says yes u owe me they are going 65 and 7!
04/20/2007 09:55:50 TOM HAYES, UBS SECURITIES JAPAN Says thx mate yes i do
04/20/2007 10:00:46 TOM HAYES, UBS SECURITIES JAPAN Says in fact i owe you big time
04/20/2007 10:15:26 Trader C has left the room
04/20/2007 10:45:57 Trader C received an invite from
TOM HAYES, UBS SECURITIES JAPAN Says mater they set 64!
04/20/2007 10:45:58 Trader C has joined the room
04/20/2007 10:45:58 Trader C Says *** Bank C Disclaimer: This material is for your information only. Certain transactions mentioned herein may give rise to substantial risk and may not be suitable for all investors. Bank C may have positions in, buy or sell (on a principal or agency basis) or make a market in securities mentioned herein or securities option or futures related there to. Prices are based on currently available information and are subject to change. They are not offers to buy or sell and cannot be relied upon as a representation that a transaction can be effected with this or any other firm at such prices. This material is based on information that we consider reliable, but we do not represent that it is accurate or complete.
04/20/2007 10:46:12 TOM HAYES, UBS SECURITIES JAPAN Says thats beyond the call of duty!
04/20/2007 10:46:23 TOM HAYES, UBS SECURITIES JAPAN Says i wish it was there!
04/20/2007 10:54:17 Trader C Says no worries
04/20/2007 10:54:26 Trader C Says have a good weekend
04/20/2007 10:55:26 TOM HAYES, UBS SECURITIES JAPAN Says u too thx mate!
04/20/2007 11:52:00 Trader C has left the room
04/20/2007 15:13:17 TOM HAYES, UBS SECURITIES JAPAN has left the room

Message Sent: 04/24/2007 23:25:37
From: HAYESTO@bloomberg.net|TOM HAYES|UBS SECURITIES JAPAN Redacted
To: Trader C
Subject:

hello mate thanks for the help on libors, if you cld ask for a low 3m for one last day wd be big help, am meeting Redacted tonight so i'll drop your name into the conversation! (also high 6m wd really help me today!)

Exhibit 16

From: Hayes, Tom Redacted
To: Trader D
Sent: 6/1/2010 1:02:22 PM
Subject: Re: libor

Call me
------Original Message------
From: Trader D
To: Hayes, Tom Redacted
Cc: Redacted
Subject: RE: libor
Sent: Jun 1, 2010 9:58 PM

I will mention it tomorrow morning s Bank D Submitter has it in his mind. But to be honest they are really nervous about it, so I don't think we can be too pushy.

-----Original Message-----
From: Hayes, Tom Redacted
Sent: 01 June 2010 13:46
To: Trader D
Cc: Redacted
Subject: Re: libor

It really suits our book can we ask if we can just leave it there for a couple of weeks?

----- Original Message -----
From: Trader D
To: Hayes, Tom Redacted
Sent: Tue Jun 01 21:31:18 2010
Subject: libor

Apparently it's misinput Bank D Submitter was off for training in the morning and somebody else put that in.
Bank D Submitter agrees that yen libor to stay low for time being but doesn't think it makes sense to cut aggressively when USD/EUR funding situation is unclear and any cut shouldn't be more than 0.5bp at a time. So he will put it back up tomorrow.

I suggested lower LIBOR in any case. But this is pretty stupid.

Redacted

Exhibit 17

Redacted

05/12/2010 03:14:22 TOM HAYES, Bank D Says libors are going down tonight

05/12/2010 03:15:39 UBS Jr. Trader UBS SECURITIES JAPAN Says why you think so?
05/12/2010 03:15:52 UBS Jr. Trader UBS SECURITIES JAPAN Says think usd will be lower wasnt sure about jpy
05/12/2010 03:17:24 TOM HAYES, Bank D Says because i am going to put some pressure on people

Redacted

Exhibit 18

Redacted

03/03/2010 07:16:32 - TH36478 -
i really need a low 3m jpy libor into the imm

03/03/2010 07:16:47 - TH36478 -
any favours you can get with the due at Bank C would be much appreciated

03/03/2010 07:16:57 - TH36478 -
even if he only move 3m down 1bp

03/03/2010 07:17:10 - TH36478 -
from 25 to 24

03/03/2010 07:17:14 - Broker A3
i'll give him a nudge later, see what he can do

03/03/2010 07:17:19 - TH36478 -
thanks mate

Redacted

Redacted

03/03/2010 09:53:42 Broker A3 Says u see 3m jpy libor going anywhere btween now and imm?
03/03/2010 09:54:37 Bank C Submitter Says looks fairly static to be honest , poss more pressure on upside , but not alot
03/03/2010 09:54:46 Broker A3 Says oh
03/03/2010 09:55:14 Broker A3 Says we hve a mutual friend who'd love to see it go down, no chance at all?
03/03/2010 09:55:33 Bank C Submitter Says haha TH by chance
03/03/2010 09:55:42 Broker A3 Says shhh
03/03/2010 09:56:38 Bank C Submitter Says hehehe , mine should remain flat , always suits me if anything to go lower as i rcve funds
03/03/2010 09:57:24 Broker A3 Says gotcha, thanks, and, if u cud see ur way to a small drop there might be a steak in it for ya, haha
03/03/2010 09:57:51 Bank C Submitter Says noted ;-)
03/03/2010 09:58:02 Broker A3 Says 8-)
03/03/2010 16:52:13 Broker A3 has left the room

Redacted

03/04/2010 11:32:01 Broker A3 received an invite from
Bank C Submitter Says Libor lower ;-)
03/04/2010 11:32:01 Broker A3 has joined the room
03/04/2010 11:32:01 Broker A3 Disclaimer: Important Note: Please see Redacted for disclaimer.
03/04/2010 11:32:16 Broker A3 Says good work!!!!
03/04/2010 12:14:10 Broker A3 has left the room

EXHIBIT 11

ORIGINAL

JUDGE CARTER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, v. TOM ALEXANDER WILLIAM HAYES, and ROGER DARIN, *Defendants.*	Case No. 17 CRIM 750 VIOLATIONS: 18 U.S.C. Sections 1349, (Conspiracy), 1343 (Wire Fraud) & 2 (Aiding and Abetting)

USDC SDNY
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DATE FILED: DEC 08 2017

INDICTMENT

The grand jury charges that, at all times relevant to this Indictment:

COUNT ONE
(Conspiracy, 18 U.S.C. § 1349)

General Allegations

1. The London Interbank Offered Rate ("LIBOR") was a benchmark interest rate overseen by the British Bankers' Association ("BBA"), a trade association based in London, United Kingdom representing approximately 200 banks from more than 60 countries.

2. LIBOR was calculated every London business day by averaging the interest rates at which designated banks ("Contributor Panel" banks) estimated that they could borrow unsecured funds of a "reasonable market size" from other banks across ten currencies, including the Japanese Yen ("Yen"). Contributor Panel banks for each currency submitted their estimated borrowing rates for fifteen different borrowing periods ("maturities" or "tenors"), ranging in length from overnight to one year, including maturities of one month, three months, and six months (commonly referred to on paper as "1m," "3m," and "6m"). Thomson Reuters, acting as an agent for the BBA, received electronically the Contributor Panel banks' estimated interest rate

submissions at or before approximately 11:10 a.m. in London. Among other currencies, Thomson Reuters received estimated interest rate submissions for the Yen LIBOR from sixteen designated Contributor Panel banks, specifically from bank employees referred to as "submitters" or "setters." Upon receipt of the sixteen Contributor Panel banks' Yen LIBOR submissions, Thomson Reuters: (a) ranked the submissions from highest to lowest; (b) excluded the four highest and four lowest submissions; and (c) averaged the remaining middle eight submissions to determine the official Yen LIBOR setting (also referred to as the "fix") used to settle trades and as a reference rate for various financial products. This process was repeated for each different maturity or tenor. Contributor Panel banks' Yen LIBOR submissions were between two and five decimal places, and the published Yen LIBOR fix was rounded, if necessary, to five decimal places. In the context of measuring interest rates, one "basis point" (or "bp") was one-hundredth of one percent (0.01 percent).

3. By approximately 12:00 p.m. in the United Kingdom, Thomson Reuters published the averaged rates – or LIBORs – to, among others, Bloomberg LP network equipment which thereafter transmitted the LIBORs to servers located in New York, New York and elsewhere. Thomson Reuters as a general matter, pursuant to service agreements with various clients, transmitted the rates to servers and traders of LIBOR-based financial products around the world, including to those located in New York, New York and elsewhere.

4. The published LIBOR rates were used as the basis for the pricing of fixed-income futures, options, swaps, forward rate agreements, and other derivative instruments. Interest rate swaps involved an agreement between counterparties to exchange payments in the future: one counterparty paid a fixed rate while the other paid a variable rate. Generally, the fixed rate was agreed upon at the outset by the counterparties and the variable rate was set at some point in the

future. Often times, the variable rate was based on a reference rate such as Yen LIBOR. The actual value of the contract could not be determined until the date on which the variable rate was set. At that point, payment amounts were determined, and, depending on the value of the variable rate, one party made money and the other lost money.

5. Traders made predictions on where LIBORs would set in the future. Traders, on behalf of their respective financial institutions, often entered into multiple derivatives contracts containing LIBORs as a price component based on those views. Therefore, the profit and loss that flowed from those contracts was directly affected by the relevant LIBORs on certain dates. If the relevant LIBORs moved in the direction favorable to the trader's position, the financial institution and the trader benefitted at the expense of their counterparties. When the traders' predictions were wrong and LIBOR moved in an unfavorable direction, the traders and the financial institutions stood to lose money to their counterparties.

6. Because traders often took large derivative positions, even small moves in the LIBOR fix could result in large swings in profits or losses from trades.

7. Yen LIBOR globally impacted transactions and financial products tied to Yen LIBOR. In addition to being used to price derivative products, financial institutions and other lenders in the United States and elsewhere frequently used LIBOR to set their own reference interest rates for financial instruments and consumer lending products, which included mortgages, credit cards, and student loans, among others.

8. A Contributor Panel bank's submission was to be an independent estimate of that bank's borrowing costs, and not altered to reflect trading positions that stood to gain or lose based on LIBOR rates.

9. Because LIBOR was calculated as an average of banks' submissions, if a bank coordinated its submission with another Contributor Panel bank, it could affect the fix more significantly than if it manipulated only its own submission.

10. As explained above, each panel bank made daily submissions to the BBA purporting to report the rates at which it could borrow sums of a "reasonable market size" from other banks for specified maturities.

11. At certain times relevant to this Indictment, prior to making Yen LIBOR submissions to the BBA, submitters at various Yen LIBOR panel banks consulted with inter-dealer brokers to learn about transactions, activity, or trends in the short-term money markets in which banks would lend and borrow Yen. Because these brokers had knowledge regarding the interest rates paid in such money market transactions, Yen LIBOR submitters considered such information, at certain times, in determining their banks' submissions.

12. Most futures contracts and option contracts use the same four dates per year as their maturity date or termination date – the third Wednesday of March, June, September, and December. These are called the IMM dates, or International Money Market dates, and they are among the most traded days of the year. Many of those contracts are priced using the three-month LIBOR rates.

The Defendants

13. Beginning in or about July 2006 through in or about September 2009, HAYES, the defendant, worked as a senior Yen swaps trader at UBS in Tokyo. At certain times relevant to this Indictment, he was assisted by a junior trader (the "UBS Junior Trader"). From in or about December 2009 through in or about September 2010, after leaving UBS, HAYES was employed as a senior Yen swaps trader at Bank D in Tokyo.

14. At certain times relevant to this Indictment, DARIN, the defendant, worked as a short-term interest rates trader at UBS in Singapore, Tokyo, and Zurich. At certain times during his tenure at UBS, in addition to trading, DARIN was also responsible for the bank's Yen LIBOR submissions to the BBA, and supervised two junior short-term interest rate traders ("UBS Junior Submitter 1" and "UBS Junior Submitter 2"), who also submitted UBS's Yen LIBORs to the BBA.

Other Individuals and Organizations

15. UBS Junior Trader began working at UBS in or around 2006, and he became HAYES's junior trader in or around May 2008. He worked in Tokyo with HAYES.

16. UBS Junior Submitter 1 began working at UBS in or around 1980, and he began setting Yen LIBOR in or around February or March 2007. He was trained to set LIBOR by DARIN, and he worked in Zurich. He was supervised by DARIN

17. UBS Junior Submitter 2 worked for UBS, and he also had responsibility for setting Yen LIBOR. He was also supervised by DARIN.

18. Broker A1 was an interdealer broker for Brokerage Firm A.

19. Broker A2 was an interdealer broker for Brokerage Firm A.

20. Broker A3 was an interdealer broker for Brokerage Firm A.

21. Broker B was an interdealer broker for Brokerage Firm B.

22. Trader A was a Yen swaps trader at Bank A.

23. Trader B was a Yen swaps trader at Bank B.

24. Bank C Submitter was responsible for submitting the Yen LIBOR rate at Bank C.

25. Trader C was a Yen swaps trader at Bank C.

26. Bank D Submitter was responsible for submitting the Yen LIBOR rate at Bank D.

27. Trader D was a Yen swaps trader at Bank D.

28. Bank A was a global financial services company headquartered in New York, New York. Bank A was a member of the Yen LIBOR contributor panel.

29. Bank B was a global financial services company headquartered in Frankfurt, Germany. Bank B was a member of the Yen LIBOR contributor panel.

30. Bank C was a global financial services company headquartered in Edinburgh, Scotland. Bank C was a member of the Yen LIBOR contributor panel.

31. Bank D was a global financial services company headquartered in New York, New York. Bank D was a member of the Yen LIBOR contributor panel.

32. Bank E was a global financial services company headquartered in Charlotte, North Carolina. Bank E was a member of the Yen LIBOR contributor panel.

33. Swap Dealer A was a trading firm that traded in interest rate and currency related products, and it was headquartered in New York, New York.

34. UBS AG was a global financial services company headquartered in Basel and Zurich Switzerland, with eleven principal offices around the world, including New York, New York. At certain times relevant to this Indictment, UBS AG operated, among other wholly-owned subsidiaries, UBS Securities Japan Ltd., an investment bank and financial services firm based in Tokyo, Japan (collectively, "UBS"). UBS was a member of the Yen LIBOR contributor panel.

35. Brokerage Firm A and Brokerage Firm B (collectively, the "Brokerage Firms") were London-based, interdealer brokers that, in exchange for commissions or other fees, matched buyers and sellers in various financial products, enabling them to engage in transactions. The Brokerage Firms provided such services to numerous clients, including Yen LIBOR panel banks, for Yen money market transactions, among other things.

UBS's Trading in Yen LIBOR-Based Derivative Products

36. UBS and other Yen LIBOR panel banks engaged in the trading of Yen LIBOR-based derivative products such as futures, forward rate agreements, and interest rate swaps. Interest rate swaps, for example, are a type of financial product in which two parties agree to exchange interest rate cash flows based on a specified notional amount. In one common type of interest rate swap, each party agrees to pay either a fixed or floating rate denominated in a particular currency to the other party. The fixed or floating rate is multiplied by a notional principal amount to calculate the cash flows which must be exchanged at settlement. This notional amount generally does not change hands. LIBOR is a leading global benchmark used to index the floating rate in interest rate swaps.

37. HAYES and DARIN, among other UBS traders, traded in interest rate swaps and other interest rate derivative products indexed to different maturities of Yen LIBOR (such as 3-month or 6-month Yen LIBOR), effectively wagering on the direction in which Yen LIBOR would move. UBS compensated the defendants, in part, based on the profitability of their trading positions, effectively tying the defendants' bonuses to their success in predicting the movements of Yen LIBOR.

The Conspiracy

38. From at least in or about September 2006 through in or about June 2010, in the Southern District of New York and elsewhere, HAYES and DARIN, the defendants, and others known and unknown, did knowingly combine, conspire, confederate, and agree to commit certain offenses against the United States, that is:

a. to devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and to transmit and cause to be transmitted certain wire communications in interstate and foreign commerce for the purpose of executing the scheme, all affecting a financial institution; to wit, the defendants engaged in a scheme to manipulate and attempt to manipulate the benchmark interest rates referenced by derivative products throughout the financial industry to their advantage, by the dissemination, and submission, of false and fraudulent statements intended to influence and manipulate the benchmark interest rates to which the profitability of interest rate derivative trades was tied, in violation of Title 18, United States Code, Section 1343; and

b. to execute and attempt to execute a scheme and artifice to defraud a financial institution, as defined under 18 U.S.C. § 20 and 18 U.S.C. § 3293(2), the deposits for which were at the time insured by the Federal Deposit Insurance Corporation; and to obtain and attempt to obtain moneys, funds, credits, assets, and other properties owned by and under the custody and control of a financial institution by means of materially false and fraudulent pretenses, representations, and promises, as well as by omission of material facts in violation of Title 18, United States Code, Section 1344.

Purpose of the Conspiracy

39. From at least in or about September 2006 through in or about June 2010, HAYES, together with DARIN and with others known and unknown, orchestrated a scheme to manipulate

Yen LIBOR to maximize profits for their trading positions at the expense of HAYES's counterparties.

Manner and Means

40. Among other fraudulent devices to manipulate Yen LIBOR in a direction favorable to his trading positions, HAYES engaged in the following manner and means to execute his fraudulent scheme:

a. HAYES conspired with DARIN, UBS Junior Trader, UBS Junior Submitter 1, UBS Junior Submitter 2, and others known and unknown within UBS, to cause the bank to make false and misleading Yen LIBOR submissions to the BBA;

b. HAYES, and others known and unknown, also enlisted brokers employed at the Brokerage Firms for the purpose of disseminating false and misleading interest rate information into the marketplace. By disseminating false and misleading information through the Brokerage Firms, HAYES, and others known and unknown, furthered the scheme to manipulate Yen LIBOR to move in directions favorable to HAYES's trading positions. In exchange for this assistance from the brokers, HAYES arranged for the Brokerage Firms to be compensated in the form of increased fees or trading commissions;

c. HAYES regularly contacted Yen swaps traders employed at other Yen LIBOR panel banks, including Bank A, Bank B, and Bank C. HAYES asked such traders either to request particular Yen LIBOR submissions from their banks' respective submitters or to move their banks' submissions in a particular direction (upward or downward). In this way, HAYES not only directly influenced UBS's Yen

LIBOR submissions, but also sought to influence the submissions of other Yen LIBOR panel banks. By taking trading positions aligned with HAYES's trading positions, the traders at Bank A, Bank B, and Bank C could likewise profit from manipulating their own respective banks' submissions to move in the same direction that HAYES was requesting for UBS's submissions; and

d. After HAYES left his employment at UBS and began working as a senior Yen swaps trader at Bank D, HAYES attempted to cause a Yen LIBOR submitter at Bank D to provide false and misleading information in Bank D's daily Yen LIBOR submissions to the BBA, and he remained in contact with brokers from Brokerage Firm A, Trader B, and the UBS Junior Trader, among others, in a continued effort to manipulate Yen LIBOR submissions in a way that was favorable to HAYES's trading positions.

41. In this manner, HAYES, together with DARIN and others known and unknown, devised and carried out a scheme to defraud UBS's and Bank D's counterparties and also globally impacted transactions and financial products tied to Yen LIBOR. Counterparties entering into Yen LIBOR-based derivative trades with HAYES, and therefore UBS and Bank D, did not know about this manipulation and were deceived regarding its occurrence.

42. On approximately 352 of the 738 trading days from in or about November 2006 through in or about August 2009, HAYES or the UBS Junior Trader, at HAYES's direction, requested that DARIN, UBS Junior Submitter 1, or UBS Junior Submitter 2 accommodate HAYES's requests when setting UBS's Yen LIBOR submissions. At certain times in this period, HAYES requested accommodations for continuous days. HAYES engaged in this conduct both before and after entering into trades with various counterparties.

43. HAYES and DARIN – both before and during the period of the conspiracy – traded regularly with counterparties located in the United States. For instance, between 2006 and 2009, HAYES entered into approximately 27,170 Yen LIBOR/Euroyen TIBOR trades – approximately 8% of which (2,275) were with United States-based counterparties. Hayes' 2,275 trades with several different United States-based counterparties had a total notional value of approximately $1.3 trillion. Similarly, between 2006 and 2010, DARIN entered into approximately 111 Yen LIBOR/ Euroyen TIBOR trades while working for UBS – approximately 10% of which (12) were with United States-based counterparties. DARIN's twelve trades with several different United States-based counterparties had a total notional value of approximately $7.9 billion.

44. At certain times relevant to this Indictment, counterparties to HAYES's trading positions included entities located in New York, New York, which were financial institutions, within the meaning of Title 18, United States Code, Section 20.

45. At various times relevant to this Indictment, DARIN engaged in electronic chats with HAYES, chats that were routed through servers based in New York, New York. Additionally, at various times relevant to this Indictment, HAYES and DARIN, and others known and unknown, caused the publication of manipulated interest rate information in New York, New York.

Overt Acts

46. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

A. Falsifying UBS's Yen LIBOR Submissions

47. From at least in or about September 2006 through in or about August 2009, HAYES, DARIN, and others known and unknown, caused UBS repeatedly to provide false and misleading information in its daily Yen LIBOR submissions to the BBA regarding the interest

rates at which UBS could borrow reasonable sums denominated in Yen from other banks. As explained above, HAYES and DARIN provided this false and misleading information to cause the final Yen LIBOR fixings published by Thomson Reuters to move in directions favorable to UBS trading positions in Yen LIBOR-based derivative products.

48. For example, in an electronic chat on or about November 20, 2006:

a. HAYES explained to UBS Junior Submitter 1 that HAYES and DARIN "generally coordinate" and "skew the libors a bit." HAYES further stated: "really need high 6m fixes till thursday."[1]

b. UBS Junior Submitter 1 then responded: "will def be on the high side."

c. On the trading day preceding this chat, UBS's submission for 6-month Yen LIBOR was tied for the second lowest submission to the BBA. However, following HAYES's request, the bank's submission became among the highest and remained so through the Thursday identified in the request. On or about Friday, November 24, 2006, UBS's submission returned to a level that was tied for the third lowest on the Yen LIBOR panel.

49. In or about early 2007, DARIN trained UBS Junior Submitter 2 and told him that the primary consideration in determining UBS's Yen LIBOR submissions each day was the requests from HAYES and other UBS Yen swaps traders. DARIN advised UBS Junior Submitter 2 that such requests were to be accommodated, and UBS Junior Submitter 2 subsequently complied with DARIN's instruction.

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[1] All shorthand, misspellings, and grammatical or typographical errors in the originals have been preserved in the excerpts quoted in this Indictment. The ellipses included in the quoted excerpts throughout were either in the original or indicate a line break in the original.

50. DARIN also personally accommodated requests from HAYES and other UBS Yen swaps traders. For example, in an electronic chat on or about March 29, 2007:

a. HAYES requested, among other things, that UBS's 3-month Yen LIBOR submission be "low," to which DARIN responded: "ok."

b. DARIN subsequently indicated that UBS's "unbiased" 3-month Yen LIBOR submission would be 0.69 percent and that he could not set too far away from the "truth" or he would risk getting UBS "banned" from the Yen LIBOR panel.

c. HAYES then responded, in part: "ok obviousl;y no int in that happening either ...not asking for it be 7bp from reality ...anyway any help appreciated."

d. Subsequent to the chat, UBS's 3-month Yen LIBOR submission was 0.67 percent instead of the "unbiased" 0.69 percent that DARIN suggested otherwise would have been submitted. According to BBA records of Yen LIBOR panel bank submissions for that day, the resulting 3-month Yen LIBOR fix was 1/8 of a basis point lower than it otherwise would have been had UBS's submission remained at the "unbiased" 0.69 percent.

51. Although the movements in Yen LIBOR submissions requested by HAYES and the UBS Junior Trader who acted at his direction could be measured in basis points, the yields to HAYES's trading positions were considerable. In fact, at certain times relevant to this Indictment, HAYES indicated in his requests to DARIN or UBS Junior Submitter 2 approximately how much his trading positions would benefit from even relatively slight movements in the resulting Yen LIBOR fix. For example, in a series of electronic chats from on or about Wednesday, March 12, 2008, through on or about Monday, March 17, 2008:

a. On or about Wednesday, March 12, 2008, HAYES asked UBS Junior Submitter 2 for a "high" 3-month Yen LIBOR submission because "we have 2m usd fix in 3m on monday ... per bp." UBS's trading records confirm that HAYES had a net trading position on or about Monday, March 17, 2008, that would profit by approximately $2.1 million based on a one basis point increase in the 3-month Yen LIBOR fix on that day.

b. UBS Junior Submitter 2 then responded that UBS's 3-month Yen LIBOR submission of 0.99 percent had been on the very high side the previous day and, as a result, UBS Junior Submitter 2 needed to go lower and "thought about 0.97." HAYES then inquired whether 0.98 percent was possible, but noted: "anyway the actual fix is monady ... so thats the key day."

c. That same day, notwithstanding UBS Junior Submitter 2's suggestion that a 0.97 percent submission was more appropriate, UBS's 3-month Yen LIBOR submission was 0.98 percent, consistent with HAYES's request.

d. The following two days – on or about Thursday, March 13, 2008, and on or about Friday, March 14, 2008 – UBS Junior Submitter 2 increased the bank's 3-month Yen LIBOR submission to 0.99 percent.

e. On or about Monday, March 17, 2008, the "key day" for his trading position, HAYES noted that he had spoken with DARIN regarding the 3-month Yen LIBOR submission and inquired whether "we could push it a bit more than usual." UBS Junior Submitter 2 then replied: "friday fixed 3mt at 0.99 ... shall i go fro 1%?" HAYES then answered "pls," to which UBS Junior Submitter 2 replied: "ok will do."

f. On or about Monday, March 17, 2008, UBS's 3-month Yen LIBOR submission was 1.00%. On that day, alone, the resulting 3-month Yen LIBOR fix generated approximately $759,000 in additional profits for HAYES's trading book and, ultimately, for UBS compared to that which it would have earned had the bank's submission remained at 0.97 percent.

g. The following day, on or about Tuesday, March 18, 2008, UBS's 3-month Yen LIBOR submission decreased to 0.95 percent.

52. Likewise, in an electronic chat on or about April 28, 2008:

a. HAYES requested a low 6-month LIBOR submission from DARIN and asked: "hi roger i have a 500k usd fix in 6m today, can we try to keep it on the low side pls?"

b. DARIN then replied: "i'll submit something low ... but if u can u should square it up." DARIN then added: "the correct 6m is 1.08."

c. HAYES subsequently responded: "appreciate the help."

d. That same day, UBS's 6-month Yen LIBOR submission was 0.98 percent, compared to DARIN's "correct" rate of 1.08 percent. According to BBA records, the resulting 6-month Yen LIBOR fix was 1/4 of a basis point lower than it would have been had UBS submitted the "correct" rate of 1.08 percent.

53. Similarly, in an electronic chat on or about June 29, 2009:

a. In requesting a high 6-month Yen LIBOR submission from UBS Junior Submitter 2, HAYES inquired: "can we st 6m libor high pls?"

b. UBS Junior Submitter 2 then responded that, based on available information, UBS's 6-month Yen LIBOR submission likely would be 0.7150 percent.

c. HAYES then asked: "can we go 74 or 75 ... We have 2m usd a bp fix."

d. UBS Junior Submitter 2 then responded: "yes sure will. i go with .75 for you." UBS's 6-month Yen LIBOR submission was indeed 0.75 percent that day, which was 3.5 basis points higher than the rate which UBS Junior Submitter 2 would have submitted.

e. According to BBA records of Yen LIBOR panel bank submissions for that day, UBS's 6-month Yen LIBOR submission of 0.75 percent placed it in the upper quartile, which meant that another bank's submission which would have been otherwise discarded was moved down into the "middle eight" and averaged to determine the final LIBOR fix. As a result of that change, the 6-month Yen LIBOR fix that day was increased by 1/16 of a basis point.

54. At certain times relevant to this Indictment, counterparties to DARIN's trading positions included entities located in New York, New York, elsewhere in the Southern District of New York, and elsewhere in the United States.

a. For example, on or about January 20, 2006 and June 9, 2006, DARIN entered into Yen LIBOR-based forward rate agreements with Bank A. Similarly, on or about February 24, 2006, DARIN entered into a Yen LIBOR-based forward rate agreement with Swap Dealer A. Finally, on or about approximately September 26, 2007, DARIN entered into a Yen LIBOR-based forward rate agreement with Bank E.

55. At certain times relevant to this Indictment, HAYES engaged in Yen LIBOR-based derivative transactions with a counterparty (the "Counterparty") based in Purchase, New York.

a. For example, on or about September 12, 2007, HAYES entered into two trades with the Counterparty for derivative products tied to 6-month Yen LIBOR. The confirmations for these trades were electronically routed from UBS's offices overseas to the Counterparty's primary servers, located in Rye Brook, New York.

b. On the valuation dates prior to the settlement of those trades, HAYES requested that UBS Junior Submitter 2 move UBS's 6-month Yen LIBOR submissions in the direction that maximized HAYES's profits on those trades. According to BBA records, compared to the previous day, the change in UBS's 6-month Yen LIBOR submission was consistent with the direction of HAYES's request on one of those dates.

c. On or about July 15, 2008, HAYES again entered into a Yen LIBOR-based derivative transaction with the Counterparty, and the confirmation was again electronically routed through the Counterparty's servers in New York from overseas.

d. Knowledge of HAYES's attempts to manipulate Yen LIBOR would have been material to the Counterparty's decisions to enter trades with HAYES and UBS.

B. Dissemination of False and Misleading Interest Rate Information Through the Brokerage Firms

56. At certain times relevant to this Indictment, a broker employed at Brokerage Firm A ("Broker A1") assisted HAYES in brokering interest rate derivative trades, and another broker employed at Brokerage Firm A ("Broker A2") distributed suggested LIBORs via a daily email to Yen LIBOR panel bank submitters and others, purporting to disclose where Broker A2, based on his information and experience, believed that Yen LIBOR would or should be set for that day at each specified maturity. HAYES solicited Broker A1 to intercede with Broker A2 to adjust

Broker A2's suggested LIBORs to benefit HAYES's trading positions. For example, in an electronic chat with Broker A1 on or about August 15, 2007:

a. HAYES noted that he needed "to keep 6m up till tues then let it collapse."

b. Broker A1 then responded, "doing a good job so far…as long as the liquidity remains poor we have a better chance of bullying the fix."

c. Later that day Broker A2's forecast for the 6-month Yen LIBOR included in Broker A2's suggested LIBORs was increased by 2.5 basis points compared to the previous day.

57. The next day, in an electronic chat with Broker A1 on or about August 16, 2007:

a. HAYES reiterated his need for a high 6-month Yen LIBOR fix and stated: "really really really need high 6m."

b. Broker A1 then responded: "yep think i realise that" and "yes mate, will make myself useful."

c. Later that day, Broker A2's forecast for the 6-month Yen LIBOR included in Broker A2's suggested LIBORs was increased by 6.5 basis points compared to the previous day.

58. At certain times relevant to this Indictment, multiple Yen LIBOR panel banks made submissions that mirrored exactly Broker A2's suggested LIBORs for extended periods of time. For example, in the period between January 1, 2008 and December 31, 2009, there were approximately 523 trading days, and on approximately 308 of those trading days, Bank D made submissions in all eight maturities that were identical to the forecasts from Broker A2, at times down to the fifth decimal point.

59. At certain times relevant to this Indictment, HAYES expressed appreciation to Broker A1 for Broker A2's influence. For example, in an electronic chat on or about August 22, 2008:

a. Broker A1 stated, "think [Broker A2] is your best broker in terms of value added :-)."

b. HAYES then replied: "yeah...i reckon i owe [Broker A2] a lot more."

c. Broker A1 then responded: "[Broker A2's] ok with an annual champagne shipment, a few pi ss ups with [Broker A2's supervisor] and a small bonus every now and then."

60. At certain times relevant to this Indictment, HAYES engaged in similar contacts with a broker employed at Brokerage Firm B ("Broker B"), whom HAYES once referred to as "Lord Libor." For example, in an electronic chat with Broker B on or about February 25, 2009:

a. HAYES instructed Broker B: "low 1m and 3m...we must keep 3m down." He then stated: "try for low on all of em."

b. Broker B then responded: "ok ill do my best for those tday."

c. To compensate Broker B for that assistance, HAYES then asked Broker B to broker a 150 billion Yen trade.

d. Broker B then stated that the commissions the trade would generate would "make us make3 budget for the month so massive yes."

C. Efforts to Coordinate with Traders Employed at Other Yen LIBOR Panel Banks

61. At certain times relevant to this Indictment, HAYES contacted a Yen swaps trader employed at Bank A ("Trader A") in an effort to influence Bank A's Yen LIBOR submissions. For example, in an electronic chat with Trader A on or about January 19, 2007:

a. HAYES asked, "bit cheeky but if you know who sets your libors and you aren't the other way I have some absolutely massive 3m fixes the next few days and would really appreciate a high 3m fix." HAYES then noted, "Anytime i can return the favour let me know as the guys here are pretty accommodating to me."

b. Trader A then replied: "I will try my best."

62. In another electronic chat on or about January 29, 2007:

a. Trader A requested of HAYES: "Anything you need on libors today? High 6m would help me."

b. HAYES then responded: "high 3m i'll sort our 6m rate for you thanks."

c. Following this chat, HAYES contacted UBS Junior Submitter 1 and requested a high 6-month Yen LIBOR submission.

63. HAYES subsequently referenced efforts to coordinate with Trader A to a Yen swaps trader employed at Bank C ("Trader C") to explain why the 3-month Yen LIBOR was high. For example, in an electronic chat on or about February 2, 2007:

a. HAYES explained: "3m libor is too high cause i have kept it artificially high."

b. After Trader C inquired how HAYES had done that, HAYES responded: "being mates with the cash desks, [Bank A] and i always help each other out...too."

64. At certain times relevant to this Indictment, HAYES contacted a Yen swaps trader employed at Bank B ("Trader B") in a similar effort to influence Bank B's Yen LIBOR submissions. For example, in an electronic chat from on or about May 21, 2009:

a. HAYES asked Trader B: "cld you do me a favour would you mind moving you 6m libor up a bit today, i have a gigantic fix."

b. UBS's trading records confirm that HAYES had a net trading position that day that would profit by approximately $450,000 based on a one basis point increase in the 6-month Yen LIBOR fix on that day.

c. Trader B then responded: "I can do taht."

d. Bank B's 6-month Yen LIBOR submission then increased by six basis points compared to its submission the previous day.

e. According to BBA records of Yen LIBOR panel bank submissions for that day, the resulting 6-month Yen LIBOR fix was 3/8 of a basis point higher than it otherwise would have been had Trader B left Bank B's submission at the same rate that it had been for the previous 26 trading days.

f. Accordingly, just from the change in Trader B's 6-month Yen LIBOR submission, HAYES generated approximately $112,000 in additional profits for his trading book and, ultimately, for UBS.

65. The following day, on or about May 22, 2009:

a. Trader B asked HAYES: "u happy with me yesterday?"

b. HAYES then replied: "thx."

66. At certain times relevant to this Indictment, HAYES contacted Trader C in a similar effort to influence Bank C's Yen LIBOR submissions. On occasion, HAYES also agreed to reciprocate and influence UBS's submissions to accommodate requests from Trader C. For example, in a series of electronic chats on or about March 6, 2007:

a. Trader C requested that HAYES take steps to ensure low UBS Yen LIBOR submissions for all maturities: "can u go fr low everything plse?"

b. HAYES then replied that he would make that request, but he personally needed a high 3-month Yen LIBOR fixing.

c. HAYES then made a request to UBS Junior Submitter 1 consistent with Trader C's request for low 1-month and 6-month Yen LIBOR submissions, while omitting the 3-month maturity which HAYES needed to remain high. Specifically, HAYES stated: "hi pls don't forget low 1m and 6m! :)"

d. That day, compared to the previous day, UBS's 1-month and 6-month Yen LIBOR submissions dropped by 2.0 and 2.5 basis points, respectively, consistent with Trader C's request to HAYES.

67. HAYES also made similar requests of Trader C regarding Bank C's Yen LIBOR submissions. For example, in a series of electronic chats between on or about April 19, 2007 through on or about April 24, 2007:

a. On or about Thursday, April 19, 2007, HAYES requested assistance in lowering 3-month Yen LIBOR and stated: "have some huge huge fixes." He then asked: "can you do me a favour and ask your cash guys for a low 3m?" (In numerous chats, HAYES referred to Yen LIBOR submitters as "cash guys," "cash boys," or the "cash desk.")

b. Trader C then responded: "will do my best i am pretty flat at teh moment so don't really care."

c. That same day, Bank C's 3-month Yen LIBOR submission was 0.65 percent, down from 0.67 percent the previous day.

d. On or about Friday, April 20, 2007, HAYES stated: "hi mate thanks for keeping 3m low y/day wd really appreciate it if u cld try for the same over the next few days." Later that day, HAYES again requested: "i know i only talk to you when i need something but if you could ask your guys to keep 3m low wd be massive help as long as it doesn't interfere with your stuff...tx in adavance."

e. Approximately 30 minutes later, HAYES further inquired: "mate did you manage to spk to your cash boys?"

f. Trader C then responded: "yes u owe me they are going 65 and 71." HAYES then replied: "thx mate yes i do...in fact i owe you big time."

g. Approximately 45 minutes later, HAYES learned that Bank C had made a 3-month Yen LIBOR submission of 0.64 percent that day, below even the number Trader C had previewed to him. Accordingly, HAYES expressed his gratitude and stated: "they set 64!...thats beyond the call of duty!"

h. On or about Tuesday, April 24, 2007, HAYES stated: "hello mate thanks for the help on libors, if you cld ask for a low 3m for one last day wd be a big help, am meeting [a bank] tonight so i'll drop your name into the conversation!"

i. After three consecutive trading days at 0.64 percent, Bank C's 3-month Yen LIBOR submission increased to 0.65 percent the following day, on or about Wednesday, April 25, 2007.

D. HAYES's Post-UBS Conduct

68. In or about June 2010, HAYES attempted to cause a Yen LIBOR submitter at Bank D (the "Bank D Submitter") to provide false and misleading information in its daily Yen LIBOR submissions to the BBA. For example, in an exchange of emails on or about June 1, 2010:

a. HAYES asked a junior Yen swaps trader at Bank D ("Trader D") to request that the Bank D Submitter make Yen LIBOR submissions favorable to HAYES's trading positions and stated: "It really suits our book can we ask if we can just leave it there for a couple of weeks?" Trader D then responded: "I will mention it tomorrow morning so [the Bank D Submitter] has it in [the Bank D Submitter's] mind. But to be honest they are really nervous about it, so I don't think we can be too pushy."

69. At certain times during his tenure at Bank D, HAYES remained in contact with, among others, Broker A1, Trader B, and the UBS Junior Trader in a continued effort to solicit Yen LIBOR submissions that were favorable to HAYES's trading positions. In an electronic chat with the UBS Junior Trader on or about May 12, 2010:

a. HAYES stated: "libors are going down tonight." The UBS Junior Trader then asked: "why you think so?" HAYES then explained: "because i am going to put some pressure on people."

70. While employed at Bank D, HAYES also made efforts to influence Bank C's Yen LIBOR submissions through another broker working at Brokerage Firm A ("Broker A3"). For example, in a series of electronic chats on or about March 3, 2010 through on or about March 4, 2010, HAYES and Broker A3 discussed whether they could cause Bank C's Yen LIBOR submitter (the "Bank C Submitter") to lower Bank C's 3-month Yen LIBOR submission:

a. On or about March 3, 2010, HAYES told Broker A3: "i really need a low 3m jpy libor into the imm...any favours you can get with [Bank C Submitter] would be much appreciated...even if [the Bank C Submitter] on;ly move 3m down 1bp."
b. Broker A3 then agreed to contact Bank C Submitter on behalf of HAYES.
c. Following HAYES's request, Broker A3 asked the Bank C Submitter: "u see 3m jpy libor going anywhere btween now and imm?"
d. Broker A3 continued: "we hve a mutual friend who'd love to see it go down, no chance at all?"

e. The Bank C Submitter then speculated that the request came from HAYES and replied: "haha TH by chance."

f. Broker A3 then responded: "shhh."

g. That next day, on or about March 4, 2010, Bank C's 3-month Yen LIBOR submission decreased by one basis point compared to the previous day, consistent with HAYES's request to Broker A3.

h. After the resulting Yen LIBOR fixings were posted, the Bank C Submitter told Broker A3: "Libor lower ;)."

i. Broker A3 then responded: "good work!!!!"

71. On or about March 29, 2011, the UBS Junior Trader informed HAYES that the United States Department of Justice had contacted UBS in order to schedule an interview with the UBS Junior Trader.

72. In response, HAYES then advised the UBS Junior Trader to remove any belongings from Japan and to return to the foreign country where HAYES believed the UBS Junior Trader to be located. HAYES further cautioned that, "the U.S. Department of Justice, mate, you know, they're like [unintelligible], the dudes who, you know, you know, absolutely like, you know, you know [unintelligible] put people in jail. Why the hell would you want to talk to them?"

(Title 18, United States Code, Section 1349.)

COUNTS TWO AND THREE
(Wire Fraud, 18 U.S.C. § 1343)

73. The allegations set forth in paragraphs 1 through 34 and 36 through 72 are hereby realleged as if set forth herein.

74. On or about the dates set forth below, in the Southern District of New York and elsewhere, the defendant,

TOM ALEXANDER WILLIAM HAYES,

unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, all affecting a financial institution, to wit, HAYES caused confirmations to be transmitted from outside the United States—specifically UBS AG's London branch—to a counterparty based in Purchase, New York, for transactions involving interest rate derivative products tied to a benchmark interest rate which HAYES was secretly manipulating.

COUNT	DATE
TWO	September 12, 2007
THREE	July 15, 2008

(Title 18, United States Code, Sections 1343 and 2)

COUNTS FOUR THROUGH TEN
(Wire Fraud, 18 U.S.C. § 1343)

75. The allegations set forth in paragraphs 1 through 34 and 36 through 72 are hereby realleged as if set forth herein.

76. On or about the dates set forth below, in the Southern District of New York and elsewhere, the defendants set forth below, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire communication in interstate and foreign

commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, all affecting a financial institution, to wit, on or about the dates set forth below, among other dates, in furtherance of the scheme to manipulate and attempt to manipulate the benchmark interest rates to which profitability of certain trades were tied, Thomson Reuters published a) the rates submitted by UBS and the other panel banks and b) the averaged rates – or LIBORs – by wire from the United Kingdom to New York, New York, among other places.

Count	DEFENDANTS	DATES
FOUR	HAYES DARIN	March 29, 2007
FIVE	HAYES	March 12, 2008
SIX	HAYES	March 13, 2008
SEVEN	HAYES	March 14, 2008
EIGHT	HAYES	March 17, 2008
NINE	HAYES DARIN	April 28, 2008
TEN	HAYES	June 29, 2009

(Title 18, United States Code, Sections 1343 and 2)

FORFEITURE ALLEGATIONS
(18 U.S.C. §§ 982(a)(2)(A) and 981(a)(1)(C))

77. The allegations contained in the General Allegations Section and in Counts 1 through 10 of this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which one or more of HAYES or DARIN has an interest.

78. Upon conviction of any of the violations alleged in Counts 1 through 10 of this Indictment, HAYES and DARIN, shall forfeit all of their right, title and interest to the United

States of any property, constituting or derived from proceeds obtained directly or indirectly as a result of the violation, pursuant to Title 18, United States Code, Section 982(a)(2)(A).

79. Upon conviction of any of the violations alleged in Counts 1 through 10 of this Indictment, HAYES and DARIN, shall forfeit all of their right, title and interest to the United States of any property, constituting or derived from proceeds obtained directly or indirectly as a result of the violation, pursuant to Title 18, United States Code, Section 981(a)(1)(C).

80. The property subject to forfeiture, pursuant to Forfeiture Allegations paragraphs 76 and 77 above, includes but is not limited to the sum of all proceeds the defendants derived from the offenses alleged in this indictment.

81. If the property described above as being subject to forfeiture, as a result of any act or omission of the defendants,

(1) cannot be located upon the exercise of due diligence,

(2) has been transferred or sold to, or deposited with a third person,

(3) has been placed beyond the jurisdiction of the Court,

(4) has been substantially diminished in value, or

(5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), made applicable through Title 18, United States Code, Section 982(b) and the provisions of Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(All pursuant to Title 18, United States Code, Section 982(a)(2)(A); Title 18, United States Code, Section 981(a)(1)(C) and the procedures set forth at Title 21, United States Code, Section 853, made applicable by Title 28, United States Code, Section 2461.)

Dated: 12/8/17

A TRUE BILL

Vincent DelMastro
FOREPERSON

12/8/17

SANDRA MOSER
Acting Chief, Fraud Section
Criminal Division
United States Department of Justice

THOMAS B.W. HALL
Assistant Chief
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Trial Attorney
Criminal Division
United States Department of Justice

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

TOM ALEXANDER WILLIAM HAYES
And ROGER DARIN,

Defendants.

INDICTMENT

(18 U.S.C. §§ 1349, 1343, 2.)

JOON KIM
Acting United States Attorney

Foreperson

12/8/17 FILED INDICTMENT. WARRANT ISSUED
ASSIGNED TO J. CARTER

COTT, USMJ

EXHIBIT 12

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#: ____________
DATE FILED: 10-27-22

UNITED STATES OF AMERICA,

v.

TOM ALEXANDER WILLIAM HAYES,
and
ROGER DARIN,

Defendants.

Case No. 17 CR 750

MOTION TO DISMISS INDICTMENT

The United States of America, by and through its attorneys, Glenn S. Leon, Chief of the Fraud Section of the Criminal Division of the United States Department of Justice and Trial Attorney Vasanth Sridharan, respectfully move for an order dismissing, with prejudice, the Indictment as to defendants Tom Alexander William Hayes and Roger Darin, under Rule 48(a) of the Federal Rules of Criminal Procedure. Among other considerations, the Second Circuit's reversal of the convictions in *United States v. Connolly*, 24 F.4th 821 (2d Cir. 2022) implicates the theory charged in this case and the government's ability to prove its case. Accordingly, the government submits that dismissal with prejudice serves the interest of justice. The government has also conferred with counsel for the defendants, both of whom consent to dismissal of this case with prejudice.

Date: September 15, 2022

Respectfully submitted,

GLENN S. LEON
Chief, Fraud Section
Criminal Division
U.S. Department of Justice

/s/
VASANTH SRIDHARAN
Trial Attorney
Criminal Division, Fraud Section
United States Department of Justice

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2022, I electronically filed the foregoing Motion with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/
VASANTH SRIDHARAN
Trial Attorney
Criminal Division, Fraud Section
United States Department of Justice

The application is ✓ granted.
denied.

Andrew L. Carter Jr, U.S.D.J.
Dated: October 27, 2022
NY, New York