

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

IN RE LONDON SILVER FIXING, LTD.
ANTITRUST LITIGATION

14-MD-02573-VEC

14-MC-02573-VEC

This Document Relates to:

The Honorable Valerie E. Caproni

ALL ACTIONS

DECLARATION OF ROBERT G. EISLER

I, Robert G. Eisler, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a partner at the law firm of Grant & Eisenhofer P.A. I submit this declaration in support of the pending Motion for Preliminary Approval of Class Action Settlement (the “Motion”) pertaining to the Settlement¹ reached between Class Plaintiffs² and Deutsche Bank.³

2. A true and correct copy of the Settlement Agreement, dated September 6, 2016, among Class Plaintiffs and Deutsche Bank is annexed as Exhibit 1 to the Declaration of Vincent Briganti, Esq., from Lowey Dannenberg Cohen & Hart, P.C. (“Lowey”), which serves as interim class co-counsel along with Grant & Eisenhofer. A copy of the Confidential Supplemental Agreement with Deutsche Bank dated September 6, 2016 (the “Supplemental Agreement”), intended to be fully incorporated to the Settlement Agreement, will be made available to the Court for *in camera* review, upon request.

3. I have 27 years of experience in successfully developing and leading the prosecution of antitrust, securities, derivative, complex commercial, and class action litigation matters. This experience includes the following antitrust cases that I have successfully prosecuted, as court-appointed lead or co-lead counsel or individual plaintiff’s counsel: *In re Buspirone Antitrust Litigation*, MDL Nos. 1410, 1413 (JGK) (S.D.N.Y.); *In re Ciprofloxacin Hydrochloride Antitrust Litigation*, Civ. No. 00-4428, MDL-00-1383 (DGT) (E.D.N.Y.); *In re Flat Glass Antitrust Litigation*, No. 08-mc-00180, MDL No. 1942 (W.D. Pa.); and *In re Municipal Derivatives Antitrust Litigation*, No. 1:08-md-01950-VM (S.D.N.Y.).

¹ As in the Motion, unless otherwise indicated, capitalized terms herein have the same meaning as in the Settlement Agreement, annexed to the Motion as Exhibit 1 to the Declaration of Vincent Briganti, Esq. (“Briganti Decl.”).

² “Class Plaintiffs” are Norman Bailey, Robert Ceru, Christopher DePaoli, John Hayes, Laurence Hughes, KPFF Investment, Inc. f/k/a KP Investment, Inc., Kevin Maher, Eric Nalven, J. Scott Nicholson, and Don Tran.

³ “Deutsche Bank” collectively refers to the following Defendants: Deutsche Bank AG, Deutsche Bank Americas Holding Corporation, DB U.S. Financial Markets Holding Corporation, Deutsche Bank Securities, Inc., Deutsche Bank Trust Corporation, Deutsche Bank Trust Company Americas, and Deutsche Bank AG New York Branch.

4. Currently, my firm and I are prosecuting, as court-appointed co-lead counsel, two other cases in the Southern District of New York: *Gordon, et al. v. Amadeus, et al.*, No. 15-cv-5457-KPF (S.D.N.Y.) and *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litigation*, No. 14-md-02542-VSB (S.D.N.Y.).

5. Grant & Eisenhofer's firm resume is attached hereto as Exhibit 1.

6. Before reaching the Settlement, Grant & Eisenhofer and Lowey ("Class Counsel") devoted significant time and resources to analyzing and litigating the complex legal and factual issues in this Action and were well-informed with respect to the core issues as a result of, among other things: (i) reviewing and analyzing publicly-available information, including SEC filings, press releases and other public statements, media and news reports, and analyst reports; (ii) obtaining and analyzing expert and industry research regarding the Silver Fix, and physical Silver and Silver financial instruments impacted by the Silver Fix; (iii) consulting with a leading commodity manipulation expert; and (iv) researching the law pertinent to the claims and the potential defenses. In addition, my co-lead counsel and I participated in extended arm's-length settlement negotiations with Deutsche Bank.

7. The proposed Settlement has been reached as the result of intensive, serious, and non-collusive arm's-length negotiations. I was involved in all aspects of the Settlement negotiations on behalf of Class Plaintiffs.

8. Negotiations with Deutsche Bank began in December 2015 and continued until the Settlement Agreement was executed on September 6, 2016.

9. Class Counsel engaged in lengthy negotiations with Deutsche Bank's counsel regarding the amount of the Settlement consideration, the scope of the cooperation to be

provided by Deutsche Bank, the scope of the releases, and the circumstances under which the parties would have the right to terminate the Settlement.

10. During the course of the negotiations, Class Counsel understood the strengths and weaknesses of the claims and defenses, as well as the risk to Deutsche Bank of continued litigation.

11. In February 2016, Plaintiffs reached an agreement in principle with Deutsche Bank on the Settlement Amount, subject to the negotiation of other material terms. In addition to monetary consideration, the Settlement contains a cooperation provision that requires Deutsche Bank to provide cooperation to Plaintiffs in the prosecution of continuing litigation against the Non-Settling Defendants. The cooperation provision is a material and valuable term of the Settlement that took several months to negotiate.

12. On April 13, 2016, counsel for Deutsche Bank and Class Counsel signed a Binding Settlement Term Sheet ("Term Sheet"). The Term Sheet set forth the terms on which the Parties agreed, subject to the negotiation of a full Settlement Agreement, to settle Class Plaintiffs' claims against Deutsche Bank. At the time the Term Sheet was executed, Class Counsel were well-informed about the legal risks, factual uncertainties, potential damages, and other aspects of the strengths and weaknesses of the claims and defenses asserted.

13. By letter dated April 13, 2016, the Parties reported to the Court that the Term Sheet had been executed, and that the Term Sheet would be superseded by a formal settlement agreement.

14. Over the course of the next several months, the Parties negotiated various material terms of the Settlement Agreement over which the Parties had substantial disagreement, requiring significant give and take on both sides. The parties exchanged drafts of the Settlement

Agreement, and numerous contested issues were raised, negotiated and resolved, including without limitation, continuing negotiations over the scope of Deutsche Bank's cooperation (*see* ¶ 4(A)-(G)), the scope of the releases (*see* ¶ 12 (A)-(C)), and the circumstances under which the Parties could terminate the Settlement (*see* ¶ 21).

15. Thus, the Settlement Agreement, which was executed (along with the Supplemental Agreement) on September 6, 2016, was the culmination of arm's-length settlement negotiations that extended over many months.

16. There is no fraud or collusion underlying the Settlement Agreement, which was reached after good-faith, arm's-length negotiations only after Class Counsel was informed about the legal risks, factual uncertainties, potential damages, and other aspects of the strengths and weaknesses of the claims against Deutsche Bank.

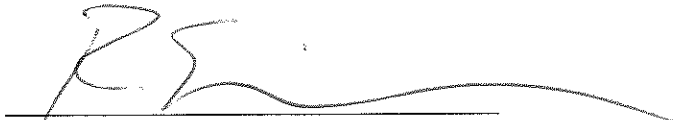
17. The Settlement is on its face fair and falls within the range of that which may be found to be fair, reasonable, and adequate at final approval.

18. We believe that the Settlement Class includes hundreds of geographically dispersed persons and entities, including traders of COMEX Silver Futures contracts, anyone who traded in physical silver based on the Silver Fix, and traders in various silver derivatives. This belief is based on data from the COMEX and from Class Counsel's investigation, as well as data received from Deutsche Bank as part of the Settlement cooperation provided to date.

19. Grant & Eisenhofer and Lowey have diligently represented the interests of the Class in this litigation, including investigating and bringing the action, litigating the case from inception against all Defendants, and negotiating with Deutsche Bank. The firms performed all of the necessary work to prosecute this litigation since inception and will continue to zealously represent the Class to prosecute the Class's claims against the Non-Settling Defendants.

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

Executed on October 17, 2016
Wilmington, Delaware



Robert G. Eisler

EXHIBIT 1

GRANT & EISENHOFER P.A.

G&E is a firm of 50-plus lawyers, all of whom focus their practices on representing plaintiffs in high-stakes litigation. The firm has three offices: New York City, Chicago, and Wilmington, Delaware.

G&E has been lead counsel in many of the largest class action recoveries in U.S. history, including the \$3.2 billion recovery against Tyco International, and numerous multi-hundred-million-dollar recoveries. Most recently, just this month a \$486 million settlement was announced in a class action against Pfizer, Inc. in which G&E served as lead counsel for the plaintiff class.

G&E has been and continues to be the recipient of numerous awards for its litigation prowess. In October 2015, as it was in prior years, G&E was named among the “Most Feared Plaintiffs Firms” by Law360. G&E has been named as one of the “Elite Trial Lawyers: The 50 Leading Plaintiffs Firms in America” by the National Law Journal. It has also consistently been named by the National Law Journal to the “Plaintiffs Hot List” and in 2008 earned a place in the National Law Journal’s “Plaintiffs’ Hot List Hall of Fame.” G&E also is top ranked (“Band 1”) by Chambers.

Courts across the country have commented on the excellent advocacy that G&E brings to its cases. *See, e.g., In re Marsh & McClennan*, 2009 WL 5178546,

at *19 (S.D.N.Y. Dec. 23, 2009) (commenting that lead counsel, including G&E, had “immense experience in complex federal civil litigation, particularly the litigation of securities and other class actions”); *Lowinger v. Global Cash Access Holdings, Inc.* 2008 U.S. Dist. LEXIS 49169, at *12 (S.D.N.Y. June 26, 2008) (“Grant & Eisenhofer is a highly competent and respected law firm, specializing in federal securities and other complex class actions”).

The lawyers from G&E expected to have primary responsibility for this litigation are:

Robert G. Eisler. Mr. Eisler is a director at Grant & Eisenhofer and leads the firm’s antitrust practice. Mr. Eisler has been involved in many of the most significant antitrust class action cases in his 27 years of practice. He is experienced in numerous industries, including financial services, pharmaceuticals, paper products, construction materials, industrial chemicals, processed foods, securities, and consumer goods. In addition to his work in class actions, Mr. Eisler has extensive experience representing corporate plaintiffs in individual antitrust actions, both in the United States and in the European Union.

Mr. Eisler is currently serving as co-lead counsel in several cases, including *Gordon et al. v. Amadeus et al., In re London Silver Fixing, Ltd. Antitrust Litigation* and *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litigation*. He has served as lead or co-lead counsel in many other significant

antitrust cases, including *In re Buspirone Antitrust Litigation* (which led to a \$90 million settlement in which presiding Judge Koeltl stated that the plaintiffs' attorneys had done "a stupendous job"), *In re Ciprofloxacin Hydrochloride Antitrust Litigation*, *In re Flat Glass Antitrust Litigation*, and *In re Municipal Derivatives Antitrust Litigation*. Mr. Eisler has played major roles in a number of other significant antitrust cases, including *In re Polyurethane Foam Antitrust Litigation*, *In re Blue Cross/Blue Shield Antitrust Litigation*, and *In re Linerboard Antitrust*.

Prior to joining Grant & Eisenhofer, Mr. Eisler was a partner at several leading national plaintiffs' firms, and was most recently a member of the Management Committee at Hausfeld LLP.

James J. Sabella. Mr. Sabella is a director at Grant & Eisenhofer with nearly 40 years of experience in complex civil litigation, including representing plaintiffs and defendants in class actions involving trial and appellate work. Mr. Sabella has substantial experience representing plaintiffs in antitrust litigation. Among his recent antitrust experience is his representation of the class in *Blessing v. Sirius XM Radio Inc.*, an antitrust case involving the merger of two satellite radio companies, where he achieved a favorable settlement affirmed on appeal by the Second Circuit. Mr. Sabella has represented the lead plaintiffs in numerous other major cases that have resulted in large recoveries, including the General Motors

securities litigation, where the settlement was in excess of \$300 million, the Refco securities litigation, where the recovery was in excess of \$400 million, and the Pfizer securities litigation, where the recovery was nearly \$500 million.

Courts have frequently commented on the excellence of Mr. Sabella's advocacy on behalf of plaintiff classes. *See, e.g., FIC, L.P. v. Bear Stearns Asset Management, Inc.*, No. 07-cv-11633, Transcript of fee approval hearing at 35 (S.D.N.Y. Apr. 2, 2012) ("Mr. Sabella is a very competent lawyer who takes his job seriously. He has a high degree of ethics and professional responsibility, and an extraordinary level of competence, and he brings that to bear for his clients. So I have a great deal of admiration for him"); *In re Parmalat Securities Litigation*, No. 04-md-1653, Transcript of fee approval hearing at 11 (S.D.N.Y. Mar. 2, 2009) ("They did a wonderful job here for the class and were in all respects totally professional and totally prepared. I wish I had counsel this good in front of me in every case.").

Prior to joining G&E, Mr. Sabella practiced for 28 years at several large Manhattan law firms, most recently as a partner in Sidley Austin Brown & Wood LLP.

The firm's website is www.gelaw.com.