

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

IN RE JPMORGAN PRECIOUS METALS SPOOFING
LITIGATION

Case No.: 1:18-cv-10356

Hon. Gregory H. Woods

THIS DOCUMENT RELATES TO:
ALL ACTIONS

**MEMORANDUM OF LAW IN SUPPORT OF CLASS PLAINTIFFS' MOTION
FOR ENTRY OF AN ORDER APPROVING DISTRIBUTION OF THE
NET SETTLEMENT FUND TO AUTHORIZED CLAIMANTS**

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Plaintiffs Dominick Cognata, Melissinos Trading, LLC, Casey Sterk, Kevin Maher, Kenneth Ryan, Robert Charles Class A, L.P., Robert L. Teel, Mark Serri, Yuri Alishaev, Abraham Jeremias, and Morris Jeremias (collectively, “Class Plaintiffs”), by and through their counsel, Lowey Dannenberg, P.C. (“Class Counsel”), respectfully submit this memorandum of law and the accompanying Declaration of Jack Ewashko (the “Ewashko Decl.”) in support of their motion seeking approval of the proposed distribution of the Net Settlement Fund.¹

INTRODUCTION

The Court-appointed Settlement Administrator, A.B. Data, Ltd. (“A.B. Data”) and Class Counsel have worked diligently to process Claims, answer questions, and implement the Amended Distribution Plan² approved by the Court in this Action. Following dissemination of notice to the Class, potential Class members submitted Proof of Claim and Release forms (“Claims”) to determine their eligibility to receive a portion of the Net Settlement Fund. Ewashko Decl. ¶ 6. After a thorough review of all Claims, A.B. Data has determined that 2,848 Claims are eligible to receive payment. Ewashko Decl. ¶ 17. Upon the Court’s entry of the accompanying Distribution Order, each Authorized Claimant will receive its *pro rata* share of the Net Settlement Fund (the “Distribution Amount”).

A.B. Data proposes distributing the Net Settlement Fund in two phases. In the first phase (the “Primary Distribution”), Authorized Claimants whose Distribution Amount is less than \$100,000 will receive their full Distribution Amount share. Ewashko Decl. ¶ 46. The remaining Authorized Claimants whose *pro rata* share of the Net Settlement Fund is greater than or equal to

¹ “Net Settlement Fund” means the settlement funds provided by the Settlement in this Action, plus any accrued interest, less deductions for tax payments, claims administration and escrow costs, and any Court-approved awards. As of April 30, 2026, the Net Settlement Fund totals \$42,929,671.67. Interest will continue to accrue on the Net Settlement Fund until the time of distribution.

² See ECF No. 90-6 (Amended Distribution Plan).

\$100,000 will receive ninety percent (90%) of their Distribution Amount during the Primary Distribution. *Id.* The remaining ten percent (10%) will be held in reserve for contingencies and later distribution. *Id.*; *see, e.g.*, Order Approving Distribution of the Net Settlement Fund, *In re GSE Bonds Antitrust Litig.*, No. 19-cv-1704 (JSR) (S.D.N.Y.), ECF No. 451 (Apr. 23, 2021) (“*GSE Distribution Order*”); Order Approving Distribution of the Net Settlement Fund, *Laydon v. The Bank of Tokyo-Mitsubishi UFJ, Ltd., et al.*, No. 12-cv-3419 (GBD) (S.D.N.Y.), ECF No. 1098 (Mar. 14, 2023) (“*Laydon Distribution Order*”); Order Approving Distribution of the Net Settlement Funds, *Fund Liquidation Holdings LLC v. Citibank, N.A., et al.*, No. 16-cv-5263 (AKH) (S.D.N.Y.), ECF No. 592 (Aug. 22, 2023) (“*SIBOR Distribution Order*”). The ten percent (10%) of the Distribution Amounts held in reserve, plus any amount of the Primary Distribution that has gone unclaimed by Authorized Claimants, will be reallocated on a *pro rata* basis to those Authorized Claimants who had a portion of their Distribution Amount held in reserve.

Importantly, there are no objections to A.B. Data’s determinations.

I. CLAIMS ADMINISTRATION PROCESS

The sections below summarize A.B. Data’s efforts to: (a) identify eligible Claims; (b) advise Claimants of A.B. Data’s deficiency findings and final dispositions concerning their Claims; (c) audit Claims; and (d) complete a quality assurance review. A summary of A.B. Data’s determinations is also provided.

A. Identification of Eligible Claims and Transactions

In addition to processing the information provided in each Claim, numerous Claimants submitted voluminous trading records in PDF format to support their Claims. Ewashko Decl. ¶ 11. A large amount of claims data needed to be extracted from these PDF documents, converted into a standardized electronic format for use in the claim administration process spreadsheets, and reviewed for accuracy. After all supporting documents and data were appended to the respective

Claim, A.B. Data reviewed each Claim to determine whether it was eligible on both the claim-level and on the transaction-level. Ewashko Decl. ¶¶ 19-25. To be eligible, a Claim had to include:

- eligible Precious Metals Futures or Options on Precious Metals Futures³ transactions made on the Commodity Exchange Inc. (“COMEX”) or the New York Mercantile Exchange (“NYMEX”) from March 1, 2008 through August 31, 2016 (the “Class Period”); and
- valid transaction data and documentation to support the Precious Metals Futures or Options on Precious Metals Futures transactions included in the Claim.

Id. ¶¶ 21-23, 25. In addition, each Claim needed to remain in good standing, meaning that the Claim was not withdrawn, replaced, or duplicative of another Claim. *Id.* ¶ 24.

B. Deficiency and Final Disposition Letters

After reviewing all filed Claims, A.B. Data sent a letter (the “Deficiency Letter”) to each Claimant describing any deficiency with the Claim and providing the Claimant an opportunity to cure the deficiency. Ewashko Decl. ¶¶ 26-27. If the Claim was rejected in part or in whole, the reason(s) for the rejection was referenced. *Id.*

After updating Claims data based on any documents received in connection with the deficiency process, A.B. Data contacted each Claimant to provide a final disposition of the Claim (the “Final Determination Letter”). Ewashko Decl. ¶¶ 31-32. The Final Determination Letter provided the Claimant’s Transaction Claim Amount calculation pursuant to the Amended Distribution Plan for each Authorized Claimant whose Claim was accepted. *Id.*

³ “Precious Metals Futures” means (i) COMEX Gold Futures; (ii) COMEX Silver Futures; (iii) NYMEX Platinum Futures; and (iv) NYMEX Palladium Futures. “Options on Precious Metals Futures” means any option on Precious Metals Futures.

A.B. Data's correspondence advised each Claimant of its right to object to A.B. Data's determination. *Id.* ¶¶ 26, 32. A Claimant seeking to object to A.B. Data's determination was required to submit a written statement requesting additional review of its Claim and setting forth the basis for the objection. *Id.* ¶¶ 26, 32. As of this filing, A.B. Data has not received any objections or requests for Court review of its administrative determinations. *Id.* ¶¶ 34-35.

C. Claims Auditing

A.B. Data also performed targeted audits of transactions from certain Claims. Audited Claimants were asked to provide additional trade confirmation data or other information supporting the specific transaction(s) selected by A.B. Data for audit. Ewashko Decl. ¶¶ 36-37. These targeted audits helped to ensure that transaction data supplied by Claimants did not contain false or inaccurate information. *Id.* ¶ 37. The Claims selected to submit their underlying confirmations for audit included:

- **Large Claims:** A.B. Data requested supporting documentation from the Claimants comprising the top 26% of the total Transaction Claim Amounts under the Amended Distribution Plan. *Id.* ¶ 37.
- **Bulk Filer Claims:** Certain Claims submitted by (a) financial institutions on behalf of multiple customers and (b) agents such as claims aggregators and law firms on behalf of their customers/clients (collectively, "Bulk Filer Claims") were also selected to be included in the audit. *Id.* ¶ 37.

A.B. Data sent an e-mail to each auditee (the "Audit Letter"), asking that these Claimants provide the requested documentation or data. *Id.* ¶ 38. Each Claimant was advised that failing to timely respond and provide the requested information within a specified time period would result

in the Claim's rejection. *Id.* In total, A.B. Data audited five Claims (the "Audited Claims"), and each of the audited Claimants responded to the Audit Letter. *Id.* ¶¶ 39-40.

Upon receiving data from the Audited Claims, A.B. Data's Electronic Claim Filing Team evaluated all transaction-level data provided to confirm the eligibility of each audited transaction. As a result of the audit, all of the Audited Claims passed with no rejections or adjustments. *Id.* ¶ 41. These Claims are included in Exhibit A (Timely Eligible Claims) to the Ewashko Decl. *Id.* ¶ 41.

D. Quality Assurance Review

A.B. Data's Quality Assurance Department operated as an independent auditor to ensure that the settlement administration followed the Amended Distribution Plan and commonly accepted claims administration practices. Ewashko Decl. ¶ 42. The department performed a quality assurance review of the Claims during which A.B. Data:

- (1) verified that all Claim Forms were signed by authorized individuals;
- (2) verified that true duplicate Claims were identified and rejected;
- (3) verified that persons and entities excluded from the Class did not file Claims and, if such persons or entities did file Claims, that their Claims were rejected or properly excluded from the *pro rata* calculation of the Net Settlement Fund;
- (4) performed a final Quality Assurance audit of Claims and all supporting documentation to ensure completeness of Claims;
- (5) performed a review of deficient or invalid Claims;
- (6) confirmed all Claimants that were to receive a deficiency and/or rejection notice were sent such notification;
- (7) performed additional reviews of Claims with a high Distribution Amount;
- (8) audited Claims whose Transaction Claim Amount calculation equaled zero;

(9) performed other auditing based on Claims completion requirements and the approved calculation specifications based on the Amended Distribution Plan; and

(10) re-tested the accuracy of the program that calculated the allocation from Net Settlement Fund.

Id. ¶ 42. As part of its fraud prevention procedures, A.B. Data also compared the Claimant list against its list of known questionable claim filers, whose claims (if present) would be subject to additional review. *Id.* ¶ 43.

E. A.B. Data’s Claim Determinations

A total of 4,493 Claims were submitted on or before the Claim deadline of August 8, 2022, of which 1,977 were determined by A.B. Data to have eligible Precious Metals Futures and/or Options on Precious Metals Futures transactions (“Timely Eligible Claims”). Ewashko Decl. ¶ 15.

A total of 1,022 Claims were submitted after the August 8, 2022 Claim submission deadline (“Late Claims”). *Id.* ¶¶ 16, 44. Of those, 871 were determined by A.B. Data to have eligible Precious Metals Futures and/or Options on Precious Metals Futures transactions. *Id.* ¶ 16. These otherwise eligible Late Claims are recommended for payment because the late submission did not delay the distribution of the Net Settlement Fund. *Id.* ¶ 16. A total of 151 Late Claims were ineligible for reasons other than timeliness. *Id.* ¶ 16.

In total, there are 2,848 Claims with eligible Precious Metals Futures and/or Options on Precious Metals Futures transactions that may receive their Distribution Amount pursuant to the Amended Distribution Plan. *Id.* ¶ 17.

A.B. Data recommends that the Court reject the remaining 2,667 Claims, which include Claims that: were withdrawn (51), replaced (707), submitted in duplicate (1,645), did not have

eligible transactions (147), or failed to provide acceptable data (99) or documentation (18) concerning the transactions. *Id.* ¶ 18.

II. DISTRIBUTION PROCEDURE FOR THE NET SETTLEMENT FUND

A.B. Data proposes that the distribution of the Net Settlement Fund occur in two phases, starting with the Primary Distribution and followed by the Secondary Distribution involving any remaining funds.

A. Claimants Receiving the \$250 Minimum Payment

All Authorized Claimants whose Distribution Amount is less than \$250 will receive a minimum payment of \$250 (“Minimum Payment”) during the Primary Distribution (the “Minimum Payment Claims”). Ewashko Decl. ¶ 46. Awarding a Minimum Payment ensures these Authorized Claimants will receive a meaningful payment without substantially reallocating the Net Settlement Fund. The implementation of a payment floor also provides administrative savings that ensures the cost to administer these Claims does not exceed their value under the Amended Distribution Plan. *Id.* A total of 1,823 Authorized Claimants will receive the Minimum Payment, which totals 1.06% of the Net Settlement Fund. *Id.* ¶ 46. If these Minimum Payment Claims received their *pro rata* share, 0.16% of the Net Settlement Fund would be distributed. *Id.* ¶ 46. The reallocation of 0.90% of the Net Settlement Fund to these Minimum Payment Claims is within the range accepted by courts for purposes of administrative cost savings. *See, e.g., Alaska Elec. Pension Fund v. Bank of Am., Corp.*, No. 14-cv-7126 (JMF), 2020 WL 916853, at *2 (S.D.N.Y. Feb. 26, 2020) (approving \$100 minimum payment, which totaled less than 1% of the settlement fund on basis that the minimum payment reduced claims administration costs); *GSE Distribution Order* (approving distribution motion where minimum payment reallocated approximately 1% of the Net Settlement Fund to save administrative costs, *see* Mem. of Law in Support of Plaintiffs’ Motion for Entry of an Order Approving Distribution of the Net Settlement Fund to Authorized

Claimants, *In re GSE Bonds Antitrust Litig.*, No. 19-cv-1704 (JSR) (S.D.N.Y), ECF No. 447 (Dec. 3, 2020)); *Laydon* Distribution Order (approving distribution motion including a \$100 minimum payment totaling 0.087% of the net settlement fund and reallocating 0.072% of the net settlement fund to reduce administrative costs), *see* Mem. of Law in Support of Plaintiffs' Motion for Entry of an Order Approving Distribution of the Net Settlement Fund, *Laydon*, ECF No. 1091 (Feb. 16, 2023); *SIBOR* Distribution Order (approving distribution motion including a \$500 minimum payment where minimum payment reallocated 0.19% of the Net Settlement Fund to save administrative costs), *see* Mem. Of Law in Support of Plaintiffs' Motion for Entry of an Order Approving Distribution of the Net Settlement Fund, *SIBOR*, ECF No. 586 (July 14, 2023).

B. Claimants Receiving Their Full Distribution Amount During the Primary Distribution

All Authorized Claimants whose Distribution Amount is between \$250 and less than \$100,000 will receive their full Distribution Amount in the Primary Distribution. Ewashko Decl. ¶ 46. There are 954 Authorized Claimants whose Distribution Amount is between \$250 and less than \$100,000. *Id.* Paying these Authorized Claimants in full during the Primary Distribution means fewer Authorized Claimants will need to be included in any subsequent distributions, reducing the administrative costs associated with such an effort.

C. Claimants Receiving 90% of Their Distribution Amount in the Primary Distribution

The remaining 71 Authorized Claimants, whose Transaction Claim Amount calculation results in a Distribution Amount equal to or greater than \$100,000, will receive 90% of their Distribution Amount in the Primary Distribution. Ewashko Decl. ¶ 46. So, for example, if Claimant X's Distribution Amount under the Amended Distribution Plan is \$100,000, it will receive \$90,000 in the Primary Distribution.

The remaining 10% will be set aside in reserve to address any contingencies that may arise as well as to pay any further tax obligations, fees or expenses incurred through the administration of the Net Settlement Fund. *Id.* ¶ 46. The establishment of a reserve is a customary practice of claim administrators in complex cases and has been approved by courts. *See, e.g., Alaska Elec. Pension Fund*, 2020 WL 916853, at *2 (approving initial distribution with an 8% reserve); *GSE Distribution Order*, at ¶ 3 (approving initial distribution with a 10% reserve); *Laydon Distribution Order* (approving initial distribution with a 10% reserve); *SIBOR Distribution Order* (approving initial distribution with a 10% reserve).

D. Payment Terms and Secondary Distribution

Once the time to negotiate the distribution checks from the Primary Distribution has elapsed (approximately 90 days), and after reasonable efforts have been made to encourage Authorized Claimants to cash their checks, the proceeds from all void, stale-dated, or returned checks and failed wire transfers from the Primary Distribution will be combined with any funds set aside in reserve and made available for reallocation in a subsequent distribution. *Ewashko Decl.* ¶ 46.

After accounting for any outstanding fees and expenses of administration or other contingencies, and unless the Court approves a request by Class Counsel to do otherwise, a Secondary Distribution (and any subsequent distributions) will allocate any funds that remain in reserve to all Authorized Claimants that: (a) received a Distribution Amount in the amount of \$100,000 or more; and (b) negotiated their first distribution payments; and (c) are entitled to at least \$250 from such redistribution based on their *pro rata* share of the remaining funds. *Id.* ¶ 46.

III. RECORD RETENTION AND DESTRUCTION

Class Counsel requests that A.B. Data be permitted to destroy paper and electronic copies of Claims one year after (a) the Net Settlement Fund in connection with the Settlements has been distributed; and (b) the Action has finally terminated. *See* Ewashko Decl. ¶ 46.

IV. SETTLEMENT ADMINISTRATOR EXPENSES TO DATE AND COST TO COMPLETE DISTRIBUTION

To date, the costs of notice and administration for the Settlements totals \$761,970.94, for which A.B. Data has been or will be paid in full. Ewashko Decl. ¶ 47. A.B. Data anticipates that the additional cost to complete the administration for this Settlement and distribution of the Net Settlement Fund will be \$36,797.70. *Id.* ¶ 47. This cost includes the work described in the Ewashko Decl. Class Counsel respectfully request that the Court enter the Distribution Order, which authorizes payment of up to \$36,797.70 for the costs and expenses expected to be incurred with the distribution of the Net Settlement Fund.⁴

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant their motion and enter the accompanying Distribution Order.

⁴ To the extent additional expenses are incurred beyond the \$36,797.70 estimate, Class Counsel will make an application to the Court to pay any additional administration expenses.

Dated: June 18, 2026
White Plains, New York

Respectfully submitted,

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/s/ Vincent Briganti

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CERTIFICATE OF COMPLIANCE

The undersigned attorney certifies that this memorandum complies with the type-volume and type size limitations contained in LR 7.1(b) and (c). The memorandum has 2,782 words in Times New Roman font type in font size 12. The memorandum was prepared using Microsoft Word Office 365 which includes all text, including headings, footnotes, and quotations in the word count.

Dated: June 18, 2026

/s/ Vincent Briganti _____