

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

IN RE FOREIGN EXCHANGE
BENCHMARK RATES ANTITRUST
LITIGATION

No. 1:13-cv-07789-LGS

**DECLARATION OF RETO FELLER REGARDING MOTION FOR ENTRY OF AN
ORDER APPROVING CLAIMS ADMINISTRATOR'S DETERMINATIONS
REGARDING UNAUTHORIZED CLAIMS AND DISPUTED CLAIMS**

I, Reto Feller, hereby declare:

1. I am a Senior FICC Market and Trading expert consulting with Velador Associates Ltd. (“Velador”), the Settlement Experts in the above-captioned action. I submit this Declaration regarding Plaintiffs’ Motion for Entry of an Order Approving the Claims Administrator’s Determinations Regarding Unauthorized Claims and Disputed Claims (the “Motion”). The following statements are based upon my personal knowledge and experience and information provided to me by Velador employees and other consultants working under my supervision, and if called on to do so, I could and would testify competently thereto.

2. I reviewed the Memorandum of Opposition by Gregor L. McIntosh to a Motion by Plaintiffs for Entry of an Order Approving Claims Administrator’s Partial Rejection of Disputed Claim No. 10013447 and its accompanying exhibits.

3. As part of my review, I examined the table presented in Exhibit 3 and observed the following:

- a. The day count used by McIntosh is not a correct comparison to calculate forward points. The relevant day count for a Forward-Forward, which is the correct market-wide standard- would be the days between the near expiry date to the far expiry date and not, as per his calculation, between the trade date and the far expiry date; and
- b. McIntosh’s calculation of interest rate differential is also not consistent because he mistakenly makes rows 2, 3, and 4 negative, where they should be positive, and differential 5 should be negative.

4. Therefore, the forward points calculated by McIntosh are incorrect. Even if they had been calculated correctly, they would have differed from the prevailing FX forward points.

5. Using purchased market data from Bloomberg, which was relied on for the entire claims process to calculate the relevant forward curves, a process that was applied to all claimants and claim processing, I confirmed that the actual prevailing forward points on McIntosh's trade dates are nearly identical with the forward points of the executed trades.

6. It is also our opinion that the likelihood that ten transactions, each one of them executed at one price, having been given to the broker to execute on a "best efforts" basis is extremely low. In our experience, and observed in other claimants' data, transactions of this size that are not rolls, would result in multiple, separate executions at different prices. We note that in his earlier claim submissions, the claimant submitted 464 trades, the largest of which was 64 contracts only and there were several trades in this set that were clearly the result of multiple, single executions.

7. The trade data confirm the Settlement Experts' assessment that McIntosh's trades are not stand-alone trades, but rolls, hence analogues to FX Swaps. Under the Plan of Distribution, they should undergo the same damage calculation and awards as FX Swaps.

8. I reviewed the Memorandum of Opposition by Sean Waraich (Dispute Claim No. 3) to the Motion by Plaintiffs regarding the full rejection of Disputed Claim No. 10000935 and its accompanying exhibits.

9. As part of my review, I examined the audit documentation presented in Exhibit 3 and the claimant's submitted transaction data, and I observed the following:

- a. Waraich's status as a retail trader means that he is not trading in the wholesale spot FX market, but in the retail market. As a retail client, he would not typically know the value date because he was not a party to that hedging transaction between his retail broker and potentially a Defendant bank.

- b. The ICM documentation, provided as “Exhibit 3” by Waraich, clearly points out to the fact that “ICM...does not customarily hedge against client transactions”. In other words, ICM is taking Waraich’s transactions into their own portfolio; in the retail FX world, this is also known as “B-booking” client trades, and in fact confirming that ICM is the counterparty to such transactions. Therefore, it is impossible for Waraich to submit a value date, which is a mandatory field in an Option 2 submission.
- c. In the provided audit documentation, we clearly note that no value dates were confirmed.
- d. In his claim submission, for his trades Waraich wrongly provided a value date, where in fact this date was the trade date an existing open position was “closed”. This is typical how a brokerage statement in retail FX is provided to clients and is indeed the format that was provided by ICM for the purposes of this claim.
- e. Waraich submitted “Tier 1 Bank Consortium” as the counterparty field for his transactions, but the audit documentation proved that International Capital Markets (“ICM”) was the counterparty to all transactions. In addition, “Tier 1 Bank consortium” is not a defendant as described in the Plan of Distribution.
- f. If Waraich did trade directly with Defendant banks, then there would have been onboarding documentation and ISDA agreements, but Waraich could not provide such proof because of his claim’s retail nature.

g. It is further noteworthy that the audit documentation from ICM confirms volumes (in lot sizes), but not notional base and contra amounts of the currencies traded. Many provided base and contra amounts are wrong, especially when traded against JPY, and are an overstatement of transacted volumes.

Executed on the 8th day of November, 2023 in London, United Kingdom.

RETO FELLER

A handwritten signature in black ink, appearing to read 'Reto Feller', is written over a horizontal line.

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ Michael Hausfeld

MICHAEL HAUSFELD