

Party: Applicant / Proposed Representative

Witness: B A Hollway

Number of Statement: Fifth

Exhibit: BAH28-BAH30

Dated: 11 June 2021

IN THE COMPETITION APPEAL TRIBUNAL

Case no. 1329/7/7/19

B E T W E E N : -

MICHAEL O’HIGGINS FX CLASS REPRESENTATIVE LIMITED

Applicant /
Proposed Representative

-and-

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

Respondent /
Proposed Defendants

EXHIBIT BAH29

This is the exhibit marked “BAH29” referred to in the fifth witness statement of Belinda Anne Hollway dated 11 June 2021.



.....
Belinda Anne Hollway

Dated: 11 June 2021

	A	B	C	D	E	F	G	H	I	J	K
1											
2	Analysis of potential scenarios for payment of costs out of undistributed damages (35% distribution)										
3											
4			Judgment					Settlement			
5	Aggregate damages and distribution to class members		Each scenario assumes that all budgeted costs are incurred and no ATE insurance is acquired					Each scenario assumes that 50% of budgeted costs are incurred and no additional ATE insurance is acquired			
6	Estimated aggregate damages		100%	50%	25%	4.7%		50%	25%	2.8%	
7	£2,687,000,000		£2,687,000,000	£1,343,500,000	£671,750,000	£126,289,000		£1,343,500,000	£671,750,000	£75,236,000	
8	Distribution of aggregate damages to class members	35%	£940,450,000	£470,225,000	£235,112,500	£44,201,150		£470,225,000	£235,112,500	£26,332,600	
9	Undistributed damages		£1,746,550,000	£873,275,000	£436,637,500	£82,087,850		£873,275,000	£436,637,500	£48,903,400	
10											
11	Amount sought in respect of costs from undistributed damages										
12	Funder's fee (return of capital outlay and contingency fee)		£363,725,043	£263,725,043	£163,725,043	£78,425,882		£252,350,000	£152,350,000	£39,154,775	
13	External ATE Contingent Premium (incl IPT 12%)		£20,804,000	£20,804,000	£20,804,000	£20,804,000		£20,804,000	£20,804,000	£20,804,000	
14	Solicitor fees (Deferred fees and success element)		£7,822,800	£7,822,800	£7,822,800	£7,822,800		£3,911,400	£3,911,400	£3,911,400	
15	LESS costs recovered from Proposed Defendants	75%	-£24,964,832	-£24,964,832	-£24,964,832	-£24,964,832		-£14,966,775	-£14,966,775	-£14,966,775	
16	Total		£367,387,011	£267,387,011	£167,387,011	£82,087,850		£262,098,625	£162,098,625	£48,903,400	
17											
18	Remainder of undistributed damages (to charity)		£1,379,162,989	£605,887,989	£269,250,489	£0		£611,176,375	£274,538,875	£0	
19											
20	Key Statistics										
21	Percentage of aggregate damages paid to class members		35%	35%	35%	35%		35%	35%	35%	
22	Percentage of aggregate damages sought in respect of costs		14%	20%	25%	65%		20%	24%	65%	
23	Remainder of aggregate damages (to charity)		51%	45%	40%	0%		45%	41%	0%	
24	Total		100%	100%	100%	100%		100%	100%	100%	
25											
26	Percentage of undistributed damages sought in respect of costs		21%	31%	38%	100%		30%	37%	100%	
27	Remainder of undistributed damages (to charity)		79%	69%	62%	0%		70%	63%	0%	
28	Total		100%	100%	100%	100%		100%	100%	100%	
29											
30	Notes										
31	Damages does not include recovery of costs, these are taken into account in row 12 as part of Funder fee and then also in row 15										
32											
33											

	A	B	C	D	E	F	G	H	I	J	K
1											
2	Analysis of potential scenarios for payment of costs out of undistributed damages (42.5% distribution)										
3											
4			Judgment					Settlement			
5	Aggregate damages and distribution to class members		Each scenario assumes that all budgeted costs are incurred and no ATE insurance is acquired					Each scenario assumes that 50% of budgeted costs are incurred and no additional ATE insurance is acquired			
6	Estimated aggregate damages		100%	50%	25%	5.7%		50%	25%	3.4%	
7	£2,687,000,000		£2,687,000,000	£1,343,500,000	£671,750,000	£153,159,000		£1,343,500,000	£671,750,000	£91,358,000	
8	Distribution of aggregate damages to class members	42.5%	£1,141,975,000	£570,987,500	£285,493,750	£65,092,575		£570,987,500	£285,493,750	£38,827,150	
9	Undistributed damages		£1,545,025,000	£772,512,500	£386,256,250	£88,066,425		£772,512,500	£386,256,250	£52,530,850	
10											
11	Amount sought in respect of costs from undistributed damages										
12	Funder's fee (return of capital outlay and contingency fee)		£363,725,043	£263,725,043	£163,725,043	£84,404,457		£252,350,000	£152,350,000	£42,782,225	
13	External ATE Contingent Premium (incl IPT 12%)		£20,804,000	£20,804,000	£20,804,000	£20,804,000		£20,804,000	£20,804,000	£20,804,000	
14	Solicitor fees (Deferred fees and success element)		£7,822,800	£7,822,800	£7,822,800	£7,822,800		£3,911,400	£3,911,400	£3,911,400	
15	LESS costs recovered from Proposed Defendants	75%	-£24,964,832	-£24,964,832	-£24,964,832	-£24,964,832		-£14,966,775	-£14,966,775	-£14,966,775	
16	Total		£367,387,011	£267,387,011	£167,387,011	£88,066,425		£262,098,625	£162,098,625	£52,530,850	
17											
18	Remainder of undistributed damages (to charity)		£1,177,637,989	£505,125,489	£218,869,239	£0		£510,413,875	£224,157,625	£0	
19											
20	Key Statistics										
21	Percentage of aggregate damages paid to class members		43%	43%	43%	43%		43%	43%	43%	
22	Percentage of aggregate damages sought in respect of costs		14%	20%	25%	58%		20%	24%	58%	
23	Remainder of aggregate damages (to charity)		44%	38%	33%	0%		38%	33%	0%	
24	Total		100%	100%	100%	100%		100%	100%	100%	
25											
26	Percentage of undistributed damages sought in respect of costs		24%	35%	43%	100%		34%	42%	100%	
27	Remainder of undistributed damages (to charity)		76%	65%	57%	0%		66%	58%	0%	
28	Total		100%	100%	100%	100%		100%	100%	100%	
29											
30	Notes										
31	Damages does not include recovery of costs, these are taken into account in row 12 as part of Funder fee and then also in row 15										
32											

	A	B	C	D	E	F	G	H	I	J	K
1											
2	Analysis of potential scenarios for payment of costs out of undistributed damages (42.5% distribution)										
3											
4			Judgment					Settlement			
5	Aggregate damages and distribution to class members		Each scenario assumes that all budgeted costs are incurred and no ATE insurance is acquired					Each scenario assumes that 50% of budgeted costs are incurred and no additional ATE insurance is acquired			
6	Estimated aggregate damages		100%	50%	25%	7.1%		50%	25%	4.2%	
7	£2,687,000,000		£2,687,000,000	£1,343,500,000	£671,750,000	£190,777,000		£1,343,500,000	£671,750,000	£112,854,000	
8	Distribution of aggregate damages to class members	50%	£1,343,500,000	£671,750,000	£335,875,000	£95,388,500		£671,750,000	£335,875,000	£56,427,000	
9	Undistributed damages		£1,343,500,000	£671,750,000	£335,875,000	£95,388,500		£671,750,000	£335,875,000	£56,427,000	
10											
11	Amount sought in respect of costs from undistributed damages										
12	Funder's fee (return of capital outlay and contingency fee)		£363,725,043	£263,725,043	£163,725,043	£91,726,532		£252,350,000	£152,350,000	£46,678,375	
13	External ATE Contingent Premium (incl IPT 12%)		£20,804,000	£20,804,000	£20,804,000	£20,804,000		£20,804,000	£20,804,000	£20,804,000	
14	Solicitor fees (Deferred fees and success element)		£7,822,800	£7,822,800	£7,822,800	£7,822,800		£3,911,400	£3,911,400	£3,911,400	
15	LESS costs recovered from Proposed Defendants	75%	-£24,964,832	-£24,964,832	-£24,964,832	-£24,964,832		-£14,966,775	-£14,966,775	-£14,966,775	
16	Total		£367,387,011	£267,387,011	£167,387,011	£95,388,500		£262,098,625	£162,098,625	£56,427,000	
17											
18	Remainder of undistributed damages (to charity)		£976,112,989	£404,362,989	£168,487,989	£0		£409,651,375	£173,776,375	£0	
19											
20	Key Statistics										
21	Percentage of aggregate damages paid to class members		50%	50%	50%	50%		50%	50%	50%	
22	Percentage of aggregate damages sought in respect of costs		14%	20%	25%	50%		20%	24%	50%	
23	Remainder of aggregate damages (to charity)		36%	30%	25%	0%		30%	26%	0%	
24	Total		100%	100%	100%	100%		100%	100%	100%	
25											
26	Percentage of undistributed damages sought in respect of costs		27%	40%	50%	100%		39%	48%	100%	
27	Remainder of undistributed damages (to charity)		73%	60%	50%	0%		61%	52%	0%	
28	Total		100%	100%	100%	100%		100%	100%	100%	
29											
30	Notes										
31	Damages does not include recovery of costs, these are taken into account in row 12 as part of Funder fee and then also in row 15										
32											

	A	B	C	D	E	F	G	H	I
1									
2	Funder's Fee								
3									
4	35% Distribution	Scenarios							
5		Judgment				Settlement			
6		100%	50%	25%	4.7%	50%	25%	2.8%	
7		Action costs	£24,349,043	£24,349,043	£24,349,043	£24,349,043	£12,974,000	£12,974,000	£12,974,000
8		Legal costs	£0	£0	£0	£0	£0	£0	£0
9		ATE Insurance taken out by Funder	£5,026,000	£5,026,000	£5,026,000	£5,026,000	£5,026,000	£5,026,000	£5,026,000
10		Total Funder outlay	£29,375,043	£29,375,043	£29,375,043	£29,375,043	£18,000,000	£18,000,000	£18,000,000
11		Amount equal to Funder outlay	£29,375,043	£29,375,043	£29,375,043	£29,375,043	£18,000,000	£18,000,000	£18,000,000
12		Funder Contingency Fee (greater of multiple or %)	£334,350,000	£234,350,000	£134,350,000	£49,050,839	£234,350,000	£134,350,000	£21,154,775
13		Total Funder fee (inc. return of capital outlay)	£363,725,043	£263,725,043	£163,725,043	£78,425,882	£252,350,000	£152,350,000	£39,154,775
14	Cost of Funding per £1	£12.38	£8.98	£5.57	£2.67	£14.02	£8.46	£2.18	
15									
16	42.5% Distribution	Scenarios							
17		Judgment				Settlement			
18		100%	50%	25%	5.7%	50%	25%	3.4%	
19		Action costs	£24,349,043	£24,349,043	£24,349,043	£24,349,043	£12,974,000	£12,974,000	£12,974,000
20		Legal costs	£0	£0	£0	£0	£0	£0	£0
21		ATE Insurance taken out by Funder	£5,026,000	£5,026,000	£5,026,000	£5,026,000	£5,026,000	£5,026,000	£5,026,000
22		Total Funder outlay	£29,375,043	£29,375,043	£29,375,043	£29,375,043	£18,000,000	£18,000,000	£18,000,000
23		Amount equal to Funder outlay	£29,375,043	£29,375,043	£29,375,043	£29,375,043	£18,000,000	£18,000,000	£18,000,000
24		Funder Contingency Fee (greater of multiple or %)	£334,350,000	£234,350,000	£134,350,000	£55,029,414	£234,350,000	£134,350,000	£24,782,225
25		Total Funder fee (inc. return of capital outlay)	£363,725,043	£263,725,043	£163,725,043	£84,404,457	£252,350,000	£152,350,000	£42,782,225
26	Cost of Funding per £1	£12.38	£8.98	£5.57	£2.87	£14.02	£8.46	£2.38	
27									
28	50% Distribution	Scenarios							
29		Judgment				Settlement			
30		100%	50%	25%	7.1%	50%	25%	5.2%	
31		Action costs	£24,349,043	£24,349,043	£24,349,043	£24,349,043	£12,974,000	£12,974,000	£12,974,000
32		Legal costs	£0	£0	£0	£0	£0	£0	£0
33		ATE Insurance taken out by Funder	£5,026,000	£5,026,000	£5,026,000	£5,026,000	£5,026,000	£5,026,000	£5,026,000
34		Total Funder outlay	£29,375,043	£29,375,043	£29,375,043	£29,375,043	£18,000,000	£18,000,000	£18,000,000
35		Amount equal to Funder outlay	£29,375,043	£29,375,043	£29,375,043	£29,375,043	£18,000,000	£18,000,000	£18,000,000
36		Funder Contingency Fee (greater of multiple or %)	£334,350,000	£234,350,000	£134,350,000	£62,351,489	£234,350,000	£134,350,000	£28,678,375
37		Total Funder fee (inc. return of capital outlay)	£363,725,043	£263,725,043	£163,725,043	£91,726,532	£252,350,000	£152,350,000	£46,678,375
38	Cost of Funding per £1	£12.38	£8.98	£5.57	£3.12	£14.02	£8.46	£2.59	
39									
40	Notes								
41	1. Contingency Fee: The following multiples determined by reference to the period between the Commencement Date and the date of payment of the Contingency Fee (or that part thereof) pursuant to the Agreement as specified								
42	below:								
43	- Up to 12 months: 2.0x								
44	- From and including 12 months and up to 24 months: 2.5x								
45	- From and including 24 months and thereafter: 3.0x								
46	or, if larger:								
47	- 20% of the Claim Proceeds up to £1 billion								
48	- 10% of the Claim Proceeds above £1 billion; and								
49	2. Where the total proceeds would be inadequate to pay the funder its full entitlement, the return specified is the amount the funder would anticipate actually receiving from the undistributed damages when other distributions are								
50	taken into account.								
51	3. The "settlement" figures are calculated on the basis that £18m of funding is incepted, and any multiples payable are (if relevant) payable by reference to that sum.								
52									

	A	B	C	D	E	F
1						
2	ATE Insurance Premia					
3						
4	Deferred & Contingent Premia	Limit of Indemnity	Premium	IPT	Total	
5	Primary Layer	£6,000,000.00	£2,700,000.00	£324,000.00	£3,024,000.00	
6	First Excess Layer	£15,000,000.00	£6,750,000.00	£810,000.00	£7,560,000.00	
7	Second Excess Layer	£5,500,000.00	£2,475,000.00	£297,000.00	£2,772,000.00	
8	Third Excess Layer	£4,000,000.00	£3,800,000.00	£456,000.00	£4,256,000.00	
9	Fourth Excess Layer	£3,000,000.00	£2,850,000.00	£342,000.00	£3,192,000.00	
10	Total	£33,500,000.00	£18,575,000.00	£2,229,000.00	£20,804,000.00	
11						
12	Notes					
13	IPT is Insurance Premium Tax. This is calculated based on the current prevailing rate of 12%					
14						
15						
16						

Party: Applicant / Proposed Representative

Witness: B A Hollway

Number of Statement: Fifth

Exhibit: BAH28-BAH30

Dated: 11 June 2021

IN THE COMPETITION APPEAL TRIBUNAL

Case no. 1329/7/7/19

B E T W E E N : -

MICHAEL O'HIGGINS FX CLASS REPRESENTATIVE LIMITED

Applicant /
Proposed Representative

-and-

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

Respondent /
Proposed Defendants

EXHIBIT BAH30

This is the exhibit marked "BAH30" referred to in the fifth witness statement of Belinda Anne Hollway dated 11 June 2021.


.....

Belinda Anne Hollway

Dated: 11 June 2021

Evans' Cost of Funding (AJM16 with additional rows showing cost of funding)

Funder's Fee ¹							
35% Distribution	Scenarios						
	Judgment				Settlement		
	100%	50%	25%	4.7%	50%	25%	2.8%
Action costs	£19,603,152	£19,603,152	£19,603,152	£19,603,152	£9,801,576	£9,801,576	£9,801,576
Legal costs	£36,000	£36,000	£36,000	£36,000	£36,000	£36,000	£36,000
ATE insurance taken out by Funder	£1,125,000	£1,125,000	£1,125,000	£1,125,000	£1,125,000	£1,125,000	£1,125,000
Total Funder outlay	£20,764,152	£20,764,152	£20,764,152	£20,764,152	£10,962,576	£10,962,576	£10,962,576
Amount equal to Funder outlay	£20,764,152	£20,764,152	£20,764,152	£20,764,152	£10,962,576	£10,962,576	£10,962,576
Greater of Funder outlay or % multiple	£250,000,000	£209,350,000	£125,762,500	£25,257,800	£209,350,000	£125,762,500	£15,047,200
Fee in respect of pre-CPO security sum ²	£675,000	£675,000	£675,000	£675,000	£675,000	£675,000	£675,000
Total Funder fee (inc. return of capital outlay)	£292,203,304	£251,553,304	£167,965,804	£67,461,104	£231,950,152	£148,362,652	£37,647,352
Cost of Funding per £1	£14.07	£12.11	£8.09	£3.25	£21.16	£13.53	£3.43

42.5% Distribution	Scenarios						
	Judgment				Settlement		
	100%	50%	25%	5.7%	50%	25%	3.4%
Action costs	£19,603,152	£19,603,152	£19,603,152	£19,603,152	£9,801,576	£9,801,576	£9,801,576
Legal costs	£36,000	£36,000	£36,000	£36,000	£36,000	£36,000	£36,000
ATE insurance taken out by Funder	£1,125,000	£1,125,000	£1,125,000	£1,125,000	£1,125,000	£1,125,000	£1,125,000
Total Funder outlay	£20,764,152	£20,764,152	£20,764,152	£20,764,152	£10,962,576	£10,962,576	£10,962,576
Amount equal to Funder outlay	£20,764,152	£20,764,152	£20,764,152	£20,764,152	£10,962,576	£10,962,576	£10,962,576
Greater of Funder outlay or % multiple	£250,000,000	£209,350,000	£125,762,500	£30,631,800	£209,350,000	£125,762,500	£18,271,600
Fee in respect of pre-CPO security sum ²	£675,000	£675,000	£675,000	£675,000	£675,000	£675,000	£675,000
Total Funder fee (inc. return of capital outlay)	£292,203,304	£251,553,304	£167,965,804	£72,835,104	£231,950,152	£148,362,652	£40,871,752
Cost of Funding per £1	£14.07	£12.11	£8.09	£3.51	£21.16	£13.53	£3.73

50% Distribution	Scenarios						
	Judgment				Settlement		
	100%	50%	25%	7.1%	50%	25%	4.2%
Action costs	£19,603,152	£19,603,152	£19,603,152	£19,603,152	£9,801,576	£9,801,576	£9,801,576
Legal costs	£36,000	£36,000	£36,000	£36,000	£36,000	£36,000	£36,000
ATE insurance taken out by Funder	£1,125,000	£1,125,000	£1,125,000	£1,125,000	£1,125,000	£1,125,000	£1,125,000
Total Funder outlay	£20,764,152	£20,764,152	£20,764,152	£20,764,152	£10,962,576	£10,962,576	£10,962,576
Amount equal to Funder outlay	£20,764,152	£20,764,152	£20,764,152	£20,764,152	£10,962,576	£10,962,576	£10,962,576
Greater of Funder outlay or % multiple	£250,000,000	£209,350,000	£125,762,500	£38,155,400	£209,350,000	£125,762,500	£22,570,800
Fee in respect of pre-CPO security sum ²	£675,000	£675,000	£675,000	£675,000	£675,000	£675,000	£675,000
Total Funder fee (inc. return of capital outlay)	£292,203,304	£251,553,304	£167,965,804	£80,358,704	£231,950,152	£148,362,652	£45,170,952
Cost of Funding per £1	£14.07	£12.11	£8.09	£3.87	£21.16	£13.53	£4.12

Notes

¹ Under Clause 9.3 of the Litigation Funding Agreement between Mr Evans and the Funder, the Funder's fee is an amount equal to two times the Funder's outlay plus an amount equal to the greater of the Funder's outlay or:

- 20% of aggregate damages up to £500,000,000; plus
- 15% of aggregate damages thereafter up to £1,000,000,000; plus
- 10% of aggregate damages thereafter up to £1,500,000,000; plus
- 5% of aggregate damages thereafter up to £2,000,000,000.

² 15% interest per annum in respect of £3 million pre-CPO security sum from the Funder pursuant to clauses 8.12-8.13 of the LFA. An 18 month period is assumed from July 2020.