IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

Claim No. HC-2014-000197~~14D00310~~

B E T W E E N:-

THE LIBYAN INVESTMENT AUTHORITY

(incorporated under the laws of the State of Libya)

Claimant

-and-

GOLDMAN SACHS INTERNATIONAL

Defendant

RE-RE-AMENDED PARTICULARS OF CLAIM

UNDER CPR RULE 17.1(2)(a) DATED 18 MARCH 2016

The parties

1. The Claimant ("the LIA") is a sovereign wealth fund, which was created by Decree Number 205 of 1374 DP (2006) of the General People's Committee of Libya issued on 28 August 2006. The LIA has at all material times had its own separate legal personality.

2. The Defendant ("Goldman") is and was at all material times a private unlimited company registered in the UK, which carried out the business of a global investment banking firm.

3. Between January and April 2008, the LIA entered into a series of 9 trades with Goldman which are referred to in Schedule 1 hereto ("the Disputed Trades"). The circumstances in which the Disputed Trades were concluded are set out further below.

The formation of the LIA

4. From the end of 2003 there was a substantial improvement in international relations between the state of Libya and other countries (including the United Kingdom and the

United States of America). Economic sanctions were lifted by the United Nations on 12 September 2003, and by the United States of America on 21 September 2004.

5. The LIA was formed in 2006 with a view to taking advantage of this improvement in international relations, by investing the revenue generated by Libya's oil exports through a sovereign wealth fund.

6. The LIA did not begin to operate until 2007, and was at all material times (including the time when the Disputed Trades were entered into in early 2008) a nascent sovereign wealth fund. Throughout this time, the LIA had extremely limited legal and financial expertise, as set out further below.

The LIA's board of secretaries

7. The most senior body within the LIA was a board of trustees (established pursuant to Article 14 of the Decision of the General People's Committee No. 125 of 1375 DP (2007 AD)). As from 16 March 2008, the LIA was reorganised such that the board of trustees was effectively renamed the board of secretaries. This board was not involved in the day to day management of the LIA; and none of its members was involved in any of the Disputed Trades (apart from Mr Mohamed Husain Layas ("Mr Layas") who is referred to below; and who was involved in the Disputed Trades in his capacity as one of the board of directors).

The LIA's board of directors

8. Below the board of secretaries sat a management committee, which was appointed on 15 January 2007 to oversee the LIA's business and operations. In 2008 the management committee was renamed the board of directors. The key individuals on the board of directors who were involved with the Disputed Trades, were as follows:

(1) Mr Layas, who was appointed as a member of the board of directors and as the LIA's executive director. Mr Layas was appointed at the suggestion of Colonel Gaddafi. Mr Layas was a traditional commercial banker, with no legal expertise and no background in, or experience of, complex derivative products.

(2) Mr Mustafa Mohamed Zarti ("**Mr Zarti**"), who was appointed as a member of the board of directors and as the LIA's deputy executive director. Mr Zarti was appointed at the suggestion of Colonel Gaddafi's son, Saif Al Islam Gaddafi. Mr Zarti had previously worked for the OPEC Fund for International Development between 2003 and 2005, but had no legal expertise and no background in, or experience of, complex derivative products.

The Equity Team and the Alternative Investments Team

9. During the course of 2007, two investment teams were established within the LIA:

(1) An equity or direct investment team (the "**Equity Team**"), headed up by Mr Abdulfatah Enaami ("**Mr Enaami**"). Mr Enaami had worked previously at the Libyan Foreign Bank, where he had created and managed an Investment Portfolio Department. Mr Enaami had no legal expertise and no background in, or experience of, complex derivative products.

(2) An alternative investment team (the "**Alternative Investment Team**"), headed up by Mr Hatim Gheriani ("**Mr Gheriani**"). Mr Gheriani held a master's degree in finance and investments and had worked previously at the Libyan Foreign Bank and on secondment from the latter at Commerzbank. Mr Gheriani had no legal expertise and no background in, or experience of, complex derivative products.

10. Between April 2007 and February 2008, the LIA recruited 6 employees for the Equity Team and 6 employees for the Alternative Investment Team. The main criteria for the recruitment of those employees were that they should be Libyan nationals and should speak some English. There was no requirement that the employees should have any legal or financial qualifications or experience.

11. The employees who were recruited in the course of 2007 and 2008 were very young (in their 20s and early 30s), and had very little (if any) experience of financial markets. None of the employees had any background in, or experience of, complex derivative products.

The Legal Department

12. In the course of 2007, the LIA also established an in-house legal department.

13. In 2007, the legal department essentially comprised two individuals – Mr Albuldery Shariha ("Mr Shariha") and his assistant, Mr Jasem Eltunsi ("Mr Eltunsi"). Mr Shariha had limited English. Both Mr Shariha and Mr Eltunsi had little (if any) experience of English banking law. By way of example, at the time when the Disputed Trades were entered into, neither Mr Shariha nor Mr Eltunsi had ever seen, let alone reviewed, an ISDA agreement.

The LIA's premises and equipment

14. From about April 2007, the LIA was given offices on the 22nd Floor of Al-Fateh Tower, Tripoli. These offices included individual offices for Mr Layas and Mr Zarti as well as meeting rooms. Up until mid-October 2007, the Equity Team and Alternative Investments Team sat in a single office around a large table. From mid-October 2007, the rooms for the respective teams were ready to be moved into and three separate rooms were then occupied by the Equity Team, the Alternative Investment Team, and the legal teams respectively. There was no physical or technical access control in place to restrict entry to the LIA office in the Al-Fateh Tower.

15. During the course of 2007, the LIA's offices were still being refurbished, decorated and furnished. In particular, desks, computers and office furniture were still being installed in late 2007, shortly before the first of the Disputed Trades was executed.

The start of the investment banking relationship between LIA and Goldman, and the first investments

16. In or about June 2007 Goldman offered to provide the newly established sovereign wealth fund with its banking and investment services.

17. During the summer of 2007, a number of Goldman representatives established a close relationship with the LIA. These Goldman representatives included:

(1) Mr Driss Ben-Brahim ("**Mr Ben-Brahim**"), Goldman's head of trading for emerging markets. Mr Ben-Brahim left Goldman in July 2008, shortly after the Disputed Trades had been entered into, to join GLG Partners.

(2) Mr Youssef Kabbaj ("**Mr Kabbaj**"), an executive director at Goldman, whom the LIA was subsequently told "*look[ed] after Goldman's business in Libya*". As set out further below, Mr Kabbaj came to form an extremely close relationship with various members of the LIA. Mr Kabbaj left Goldman in 2009, and also joined GLG Partners.

18. In or about August 2007, following several meetings between various members of the LIA (including Mr Zarti and Mr Gheriani) and various members of Goldman (including Mr Ben-Brahim and Mr Kabbaj) the LIA was taken on as a client of Goldman.

19. Shortly after being taken on as a client of Goldman, the LIA subscribed to two private equity funds managed by Goldman. In particular in September 2007:

(1) The LIA committed US$150 million to the Goldman Sachs Asset Management International's Petershill Fund ("**the Petershill Investment**").

(2) The LIA committed US$200 million to the Goldman Sachs Mezzanine Fund ("**the Mezzanine Investment**").

20. Shortly before these investments were made, the LIA transferred US$500 million to Goldman, to act as a deposit from which these and further investments could be made by Goldman on behalf of the LIA. The US$500 million was invested by Goldman in two short term Goldman Sachs promissory notes, which were placed on a rolling basis. The Petershill Investment, the Mezzanine Investment and the first five Disputed Trades were funded by Goldman drawing upon sums invested in the promissory notes (and the interest which they generated).

21. In the autumn of 2007, and as evidenced in a presentation which Goldman delivered to the LIA in October 2007, Goldman explained to the LIA that it wanted to establish an LIA-Goldman "*partnership*". As part of this "*partnership*", Goldman said that it would train the LIA employees and senior management in relation to financial markets and products, and

said that it would also offer the LIA long-term strategic investment advice, as well as tactical and opportunistic investment advice.

The relationship of trust and confidence between the LIA and Goldman

22. During the course of late 2007 and early 2008 the relationship between the LIA and Goldman continued to develop and grew into a relationship of trust and confidence.

PARTICULARS OF THE RELATIONSHIP

(1) The relationship of trust and confidence grew out of the original banking relationship between the LIA and Goldman which had been established at the end of August 2007, and the LIA-Goldman *"partnership"* that Goldman promised it would establish (as referred to above).

(2) The relationship was heavily influenced by the disparity between, on the one hand, the LIA's extremely limited in-house financial experience (as referred to above); and, on the other hand, Goldman's considerable financial experience. In particular, Goldman described itself as the *"Number One Global Investment Bank"* and was perceived by the LIA's board of directors at the end of 2007 to be precisely that.

(3) During the latter half of 2007, Goldman sought to establish itself as a trusted banking and *"strategic partner"* to the LIA, and said that it would offer training and advisory services to the LIA through *"a high profile dedicated team"*. In particular, the LIA was led by Goldman's representatives (and in particular Mr Ben-Brahim and Mr Kabbaj) to believe that there was to be a unique and long-term relationship between the LIA and Goldman. Specifically, Mr Kabbaj told the LIA that Goldman Sachs would always be there for the LIA; and said that Goldman was looking to establish a long-term relationship with the LIA, rather than an opportunity to make short-term profits.

(4) During the autumn of 2007, a number of Goldman representatives (and Mr Kabbaj in particular) spent a substantial amount of time at the LIA's offices. The LIA was told that these Goldman representatives had initially gone to the LIA's offices to train the

team and assist the LIA in its development (rather than to do business with the LIA). Mr Kabbaj in particular uploaded utilities onto the LIA's computers, and trained the LIA's staff on how to use Bloomberg.

(5) During this time, the Goldman representatives (and Mr Kabbaj in particular) came and went from the LIA's offices freely; they sat at and used the same desks as the LIA's own employees, and worked alongside them; they used the LIA's employees' own computers; they had access to all of the LIA's systems and information.

(6) At the same time, Goldman promised the LIA that its employees would have *"full access to GS University and attend the trainings with GS employees in London"*, and that the LIA's senior management would have *"tailor-made training"*. A number of the LIA's Equity and Alternative Investment Teams' employees were sent on *"training"* programmes at the *"GS University"* at Goldman's offices in London. Although described as *"training"*, these programmes also focussed on products or investments which Goldman wished to sell to the LIA.

(7) As part of these *"training"* programmes, Goldman provided and paid for extensive corporate hospitality for the LIA employees. On other occasions, Mr Kabbaj took members of the LIA's Equity and Alternative Investment Teams (including ~~namely~~ Mr Hatim Gheriani, Mr Osama Bouri, Mr Aymin Matri, Mr Jamal Haraty, Mr Ziad Zekri and Mr Anas Bouhadi) to his native Morocco, and paid for extensive expenses for them in Marrakesh and/or Casablanca and/or Rabat on his corporate credit card provided by Goldman.

(i) From 28 January 2008 to 1 February 2008, at around the time that the First Citigroup Trade and the Second Citigroup Trade referred to below were being executed, and shortly before the First, Second and Third EDF Trades referred to below were executed, Mr Kabbaj took LIA personnel including Mr Bouri to Morocco.

(ii) From 22 to 24 February 2008 Mr Kabbaj took Mr Rayes, Mr Najah and Mr Aboughrara to Marrakesh, together with Mr Zarti's brother, Mr Haitem Zarti.

(iii) From 10 to 13 April 2008 Mr Kabbaj took Mr Matri, Mr Haraty, Mr Zekri and Mr Bouhadi to Marrakesh in Morroco, together with Mr Haitem Zarti.

(8) Mr Kabbaj addressed the LIA employees as his "*friends*" and his "*team*", and made them feel that he was part of their "*team*" (frequently bringing them small gifts, such as computer software, medicines, books, aftershaves and chocolates, when he visited Tripoli).

(9) In early 2008, Goldman also made special arrangements for Mr Zarti's brother, Mr Haitem Zarti, to offer him employment as an intern, together with training and extensive corporate hospitality. Thus:

(i) At the request of Mr Zarti, Goldman arranged to employ Mr Haitem Zarti ~~to be employed by Goldman~~ as ~~an~~ desk intern in its Investment Banking Division at both its London and Dubai offices (starting from 23 June 2008). Goldman paid Mr Haitem Zarti a salary of £36,000 per annum pro-rated as an intern, together with a £1,000 housing allowance included in his first pay check. This hiring - which was first confirmed by way of SMS message from Mr Kabbaj to Mr Zarti on 17 April 2008 and was uniquely tailored in what Mr Ben-Brahim described, prospectively, as a way to "*strengthen [Mr Haitem Zarti's] connection to us*" - was in breach of Goldman's own compliance rules.

(ii) Despite not being an employee of the LIA, Mr Haitem Zarti also attended Goldman "*training*" programmes with other LIA employees, various ~~and~~ the trips to Morocco (referred to at paragraph 22(7) above), and various trips to Dubai with Mr Kabbaj, including from 24 February 2008 to 1 March 2008 (when, immediately following one of the above-mentioned trips to Morocco, Goldman paid for Mr Haitem Zarti to stay at the Ritz-Carlton in Dubai and Mr Kabbaj paid for business class flights) and from 19 to 22 April 2008 (when Goldman paid for Mr Haitem Zarti's hotel and business class flights).

(iii) Haitem Zarti also ~~and~~ received further extensive corporate hospitality from Goldman during his attendance at "*training*" programmes, during his internship, during the foreign trips and otherwise.

(10) Mr Kabbaj frequently encouraged the LIA employees and Mr Zarti to contact him if they had any questions or wanted assistance. As a result, the LIA employees and Mr Zarti were in regular communication with Mr Kabbaj from late 2007 ~~the start of 2008~~ onwards, and would regularly seek his advice and input on a number of matters. Pending further disclosure~~, and by way of example only~~, it is noted that Mr Kabbaj:

(i) Provided Mr Zarti with his own evaluation of the performance of the LIA's employees;

(ii) Assisted Mr Layas and/or Mr Zarti and/or the Equity Team in producing proposals and memoranda and presentations for the LIA's ~~board of directors~~ senior management (with the knowledge that they would be passed off as the independent work product of the person who Mr Kabbaj had assisted, when that was not the case) (as further particularised in the LIA's Amended Voluntary Further Particulars dated 30 October 2015);

(iii) Reviewed and commented on term sheets prepared by other financial institutions, and advised the LIA as to whether the investments were worthwhile and/or well-priced~~.~~; and

(iv) With other members of Goldman, advised on and negotiated another LIA investment concerning the Project Block / Santander transaction, in relation to which Goldman had no formal role.

(11) The LIA's dependency on Goldman (and Mr Kabbaj in particular) grew to be such that, by March 2008, when some of the LIA employees had not heard from Mr Kabbaj for a few days, they contacted Mr Kabbaj to check that everything was alright, and that Mr Kabbaj was not upset with them. Mr Kabbaj reassured them that he was not.

(12) Mr Kabbaj and Mr Ben-Brahim frequently reassured the LIA that they were one of Goldman's key strategic clients, thanked the LIA for its *"trust"* and emphasised the *"special trusting type of relationship"* which Goldman had with the LIA.

23. In this way, Goldman built strong personal and professional ties with Mr Zarti and the members of the Equity and Alternative Investment Teams. As a result of the foregoing:

(1) During the period January 2008 to April 2008 (when the Disputed Trades were entered into), the LIA (through Mr Zarti and the members of the Equity and Alternative Investment Teams) reposed considerable and increasing trust and confidence in Goldman (and Mr Kabbaj in particular).

(2) At the same time, Goldman (and Mr Kabbaj in particular) knew that:

(i) the LIA was a nascent sovereign wealth fund, with extremely limited in-house legal or financial expertise; and

(ii) it had gained sufficient trust and confidence from the LIA and that it was in a position to influence the transactions which the LIA entered into.

The entry into the Disputed Trades

24. In early 2008, Goldman (and Mr Kabbaj in particular) began heavily to encourage the LIA Equity Team and Mr Zarti to obtain exposure to stocks on a leveraged basis by entering into a number of large long-dated complex financial derivative transactions.

25. Thereafter, the LIA entered into a number of derivative transactions (as more fully described in Schedule 1 hereto) – together comprising the Disputed Trades. Even by Goldman's standards, each of the Disputed Trades was unusually large in scale; and collectively the Disputed Trades cost in excess of US$ 1 billion. In short:

(1) On 25 January 2008, the LIA and Goldman entered into a derivative transaction, in respect of 11,207,051 shares in Citigroup Inc. ("Citigroup"). The LIA paid Goldman a

premium of US$100,000,000.55 for this transaction ("**the First Citigroup Trade**"), which was paid on or about 29 January 2008.

(2) On 29 January 2008, the LIA and Goldman entered into a further derivative transaction, in respect of 11,093,197 shares in Citigroup. The LIA paid Goldman a premium of US$100,000,001.53 for this transaction ("**the Second Citigroup Trade**"), which was paid on or about 29 January 2008.

(3) On 19 February 2008, the LIA and Goldman entered into a derivative transaction in respect of 3,161,130 shares in Electricite de France ("EdF"). The LIA paid Goldman a premium of US$73,768,695 for this transaction ("**the First EdF Trade**"), which was paid on or about 21 February 2008.

(4) Also on 19 February 2008, the LIA purchased directly €50,000,000 worth of shares in EdF ("**the EdF Share Purchase**"). On 22 February 2008, the LIA and Goldman then "restructured" the EdF Share Purchase as follows:

(i) The EdF Share Purchase was sold by the LIA (facilitated by Goldman) for US$65,964,436 and, with the proceeds of this sale, the LIA and Goldman entered into another derivative transaction in respect of 3,155,563 shares in EdF. The LIA paid Goldman a premium of US$65,964,436 for this transaction ("**the Second EdF Trade**"), which was paid on or about 27 February 2008.

(ii) Further, the LIA and Goldman entered into a further derivative transaction in respect of 1,180,845 shares in EdF. The LIA paid Goldman a premium of US$37,197,500 for this transaction ("**the Third EdF Trade**"), which was paid on or about 27 February 2008.

(5) On 24 April 2008, the LIA and Goldman entered into a derivative transaction in respect of three tranches of 12,075,514 shares in Banco Santander SA ("Santander"). The LIA paid Goldman a premium of €95,707,317 for this transaction ("**the Santander Trade**"), which was paid on or about 7 May 2008.

(6) On 25 April 2008, the LIA and Goldman entered into a derivative transaction in respect of two tranches of 578,120 shares in Allianz SE ("**Allianz**") and one tranche of 578,122 shares in Allianz. The LIA paid Goldman a premium of €48,044,449 for this transaction ("**the Allianz Trade**"), which was paid on or about 7 May 2008.

(7) On 28 April 2008, the LIA and Goldman entered into a derivative transaction in respect of three tranches of 7,009,261 shares in ENI SpA ("**ENI**"). The LIA paid Goldman a premium of €96,003,385 for this transaction ("**the ENI Trade**"), which was paid on or about 7 May 2008.

(8) Also on 28 April 2008, the LIA and Goldman entered into a derivative transaction in respect of two tranches of 83,173,076 shares and one tranche of 83,173,077 shares in UniCredit SpA ("**UniCredit**"). The LIA paid Goldman a premium of €289,395,501 for this transaction ("**the UniCredit Trade**"), which was paid on or about 7 May 2008.

26. The Disputed Trades were complex financial derivative transactions, which carried a high degree of risk. Furthermore:~~, although~~

(1) Goldman did not explain clearly or take sufficient steps to make clear to the LIA that the Disputed Trades were synthetic transactions (in the sense that they involved the payment of a settlement amount on a specified settlement date, as opposed to direct equity investments) and did not involve the acquisition of underlying shares. Instead, the Disputed Trades ~~they~~ were inaccurately described by Goldman as "*Structured Investments*" or "*Structured Investments in Listed Equity Stocks*" and were brokered by Mr Kabbaj through the LIA's Equity Team (rather than the LIA's Alternative Investment Team).

(2) Moreover, Goldman did not explain clearly or take sufficient steps to make clear to the LIA that the Disputed Trades were structured differently from the investments in the shares underlying the Disputed Trades which Goldman had originally proposed to the LIA in the summer of 2007, and which Goldman had structured as, and explained to the LIA as involving, leveraged acquisitions of underlying shares.

(3) The Disputed Trades were unsuitable for the LIA in light of each of the following facts and matters:

(i) The purposes for which the LIA was established (and in particular Decree 205 of 1374 DP (2006 AD) of the General People's Committee of Libya which established the LIA and stated, at article 4, that its purposes were "*the investment of Libyan assets abroad in various areas of proper financial and economic basis, which would contribute in the development of the national economy, diversify and achieve better financial returns in support of the public treasury resources, to reduce the volatility of income and other income of the State*"). Contrary to this purpose, the Disputed Trades were highly volatile;

(ii) The LIA's investment objectives as a nascent sovereign wealth fund (and in particular Mr Zarti's explanation to GSAM on 22 February 2007 that the LIA would "*certainly not be a gambler*"). Contrary to this stated investment objective, the Disputed Trades involved a high degree of speculation (namely as to the value of the underlying shares at or around the expiry of the term of each of the Disputed Trades);

(iii) The LIA's substantial cash reserves. Each of the Disputed Trades was unnecessarily leveraged;

(iv) The LIA's nascent nature, limited financial experience and lack of understanding of the Disputed Trades. Each of the Disputed Trades was a complex synthetic derivative product, which unlike direct investments: (a) did not allow the LIA to enjoy dividends or voting rights during the term of the investments; (b) could not readily be liquidated or traded; and (c) might expire entirely worthless (whereas a direct investment was not subject to any term, and could have been retained by the LIA to await a subsequent recovery in the market price); and

(v) The LIA's failure, to Goldman's knowledge, to undertake any, or any proper, due diligence or independent assessment regarding the merits of entering into the Disputed Trades before so doing.

27. In addition, and despite the fact that the Disputed Trades were unusually large transactions, the Disputed Trades were poorly documented by Goldman. In particular:

(1) Prior to entry into the Disputed Trades, Goldman did not require the LIA to execute an ISDA master agreement.

(2) Precise details of the relevant Disputed Trades appear only to have been supplied by Goldman to the LIA after the relevant transactions were executed (as opposed to before, as is more usual).

(3) Trade confirmations of the relevant Disputed Trades were only supplied by Goldman to the LIA weeks (and in some cases months) after execution.

(4) Goldman had to be chased on a number of occasions before it provided the LIA with account statements in respect of the Disputed Trades.

28. Within the LIA there was confusion as to the true nature of the Disputed Trades, both prior to and following their execution. In particular ~~(and without prejudice to evidence that will be adduced at trial)~~, up until July 2008 (and the facts and matters referred to below) both the LIA board of directors and employees did not properly understand whether the Disputed Trades involved direct equity investments, or a species of quasi-share ownership, or constituted an entirely synthetic financial instrument; and/or misunderstood the true position.

29. As regards each and every one of the Disputed Trades:

(1) The LIA entered into the relevant trade acting with Goldman's encouragement and under its influence (as set out above).

(2) The LIA did so without the benefit of independent legal or financial advice.

(3) The LIA did so without a clear understanding of the nature of the trade, or the risks involved.

(4) The LIA did so without conducting any appropriate independent due diligence with regard to the trade (even to check market prices), but simply placed their trust and confidence in Goldman when entering into the trade.

30. It is to be inferred that Goldman (through Mr Kabbaj and/or Mr Ben-Brahim) knew or at the very least suspected each of the above facts and matters to be the case, based on Goldman's detailed knowledge and understanding of the LIA's working practices, and its employees' limited financial knowledge and experience (referred to above).

31. Furthermore, Goldman charged the LIA very large premiums in respect of each of the Disputed Trades, which appear to have included significant profit margins. ~~Pending disclosure, witness statements and expert reports, t~~The LIA's best estimate of Goldman's up-front profit margin on the Disputed Trades is that they generated aggregate profits for Goldman in the order of US$350 million (less transaction costs). Such up-front profits and profit margins ("the Up-Front Profits") are (a) substantial and unusually high (for financial derivative transactions of a similar size and type involving a substantial international bank, where a profit margin of less than around US$111 million ~~in the order of 5% or less of the notional amount of the transaction (i.e. the total value of the assets underlying each transaction upon its execution, represented by multiplying the notional number of underlying shares by the initial fixing price)~~ would be considered usual for the Disputed Trades), and (b) involved the LIA paying premiums which were substantially overvalued (by the amount in which Goldman's Up-Front Profits were excessive). The best particulars of the Up-Front Profits which Goldman made in respect of the Disputed Trades are set out in Schedule 2 hereto.

The breakdown in the relationship between the LIA and Goldman

32. Around early June 2008, the LIA ~~began to chase~~ renewed its chasing of Goldman for details of all the investments which the LIA had made through Goldman, and account statements in respect of the same.

33. At the same time, Goldman began to chase the LIA for signed copies of documents ("the Trade Confirmations") which Goldman had belatedly provided to the LIA which purported to set out the terms of each of the Disputed Trades.

34. When the Trade Confirmations were reviewed by the LIA's legal department, namely Mr Shariha and his assistant Mr Eltunsi, they became concerned that they simply did not understand the Trade Confirmations or the underlying transactions to which they referred. The Trade Confirmations were therefore not executed by the LIA at that time and, indeed, were never executed once the LIA discovered the true nature of the Disputed Trades (as explained below).

35. In early July 2008 Mr Eltunsi went on secondment to Allen & Overy LLP ("A&O"). By way of exchange, an Australian solicitor from A&O, Ms Catherine McDougall, came to work on secondment at the LIA.

36. Very shortly after Ms McDougall began her secondment with the LIA, Mr Shariha forwarded the Trade Confirmations to her for her to review in light of his complete lack of knowledge and experience of ISDA documentation. Ms McDougall was struck by how complex and one-sided the terms of the Trade Confirmations were. She sought assistance from A&O's London-based derivatives team in order to better understand them herself. Ms McDougall soon realised that:

(1) No ISDA master agreement had previously been mentioned, discussed or agreed with the LIA.

(2) The Trade Confirmations contained terms which nobody at the LIA understood, and were not properly tailored for a sovereign wealth fund such as the LIA.

(3) Moreover, the LIA did not properly understand and/or had misunderstood the nature of the Disputed Trades, and their true economic effect.

(4) The LIA had conducted no appropriate independent due diligence on the Disputed Trades, but had simply placed their trust and confidence in Goldman when entering into them.

37. Ms McDougall explained the terms of the Disputed Trades and the Trade Confirmations to various members of the LIA (including Mr Zarti). She explained that, rather than being cautious investments in shares or "quasi-shares" (as the LIA had previously thought), the Disputed Trades were actually complex derivatives and synthetic instruments which represented highly speculative gambles. She also explained that the interests of the LIA and Goldman were not aligned, and cautioned that the LIA had placed too much trust and confidence in Goldman.

38. Once the LIA understood the true nature of the Disputed Trades, they felt angry and betrayed. At a meeting which Mr Zarti had arranged with Mr Kabbaj at the LIA's office in Tripoli in July 2008, Mr Zarti challenged Mr Kabbaj and one of his colleagues (Mr Pentreath) about the Disputed Trades. Mr Zarti was dissatisfied with their attempted explanation, lost his temper, and threw Mr Kabbaj and Mr Pentreath out of the LIA's offices.

39. Thereafter, the LIA consistently protested the Disputed Trades. By the end of 2008 the Disputed Trades had lost substantially all of their value. The Disputed Trades expired worthless in the course of 2011.

40. Without waiving privilege, without prejudice negotiations regarding the Disputed Trades took place between the parties from July 2008 onwards, but had not reached any settlement by the time that the Libyan revolution broke out in February 2011. Following the change of the regime in Libya no further negotiations have taken place and no settlement has been reached.

Causes of action

Undue Influence

41. As set out above, at the time when the Disputed Trades were entered into, there was a relationship of trust and confidence between the parties, such that Goldman had the capacity to influence the decision-making process of the LIA. Further or alternatively, the LIA was in a position of vulnerability as regards Goldman due to the LIA's lack of financial sophistication, a position of vulnerability which Goldman had the capacity to exploit.

42. Each of the Disputed Trades was procured by the actual undue influence of Goldman. In particular, as set out in more detail above:

(1) Goldman knew that the LIA was a nascent sovereign wealth fund, with extremely limited financial experience.

(2) At the same time, Goldman knew that the LIA reposed trust and confidence in Goldman, and believed that it had a unique long-term relationship with Goldman.

(2A) In relation to the Santander, Allianz, ENI and Unicredit Trades, Goldman improperly influenced the LIA's decision to enter into them by the favourable treatment it conferred on Haitem Zarti. More specifically, Goldman ~~also~~ knew by April 2008, as evidenced in an email dated 18 April 2008 from Mr Kabbaj to his colleagues within Goldman (**"the 18 April 2008 Email"**), that Mr Zarti wanted ~~was~~ "~~*looking to give [Goldman] something*~~". It is averred that:

(i) By this expression (and in accordance with its ordinary and natural meaning) Mr Kabbaj was indicating to his colleagues that Mr Zarti wanted to do business with Goldman (as Mr Zarti subsequently did, by committing the LIA to the Santander, Allianz, ENI and UniCredit Trades).

(ii) Mr Zarti's willingness to do business with Goldman was influenced by the favourable treatment Goldman was conferring on his brother (as referred to in paragraph 22(9)) above). As noted above, Goldman first confirmed its offer to Mr Haitem Zarti of the internship that Mr Zarti had requested for him by way of SMS message from Mr Kabbaj to Mr Zarti at 4:58pm on 17 April 2008. This was just hours before Mr Kabbaj sent the 18 April 2008 Email (at 12:41am on 18 April 2008) in which Mr Kabbaj stated that he and Mr Ben-Brahim had spoken with Mr Zarti *"for almost an hour that day"* and *"I told him we will meet him next wednesday in tripoli to discuss in details a structure and try to execute it. Mustafa wants to give us something. If we can have him focus, we should be in a good position."*

(iii) It would have been obvious to Goldman that its favourable ~~this~~ treatment of Mr Haitem Zarti was influencing and would continue to influence Mr Zarti's decision-making process.

(3) Goldman deliberately exploited its position of influence and abused the relationship of trust and confidence, by encouraging the LIA to enter into the Disputed Trades (which were unsuitable for the LIA and whose high-risk nature and complexity the LIA did not properly understand and/or had misunderstood, and which Goldman never accurately explained and/or made clear to the LIA).

(3A) At the same time as pitching the Disputed Trades to the LIA, Goldman was, as aforesaid, involved in writing purportedly internal memoranda and presentations for members of the LIA's staff to present to the LIA's senior management, which memoranda and presentations recommended, purportedly independently, that the LIA enter into the Disputed Trades, and some of which misrepresented the true nature of the Disputed Trades (as further particularised in the LIA's Amended Voluntary Further Particulars dated 30 October 2015).

(3B) Goldman also knew that the LIA was not undertaking any, or any proper, due diligence or independent assessment regarding the merits of entering into the Disputed Trades before so doing.

(4) In ~~so doing~~ encouraging the LIA to enter into the Disputed Trades and acting in this way, Goldman took advantage of the LIA's position of vulnerability to make the substantial and unusually high Up-Front Profits ~~profits referred to above~~ and either preferred its own interests to those of the LIA, and/or disregarded the LIA's best interests.

43. Further or alternatively, it is to be presumed that each of the Disputed Trades was procured by the undue influence of Goldman. The parties were in a relationship of trust and confidence, and the circumstances in which each of the Disputed Trades came to be executed calls for an explanation. In particular, as set out in more detail above:

(1) The LIA entered into the Disputed Trades without conducting any independent due diligence, or seeking any independent legal or financial advice.

(2) The Disputed Trades were unsuitable for the LIA and the LIA did not properly understand and/or misunderstood the true nature of the Disputed Trades, and the level of risk they entailed.

(3) Despite the unusually large scale of the Disputed Trades, they were poorly documented, and Goldman had to be chased repeatedly by the LIA to provide the relevant Trade Confirmations and statements of account.

(4) The Up-Front Profits ~~profit margins~~ which Goldman ~~stood~~ intended to and did make on the Disputed Trades were substantial, unusually high and involved the LIA paying premiums which were substantially overvalued.

44. The undue influence of Goldman caused the LIA to enter into the Disputed Trades and/or each of them.

45. In the premises, the LIA is entitled to and hereby does set aside each of the Disputed Trades for undue influence, and claims repayment of the premium and/or an account of Goldman's profits derived from that premium.

Unconscionable bargain

46. Further or alternatively, each of the Disputed Trades constituted an oppressive bargain, having regard to ~~both~~ the high-risk nature of the investments, their lack of suitability for the LIA, and the substantial and unusually high Up-Front Profits ~~profit margins~~ which Goldman intended to and did make on the Disputed Trades and which involved the LIA paying premiums which were substantially overvalued.

47. Moreover, as set out more fully above, the LIA's circumstances (as a nascent sovereign wealth fund with extremely limited in-house legal and financial expertise) were such that it was financially illiterate and/or at a serious disadvantage (particularly when compared to Goldman).

48. Goldman unconscionably took advantage of the LIA's weakness, and encouraged the LIA to enter into the Disputed Trades and/or each of them in order that Goldman might earn the substantial and unusually high Up-Front Profits ~~profit~~ referred to above which involved the LIA paying premiums which were substantially overvalued.

49. In the premises, the LIA is entitled to and hereby does set aside each of the Disputed Trades as an unconscionable bargain, and claims repayment of the premium and/or an account of Goldman's profits derived from that premium.

Interest

50. The LIA further claims interest on such sum as may be found due to it at such rate and for such period as the Court thinks fit, whether pursuant to its equitable jurisdiction and/or pursuant to section 35A of the Senior Courts Act 1981.

AND THE CLAIMANT CLAIMS:

(1) A declaration that the Claimant was induced to enter into the Disputed Trades and/or each of them by the undue influence of the Defendant;

(2) Alternatively, a declaration that the Claimant has an equity to set aside the Disputed Trades and/or each of them as an unconscionable bargain;

(3) Rescission of the Disputed Trades and/or each of them;

(4) Repayment of the premiums as monies had and received;

(5) Alternatively, an account of the premiums paid to the Defendant in relation to each of the Trades, together with such consequential orders upon the taking of such accounts as the Court may think fit (including an account of any profits derived by the Defendant from the said premiums and realised by the Defendant in relation to the Disputed Trades and an order for the payment of any such profits);

(6) Alternatively equitable compensation and/or damages;

(7) Interest as aforesaid;

(8) Such further and/or other relief as the Court in its discretion thinks fit;

(9) Costs.

ROGER MASEFIELD QC

ANDREW GEORGE

EDWARD CUMMING

ROGER MASEFIELD QC

ANDREW GEORGE

EDWARD CUMMING

ROGER MASEFIELD QC

ANDREW GEORGE QC

EDWARD CUMMING

ROBERT AVIS

ROGER MASEFIELD QC

EDWARD CUMMING

STATEMENT OF TRUTH

The Claimant believes that the facts stated in these Re-Re-Amended Particulars of Claim are true. I am duly authorised by the Claimant to sign this statement.

Full name: Simon Charles King Twigden Position or office held: Partner

Signed: Simon Twigden Dated: 18 March 2016