DICELLO LEVITT HAUSFELD HECHTPARTNERS LLP ZUCKERMAN SPAEDER

October 22, 2025

To: Barry H. Berke, Partner – Gibson Dunn
Subject: *Kashef v. BNP Paribas, S.A.* - BNP Paribas misstatements addressed

Dear Mr. Berke,

As counsel for the Plaintiffs' class, we write to respond to certain inaccuracies that BNP Paribas (BNPP) expressed in its October 20 press release and in comments by the Bank's Chief Financial Officer, Mr. Lars Machenil, during a October 21 public call with investors. Please forward this letter to Mr. Machenil and the other Bank officers. In public representations by the Bank concerning the status of legal proceedings in the matter of *Kashef v. BNP Paribas, S.A.*, transparency requires an accurate presentation of the verdict rendered on October 17, 2025, and its significance for the broader class litigation. This letter corrects BNPP's factual distortions and misleading impressions.

First, Plaintiffs' counsel is opposed to the Bank's assertion, in its press release, that it is being unfairly pursued for merely providing "normal" banking services to the regime of Omar al-Bashir in Sudan. Any such characterization of the Bank's conduct is astonishing. In 2014, the Bank pleaded guilty to conspiring to violate the U.S. economic blockade on Sudan, which was "aimed at halting the genocide." *Kashef v. BNP Paribas S.A.*, 925 F.3d 53, 55 (2d Cir. 2019). In furtherance of that conspiracy, the Bank falsified commercial instruments and business records. Admitted criminal conduct of this sort is not, and can never be, characterized as "normal." BNPP's statements to that effect contradict its guilty plea and thus violate the terms of the plea agreement. Moreover, these statements undermine the Bank's own adoption of the United Nations Global Compact, in which BNPP pledged to support and respect the protection of internationally proclaimed human rights.

Second, the Bank's assertions that the current matter is unrelated to its conspiracy to evade sanctions and the 2014 plea of guilt, are false and misleading. As the U.S. Court of Appeals held in 2019:

> [T]the Plaintiffs' causes of action arise out of the same occurrence as the criminal prosecution: BNPP's conspiracy with Sudan to violate U.S. sanctions. Indeed, the Plaintiffs' theory is that BNPP was illegally funding Sudan's commission of atrocities by avoiding U.S. sanctions put in place to protect the Plaintiffs and the purported class, knowing that the funds would be used by Sudan to continue the perpetration of atrocities.

Kashef v. BNP Paribas S.A., 925 F.3d 53, 62–63 (2d Cir. 2019). This was precisely the theory of liability presented to and accepted by the jury in the trial of this case.

Third, the Bank insists that this verdict has no precedential effect for the other class members. Not so. In its verdict, the jury necessarily made four findings that are common to the entire class of plaintiffs: a) that the Government of Sudan committed mass atrocities against Black African Sudanese civilians; b) that BNPP knew or should have known of these abuses; c) that BNPP's conscious assistance to the Government of Sudan causally contributed to the commission of these mass atrocities; and d) that these mass atrocities caused the plaintiffs to suffer persecution or fear of persecution. All that remains for the approximately 22,997 class members is to determine the nature and value of the injuries inflicted on them by the Government of Sudan and the Janjaweed. There will be little to resolve in subsequent trials, given that counsel for the Bank has conceded, both to the Court and to the jury, that the grievous injuries of the class member victims are undisputed. Indeed, the Court has already directed the parties to propose the next three bellwether plaintiffs for the next trial.

Fourth, contrary to the Bank's statements to investors and in its press release, there may be no automatic right of appeal from this verdict, until such time as damages are determined for the entirety of the class.

In any case, even if an appeal were allowed to proceed, its prospects of success are far from certain. BNPP has already lost—twice—before the U.S. Court of Appeals for the Second Circuit. First, the Bank failed in its attempt to portray genocide as a legitimate act of state. Likewise, the Bank failed in its attempt to overturn the order certifying this litigation as a class action. Not only was that attempt rejected by a panel of three appellate judges, but the full body of the Second Circuit refused to hear the Bank's arguments *en banc,* as did the U.S. Supreme Court in its *certiorari* denial. Moreover, in all of his years on the bench, the Second Circuit has *never* reversed *any* judgment arising out of a civil verdict entered by Judge Hellerstein. There's no rational basis to contend that this will be the first.

Finally, after extensive briefing, the Court has repeatedly denied the Bank's interpretations of Swiss law, dismissing them as "unsupported" and "inconsistent." *Kashef v. BNP Paribas SA*, No. 16-CV-3228 (AJN), 2021 WL 603290, at *4 (S.D.N.Y. Feb. 16, 2021). And yet, BNPP has persisted in its attempts to rewrite the law. Most recently, the Bank has relied on a letter submitted to the Court by the Swiss Ambassador to the United States to support its specious argument. This letter is nearly devoid of any citation to actual Swiss jurisprudence. Rather, it echoes, virtually verbatim, talking point versions of BNPP's arguments in this case, which prompted the Court, upon this letter's presentation, to ask BNPP, "Who wrote it?"[1] Plaintiffs intend to pursue the answer to this question.

[1] Sept. 3 Conf. Tr. at 92:15

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Sincerely,

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