

# EXHIBIT 3

<p style="text-align: right;">Page 22</p> <p>1</p> <p>2 MR. CHINN: So we can have the</p> <p>3 lunch break before he appears. That</p> <p>4 way there's not a lot of time before</p> <p>5 he appears. And I just want to</p> <p>6 address what Mr. Bortnick said -- at</p> <p>7 least 99.9 percent of it. To the</p> <p>8 extent Mr. Bortnick is calling</p> <p>9 witnesses during Mr. Passaretta's</p> <p>10 case, who we also intend to call on</p> <p>11 our case, we absolutely agree for</p> <p>12 efficiency's sake they should testify</p> <p>13 once.</p> <p>14 THE CHAIRWOMAN: Thank you.</p> <p>15 MR. CHINN: With the following</p> <p>16 caveat: That Mr. Passaretta is not</p> <p>17 testifying first. And so if</p> <p>18 Mr. Passaretta testifies after UBS</p> <p>19 witnesses have testified and, for</p> <p>20 example, says something -- attributes</p> <p>21 a statement to Mr. Zola that we've</p> <p>22 never heard about before, let me just</p> <p>23 say as an example -- I'm not saying</p> <p>24 that will happen -- we reserve the</p> <p>25 right to recall Mr. Zola in our case,</p>	<p style="text-align: right;">Page 24</p> <p>1</p> <p>2 THE CHAIRWOMAN: Are we good?</p> <p>3 All minds clear? Does that mean you</p> <p>4 would like to take a two-minute break</p> <p>5 before your opening or would you like</p> <p>6 to get right into it?</p> <p>7 MR. BORTNICK: We can go right</p> <p>8 into it, because both sides are always</p> <p>9 juggling witnesses before they show</p> <p>10 up.</p> <p>11 What is the intended stop time?</p> <p>12 THE CHAIRWOMAN: Today?</p> <p>13 MR. BORTNICK: And tomorrow, if</p> <p>14 you know that, too.</p> <p>15 THE CHAIRWOMAN: I'll take</p> <p>16 guidance from you guys.</p> <p>17 ARBITRATOR ZATKIN-BUTLER:</p> <p>18 Whatever you want to do is fine.</p> <p>19 THE CHAIRWOMAN: Is 5 a good</p> <p>20 time?</p> <p>21 ARBITRATOR ZATKIN-BUTLER:</p> <p>22 Whatever they want is fine.</p> <p>23 THE CHAIRWOMAN: Is 5 a good</p> <p>24 time or would you like to push it?</p> <p>25 MR. BORTNICK: I'm happy to push</p>
<p style="text-align: right;">Page 23</p> <p>1</p> <p>2 because it's something we didn't know</p> <p>3 about and haven't heard of before.</p> <p>4 THE CHAIRWOMAN: What --</p> <p>5 MR. BORTNICK: That's our</p> <p>6 intent. The idea is to be as</p> <p>7 efficient as possible, but sometimes</p> <p>8 the goal is not met.</p> <p>9 MR. CHINN: Broadly speaking, we</p> <p>10 completely agree with that.</p> <p>11 THE CHAIRWOMAN: The goal of the</p> <p>12 efficiency comment.</p> <p>13 MR. CHINN: Witnesses only</p> <p>14 testify once.</p> <p>15 MR. BORTNICK: And we do have</p> <p>16 a witness who is appearing in the</p> <p>17 order of appearance by subpoena, a</p> <p>18 former UBS employee, tomorrow morning.</p> <p>19 I don't know if Mr. Zola will be done</p> <p>20 or not. Hopefully he will.</p> <p>21 Is there any flexibility in his</p> <p>22 start time?</p> <p>23 MS. SHORE: Yes.</p> <p>24 MR. BORTNICK: We could probably</p> <p>25 work through that without a problem.</p>	<p style="text-align: right;">Page 25</p> <p>1 Opening - Claimant</p> <p>2 it. Also, in my experience it's also</p> <p>3 a good breaking point, 5 or 5:30.</p> <p>4 Staying later than 6 --</p> <p>5 MR. CHINN: The guards leave.</p> <p>6 THE CHAIRWOMAN: Let's not do</p> <p>7 past 6 because we all have to be back</p> <p>8 here tomorrow, too. So we want to</p> <p>9 pace ourselves accordingly.</p> <p>10 Let's take a break at 5 and see</p> <p>11 where we are. How's that? Good? All</p> <p>12 minds clear?</p> <p>13 So, Mr. Bortnick, you have the</p> <p>14 floor.</p> <p>15 MR. BORTNICK: Thank you.</p> <p>16 Good morning again. I'm going</p> <p>17 to try to keep this short, as I said,</p> <p>18 at least short by lawyers' standards.</p> <p>19 Because when it comes right down to</p> <p>20 it, I think this matter is relatively</p> <p>21 simple and straightforward. I also</p> <p>22 believe that it's generally best for</p> <p>23 the evidence to speak for itself</p> <p>24 without the spin that one often hears</p> <p>25 in the opening argument.</p>

<p style="text-align: right;">Page 26</p> <p>1 Opening - Claimant</p> <p>2 Gianluca Passaretta,</p> <p>3 Mr. Passaretta, was hired by UBS in</p> <p>4 October of 2009.</p> <p>5 (Discussion off the record.)</p> <p>6 THE CHAIRWOMAN: Okay. I'm</p> <p>7 sorry. You're just getting started.</p> <p>8 We're going to have to do one</p> <p>9 housekeeping matter, and that's just</p> <p>10 to get the court reporter hooked up</p> <p>11 properly.</p> <p>12 MR. BORTNICK: Certainly.</p> <p>13 MR. CHINN: You want to take a</p> <p>14 two-minute break? And why don't we</p> <p>15 let Mr. Bortnick start again with,</p> <p>16 "Good morning."</p> <p>17 MR. BORTNICK: I think I can</p> <p>18 leave the introductory paragraph out.</p> <p>19 ARBITRATOR CARACCIOLO: I'm up</p> <p>20 to "2009."</p> <p>21 (A recess was taken.)</p> <p>22 ARBITRATOR ZATKIN-BUTLER: We're</p> <p>23 back on the record. Session 1 on the</p> <p>24 record, 11:15.</p> <p>25 THE CHAIRWOMAN: Mr. Bortnick?</p>	<p style="text-align: right;">Page 28</p> <p>1 Opening - Claimant</p> <p>2 bolted on to it. So he was to come up</p> <p>3 with the business plan for the</p> <p>4 continuation of this group. It was</p> <p>5 the Latin American Rates &amp; Credit</p> <p>6 Trading operation, albeit it was very</p> <p>7 thinly staffed by intent and had, as</p> <p>8 you'll see, a very little balance</p> <p>9 sheet to do -- to be a significant</p> <p>10 contributor to UBS. Because when</p> <p>11 you're in an area of the securities</p> <p>12 industry at a firm like UBS where</p> <p>13 you're taking risk, the firm's balance</p> <p>14 sheet, the firm's capital is being</p> <p>15 used and put at risk so that there is</p> <p>16 only so much in any firm and</p> <p>17 particularly in UBS Mr. Passaretta's</p> <p>18 area's allowed to use in order to take</p> <p>19 a risk.</p> <p>20 But the bottom line here, you'll</p> <p>21 see, was, that it was set up in a way</p> <p>22 that it was not going to be a</p> <p>23 significant contributor to UBS.</p> <p>24 In fact, you'll see that UBS</p> <p>25 from the very outset had its own</p>
<p style="text-align: right;">Page 27</p> <p>1 Opening - Claimant</p> <p>2 MR. BORTNICK: Okay. I'll pick</p> <p>3 up basically where I left off.</p> <p>4 So Mr. Passaretta was hired at</p> <p>5 UBS in October 2009 to head Latin</p> <p>6 American Derivatives Trading. You</p> <p>7 will see in some documents it's called</p> <p>8 LatAm. As you'll see, he performed</p> <p>9 extremely well over the next</p> <p>10 succeeding years. And I don't think</p> <p>11 that's going to be disputed.</p> <p>12 In November 2012 UBS underwent a</p> <p>13 major restructuring. Indeed, you'll</p> <p>14 see that Mr. Passaretta was even on</p> <p>15 the cut list. Ultimately, his job was</p> <p>16 saved. And so he continued to be</p> <p>17 employed, although the role did change</p> <p>18 substantially.</p> <p>19 He was moved to another area.</p> <p>20 And, in sort of the basic most</p> <p>21 simplistic terms, was charged with</p> <p>22 coming up with a business plan for</p> <p>23 sort of a new combined area that had</p> <p>24 been -- part of it had been pruned,</p> <p>25 other parts of UBS had sort of been</p>	<p style="text-align: right;">Page 29</p> <p>1 Opening - Claimant</p> <p>2 doubts about this new group and</p> <p>3 whether it would even pan out at all.</p> <p>4 And, in fact, you'll see that it</p> <p>5 didn't pan out for a number of</p> <p>6 reasons. And we're not necessarily</p> <p>7 blaming anyone for this. It's just</p> <p>8 what happened. In fact, subsequent to</p> <p>9 Mr. Passaretta's termination, that</p> <p>10 area was, for the most part, largely</p> <p>11 wound down.</p> <p>12 Mr. Passaretta's performance</p> <p>13 reviews are truly excellent. The only</p> <p>14 exception that you'll see was in 2012</p> <p>15 where what even UBS called some</p> <p>16 outlier comments by one particular</p> <p>17 individual, Douglas Ellison, who is</p> <p>18 scheduled to be here tomorrow. He</p> <p>19 worked in the Market Risk function,</p> <p>20 sort of a control function area. And</p> <p>21 you'll see that his commentary had to</p> <p>22 do with a disagreement regarding</p> <p>23 primarily the pricing of a security,</p> <p>24 nothing to do with this case, per se.</p> <p>25 But they had a somewhat public</p>

<p style="text-align: right;">Page 30</p> <p>1 Opening - Claimant</p> <p>2 disagreement that caused some issues</p> <p>3 between them personally for a while.</p> <p>4 But other than that -- and</p> <p>5 Mr. Ellison, you'll hear him testify</p> <p>6 about those comments presumably.</p> <p>7 You'll see that his reviews were just</p> <p>8 essentially uniformly excellent.</p> <p>9 After the business plan was</p> <p>10 approved, which did not happen at the</p> <p>11 beginning of 2013 -- the changeover</p> <p>12 occurred right at the end of the year</p> <p>13 2012, after the holidays, didn't even</p> <p>14 get up and going until January 2013.</p> <p>15 The business plan was approved</p> <p>16 sometime thereafter.</p> <p>17 There was a trader in Brazil,</p> <p>18 Mr. [REDACTED] he reported to</p> <p>19 Mr. Passaretta -- and he sought to do</p> <p>20 a large trade. In simplest terms, it</p> <p>21 was an arbitrage trade. Mr. [REDACTED] had</p> <p>22 recognized that the same security but</p> <p>23 was trading at two different prices in</p> <p>24 the market, depending on where it was</p> <p>25 trading. This security was due to</p>	<p style="text-align: right;">Page 32</p> <p>1 Opening - Claimant</p> <p>2 matures and everyone gets paid off.</p> <p>3 So unless there was some risk of</p> <p>4 default, which there really wasn't</p> <p>5 here, the price will converge and</p> <p>6 there's a profit to be made.</p> <p>7 So that's what was going on.</p> <p>8 And this is what Mr. [REDACTED] sought to</p> <p>9 take advantage of, this price</p> <p>10 discrepancy, but also wanted to hedge</p> <p>11 the trade to make it essentially</p> <p>12 riskless.</p> <p>13 Nevertheless, even though it was</p> <p>14 essentially a riskless trade, it was a</p> <p>15 large trade. And Mr. [REDACTED] recognized</p> <p>16 that under the UBS standards at the</p> <p>17 time, he could not just pull the</p> <p>18 trigger. He had to get</p> <p>19 Mr. Passaretta's permission to do so,</p> <p>20 and he did. He asked Mr. Passaretta</p> <p>21 for permission.</p> <p>22 And Mr. Passaretta recognized,</p> <p>23 however, that due to the size of the</p> <p>24 trade, regardless if it's riskless,</p> <p>25 regardless of whether the risk policy</p>
<p style="text-align: right;">Page 31</p> <p>1 Opening - Claimant</p> <p>2 mature very shortly, and therefore he</p> <p>3 understood that the prices would</p> <p>4 slowly converge. And that's what</p> <p>5 arbitrage traders often do. They try</p> <p>6 to take advantage of the price</p> <p>7 discrepancy between the same security</p> <p>8 in different markets and get that</p> <p>9 advantage.</p> <p>10 In a completely different</p> <p>11 context, nothing to do with this, one</p> <p>12 example might be if one company is</p> <p>13 going to take over another company,</p> <p>14 the stock is trading at \$60 and the</p> <p>15 takeover price is at \$80, and there's</p> <p>16 that \$20 discrepancy, you know the</p> <p>17 deal's going to go through, assuming</p> <p>18 you know it is, at \$80, arbitragers</p> <p>19 like to jump in and take advantage of</p> <p>20 that \$20 price discrepancy and make</p> <p>21 that one-third gain.</p> <p>22 Similarly here, that's the way</p> <p>23 that trade worked, except instead of</p> <p>24 wondering whether the deal would go</p> <p>25 through -- it's a security that</p>	<p style="text-align: right;">Page 33</p> <p>1 Opening - Claimant</p> <p>2 made sense or not, its size required</p> <p>3 approval from a separate area of UBS,</p> <p>4 Market Risk. They don't trade. They</p> <p>5 just look at the risk and the balance</p> <p>6 sheet of UBS ultimately across the</p> <p>7 entire Investment Bank. And he needed</p> <p>8 their permission to do that.</p> <p>9 So that's what Mr. Passaretta</p> <p>10 did. The first thing after talking to</p> <p>11 Mr. [REDACTED] and trying to understand what</p> <p>12 the trade was about, he said, "I like</p> <p>13 the idea. It's an excellent idea.</p> <p>14 However, I'm instructing you you</p> <p>15 cannot do the trade until I go to</p> <p>16 Market Risk and get approval." It was</p> <p>17 an order.</p> <p>18 Mr. [REDACTED] understood, and</p> <p>19 Mr. Passaretta thereafter went off to</p> <p>20 Market Risk to try to explain the</p> <p>21 trade to them and seek approval.</p> <p>22 Unknown to Mr. Passaretta,</p> <p>23 however, while he was seeking Market</p> <p>24 Risk's approval, as soon as he went</p> <p>25 off to Market Risk, Mr. [REDACTED]</p>

<p style="text-align: right;">Page 34</p> <p>1 Opening - Claimant</p> <p>2 nevertheless, went ahead and did the</p> <p>3 trade without Mr. Passaretta's</p> <p>4 permission, without Market Risk's</p> <p>5 permission, without anybody knowing</p> <p>6 about it other than the actual people</p> <p>7 that executed the trade. So it was a</p> <p>8 direct violation of Mr. Passaretta's</p> <p>9 order.</p> <p>10 Now, this is relatively a short</p> <p>11 time before the market was closing.</p> <p>12 And now this was done through Brazil.</p> <p>13 So we're talking about the Brazilian</p> <p>14 market closing. And it was shortly</p> <p>15 soon to close. And it was when</p> <p>16 Mr. Passaretta found out about it, it</p> <p>17 was chaos, frankly, for him, for</p> <p>18 Mr. [REDACTED] and what was going on.</p> <p>19 Mr. Passaretta's first thought</p> <p>20 was to try to protect the firm, try to</p> <p>21 unwind the trade, which ultimately did</p> <p>22 make a profit. He unwound part of it</p> <p>23 before the market closed and</p> <p>24 subsequently was told, "Don't bother</p> <p>25 unwinding the trade any further." And</p>	<p style="text-align: right;">Page 36</p> <p>1 Opening - Claimant</p> <p>2 least certainly -- in the heat of the</p> <p>3 moment, that's certainly what</p> <p>4 Mr. Passaretta understood him to say.</p> <p>5 And he answered "No," not surprisingly</p> <p>6 and honestly.</p> <p>7 Mr. Murphy also said at that</p> <p>8 time [REDACTED] meaning [REDACTED] --</p> <p>9 [REDACTED] was toast."</p> <p>10 Not a surprising comment given</p> <p>11 the fact that Mr. [REDACTED] had violated a</p> <p>12 direct order. And in the trading</p> <p>13 world, violating a direct order is</p> <p>14 right up there with cheating and</p> <p>15 stealing. It's about as bad as it</p> <p>16 gets.</p> <p>17 In any event, UBS here alleges</p> <p>18 that Mr. Passaretta, as part of this</p> <p>19 ongoing chaos, was asked a question by</p> <p>20 Mr. Ellison -- who we'll hear from</p> <p>21 tomorrow -- he was also in Market</p> <p>22 Risk. And before the market closed,</p> <p>23 Mr. Ellison, according to UBS in its</p> <p>24 statement of answer, asked, "Was there</p> <p>25 enough time to get this trade done?"</p>
<p style="text-align: right;">Page 35</p> <p>1 Opening - Claimant</p> <p>2 so it did make a profit.</p> <p>3 He also needed to interface with</p> <p>4 Market Risk. It was a very chaotic</p> <p>5 situation. And he was also</p> <p>6 interfacing with Market Risk during</p> <p>7 this time about whether there would be</p> <p>8 approval.</p> <p>9 Once the market closed,</p> <p>10 Mr. Passaretta had all the facts, he</p> <p>11 had some mitigation through partial</p> <p>12 unwinding of the trade, and he told</p> <p>13 Market Risk what had happened.</p> <p>14 Matthew Zola was -- and you'll</p> <p>15 hear from him this afternoon --</p> <p>16 Mr. Passaretta's direct boss. His</p> <p>17 boss's boss was a gentleman by the</p> <p>18 name of Chris Murphy, who is based in</p> <p>19 London, but happened to be in New York</p> <p>20 that day.</p> <p>21 He asked Mr. Passaretta during</p> <p>22 this chaotic time whether he knew</p> <p>23 about it, meaning, did Mr. Passaretta</p> <p>24 know about the trade and approve it</p> <p>25 before Market Risk approved it. At</p>	<p style="text-align: right;">Page 37</p> <p>1 Opening - Claimant</p> <p>2 This trade hadn't been approved at</p> <p>3 this point, and that Mr. Passaretta</p> <p>4 allegedly said, "Yes," implying,</p> <p>5 therefore, that the trade had not</p> <p>6 occurred. But you'll see that this</p> <p>7 was not a question that was asked of</p> <p>8 Mr. Passaretta.</p> <p>9 Now, as expected, an</p> <p>10 investigation followed. Quite normal.</p> <p>11 It lasted, it appears, less than two</p> <p>12 weeks or so, the evidence would</p> <p>13 suggest.</p> <p>14 By May 15th, it may have even,</p> <p>15 at least from a fact-gathering</p> <p>16 perspective, ended much sooner than</p> <p>17 that. Maybe within a week or so or</p> <p>18 just over a week.</p> <p>19 But by this time UBS certainly</p> <p>20 knew what had happened, knew all of</p> <p>21 the relevant facts, certainly by May</p> <p>22 15th or probably earlier. And it</p> <p>23 clearly had to know what it wanted to</p> <p>24 do.</p> <p>25 One of the things it did not do</p>

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