

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

In re:

LEHMAN BROTHERS INC.,

Debtor.

No. 08-01420 (JMP) SIPA

**STIPULATION AND ORDER BETWEEN JAMES W. GIDDENS,
AS TRUSTEE FOR THE LIQUIDATION OF THE BUSINESS OF
LEHMAN BROTHERS, INC. AND DEUTSCHE BANK**

WHEREAS, on September 19, 2008 (the “Filing Date”), a proceeding was commenced under the Securities Investor Protection Act of 1970 (“SIPA”), 15 U.S.C. §§ 78aaa *et seq.*, with respect to Lehman Brothers Inc. (“LBI”) and James W. Giddens was appointed as Trustee under SIPA (the “Trustee”) to administer LBI’s Estate, Case No. 08-01420 (JMP);

WHEREAS, pursuant and subject to SIPA, the Trustee has been duly appointed and authorized to liquidate the business of LBI, including the unwind, closeout and reduction to cash of amounts due the LBI Estate;

WHEREAS, prior to the Filing Date, LBI and Deutsche Bank AG (“DB AG”) entered into a 1992 International Swap Dealers Association Master Agreement dated as of June 2, 1995 (as subsequently amended from time to time, together with all related annexes and schedules attached thereto, the “Master Agreement”);

WHEREAS, the Trustee asserts that, in accordance with the terms of the Master Agreement, funds are due or to become due to LBI with respect to early termination of the Master Agreement (the “Early Termination Amount”), and excess collateral provided by LBI to DB AG (the “Posted Collateral”) to secure LBI’s obligations under the Master Agreement;

WHEREAS, the Trustee filed a motion on November 7, 2011 to recover funds due to LBI from DB AG with respect to the Early Termination Amount and the Posted Collateral (the “Motion,”) [ECF No. 4688], and DB AG has not formally opposed the Motion to date, although it has reserved its rights to do so and its time to do so has been extended by agreement;

WHEREAS, the Trustee and DB AG have reached agreement on payment with respect to the Early Termination Amount and the Posted Collateral, and to terminate the Motion;

WHEREAS, the Trustee has determined, in consultation with his professional advisors, including Deloitte & Touche LLP (“Deloitte”), that it would be in the best interests of the LBI Estate, its customers, and its creditors to settle all claims in connection with the Early Termination Amount and the Posted Collateral subject to the payment to the Trustee of US\$83,500,000 (the “Settlement Amount”) in the manner and upon the terms as set forth herein and agreed between the Trustee and DB AG;

WHEREAS, on May 29, 2009, DB AG filed a Proof of Claim (Claim No. 000005354) in the amount of \$8,757,756.32;

WHEREAS, on May 29, 2009, Deutsche Bank Securities Inc. (“DB Securities”), an affiliate of DB AG, filed a Proof of Claim (Claim No. 000005371) in the amount of US\$19,887,023.36;

WHEREAS, DB Securities, a/k/a Deutsche Bank Securities BT Fixed Income (“DB Fixed Income”)-did not file a claim; however, in the reconciliation process, it was determined that LBI held property of DB Fixed Income in the amount of US\$5,512,568.00;

WHEREAS, the Trustee has determined, in consultation with his professional advisors, including Deloitte, that it would be in the best interests of the LBI Estate, its customers, and its creditors for the Trustee to allow DB Securities’ Proof of Claim No. 000005371 as a

general unsecured creditor claim in the allowed amount of \$25,399,591.36, representing (i) a final determination of such claim as filed in the amount of \$19,887,023.36 and (ii) a claim of DB Fixed Income in the amount of \$5,512,568.00 (collectively, the “DB General Creditor Claim”); and

WHEREAS, the Trustee on the one hand and DB AG, DB Securities, and DB Fixed Income (collectively, “Deutsche Bank”) on the other (each a “Party” and collectively, the “Parties”) have negotiated in good faith and believe they have reached a fair and equitable and reasonable determination with regard to the Early Termination Amount, the Posted Collateral, and the DB General Creditor Claim.

NOW, THEREFORE, in consideration of the mutual covenants set forth below,
IT IS HEREBY STIPULATED AND AGREED BY THE PARTIES HERETO THAT:

1. The foregoing Recitals are true in all respects.
2. The terms and conditions of this Stipulation and Order and the Parties’ respective obligations hereunder shall become immediately effective upon entry of this Order.
3. Within three business days after the date that the order entered by the Bankruptcy Court approving this stipulation becomes a Final Order (as defined below), DB AG shall effect payment to the Trustee of the Settlement Amount in immediately available funds by wire transfer to:

Union Bank, N.A.
ABA No. 1220000196
A/C No. 3713096431 TRUSDG
James W. Giddens, Trustee, LBI Funds Account
Account No. 6711860101

“Final Order” means an order of the Bankruptcy Court, the operation or effect of which has not been stayed, reversed, vacated or amended, and as to which order (or any revision, modification,

or amendment thereof) the time to appeal, petition for certiorari, or seek review or rehearing has expired and as to which no appeal, petition for certiorari, or petition for review or rehearing was filed or, if filed, remains pending.

4. Upon receipt by the Trustee of the Settlement Amount, (a) the Motion shall be dismissed with prejudice and without costs to any party without the need for any further Bankruptcy Court approval or other action by the Parties, and (b) the Trustee shall allow the DB General Creditor Claim, as described above, which shall not be subject to any reduction, setoff, objection or adverse claim, including, without limitation, any claim for disallowance, subordination or recharacterization on any ground.

5. The Trustee shall seek, and Deutsche Bank shall support, Bankruptcy Court approval of this Stipulation and Order.

6. Except as otherwise specifically provided for herein, nothing contained in this Stipulation and Order shall create any rights, remedies, or defenses in favor of any party in interest that is not a Party to this Stipulation and Order.

7. This Stipulation and Order shall be binding on the Parties and their respective successors or assigns, including any subsequent trustee elected or appointed for LBI.

8. This Stipulation and Order may be signed in counterparts which, when taken as a whole, shall constitute one and the same document; and electronic signatures shall be deemed originals.

9. This Stipulation and Order may not be amended or modified orally. Accordingly, no amendment to, or modification of, this Stipulation and Order shall be effective unless and until it is made in writing and signed by duly authorized representatives of each and every Party to this Stipulation and Order.

10. Each Party hereby represents and warrants to the other Party that: (i) it has the power and authority to execute this Stipulation and Order by its respective signatory below; (ii) neither the execution nor the performance of this Stipulation and Order by such Party violates any other contract by which such Party is bound; (iii) neither the execution nor the performance of this Stipulation and Order by such Party violates any charter, regulation, corporate resolution, by-law or other corporate restriction to which such Party is subject; and (iv) upon its execution, this Stipulation and Order will constitute a valid and binding obligation of such Party (and in the case of the Trustee, the LBI estate), enforceable against such Party and the LBI estate in accordance with its terms.

11. Each Party hereby represents and warrants to the other Party that the person signing this Stipulation and Order on its behalf is duly authorized to enter into this Stipulation and Order on that Party's behalf and that no further consent or approval is required from or by any other person, party, or entity in order for such Party to enter into, or carry out, the provisions of this Stipulation and Order.

12. Each individual signing this Stipulation and Order on behalf of any Party hereto acknowledges and, with respect to his or her own signature below, warrants and represents that he/she is authorized to execute this Stipulation and Order in his/her representative capacity, as reflected below and on behalf of the Party indicated.

13. This Stipulation and Order, and its validity, interpretation and legal effect, shall be governed by and shall be interpreted in accordance with the laws of the State of New York, except to the extent that the Bankruptcy Code or SIPA apply, without regard to New York's rules governing conflicts of laws.

14. Each Party hereby submits to the personal jurisdiction of the Bankruptcy Court (and to the United States District Court for the Southern District of New York, to the extent an Article III Court is required) for any action, suit or proceeding to enforce this Stipulation and Order and agrees that any such action, suit or proceeding shall be brought only in the Bankruptcy Court or the District Court. Each Party hereby irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to venue of any such action, suit, or proceeding brought in such a court. The Bankruptcy Court shall retain subject matter jurisdiction to enforce the terms of this Stipulation and Order.

Dated: New York, New York
November 9, 2012

LEVINE LEE LLP

By: /s/ **Kenneth E. Lee**
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Bank Securities Inc. a/k/a Deutsche Bank
Securities BT Fixed Income*

Dated: November __, 2012
New York, New York

SO ORDERED: _____
U.S.B.J