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*Attorneys for James W. Giddens, Trustee for the
SIPA Liquidation of Lehman Brothers Inc.*

Attorneys for BP 399 Park Avenue LLC

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

In re

LEHMAN BROTHERS INC.,

Debtor.

Case No. 08-01420 (JMP) SIPA

**STIPULATION AND ORDER REGARDING PROOF OF CLAIM OF
BP 399 PARK AVENUE LLC (NO. 7002131)**

This Stipulation and Order (the “Stipulation”) is entered on the date hereof by and between James W. Giddens (the “Trustee”), as trustee for the liquidation of Lehman Brothers Inc. (“LB”) under the Securities Investor Protection Act of 1970, as amended (“SIPA”), and BP 399 Park Avenue LLC (the “Claimant”).

RECITALS

A. WHEREAS, on September 19, 2008 (the “Filing Date”), a proceeding was commenced under SIPA with respect to LBI, and the SIPA Trustee was appointed (Case No. 08-01420, such proceeding, the “SIPA Proceeding”);

B. WHEREAS, on November 7, 2008, the Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) entered the Order Approving Form and Manner

of Publication and Mailing of Notice of Commencement; Specifying Procedures and Forms for Filing, Determination, and Adjudication of Claims; Fixing a Meeting of Customers and Other Creditors; and Fixing Interim Reporting Pursuant to SIPA (the “Claims Process Order,” ECF No. 241);

C. WHEREAS, on May 13, 2009 the Court so-ordered the Stipulation And Order Between Lehman Brothers Holdings Inc., James W. Giddens as Trustee for Lehman Brothers Inc., Barclays Capital Inc., and BP 399 Park Avenue LLC with Respect to Leased Premises at 399 Park Avenue, New York, New York and the Transfer of Furniture, Fixtures and Equipment Therein and Related Matters (the “Lease Rejection Stipulation”, ECF No. 1103) which rejected, as of April 30, 2009, the lease dated October 1, 2001 between LBI and the Claimant, as successor in interest to Citibank, N.A. (as amended from time to time);

D. WHEREAS, pursuant to SIPA section 78fff-2(a)(3) and the Claims Process Order, all general creditor claims must have been received by the Trustee by June 1, 2009;

E. WHEREAS, in accordance with the Claims Process Order and pursuant to the Lease Rejection Stipulation, on May 28, 2009, Claimant timely filed a general creditor claim (represented by claim No. 7002131, the “Claim”) asserting the Claim in the amount of \$45,272,411.56;

F. WHEREAS, on March 11, 2013, the Court entered the Order Pursuant to Section 105(a) of the Bankruptcy Code & Bankruptcy Rules 3007 and 9019(b) for Approval of General Creditor Claim Settlement Procedures (the “General Creditor Settlement Procedures Order,” ECF No. 5847);

G. WHEREAS, after good faith, arm’s length negotiations, the Trustee and Claimant (together, “the Parties”), pursuant to the General Creditor Settlement Procedures Order, have

agreed to resolve all issues regarding the Claim pursuant to the terms and conditions set forth in this Stipulation.

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

STIPULATION

1. The Recitals set forth above form an integral part of this Stipulation and are incorporated fully herein.
2. This Stipulation shall not become effective unless and until it has been executed by the Parties or their respective counsels and approved by Final Order (defined below) of the Bankruptcy Court (the “Effective Date”). “Final Order” shall mean an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket of such court, the operation or effect of which has not been stayed, reversed, or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, remains pending, *provided, however*, that no order shall fail to be a final order solely because of the possibility that a motion pursuant to Rule 60 of the Federal Rule of Civil Procedure, Bankruptcy Rule 9024, any similar local bankruptcy rule or any similar state statute or rule may be filed with respect to such order.
3. As of the date hereof and through the Effective Date, Claimant represents and warrants that it is and will be the legal and beneficial owner of the Claim and has authority to enter into this Stipulation.

4. On the Effective Date, the Claimant will have an allowed, general unsecured creditor claim against the LBI general estate in the amount of \$45,216,563.39 (the “Allowed Claim”) in respect of the Claim and this Allowed Claim shall constitute the full and final settlement of any and all claims the Claimant has asserted against the LBI estate under or in connection with the matters, transactions, and accounts that are the subject of the Claim. The Claimant will receive proportionately at least the same in payments or distributions (including with respect to the timing and type of payments or distributions) in respect of the Allowed Claim as is received by holders of allowed, general unsecured claims. The Trustee shall promptly cause the LBI general creditor claims register to be updated to reflect the same.

5. On the Effective Date, the Claimant and the Trustee, each on behalf of itself and its successors and assigns, forever waives and releases any and all claims, liabilities, causes of action, demands, and damages of whatever kind or nature and whether known or unknown, asserted or unasserted, against each other (including, against LBI, its estate, and the Claimant’s and the Trustee’s agents and attorneys), arising before or after the Filing Date, that relate to or arise out of the matters, transactions, and accounts that are the subject of the Claim; *provided, however*, that nothing contained herein shall waive Claimant’s, the Trustee’s, or the LBI estate’s rights to enforce this Stipulation, nor Claimant’s right to receive payments and distributions in respect of the Allowed Claim. It is further provided that nothing herein shall constitute a release or waiver of any other claims, liabilities, causes of action, demands, and damages held by any assignee of the Allowed Claim that were not acquired from Claimant.

6. The Trustee agrees to promptly seek, and the Claimant agrees to support, approval of this Stipulation in the Bankruptcy Court pursuant to paragraph (iv) of the General

Creditor Settlement Procedures Order. If approval is not obtained in the Bankruptcy Court, the Stipulation shall be null and void and the Parties will retain all their respective rights and claims.

7. This Stipulation shall be binding upon and inure solely to the benefit of the Parties hereto and their respective successors and permitted assigns, including any subsequent trustee appointed for LBI.

8. No amendment, waiver or modification of any provision of this Stipulation shall be effective unless the same shall be in writing and signed by the Parties.

9. Neither this Stipulation, nor any negotiations or proceedings in connection herewith, may be used and shall not be admissible in any proceeding against any party to this Stipulation or its affiliates for any purpose, except to enforce the terms of this Stipulation.

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

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

12. This Stipulation 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 applies, without regard to New York's rules governing conflict of laws.

13. The Bankruptcy Court shall have jurisdiction to interpret and enforce this Stipulation and the Parties consent to the jurisdiction of the Bankruptcy Court without regard to conflict of laws.

Dated: New York, New York
December 16, 2013

*Signature Page To Stipulation Regarding Proof of Claim of BP 399 Park Avenue LLC
(No. 7002131)*

HUGHES HUBBARD & REED LLP

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*Attorneys for James W. Giddens, Trustee
for the SIPA Liquidation
of Lehman Brothers Inc.*

*Attorneys for BP 399 Park Avenue
LLC*

SO ORDERED this ____ day of ____ 2013

UNITED STATES BANKRUPTCY JUDGE