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Lehman European Group Administration Companies

Objection Date: September 19, 2008

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

LEHMAN BROTHERS HOLDINGS
INC., et al.,

Debtor.

Chapter 11

Case No. 08-13555 (JMP)

(Jointly Administered)

**RESPONSE OF THE JOINT ADMINISTRATORS OF THE LEHMAN
EUROPEAN GROUP ADMINISTRATION COMPANIES TO
DEBTORS' MOTION TO (A) SCHEDULE A SALE HEARING; (B)
ESTABLISH SALES PROCEDURES; (C) APPROVE A BREAK-UP
FEE; AND (D) APPROVE THE SALE OF THE PURCHASED ASSETS
AND THE ASSUMPTION AND ASSIGNMENT OF CONTRACTS
RELATING TO THE PURCHASED ASSETS [D.I. # 60]**

The Joint Administrators of the Lehman European Group Administration Companies hereby respond to the Debtors' Motion to (A) Schedule a Sale Hearing; (B) Establish Sales Procedures; (C) Approve a Break-Up Fee; and (D) Approve the Sale of the Purchased Assets and the Assumption and Assignment of Contracts Relating to the Purchased Assets [D.I. # 60] (hereinafter the "Sale Motion") and in support thereof state as follows:

SUMMARY

1. The Joint Administrators do not object to the transaction contemplated in the Sale Motion; indeed, they support it. Due to the close connection between and among the businesses of the Debtors, non-debtor Lehman Brothers Inc. ("LBI"), and the Lehman European Group Administration Companies,¹ however, it is necessary for the Joint Administrators to propose clarifying language for the Asset Purchase Agreement and Sale Order. Inclusion of the Joint Administrators' suggested clarifications will benefit all parties by assisting in an orderly transition of operations of Lehman Brothers Inc. and continuity of services among the Lehman group of companies, while safeguarding serious interests of the creditors of the Lehman European Group Administration Companies.

2. In addition, the preliminary investigation of the Joint Administrators has revealed that there took place significant transfers of securities from the Lehman European Group Administration Companies to and/or through LBI or Debtor LBHI, but that the reimbursement in respect of those securities and any margin posted in connection with them was not made. If the Court approves the proposed sale, it should include express reservation of rights for the Joint Administrators so that, in the event that the Lehman European Group Administration Companies do have claims in respect of the transfers, the transferees and wrongdoers (if any) cannot argue that the proposed sale cuts off those companies' or the Joint Administrators' right to pursue them for recovery of the funds due in respect of those securities.

¹ As the Lehman European Group Administration Companies, as defined below, directly and indirectly own subsidiaries that are part of the global business of the Lehman Group, references herein to the businesses of the Companies should be understood to include subsidiaries.

BACKGROUND

The Lehman European Group

3. As set forth in the Declaration of Dan Yoram Schwarzmann dated September 19, 2008, attached hereto as Exhibit A, the Lehman Brothers group of companies (the “Lehman Group”), of which the Lehman European Group is part, is a global investment bank. The business activities of the Lehman Group are organized in three segments which operate across the Lehman Group: capital markets, investment banking, and investment management. Those segments include businesses in equity and fixed income sales, trading and research, investment banking, asset management, private investment management and private equity. The Lehman Group is headquartered in New York, with regional headquarters in London and Tokyo, and other offices around the world. Because the Lehman Group’s segments operate globally, the businesses of the different offices are closely intertwined.

4. Indeed, as part of an international financial group, the Lehman Group’s broker-dealer in the U.K., as well as its broker-dealer in the U.S., benefited from a guarantee given by Debtor Lehman Brothers Holdings Inc. (“LBHI”). Many counterparties of the U.K. broker-dealer relied on this guarantee for comfort in transacting business with it.

5. The Lehman Group’s interdependence was financial as well as operational. For instance, pre-petition, as part of its global treasury management, the Lehman Group operated a “cash sweep” system. Pursuant to that system, at the end of each trading day, cash in all of the companies within the Lehman Group was transferred to LBHI. At the start of each trading day, LBHI would transfer cash to each of the Lehman Group companies to enable them to meet their cash requirements during that day. The companies within the group

were therefore reliant upon receipt of that cash from LBHI each day to enable them to make any payments.

6. Lehman Brothers International (Europe) (“LBIE”) is the principal trading company, and broker-dealer, within Europe. Its business involves the provision of a wide range of financial services, including trading and broking equity and fixed income instruments and financial derivatives. It carries out its business globally. LBIE’s headquarters are in London, though it has offices in several other countries in Europe and Asia.

7. LB UK RE Holdings Limited (“LBUKRE”) is a holding company for the real estate division of the Lehman European Group. Its business consists primarily, both directly and through subsidiaries, of investing in real estate, funds, non-performing loans and sub-performing loans.

8. Lehman Brothers Limited (LBL) provides administrative services to fellow Lehman Group companies in the U.K. and European operations of Lehman, including the provision of property, employees and support services such as IT, clearance and settlement.

9. Lehman Brothers Holdings plc (“LBH”) holds fixed asset investments in a range of assets, the majority of which are held through investments in subsidiaries.

10. Following the real estate crisis in the United States, the necessity for the Lehman Group to make a number of provisions and write-downs in its accounts, loss of investor and market confidence, the Chapter 11 filing of the Lehman Group’s ultimate holding company, Debtor LBHI, and other factors, the Lehman European Group companies listed above were forced to enter English administration proceedings on September 15, 2008.

11. On September 15, 2008, (the “Petition Date”), LBHI filed for bankruptcy protection with the United States Bankruptcy Court for the Southern District of New York pursuant to Chapter 11 of Title 11 of the United States Code. On September 16, 2008, LB 745 LLC (together with LBHI, the “Debtors”) filed for similar protection in this Court.

The Joint Administrators and English Administration Proceedings

12. Anthony Victor Lomas, Steven Anthony Pearson, Dan Yoram Schwarzmann, and Michael John Andrew Jervis are the Joint Administrators of Lehman Brothers Holdings plc, Lehman Brothers Limited, LB UK RE Holdings Limited, and Lehman Brothers International (Europe) (together, the “Lehman European Group Administration Companies”), pursuant to appointment orders of the English High Court of Justice dated September 15, 2008.

13. The Joint Administrators derive their powers and duties from the English Insolvency Act 1986, as modified by the English Enterprise Act 2002. Administration is a proceeding for companies that are, or are likely to become, insolvent. It is similar in concept to Chapter 11 proceedings in the United States, but very different in detail.

14. Administrations under English law have three consecutive objectives:

- to “rescue” the company as a going concern; or,
- to achieve a better result for the company’s creditors than would be achieved on a liquidation; or,
- if neither of the first two objectives are reasonably practicable and it does not unnecessarily harm the interests of the creditors of the company as a whole, to realize property to make a distribution to secured or preferential creditors.

15. After appointment, administrators take over management and control of the debtor company and have the power, on behalf of the company, to do all things necessary and expedient for the management of its affairs, business and property. The administrators may make distributions to creditors, subject in certain cases to court approval, and may make other payments that are likely to assist in achieving the purposes of the administration. They may pursue actions to set aside preferences and transactions at an undervalue as well as to recover assets of the company that were wrongly disposed of. Administrators are agents of the company and officers of the English High Court.

16. Administrators must act in the interests of the creditors of the company as a whole, and are obligated to make formal proposals and to report regularly to creditors. Creditors have the right to approve the administrators' proposals at creditors' meetings and to appoint a creditors' committee. Creditors may propose and agree upon modifications to the administrators' proposals.

The Joint Administrators' Activities To Date

17. In the few days since the Appointment Orders were entered on Monday, the Joint Administrators have faced significant challenges. Over the course of approximately 72 hours, the Joint Administrators have endeavored to investigate and to understand the far-flung operations of the Lehman European Group Administration Companies' businesses, which are by no means confined to Europe. As described above, the Lehman European Group Administration Companies operated hand in hand with their U.S. counterparts, as well as providing financial services from a variety of offices in Europe, the Middle East, and Asia to clients across the world.

18. The Joint Administrators have installed a team of approximately 200 PricewaterhouseCoopers LLP employees and 100 lawyers at the offices of the Lehman European Group Administration Companies to manage those companies' business and affairs, including gaining an understanding of the companies' businesses and financial status. The Joint Administrators, their staff, and Lehman Group employees have also had correspondence and notices from a vast number of creditors and counterparties in respect of their claims and other concerns. The Joint Administrators and their staff must also address continuation of the businesses and employee retention. Counsel for the Joint Administrators have met and spoken with counsel for the Debtors as well. Although significant progress had been made, it is obvious that the investigation of the Companies' business and financial affairs will take a significant time to be completed.

19. The investigation to date has, however, highlighted certain important considerations relating to the Asset Purchase Agreement dated as of September 16, 2008 ("APA") that the Joint Administrators now bring to the Court's attention. These issues arise from the intimate interconnection of the Lehman Group's global business segments. The Debtors' Chapter 11 petitions did not magically sever those connections among the offices of a global investment bank that merely 10 days ago was a viable entity. As the APA does not give sufficient recognition to the ongoing nature of those connections, the Joint Administrators have proposed reasonable amendments to the APA, as specifically described below.

20. The investigation to date has revealed that there took place significant transfers of securities from the Lehman European Group Administration Companies to and/or through LBI or Debtor LBHI but that reimbursement in respect of those securities and any

margin posted in connection with them was not made. If the Court approves the proposed sale without an express reservation of rights for the Joint Administrators, it is possible that the transferees and wrongdoers (if any) could argue that the proposed sale cuts off the Joint Administrators' right to pursue them for recovery of the missing funds. Given the magnitude of the transfers that are known to date, and their detrimental impact on the Lehman European Group Administration Companies' creditors around the world, the Court should incorporate in any Sale Order certain language proposed by the Joint Administrators to address this possibility.

ARGUMENT AND SPECIFIC RELIEF REQUESTED

21. It is axiomatic that a seller cannot sell what it does not own. The Debtors and LBI can lawfully convey to the Purchaser only those assets and rights that the Debtors possessed at the commencement of these Chapter 11 cases. "To the extent an interest is limited in the hands of the debtor, it is equally limited as property of the estate (except to the extent that defenses which are personal against the debtor are not effective against the estate); section 541(a)(1) is not intended to expand the debtor's rights against others beyond what rights existed at the commencement of the case." In re Village Rathskeller, Inc., 147 B.R. 665, 671 (Bankr. S.D.N.Y. 1992). "[C]ontractual right[s are] not affected by the filing of a Chapter 11 petition. The rights of a debtor to the property of the estate do not expand when the debtor files a petition in bankruptcy." In re Nemko, Inc., 143 B.R. 980, 987 (Bankr. E.D.N.Y. 1992) "Only such interest as the debtor has 'as of the commencement of the case' passes into the estate." Cohen v. Drexel Burnham Lambert Group, Inc. (In re Drexel Burnham Lambert Group, Inc.), 138 B.R. 687, 710 (Bankr. S.D.N.Y. 1992) (quoting 11 U.S.C. § 541(a)(1)). Yet the APA is disconcertingly vague about which assets are being

conveyed in the proposed transaction. Indeed, it could be read to intend to transfer assets that do belong or may belong to the Lehman European Group Administration Companies. Moreover, the APA gives insufficient recognition to the needs of the ongoing businesses of the Lehman European Group Administration Companies, threatening their disruption. The APA should recognize the right and duty of the Joint Administrators to have access to books and records of LBI and LBHI for purposes of their investigation and discharge of their duties as administrators. Finally, it is only sensible commercial practice that the APA afford confidentiality protections as to both the Lehman European Group Administration Companies and the Purchaser, which as of now it does not do.

Assets Owned By the Lehman European Group Administration Companies

22. First, there appear to be a number of assets utilized by or in the name of LBI and/or the Debtors that are actually owned by one of the Lehman European Group Administration Companies. The APA does not identify or specifically exclude such assets.

23. For example, certain Lehman European Group Administration Companies, predominantly LBL, employed approximately 900 IT staff, and engaged a further 100 or so independent individual IT contractors. That large base of internal IT staff provided support and development for IT applications used not only in Europe, but around the world, including by Debtor LBHI and LBI. Under English law, intellectual property rights ordinarily vest in the employer, and certain inter-company correspondence reviewed by the Joint Administrators' counsel appears to acknowledge ownership, in whole or part, by LBL of a number of software packages used by U.S. Lehman entities. Several of those software packages, such as SUB M and LMX/LOB, are vital to the trading and investment banking

activities of the Lehman Group and its constituent businesses. They represent extremely valuable property rights.

24. In addition, there appear to be some client contracts which were or are jointly performed by LBI and/or the Debtors, on the one hand, and one or more of the Lehman European Group Administration Companies, on the other. The Joint Administrators' investigation is still preliminary, and it is too early to know with certainty which U.S. or U.K. entity owns which items of jointly utilized intellectual property. Indeed, it is too early to know with certainty about the ownership of many jointly utilized assets. But the simple way to protect against this uncertainty, which is likely shared by the Debtors and LBI, is to include language in the Asset Purchase Agreement dated as of September 16, 2008 that provides clarity and flexibility.

Proposals as to Administration Company Assets and Shared Assets

25. The Joint Administrators, through their counsel, have proposed to Debtors' counsel the following amendments to the Asset Purchase Agreement dated as of September 16, 2008.² (A copy of Joint Administrators' counsel's markup of the APA, submitted to Debtors' counsel on September 18, 2008, is attached hereto as Exhibit B.)

26. First, there must be clarification that Purchased Assets do not include any assets or rights of the Lehman European Group Administration Companies. The Joint Administrators have proposed that such assets and rights should be included within the definition of Excluded Assets, for the avoidance of doubt, and that the reference to assets of Subsidiaries of Seller in the definition of Purchased Assets should be deleted. If any non-

² Certain capitalized terms below are used as defined in the Asset Purchase Agreement.

Seller assets are to be included, they must be listed with specificity. The Joint Administrators have proposed corrective language to the Debtors. (Ex. B at Rider 34B and passim.)

27. Second, there must be confirmation that the Lehman European Group Administration Companies will continue to have the right to use any shared assets and services following the Closing to the same manner and degree as used in the preceding 12 months. The Joint Administrators have proposed to reflect this both with respect to the IP licenses provided in APA Section 8.9 and the TSA described in APA Section 8.13. (Ex. B at Rider 34A and page 34.)

28. Third, the Joint Administrators have proposed the inclusion of a general "wrong pockets" / cure provision to the effect that, if any assets or rights of the Lehman European Group Administration Companies are inadvertently conveyed to the Purchaser, or any funds owing to such entities are paid to Seller or Purchaser, such assets, rights or funds would be promptly transferred or remitted to the Lehman European Group Administration Companies. (Ex. B at Rider 34B and page 34.)

29. Fourth, the Joint Administrators have proposed limited and reasonable third party beneficiary rights solely with respect to the provisions relating to paragraphs 27-28 above. (Ex. B at page 42.)

Disruption of Administration Companies' Businesses

30. Just as employees of the Lehman European Group Administration Companies created software applications used in the U.S., employees of LBI contributed to applications now used by the Lehman European Group Administration Companies. In the ordinary course of a separation between the U.K. and U.S. entities of the Lehman Group, the

Lehman European Group Administration Companies would seek assurances that they could continue to use this software after closing of a sale of a U.S. entity. Without such assurances, the Lehman European Group Administration Companies' businesses cannot operate without infringing intellectual property rights. It appears from the Joint Administrators' preliminary investigation that no express written intra-group IP license was put in place although it is the Joint Administrators' counsel's view that an implied license would likely exist. To ensure the orderly continuation of the Administration Companies' businesses and to prevent potentially serious disruption to the Joint Administrators discharging their functions, an appropriate perpetual and royalty-free license must be negotiated and agreed by the relevant parties. Consequently, the Joint Administrators have made such a proposal in connection with Section 8.9 of the APA. (Ex. B at Rider 31 and page 31.)

31. Second, in order to preserve the continuity and value of the Lehman European Group Administration Companies' businesses, there needs to be an agreement among the parties as to transitional services. LBI currently makes software applications and data storage facilities available to the Lehman European Group Administration Companies on its servers; for example the core Ebanker system used by the global investment banking group. Should the parties agree on a licensing arrangement, the Lehman European Group Administration Companies will require a period of time in which to transfer applications and data to their own servers, as well as the cooperation of the U.S. entities with that effort. Without such a transitional arrangement, the Lehman European Group Administration Companies' businesses and, consequently, the Joint Administrators' ability to deal with those businesses will be significantly impaired. The Joint Administrators have proposed suitable language for the APA. (Ex. B at Rider 34A and page 34.)

Books and Records

32. The Joint Administrators have proposed that they have access rights to the books and records to be retained by Seller and Purchaser pursuant to Section 8.7 of the APA to the extent reasonably required in the administration of the Lehman European Group Administration Companies. (Ex. B at page 29.) As set forth in detail above, the Joint Administrators must investigate and understand a complex business with a global reach, much of it directed and financed out of the United States headquarters. The daily global cash sweep controlled by Debtor LBHI is only one example of funds flows into and out of the United States that the Joint Administrators must understand and reconcile for the benefit of the creditors of the Lehman European Group Administration Companies. Without reasonable access to the books and records to be retained by Seller and Purchaser – which the APA in its current form does not grant to the Joint Administrators – their duties will be impeded.

Confidentiality

33. The IT systems and databases contain extensive proprietary and confidential information. Given that the IT systems are so integrated and closely linked, as described above, in the absence of appropriate agreement or protection, that information is available to the Sellers, of which they would be able to make unrestricted use. To protect that information and the Lehman European Group Administration Companies' interests in it, appropriate restrictions must be negotiated and agreed among the relevant parties. Consequently, the APA should include protections for the confidential information of the Lehman European Group Administration Companies and/or their subsidiaries as well as for the benefit of the Buyer. The Joint Administrators' counsel has proposed such mutual protections to Debtors' counsel.

Transfer of Lehman European Group Administration Companies' Funds

34. The Joint Administrators' preliminary investigation over the first few days of the Administration has already revealed evidence of substantial transfers of securities out of LBIE which merit close investigation. LBIE is the Administration Company entity that was the broker-dealer for the Lehman European Group Administration Companies. In its ordinary course of business before entering administration, LBIE held billions of dollars worth of securities. As the market lost confidence in the Lehman Group in recent weeks, many of its clients in the prime brokerage business began to transfer their securities from the Lehman Group to other prime brokers.

35. In such cases, it appears, the securities were typically transferred from LBIE to LBI, the U.S. broker-dealer, then to another Lehman Group entity located in Luxembourg, and from there to the new prime broker. What was supposed to happen next was that the funds to reimburse LBIE in respect of the securities and any margin posted in connection with the client accounts were to flow from the new prime broker back through the chain of Lehman entities to LBIE. But in many cases, it appears, that did not happen. The Joint Administrators' understanding so far is that those funds were transferred from the new prime broker through the Luxembourg entity to LBI. It seems the funds never reached LBIE. In just the past few days, the Joint Administrators have identified more than \$8 billion in such funds that are due to LBIE but that LBIE does not hold. As the investigation progresses, it is quite possible that the Joint Administrators will discover further transfers that may require investigation. In that event, the Joint Administrators will consider potential causes of action, as well as recovery on the simple ground that the funds are property of the Lehman European Group Administration Companies.

36. Depending on the results of the Joint Administrators' investigations, transfers of this magnitude could have a significant effect on the creditors of LBIE, potentially depriving them of billions of dollars in recoveries. It will be the duty of the Joint Administrators to attempt to find and recover those funds. As counsel for the Joint Administrators have been informed by Debtors' counsel that LBI had negligible cash left at the Petition Date, it is likely that the funds referred to above have been disbursed to third parties in the days before these proceedings were commenced. Should the Joint Administrators need to proceed against those third parties to recover assets, there should be no impediment to doing so by virtue of the proposed sale, if it is approved.

37. Consequently, the Joint Administrators respectfully request that the Court include the following language in any Sale Order:

Nothing in this Order shall (i) authorize the Debtors or any of their Subsidiaries to transfer or retain any assets, rights, or claims in which the Lehman European Group Administration Companies, any of those Companies' subsidiaries, or any of their creditors have a property interest or (ii) affect or impair the rights of the Joint Administrators (a) in any such assets, rights, or claims, (b) to investigate, commence proceedings or otherwise take action in their discretion to determine whether the Lehman European Group Administration Companies, any of those Companies' subsidiaries, or any of their creditors have a property interest in any funds, assets, or rights in the possession, custody or control of the Debtors or any other party and (c) to recover such property, or the proceeds or value thereof, from any person or entity, by such lawful proceedings as the Joint Administrators deem appropriate for the benefit of the creditors of the Lehman European Group Administration Companies.

38. This language would not impede the proposed sale. It would merely clarify that the proposed sale would not extinguish the Joint Administrators' right to pursue the

recovery of funds transferred from the Lehman European Group Administration Companies to and/or through LBI or LBHI.

39. The Joint Administrators further request that the proceeds of the proposed sale be placed in a segregated account, which may not be used without further order of the Court upon no less than 5 days notice to the Joint Administrators and other parties in interest. The Joint Administrators believe that this relief is warranted because the extraordinary speed with which this complex transaction is proceeding has not allowed any party, including the Joint Administrators, adequately to investigate aspects of the relationships among the Debtors, LBI, and their various affiliates. The extent of transfers of assets involving LBI and/or LBHI makes this a reasonable protection to allow further investigation of those transfers to proceed without further prejudicing rights to obtain relief.

CONCLUSION

WHEREFORE, the Joint Administrators for the Lehman European Group Administration Companies respond to the Sale Motion to the extent cited above and respectfully petition the Court to grant them the requested relief, and such other and further relief as the Court deems just and proper.

/s/ Martin Flics

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Attorneys for the Joint Administrators of the
Lehman European Group Administration
Companies

Dated: September 19, 2008

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

LEHMAN BROTHERS HOLDINGS
INC., et al.,

Debtor.

Chapter 11

Case No. 08-13555 (JMP)

(Jointly Administered)

DECLARATION OF DAN YORAM SCHWARZMANN

Dan Yoram Schwarzmenn, pursuant to 28 U.S.C. § 1746, hereby declares
under penalty of perjury under the laws of the United States of America, as follows:

1. I make this declaration in support of the Response of the Joint Administrators of the Lehman European Group Administration Companies (as defined below) to Debtors' Motion to (A) Schedule a Sale Hearing; (B) Establish Sales Procedures; (C) Approve a Break-Up Fee; and (D) Approve the Sale of the Purchased Assets and the Assumption and Assignment of Contracts Relating to the Purchased Assets [D.I. # 60] (the "Sale Motion"). I am over the age of 18. If called upon, I could competently testify to all matters set forth herein based on my personal knowledge, or based on reports made by personnel whom I supervise, Lehman Group staff at the London premises and the books and records of the Lehman European Group Administration Companies.

2. On the 15th of September, 2008, the English High Court of Justice made four orders (the "Administration Orders", attached hereto as Exhibits 1-4) providing for the appointment of my colleagues Anthony Victor Lomas, Steven Anthony Pearson, and Michael John Andrew Jervis and I as Joint Administrators of Lehman Brothers Holdings plc, Lehman

Brothers Limited, LB UK RE Holdings Limited, and Lehman Brothers International (Europe) (together, the "Lehman European Group Administration Companies").

3. Messrs. Lomas, Pearson, and Jervis and I (collectively, the "Joint Administrators") are Partners at PricewaterhouseCoopers LLP, Plumtree Court, London EC4A 4HT.

English Administration Proceedings

4. The Joint Administrators derive their powers and duties from the English Insolvency Act 1986, as modified by the English Enterprise Act 2002. Administration is a proceeding for companies that are, or are likely to become, insolvent. It is similar in concept to Chapter 11 proceedings in the United States, but very different in detail.

5. Administrations under English law have three consecutive objectives:

- to "rescue" the company as a going concern; or,
- to achieve a better result for the company's creditors than would be achieved on a liquidation; or,
- if neither of the first two objectives are reasonably practicable and it does not unnecessarily harm the interests of the creditors of the company as a whole, to realize property to make a distribution to secured or preferential creditors.

6. After appointment, administrators take over management and control of the debtor company and have the power, on behalf of the company, to do all things necessary and expedient for the management of its affairs, business and property. The administrators may make distributions to creditors, subject in certain cases to court approval, and may make other payments that are likely to assist in achieving the purposes of the administration. They may pursue actions to set aside preferences and transactions at an undervalue as well as to

recover assets of the company that were wrongly disposed of. Administrators are agents of the company and officers of the English High Court.

7. Administrators must act in the interests of the creditors of the company as a whole, and are obligated to make formal proposals and to report regularly to creditors. Creditors have the right to approve the administrators' proposals at creditors' meetings and to appoint a creditors' committee. Creditors may propose and agree upon modifications to the administrators' proposals.

The Lehman European Group

8. The Lehman Brothers group of companies (the "Lehman Group"), of which the European Group is part, is a global investment bank. The business activities of the Lehman Group were organized in three segments which operate across the Group: capital markets, investment banking, and investment management. Those segments included businesses in equity and fixed income sales, trading and research, investment banking, asset management, private investment management and private equity. The Lehman Group is headquartered in New York, with regional headquarters in London and Tokyo, and other offices around the world. Because the Lehman Group's segments operate globally, the businesses of the different offices are closely intertwined.

9. Indeed, as part of an international financial group, the Lehman Group's broker-dealer in the United Kingdom and its broker-dealer in the United States both benefited from a guarantee given by Lehman Brothers Holdings Inc. ("LBHI"). Many counterparties of the U.K. and U.S. broker-dealers relied on this guarantee for comfort in transacting business with them.

10. The Lehman Group's interdependence was both financial and operational. For instance, as part of its global treasury management, the Lehman Group

operated a "cash sweep" system. Pursuant to that system, at the end of each trading day, cash in all of the companies within the Lehman Group was transferred to LBHI. During each trading day, LBHI would transfer cash to each of the Lehman Group companies to enable them to meet their cash requirements during that day. The companies within the Lehman Group were therefore reliant upon receipt of that cash from LBHI each day to enable them to make any payments.

11. Lehman Brothers International (Europe) ("LBIE") was the principal trading company, and broker-dealer, within the Lehman Group in Europe. Its business involves the provision of a wide range of financial services, including trading and broking equity and fixed income instruments and financial derivatives. It carried out its business globally. LBIE's headquarters are in London, though it has offices in several other countries in Europe and Asia.

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13. Lehman Brothers Limited ("LBL") provides administrative services to fellow Group companies in the U.K. and European operations of Lehman, including the provision of property, employees and support services such as IT, clearance and settlement.

14. Lehman Brothers Holdings plc ("LBH") holds fixed asset investments in a range of assets, the majority of which are held through investments in subsidiaries.

15. Following the real estate crisis in the United States, the necessity for the Lehman Group to make a number of provisions and write-downs in its accounts, loss of investor and market confidence, the Chapter 11 filing of the Lehman Group's ultimate

holding company, LBHI, and other factors, the European Group companies listed above were forced to enter English administration proceedings.

The Joint Administrators' Activities To Date

16. In the few days since the Appointment Orders were entered last Monday, the Joint Administrators have endeavored to investigate and to understand the far-flung operations of the Lehman European Group Administration Companies' businesses, which are by no means confined to Europe. As described above, the Lehman European Group Administration Companies operated hand in hand with their U.S. counterparts, as well as providing financial services from a variety of offices in Europe, the Middle East, and Asia to clients across the world.

17. The Joint Administrators have installed a team of approximately 200 PricewaterhouseCoopers LLP employees and 100 lawyers at the offices of the Lehman European Group Administration Companies to manage those companies' business and affairs, including gaining an understanding of the companies' businesses and financial status. The Joint Administrators, our staff and the Lehman's employees have also had correspondence and notices from a vast number of creditors and counterparties in respect of their claims and other concerns. The Joint Administrators and our staff must also address continuation of the businesses and employee retention. Counsel for the Joint Administrators have met and spoken with counsel for the Debtors as well. Although significant progress had been made, it is obvious that the investigation of the Lehman European Group Administration Companies' business and financial affairs will take a significant time to be completed.

18. The investigation to date has, however, highlighted certain important considerations relating to the Asset Purchase Agreement dated as of September 16, 2008

("APA"). These issues arise from the intimate interconnection of the Lehman Group's global business segments.

19. First, there appear to be a number of assets utilized by or in the name of LBI and/or the Debtors that are actually owned by one of the Lehman European Group Administration Companies (and/or their subsidiaries). For example, certain Lehman European Group Administration Companies, predominantly LBL, employed approximately 900 IT staff, and engaged a further 100 or so independent individual IT contractors. That large base of internal IT staff provided support and development for IT applications used not only in Europe, but around the world, including by Debtor LBHI and LBI. Under English law, intellectual property rights ordinarily vest in the employer, and certain inter-company correspondence reviewed by the Joint Administrators' counsel appears to acknowledge ownership, in whole or part, by LBL of a number of software packages used by U.S. Lehman entities. Several of those software packages, such as SUB M and LMX/LOB, are vital to the trading and investment banking activities of the Lehman Group and its constituent businesses. They represent extremely valuable property rights.

20. In addition, there appear to be some client contracts which were or are jointly performed by LBI and/or the Debtors, on the one hand, and one or more of the Lehman European Group Administration Companies (and/or their subsidiaries), on the other. The Joint Administrators' investigation is still preliminary, and it is too early to know with certainty which U.S. or U.K. entity owns which items of jointly utilized intellectual property. Indeed, it is too early to know with certainty about the ownership of many jointly shared or otherwise utilized assets.

21. Just as employees of the Lehman European Group Administration Companies (and/or their subsidiaries) created software applications used in the U.S., employees of LBI contributed to applications now used by the Lehman European Group

Administration Companies (and/or their subsidiaries). In the ordinary course of a separation between the U.K. and U.S. entities of the Lehman Group, the Lehman European Group Administration Companies (and/or their subsidiaries) would seek assurances that they could continue to use this software after closing of a sale of a U.S. entity. Without such assurances, the Lehman European Group Administration Companies' (and/or their subsidiaries') businesses cannot operate without infringing intellectual property rights. It appears from the Joint Administrators' preliminary investigation that no express written intra-group IP license was put in place, although it is the Joint Administrators' Counsel's view that an implied license would likely exist. To ensure the orderly continuation of the Lehman European Group Administration Companies' (and/or their subsidiaries') businesses and to prevent potentially serious disruption to the Joint Administrators discharging their functions, an appropriate perpetual and royalty-free license must be negotiated and agreed by the relevant parties.

22. Second, in order to preserve the continuity and value of the Lehman European Group Administration Companies' businesses, there needs to be an agreement among the parties as to transitional services. LBI currently makes software applications and data storage facilities available to the Lehman European Group Administration Companies (and/or their subsidiaries) on its servers; for example the core Ebanker system used by the global investment banking group. Should the parties agree on a licensing arrangement, the Lehman European Group Administration Companies will require a period of time in which to transfer applications and data to their own servers, as well as the cooperation of the U.S. entities with that effort. Without such a transitional arrangement, the Lehman European Group Administration Companies' businesses and, consequently, the Joint Administrators' ability to deal with those businesses, will be significantly impaired.

Books and Records

23. The Joint Administrators require access rights to the books and records to be retained by Seller and Purchaser to the extent reasonably required in the administration of the Lehman European Group Administration Companies. The Joint Administrators must investigate and understand a complex business with a global reach, much of it directed and financed out of the United States headquarters. The daily global cash sweep controlled by LBHI is only one example of funds flows into and out of the United States that the Joint Administrators must understand and reconcile for the benefit of the creditors of the Lehman European Group Administration Companies. Without reasonable access to the books and records to be retained by Seller and Purchaser, the Joint Administrators will be impeded in our duties.

Confidentiality

24. The IT systems and databases contain extensive proprietary and confidential information. Given that the IT systems are so integrated and closely linked, as described above, in the absence of appropriate agreement or protection, that information is available to the Sellers, of which they may be able to make unrestricted use. To protect that information and the Lehman European Group Administration Companies' interests in it, appropriate restrictions must be negotiated and agreed among the relevant parties. Consequently, the APA should include protections for the confidential information of the Lehman European Group Administration Companies (and their subsidiaries) as well as for the benefit of the Buyer.

Transfer of Lehman European Group Administration Companies' Funds

25. The Joint Administrators' preliminary investigation over the first few days of the Administration has already revealed evidence of substantial transfers of securities

out of LBIE which merit close investigation. LBIE is the Administration Company entity that was the broker-dealer for the Lehman European Group. In its ordinary course of business before entering administration, LBIE held billions of dollars worth of securities. As the market lost confidence in the Lehman Group in recent weeks, many of its clients in the prime brokerage business began to transfer their securities from the Lehman Group to other prime brokers.


26. In such cases, it appears, the securities were typically transferred from LBIE to LBI, the U.S. broker-dealer, then to another Lehman Group entity located in Luxembourg, and from there to the new prime broker. What was supposed to happen next was that the funds to reimburse LBIE in respect of the securities and any margin posted in connection with the client accounts were to flow from the new prime broker back through the chain of Lehman entities to LBIE. But in many cases, it appears, that did not happen. The Joint Administrators' understanding so far is that those funds were transferred from the new prime broker through the Luxembourg entity to LBI. It seems the funds never reached LBIE. In just the past few days, the Joint Administrators have identified more than \$8 billion in such funds that are due to LBIE but that LBIE does not hold. As the investigation progresses, it is quite possible that the Joint Administrators will discover further transfers that may require investigation.

27. Depending on the results of the Joint Administrators' investigations, transfers of this magnitude could have a significant effect on the creditors of LBIE, potentially depriving them of billions of dollars in recoveries. It will be our duty as the Joint Administrators to attempt to find and recover those funds. As counsel for the Joint Administrators have been informed by Debtors' counsel that LBI had negligible cash left at the Petition Date, it is likely that the funds referred to above have been disbursed to third parties in the days before these proceedings were commenced. Should the Joint

Administrators need to proceed against those third parties to recover assets, there should be no impediment to doing so by virtue of the proposed sale, if it is approved.

I certify pursuant to 28 U.S.C. § 1746 under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 19 day of September, 2008
In London, England



Dan Yoram Schwarzmenn

EXHIBIT 1

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

COMPANIES COURT

Before the Honourable Mr Justice Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LEHMAN BROTHERS HOLDINGS PLC

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

Nos 7942



~~DRAFT~~ ORDER

UPON THE UNISSUED APPLICATION of the directors of Lehman Brothers Holdings Plc (company number 1854685) of 25 Bank Street, London E14 5LE (the "**Applicants**")

AND UPON HEARING Leading Counsel for the Applicants

AND UPON READING the evidence

AND UPON the Applicants undertaking, through Leading Counsel, to issue the Application and to file the evidence as soon as is reasonably practicable

AND UPON the Court being satisfied on the evidence before it that the EC Regulation does apply and that each and all of these proceedings are main proceedings as defined in Article 3 of the EC Regulation

IT IS ORDERED that:

1. Anthony Victor Lomas, Steven Anthony Pearson, Dan Yoram Schwarzmans and Michael John Andrew Jervis (the "**Joint Administrators**") of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A, 4HT be appointed as joint administrators of Lehman Brothers Holdings Plc;

2. during the period for which this order is in force the affairs, business and property of the Companies be managed by the Joint Administrators in accordance with the Insolvency Act 1986;
3. any act required or authorised under any enactment to be done by either or all of the Joint Administrators may be done by any one or more of the person for the time being holding that office;
4. service of the Application on the Joint Administrators and Mable Commercial Funding Limited be dispensed with;
5. the time for hearing the Application be abridged, pursuant to rule 12.9(2) of the Insolvency Rules 1986, so as to enable this to be heard today;
6. the costs of and incidental to this Application be paid as an expense of the administration;
7. the appointments of the Joint Administrators shall take effect from 07.56 am on 15 September 2008

Nos. 7943

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

COMPANIES COURT



Before the Honourable Mr Justice
Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LEHMAN BROTHERS
HOLDINGS PLC

AND IN THE MATTER OF THE INSOLVENCY
ACT 1986

~~DRAFT~~ ORDER

Linklaters
One Silk Street
London EC2Y 8HQ

Tel: +(44) 207 456 2000

Ref: Euan Clarke

EXHIBIT 2

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

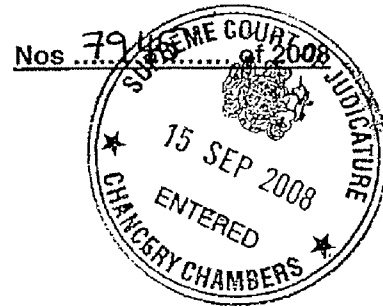
COMPANIES COURT

Before the Honourable Mr Justice Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LEHMAN BROTHERS LIMITED

AND IN THE MATTER OF THE INSOLVENCY ACT 1986



~~DRAFT ORDER~~

UPON THE UNISSUED APPLICATION of the directors of Lehman Brothers Limited (company number 846922) of 25 Bank Street, London E14 5LE (the "**Applicants**")

AND UPON HEARING Leading Counsel for the Applicants

AND UPON READING the evidence

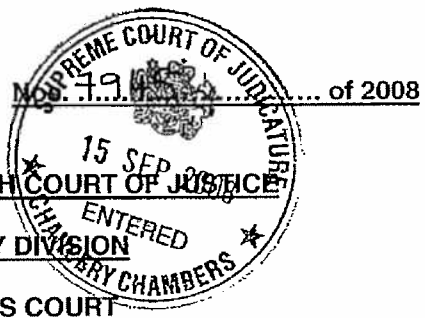
AND UPON the Applicants undertaking, through Leading Counsel, to issue the Application and to file the evidence as soon as is reasonably practicable

AND UPON the Court being satisfied on the evidence before it that the EC Regulation does apply and that each and all of these proceedings are main proceedings as defined in Article 3 of the EC Regulation

IT IS ORDERED that:

1. Anthony Victor Lomas, Steven Anthony Pearson, Dan Yoram Schwarzmann and Michael John Andrew Jervis (the "**Joint Administrators**") of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A, 4HT be appointed as joint administrators of Lehman Brothers Limited;

2. during the period for which this order is in force the affairs, business and property of the Companies be managed by the Joint Administrators in accordance with the Insolvency Act 1986;
3. any act required or authorised under any enactment to be done by either or all of the Joint Administrators may be done by any one or more of the person for the time being holding that office;
4. service of the Application on the Joint Administrators be dispensed with;
5. the time for hearing the Application be abridged, pursuant to rule 12.9(2) of the Insolvency Rules 1986, so as to enable this to be heard today;
6. the costs of and incidental to this Application be paid as an expense of the administration;
7. the appointments of the Joint Administrators shall take effect from 07:56am on 15 September 2008



IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT

Before the Honourable Mr Justice
Henderson

Monday the 15th day of September 2008

**IN THE MATTER OF LEHMAN BROTHERS
LIMITED**

**AND IN THE MATTER OF THE INSOLVENCY
ACT 1986**

DRAFT ORDER

Linklaters
One Silk Street
London EC2Y 8HQ

Tel: +(44) 207 456 2000

Ref: Euan Clarke

EXHIBIT 3

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

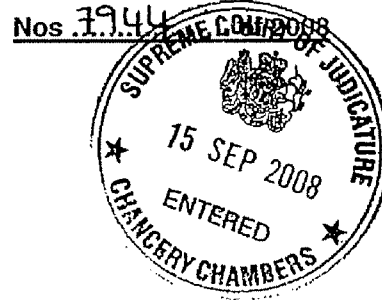
COMPANIES COURT

Before the Honourable Mr Justice Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LB UK RE HOLDINGS LIMITED

AND IN THE MATTER OF THE INSOLVENCY ACT 1986



DRAFT ORDER

UPON THE UNISSUED APPLICATION of the directors of LB UK RE Holdings Limited (company number 5347966) of 25 Bank Street, London E14 5LE (the "**Applicants**")

AND UPON HEARING Leading Counsel for the Applicants

AND UPON READING the evidence

AND UPON the Applicants undertaking, through Leading Counsel, to issue the Application and to file the evidence as soon as is reasonably practicable

AND UPON the Court being satisfied on the evidence before it that the EC Regulation does apply and that each and all of these proceedings are main proceedings as defined in Article 3 of the EC Regulation

IT IS ORDERED that:

1. Anthony Victor Lomas, Steven Anthony Pearson, Dan Yoram Schwarzmans and Michael John Andrew Jervis (the "**Joint Administrators**") of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A, 4HT be appointed as joint administrators of LB UK RE Holdings Limited;

2. during the period for which this order is in force the affairs, business and property of the Companies be managed by the Joint Administrators in accordance with the Insolvency Act 1986;
3. any act required or authorised under any enactment to be done by either or all of the Joint Administrators may be done by any one or more of the person for the time being holding that office;
4. service of the Application on the Joint Administrators be dispensed with;
5. the time for hearing the Application be abridged, pursuant to rule 12.9(2) of the Insolvency Rules 1986, so as to enable this to be heard today;
6. the costs of and incidental to this Application be paid as an expense of the administration;
7. the appointments of the Joint Administrators shall take effect from 7.56 a.m on 15 September 2008

Nos. 7944.....

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

COMPANIES COURT



Before the Honourable Mr Justice
Henderson

Monday the 15th day of September 2008

**IN THE MATTER OF LB UK RE HOLDINGS
LIMITED**

**AND IN THE MATTER OF THE INSOLVENCY
ACT 1986**

DRAFT ORDER

Linklaters
One Silk Street
London EC2Y 8HQ

Tel: +(44) 207 456 2000

Ref: Euan Clarke

EXHIBIT 4

IN THE HIGH COURT OF JUSTICE

Nos 7942 of 2008

CHANCERY DIVISION

COMPANIES COURT

Before the Honourable Mr Justice Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LEHMAN BROTHERS INTERNATIONAL (EUROPE)

AND IN THE MATTER OF THE INSOLVENCY ACT 1986



DRAFT ORDER

UPON THE UNISSUED APPLICATION of the directors of Lehman Brothers International (Europe) (company number 2538254) of 25 Bank Street, London E14 5LE (the "Applicants")

AND UPON HEARING Leading Counsel for the Applicants and Leading Counsel for the Financial Services Authority

AND UPON READING the evidence

AND UPON the Applicants undertaking, through Leading Counsel, to issue the Application and to file the evidence as soon as is reasonably practicable

AND UPON the Court being satisfied on the evidence before it that the EC Regulation does not apply

IT IS ORDERED that:

1. Anthony Victor Lomas, Steven Anthony Pearson, Dan Yoram Schwarzmann and Michael John Andrew Jervis (the "**Joint Administrators**") of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A, 4HT be appointed as joint administrators of Lehman Brothers International (Europe);

2. during the period for which this order is in force the affairs, business and property of the Companies be managed by the Joint Administrators in accordance with the Insolvency Act 1986;
3. any act required or authorised under any enactment to be done by either or all of the Joint Administrators may be done by any one or more of the person for the time being holding that office;
4. service of the Application on the Joint Administrators and on the FSA be dispensed with;
5. the time for hearing the Application be abridged, pursuant to rule 12.9(2) of the Insolvency Rules 1986, so as to enable this to be heard today;
6. the costs of and incidental to this Application be paid as an expense of the administration;
7. the appointments of the Joint Administrators shall take effect from 07:56am on 15 September 2008

Nos. 7942



IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

COMPANIES COURT

Before the Honourable Mr Justice
Henderson

Monday the 15th day of September 2008

**IN THE MATTER OF LEHMAN BROTHERS
INTERNATIONAL (EUROPE)**

**AND IN THE MATTER OF THE INSOLVENCY
ACT 1986**

DRAFT ORDER

Linklaters
One Silk Street
London EC2Y 8HQ

Tel: +(44) 207 456 2000

Ref: Euan Clarke

EXHIBIT B

LINKLATER'S
COMMENTS
09/18/08

"745"

ASSET PURCHASE AGREEMENT

Delaware

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ASSET PURCHASE AGREEMENT, dated as of September 16, 2008 (this "Agreement"), among LEHMAN BROTHERS HOLDINGS INC., a Delaware corporation ("LBHI"), LEHMAN BROTHERS INC., a Delaware corporation ("LBI" and, together with LBHI, the "Seller"), LB 745 LLC, a { } limited liability company (collectively, "Seller"), and BARCLAYS CAPITAL INC., a Connecticut corporation ("Purchaser").

WITNESSETH:

LBHI

WHEREAS, { } is a debtor-in-possession under title [11] of the United States Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), and filed voluntary petitions for relief under chapter [11] of the Bankruptcy Code on September 15, 2008 in the United States Bankruptcy Court for the Southern District of New York (Manhattan) (the "Bankruptcy Court") (Case No. [08-12555]) (the "Bankruptcy Case");

WHEREAS, the Seller and its Subsidiaries presently conduct the Business;

and 745

and 745

WHEREAS, Seller desires to sell, transfer and assign to Purchaser, and Purchaser desires to purchase, acquire and assume from Seller pursuant to Sections 363 and 365 of the Bankruptcy Code, all of the Purchased Assets and Assumed Liabilities, all as more specifically provided herein; and

@ an Affiliate of

WHEREAS, Purchaser has agreed to provide to LBHI a debtor-in-possession facility (the "DIP Facility") and has agreed to provide to LBI certain other financing;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 Certain Definitions.

For purposes of this Agreement, the following terms shall have the meanings specified in this Section 1.1:

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person, and the term "control" (including the terms

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primarily
(l) assets related to the soliciting, placing, clearing and executing of buy and sell orders for futures and derivatives contracts by Lehman Brothers Derivative Products Inc. and all activities related or ancillary thereto;

(m) all artwork owned by Seller and its Subsidiaries;

4
(n) all assets related to the IMD Business and derivatives contracts;

(o) any assets set aside, segregated, or otherwise specifically identified as being held for the purpose of satisfying Excluded Liabilities referred to in Section 2.4(c); and

1.1(a)
(p) all real property leases of Seller and its Subsidiaries, and all rights and obligations appurtenant thereto, as set forth on Schedule I-1, other than the Transferred Real Property Leases; and

(q) the assets set forth on Schedule I-1

4
"Excluded Contracts" means all of the Contracts of Seller and its Subsidiaries, other than the Purchased Contracts.

"Furniture and Equipment" means all furniture, fixtures, furnishings, equipment, vehicles, leasehold improvements, and other tangible personal property owned or used by Seller and its Subsidiaries in the conduct of the Business, including all desks, chairs, tables, Hardware, copiers, telephone lines and numbers, telecopy machines and other telecommunication equipment, cubicles and miscellaneous office furnishings and supplies.

"GAAP" means generally accepted accounting principles in the United States as of the date hereof.

"Governmental Body" means any government or governmental or regulatory, judicial or administrative, body thereof, or political subdivision thereof, whether foreign, federal, state, national, supranational or local, or any agency, instrumentality or authority thereof, or any court or arbitrator (public or private) or any self-regulatory organization, including, but not limited to, the Financial Industry Regulatory Authority.

"Hardware" means any and all computer and computer-related hardware, networks and peripherals, including, but not limited to, information and communication systems, computers, file servers, facsimile servers, scanners, color printers, laser printers and networks.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

(p) any and all assets and rights of the Lehman European Group and their respective Subsidiaries;

"Joint Administrators" means Anthony Victor Lomas, Steven Anthony Rerson, Dan von Schwarzenmann and Michael John Andrew Jarvis as joint administrators on behalf of the Lehman European Group.

"IMB Business" means [the investment management business of Seller and its Subsidiaries.]

"Intellectual Property Rights" means, collectively, all intellectual property and other similar proprietary rights in any jurisdiction, whether owned or held for use under license, whether registered or unregistered, including without limitation such rights in and to: (i) patents and applications therefor, including continuations, divisionals, continuations-in-part, reissues, continuing patent applications, reexaminations, and extensions thereof, any counterparts claiming priority therefrom and patents issuing thereon (collectively, "Patents") and inventions, invention disclosures, discoveries and improvements, whether or not patentable, (ii) all trademarks, service marks, trade names, service names, brand names, all trade dress rights, logos, slogans, Internet domain names and corporate names and general intangibles of a like nature, together with the goodwill associated with any of the foregoing, and all applications, registrations and renewals thereof and all common law rights thereto (collectively, "Marks"), (iii) copyrights and registrations and applications therefor and renewals and extensions thereof, and works of authorship, databases and mask work rights, and all moral rights (collectively, "Copyrights"), (iv) all Software, Technology and market and other data, and rights to limit the use or disclosure of any of the foregoing by any Person, and (v) all claims, causes of action and defenses relating to the enforcement of any of the foregoing.

"Intellectual Property Licenses" means (i) any grant to a third Person of any license, immunity, a covenant not to sue or otherwise any right to use or exploit, any of the Purchased Intellectual Property owned by Seller or any of its Subsidiaries, and (ii) any grant to Seller or its Subsidiaries of a license, immunity, a covenant not to sue or otherwise any right to use or exploit any Purchased Intellectual Property which is not owned by Seller or any of the Subsidiaries.

"Knowledge of Seller" means the knowledge after due inquiry, as of the date of this Agreement, of the senior officers and directors of Seller and its Subsidiaries.

"Law" means any federal, state, local or foreign law, statute, code, ordinance, rule or regulation (including rules of any self-regulatory organization).

"Legal Proceeding" means any judicial, administrative or arbitral actions, suits, proceedings (public or private) or claims or any proceedings or investigations by or before a Governmental Body.

"Liability" means any debt, liability or obligation (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due), and including all costs and expenses relating thereto.

"Lien" means any lien, encumbrance, pledge, mortgage, deed of trust, security interest, claim, lease, charge, option, right of first refusal, easement, servitude,

"Lehman European Group" means Lehman Brothers Holdings Plc, Lehman Brothers Limited, Lehman Brothers International (Europe) and LB UK Holdings Limited.

proxy, voting trust or agreement, transfer restriction under any shareholder or similar agreement or encumbrance.

"Order" means any order, injunction, judgment, decree, ruling, writ, assessment or arbitration award of a Governmental Body.

"Ordinary Course of Business" means the ordinary and usual course of normal day-to-day operations of the Business through September 14, 2008 consistent with past practice.

"Permits" means any approvals, authorizations, consents, licenses, permits, registrations or certificates of a Governmental Body.

"Permitted Exceptions" means all (i) defects, exceptions, restrictions, easements, rights of way and encumbrances of record, (ii) statutory liens for current Taxes, assessments or other governmental charges not yet delinquent or the amount or validity of which is being contested in good faith by appropriate proceedings provided an appropriate reserve is established therefor; (iii) mechanics', carriers', workers', repairers' and similar Liens arising or incurred in the Ordinary Course of Business; (iv) zoning, entitlement and other land use and environmental regulations by any Governmental Body provided that such regulations have not been violated; (v) title of a lessor under a capital or operating lease; (vi) Liens arising under the DIP Facility; and (vii) the terms and provisions of the ground lease and related documents affecting the property located at 745 Seventh Avenue, New York, NY (the "745 Seventh Ground Lease").

"Person" means any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Body or other entity.

"Purchased Assets" means all of the assets of Seller ~~and its Subsidiaries~~ used in connection with the Business (excluding the Excluded Assets), including:

- (a) the Retained Cash;
- (b) all deposits (including customer deposits, security deposits for rent, electricity, telephone or otherwise and required capital deposits) and prepaid charges and expenses of Seller and its Subsidiaries associated with the Business, other than any deposits or prepaid charges and expenses paid in connection with or relating to any Excluded Assets;
- (c) ~~all rights of Seller and its Subsidiaries under [real property / real property leases]~~, together with all improvements, fixtures and other appurtenances thereto and rights in respect thereof;

the Transferred Real Property Leases

(Please specify any non-LBI assets to be conveyed)

(t) ^{any insurance proceeds from} the occurrence after the date hereof and prior to the Closing of any casualty or event loss with respect to any Transferred Real Property lease or any properties subject thereto.

- (n) rights to "Lehman" indices and analytics that support the indices;
- (o) general trading tools supporting the Business;
- (p) the stock of Townsend Analytics and the stock, equity interests or assets of any other Subsidiary of LBI that the Seller and Purchaser may mutually agree on prior of the entry of the Sale Order and of which a notice has been provided to any statutory committee;
- (q) the equity interests or assets (at the election of Purchaser in its sole discretion prior to the entry of the Sale Order) of Eagle Energy Management LLC;
- (r) all past and present goodwill and other intangible assets associated with or symbolized by the Business, including customer and supplier lists and the goodwill associated with the Purchased Intellectual Property; and
- (s) Mercantile Exchange license agreements with respect to 335 South LaSalle Street, Chicago, IL and 400 South LaSalle Street, Chicago, IL

and all other ~~analyses~~ indices and analytics used in the Business

"Purchased Contracts" means all Contracts associated with or necessary to carry on or are related to the operation of the Business, including those Contracts set forth on Schedule 1.1(c) (not including an assets listed under Excluded Assets)

designated as Purchaser Contracts pursuant to Section 2.5

"Purchased Intellectual Property" means the Purchased Marks and all other Intellectual Property Rights throughout the world that are used in, related to, or otherwise necessary for the Business, including all Intellectual Property Rights embodied in the Furniture and Equipment, the Software, the Technology and the Documents that are included in Purchased Assets

Software and Technology

"Purchaser Procedures Order" means an order of the Bankruptcy Court substantially in the form attached as Exhibit A. ~~(NYD: Fix Exhibit numbering)~~

"Purchased Marks" means the Mark "LEHMAN" and "LEHMAN BROTHERS" throughout the world, all other Marks throughout the world containing or incorporating the name "LEHMAN," the Internet domain name www.lehman.com, all other Internet domain names containing or incorporating any Purchased Marks, and any other Mark throughout the world that is used in, related to, or otherwise necessary for the Business; in each case, together with all of the goodwill associated therewith and all registrations and applications for the foregoing and all common law rights thereto.

(excluding any Excluded Assets)

"Sale Motion" means the motion or motions of Seller, in form and substance reasonably acceptable to Purchaser and Seller, seeking approval and entry of the Breakup Fee and Competing Bid Order and Sale Order.

"Sale Order" shall be an order or orders of the Bankruptcy Court in form and substance reasonably acceptable to Purchaser and Seller approving this Agreement and all of the terms and conditions hereof, and approving and authorizing Seller to

8.6 Confidentiality.

September 11

(a) Purchaser acknowledges that the Confidential Information provided to it in connection with this Agreement, including under Section 8.1, and the consummation of the transactions contemplated hereby, is subject to the terms of the confidentiality agreement between Purchaser and Seller dated ~~1-1-2008~~ 2008 (the "Confidentiality Agreement"), the terms of which are incorporated herein by reference. Effective upon, and only upon, the Closing Date, the Confidentiality Agreement shall terminate with respect to information relating solely to the Business or otherwise included in the Purchased Assets; provided, however, that Purchaser acknowledges that any and all other Confidential Information provided to it by Seller or its representatives concerning Seller and its Subsidiaries shall, other than Purchased Assets, remain subject to the terms and conditions of the Confidentiality Agreement after the Closing Date. For purposes of this Section 8.6, "Confidential Information" shall mean any confidential information with respect to, including, methods of operation, customers, customer lists, products, prices, fees, costs, Technology, inventions, Trade Secrets, know-how, Software, marketing methods, plans, personnel, suppliers, competitors, markets or other specialized information or proprietary matters.

(b) From and after the Closing, Seller shall, and shall cause its Subsidiaries to, use the same efforts to maintain the confidentiality of any proprietary or confidential information regarding the Purchased Intellectual Property as Seller and/or its Subsidiaries used to maintain the confidentiality of such information prior to the Closing.

8.7 Preservation of Records. Seller and Purchaser agree that each of them shall preserve and keep the records held by it or their Affiliates relating to the Business for a period of seven (7) years from the Closing Date (or such longer period as may be required by applicable Law) and shall make such records and personnel available to the other as may be reasonably required by such party in connection with, among other things, any insurance claims by, Legal Proceedings or tax audits against or governmental investigations of Seller or Purchaser or any of their Affiliates or in order to enable Seller or Purchaser to comply with their respective obligations under this Agreement and each other agreement, document or instrument contemplated hereby or thereby. In the event Seller or Purchaser wishes to destroy such records before or after that time (and such proposed destruction is not in violation of applicable Law), such party shall first give ninety (90) days prior written notice to the other, and such other party shall have the right at its option and expense, upon prior written notice given to such party within such ninety (90) day period, to take possession of the records within one hundred and eighty (180) days after the date of such notice.

8.8 Publicity. Neither Seller nor Purchaser shall issue any press release or public announcement concerning this Agreement or the transactions contemplated hereby without obtaining the prior written approval of the other party hereto, which approval will not be unreasonably withheld or delayed, unless, in the sole judgment of Purchaser or Seller, disclosure is otherwise required by applicable Law or by the Bankruptcy Court with respect to filings to be made with the Bankruptcy Court in connection with this

party
and to
the
Joint
Administrators

or the
Joint
Administrators

or as
may be
reasonably
required
by the
Joint
Administrators
for purposes
of the
administration
of the
Lehman
European
Group.

use in manner in which such trademarks have been used by Seller or they for any of its existing used

Lehman European Group as the case may be during the twelve months prior to the date hereof

Agreement or by the applicable rules of any stock exchange on which Purchaser or Seller lists securities, provided that the party intending to make such release shall use its best efforts consistent with such applicable Law or Bankruptcy Court requirement to consult with the other party with respect to the text thereof.

each member of the Lehman European Group

8.9 Trademark License. (a) From and after the closing Purchaser hereby grants Seller a perpetual, worldwide, nonexclusive, full paid, royalty-free license under the trademarks "LEHMAN" and "LEHMAN BROTHERS," including any logos containing such names (collectively, the "Licensed Marks") for a period of [six(6) months] as of the Closing Date, for use outside the United States and Canada or in connection with [the IMD Business and the unwinding of any of its other operations] including use in corporate or other entity names. The foregoing license as it relates to the IMD Business shall be assignable by Seller without the need for further consent to a purchaser of all or substantially all of the equity interests in or assets of the IMD Business. Seller shall have the right to sublicense the foregoing license to any of its Subsidiaries and an assignee in connection with a sale of all or substantially all of the IMD Business shall have a right to sublicense such right to any of its Affiliates in connection with the conduct of that business, provided that any such sublicense shall terminate on the date when Seller's or its assignee's license terminates. In the remainder of this provision, the licensee or sublicense (Seller or Seller's assignee or their sublicensees) shall be referred to as "Licensee." Each Licensee acknowledges Purchaser's ownership of the Licensed Marks and the validity of the Licensed Marks and shall not register any confusingly similar mark in any jurisdiction. All goodwill arising from use of the Licensed Marks shall inure to Purchaser's benefit. Each Licensee shall use each Licensed Mark in connection with any markings or other notices as required by law. Purchaser shall have the right to supervise and control the use of the Licensed Marks by each Licensee, including by reviewing specimens of use of the Licensed Marks, with respect to the nature and quality of the products and services designed, performed, distributed, sold or otherwise commercialized by such Licensee and the materials used to promote such products and services for the purpose of protecting and maintaining the validity of the Licensed Marks and the goodwill associated with the Licensed Marks. Each Licensee shall at all times use the Licensed Marks only in connection with goods and services of quality at least as high as that offered by Seller and its Affiliates under such marks immediately prior to the Closing. Any use of the Licensed Marks in connection with the IMD Business shall include a disclaimer in a form reasonably acceptable to Purchaser indicating that the IMD Business is not affiliated with Seller. Seller or its assignee shall be responsible for each Licensee's compliance with the terms of this Section 8.9 and shall be liable to Purchaser for any non-compliance by any such Licensee with any such terms. (b) Purchaser hereby grants to [Seller] a perpetual, irrevocable, worldwide, nonexclusive, fully-paid, royalty-free license under all non-Mark Purchased Intellectual Property used in or covering any business of the Seller and/or its Affiliates other than the Business [in the fields of investment management, investment research, portfolio management and other fields of the IMD Business] as well as the unwinding of any of Seller's other operations, solely for use in connection with such business outside of the Business. The foregoing license as it relates to the IMD Business shall be assignable without the requirement of

to each of

Each of Seller and the Lehman European Group

in their respective

the Lehman European Group or their respective

provided that the Lehman European Group shall be responsible for compliance with this Section 8.9 by it and its assigns

further consent by Seller in connection with a sale of all or substantially all of the assets of the IMD Business and may be sublicensed to any entity conducting the IMD Business and any successor of the IMD Business and any contractor providing services to such business or successor. The foregoing license shall be under Purchased Intellectual Property acquired by Purchaser hereunder that was previously owned by Seller or its Affiliates as well as Purchased Intellectual Property owned by third parties as to which Purchaser shall have after Closing has the right to grant a sublicense without requirement of additional consent or payment of additional consideration.

8.10 Use of Purchased Intellectual Property. Except as permitted under subsections 8.11 and 8.12 above, after the Closing Date, neither the Seller nor any of its Subsidiaries will, directly or indirectly, in any jurisdiction: (i) exploit or make use of, or authorize any third party to exploit or make use of, any of the Purchased Intellectual Property, or any Marks confusingly similar to the Purchased Marks; (ii) attempt to register the Purchased Marks or any mark confusingly similar thereto; (iii) challenge or otherwise contest the Purchaser's efforts to register, or enforce its trademark registrations for and trademark rights in, the Purchased Marks or its rights in other Purchased Intellectual Property.

8.11 Deferred Transfers.

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34B

and the Lehman European Group

Affiliates shall, from and after the Closing, be indemnified, reimbursed and held harmless from any and all liabilities, losses, claims, costs and expenses under or arising out of the relevant Seller Guarantee. From and after the Closing, Purchaser shall not permit any Contract to which a Seller Guarantee relates to be renewed, extended, amended or modified unless the Purchaser obtains and delivers to Seller the related Guaranteed Release duly executed by the beneficiaries of the related Seller Guarantee.

date hereof.

8.13 Transition Services. The Purchaser and Seller shall use commercially reasonable efforts to enter into a Transition Services Agreement in a form reasonably acceptable to Seller and Purchaser in order for each of Seller and Purchaser to continue to receive the services provided between LBI and LBHI on the Closing Date.

with the
Lehman
European
Group

8.14 Subleases.

during

during the twelve months
prior to

(a) For the leased premises located in 555 California Street, San Francisco, CA, Seller shall sublet to Purchaser pursuant to a sublease agreement (the "Seller Sublease"), reasonably acceptable to both Purchaser and Seller and subject to the terms of the applicable underlying lease, a portion of the demised premises in such location subject to the terms of the applicable lease and obtaining the landlord's consent to the Sublease or Bankruptcy Court approval. Purchaser shall bear its portion of the occupancy cost for such location based on the relative square footage sublet. Seller and Purchaser shall enter into the Seller Sublease at Closing to memorialize the provisions of this Section.

to the
same
manner
and
degree
as provided
during such
period.

(b) For the leased premises located in 125 High Street, Boston, MA, 190 S. LaSalle Street, Chicago, IL and 10250 Constellation Boulevard, Los Angeles, CA Seller shall assume such leases in connection with Seller's bankruptcy proceedings and assign such leases to Purchaser. Purchaser shall then sublet to Seller or a designee of Seller, in either event with credit reasonably acceptable to Purchaser, pursuant to three separate subleases (each, a "Purchaser Sublease", collectively the "Purchaser Sublease"), reasonably acceptable to both Purchaser and Seller and subject in all cases to the terms of the underlying lease, a portion of the demised premises in such locations shall be subject to obtaining the landlord's consent to each Sublease or Bankruptcy Court approval. Seller shall bear its portion of the occupancy cost for each such location based on the relative square footage sublet. Seller and Purchaser shall enter into each Sublease at Closing to memorialize the provisions of this Section.

Page
34A

8.15 Landlord Notice. Seller shall give notice, on the date hereof, to Rock-Forty-Ninth LLC in accordance with the terms of the 745 Seventh Ground Lease, regarding the transactions contemplated hereunder and shall provide Rock-Forty-Ninth LLC with the appropriate bankruptcy filings in order to provide adequate notice thereof under applicable Law.

✓ Rider 34A

(including
without
limitation
rights
to use
any
Purchased
Assets
used in
the
conduct
of the
business
of the
Lehman
European
Group
during the
twelve
months
prior to
the
date
hereof).

200 Park Avenue
New York, NY 10166
Facsimile: Jonathan Hughes, Esq.
Attention: [redacted]

(212) 412-7519

With a copy to:

Jonathan Hughes, Esq.

Clary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006
Facsimile: 212-225-3999

Attn: Victor I. Lewkow
David Leinwand
Duane McLaughlin

Attention

and

Sullivan & Cromwell LLP
125 Broad St.
New York, NY 10004
Facsimile: 212-558-3580

Attn: Mitchell S. Eitel
Jay Clayton

Attention

Facsimile: [redacted]
Attention: [redacted]

13.8 Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any law or public policy, all other terms or provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby are consummated as originally contemplated to the greatest extent possible.

13.9 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Nothing in this Agreement shall create or be deemed to create any third party beneficiary rights in any Person or entity not a party to this Agreement except as provided below. No assignment of this Agreement or of any rights or obligations hereunder may be made by either Seller or Purchaser (by operation of law or otherwise) without the prior written consent of the other parties hereto and any attempted assignment without the required

[New York #1948695 v2]

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and except that the Joint Administrators (on behalf of the Lehman European Group) are intended third party beneficiaries of Sections 8.7, 8.9 and 8.13.

consents shall be void, provided that Purchaser shall be entitled to assign its rights and obligations in whole or in part to its Affiliates. No assignment of any obligations hereunder shall relieve the parties hereto of any such obligations. Upon any such permitted assignment, the references in this Agreement to Purchaser shall also apply to any such assignee unless the context otherwise requires.

or to designate its rights
to acquire any assets
hereunder
to its
Affiliates

13.10 Non-Recourse. No past, present or future director, officer, employee, incorporator, member, partner or equityholder of Seller shall have any liability for any obligations or liabilities of Seller under this Agreement or the Seller Documents of or for any claim based on, in respect of, or by reason of, the transactions contemplated hereby and thereby.

13.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

[signature page follows]

13.12 Scope of Purchased Assets. This Agreement ~~is~~ not intended to convey and does not convey assets and liabilities from the non-U.S. and Canadian operations of Seller.

non-

rights

including
without
limitation,
any assets,
rights or
liabilities of
the Lehman
European
Group.

Rider 31

(c) Purchaser hereby grants to each member of the Lehman European Group and their respective Subsidiaries and assigns a perpetual, irrevocable, worldwide, nonexclusive, fully-paid, royalty-free license under all Purchased Intellectual Property (other than the Licensed Marks) for use in any manner in which such Intellectual Property Rights have been used by the Lehman European Group in their respective businesses during the twelve months prior to the date hereof.

Rider 34A

Without limiting the generality of the foregoing, the Transition Services Agreement shall further provide that each of Purchaser and Seller shall cooperate and reasonably assist the Lehman European Group and their respective Subsidiaries and assigns in the migration of any Information technology applications and data used by the Lehman European Group during the twelve months prior to the date hereof.

Rider 34B

(b) Both prior to and following the Closing, Purchaser and Seller agree that, to the extent that any of the assets or rights conveyed to Purchaser at Closing shall include any assets or rights of any member of the Lehman European Group, such assets and rights shall be treated for all purposes of this Agreement as Excluded Assets, and each of Purchaser and Seller shall cooperate and use their reasonable best efforts to effect the transfer of such assets and rights to the Lehman European Group as promptly as reasonably practicable. Without limiting the generality of the foregoing, each of Purchaser and Seller shall, and shall cause their respective Subsidiaries to, promptly remit to the Lehman European Group (by wire transfer of immediately available funds to such bank account or accounts specified by the Joint Administrators) any payments in respect of accounts receivable or other assets or rights of the Lehman European Group that are received from and after the Closing by Purchaser, Seller or any of their respective Subsidiaries or Affiliates.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

LEHMAN BROTHERS HOLDINGS
INC., et al.,

Debtor.

Chapter 11

Case No. 08-13555 (JMP)

(Jointly Administered)

DECLARATION OF DAN YORAM SCHWARZMANN

Dan Yoram Schwarzmnn, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury under the laws of the United States of America, as follows:

1. I make this declaration in support of the Response of the Joint Administrators of the Lehman European Group Administration Companies (as defined below) to Debtors' Motion to (A) Schedule a Sale Hearing; (B) Establish Sales Procedures; (C) Approve a Break-Up Fee; and (D) Approve the Sale of the Purchased Assets and the Assumption and Assignment of Contracts Relating to the Purchased Assets [D.I. # 60] (the "Sale Motion"). I am over the age of 18. If called upon, I could competently testify to all matters set forth herein based on my personal knowledge, or based on reports made by personnel whom I supervise, Lehman Group staff at the London premises and the books and records of the Lehman European Group Administration Companies.

2. On the 15th of September, 2008, the English High Court of Justice made four orders (the "Administration Orders", attached hereto as Exhibits 1-4) providing for the appointment of my colleagues Anthony Victor Lomas, Steven Anthony Pearson, and Michael John Andrew Jervis and I as Joint Administrators of Lehman Brothers Holdings plc, Lehman

Brothers Limited, LB UK RE Holdings Limited, and Lehman Brothers International (Europe) (together, the "Lehman European Group Administration Companies").

3. Messrs. Lomas, Pearson, and Jervis and I (collectively, the "Joint Administrators") are Partners at PricewaterhouseCoopers LLP, Plumtree Court, London EC4A 4HT.

English Administration Proceedings

4. The Joint Administrators derive their powers and duties from the English Insolvency Act 1986, as modified by the English Enterprise Act 2002. Administration is a proceeding for companies that are, or are likely to become, insolvent. It is similar in concept to Chapter 11 proceedings in the United States, but very different in detail.

5. Administrations under English law have three consecutive objectives:

- to "rescue" the company as a going concern; or,
- to achieve a better result for the company's creditors than would be achieved on a liquidation; or,
- if neither of the first two objectives are reasonably practicable and it does not unnecessarily harm the interests of the creditors of the company as a whole, to realize property to make a distribution to secured or preferential creditors.

6. After appointment, administrators take over management and control of the debtor company and have the power, on behalf of the company, to do all things necessary and expedient for the management of its affairs, business and property. The administrators may make distributions to creditors, subject in certain cases to court approval, and may make other payments that are likely to assist in achieving the purposes of the administration. They may pursue actions to set aside preferences and transactions at an undervalue as well as to

recover assets of the company that were wrongly disposed of. Administrators are agents of the company and officers of the English High Court.

7. Administrators must act in the interests of the creditors of the company as a whole, and are obligated to make formal proposals and to report regularly to creditors. Creditors have the right to approve the administrators' proposals at creditors' meetings and to appoint a creditors' committee. Creditors may propose and agree upon modifications to the administrators' proposals.

The Lehman European Group

8. The Lehman Brothers group of companies (the "Lehman Group"), of which the European Group is part, is a global investment bank. The business activities of the Lehman Group were organized in three segments which operate across the Group: capital markets, investment banking, and investment management. Those segments included businesses in equity and fixed income sales, trading and research, investment banking, asset management, private investment management and private equity. The Lehman Group is headquartered in New York, with regional headquarters in London and Tokyo, and other offices around the world. Because the Lehman Group's segments operate globally, the businesses of the different offices are closely intertwined.

9. Indeed, as part of an international financial group, the Lehman Group's broker-dealer in the United Kingdom and its broker-dealer in the United States both benefited from a guarantee given by Lehman Brothers Holdings Inc. ("LBHI"). Many counterparties of the U.K. and U.S. broker-dealers relied on this guarantee for comfort in transacting business with them.

10. The Lehman Group's interdependence was both financial and operational. For instance, as part of its global treasury management, the Lehman Group

operated a "cash sweep" system. Pursuant to that system, at the end of each trading day, cash in all of the companies within the Lehman Group was transferred to LBHI. During each trading day, LBHI would transfer cash to each of the Lehman Group companies to enable them to meet their cash requirements during that day. The companies within the Lehman Group were therefore reliant upon receipt of that cash from LBHI each day to enable them to make any payments.

11. Lehman Brothers International (Europe) ("LBIE") was the principal trading company, and broker-dealer, within the Lehman Group in Europe. Its business involves the provision of a wide range of financial services, including trading and broking equity and fixed income instruments and financial derivatives. It carried out its business globally. LBIE's headquarters are in London, though it has offices in several other countries in Europe and Asia.

12. LB UK RE Holdings Limited ("LBUKRE") is a holding company for the real estate division of the European Group. Its business consists primarily, both directly and through subsidiaries, of investing in real estate, funds, non-performing loans and sub-performing loans.

13. Lehman Brothers Limited ("LBL") provides administrative services to fellow Group companies in the U.K. and European operations of Lehman, including the provision of property, employees and support services such as IT, clearance and settlement.

14. Lehman Brothers Holdings plc ("LBH") holds fixed asset investments in a range of assets, the majority of which are held through investments in subsidiaries.

15. Following the real estate crisis in the United States, the necessity for the Lehman Group to make a number of provisions and write-downs in its accounts, loss of investor and market confidence, the Chapter 11 filing of the Lehman Group's ultimate

holding company, LBHI, and other factors, the European Group companies listed above were forced to enter English administration proceedings.

The Joint Administrators' Activities To Date

16. In the few days since the Appointment Orders were entered last Monday, the Joint Administrators have endeavored to investigate and to understand the far-flung operations of the Lehman European Group Administration Companies' businesses, which are by no means confined to Europe. As described above, the Lehman European Group Administration Companies operated hand in hand with their U.S. counterparts, as well as providing financial services from a variety of offices in Europe, the Middle East, and Asia to clients across the world.

17. The Joint Administrators have installed a team of approximately 200 PricewaterhouseCoopers LLP employees and 100 lawyers at the offices of the Lehman European Group Administration Companies to manage those companies' business and affairs, including gaining an understanding of the companies' businesses and financial status. The Joint Administrators, our staff and the Lehman's employees have also had correspondence and notices from a vast number of creditors and counterparties in respect of their claims and other concerns. The Joint Administrators and our staff must also address continuation of the businesses and employee retention. Counsel for the Joint Administrators have met and spoken with counsel for the Debtors as well. Although significant progress had been made, it is obvious that the investigation of the Lehman European Group Administration Companies' business and financial affairs will take a significant time to be completed.

18. The investigation to date has, however, highlighted certain important considerations relating to the Asset Purchase Agreement dated as of September 16, 2008

("APA"). These issues arise from the intimate interconnection of the Lehman Group's global business segments.

19. First, there appear to be a number of assets utilized by or in the name of LBI and/or the Debtors that are actually owned by one of the Lehman European Group Administration Companies (and/or their subsidiaries). For example, certain Lehman European Group Administration Companies, predominantly LBL, employed approximately 900 IT staff, and engaged a further 100 or so independent individual IT contractors. That large base of internal IT staff provided support and development for IT applications used not only in Europe, but around the world, including by Debtor LBHI and LBI. Under English law, intellectual property rights ordinarily vest in the employer, and certain inter-company correspondence reviewed by the Joint Administrators' counsel appears to acknowledge ownership, in whole or part, by LBL of a number of software packages used by U.S. Lehman entities. Several of those software packages, such as SUB M and LMX/LOB, are vital to the trading and investment banking activities of the Lehman Group and its constituent businesses. They represent extremely valuable property rights.

20. In addition, there appear to be some client contracts which were or are jointly performed by LBI and/or the Debtors, on the one hand, and one or more of the Lehman European Group Administration Companies (and/or their subsidiaries), on the other. The Joint Administrators' investigation is still preliminary, and it is too early to know with certainty which U.S. or U.K. entity owns which items of jointly utilized intellectual property. Indeed, it is too early to know with certainty about the ownership of many jointly shared or otherwise utilized assets.

21. Just as employees of the Lehman European Group Administration Companies (and/or their subsidiaries) created software applications used in the U.S., employees of LBI contributed to applications now used by the Lehman European Group

Administration Companies (and/or their subsidiaries). In the ordinary course of a separation between the U.K. and U.S. entities of the Lehman Group, the Lehman European Group Administration Companies (and/or their subsidiaries) would seek assurances that they could continue to use this software after closing of a sale of a U.S. entity. Without such assurances, the Lehman European Group Administration Companies' (and/or their subsidiaries') businesses cannot operate without infringing intellectual property rights. It appears from the Joint Administrators' preliminary investigation that no express written intra-group IP license was put in place, although it is the Joint Administrators' Counsel's view that an implied license would likely exist. To ensure the orderly continuation of the Lehman European Group Administration Companies' (and/or their subsidiaries') businesses and to prevent potentially serious disruption to the Joint Administrators discharging their functions, an appropriate perpetual and royalty-free license must be negotiated and agreed by the relevant parties.

22. Second, in order to preserve the continuity and value of the Lehman European Group Administration Companies' businesses, there needs to be an agreement among the parties as to transitional services. LBI currently makes software applications and data storage facilities available to the Lehman European Group Administration Companies (and/or their subsidiaries) on its servers; for example the core Ebanker system used by the global investment banking group. Should the parties agree on a licensing arrangement, the Lehman European Group Administration Companies will require a period of time in which to transfer applications and data to their own servers, as well as the cooperation of the U.S. entities with that effort. Without such a transitional arrangement, the Lehman European Group Administration Companies' businesses and, consequently, the Joint Administrators' ability to deal with those businesses, will be significantly impaired.

Books and Records

23. The Joint Administrators require access rights to the books and records to be retained by Seller and Purchaser to the extent reasonably required in the administration of the Lehman European Group Administration Companies. The Joint Administrators must investigate and understand a complex business with a global reach, much of it directed and financed out of the United States headquarters. The daily global cash sweep controlled by LBHI is only one example of funds flows into and out of the United States that the Joint Administrators must understand and reconcile for the benefit of the creditors of the Lehman European Group Administration Companies. Without reasonable access to the books and records to be retained by Seller and Purchaser, the Joint Administrators will be impeded in our duties.

Confidentiality

24. The IT systems and databases contain extensive proprietary and confidential information. Given that the IT systems are so integrated and closely linked, as described above, in the absence of appropriate agreement or protection, that information is available to the Sellers, of which they may be able to make unrestricted use. To protect that information and the Lehman European Group Administration Companies' interests in it, appropriate restrictions must be negotiated and agreed among the relevant parties. Consequently, the APA should include protections for the confidential information of the Lehman European Group Administration Companies (and their subsidiaries) as well as for the benefit of the Buyer.

Transfer of Lehman European Group Administration Companies' Funds

25. The Joint Administrators' preliminary investigation over the first few days of the Administration has already revealed evidence of substantial transfers of securities

out of LBIE which merit close investigation. LBIE is the Administration Company entity that was the broker-dealer for the Lehman European Group. In its ordinary course of business before entering administration, LBIE held billions of dollars worth of securities. As the market lost confidence in the Lehman Group in recent weeks, many of its clients in the prime brokerage business began to transfer their securities from the Lehman Group to other prime brokers.


26. In such cases, it appears, the securities were typically transferred from LBIE to LBI, the U.S. broker-dealer, then to another Lehman Group entity located in Luxembourg, and from there to the new prime broker. What was supposed to happen next was that the funds to reimburse LBIE in respect of the securities and any margin posted in connection with the client accounts were to flow from the new prime broker back through the chain of Lehman entities to LBIE. But in many cases, it appears, that did not happen. The Joint Administrators' understanding so far is that those funds were transferred from the new prime broker through the Luxembourg entity to LBI. It seems the funds never reached LBIE. In just the past few days, the Joint Administrators have identified more than \$8 billion in such funds that are due to LBIE but that LBIE does not hold. As the investigation progresses, it is quite possible that the Joint Administrators will discover further transfers that may require investigation.

27. Depending on the results of the Joint Administrators' investigations, transfers of this magnitude could have a significant effect on the creditors of LBIE, potentially depriving them of billions of dollars in recoveries. It will be our duty as the Joint Administrators to attempt to find and recover those funds. As counsel for the Joint Administrators have been informed by Debtors' counsel that LBI had negligible cash left at the Petition Date, it is likely that the funds referred to above have been disbursed to third parties in the days before these proceedings were commenced. Should the Joint

Administrators need to proceed against those third parties to recover assets, there should be no impediment to doing so by virtue of the proposed sale, if it is approved.

I certify pursuant to 28 U.S.C. § 1746 under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 19 day of September, 2008
In London, England

A handwritten signature in black ink, consisting of a stylized 'D' followed by a series of loops and a long horizontal stroke extending to the right.

Dan Yoram Schwarzmann

EXHIBIT 1

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

COMPANIES COURT

Before the Honourable Mr Justice Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LEHMAN BROTHERS HOLDINGS PLC

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

Nos 7943



~~DRAFT~~ ORDER

UPON THE UNISSUED APPLICATION of the directors of Lehman Brothers Holdings Plc (company number 1854685) of 25 Bank Street, London E14 5LE (the "**Applicants**")

AND UPON HEARING Leading Counsel for the Applicants

AND UPON READING the evidence

AND UPON the Applicants undertaking, through Leading Counsel, to issue the Application and to file the evidence as soon as is reasonably practicable

AND UPON the Court being satisfied on the evidence before it that the EC Regulation does apply and that each and all of these proceedings are main proceedings as defined in Article 3 of the EC Regulation

IT IS ORDERED that:

1. Anthony Victor Lomas, Steven Anthony Pearson, Dan Yoram Schwarzmann and Michael John Andrew Jervis (the "**Joint Administrators**") of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A, 4HT be appointed as joint administrators of Lehman Brothers Holdings Plc;

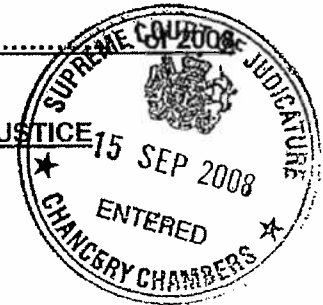
2. during the period for which this order is in force the affairs, business and property of the Companies be managed by the Joint Administrators in accordance with the Insolvency Act 1986;
3. any act required or authorised under any enactment to be done by either or all of the Joint Administrators may be done by any one or more of the person for the time being holding that office;
4. service of the Application on the Joint Administrators and Mable Commercial Funding Limited be dispensed with;
5. the time for hearing the Application be abridged, pursuant to rule 12.9(2) of the Insolvency Rules 1986, so as to enable this to be heard today;
6. the costs of and incidental to this Application be paid as an expense of the administration;
7. the appointments of the Joint Administrators shall take effect from 07.56 am on 15 September 2008

Nos. 7943

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

COMPANIES COURT



Before the Honourable Mr Justice
Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LEHMAN BROTHERS
HOLDINGS PLC

AND IN THE MATTER OF THE INSOLVENCY
ACT 1986

~~DRAFT~~ ORDER

Linklaters
One Silk Street
London EC2Y 8HQ

Tel: +(44) 207 456 2000

Ref: Euan Clarke

EXHIBIT 2

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

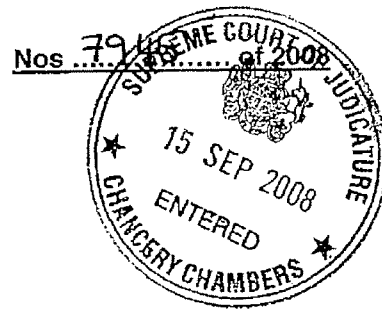
COMPANIES COURT

Before the Honourable Mr Justice Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LEHMAN BROTHERS LIMITED

AND IN THE MATTER OF THE INSOLVENCY ACT 1986



~~DRAFT ORDER~~

UPON THE UNISSUED APPLICATION of the directors of Lehman Brothers Limited (company number 846922) of 25 Bank Street, London E14 5LE (the "**Applicants**")

AND UPON HEARING Leading Counsel for the Applicants

AND UPON READING the evidence

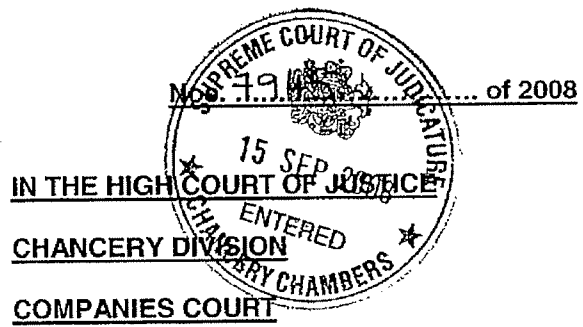
AND UPON the Applicants undertaking, through Leading Counsel, to issue the Application and to file the evidence as soon as is reasonably practicable

AND UPON the Court being satisfied on the evidence before it that the EC Regulation does apply and that each and all of these proceedings are main proceedings as defined in Article 3 of the EC Regulation

IT IS ORDERED that:

1. Anthony Victor Lomas, Steven Anthony Pearson, Dan Yoram Schwarzmann and Michael John Andrew Jervis (the "**Joint Administrators**") of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A, 4HT be appointed as joint administrators of Lehman Brothers Limited;

2. during the period for which this order is in force the affairs, business and property of the Companies be managed by the Joint Administrators in accordance with the Insolvency Act 1986;
3. any act required or authorised under any enactment to be done by either or all of the Joint Administrators may be done by any one or more of the person for the time being holding that office;
4. service of the Application on the Joint Administrators be dispensed with;
5. the time for hearing the Application be abridged, pursuant to rule 12.9(2) of the Insolvency Rules 1986, so as to enable this to be heard today;
6. the costs of and incidental to this Application be paid as an expense of the administration;
7. the appointments of the Joint Administrators shall take effect from 07:56am on 15 September 2008



Before the Honourable Mr Justice
Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LEHMAN BROTHERS
LIMITED

AND IN THE MATTER OF THE INSOLVENCY
ACT 1986

DRAFT ORDER

Linklaters
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Ref: Euan Clarke

EXHIBIT 3

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

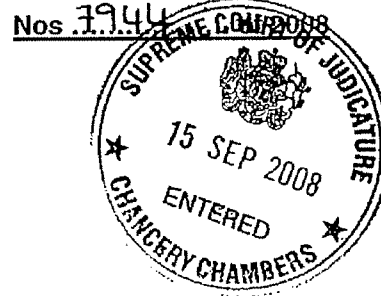
COMPANIES COURT

Before the Honourable Mr Justice Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LB UK RE HOLDINGS LIMITED

AND IN THE MATTER OF THE INSOLVENCY ACT 1986



DRAFT ORDER

UPON THE UNISSUED APPLICATION of the directors of LB UK RE Holdings Limited (company number 5347966) of 25 Bank Street, London E14 5LE (the "**Applicants**")

AND UPON HEARING Leading Counsel for the Applicants

AND UPON READING the evidence

AND UPON the Applicants undertaking, through Leading Counsel, to issue the Application and to file the evidence as soon as is reasonably practicable

AND UPON the Court being satisfied on the evidence before it that the EC Regulation does apply and that each and all of these proceedings are main proceedings as defined in Article 3 of the EC Regulation

IT IS ORDERED that:

1. Anthony Victor Lomas, Steven Anthony Pearson, Dan Yoram Schwarzmans and Michael John Andrew Jervis (the "**Joint Administrators**") of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A, 4HT be appointed as joint administrators of LB UK RE Holdings Limited;

2. during the period for which this order is in force the affairs, business and property of the Companies be managed by the Joint Administrators in accordance with the Insolvency Act 1986;
3. any act required or authorised under any enactment to be done by either or all of the Joint Administrators may be done by any one or more of the person for the time being holding that office;
4. service of the Application on the Joint Administrators be dispensed with;
5. the time for hearing the Application be abridged, pursuant to rule 12.9(2) of the Insolvency Rules 1986, so as to enable this to be heard today;
6. the costs of and incidental to this Application be paid as an expense of the administration;
7. the appointments of the Joint Administrators shall take effect from 7.56 a.m on 15 September 2008

Nos. 7944.....

IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

COMPANIES COURT



Before the Honourable Mr Justice
Henderson

Monday the 15th day of September 2008

**IN THE MATTER OF LB UK RE HOLDINGS
LIMITED**

**AND IN THE MATTER OF THE INSOLVENCY
ACT 1986**

DRAFT ORDER

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EXHIBIT 4

IN THE HIGH COURT OF JUSTICE

Nos 7942 of 2008

CHANCERY DIVISION

COMPANIES COURT

Before the Honourable Mr Justice Henderson

Monday the 15th day of September 2008

IN THE MATTER OF LEHMAN BROTHERS INTERNATIONAL (EUROPE)

AND IN THE MATTER OF THE INSOLVENCY ACT 1986



DRAFT ORDER

UPON THE UNISSUED APPLICATION of the directors of Lehman Brothers International (Europe) (company number 2538254) of 25 Bank Street, London E14 5LE (the "Applicants")

AND UPON HEARING Leading Counsel for the Applicants and Leading Counsel for the Financial Services Authority

AND UPON READING the evidence

AND UPON the Applicants undertaking, through Leading Counsel, to issue the Application and to file the evidence as soon as is reasonably practicable

AND UPON the Court being satisfied on the evidence before it that the EC Regulation does not apply

IT IS ORDERED that:

1. Anthony Victor Lomas, Steven Anthony Pearson, Dan Yoram Schwarzmans and Michael John Andrew Jervis (the "Joint Administrators") of PricewaterhouseCoopers LLP, Plumtree Court, London EC4A, 4HT be appointed as joint administrators of Lehman Brothers International (Europe);

2. during the period for which this order is in force the affairs, business and property of the Companies be managed by the Joint Administrators in accordance with the Insolvency Act 1986;
3. any act required or authorised under any enactment to be done by either or all of the Joint Administrators may be done by any one or more of the person for the time being holding that office;
4. service of the Application on the Joint Administrators and on the FSA be dispensed with;
5. the time for hearing the Application be abridged, pursuant to rule 12.9(2) of the Insolvency Rules 1986, so as to enable this to be heard today;
6. the costs of and incidental to this Application be paid as an expense of the administration;
7. the appointments of the Joint Administrators shall take effect from 07:56am on 15 September 2008

Nos. 7942



IN THE HIGH COURT OF JUSTICE

CHANCERY DIVISION

COMPANIES COURT

Before the Honourable Mr Justice
Henderson

Monday the 15th day of September 2008

**IN THE MATTER OF LEHMAN BROTHERS
INTERNATIONAL (EUROPE)**

**AND IN THE MATTER OF THE INSOLVENCY
ACT 1986**

~~DRAFT~~ ORDER

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Ref: Euan Clarke