
Hughes Hubbard & Reed

District Court Affirms Decision Regarding Set-Off in Lehman

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One Battery Park Plaza • New York, New York 10004-1482 • +1 (212) 837-6000

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District Court Judge Naomi Buchwald recently adopted certain arguments from the Amici Brief of Jim Giddens, trustee for the liquidation of Lehman Brothers Inc. (LBI) and the Securities Investor Protection Corporation (SIPC), in affirming a critical decision of Judge James Peck of the U.S. Bankruptcy Court for the Southern District of New York involving Swedbank AB's set-off claim against Lehman Brothers Holdings Inc. (LBHI).

Judge Peck's decision declined to permit Swedbank to set off its claim against LBHI arising under a pre-petition swap agreement against post-petition funds deposited in an LBHI account maintained by Swedbank. In his decision, Judge Peck held that, under the Bankruptcy Code, only mutual debts can be set off, even where an agreement providing for setoff is within the safe harbors for protected financial contracts. Weil Gotshal represented LBHI in this matter and Milbank represented LBHI's Creditors' Committee in a joinder in support of LBHI.

Since the demise of Lehman in 2008, Hughes Hubbard & Reed, on behalf of the trustee, has acted diligently to marshal assets of LBI and recover value from the unwinding of transactions among LBI and other broker-dealers, financial institutions and other parties involved in certain financial products. The firm's unwind efforts have resulted in the recovery of over \$3 billion to date for the Lehman Brothers Inc. estate.

Jim Fitzpatrick, Stephen Luger and Meaghan Gragg were all instrumental in drafting the Amici Brief. Jim Kobak and Chris Kiplok are the chief counsel to the Trustee, and Freddie Goudie and George Douvas lead the Trustee's efforts in connection with these unwind matters. Others working on the unwind effort are Adrian Esguerra, Alex Patchen, Arinze Ike, Christina Migally Gabriel, Emilio Saiz, Greg Farrell, Gisela Munoz, Justin Director, Kari Hirsch, Lisa Pisciotta, Unekuwo Idachaba and Windy McCracken.

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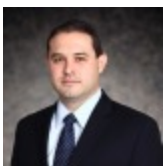
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James B. Kobak, Jr.



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