Hearing Date: March 21, 2017 at 10:00 a.m. (Prevailing Eastern Time)
Response Deadline: March 14, 2017 at 4:00 p.m. (Prevailing Eastern Time)

HUGHES HUBBARD & REED LLP
One Battery Park Plaza
New York, New York 10004
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re LEHMAN BROTHERS INC., Debtor.	Case No. 08-01420 (SCC) SIPA

NOTICE OF TRUSTEE'S MOTION FOR AN ORDER TO (I) ESTABLISH A FIFTH INTERIM DISTRIBUTION FUND FOR GENERAL UNSECURED CREDITOR CLAIMS, (II) RELEASE RESERVES FROM THE SECURED AND PRIORITY CLAIM RESERVE, THE FIRST INTERIM DISTRIBUTION FUND, THE SECOND INTERIM DISTRIBUTION FUND, THE THIRD INTERIM DISTRIBUTION FUND, AND THE FOURTH INTERIM DISTRIBUTION FUND, AND (III) MAKE A FIFTH INTERIM DISTRIBUTION TO HOLDERS OF ALLOWED GENERAL UNSECURED CREDITOR CLAIMS WITH A RECORD DATE OF FEBRUARY 26, 2017

PLEASE TAKE NOTICE that on February 24, 2017, James W. Giddens (the "Trustee"), as Trustee for the liquidation of the business of Lehman Brothers Inc. ("LBI") under the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. sections 78aaa *et seq.* ("SIPA"), by and through his undersigned counsel, hereby submits this motion to authorize the Trustee to: (i) establish a fifth interim distribution fund for general unsecured creditor claims; (ii) release reserves from the Secured and Priority Claim Reserve, the First Interim Distribution Fund, the Second Interim Distribution Fund, the Third Interim Distribution Fund, and the Fourth Interim Distribution Fund; and (iii) make a fifth interim distribution to record holders of general unsecured creditor claims as of February 26, 2017 (the "Record Date") that are currently allowed or become allowable (the "Motion").

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion will be held before the Honorable Shelley C. Chapman, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, Courtroom 623, One Bowling Green, New York, New York, 10004 (the "Bankruptcy Court"), on **March 21, 2017, at 10:00 a.m. (Prevailing Eastern Time)** or as soon thereafter as counsel may be heard (the "Hearing").

PLEASE TAKE FURTHER NOTICE that responses, if any, to entry of the Order must: (i) be in writing; (ii) state the name and address of the objecting party and nature of the claim or interest of such party; (iii) state with particularity the legal and factual bases of such objection; (iv) conform to the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules; (v) be filed with the Bankruptcy Court, together with proof of service, electronically, in accordance with General Order M-399, by registered users of the Court's Electronic Case Filing System, and by all other parties in interest, on a 3.5 inch disk, compact disk or flash drive, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format no later than **March 14, 2017 at 4:00 p.m. (Prevailing Eastern Time)** (the "Response Deadline"); and (vi) be served on (a) Hughes Hubbard & Reed LLP, One Battery Park Plaza, New York, New York 10004, Attn.: James B. Kobak, Jr., Esq. and Anson B. Frelinghuysen, Esq.; and (b) the Securities Investor Protection Corporation, 1667 K St. N.W., Suite 1000, Washington, D.C. 20006, Attn.: Kenneth J. Caputo, Esq., with a courtesy copy to the chambers of the Honorable Shelley C. Chapman, United States Bankruptcy Court, Courtroom 623, One Bowling Green, New York, New York 10004.

PLEASE TAKE FURTHER NOTICE that if no responses are timely filed and served with respect to the Motion, the Trustee may, on or after the Response Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the

Motion, which may be entered with no further notice or opportunity to be heard offered to any party.

Dated: New York, New York
February 24, 2017

HUGHES HUBBARD & REED LLP

By: /s/ Christopher K. Kiplok

James B. Kobak, Jr.
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Attorneys for James W. Giddens, Trustee for the SIPA Liquidation of Lehman Brothers Inc.

Hearing Date: March 21, 2017 at 10:00 a.m. (Prevailing Eastern Time)
Response Deadline: March 14, 2017 at 4:00 p.m. (Prevailing Eastern Time)

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In re LEHMAN BROTHERS INC., Debtor.	Case No. 08-01420 (SCC) SIPA

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re LEHMAN BROTHERS INC., Debtor.	Case No. 08-01420 (SCC) SIPA

TRUSTEE'S MOTION FOR AN ORDER TO (I) ESTABLISH A FIFTH INTERIM DISTRIBUTION FUND FOR GENERAL UNSECURED CREDITOR CLAIMS, (II) RELEASE RESERVES FROM THE SECURED AND PRIORITY CLAIM RESERVE, THE FIRST INTERIM DISTRIBUTION FUND, THE SECOND INTERIM DISTRIBUTION FUND, THE THIRD INTERIM DISTRIBUTION FUND, AND THE FOURTH INTERIM DISTRIBUTION FUND, AND (III) MAKE A FIFTH INTERIM DISTRIBUTION TO HOLDERS OF ALLOWED GENERAL UNSECURED CREDITOR CLAIMS WITH A RECORD DATE OF FEBRUARY 26, 2017

James W. Giddens (the "Trustee"), as Trustee for the liquidation of the business of Lehman Brothers Inc. ("LBI") under the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. sections 78aaa *et seq.* ("SIPA"), by and through his undersigned counsel, hereby submits this motion to authorize the Trustee to: (i) establish a fifth interim distribution fund for general unsecured creditor claims; (ii) release reserves from the Secured and Priority Claim Reserve, the First Interim Distribution Fund, the Second Interim Distribution Fund, the Third Interim Distribution Fund, and the Fourth Interim Distribution Fund; and (iii) make a fifth interim distribution to record holders of allowed general unsecured creditor claims as of February 26, 2017 (the "Record Date") that are currently allowed or become allowable (the "Motion"). In support of the Motion, the Trustee respectfully states the following:

PRELIMINARY STATEMENT

1. The Trustee is extremely pleased to submit for the Court's consideration this motion seeking approval of a fifth interim distribution of $228 million to LBI's general unsecured creditors.

2. Since effecting the fourth interim distribution in mid-2016, the Trustee has achieved significant recoveries for the LBI estate, resolved further disputed claims, and pared down customer, tax, and administrative reserves commensurate with the advanced progress of this, the largest SIPA liquidation in history. As a result, the Trustee believes it is prudent to seek the Court's approval to now bring total general unsecured creditor recoveries to thirty-nine percent and total general estate distributions to over $9 billion. To accomplish this, the Trustee will use virtually every available dollar in the estate, leaving only those funds necessary to reserve for unresolved claims and estate administration.

3. As with past distributions – including one hundred percent distribution on all allowed customer claims, one hundred percent distributions on all allowed secured, administrative, and priority claims, and thirty-eight percent distributions on all allowed general unsecured creditor claims – this further distribution could not have been achieved without the dedicated support and guidance of the Securities Investor Protection Corporation ("SIPC"), the Securities and Exchange Commission, and the lawyers, accountants, and other professionals that have worked tirelessly to bring closure and finality to LBI's tumultuous collapse.

4. This fifth interim distribution is principally made possible by the realization of $79 million through assets sales and other recovery efforts, the Trustee's determination, in consultation with SIPC, to release $61 million from the Administrative Expense Reserve based on the overall progress of the liquidation towards closure, the release of $17 million from general estate reserves related to unclaimed distributions and previously-disputed claims following

favorable resolution of litigation since May 2016, and the allocation of $9 million from the fund of customer property to the general estate in connection with a reduction of customer reserves. With nearly ninety-five percent of LBI's general unsecured creditor claims held by twenty creditors, a distribution of this magnitude is material to the claimant base, and this material benefit outweighs any administrative burden of effecting a fifth distribution.

5. Following this distribution, the potential for any further distributions will depend almost entirely on the outcome of claims disputes pending before this and appellate courts. To protect the interests of creditors with allowed claims to the fullest extent possible, the Trustee is committed to defending the positions he believes are legally and factually correct and the decisions of the courts sustaining those positions. However, it is apparent that resolution of these matters may take substantial time. At this juncture, further distributions in 2017 are unlikely and may not occur until the conclusion of the liquidation.

6. SIPC has overseen all aspects of this liquidation, and it supports the relief requested herein.

BACKGROUND

7. On September 19, 2008 (the "Filing Date"), the Honorable Gerard E. Lynch, United States District Court Judge for the Southern District of New York, entered the Order Commencing Liquidation of LBI (the "LBI Liquidation Order," ECF. No. 1) pursuant to the provisions of SIPA in the case captioned *Securities Investor Protection Corporation v. Lehman Brothers Inc.*, Case No. 08-CIV-8119 (GEL) (S.D.N.Y. Sept. 19, 2008). The LBI Liquidation Order, *inter alia*, (i) appointed the Trustee for the liquidation of the business of LBI pursuant to section 78eee(b)(3) of SIPA and (ii) removed the case to this Court pursuant to section

78eee(b)(4) of SIPA, in the case captioned *In re Lehman Brothers Inc.*, Case No. 08-01420 (SCC) (Bankr. S.D.N.Y. Sept. 19, 2008) (the "SIPA Proceeding").

8. On November 15, 2012, the Court entered the Order Pursuant to Section 105(a) of the Bankruptcy Code and Bankruptcy Rules 3007 and 9019(b) for Approval of General Creditor Claim Objection Procedures (the "Objection Procedures Order," ECF No. 5441) establishing procedures for the Trustee to object to general creditor claims.

9. On November 5, 2015, the Court entered the Order to Establish (i) a Deadline of December 15, 2015 for Submission of Required Distribution Information By Specified General Estate Claimants and (ii) Related Distribution Procedures (the "Distribution Procedures Order," ECF No. 13039) establishing procedures for the Trustee to expunge waived allowed general creditor claims upon sixty days' notice.

GENERAL ESTATE DISTRIBUTIONS

10. After making a one hundred percent distribution on over $110 billion of customer claims and based, in large part, on continued progress in resolving general creditor claims, the Trustee has effectuated distributions of over $8.841 billion[1] from the general estate pursuant to five Orders entered by this Court:

- The Trustee established the Secured and Priority Claim Reserve of $622 million and has distributed $253 million of that since July 2014 (ECF No. 9273; Dunn Decl. ¶ 3);

- The Trustee established the First Interim Distribution Fund of $4.678 billion and has distributed $3.842 billion of that since September 2014 (ECF No. 9647; Dunn Decl. ¶ 4);

1. For the purposes of this Motion, estate assets and liabilities are calculated as of January 31, 2017, unless otherwise noted, with supporting information available in the Declaration of John A. Dunn, dated February 24, 2017 (the "Dunn Decl.") attached as Exhibit 1.

- The Trustee established the Second Interim Distribution Fund of $2.443 billion and has distributed $2.260 billion of that since March 2015 (ECF No. 11358; Dunn Decl. ¶ 5);

- The Trustee established the Third Interim Distribution Fund of $1.898 billion and has distributed $1.808 billion of that since September 2015 (ECF No. 12579; Dunn Decl. ¶ 6); and

- The Trustee established the Fourth Interim Distribution Fund of $687 million and has distributed $678 million of that since June 2016 (ECF No. 13683; Dunn Decl. ¶ 7).

11. The proposed fifth interim distribution is made possible as the result of progress made in the liquidation in the past eight months:

- First, the Trustee has realized $79 million through assets sales and other recoveries in 2016 (*Id*. ¶ 11);

- Second, the Trustee believes it is prudent to reduce the Administrative Expense Reserve by $61 million in light of the substantial reduction of the scope of the liquidation and progress made towards its closure (*Id*. ¶ 10);

- Third, between May 15, 2016, when the Trustee created the Fourth Interim Distribution Fund, and January 31, 2017, the Trustee has resolved further secured and priority claims and general unsecured creditor claims for less than their capped amounts, permitting the release of $12 million in interim distribution reserves. The Trustee also, in February 2017, resolved a further claim for substantially less than its capped amount (*see* ECF No. 14157), which will permit the release of a further $5 million upon finality. An additional $495,730 has become available by virtue of the procedures for unclaimed distributions approved by the Court in the Distribution Procedures Order (ECF No. 13039; Dunn Decl. ¶ 8);

- Fourth, the Trustee has allocated $9 million previously reserved in the fund of customer property for unresolved customer claims and for unknown liabilities to the general estate (*Id*. ¶ 13); and

- Fifth, the Trustee released $5 million in reserves previously held with respect to potential claims for post-filing date income on estate securities. (*Id*. ¶ 13.)

12. Other than the release of reserves that are no longer necessary and can be released for distribution to LBI's general unsecured creditors, the Secured and Priority Claim Reserve, the First Interim Distribution Fund, the Second Interim Distribution Fund, the Third Interim Distribution Fund, and the Fourth Interim Distribution Fund are unaffected by the relief sought in this Motion. (*Id.* ¶ 9.) Respectively, each will continue to hold a reserve equivalent to one-hundred percent, seventeen percent, ten percent, eight percent, and three percent of the capped amount of all unresolved claims or of the allowed amount of all otherwise undistributed claims. (*Id.*) Holders of unresolved or otherwise undistributed secured and priority and general unsecured creditor claims as of the record dates for such claims will remain entitled to the corresponding distribution on their claims if they are allowed and upon the return of the necessary distribution information. (*Id.*)

THE PROPOSED FIFTH INTERIM GENERAL UNSECURED DISTRIBUTION

13. Four categories of general unsecured creditor claims are subject to the Trustee's proposed fifth interim distribution:

a. Claims that have been allowed or settled ("Allowed Unsecured Claims");

b. Claims, the allowance of which is pending before the Court ("Pending Claims");

c. Claims subject to objections pending before the Court where the validity of the claim or claimed amount is in dispute ("Unresolved Claims"); and

d. Claims subordinated or reclassified to equity ("Subordinated Claims").

14. Taking into account the required reserves detailed in the Dunn Declaration, a maximum total of $229 million is potentially available for a fifth interim general unsecured distribution, inclusive of the reserve releases and allocation detailed in paragraph 11, *supra*.

(Dunn Decl. ¶¶ 8 - 13.) The Trustee seeks this Court's authorization to use these funds to establish a Fifth Interim Distribution Fund, comprising two components: (i) $226 million for the purposes of making a fifth interim distribution of one percent to record holders of Allowed Unsecured Claims; and (ii) reserves of $2 million equal to one percent of the previously-capped amount of all remaining Unresolved and Pending Claims. (*Id.* ¶ 14.)

15. By maintaining sufficient customer, secured and priority, and general unsecured creditor reserves, the Trustee assures that claimants with disputed claims are not prejudiced by the relief requested by this Motion. To the extent an Unresolved or Pending Claim becomes an allowed general unsecured creditor claim, the Trustee will make a distribution on that claim to the relevant record date holder from each of the distribution funds.

16. At least two business days prior to the hearing on this Motion, the Trustee will submit a supplemental declaration updating the figures in this Motion to reflect estate activity through the record date of February 26, 2017 and a revised proposed Order that will contain updated figures on the amount of reserves to be released and the magnitude of the Fifth Interim Distribution Fund considering claims resolved through the record date. The Trustee will also submit schedules indicating the February 26, 2017 record date status of all general unsecured creditor claims, and those schedules will be the sole basis entitling holders of general unsecured creditor claims to a fifth interim distribution. (*Id.* ¶ 15.)

JURISDICTION

17. Following removal to this Court for all purposes as required for SIPA cases by section 78eee(b)(4) of SIPA, this Court has "all of the jurisdiction, powers, and duties conferred by [SIPA] upon the court to which the application for the issuance of the protective decree was made." 15 U.S.C. § 78eee(b)(4).

18. Venue is proper in this Court pursuant to SIPA section 78eee(a)(3) and 15 U.S.C. section 78aa.

RELIEF REQUESTED

19. By this Motion, the Trustee requests that, pursuant to sections 105(a), 502(a), 502(c), and 726 of the Bankruptcy Code and Bankruptcy Rule 3009, as made applicable to the SIPA Proceeding pursuant to SIPA sections 78fff(b), 78fff-1(a), and 78fff(e), the Court authorize the Trustee to:

a. Establish a Fifth Interim Distribution Fund in the amount of approximately $228 million for all general unsecured creditor claims;

b. Release reserves that are no longer necessary from the Secured and Priority Claim Reserve, the First Interim Distribution Fund, the Second Interim Distribution Fund, the Third Interim Distribution Fund, the Fourth Interim Distribution Fund, and the Administrative Expense Reserve (Dunn Decl. ¶¶ 8, 10);

c. Establish February 26, 2017 as the Record Date for the fifth interim distribution, *nunc pro tunc*, pursuant to the Notice of Record Date filed on February 9, 2017 (ECF No. 14150); and

d. Make a fifth interim distribution to holders of Allowed Unsecured Claims as of the Record Date of February 26, 2017 or to holders of Unresolved Claims or Pending Claims as of the same Record Date, if and when such claims become allowed claims.[2]

20. Nothing set forth in this Motion shall be deemed or construed as an admission of the Trustee as to any liability for any Unresolved or Pending Claim or as to the status of such

2. To the extent that any Unresolved or Pending Claim becomes an Allowed Unsecured Claim pursuant to (i) final court order or judgment or (ii) a stipulation between the Trustee and the holder of such claim that has been approved by the Bankruptcy Court and became final, the Trustee will make the requisite *pro rata* distribution to the holder of each such Allowed Unsecured Claim as of the Record Date without further notice or Order of the Court. With respect to any Unresolved or Pending Claims the Trustee determines should be Allowed Unsecured Claims other than pursuant to Order of this Court or Court-approved stipulation, the Trustee shall periodically file with the Court a supplemental schedule of such claim(s) (a "Supplemental Distribution Schedule") and serve the same on the holder of such claim(s) and all parties in interest that have filed a notice of appearance and requested notice in the LBI SIPA proceeding.

claims. Nothing in this Motion is intended to affect or alter the capped amount for any of the Unresolved or Pending Claims. Further, nothing in this Motion is intended to limit the ability of any holder of any Unresolved Claim to obtain a determination of the validity of its claim and receive from the appropriate reserve its finally determined amount through future distributions.

21. For the further avoidance of doubt, this Motion is not a request by the Trustee for an extension of the deadline for holders of pre-Filing Date customer or general creditor claims, including any 503(b)(9) Claims, to file proofs of claim relating thereto, which deadline was established as the Claims Bar Date, or for an extension of the deadline for holders of claims for administrative expenses arising between the Filing Date and October 31, 2016, to file proofs of claim relating thereto, which deadline was established as the Administrative Bar Date.

BASIS FOR RELIEF

I. The Fifth Interim Distribution Is Consistent With This Court's Prior Distribution Orders.

22. The Trustee seeks relief that is consistent with the relief already granted by this Court in the Secured and Priority Reserve Order, the First Interim Distribution Order, the Second Interim Distribution Order, the Third Interim Distribution Order, and the Fourth Interim Distribution Order. *See* Secured and Priority Claim Reserve Order (ECF No. 9273); First Interim General Unsecured Distribution Order (ECF No. 9520); Second Interim General Unsecured Distribution Order (ECF No. 11358); Third Interim General Unsecured Distribution Order (ECF No. 12579); Fourth Interim General Unsecured Distribution Order (ECF No. 13683). The Trustee has given effect to those orders by distributing over $8.841 billion in property to LBI's creditors. The Trustee seeks to bolster those distributions through the creation and funding of the Fifth Interim Distribution Fund, including by releasing reserves initially set by this Court that are no longer necessary.

23. The Trustee's intention to reserve for remaining unresolved claims is also well supported by precedent in this Court. In *In re Lehman Bros. Holdings Inc*., the debtors' plan of reorganization provided for the plan administrator to retain available cash in an aggregate amount equal to the *pro rata* share of the distributions that would have been made to each holder of an unresolved claim if such unresolved claim were an allowed claim. *See* Order Confirming Modified Third Amended Joint Chapter 11 Plan of Lehman Bros. Holdings Inc. and Its Affiliated Debtors, *In re Lehman Bros. Holdings Inc.*, Case No. 08-13555 (JMP) (Bankr. S.D.N.Y. Dec. 5, 2011), ECF No. 23023 (section 8.4 of debtors' plan of reorganization). By reserving for unresolved claims in this way, as the Trustee has done and proposes to continue doing, holders of unresolved claims are not prejudiced by the distribution of assets to holders of allowed claims. And holders of allowed claims are able to receive a return on their claims in advance of all claim disputes being resolved.

II. Interim Distributions To General Creditors Are Permitted In SIPA Liquidations Under Section 726 of the Bankruptcy Code.

24. SIPA section 78fff(e) provides that distributions from the general estate shall be made in accordance with section 726 of the Bankruptcy Code. *See* SIPA § 78fff(e). Section 726(a) of the Bankruptcy Code, in turn, provides that property of the estate shall be distributed first to claims entitled to priority under section 507 of the Bankruptcy Code and second to "any allowed unsecured claim." 11 U.S.C. § 726(a)(1) & (2). Bankruptcy Rule 3009 provides that in a chapter 7 case, "dividends to creditors shall be paid as promptly as practicable." Fed. R. Bankr. P. 3009.

25. The relief the Trustee seeks is similar to relief granted by this Court and other courts in similar circumstances. In *In re Asia Global Crossing Ltd*., the chapter 7 trustee, relying on sections 105(a) and 726 of the Bankruptcy Code, sought and received court approval to make

multiple interim distributions to creditors of the debtor's estate in light of the significant amount of cash available for each distribution, while also maintaining sufficient reserves for disputed claims and the continuing administrative expenses of the estate. *See In re Asia Global Crossing Ltd.*, Case Nos. 02-15749 (SMB), 02-15750 (SMB) (Bankr. S.D.N.Y. filed Nov. 17, 2002), ECF Nos. 517, 692, 838, 932, 996 (chapter 7 trustee's motions for orders authorizing and approving interim distributions and claim reserves); *see also In re Refco, LLC*, Case No. 05-60134 (RDD) (Bankr. S.D.N.Y. June 14, 2007), ECF Nos. 779, 847, 1226 (authorizing chapter 7 trustee to make several interim distributions to holders of allowed claims). Similarly, in *In re MF Global Inc.*, the trustee sought and received this Court's approval to make three distributions to creditors. *See In re MF Global Inc.*, Case No. 11-2790 (MG) (Bankr. S.D.N.Y. filed Oct. 31, 2011), ECF Nos. 8364, 8745, 8855; *see also SIPC v. MJK Clearing, Inc.*, Case No. 01-4257 (RJK) (Bankr. D. Minn. February 22, 2006), ECF No. 454 (Order Approving Motion for Interim Distribution of Deutsche Bank Settlement Funds).

26. By this Motion, the Trustee seeks to make a fifth interim distribution to the holders of Allowed Unsecured Claims and to the holders of Unresolved Claims and Pending Claims that become allowed claims. The Trustee and his counsel have conducted an extensive analysis of the financial condition of the LBI estate and, based on that analysis, determined that the time is appropriate to distribute a further dividend to LBI's general unsecured creditors. As detailed above, there are sufficient assets, inclusive of allocations of customer property to the general estate and the reserves the Trustee proposes to release by this Motion, available to fund a fifth interim distribution to LBI's allowed general unsecured creditors and create a reserve for unresolved and pending claims.

OBJECTION TO CLAIMS AND RESERVATION OF RIGHTS

27. The Trustee reserves all rights and defenses with respect to any Unresolved or Pending Claim, including the right to assert set off or recoupment.

28. Based on the foregoing, the Trustee submits that the relief requested herein is necessary and appropriate, is in the best interests of the LBI estate and its creditors, and should be granted in all respects.

NOTICE

29. Notice of this Motion will be provided in accordance with the Court's Amended Case Management Order (ECF No. 3466), will be immediately available for inspection upon filing with the Court at the Trustee's website (www.lehmantrustee.com), and will be mailed by overnight mail to the current holders of all pending general creditor claims. The Trustee submits that no other or further notice need be provided.

NO PRIOR REQUEST

30. No prior motion for the relief requested herein has been made to this or any other court.

CONCLUSION

WHEREFORE, the Trustee respectfully requests that the Court grant the relief requested herein as provided in the proposed Order annexed hereto as Exhibit 2 and such other and further relief as the Court deems just and proper.

Dated: New York, New York
February 24, 2017

HUGHES HUBBARD & REED LLP

By: /s/ Christopher K. Kiplok

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

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re LEHMAN BROTHERS INC., Debtor.	Case No. 08-01420 (SCC) SIPA

DECLARATION OF JOHN A. DUNN IN SUPPORT OF THE TRUSTEE'S MOTION FOR AN ORDER TO (I) ESTABLISH A FIFTH INTERIM DISTRIBUTION FUND FOR GENERAL UNSECURED CREDITOR CLAIMS, (II) RELEASE RESERVES FROM THE SECURED AND PRIORITY CLAIM RESERVE, THE FIRST INTERIM DISTRIBUTION FUND, THE SECOND INTERIM DISTRIBUTION FUND, THE THIRD INTERIM DISTRIBUTION FUND, AND THE FOURTH INTERIM DISTRIBUTION FUND, AND (III) MAKE A FIFTH INTERIM DISTRIBUTION TO HOLDERS OF ALLOWED GENERAL UNSECURED CREDITOR CLAIMS WITH A RECORD DATE OF FEBRUARY 26, 2017

Pursuant to 28 U.S.C. § 1746, I, John A. Dunn, hereby declare as follows:

1. I am an attorney duly admitted to practice in this Court and an associate at the law firm of Hughes Hubbard & Reed LLP, attorneys for James W. Giddens (the "Trustee"), Trustee for the SIPA liquidation of Lehman Brothers Inc. ("LBI"). I submit this declaration in support of the Trustee's Motion for an Order to: (i) establish a fifth interim distribution fund for general unsecured creditor claims; (ii) release reserves from the Secured and Priority Claim Reserve, the First Interim Distribution Fund, the Second Interim Distribution Fund, the Third Interim Distribution Fund, and the Fourth Interim Distribution Fund; and (iii) make a fifth interim distribution to record holders of general unsecured creditor claims as of February 26, 2017 (the "Record Date") that are currently allowed or become allowable (the "Motion").[1]

1. All terms used herein shall have the same meaning as defined in the Motion.

2. All information presented in this declaration is as of January 31, 2017, unless otherwise noted, and is based on information available at this time. The information presented in this declaration, including corrections, if any, may be materially updated in the future, and the declarant reserves all rights to do so. The selected balances and information contained herein have not been and will not be subject to audit or review by external accountants.

3. The Trustee established the Secured and Priority Claim Reserve of $622,384,852 (inclusive of the adjustments detailed herein) pursuant to the Secured and Priority Claim Reserve Order. (ECF No. 9273.) Subsequent to its creation, the Secured and Priority Claim Reserve was increased to account for claims held by Barclays Capital Inc. (ECF No. 9244), the Internal Revenue Service, and certain claims filed prior to the Supplemental Administrative Bar Date. The Trustee has distributed $252,844,803 from the Secured and Priority Claim Reserve since July 2014. The Trustee has released $101,029,868 from the Secured and Priority Claim Reserve with respect to claims resolved for less than their previously-capped amount and unclaimed distributions, including $69,024,789 pursuant to the Second Interim General Unsecured Distribution Order, $20,894,202 pursuant to the Third Interim General Unsecured Distribution Order, and $11,110,877 pursuant to the Fourth Interim General Unsecured Distribution Order. (ECF Nos. 11358, 12579, 13683.)

4. The Trustee established the First Interim Distribution Fund of $4,677,551,259 (inclusive of the adjustments detailed herein) pursuant to the First Interim General Unsecured Distribution Order. (ECF No. 9647.) Subsequent to its creation, the First Interim Distribution Fund has been supplemented by $57,819,597, as follows: (i) by $876,808 to accommodate several claims that were erroneously not included on the original capping schedules or that were not included in their proper amount but that the Trustee has since placed on Supplemental

Distribution Schedules filed with the Court; and (ii) by $56,942,789 for certain customer-asserted claims that have been resolved in favor of general unsecured creditor claims, which amount has been allocated from the customer estate to the general estate to fund the general unsecured creditor distributions on these claims. The Trustee has distributed $3,842,196,830 from the First Interim Distribution Fund since September 2014. The Trustee has released $787,183,054 from the First Interim Distribution Fund with respect to claims resolved for less than their previously-capped amount and unclaimed distributions, including $525,004,010 pursuant to the Second Interim General Unsecured Distribution Order, $120,006,544 pursuant to the Third Interim General Unsecured Distribution Order, and $142,172,500 pursuant to the Fourth Interim General Unsecured Distribution Order. (ECF Nos. 11358, 12579, 13683.)

5. The Trustee established the Second Interim Distribution Fund of $2,442,674,854 (inclusive of the adjustments detailed herein) pursuant to the Second Interim General Unsecured Distribution Order. (ECF No. 11358.) Subsequent to its creation, the Second Interim Distribution Fund has been supplemented by $30,415,814, as follows: (i) by $180,474 to accommodate one claim that was erroneously not included on the original capping schedules but that the Trustee has since placed on a Supplemental Distribution Schedule filed with the Court; and (ii) by $30,235,340 for certain customer-asserted claims that have been resolved in favor of general unsecured creditor claims, which amount has been allocated from the customer estate to the general estate to fund the general unsecured creditor distributions on these claims. The Trustee has distributed $2,260,108,313 from the Second Interim Distribution Fund since March 2015. The Trustee has released $154,216,254 from the Second Interim Distribution Fund with respect to claims resolved for less than their previously-capped amount and unclaimed distributions, including $70,592,085 pursuant to the Third Interim General Unsecured

Distribution Order, and $83,624,169 pursuant to the Fourth Interim General Unsecured Distribution Order. (ECF Nos. 12579, 13683.)

6. The Trustee established the Third Interim Distribution Fund of $1,897,666,215 (inclusive of the adjustments detailed herein) pursuant to the Third Interim General Unsecured Distribution Order. (ECF No. 12579.) Subsequent to its creation, the Third Interim Distribution Fund has been supplemented by $9,976,539 for certain customer-asserted claims that have been resolved in favor of general unsecured creditor claims, which amount has been allocated from the customer estate to the general estate to fund the general unsecured creditor distributions on these claims. The Trustee has distributed $1,808,095,273 from the Third Interim Distribution Fund since March 2015. Pursuant to the Fourth Interim General Unsecured Distribution Order, the Trustee has released $66,895,482 from the Third Interim Distribution Fund with respect to claims resolved for less than their previously-capped amount and unclaimed distributions. (ECF No. 13683.)

7. The Trustee established the Fourth Interim Distribution Fund of $686,542,160 (inclusive of the adjustments detailed herein) pursuant to the Fourth Interim General Unsecured Distribution Order. (ECF No. 13683.) Subsequent to its creation, the Fourth Interim Distribution Fund has been supplemented by $82,206 for certain customer-asserted claims that have been resolved in favor of general unsecured creditor claims, which amount has been allocated from the customer estate to the general estate to fund the general unsecured creditor distributions on these claims. The Trustee has distributed $677,728,890 from the Fourth Interim Distribution Fund since June 2016.

8. Between May 15, 2016, when the Trustee created the Fourth Interim Distribution Fund, and January 31, 2017, the Trustee has resolved further secured and priority claims and

general unsecured creditor claims for less than their capped amounts, permitting the release of $11,636,276 in interim distribution reserves. Distributions of $495,730 were unclaimed by claimants and are now available for distribution to LBI's general unsecured creditors by virtue of the Distribution Procedures Order (ECF No. 13039). As a result, the Trustee has determined that reserves for these categories of claims no longer need to be maintained and that $12,132,006 in reserves can be collectively released from the Secured and Priority Claim Reserve, the First Interim Distribution Fund, the Second Interim Distribution Fund, the Third Interim Distribution Fund, and the Fourth Interim Distribution Fund, as follows:

	Allowed For Less Than Reserve	Withdrawn or Expunged	Subordinated	Waived	Total Releasable Reserve
Secured and Priority Claim Reserve	$18,384	$0	$0	$1,450	$19,834
First Interim Distribution Fund	$5,197,478	$0	$0	$83,840	$5,281,318
Second Interim Distribution Fund	$3,057,340	$0	$0	$52,623	$3,109,963
Third Interim Distribution Fund	$2,445,872	$0	$0	$43,888	$2,489,760
Fourth Interim Distribution Fund	$917,202	$0	$0	$313,929	$1,231,131
Total Releasable Reserve	$11,636,276	$0	$0	$495,730	$12,132,006

The holders of the claims for whom these reserves were initially set have either received allowed claims and commensurate distributions, or have waived their entitlement to allowed claims and related distributions. The Trustee anticipates release of a further $4,838,635 upon finality of a claim resolved in February 2017 for substantially less than its capped amount. (*See* ECF No. 14157.) Such additional release, as well as other updates through the Record Date, will be incorporated into the above release of reserves in the Supplemental Declaration the Trustee will file prior to hearing on this Motion.

9. Other than the release of these reserves that are no longer necessary, the Secured and Priority Claim Reserve, the First Interim Distribution Fund, the Second Interim Distribution Fund, the Third Interim Distribution Fund, and the Fourth Interim Distribution Fund are unaffected by the relief sought in the Motion. Respectively, each will continue to hold a reserve equivalent to one-hundred percent, seventeen percent, ten percent, eight percent, and three percent of the capped amount of all unresolved claims or of the allowed amount of all otherwise undistributed claims. Holders of unresolved or otherwise undistributed secured and priority claims as of the record date for such claims (July 16, 2014) will remain entitled to a one-hundred percent distribution on their claims if they are allowed and upon the return of the necessary distribution information. And holders of general unsecured creditor claims as of the record date for the first interim general unsecured claim distribution (July 15, 2014), the second interim general unsecured claim distribution (February 6, 2015), the third interim general unsecured distribution (July 10, 2015), and the fourth interim general unsecured distribution (May 15, 2016) will remain entitled to a seventeen percent, ten percent, eight percent, and three percent distribution on their claims if those claims are allowed and upon the return of the necessary distribution information.

10. The Trustee has evaluated the estate's ongoing administrative expenses through completion of the LBI liquidation. All disputed customer, secured and priority, and general unsecured creditor claims are now pending before the Court or on appeal. The Trustee has determined that the Administrative Expense Reserve, which was established at $850,000,000 pursuant to the First Interim General Unsecured Distribution Order, reduced to $450,000,000 pursuant to the Third Interim General Unsecured Distribution Order, reduced to $225,000,000 pursuant to the Fourth Interim General Unsecured Distribution Order, and further reduced to

$210,208,483 by actual estate expenditures through January 31, 2017, can now be reduced to $149,000,000. This permits the release of $61,208,483 to LBI's general unsecured creditors.

11. Between May 15, 2016 and January 31, 2017, the Trustee has realized $78,733,369 in general estate recoveries through the following efforts: (i) the sale of LBI's allowed claims against various Lehman affiliates (ECF Nos. 13688 and 13780); (ii) the return of funds from various legacy LBI banks and custodians; (iii) the sale of certain LBI debt instruments (ECF No. 13598); and (iv) miscellaneous other recoveries.

12. As of January 31, 2017, the LBI general estate contained $734,665,192 in assets. The LBI general estate is subject to required reserves of $592,891,569 as follows:

	Disputed Claim Reserve[2]	Releasable Reserve[3]	Ineligible Claim Reserve[4]	Total Reserve
Secured and Priority Reserve	$268,478,211	$19,834	$12,138	$268,510,183
First Interim Distribution Fund	$34,296,895	$5,281,318	$8,593,165	$48,171,378
Second Interim Distribution Fund	$20,174,644	$3,109,963	$5,065,681	$28,350,288
Third Interim Distribution Fund	$16,139,715	$2,489,760	$4,045,986	$22,675,461
Fourth Interim Distribution Fund	$6,052,393	$1,231,131	$1,527,784	$8,811,308
Administrative Expense Reserve				$210,208,483
Distribution-Related Tax Reserve				$6,164,468
Total Reserve				$592,891,569

This leaves $141,773,624 available for a fifth interim distribution to LBI's general unsecured creditors.

13. To supplement the $141,773,624 available from the LBI general estate and make assets available for the fifth interim distribution, the Trustee has determined that $86,744,001 of reserves are no longer necessary and proposes the release of those reserves, as follows: (i)

2. This category represents the full, capped amount of disputed secured and priority claims or seventeen, ten, eight, and three percent of the capped amount of disputed general unsecured creditor claims.

3. This category represents funds subject to release (pursuant to the Motion) as no longer necessary due to the resolution of the claims below the previously-capped amount or the expungement of waived claims pursuant to the Distribution Procedures Order.

4. This category represents claims that are ineligible to receive distributions because the claimants have not provided the Trustee with necessary distribution information or the distribution information is currently being processed. The values are calculated at the full, allowed amount of secured and priority claims or seventeen, ten, eight, and three percent of the allowed amount of disputed general unsecured creditor claims.

$19,834 from the Secured and Priority Claim Reserve; (ii) $5,281,318 from the First Interim Distribution Fund; (iii) $3,109,963 from the Second Interim Distribution Fund; (iv) $2,489,760 from the Third Interim Distribution Fund; (v) $1,231,131 from the Fourth Interim Distribution Fund, (vi) $61,208,483 from the Administrative Expense Reserve; (vii) $8,564,877 allocated from the customer estate; and (viii) $4,838,635 related to the expected finality of the resolution of Claim 8002142 in February 2017. As a result of the allocation and reserve releases, a total of $228,517,625 is available for a fifth interim distribution.

14. The Trustee seeks this Court's authorization to use $228,436,355 of this amount to fund a Fifth Interim Distribution Fund, comprised of two components: (i) $226,418,891 for the purposes of making a further interim distribution of one percent to record holders of Allowed Unsecured Claims as of February 26, 2017; and (ii) reserves of $2,017,464 equal to one percent of the allowed amount or one percent of the previously-capped amount of all remaining Unresolved and Pending Claims.

15. At least two business days prior to the hearing on this Motion, the Trustee will submit a supplemental declaration updating the figures in this Motion to reflect estate activity through the record date of February 26, 2017 and a revised proposed Order that will contain updated figures on the amount of reserves to be released and the magnitude of the Fifth Interim Distribution Fund giving effect to claims resolutions through the record date. The Trustee will also submit schedules indicating the February 26, 2017 record date status of all general unsecured creditor claims and those schedules will be the sole basis entitling holders of general unsecured creditor claims to a fifth interim distribution.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 24, 2017.

/s/ John A. Dunn
John A. Dunn

EXHIBIT 2

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re LEHMAN BROTHERS INC., Debtor.	Case No. 08-01420 (SCC) SIPA

[PROPOSED] ORDER TO (I) ESTABLISH A FIFTH INTERIM DISTRIBUTION FUND FOR GENERAL UNSECURED CREDITOR CLAIMS, (II) RELEASE RESERVES FROM THE SECURED AND PRIORITY CLAIM RESERVE, THE FIRST INTERIM DISTRIBUTION FUND, THE SECOND INTERIM DISTRIBUTION FUND, AND THE THIRD INTERIM DISTRIBUTION FUND, AND (III) MAKE A FIFTH INTERIM DISTRIBUTION TO HOLDERS OF ALLOWED GENERAL UNSECURED CREDITOR CLAIMS WITH A RECORD DATE OF FEBRUARY 26, 2017

Upon the motion, dated February 24, 2017 (the "Motion"),[1] of James W. Giddens (the "Trustee"), as Trustee for the liquidation of the business of Lehman Brothers Inc. ("LBI") under the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. sections 78aaa *et seq.* ("SIPA"),[2] for entry of an order to: (i) establish a fifth interim distribution fund for general unsecured creditor claims; (ii) release reserves from the Secured and Priority Claim Reserve, the First Interim Distribution Fund, the Second Interim Distribution Fund, the Third Interim Distribution Fund, and the Fourth Interim Distribution Fund; and (iii) make a fifth interim distribution to record holders of general unsecured creditor claims as of February 26, 2017 (the "Record Date") that are currently allowed or become allowable (the "Motion") as more fully described in the Motion; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and the Court having found and

1. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

2. References to SIPA refer to the statutory sections in effect as of the commencement of LBI's liquidation.

determined that the relief sought in the Motion is in the best interests of the LBI estate, its creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted in all respects as provided herein and all objections thereto are overruled; and it is further

ORDERED that the establishment of the Fifth Interim Distribution Fund in an amount of approximately $228 million is approved and that the Fifth Interim Distribution Fund shall be used to make a fifth interim distribution to the holders of the Allowed Unsecured Claims listed on Schedule A[3] and to establish *pro rata* reserves for the Unresolved and Pending Claims listed on Schedules B and C in the amount listed on each Schedule; and it is further

ORDERED that the Trustee is authorized to release unnecessary reserves of $19,834 from the Secured and Priority Claim Reserve, $5 million from the First Interim Distribution Fund, $3 million from the Second Interim Distribution Fund, $3 million from the Third Interim Distribution Fund, and $1 million from the Fourth Interim Distribution Fund; and it is further

ORDERED that, with respect to the Unresolved and Pending Claims, the First Interim General Unsecured Distribution Order (ECF No. 9520) shall continue to apply as to the *pro rata* reserves maintained and distributions made pursuant to such Order, in addition to the *pro rata* reserves and distributions authorized herein; and it is further

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3. On March __, 2017, the Trustee filed schedules (the "Schedules") reflective of the February 26, 2017 record date status of all general unsecured claims, which schedules will be the sole basis entitling holders of general unsecured claims to a fifth interim distribution.

ORDERED that, with respect to the Unresolved and Pending Claims, the Second Interim General Unsecured Distribution Order (ECF No. 11358) shall continue to apply as to the *pro rata* reserves maintained and distributions made pursuant to such Order, in addition to the *pro rata* reserves and distributions authorized herein; and it is further

ORDERED that, with respect to the Unresolved and Pending Claims, the Third Interim General Unsecured Distribution Order (ECF No. 12579) shall continue to apply as to the *pro rata* reserves maintained and distributions made pursuant to such Order, in addition to the *pro rata* reserves and distributions authorized herein; and it is further

ORDERED that, with respect to the Unresolved and Pending Claims, the Fourth Interim General Unsecured Distribution Order (ECF No. 13683) shall continue to apply as to the *pro rata* reserves maintained and distributions made pursuant to such Order, in addition to the *pro rata* reserves and distributions authorized herein; and it is further

ORDERED that the Trustee is authorized to make a fifth interim distribution to the holders of the Allowed Unsecured Claims listed on Schedule A and to release the amounts corresponding to the Allowed Unsecured Claims from the Fifth Interim Distribution Fund; and it is further

ORDERED that the record date for the purpose of making the fifth interim distribution authorized herein for all holders of claims is February 26, 2017 (the "Record Date"), and that the Trustee's publication of notice of the establishment of the Record Date on the Trustee's website (www.lehmantrustee.com) on February 9, 2017 (ECF No. 14150) constituted good and sufficient notice of the Record Date, and it is further

ORDERED that the ultimate amount of the fifth interim distribution will be determined by the Trustee based on an analysis of general estate assets and liabilities at the time of distribution; and it is further

ORDERED that if and to the extent that an Unresolved or Pending Claim becomes an Allowed Unsecured Claim pursuant to a Final Order[4] entered by this Court (or another court of competent jurisdiction) or stipulation between the Trustee and the holder of such claim that has been approved by the Court, the Trustee is authorized to make the requisite *pro rata* distribution to the holder of each such allowed unsecured claim as of the Record Date and to release the amount corresponding with such claim from the Fifth Interim Distribution Fund without further notice or Order of the Court; and it is further

ORDERED that with respect to Unresolved or Pending Claims the Trustee determines should be Allowed Unsecured Claims other than pursuant to Order of this Court, the Trustee shall periodically file with the Court a supplemental schedule of such claim(s) (a "Supplemental Distribution Schedule") and serve the same on the holder(s) of such claim(s) and all parties in interest that have filed a notice of appearance and requested notice in the LBI SIPA proceeding; and it is further

ORDERED that unless a written objection to that Supplemental Distribution Schedule is filed and served on the Trustee's counsel and the holder(s) of such claim(s) within ten (10) days of the date of service of the Supplemental Distribution Schedule, the Trustee shall

4. For the purposes of this Order, the term "Final Order" shall mean an order or judgment of the Bankruptcy Court as entered on the docket, the operation or effect of which has not been stayed, reversed, or amended, and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review, writ of certiorari, or rehearing was filed or, if filed, remains pending, *provided however*, that no order shall fail to become a Final Order solely because of the possibility that a motion pursuant to Rule 60 of the Federal Rules of Civil Procedure, Bankruptcy Rule 9024, any similar local bankruptcy rule or any similar state statute or rule may be filed with respect to such order.

be authorized to make the requisite *pro rata* distribution(s) to the holder(s) of the Allowed Unsecured Claims identified in the Supplemental Distribution Schedule as of the Record Date and to release the amount(s) corresponding with respect to such claim(s) from the Fifth Interim Distribution Fund; and it is further

ORDERED that with respect to Unresolved or Pending Claims that, either in whole or in part, become disallowed, expunged or reclassified as subordinated claims or equity interests by Final Order entered by this Court (or another court of competent jurisdiction), or that are settled or withdrawn with similar effect, the Trustee is authorized to release the amount corresponding to the disallowed, expunged or reclassified portion of such claim(s) from the Fifth Interim Distribution Fund without further Order of the Court; and it is further

ORDERED that nothing in this Order shall affect the administrative expense claims of any person or entity who is a professional advisor (*e.g.*, counsel, financial advisors, accountants, claims agents) retained by the Trustee, including all counsel retained pursuant to orders of the Bankruptcy Court and the District Court, and all other professionals retained, with permission from SIPC, pursuant to SIPA section 78fff-1(a)(1), and SIPC itself, nor shall it affect any claims for administrative expenses arising after October 31, 2016 as there is no bar date for such claims at this time; and it is further

ORDERED that the Trustee is authorized and empowered to take such steps and perform such acts as may be necessary to implement this Order and the effectuation of all distributions authorized by this Order, including without limitation requiring holders of Allowed Unsecured Claims to complete all tax forms and other documentation necessary to be received by the Trustee prior to effectuation of such distributions as further provided for in the Distribution Procedures Order (ECF No. 13039); and it is further

ORDERED that entry of this Order is without prejudice to the right of the Trustee to seek a further order of this Court disallowing, expunging, objecting to or otherwise resolving any of the unresolved claims; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York
_____, 2017

HONORABLE SHELLEY C. CHAPMAN
UNITED STATES BANKRUPTCY JUDGE