

THURSDAY 14TH MAY 2015

**IN THE COURT OF APPEAL**

ON APPEAL FROM THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION

7942 AND 7495 OF 2008 AND 429 OF 2009

**BEFORE** LORD JUSTICE MOORE-BICK Vice President of the Court of Appeal, Civil  
Division  
LORD JUSTICE LEWISON  
**AND** LORD JUSTICE BRIGGS

**B E T W E E N**

- (1) THE JOINT ADMINISTRATORS OF LB HOLDINGS INTERMEDIATE 2 LIMITED  
(IN ADMINISTRATION)  
(2) LEHMAN BROTHERS HOLDINGS INC  
(3) THE JOINT ADMINISTRATORS OF LEHMAN BROTHERS LIMITED (IN  
ADMINISTRATION) APPELLANTS

- and -

- (1) ANTHONY VICTOR LOMAS  
(2) STEVEN ANTHONY PERSON  
(3) PAUL DAVID COPLEY  
(4) RUSSELL DOWNS  
(5) JULIAN GUY PARR  
(in their capacity as Joint Administrators of Lehman Brothers International (Europe) (In  
Administration)  
(6) CVI GVI (LUX) MASTER SARL  
(joined by order of Patten LJ dated 2 September 2014) RESPONDENTS

UPON THE APPEALS against the declarations numbered (i) to (x) made by the  
Order of David Richards J dated 14 March 2014 ("the Order") brought variously  
by –

- (a) the joint Administrators of LB Holdings Intermediate 2 Limited (in  
administration) ("LBH12") by Appellant's Notice dated 9 June 2014  
(b) Lehman Brothers Holdings, Inc ("LBHI") by Appellant's Notice dated 9  
June 2014  
(c) The Joint Administrators of Lehman Brothers Limited (in administration)  
("LBL") by Appellant's Notice dated 9 June 2014  
(d) The Joint Administrators of Lehman Brothers International (Europe) (in  
administration) ("LBIE") by Appellant's Notice dated 9 June 2014

AND UPON THE RESPONDENT'S NOTICES lodged by LBHI2 on 30 June  
2014 and by LBHI on 30 June 2014

AND UPON HEARING Leading Counsel for LBHI2, Leading Counsel for  
LBHI, Leading Counsel for LBL, Leading Counsel for LBIE and Leading  
Counsel for CVI GVF (Lux) Master SARL



COURT 68  
Appeal Nos.

A2/2014/1833  
A2/2014/1822  
A2/2014/1826  
A2/2014/1839



IT IS ORDERED that

1. The appeals against declarations (ii), (iii), (vi), (vii), (viii), (ix) and (x) of the Order be dismissed.
2. Declaration (i) of the Order is varied to declare that the claims of LBHI2 under its subordinated loan agreements with LBIE are provable in the administration or liquidation of LBIE, but are subordinated to provable debts, statutory interest and non-provable liabilities and are repayable only on contingencies including payment of all such claims.
3. Save as set out in paragraph 2 above, the appeal against declaration (i) of the Order be dismissed.
4. LBIE's appeal against declaration (iv) of the Order and the appeal by LBHI2 and LBHI against declaration (v) of the Order be allowed (as regards declaration (v) on the basis that the question no longer arises) and accordingly- It is declared that, if the administration of LBIE is immediately followed by a liquidation, any statutory interest in respect of the period of the administration which was payable under rule 2.88(7) of the Insolvency Rules 1986 but was not paid before the commencement of the liquidation will be payable in the liquidation under rule 2.88(7) from any part of the fund which constituted the "surplus" in the administration (as defined in rule 2.88(7)) and which subsequently comes into the hands of the liquidator(s).
5. The costs of LBIE Administrators, the <sup>LBHI2</sup>~~LBHI~~ Administrators and the LBL Administrators be paid as expenses of their respective ~~administrators~~, but otherwise the Court makes no order as to costs. administrations
6. Permission to appeal to the Supreme Court be refused.

*By the Court*

order amended  
under the slip rule  
as underlined in  
red this 20-5-15



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CHANCERY DIVISION

ORDER

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