

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE AMBAC FINANCIAL GROUP,
INC. SECURITIES LITIGATION

Case No. 08-cv-00411-NRB

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**REPLY AND NOTICE OF NON-OPPOSITION IN SUPPORT OF
LEAD PLAINTIFFS' MOTION FOR (1) FINAL APPROVAL OF
SETTLEMENT OF CLAIM FILED IN THE SIPA LIQUIDATION OF LEHMAN
BROTHERS INC., (2) APPROVAL OF THE PROPOSED ALLOCATION OF THE
PROCEEDS OF THE SETTLEMENT, AND (3) REIMBURSEMENT OF EXPENSES**

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Dated: June 2, 2015

Lead Plaintiffs the Public School Teachers' Pension & Retirement Fund of Chicago, Arkansas Teacher Retirement System, and Public Employees' Retirement System of Mississippi ("Lead Plaintiffs"), and Plaintiff Painting Industry Insurance and Annuity Funds (collectively, "Plaintiffs") respectfully submit this reply and notice of non-opposition in further support of their motion for final approval of the proposed Settlement resolving the Claim filed by Lead Plaintiffs on behalf of themselves and the Class in the SIPA liquidation proceeding of Lehman Brothers Inc. ("Lehman"); for approval of the proposed allocation of the proceeds of that Settlement; and for reimbursement of \$79,246.33 in remaining litigation expenses incurred in connection with the SIPA liquidation proceeding and achieving the Settlement (ECF Nos. 180-182, the "Motion").¹ The deadline for filing objections passed on May 19, 2015, and no objections have been filed or otherwise received.

Pursuant to the Court's March 11, 2015 Order Preliminarily Approving Settlement And Providing For Notice ("Preliminary Approval Order," ECF No. 179), on March 25, 2015, the Claims Administrator mailed copies of the Court-approved Summary Notice of Proposed Settlement of Claim Filed in the SIPA Liquidation of Lehman Brothers, Inc. (the "Summary Notice") to all Class Members who previously received a distribution from the settlement with the Underwriter Defendants in this Action and who cashed their distribution check. *See* Declaration of Jason Rabe Regarding Mailing and Publication of Notice (ECF No. 182-1), at ¶ 2. The Summary Notice included a summary of the terms of the Settlement, Lead Plaintiffs' reasons for recommending the Settlement, information about the Settlement Hearing to be held June 9, 2015, how to obtain more information (including a copy of the longer Notice), and an

¹ All capitalized terms that are not otherwise defined herein shall have the meanings provided in the Stipulation Regarding Proofs of Claims of Public School Teachers' Pension, et al. (Nos. 5626, 5627, 5628 and 5629) (ECF No. 173-1) or in the Stipulation of Settlement with the Underwriter Defendants dated May 4, 2011 (ECF No. 123-6).

explanation of Class Members' right to object to the Settlement. *See id.* at Ex. A. In addition, the Claims Administrator also caused the Summary Notice to be published over the *PR Newswire* and made both the Summary Notice and the more detailed Notice available on the case website, www.AmbacSecuritiesLitigation.com. *Id.* ¶¶ 3, 4. The Notice was also made available on both of Lead Counsel's websites. ECF No. 182 at 13.

On May 5, 2015, pursuant to the Court's Preliminary Approval Order, Lead Plaintiffs filed their motion for final approval of the Settlement, approval of the proposed allocation of the proceeds of the Settlement, and for reimbursement of remaining unpaid litigation expenses. Lead Plaintiffs' initial motion papers, including a memorandum of law and declaration of Lead Counsel, explain in detail why the Settlement, proposed allocation method, and motion for reimbursement of expenses should be approved. Now, the reaction of the Class to the Motion provides further strong support for approval of the Motion.

As provided for in the Preliminary Approval Order and set forth in the Summary Notice and Notice, the deadline for any objections was May 19, 2015. That deadline has passed and no objections to the Settlement, the proposed allocation of the proceeds of the Settlement or the application for reimbursement of expenses have been received.

This uniformly positive reaction of the Class strongly supports approval of the Motion. "[T]he favorable reaction of the overwhelming majority of class members to the Settlement is perhaps the most significant factor in our *Grinnell* inquiry." *Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F.3d 96, 119 (2d Cir. 2005). "The lack of objections provides effective evidence of the fairness of the Settlement." *In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695 (CM), 2007 WL 4115809, at *7 (S.D.N.Y. Nov. 7, 2007); *see also In re Sturm, Ruger, & Co. Sec. Litig.*, No. 3:09cv1293 (VLB), 2012 WL 3589610, at *5 (D. Conn. Aug. 20, 2012) ("the absence

of objectants may itself be taken as evidencing the fairness of a settlement”) (citation omitted); *In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695 (CM), 2007 WL 4115808, at *10 (S.D.N.Y. Nov. 7, 2007) (the reaction of class members to a motion for fees and expenses “is entitled to great weight by the Court” and the absence of any objections “suggests that the . . . request is fair and reasonable”).

Based on the foregoing and the entire record herein, Lead Plaintiffs respectfully request that the Court approve the proposed Settlement, the proposed allocation of the proceeds of the Settlement, and the reimbursement of litigation expenses in the amount of \$79,246.33. For the Court’s convenience, Lead Plaintiffs submit herewith the proposed Judgment Approving Settlement of Claim Filed in the SIPA Liquidation of Lehman Brothers Inc.

Dated: June 2, 2015

Respectfully submitted,

**BERNSTEIN LITOWITZ BERGER
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