

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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GOLDMAN SACHS CATASTROPHE RISK :
PREMIUM OPPORTUNITIES MASTER :
FUND II, L.P., GOLDMAN SACHS CREDIT :
OPPORTUNITIES INSTITUTIONAL 2008 :
FUND, L.P., GOLDMAN SACHS :
QUANTITATIVE STRATEGIES :
EMERGING MARKETS MASTER FUND, :
L.P., GOLDMAN SACHS CREDIT :
OPPORTUNITIES 2008 MASTER FUND, :
L.P., GOLDMAN SACHS LIP CREDIT :
OPPORTUNITIES 2008 FUND, L.P., :
GOLDMAN SACHS GLOBAL ALPHA :
FUND L.P., GOLDMAN SACHS :
MORTGAGE CREDIT OPPORTUNITIES :
FUND L.P., GOLDMAN SACHS ALPHA :
FUND Plc, GOLDMAN SACHS GLOBAL :
ALPHA DYNAMIC RISK FUND, LLC, :
GOLDMAN SACHS MORTGAGE CREDIT :
OPPORTUNITIES FUND OFFSHORE, L.P., :
GOLDMAN SACHS DYNAMIC RISK :
MASTER FUND OFFSHORE, Ltd., :
GOLDMAN SACHS SMC CREDIT :
OPPORTUNITIES 2008 FUND, L.P., :
GOLDMAN SACHS EMERGING :
MARKETS OPPORTUNITIES FUND :
OFFSHORE, Ltd., GOLDMAN SACHS :
EMERGING MARKETS OPPORTUNITIES :
FUND, LLC, GOLDMAN SACHS GLOBAL :
OPPORTUNITIES FUND OFFSHORE, Ltd., :
GOLDMAN SACHS GLOBAL :
OPPORTUNITIES FUND, LLC, GOLDMAN :
SACHS LIQUIDITY PARTNERS 2007 :
OFFSHORE, L.P., GOLDMAN SACHS :
LIQUIDITY PARTNERS 2007, L.P., :
GOLDMAN SACHS INVESTMENT :
PARTNERS MASTER FUND I, L.P., and :
LIBERTY HARBOR MASTER FUND I, L.P.,

Plaintiffs,

v.

LEHMAN BROTHERS SPECIAL
FINANCING INC., and LEHMAN
BROTHERS OTC DERIVATIVES INC.,

Date Filed:
Index No.:
Date Purchased:

08602865

SUMMONS

FILED

OCT 03 2008

COUNTY CLERKS OFFICE
NEW YORK

Defendants.

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TO THE ABOVE-NAMED DEFENDANTS:

You are hereby summoned and required to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiffs within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is prior agreement (CPLR § 501) and place of business (CPLR § 503(c)).

Dated: New York, New York
October 3, 2008

SCHULTE ROTH & ZABEL LLP

By: 

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To: LEHMAN BROTHERS SPECIAL FINANCING INC.
745 Seventh Avenue
New York, New York 10019

LEHMAN BROTHERS OTC DERIVATIVES INC.
745 Seventh Avenue
New York, New York 10019

Opportunities 2008 Master Fund, L.P., Goldman Sachs LIP Credit Opportunities 2008 Fund, L.P., Goldman Sachs Global Alpha Fund L.P., Goldman Sachs Mortgage Credit Opportunities Fund L.P., Goldman Sachs Alpha Fund Plc, Goldman Sachs Global Alpha Dynamic Risk Fund, LLC, Goldman Sachs Mortgage Credit Opportunities Fund Offshore, L.P., Goldman Sachs Dynamic Risk Master Fund Offshore, Ltd., Goldman Sachs SMC Credit Opportunities 2008 Fund, L.P., Goldman Sachs Emerging Markets Opportunities Fund Offshore, Ltd., Goldman Sachs Emerging Markets Opportunities Fund, LLC, Goldman Sachs Global Opportunities Fund Offshore, Ltd., Goldman Sachs Global Opportunities Fund, LLC, Goldman Sachs Liquidity Partners 2007 Offshore, L.P., Goldman Sachs Liquidity Partners 2007, L.P., Goldman Sachs Investment Partners Master Fund I, L.P., and Liberty Harbor Master Fund I, L.P., (all of which are managed by Goldman Sachs Asset Management, S.L.P. ("GSAM") or Goldman Sachs Investment Strategies LLC and shall be referred to herein, collectively, as the "GSAM Funds") for their complaint against defendants Lehman Brothers Special Financing Inc. ("LBSF") and Lehman Brothers OTC Derivatives Inc. ("LBOD" and, together with LBSF, the "Lehman Entities"), allege through their undersigned counsel as follows:

NATURE OF THE ACTION

1. This is an action to recover in excess of ten million dollars that Plaintiffs GSAM Funds are owed pursuant to the value at the time of termination of derivative transactions between the Plaintiff GSAM Funds and the Lehman Entities as well as excess collateral that Plaintiff GSAM Funds has provided to the Lehman Entities in connection with those derivative transactions. Although the transactions were properly terminated on September 15, 2008, the Lehman Entities owe in excess of 10 million dollar in funds and collateral to the GSAM Funds that have not been paid or returned. Furthermore, PricewaterhouseCoopers ("PwC"), in its capacity as administrator in connection with administrative proceedings involving Lehman

Brothers International (Europe) ("LBIE"), a subsidiary of non-party Lehman Brothers Holdings Inc. ("LBHI"), has declared that various LBHI-affiliated entities sent funds to LBHI prior to LBHI's filing for bankruptcy -- funds which to this day have not been returned, even though they indisputably belong to the entities and even though none of the entities have filed for bankruptcy. Through this action, the GSAM Funds seek the payment and return of the termination value and collateral, plus accrued interest, from the Lehman Entities.

PARTIES

2. Plaintiff Goldman Sachs Catastrophe Risk Premium Opportunities Master Fund II, L.P., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

3. Plaintiff Goldman Sachs Credit Opportunities Institutional 2008 Fund, L.P., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

4. Plaintiff Goldman Sachs Quantitative Strategies Emerging Markets Master Fund, L.P., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

5. Plaintiff Goldman Sachs Credit Opportunities 2008 Master Fund, L.P., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

6. Plaintiff Goldman Sachs LIP Credit Opportunities 2008 Fund, L.P., is an entity organized under the laws the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

7. Plaintiff Goldman Sachs Global Alpha Fund L.P., is an entity organized under the laws of Delaware, with its principal place of business at 32 Old Slip, New York, New York 10004.

8. Plaintiff Goldman Sachs Mortgage Credit Opportunities Fund L.P., is an entity organized under the laws of Delaware, with its principal place of business at 32 Old Slip, New York, New York 10004.

9. Plaintiff Goldman Sachs Alpha Fund Plc, is an entity organized under the laws of Ireland, with its principal place of business at 32 Old Slip, New York, New York 10004.

10. Plaintiff Goldman Sachs Global Alpha Dynamic Risk Fund, LLC, is an entity organized under the laws of Delaware, with its principal place of business at 32 Old Slip, New York, New York 10004.

11. Plaintiff Goldman Sachs Mortgage Credit Opportunities Fund Offshore, L.P., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

12. Plaintiff Goldman Sachs Dynamic Risk Master Fund Offshore, Ltd., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

13. Plaintiff Goldman Sachs SMC Credit Opportunities 2008 Fund, L.P., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

14. Plaintiff Goldman Sachs Emerging Markets Opportunities Fund Offshore, Ltd., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

15. Plaintiff Goldman Sachs Emerging Markets Opportunities Fund, LLC, Ltd. is an entity organized under the laws of Delaware, with its principal place of business at 32 Old Slip, New York, New York 10004.

16. Plaintiff Goldman Sachs Global Opportunities Fund Offshore, Ltd., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

17. Plaintiff Goldman Sachs Global Opportunities Fund, LLC, is an entity organized under the laws of Delaware, with its principal place of business at 32 Old Slip, New York, New York 10004.

18. Plaintiff Goldman Sachs Liquidity Partners 2007 Offshore, L.P., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 32 Old Slip, New York, New York 10004.

19. Plaintiff Goldman Sachs Liquidity Partners 2007, L.P., is an entity organized under the laws of Delaware, with its principal place of business at 32 Old Slip, New York, New York 10004.

20. Plaintiff Goldman Sachs Investment Partners Master Fund I, L.P., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 85 Broad Street, 28th Floor, New York, New York 10004.

21. Plaintiff Liberty Harbor Master Fund I, L.P., is an entity organized under the laws of the Cayman Islands, with its principal place of business at 1 New York Plaza, 39th Floor, New York, New York 10004.

22. Defendant Lehman Brothers Special Financing Inc. is a corporation organized and incorporated under the laws of Delaware. It is registered to do business in this

State and has its principal business address at 745 Seventh Avenue, New York, NY 10019.

LBSF is a subsidiary of Lehman Brothers Inc. and LBHI, but LBSF has not filed for protection under the U.S. Bankruptcy Code and is not covered by the ongoing SIPA proceedings involving Lehman Brothers Inc.

23. Defendant Lehman Brothers OTC Derivatives Inc. is a corporation organized and incorporated under the laws of Delaware. It is registered to do business in this State and has its principal business address at 745 Seventh Avenue, New York, NY 10019. LBOD is a subsidiary of LBHI, but LBOD has not filed for protection under the U.S. Bankruptcy Code and is not covered by the ongoing SIPA proceedings involving Lehman Brothers Inc.

JURISDICTION AND VENUE

24. This Court has jurisdiction under CPLR §§ 301 and 302(a)(1) because each Defendant resides and has transacted business within this State. Each Defendant has also contractually agreed to submit to the jurisdiction of the Courts of the State of New York in all disputes arising under the agreements at issue herein.

25. Venue is properly laid in this Court pursuant to CPLR § 503(a) & (c) because LBSF and LBOD each resides in New York County, and pursuant to CPLR § 501 because each Defendant has contractually agreed to this venue.

BACKGROUND FACTS

The Master Agreements

26. Each of the GSAM Funds has transacted business with its counterparty Lehman Entity for many years. In particular, each of the GSAM Funds and each of the Lehman Entities have entered into derivative transactions (the "Transactions") pursuant to International Swap Dealers Association, Inc. ("ISDA," a global trade association representing market

participants in the privately negotiated derivatives industry) Master Agreements, which set forth standard terms regulating the general obligations of the parties (collectively referred to herein as the "Master Agreements").

27. Examples of the Master Agreements, including a true and correct copies of selected relevant pages of the Master Agreements dated as of April 17, 2006, between Plaintiff Liberty Harbor Master Fund L.P. and LBSF and LBOD are attached hereto as Exhibit 1 and Exhibit 2.

28. Under each Master Agreement, an Event of Default occurs when one of the parties, or any "Credit Support Provider" of a party "becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due," "seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets" or "institutes...a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under bankruptcy or insolvency law..." (Master Agreement § 5(a)(vii)(2), (4) & (6).)

29. Upon the occurrence of an Event of Default, the non-defaulting party may designate an Early Termination Date in respect of all outstanding Transactions under the Master Agreement. (Master Agreements § 6(a).)

The September 15, 2008 Event of Default and Early Termination Date

30. On September 15, 2008, LBHI filed a petition in the United States Bankruptcy Court for the Southern District of New York seeking relief under Chapter 11 of the United States Bankruptcy Code (the "Filing").

31. Pursuant to Part 4(f) of the Schedules to the Master Agreements, LBHI is designated as Credit Support Provider in relation to each of the Lehman Entities.

32. Accordingly, the Filing constituted an Event of Default under Section 5(a)(vii) of the Master Agreements, and each of the Lehman Entities became a Defaulting Party.

33. On the day of the Filing, each GSAM Fund sent its counterparty Lehman Entity a notice designating that date, September 15, 2008, as the Early Termination Date in respect of all outstanding Transactions pursuant to Section 6(a) of the Master Agreements (the "September 15 Notices") (Attached hereto as Exhibit 3.).

34. As of the date of this filing, the Lehman Entities currently owe in excess of ten million dollars to the GSAM Funds pursuant to the value at the time of termination of derivative transactions between the Plaintiff GSAM Funds and the Lehman Entities as well as the excess collateral that Plaintiffs GSAM Funds provided to the Lehman Entities in connection with those derivative transactions.

35. To date, none of the Lehman Entities has paid any of the monies owed to the respective GSAM Funds or returned any of the excess collateral, and, upon information and belief, the Lehman Entities do not intend to honor their obligations under the Master Agreements and have indicated their intent to breach those contractual obligations.

Lehman's Internal Transfers

36. On information and belief, certain other subsidiaries of non-party LBHI have transferred funds out of their accounts into centralized accounts for the benefit of LBHI and with the effect of preventing subsidiaries from paying creditors or potential judgments.

37. For example, LBHI subsidiary "LBIE" is involved in administration proceedings under the English Insolvency Act 1986 (as modified by the English Enterprise Act of 2002) because it is, or is likely to become, insolvent. PwC is acting as LBIE's administrator in those proceedings.

38. PwC, in its capacity as administrator in the English proceedings, submitted a sworn affidavit in the LBHI bankruptcy proceedings pending in the United States Bankruptcy Court for the Southern District of New York asserting that \$8 billion in assets was transferred from LBIE's London operations in significant part to, and for the benefit of, other Lehman affiliates, and that this \$8 billion had not been returned to LBIE.

39. Amber Capital Investment Management, a New York investment fund and client of LBHI's investment banking subsidiary, and GLG Partners LP, one of the largest hedge funds in Europe, filed objections in the bankruptcy court to the proposed sale of Lehman Brothers Inc. ("LBI") to Barclays Capital Inc., alleging that the \$8 billion may have been "misappropriated" by LBHI from LBIE just before LBI-II filed for bankruptcy. The filings objected on the grounds that the \$8 billion may have been transferred to LBI and might therefore be included as part of the assets sold to Barclays Capital Inc.

40. Additionally, on information and belief, under a "cash sweep" system utilized by LBHI and its subsidiaries, at the end of each trading day, cash in all of LBHI's subsidiaries was sent to LBHI. LBHI may still hold a significant amount of cash belonging to the Lehman Entities that it gathered during such a "cash sweep."

41. On information and belief, Lehman affiliates and their assets and liabilities have been and are being sold to third parties in great haste and with limited disclosure relating to the assets and liabilities transferred. Furthermore, it seems probable that numerous entities affiliated with LBHI will also be rendered insolvent in the near future, and, indeed, numerous other plaintiffs have brought action in this Court seeking to prevent dissipation of those assets. Those circumstances, combined with the Lehman Entities' owing monies to the GSAM Funds,

all raise the genuine danger that the funds and collateral will disappear before the GSAM Funds' claims asserted herein can be adjudicated and reduced to judgment.

FIRST CAUSE OF ACTION
(Breach of Contract)

42. Plaintiffs repeat and incorporate the allegations in paragraphs 1 through 41 as if set forth fully herein.

43. The Lehman Entities owe in excess of ten million dollars to the GSAM Funds.

44. By delivery of notice in accordance with the terms of the Master Agreements, the GSAM Funds designated September 15, 2008, as the Early Termination Date under each of the Master Agreements.

45. Each Lehman Entity is obligated to transfer to the respective GSAM Funds the value at termination, plus accrued and default interest, as well as excess collateral.

46. To date, none of the Lehman Entities has paid any of the monies owed to the respective GSAM Funds, and, upon information and belief, the Lehman Entities do not intend to honor their obligations under the Master Agreements and have indicated their intent to breach those contractual obligations.

47. The GSAM Funds have suffered and continue to suffer injury by reason of not receiving the monies owed.

SECOND CAUSE OF ACTION
(Fraudulent Conveyance)

48. Plaintiffs repeat and incorporate the allegations in paragraphs 1 through 41 as if set forth fully herein.

49. The Lehman Entities are holding hundreds of millions of dollars of the GSAM Funds' assets in the form of monies owed.

50. Upon information and belief, based on the conduct of LBIE in connection with its transferring funds to LBHI, each of the Lehman Entities has engaged, or intends to engage, in the transfer of assets without fair consideration and is, or will be thereby rendered, insolvent, in violation of the New York Uniform Fraudulent Conveyance Act § 273.

51. For the same reasons, upon information and belief, each of the Lehman Entities is engaged in a business for which the capital remaining is unreasonably small, in violation of New York Uniform Fraudulent Conveyance Act § 274.

52. For the same reasons, upon information and belief, each of the Lehman Entities is engaged in conveying assets without fair consideration while continuing to incur debts, knowing that it will incur debts beyond its respective ability to pay as they mature, in violation of New York Uniform Fraudulent Conveyance Act § 275.

53. Based on the foregoing, the Lehman Entities are liable under Sections 273 through 275 of the New York Uniform Fraudulent Conveyance Act.

REQUEST FOR RELIEF


WHEREFORE, Plaintiff Plaintiffs pray for relief and respectfully request that the Court enter judgment in their favor as follows:

- a) Ordering preliminary relief and Attachment pursuant to article 62 of the C.P.L.R.;
- b) Ordering each of the Lehman Entities to pay the GSAM Funds monies owed under the Master Agreements, with accrued and default interest, in amounts to be determined;
- c) Awarding actual damages resulting from each of the Lehman Entities' breach of contract and/or fraudulent conveyances;
- d) Enjoining LBOD from transferring any funds to any affiliates of LBOD without fair consideration;
- e) Enjoining LBSF from transferring any funds to any affiliates of LBSF without fair consideration;

- f) Awarding reasonable out-of-pocket expenses, including legal fees, and costs of collection that Plaintiffs have incurred or will incur by reason of the enforcement and protection of its rights under the Master Agreements, as provided for pursuant to Section 11 of the Master Agreements;
- g) Awarding pre- and post-judgment interest at the maximum lawful rate; and
- h) Granting Plaintiffs such other and further relief as the Court may deem just and proper.

Dated: New York, New York
October 3, 2008

SCHULTE ROTH & ZABEL LLP

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No.

Year 2008

GOLDMAN SACHS CATASTROPHE PREMIUM
OPPORTUNITIES MASTER FUND II L.P., et al.,

Plaintiffs

- against -

LEHMAN BROTHERS SPECIAL FINANCING
INC., and LEHMAN BROTHERS OTC
DERIVATIVES INC.,

Defendants

COMPLAINT

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To

Attorney(s) for
