

TUESDAY 19TH DECEMBER 2017

IN THE COURT OF APPEAL

ON APPEAL FROM THE HIGH COURT OF JUSTICE
CHANCERY DIVISION

7945OF2008

BEFORE LADY JUSTICE GLOSTER VICE PRESIDENT OF THE COURT OF
APPEAL, CIVIL DIVISION
AND LORD JUSTICE PATTEN
AND LORD JUSTICE DAVID RICHARDS

B E T W E E N

THE COMMISSIONER FOR HER MAJESTY'S REVENUE AND CUSTOMS
APPELLANTS

- and -

1. ANTHONY VICTOR LOMAS
2. STEVEN ANTHONY PEARSON
3. RUSSELL DOWNS
4. JULIAN GUY PARR

(IN THEIR CAPACITY AS JOINT ADMINISTRATORS OF LEHMAN BROTHERS
INTERNATIONAL (EUROPE) (IN ADMINISTRATION) ("LBIE") (THE RESPONDENT
BEING REFERRED TO TOGETHER AS " THE JOINT ADMINISTRATORS"

RESPONDENTS

UPON the appeal by the Commissioners for Her Majesty's Revenue and
Customs ("HMRC") against the Order of Mr Justice Hildyard dated 11 October
2016 and sealed on 13 October 2016

AND UPON hearing Malcolm Gammie QC and Catherine Addy QC for HMRC
and John Gardiner QC and Daniel Bayfield QC for the Joint Administrators

IT IS ORDERED AND DECLARED THAT:

1. The appeal is allowed.
2. Statutory interest payable pursuant to rule 14.23(7) of the Insolvency
Rules 2016 (and formerly payable pursuant to rule 2.88(7) of the
Insolvency Rules 1986) is yearly interest for the purposes of section
874(1) of the Income Tax Act 2007 and the payment of such statutory
interest gives rise to an obligation under section 874 of the Income Tax



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Act 2007 on the part of a company in administration and/or on the part of its administrators to deduct amounts representing income tax (subject to such exemptions or reliefs as may be available).

3. HMRC's costs of the appeal and of the proceedings below be paid by the Joint Administrators as an expense of the administration of LBIE, such costs to be subject to detailed assessment if not agreed.
4. By 4pm on 14 January 2018 the Joint Administrators shall make an interim payment to HMRC of £123,000 on account of the liability to pay costs.
5. The Joint Administrators' costs of the appeal and of the proceedings below be paid as an expense of the administration of LBIE.
6. The Joint Administrators' application for permission to appeal to the Supreme Court is refused.



(The Court sat on 31st October 2017 from 11.00 to 16.30)

By the Court

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COMMISSIONER FOR HER MAJESTY'S
REVENUE AND CUSTOMS

- and -

ANTHONY VICTOR LOMAS

- and -

STEVEN ANTHONY PEARSON

- and -

RUSSELL DOWNS

- and -

JULIAN GUY PARR

- and -

PAUL DAVID COPLEY

ORDER

Copies to:

Chancery Division
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Strand 4

HMRC Solicitors Office
DX 146745
London (Bush House)
Ref: SLR 303275/IRE

Linklaters LLP
DX 10 Cde
Ref: L-232446-01-138

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* This order was drawn by A Marie Smith (Associate) to whom all enquiries regarding this order should be made. When communicating with the Court please address correspondence to A Marie Smith, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44450 Strand) and quote the Court of Appeal reference number. The Associate's telephone number is