



# Press Release

## **FOR IMMEDIATE RELEASE**

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### **Brown Rudnick LLP Achieves Significant Court Victory in Court Case Involving Structured Notes**

**Boston (US) and London (UK), April 8, 2009** – Last week, the international law firm of Brown Rudnick LLP prevailed on behalf of the ad hoc committee of bondholders in connection with litigation regarding bonds issued by a Lehman sub-prime SPV securitization issuer.

The firm's clients held bonds in different classes of an English sub-prime securitization transaction, out of more than a GBP1bn in notes issued by the issuer. A committee of another class of bondholders (the A3 Committee) argued that the Bond Trustee should have issued a Notice of Event of Default on the basis that (a) an event of default had occurred when Lehman Brothers went into administration, and (b) the A3 Committee (which represented the requisite percentage of noteholders required to instruct the Bond Trustee to serve the Notice of Event of Default), instructed the Trustee to serve the notice. The Lehman's administration triggered an Event of Default on the bonds, because Lehman was the currency swap counter-party, and, on the interest payment date, which happened to coincide with a swap payment on the currency swap, Lehman couldn't pay the amount due by it under the swap, which resulted in the bondholders in that particular currency not being paid.

The A3 Committee had an interest in a Notice of Event of Default being served because that would result in a change to the payment waterfall from a sequential payment to a pro rata payment. The A3 Committee argued that the Bond Trustee was bound, (a) on the proper construction of the terms of the Notes or, in the alternative, (b) on a proper exercise of its discretion, to issue the Notice of Event of Default. Brown Rudnick argued successfully that neither of these was true, relying on the point of construction on a clause in the documentation which provided that, where conflicts of interest arise as between classes of noteholders, all the classes have to concur as to an instruction to the Bond Trustee to serve a Notice of Event of Default.

The court room was packed every day with bondholders from other institutions, as issues involving various classes of security holders in structured debt transactions are beginning to come under pressure. Ultimately, the court's decision affords bondholders comfort that the court will apply a natural construction to the terms of the documents and will not be drawn into extraneous arguments.



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This latest success was a collaborative effort among Brown Rudnick's London Finance, Bankruptcy & Corporate Restructuring, and Structured Resolution Groups. Sonya Van de Graaff led the Brown Rudnick team, with support from Stephen Hallam, Neill Shrimpton, Louise Verrill and Peter Declercq.

## **About Brown Rudnick LLP**

Brown Rudnick is an international law firm with offices in the United States and Europe. The firm represents clients from around the world, providing business-focused solutions that address today's ever-changing, ever-demanding competitive marketplace. With an entrepreneurial and collaborative mindset, Brown Rudnick offers a broad slate of capabilities and talents in areas that include: Bankruptcy & Corporate Restructuring, Finance, Complex Litigation, Corporate & Securities, Energy, Government Law & Strategies, Health Law, Intellectual Property and Real Estate. For more information, please visit [www.brownrudnick.com](http://www.brownrudnick.com).

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