

Litigator of the Week: William Maguire of Hughes Hubbard & Reed

Posted by David Bario

It's no surprise that we've never chosen two Litigators of the Week from opposing sides of the same case before here at the Litigation Daily. After all, when one side scores a major win in an ordinary case, somebody's got to be the loser.

But the three-way battle between Barclays, the Lehman Brothers estate, and the liquidation trustee for Lehman's U.S. broker-dealer business that erupted after Barclays acquired the Lehman unit in 2008 was no ordinary case. As we've exhaustively reported (here, here, and here, for example), the Lehman estate accused Barclays of orchestrating a secret \$13 billion "windfall" for itself when it acquired Lehman's broker-dealer arm during the fateful month of September 2008. This February, following a 34-day bench trial, Barclays' lawyers convinced Manhattan federal bankruptcy court judge James Peck to reject those claims, for which we named Barclays counsel Jonathan Schiller of Boies, Schiller & Flexner our Litigator of the Week.

There was more to the case than Barclays' alleged windfall, however—and more to Judge Peck's February ruling. As we reported, the judge also appeared to grant the Lehman Brothers Inc. liquidation trustee's claims to \$4.8 billion in various Lehman assets that the trustee, James Giddens of Hughes Hubbard & Reed, argued never should have gone to Barclays in the 2008 deal. Judge Peck asked Barclays and Giddens' counsel at Hughes Hubbard to submit proposed final orders on the ruling.

In the scramble that followed, lead Hughes Hubbard trial counsel William Maguire faced off once again against his adversaries at Boies Schiller, who, predictably, took issue with the reasoning behind LBI's accounting. Barclays argued instead that it should be granted as much as \$6 billion in disputed assets claimed by the trustee.

At a June 8 hearing, Judge Peck finally made his final decision. He granted Giddens the full \$4.8 billion the trustee claimed, including \$4 billion in various disputed assets held on margin and about \$769 million held in segregated accounts for LBI customers. (The customer protection funds will go to Barclays if they're not used to re-pay LBI customers in the bankruptcy.) The judge also awarded LBI pre-judgment interest worth about \$270 million.

Giddens did agree in May to transfer \$1.1 billion in trading assets to Barclays. Otherwise, Hughes Hubbard's Maguire told the Litigation Daily, he and his partners pulled off a "clean sweep."

Maguire said it was clear the case was going to be a whopper from the moment he became involved in 2009. "The numbers were so staggering, and of course right from the beginning we knew there was a great array of legal talent on the other side," Maguire said. "I really hoped it would go to trial."

The biggest surprise in the case, Maguire said, was that it did make it to trial, instead of settling along the way. Maguire said he also didn't expect to have to re-litigate a big portion of the case in the wake of Judge Peck's February decision. "I confess I read the judge's decision and I thought it was pretty straightforward," Maguire said. "But that whole extra phase turned out from a professional standpoint to be interesting and all in good fun."

And if we'd just pulled off a \$5 billion victory, we'd probably call it good fun too.

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