

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SENIOR HEALTH INSURANCE COMPANY OF  
PENNSYLVANIA,

Plaintiff,

-v-

BEECHWOOD RE LTD., et al.,

Defendants.

18-cv-6658 (JSR)

MARTIN TROTT and CHRISTOPER SMITH,  
as Joint Official Liquidators and  
Foreign Representatives of  
PLATINUM PARTNERS VALUE ARBITRAGE  
FUND L.P. (in Official Liquidation) and  
PLATINUM PARTNERS VALUE ARBITRAGE  
FUND L.P. (in Official Liquidation),

Plaintiffs,

-v-

PLATINUM MANAGEMENT (NY) LLC,  
et al.,

Defendants.

18-cv-10936 (JSR)

**DEFENDANT MURRAY HUBERFELD'S MEMORANDUM OF LAW IN SUPPORT OF  
HIS MOTION TO DISMISS THE AMENDED COMPLAINT**

Defendant Murray Huberfeld ("Huberfeld") respectfully submits this memorandum of law in support of his motion (the "Motion") to dismiss the First Amended Complaint (the "Amended Complaint" or "AC") pursuant to Federal Rules of Civil Procedure Rule 12(b)(6) for failure to state a claim upon which relief may be granted.

For brevity, Huberfeld respectfully incorporates herein and joins with the motion to dismiss the Amended Complaint of Defendant David Bodner (including the recitations of applicable law set forth in that motion), as well as with the motions by all other moving defendants on the same or similar grounds. Huberfeld joins Bodner's position that Plaintiffs' strategy to plead their claims collectively against groups of defendants, rather than each defendant individually, permeates every element of their claims against Huberfeld, and has resulted in an Amended Complaint that does not even come close to satisfying the pleading requirements of Rules 8 and 9(b).

Furthermore, the Amended Complaint does not contain a single factual allegation that Huberfeld himself engaged in any wrongful act or omission. Instead, the Amended Complaint alleges that Huberfeld is a member of two defendant-groups – the “Platinum Defendants” and the “Beechwood Defendants” (AC ¶ 67) – and, without identifying any specific conduct by Huberfeld, asserts that he is legally responsible for the sprawling scheme purportedly carried out by those groups. However, the only relevant facts alleged against Huberfeld are that he was a founding owner of certain Platinum and Beechwood entities (AC ¶¶ 12(iii), 67), involved to some extent in those entities' business (AC ¶ 82), and that he had certain innocuous personal and professional relationships with other individuals and entities also named as defendants (*see, e.g.*, AC ¶ 382).<sup>1</sup> Those facts are not actionable. Because the Amended Complaint is bereft of a single relevant statement, act, or omission by him that supports any asserted claim, it must be dismissed.

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<sup>1</sup> The Amended Complaint does recite a slew of information, long since available in the public domain, about Huberfeld's allegedly “checkered past.” (AC ¶ 81, *see also* AC ¶¶ 13, 71, 79-80, 266.) Those allegations, however, are facially unrelated to the scheme that is central to the Amended Complaint and do not raise a reasonable inference that Huberfeld defrauded PPVA or anyone for that matter. In fact, Plaintiffs readily admit that information about Huberfeld's prior ‘bad acts’ “are matters of public record” and that “[p]ublished articles concerning Platinum Management routinely mentioned [his] arrests, guilty pleas, and SEC fines.” (AC ¶ 81.)

For this reason, and for all of the reasons set forth in the memoranda of law filed by Bodner and other similarly situated moving defendants, the Amended Complaint should be dismissed with prejudice.

Date: February 4, 2019

Respectfully submitted,

/s/

Jeffrey C. Daniels, Esq.

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