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Via ECF

June 23, 2017

Chief Judge Dora L. Irizarry
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *SEC v. Platinum Management (NY) LLC et al.,* Civil Case No. 16-cv-6848 (DLI)(VMS)

Dear Chief Judge Irizarry:

I write in response to the letter submitted to your Honor under seal by the Securities and Exchange Commission (the "SEC") on June 21, 2017 [Docket No. 168] (the "SEC Letter").

For quite some time, the SEC staff and I have had differing views as to how best to maximize the value of the Receivership Estate for the benefit of investors and creditors. In fact, I offered to resign as Receiver once before because I was concerned that our differing views of the best course of action for the Receivership Estate were interfering with an orderly wind down. At that time, the SEC staff asked me not to resign. I have made every effort to resolve those differences and address the SEC's concerns, seeking guidance from the Court where necessary. Unfortunately, these differences of opinion have caused my working relationship with the SEC staff, which should be based on cooperation, trust, and mutual respect, to deteriorate to a point where it is no longer in the best interests of Platinum investors and creditors for me to continue as Receiver. While I strongly disagree with the SEC Letter, and the SEC's assertion that I have an actual conflict of interest, I have agreed to resign and to assist in an orderly transition, rather than engage in a dispute with the SEC over my alleged conflict. Thus, shortly before sending this letter to you, I filed an application to be relieved as Receiver [Docket No. 170], which I respectfully ask this Court to grant.

However, I did not want to let the SEC Letter go unanswered, and therefore submit this brief reply to the SEC's assertions about me, bearing in mind that my resignation effectively moots the issues raised by the SEC in its letter.

In order to understand the different views the SEC and I have about the use of Receivership funds to maintain certain Receivership assets, it is important to understand that the majority of investments held by the Receivership Entities are not stocks, bonds or other liquid investments that trade in the financial markets. Rather, they take the form of high-interest loans to privately-held companies, many backed by significant natural resource assets, which by their nature cannot be easily or quickly monetized. When I was charged with selling Receivership Property for its "true and proper value" under the Receiver Order ¶¶ 28-29, my task was complicated by the illiquid nature of the property in the Receivership Estate.

I conducted extensive due diligence on more than 90 of the Receivership's investment positions, and ultimately determined that while 85 of those positions could and should be liquidated as quickly as possible, there were up to five assets that could potentially produce a more meaningful recovery for Platinum investors and creditors if I could commit targeted capital infusions prior to liquidating those assets or otherwise positioning them for sale. The SEC staff, on the other hand, views my proposed approach as "us[ing . . .] investor funds to maintain and invest in risky investments" (SEC Letter at 2), and would prefer to wind down all the Receivership Entities' assets as quickly as possible, providing investors and creditors with greater certainty and a shorter timeline, but a lower potential recovery amount. See SEC Letter at 2.

For example, with respect to the Brazilian Gold Recovery Project, one of those five investments, my team conducted a tremendous amount of due diligence and concluded that the risks of proceeding with the project are small in relation to the potential return to the Receivership Estate's creditors and investors. Before the Receivership, Receivership Entity Platinum Partners Credit Opportunities Master Fund, LP ("PPCO") had engaged a reputable Canadian mining firm, JDS Energy & Mining, Inc. ("JDS"), which concluded after two rounds of testing that this project has significant potential and agreed to defer most of its compensation until after PPCO netted more than $100 million on it. PPCO had also engaged Brazilian counsel, Chediak Advogados, to ensure that PPCO's right to pursue this project was properly secured and to pursue regulatory approvals. Upon his appointment, the Receiver engaged additional experts to review these professionals' work. Valuation firm Houlihan Lokey valued the Project at a range of $55 million to $114 million, assuming that PPCO invested $5 million into the Project to get it started, but concluded that PPCO would be unable to recover its cost basis (approximately $10 million) if the Receiver tried to sell it today. The Receiver also engaged SRK Consulting (Canada) Inc., another well-regarded mining consulting firm, to review JDS's work, and he engaged reputable international law firm Allen & Overy LLP (working with another Brazilian firm, Demarest Advogados) to review Chediak's work and to otherwise advise on the unseen risks of an American company engaging in a profitable project in Brazil. Both SRK and Allen & Overy (together with Demarest) have returned positive reports on the prospects for this Project. The Receiver and members of his team met with JDS representatives, and a member of the Receiver's team visited the site in Brazil and interviewed JDS as well as other Project participants. Finally, the Receiver used his investigative staff at Guidepost Solutions LLC to perform background checks on the mining firms as well as other Project participants.

In order to obtain the Court's guidance on our differing approaches, the joint letter the SEC staff and I filed on May 19 [Docket No. 142] (the "Joint Letter") set a briefing schedule for presenting my proposed wind-down plan to the Court. Last week, just before I was set to file that application, the SEC staff asked me to refrain from filing. The next day, I received an email from the SEC staff asking me to attend a meeting at their offices on Tuesday, June 20. See Docket No. 167. At that meeting, the SEC staff raised the conflict issues discussed in the SEC Letter that prompted my request to resign.

The SEC Letter asserts that because a law firm retained me in 2013 to give a short opinion letter about a loan transaction involving an entity now under the Receivership (the "Litigation Finance Loan"), I should be disqualified from serving as a Receiver. I did not recall writing that short letter, and therefore did not disclose it to the SEC or the Court when I was appointed. While I acknowledge that the existence of this opinion could be viewed as presenting the appearance of a conflict, I do not believe that my previous, limited role in offering an opinion to an entity that is now a debtor to a Receivership Entity constitutes an actual conflict. As for the fact that I served as a monitor for that law firm years ago, that fact is a matter of public record, and was known to the SEC before my appointment as Receiver.[1] In any event, my prior involvement with that firm did not have any effect on my actions as Receiver, nor did it negatively affect my ability to attempt to recover assets on behalf of the Receivership Entities.

The assertion that a company that purchased a participation in the Litigation Finance Loan from Platinum is concerned that I was not protecting that company and the others who had purchased participations in that loan from Platinum (SEC Letter at 1) does not reflect on my fitness to serve as Receiver. My duty is to this Court and to Platinum investors and creditors, not to the participators in the Litigation Finance Loan. As I understand it, the loan participators are attempting to refinance the Loan, and wipe out

[1] My work as a monitor of the law firm is included in my website biography. The SEC examined my website biography a number of times before approving my involvement with Platinum, presumably as part of its diligence process.

Platinum's Supplemental Interest (its remaining interest in the Litigation Finance Loan). By contrast, I have been attempting to preserve that interest for the benefit of the Receivership Estate.

Contrary to the SEC Letter (SEC Letter at 2), I did not knowingly breach an escrow agreement. What happened was that a Platinum employee made a mistake that was immediately corrected once it was discovered with no harm to anyone. Unbeknownst to me, a member of my staff had entered into a letter agreement concerning funds that had been placed into escrow. On Thursday, May 18, 2017, a Platinum employee directed the transfer of funds from the escrow account *into* the Receivership Estate. That direction was made on notice to counsel for the company that complained to the SEC. On Friday, May 19, the Escrow Agent sent an email to all parties, including the company's counsel, about the release of the funds. Two days later, on Sunday, an attorney on Platinum's staff received a query about that transfer from the company's counsel (the same counsel that had been copied on all prior correspondence), and on Monday, the Platinum attorney received a copy of the letter agreement from the company's counsel. As soon as I realized that there was a letter agreement that required additional approvals (including the approval of the company whose counsel had been on the correspondence described above) before releasing the escrow, I directed Platinum staff to return the funds to the Escrow Agent, which occurred on Tuesday. In due course, those funds will be returned to the Receivership Estate as they are in fact Receivership Property. It did not occur to me that I needed to disclose to the SEC or the Court an innocent mistake that was corrected in less than two business days without injury to any party.

The facts concerning the Arabella Loan and the Arabella Participation Agreement were disclosed to the Court in connection with my application to approve the Arabella Loan [Docket No. 128]. While I did want to retain the Arabella attorney mentioned in the SEC Letter due to his familiarity with that extremely complex matter and the expense that the Receivership Estate would have incurred to replace him, and while I discussed potential terms for that retention with the SEC staff, once the SEC staff told my counsel that there was no set of circumstances under which the SEC would agree to that retention, I abandoned those efforts, and told the attorney that I would not seek to retain him. One of the conditions of my proposed retention was for the attorney to treat the $180,000 he had received out of the $500,000 referenced in the SEC Letter as a credit against his post-Receivership fees, a condition the attorney and the other Platinum attorneys who received funds in that fashion had agreed to. Thus, the suggestion that I took no action to safeguard those funds is incorrect.[2]

This has been a difficult and challenging engagement, and I wish to acknowledge the efforts of all those who worked with me and who leave my successor with a solid foundation. I also want to express my appreciation to Your Honor for having confidence in me.

Respectfully yours,

Bart M. Schwartz

Bart M. Schwartz

cc: SEC staff (via email)

[2] Contrary to note 4 of the SEC Letter, I knew of the Participation Agreement at the time. I was informed of the need for it by a member of my staff, and agreed to it as the only way to protect Receivership Property that seemed feasible to me at the time. See Docket No. 128-1.