

Joshua M. Newville
Mark D. Harris
Seth D. Fier
Proskauer Rose LLP
Eleven Times Square
New York, New York 10036
(212) 969-3000
jnewville@proskauer.com
mharris@proskauer.com
sfier@proskauer.com
Attorneys for Non-Parties
Beechwood Re Limited and
Beechwood Bermuda International Ltd.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X	
SECURITIES AND EXCHANGE	:
COMMISSION,	:
	: Civil Case No. 16-6848 (DLI) (VMS)
	:
Plaintiff,	: ECF CASE
	:
v.	:
	:
PLATINUM MANAGEMENT (NY) LLC;	:
PLATINUM CREDIT MANAGEMENT, L.P.;	:
MARK NORDLICHT;	:
DAVID LEVY;	:
DANIEL SMALL;	:
URI LANDESMAN;	:
JOSEPH MANN;	:
JOSEPH SANFILIPPO; and	:
JEFFREY SHULSE,	:
	:
Defendants.	:
-----X	

**STATEMENT OF POSITION BY NON-PARTIES
BEECHWOOD RE LIMITED AND BEECHWOOD BERMUDA
INTERNATIONAL LTD. CONCERNING THE SEC'S
APPLICATION FOR APPOINTMENT OF NEW RECEIVER**

Beechwood Re Limited and Beechwood Bermuda International Ltd. (collectively “Beechwood”), interested non-parties, submit this statement of position in connection with the SEC’s application to appoint Melanie Cyganowski as Receiver to replace Bart M. Schwartz under the terms of the Proposed Second Amended Order Appointing Receiver. *See* Dkt. Nos. 173-176.

I. Beechwood Favors a Receivership that Permits Additional Limited Investment to Maximize Return

Beechwood is a reinsurer that presently holds investments and secured interests in Platinum Partners Opportunities Master Fund, L.P. (“PPCO”). The investments made by PPCO were generally in the form of debt or alternative financing to privately-held companies. These types of investments are, by nature, illiquid and difficult to quickly monetize. *See* Dkt. No. 180 (Letter from Mr. Schwartz). We understand that the Receiver and his team have taken significant efforts to unwind the PPCO investments in a logical manner while avoiding a “fire sale” liquidation, and we support an approach that assesses the specific characteristics of the assets in PPCO’s alternative lending portfolio to ensure the best course of action for investors. At times, the Receiver has appropriately recognized the need to inject additional funds into certain investments to ensure that the appropriate value is realized for all creditors.

Beechwood takes no position on whether the Receiver should be replaced. Nevertheless, it has concerns about the new proposed guidance for the receivership that the SEC has set forth in its application to replace the Receiver.

The SEC’s proposed order apparently seeks to significantly limit the new Receiver’s ability to exercise the judgment and discretion to maximize investors’ returns on PPCO assets. Specifically, the SEC asks the Court to define the scope of the new Receiver’s management of assets to be an “orderly liquidation,” while deleting the requirement that the Receiver carry out

such liquidation “with due regard to the realization of the true and proper value of such Receivership Property.” Dkt. No. 174-2 (Redline of Proposed Second Amended Order Appointing Receiver) ¶ 27. The proposed order further seeks to restrict the Receiver from engaging in any transactions involving Receivership Property without first obtaining SEC approval and potentially the Court’s approval. Under the proposed order, *all* transactions would have to be submitted to the SEC for approval. First, transactions under \$1 million of value would have to be approved by the SEC, and the SEC could further require the Receiver to seek Court approval of such transactions. *Id.* ¶ 29. Second, transactions of \$1 million or more of value would require SEC approval and automatically require Court approval. *Id.* Aside from the additional burden and resources these provisions will require, they may eliminate much of what we view as the Receiver’s appropriate discretion to exercise its informed judgment.

We understand that the SEC’s position is that these changes are requested “to reflect the current realities of the Receivership.” Dkt. No. 174 at 3. In Beechwood’s view, in order to maximize investors’ returns, the Receiver should be authorized discretion to commit additional limited funding of certain investments, in order to allow those investments to mature towards a greater recovery. Indeed, it would be a greater risk to investors to limit the Receiver’s discretion by prohibiting the Receiver from pursuing such avenues to maximize the true and proper value of the Receivership Property.

II. Proposed Replacement Receiver

The Court’s June 26, 2017 Order asks the parties to indicate whether they would approve of Melanie Cyganowski as the new Receiver if the SEC’s application is granted. Beechwood takes no position as to her appointment. If the Court accepts Mr. Schwartz’s resignation, Beechwood urges the Court to provide his replacement with the necessary power and autonomy to continue to manage the Platinum investments most prudently without pressure to liquidate at

“fire sale” values, and to confirm his replacement’s duty and authority to maximize the value of PPCO’s remaining assets.

Dated: June 30, 2017
New York, New York

Respectfully submitted,

By: /s/ Joshua M. Newville

Joshua M. Newville
Mark D. Harris
Seth D. Fier
PROSKAUER ROSE LLP
Eleven Times Square
New York, New York 10036
(212) 969-3000
(212) 969-2900 (fax)
Attorneys for Non-Parties
Beechwood Re Limited and
Beechwood Bermuda International
Ltd.