

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
IN RE PLATINUM-BEECHWOOD LITIGATION	:	No. 18 Civ. 6658 (JSR)
	:	
-----	X	
	:	
MARTIN TROTT and CHRISTOPHER SMITH, as Joint	:	
Official Liquidators and Foreign Representatives of	:	
PLATINUM PARTNERS VALUE ARBITRAGE FUND	:	
L.P. (in OFFICIAL LIQUIDATION) and PLATINUM	:	No. 18 Civ. 10936 (JSR)
PARTNERS VALUE ARBITRAGE FUND L.P. (in	:	
OFFICIAL LIQUIDATION),	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
PLATINUM MANAGEMENT (NY) LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
-----	X	

**MEMORANDUM OF LAW OF DEFENDANTS ROCKWELL FULTON
CAPITAL L.P. AND DITMAS PARK CAPITAL L.P. IN SUPPORT OF THEIR
MOTION TO DISMISS THE FIRST AMENDED COMPLAINT FOR FAILURE TO
STATE A CLAIM**

Defendants Rockwell Fulton Capital L.P. and Ditmas Park Capital L.P. (“Defendants”) joins the Motions of Defendant David Bodner, GRD Estates LTD, and Morris Fuchs, Estate of Jules Nordlicht, Barbara Nordlicht, FCBA Trust, Aaron Parnes, Sarah Parnes, Shmuel Fuchs Foundation, and Solomon Werdiger (“Fuchs Defendants”) (and any other defendants that made motions on similar grounds) to Dismiss the Complaint pursuant to Fed. R. Civ. P. Rules 9(b) and 12(b)(6) as for claims asserted against them for failure to state a claim upon which relief may be granted and with sufficient particularity as to Counts NINTH, TENTH, and FIFTEENTH.

As the only change pertaining to the Defendants, the Plaintiff only adds that the Defendants were “clients of Nordlicht.” This falls far short of the 9(b) aiding and abetting pleading requirements and does not state a claim against the Defendants that remotely suffice to ward off a 12(b)(6) Motion to Dismiss. The Plaintiff had ample time to amend their Complaint and all they can add as to the allegations towards the Defendants is that they are “clients of Nordlicht.” The reason only this was added is that there is nothing more to state. The Defendants did not even know anything about any of the allegations set forth in the Complaint as to them and other defendants, let alone did they aid and abet the purported fraud or fiduciary duties or were unjustly enriched therefrom.

For the reasons set forth above, in Sections I, III, and IV of the Memorandum of Law filed by Defendant David Bodner, in Sections II and III.B of the Memorandum of Law filed by the GRD Estates LTD, and Sections A, B, C, and D of the Fuchs Defendants, the Complaint fails to state a claim against the Defendants for which relief can be granted and must be dismissed as to the Defendants.

Dated: February 4, 2019
Brooklyn, NY

/s/ Tovia Jakubowitz
Tovia Jakubowitz, Esq. (TJ1016)
*Attorney for Defendants Ditmas Park
Capital, L.P. and Rockwell Fulton Capital,
L.P.*
3019 Avenue J
Brooklyn, New York 11210
Phone: (347) 230-6622
Fax: (718) 764-4294
tovia@jclawllp.com