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

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**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.**

**Civil Case No. 16-6848 (DLI) (VMS)  
ECF CASE**

**SECURITIES AND EXCHANGE COMMISSION'S AND RECEIVER'S  
JOINT EMERGENCY MOTION FOR AN ORDER TO SHOW  
CAUSE AND TEMPORARY RESTRAINING ORDER**

Plaintiff Securities and Exchange Commission (the “SEC”) and Bart M. Schwartz, the receiver appointed in this case (“Receiver”) respectfully request that this Court issue an Order to Show Cause (“OSC”) and, pending a hearing on the OSC, a temporary restraining order: (i) temporarily staying the bankruptcy court adversary proceeding *Richard Schmidt, Litigation Trustee v. Platinum Partners Value Arbitrage Fund LP, Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Liquid Opportunities Master Fund LP, and PPVA Black Elk (Equity) LLC*, Adv. No. 15-34287 (MI) (Bankr. S.D.Tex.) (the “Fraudulent Transfer Action”), (ii) temporarily enjoining enforcement of the Temporary Restraining Order, entered October 26, 2016, as extended by Agreed Order, entered December 14, 2016 (together, the “Bankruptcy Court TRO”) in the Fraudulent Transfer Action, and (iii) authorizing the Receiver to expend funds in accordance with the budget attached to the January 9, 2017 Declaration of Bart M. Schwartz, Receiver.

In support of this Motion, the SEC and Receiver incorporate by reference (1) the January 9, 2017 Declaration of Bart M. Schwartz, Receiver; (2) the January 9, 2017 Declaration of Neal Jacobson, Esq. pursuant to Local Rule 6.1(d); and (3) the SEC’s and Receiver’s January 9, 2017 Joint Memorandum of Law in Support of Their Motion for (i) Modification of the Platinum TRO and Receiver Order, (ii) Order to Show Cause, and (iii) Temporary Restraining Order.

Dated: January 9, 2017  
New York, New York

Respectfully submitted,

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-and-

By: /s/Celia Goldwag Barenholtz  
Celia Goldwag Barenholtz  
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Receiver  
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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**PLATINUM MANAGEMENT (NY) LLC;  
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MARK NORDLICHT;  
DAVID LEVY;  
DANIEL SMALL;  
URI LANDESMAN;  
JOSEPH MANN;  
JOSEPH SANFILIPPO; and  
JEFFREY SHULSE;**

**Defendants.**

**Civil Case No. 16-cv-6848 (DLI) (VMS)**

**ECF CASE**

**[PROPOSED] ORDER TO SHOW CAUSE AND  
TEMPORARY RESTRAINING ORDER**

On the Application of Plaintiff Securities and Exchange Commission (“Plaintiff Commission”) and Bart M. Schwartz, the Receiver appointed in this case (“Receiver”) for an Order:

(1) directing Richard Schmidt (“Bankruptcy Litigation Trustee”), the Trustee of the Black Elk Energy Offshore Operations, LLC Litigation Trust to show cause why an order should not be entered modifying the December 19, 2016 Order to Show Cause, Temporary Restraining Order, Order Appointing Receiver, and Granting Other Relief (the “Platinum TRO”) [Dkt.#5], and the December 19, 2016 Order Appointing Receiver (“Receiver Order) [Dkt.#6], to enjoin (i) the continuation of any and all bankruptcy proceedings against the Receivership Entities and/or Receivership Property, as those terms are defined in the Receiver Order including the Adversary

Proceeding *Richard Schmidt, Litigation Trustee v. Platinum Partners Value Arbitrage Fund LP, Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Liquid Opportunities Master Fund LP, and PPVA Black Elk (Equity) LLC*, Adv. No. 15-34287 (MI) (Bankr. S.D.Tex.) (the “Fraudulent Transfer Action”) and (ii) enforcement of the Temporary Restraining Order, entered October 26, 2016, as extended by Agreed Order, entered December 14, 2016 (together, the “Bankruptcy TRO”) in the Fraudulent Transfer Action; and

(2) pending adjudication of the foregoing, an Order (i) authorizing the Receiver to expend Receivership Property in accordance with the budget attached to the January 9, 2017 Declaration of Bart M. Schwartz, Receiver (“Schwartz Declaration”), (ii) restraining the Bankruptcy Litigation Trustee from enforcing the Bankruptcy TRO against the Receiver for any actions the Receiver takes in accordance with this Order, and (iii) staying the Fraudulent Transfer Action.

The Court has considered (i) the Schwartz Declaration and the exhibits thereto; (ii) the Rule 6.1(d) Declaration of Neal Jacobson, Esq., dated January 9, 2017; and (3) the Securities and Exchange Commission’s and Receiver’s Joint Memorandum of Law in Support of Their Emergency Motion for an Order to Show Cause and Temporary Restraining Order.

Based upon the foregoing documents, the Court finds that it appears from the evidence presented that the actions of the Bankruptcy Litigation Trustee are interfering with this Court’s jurisdiction over the Receivership Entities and Receivership Property and the Receiver’s ability to manage the Receivership Property for the benefit of the Receivership Estate.

**NOW, THEREFORE,**

**I.**

**IT IS HEREBY ORDERED** that the Bankruptcy Litigation Trustee show cause, if there be any, to this Court at \_\_\_\_\_ .m. on the \_\_\_\_\_ day of \_\_\_\_\_ 2017, in Room \_\_\_\_\_ of the United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201, why this Court should not enter an order modifying the Platinum TRO and Receiver Order to enjoin the continued litigation of any bankruptcy proceedings against the Receivership Entities including the continuation of the Fraudulent Transfer Action and enforcement of the Bankruptcy TRO.

**II.**

**IT IS FURTHER ORDERED** that the Receiver is authorized to expend Receivership Property in accordance with the budget attached to the Schwartz Declaration.

**III.**

**IT IS FURTHER ORDERED** that the Bankruptcy Litigation Trustee is restrained from enforcing the Bankruptcy TRO in the Fraudulent Transfer Action against the Receiver for any actions the Receiver takes in accordance with this Order.

**IV.**

**IT IS FURTHER ORDERED** that, pending a hearing and determination of Plaintiff Commission's and Receiver's motion for an order modifying the Platinum TRO and the Receiver Order, the Fraudulent Transfer Action is stayed.

**V.**

**IT IS FURTHER ORDERED** that a copy of this Order and the papers supporting the Plaintiff Commission's Application be served upon the Bankruptcy Litigation Trustee or his

counsel on or before \_\_\_\_\_, \_\_\_\_\_ 2017, by personal delivery, facsimile, email, overnight courier, or first-class mail.

**VI.**

**IT IS FURTHER ORDERED** that the Bankruptcy Litigation Trustee shall deliver any opposing papers in response to the Order to Show Cause above no later than \_\_\_\_\_, \_\_\_\_\_ 2017, at \_\_\_\_\_ a.m./p.m. Service shall be made by delivering the papers, by hand delivery, facsimile transmission to (i) (212) 336-1324, email at JacobsonN@sec.gov, or overnight courier service on the Commission's counsel, Neal Jacobson, Esq., Securities and Exchange Commission, Brookfield Place, 200 Vesey Street, Suite 400, New York, NY 10281, and (ii) email at [cbarenholtz@cooley.com](mailto:cbarenholtz@cooley.com) or overnight courier service on the Receiver's proposed counsel Celia Goldwag Barenholtz, Cooley LLP, 1114 Avenue of the Americas, New York, NY 10036. The Plaintiff Commission and the Receiver shall have until \_\_\_\_\_, \_\_\_\_\_ 2017, at \_\_\_\_\_ a.m./p.m. to serve, by the most expeditious means available, any reply papers upon the Bankruptcy Litigation Trustee or his counsel.

**SO ORDERED:**

Dated: Brooklyn, NY  
January , 2017

\_\_\_\_\_  
United States District Judge