

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PLATINUM-BEECHWOOD LITIGATION,

Civil Action No.
1:18-cv-06658 (JSR)

MELANIE CYGANOWSKI, AS RECEIVER, BY AND
FOR PLATINUM PARTNERS CREDIT OPPORTUNITIES
MASTER FUND LP, et al.,

Plaintiffs,

Civil Action No.
1:18-cv-12018 (JSR)

v.

BEECHWOOD RE LTD., et al.,

Defendants.

REPLY DECLARATION OF JOHN M. AERNI

John M. Aerni declares as follows in accordance with 28 U.S.C. § 1746:

1. I am a member of the law firm of Alston & Bird LLP, attorneys for Bankers Conseco Life Insurance Company, Washington National Insurance Company, CNO Financial Group, Inc. and 40|86 Advisors, Inc. (collectively, “CNO”) in these consolidated actions. I submit this Reply Declaration in support of CNO’s motions to dismiss the First Amended Complaint of Melanie Cyganowski, as Receiver, by and for Platinum Partners Credit Opportunities Master Fund LP, et al. (the “Receiver”). I base this Reply Declaration on my personal knowledge.

2. In the fall of 2018, before the Receiver commenced Civil Action No. 1:18-cv-12018 (the “Action”), I negotiated agreements with the Receiver’s counsel under which CNO agreed to produce documents to the Receiver, specifically the documents that CNO had produced to the Securities and Exchange Commission (“SEC”) as of that time in response to a subpoena

that the SEC had issued to CNO (“CNO’s production to the SEC”). In exchange for obtaining CNO’s production to the SEC, the Receiver agreed to produce certain documents to CNO pursuant to a limited list of search terms that I provided to the Receiver’s counsel.

3. The agreements that I negotiated with the Receiver’s counsel were finalized and signed on or before December 17, 2018. Accordingly, on December 17, 2018—which was before the Receiver commenced this Action—I forwarded to the Receiver’s counsel an email setting forth how the Receiver could access, via an FTP site, CNO’s production to the SEC. I am attaching as Exhibit A a true copy of this email I sent to the Receiver’s counsel (Adam Silverstein and Andrew Halpern) on December 17, 2018. CNO’s production to the SEC consisted of 27,170 documents, which included 189,320 pages or images.

4. On May 14, 2019, the Court entered an order granting the motion of Senior Health Insurance Company of Pennsylvania (“SHIP”), in which the Receiver joined, to compel the production of documents that B Asset Manager, L.P. (“BAM”) produced to the SEC in response to the SEC’s June 10, 2016 subpoena (the “Order”). *See In re Platinum-Beechwood Litigation*, 1:18-cv-6658 (Dkt. No. 326). SHIP had requested the production of those documents from not only BAM and its affiliate, Beechwood Re Ltd (collectively, “Beechwood”), both of whom objected to the production, but also from CNO, which had not objected. On May 17, 2019, after entry of that Order, CNO produced the Beechwood documents that were subject of the Order not only to SHIP, but also to the Receiver. I am attaching as Exhibit B a true copy of the email that Jenna Polivy of my firm sent to the Receiver’s counsel (Erik Weinick and Andrew Halpern) setting forth how the Receiver could access, via a Box site, these documents (i.e., Beechwood’s production to the SEC). Beechwood’s production to the SEC that my firm

forwarded to the Receiver consisted of 157,835 documents, which included 1,270,820 pages or images.

I declare under penalty of perjury that the foregoing is true.

Dated: New York, New York
June 26, 2019

By: /s/ John M. Aerni
John M. Aerni

Exhibit A

Aerni, John

From: Aerni, John
Sent: Monday, December 17, 2018 12:25 PM
To: Adam C. Silverstein; Andrew S. Halpern
Cc: Kaiser, Adam
Subject: FTP site information

Adam and Andrew,

In accordance with the Protective Order and Confidentiality Agreements between the PPCO Receiver, on the one hand, and WNIC and BCLIC (together, "CNO"), on the other, below you will find the information for accessing CNO's production to the SEC for its subpoena relating to Platinum and Beechwood.

Please provide us with your production at your earliest convenience.

Thank you,

The FTP site you requested has been created, and will be active until 03/04/2019. Per your request, we have set this site to 20000 MB (1000MB = 1GB). If you need the site to remain in place longer, or if more space is required, please send an email to the "FTP Administrators" distribution list and we will do everything we can to accommodate your needs. Please be aware that any data left on the FTP server after a site has expired will be deleted. We will contact you prior to deletion of such data so that you have the opportunity to relocate it to a longer term storage location if necessary.

The FTP site can be accessed from inside or outside A&B using a web browser or a file transfer program that supports SFTP or FTPS. **All A&B file transfer sites now require encrypted transfers, and because of this it is no longer possible to use Windows Explorer to access these sites.** If you have any questions, please send an email to the "FTP Administrators" distribution list or the Help Center.

Please forward the instructions below to any internal A&B personnel or external individuals that require access to this FTP site.

Thank you.

FTP SITE ACCESS INSTRUCTIONS

To access the site using a web browser, navigate to <https://transfer.alston.com> and then provide the credentials below when prompted.

To access the site using a file transfer program that supports SFTP or FTPS, configure your software client to connect to transfer.alston.com and authenticate using the credentials below. FileZilla is an example of a software client that can be used (and is already installed on all A&B computers). Detailed instructions for the use of FileZilla can be found here: <https://files.alston.com/files/docs/ITSEC-Filezilla-Quickconnect-Guide.pdf>

Transfers performed either way will be protected by encryption.

Username: CNO-SEC-SHIP-PROD
Password: WgNJ3LDLcYNoP5ngll2w

John M. Aerni

Alston & Bird LLP
90 Park Avenue
New York, New York 10016
(212) 210-9479 (direct dial)
john.aerni@alston.com

Exhibit B

Aerni, John

From: Polivy, Jenna
Sent: Friday, May 17, 2019 8:32 AM
To: Andrew S. Halpern; Erik B. Weinick; asilverstein@otterbourg.com
Cc: Jones, Leslie; Blackwell, Becky
Subject: In re Platinum-Beechwood Litigation, 18cv6658 and 18cv12018

You have recently received an invitation from Leslie Jones to download Beechwood's SEC production, from an FTP site via [Box.com](#). The documents will be available for download on this site for six weeks. If you have any trouble downloading the documents please contact Leslie Jones or Becky Blackwell (copied).

Thank you.

Jenna C. Polivy
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jenna.polivy@alston.com