

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

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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. :
-----X

No. 16-cv-6848 (BMC)

**DECLARATION OF MELANIE L. CYGANOWSKI, AS RECEIVER, IN SUPPORT
OF MOTION TO APPROVE SALE OF CERTAIN LIFE INSURANCE POLICIES**

I, Melanie L. Cyganowski, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true to the best of my knowledge, information and belief:

1. I make this declaration in my capacity as the duly appointed Receiver of Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd and Platinum Partners Credit Opportunities Fund International (A) Ltd, in connection with my motion for entry of an order approving the sale of certain life insurance policies in which Platinum has a majority ownership interest, Dkt. No. 311, (the “*Sale Motion*”).

2. Pursuant to the October 11, 2017 Order Adopting Protocols For Parties In Interest To Be Heard On Receiver Motions, Dkt. No. 271, attached hereto as Exhibit 1 is a response to the Sale Motion that was timely delivered to my counsel's e-mail address by counsel for Senior Health Insurance Company of Pennsylvania ("**SHIP**").

3. As noted in my letter to this Court dated April 3, 2018, Dkt. No. 312, I expect that another group of individuals and/or entities represented by Elliot Hahn may serve an additional response to the Sale Motion on or before April 13, 2018 (assuming that the Court grants Hahn's request for an extension of time to file a late response). For these reasons, I reserve my right to file one omnibus reply to both SHIP's response, and any response served by Mr. Hahn, if and once the latter is received.

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

Executed this 9th day of April, 2018, at New York, New York.

/s/ Melanie L. Cyganowski
Melanie L. Cyganowski

EXHIBIT 1



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April 6, 2018

Honorable Melanie L. Cyganowski
Court Appointed Receiver
for Platinum Partners Credit Opportunities Fund, L.P., et al.
Otterbourg P.C.
230 Park Avenue
New York, New York 10169

Re: Securities and Exchange Commission v. Platinum Management (NY) LLC, et al.
Objection to the Receiver's Sale of ALS Life Insurance Policies

Dear Ms. Cyganowski:

We represent Senior Health Insurance Company of Pennsylvania ("SHIP"). SHIP is an investor in both secured debt and equity issued by Platinum Partners Credit Opportunities Master Fund, L.P. ("PPCO"), as well as a secured creditor in respect of other assets that are being managed by PPCO.

We write on behalf of SHIP to object to the Receiver's proposed sale of life insurance policies owned by ALS Capital Venture, LLC ("ALS") (the "Policies") as presented to the Court for approval. PPCO, ALS, and Credit Strategies LLC (and other PPCO subsidiaries and affiliates) granted BAM Administrative Services LLC, as agent on behalf of SHIP, security interests in substantially all of their respective assets to secure notes issued by PPCO to SHIP. The Receiver's proposed sale of the Policies, however, includes no mechanism to protect SHIP's secured interests and does not assure that SHIP will receive the proceeds from the proposed sale. As such, the proposed sale constitutes an unlawful taking without just compensation, which is not permissible. *See S.E.C. v. Wells Fargo Bank, N.A.*, 848 F.3d 1339 (11th Cir. 2017) (holding that a federal district court does not have the authority to extinguish a secured creditor's pre-existing state law security interest); *see generally United States v. Sec. Indus. Bank*, 459 U.S. 70, 77-78, 103 S. Ct. 407, 74 L. Ed. 2d 235 (1982) (noting in *dicta* that a bankruptcy court's complete destruction of state law property rights, even if of insubstantial value, would merit protection under the Fifth Amendment's Takings Clause); *see, e.g., Louisville Joint Stock Land Bank v. Radford*, 295 U.S. 555, 55 S. Ct. 854, 79 L. Ed. 1593 (1935); *cf., Wright v. Vinton Branch of Mountain Tr. Bank of Roanoke, Va.*, 300 U.S. 440, 57 S. Ct. 556, 81 L. Ed. 736 (1937).



Honorable Melanie L. Cyganowski

April 6, 2018

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Accordingly, SHIP objects to the Receiver's proposed sale of the Policies as presented to the Court on the grounds that it does not include any provisions protecting SHIP's secured property interests. At a minimum, any such sale should be explicitly conditioned on the Receiver agreeing to place the proceeds of the sale into escrow pending a determination (through settlement or final adjudication) of SHIP's entitlement to those proceeds. Until such measures are in place, however, SHIP objects to the proposed sale of the Policies. Nothing contained herein shall be construed as a waiver, limitation, or modification of SHIP's rights and remedies, all of which are fully and expressly reserved.

Very truly yours,

A handwritten signature in cursive script that reads 'Aidan M. McCormack'.

Aidan M. McCormack (AM3017)

cc: Adam C. Silverstein (by email)
R. Craig Martin (by email)

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