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June 15, 2018

VIA ECF AND FEDERAL EXPRESS

Honorable Brian M. Cogan
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: SEC v. Platinum Mgmt. (NY) LLC, et al., No. 1:16-cv-06848-BMC

Dear Judge Cogan:

This letter is jointly submitted to Your Honor pursuant to Your Individual Practice Rule III(A)(1) by, on the one hand, counsel to Melanie L. Cyganowski, the duly appointed Receiver (the "**Receiver**") of Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP ("**PPCO**"), 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 (collectively, the "**Receivership Entities**" or "**Platinum**"), and on the other hand, Norman Klein, counsel to Schafer and Weiner, PLLC ("**S&W**" together with Platinum, the "**Parties**").

The Parties are unable to resolve a discovery dispute which has arisen between them and wish to advise Your Honor of the following facts so that the Court may provide guidance on its resolution:

1. On May 4, 2018, S&W filed a letter requesting a pre-motion conference with respect to S&W's request to file an application for compensation of legal fees and expenses. Dkt. No. 320.
2. On May 14, 2018, the Receiver filed her response to S&W's pre-motion letter. Dkt. No. 321.
3. On May 14, 2018, Your Honor, in a minute entry on the docket, granted S&W's request to file is application for compensation of legal fees and expenses.



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4. On May 29, 2018, S&W filed the Final Application of Schafer and Weiner, PLLC for Allowance of Compensation and Reimbursement of Expenses Incurred from December 19, 2016 through June 13, 2017, Dkt. No. 326 (the "**Application**").
5. On June 1, 2018, counsel for S&W provided an electronic copy to all counsel of record in this matter a: (i) letter to David Hall, counsel to Charles Hoebeke, the Chief Restructuring Officer of Platinum borrowers, Arabella Exploration, LLC ("**AEX**") and Arabella Operating, LLC ("**AO**" and, together with AEX, "**Arabella**"); and (ii) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (the "**Subpoena**"). Copies of the letter and Subpoena are annexed hereto as Exhibit A.
6. On June 2, 2018, in response to the Subpoena, undersigned counsel for the Receiver wrote to Mr. Klein with respect to the Subpoena, explaining the Receiver's position that the Subpoena was improper and should be withdrawn because, among other reasons:
 - a. S&W is not a party to the Receivership Case, and thus, is without authority under the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure (to which the Subpoena inexplicably cites), or otherwise, to issue subpoenas in connection therewith;
 - b. S&W's issuance of the Subpoena, even if otherwise valid (which it is not), is an indication that it believes discovery is necessary before the Application is even heard, and, thus, the Application, without more, cannot be granted. If that is the case, then the current June 12, 2018 return date for the Application (and the Receiver's attendant deadline to oppose the Application), should be adjourned so that both S&W and the Receiver may seek appropriate discovery, including any necessary depositions, such as, *inter alia*, a deposition of the Hon. Steven Rhodes (Ret.), and all S&W attorneys who billed time to work on behalf of Platinum and/or the Receiver; and
 - c. again assuming the validity of the Subpoena, it improperly purports to require production of documents: (i) not reasonably calculated to lead to the discovery of admissible evidence as to the Application; and (ii) protected under a common-interest privilege agreement to which both the Receiver and Mr. Hoebeke, the target of the Subpoena, are parties.
7. The Receiver's June 2, 2018 letter, a copy of which is annexed hereto as Exhibit B, requested a response by the close of business on June 4, 2018, given the June 5, 2018 deadline for the Receiver to oppose the Application.



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8. By letter dated June 4, 2018, a copy of which is annexed hereto as Exhibit C, counsel for S&W responded to the Receiver's June 2, 2018 letter by stating as follows:
 - a. S&W is entitled to issue the subpoena in that it is a "secured creditor" in the receivership proceeding and as a party to matters pertaining to its own fee application;
 - b. Extending dates to take discovery and adjourning the return date of the Application was not necessary as the Receiver has had sufficient time to take discovery since first being presented with the Application several months ago. Nevertheless, S&W offered to cooperate with any discovery from the Receiver in an expeditious manner; and
 - c. The Receiver's objections to the specific requests in the Subpoena itself did not warrant withdrawal of the Subpoena inasmuch as the requested documents will lead to the discovery of admissible evidence and will demonstrate that S&W did not violate any ethical duties related to its representation of the Initial Receiver and Platinum, its lack of a conflict, and to correct the factual background of the Participation Agreement and related "guaranty documents."
9. After receipt of S&W's June 4, 2018 letter, counsel for the Receiver requested a "meet and confer" pursuant to Fed.R.Civ.P. 37(a)(2)(A), which was scheduled for June 5, 2018. Undersigned counsel conferred for approximately thirty minutes, but were unable to resolve the dispute regarding the Subpoena, but agreed to confer with their respective clients and re-convene.
10. On June 5, 2018, the Receiver filed her opposition to the Application, as well as cross-motion for disgorgement of S&W's previously paid fees, with a reservation of rights as to the discovery issues raised by the Subpoena.
11. Undersigned counsel resumed their "meet and confer" on June 15, 2018 and spoke for an additional twenty (20) minutes. Other than agreeing to submit this joint letter, they were unable to resolve their dispute.
12. In sum, the Parties' respective positions are as follows:
 - a. The Receiver believes that the Subpoena is improper, however if S&W is to be permitted to take discovery, consideration of the Application should be adjourned to allow the Receiver to also take discovery and submit supplemental opposition to the Application; and



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- b. S&W believes that the Subpoena is proper and that no adjournment is necessary. However, S&W would consent to a short adjournment of its fee application to permit expedited discovery by the parties and the submission of supplemental papers with regard to their respective positions.

As a result of the foregoing, the Parties respectfully request that Your Honor convene a conference to advise the Parties as to a process for resolving this dispute.

Thank you for your continued consideration of these matters.

Respectfully submitted,

/s/ Erik B. Weinick

/s/ Norman Klein

Erik B. Weinick,
*Counsel for Melanie L. Cyganowski,
as Receiver*

Norman Klein,
Counsel for Schafer and Weiner, PLLC

Encl.

cc: Melanie L. Cyganowski, Esq.
Counsel of Record via ECF

EXHIBIT A

CARLET, GARRISON, KLEIN & ZARETSKY, L.L.P.

ATTORNEYS AT LAW

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NEW YORK, NEW YORK 10022

(212) 869-2147

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(973) 777-6200
FAX: (973) 777-0412

June 1, 2018

Via Federal Express

David A. Hall, Esq.
Miller Johnson Attorneys & Counselors
45 Ottawa Avenue, SW
Suite 100
P.O. Box 306
Grand Rapids, MI 49501-0306

Re: SEC v. Platinum Management (NY) LLC
16-CV-6848 (BMC)

Dear Mr. Hall:

This office represents Schaffer and Weiner in connection with its fee application that has been filed in the above matter.

Enclosed please find a Subpoena for your client, Charles Hoebeke, with Addendum attached.


Please advise if you will accept service on your client's behalf.

If you have any questions, please do not hesitate to contact me.

Thank you for your courtesy and cooperation.

Very truly yours,

CARLET, GARRISON, KLEIN
& ZARETSKY, L.L.P.

By: 
Norman I. Klein

NIK/lm
encls.

cc: All Appearing Attorneys, *Via Email*
Via First Class Mail to:
Andrew M. Calamari, Esq.
Matthew C.R. Ziegler, Esq.
Monica Ann Friedman, Esq.

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

SECURITIES AND EXCHANGE COMMISSION

Plaintiff

v.

PLATINUM MANAGEMENT (NY) LLC;

et al.

Defendant

Civil Action No. 16-CV-6848 (BMC)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Charles Hoebeke, individually and as the corporate representative of Arabella Exploration, LLC

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: Please see addendum.

Place: Carlet, Garrison, Klein & Zaretsky, LLP
623 Fifth Avenue, 24th Floor
New York, NY 10022
Date and Time: 06/15/2018 9:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:
Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 05/31/2018

CLERK OF COURT

Signature of Clerk or Deputy Clerk

Carlet, Garrison, Klein & Zaretsky, L.L.P.

OR

Handwritten signature of Norman I. Klein

Attorney's signature

Norman I. Klein

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Schafer and Weiner, PLLC, who issues or requests this subpoena, are: Norman Klein, Carlet, Garrison, Klein & Zaretsky, LLP, 623 5th Avenue, 24th Floor, NY, NY 10022 nklein@cgkesqs.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 16-CV-6848 (BMC)

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*

on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A)** within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B)** within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i)** is a party or a party's officer; or
 - (ii)** is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A)** production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B)** inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i)** At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i)** fails to allow a reasonable time to comply;
- (ii)** requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv)** subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i)** disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii)** ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i)** expressly make the claim; and
- (ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ADDENDUM

DEFINITIONS AND INSTRUCTIONS

1. As used in this Addendum, “Document(s)” shall have its customary broad meaning and shall include, without limitation, the following items, whether original or copies:

All written, printed, typed, photostat, photographed, or otherwise recorded matter **of any kind**, including the originals and all non-identical copies thereof, whether different from the originals by reason of any notation made on such copies or otherwise, and including, without limitation, minutes, agenda, contracts, agreements, reports, analyses, summaries, inter-office and intra-office Communications or memoranda, letters, envelopes, messages; financial or accounting statements, working papers, compilations, reports, summaries or receipts; reports or summaries of investigations, trade letters, press releases, magazines, newspapers, brochures, posterboard, offers, notations of any sort of conversations, diaries, appointment books or calendars, teletypes, telefax, thermafax, confirmations, and all drafts, alterations, modifications, changes, markups and amendments of any of the foregoing, and all graphic or manual records or representations of any kind, including without limitation photographs, charts, graphs, microfiche, microfilm, videotape, records, and motion pictures, and electronic, mechanical or electric records or representations of any kind, including without limitation computer files and records, tapes, cassettes, magnetic, optical or other discs, magnetic cards and recordings.

For clarity, “Electronically Stored Information,” a/k/a “ESI” (defined below) is included within the definition of “Documents.” The defined term ESI is sometimes used separately from the defined term “Documents” only for purposes of highlighting the fact that ESI is included in the Discovery Request. *Wherever the term “Document” or “Documents” is used, however, it includes ESI regardless of whether the separate term ESI is also used.*

For additional clarity, “Communication(s)” (defined below) is included within the definition of “Documents.” The defined term Communications is sometimes used separately from the defined term “Documents” only for purposes of highlighting the fact that Communications is included in the Discovery Request. *Wherever the term “Document” or “Documents” is used,*

however, it includes Communication(s) regardless of whether the separate term Communication(s) is also used.

2. “All” and “each.” The terms “all” and “each” shall each be construed as all and each.

3. “And” and “or.” The conjunctions “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Notice all documents that might otherwise be construed to be outside of its scope.

4. “Communication(s)” means any transmission or exchange of information between two or more persons, orally or otherwise, including, without limitation, **any conversation, correspondence or discussion**, whether face-to-face or by means of telephone, letters, memoranda and other Communications, including telegraph, telex, telecopier, e-mail, ESI and other electronic Communications, or through any other medium.

5. “Platinum” means Platinum Long Term Growth VIII, LLC, or any of its affiliates or agents.

6. “Case” means the above-captioned case.

7. The “Participant” means 30294, LLC, Craig Bush, or their attorneys.

8. “AEI” means Arabella Exploration, Inc.

9. “AEX” means Arabella Exploration, LLC.

10. The “Initial Receiver” means Bart M. Schwartz, the initial court appointed receiver over Platinum.

11. The “Arabella Loan” means the credit facility entered into between Platinum and AEI.

12. The “Participation Agreement” means the agreement executed in January 2017 between the Participant and Initial Receiver through which the Participant purchased an interest in the Arabella Loan.

13. The “SEC” means the United States Securities and Exchange Commission.

14. The “Final Application” means the fee application filed by Schafer and Weiner, PLLC on May 30, 2018 in this case.

15. The “Guaranty Documents” mean the guaranty and amendment to guaranty executed by, among others, Platinum and Schafer and Weiner, PLLC.

16. “Electronically Stored Information” and/or “ESI” means all information of any kind stored by any electronic means, including any information whether or not ever printed or displayed, and whether or not the information could be printed or displayed, including but not limited to any metadata or similar information, any computer program or software, any electronically stored document, any data stored on computers, personal digital assistants, cellular telephones, voice mail systems, back-up tapes, hard drives, USB ports, compact discs, and any other vessel, system or machine that stores data electronically.

17. As used herein, “person” includes individuals and every other kind of entity, including without limitation a corporation, partnership, limited liability company, trust, governmental unit or agency, group, association, or any other organization.

18. “Relate to”, “relating to” or “related to” means constituting, referring, discussing, analyzing, comprising, embodying, recording, evidencing, or containing any information which pertains to the subject matter addressed in the request.

19. Please produce responsive documents by June 15, 2018, to Norman I Klein, Carlet, Garrison, Klein & Zaretsky, 623 Fifth Avenue, 24th Floor New York, New York 10022.

Please produce ESI on a compact disc or a USB flash drive in native format without alteration of any kind.

20. *Do not fail to provide any of the requested Documents on the basis that you deem the information sought to be **confidential or proprietary**. Instead, please contact the undersigned counsel in advance of the deadline for responding to these requests so that a confidentiality agreement, if appropriate, can be worked out in advance so as not to delay your provision of the information sought herein.*

21. *Do not fail to provide any of the requested Documents on the basis that you deem the wording of a request to be **vague, ambiguous, overbroad or overly burdensome**. Instead, please contact the undersigned counsel in advance of the deadline for responding to these requests and you will be provided with a clarification or, if appropriate, a rephrasing or limitation of the request.*

22. In responding to the below requests, furnish all Documents in your possession, custody, or control and all documents which are subject to your reasonable inquiry. This includes (but is not limited to) Documents in the possession of your attorneys, accountants, agents, or other persons directly or indirectly employed by you or connected with you or your attorneys.

23. Produce all Documents in full and unexpurgated form, organized and labeled to correspond with the categories in this Notice pursuant to Federal Rule of Civil Procedure 34(b)(2)(E), made applicable by Federal Rule of Bankruptcy Procedure 7034.

24. CLAIM OF PRIVILEGE OR OTHER PROTECTION: With respect to any information, Communication, or Document you withhold by claiming that it is privileged or subject to protection as attorney work product, or for any other reason, state the privilege or

other ground for non-production, and include in your response a **privilege log** so that the Creditor and the Court may make an independent determination of the privileged or protected nature of the requested information.

The privilege log must include, at a minimum, for each fact, Document, or Communication that you fail to disclose on the basis of privilege or work product protection:

- a. the number of the document request to which the privilege or protection applies;
- b. the nature of the privilege or protection;
- c. the statute, rule, or legal doctrine which you believe protects the information, Communication, or Document from disclosure;
- d. the nature and subject matter of the allegedly privileged or protected information, Communication, or Document; and
- e. any other unprivileged information which will be useful to the parties and the Court to assess the applicability of the claimed privilege or protection.

Additionally, for each Document that you withhold on the basis of privilege or work product protection, include the following information:

- a. the name of the author of the Document;
- b. the date of the Document;
- c. the name of each person or persons participating in the preparation of the Document;
- d. the date on which the Document was received by the person having possession of the Document;
- e. the name and address of each person, if any, to whom the contents of the Documents have been communicated by copy, exhibition, reading or substantial summarization;
- f. a brief description of the nature and the subject matter of the Document;
- g. the statute, rule, or decision which is claimed to give rise to the privilege;
- h. the present custodian and location of the Document;
- i. the number of pages, attachments and appendices comprising the Document; and
- j. whether the Document is handwritten, typewritten, or otherwise prepared.

If you reasonably believe a portion of any otherwise discoverable Document contains information subject to a claim of privilege or protection, delete or redact those portions of the Document subject to the claim of privilege or protection, affix an indication of the location and size of the portion deleted or redacted, and produce the Document along with the information described in this paragraph.

25. At such time as you become aware of information responsive to this Rule 2004 Examination which is not included in your initial response, or become aware that your responses or any part of them are incomplete or incorrect, you are requested pursuant to Federal Rule of Civil Procedure 26(e), made applicable through Federal Rule of Bankruptcy Procedure 7026(e), to make such supplementary responses and supplementary document production in a timely manner as will fully disclose all such information and documents.

26. No statement or inference contained in any request herein shall constitute a representation or admission by Creditor of any fact or condition, or a waiver or relinquishment of any rights, claims, or defenses.

27. If a Document responsive to the requests herein has been destroyed, identify the date on and place at which the Document was destroyed, the person(s) who destroyed the Document, and the person(s) who gave the instruction to destroy the Document. If any Document identified herein has been lost, misplaced, or is no longer in the possession, custody, or control of Debtor, identify the last person known to have seen the Document, the date on and place at which the Document was last seen, and a synopsis of the contents of the Document.

DOCUMENT REQUESTS

1. All communications by and between Charles Hoebeke and Platinum, related to:
 - a. Schafer and Weiner, PLLC, including, without limitation, the Guaranty Documents.
 - b. The Final Application;
 - c. The Participant;
 - d. The SEC; and/or
 - e. The Initial Receiver

2. All communications by and between Charles Hoebeke and the Participant related to (a) the Participation Agreement, or (b) any transaction with the intent of raising funds in relation to preserving the value of the Arabella Assets.

3. All communications related to the Participation Agreement.
4. All communications by and between Charles Hoebeke and any other parties related to the solicitation of a portion of Platinum's interest in the Arabella Loan.
5. All documents related to any valuation of the Arabella Loan prior to March 21, 2017.
6. All documents related the valuation of AEI or AEX prior to March 21, 2017.
7. All communications related to any other offers to purchase all or a portion of the Arabella Loan, AEI, or AEX.
8. All communications related to any attempts to secure financing to defend the Arabella Loan, and/or the assets of AEI and/or AEX.

EXHIBIT B



230 Park Avenue
New York, NY 10169
otterbourg.com
212 661 9100

Erik B. Weinick
Of Counsel
eweinick@oshr.com
(212) 905-3672

June 2, 2018

VIA E-MAIL

Norman I. Klein, Esq.
Carlet, Garrison, Klein & Zaretsky, LLP
623 Fifth Avenue, 24th Floor
New York, New York 10022

Re: SEC v Platinum Management (NY) LLC et al, Case No. 16-cv-6848 (BMC)

Dear Norman:

As you are aware, this firm is counsel to Melanie L. Cyganowski, in her capacity pursuant to the October 16, 2017, Second Amended Order Appointing Receiver entered by the U.S. District Court for the Eastern District of New York in the matter of SEC v. Platinum Management (NY) LLC et al., Case No. 16-cv-6848 (BMC), (the “**Receivership Case**”) Dkt. No. 276, as receiver (the “**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 Opportunity 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 (collectively, the “**Receivership Entities**” or “**Platinum**”).

I write with respect to the Subpoena to Produce Documents, Information or Objects or to Permit Inspection of Premises in a Civil Action issued by you on behalf of Schafer and Weiner, PLLC (“**S&W**”) to Charles Hoebeke (“**Mr. Hoebeke**”), dated May 31, 2018 and circulated by email to counsel of record in the Receivership Case on June 1, 2018 (the “**Subpoena**”). The Subpoena is improper and should be withdrawn for several reasons.

First, S&W is not a party to the Receivership Case, and thus, is without authority under the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure (to which the Subpoena inexplicably cites), or otherwise, to issue subpoenas in connection therewith. If you have authority to the contrary, please provide us with the same immediately.

Second, S&W’s issuance of the Subpoena, even if otherwise valid (which it is not), is an indication that it believes discovery is necessary before the Final Application of Schaefer and



June 2, 2018
Norman I. Klein, Esq.
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Weiner, PLLC for Allowance of Compensation and Reimbursement of Expenses Incurred from December 19, 2016 through June 13, 2017, Dkt. No. 326 (the “**Application**”) is even heard, and, thus, the Application, without more, cannot be granted. If that is the case, then the current June 12, 2018 return date for the Application (and the Receiver’s attendant deadline to oppose the Application), should be adjourned so that both S&W and the Receiver may seek appropriate discovery, including any necessary depositions, such as, *inter alia*, a deposition of the Hon. Steven Rhodes (Ret.), and all S&W attorneys who billed time to work on behalf of Platinum and/or the Receiver.

Third, again assuming the validity of the Subpoena, it improperly purports to require production of documents: (a) not reasonably calculated to lead to the discovery of admissible evidence as to the Application; and (b) protected under a common-interest privilege agreement to which both the Receiver and Mr. Hoebeke, the target of the Subpoena, are parties.

Please note that as S&W’s responses to the foregoing bear on the Receiver’s opposition to the Application, currently due on June 5, 2018, if the Subpoena is not withdrawn by the close of business on June 4, 2018, the Receiver shall move, on an expedited basis, to quash the Subpoena. In the interim, the Receiver reserves all of her rights, remedies and defenses.

Very truly yours,

/s/ Erik B. Weinick

Erik B. Weinick

cc: Counsel of Record
David A. Hall, Esq.

EXHIBIT C

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Frank A. Carlet*
Norman I. Klein**
Michael J. Zaretsky**

June 4, 2018

Via Email

Eric B. Weinick
Otterbourg
230 Park Avenue
New York, NY 10169

Re: SEC v Platinum Management

Dear Mr. Weinick:

In response to your letter dated June 2, 2018, I will address your issues seriatim.

First, I find it difficult to understand why, and how, you allege that S&W¹ is not a “party” in this case and cannot issue a subpoena. S&W is both a pre-receivership and post-receivership “secured creditor.” Further, ¶7 of the Second Amended Order Appointing Receiver states that creditors are parties in interest. Finally, the Court granted S&W standing to file its Final Application and the subpoena relates directly to the Final Application. At the very least, S&W is permitted to act as a party to matters pertaining to its own fee application.

Second, extending dates in order to take discovery and adjourning the return date is unnecessary. S&W sent the Receiver the Final Application on September 29, 2017. The Receiver has had over eight months to investigate and take discovery on any issues it has with the Final Application.

¹ All capitalized terms shall have the meaning ascribed in your letter as well as in the previous pleadings filed with the Court.

Regardless, the Receiver is still entitled to pursue discovery related to the Final Application just as S&W has done. S&W will cooperate with any discovery from the Receiver in an expeditious manner. If you wish to initiate any such discovery, please contact me.

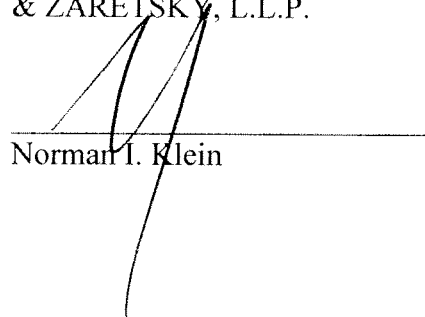
Third, the requested documents are clearly calculated to lead to discovery of admissible evidence. The requested documents relate directly to the Final Application and will demonstrate, among other things, that S&W did not violate any ethical duties related to its representation of the Initial Receiver and Platinum, S&W's lack of a conflict, and the correct factual background of the Participation Agreement and related "guaranty documents."

Moreover, S&W has no knowledge of the existence of any "common-interest privilege agreement." To our knowledge, no such agreement existed at the time the documents requested in the subpoena were created. If such an agreement exists then please send it to me and I will review the agreement in good faith to see whether any of our requests are implicated. In addition, S&W understands that Mr. Hoebeke has excellent counsel, and believe that counsel would uphold any duties under any agreements to which Mr. Hoebeke may be a party.

In short, S&W will not withdraw the subpoena. S&W will, however, work with the Receiver in order to permit the Receiver to take whatever reasonable discovery she feels is necessary in a timely and cooperative manner. Please let me know if you would like to discuss any discovery issues, and I will make myself available to you.

Very truly yours,
CARLET, GARRISON, KLEIN
& ZARETSKY, L.L.P.

By:


Norman I. Klein

Counsel of Record
David Hall, Esq.

NIK:dn