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Senior Health Insurance Company of Pennsylvania*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE PLATINUM-BEECHWOOD  
LITIGATION

Master Docket No. 1:18-cv-6658-JSR

MELANIE L. CYGANOWSKI, AS  
RECEIVER, BY AND FOR 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 INTERNATIONAL LTD., PLATINUM  
PARTNERS CREDIT OPPORTUNITIES  
FUND INTERNATIONAL (A) LTD., and  
PLATINUM PARTNERS CREDIT  
OPPORTUNITIES FUND (BL) LLC,

Case No. 1:18-cv-12018 (JSR)

Plaintiffs,

v.

BEECHWOOD RE LTD., et al.,

Defendants.

**AMENDED ANSWER**  
**OF SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA**

Following the Court's August 18, 2019 ruling on motions to dismiss the first amended complaint dated March 29, 2019 (the "FAC") [ECF No. 207], filed in this action by Melanie L. Cyganowski, as Equity Receiver for 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 International Ltd., Platinum Partners Credit Opportunities Fund International (A) Ltd., and Platinum Partners Credit Opportunities Fund (BL) LLC (the "Receiver"), Defendant Senior Health Insurance Company of Pennsylvania amends its previous answer, filed May 15, 2019, and ("SHIP") responds to the FAC as follows.

**ANSWER**

1. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 except to denies that they have engaged in any "unlawful or tortious acts."
2. SHIP admits the allegations in Paragraph 2 except to denies that either of them were a participant in the "massive fraud [] orchestrated by certain of the Platinum Fund insiders."
3. SHIP admits the allegations in Paragraph 3.
4. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 except to admits that Beechwood was created in or around 2013 because Platinum needed capital to continue its scheme.
5. SHIP admits the allegations in Paragraph 5 except to the extent the allegations attempt to characterize the content of a document that speaks for itself.
6. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 except to admits that BAM I, BBIL, and Beechwood Re have withdrawn over \$30 million in claimed performance fees from SHIP's account premised, in part,

on assets those entities held on SHIP's behalf in the Platinum Funds and in overvalued portfolio companies.

7. SHIP denies the allegations in Paragraph 7, which attempt to paraphrase the contents of Complaints previously filed in these Consolidated Actions and which speak for themselves. SHIP specifically denies that they substantially assisted with or participated in any way in any fraud or breach of fiduciary duties to the PPCO funds.

8. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 regarding CNO's actions. Responding to the allegations in Paragraph 8 regarding SHIP: SHIP admits that it is a long-term care insurer in run-off; SHIP admits that it entered into three investment management agreements with Beechwood entities as a means of earning a guaranteed rate of return on a small portion of its investment portfolio; SHIP denies that it expected to receive capital support from Beechwood; SHIP admits that it executed a surplus note for \$50 million with Beechwood Re Investments, LLC ("BRILLC") in February 2015. SHIP denies that Fuzion is "SHIP's manager" and denies the remaining allegations in Paragraph 8.

9. SHIP denies the allegations in Paragraph 9 relating to SHIP. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 that relate to BCLIC or WNIC.

10. SHIP denies the allegations in Paragraph 10 relating to SHIP. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 that relate to BCLIC or WNIC.

11. SHIP denies the allegations in Paragraph 11 relating to SHIP. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 that relate to BCLIC or WNIC.

12. The allegations in Paragraph 12 assert a legal conclusion to which no response is required. To the extent a response is deemed required, SHIP denies the allegations in Paragraph 12.

13. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 relating to them except to denies that it has ever engaged in any transaction to “steal for” or “steal from” the PPCO Funds. SHIP admits that Beechwood and Platinum were not working in the best interests of the companies they were obligated to serve.

14. The allegations in Paragraph 14 assert legal conclusions to which no response is required. To the extent a response is deemed required, SHIP denies the allegations in Paragraph 14.

15. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15, except to denies that actions of SHIP or Fuzion damaged the PPCO Funds.

16. The allegations in Paragraph 16 assert legal conclusions to which no response is required. To the extent a response is deemed required, SHIP denies the allegations in Paragraph 16.

17. SHIP admits the allegations in Paragraph 17.

18. SHIP admits the allegations in Paragraph 18.

19. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19, except to the extent that Paragraph 19 purports to paraphrase the

contents of the criminal indictments, which are documents that speak for themselves. SHIP denies the allegations in Paragraph 19 to the extent they mischaracterize the criminal indictments.

20. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20, except to the extent that Paragraph 20 purports to paraphrase the contents of the complaint filed in the Receivership Action, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 20 to the extent they mischaracterize the contents of the complaint filed in the Receivership Action .

21. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21.

22. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22.

23. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23, except to the extent that Paragraph 23 purports to paraphrase the contents of the Receivership Order, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 23 to the extent they mischaracterize the Receivership Order.

24. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24.

25. SHIP admits that Cyganowski is the Receiver for the Receivership Entities but denies that she has standing to assert all claims on behalf of those entities.

26. SHIP admits the allegations in Paragraph 26.

27. SHIP admits the allegations in Paragraph 27.

28. SHIP admits the allegations in Paragraph 28.

29. SHIP admits the allegations in Paragraph 29.

30. SHIP admits the allegations in Paragraph 30.

31. SHIP admits the allegations in Paragraph 31.

32. SHIP admits the allegations in Paragraph 32.

33. SHIP admits the allegations in Paragraph 33.

34. SHIP admits the allegations in Paragraph 34.

35. SHIP admits the allegations in Paragraph 35.

36. SHIP admits the allegations in Paragraph 36.

37. SHIP admits the allegations in Paragraph 37.

38. SHIP admits the allegations in Paragraph 38.

39. SHIP admits the allegations in Paragraph 39.

40. SHIP admits the allegations in Paragraph 40.

41. SHIP admits the allegations in Paragraph 41.

42. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42.

43. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43.

44. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 44.

45. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 45.

46. Paragraph 46 of the First Amended Complaint does not contain any factual allegations to which a response is necessary as it merely defines a group of Beechwood related entities. To the extent a response is deemed required, SHIP admits the allegation in Paragraph 46.

47. SHIP admits the allegation in Paragraph 47.

48. SHIP admits the allegation in Paragraph 48.

49. Paragraph 49 of the First Amended Complaint does not contain any factual allegations to which a response is necessary as it merely defines a group of Individual Defendants related entities. To the extent a response is deemed required, SHIP admits the allegation in Paragraph 49.

50. SHIP admits the allegation in Paragraph 50.

51. SHIP admits the allegation in Paragraph 51.

52. SHIP admits the allegation in Paragraph 52.

53. SHIP admits the allegation in Paragraph 53.

54. SHIP admits the allegation in Paragraph 54.

55. SHIP admits the allegation in Paragraph 55.

56. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 56.

57. SHIP admits the allegation in Paragraph 57.

58. SHIP admits the allegation in Paragraph 58.

59. SHIP admits the allegation in Paragraph 59.

60. SHIP admits the allegation in Paragraph 60.

61. The allegations in Paragraph 61 assert a legal conclusion to which no response is necessary. To the extent a response is deemed necessary, SHIP admits that this Court has subject

matter jurisdiction over the claims asserted in the First Amended Complaint, except that SHIP denies that the Receiver has subject matter jurisdiction to bring claims against them for injuries to investors in the PPCO Funds, as set forth in greater detail in the motion to dismiss filed in this action by SHIP.

62. The allegations in Paragraph 62 assert legal conclusions to which no response is necessary. To the extent a response is deemed necessary, SHIP admits that this Court has supplemental jurisdiction over the claims asserted in the First Amended Complaint.

63. The allegations in Paragraph 63 assert legal conclusions to which no response is necessary. To the extent a response is deemed necessary, SHIP denies that this Action is ancillary to the Receivership Action.

64. The allegations in Paragraph 63 assert legal conclusions to which no response is necessary. To the extent a response is deemed necessary, SHIP admits the allegations in Paragraph 64.

65. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65.

66. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66, except to the extent that Paragraph 66 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 66 to the extent they mischaracterize the documents referenced in that Paragraph.

67. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 657

68. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 68.



69. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69.

70. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 70.

71. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 71.

72. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 72.

73. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 73.

74. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 74.

75. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 75.

76. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 76.

77. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 77.

78. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 78.

79. The allegations in Paragraph 79 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 79.

80. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 80.

81. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 81.

82. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 82.

83. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 83.

84. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 84.

85. SHIP admits the allegations in Paragraph 85.

86. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 86.

87. SHIP admits the allegations in Paragraph 87.

88. SHIP admits the allegations in Paragraph 88.

89. SHIP admits the allegations in Paragraph 89.

90. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 90, including subparts (i) through (v).

91. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 91.

92. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 92.

93. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 93.

94. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 94.

95. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 95.

96. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 96.

97. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 97.

98. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 98.

99. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 99.

100. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 100, except to the extent that Paragraph 100 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 100 to the extent they mischaracterize the correspondence referenced in that Paragraph.

101. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 101.

102. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 102, except to the extent that Paragraph 102 purports to paraphrase

the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 102 to the extent they mischaracterize the documents referenced in that Paragraph.

103. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 103.

104. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 104.

105. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 105.

106. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 106, except to the extent that Paragraph 106 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 106 to the extent they mischaracterize the correspondence referenced in that Paragraph.

107. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 107, except to the extent that Paragraph 107 purports to paraphrase the contents of pleadings in the Consolidated Actions that speak for themselves. SHIP denies the allegations in Paragraph 107 to the extent they mischaracterize the pleadings referenced in that Paragraph.

108. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 108, except to the extent that Paragraph 108 purports to paraphrase the contents of pleadings in the Consolidated Actions that speak for themselves. SHIP denies the allegations in Paragraph 108 to the extent they mischaracterize the pleadings referenced in that Paragraph.

109. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 109.

110. SHIP admits the allegations in Paragraph 110.

111. SHIP admits the allegations in Paragraph 111.

112. SHIP denies that Beechwood made no effort to hide its deep ties to the Platinum Funds from SHIP. With respect to the allegations in subparts (i) through (viii):

- i. SHIP admits that Beechwood marketed Levy to SHIP as a member of its management team and made reference to his previous experience at Platinum
- ii. SHIP admits the allegation in Paragraph 112(ii) but denies that this information was ever disclosed to SHIP or Fuzion.
- iii. SHIP admits the allegation in Paragraph 112 (iii) but denies that Mr. Saks' prior experience at Platinum was disclosed to SHIP or Fuzion.
- iv. SHIP admits the allegation in Paragraph 112 (iv) but denies that this information was ever disclosed to SHIP or Fuzion.
- v. SHIP admits the allegation in Paragraph 112 (v) but denies that this information was ever disclosed to SHIP or Fuzion.
- vi. SHIP admits the allegation in Paragraph 112 (vi) but denies that this information was ever disclosed to SHIP or Fuzion.
- vii. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 112 (vii).
- viii. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 112 (viii).

113. SHIP denies the allegations in Paragraph 113.

114. Paragraph 114 offers a generic description of the long term care insurance market and does not include any factual allegations specific to SHIP such that SHIP does not have an obligation to respond to this Paragraph. To the extent SHIP has any obligation to respond to Paragraph 114, SHIP denies the allegations included in Paragraph 114 and denies that any of SHIP's long term care policies were "underwritten with faulty assumptions."

115. Paragraph 115 offers a generic description of reinsurance transactions in the long term care insurance market and does not include any factual allegations specific to SHIP such that SHIP does not have an obligation to respond to this Paragraph. To the extent SHIP has any obligation to respond to Paragraph 115, SHIP denies the allegations included in Paragraph 115 because the generic description does not apply uniformly to all reinsurance transactions in the long term care insurance market. SHIP also denies the characterization of Beechwood as SHIP's "white knight" and denies that Beechwood was not likely to entice business from other insurers.

116. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations regarding CNO's alleged desire to find ways to mitigate its exposure to long-term care policies. SHIP admits the remaining allegations in Paragraph 116.

117. SHIP denies that SHIP relied heavily on CNO for its liquidity needs and denies that SSHI was "SHIP's predecessor under CNO." SHIP did not have a predecessor. SHIP admits the remaining allegations in Paragraph 117.

118. SHIP admits the allegations in Paragraph 118.

119. SHIP admits the allegations in Paragraph 119.

120. SHIP admits the allegations in Paragraph 120.

121. SHIP admits the allegations in Paragraph 121.

122. SHIP admits that pursuant to a Management Agreement and Asset Purchase Agreement, the employees and operating infrastructure assets of SHIP were transferred to Fuzion and Fuzion became responsible for the management of SHIP as well as the administration of its long-term care insurance policies. SHIP admits that Fuzion has been compensated for its services but denies the remaining allegations in Paragraph 122.

123. SHIP admits the allegations in Paragraph 123.

124. SHIP denies the allegations in Paragraph 124. As a Pennsylvania-domiciled insurer, the Pennsylvania Insurance Department has primary jurisdiction over matters relating to SHIP's surplus.

125. SHIP admits that for the year-end December 31, 2013, SHIP had a total capital and surplus amount of \$98,201,892 and aggregate reserves for accident and health contracts in the amount of \$2,753,777,140. SHIP denies the remaining allegations in Paragraph 125.

126. SHIP denies the allegations in Paragraph 126.

127. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 127.

128. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 128.

129. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 129.

130. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 130.

131. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 131.

132. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 132.

133. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 133.

134. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 134.

135. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 135.

136. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 136.

137. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 137.

138. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 138, except to the extent that Paragraph 138 purports to paraphrase the contents of pleadings in the Consolidated Actions that speak for themselves. SHIP denies the allegations in Paragraph 138 to the extent they mischaracterize the pleadings referenced in that Paragraph.

139. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 139.

140. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 140.

141. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 141, except to the extent that Paragraph 141 purports to paraphrase



the contents of the Reinsurance Agreements, which are documents that speak for themselves. SHIP denies the allegations in Paragraph 141 to the extent they mischaracterize the pleadings referenced in that Paragraph.

142. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 142, except to the extent that Paragraph 142 purports to paraphrase the contents of the Reinsurance Agreements, which are documents that speak for themselves. SHIP denies the allegations in Paragraph 142 to the extent they mischaracterize the pleadings referenced in that Paragraph.

143. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 143, except to the extent that Paragraph 143 purports to paraphrase the contents of the Reinsurance Agreements, which are documents that speak for themselves. SHIP denies the allegations in Paragraph 1043 to the extent they mischaracterize the pleadings referenced in that Paragraph.

144. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 144.

145. Paragraph 145 asserts a legal conclusion to which no response is required. To the extent a response is deemed required, SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 145.

146. SHIP admits the allegations in Paragraph 146.

147. SHIP admits the allegations in Paragraph 147.

148. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 148.

149. SHIP admits the allegations in Paragraph 149.

150. SHIP admits the allegations in Paragraph 150.

151. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 151, except to the extent that Paragraph 151 purports to paraphrase the contents of pleadings in the Consolidated Actions that speak for themselves. SHIP denies the allegations in Paragraph 151 to the extent they mischaracterize the pleadings referenced in that Paragraph.

152. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 152.

153. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 153.

154. SHIP admits the allegations in Paragraph 154.

155. SHIP admits that following SHIP's introduction to Beechwood in late 2013, representatives from Beechwood, including Mark Feuer, Scott Taylor, and David Levy, met with representatives from SHIP to present Beechwood's services as an investment manager to SHIP.

156. SHIP denies the allegations in Paragraph 156, which consist of the Receiver's characterization of several unrelated pieces of email correspondence spanning a period of three years. Responding further, SHIP states that the correspondence quoted in Paragraph 156 are documents that speak for themselves and denies the allegations in Paragraph 156 to the extent they mischaracterize the correspondence referenced in that Paragraph.

157. SHIP admits that, in April and May 2014, representatives from Beechwood, including Mark Feuer, Scott Taylor, and David Levy, met with representatives from SHIP to present Beechwood's services as an investment manager to SHIP.

158. SHIP admits that, given the nature of SHIP's book of business, SHIP and Beechwood Re were unwilling to enter into a reinsurance arrangement pursuant to which Beechwood Re would take SHIP's reserves and then assume the financial obligation to pay policy claims. SHIP admits that representatives from Beechwood advised SHIP that it could gain access to high-quality, high-yield investments by entering into investment management agreements with Beechwood Re and its affiliated Beechwood entities. SHIP denies the remaining allegations in Paragraph 158.

159. SHIP denies the allegations in Paragraph 159.

160. SHIP admits that, as SHIP was Fuzion's largest client, administering policies for SHIP and providing additional services to SHIP pursuant to the Master Services Agreement was Fuzion's primary source of revenue for 2014 through 2017. SHIP denies that the fees charged to SHIP by Fuzion were above market and denies the remaining allegations in Paragraph 160.

161. SHIP denies the allegations in Paragraph 161.

162. SHIP admits that SHIP entered into three investment management agreements with BBIL, BRE, and BAM I, respectively.

163. The allegations in Paragraph 163 characterize and paraphrase the terms of the three IMAs, which are documents that speak for themselves. While SHIP admits that the three IMAs contain similar terms, SHIP denies that the Receiver's characterization of the terms of the IMAs is accurate or complete. SHIP refer the Court to the three IMAs for their full contents.

164. SHIP denies the allegations in Paragraph 164, which purport to characterize the terms of the IMAs, which are documents that speak for themselves. SHIP refers the Court to the IMAs for their full contents.

165. SHIP admits the allegations in Paragraph 165, including subparts (i) through (iii).

166. SHIP admits the allegations in Paragraph 166. SHIP also invested an additional \$50 million with Beechwood outside of the IMAs based on representations made to SHIP by Beechwood and its representatives, including Feuer, Taylor, and Dhruv Narain.

167. SHIP denies that BAM was given authority to “invest SHIP’s funds as it saw fit.” SHIP denies the remaining allegations in Paragraph 167 to the extent they purport to paraphrase the terms of the IMAs, which are documents that speak for themselves. SHIP’s Adviser Investment Policy, Guidelines, and Restrictions are attached and incorporated into each IMA as Exhibit A to each agreement. SHIP’s Guidelines for Senior Secured Credit Opportunities are included in Exhibit A to the BBIL and BRE IMA but are not included in the BAM I IMA.

168. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 168 regarding assets transferred to Beechwood by BCLIC and WNIC. SHIP admits that SHIP transferred \$270 million to Beechwood to be managed on SHIP’s behalf pursuant to the IMAs.

169. SHIP admits allegations in Paragraph 169.

170. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 170 except to admits that Beechwood invested SHIP’s assets in several related party transactions in a manner “intended to generate much needed cash for the PPVA Funds while maintaining the fiction of inflated valuations.”

171. Paragraph 171 asserts legal conclusions to which no response is necessary. To the extent a response is deemed necessary, SHIP admits the allegations in Paragraph 171.

172. Paragraph 172 asserts legal conclusions to which no response is necessary. To the extent a response is deemed necessary, SHIP admits the allegations in Paragraph 172.

173. Paragraph 173 asserts legal conclusions to which no response is necessary. To the extent a response is deemed necessary, SHIP admits the allegations in Paragraph 173.

174. SHIP denies the allegations in Paragraph 174.

175. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 175 relating to the CNO Defendants. SHIP denies the remaining allegations in Paragraph 175.

176. SHIP denies the allegations in Paragraph 176.

177. SHIP admits the allegations in Paragraph 177.

178. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 178.

179. SHIP admits the allegations in Paragraph 179.

180. SHIP admits that Beechwood used SHIP's assets to "prop up portfolio companies of the PPVA Funds" including Black Elk, Golden Gate, PEDEVCO Corp., Implant Sciences Corp., Northstar Offshore Group, LLC, Montsant Partners, LLC, Desert Hawk Gold Corp. and China Horizon Investments Group. SHIP denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 180.

181. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 181 except to denies the allegation that SHIP was aware in December 2015 or March 2016 that the portfolio companies into which Beechwood had invested SHIP's assets were nonperforming and to denies that SHIP "directed" Beechwood to make any such transfers of assets.

182. Paragraph 182 asserts a legal conclusion to which no response is required. To the extent a response is deemed required, SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 182.

183. Paragraph 183 asserts a legal conclusion to which no response is required. To the extent a response is deemed required, SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 183.

184. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 184.

185. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 185

186. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 186.

187. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 187.

188. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 188.

189. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 189.

190. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 190.

191. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 191.

192. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 192.

193. Paragraph 193 asserts legal conclusions to which no response is required. To the extent a response is deemed required, SHIP admits that Beechwood, through Levy, and its officers, directors, and owners, including Taylor and Feuer, assisted the Platinum Funds in perpetrating the fraud that the Platinum Funds' assets were worth significantly more than in reality.

194. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 194.

195. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 195.

196. SHIP denies that a response to the allegations in Paragraph 196 is required as these allegations purport to characterize the terms of the Reinsurance Agreements and the quarterly reports required to be provided under the terms of those agreements which are documents that speak for themselves. To the extent a response is deemed required, SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 196.

197. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 197.

198. Paragraph 198 includes the assertion of certain legal conclusions to which no response is required. To the extent a response is deemed required, SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 198.

199. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 199.

200. SHIP denies that a response to the allegations in Paragraph 200 is required as these allegations appear to paraphrase and extract partial quotations from email correspondence that consists of documents that speak for themselves. To the extent a response is deemed required, SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 200, including each of the subparts to that Paragraph.

201. SHIP denies that a response to the allegations in Paragraph 201 is required as these allegations appear to paraphrase and extract partial quotations from BCLIC and WNIC's pleadings in the Consolidated Actions which are documents that speak for themselves. To the extent a response is deemed required, SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 201.

202. SHIP denies that a response to the allegations in Paragraph 202 is required as these allegations paraphrase and characterize documents relating to certain transactions entered into by Beechwood, acting as investment manager for SHIP, which consist of documents that speak for themselves. To the extent a response is deemed required, SHIP admits that, on or about February 2, 2016, Beechwood entered into a *Second Amended and Restated Loan and Security Agreement* with parties including Credit Strategies. SHIP denies knowledge or information sufficient to form a believe as to the truth of the remaining allegations in Paragraph 202.

203. SHIP denies that a response to the allegations in Paragraph 203 is required as these allegations appear to paraphrase and extract partial quotations from email correspondence which consist of documents that speak for themselves. To the extent a response is deemed required, SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 203.



204. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 204.

205. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 205.

206. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 206 relating to actions taken or not taken by the CNO Defendants. SHIP admits that, in 2016, after learning that their investments were underperforming SHIP instructed Beechwood to reduce SHIP's exposure to the Platinum Funds.

207. SHIP denies knowledge or information sufficient to form a believe as to the truth of the allegations in Paragraph 207.

208. SHIP denies the allegations in Paragraph 208. SHIP further denies that SHIP annexed the January 15, 2015 IMA side letter to its original Complaint, First Amended Complaint, or Second Amended Complaint.

209. SHIP admits that SHIP received certain holdings reports from Beechwood, but denies that these reports were received monthly or quarterly on a regular basis. SHIP denies the remaining allegations in Paragraph 209.

210. SHIP admits that SHIP received certain holdings reports from Beechwood identifying "investments using Platinum's name or names," but denies that this knowledge "establishes that SHIP knew Beechwood was investing trust assets with the Platinum Funds and/or their portfolio companies." SHIP further specifically denies that all Platinum-related investments were identifiable as such from any holdings reports that they received.

211. SHIP denies the allegations in Paragraph 211, except to admits SHIP entered into the SHIP/ Beechwood Surplus Note Transaction, as that term is defined in the First Amended Complaint.

212. SHIP admits the allegations of Paragraph 212, except to the extent that Paragraph 212 purports to paraphrase the contents of the SHIP Surplus Note, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 212 to the extent they mischaracterize the terms of the SHIP Surplus Note.

213. SHIP denies the allegations in Paragraph 213.

214. SHIP denies the allegations in Paragraph 214.

215. Paragraph 215 purports to paraphrase or quote the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 215 to the extent they mischaracterize the 2015 and 2017 SHIP Statutory Financial Statements.

216. Paragraph 216 purports to paraphrase or quote the contents of the Beechwood Exchange Note, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 216 to the extent they mischaracterize the terms of the Beechwood Exchange Note.

217. SHIP denies the allegations in Paragraph 217.

218. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 218, except to the extent Paragraph 218 purports to paraphrase or quote the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 218 to the extent they mischaracterize the terms of the 2015 SHIP Statutory Financial Statements.

219. SHIP denies the allegations in Paragraph 219.

220. SHIP denies the allegations in Paragraph 220, except to admits Nordlicht was Chief Investment Officer of the Platinum Funds.

221. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 221 related to the CNO Defendants. SHIP denies the remaining allegations in Paragraph 221, except to admits “Beechwood declined to reinsure SHIP’s LTC portfolio.”

222. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations related to the CNO Defendants in Paragraph 222. The allegations in the third sentence of Paragraph 222 assert a legal conclusion to which no response is necessary. To the extent a response is deemed necessary, SHIP denies the third sentence of Paragraph 222. SHIP denies the remaining allegations in Paragraph 222.

223. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 223, except admits Paragraph 223 purports to characterize certain PPCO Loan Transactions and Purchased Securities, as those terms are defined in the First Amended Complaint.

224. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 224.

225. Paragraph 225 purports to paraphrase or quote the contents of the SHIP Note, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 225 to the extent they mischaracterize the terms of SHIP Note.

226. Paragraph 226 purports to paraphrase or quote the contents of the December 2015 Security Agreement, as that term is defined in the First Amended Complaint, which is a document

that speaks for itself. SHIP denies the allegations in Paragraph 226 to the extent they mischaracterize the terms of the December 2015 Security Agreement.

227. Paragraph 227 purports to paraphrase or quote the contents of the MSA Subsidiary Guarantee, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 227 to the extent they mischaracterize the terms of the MSA Subsidiary Guarantee.

228. Paragraph 228 purports to paraphrase or quote the contents of the BAM Asserted Lien, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 228 to the extent they mischaracterize the terms of the BAM Asserted Lien.

229. SHIP denies the allegations in Paragraph 229.

230. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 230.

231. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 231, except to the extent that Paragraph 231 purports to paraphrase the contents of certain “emails from Desert Hawk management.” SHIP denies the allegations in Paragraph 231 to the extent they mischaracterize the terms of the email correspondence cited in Paragraph 231.

232. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 232, except to denies SHIP knew “that the Desert Hawk debt was not worth the value it was ascribed.”

233. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 233.

234. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 234, except to denies the “inter-relatedness of the CNO Defendants and SHIP” and further denies “SHIP money was used for the benefit of BCLIC and WNIC.”

235. Paragraph 235 purports to paraphrase or quote the contents of the First Amended SHIP Note, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 235 to the extent they mischaracterize the terms of the First Amended SHIP Note.

236. Paragraph 236 purports to paraphrase or quote the contents of the Ratification Agreement, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP and denies the allegations in Paragraph 236 to the extent they mischaracterize the terms of the Ratification Agreement.

237. SHIP denies the allegations of Paragraph 237.

238. SHIP denies the allegations in the first sentence of Paragraph 238. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of Paragraph 238.

239. The allegations in Paragraph 239 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations in Paragraph 239.

240. Paragraph 240 purports to paraphrase or quote the contents of the March NPA and March NPA Notes, as those terms are defined in the First Amended Complaint, which are documents that speak for themselves. SHIP denies the allegations in Paragraph 240 to the extent they mischaracterize the terms of the March NPA and March NPA Notes.

241. Paragraph 241 purports to paraphrase or quote the contents of the Amended Security Agreement, as that term is defined in the First Amended Complaint which is a document that speaks for itself. SHIP denies the allegations in Paragraph 241 to the extent they mischaracterize the terms of the Amended Security Agreement.

242. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 242, except to the extent that Paragraph 242 purports to paraphrase the contents of the December 2015 Security Agreement, Ratification Agreement, and Amended Security Agreement, as those terms are defined in the First Amended Complaint, which are documents that speak for themselves. SHIP denies the allegations in Paragraph 242 to the extent they mischaracterize the terms of the December 2015 Security Agreement, Ratification Agreement and Amended Security Agreement.

243. Paragraph 243 purports to paraphrase or quote the contents of the Amended Security Agreement, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 243 to the extent they mischaracterize the terms of the Amended Security Agreement.

244. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 244, except to the extent that Paragraph 244 purports to paraphrase the contents of the BAM Asserted Liens, as that term is defined in the First Amended Complaint, which are documents that speak for themselves. SHIP denies the allegations in Paragraph 244 to the extent they mischaracterize the terms of the BAM Asserted Liens.

245. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 245, except to the extent that Paragraph 245 purports to paraphrase the contents of the NPA Guaranty, as that term is defined in the First Amended Complaint, which

is a document that speaks for itself. SHIP denies the allegations in Paragraph 245 to the extent they mischaracterize the terms of the NPA Guaranty.

246. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 246, except to the extent that Paragraph 246 purports to paraphrase the contents of certain Secured Term Notes and the Second A&R SHIP Note, as that term is defined in the First Amended Complaint. As the documents speak for themselves, SHIP denies the allegations in Paragraph 246 to the extent they mischaracterize the terms of the Secured Term Notes and the Second A&R SHIP Note to see their full contents.

247. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 247, except to the extent that Paragraph 247 purports to paraphrase the contents of the Northstar Debt Assignment Agreement, as that term is defined in the First Amended Complaint, which is a document that speaks for itself. SHIP denies the allegations in Paragraph 247 to the extent they mischaracterize the terms of the Northstar Debt Assignment.

248. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 248, except to denies SHIP “misrepresented that the purchase price was fair.”

249. SHIP denies the allegations in the first sentence of Paragraph 249. SHIP denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 249.

250. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 250.

251. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 251.

252. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 252.

253. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 253, except to denies “the March 2016 transactions were structured, negotiated and consummated with the substantial assistance” of either SHIP or Fuzion.

254. SHIP denies the allegations in Paragraph 254.

255. The allegations in Paragraph 255 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations in Paragraph 255.

256. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence in Paragraph 256. SHIP denies the allegations in the second sentence in Paragraph 256.

257. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 257.

258. The allegations in Paragraph 258 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations in Paragraph 258.

259. The allegations in Paragraph 259 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegation in Paragraph 259.

260. SHIP admits the allegations in Paragraph 260.

261. SHIP denies the allegations of Paragraph 261.



262. SHIP admits the first sentence of Paragraph 262. SHIP denies knowledge or information sufficient to form a belief as to the truth of the second sentence of Paragraph 262. SHIP denies the allegations in the third sentence of Paragraph 262.

263. SHIP denies “joining the RICO Enterprise,” but otherwise admits the allegations in Paragraph 263.

264. SHIP denies “joining the RICO Enterprise,” but otherwise admits the allegations in Paragraph 264.

265. SHIP denies that it is a member of the “RICO Enterprise” but otherwise admits the allegations in Paragraph 265.

266. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 266.

267. SHIP denies the allegations of Paragraph 267.

268. SHIP denies the allegations of Paragraph 268.

269. SHIP denies the allegations in Paragraph 269.

270. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 270, except to deny joining the “RICO Enterprise.”

271. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 271, except to deny joining the “RICO Enterprise.”

### **CLAIMS FOR RELIEF**

272. On August 18, 2019, this Court dismissed Counts 1 to 4, 6, and 7 of the First Amended Complaint with prejudice. *See* ECF No. \_\_\_\_\_. Count 5 does not name SHIP as a defendant. Accordingly, SHIP does not need to respond to Paragraphs 272 to 340 of the First

Amended Complaint. To the extent a response is deemed necessary, SHIP denies the allegation in these counts and denies any liability of any kind.

341. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

342. Paragraph 342 purports to paraphrase or quote the contents of the December 2015 Security Agreement, MSA Subsidiary Guarantee, and the Ratification Agreement, as those terms are defined in the First Amended Complaint, which are documents that speak for themselves. SHIP denies the allegations in Paragraph 342 to the extent they mischaracterize the terms of the December 2015 Security Agreement, MSA Subsidiary Guarantee or the Ratification Agreement..

343. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 343.

344. SHIP denies the allegations of Paragraph 344.

345. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 345.

346. The allegations in Paragraph 346 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 346.

347. The allegations in Paragraph 347 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 347.

348. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

349. Paragraph 349 purports to paraphrase or quote the contents of the December 2015 Security Agreement, MSA Subsidiary Guarantee, and the Ratification Agreement, as those terms are defined in the First Amended Complaint which are documents that speak for themselves. SHIP denies the allegations in Paragraph 349 to the extent they mischaracterize the terms of the December 2015 Security Agreement, MSA Subsidiary Guarantee, and the Ratification Agreement.

350. The allegations in Paragraph 350 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 350.

351. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 351.

352. The allegations in Paragraph 352 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 352.

353. The allegations in Paragraph 353 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 353.

354. The allegations in Paragraph 354 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 354.

355. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

356. Paragraph 356 purports to paraphrase or quote the contents of the December 2015 Security Agreement, MSA Subsidiary Guarantee, and the Ratification Agreement, as those terms

are defined in the First Amended Complaint which are documents that speak for themselves. SHIP denies the allegations in Paragraph 356 to the extent they mischaracterize the terms of the December 2015 Security Agreement, MSA Subsidiary Guarantee, and the Ratification Agreement.

357. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 357.

358. SHIP denies the allegations in Paragraph 358, except to the extent that Paragraph 358 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 358 to the extent they mischaracterize the terms of the documents referenced in that Paragraph.

359. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 359.

360. The allegations in Paragraph 360 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 360.

361. The allegations in Paragraph 361 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 361.

362. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

363. Paragraph 363 purports to paraphrase or quote the contents of the December 2015 Security Agreement, MSA Subsidiary Guarantee, and the Ratification Agreement, as those terms are defined in the First Amended Complaint which are documents that speak for themselves. SHIP

denies the allegations in Paragraph 363 to the extent they mischaracterize the terms of the December 2015 Security Agreement, MSA Subsidiary Guarantee, and the Ratification Agreement.

364. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 364.

365. SHIP denies the allegations in Paragraph 365, except to the extent that Paragraph 365 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 365 to the extent they mischaracterize the terms of the documents referenced in that Paragraph.

366. The allegations in Paragraph 366 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 366.

367. The allegations in Paragraph 367 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 367.

368. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

369. Paragraph 369 purports to paraphrase or quote the contents of the December 2015 Security Agreement, MSA Subsidiary Guarantee, and the Ratification Agreement, as those terms are defined in the First Amended Complaint which are documents that speak for themselves. SHIP denies the allegations in Paragraph 369 to the extent they mischaracterize the terms of the December 2015 Security Agreement, MSA Subsidiary Guarantee, and the Ratification Agreement.

370. SHIP denies the allegations in Paragraph 370, except to the extent that Paragraph 370 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the

allegations in Paragraph 370 to the extent they mischaracterize the documents referenced in that Paragraph.

371. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 371.

372. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 372.

373. The allegations in Paragraph 373 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 373.

374. The allegations in Paragraph 374 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 374.

375. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

376. Paragraph 376 purports to paraphrase or quote the contents of the March NPA, the NPA Guaranty, the Amended Security Agreement, and the Second Amended & Restated SHIP Note, as those terms are defined in the First Amended Complaint which are documents that speak for themselves. SHIP denies the allegations in Paragraph 376 to the extent they mischaracterize the terms of the March NPA, the NPA Guaranty, the Amended Security Agreement or the Second Amended & Restated SHIP Note.

377. SHIP denies the allegations in Paragraph 377, except to the extent that Paragraph 377 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the

allegations in Paragraph 377 to the extent they mischaracterize the documents referenced in that Paragraph 377.

378. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 378, except to the extent that Paragraph 378 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 378 to the extent they mischaracterize the documents referenced in that Paragraph.

379. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 379, except to the extent that Paragraph 379 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 379 to the extent they mischaracterize the documents referenced in that Paragraph.

380. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 380.

381. The allegations in Paragraph 381 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 381.

382. The allegations in Paragraph 382 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 382.

383. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

384. Paragraph 384 purports to paraphrase or quote the contents of the March NPA, the NPA Guaranty, the Amended Security Agreement, and the Second Amended & Restated SHIP Note, as those terms are defined in the First Amended Complaint which are documents that speak

for themselves. SHIP denies the allegations in Paragraph 384 to the extent they mischaracterize the March NPA, the NPA Guaranty, the Amended Security Agreement or the Second Amended & Restated SHIP Note.

385. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 385, except to the extent that Paragraph 385 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 385 to the extent they mischaracterize the documents referenced in that Paragraph 385.

386. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 386, except to the extent that Paragraph 386 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 377 to the extent they mischaracterize the documents referenced in that Paragraph 386.

387. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 387.

388. The allegations in Paragraph 388 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 388.

389. The allegations in Paragraph 389 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 389.

390. The allegations in Paragraph 390 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 390.



391. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

392. Paragraph 392 purports to paraphrase or quote the contents of the March NPA, the NPA Guaranty, the Amended Security Agreement, and the Second Amended & Restated SHIP Note, as those terms are defined in the First Amended Complaint which are documents that speak for themselves. SHIP denies the allegations in Paragraph 392 to the extent they mischaracterize the March NPA, the NPA Guaranty, the Amended Security Agreement and the Second Amended & Restated SHIP Note.

393. SHIP denies the allegations in Paragraph 393, except to the extent that Paragraph 393 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 393 to the extent they mischaracterize the documents referenced in that Paragraph.

394. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 394, except to the extent that Paragraph 394 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 394 to the extent they mischaracterize the documents referenced in that Paragraph 394.

395. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 395, except to the extent that Paragraph 395 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 395 to the extent they mischaracterize the documents referenced in that Paragraph.

396. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 396.

397. The allegations in Paragraph 397 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 397.

398. The allegations in Paragraph 398 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 398.

399. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

400. Paragraph 400 purports to paraphrase or quote the contents of the March NPA, the NPA Guaranty, the Amended Security Agreement, and the Second Amended & Restated SHIP Note, as those terms are defined in the First Amended Complaint which are documents that speak for themselves. SHIP denies the allegations in Paragraph 400 to the extent they mischaracterize the March NPA, the NPA Guaranty, the Amended Security Agreement or the Second Amended & Restated SHIP Note.

401. SHIP denies the allegations in Paragraph 401, except to the extent that Paragraph 401 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 400 to the extent they mischaracterize the documents referenced in that Paragraph.

402. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 402, except to the extent that Paragraph 402 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 402 to the extent they mischaracterize the documents referenced in that Paragraph.

403. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 403, except to the extent that Paragraph 403 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 403 to the extent they mischaracterize the documents referenced in that Paragraph.

404. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 404.

405. The allegations in Paragraph 405 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 405.

406. The allegations in Paragraph 406 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 406.

407. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

408. Paragraph 408 purports to paraphrase or quote the contents of the March NPA, the NPA Guaranty, the Amended Security Agreement, and the Second Amended & Restated SHIP Note, as those terms are defined in the First Amended Complaint which are documents that speak for themselves. SHIP denies the allegations in Paragraph 377 to the extent they mischaracterize the terms of the March NPA, the NPA Guaranty, the Amended Security Agreement, or the Second Amended & Restated SHIP Note.

409. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 409.

410. SHIP denies the allegations in Paragraph 410, except to the extent that Paragraph 410 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 410 to the extent they mischaracterize the documents referenced in that Paragraph.

411. The allegations in Paragraph 411 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 411.

412. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 412, except to the extent that Paragraph 412 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 412 to the extent they mischaracterize the documents referenced in that Paragraph.

413. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 413, except to the extent that Paragraph 413 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 413 to the extent they mischaracterize the documents referenced in that Paragraph.

414. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 414.

415. The allegations in Paragraph 415 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 415.

416. The allegations in Paragraph 416 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 416.

417. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

418. The allegations in Paragraph 418 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 418.

419. The allegations in Paragraph 419 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 419.

420. SHIP repeats and reasserts all previous responses contained above as if fully set forth herein.

421. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 421.

422. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 422, except to the extent that Paragraph 422 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 422 to the extent they mischaracterize the documents referenced in that Paragraph.

423. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 423, except to the extent that Paragraph 423 purports to paraphrase the contents of documents that speak for themselves. SHIP denies the allegations in Paragraph 377 to the extent they mischaracterize the documents referenced in that Paragraph.

424. SHIP denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 424.

425. The allegations in Paragraph 425 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 425.

426. The allegations in Paragraph 426 assert a legal conclusion to which no response is required. To the extent a response is deemed necessary, SHIP denies the allegations of Paragraph 426.

### **PRAYER FOR RELIEF**

In response to the “WHEREFORE” clause on page 112 of the First Amended Complaint, SHIP denies that the Receiver is entitled to any relief whatsoever.

SHIP denies any allegation in the First Amended Complaint to which a response by it is required that is not expressly admitted.

427. SHIP denies that the Receiver is entitled to a trial by jury on any claims against it.

### **AFFIRMATIVE DEFENSES**

SHIP set forth below their affirmative defenses. Each defense is asserted as to all claims against SHIP and as to all claims against Fuzion. By setting forth these affirmative defenses, neither SHIP or Fuzion assume the burden of proving any fact, issue, or element of a claim where such burden properly belongs to the Receiver.

### **FIRST AFFIRMATIVE DEFENSE**

#### **(Failure to State a Claim upon Which Relief May Be Granted)**

The First Amended Complaint fails to state a claim, in whole or in part, upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

The Receiver's claims are barred, in whole or in part, by applicable statutes of limitations.

**THIRD AFFIRMATIVE DEFENSE**

**(*In Pari Delicto*)**

The Receiver's claims are barred, in whole or in part, by the *in pari delicto* doctrine.

**FOURTH AFFIRMATIVE DEFENSE**

**(Laches)**

The Receiver's claims are barred, in whole or in part, by the doctrine of laches.

**FIFTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

The Receiver's claims are barred, in whole or in part, by the doctrine of estoppel.

**SIXTH AFFIRMATIVE DEFENSE**

**(Waiver)**

The Receiver's claims are barred, in whole or in part, by the doctrine of waiver.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Ratification)**

The Receiver's claims are barred, in whole or in part, by the doctrine of ratification.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

The Receiver's claims are barred, in whole or in part, by the doctrine of unclean hands.

**NINTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

The Receiver's claims are barred, in whole or in part, by their failure to mitigate, minimize or avoid any damages she may be claiming.

**TENTH AFFIRMATIVE DEFENSE**

**(No Standing)**

The Receiver's claims are barred, in whole or in part, because she lacks standing to bring the claims she has brought against SHIP.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Good Faith)**

The Receiver's claims are barred, in whole or in part, because SHIP at all times acted in good faith.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Election of Remedies)**

The Receiver's claims are barred, in whole or in part, by the doctrine of election of remedies.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(No Causation)**

The Receiver's claims are barred, in whole or in part, because the parties whose interests the Receiver represents and the parties in whose shoes the Receiver stands have sustained no injury in fact or damages caused by any act or omission of SHIP.



**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Release or Discharge of Claims)**

The Receiver's claims are barred, in whole or in part, because they have been released, discharged, compromised and settled.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(Accord and Satisfaction)**

The Receiver's claims are barred, in whole or in part, by accord and satisfaction.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**(Assumption of Risk/Culpable Conduct)**

The Receiver's claims are barred, in whole or in part, based on doctrines of assumption of risk and/or culpable conduct on the part of the Receiver, the parties whose interests she represents and/or the parties in whose shoes she stands.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Alleged Damages Caused by Other Parties)**

The Receiver's claims are barred, in whole or in part, because any damages she claims that were incurred by the parties whose interests the Receiver represents and the parties in whose shoes the Receiver stands were due to the acts or omissions of parties other than SHIP.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(Failure to Plead with Specificity)**

The Receiver's claims are barred, in whole or in part, because she has failed to plead claims against SHIP with the specificity required under Fed. R. Civ. P. 9(b).

**NINETEENTH AFFIRMATIVE DEFENSE**

**(The Wagoner Rule)**

The Receiver's claims are barred, in whole or in part, based on the rule articulated in *Shearson Lehman Hutton, Inc. v. Wagoner*, 944 F.2d 114 (2d Cir. 1991).

**TWENTIETH AFFIRMATIVE DEFENSE**

**(Obligations Met)**

The Receiver's claims are barred, in whole or in part, because SHIP met all of its obligations under their Agreements with the Beechwood Entities.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**

**(No Conveyance)**

The Receiver's claims are barred because no Platinum entity conveyed anything to SHIP, and hence there is no conveyance to set aside.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(Denial of Liability)**

SHIP generally denies liability to each of the Receiver's claims.

**RESERVATION OF RIGHTS TO ASSERT ADDITIONAL DEFENSES**

SHIP has not knowingly or intentionally waived any applicable defenses, and reserves the right to assert and rely upon other applicable defenses that may become available or apparent during discovery in this matter. SHIP reserves the right to amend or seek to amend its Answer and Affirmative Defenses.

Dated: New York, New York  
September 11, 2019

Respectfully submitted,

By: /s/ Aidan M. McCormack

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