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October 11, 2018

VIA ELECTRONIC FILING

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

Re: *Securities and Exchange Commission v. Platinum Management (NY) LLC, et al.*, Docket No. 1:16-cv-06848 (BMC)

Dear Judge Cogan:

We represent defendant David Levy in the above-captioned matter, as well as the parallel criminal matter *United States v. Nordlicht, et al.*, No. 16-cr-00640 (BMC). We write pursuant to Your Honor's individual practice rules to request a pre-motion conference with respect to Mr. Levy's motion to compel the receiver for the Receivership Entities, Melanie L. Cyganowski (Receiver or SEC Receiver), to advance Mr. Levy's reasonable attorney's fees and defense costs to be incurred in the upcoming criminal trial. In the alternative, we request that the Court grant Mr. Levy permission to file his motion without a pre-motion conference in line with the direction provided to defendant Joseph SanFilippo regarding his motion for similar relief. *See* October 5, 2018 Order (waiving pre-motion conference).

As background, the criminal matter charges Mr. Levy in connection with his status as a member, manager, partner, officer and/or employee of the Receivership Entities and/or the Portfolio Manager to the Receivership Entities. Mr. Levy has a contractual right to advancement of reasonable attorney's fees by the Receivership Entities to defend himself against these charges. Mr. Levy's contractual right derives from multiple sources, including but not limited to the underlying partnership agreements, operating agreements, and articles of incorporation of the Receivership Entities and related entities, and a letter agreement dated June 16, 2016 which committed the Receivership Entities to advance payment of Mr. Levy's attorney's fees.

Mr. Levy has requested that the Receivership Entities confirm that they will advance his attorney's fees under these contracts, but the Receiver has rejected his request. Mr. Levy's need for advancement is urgent, given that the upcoming criminal trial is rapidly approaching, and existing insurance policies will soon be exhausted.

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Accordingly, we respectfully request that the Court set a pre-motion conference or provide permission for Mr. Levy to submit immediately his motion to compel the Receiver to advance reasonable defense costs and attorney's fees for the criminal matter.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

/s/ Michael S. Sommer
Michael S. Sommer

Counsel for defendant David Levy

cc: Counsel of record (via ECF)