

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X
	:
IN RE PLATINUM-BEECHWOOD LITIGATION	: 18-cv-6658 (JSR)
	:
-----	X

	:
MELANIE L. CYGANOWSKI, as Equity Receiver for PLATINUM PARTNERS CREDIT OPPORTUNITIES MASTER FUND LP, <i>et al.</i> ,	: 18-cv-12018 (JSR)
	:
	:
Plaintiffs,	:
v.	:
	:
BEECHWOOD RE LTD., <i>et al.</i> ,	:
	:
Defendants.	:
	:

-----	X
	:
SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA,	:
	:
Third-Party Plaintiff,	:
	:
v.	:
	:
PB INVESTMENT HOLDINGS LTD., <i>et al.</i> ,	:
	:
Third-Party Defendants.	:
	:
-----	X

**ANSWER TO THIRD-PARTY COMPLAINT BY THIRD-PARTY DEFENDANTS
DAVID BODNER, BEECHWOOD TRUST NOS. 7-14, MONSEY EQUITIES, LLC,
AND BEECHWOOD RE INVESTMENTS, LLC SERIES C**

Third-party defendants David Bodner (“Bodner”), Beechwood Trust Nos. 7-14 (the “Trusts 7-14”), Monsey Equities, LLC (“Monsey”), and Beechwood Re Investments, LLC Series C (“BRILLC Series C”) (collectively the “Answering Defendants”) for their answer to the

Third-Party Complaint (“TPC”) (ECF No. 382)¹ of third-party plaintiff Senior Health Insurance Company of Pennsylvania (“SHIP”), pursuant to Federal Rule of Civil Procedure 8(b)(iii), deny generally all of the allegations in the TPC insofar as they include them by name or by reference to a group of defendants in which they are included (i.e., the “Beechwood Owners” and “Co-Conspirator Defendants” for David Bodner, “Beechwood Trusts” and “Beechwood Owner Trusts” for the Trusts 7-14, “BRILLC Series Entities” for BRILLC Series C, “BRILLC Series Members” for Monsey, and “Platinum” and “Beechwood” for their entire respective “enterprises,” TPC fns. 4-5), and otherwise deny knowledge or information sufficient to form a belief as to the truth of the allegations, except as follows:

AS TO PARAGRAPH 6

The Answering Defendants admit that in 2014 and 2015 SHIP entered into three Investment Management Agreements (the “IMAs”) with Beechwood Bermuda International Ltd., Beechwood Re Ltd., and B Asset Manager LP (collectively, the “Beechwood Advisors”).

AS TO PARAGRAPH 24

Bodner admits that he is a resident of Monsey, New York, and was a founder of Platinum Management. He admits that his children are each beneficiaries of Beechwood Trust Nos. 7-14, and that Beechwood Re Investments, LLC Series C, was owned by Monsey Equities, LLC, a vehicle owned and controlled by Bodner’s wife. He otherwise denies, or denies knowledge or information with respect to, the allegations in paragraph 24.

AS TO PARAGRAPH 25

The Answering Defendants admit that Bodner co-founded Platinum Management, which was a Delaware limited liability company with its principal place of business in New York, New

¹ ECF citations refer to the *Cyganowski* docket, 18-cv-12018 (JSR). Capitalized terms not defined herein shall have the meanings ascribed to them in the TPC.

York, and which was the general partner of PPVA. They otherwise deny or deny knowledge or information with respect to the allegations in paragraph 25.

AS TO PARAGRAPH 26

The Answering Defendants admit that the **Trusts** were created for the purpose of holding ownership interests in Beechwood Holdings, and otherwise deny or deny knowledge or information with respect to the allegations in paragraph 26.

AS TO PARAGRAPH 26(b)

The Answering Defendants admit that the Trusts were beneficially owned by the children of Bodner. They otherwise deny or deny knowledge or information with respect to the allegations in paragraph 26(b).

AS TO PARAGRAPH 30(c)

The Answering Defendants admit that BRILLC Series C and Monsey Equities were beneficially owned by the Bodner family. They otherwise deny or deny knowledge or information with respect to the allegations in paragraph 26(b).

AS TO PARAGRAPH 50

The Answering Defendants admit that this Court has jurisdiction over this matter.

AS TO PARAGRAPH 51

The Answering Defendants admit that venue is proper in this Court.

AS TO PARAGRAPH 59

The Answering Defendants deny the allegations in paragraph 59 except that Bodner admits that he and Huberfeld pled guilty to certain misdemeanors and refers to the Court records for the precise terms and conditions of their sentence.

AS TO PARAGRAPH 61

The Answering Defendants deny the allegations in paragraph 61 except that Bodner admits that he and Huberfeld settled certain civil litigation with the SEC and refers to the relevant official records for the precise nature of the allegations and resolution of the claims.

AS TO PARAGRAPH 96

The Answering Defendants admit that **BRILLC** Series C was beneficially owned by a corporate entity, which was owned by the **Bodner** family. They otherwise deny or deny knowledge or information with respect to the allegations in paragraph 96.

AS TO PARAGRAPH 389

The Answering Defendants admit that in August 2016 the Bodner family interests in Beechwood were transferred to the Feuer and Taylor family entities in exchange for a promissory note. They otherwise deny or deny knowledge or information with respect to the allegations in paragraph 389.

AS TO PARAGRAPH 390

The Answering Defendants admit that, in connection with the sale of the Bodner family interests in Beechwood, the Bodner family was represented by counsel. They otherwise deny or deny knowledge or information with respect to the allegations in paragraph 390.

AS TO PARAGRAPH 392

The Answering Defendants admit that the Beechwood Trust Nos. 7-14 were created by Bodner, with his children named as beneficiaries. They otherwise deny knowledge or information with respect to the allegations in paragraph 392.

AS TO THE PRAYER FOR RELIEF

The Answering Defendants deny that SHIP is entitled to any relief.

AFFIRMATIVE DEFENSES OF THE ANSWERING DEFENDANTS

The Answering Defendants set forth their affirmative defenses below. The Answering Defendants' defenses are asserted as to all operative claims against each of them, individually and as a group. By setting forth these affirmative defenses, the Answering Defendants do not assume the burden of proving any fact, issue, or element of a claim where such burden properly belongs to SHIP.

AFFIRMATIVE DEFENSE NO. 1
(Failure to State a Claim)

SHIP's claims are barred, in whole or in part, for failure to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSE NO. 2
(Estoppel)

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

AFFIRMATIVE DEFENSE NO. 3
(Statute of Limitations)

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

AFFIRMATIVE DEFENSE NO. 4
(Release or Discharge of Claims)

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

AFFIRMATIVE DEFENSE NO. 5
(Alleged Damages Caused by Other Parties)

SHIP's claims are barred, in whole or in part, because any damages they claim that were incurred by SHIP were due to the acts or omissions of parties other than the Answering Defendants.

AFFIRMATIVE DEFENSE NO. 6
(In Pari Delicto)

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

AFFIRMATIVE DEFENSE NO. 7
(Failure to Mitigate Damages)

SHIP's claims are barred, in whole or in part, by its failure to mitigate damages.

AFFIRMATIVE DEFENSE NO. 8
(Consent or Ratification)

SHIP's claims are barred, in whole or in part, because it consented to and/or ratified the conduct alleged to have been wrongful in the TPC.

AFFIRMATIVE DEFENSE NO. 9
(Unclean Hands)

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

AFFIRMATIVE DEFENSE NO. 10
(Alleged Damages are Too Speculative and Too Remote)

SHIP's claims are barred, in whole or in part, because any damages they claim that were incurred by SHIP are too speculative and too remote.

AFFIRMATIVE DEFENSE NO. 11
(Good Faith)

SHIP's claims are barred, in whole or in part, because the Answering Defendants at all times acted in good faith.

RESERVATION OF RIGHTS

The Answering Defendants have not knowingly or intentionally waived any applicable defenses, and they reserve all rights to assert and rely upon other applicable defenses that may become available or apparent as this matter proceeds. The Answering Defendants reserve all rights to amend or seek to amend their Answer and Affirmative Defenses.

Dated: September 13, 2019
New York, New York

CURTIS, MALLET-PREVOST,
COLT & MOSLE LLP

By: /s/ Gabriel Hertzberg

Eliot Lauer

Gabriel Hertzberg

101 Park Avenue

New York, New York 10178

Tel.: (212) 696-6000

Fax: (212) 697-1559

Email: elauer@curtis.com

ghertzberg@curtis.com

*Attorneys for Third-Party Defendants David
Bodner, Beechwood Trust Nos. 7-14, Monsey
Equities, LLC, and Beechwood Re Investments, LLC*

35626227