

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

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IN RE PLATINUM-BEECHWOOD	:	18-cv-06658 (JSR)
LITIGATION	:	
	:	
	:	
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WASHINGTON NATIONAL INSURANCE	:	
COMPANY and BANKERS CONSECO	:	
LIFE INSURANCE COMPANY	:	18-cv-12018 (JSR)

Third-Party Plaintiffs,	:	
	:	
-against-	:	
	:	
MARK NORDLICHT, <i>et al.</i> ,	:	
	:	
Third-Party Defendants	:	
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ANSWER OF THIRD PARTY DEFENDANT HOKYONG KIM A/K/A STEWART KIM

Defendant Stewart Kim (“Kim”), for his answer to the third party complaint (Dkt. No. 75) (“TPC”) by Washington National Insurance Company (“WNIC”) and Bankers Consec Life Insurance Company (“BCLIC”, and together with WNIC, “CNO”), pursuant to Federal Rule of Civil Procedure 8(b)(iii), denies generally all of the allegations in the TPC insofar as they include Kim by name or reference to a group of defendants in which Kim is included, and otherwise, to the extent a response is required, denies knowledge or information sufficient to form a belief as to the truth of the allegations, except as follows:

AS TO JURISDICTION

Kim admits that this Court has jurisdiction.

AS TO VENUE

Kim admits that venue is proper in this case.

AS TO PARAGRAPH 505

Kim admits that he was a senior manager of Platinum. Otherwise, Kim denies knowledge or information sufficient to form a belief of the truth of the allegations in paragraph 505.

AS TO PARAGRAPH 577

Kim admits that he was Chief Risk Officer of Beechwood Re., but otherwise denies knowledge or information sufficient to form a belief of the truth of the allegations in paragraph 577.

AS TO PARAGRAPH 579

Kim admits that he was communicating with CNO, but otherwise denies knowledge or information sufficient to form a belief of truth of the allegations in paragraph 579.

AS TO CLAIMS FOR RELIEF

Kim denies the Claims for Relief to the extent any response is required. In response to the prayers for relief in paragraph 475 of the TPC, Kim denies that CNO is entitled to relief.

AFFIRMATIVE DEFENSES

Kim sets forth his affirmative defenses below. By setting forth these independent and separate affirmative defenses, Kim does not assume the burden of proving any fact, issue, or element of a claim where such burden properly belongs to CNO.

First Affirmative Defense

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

Second Affirmative Defense

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

Third Affirmative Defense

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

Fourth Affirmative Defense

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

Fifth Affirmative Defense

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

Sixth Affirmative Defense

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

Seventh Affirmative Defense

CNO'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.

Eighth Affirmative Defense

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

Ninth Affirmative Defense

CNO's claims are barred, in whole or in part, by equitable doctrines, including acquiescence, waiver, estoppel, and laches.

Tenth Affirmative Defense

CNO's claims are barred, in whole or in part, because Kim at all times acted in good faith.

RESERVATION OF RIGHTS

Kim has not knowingly or intentionally waived any applicable defenses, and reserves all rights to assert and rely upon other applicable defenses that may become available or apparent as this matter proceeds. Kim reserve all rights to amend or seek to amend his answer and affirmative defenses.

Dated: Queens, New York
September 13, 2019

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