

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

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SECURITIES AND EXCHANGE	:
COMMISSION,	:
Plaintiff,	:
-v-	:
	:
PLATINUM MANAGEMENT (NY) LLC;	:
PLATINUM CREDIT MANAGEMENT, L.P.;	:
MARK NORDLICHT;	:
DAVID LEVY;	:
DANIEL SMALL;	:
URI LANDESMAN;	:
JOSEPH MANN;	:
JOSEPH SANFILIPPO; and	:
JEFFREY SHULSE,	:
	:
Defendants.	:
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No. 16-cv-6848 (BMC)

**NOTICE OF MOTION FOR ENTRY OF AN ORDER (I) ESTABLISHING CLAIMS  
BAR DATES AND (II) APPROVING (A) A PROOF OF CLAIM FORM, (B) THE FORM  
AND MANNER OF NOTICE OF THE CLAIMS BAR DATES AND  
(C) PROCEDURES FOR SUBMITTING PROOFS OF CLAIM**

**PLEASE TAKE NOTICE** that upon the accompanying declaration and memorandum of law in support of the motion by Melanie L. Cyganowski, as Receiver (the “*Receiver*”) for Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd and Platinum Partners Credit Opportunities Fund International (A) Ltd, the Receiver will move before the Honorable Brian M. Cogan, United States District Judge for the United States District Court for the Eastern District of New York (the “*Court*”), located at

225 Cadman Plaza East, Brooklyn, New York 11201, for entry of an order (i) establishing dates by which all claims arising prior to December 19, 2016 must be filed (the “*Claims Bar Date*”) and (ii) approving (a) a proof of claim form, (b) the form and manner of notice of the Claims Bar Date and (c) procedures for submitting proofs of claim (the “*Motion*”).

**PLEASE TAKE FURTHER NOTICE** that any opposition to the Motion must be: (i) made in writing; (ii) if by a named party in the above captioned case, electronically filed with the Court; or (iii) if by a non-party, electronically mailed to the Receiver at her e-mail address, [platinumreceiver@otterbourg.com](mailto:platinumreceiver@otterbourg.com), so as to be actually received no later than **December 17, 2018**.

**PLEASE TAKE FURTHER NOTICE** that in the absence of any timely filed or served written opposition, the Court may grant the relief requested in the Motion without further hearing or notice.

Dated: December 10, 2018

**OTTERBOURG P.C.**

By: /s Adam C. Silverstein  
Adam C. Silverstein  
Erik B. Weinick  
230 Park Avenue  
New York, New York 10169  
Tel.: (212) 661-9100  
Fax: (212) 682-6104  
[asilverstein@otterbourg.com](mailto:asilverstein@otterbourg.com)  
[eweinick@otterbourg.com](mailto:eweinick@otterbourg.com)

*Attorneys for Melanie L. Cyganowski, as Receiver*

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

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SECURITIES AND EXCHANGE	:	
COMMISSION,	:	
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Plaintiff,	:	
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-v-	:	
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PLATINUM MANAGEMENT (NY) LLC;	:	No. 16-cv-6848 (BMC)
PLATINUM CREDIT MANAGEMENT, L.P.;	:	
MARK NORDLICHT;	:	
DAVID LEVY;	:	
DANIEL SMALL;	:	
URI LANDESMAN;	:	
JOSEPH MANN;	:	
JOSEPH SANFILIPPO; and	:	
JEFFREY SHULSE,	:	
	:	
	:	
Defendants.	:	
-----X		

**DECLARATION OF MELANIE L. CYGANOWSKI, AS RECEIVER, IN SUPPORT OF  
HER MOTION FOR ENTRY OF AN ORDER (I) ESTABLISHING CLAIMS BAR  
DATES AND (II) APPROVING (A) A PROOF OF CLAIM FORM, (B) THE FORM  
AND MANNER OF NOTICE OF THE CLAIMS BAR DATES AND (C)  
PROCEDURES FOR SUBMITTING PROOFS OF CLAIM**

I, Melanie L. Cyganowski, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true to the best of my knowledge, information and belief:

1. I make this declaration in my capacity as the duly appointed Receiver (the “*Receiver*”) of Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd and Platinum Partners Credit Opportunities Fund International (A) Ltd (collectively, the “*Receivership Entities*”).

2. I submit this declaration in support of my motion for entry of an order (i) establishing dates by which all claims arising prior to December 19, 2016 must be filed and (ii) approving (a) a proof of claim form, (b) the form and manner of notice of the claims bar dates and (c) procedures for submitting proofs of claim (the “*Motion*”).

I.

**PRELIMINARY STATEMENT**

3. The October 16, 2017 *Second Amended Order Appointing Receiver* (the “*Receivership Order*”) directed me to determine the extent of liabilities I believe to be the legal obligations of the Receivership Entities. *See* Receivership Order, ¶ 47. In connection therewith, I am authorized, empowered and directed to develop a plan for the fair, reasonable, and efficient recovery and disposition of all remaining, recovered, and recoverable Receivership Property (defined in the Receivership Order), which may be a plan of liquidation. *See* Receivership Order, ¶ 45. To develop a successful distribution plan, I must identify the nature and scope of the potential claims against, and liabilities of, the Receivership Entities. For this reason, it is necessary to establish a deadline for claimants to submit proofs of claims for processing by me and my retained professionals. Furthermore, it is critically important to the efficient administration of the receivership and the distribution of assets among claimants and investors that the proofs of claim be timely filed and that untimely proofs of claim be barred. With limited proceeds available for distribution, the claims procedures described below will ensure that available proceeds are maximized and distributed to claimants that hold valid claims and that submitted proofs of claim prior to the deadline for doing so. To assist me in the forgoing, I seek authority to establish a claims bar date for individuals or entities which may be *creditors* in this case. For these reasons and those set forth more fully herein, as well as in the

contemporaneously filed Memorandum of Law in Support of the Motion, this Court should enter an order granting the Motion (such order being the “*Bar Date Order*”).

## II.

### THE PROPOSED CLAIMS PROCEDURES

4. Through the Motion, I request that this Court establish the following dates by which claims against the Receivership Entities must be filed:

- (i) **5:00 p.m. (prevailing Eastern Time) on the date that is 45 days after entry of the Bar Date Order** as the deadline for Claimants *other than Governmental Units* to submit Proofs of Claim against the Receivership Entities (the “*General Bar Date*”); and
- (ii) **5:00 p.m. (prevailing Eastern Time) on the date that is 60 days after entry of the Bar Date Order** as the deadline for Governmental Units to submit Proofs of Claim against the Receivership Entities (the “*Governmental Bar Date*,” and together with the General Bar Date, the “*Bar Dates*”).

5. I also request the approval (a) of a proof of claim form, (b) the form and manner of notice of the Bar Dates and (c) procedures for submitting proofs of claim (collectively, the “*Claims Procedures*”). The proposed Claims Procedures are described below.

6. For purposes of the Motion and the Bar Date Order, the following definitions apply:

- (i) “*Claim*” is defined as: (1) a claim to a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, against one or more of the Receivership Entities; or (2) a claim to a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, against one or more of the Receivership Entities.
- (ii) “*Claimant*” is defined as and includes any person or entity (including, without limitation, individuals, partnerships, corporations, estates, trusts, and governmental units) that holds a Claim. Without limiting the generality of the foregoing, the definition of Claimant includes, but is not limited to, any person or entity holding a Claim based on the provision of goods or services to any

Receivership Entity that has not been paid in whole; money loaned to any Receivership Entity that has not been paid in whole; unpaid wages, compensation, or other employment benefits; tax liabilities, including those held by federal and state governments; primary, secondary, direct, indirect, secured, unsecured, or contingent liability; or contract, tort, indemnity, reimbursement, subrogation theories, or other legal or equitable theory. **The term “Claimant” does not include (i) any person or entity that holds an equity interest in the Receivership Entities, which interest exclusively is based upon the ownership of membership interests or partnership interests in the Receivership Entities, or (ii) investors who sought redemptions of their investment prior to December 19, 2016 but did not receive payment therefor.**

- (iii) “*Governmental Unit*” is defined as and includes the United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government.

7. Eligibility to Submit Proofs of Claim. Proofs of Claim (defined below) should be submitted by all persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and governmental units) that are Claimants and believe that they are owed any money by, or have a right to distribution from, any of the Receivership Entities, regardless of whether the Claim at issue has been acknowledged by me or whether the Claim at issue is held with or through any person or entity or based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability. Notwithstanding the forgoing, any person or entity that holds an equity interest in the Receivership Entities, which interest exclusively is based upon the ownership of membership interests or partnership interests, should not file a Proof of Claim; provided, that if any such holder asserts a Claim (as opposed to an ownership interest) against a Receivership Entity (including a Claim relating to an interest or the purchase or sale of such interest), a Proof of Claim must be filed on or before the General Bar Date pursuant to the Claims Procedures.

8. Administrative and Professional Claims. Creditors holding claims based on the provision of goods or services to the Receivership Entities or me after December 19, 2016 (“*Administrative Claims*”) will not be required to submit proofs of claim on or before the Bar Dates and will not be subject to the Bar Dates. I will continue to process and pay valid Administrative Claims as they are incurred and come due. For the avoidance of doubt, my retained professionals and I will not be required to submit proofs of claim on or before the General Bar Date and all claims of my professionals and I will be addressed in accordance with orders of this Court.

9. Notice. I believe that the following procedures will ensure sufficient notice to Claimants of the Bar Dates:

(i) Notice by Mail. I propose to serve, within five (5) business days of entry of the Bar Date Order:

(a) a notice of the Bar Date and the procedures for submitting proofs of claim, substantially in the form of the notice attached as Exhibit A hereto and incorporated herein by reference (the “*Bar Date Notice*”); and

(b) a proof of claim form substantially in the form of the document attached as Exhibit B hereto and incorporated herein by reference (the “*Proof of Claim Form*”)

on (1) all creditors and other known holders of Claims at the address set forth in the Receivership Entities’ books and records or as updated pursuant to a request by a creditor or by returned mail from the post office with a forwarding address; (2) all parties actually known to me as having potential Claims against any of the Receivership Entities; (3) all parties to pending litigation against the Receivership Entities (as of the date of entry of the order on the Motion); (4) all

applicable Governmental Units; and (5) such additional persons and entities deemed appropriate by me.

With respect to the Claimants that meet the above requirements for notice by mail, I propose to serve (a) those located within the United States by United States first class mail and (b) those located outside the United States by any method reasonably calculated to provide notice to potential Claimants.

- (ii) Notice by Electronic Mail. In addition to notice by mail (if required pursuant to the previous paragraph), where potential Claimants have provided an electronic mail address to me, I propose to serve, within five (5) business days of entry of the Bar Date Order, the Bar Date Notice and the Proof of Claim Form on such potential Claimants via the electronic mail address provided by them.
- (iii) Notice by Publication. The Bar Date Notice and the Proof of Claim Form will also be made available, within five (5) business days of entry of the Bar Date Order, on the website [www.PlatinumReceivership.com](http://www.PlatinumReceivership.com). In addition, within fourteen (14) calendar days of entry of the Bar Date Order, a notice of the Bar Date and the procedures for submitting proofs of claim, substantially in the form of the notice attached as Exhibit C hereto and incorporated herein by reference (the “*Bar Date Publication Notice*”), will be published in The Wall Street Journal, and other such publications that in the Receiver’s sole and absolute discretion are reasonably calculated to provide notice to potential Claimants. I have chosen the publication(s) listed above because they are most likely to reach an audience that may hold unknown Claims, as they target the financial industry and the geographical areas most affected by the receivership.



(iv) Notice Upon Inquiry. I will promptly provide the Bar Date Notice and the Proof of Claim Form to any Claimant who makes a written request for such documents to the e-mail address [platinumreceiver@otterbourg.com](mailto:platinumreceiver@otterbourg.com) or to the physical address Platinum Claims c/o Otterbourg P.C., 230 Park Avenue, New York, New York 10169-0075.

10. Procedure for Submitting Proofs of Claim. Except as otherwise ordered by this Court or provided below, each Claimant must submit a completed and signed Proof of Claim Form under penalty of perjury and evidencing such Claimant's Claim, together with supporting documentation (a "***Proof of Claim***"), with my agent in the manner indicated below, so that such Proof of Claim is actually received on or before the applicable Bar Date. Proofs of Claim may be submitted to my agent by (1) first class mail addressed to Platinum Receivership c/o Epiq, PO Box 10667, Dublin, OH 43017-9367; (2) overnight courier or in-person delivery addressed to Platinum Receivership c/o Epiq, 5151 Blazer Parkway, Suite A, Dublin, OH 43017; or (3) by electronic mail, as an attachment in portable document format (.pdf), to [PTMInfo@epiqglobal.com](mailto:PTMInfo@epiqglobal.com). Proofs of Claim should not be filed with this Court, and any Proof of Claim so filed will not be considered properly submitted.

11. Prior Submissions by Claimants. A Claimant that has previously submitted a proof of claim asserting a Claim may, but is not required to, submit a new Proof of Claim with respect to such Claim in accordance with the Claims Procedures. If such a Claimant does not submit a new Proof of Claim, the previously filed proof of claim will be treated as a timely filed Proof of Claim. However, at my request the Claimant may be required to submit additional supporting documentation in order for the Claim asserted in the previously filed proof of claim to be evaluated. Such requests will be made through the electronic mail address included on the

previously filed proof of claim. Beginning on the date the Bar Date Order is entered, Claimants shall only be permitted to submit a Proof of Claim in accordance with the terms of the Bar Date Order in order for such Claim to be recognized as properly filed in accordance with the Claims Procedures.

12. Supporting Documentation for Proof of Claim. Each Claimant should attach to each Proof of Claim copies of all documents available to the Claimant that could support such Proof of Claim. Such documentation may include but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing the amount and basis of the claim. If such supporting documentation is not available, the Claimant must attach to the Proof of Claim an explanation of why the documentation is unavailable.

13. Depending upon the Claim review process ultimately employed by me, each Claimant will have to satisfy certain minimum standards to establish an allowed Claim and receive a distribution.

14. Proof of Claim Must Identify Receivership Entity. Any Claimant holding Claims against more than one Receivership Entity must submit a separate Proof of Claim against each such Receivership Entity and identify on each Proof of Claim the Receivership Entity against which the Proof of Claim is asserted.

15. In the future, it is possible that I may seek to consolidate some or all of the Receivership Entities; however, at this point in time no request for consolidation has been filed. As such, separate Proofs of Claim and the required supporting documentation are necessary to

ensure that I have sufficient information to prepare a distribution plan regardless of whether the Receivership Entities are consolidated or remain separate entities for distribution purposes.

16. A Claimant's failure to identify the correct Receivership Entity on a Proof of Claim Form may be grounds for objection to, and disallowance of, such Claimant's Claims. However, a Claimant may submit Proofs of Claim against several or all of the Receivership Entities if, based upon a reasonable investigation, such Claimant believes that it holds a Claim against those Receivership Entities or is unsure which Receivership Entity it holds a Claim against. I reserve the right to object to such claims on any grounds, including being duplicative of one another.

17. Effect of Failure to Submit Proof of Claim Before Applicable Bar Date. Any Claimant who is required to submit a Proof of Claim, but fails to do so in a timely manner or in the proper form, shall be forever barred, estopped, and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Claim against the Receivership Entities and their respective property or estates; shall not be permitted to object to any distribution plan proposed by me on account of such Claim; shall be denied any distributions under any distribution plan implemented by me on account of such Claim; and shall not receive any further notices on account of such Claim. Further, the Receivership Entities and their respective property or estates will be discharged from any and all indebtedness or liability with respect to such Claim.

18. I submit that the proposed Bar Dates and Proof of Claim Form are not unduly burdensome or uncommon in matters of this nature. It is critically important to the efficient and orderly administration of the receivership that Claimants timely file their Proofs of Claim and

that late-filed Proofs of Claim be disallowed. Establishment of the Bar Dates is necessary for me to determine which persons or entities are entitled to share in distributions under a plan.

19. Proofs of Claim Processing and Verification. I have not yet decided how to reconcile Proofs of Claim with the books and records of the Receivership Entities and/or otherwise determined the criteria I will employ to determine whether a Claimant holds an allowed Claim. As such, I request that I be authorized to employ any procedures I deem necessary, in my sole and absolute discretion, for processing, reconciling, and verifying Proofs of Claim.

20. Reservation of Rights. Nothing in the Motion and accompanying pleadings shall prejudice my right to dispute, or assert offsets or defenses as to the nature, amount, liability, classification, or otherwise against, any amounts asserted in any Proof of Claim. Nothing contained in the Motion and accompanying pleadings is intended to preclude me from objecting to any Proof of Claim on any grounds.

21. The goal in this case is the approval of a plan of distribution that will, among other things, provide for distributions to investors and Claimants based on the amount of their valid Claims and interests. Establishing the Bar Dates is a critical first step towards advancing that goal. Relevant authorities permit the use of different methodologies to calculate distributions to holders of Claims and interests arising out of investments. I have not decided which methodology is best suited for the circumstances of this case. For my current purposes, I need to ensure that Claimants provide sufficient information to allow me to determine the amount and validity of their Claims using whichever method this Court ultimately directs me to employ.

**III.**

**CONCLUSION**

22. For the reasons set forth herein and in my Memorandum of Law in Support of the Motion, I respectfully request entry of an order, in substantially the form annexed hereto as **Exhibit D**, (i) establishing the Bar Dates, (ii) approving (a) the Proof Of Claim Form, (b) the form and manner of notice of the Bar Dates and (c) procedures for submitting Proofs of Claim and (iii) granting such other and further relief as this Court deems appropriate.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of December 2018, at New York, New York.

*/s/ Melanie L. Cyganowski* \_\_\_\_\_

Melanie L. Cyganowski

# **Exhibit A**

## **Bar Date Notice**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE	:
COMMISSION,	:
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Plaintiff,	:
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PLATINUM MANAGEMENT (NY) LLC;	:
PLATINUM CREDIT MANAGEMENT, L.P.;	:
MARK NORDLICHT;	:
DAVID LEVY;	:
DANIEL SMALL;	:
URI LANDESMAN;	:
JOSEPH MANN;	:
JOSEPH SANFILIPPO; and	:
JEFFREY SHULSE,	:
	:
Defendants.	:
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No. 16-cv-6848 (BMC)

**NOTICE OF CLAIMS BAR DATES AND PROCEDURES FOR  
SUBMITTING NON-INVESTOR PROOFS OF CLAIM**

**TO: ALL NON-INVESTOR CLAIMANTS OF THE RECEIVERSHIP ENTITIES  
IDENTIFIED BELOW**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

On [●], the United States District Court for the Eastern District of New York (the “*Court*”) entered an order (the “*Bar Date Order*”) in the above-captioned case establishing deadlines for Claimants (defined below) to submit a completed and signed Proof of Claim Form under penalty of perjury and evidencing such claimant’s claim, together with supporting documentation (a “*Proof of Claim*”) against Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd and Platinum Partners Credit Opportunities Fund International (A) Ltd (collectively, the “*Receivership Entities*”).

This notice is being sent to persons and entities that have had some relationship or have done business with the Receivership Entities. The fact that you have received this notice does not necessarily mean that you are a Claimant, that you have a valid Claim, or that the Court or the Receiver believes you have a Claim against the Receivership Entities.

## 1. WHAT IS THE BAR DATE?

The Court has established the following dates by which claims against the Receivership Entities must be filed:

- (i) **5:00 p.m. (prevailing Eastern Time) on \_\_\_\_\_** as the deadline for Claimants *other than Governmental Units* to submit Proofs of Claim against the Receivership Entities (the “**General Bar Date**”); and
- (ii) **5:00 p.m. (prevailing Eastern Time) on \_\_\_\_\_** as the deadline for Governmental Units to submit Proofs of Claim against the Receivership Entities (the “**Governmental Bar Date**,” and together with the General Bar Date, the “**Bar Dates**”).

**Any Proof of Claim submitted after the applicable Bar Date will be subject to disallowance, which means that you will not receive any distribution from the Receiver or the Receivership Entities.**

## 2. WHO NEEDS TO SUBMIT A PROOF OF CLAIM?

**You MUST submit a Proof of Claim if you have a claim against any of the Receivership Entities that arose prior to December 19, 2016.** All persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that believe they possess a right to payment, or a claim of any nature, against any of the Receivership Entities and believe that they are owed any money by, or are entitled to a distribution from, any of the Receivership Entities must submit a Proof of Claim, regardless of whether such claim has been acknowledged by the Receiver (each a “**Claimant**”). Claimants include, but are not limited to, the following:

- any person or entity that has a claim based on the provision of goods or services to any Receivership Entity and has not been paid in whole;
- any person or entity who has a claim based on money loaned to any Receivership Entity and has not been paid in whole;
- any employees of any Receivership Entity who have a claim for unpaid wages, compensation, or benefits;
- any person or entity, including federal or state governmental units, that have tax claims against any Receivership Entity;
- any person or entity with a claim against any Receivership Entity based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability; or
- any person or entity holding a claim of any sort against any Receivership Entity based on contract, tort, indemnity, reimbursement, subrogation theories, or



other legal or equitable theory, including any claim based on acts or omissions of Receivership Entities, even if those claims are not now fixed, liquidated, or certain and did not mature or become fixed, liquidated or certain before that date.

**3. INVESTORS DO NOT HAVE TO FILE A PROOF OF CLAIM NOR DO THOSE WHO PROVIDED GOODS OR SERVICES ON OR AFTER DECEMBER 19, 2016**

The term “Claimant” does not include investors in the Receivership Entities or those who sought redemptions of their investment but did not receive payment therefor. Accordingly, any person or entity that holds an equity interest in the Receivership Entities, which interest is based exclusively upon the ownership of membership interests or partnership interests, does not need to, and should not, file a Proof of Claim; provided, that if any such holder asserts a Claim (as opposed to an ownership interest) against a Receivership Entity (including a Claim relating to an interest or the purchase or sale of such interest), a Proof of Claim must be filed on or before the General Bar Date pursuant to the Claims Procedures.

Creditors holding claims based on the provision of goods or services to the Receivership Entities or the Receiver after the Receiver was appointed on December 19, 2016 (“*Administrative Claims*”) are not required to submit Proofs of Claim on or before the General Bar Date and will not be subject to the General Bar Date. The Receiver will continue to process and pay valid Administrative Claims as they are incurred and come due.

**4. DO I NEED TO SUBMIT A PROOF OF CLAIM IF I HAVE PREVIOUSLY SUBMITTED A PROOF OF CLAIM?**

A Claimant that has previously submitted a proof of claim asserting a Claim may, but is not required to, submit a new Proof of Claim with respect to such Claim in accordance with the Claims Procedures. If such a Claimant does not submit a Proof of Claim, the previously filed proof of claim will be treated as a timely filed Proof of Claim. However, at the request of the Receiver, the Claimant may be required to submit additional supporting documentation for the Claim asserted in the previously filed proof of claim to be evaluated.

Beginning on the date the Bar Date Order is entered, Claimants shall only be permitted to submit a Proof of Claim in accordance with the terms of the Bar Date Order for such Claim to be recognized as properly filed in accordance with the Claims Procedures.

**5. WHAT ARE THE CONSEQUENCES OF NOT SUBMITTING A PROOF OF CLAIM?**

Any Claimant who is required to submit a Proof of Claim, but fails to do so in a timely manner or in the proper form, shall be forever barred, estopped, and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Claim against the Receivership Entities and their respective property or estates; shall not be permitted to object to any distribution plan proposed by the Receiver on account of such Claim; shall be denied any distributions under any distribution plan implemented by the Receiver on

**account of such Claim; and shall not receive any further notices on account of such Claim. Further, the Receivership Entities and their respective property or estates will be discharged from any and all indebtedness or liability with respect to such Claim.**

**6. HOW MAY I OBTAIN A COPY OF THE PROOF OF CLAIM FORM?**

For your convenience, enclosed with this notice is a Proof of Claim Form. A copy of the Proof of Claim Form is also available on the Receiver's website for this case at <http://www.platinumreceivership.com>. The Receiver will also provide this notice and the Proof of Claim Form to any potential Claimant who makes a written request for such documents to the e-mail address at [platinumreceiver@otterbourg.com](mailto:platinumreceiver@otterbourg.com) or to the physical address at Platinum Claims c/o Otterbourg P.C., 230 Park Avenue, New York, New York 10169-0075.

**7. HOW DO I SUBMIT MY PROOF OF CLAIM?**

A completed and signed Proof of Claim, together with supporting documentation, must be submitted to the Receiver's agent so as to be actually received no later than the applicable Bar Date.

Each Claimant must submit a completed and signed Proof of Claim Form under penalty of perjury and evidencing such Claimant's Claim, together with supporting documentation (a "*Proof of Claim*"), with the Receiver's agent by (1) first class mail addressed to Platinum Receivership c/o Epiq, PO Box 10667, Dublin, OH 43017-9367; (2) overnight courier or in-person delivery addressed to Platinum Receivership c/o Epiq, 5151 Blazer Parkway, Suite A, Dublin, OH 43017; or (3) by electronic mail, as an attachment in portable document format (.pdf), to [PTMInfo@epiqglobal.com](mailto:PTMInfo@epiqglobal.com). Proofs of Claim should not be filed with the Court and any Proof of Claim so filed will not be considered properly submitted. Proofs of Claim will only be deemed submitted when actually received by the Receiver's agent and therefore please allow sufficient time for delivery.

Any Claimant holding Claims against more than one Receivership Entity must submit a separate Proof of Claim against each such Receivership Entity and identify on each Proof of Claim the Receivership Entity against which the Proof of Claim is asserted. Your failure to identify the correct Receivership Entity on a Proof of Claim Form may be grounds for objection to, and disallowance of, the claim. However, you may submit Proofs of Claim against several or all of the Receivership Entities if, based upon a reasonable investigation, you believe that you hold a claim against those Receivership Entities or you are unsure which Receivership Entity you hold a claim against.

**8. SUPPORTING DOCUMENTS**

Each Claimant should attach to each Proof of Claim copies, not originals, of all documents available to the Claimant that could support such Proof of Claim. Such documentation may include, but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing

the amount and basis of the claim. If such supporting documentation is not available, the Claimant must attach to the Proof of Claim an explanation of why the documentation is unavailable.

Depending upon the Claim review process ultimately employed by the Receiver, each Claimant will have to satisfy certain minimum standards to establish an allowed Claim and receive a distribution. Accordingly, the more information a Claimant provides, the easier it will be for the Receiver to validate that Claimant's Proof of Claim.

## **9. CONSENT TO JURISDICTION**

If you submit a Proof of Claim in this case, you consent to the jurisdiction of the Court for all purposes and agree to be bound by its decisions, including, without limitation, a determination as to the validity and amount of any claims asserted against the Receivership Entities.

## **10. RESERVATION OF RIGHTS**

The Receiver reserves the right to dispute, or assert offsets or defenses as to the nature, amount, liability, classification, or otherwise, against any amounts asserted in any Proof of Claim. Nothing contained herein is intended to preclude the Receiver from objecting to any Proof of Claim on any grounds.

Dated: December \_\_, 2018

### **OTTERBOURG P.C.**

By: /s Adam C. Silverstein  
Adam C. Silverstein  
Erik B. Weinick  
230 Park Avenue  
New York, New York 10169  
Tel.: (212) 661-9100  
Fax: (212) 682-6104  
[asilverstein@otterbourg.com](mailto:asilverstein@otterbourg.com)  
[eweinick@otterbourg.com](mailto:eweinick@otterbourg.com)

*Attorneys for Melanie L. Cyganowski, as  
Receiver*

## **Exhibit B**

### **Proof of Claim Form**



# Platinum Partners

## **CREDITOR PROOF OF CLAIM FORM**

This Proof of Claim Form is only for the use of creditors of the following Platinum Partners funds currently in the receivership being administered by Melanie L. Cyganowski in the case captioned *SEC v. Platinum Management (NY) LLC et al.*, Case No. 16-cv-6848 (BMC): (i) Platinum Partners Credit Opportunities Master Fund LP, (ii) Platinum Partners Credit Opportunities Fund (TE) LLC, (iii) Platinum Partners Credit Opportunities Fund LLC, (iv) Platinum Partners Credit Opportunity Fund (BL) LLC, (v) Platinum Liquid Opportunity Management (NY) LLC, (vi) Platinum Partners Liquid Opportunity Fund (USA) L.P., (vii) Platinum Partners Liquid Opportunity Master Fund L.P., (viii) Platinum Partners Credit Opportunities Fund International Ltd, and (ix) Platinum Partners Credit Opportunities Fund International (A) Ltd. (collectively, the "Receivership Entities").

This Proof of Claim Form is not for the use of investors in the Receivership Entities or for those who sought redemptions of their investment but did not receive payment therefor.

**Please read the accompanying instructions before completing this Proof of Claim Form.**

### **PART I**

#### **CLAIMANT INFORMATION**

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_

Company: \_\_\_\_\_

DBA (If applicable): \_\_\_\_\_

Social Security Number: \_\_\_\_\_ or Taxpayer Identification Number: \_\_\_\_\_

Telephone Number (Work): \_\_\_\_\_ Telephone Number (Home): \_\_\_\_\_

Email Address: \_\_\_\_\_

### **PART II**

#### **NAME OF RECEIVERSHIP ENTITY AGAINST WHOM YOU MAY HAVE A CLAIM**

*(check only one; use additional forms if you have claims against more than one Receivership Entity)*

- |   |   |
|---|---|
| <input type="checkbox"/> Platinum Partners Credit Opportunities Master Fund LP              | <input type="checkbox"/> Platinum Partners Credit Opportunities Fund (TE) LLC           |
| <input type="checkbox"/> Platinum Partners Credit Opportunities Fund LLC                    | <input type="checkbox"/> Platinum Partners Credit Opportunity Fund (BL) LLC             |
| <input type="checkbox"/> Platinum Liquid Opportunity Management (NY) LLC                    | <input type="checkbox"/> Platinum Partners Liquid Opportunity Fund (USA) L.P.           |
| <input type="checkbox"/> Platinum Partners Liquid Opportunity Master Fund L.P.              | <input type="checkbox"/> Platinum Partners Credit Opportunities Fund International Ltd. |
| <input type="checkbox"/> Platinum Partners Credit Opportunities Fund International (A) Ltd. | <input type="checkbox"/> Other (please identify): _____                                 |

**PART III**  
**INFORMATION ABOUT CLAIM**



Type of Claim:

- |  |   |
|--|---|
| <input type="checkbox"/> Services Claim                | <input type="checkbox"/> Loan Claim   |
| <input type="checkbox"/> Tax Claim                     | <input type="checkbox"/> Judgment Creditor Claim                              |
| <input type="checkbox"/> Employment Compensation Claim | <input type="checkbox"/> Other (please describe or attach pages as necessary) |

Is all or part of the claim secured? \_\_\_\_\_

- No
- Yes, the claim is secured by a lien on property owned by a Receivership Entity.

Description of collateral: \_\_\_\_\_

Asserted value of collateral: \_\_\_\_\_

Basis for perfection: \_\_\_\_\_

Amount of the claim that is secured: \_\_\_\_\_

Amount of the claim that is unsecured: \_\_\_\_\_

**PART IV**  
**ADDITIONAL INFORMATION ABOUT CLAIMANT**

Is the claimant an entity? If so, attach a list of all persons who directly or indirectly hold beneficial interests in the claimant exceeding ten percent (10%).

Is the claimant a trust? If so, attach a list of the trustee and all trust beneficiaries

Was, or is, the claimant (or the holder of any direct or indirect beneficial interest in the claimant) ever an officer, director or employee of a Receivership Entity or any other Platinum Partners fund or any of their affiliated entities? If so, please identify the individual, the entity for which s/he worked and provide the dates of the employment or work, title and responsibilities.

Was, or is, the claimant (or the holder of any direct or indirect beneficial interest in the claimant) related in any way to any current or former officer, director or employee of a Receivership Entity or any other Platinum Partners fund or any of their affiliated entities? If so, please identify the individual, the name of the current or former officer, director or employee of the Receivership Entity or any other Platinum Partners fund or any of their affiliated entities, the nature of the relationship and if known, the dates of his/her employment or work and title.

**PART V**  
**DECLARATION AND SIGNATURE**

**Consent to Jurisdiction.** By submitting this Proof of Claim Form, you consent to the jurisdiction of the United States District Court for the Eastern District of New York (the "Court") for all purposes related to this claim and agree to be bound by its decisions, including, without limitation, a determination as to the validity and amount of any claims asserted against the Receivership Entities.

**Declaration.** I (WE) DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE INFORMATION SUPPLIED ON AND WITH THIS PROOF OF CLAIM FORM BY THE UNDERSIGNED IS TRUE AND CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE.

\_\_\_\_\_  
(Sign your name here)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Type or print your name here)

\_\_\_\_\_  
(Capacity of person(s) signing, e.g., Managing Member, Director, Officer, Executor or Administrator)



**INSTRUCTIONS FOR COMPLETING PROOF OF CLAIM**

*Please do not file these instructions with your form*

**THE BAR DATE IS <<bar\_date>> AT 5:00 P.M. (PREVAILING EASTERN TIME)**

**THE PROOF OF CLAIM FORM IS FOR CREDITORS ONLY. IT IS NOT FOR THE USE OF INVESTORS IN THE RECEIVERSHIP ENTITIES OR FOR THOSE WHO SOUGHT REDEMPTIONS OF THEIR INVESTMENT BUT DID NOT RECEIVE PAYMENT THEREFOR.**

**IF SUBMITTING A HARD COPY OF A PROOF OF CLAIM FORM, PLEASE SEND YOUR ORIGINAL, COMPLETED CLAIM FORM TO:**

**If sent by first class mail:**

Platinum Receivership  
c/o Epiq  
PO Box 10667  
Dublin, OH 43017-9367

**If sent by overnight or hand-delivery:**

Platinum Receivership  
c/o Epiq  
5151 Blazer Parkway, Suite A  
Dublin, OH 43017

**IF YOU ARE SUBMITTING YOUR PROOF OF CLAIM FORM ELECTRONICALLY, PLEASE EMAIL YOUR FORM TO:**  
[PTMInfo@epiqglobal.com](mailto:PTMInfo@epiqglobal.com)

**ANY PROOF OF CLAIM FORM SUBMITTED BY FACSIMILE WILL NOT BE ACCEPTED.**

**How to fill out the Proof of Claim Form.**

- Fill in all the information for the claim as of December 19, 2017.
- Please attach to your Proof of Claim Form all documents that support your claim. Such documentation may include, but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing the amount and basis of the claim.
- DO NOT SEND ORIGINAL DOCUMENTS. If such documentation is not available, please attach an explanation of why the documents are unavailable.
- Please do not submit the following types of materials with your Proof of Claim Form unless requested by the Receiver: (1) marketing brochures and other marketing materials received from Receivership Entities; (2) routine or form correspondence received from Receivership Entities; (3) copies of pleadings on file in any case involving the Receiver or the Receivership Entities and (4) other documents received from Receivership Entities that do not reflect Claimant specific information concerning the existence or value of a claim.
- You must sign the Proof of Claim Form. Failure to sign the Proof of Claim Form may result in a delay in processing or the rejection of your claim.

**Confirmation that the claim has been filed.**

- If you submit a hard copy of your proof of claim and wish to receive confirmation of its filing, please enclose a stamped self-addressed envelope and an additional copy of the proof of claim form.
- If you submit a copy of your proof of claim electronically, you will receive an email confirmation of your claim submission. You will also be provided with an electronically date stamped pdf of your claim. You may print and retain a copy of this document for your records. Alternatively, you may view the details of your claim and the first page of your Proof of Claim form on the claims register hosted on the case administration website, <http://www.platinumreceivership.com/>.

**Verification of Claims.**

- All Proof of Claim Forms filed are subject to verification by the Receiver and approval by the Court. It is important to provide complete and accurate information to facilitate this effort. Claimants may be asked to supply additional information to complete this process.

**Additional Information Regarding Claims and the Receivership Case.**

- Additional information about the proposed treatment of claims and the receivership generally may be found at <http://www.platinumreceivership.com/>.

## **Exhibit C**

### **Bar Date Publication Notice**



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

-----X  
SECURITIES AND EXCHANGE :  
COMMISSION, :  
Plaintiff, :  
-v- :  
: :  
PLATINUM MANAGEMENT (NY) LLC; : No. 16-cv-6848 (BMC)  
PLATINUM CREDIT MANAGEMENT, L.P.; :  
MARK NORDLICHT; :  
DAVID LEVY; :  
DANIEL SMALL; :  
URI LANDESMAN; :  
JOSEPH MANN; :  
JOSEPH SANFILIPPO; and :  
JEFFREY SHULSE, :  
Defendants. :  
-----X

**NOTICE TO NON-INVESTOR CREDITORS OF LAST DAY TO FILE PROOFS OF CLAIM  
AGAINST THE RECEIVERSHIP ENTITIES IDENTIFIED BELOW**

**PLEASE TAKE NOTICE THAT:**

1. The United States District Court for the Eastern District of New York (the "*Court*") entered an order (the "*Bar Date Order*") in the above-captioned case establishing deadlines for Claimants (defined below) to submit a completed and signed Proof of Claim Form under penalty of perjury and evidencing such claimant's claim, together with supporting documentation (a "*Proof of Claim*") against Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd and Platinum Partners Credit Opportunities Fund International (A) Ltd (collectively, the "*Receivership Entities*").

2. The Court has established the following dates by which claims against the Receivership Entities must be filed:

- (i) **5:00 p.m. (prevailing Eastern Time) on \_\_\_\_\_** as the deadline for Claimants *other than Governmental Units* to submit Proofs of Claim against the Receivership Entities (the "*General Bar Date*"); and
- (ii) **5:00 p.m. (prevailing Eastern Time) on \_\_\_\_\_** as the deadline for Governmental Units to submit Proofs of Claim against the Receivership Entities (the "*Governmental Bar Date*," and together with the General Bar Date, the "*Bar Dates*").

**Any Proof of Claim submitted after the applicable Bar Date will be subject to disallowance, which means that you will not receive any distribution from the Receiver or the Receivership Entities.**

3. The Bar Dates and claims filing procedures set forth below apply to all claims against the Receivership Entities that arose prior to December 19, 2016, the date a receiver was appointed in the above captioned case. If you believe any of the Receivership Entities owe you money, you should consider filing a claim before the applicable Bar Date. Holders of claims that arose after December 19, 2016 are not required to submit a Proof of Claim at this time.

4. You MUST submit a Proof of Claim if you have a claim against any of the Receivership Entities that arose prior to December 19, 2016. All persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and governmental units) that believe they possess a right to payment, or a claim of any nature, against any of the Receivership Entities and believe that they are owed any money by, or are entitled to a distribution from, any of the Receivership Entities must submit a Proof of Claim, regardless of whether such claim has been acknowledged by the Receiver (each a “*Claimant*”). Claimants include, but are not limited to, the following: (i) any person or entity that has a claim based on the provision of goods or services to any Receivership Entity prior to December 16, 2016 and has not been paid in whole; (ii) any person or entity who has a claim based on money loaned to any Receivership Entity and has not been paid in whole; (iii) any employees of any Receivership Entity who have a claim for unpaid wages, compensation, or benefits; (iv) any person or entity, including federal or state Governmental Units (defined in the Bar Date Order), that have tax claims against any Receivership Entity; (v) any person or entity with a claim against any Receivership Entity based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability; or (vi) any person or entity holding a claim of any sort against any Receivership Entity based on contract, tort, indemnity, reimbursement, subrogation theories, or other legal or equitable theory. This includes any claim based on acts or omissions of Receivership Entities that occurred before December 19, 2016, even if those claims are not now fixed, liquidated, or certain and did not mature or become fixed, liquidated or certain before that date.

5. **The term “Claimant” does not include investors in the Receivership Entities or those who sought redemptions of their investment but did not receive payment therefor.** Accordingly, any person or entity that holds an equity interest in the Receivership Entities, which interest exclusively is based upon the ownership of membership interests or partnership interests, does not need to, and should not, file a Proof of Claim; provided, that if any such holder asserts a Claim (as opposed to an ownership interest) against a Receivership Entity (including a Claim relating to an interest or the purchase or sale of such interest), a Proof of Claim must be filed on or before the General Bar Date pursuant to the Claims Procedures.

6. Creditors holding claims based on the provision of goods or services to the Receivership Entities or the Receiver after the Receiver was appointed on December 19, 2016 (“*Administrative Claims*”) are not required to submit Proofs of Claim on or before the Bar Dates and will not be subject to the Bar Dates. The Receiver will continue to process and pay valid Administrative Claims as they are incurred and come due.

7. Claimants that have previously submitted a claim form are not required to submit a Proof of Claim prior to the Bar Dates but may wish to do so in order to provide additional information to the Receiver. Beginning on the date the Court entered the Bar Date Order, Claimants who have not previously submitted a claim form must submit a Proof of Claim in accordance with the terms of the Court’s Bar Date Order.

8. Proofs of claim must be submitted so as to be ACTUALLY RECEIVED on or before the applicable Bar Date by the Receivership Entities’ agent in the following manner: (1) first class mail addressed to Platinum Receivership c/o Epiq, PO Box 10667, Dublin, OH 43017-9367; (2) overnight courier or in-person delivery addressed to Platinum Receivership c/o Epiq, 5151 Blazer Parkway, Suite A, Dublin, OH 43017; or (3) by electronic mail, as an attachment in portable document format (.pdf), to [PTMInfo@epiqglobal.com](mailto:PTMInfo@epiqglobal.com).

9. If, as described in this notice, you are required to submit a Proof of Claim but do not do so on or before the applicable Bar Date, you will be forever barred, estopped, and enjoined, to the fullest extent allowed by applicable law from asserting any claim you hold or wish to assert against the Receivership Entities (or filing a proof of claim with respect to such claim), the Receivership Entities and their property will be forever discharged from any and all indebtedness and liability with respect to that claim, and you will not be permitted to participate in any distribution in the Receivership Entities’ distribution process on account of that claim, or to receive further notices regarding that claim.

10. To obtain additional information and a Proof of Claim Form please call: (844) 402-8563 Monday-Friday, 9:00 a.m. – 5:00 p.m. (prevailing Eastern Time), write to Platinum Claims c/o Otterbourg P.C., 230 Park Avenue, New York, New York 10169-0075 or email [platinumreceiver@otterbourg.com](mailto:platinumreceiver@otterbourg.com). A copy of the Bar Date Order, Proof of Claim Form, instructions, and additional information for potential claimants is available at <http://www.platinumreceivership.com>.

## **Exhibit D**

### **Proposed Bar Date Order**

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

-----X	
SECURITIES AND EXCHANGE	:
COMMISSION,	:
Plaintiff,	:
-v-	:
	:
PLATINUM MANAGEMENT (NY) LLC;	:
PLATINUM CREDIT MANAGEMENT, L.P.;	:
MARK NORDLICHT;	:
DAVID LEVY;	:
DANIEL SMALL;	:
URI LANDESMAN;	:
JOSEPH MANN;	:
JOSEPH SANFILIPPO; and	:
JEFFREY SHULSE,	:
Defendants.	:
-----X	

No. 16-cv-6848 (BMC)

**[PROPOSED] ORDER (I) ESTABLISHING CLAIMS BAR DATES AND (II)  
APPROVING (A) A PROOF OF CLAIM FORM, (B) THE FORM AND MANNER  
OF NOTICE OF THE CLAIMS BAR DATES AND (C) PROCEDURES  
FOR SUBMITTING PROOFS OF CLAIM**

Upon consideration of the motion by Melanie L. Cyganowski, as Receiver (the “*Receiver*”) for Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd and Platinum Partners Credit Opportunities Fund International (A) Ltd (collectively, the “*Receivership Entities*”), for entry of an order (i) establishing dates by which all claims arising prior to December 19, 2016 must be filed and (ii) approving (a) a proof of claim form, (b) the form and manner of notice of the claims bar dates

and (c) procedures for submitting proofs of claim (the “*Motion*”), the declaration of the Receiver and memorandum of law in support of the Motion, any responses or objections to the Motion, and any replies in support of the Motion, this Court finds that (i) the relief requested in the Motion is in the best interests of the Receivership Entities, potential claimants, investors and all other parties; (ii) notice of the Motion was good and sufficient under the particular circumstances and that no other or further notice need be given and (ii) based upon the record herein and after due deliberation it is hereby

**ORDERED THAT:**

1. The Motion is GRANTED in all respects.
2. All objections not withdrawn or resolved by this Order are overruled in all respects.
3. For purposes of this Order (this “*Bar Date Order*”) the following terms are defined as follows:
  - (i) “*Claim*” is defined as: (1) a claim to a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, against one or more of the Receivership Entities; or (2) a claim to a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, against one or more of the Receivership Entities.
  - (ii) “*Claimant*” is defined as and includes any person or entity (including, without limitation, individuals, partnerships, corporations, estates, trusts, and governmental units) that holds a Claim. Without limiting the generality of the foregoing, the definition of Claimant includes, but is not limited to, any person or entity holding a Claim based on the provision of goods or services to any Receivership Entity that has not been paid in whole; money loaned to any Receivership Entity that has not been paid in whole; unpaid wages, compensation, or other employment benefits; tax liabilities, including those held by federal and state governments; primary, secondary, direct, indirect, secured, unsecured, or contingent liability; or contract, tort, indemnity, reimbursement, subrogation theories, or other legal or equitable theory. The term “Claimant” does not include

any person or entity that holds an equity interest in the Receivership Entities, which interest exclusively is based upon the ownership of membership interests or partnership interests in the Receivership Entities.

- (iii) “*Governmental Unit*” is defined as and includes the United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government.

4. Bar Dates.

- (i) This Court hereby establishes 5:00 p.m. (prevailing Eastern Time) on \_\_\_\_\_ as the deadline for Claimants *other than Governmental Units* to submit Proofs of Claim against the Receivership Entities (the “*General Bar Date*”); and
- (ii) This Court hereby establishes 5:00 p.m. (prevailing Eastern Time) on \_\_\_\_\_ as the deadline for Governmental Units to submit Proofs of Claim against the Receivership Entities (the “*Governmental Bar Date*,” and together with the General Bar Date, the “*Bar Dates*”).

5. Claims Procedures. The following Claims Procedures, including the Bar

Date Notice and Proof of Claim Form (each defined below), are approved:

- (i) Eligibility to Submit Proofs of Claim. Proofs of Claim (defined below) shall be filed by all persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that are Claimants and believe that they are owed any money by, or have a right to distribution from, any of the Receivership Entities, regardless of whether the Claim at issue has been acknowledged by the Receiver or whether the Claim at issue is held with or through any person or entity or based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability. **Notwithstanding the forgoing, any person or entity that holds an equity interest in the Receivership Entities, which interest exclusively is based upon the ownership of membership interests or partnership interests, is not required to, and should not, file a Proof of Claim; provided,** that if any such holder asserts a Claim (as opposed to an ownership interest) against a Receivership Entity (including a Claim relating to an interest or the purchase or sale of such interest), a Proof of Claim must be filed on or before the General Bar Date pursuant to the Claims Procedures.
- (ii) Administrative and Professional Claims. Creditors holding claims based on the provision of goods or services to the Receivership Entities or the Receiver after December 19, 2016 (“*Administrative Claims*”) are not be required to submit

proofs of claim on or before the applicable Bar Date and will not be subject to the Bar Dates. For the avoidance of doubt, the Receiver and her retained professionals are not required to submit proofs of claim on or before the General Bar Date and all claims of the Receiver and her professionals will be addressed in accordance with orders of this Court.

- (iii) Notice by Mail. The Receiver shall serve, within five (5) business days of entry of this Bar Date Order:
- (I) a notice of the Bar Dates and the procedures for submitting proofs of claim, substantially in the form of the notice attached as **Exhibit A** to the Cyganowski Dec. and incorporated herein by reference (the “*Bar Date Notice*”); and
  - (II) a proof of claim form substantially in the form of the document attached as **Exhibit B** to the Cyganowski Dec. and incorporated herein by reference (the “*Proof of Claim Form*”)

on (1) all creditors and other known holders of claims at the address set forth in the Receivership Entities’ books and records or as updated pursuant to a request by the creditor or by returned mail from the post office with a forwarding address; (2) all parties actually known to the Receiver as having potential claims against any of the Receivership Entities; (3) all parties to pending litigation against the Receivership Entities (as of the date of entry of this Bar Date Order); (4) all applicable Governmental Units; and (5) such additional persons and entities deemed appropriate by the Receiver.

With respect to the Claimants that meet the above requirements for notice by mail, the Receiver shall serve (a) those located within the United States by United States first class mail and (b) those located outside the United States by any method reasonably calculated to provide notice to potential Claimants.

- (iv) Notice by Electronic Mail. In addition to notice by mail (if required pursuant to the previous paragraph), where potential Claimants have provided an electronic mail address to the Receiver, the Receiver shall serve, within five (5) business days of entry of this Bar Date Order, the Bar Date Notice and the Proof of Claim Form on such potential Claimants via the electronic mail address provided by them.
- (v) Notice by Publication. The Bar Date Notice and the Proof of Claim Form shall be posted, within five (5) business days of entry of this Bar Date Order, on the Receiver’s website. In addition, within fourteen (14) calendar days of entry of this Bar Date Order, a notice of the Bar Dates and the procedures for submitting proofs of claim, substantially in the form of the notice attached as **Exhibit C** to the Cyganowski Dec. and incorporated herein by reference (the “*Bar Date Publication Notice*”), will be published in The Wall Street Journal, and other such

publications that in the Receiver's sole and absolute discretion are reasonably calculated to provide notice to potential Claimants.

- (vi) Notice Upon Inquiry. The Receiver shall promptly provide the Bar Date Notice and the Proof of Claim Form to any Claimant who makes a written request for such documents to the e-mail address [platinumreceiver@otterbourg.com](mailto:platinumreceiver@otterbourg.com) or to the physical address Platinum Claims c/o Otterbourg P.C., 230 Park Avenue, New York, New York 10169-0075.
- (vii) Procedure for Submitting Proofs of Claim. Except as otherwise ordered by this Court or provided below, each Claimant must submit a completed and signed Proof of Claim Form under penalty of perjury and evidencing such Claimant's Claim, together with supporting documentation (a "***Proof of Claim***") with the Receiver's agent in the manner indicated below, so that such Proof of Claim is actually received on or before the applicable Bar Date. Proofs of Claim may be submitted to the Receiver's agent by (1) first class mail addressed to Platinum Receivership c/o Epiq, PO Box 10667, Dublin, OH 43017-9367; (2) overnight courier or in-person delivery addressed to Platinum Receivership c/o Epiq, 5151 Blazer Parkway, Suite A, Dublin, OH 43017; or (3) by electronic mail, as an attachment in portable document format (.pdf), to [PTMInfo@epiqglobal.com](mailto:PTMInfo@epiqglobal.com). **Proofs of Claim should not be filed with this Court, and any Proof of Claim so filed will not be considered properly submitted.**
- (viii) Prior Submissions by Claimants. A Claimant that has previously submitted a proof of claim asserting a Claim may, but is not required to, submit a new Proof of Claim with respect to such Claim in accordance with the Claims Procedures. If such a Claimant does not submit a new Proof of Claim, the previously filed proof of claim shall be treated as a timely filed Proof of Claim. However, at the request of the Receiver, the Claimant may be required to submit additional supporting documentation in order for the Claim asserted in the previously filed proof of claim to be evaluated.
- (ix) Supporting Documentation for Proof of Claim. Each Claimant should attach to each Proof of Claim copies of all documents available to the Claimant that could support such Proof of Claim. Such documentation may include but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing the amount and basis of the claim. If such supporting documentation is not available, the Claimant must attach to the Proof of Claim an explanation of why the documentation is unavailable.
- (x) Proof of Claim Must Identify Receivership Entity. Any Claimant holding Claims against more than one Receivership Entity must submit a separate Proof of Claim against each such Receivership Entity and identify on each Proof of Claim the Receivership Entity against which the Proof of Claim is asserted.



- (xi) **Effect of Failure to Submit Proof of Claim Before Applicable Bar Date.** Any Claimant who is required to submit a Proof of Claim, but fails to do so in a timely manner or in the proper form, shall be forever barred, estopped, and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Claim against the Receivership Entities and their respective property or estates; shall not be permitted to object to any distribution plan proposed by the Receiver on account of such Claim; shall be denied any distributions under any distribution plan implemented by the Receiver on account of such Claim; and shall not receive any further notices on account of such Claim. Further, the Receivership Entities and their respective property or estates will be, and hereby are, discharged from any and all indebtedness or liability with respect to such Claim.
- (xii) Proofs of Claim Processing and Verification. The Receiver is authorized to employ any procedures she deems necessary, in her sole and absolute discretion, for processing, reconciling, and verifying Proofs of Claim.
- (xiii) Reservation of Rights. Nothing herein shall prejudice the rights of the Receiver to dispute, or assert offsets or defenses as to the nature, amount, liability, classification, or otherwise against, any amounts asserted in any Proof of Claim. Nothing contained herein is intended to preclude the Receiver from objecting to any Proof of Claim on any grounds.

Dated: \_\_\_\_\_, 2018  
Brooklyn, New York

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THE HON. BRIAN M. COGAN  
UNITED STATES DISTRICT JUDGE  
EASTERN DISTRICT OF NEW YORK

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

-----X	
SECURITIES AND EXCHANGE	:
COMMISSION,	:
Plaintiff,	:
-v-	:
	:
PLATINUM MANAGEMENT (NY) LLC;	:
PLATINUM CREDIT MANAGEMENT, L.P.;	:
MARK NORDLICHT;	:
DAVID LEVY;	:
DANIEL SMALL;	:
URI LANDESMAN;	:
JOSEPH MANN;	:
JOSEPH SANFILIPPO; and	:
JEFFREY SHULSE,	:
	:
Defendants.	:
-----X	

No. 16-cv-6848 (BMC)

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR ENTRY OF AN ORDER  
(I) ESTABLISHING CLAIMS BAR DATES AND (II) APPROVING (A) A PROOF OF  
CLAIM FORM, (B) THE FORM AND MANNER OF NOTICE OF THE CLAIMS BAR  
DATES AND (C) PROCEDURES FOR SUBMITTING PROOFS OF CLAIM**

OTTERBOURG P.C.  
230 Park Avenue  
New York, NY 10169  
(212) 661-9100

*Attorneys for Melanie L. Cyganowski, as Receiver*

**TABLE OF CONTENTS**

	<b>Page</b>
I. PRELIMINARY STATEMENT .....	1
II. BACKGROUND .....	2
A. The Receivership .....	2
B. The Receivership Order .....	3
III. RELIEF REQUESTED.....	3
A. Certain Defined Terms.....	3
B. Claims Procedures .....	4
C. Distribution Calculation Methodologies.....	11
IV. APPLICABLE AUTHORITY .....	11
V. CONCLUSION.....	13

**TABLE OF AUTHORITIES**

Page

***Cases***

*Chicago Title & Trust Co. v. Fox Theatres Corp.*, 91 F.2d 907 (2d Cir. 1937) .....12

*People of New York v. Hopkins*, 18 F.2d 731 (2d Cir. 1927).....12

*S.E.C. v. Cook*, 2003 WL 22272065 (N.D. Tex. Sept. 30, 2003) .....12

*S.E.C. v. Princeton Econ. Int’l Ltd*, 2008 WL 7826694 (S.D.N.Y. Sept. 30, 2008).....12

*S.E.C. v. Elliott*, 953 F.2d 1560 (11th Cir. 1992).....11

*S.E.C. v. Hardy*, 803 F.2d 1034 (9th Cir. 1986) .....11

*S.E.C. v. Safety Finance Service, Inc.*, 674 F.2d 368 (5th Cir. 1982).....11

***Treatises***

Ralph E. Clark, CLARK ON RECEIVERS §§ 646, 651, 652 (3d ed. 1992).....11, 12

Melanie L. Cyganowski, the duly appointed Receiver (the “*Receiver*”) of Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd and Platinum Partners Credit Opportunities Fund International (A) Ltd (collectively, the “*Receivership Entities*”), through her counsel, Otterbourg P.C., respectfully submits this memorandum in support of her motion (the “*Motion*”) for entry of an order: (i) establishing dates by which all claims arising prior to December 19, 2016 must be filed and (ii) approving (a) a proof of claim form, (b) the form and manner of notice of the claims bar dates and (c) procedures for submitting proofs of claim (the “*Motion*”). In support of the Motion, the Receiver states as follows:

I.

**PRELIMINARY STATEMENT**

Under the Receivership Order (defined below), the Receiver was directed to determine the extent of liabilities she believes to be the legal obligations of the Receivership Entities. *See* Receivership Order, ¶ 47. In connection therewith, the Receiver is authorized, empowered and directed to develop a plan for the fair, reasonable, and efficient recovery and disposition of all remaining, recovered, and recoverable Receivership Property (defined in the Receivership Order), which may be a plan of liquidation. *See* Receivership Order, ¶ 45. To develop a successful distribution plan, the Receiver must identify the nature and scope of the potential claims against, and liabilities of, the Receivership Entities. For this reason, it is necessary to

establish a deadline for claimants to submit proofs of claims for processing by the Receiver and her retained professionals. Furthermore, it is critically important to the efficient administration of the receivership and the distribution of assets among claimants and investors that the proofs of claim be timely filed and that untimely proofs of claim be barred. With limited proceeds available for distribution, the claims procedures described below will ensure that available proceeds are maximized and distributed to claimants that hold valid claims and that submitted proofs of claim prior to the deadline for doing so.

To achieve the forgoing the Receiver seeks to establish claims bar dates for individuals and entities which may be *creditors* in this case. For the reasons set forth above, those set forth more fully below and those in the contemporaneously filed declaration of the Receiver in support of the Motion (the “*Cyganowski Dec.*”), the Motion should be granted.

## II.

### **BACKGROUND**

#### **A. The Receivership**

On December 19, 2016 (the “*Receivership Commencement Date*”) this Court entered the *Order Appointing Receiver*, amended on January 30, 2017, in the above-captioned matter. [Docket Nos. 6 and 59].

On July 6, 2017, this Court accepted the resignation of the original receiver, Bart M. Schwartz, Esq., (the “*Prior Receiver*”) and appointed Melanie L. Cyganowski as Receiver effective immediately (*i.e.*, July 6, 2017). [Docket No. 216].

**B. The Receivership Order**

On October 16, 2017, this Court entered the *Second Amended Order Appointing Receiver*, Dkt. No. 276 (together with the prior Order Appointing Receiver, the “*Receivership Order*”). As relevant to the Motion, the Receivership Order:

authorized, empowered and directed [the Receiver] to develop a plan ... for the fair, reasonable, and efficient recovery and disposition of all remaining, recovered, and recoverable Receivership Property (the “Disposition Plan”), which may be a plan of liquidation

Receivership Order, ¶ 45.

**III.**

**RELIEF REQUESTED**

Through the Motion, the Receiver requests that this Court establish the following dates by which claims against the Receivership Entities must be filed:

- (i) 5:00 p.m. (prevailing Eastern Time) on the date that is 45 days after entry of the Bar Date Order as the deadline for Claimants *other than Governmental Units* to submit Proofs of Claim against the Receivership Entities (the “*General Bar Date*”); and
- (ii) 5:00 p.m. (prevailing Eastern Time) on the date that is 60 days after entry of the Bar Date Order as the deadline for Governmental Units to submit Proofs of Claim against the Receivership Entities (the “*Governmental Bar Date*,” and together with the General Bar Date, the “*Bar Dates*”).

The Receiver also requests the approval (a) of a proof of claim form, (b) the form and manner of notice of the Bar Dates and (c) procedures for submitting proofs of claim (collectively, the “*Claims Procedures*”). The proposed Claims Procedures are described below.

**A. Certain Defined Terms**

For purposes of this Motion and the Bar Date Order, the following definitions apply:

- (i) “*Claim*” is defined as: (1) a claim to a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, against one or more of the Receivership Entities; or (2) a claim to a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, against one or more of the Receivership Entities.
  
- (ii) “*Claimant*” is defined as and includes any person or entity (including, without limitation, individuals, partnerships, corporations, estates, trusts, and governmental units) that holds a Claim. Without limiting the generality of the foregoing, the definition of Claimant includes, but is not limited to, any person or entity holding a Claim based on the provision of goods or services to any Receivership Entity that has not been paid in whole; money loaned to any Receivership Entity that has not been paid in whole; unpaid wages, compensation, or other employment benefits; tax liabilities, including those held by federal and state governments; primary, secondary, direct, indirect, secured, unsecured, or contingent liability; or contract, tort, indemnity, reimbursement, subrogation theories, or other legal or equitable theory. The term “Claimant” does not include (i) any person or entity that holds an equity interest in the Receivership Entities, which interest exclusively is based upon the ownership of membership interests or partnership interests in the Receivership Entities, or (ii) investors who sought redemptions of their investment prior to December 19, 2016 but did not receive payment therefor.
  
- (iii) “*Governmental Unit*” is defined as and includes the United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government.

**B. Claims Procedures**

Eligibility to Submit Proofs of Claim. Proofs of Claim (defined below) shall be submitted by all persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that are Claimants and believe that they are owed any money by, or have a right to distribution from, any of the



Receivership Entities, regardless of whether the Claim at issue has been acknowledged by the Receiver or whether the Claim at issue is held with or through any person or entity or based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability. Notwithstanding the forgoing, any person or entity that holds an equity interest in the Receivership Entities, which interest exclusively is based upon the ownership of membership interests or partnership interests, should not file a Proof of Claim; provided, that if any such holder asserts a Claim (as opposed to an ownership interest) against a Receivership Entity (including a Claim relating to an interest or the purchase or sale of such interest), a Proof of Claim must be filed on or before the General Bar Date pursuant to the Claims Procedures.

Administrative and Professional Claims. Creditors holding claims based on the provision of goods or services to the Receivership Entities or the Receiver after the Receivership Commencement Date (“*Administrative Claims*”) will not be required to submit proofs of claim on or before the applicable Bar Date and will not be subject to the applicable Bar Date. The Receiver will continue to process and pay valid Administrative Claims as they are incurred and come due. For the avoidance of doubt, the Receiver and her retained professionals will not be required to submit proofs of claim on or before the General Bar Date and all claims of the Receiver and her professionals will be addressed in accordance with orders of this Court.

Notice. The Receiver believes that the following procedures will ensure sufficient notice to Claimants of the Bar Dates:

1. Notice by Mail. The Receiver proposes to serve, within five (5) business days of entry of the Bar Date Order:

- (I) a notice of the Bar Dates and the procedures for submitting proofs of claim, substantially in the form of the notice attached as Exhibit A to the

Cyganowski Dec. and incorporated herein by reference (the “*Bar Date Notice*”); and

- (II) a proof of claim form substantially in the form of the document attached as Exhibit B to the Cyganowski Dec. and incorporated herein by reference (the “*Proof of Claim Form*”)

on (1) all creditors and other known holders of Claims at the address set forth in the Receivership Entities’ books and records or as updated pursuant to a request by a creditor or by returned mail from the post office with a forwarding address; (2) all parties actually known to the Receiver as having potential Claims against any of the Receivership Entities; (3) all parties to pending litigation against the Receivership Entities (as of the date of entry of the order on the Motion); (4) all applicable Governmental Units; and (5) such additional persons and entities deemed appropriate by the Receiver.

With respect to the Claimants that meet the above requirements for notice by mail, the Receiver proposes to serve (a) those located within the United States by United States first class mail and (b) those located outside the United States by any method reasonably calculated to provide notice to potential Claimants.

Notice by Electronic Mail. In addition to notice by mail (if required pursuant to the previous paragraph), where potential Claimants have provided an electronic mail address to the Receiver, the Receiver proposes to serve, within five (5) business days of entry of the Bar Date Order, the Bar Date Notice and the Proof of Claim Form on such potential Claimants via the electronic mail address provided by them.

Notice by Publication. The Bar Date Notice and the Proof of Claim Form will also be made available, within five (5) business days of entry of the Bar Date Order, on the Receiver’s

website ([www.PlatinumReceivership.com](http://www.PlatinumReceivership.com)). In addition, within fourteen (14) calendar days of entry of the Bar Date Order, a notice of the Bar Dates and the procedures for submitting proofs of claim, substantially in the form of the notice attached as Exhibit C to the Cyganowski Dec. and incorporated herein by reference (the “**Bar Date Publication Notice**”), will be published in The Wall Street Journal, and other such publications that in the Receiver’s sole and absolute discretion are reasonably calculated to provide notice to potential Claimants. The Receiver has chosen the publications listed above because they are most likely to reach an audience that may hold unknown Claims, as they target the financial industry and the geographical areas most affected by the receivership.

Notice Upon Inquiry. The Receiver will promptly provide the Bar Date Notice and the Proof of Claim Form to any Claimant who makes a written request for such documents to the e-mail address [platinumreceiver@otterbourg.com](mailto:platinumreceiver@otterbourg.com) or to the physical address Platinum Claims c/o Otterbourg P.C., 230 Park Avenue, New York, New York 10169-0075.

Procedure for Submitting Proofs of Claim. Except as otherwise ordered by this Court or provided below, each Claimant must submit a completed and signed Proof of Claim Form under penalty of perjury and evidencing such Claimant’s Claim, together with supporting documentation (a “*Proof of Claim*”), with the Receiver’s agent in the manner indicated below, so that such Proof of Claim is actually received on or before the applicable Bar Date. Proofs of Claim may be submitted to the Receiver’s agent by (1) first class mail addressed to Platinum Receivership c/o Epiq, PO Box 10667, Dublin, OH 43017-9367; (2) overnight courier or in-person delivery addressed to Platinum Receivership c/o Epiq, 5151 Blazer Parkway, Suite A, Dublin, OH 43017; or (3) by electronic mail, as an attachment in portable document format

(.pdf), to [PTMInfo@epiqglobal.com](mailto:PTMInfo@epiqglobal.com). Proofs of Claim should not be filed with this Court, and any Proof of Claim so filed will not be considered properly submitted.

Prior Submissions by Claimants. A Claimant that has previously submitted a proof of claim asserting a Claim may, but is not required to, submit a new Proof of Claim with respect to such Claim in accordance with these Claims Procedures. If such a Claimant does not submit a new Proof of Claim, the previously filed proof of claim will be treated as a timely filed Proof of Claim. However, at the request of the Receiver, the Claimant may be required to submit additional supporting documentation for the Claim asserted in the previously filed proof of claim to be evaluated. Such requests will be made through the electronic mail address included on the previously filed proof of claim. Beginning on the date the Bar Date Order is entered, Claimants shall only be permitted to submit a Proof of Claim in accordance with the terms of the Bar Date Order for such Claim to be recognized as properly filed in accordance with the Claims Procedures.

Supporting Documentation for Proof of Claim. Each Claimant should attach to each Proof of Claim copies of all documents available to the Claimant that could support such Proof of Claim. Such documentation may include but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing the amount and basis of the claim. If such supporting documentation is not available, the Claimant must attach to the Proof of Claim an explanation of why the documentation is unavailable.

Depending upon the Claim review process ultimately employed by the Receiver, each Claimant will have to satisfy certain minimum standards to establish an allowed Claim and receive a distribution.

Proof of Claim Must Identify Receivership Entity. Any Claimant holding Claims against more than one Receivership Entity must submit a separate Proof of Claim against each such Receivership Entity and identify on each Proof of Claim the Receivership Entity against which the Proof of Claim is asserted.

In the future, it is possible that the Receiver may seek to consolidate some or all of the Receivership Entities; however, at this time no request for consolidation has been filed. As such, separate Proofs of Claim and the required supporting documentation are necessary to ensure that the Receiver has sufficient information to prepare a distribution plan regardless of whether the Receivership Entities are consolidated or remain separate entities for distribution purposes.

A Claimant's failure to identify the correct Receivership Entity on a Proof of Claim Form may be grounds for objection to, and disallowance of, such Claimant's Claims. However, a Claimant may submit Proofs of Claim against several or all of the Receivership Entities if, based upon a reasonable investigation, such Claimant believes that it holds a Claim against those Receivership Entities or is unsure which Receivership Entity it holds a Claim against. The Receiver reserves the right to object to such claims on any grounds, including being duplicative of one another.

2. Effect of Failure to Submit Proof of Claim Before Applicable Bar Date. Any Claimant who is required to submit a Proof of Claim, but fails to do so in a timely manner or in the proper form, shall be forever barred, estopped, and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Claim against the Receivership Entities and

their respective property or estates; shall not be permitted to object to any distribution plan proposed by the Receiver on account of such Claim; shall be denied any distributions under any distribution plan implemented by the Receiver on account of such Claim; and shall not receive any further notices on account of such Claim. Further, the Receivership Entities and their respective property or estates will be discharged from any and all indebtedness or liability with respect to such Claim.

The proposed Bar Dates and Proof of Claim Form are not unduly burdensome or uncommon in matters of this nature. It is important to the efficient and orderly administration of the receivership that Claimants timely file their Proofs of Claim and that late-filed Proofs of Claim be disallowed. Establishment of the Bar Dates is necessary in order for the Receiver to determine which persons are entitled to share in distributions under a plan.

Proofs of Claim Processing and Verification. The Receiver has not yet decided how to reconcile Proofs of Claim with the books and records of the Receivership Entities and/or otherwise determined the criteria she will employ to determine whether a Claimant holds an allowed Claim. As such, the Receiver requests that she be authorized to employ any procedures she deems necessary, in her sole and absolute discretion, for processing, reconciling, and verifying Proofs of Claim.

Reservation of Rights. Nothing herein or in the Bar Date Order will prejudice the right of the Receiver to dispute, or assert offsets or defenses as to the nature, amount, liability, classification, or otherwise against, any amounts asserted in any Proof of Claim. Nothing contained herein or in the Bar Date Order is intended to preclude the Receiver from objecting to any Proof of Claim on any grounds.

**C. Distribution Calculation Methodologies**

The ultimate goal in this case is the approval of a plan of distribution that will, among other things, provide for distributions to investors and Claimants based on the amount of their valid Claims and interests. Establishing the Bar Dates is a critical first step towards that goal. Relevant authorities permit the use of different methodologies to calculate distributions to holders of Claims and interests arising out of investments. The Receiver has not decided which methodology is best suited for the circumstances of this case. For her current purposes, the Receiver needs to ensure that Claimants provide sufficient information to allow her to determine the amount and validity of their Claims.

**IV.**

**APPLICABLE AUTHORITY**

The Court's power to determine the appropriate actions to be taken in the administration of an equity receivership is extremely broad. *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *S.E.C. v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). The Court's wide discretion is a result of the inherent powers of equity courts to fashion relief. *Elliott*, 953 F.2d at 1566; *S.E.C. v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982). The relief sought by the Receiver falls squarely within those powers.

In receiverships, “[e]very person who has any claim or demand against the estate or property in the custody of the court through the receiver, ... must assert such claim or demand in the court in which such receiver was appointed.” Ralph E. Clark, *CLARK ON RECEIVERS* § 646, at 1132 (3d ed. 1992). Although there are many ways in which a claimant can assert a claim, one such way is for claimants to be authorized “under a general order of the appointing court [to file their] claim with the receiver.” *Id.* The receiver may agree or disagree with the claim, which claim is ultimately approved or disapproved by the court. *Id.* “The claims should be definite

enough to enable the receiver to pass on their validity, fairness and legality and to place them in their proper and legal category of claims for preference, if any.” *Id.* § 651, at 1142.

In addition to approving the proof of claim form, it is not unusual for a court overseeing a receivership to enter an order limiting the time within which claims must be presented. *Id.* § 652, at 1142 (citing *Chicago Title & Trust Co. v. Fox Theatres Corp.*, 91 F.2d 907 (2d Cir. 1937); *People of New York v. Hopkins*, 18 F.2d 731 (2d Cir. 1927)); see also *S.E.C. v. Princeton Econ. Int’l Ltd*, 2008 WL 7826694 (S.D.N.Y. Sept. 30, 2008); *S.E.C. v. Cook*, 2003 WL 22272065 (N.D. Tex. Sept. 30, 2003). Such an order limiting the time within which claims must be submitted has been deemed to be necessary to “lay the foundation for the court to order payments to creditors and distribution to those entitled to receive.” *Clark* § 651, at 1142. Furthermore, a court with jurisdiction over a receivership, by advertisement and by proper notices by mail, by publication and otherwise should take measures to notify interested parties affected by the receivership. *Clark* § 652, at 1143.

To develop a successful distribution plan, the Receiver must identify the nature and scope of the potential claims against, and liabilities of, the Receivership Entities. For this reason, it is necessary to establish a deadline for Claimants to submit proofs of claims for processing by the Receiver. Furthermore, it is critically important to the efficient administration of the receivership and the distribution of assets among Claimants and investors that the proofs of claim be timely filed and that untimely proofs of claim be barred. With limited proceeds available for distribution, the Claims Procedures will ensure that the available proceeds are maximized and distributed to Claimants that hold valid Claims and that submitted proofs of claim prior to the deadline for doing so.



V.

**CONCLUSION**

For the reasons set forth herein, the Receiver respectfully requests entry of an order, in substantially the form annexed as Exhibit D to the Cyganowski Dec., (i) establishing the Bar Dates, (ii) approving (a) the Proof Of Claim Form, (b) the form and manner of notice of the Bar Dates and (c) procedures for submitting Proofs of Claim and (iii) granting such other and further relief as this Court deems appropriate.

Dated: New York, New York  
December 10, 2018

**OTTERBOURG P.C.**

By: /s/ Adam C. Silverstein  
Adam C. Silverstein  
Erik. B Weinick  
230 Park Avenue  
New York, New York 10169  
Tel.: (212) 661-9100  
Fax: (212) 682-6104  
[asilverstein@otterbourg.com](mailto:asilverstein@otterbourg.com)

*Attorneys for Melanie L. Cyganowski, as Receiver*