

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE PLATINUM-BEECHWOOD LITIGATION :
: 18-cv-06658 (JSR)
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MELANIE L. CYGANOWSKI, as Equity Receiver for :
PLATINUM PARTNERS CREDIT OPPORTUNITIES : 18-cv-12018 (JSR)
MASTER FUND LP, et al., :
:

Plaintiffs, :

v. :

BEECHWOOD RE LTD, *et al.*, :

Defendants. :

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SENIOR HEALTH INSURANCE COMPANY OF :
PENNSYLVANIA, :
:

Third-Party Plaintiff, :

v. :

PB INVESTMENT HOLDINGS LTD., *et al.*, :

Third-Party Defendants. :
:
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**ANSWER TO THIRD-PARTY COMPLAINT BY
THIRD-PARTY DEFENDANT JOSEPH SANFILIPPO**

Third Party Defendant Joseph SanFilippo (“SanFilippo”), for his answer to the Amended Third-Party Complaint (“ATPC”) (ECF No. 382) of Defendant, Crossclaimant, and Third-Party Claimant Senior Health Insurance Company of Pennsylvania (“SHIP”), pursuant to Federal Rules of Civil Procedure 8(b)(iii), denies generally all of the allegations in the ATPC insofar as they include his name or by reference, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations except as follows:

ANSWER

AS TO JURISDICTION AND VENUE

SanFilippo admits that this Court has jurisdiction and that venue is proper in the Southern District of New York.

AS TO PARAGRAPH 40

SanFilippo admits that he is a resident of Freehold, New Jersey. He admits that he served as PPVA's Chief Financial Officer, and at times as the Managing Director of Finance of Platinum Management and PPVA. SanFilippo denies knowledge or information sufficient to form a belief as the truth or falsity of the remaining allegations in paragraph 40.

AS TO PARAGRAPH 43

SanFilippo denies knowledge or information sufficient to form a belief as the truth or falsity of the allegations in paragraph 43.

AS TO PARAGRAPH 305

SanFilippo denies knowledge or information sufficient to form a belief as the truth or falsity of the allegations in paragraph 305.

AS TO PARAGRAPH 327

SanFilippo denies knowledge or information sufficient to form a belief as the truth or falsity of the allegations in paragraph 327.

AS TO PARAGRAPH 378

No response is required to the allegation set forth in Paragraph 378 as it sets forth legal conclusions. To the extent a response is necessary. SanFilippo denies the allegations set forth in paragraph 378.

AS TO PARAGRAPH 412

No response is required to the allegation set forth in Paragraph 412 as it sets forth legal conclusions. To the extent a response is necessary, SanFilippo denies the allegations set forth in paragraph 412.

AS TO PARAGRAPH 421

No response is required to the allegation set forth in Paragraph 421 as it sets forth legal conclusions. To the extent a response is necessary, SanFilippo denies the allegations set forth in paragraph 421.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The ATPC fails to state a claim against defendants Joseph SanFilippo upon which relief may be granted. Among other reasons, SanFilippo, on July 9, 2019, won a Judgement of acquittal in *United States v. Nordlicht et al.* 1:2016-cr-00640-394842, resulting in the dismissal of all counts against him.

SECOND AFFIRMATIVE DEFENSE

The claims alleged in the ATPC against SanFilippo are barred, in whole or in part, under the doctrine of *in pari delicto*.

THIRD AFFIRMATIVE DEFENSE

The claims alleged in the ATPC against SanFilippo are barred, in whole or in part, because Plaintiffs lack standing under the doctrine established in *Shearson Lehman Hutton, Inc. v. Wagoner*, 944 F.2d 114, 120 (2d Cir. 1991).

FOURTH AFFIRMATIVE DEFENSE

The claims alleged in the ATPC against SanFilippo are barred, in whole or in part, because Plaintiffs failed to mitigate their claimed damages.

FIFTH AFFIRMATIVE DEFENSE

The claims alleged in the TPAC against SanFilippo are barred, in whole or in part, because Plaintiffs lack standing to pursue the claims.

SIXTH AFFIRMATIVE DEFENSE

The claims alleged in the TPAC against SanFilippo are barred, in whole or in part, because Plaintiffs consented to and/or ratified the conduct alleged to have been wrongful.

SEVENTH AFFIRMATIVE DEFENSE

The claims alleged in the TPAC against SanFilippo are barred, in whole or in part, by the doctrine of estoppel.

EIGHT AFFIRMATIVE DEFENSE

The claims alleged in the ATPC against SanFilippo are barred, in whole or in part, by the doctrine of laches.

NINTH AFFIRMATIVE DEFENSE

The claims alleged in the ATPC against SanFilippo are barred, in whole or in part, because any alleged damages are too speculative and too remote.

TENTH AFFIRMATIVE DEFENSE

The claims alleged in the ATPC against SanFilippo are barred, in whole or in part, by the applicable statute of limitations.

RESERVATION OF ADDITIONAL DEFENSES

SanFilippo reserved his right(s) to assert any and other defenses as discovery may reveal or may be directed with respect to the ATPC or any amendment thereto.

REQUEST FOR RELIEF

WHEREFORE, Third-Party Defendant SanFilippo denies that SHIP is entitled to any relief and respectfully requests that the Court grant SanFilippo the following relief:

- (i) A judgement denying all relief requested by SHIP as against SanFilippo;
- (ii) A judgment dismissing all of the remaining claims against SanFilippo with prejudice;
- (iii) A judgement against SHIP and in favor of SanFilippo in all respects;
- (iv) An award to SanFilippo for attorneys' fees, costs, and expenses incurred in defending this action; and
- (v) Such other relief as the Court may deem just, reasonable and proper under the circumstances.

Dated: October 18, 2019
New York, New York

Respectfully submitted,

Katherine Jaskot

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