

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

	X	
IN RE PLATINUM-BEECHWOOD LITIGATION,	:	Civil Action No.
	:	1:18-cv-06658
	:	
	X	
MELANIE L. CYGANOWSKI, AS RECEIVER FOR	:	
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	:	
INTERNATIONAL LTD., PLATINUM PARTNERS CREDIT	:	
OPPORTUNITIES FUND INTERNATIONAL (A) LTD., and	:	Civil Action No.
PLATINUM PARTNERS CREDIT OPPORTUNITIES FUND	:	1:18-cv-12018
(BL) LLC,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
BEECHWOOD RE LTD., et al.,	:	
	:	
	:	
Defendants.	X	

**DECLARATION OF ERIK B. WEINICK IN OPPOSITION TO MOTIONS
FOR SUMMARY JUDGMENT OF SENIOR HEALTH INSURANCE
COMPANY OF PENNSYLVANIA, THE BEECHWOOD
PARTIES AND PB INVESTMENTS HOLDINGS, LTD.**

I, ERIK B. WEINICK, pursuant to 28 U.S.C. § 1746, declare, under penalty of perjury, that the following is true and correct:

1. I am Of Counsel to the firm of Otterbourg P.C., attorneys for Melanie L. Cyganowski, as Receiver for the above-named Platinum entities (the “**Receiver**”).
2. I submit this declaration, together with the attached exhibits, in Opposition to the Motions for Summary Judgment of Senior Health Insurance Company of Pennsylvania, the Beechwood Parties and PB Investments Holdings, Ltd.

3. Attached as Exhibit “1” is a true and correct excerpt from Alexis Northwood’s Deposition Transcript (“**Northwood Tr.**”).

4. Attached as Exhibit “2” is a true and correct excerpt from the Deposition Transcript of Angela Albanese (“**Albanese Tr.**”).

5. Attached as Exhibit “3” is a true and correct excerpt from the Deposition Transcript of Barry Staldine (“**Staldine Tr.**”).

6. Attached as Exhibit “4” is a true and correct excerpt from the Deposition Transcript of David Bodner (“**Bodner Tr.**”).

7. Attached as Exhibit “5” is a true and correct excerpt from the Deposition Transcript of Brian Wegner (“**Wegner Tr.**”).

8. Attached as Exhibit “6” is a true and correct excerpt from the Deposition Transcript of Christian Thomas (“**Thomas Tr.**”).

9. Attached as Exhibit “7” is a true and correct excerpt from the Deposition Transcript of Dahlia Kalter (“**Kalter Tr.**”).

10. Attached as Exhibit “8” is a true and correct excerpt from the Deposition Transcript of Daniel Saks (“**Saks Tr.**”).

11. Attached as Exhibit “9” is a true and correct excerpt from the Deposition Transcript of David Prager (“**Prager Tr.**”).

12. Attached as Exhibit “10” is a true and correct excerpt from the Deposition Transcript of David Steinberg (“**Steinberg Tr.**”).

13. Attached as Exhibit “11” is a true and correct excerpt from the Deposition Transcript of Dhruv Narain (“**Narain Tr.**”).

14. Attached as Exhibit “12” is a true and correct excerpt from the Deposition Transcript of Ezra Beren (“**Beren Tr.**”).

15. Attached as Exhibit “13” is a true and correct excerpt from the Deposition Transcript of Gregory Serio (“**Serio Tr.**”).

16. Attached as Exhibit “14” is a true and correct excerpt from the Deposition Transcript of Murray Huberfeld (“**Huberfeld Tr.**”).

17. Attached as Exhibit “15” is a true and correct excerpt from the Deposition Transcript of John Robison (“**Robison Tr.**”).

18. Attached as Exhibit “16” is a true and correct excerpt from the Deposition Transcript of Julianne Bowler (“**Bowler Tr.**”).

19. Attached as Exhibit “17” is a true and correct excerpt from the Deposition Transcript of Kerry Propper (“**Propper Tr.**”).

20. Attached as Exhibit “18” is a true and correct excerpt from the Deposition Transcript of Stewart Kim (“**Kim Tr.**”).

21. Attached as Exhibit “19” is a true and correct excerpt from the Criminal Trial Testimony of Daniel Mandelbaum (“**Mandelbaum Crim. Trial Test.**”).

22. Attached as Exhibit “20” is a true and correct excerpt from the Deposition Transcript of Marc Kirschner (“**Kirschner Tr.**”).

23. Attached as Exhibit “21” is a true and correct excerpt from the Deposition Transcript of Mark Feuer (“**Feuer Tr.**”).

24. Attached as Exhibit “22” is a true and correct excerpt from the Deposition Transcript of Paul Lorentz (“**Lorentz Tr.**”).

25. Attached as Exhibit “23” is a true and correct excerpt from the Deposition Transcript of Samuel Adler (“**Adler Tr.**”).

26. Attached as Exhibit “24” is a true and correct excerpt from the Deposition Transcript of Scott Boug (“**Boug Tr.**”).

27. Attached as Exhibit “25” is a true and correct excerpt from the Deposition Transcript of Scott Taylor (“**Taylor Tr.**”).

28. Attached as Exhibit “26” is a true and correct excerpt from the Deposition Transcript of Tim Hart (“**Hart Tr.**”).

29. Attached as Exhibit “27” is a true and correct excerpt from the Deposition Transcript of Trey Rogers (“**Rogers Tr.**”).

30. Attached as Exhibit “28” is a true and correct copy of the January 29, 2020 letter from the Insurance Commissioner of the Commonwealth of Pennsylvania indicating that Mr. Patrick Cantilo has been designated as the Special Deputy Rehabilitator of SHIP (the “**January 29, 2020 Letter**”).

31. Attached as Exhibit “29” is a true and correct copy of the BBIHL First Board of Directors Unanimous Written Resolutions, Boug Deposition Exhibit 12, produced in the Consolidated Action bearing production numbers BW-SHIP-01344992-993.

32. Attached as “Exhibit 30” is a true and correct copy of the April 28, 2016 Minutes of the Meeting of the Board of Directors of BBIHL, Boug Deposition Exhibit 15, produced in the Consolidated Action bearing production numbers BW-SHIP-01136835-840.

33. Attached as “Exhibit 31” is a true and correct copy of the Register of the Directors and Officers for BBIHL dated as of December 18, 2015, Boug Deposition Exhibit 11, produced in the Consolidated Action with production number BW-SHIP-00933121.

34. Attached as “Exhibit 32” is a true and correct copy of Feuer’s June 20, 2017 resignation letter as Director of PBIHL, Boug Deposition Exhibit 16, produced in the Consolidated Action bearing production number CSNOCSL_00290402.

35. Attached as Exhibit “33” is a true and correct copy of the Custody Account Agreement of BBIHL, Boug Deposition Exhibit 18, produced in the Consolidated Action bearing production numbers BW-SHIP-01134681-687.

36. Attached as Exhibit “34” is a true and correct copy of an Email dated June 16, 2016 from Scott Taylor to Moti Edelstein with attachments, produced in the Consolidated Action with production number BW-SHIP-00835424.

37. Attached as Exhibit “35” is a true and correct copy of an Email dated October 3, 2016 from Thomas Hampton to SHIP’s Board of Directors, Deposition Exhibit 74, produced in the Consolidated Action bearing production numbers SHIP0039881-83.

38. Attached as Exhibit “36” is a true and correct copy of SHIP’s Response to the Receiver’s Request for Admission, dated January 6, 2020.

39. Attached as Exhibit “37” is a true and correct copy of an Email dated May 20, 2015 from Brian Wegner to Ryan Wegner, Deposition Exhibit 80, produced in the Consolidated Action bearing no production numbers.

40. Attached as Exhibit “38” is a true and correct copy of the Vanbridge Presentation to the SHIP Board of Trustees dated November 9, 2015, Deposition Exhibit 67, produced in the Consolidated Action bearing production numbers SHIP0122705-719.

41. Attached as Exhibit “39” is a true and correct copy of Beechwood ownership charts, Deposition Exhibit 867, produced in the Consolidated Action bearing production numbers BW-SHIP-00000801-808.

42. Attached as Exhibit “40” is a true and correct copy of a February 2015 Surplus Loan Transaction Review and Analysis Results Memo addressed to SHIP Management, Deposition Exhibit 64, produced in the Consolidated Action bearing production numbers SHIP0127259-262.

43. Attached as Exhibit “41” is a true and correct copy of an Email from Julie Bowler to John Morrison dated April 23, 2018, Deposition Exhibit 132, produced in the Consolidated Action with production number SHIP0127258.

44. Attached as Exhibit “42” is a true and correct copy of the \$100,000,000 Demand Note dated August 13, 2013, Deposition Exhibit 364, produced in the Consolidated Action bearing production numbers CNOCSL_01108560-564.

45. Attached as Exhibit “43” is a true and correct copy of the Amended and Restated Limited Liability Company Agreement for Beechwood Re Investments, LLC dated December 30, 2013, J. Beren Deposition Exhibit 11, produced in the Consolidated Action bearing production numbers BW-SHIP-00252854.

46. Attached as Exhibit “44” is a true and correct copy of the Pledge Agreement dated May 15, 2015, M. Fox Deposition Exhibit 2, produced in the Consolidated Action bearing production numbers BW-SHIP-00167409-418.

47. Attached as Exhibit “45” is a true and correct copy of the \$25 Million Amended and Restated Demand Note dated May 16, 2014, Deposition Exhibit 369, produced in the Consolidated Action bearing production numbers CSNOCSL_0175223-227.

48. Attached as Exhibit “46” is a true and correct copy of the \$75 Million Amended and Restated Demand Note dated May 16, 2014, Deposition Exhibit 572, produced in the Consolidated Action bearing production numbers CSNOCSL_01715228-233.

49. Attached as Exhibit “47” is a true and correct copy of the Pledge Agreement dated February 19, 2015, Deposition Exhibit 66, produced in the Consolidated Action bearing production numbers SHIP0009395.

50. Attached as Exhibit “48” is a true and correct copy of an Email from Paul Lorentz to Janna Zaichek dated July 14, 2015, Deposition Exhibit 254, produced in the Consolidated Action bearing production numbers SHIP0016271-16359.

51. Attached as Exhibit “49” is a true and correct copy of the letter from the SHOT Board of Trustees to the Pennsylvania Insurance Department dated January 12, 2018, Deposition Exhibit 259, produced in the Consolidated Action bearing production numbers SHIP0173856-65.

52. Attached as Exhibit “50” is a true and correct copy of a letter from SHIP to the Pennsylvania Department of Insurance dated January 30, 2015, enclosing Term Sheet and Surplus Note, Deposition Exhibit 391, produced in the Consolidated Action bearing production numbers SHIP0174841-849.

53. Attached as Exhibit “51” is a true and correct copy of a letter from SHIP to the Pennsylvania Department of Insurance dated January 30, 2015, Deposition Exhibit 430, produced in the Consolidated Action bearing production numbers SHIP0027167-190.

54. Attached as Exhibit “52” is a true and correct copy of an Email from Jeremy Apfel to Danny Saks dated November 18, 2015, Deposition Exhibit 492, produced in the Consolidated Action with production numbers BW-SHIP-00826916-17.

55. Attached as Exhibit “53” is a true and correct copy of the November 18, 2015 Assignment and Assumption Agreement between SHIP, as Assignor, and BBIL, as Assignee, re Desert Hawk debt, produced in the Consolidated Action at CTRL7517990.

56. Attached as Exhibit “54” is a true and correct copy of the December 23, 2015 Assignment Agreement between BBIL, as Assignor, and PPCO MF, as Assignee, re Desert Hawk debt, produced in the Consolidated Action at CTRL7616325.

57. Attached as Exhibit “55” is a true and correct copy of an Email from Christian Thomas to Suzanne Horowitz with attachments, dated December 22, 2015, Deposition Exhibit 433, produced in the Consolidated Action bearing production numbers BW-SHIP-01330674-793.

58. Attached as Exhibit “56” is a true and correct copy of an Email from Samuel Adler to Joe Mann, Christian Thomas and Suzanne Horowitz with attachments, dated December 23, 2015, Deposition Exhibit 437, produced in the Consolidated Action bearing production numbers BW-SHIP-01332105.

59. Attached as Exhibit “57” is a true and correct copy of an Email from Joe Mann to Christian Thomas and Suzanne Horowitz with attachments dated December 23, 2015, Deposition Exhibit 438, produced in the Consolidated Action bearing production numbers BW-SHIP-01331549-618.

60. Attached as Exhibit “58” is a true and correct copy of Wilmington Trust Account Statement as of November 30, 2015 for Account Number 111007-000, produced in the Consolidated Action bearing production numbers SHIP0073488-501.

61. Attached as Exhibit “59” is a true and correct copy of Wilmington Trust Account Statement as of December 31, 2015 for Account Number 111007-000, produced in the Consolidated Action bearing production numbers SHIP0073812-826.

62. Attached as Exhibit “60” is a true and correct copy of the Agenda for the Meeting of the Board of Directors of Senior Health Insurance Company of Pennsylvania dated February

29, 2015, Deposition Exhibit 779, produced in the Consolidated Action bearing production numbers SHIP0096392-518.

63. Attached as Exhibit “61” is a true and correct copy of the Assignment Agreement between BRe BCLIC Primary, as Assignor, and Senior Health Insurance Company of Pennsylvania, as Assignee, re assignment of participation in LC Energy debt, dated April 1, 2015, produced in the Consolidated Action bearing production numbers BW-SHIP-00703168-175.

64. Attached as Exhibit “62” is a true and correct copy of the Participation Agreement between BBIL, as Participant, and SHIP, as Seller, dated September 25, 2015, produced in the Consolidated Action bearing production numbers BW-SHIP-00664535-543.

65. Attached as Exhibit “63” is a true and correct copy of an Email from Joanna Cheng to Suzanne Horowitz with attachments dated March 23, 2016, Deposition Exhibit 445, produced in the Consolidated Action bearing production numbers BW-SHIP-00175289-452.

66. Attached as Exhibit “64” is a true and correct copy of the Participation Agreement between Beechwood Bermuda Investment Holdings Ltd., as Participant, and Senior Health Insurance Company of Pennsylvania, as Seller, dated as of December 21, 2015, re Northstar debt, Boug Deposition Exhibit 21, produced in the Consolidated Action bearing production numbers BW-SHIP-00701531-541.

67. Attached as Exhibit “65” is a true and correct copy of Wilmington Trust Account Statement as of December 31, 2015 for Account Number 111955-000, Boug Deposition Exhibit 22, produced in the Consolidated Action bearing production numbers BW-SHIP-00906499-507.

68. Attached as Exhibit “66” is a true and correct copy of Wilmington Trust Account Statement as of March 31, 2016 for Account Number 111955-000, Deposition Exhibit 426, produced in the Consolidated Action bearing production numbers CNOCSL_01190247-256.

69. Attached as Exhibit “67” is a true and correct copy of the Email from Andrew Gross to dailypl@beechwood.com dated March 29, 2016 with attachment, Boug Deposition Exhibit 25, produced in the Consolidated Action bearing production numbers BW-SHIP-00025655-56.

70. Attached as Exhibit “68” is a true and correct copy of Wegner’s Termination Letter, Deposition Exhibit 790, produced in the Consolidated Action bearing production numbers BW0022-24.

71. Attached as Exhibit “69” is a true and correct copy of the Email from Brian Wegner to Scott Taylor with attachment, dated October 6, 2015, Deposition Exhibit 396, produced in the Consolidated Action bearing production numbers SHIP0071287-289.

72. Attached as Exhibit “70” is a true and correct copy of the Expert Report of Timothy Hart dated November 14, 2019 (“**Hart Report**”), Hart Deposition Exhibit 1.

73. Attached as Exhibit “71” is a true and correct copy of the Duff & Phelps Report for B Asset Manager, LP as of June 30, 2015, dated June 24, 2015, Deposition Exhibit 231, produced in the Consolidated Action bearing production numbers BW-SHIP-0007018-7133.

74. Attached as Exhibit “72” is a true and correct copy of the Email from Moti Edelstein to Daniel Saks dated November 18, 2015, Deposition Exhibit 491, produced in the Consolidated Action bearing production numbers BW-SHIP-00128755-756.

75. Attached as Exhibit “73” is a true and correct copy of the PPCO Flow Funds Letter dated December 23, 2015, Deposition Exhibit 235, produced in the Consolidated Action bearing no production numbers.

76. Attached as Exhibit “74” is a true and correct copy of the March 21, 2016 Post-Closing Letter to Platinum Partners Credit Opportunities Master Fund LP, produced in the Consolidated Action bearing production numbers BW-SHIP-00162285.

77. Attached as Exhibit “75” is a true and correct copy of the Email from Jeremy Apfel to the valuationgroup@beechwood.com, Moti Edelstein, Daniel Saks and Samuel Adler, dated December 11, 2015, Deposition Exhibit 493, produced in the Consolidated Action bearing production numbers BW-SHIP-01073816-818.

78. Attached as Exhibit “76” is a true and correct copy of the Email from Mark Feuer to Naftali Manela dated May 22, 2015, Deposition Exhibit 447, produced in the Consolidated Action bearing production numbers BW-SHIP-01375372-373.

79. Attached as Exhibit “77” is a true and correct copy of the Notice of Exercise of Desert Hawk Put dated September 1, 2015, Deposition Exhibit 454, produced in the Consolidated Action bearing production numbers BW-SHIP-00689378.

80. Attached as Exhibit “78” is a true and correct copy of the Duff & Phelps Letter, re Release of Estimation of a Fair Value Range for Certain Investments as of March 31, 2015, dated April 13, 2015, Deposition Exhibit 229, produced in the Consolidated Action bearing production numbers CNOCSL_00084103-106.

81. Attached as Exhibit “79” is a true and correct copy of the Duff & Phelps Report for B Asset Manager, LP, as of December 31, 2015, dated January 19, 2016, Deposition Exhibit 232, produced in the Consolidated Action bearing production numbers SHIP0071776-847.

82. Attached as Exhibit “80” is a true and correct copy of the Wall Street Journal Article entitled “Fraud Probe Riochets Through Platinum Partners, a Hedge Fund With Ties to Jewish Community: Platinum Partners has reported returns for years but now is liquidating – Correction Appended” dated July 25, 2016, produced in the Consolidated Action bearing production numbers SHIP0121297-301.

83. Attached as Exhibit “81” is a true and correct copy of the Email from Janna Zaichek to Elliot Feit dated August 1, 2016, produced in the Consolidated Action bearing production number SHIP0018886.

84. Attached as Exhibit “82” is a true and correct copy of the Email from Brian Wegner to Thomas Jenkins, Thomas Hampton, Gregory Serio, Cecil Bykerk, John Morrison and Julie Bowler, dated August 16, 2013, produced in the Consolidated Action bearing production numbers SHIP0019117-118.

85. Attached as Exhibit “83” is a true and correct copy of the Email from Paul Lorentz to Brian Wenger dated April 23, 2014, Deposition Exhibit 58, produced in the Consolidated Action bearing production numbers SHIP0047549.

86. Attached as Exhibit “84” is a true and correct copy of the Email from Julianne Bowler to John Morrison dated November 23, 2016, Deposition Exhibit 149, produced in the Consolidated Action bearing production numbers SHIP0070961-65.

87. Attached as Exhibit “85” is a true and correct copy of the Wilmington Trust Account Statement as of February 28, 2015 for Account Number 108539-000, Deposition Exhibit 393, produced in the Consolidated Action bearing production numbers SHIP0104385-392.

88. Attached as Exhibit “86” is a true and correct copy of the Email from Michael Nordlicht to Dhruv Narain dated June 1, 2016, Deposition Exhibit 411, produced in the Consolidated Action bearing production numbers CSNOCSL_01150990-993.

89. Attached as Exhibit “87” is a true and correct copy of the Side Letter dated January 15, 2015, Deposition Exhibit 140, produced in the Consolidated Action bearing no production numbers.

90. Attached as Exhibit “88” is a true and correct copy of the Email from Paul Lorentz to Gerald Hochgesang dated January 14, 2015, Deposition Exhibit 146, produced in the Consolidated Action bearing production numbers SHIP0015786-787.

91. Attached as Exhibit “89” is a true and correct copy of the Email from Paul Lorentz to Kimberly Rankin dated June 9, 2015, Deposition Exhibit 394, produced in the Consolidated Action bearing production numbers SHIP0019579-639.

92. Attached as Exhibit “90” is a true and correct copy of the PPCO Funds Flow Letter dated January 20, 2016, Deposition Exhibit 84, produced in the Consolidated Action without production numbers.

93. Attached as Exhibit “91” is a true and correct copy of the Agenda for the Meeting of the Board of Directors of Senior Health Insurance Company of Pennsylvania dated August 26, 2015, produced in the Consolidated Action bearing production numbers SHIP0096620-755.

94. Attached as Exhibit “92” is a true and correct copy of the Subsidiary Guaranty dated December 23, 2015, Deposition Exhibit 234, produced in the Consolidated Action without production numbers.

95. Attached as Exhibit “93” is a true and correct copy of an Email from Jack Liu to Mark Nordlicht and David Levy with attachments dated December 12, 2012, Deposition Exhibit 714, produced in the Consolidated Action bearing production numbers CTRL3467125-126.

96. Attached as Exhibit “94” is a true and correct copy of an Email from Jack Liu to Scott Taylor with attachments dated February 28, 2013, Deposition Exhibit 719, produced in the Consolidated Action bearing production numbers BW-SHIP-00918337-342.

97. Attached as Exhibit “95” is a true and correct copy of the Duff & Phelps Report for B Asset Manager, LP as of March 31, 2015, dated April 9, 2015, Deposition Exhibit 230, produced in the Consolidated Action bearing production numbers BW-SHIP-00006971-7017.

98. Attached as Exhibit “96” is a true and correct copy of the Letter dated January 24, 2020 from counsel for the Receiver to counsel for SHIP.

99. Attached as Exhibit “97” is a true and correct copy of the Email from Mark Feuer to Murray Huberfeld dated March 20, 2013, Deposition Exhibit 277, produced in the Consolidated Action bearing production numbers CNOCSL_00470700-701.

100. Attached as Exhibit “98” is a true and correct copy of the Email from Rick Hodgdon to Brian Wegner with attachments dated October 10, 2013, Deposition Exhibit 247, produced in the Consolidated Action bearing production numbers SHIP0176988-7057.

101. Attached as Exhibit “99” is a true and correct copy of the Email from Elliot Feit to Paul Lorentz with attachments dated April 20, 2015, Deposition Exhibit 251, produced in the Consolidated Action bearing production numbers SHIP0019688-735.

Dated: New York, New York
March 6, 2020

/s/ Erik B. Weinick
Erik B. Weinick

EXHIBIT 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 1:18-cv-06658

IN RE: PLATINUM-BEECHWOOD LITIGATION

Videotaped deposition of ALEXIS NORTHWOOD,
taken pursuant to Notice, was held at the offices of
US LEGAL SUPPORT, 90 Broad Street, New York, New
York, commencing November 14, 2019, at 9:48 a.m., on
the above date, before Amanda McCredo, a Court
Reporter and Notary Public in the State of New York.

Page 2

1
2 A P P E A R A N C E S:
3 DLA PIPER, LLP (US)
4 1251 Avenue of the Americas
5 New York, New York 10020-1104
6 BY: JONATHAN H. BERKE, ESQ.
7 ELLEN ELIZABETH DEW, ESQ. (Baltimore Office)
8
9 Attorneys for SHIP
10
11 HOLLAND & KNIGHT LLP
12 800 17th Street, N.W.
13 Suite 1100
14 Washington, DC 20006
15 BY: WILLIAM F. GOULD, ESQ.
16
17 and
18 HOLLAND & KNIGHT LLP
19 31 West 52nd Street
20 12th Floor
21 New York, New York 10019
22 BY: ELLIOT MAGRUDER, ESQ.
23 WARREN E. GLUCK, ESQ.
24
25 Attorneys for PPVA and Joint Liquidators

18
19
20 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
21 101 Park Avenue
22 New York, New York 10178
23 BY: ABIGAIL JOHNSTON, ESQ.
24
25 Attorneys for David Bodner
(via teleconference)

Page 3

1
2 A P P E A R A N C E S: (continued)
3 MINTZ, LEVIN, COHN, FERRIS, GLOVSKY and POPEO, P.C.
4 The Chrysler Building
5 666 Third Avenue
6 New York, New York 10017
7 BY: IRIS HSIAO, ESQ.
8
9 Attorneys for Kevin Cassidy and Michael Nordlicht
10
11 LIPSIOUS-BENHAIM LAW, LLP
12 80-02 Kew Gardens Road
13 Suite 1030
14 Kew Gardens, New York 11415
15 BY: DAVID BENHAIM, ESQ.
16
17 Attorneys for Beechwood Defendants

18
19 OTTERBOURG, P.C.
20 230 Park Avenue
21 New York, New York 10169
22 BY: GABRIELA S. LEON, ESQ.
23
24 Attorneys for Plaintiff Receiver

25
26 MORRISON COHEN LLP
27 909 Third Avenue
28 New York, New York 10022-4784
29 BY: DANIEL C. ISAACS, ESQ.
30
31 Attorneys for Huberfeld Family Foundation, Inc.

32
33 ALSO PRESENT:
34 José Rivera - videographer
35

Page 4

1 A. Northwood
2 THE VIDEOGRAPHER: This is Media Unit No. 1
3 in the video deposition of Alexis Northwood in
4 the matter of In Re Platinum-Beechwood
5 Litigation in the United States District Court,
6 Southern District of New York, Case No.
7 1:18-cv-06658.
8 This deposition is being held at U.S. Legal
9 Support, 90 Broad Street, New York, New York,
10 on November 14, 2019 at approximately 9:48 a.m.
11 My name is José Rivera, from the firm of
12 U.S. Legal Support, and I am the legal video
13 specialist. The court reporter is Amanda
14 McCredo, also in association with U.S. Legal
15 Support.
16 All counsel have been noted on record.
17 Will the court reporter please swear in the
18 witness.
19 ALEXIS NORTHWOOD, the witness herein, after having
20 been first duly sworn by a Notary Public
21 of the State of New York, was examined and
22 testified as follows:
23 EXAMINATION BY
24 MR. GOULD:
25 Q Ms. Northwood, my name is Bill Gould. With

Page 5

1 A. Northwood
2 Elliot Magruder and that gentleman in the corner,
3 Warren Gluck, we represent PPVA and the joint
4 liquid -- liquidators in this matter.
5 I've got some preliminary questions for
6 you.
7 Can we start by, can you state your name
8 and, for the record, spell both your first and last
9 name?
10 A Alexis Northwood, A-L-E-X-I-S; Northwood,
11 N-O-R-T-H-W-O-O-D.
12 Q Do you have -- have any nicknames or any
13 other prior maiden names or anything like that?
14 A No maiden names. My nickname is Allie,
15 A-L-L-I-E.
16 Q Are you married?
17 A No.
18 Q Okay. Have you been married?
19 A No.
20 Q Okay. Where do you -- where do you live?
21 A I live in Manhattan.
22 Q Manhattan?
23 And where do you currently work?
24 A I work for a vascular practice called
25 Mobile Vascular Physicians.

Page 186

1 A. Northwood

2 Mr. Becker --

3 A I don't know. I mean, he -- I do recall

4 him coming to Beechwood -- seeing him there at the

5 desk at some point. I can't tell you when.

6 Q And -- okay. All right. Let's take a look

7 at AN010371. This is Northwood 23.

8 (AN010371 was marked as

9 Northwood 23 for identification,

10 as of this date.)

11 Q This is an email sent on a Sunday,

12 actually, January 4, 2015. It's actually -- that's

13 the top one, which is from you -- I'm sorry, it's to

14 you, the top one is at least, from Ezra Beren.

15 Who, who is Ezra Beren?

16 A He is married to Murray's daughter Jessica.

17 Q Does he work for either Platinum or

18 Beechwood, to your knowledge?

19 A He worked for Platinum.

20 Q At the bottom, he's writing to you, "Can

21 you book me a car from the Platinum office to the

22 Refundo address you have on your calendar for pick

23 up at Platinum at 9:00 a.m. tomorrow?"

24 First of all, do you remember writing --

25 I'm sorry, do you remember getting this?

Page 187

1 A. Northwood

2 A No.

3 Q Do you remember booking that car?

4 A No.

5 Q You respond, "I have a few, but before I do

6 that, do you want me to send you David Levy's old

7 Beechwood business AmEx, and you can add that to

8 your Uber account?"

9 Uber is a car service, correct?

10 A Correct.

11 Q Okay. And I am I right that this is --

12 well, is this before or after Mr. Levy has left

13 Beechwood?

14 A After.

15 Q And at this point, is Mr. Beren -- is he

16 working at Beechwood?

17 A Oh, yeah. Yeah, Ezra came to Beechwood at

18 some point. I don't know when he started.

19 Q As an employee or somebody who would work

20 out of Beechwood but was still a Platinum employee?

21 A I mean, I'm not -- like, I don't -- I

22 believe he was a Beechwood employee. He had a desk

23 at Beechwood, and he worked on -- he worked with

24 another guy on something. I don't know exactly what

25 he did.

Page 188

1 A. Northwood

2 Q And in this case, he's being picked up at

3 the -- or at least what this says is, he's being

4 picked up at the Platinum offices; is that right?

5 A I guess so.

6 Q Do you recall, kind of around this time --

7 so, again, we're talking early 2015 -- did he have

8 the office at Beechwood that you described or was it

9 after this?

10 A I'm sorry, can you answer [sic] the

11 question again? I was reading the email.

12 Q Sure. It was phrased poorly.

13 Do you recall whether Mr. Beren started

14 working or having an office at Beechwood before this

15 time period or after?

16 A I don't remember when he started. And he

17 didn't have an office. He had a -- like, a little

18 desk on the trader floor.

19 Q Oh, okay. So, it's a -- it was not an

20 enclosed office --

21 A It's just one of many desks.

22 Q More a cubicle.

23 But you don't recall, in relation to that,

24 when he had that desk, when this email happened?

25 A No.

Page 189

1 A. Northwood

2 Q Did Platinum and Beechwood share resources

3 like this AmEx card?

4 A No.

5 Q And you say that very aggressively.

6 They certainly -- for instance, David

7 Bodner did have a phone line at Beechwood, correct?

8 MR. BENHAIM: Objection to form.

9 A That's what the email said.

10 Q And he would have meetings there at

11 Beechwood; is that right?

12 A I don't recall David Bodner ever having

13 meetings at Beechwood. He might have come to see

14 Murray for a meeting, but he certainly, to my

15 knowledge, did not hold any meetings.

16 Q Okay. But this email, then -- you seem to

17 be offering Mr. Beren use of a Beechwood business

18 card?

19 A That's correct. And the first email, where

20 he says not sure which company Beechwood uses, would

21 imply that this was a Beechwood-related whatever --

22 expense, meeting, whatever.

23 Q Okay.

24 A I mean, at least that's what I take away

25 from it.

Page 294

1 A. Northwood
2 I'm marking Exhibit 50, which is
3 CNOCSL_01142251.
4 (CNOCSL_01142251 through 253 was
5 marked as Northwood 50 for
6 identification, as of this
7 date.)
8 Q Actually, if you look at the last exhibit,
9 that was sent on June 23, 2016, right?
10 A I'm sorry? The --
11 Q The last exhibit.
12 A Yes, it says 6/23/2016.
13 Q Okay. So, this was sent one day later,
14 right?
15 A 6/24/2016.
16 Q At the top, in the email that you sent to
17 Scott Taylor, what do you mean here?
18 A Where?
19 Q What do you mean by this, "My pops was
20 unimpressed with Brad's drafting skills"?
21 MR. BENHAIM: Objection to form.
22 A I don't remember. I mean --
23 Q Did there come a time where portions of
24 Beechwood were sold?
25 A I have no idea.

Page 295

1 A. Northwood
2 Q No idea, okay.
3 If you go to the first email in this chain,
4 which is on 252 -- starts on 522 -- 252 -- you seem
5 to be writing to Murray Huberfeld, right?
6 A Yes.
7 Q Who is Jessica?
8 A Jessica Huberfeld Beren, that's his
9 daughter.
10 Q And that's Ezra's wife?
11 A Yes.
12 Q Okay. And who is Rachel?
13 A That's also Murray's daughter.
14 Q Okay. And who is Avi?
15 A That's Alexander Huberfeld. That's his
16 son.
17 Q And he was the one who worked at Beechwood
18 for a bit?
19 MR. ISAACS: Objection.
20 A Yes.
21 Q And who is Laura?
22 A Murray's wife.
23 Q Okay. It looks like you are sending him
24 documents -- them documents for execution?
25 A "I enclose the five releases for

Page 296

1 A. Northwood
2 execution," that's what it says.
3 Q Okay. Do you have any idea what this was
4 for?
5 A No.
6 Q Okay. So, if you go back up to the top,
7 does it sound like you were -- did you ever send
8 your dad to-be-executed documents that were being
9 prepared?
10 A If I'm remembering correctly, I think Brad
11 is a -- I know he's an attorney. And he must be an
12 estate attorney, because my father is an estate
13 attorney. So, I might have said -- sent him general
14 language, like, without any, you know, material --
15 the names taken out, stuff like that.
16 Q Okay. To look at, like, trust documents
17 and stuff like that?
18 A Right, uh-huh.
19 Q Why do you say that these were done in
20 haste?
21 A I don't remember.
22 Q At the time, do you think you would have
23 known why you --
24 MR. BENHAIM: Objection to the form.
25 Q So, if you look at the date of the two

Page 297

1 A. Northwood
2 emails here, does that strike you at all?
3 MR. ISAACS: Objection.
4 A Which two emails?
5 Q Sorry, Exhibit 49 and Exhibit 50.
6 A What do you mean "strike" me?
7 Q Does June of 2016 ring a bell?
8 MR. BENHAIM: Objection.
9 A It doesn't mean anything to me.
10 Q Do you recall when Murray Huberfeld was
11 arrested?
12 A No.
13 Q You don't remember if it was -- it may have
14 been June 8th, 2016?
15 MR. BENHAIM: Objection.
16 A If that's what you're telling me.
17 Q I am going to mark Exhibit 51, which is
18 CNOCSL_01524727.
19 (CNOCSL_01524727 through 763 was
20 marked as Northwood 51 for
21 identification, as of this
22 date.)
23 Q Do you know -- do you recognize this
24 document?
25 A No.

Page 306

1			
2	Northwood 41	BW-SHIP-01000657 through 659	254
3	Northwood 42	AN031075, AN031122, and AN031123-1124	264
4			
5	Northwood 43	BW-SHIP-00259407 through 423	269
6	Northwood 44	CTRL5199715	278
7	Northwood 45	BW-SHIP-01269218	282
8	Northwood 46	CNOCSL_01245798 through 802	284
9	Northwood 47	BW-SHIP-00758050 through 054	288
10	Northwood 48	CNOCSL_01526343	290
11	Northwood 49	BW-SHIP-01227178 through 185	292
12	Northwood 50	CNOCSL_01142251 through 253	294
13	Northwood 51	CNOCSL_01524727 through 763	297
14	Northwood 52	AN030854 through 866	301
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

Page 308

1
 2 ERRATA SHEET FOR THE TRANSCRIPT OF:
 3 Case Name: IN RE: PLATINUM-BEECHWOOD
 LITIGATION
 4
 5 Dep. Date: November 14, 2019
 6 Deponent: Alexis Northwood
 7
 8 CORRECTIONS:
 9 Pg. Ln. Now Reads Should Read Reason
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

 Signature of Deponent

SUBSCRIBED AND SWORN BEFORE ME
 THIS ___ DAY OF _____, 20__

 (Notary Public) MY COMMISSION EXPIRES: _____

Page 307

C E R T I F I C A T E

I, AMANDA McCREDO, a Shorthand Reporter and Notary Public of the State of New York, do hereby certify:
 That the witness whose examination is hereinbefore set forth was duly sworn, and that such examination is a true record of the testimony given by such witness.
 I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Amanda McCreDO
 AMANDA McCREDO
 12/2/19

Page 309

ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby certify that I have read the foregoing pages, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

 ALEXIS NORTHWOOD

Subscribed and sworn to
 before me on this ___ day
 of _____, _____.

 Notary Public

EXHIBIT 2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- Angela Albanese -

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

IN RE: PLATINUM-BEECHWOOD LITIGATION)

-----) Case No:
MARTIN TROTT and CHRISTOPHER SMITH,)
as Joint Official Liquidators and) 18-CV-6658 (JSR)
Foreign Representatives of PLATINUM)
PARTNERS VALUE ARBITRAGE FUND L.P.) 18-CV-10936 (JSR)
(in Official Liquidation), and)
PLATINUM PARTNERS VALUE ARBITRAGE)
FUND L.P. (in Official Liquidation),)

Plaintiffs,

-vs-

PLATINUM MANAGEMENT (NY) LLC, et al.,)
)

Defendants.

----- X

DATE: October 10, 2019

TIME: 2:29 p.m.

VIDEOTAPED DEPOSITION OF ANGELA
ALBANESE, held at the offices of U.S. Legal
Support, 90 Broad Street, New York, New York,
pursuant to Subpoena, before Hope Menaker, a
Shorthand Reporter and Notary Public of the State
of New York.

Page 2

1 - Angela Albanese -
 2 A P P E A R A N C E S
 3 DLA PIPER, LLP (US)
 4 Attorneys for Plaintiff - SHIP
 6225 Smith Avenue
 Baltimore, Maryland 21209-3600
 5 BY: ROBERT C. SANTORO, ESQ.
 6
 7 CURTIS, MALLETT-PREVOST, COLT & MOSLE, LLP
 Attorneys for Defendant - David Bodner
 101 Park Avenue
 New York, New York 10178
 8 BY: GABRIEL HERTZBERG, ESQ.
 ABIGAIL JOHNSTON, ESQ.
 9
 10 MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, PC
 Attorneys for Defendants - Kevin Cassidy & Michael
 Nordlicht
 666 Third Avenue
 New York, New York 10017
 13 BY: LISAMARIE COLLINS, ESQ.
 14
 15 DUANE MORRIS, LLP
 Attorneys for the Estate of Uri Landesman
 1540 Broadway
 New York, New York 10036
 16 BY: MACKENZIE WROBEL, ESQ. (Via telephone)
 17
 18 HOLLAND & KNIGHT
 Attorneys for Martin Trott
 31 West 52nd Street
 New York, New York 10019
 20 BY: WARREN ERNEST GLUCK, ESQ.
 21 And
 800 17th Street NW
 Suite 1100
 Washington, D.C. 20006
 23 BY: JOHN L. BROWNLEE
 MEGAN MOCHO JESCHKE, ESQ.
 24
 25

Page 3

1 - Angela Albanese -
 2 A P P E A R A N C E S:
 3
 4 LAW OFFICES OF GORDON MEHLER PLLC
 Attorney for the Witness
 747 Third Avenue
 New York, New York 10017
 5 BY: GORDON MEHLER, ESQ.
 6 ORTAL ISAAC, ESQ.
 7
 8 ALSO PRESENT:
 Darrak Lighty - Videographer
 David Steinberg (via telephone)
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 4

1 - Angela Albanese -
 2 THE VIDEOGRAPHER: This is the video
 3 deposition of Angela Albanese, in the matter
 4 of Platinum-Beechwood litigation.
 5 This deposition is being held at the
 6 offices of U.S. Legal Support, 90 Broad
 7 Street, New York, New York, on October 10,
 8 2019.
 9 My name the Darrak Lighty from U.S.
 10 Legal Support, and I am the video specialist.
 11 The court reporter today is Hope
 12 Menaker, also associated with U.S. Legal.
 13 We are going on the record at 2:29
 14 p.m. All appearances have been noted on the
 15 record.
 16 Will the court reporter please swear
 17 in the witness.
 18 ANGELA ALBANESE, called as a witness,
 19 having been duly sworn on October 10, 2019,
 20 by a Notary Public, was examined and
 21 testified as follows:
 22 747 Third Avenue
 23 New York, NY 10017
 24 (Business)
 25

Page 5

1 - Angela Albanese -
 2 EXAMINATION BY MR. BROWNLEE:
 3 Q. Good afternoon.
 4 A. Good afternoon.
 5 Q. Ms. Albanese, my name is John
 6 Brownlee and I represent the court-appointed joint
 7 official liquidators and foreign representatives
 8 of Platinum Partners Value Arbitrage Fund in
 9 official liquidation.
 10 I'm about to ask you a series of
 11 questions. You've just taken an oath that the
 12 answers you provide will be truthful. If you are
 13 not truthful in this deposition, you could face
 14 potential criminal charges for perjury; possible
 15 consequences of perjury, including imprisonment
 16 and fine.
 17 Do you understand that?
 18 A. Yes.
 19 Q. It is not my intention to confuse you
 20 or mislead you with any of the questions that I
 21 ask.
 22 If I ask a question and you don't
 23 understand it, it's perfectly okay for you to ask
 24 me to repeat the question or to rephrase it.
 25 Do you understand that?


<p style="text-align: right;">Page 158</p> <p>1 - Angela Albanese -</p> <p>2 Q. Okay.</p> <p>3 MR. MEHLER: This is 2016. I don't</p> <p>4 know why we're -- she's left.</p> <p>5 THE WITNESS: This is true, too.</p> <p>6 That's 2016. I left - this is that e-mail</p> <p>7 address, I said send the password.</p> <p>8 Yeah, that is a year later.</p> <p>9 Q. Were you aware that after you left</p> <p>10 that Mottie actually did set up a Bodner e-mail</p> <p>11 address for himself?</p> <p>12 A. No.</p> <p>13 Q. Let's take a look at 28. Control</p> <p>14 7126593 at the top.</p> <p>15 A. Which e-mail, which number?</p> <p>16 Q. I'm sorry, 28.</p> <p>17 A. 28.</p> <p>18 Q. There's an e-mail from Bodneroffice</p> <p>19 to you and then cc you. Okay.</p> <p>20 "Ang, as per the message I left</p> <p>21 earlier, David asked if you could please do the</p> <p>22 following: Set up an automatic reply to the</p> <p>23 Bodnerang@Gmail.com address to please say that</p> <p>24 this address is no longer in use and that all</p> <p>25 e-mails should please be sent to</p>	<p style="text-align: right;">Page 160</p> <p>1 - Angela Albanese -</p> <p>2 of '15, informing him that you would send all</p> <p>3 e-mails there?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 A. If anything I probably created it</p> <p>7 right before I left or was -- knowing I was</p> <p>8 leaving. Like, here, start using this, you're</p> <p>9 going to be on your own.</p> <p>10 And it doesn't like I -- I</p> <p>11 participated with it. But I don't know, I created</p> <p>12 that text to say, go use -- who knows who -- I</p> <p>13 don't even know where -- if David created it,</p> <p>14 like, I'm very -- I'd like to find out. Maybe</p> <p>15 David's lawyer knows.</p> <p>16 Q. All right. Let me -- all right. Let</p> <p>17 me ask -- let me have you take a look at 61.</p> <p>18 Actually, if you'll pardon me. If</p> <p>19 you'll look at 62. It's control number</p> <p>20 ALB0001624.</p> <p>21 All right. This is an e-mail that</p> <p>22 you wrote to Mr. Bodner; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And subject -- the timing</p> <p>25 on it, July 29th, 2015 at 7:40 and 30 seconds p.m.</p>
<p style="text-align: right;">Page 159</p> <p>1 - Angela Albanese -</p> <p>2 BodnerMOT@gmail.com. Forward any e-mails you</p> <p>3 receive at that address to BodnerMOT@gmail.com.</p> <p>4 Please confirm you received this. Thank you,</p> <p>5 Mottie."</p> <p>6 So Mottie set up his own Bodner</p> <p>7 account, correct?</p> <p>8 MR. MEHLER: Objection to form.</p> <p>9 A. Seems that way, but I don't think I</p> <p>10 replied to him and I don't think I ever did this.</p> <p>11 Q. My point is that DavidBodner18@gmail</p> <p>12 is not a Mottie account. This is the Mottie</p> <p>13 account, right?</p> <p>14 A. I don't know about that Bodner18, it</p> <p>15 looks like he used it in 2016. It doesn't look</p> <p>16 like he used it ever when I worked there.</p> <p>17 And as far as this, I never replied</p> <p>18 to this and I never did what he asked me to here</p> <p>19 because I didn't wanted to mess around with any of</p> <p>20 it.</p> <p>21 Q. Your testimony is you're not aware</p> <p>22 that DavisBodner18@gmail.com was functioning while</p> <p>23 you worked there?</p> <p>24 A. Correct.</p> <p>25 Q. Despite the text that you sent in May</p>	<p style="text-align: right;">Page 161</p> <p>1 - Angela Albanese -</p> <p>2 eastern time, correct?</p> <p>3 A. Yes.</p> <p>4 Q. All right. And you sent it from your</p> <p>5 Bodnerang@Gmail.com, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And you sent it to Mr. Bodner's</p> <p>8 private e-mail address, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you also sent it to his</p> <p>11 DavidBodner18@gmail.com, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And it says, "I'm really</p> <p>14 concerned that if Ed Bonach from CNO Financial</p> <p>15 Group finds out we invested Beechwood's money into</p> <p>16 Platinum with its illiquid investments, since it</p> <p>17 didn't exactly fit their investment objective, he</p> <p>18 won't trust us and he will take all of the</p> <p>19 approximately 500 million he has invested in</p> <p>20 Beechwood out."</p> <p>21 Do you remember writing that?</p> <p>22 A. Yes.</p> <p>23 Q. When it says "we invested," who is</p> <p>24 "we"?</p> <p>25 A. I guess I'm talking about Platinum?</p>

Page 162	Page 164
1 - Angela Albanese -	1 - Angela Albanese -
2 Q. I don't know. You wrote that. Who	2 Q. If you look at the second page of tab
3 did you mean by "we"?	3 66, it's got a signature there; is that correct?
4 A. I don't know who I meant by "we."	4 A. Yes.
5 This e-mail was just to toy with David so I could	5 Q. Is that your signature?
6 get an increased -- what is it, pension --	6 A. Yes.
7 Q. We'll get to that --	7 Q. You signed this?
8 A. What is it called -- severance.	8 A. Yes.
9 Q. You wrote this?	9 Q. And Mr. Bodner signed it; is that
10 A. Yes.	10 correct?
11 Q. So did you invest in Beechwood?	11 A. Yes.
12 A. No.	12 Q. And who actually typed this
13 Q. Personally?	13 agreement, did you type it?
14 A. No.	14 A. No, I believe Mr. Gordon's law office
15 Q. Did you invest in Platinum?	15 typed it.
16 A. No.	16 Q. Okay. So your lawyer gave this to
17 Q. So then you wrote: "That means	17 you to review and then you reviewed it and you
18 Beechwood would either implode or not be able to	18 signed it; is that correct?
19 function financially and may have to be dissolved,	19 A. Yes.
20 even though we did a cancel and correct. We	20 Q. Have you seen this before?
21 weren't exactly honest with Ed about the original	21 A. Yes.
22 investment or that Beechwood and Platinum really	22 Q. You recognize this, correct?
23 are integrated. I'm concerned what should we do.	23 A. Yes.
24 I haven't called anyone back yet. I'm trying to	24 Q. Did you read it before you signed it?
25 do some damage control right now."	25 A. Yes.
Page 163	Page 165
1 - Angela Albanese -	1 - Angela Albanese -
2 So when you say "we weren't exactly	2 Q. Did you understand it?
3 honest with Ed," who is "we" there?	3 A. Yes.
4 A. I guess I'm talking about Platinum.	4 Q. Is from anything you didn't
5 Q. Do you know who Ed is?	5 understand?
6 A. No.	6 A. No.
7 Q. Have you ever met Ed?	7 Q. Okay. Is there anything in it, as we
8 A. No.	8 sit here today -- you signed this back in
9 Q. Did you ever correspond with Ed?	9 September so we're here in October. Is there
10 A. No.	10 anything in there that's not true?
11 Q. So, "we" there doesn't mean you,	11 A. No.
12 right?	12 Q. Okay. So let me ask a couple of
13 A. No.	13 questions.
14 Q. You're not talking about yourself?	14 First of all, did you go to Mr.
15 A. I'm talking about Platinum.	15 Bodner and say, listen, we need to enter into this
16 Q. Okay. But you typed this, correct?	16 agreement?
17 A. I did.	17 A. To go -- to him and say we need to is
18 Q. Okay. And let me show you -- let's	18 enter into this agreement?
19 see, if you look at number 66, number 66 is an	19 Q. Did you approach him and say I need
20 agreement?	20 an agreement?
21 A. Uh-huh yes.	21 A. Yes.
22 Q. It's ALB0001635. This is an	22 Q. So this was your idea to have this
23 agreement that you entered into with Mr. Bodner;	23 agreement?
24 is that correct?	24 A. I drew it up with my attorney, yes.
25 A. Yes.	25 Q. So you and your lawyer went to Mr.

Page 258	Page 260
<p>1 - Angela Albanese -</p> <p>2 answered.</p> <p>3 A. I don't recall. I'm assuming he was.</p> <p>4 Q. How often did he travel outside of</p> <p>5 the country?</p> <p>6 A. A few times a year.</p> <p>7 Q. So not often would you say?</p> <p>8 A. A few times a year several times a</p> <p>9 year maybe four or five, eight, depending on the</p> <p>10 year.</p> <p>11 Q. You testified earlier that the</p> <p>12 contents of this e-mail in Exhibit A you made up;</p> <p>13 is that right?</p> <p>14 A. Yes.</p> <p>15 Q. So, if each of these things that you</p> <p>16 made up turned out to be true, that would be quite</p> <p>17 a coincidence?</p> <p>18 MR. MEHLER: Objection to form.</p> <p>19 Calls for a hypothetical.</p> <p>20 A. Can you repeat that again.</p> <p>21 Q. Sure.</p> <p>22 If it turns out it that all the</p> <p>23 things that you said you made up were true, would</p> <p>24 you think that -- would you agree that that's</p> <p>25 quite a coincidence?</p>	<p>1 - Angela Albanese -</p> <p>2 And my question is just about the 500</p> <p>3 million part. Is that true?</p> <p>4 A. It was public knowledge, yeah.</p> <p>5 Q. So the 500 million part is true?</p> <p>6 A. The 500 million.</p> <p>7 Q. Where it says, "we weren't exactly</p> <p>8 honest with Ed about the original investment and</p> <p>9 that Beechwood and Platinum really are</p> <p>10 integrated."</p> <p>11 The part about Beechwood and Platinum</p> <p>12 really are integrated that part is true?</p> <p>13 MR. MEHLER: Objection to form.</p> <p>14 A. Initially they were integrated from</p> <p>15 my understanding and then they realized that they</p> <p>16 weren't supposed to be or shouldn't be so they</p> <p>17 decided to not be integrated. That's my</p> <p>18 understanding.</p> <p>19 Q. So you would agree with me that this</p> <p>20 entire e-mail is not entirely false 'there are</p> <p>21 many things that are true in this e-mail?</p> <p>22 A. Partly true.</p> <p>23 MR. MEHLER: Objection to form.</p> <p>24 A. I made some of it up so --</p> <p>25 Q. I just want to make sure your</p>
Page 259	Page 261
<p>1 - Angela Albanese -</p> <p>2 MR. HERTZBERG: Form.</p> <p>3 MR. MEHLER: Objection to form.</p> <p>4 A. All the things I said didn't come</p> <p>5 true, so I'm a little confused.</p> <p>6 Q. Sure.</p> <p>7 Ed Bonach is from CNO Financial</p> <p>8 Group. Do you know if that's true or not?</p> <p>9 A. I saw it on -- on a press release of</p> <p>10 some sort, that's the only way I knew that.</p> <p>11 Q. So that's true?</p> <p>12 A. I guess so.</p> <p>13 Q. Okay. The second sentence, "we</p> <p>14 invested Beechwood's money into Platinum with its</p> <p>15 illiquid investments."</p> <p>16 Do you know if that's true?</p> <p>17 A. I don't know if that's true. I think</p> <p>18 that was not -- I don't think that was true but I</p> <p>19 did say that.</p> <p>20 Q. So you don't know if Beechwood's</p> <p>21 money was invested into Platinum?</p> <p>22 A. No, I don't.</p> <p>23 Q. How about the next line, "He won't</p> <p>24 trust us and take all of the approximately 500</p> <p>25 million he has invested in Beechwood out."</p>	<p>1 - Angela Albanese -</p> <p>2 testimony is clear. I thought you said you made</p> <p>3 whole thing up. What you're now saying is you</p> <p>4 made some of it up?</p> <p>5 MR. MEHLER: Objection to form.</p> <p>6 A. The 500 million is true, so that we</p> <p>7 know. We know that Bonach is CNO financial. Some</p> <p>8 of it is true and the rest of it is kind of --</p> <p>9 somewhere to go with.</p> <p>10 Q. You testified that you typed this out</p> <p>11 completely yourself right?</p> <p>12 A. Yes.</p> <p>13 Q. You did not --</p> <p>14 A. Why is that hard to believe? I'm</p> <p>15 curious. It's not that sophisticated of an</p> <p>16 e-mail, but I'm really trying to figure out why</p> <p>17 it's hard to believe that I typed this out myself.</p> <p>18 But I'm with you.</p> <p>19 Q. Did you copy and paste it from</p> <p>20 somewhere else?</p> <p>21 A. I typed this out myself. It's not</p> <p>22 like -- it's not an amazing e-mail. It's not like</p> <p>23 so sophisticated. I might have copied and pasted</p> <p>24 this to this to, my other e-mail to my Edina Katz</p> <p>25 e-mail. And --</p>

<p style="text-align: right;">Page 302</p> <p>1 - Angela Albanese -</p> <p>2 right?</p> <p>3 A. Yeah.</p> <p>4 Q. And do you know how often he met with</p> <p>5 Mr. Saks at the Platinum offices?</p> <p>6 A. I don't think a lot, but I feel like</p> <p>7 -- I don't even remember him meeting with Danny,</p> <p>8 Mr. Saks but -- I don't know. I don't think a</p> <p>9 lot.</p> <p>10 Q. Did you ever meet Mr. Saks in person?</p> <p>11 A. I don't remember. I don't recall.</p> <p>12 MR. SANTORO: The next exhibit is</p> <p>13 163.</p> <p>14 THE WITNESS: Okay.</p> <p>15 MR. SANTORO: It's Bates stamp is</p> <p>16 CNOCSL_00487056.</p> <p>17 (Whereupon, Exhibit 163 was tendered</p> <p>18 to the witness for identification.)</p> <p>19 Q. It's a May 13, 2014, appears to be</p> <p>20 calendar event. And the subject is, SNR</p> <p>21 leadership touch base.</p> <p>22 Do you see that?</p> <p>23 A. Yeah.</p> <p>24 Q. And everyone that's listed here is</p> <p>25 Mark Feuer, Murray Huberfeld, Scott Taylor, Mark</p>	<p style="text-align: right;">Page 304</p> <p>1 - Angela Albanese -</p> <p>2 Q. Yeah. I just wanted to know if you</p> <p>3 had any recollection of this meeting.</p> <p>4 A. I have so many -- there were so many</p> <p>5 meetings all the time. I don't remember this</p> <p>6 meeting. I don't remember it.</p> <p>7 Q. Did Mr. Bodner, Mr. Feuer, Mr.</p> <p>8 Huberfeld, Mr. Taylor, Mr. Nordlicht and Mr. Levy</p> <p>9 often have a regular senior leadership touch base</p> <p>10 meeting?</p> <p>11 A. No. No.</p> <p>12 Q. You know Mr. Feuer and Mr. Taylor and</p> <p>13 Mr. Levy there from Beechwood, right?</p> <p>14 A. Yeah.</p> <p>15 Q. It looks like Mark Nordlicht's e-mail</p> <p>16 was from Beechwood as well. Do you see that?</p> <p>17 MR. MEHLER: Objection to form.</p> <p>18 A. I don't know. Yeah, I think that's</p> <p>19 when they started the company. That was before</p> <p>20 they -- at the very beginning. This time frame</p> <p>21 looks like it was in the beginning when Beechwood</p> <p>22 first started.</p> <p>23 Q. Did Mark Nordlicht work at Beechwood?</p> <p>24 A. From my understanding, it was</p> <p>25 Platinum or Beechwood, I'm not sure. I didn't</p>
<p style="text-align: right;">Page 303</p> <p>1 - Angela Albanese -</p> <p>2 Nordlicht, David Levy.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And then it looks like Alexis</p> <p>6 Northwood is copied, you are copied, and Karen Lau</p> <p>7 is copied.</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. So, the location is 152 West 57th</p> <p>11 Street, 54th floor conference room. Is that the</p> <p>12 old Platinum offices?</p> <p>13 A. Yes.</p> <p>14 Q. And so do you know if this meeting</p> <p>15 took place, do you have any recollection of this</p> <p>16 meeting?</p> <p>17 A. I don't have any recollections of the</p> <p>18 meetings, but -- this time -- was this when</p> <p>19 Beechwood started? May? Am I allowed to ask that</p> <p>20 question?</p> <p>21 Q. I can't answer any questions.</p> <p>22 A. Okay.</p> <p>23 Q. I can't testify for you, I'm sorry.</p> <p>24 A. Okay. So do I know if it took place,</p> <p>25 I don't know.</p>	<p style="text-align: right;">Page 305</p> <p>1 - Angela Albanese -</p> <p>2 even recognize he had a Beechwood e-mail. I</p> <p>3 recognized him as Platinum all the time.</p> <p>4 Q. Bu you do see it does say Mark</p> <p>5 Nordlicht at Beechwood?</p> <p>6 A. I-- I do see that, yeah.</p> <p>7 Q. Was this the first time you are</p> <p>8 learning that Mr. Nordlicht had a Beechwood e-mail</p> <p>9 address?</p> <p>10 A. I didn't remember it, I didn't really</p> <p>11 remember, I never e-mailed him there.</p> <p>12 MR. SANTORO: This is Exhibit 164</p> <p>13 control number 3630526.</p> <p>14 (Whereupon, Exhibit 164 was tendered</p> <p>15 to the witness for identification.)</p> <p>16 Q. This looks like another meeting,</p> <p>17 August 19, 2013, 12:00 p.m. Beechwood, Mark Feuer,</p> <p>18 David Levy, Mark Nordlicht to yourself, as well as</p> <p>19 Mr. Huberfeld.</p> <p>20 Do you see that?</p> <p>21 A. David Levy. In 2013, yeah.</p> <p>22 Q. Does that give you any recollection</p> <p>23 of the time frame of when Mr. Bodner, Mr.</p> <p>24 Huberfeld, Mr. Feuer, Mr. Levy, and Mr. Nordlicht</p> <p>25 would have Beechwood meetings?</p>

Page 326

1
 2 C E R T I F I C A T E
 3 STATE OF NEW YORK)
 4) ss.
 5 COUNTY OF NEW YORK)
 6
 7 I, HOPE LYNN MENAKER, a Notary Public within
 8 and for the State of New York, do hereby certify:
 9 That ANGELA ALBANESE, the witness whose
 10 deposition is hereinbefore set forth, was duly
 11 sworn by me and that such deposition is a true
 12 record of the testimony given by the witness.
 13 I further certify that I am not related to
 14 any of the parties to this action by blood or
 15 marriage, and that I am in no way interested in
 16 the outcome of this matter.
 17 IN WITNESS WHEREOF, I have hereunto
 18 set my hand this ____ day of October, 2019.
 19 
 20 _____
 21 HOPE LYNN MENAKER
 22
 23
 24
 25

Page 328

1
 2 INDEX (cont'd)
 3
 4 172 CTRL 5104415 288
 5 158 AN 001875 - 579 291
 6 159 AN 022442 293
 7 160 AN 005522 295
 8 161 AN 006782 - 787 296
 9 162 BW-SHIP-01064292 300
 10 163 CNO CSL_00487056 302
 11 164 CTRL 3630526 305
 12 165 CTRL 3748840 307
 13 167 CTRL 5167622 309
 14 168 CTRL 5191427 312
 15 169 CTRL 5883850 314
 16 170 CTRL 5919880 316
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 327

1
 2 INDEX
 3
 4 WITNESS: ANGELA ALBANESE
 5
 6 EXAMINATION BY PAGE
 7 MR. BROWNLEE 5
 8 MR. SANTORO 242
 9 MS. COLLINS 320
 10 REQUEST FOR ADDITIONAL INFORMATION PAGE
 11 MR. SANTORO 245
 12 MS. JESCHKE 245
 13
 14 INSTRUCTED NOT TO ANSWER PAGE
 15 Outside of any communications you had with 240
 16 your lawyer, do you know if you have a joint
 17 against agreement with Mr. Bodner?
 18 Do you know if your lawyer has spoken with 246
 19 Mr. Bodner's lawyers?
 20 What made you reach out to your lawyer in 250
 21 the first place?
 22 EXHIBITS FOR IDENTIFICATION
 23 NUMBER DESCRIPTION PAGE
 24 156 Binder with exhibits 59
 25 157 Subpoena 246
 171 CTRL 7664260 287

Page 329

1
 2 ERRATA SHEET
 3 CASE NAME: In Re: Platinum-Beechwood
 4 DATE OF DEPOSITION: 10/10/19
 5 WITNESS' NAME: Angela Albanese
 6
 7 PAGE/LINE(S) / CHANGE REASON
 8 _____/_____/_____
 9 _____/_____/_____
 10 _____/_____/_____
 11 _____/_____/_____
 12 _____/_____/_____
 13 _____/_____/_____
 14 _____/_____/_____
 15 _____/_____/_____
 16 _____/_____/_____
 17 _____/_____/_____
 18 _____/_____/_____
 19 _____/_____/_____
 20 _____/_____/_____
 21 _____/_____/_____
 22 _____/_____/_____
 23
 24 _____
 25 Date Signature

EXHIBIT 3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

TRANSCRIPT OF DEPOSITION OF
BARRY STALDINE

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Friday, September 27, 2019,
commencing at 9:35 a.m.

Page 2

1
2 A P P E A R A N C E S:
3
4 HOLLAND & KNIGHT LLP
5 BY: WILLIAM F. GOULD, ESQ.
6 800 17th Street, N.W., Suite 1100
7 Washington, DC 20006
8 Attorneys for the Plaintiffs,
9 Martin Trott
10
11
12
13
14 HOLLAND & KNIGHT LLP
15 BY: ELLIOT MAGRUDER, ESQ.
16 31 West 52nd Street
17 New York, New York 10019
18 Attorneys for the Plaintiffs,
19 Martin Trott
20
21
22
23
24
25

Page 4

1
2
3 DUANE MORRIS, LLP
4 BY: MELISSA S. GELLER, ESQ.
5 One Riverfront Plaza
6 1037 Raymond Boulevard, Suite 1800
7 Newark, New Jersey 07102-5429
8 Attorneys for the
9 Estate of Uri Landesman
10
11
12
13
14 DUANE MORRIS, LLP
15 BY: ARLETTA BUSSIÈRE, ESQ.
16 1540 Broadway
17 New York, New York 10036-4086
18 Attorneys for the
19 Estate of Uri Landesman
20
21
22
23
24
25

Page 3

1
2
3 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
4 BY: GABRIEL HERTZBERG, ESQ.
5 101 Park Avenue
6 New York, New York 10178
7 Attorneys for the Defendant,
8 David Bodner
9
10
11
12
13
14 MINTZ, LEVIN, COHN, FERRIS,
15 GLOVSKY and POPEO, P.C.
16 BY: LISAMARIE COLLINS, ESQ.
17 The Chrysler Center
18 666 Third Avenue
19 New York, New York 10017
20 Attorneys for Defendants
21 Kevin Cassidy and Michael Nordlicht
22
23
24
25

Page 5

1
2
3 MORRISON COHEN LLP
4 BY: DONALD H. CHASE, ESQ.
5 909 Third Avenue
6 New York, New York 10022-4784
7 Attorneys for the
8 Huberfeld Family Foundation, Inc.
9 Present telephonically
10
11
12
13 DLA PIPER, LLP (US)
14 BY: JAMES D. MATHIAS, ESQ.
15 EMILY M. STEINER, ESQ.
16 KATHLEEN BIRRANE, ESQ.
17 6225 Smith Avenue
18 Baltimore, Maryland 21209-3600
19 500 8th Street, NW
20 Washington, DC 20004
21 Attorneys for Plaintiff, SHIP
22 Baltimore
23
24
25

Page 6

1
2
3 PROSKAUER ROSE LLP
4 BY: EDWARD J. CANTER, ESQ.
5 STACEY EILBAUM, ESQ.
6 Eleven Times Square
7 New York, New York 10036-8299
8 Attorneys for Beechwood
9
10 Ms. Eilbaum was present
11 for the afternoon session.
12
13
14
15
16 OTTERBOURG, PC
17 BY: WILLIAM M. MORAN, ESQ.
18 GABRIELA LEON, ESQ.
19 230 Park Avenue
20 New York, New York 10169
21 Attorneys for Plaintiff Receiver
22
23
24
25

Page 7

1
2
3 David Steinberg, PRO SE present
4 Defendant
5
6
7
8
9 ALSO PRESENT:
10
11
12 Darrak Lighty, Videographer
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 8

1 Barry Staldine
2 P R O C E E D I N G S
3 THE VIDEOGRAPHER: This is the
4 video deposition of Barry Staldine in the
5 matter of Platinum-Beechwood litigation.
6 This deposition is being held at the
7 offices of US Legal Support, 90 Broad
8 Street, New York, New York, on
9 September 27, 2019.
10 My name is Darrak Lighty, from US
11 Legal Support; and I am the video
12 specialist. The court reporter today is
13 Tab Prewett, also associated with US Legal
14 Support. We are going on the record at
15 9:35 a.m.
16 All appearances have been noted on
17 the record. Will the court reporter please
18 swear in the witness.
19 THE REPORTER: First, is there
20 anyone on the telephone today? Please say
21 your appearance.
22 MR. CHASE: Yeah. Donald --
23 Donald Chase from Morrison Cohen.
24 (Mr. Cohen appeared
25 telephonically.)

Page 9

1 Barry Staldine
2 THE REPORTER: Anyone else? Thank
3 you.
4 B A R R Y S T A L D I N E,
5 doing business at
6 SENIOR HEALTH INSURANCE COMPANY
7 OF PENNSYLVANIA,
8 President and CEO,
9 550 Congressional Boulevard,
10 Suite 200,
11 Carmel, Indiana 46032,
12 having been sworn by the notary public to testify
13 to the truth, testified as follows:
14 DIRECT EXAMINATION
15 BY MR. MORAN:
16 Q Good morning, sir. My name is
17 William Moran. I'm with the law firm Otterbourg
18 here in New York City. I represent the receiver
19 in the Cyganowski action. I'll be asking you a
20 series of questions today. If at any time you
21 feel like you need a break, just let me know.
22 We'll try to accommodate you.
23 Okay?
24 A Okay.
25 Q As long as there's not a question

Page 10

1 Barry Staldine
2 pending, we'll try to accommodate you.
3 Also, if at any time you don't
4 understand or want me to rephrase a question,
5 please let me know that, and I'll try to do that
6 as well.
7 What is your present title?
8 A President and CEO of Fuzion and
9 SHIP.
10 Q And you are here today as the party
11 representative on behalf of Senior Health
12 Insurance Company of Pennsylvania, right?
13 A That's right.
14 Q And that -- we'll call it SHIP from
15 now on. We'll -- we'll all understand that?
16 A Okay.
17 Q Okay. And can you tell me, what
18 are your duties and responsibilities in those
19 posts?
20 A Overall oversight and direction for
21 each of those companies, and managing the staff
22 and the outsourcing relationships as well.
23 Q And how long have you held those
24 posts?
25 A As a permanent employee, since

Page 11

1 Barry Staldine
2 October -- I'm sorry, March of 2017.
3 Q Permanent employee. And what were
4 you before that?
5 A I was acting CEO for six months
6 prior to that. And prior to that, I was COO for
7 about a year. And before that, I came from CNO
8 Financial.
9 Q All right. So can you tell us more
10 specifically, when did you become the acting CEO?
11 A October of 2016.
12 Q And tell me, what -- what is --
13 what is SHIP?
14 A SHIP is an insurance company,
15 managing a closed block of long-term care
16 policies.
17 Q And what does that mean, "a closed
18 block of long-term care policies"?
19 A It means we don't sell any
20 policies. It's designed -- SHIP is designed as a
21 solvent runoff, going down till the last policy
22 is paid.
23 Q When did SHIP come into existence?
24 A 2008.
25 Q And were you with SHIP in 2008?

Page 12

1 Barry Staldine
2 A I was not.
3 Q Where were you then?
4 A I was at CNO.
5 Q What is Fuzion?
6 A Fuzion is a sister company to SHIP,
7 designed to hold all of the employees. And SHIP
8 itself only has a couple of three officers, which
9 I'm one -- CFO is one. And it's a -- SHIP
10 outsources all its third-party administrative
11 duties to Fuzion.
12 Q Are there any other duties and
13 functions of Fuzion that you haven't mentioned?
14 A I don't believe so.
15 Q What else -- you don't believe so?
16 A I don't believe so.
17 Q Does -- does Fuzion have an
18 investigative agency within it?
19 A For fraud waste and abuse on
20 long-term care policies, yes.
21 Q What -- can you tell us more about
22 what that encompasses?
23 A Yeah. That's -- that's a new
24 business -- we've got two clients now; one is
25 CNA, and the other is Prudential -- that we just

Page 13

1 Barry Staldine
2 started. We do that for revenue growth, Fuzion,
3 so that we can keep the intellectual capital
4 coming into the business, or to do SHIP as
5 opposed to --
6 (There was a discussion off the
7 record.)
8 A -- losing people in the process.
9 Q All right. And you said, prior to
10 being with SHIP and Fuzion, you were with CNO?
11 A Um-hum.
12 Q What year did you leave CNO?
13 A 2015.
14 Q And you went right to SHIP and
15 Fuzion?
16 A I did a consulting practice for
17 about six months, and then I came to SHIP.
18 Q And what was the consulting
19 practice?
20 A I had two clients. My second one
21 was Fuzion, and my first one was an outsourcing
22 agent that wanted my expertise in helping them
23 design a bid for a new client.
24 Q What was the name of this
25 consulting practice?

Page 14

1 Barry Staldine

2 A It was just under my name. It was

3 a sole proprietorship.

4 Q When you were last with CNO, what

5 were your -- what was title?

6 A Vice president of insurance

7 systems. I was also the chairman of the board of

8 an Indian outsourcing company where we did the

9 outsourcing for CNO, and computer operations and

10 application development.

11 Q Can you describe for us the

12 long-term care business in the years 2010 or so,

13 in terms of performance?

14 A As an industry?

15 Q Yes.

16 A Yeah. It's a bleak industry. It's

17 very difficult to manage. It has -- I'm going to

18 assume no -- no one knows about the long-term

19 care business.

20 It's -- it's very challenging

21 because of the long liability tail of being many

22 decades long. In addition, you make the

23 commitment in terms of the pricing early on and

24 when you sell the policy. So it has a lot of

25 risk related to interest rates.

Page 15

1 Barry Staldine

2 And since it's a relatively new,

3 given its tail, in liabilities, the underwriting

4 is very difficult to do because the underwriting

5 for long-term care didn't exist prior to the

6 '80s -- so very difficult to price, very

7 sensitive to the market, swings on interest

8 rates, and the assumptions were untested.

9 Q And between the years of 2010 to

10 2016, had it gotten better? Worse? The same?

11 A It -- well, I would throw in the

12 market rates went what's called low for long.

13 They were 5, 6 percent on the bonds in fixed

14 instruments; and then they've come down to the 3s

15 and 2 percents, which is significant when you've

16 got a lot of assets backing up those liabilities.

17 Q In 2008, SHIP came into existence,

18 right?

19 A Right.

20 Q Okay. Can you tell us how that

21 came about?

22 A Conseco at the time, which became

23 CNO, spun off that business, the long-term care

24 business.

25 Q Why?

Page 16

1 Barry Staldine

2 A I can't know what's directly in

3 their head, but I know it was a drag on their

4 earnings. So they spun it off, topped it off

5 with a significant amount of funds in terms of

6 both reserve coverage and then some additional

7 topping off -- did it in combination with the

8 Department of Insurance For Pennsylvania and set

9 it --

10 (Reporter clarification.)

11 A -- off to sale, in terms of its --

12 it was fully topped off given the environment at

13 the time, and plus a little more funding than it

14 probably needed at that time.

15 Q And when it first was spun off, can

16 you describe the chain of command in management?

17 A Yes. As it was spun off, there was

18 a group of trustees developed that were former

19 regulators, one of which was C. Everett Koop.

20 (There was a discussion off the

21 record.)

22 A And those -- those trustees

23 acquired that -- that business ownership, and it

24 was coming over with its topped-off nature, was

25 how it started, as an independent business.

Page 17

1 Barry Staldine

2 Does that answer your question?

3 Q Well, and I'm -- I'm trying to --

4 you identified C. Everett Koop, the former

5 surgeon general. You're not that old. And --

6 and who else was in charge of the management of

7 SHIP when it was first formed?

8 A As it spun off, the CEO -- that's

9 what you're after -- was John Wells, Brian

10 Wegner, Dean Sarantos [phonetic], I believe, a

11 cast of a few others that I -- I don't remember.

12 But those were the main characters I remember.

13 Q And what kind of regulatory

14 reporting does -- did SHIP have?

15 A Just like any other insurance

16 company would, regular, quarterly, Blue Books

17 that go to file directly with the Department of

18 Insurance and available to all the other states

19 as well, as well as what you would expect from

20 quarterly reporting and review.

21 But the Department of Insurance

22 would look at the those Blue Books. And there

23 were regular meetings with the Department of

24 Insurance from Pennsylvania as well.

25 Q And as a regulated entity, did SHIP

Page 18

1 Barry Staldine
2 have restrictions on their investments of their
3 assets by the regulators?
4 A Yes. The -- the structure in
5 coming up with a risk-based capital number is
6 that you need to stay at a certain level,
7 200 percent or above. And by virtue of that, you
8 have to adjust your assets into safe -- safe
9 lanes to achieve that. It doesn't mean all of
10 your assets have to be in the safe lanes, but you
11 have to have enough to keep your RBC ratio up.
12 Q Is there a measure as to how many
13 of your assets do not have to be in the safe
14 lane?
15 A I think it's a -- I -- I -- sitting
16 here, there may be. I can't tell you what it is.
17 But I know from a management perspective that
18 that RBC ratio is important. If you get below
19 200 percent, then you have to have plans and
20 reporting back to the Department of Insurance to
21 get that value back up.
22 Q Well, it's -- under 200 points,
23 there's a -- there's an issue. But my question
24 goes to the type of assets, speculative versus
25 conservative. Is there a breakdown of

Page 19

1 Barry Staldine
2 percentage?
3 MR. MATHIAS: Objection. Form.
4 You may answer.
5 A Well, we'll have John Robison come
6 in. That's probably a better question for, being
7 our chief investment officer. Certainly, we have
8 an investment policy. But he would be a better
9 source of that information.
10 Q But in terms of the regulatory,
11 which is, I understand, your topic, I just am
12 trying to figure out if -- if you knew of any
13 guidelines or any specifics as to how much of
14 your assets can be invested in speculative
15 investments versus more conservative investments.
16 MR. MATHIAS: Objection to form.
17 You may answer.
18 A Again, you've got to meet the RBC
19 number. So to the extent you've got enough
20 assets to cover that, the speculative assets go
21 into a nonadmitted form and they don't count
22 toward your RBC number -- so from that
23 perspective, yes.
24 Q And what happens if you fall below
25 200 points?

Page 20

1 Barry Staldine
2 A In our case, since we've worked so
3 closely with the Department of Insurance, they
4 gave us a target of 100 points because we were a
5 solvent runoff. We had no new access to capital.
6 As you go down below 100 percent, which would be
7 our target, then you have to work with the
8 Department of Insurance and come up with an
9 action plan.
10 Q So while the rest of the industry
11 has 200 points as their floor, you were given 100
12 points by the Department of Insurance?
13 A That's right.
14 Q And can you describe how that came
15 about?
16 A Through -- I think the Department
17 of Insurance in Pennsylvania was a strong
18 advocate for the structure because so many blocks
19 of closed-block insurance were coming down the
20 pike. So this was a model for that trend in the
21 long-term care insurance industry, and they
22 were -- we were one of the first ones to get that
23 from the Department of Insurance because they
24 understood what they were trying to do, what we
25 were trying to do.

Page 21

1 Barry Staldine
2 Q Did you receive any sort of notice
3 or order from the department granting that
4 deviance from the 200 floor?
5 A Yes. I believe we got a
6 correspondence.
7 MR. MORAN: I call for that
8 production, to the extent it has not
9 already been produced.
10 (Document, Order from Department of
11 Insurance granting a deviance from a 200
12 RBC ratio, requested.)
13 Q And did the 100 point floor, as I'm
14 calling it, change during the time that SHIP was
15 in existence?
16 A No.
17 Q Can you describe SHIP's
18 relationship with CNO after the spinoff?
19 A Initially, they were -- well, as
20 they spun off, not -- not much, other than some
21 of the staff had come from there. We did
22 manage -- or SHIP did manage the block of
23 business that CNO still owned on our -- on the
24 platforms that SHIP had. So it was a third-party
25 administrator relationship, customer-client.

Page 22

1 Barry Staldine

2 Q And in 2008, was that Fuzion that

3 was doing that?

4 A No. Fuzion didn't exist at that

5 point. It got spun up three, four, five years

6 later.

7 Q So in 2008, until Fuzion came into

8 existence, the third-party administration of the

9 CNO block of business was done by SHIP itself?

10 A Yes.

11 Q And during that period of time, can

12 you describe the level of communications between

13 SHIP and -- and CNO?

14 A It was as -- as you would expect,

15 monthly communications, quarterly reviews, as an

16 operations unit would get with their actuaries

17 and their financial people to do Q and A on how

18 the block was performing from a claims

19 administration and premium administrative

20 perspective.

21 Q And who specifically was it during,

22 let's say, the years 2008 to 2012 that was

23 primarily responsible for that communication on

24 the SHIP side?

25 A I wouldn't say there's a primary.

Page 23

1 Barry Staldine

2 Brian Wegner was certainly one from the

3 operations perspective, being claims

4 administrator, premium administration.

5 Ginger Darrough would have been a

6 part of the reserve discussion. At the time, I

7 think Holly Bakke was the CEO -- probably would

8 have been in those discussions. I mean, it

9 wasn't a significant source of revenue.

10 Q All right. You raised Holly Bakke.

11 Let's take a step back.

12 At what point did Holly Bakke

13 become CEO?

14 A Pretty quick after John was

15 appointed, she came in.

16 Q Okay. And can you describe the

17 reason for the turnaround?

18 A Well, I can't know what was in the

19 trustees' minds at the time. I believe they

20 wanted someone new in that seat that wasn't

21 attached to CNO or Conseco at the time.

22 Q Well, when you say you can't know

23 what was in the trustees' minds, you're here on

24 behalf of the SHIP entity to --

25 A Right.

Page 24

1 Barry Staldine

2 Q -- testify for the entity, correct?

3 A Right.

4 Q Okay. And so when I ask you

5 when -- when -- when I asked you the reasons why

6 the CEO was changed, I would expect that you

7 should know that.

8 Am I wrong about that?

9 A My response was, I --

10 MR. MATHIAS: Hold on. Hold on.

11 I'll object. He said he can't know

12 what is in the trustees' minds. That's the

13 way any board works. And there will be an

14 official reason for a change, and then

15 there will be what the individuals know.

16 So he's giving what he knows.

17 MR. MORAN: Do you have an

18 objection?

19 MR. MATHIAS: I do have an

20 objection.

21 MR. MORAN: Okay. It's on the

22 record. Thanks.

23 MR. MATHIAS: Okay.

24 Q Okay. I'm sorry. What year did

25 the change take place?

Page 25

1 Barry Staldine

2 A I believe it was pretty quick, in

3 2008-ish. I think it was almost right out of the

4 setoff of the company.

5 Q Okay. And how long had Holly Bakke

6 maintained the role of CEO?

7 A A year or so.

8 Q And -- all right. So what year,

9 approximately, did she -- was she terminated?

10 A I believe it was 2009.

11 Q And she was terminated, correct?

12 A Again, I'd -- I can't know exactly.

13 But there were -- I believe so.

14 Q Okay. Do you know why she was

15 terminated?

16 A There were personnel issues that

17 were cropping up at the time.

18 Q Can you be more specific?

19 A I don't know that I can. I can

20 recite some rumors, but I just know that she was

21 terminated for personal -- personnel reasons and

22 actions with the staff.

23 Q In preparation for your testimony

24 today, did you review documents?

25 A Yeah, I did. I probably put in

Page 30

1 Barry Staldine

2 Q When did it close?

3 A I'm not sure exactly. 2010, '11,

4 '12, '13. Some place in there. Sorry. My brain

5 is full.

6 Q Were there any discussions at this

7 point between Fuzion, I say -- I take it, and --

8 and Beechwood concerning the suitability of

9 investing with Beechwood -- with CNO, rather?

10 A Yeah. I'm sorry. Say that again.

11 Q I said:

12 Were there any discussions at this

13 point between Fuzion and Beechwood concerning the

14 suitability of the investments?

15 A The conversation would have been

16 between SHIP and that office pool. And

17 Beechwood, over time, after some period of time

18 had gone by and we got to know people and we

19 co-marketed with Beechwood to at least a couple

20 of clients, we saw what they were doing and what

21 their investment capabilities were purported to

22 be.

23 So that conversation naturally

24 evolved to investments, since that was part of

25 Beechwood's capability.

Page 31

1 Barry Staldine

2 Q And what did you see their

3 investment capability was panning out to be?

4 A Well, in their presentations to us

5 as that conversation evolved more was that they

6 had access to a broad range of credit

7 opportunities to enhance yield, which is what was

8 their business model. They could do better on

9 yield and still give yield to their customer and

10 make profit off the top of that.

11 Q And were these conversations you're

12 talking about in the context of SHIP doing

13 business with Beechwood?

14 A Yes, because these were at the

15 times when the interest rates went down. So all

16 insurance companies were searching for a yield.

17 Q Did SHIP have any discussions with

18 CNO about Beechwood's investing CNO assets at

19 that time?

20 A Other than we knew that they had,

21 through the reinsurance transaction, Beechwood --

22 any reinsurer would acquire the assets as well as

23 the liabilities. So we knew that they had

24 acquired that, gained some comfort that CNO had

25 done work and was comfortable moving their assets

Page 32

1 Barry Staldine

2 over as well as part of that reinsurance deal.

3 Q Did CNO express anything to SHIP

4 about the specifics of the underlying

5 investments?

6 A Not that I believe so.

7 Q During this time, did anyone at

8 SHIP see any investment statements from the CNO

9 block of business?

10 A Not that I believe so or know so.

11 Q Try to keep your voice up if you

12 can.

13 A I'm sorry.

14 Q It gets difficult when we drop into

15 our normal speaking patterns, but there's a lot

16 of people at the end of the table who might have

17 difficulty hearing you.

18 A Okay. Sorry.

19 Q I can hear you fine, so we'll just

20 keep going.

21 Can you describe SHIP's financial

22 condition at the end of 2013?

23 A 2013, we were approaching the 200

24 point mark in RBC and had, I think, \$40 million,

25 \$60 million in capital and surplus. The trend

Page 33

1 Barry Staldine

2 over those years, from when we spun off till that

3 point, was trending down from cap and surplus and

4 RBC perspective.

5 Q And I take it this is why you were

6 speaking about investing with Beechwood?

7 A Yeah.

8 MR. MATHIAS: Objection to form.

9 A Yeah.

10 MR. MATHIAS: You may answer.

11 A Yeah, exactly. I think all firms

12 were -- all firms were -- insurance firms were

13 looking for better yield, so, yes.

14 Q Who else were you talking to?

15 A No one else, I believe.

16 Q Why is that?

17 A Again, we gained -- gained a lot of

18 comfort from CNO, knowing that they had an

19 in-house capability as well they had a very

20 strong investment team. And we gained comfort

21 from that as well as the guarantees that were put

22 on the table.

23 Q Did SHIP have any communications

24 with CNO concerning any other possible suitors

25 for the investors?

Page 46

1 Barry Staldine

2 Q Tell me what, if any, vetting of

3 David Levy was done.

4 A To the same degree, from his bio.

5 He had experience with various funds, as is -- as

6 the presentation says, which is something that's

7 attractive to a shopper or someone that has some

8 accountability for your portfolio.

9 You don't want somebody that's not

10 done anything, and he had.

11 Q All right. I'm going to put before

12 you what's been previously marked as Exhibit 57.

13 (Previously Marked Exhibit No.

14 D 57, 4/10/14 E-Mail from Scott Taylor to

15 Mr. Wegner, with attachments Bates Nos.

16 BW-SHIP 70261 to 305, Document is

17 introduced into the proceedings.)

18 Q And I'll direct you to the

19 attachment to the E-Mail and, more specifically,

20 to the ninth page, which has the SHIP production

21 number of 70270.

22 A Okay.

23 Q Are you with me?

24 A I am.

25 Q So this is the page covering

Page 47

1 Barry Staldine

2 David Levy, correct?

3 A Right.

4 Q It reads:

5 "Mr. Levy has spent his career as

6 an investment specialist and portfolio manager."

7 A Um-hum.

8 Q "Mr. Levy served as deputy chief

9 investment officer at Platinum Partners Value

10 Arbitrage Fund LP. Mr. Levy has directly managed

11 over 250 million in capital and oversees over

12 1 billion in total investments. The focus of

13 Mr. Levy's investments is in asset-based lending

14 in a variety of industries and utilizing

15 credit-based strategies to generate returns with

16 less risk than traditional strategies."

17 And my question is:

18 Did anyone vet Platinum Partners

19 Value Arbitrage Fund at SHIP?

20 A I'm not aware of any vetting, but I

21 believe at that point in time they were a pretty

22 strong fund. Platinum Partner funds were pretty

23 strong, darlings of Wall Street.

24 Q And what is the basis for that

25 belief?

Page 48

1 Barry Staldine

2 A Wall Street Journal articles when

3 it eventually imploded.

4 Q Is this something that you knew

5 back then or SHIP as an institution knows? How

6 are we testifying here?

7 MR. MATHIAS: Objection.

8 A I -- I can't know if they knew back

9 then or not.

10 Q You can't know if they knew back

11 then or not. So then I take it you're testifying

12 here today from your preparation. Is that

13 correct?

14 A Yeah, exactly.

15 Q And in your preparation, did you

16 come across anything from 2014 that demonstrated

17 that they were the "darling" of Wall Street?

18 A Not that I came across in our

19 production. I was speaking from personal

20 experience outside of this role.

21 Q Okay. Now, I understand.

22 So -- your -- your comment that

23 back then Platinum was the "darling of

24 Wall Street" was based upon your own information?

25 A Exactly.

Page 49

1 Barry Staldine

2 Q Okay. And what information did you

3 have about that?

4 A Just, again, I think what I've --

5 what I gleaned from the Wall Street Journal

6 article that came out when it imploded and then a

7 little backwards research from there.

8 Q And in that backward research, you

9 learned that Platinum Partners in 2014 was

10 regarded as a "darling of Wall Street"?

11 A Yes. It performed very well.

12 Q Did anyone at SHIP look into

13 Mr. Levy's trading activities while he was with

14 Platinum Partners?

15 A No, I don't believe so.

16 Q Did anyone at SHIP look into the

17 background of any other personnel from Beechwood?

18 A Not other than the materials we've

19 had here and the numerous conversations we had

20 with Beechwood, between trustees, board, senior

21 management, and our observations and

22 understanding of what CNO had done in the

23 reinsurance engagement.

24 Q Was there any relationship --

25 withdrawn.

Page 54

1 Barry Staldine
2 would be, circled around with the guarantees that
3 became part of it.
4 Q Were there any caveats to that
5 discretion?
6 A Certainly, the reporting back to us
7 in terms of what the custodian would be and the
8 guarantee, I think there was discussions. There
9 may be caveats. That -- that may be a better
10 question for John Robison.
11 Q What about caveats as it relates
12 specifically to regulatory concerns?
13 A Well, still, we would have to stay
14 within bounds on limited partnership caveats in
15 terms of what the Department of Insurance would
16 allow for us, so, yes.
17 Q And did anyone at SHIP monitor the
18 investments to main -- to assure that that was
19 being maintained?
20 A From those limited partnership
21 perspectives, yes.
22 Q And who at SHIP did that?
23 A The CFO, Paul Lorentz.
24 Q I put before you what we've
25 previously marked as Exhibit 60.

Page 55

1 Barry Staldine
2 (Previously Marked Exhibit
3 No. D 60, June 13, 2014 Investment
4 Management Agreement Between SHIP and
5 Beechwood is introduced into the
6 proceedings.)
7 Q And I'll ask you if you've seen
8 that before.
9 A I take it this is the second IMA,
10 in terms of chronology.
11 Q Well, it's an investment management
12 agreement dated as of June 13, 2014.
13 A Yes.
14 Q Is that the second IMA?
15 A Yes.
16 Q You understand what I mean when I
17 say "IMA," right?
18 A Yes.
19 Q And was this entered into by SHIP?
20 A It was.
21 Q And this -- this agreement is
22 between SHIP and Beechwood Re Limited as advisor,
23 correct?
24 A That's right.
25 Q And what was the reason for the

Page 56

1 Barry Staldine
2 different entities you were entering into
3 agreements with?
4 A It was by design. Paul wanted to
5 spread his exposure to Beechwood among more than
6 one entity within Beechwood, as you would with
7 any diversified portfolio. You don't put all
8 your eggs in one basket if you don't have to.
9 Q And was there in -- a difference in
10 the investment model between the two IMAs?
11 A No, not that I'm aware of.
12 Q Did the investment management
13 agreement in Exhibit 60 have the same terms as to
14 any -- as to the guaranteed return?
15 A That's my understanding.
16 Q And the performance fee?
17 (There was a discussion off the
18 record.)
19 A Yes. If it was over 5.85, yes.
20 Q And the guarantee?
21 A Yes.
22 Q And it's also a discretionary
23 account?
24 A Yes.
25 Q Before entering into this

Page 57

1 Barry Staldine
2 investment management agreement dated June 13,
3 2014, what, if any, further due diligence was
4 undertaken to Beechwood and its personnel?
5 A The -- the due diligence came in
6 the form of execution. We didn't write a check
7 for the full amount of the IMAs at each
8 indication. We stepped it up over time and got
9 back reporting and discussions as we went
10 through.
11 So that was the in-operation due
12 diligence to see that it was performing the way
13 that we had expected.
14 Q Well, that -- that's due
15 diligence -- due diligence term of performance.
16 But was there any further due diligence into the
17 personnel of Beechwood?
18 A No, not that I believe.
19 Q I'm going to put before you what
20 we've marked previously as Exhibit 63.
21 (Previously Marked Exhibit No.
22 D 63, December 29, 2014 E-Mail from Brian
23 Wegner to Julianne Bowler, Subject:
24 Tuesday Call, Bates No. SHIP 0026103 is
25 introduced into the proceedings.)

Page 78

1 Barry Staldine
2 there was any communication between SHIP and
3 Vanbridge concerning that?
4 A Regarding the ownership, I don't
5 believe so.
6 MR. MORAN: Well, to the extent
7 that there is any, I call for its
8 production.
9 (Document, Communication between
10 Vanbridge and SHIP regarding Beechwood Re's
11 ownership, requested.)
12 Q I'm going to show you what we've
13 previously marked as Exhibit 65.
14 (Previously Marked Exhibit No.
15 D 65, Third IMA, Bates Nos. SHIP 0019797 to
16 19833, and attachment Bates Nos. SHIP 19793
17 to 19796 Document is introduced into the
18 proceedings.)
19 Q And have you seen that before?
20 A This is the surplus note,
21 investment management agreement?
22 Q I'm asking if you've seen that
23 before.
24 A Yes, I've seen the first two. And
25 this appears to be the third.

Page 79

1 Barry Staldine
2 MR. MATHIAS: I'll note for the
3 record, Robison is designated to talk about
4 the third IMA.
5 A So, no, I haven't reviewed this in
6 detail.
7 Q I show you what we have previously
8 marked as Exhibit 66.
9 (Previously Marked Exhibit No.
10 D 66, February 2015 Pledge Agreement,
11 Promissory Note and Surplus Note is
12 introduced into the proceedings.)
13 Q Have you seen that before?
14 A No, I have not.
15 Q Okay. I'll note for the record
16 that it's a series of documents, the first one
17 being a pledge agreement made the 19th day of
18 February, 2015. The next document is a secured
19 promissory note for \$50 million dated
20 February 19, 2015. And the final document is
21 entitled "Surplus Note."
22 Have you seen any of those
23 documents?
24 A No. Those are reserved for
25 John Robison.

Page 80

1 Barry Staldine
2 MR. MATHIAS: John Robison is the
3 designee for that.
4 Q Let's go back to the Protiviti
5 memo, Exhibit 64.
6 A Okay.
7 Q Prior to entering into the deal,
8 the surplus note deal, did SHIP carry out the due
9 diligence that Protiviti report deemed to be
10 required?
11 MR. MATHIAS: Objection.
12 You may answer.
13 A I don't know. Again, I would -- I
14 would reserve all the surplus note and that last
15 IMI -- IMR -- IMA questions for John.
16 Q All right. At this point, I'm
17 going to show you what I'm marking -- I think
18 we're up to 132.
19 (Exhibit No. P 132, Document, SHIP
20 production number 01272548, April 23, 2018
21 E-Mail From Julie Bowler to John Morrison
22 is marked by the reporter for
23 identification.)
24 Q And I'll ask, have you seen this
25 before?

Page 81

1 Barry Staldine
2 A I have not.
3 Q All right. Now, I will represent
4 that it's a document on SHIP production number
5 01272548. It is an E-Mail from Julie Bowler
6 dated Monday, April 23rd, 2018, to John Morrison,
7 subject "Protiviti memos," with attachments
8 identified.
9 Who is John Morrison?
10 A He's a trustee and board member.
11 Q And it's on SHIP production Bates
12 numbers.
13 I'll ask:
14 Is this the type of document that
15 is normally kept in the business practice of
16 SHIP?
17 A In terms of E-Mails, yes, E-Mails
18 are kept.
19 Q And was this document kept in the
20 normal business practice of SHIP?
21 A As far as I -- I'm aware, yes.
22 Q I'll note that it reads:
23 "John, I am attaching three docs
24 for you. The first is the report that Protiviti
25 did for management without informing the audit

Page 82

1 Barry Staldine
2 committee that this was requested by management
3 or sharing the results with the audit comm,"
4 meaning "committee."
5 "As you can see, they identified
6 several defects that need to be corrected prior
7 to consummating the deal. While it is addressed
8 to SHIP management, we were told that this was
9 sent to Paul, who claimed he never saw it. The
10 existence of this was disclosed to me by Barry
11 after he became acting CEO and had access to all
12 of Brian's docs. The second is an E-Mail from an
13 outside law firm to Pat Carmody."
14 And then there's a redaction.
15 Do you see that?
16 A I do.
17 Q Are you the "Barry" referred to
18 herein?
19 A I believe so.
20 Q Do you recall what she's describing
21 here?
22 A I do not. But that doesn't mean I
23 didn't send it.
24 Q Do you recall disclosing -- well,
25 withdrawn.

Page 83

1 Barry Staldine
2 The exhibit we looked at before
3 Exhibit 64, the Protiviti memo, do you recall if
4 this is the document that is being identified by
5 Julie Bowler in this E-Mail?
6 A I don't. I don't recall.
7 Q Do you recall bringing anything to
8 Paul Lorentz and asking him if he saw this
9 document, which he denied?
10 MR. MATHIAS: Objection.
11 You may answer.
12 A I don't recall that I did or
13 didn't.
14 Q Why was -- withdrawn.
15 Was Wegner terminated?
16 A He was.
17 Q Why?
18 A For a variety of issues. One was
19 related to the ultimate performance of Beechwood.
20 Others were -- other reasons were loss of
21 confidence generally, judgment, and some
22 personnel issues.
23 Q I'll note that the production
24 number at the bottom of this document 132 is
25 ending 127258.

Page 84

1 Barry Staldine
2 Do you see that?
3 A Yes.
4 Q Exhibit 64, the Protiviti memo,
5 begins SHIP 0127259.
6 Do you see that?
7 A Yes.
8 Q Does that help you to recall
9 whether or not this was -- this E-Mail was
10 identifying the Protiviti memo, Exhibit 64?
11 MR. MATHIAS: Objection.
12 You may answer.
13 A I can't know. They published more
14 than one document in their tenure.
15 Q But they were produced
16 sequentially. You see that, right?
17 A If that's your point, yes. Yes, I
18 see that they're sequential.
19 Q Does that help you to remember
20 whether or not these two documents go together?
21 MR. MATHIAS: Objection.
22 You may answer.
23 A No. I don't know how they were
24 compiled.
25 Q In the attachment portion of

Page 85

1 Barry Staldine
2 Exhibit 132, where it identifies the attachments,
3 you see the first one says:
4 "Protiviti draft memo 2015.pdf."
5 Do you see that?
6 A I do.
7 Q Does that help you to recall
8 whether or not these two go together?
9 MR. MATHIAS: Objection.
10 You may answer.
11 A I'd be speculating if I -- if I
12 were. I see the subject lines are different
13 between the title and the due diligence for IMA
14 and surplus loan transaction review. That puts a
15 question in my mind. But, again, I don't know.
16 I don't remember.
17 Q I'm sorry. You see a difference
18 between the title and the due diligence?
19 A The attachment says "IMA due
20 diligence"; the subject says "surplus loan
21 transaction review and analysis" on this document
22 number 64.
23 Again, I'm saying, no, I can't
24 clearly connect those two.
25 Q Right. So let's go back to the

<p style="text-align: right;">Page 150</p> <p>1 Barry Staldine</p> <p>2 A No.</p> <p>3 MR. CANTER: Objection.</p> <p>4 Q I'm going to show you what I think</p> <p>5 is 140.</p> <p>6 (Exhibit No. D 140, January 15,</p> <p>7 2015 Letter, Bates No. SHIP 0033762 is</p> <p>8 marked by the reporter for identification.)</p> <p>9 Q This January 15, 2015 letter, the</p> <p>10 first page has a Bates number of SHIP 0033762.</p> <p>11 A It does.</p> <p>12 Q So taking -- it -- that was more</p> <p>13 for the record than -- that for you. I realize</p> <p>14 that was confusing. I apologize. Counsel has</p> <p>15 asked -- has asked that we put the Bates numbers</p> <p>16 on the record for these, and I know that's --</p> <p>17 MR. MATHIAS: Okay. So this --</p> <p>18 this is from the SHIP production?</p> <p>19 MR. GOULD: Correct.</p> <p>20 MR. MATHIAS: Okay.</p> <p>21 Q So I'm correct that this is a</p> <p>22 multipage letter, January -- dated January 15,</p> <p>23 2015, to Mr. Lorentz; is that right?</p> <p>24 A That's what I read as well.</p> <p>25 Q The way you answered that, it makes</p>	<p style="text-align: right;">Page 152</p> <p>1 Barry Staldine</p> <p>2 that Mark Nordlicht is involved with Beechwood;</p> <p>3 is that right?</p> <p>4 MR. MATHIAS: Objection.</p> <p>5 You may -- you may answer.</p> <p>6 I'll let him answer this. I think</p> <p>7 this is more Robison, but go ahead.</p> <p>8 A Yeah. What I -- I would read, I</p> <p>9 would read that -- because he's signing for</p> <p>10 Beechwood Investments, we would know that he was</p> <p>11 related to Beechwood Investments.</p> <p>12 But I -- I don't think we had any</p> <p>13 knowledge of who he was.</p> <p>14 Q Okay. But -- and, Counsel, your</p> <p>15 point is, this is more of a Robison question</p> <p>16 than --</p> <p>17 MR. MATHIAS: Yeah, but the --</p> <p>18 because it's getting into the financing of</p> <p>19 a particular deal. But I don't have any</p> <p>20 problem with the overview questions.</p> <p>21 Q And taking a look at the first</p> <p>22 page, the percent per annum rate, I think it's</p> <p>23 the, what, third paragraph down there? That's</p> <p>24 that 5.85 percent that you were talking about</p> <p>25 earlier?</p>
<p style="text-align: right;">Page 151</p> <p>1 Barry Staldine</p> <p>2 me feel like this is the first time you've seen</p> <p>3 this?</p> <p>4 A Yes.</p> <p>5 Q You don't recall seeing this</p> <p>6 document?</p> <p>7 A No.</p> <p>8 Q And am I right that, if you look at</p> <p>9 the last page, there isn't a signature on it; but</p> <p>10 the person un -- over -- the person in the</p> <p>11 signature block is Mark Nordlicht?</p> <p>12 A Um-hum.</p> <p>13 Q Is that right?</p> <p>14 A That's -- yes, that's what I see.</p> <p>15 Q And then somebody, am I correct,</p> <p>16 has signed it on behalf of SHIP?</p> <p>17 A I think that's Brian's signature as</p> <p>18 president, yes.</p> <p>19 Q Yes. And he's -- and, in fact,</p> <p>20 it's -- it is hard to read his signature. But</p> <p>21 his name is written below that, correct?</p> <p>22 A Yes. Right.</p> <p>23 Q As president and CEO?</p> <p>24 A That's right.</p> <p>25 Q So at this point, SHIP is aware</p>	<p style="text-align: right;">Page 153</p> <p>1 Barry Staldine</p> <p>2 A Right.</p> <p>3 Q At that time, when -- if -- if SHIP</p> <p>4 could cast its mind back to when that figure</p> <p>5 first was put on the table, was it happy with</p> <p>6 that? Is that a good rate of return at that</p> <p>7 time?</p> <p>8 MR. MATHIAS: Objection to form.</p> <p>9 You may answer.</p> <p>10 A Yes, clearly, or we wouldn't have</p> <p>11 signed the deal because market rates were in the</p> <p>12 2 and 3 percent range.</p> <p>13 Q Was SHIP surprised at how high that</p> <p>14 rate of return was?</p> <p>15 MR. MATHIAS: Objection to form.</p> <p>16 You may answer.</p> <p>17 A I don't know.</p> <p>18 Q You would agree with me as SHIP</p> <p>19 and -- and Fuzion that, if somebody came in and</p> <p>20 said, "I'm going to get you a 50 percent rate of</p> <p>21 return," you would have a suspicion about that.</p> <p>22 Fair to say?</p> <p>23 MR. MATHIAS: Objection to form.</p> <p>24 You may answer.</p> <p>25 A That's a fair question and fair</p>

<p style="text-align: right;">Page 154</p> <p>1 Barry Staldine</p> <p>2 statement, yes.</p> <p>3 Q And you would do some research and</p> <p>4 due diligence to see what was behind that</p> <p>5 50 percent; is that right?</p> <p>6 MR. MATHIAS: Objection.</p> <p>7 A Yes.</p> <p>8 Q So I guess what I'm ask -- I guess</p> <p>9 what I'm asking is:</p> <p>10 At the time that SHIP learned of</p> <p>11 this almost 6 percent guaranteed, was that a</p> <p>12 surprise to them?</p> <p>13 MR. MATHIAS: Objection to form.</p> <p>14 You may answer.</p> <p>15 A My belief would be, no, that it was</p> <p>16 a -- a nice return. You can certainly capture</p> <p>17 higher returns with higher risk.</p> <p>18 The counterpart to -- to your</p> <p>19 question is what risk was assumed with the 5.85.</p> <p>20 And we talked about before the -- the pedigree of</p> <p>21 the people that were part of a -- the guarantee</p> <p>22 on the return, over-collateralization associated</p> <p>23 with these -- gave us comfort that the risk</p> <p>24 associated with that 5.85 was lower than what we</p> <p>25 would have gotten out of the market for an</p>	<p style="text-align: right;">Page 156</p> <p>1 Barry Staldine</p> <p>2 that part of Mr. Levy's CV was working at</p> <p>3 Platinum.</p> <p>4 Is that -- is that right?</p> <p>5 A Right.</p> <p>6 Q How did that factor into SHIP's</p> <p>7 evaluation of -- of this proposal?</p> <p>8 A Well, again, at that time Platinum</p> <p>9 was a respected firm. You would look for</p> <p>10 portfolio managers that had experience in the</p> <p>11 industry. That checked the box. He had</p> <p>12 experience in the industry.</p> <p>13 Q So at that time, not what you know</p> <p>14 now, but at that time, it was a -- it was a</p> <p>15 positive?</p> <p>16 A Right. It wasn't a negative</p> <p>17 because, again, Platinum was a respected firm.</p> <p>18 Q This may be for your colleague, who</p> <p>19 is coming. What if any contact did SHIP have</p> <p>20 with Mark Nordlicht with regard to this?</p> <p>21 MR. MATHIAS: With regard to?</p> <p>22 MR. GOULD: To this document.</p> <p>23 MR. MATHIAS: The January 15 --</p> <p>24 MR. GOULD: Yes.</p> <p>25 MR. MATHIAS: -- 2015 letter?</p>
<p style="text-align: right;">Page 155</p> <p>1 Barry Staldine</p> <p>2 investment, which could have been had, but</p> <p>3 without the guarantees.</p> <p>4 Q In that answer, you said the</p> <p>5 "pedigree" of the people associated with it.</p> <p>6 What did you mean by that?</p> <p>7 A With Mark Feuer and Scott Taylor,</p> <p>8 given the Marsh experience they had and the</p> <p>9 Merrill Lynch experience they had and what they</p> <p>10 purported in terms of their experiences and</p> <p>11 capitalization -- and that's -- that's the</p> <p>12 pedigree.</p> <p>13 And the experience that they had</p> <p>14 with CNO in reinsuring it and the approvals they</p> <p>15 got from both Departments of Insurance for that</p> <p>16 deal, which was more sizeable than what we were</p> <p>17 doing, gave us comfort that their pedigree and</p> <p>18 their approach was something that helped us.</p> <p>19 Q What about the fact that Mr. Levy</p> <p>20 had worked at Platinum? Did SHIP factor that in?</p> <p>21 A At that point, Platinum was --</p> <p>22 wasn't under scrutiny.</p> <p>23 Q No. But you -- in prior questions,</p> <p>24 you responded that part of the due diligence --</p> <p>25 due diligence that actually was done on this was</p>	<p style="text-align: right;">Page 157</p> <p>1 Barry Staldine</p> <p>2 A None that I'm aware of.</p> <p>3 Q What about prior to this?</p> <p>4 A None.</p> <p>5 Q So up until January '15 and this</p> <p>6 letter, you're confident sitting here now that</p> <p>7 SHIP had no contact with Mr. Nordlicht?</p> <p>8 A I'm confident --</p> <p>9 MR. MATHIAS: Objection to form.</p> <p>10 You may answer.</p> <p>11 A Yeah. I'm confident that SHIP had</p> <p>12 no knowledge of it. We may have uncovered things</p> <p>13 as part of the research here that I don't know</p> <p>14 about, but my understanding is we didn't know who</p> <p>15 he was and had had no contact with him.</p> <p>16 Q And that includes -- when you</p> <p>17 answered that, that includes Fuzion as well SHIP</p> <p>18 and Fuzion?</p> <p>19 A Yes.</p> <p>20 Q Okay.</p> <p>21 A Same people.</p> <p>22 Q I'm sorry?</p> <p>23 A They're the same people.</p> <p>24 Q Yes. That's what --</p> <p>25 MR. GOULD: Counsel, again I -- I</p>

<p style="text-align: right;">Page 222</p> <p>1 Barry Staldine</p> <p>2 overlap here -- SHIP and Beechwood were</p> <p>3 negotiating the terms of a third IMA, correct?</p> <p>4 A Um-hum.</p> <p>5 Q And that was between BAM and SHIP,</p> <p>6 correct?</p> <p>7 A I believe so.</p> <p>8 MR. MATHIAS: Mr. Robison is --</p> <p>9 I'll let you go. But Mr. Robison is</p> <p>10 designated on the third IMA.</p> <p>11 MR. CANTER: It's just flirting</p> <p>12 with the topic.</p> <p>13 Q So I'm going to show you a</p> <p>14 document, and I believe it may have been marked</p> <p>15 already, as Exhibit 63, if you can pull that out.</p> <p>16 (There was a discussion off the</p> <p>17 record.)</p> <p>18 (Previously Marked Exhibit</p> <p>19 No. D 63, Memo to SHIP Management, Bates</p> <p>20 No. SHIP 0127259 is introduced into the</p> <p>21 proceedings.)</p> <p>22 A 63. A one-pager.</p> <p>23 Q Yes. And I just want to focus your</p> <p>24 attention on the first paragraph. It says:</p> <p>25 "One item for tomorrow's call is to</p>	<p style="text-align: right;">Page 224</p> <p>1 Barry Staldine</p> <p>2 Investments, LLC?</p> <p>3 A I believe so.</p> <p>4 Q And what information was provided</p> <p>5 about that entity?</p> <p>6 A I can't answer the question. I --</p> <p>7 I don't know.</p> <p>8 Q Okay. So one of the topics that</p> <p>9 you're here to testify about today is the</p> <p>10 capitalization of Beechwood, correct?</p> <p>11 A Um-hum, my understanding of it.</p> <p>12 Q Your understanding of it.</p> <p>13 A Right.</p> <p>14 Q So is it your understanding that</p> <p>15 Beechwood provided SHIP with information about</p> <p>16 its capitalization in December of 2014 or January</p> <p>17 of 2015?</p> <p>18 A I know they did, but I couldn't</p> <p>19 tell you the date.</p> <p>20 Q Okay. So you know that information</p> <p>21 about the capitalization of Beechwood was</p> <p>22 provided to SHIP around that time?</p> <p>23 A I believe so.</p> <p>24 Q Okay.</p> <p>25 MR. MATHIAS: Objection to the form</p>
<p style="text-align: right;">Page 223</p> <p>1 Barry Staldine</p> <p>2 discuss the RBC strengthening through various</p> <p>3 vehicles we are planing with Beechwood. We</p> <p>4 raised this at the board meeting, and Greg raised</p> <p>5 a concern about whether we are getting too close</p> <p>6 to Beechwood and whether we had done our due</p> <p>7 diligence."</p> <p>8 Were members of SHIP's board</p> <p>9 concerned about the quality of the due diligence</p> <p>10 that had been done on Beechwood prior to</p> <p>11 December 2014?</p> <p>12 A I can take this note for what it's</p> <p>13 worth. I think it was becoming more of a concern</p> <p>14 because we were putting more money and more money</p> <p>15 into it, this being the third IMA.</p> <p>16 Q Okay. So there were no concerns</p> <p>17 about what had been done previously?</p> <p>18 A I don't know if I would say --</p> <p>19 MR. MATHIAS: Objection.</p> <p>20 A I don't know if I'd say none, but</p> <p>21 it was -- I think it was on an increasing scale,</p> <p>22 given our exposure.</p> <p>23 Q So in connection with these</p> <p>24 transactions, did Beechwood provide SHIP with</p> <p>25 information about an entity called Beechwood Re</p>	<p style="text-align: right;">Page 225</p> <p>1 Barry Staldine</p> <p>2 of that question. Sorry.</p> <p>3 MR. CANTER: So I'd like to mark</p> <p>4 the next exhibit. I believe it's 146.</p> <p>5 (Exhibit No. D 146, January 14,</p> <p>6 2015 E-Mail from Paul Lorentz to Gerald</p> <p>7 Hocksang is marked by the reporter for</p> <p>8 identification.)</p> <p>9 Q And this is an E-Mail from</p> <p>10 Paul Lorentz to Gerald -- is that</p> <p>11 Hocksang [phonetic] -- dated January 14, 2015,</p> <p>12 and the subject of the E-Mail is Beechwood Re</p> <p>13 Investments, LLC BS as of 12/31/2014.</p> <p>14 A Okay. I caught up with you.</p> <p>15 Q Sorry. I'm reading too quickly.</p> <p>16 So focusing on the second E-Mail,</p> <p>17 Christian Thomas appears to write --</p> <p>18 A Um-hum.</p> <p>19 Q "Attached is a balance sheet for</p> <p>20 BR LLC. Payable relates to a demand note issued</p> <p>21 by BRILLC to Beechwood Bermuda, BBIL, and</p> <p>22 Beechwood Re, BR, to provide" --</p> <p>23 (Reporter clarification.)</p> <p>24 Q -- "to provide capital on balance</p> <p>25 sheet and emergency access to capital. There is</p>

Page 226	Page 228
<p>1 Barry Staldine</p> <p>2 no existing schedule of payment, as note can be</p> <p>3 drawn on demand by BBIL or BRe."</p> <p>4 As of this time, was it SHIP's</p> <p>5 understanding that Beechwood Re Investments, LLC</p> <p>6 had issued a demand note to BBIL and Beechwood</p> <p>7 Re?</p> <p>8 MR. MATHIAS: I think this is more</p> <p>9 Robison. But if you can answer, go ahead.</p> <p>10 A I -- I probably won't do a good job</p> <p>11 because I've got very sketchy knowledge on this.</p> <p>12 Q So one of the topics you're --</p> <p>13 (There was a discussion off the</p> <p>14 record.)</p> <p>15 Q So you're here today to testify,</p> <p>16 among other things, about SHIP's understanding of</p> <p>17 the capitalization of Beechwood, correct?</p> <p>18 A That's correct.</p> <p>19 Q Okay. And this sentence says that</p> <p>20 there was a demand note issued by Beechwood Re</p> <p>21 Investments, LLC to two Beechwood entities,</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q Okay. And it is also says that</p> <p>25 that demand note was issued to provide those</p>	<p>1 Barry Staldine</p> <p>2 Q Okay. And so, again, just so we're</p> <p>3 clear, Beechwood Re Investments, LLC had issued a</p> <p>4 demand note to Beechwood entities?</p> <p>5 A Um-hum.</p> <p>6 Q And the purpose of that demand</p> <p>7 note, according to this E-Mail, was to provide</p> <p>8 those entities with capital?</p> <p>9 MR. MATHIAS: Objection to form.</p> <p>10 A It doesn't say that. It just says</p> <p>11 they issued a note.</p> <p>12 Q Okay.</p> <p>13 A It doesn't say why.</p> <p>14 Q And I'm just going to -- to read</p> <p>15 from this. It says:</p> <p>16 "To provide capital on balance</p> <p>17 sheet and emergency access to capital."</p> <p>18 Do you see that?</p> <p>19 A No. You're right.</p> <p>20 Q So you agree that this says --</p> <p>21 A That that's what it says.</p> <p>22 Q -- that's a demand note?</p> <p>23 MR. MATHIAS: Let him finish.</p> <p>24 Q The demand note was issued to</p> <p>25 provide capital on those entities' balance</p>
Page 227	Page 229
<p>1 Barry Staldine</p> <p>2 entities with balance sheet capital, correct?</p> <p>3 A Okay.</p> <p>4 Q Okay. So as of January 14, 2015,</p> <p>5 SHIP had an understanding, or SHIP understood</p> <p>6 that Beechwood Re Investments, LLC had provided</p> <p>7 capital to certain Beechwood entities?</p> <p>8 MR. MATHIAS: Objection to form.</p> <p>9 You may answer.</p> <p>10 A All I can do is reflect on what the</p> <p>11 document says.</p> <p>12 Q Okay. What does the document say?</p> <p>13 A Just what you just read, that they</p> <p>14 had provided a demand note.</p> <p>15 Q What was the purpose of the demand</p> <p>16 note?</p> <p>17 MR. MATHIAS: Objection to form.</p> <p>18 You may answer.</p> <p>19 A I -- I'm not going -- again, I'm</p> <p>20 not going to do a good job on this because it's</p> <p>21 just come in front of me. I see a balance sheet.</p> <p>22 I see them saying they were going to fund, issued</p> <p>23 by BRILLC, as we call it, to BBIL and Beechwood</p> <p>24 Re Insurance to provide capital on the balance</p> <p>25 sheet.</p>	<p>1 Barry Staldine</p> <p>2 sheets?</p> <p>3 A Yes, I agree that's what that says.</p> <p>4 Q Okay. So I want to refer you to a</p> <p>5 document that was previously marked as</p> <p>6 Exhibit 140.</p> <p>7 Okay.</p> <p>8 A Okay.</p> <p>9 Q And I see your counsel getting</p> <p>10 antsy; I'll keep this quick.</p> <p>11 A I can be antsy.</p> <p>12 Q This letter is dated</p> <p>13 January 15th, 2015, correct?</p> <p>14 A Yes.</p> <p>15 Q So that's the day after the E-Mail</p> <p>16 that we were just looking at, correct?</p> <p>17 A Okay.</p> <p>18 Q And the letterhead at the top, that</p> <p>19 entity is Beechwood Re Investments, LLC, correct?</p> <p>20 A Yes.</p> <p>21 Q Okay. I just want to flip to the</p> <p>22 signature page. This is signed on behalf of</p> <p>23 Beechwood Re Investments, LLC by N Management</p> <p>24 LLC, its manager, correct?</p> <p>25 A Right.</p>

<p style="text-align: right;">Page 230</p> <p>1 Barry Staldine</p> <p>2 Q Okay. And the authorized</p> <p>3 signature -- signatory for N Management LLC, I</p> <p>4 know you don't recognize that signature, but the</p> <p>5 name appears to be Mark Nordlicht.</p> <p>6 Is that correct?</p> <p>7 A That's right.</p> <p>8 Q So as of January 15th, 2015, was it</p> <p>9 SHIP's understanding that Beechwood Re</p> <p>10 Investments, LLC, managed by N Management LLC,</p> <p>11 provided capital to the Beechwood entities?</p> <p>12 MR. MATHIAS: Objection to form.</p> <p>13 You may answer.</p> <p>14 A Without considering this document</p> <p>15 in more detail, I can't come to that conclusion.</p> <p>16 Q Well, let's take a step back.</p> <p>17 You previously testified, just a</p> <p>18 few minutes ago, that Beechwood Re Investments,</p> <p>19 LLC had issued a demand note to Beechwood</p> <p>20 entities to provide those entities with capital,</p> <p>21 correct?</p> <p>22 A Right, right.</p> <p>23 Q Okay. And then this -- this</p> <p>24 document is signed by N Management LLC, with an</p> <p>25 authorized signatory of Mark Nordlicht, correct?</p>	<p style="text-align: right;">Page 232</p> <p>1 Barry Staldine</p> <p>2 MR. CANTER: 147. Okay. I'm going</p> <p>3 to mark this as Exhibit 147, and this --</p> <p>4 (Exhibit No. D 147, April 2, 2015</p> <p>5 E-Mail From Paul Lorentz to Janice Icheck</p> <p>6 [phonetic], Bates No. SHIP 0016014 is</p> <p>7 marked by the reporter for identification.)</p> <p>8 Q This is an E-Mail from Paul Lorentz</p> <p>9 to Janice Icheck dated April 2nd, 2015, and it's</p> <p>10 Bates stamped SHIP 0016014.</p> <p>11 Let me know when you've had a</p> <p>12 second to review it.</p> <p>13 A Okay. I'm with you.</p> <p>14 Q Okay. And I just want to focus</p> <p>15 your attention on the second paragraph of the</p> <p>16 bottom E-Mail. And it says:</p> <p>17 "Would you please provide" lists</p> <p>18 of -- "provide a list of BAM's principals we can</p> <p>19 have for our records," question mark. "The asset</p> <p>20 manager LP has the following partners: The asset</p> <p>21 manager GP LLC as general partner, David I. Levy</p> <p>22 Family Trust as Class A partner, and David I.</p> <p>23 Levy Family Trust II as Class B partner. Each</p> <p>24 trust has the same 23 beneficiaries. Only Scott</p> <p>25 A. Taylor and Mark Feuer have beneficial interest</p>
<p style="text-align: right;">Page 231</p> <p>1 Barry Staldine</p> <p>2 MR. MATHIAS: Okay. Hold on. I'm</p> <p>3 going to let him answer the question; but,</p> <p>4 again, I'll point out Robison is the</p> <p>5 witness for this.</p> <p>6 Go ahead if you know.</p> <p>7 A Yes, I can see that he signed that</p> <p>8 agreement for what looks like the third</p> <p>9 investment management agreement.</p> <p>10 Q Okay. And at this time, did SHIP</p> <p>11 perform any due diligence on N Management LLC?</p> <p>12 MR. MATHIAS: Objection.</p> <p>13 A Not that I'm aware of.</p> <p>14 Q Did it perform any due diligence on</p> <p>15 Mark Nordlicht?</p> <p>16 A Not that I'm aware of.</p> <p>17 Q Okay. And did it provide -- did it</p> <p>18 perform any due diligence on Beechwood Re</p> <p>19 Investments, LLC?</p> <p>20 A Not any other than what we had</p> <p>21 already done on Beechwood overall.</p> <p>22 Q Okay.</p> <p>23 MR. CANTER: So I think -- are we</p> <p>24 up to one forty?</p> <p>25 THE REPORTER: 147.</p>	<p style="text-align: right;">Page 233</p> <p>1 Barry Staldine</p> <p>2 in excess of 10 percent of each trust."</p> <p>3 Do you see that?</p> <p>4 A I do.</p> <p>5 Q And this is forwarded to Paul</p> <p>6 Lorentz, correct?</p> <p>7 A Yes.</p> <p>8 Q And Paul Lorentz forwards it to</p> <p>9 Janice Icheck, correct?</p> <p>10 A Yes.</p> <p>11 Q Okay. At any point did SHIP ask</p> <p>12 for the identities of the 23 beneficiaries of the</p> <p>13 David I. Levy Family Trust and the David I. Levy</p> <p>14 Family Trust II?</p> <p>15 A Not that I'm aware of.</p> <p>16 Q And, again, this is dated April</p> <p>17 2015, correct?</p> <p>18 A Um-hum. Yes, that Paul sent it to</p> <p>19 Jan.</p> <p>20 Q Okay. And I'm guessing -- well,</p> <p>21 strike that.</p> <p>22 Did anyone ask what the difference</p> <p>23 between Class A and Class B shares were?</p> <p>24 A Not that I'm aware of.</p> <p>25 Q So now I'm going to show you a</p>

<p style="text-align: right;">Page 234</p> <p>1 Barry Staldine</p> <p>2 document that's been marked -- or let's mark</p> <p>3 this.</p> <p>4 MR. CANTER: What number are we up</p> <p>5 to?</p> <p>6 THE REPORTER: 148.</p> <p>7 (Exhibit No. D 148,</p> <p>8 September 14, 2015 E-Mail Between Thomas</p> <p>9 Hampton and Greg Serio, Bates No. SHIP</p> <p>10 0076985 is marked by the reporter for</p> <p>11 identification.)</p> <p>12 Q This is an E-Mail chain dated</p> <p>13 September 14th, 2015, between Thomas Hampton and</p> <p>14 Greg Serio, and it's Bates stamped SHIP 0076985.</p> <p>15 A Okay. I skimmed it.</p> <p>16 Q Okay. I want to focus your</p> <p>17 attention on the last sentence of the second</p> <p>18 paragraph. And it says:</p> <p>19 "It appears there are some board</p> <p>20 members who feel senior management is not taking</p> <p>21 the initiative to perform necessary due diligence</p> <p>22 relative to these very important transactions."</p> <p>23 And do you know what these</p> <p>24 "important transactions" refers to?</p> <p>25 A I believe I saw in the -- the</p>	<p style="text-align: right;">Page 236</p> <p>1 Barry Staldine</p> <p>2 and Cecil Bikirk [phonetic] is marked by</p> <p>3 the reporter for identification.)</p> <p>4 Q Exhibit 149. And this is an E-Mail</p> <p>5 from Julie Bowler to John Morrison, Greg Serio,</p> <p>6 and Cecil Bikirk [phonetic]? And it's the</p> <p>7 subject line, "Privileged."</p> <p>8 I'll just flag that for counsel,</p> <p>9 but I don't believe it's privileged.</p> <p>10 But have you -- have you seen this</p> <p>11 document before?</p> <p>12 A Yes. I saw it earlier today. And</p> <p>13 now that I see the note that I sent along with</p> <p>14 it, it brings it closer to memory of where it</p> <p>15 came from.</p> <p>16 Q And on the bottom, it says:</p> <p>17 "I received this from David Kane."</p> <p>18 That's an E-Mail from you to -- it</p> <p>19 looks like -- Julianne Bowler, Kristine Rickard,</p> <p>20 and Thomas Jenkins.</p> <p>21 A Um-hum.</p> <p>22 Q Who is David K. of Protiviti?</p> <p>23 A He was the -- a manager for</p> <p>24 Protiviti. His name was David Kupinski.</p> <p>25 Q And do you recall the context of</p>
<p style="text-align: right;">Page 235</p> <p>1 Barry Staldine</p> <p>2 second page at the top says:</p> <p>3 "The reinsurance issue has put</p> <p>4 forth that frustration into overdrive."</p> <p>5 That's certainly part of it, the</p> <p>6 reinsurance transaction.</p> <p>7 Q Is that a reinsurance transaction</p> <p>8 with Beechwood?</p> <p>9 A I would assume so.</p> <p>10 Q Okay. And is it fair to say that,</p> <p>11 as of September 2015, there were certain board</p> <p>12 members at SHIP who were concerned about whether</p> <p>13 SHIP had conducted adequate due diligence on</p> <p>14 Beechwood?</p> <p>15 MR. MATHIAS: Objection to form.</p> <p>16 You may answer.</p> <p>17 A I think that's fair.</p> <p>18 Q Okay. Okay. I'm almost done with</p> <p>19 this section. I just have one, maybe two, more</p> <p>20 documents -- one more document.</p> <p>21 MR. CANTER: Okay. Can we mark</p> <p>22 this?</p> <p>23 THE REPORTER: 149.</p> <p>24 (Exhibit No. D 149, E-Mail from</p> <p>25 Julie Bowler to John Morrison, Greg Serio,</p>	<p style="text-align: right;">Page 237</p> <p>1 Barry Staldine</p> <p>2 this conversation?</p> <p>3 A Which conversation?</p> <p>4 Q The conversation -- I'm sorry. I'm</p> <p>5 assuming that there was a conversation.</p> <p>6 Do you -- do you recall receiving</p> <p>7 this from David K.?</p> <p>8 A Yes. I think he told me they had</p> <p>9 it.</p> <p>10 Q And the context surrounding -- do</p> <p>11 you recall the context surrounding him sending</p> <p>12 you this document?</p> <p>13 A Yes. They -- they were performing</p> <p>14 our internal audit activities as an outsourced</p> <p>15 firm, so we were apparently discussing the</p> <p>16 surplus note in the third IMA.</p> <p>17 Q Okay. Do you recall anything else</p> <p>18 about those conversations?</p> <p>19 A Not at this time, no.</p> <p>20 Q Okay.</p> <p>21 MR. CANTER: Can we take a</p> <p>22 two-minute break?</p> <p>23 MR. MATHIAS: Sure.</p> <p>24 THE VIDEOGRAPHER: Going off the</p> <p>25 record. The time is 3:14 p.m.</p>

<p>1 Exhibit No. D 142, October 10, 2013 Page 310 201</p> <p>2 Minutes of a Meeting of the Board of</p> <p>3 Trustees of the Senior Health Care</p> <p>4 Oversight Trust, Bates No. SHIP</p> <p>5 0038953</p> <p>6 Exhibit No. D143, March 18, 2014 209</p> <p>7 E-Mail From Rick Hodgdon to Brian</p> <p>8 Wegner, Subject: Investment,</p> <p>9 Document, Bates No. SHIP 0026528</p> <p>10 Exhibit No. 144, April 23, 2014 E-Mail 213</p> <p>11 from Brian Wegner to Paul Lorentz,</p> <p>12 Bates No. SHIP 0020415</p> <p>13 Exhibit No. D 145, January 5, 2015 217</p> <p>14 E-Mail From Paul Lorentz to</p> <p>15 Thomas Hampton and Julie Bowler, Bates</p> <p>16 Nos. 0060508</p> <p>17 Previously Marked Exhibit No. D 63, 222</p> <p>18 Memo to SHIP Management, Bates No.</p> <p>19 SHIP 0127259</p> <p>20 Exhibit No. D 146, January 14, 2015 225</p> <p>21 E-Mail from Paul Lorentz to Gerald</p> <p>22 Hocksang</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 CERTIFICATE Page 312</p> <p>2</p> <p>3 I, TAB PREWETT, A Registered</p> <p>4 Professional Reporter, Notary Public, Certified</p> <p>5 LiveNote Reporter, and Certified Shorthand</p> <p>6 Reporter, do hereby certify that prior to the</p> <p>7 commencement of the examination BARRY STALDINE</p> <p>8 was sworn by the notary public to testify the</p> <p>9 truth, the whole truth and nothing but the truth.</p> <p>10 I DO FURTHER CERTIFY that the</p> <p>11 foregoing is a true and accurate transcript of</p> <p>12 the testimony as taken stenographically by and</p> <p>13 before me at the time, place and on the date</p> <p>14 hereinbefore set forth.</p> <p>15 I DO FURTHER CERTIFY that I am</p> <p>16 neither a relative nor employee nor attorney nor</p> <p>17 counsel of any of the parties to this action, and</p> <p>18 that I am neither a relative nor employee of such</p> <p>19 attorney or counsel, and that I am not</p> <p>20 financially interested in the action.</p> <p>21 <u>TAB Prewett</u></p> <p>22</p> <p>23 TAB PREWETT</p> <p>24 Notary Public</p> <p>My Commission expires February 9, 2024</p> <p>25 Dated: October 2, 2019</p>
<p>1 Exhibit No. D 147, April 2, 2015 Page 311 232</p> <p>2 E-Mail From Paul Lorentz to Janice</p> <p>3 Icheck [phonetic], Bates No. SHIP</p> <p>4 0016014</p> <p>5 Exhibit No. D 148, September 14, 2015 234</p> <p>6 E-Mail Between Thomas Hampton and Greg</p> <p>7 Serio, Bates No. SHIP 0076985</p> <p>8 Exhibit No. D 149, E-Mail from 235</p> <p>9 Julie Bowler to John Morrison, Greg</p> <p>10 Serio, and Cecil Bikirk [phonetic]</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Errata Sheet Page 313</p> <p>2</p> <p>3 NAME OF CASE: IN RE: PLATINUM-BEECHWOOD LITIGATION</p> <p>4 DATE OF DEPOSITION: 09/27/2019</p> <p>5 NAME OF WITNESS: Barry Staldine</p> <p>6 Reason Codes:</p> <p>7 1. To clarify the record.</p> <p>8 2. To conform to the facts.</p> <p>9 3. To correct transcription errors.</p> <p>10 Page ____ Line ____ Reason ____</p> <p>11 From _____ to _____</p> <p>12 Page ____ Line ____ Reason ____</p> <p>13 From _____ to _____</p> <p>14 Page ____ Line ____ Reason ____</p> <p>15 From _____ to _____</p> <p>16 Page ____ Line ____ Reason ____</p> <p>17 From _____ to _____</p> <p>18 Page ____ Line ____ Reason ____</p> <p>19 From _____ to _____</p> <p>20 Page ____ Line ____ Reason ____</p> <p>21 From _____ to _____</p> <p>22 Page ____ Line ____ Reason ____</p> <p>23 From _____ to _____</p> <p>24</p> <p>25</p>

EXHIBIT 4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

(Caption continued)

NON-CONFIDENTIAL PORTION
Pages 411-421 have been designated Privileged and
Confidential and have been Bound Separately

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
DAVID BODNER
TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Tuesday, November 12, 2019,
commencing at 10:37 a.m.

Page 2

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658(JSR)
5 CASE NO. 1-19-CV-07137(JSR)
6 -----
7 SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA,
8
9
10 Plaintiff,
11
12 vs.
13
14
15 LINCOLN INTERNATIONAL LLC and LINCOLN
16 PARTNERS ADVISORS LLC,
17
18 Defendants.
19 -----
20
21
22
23
24
25

Page 4

1
2 HOLLAND & KNIGHT LLP
3 BY: JOHN L. BROWNLEE, ESQ.
4 800 17th Street, N.W., Suite 1100
5 Washington, DC 20006
6 Attorneys for the Plaintiffs,
7 Martin Trott
8
9
10
11 HOLLAND & KNIGHT LLP
12 BY: MEGAN MOCHO JESCHKE, ESQ.
13 1650 Tysons Boulevard, Suite 1700
14 Tysons, Virginia 22102
15 Attorneys for the Plaintiffs,
16 Martin Trott
17
18
19
20
21
22
23
24
25

Page 3

1
2 A P P E A R A N C E S :
3
4
5 DLA PIPER, LLP (US)
6 BY: ROB C. SANTORO, ESQ.
7 1251 Avenue of the Americas, 38th Floor
8 New York, New York 10020-1104
9 Attorneys for Plaintiff, SHIP
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 5

1
2 HOLLAND & KNIGHT LLP
3 BY: WARREN ERNEST GLUCK, ESQ.
4 SHEILA SHEN, ESQ.
5 31 West 52nd Street
6 New York, New York 10019
7 Attorneys for the Plaintiffs,
8 Martin Trott
9
10
11
12 Ms. Shen present telephonically
13
14 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
15 BY: GABRIEL HERTZBERG, ESQ.
16 ABIGAIL JOHNSTON, ESQ.
17 101 Park Avenue
18 New York, New York 10178
19 Attorneys for the Defendant,
20 David Bodner
21 Ms. Johnston present telephonically
22
23
24
25

Page 6	Page 8
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
Page 7	Page 9
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25

Page 10

1 David Bodner
 2 P R O C E E D I N G S
 3 THE VIDEOGRAPHER: This is the
 4 video deposition of David Bodner in the
 5 matter of Platinum-Beechwood litigation.
 6 This deposition is being held at the
 7 offices of US Legal Support, 90 Broad
 8 Street, New York, New York, on
 9 November 12th, 2019.
 10 My name is Darrak Lighty from US
 11 Legal Support; and I am the video
 12 specialist. The court reporter today is
 13 Tab Prewett, also associated with US Legal
 14 Support. We are going on the record at
 15 10:37 a.m. All appearances have been noted
 16 on the record.
 17 Will the court reporter please
 18 swear in the witness.
 19 THE WITNESS: I don't swear.
 20 THE REPORTER: I'll affirm you.
 21 (There was a discussion off the
 22 record.)
 23 D A V I D B O D N E R,
 24 having been affirmed
 25 By the notary public to testify to the truth,

Page 11

1 David Bodner
 2 testified as follows:
 3 DIRECT EXAMINATION
 4 BY MR. BROWNLEE:
 5 Q Good morning, Mr. Bodner. My name
 6 is John Brownlee, and I represent Martin Trott
 7 and Christopher Smith as joint official
 8 liquidators and foreign representatives of
 9 Platinum Partners Value Arbitrage Fund LP in
 10 official liquidation and Platinum Partners Value
 11 Arbitrage Fund LP in official liquidation.
 12 I'm about to ask you a series of
 13 questions. You have just taken an oath that the
 14 answers that you provide will be truthful. If
 15 you are not truthful in this deposition, you
 16 could face potential criminal charges for
 17 perjury. The possible consequences for perjury
 18 include imprisonment and a fine.
 19 Do you understand that?
 20 A Yes.
 21 Q It is not my intention to confuse
 22 you or mislead you in any of the questions that I
 23 ask. If I ask a question and you don't
 24 understand it, it is perfectly okay for you to
 25 ask me to repeat the question or to rephrase it.

Page 12

1 David Bodner
 2 Do you understand that?
 3 A Yes.
 4 Q Also, I want you to be comfortable.
 5 Are you comfortable right now?
 6 A Very.
 7 Q Are you currently on any
 8 medication?
 9 A No.
 10 Q Is there any reason why you are not
 11 able to listen to my questions today, concentrate
 12 on them, and provide truthful and accurate
 13 answers?
 14 A No.
 15 Q If any reason develops during the
 16 course of the questioning that interferes with
 17 your ability to do these things, I want you to
 18 let me know.
 19 Okay?
 20 A Yes.
 21 Q Please state your name and spell
 22 your first and last name so the court reporter
 23 has an accurate -- has your name accurately.
 24 A David Bodner, D-a-v-i-d,
 25 B-o-d-n-e-r.

Page 13

1 David Bodner
 2 Q And you are a defendant in this
 3 lawsuit; is that correct?
 4 A Yes.
 5 Q What is your current address?
 6 A 16 Grosser, G-r-o-s-s-e-r, Lane,
 7 Monsey, New York, 10 -- M-o-n-s-e [sic],
 8 New York, 10952.
 9 Q Are you currently married?
 10 A Yes.
 11 Q Are you a citizen of the
 12 United States?
 13 A Yes.
 14 Q Where were you born?
 15 A I was born in Brooklyn.
 16 Q Okay. What is your date of birth?
 17 A I might have been born in
 18 Manhattan. I don't know. I was born in the
 19 United States.
 20 Q New York?
 21 A New York, yes.
 22 Q Okay. What is your date of birth?
 23 A I can ask my mother which hospital.
 24 Q Fair enough.
 25 Q What is your date of birth?

Page 18

1 David Bodner
2 MR. HERTZBERG: There's nothing in
3 Tab 2.
4 MR. BROWNLEE: All right. Let
5 just -- we'll come back to that.
6 MR. HERTZBERG: Should I put it
7 aside?
8 Q All right. So let me go through
9 some of your personal history.
10 You mentioned that you are -- your
11 present address is at 16 Grosser Lane in Monsey,
12 New York; is that correct?
13 A Yes.
14 Q Okay. How about 390 West End
15 Avenue, Apartment 6C, in something called the
16 Apthorp Building; do you own that?
17 A I own it, yes.
18 Q Okay. And how long have you owned
19 that?
20 A I'm not good with dates. It could
21 be anywhere between seven or eight years.
22 Q Okay. Do you own it with anyone
23 else, or do you own it solely yourself?
24 A With my wife.
25 Q Okay. Do you own any other

Page 19

1 David Bodner
2 properties, residences?
3 A To tell you the truth, I'm not
4 really comfortable disclosing all that now.
5 Q Okay. So -- so are you refusing to
6 answer?
7 A I don't know if it's refusing to
8 answer. I'll discuss it with my lawyer.
9 (Reporter clarification.)
10 A I don't know if it's called
11 refusing to answer. It's something I'd like to
12 discuss with my attorney.
13 MR. HERTZBERG: And we can meet and
14 confer on why his owning property is
15 relevant to this case.
16 MR. BROWNLEE: Well --
17 MR. HERTZBERG: It seems to me that
18 you're trying to get a peek at some
19 postjudgment issues, and that puts the cart
20 before the horse. So I'm happy to meet
21 confer with you on a break and -- and --
22 MR. BROWNLEE: Okay.
23 MR. HERTZBERG: -- we'll come back
24 to that.
25 MR. BROWNLEE: Fair enough. We're

Page 20

1 David Bodner
2 not doing that. We have a reason for it.
3 But these properties tend to link him to
4 certain things, as you know. So we have
5 trusts -- for instance, The Grosser Trust,
6 that is his trust and linked to him.
7 So we want to make sure. He tends
8 to -- to -- to -- anyway, we'll talk about
9 it.
10 MR. HERTZBERG: You can explore
11 those links, John.
12 MR. BROWNLEE: Well, we just don't
13 know the properties yet. So that's why we
14 ask.
15 MR. HERTZBERG: So we'll --
16 MR. BROWNLEE: You can discuss it
17 with him at the next break. I don't want
18 to have him refuse to answer a question at
19 this point.
20 MR. HERTZBERG: Okay.
21 MR. BROWNLEE: We'll come back to
22 that.
23 Q So let me just walk down your
24 family members, make sure I have that.
25 Naomi Bodner is your wife; is that

Page 21

1 David Bodner
2 correct?
3 A Yes.
4 Q And I may mispronounce some. I
5 apologize.
6 Yaakov Yitzchok "Itchy" Bodner is
7 your son?
8 A Yes.
9 Q Okay. And Tzipporah Bodner
10 Rottenberg is your daughter?
11 A Yes.
12 Q Moshe Bodner is your son?
13 A Yes.
14 Q Ari Aaron Bodner is your son?
15 A Yes.
16 (There was a discussion off the
17 record.)
18 Q Eliezer "Luzzy" Bodner is your son?
19 A You were doing a good job until
20 now. It's Eliezer.
21 Q My apologies.
22 A Eliezer Bodner is my son, yes.
23 Q Moshe Bodner is your brother?
24 A Moshe Bodner is my son and my
25 brother.

Page 22

1 David Bodner
2 Q Mordechai "Motti" Bodner?
3 A Is my son.
4 Q Is your son.
5 And Rochel Bodner Fromowitz?
6 A My daughter.
7 Q Your daughter.
8 And Yissochar Bodner is your --
9 A Son.
10 Q Okay. Is that all your children.
11 Did I cover them all?
12 A Yes.
13 Q Okay. So let me talk about
14 businesses.
15 Can you tell me who Mr. Harry Adler
16 is?
17 A My brother-in-law.
18 Q Okay. And is he --
19 (There was a discussion off the
20 record.)
21 Q And -- and who is he married to?
22 A My sister Rachel.
23 Q Okay. And is he an attorney?
24 A Not that I know of.
25 Q Okay. Does he act as a trustee for

Page 23

1 David Bodner
2 you in any way?
3 A It's possible.
4 Q But you don't recall?
5 A I don't recall, no.
6 Q But he could?
7 A If I needed a trustee, maybe I
8 would ask him.
9 Q Okay. Do you recall asking him?
10 A To act as a trustee, no.
11 Q Okay. Sam Adler, is that your
12 nephew?
13 A Yes.
14 Q And he is Sam Harry's son?
15 A Yes.
16 Q Did Sam Adler work for Platinum?
17 A Not to my recollection.
18 Q How about Beechwood?
19 A Yes.
20 Q Okay. And did you get him his job
21 at Beechwood?
22 A I might have. I think I did.
23 Q Okay. Now, did Harry Adler ever
24 own an interest in Platinum Management or PPVA?
25 Let me just ask first, Platinum

Page 24

1 David Bodner
2 Management?
3 A Not to my recollection.
4 Q How about PPVA?
5 A Also not to my recollection.
6 Q All right. If Mr. Adler were
7 listed as a partner under the first PPVA
8 partnership agreement back in 2002, would you
9 dispute that?
10 A I don't recall such a thing, but --
11 Q Okay. But he could have -- he
12 could have been?
13 A It's possible.
14 Q It's possible. Okay.
15 A I don't remember.
16 Q All right. Are you familiar with
17 something called a 2007 Lakewood Trust?
18 A Yes.
19 Q Tell me a little bit. What is the
20 Lakewood Trust, 2007 Lakewood Trust?
21 A I think it was an entity that was
22 set up, it's possible for -- an investment entity
23 that was set up for my children.
24 (There was a discussion off the
25 record.)

Page 25

1 David Bodner
2 A I'm sorry. It's possible it was an
3 investment entity that was set up for my
4 children.
5 Q Okay. And that would have been set
6 up by you?
7 A Probably it was set up by -- it
8 could be -- it could be it was set up by me or by
9 Murray, my partner.
10 Q Okay. And that would be
11 Murray Huberfeld?
12 A Yes.
13 Q But it would have been for the
14 benefit of your children?
15 A That's my recollection.
16 Q Okay. Do you remember it would
17 have been set up at or around 2007? Would
18 that --
19 A I am not good with dates. But if
20 it's called 2007, the trust, it makes sense.
21 Q Okay. All right. What about the
22 2007 Ocean Trust?
23 A I'm not familiar with that.
24 Q How about the 2009 Pearl Bodner
25 Trust?

Page 310

1 David Bodner

2 Great job. Nothing was happening

3 again.

4 Q Okay.

5 A And everybody is tired here. So if

6 you can get to the point, it would help.

7 Q Okay.

8 MR. BROWNLEE: Do you need to take

9 a break to change tape -- in 30 minutes --

10 okay.

11 Q So all right. Let's take a look --

12 we talked about an entity called Monsey Lawrence

13 Partners. Do you remember that earlier today?

14 A I think so, yes.

15 Q Okay. And that's an entity that

16 you control in some way; is that correct?

17 A No.

18 Q Tell me -- what was -- what was

19 Monsey?

20 A I think -- I think Monsey -- I'm

21 not sure -- Monsey -- what was it -- Lawrence?

22 Q Monsey Lawrence, right.

23 A I'm not sure. That could have been

24 something for the construction that we did, the

25 construction deals that we did -- or maybe it was

Page 311

1 David Bodner

2 my wife and Laura Huberfeld.

3 Q Okay.

4 A You have to give me more detail

5 about it.

6 Q Okay. Well, let's take a look at

7 number 109.

8 (Exhibit No. 377 Tab 109, Bates No.

9 BW-SHIP 655513, Consulting Agreement dated

10 on the 1st day of May 2015, between MSD

11 Administrative Services, B Asset Manager,

12 BAM, and Lawrence Monsey Management LLC,

13 Document is marked by the reporter for

14 identification.)

15 Q 109 is BW-SHIP 655513. It's a

16 consulting agreement on the 1st day of May 2015,

17 between, MSD Administrative Services, B Asset

18 Manager, BAM, and Lawrence Monsey Management LLC.

19 A Is this an agreement between

20 Beechwood and Lawrence and Monsey?

21 Q Right.

22 A So Lawrence and Monsey must have

23 been my children. Monsey must be my children

24 then.

25 Q Okay. This is a consulting

Page 312

1 David Bodner

2 agreement to pay them -- in paragraph three, it

3 says:

4 "The consultant's compensation for

5 the period from the date hereof through the term

6 of this agreement shall be \$335,000 in the

7 aggregate per month during the term, prorated for

8 partial months."

9 So Beechwood is going to pay this

10 management company \$335,000 a month.

11 And did you know -- did you know

12 anything about this?

13 A I know that we got a check from

14 Beechwood every month. I'm not sure if it was

15 every month, but we did get money out of

16 Beechwood.

17 Q For 300 -- does 335 ring a bell?

18 A No, it does not sound familiar at

19 all. I think it was more like \$100,000 a month.

20 Q Who is Jessica Beren?

21 A Jessica Beren is Murray's married

22 -- Murray's oldest married daughter.

23 Q Okay. She signed this on behalf of

24 Lawrence Monsey Management?

25 A Right.

Page 313

1 David Bodner

2 Q So was this one of these entities

3 that's shared between your family and -- and the

4 Huberfeld family?

5 A Possible.

6 Q Okay. And that may be why the

7 check is smaller than 335 because it's split

8 perhaps?

9 A I don't think mean it was 335. I

10 think we got the same amount of money.

11 Q Okay. Well, can you explain why --

12 A Maybe the 335 includes other

13 partners in Beechwood that took out a fee,

14 besides Monsey and Lawrence.

15 Q That's not what it says.

16 A I am telling you what's with --

17 it's possible.

18 Q Well, can you explain what -- what

19 they would be consulting for to Beechwood for --

20 for \$335,000?

21 A I have no idea. I have never seen

22 this agreement. I know that my children got -- I

23 think -- on a monthly basis -- I have to check

24 that -- \$100,000 a month from Beechwood.

25 Q For doing what?

Page 534

1 CERTIFICATE
2
3 I, TAB PREWETT, A Registered
4 Professional Reporter, Notary Public, Certified
5 LiveNote Reporter, and Certified Shorthand
6 Reporter, do hereby certify that prior to the
7 commencement of the examination DAVID BODNER was
8 sworn by the notary public to testify the truth,
9 the whole truth and nothing but the truth.
10 I DO FURTHER CERTIFY that the
11 foregoing is a true and accurate transcript of
12 the testimony as taken stenographically by and
13 before me at the time, place and on the date
14 hereinbefore set forth.
15
16 I DO FURTHER CERTIFY that I am
17 neither a relative nor employee nor attorney nor
18 counsel of any of the parties to this action, and
19 that I am neither a relative nor employee of such
20 attorney or counsel, and that I am not
21 financially interested in the action.
22 TAB Prewett
23 TAB PREWETT
24
25 Notary Public

My Commission expires February 9, 2024
Dated: December 2nd, 2019

Page 535

1 Errata Sheet
2
3 NAME OF CASE: IN RE: PLATINUM-BEECHWOOD LITIGATION
4 DATE OF DEPOSITION: 11/12/2019
5 NAME OF WITNESS: David Bodner
6 Reason Codes:
7 1. To clarify the record.
8 2. To conform to the facts.
9 3. To correct transcription errors.
10 Page _____ Line _____ Reason _____
11 From _____ to _____
12 Page _____ Line _____ Reason _____
13 From _____ to _____
14 Page _____ Line _____ Reason _____
15 From _____ to _____
16 Page _____ Line _____ Reason _____
17 From _____ to _____
18 Page _____ Line _____ Reason _____
19 From _____ to _____
20 Page _____ Line _____ Reason _____
21 From _____ to _____
22 Page _____ Line _____ Reason _____
23 From _____ to _____
24
25

EXHIBIT 5

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658(JSR)
5 CASE NO. 18-CV-10936(JSR)

6 -----
7 IN RE: PLATINUM-BEECHWOOD LITIGATION
8 -----

9 MARTIN TROTT and CHRISTOPHER SMITH, as Joint
10 Official Liquidators and
11 Foreign Representatives of
12 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
13 (in Official Liquidation), and
14 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
15 (in Official Liquidation),

16 Plaintiffs,

17 vs.

18 PLATINUM MANAGEMENT (NY) LLC, et al.,

19 Defendants.
20 -----

21 VOLUME I

22 TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
23 BRIAN WEGNER

24 TRANSCRIPT of the stenographic notes of
25 the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of Jay Conference
Center 15 West 38th Street, the Presley Room, New
York, New York, on Wednesday, September 18, 2019,
commencing at 10:14 a.m.

Page 2

1
2 A P P E A R A N C E S :
3
4
5 DLA PIPER, LLP (US)
6 BY: AIDAN M McCORMACK, ESQ.
7 BRIAN SEIBERT, ESQ.
8 1251 Avenue of the Americas, 38th Floor
9 New York, New York 10020-1104
10 Attorneys for Plaintiff, SHIP
11
12
13
14 Mr. Seibert was present telephonically
15 as noted in transcript.
16
17
18
19
20
21
22
23
24
25

Page 3

1
2 DLA PIPER, LLP (US)
3 BY: JAMES D. MATHIAS, ESQ.
4 DARRYL L. TARVER, ESQ.
5 KATHLEEN BIRRANE, ESQ.
6 6225 Smith Avenue
7 Baltimore, Maryland 21209-3600
8
9
10
11
12
13
14
15
16
17
18 HOLLAND & KNIGHT LLP
19 BY: WILLIAM F. GOULD, ESQ.
20 800 17th Street, N.W., Suite 1100
21 Washington, DC 20006
22 Attorneys for the Plaintiffs,
23 Martin Trott
24
25

Page 4

1
2 HOLLAND & KNIGHT LLP
3 BY: ELLIOT MAGRUDER, ESQ.
4 31 West 52nd Street
5 New York, New York 10019
6 Attorneys for the Plaintiffs,
7 Martin Trott
8
9
10
11 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
12 BY: GABRIEL HERTZBERG, ESQ.
13 ABIGAIL JOHNSTON, ESQ.
14 101 Park Avenue
15 New York, New York 10178
16 Attorneys for the Defendant,
17 David Bodner
18
19
20
21 Mr. Hertzberg present telephonically.
22
23
24
25

Page 5

1
2 MINTZ, LEVIN, COHN, FERRIS,
3 GLOVSKY and POPEO, P.C.
4 BY: THERESE M. DOHERTY, ESQ.
5 LISAMARIE COLLINS, ESQ.
6 The Chrysler Center
7 666 Third Avenue
8 New York, New York 10017
9 Attorneys for Defendants
10 Kevin Cassidy and Michael Nordlicht
11
12
13
14
15 DUANE MORRIS, LLP
16 BY: MELISSA S. GELLER, ESQ.
17 One Riverfront Plaza
18 1037 Raymond Boulevard, Suite 1800
19 Newark, New Jersey 07102-5429
20 Attorneys for the
21 Estate of Uri Landesman
22
23
24
25

Page 6

1
2 MORRISON COHEN LLP
3 BY: DONALD H. CHASE, ESQ.
4 909 Third Avenue
5 New York, New York 10022-4784
6 Attorneys for Lawrence Partners,
7 Huberfeld Family Foundation, Inc.
8
9
10
11
12 ALSTON & BIRD LLP
13 BY: JENNA C. POLIVY, ESQ.
14 90 Park Avenue
15 15th Floor
16 New York, New York 10016-1387
17 Attorneys for
18 Washington National Insurance Company
19 Bankers Consec
20
21
22
23
24
25

Page 8

1
2 ZUCKERMAN SPAEDER LLP
3 BY: SHAWN P. NAUNTON, ESQ.
4 DEVON GALLOWAY, ESQ.
5 485 Madison Avenue, 10th Floor
6 New York, New York 10022-5871
7 Attorneys for Brian Wegner
8
9
10
11
12
13 GIBSON DUNN LLP
14 BY: NAIMA L. FARRELL, ESQ.
15 1050 Connecticut Avenue, N.W.
16 Washington, DC 20036-5306
17
18
19 Present telephonically as noted
20 in transcript
21
22
23
24 David Steinberg, PRO SE
25 Defendant

Page 7

1
2 PROSKAUER ROSE LLP
3 BY: STACEY EILBAUM, ESQ.
4 EDWARD J. CANTER, ESQ.
5 Eleven Times Square
6 New York, New York 10036-8299
7 Attorneys for Beechwood
8
9
10
11
12
13 OTTERBOURG, P.C.
14 BY: WILLIAM M. MORAN, ESQ.
15 GABRIELA LEON, ESQ.
16 230 Park Avenue
17 New York, New York 10169
18 Attorneys for Plaintiff Receiver
19
20
21
22
23
24
25

Page 9

1
2
3
4 ALSO PRESENT:
5
6
7
8 Darrak Lighty, Videographer
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 10

1 Brian Wegner
 2 P R O C E E D I N G S
 3 THE VIDEOGRAPHER: This is the
 4 video deposition of Brian Wegner in the
 5 matter of Platinum-Beechwood Litigation.
 6 This deposition being held in the
 7 conference room of Jay Suites in New York
 8 on September 18, 2019.
 9 My name is Darrak Lighty from US
 10 Legal Support, and I am the video
 11 specialist. The court reporter today is
 12 Tab Prewett, also associated with US Legal
 13 Support. We are going on the record at
 14 10:14 a.m.
 15 Counsel will now state their
 16 appearances for the record.
 17 MS. EILBAUM: This is Stacey
 18 Eilbaum for -- from Proskauer Rose for Mark
 19 Feuer, Scott Taylor, Dhruv Narain, B Asset
 20 Manager, Beechwood Bermuda International,
 21 Limited, and Beechwood Re, Investments,
 22 LLC. And here is Edward J. Canter, also
 23 from Proskauer.
 24 MR. MORAN: William Moran from
 25 Otterbourg on behalf of the Plaintiff

Page 11

1 Brian Wegner
 2 Receiver Melanie Cyganowski.
 3 MS. POLIVY: Jenna Polivy from
 4 Alston & Bird here on behalf of Bankers
 5 Conseco Life Insurance Company and
 6 Washington National Insurance Company.
 7 MR. GOULD: Bill Gould and Elliot
 8 Magruder from Holland & Knight for the
 9 Joint Official Liquidators TPA.
 10 MR. STEINBERG: David Steinberg on
 11 behalf of myself.
 12 MS. COLLINS: LisaMarie Collins
 13 from Mintz Levin on behalf of Kevin
 14 Cassidy.
 15 MS. DOHERTY: Therese Doherty,
 16 Mintz Levin, on behalf of Kevin Cassidy.
 17 MR. CHASE: Donald Chase from
 18 Morrison Cohen on behalf of Lawrence
 19 Partners.
 20 MS. GELLER: Melissa Geller from
 21 Duane Morris on behalf of the Estate of
 22 Landesman.
 23 MS. JOHNSTON: Abigail Johnston and
 24 Gabe Hertzberg on the phone, Curtis,
 25 Mallet-Prevost, Colt & Mosle, on behalf of

Page 12

1 Brian Wegner
 2 David Bodner, Beechwood Trust Number 714,
 3 and Beechwood Re, Investments, LLC, Series
 4 C.
 5 MS. BIRRANE: Kathleen Birrane, DLA
 6 Piper, on behalf of SHIP.
 7 MR. TARVER: Darryl Tarver, DLA
 8 Piper, on behalf of SHIP.
 9 MR. MATHIAS: Jim Mathias, DLA
 10 Piper, for SHIP.
 11 MR. GALLOWAY: Devon Galloway, from
 12 Zuckerman Spaeder, on behalf of Brian
 13 Wegner.
 14 MR. NAUNTON: Shawn Naunton, from
 15 Zuckerman Spaeder, on behalf of Mr. Wegner.
 16 MR. WEGNER: Brian Wegner, witness.
 17 B R I A N W E G N E R,
 18 doing business at Triliant,
 19 10704 Deandra Drive,
 20 Zionsville, Indiana 46077,
 21 having been sworn by the notary public to testify
 22 to the truth, testified as follows:
 23 DIRECT EXAMINATION
 24 BY MS. EILBAUM:
 25 Q All right. Hi, Mr. Wegner. My

Page 13

1 Brian Wegner
 2 name is Stacey Eilbaum, and I'll be getting us
 3 started today.
 4 Can you state your full name for
 5 the record?
 6 A Brian Wegner.
 7 Q All right. And just before we
 8 start, you may hear a number of objections that
 9 are raised to a question that I ask. Unless your
 10 counsel instructs you not to answer, you can go
 11 ahead and answer my question if you understood
 12 what I asked you.
 13 Do you understand that?
 14 A Yes.
 15 Q Okay. So I'm going to hand over
 16 what I've marked as Exhibit 1 to you.
 17 (Exhibit No. D 50 Statement of
 18 Claim Filed Before the American Arbitration
 19 Association, Document is marked by the
 20 reporter for identification.)
 21 (There was a discussion off the
 22 record.)
 23 Q Have you had a chance to look at
 24 this document?
 25 A Briefly.

Page 14

1 Brian Wegner
2 Q And you're familiar with what it
3 is?
4 A Yes.
5 Q All right. Is this a statement of
6 claim that you filed in -- before the American
7 Arbitration Association?
8 A Yes.
9 Q Okay. And I'd like to walk you
10 through some of the allegations in this document.
11 If you can turn to the page marked
12 BW 003.
13 A Yes.
14 Q So in paragraph 9, it says that, on
15 or about October 27, 2016, Fuzion's board placed
16 you on a paid leave of absence.
17 Is that correct?
18 A Yes.
19 Q And it says -- and it locked you
20 out of the Fuzion offices, E-Mail, and other
21 computer databases; is that correct?
22 A Yes.
23 Q Now. In paragraph 10, it says that
24 Fuzion represented that it was placing you on
25 leave because under the basis of certain SHIP

Page 15

1 Brian Wegner
2 investment transactions --
3 (Reporter clarification.)
4 Q -- under the -- under the basis
5 that certain SHIP investment transactions were to
6 be investigated under the direction of the board.
7 Is that correct?
8 A Yes.
9 Q Were those SHIP investment
10 transactions related to Beechwood?
11 A Yes.
12 Q Now, if you turn to paragraph 12,
13 it says, on December 7, 2016, Fuzion transmitted
14 a letter to you containing misinformation, and
15 falsely alleging that you committed willful
16 malfeasance, fraud, dishonesty, gross negligence,
17 and/or willful misconduct in your employment with
18 Fuzion and breached your duty of loyalty to
19 Fuzion; is that correct?
20 A That's what they accused.
21 Q What was the misinformation that
22 they -- that they accused you of?
23 MR. MATHIAS: Objection to form.
24 MR. NAUNTON: Objection to form.
25 Q Let me -- what was -- what

Page 16

1 Brian Wegner
2 misinformation did that letter contain?
3 MR. NAUNTON: Same objection.
4 A The letter that they sent accused
5 me of things that I did not believe were true.
6 But the misinformation was, they were accusing me
7 of what was an investment by Beechwood in
8 Triliant, that I wasn't straightforward with
9 them. That's one that comes to mind.
10 Q Is there anything else?
11 A Misinformation that I provided to
12 them, also a relationship I was having at the
13 time.
14 Q And they also accused you of
15 willful malfeasance, fraud, dishonesty, gross
16 negligence and so on. Did those also relate to
17 Beechwood, those accusations?
18 A I was never real clear on what they
19 meant by those.
20 Q Did you ask for clarification?
21 A We did. And they just restated
22 their positions. So it didn't tie the
23 allegations to any incidents.
24 Q And you said "we did." You mean --
25 A My attorney and I.

Page 17

1 Brian Wegner
2 Q Do you believe that any claims in
3 the December 7th letter were true?
4 MR. NAUNTON: Objection to form.
5 A Any claims. I'd have to go through
6 the letter again.
7 Q Do you believe that anything that
8 they were saying about Beechwood was true?
9 MR. NAUNTON: Objection to form.
10 A By the time that I received the
11 letter, it was becoming apparent that there were
12 problems with the Beechwood investments.
13 Q Do you believe that the claims of
14 the -- that the letter was making about the
15 investments were true?
16 MR. NAUNTON: Objection to form.
17 MR. MATHIAS: Objection.
18 A Can you tell me what those claims
19 were?
20 Q Well, let me -- let me -- let me
21 just -- let me move on.
22 If you turn to paragraph 15 of the
23 claims, the statement of claims, it says that:
24 On or about December 23rd, Fuzion
25 transmitted a letter to you, terminating your

Page 18

1 Brian Wegner
2 employment effective with Fuzion and your
3 position in SHIP.
4 Is that right?
5 A Yes.
6 Q And following that, you -- you
7 brought this arbitration against them, correct?
8 MR. NAUNTON: Objection.
9 A Yes.
10 Q And did you believe that Fuzion
11 terminated you wrongfully?
12 A I did.
13 Q When did you bring this arbitration
14 complaint against -- against Fuzion?
15 A This -- this would be the action I
16 did, so whatever the date is on this document.
17 It was -- I believe it was January of 2017.
18 Q Did Fuzion bring counterclaims
19 against you?
20 A Yes.
21 Q Is this case still pending?
22 A No. It's resolved.
23 Q When was it resolved?
24 A Earlier this year. About June of
25 this year, if I recall.

Page 19

1 Brian Wegner
2 Q At the time that the case was
3 resolved, were you aware that SHIP had sued
4 Beechwood related to the investment management
5 agreements at Beechwood?
6 A I was aware of it, but I wasn't
7 aware of the details.
8 Q Were you aware at this time that
9 SHIP had been sued by the receiver for Platinum
10 Partners Credit Opportunities Fund at the time?
11 A No.
12 Q As part of this settlement, did
13 Fuzion make payment to you?
14 A Yes.
15 Q And was that payment in the amount
16 of 362,631?
17 A Yes.
18 Q And did it also make a payment to
19 your lawyers?
20 A Yes.
21 Q And was that in the amount of
22 187,368?
23 A Yes.
24 Q Did you pay Fuzion anything --
25 A No.

Page 20

1 Brian Wegner
2 Q -- towards the settlement?
3 And as part of this settlement, did
4 Fuzion release its counterclaims against you?
5 A Yes.
6 Q All right. Can you take a look at
7 the page with the Bates stamp BW 0038. Paragraph
8 eight is titled "Cooperation."
9 Do you see that?
10 A Yes.
11 Q And it says:
12 "Executive agrees to cooperate with
13 the company or the company's counsel as requested
14 by the company with respect to all matters the
15 undersigned party may acknowledge from his
16 employment. Such cooperation will include but be
17 not limited to the following."
18 Do you see that?
19 A Yes.
20 Q Just to take one step back, is this
21 document we're currently looking at the
22 settlement agreement you executed with Fuzion?
23 A Yes.
24 Q Okay. Now, if you continue looking
25 at paragraph eight and you go to sub -- subpart

Page 21

1 Brian Wegner
2 four on the next page, which is BW 0039, do you
3 see that it says -- sub four, you agree to make
4 yourself available "upon reasonable request of
5 the company or its counsel for preparation for
6 depositions, trials, hearings, and/or other
7 proceedings in connection with this action"?
8 A Yes.
9 Q Did SHIP or Fuzion invoke your
10 settlement agreement in connection with your
11 testimony today?
12 MR. NAUNTON: Objection to form.
13 MR. MATHIAS: Objection.
14 Q I'm sorry. Did you -- did you
15 answer the question?
16 A I understand.
17 No, it was not in connection with.
18 Q Okay. So when you --
19 A Not to my knowledge, from my
20 perspective.
21 MR. NAUNTON: I'd just caution the
22 witness to let the attorney finish her
23 question; and then, when the question is
24 pending, to answer, so you're not talking
25 over each other.

Page 22

1 Brian Wegner
2 (There was a discussion off the
3 record.)
4 Q We'll -- we'll keep going. Are you
5 having trouble hearing me? Okay. I'll speak up.
6 If I'm speaking too loudly, also, let me know.
7 A Okay.
8 Q Okay. So going back to the last
9 question that -- that I had, that I had asked,
10 are you aware of whether Fuzion or SHIP have
11 invoked the cooperation provisions of your
12 settlement agreement in connection with your
13 testimony here today?
14 MR. MATHIAS: Objection.
15 MR. NAUNTON: Objection. Asked and
16 answered.
17 A Have they invoked? Well, I was
18 asked to appear for this deposition, so I presume
19 that's in line with this cooperation term.
20 Q All right. Thank you.
21 Okay. Before we move on, I just
22 want to go back briefly to this December 7th
23 letter that -- that Fuzion had sent you, and just
24 explore one -- one area.
25 You had said that the letter

Page 23

1 Brian Wegner
2 contained false allegations about Triliant,
3 correct?
4 MR. NAUNTON: Objection to form.
5 A I believe their allegations were
6 false, yes.
7 Q What were the allegations?
8 A The allegations were that they
9 weren't fully informed of the investment that
10 Beechwood made into Triliant.
11 Q And why did you believe that that
12 was false?
13 A Because I took the investment to
14 the board; then they researched it and approved
15 it.
16 Q Thank you. What did you do to
17 prepare for your testimony here today?
18 A I had a meeting two weeks ago with
19 my counsel and SHIP's counsel where we reviewed
20 E-Mails that I had sent, and again met yesterday
21 to further review E-Mails and documents.
22 Q Two weeks ago, where was the
23 meeting?
24 A At DLA Piper.
25 Q In New York?

Page 24

1 Brian Wegner
2 A Yes.
3 Q And how long was it?
4 A I would say, I believe, 1 o'clock
5 until 6 o'clock, so five hours go.
6 Q And who was at the meeting from
7 DLA Piper?
8 A My counsel and the same counsel as
9 attending here for --
10 MR. MATHIAS: For the record,
11 Mr. Mathias and Mr. Tarver.
12 MR. NAUNTON: And for Mr. Wegner,
13 Mr. Naunton and Mr. Galloway.
14 MS. EILBAUM: Thank you.
15 Q And so you flew to York -- New York
16 two weeks ago in preparation?
17 A Yes.
18 Q And did SHIP cover your airplane
19 fees?
20 A Yes. Well, they're -- I've
21 invoiced them. I haven't been paid back yet.
22 Q They've agreed to pay them?
23 A Yes.
24 Q Reimburse you?
25 A Yes.

Page 25

1 Brian Wegner
2 Q Now, you also said you met with
3 them yesterday; is that correct?
4 A Correct.
5 Q And how long did you meet with
6 them?
7 A About the same, five to six hours.
8 Q Same attorneys?
9 A Yes.
10 Q And, again, SHIP has agreed to
11 reimburse you for your travel expenses?
12 A Yes.
13 Q Have they agreed to reimburse you
14 for any other expenses?
15 A Just travel related.
16 Q How about your attorney? How about
17 your legal fees?
18 A Yes, they're paying for the
19 attorney.
20 Q Anything else that you're aware of?
21 Any other expenses?
22 A No.
23 Q All right. So I -- I'm going to
24 with --
25 (There was a discussion off the

Page 26

1 Brian Wegner
2 record.)
3 Q Let's begin with your employment
4 with SHIP. What was your position at SHIP?
5 A When I left?
6 Q Yes.
7 A It was CEO.
8 MR. NAUNTON: Just for the record,
9 I don't think we established this, but SHIP
10 and Fuzion, can -- if you could just
11 clarify that.
12 MS. EILBAUM: Okay.
13 Q So when I refer to SHIP, I'm
14 referring to Senior Health Insurance Company of
15 Pennsylvania. And when I refer to Fuzion, I'm
16 referring to --
17 A Okay. So separating SHIP from
18 Fuzion?
19 Q Correct.
20 A I was still CEO of SHIP. I was a
21 board member of SHIP.
22 Q Were you on any committees on
23 SHIP's board?
24 A No.
25 Q And what was your position at

Page 27

1 Brian Wegner
2 Fuzion when you left?
3 A President.
4 Q Were you president of SHIP as well?
5 A Yes.
6 Q Did you hold any other positions at
7 an affiliate of SHIP or Fuzion?
8 A No. We had a reinsurance company
9 that was formed, but I was not an officer of that
10 company.
11 Q Have you ever held any other
12 positions at SHIP or Fuzion?
13 A Originally in 2008, when we
14 separated from CNO, I was COO of SHIP; and Fuzion
15 did not exist at that time.
16 Q And what time did you separate
17 from -- from CNO?
18 A November 12, 2008.
19 Q At that time, did you become CEO of
20 SHIP?
21 A No, COO.
22 Q Okay. So --
23 (There was a discussion off the
24 record.)
25 Q So when did you -- when did you --

Page 28

1 Brian Wegner
2 after COO, what position did you hold?
3 A I was interim CEO. That was, I
4 believe, in 2011, and then was given a position
5 fully of CEO after that.
6 Q Can you give me a brief explanation
7 of the relationship between SHIP, Fuzion, and the
8 Senior Health Care Oversight Trust?
9 A The Senior Health Care Oversight
10 Trust is the owner. So they're a shareholder,
11 the only shareholder, of both SHIP and Fuzion.
12 SHIP and Fuzion are sister companies underneath
13 the trust.
14 Q Does SHIP have any of its own
15 employees?
16 A Not at the time I left. We
17 were going from SHIP to Fuzion --
18 (There was a discussion off the
19 record.)
20 A When we -- when I left, there were
21 no employees of SHIP. All employees were moved
22 from SHIP to Fuzion.
23 Q When were employees moved from SHIP
24 to Fuzion?
25 A I believe it was 2014. It may have

Page 29

1 Brian Wegner
2 been 2015.
3 Q And before that, were there
4 employees at SHIP and employees at Fuzion?
5 A No, just employees at SHIP. So we
6 moved everybody from SHIP to Fuzion.
7 Q Okay. And speaking now around
8 2013, how well would you say that you knew CNO's
9 senior management?
10 MR. MATHIAS: Objection to form.
11 A In 2014? Pretty well.
12 Q The same for 2013?
13 A Yes.
14 Q And who were some of the -- who
15 were some of the members of CNO senior management
16 who you -- who you would say you know pretty
17 well?
18 A Ed Bonach was CEO. Bruce Baude was
19 brought in as COO. Those were probably the two
20 primary.
21 Q Did you know them socially in
22 addition to professionally?
23 A Not very socially, mostly
24 professionally.
25 Q When were you first introduced to

Page 30

1 Brian Wegner
2 Beechwood?
3 A After the CNO transaction with
4 Beechwood, it was then available to be made
5 public. So CNO did not notify us until after the
6 transaction was consummated. We were the
7 administrator of the long-term care business that
8 Beechwood took over, so we were the administrator
9 for CNO at that time. When that transaction took
10 place, we were introduced to Beechwood.
11 Q Were you introduced to Beechwood
12 before the transaction documents were signed?
13 A I don't believe so. I don't know
14 when the documents were signed, but my
15 understanding was it was after.
16 Q Who do -- who do you -- what's your
17 first recollection of meeting anyone at
18 Beechwood?
19 A So this is years ago. I believe
20 our first meeting was at Beechwood, to talk to
21 them about Fuzion's capabilities and we wanted to
22 continue administering their business.
23 Q Continue administering whose
24 business?
25 A The business that they took over

Page 31

1 Brian Wegner
2 that they reinsured from CNO.
3 Q So Fuzion was interested in
4 administering the business that Beechwood took
5 over from CNO?
6 A Continuing to administer that
7 business, right.
8 Q Okay. By -- by continuing, do you
9 mean that Fuzion had administered the business
10 beforehand?
11 A Yes.
12 Q Give me one moment, please.
13 A Okay.
14 Q I'm going to show to show you what
15 I'll mark as Exhibit 51.
16 (Exhibit No. D 51, E-Mail chain,
17 top E-Mail dated 8/16/13 from Brian Wegner
18 to Thomas Jenkins and others; Subject:
19 Trust Agreement, Bates No. SHIP 0019117 to
20 18, Document is marked by the reporter for
21 identification.)
22 Q Let me know when you've had a
23 chance to look at the document.
24 A Okay.
25 Q Does this refresh your recollection

Page 32

1 Brian Wegner
2 of when you first met Beechwood?
3 A Yeah. So it looks like it was in
4 our office, not in New York.
5 Q And at this -- at this point, let
6 me just direct you to the last paragraph in the
7 E-Mail.
8 Well, first, this is an E-Mail
9 that -- that you sent, right?
10 A Yes.
11 Q Okay. And that's your E-Mail
12 address?
13 A Yes.
14 Q Okay. And in the last paragraph of
15 this E-Mail, on the top it says:
16 "The biggest coup for Fuzion this
17 week was a meeting with Beechwood Re yesterday.
18 We met with for five hours in our offices," and
19 so on and so on.
20 Do you remember the events of this
21 E-Mail?
22 A Just what I'm reading here, yes.
23 Q Okay. And did this E-Mail is --
24 this E-Mail is saying that -- that -- that
25 Beechwood is likely to be the buyer of the

Page 33

1 Brian Wegner
2 winning CNO block of long-term care business,
3 correct?
4 A Yes.
5 Q Okay. And Beechwood is interested
6 in having Fuzion administer the block, correct?
7 A Right.
8 Q Okay. Thank you.
9 And this is something that --
10 Beechwood's having Fuzion administer the block is
11 something that you perceived to be good for
12 Fuzion's business at the time; is that correct?
13 A Yes, it would -- it was revenue.
14 Q And Beechwood -- let me show you
15 one more document. I'm going to mark it as
16 Exhibit 52.
17 (Exhibit No. D 52, E-Mail chain,
18 top E-Mail dated 8/17/13 from Brian Wegner
19 to Rick CH; Subject: Project Pluto, Bates
20 Nos. 0025298 to 300, Document is marked by
21 the reporter for identification.)
22 MS. EILBAUM: For the record, this
23 is SHIP 0025298. And the last document
24 that I just showed Mr. Wegner was SHIP
25 0019117.

Page 46

1 Brian Wegner

2 Q Did you understand that Mr. Levy

3 would be heading up the portfolio manager team

4 for Beechwood?

5 A Could you repeat that?

6 Q What did you understand Mr. Levy

7 would be doing as chief investment officer for

8 Beechwood?

9 A Our understanding was that he would

10 be directing our investments into the securities

11 that they described.

12 Q I'm sorry. What do you mean by the

13 securities they described?

14 A The guidelines that they shared

15 with us in the prior document, I believe.

16 Q Now, going back to the slide

17 labeled "David Levy," so you saw that David Levy

18 was deputy chief investment officer at Platinum

19 Partners Value Arbitrage Fund, right?

20 A Sure. It didn't really mean

21 anything to us at the time.

22 Q Did you know -- did you know

23 what -- what Platinum was at the time?

24 A No. We never heard of Platinum

25 before.

Page 47

1 Brian Wegner

2 Q Did you -- did you Google Platinum

3 Partners at the time?

4 A I don't recall if I did or not.

5 Q Would it have been your practice to

6 Google Platinum Partners?

7 MR. MATHIAS: Objection.

8 A Speculative. I -- I mean, it would

9 be me, or somebody on my team probably would have

10 done that.

11 Q Who would you have asked on your

12 team?

13 A Either general counsel or my chief

14 financial officer.

15 Q And can you give me their names?

16 A Paul Lorentz was CFO and Pat

17 Carmody was the general counsel.

18 Q Do you believe that happened here?

19 MR. NAUNTON: Objection. Calls for

20 speculation.

21 A I don't -- I don't specifically

22 recall.

23 Q Do you remember Googling David

24 Levy?

25 A I don't specifically recall

Page 48

1 Brian Wegner

2 Googling David Levy, no.

3 Q Do you remember asking who David

4 Levy was?

5 A Well, we met him in a meeting.

6 I -- I can't recall which meeting. But that's

7 where it was explained that David would be -- was

8 their chief investment officer.

9 Q And did you ask what Platinum

10 Partners was?

11 A I don't recall asking that.

12 Q Now --

13 A And, again, it was a prior

14 position.

15 Q Is -- is a prior position something

16 that would be of interest to you in considering

17 whether to do a business deal with someone?

18 A It was, not for every person in the

19 firm, but --

20 Q Was it of interest with respect to

21 the chief investment officer?

22 A I'm sure it was, yes.

23 Q Now, if you go to the second

24 attachment in this -- in this set, separated by

25 the blue sheet.

Page 49

1 Brian Wegner

2 Let me know when you have had a

3 chance to take a look at it.

4 MR. NAUNTON: For the record, the

5 second attachment bears Bates No. BW SHIP

6 72077.

7 A I'm ready.

8 Q All right. Would you would have

9 reviewed this attachment as well?

10 A Yes.

11 Q Okay. Can you turn to the document

12 Bates numbered Beechwood SHIP 00070288. It's

13 page 12 of the slide.

14 A Okay. I'm there.

15 Q I'm sorry. Give me -- give me one

16 moment.

17 So earlier you had -- you had said

18 that it was your understanding that David Levy

19 would be "directing our investments into the

20 securities" that -- that were described in -- in

21 one of the documents.

22 Do you remember saying that?

23 MR. NAUNTON: Objection to form.

24 A Yeah. I think I later clarified it

25 to say "following the guidelines," not these

Page 54

1 Brian Wegner
 2 All right. I'm going to show you
 3 the next exhibit, which I'll mark as Exhibit 58.
 4 (Exhibit No. D 58, E-Mail chain,
 5 top E-Mail dated 4/23/14 from Paul Lorentz
 6 to Brian Wegner; Subject: "As Promised,"
 7 Bates Nos. SHIP 0047549 to 50, Document is
 8 marked by the reporter for identification.)
 9 Q Have you had a chance to look at
 10 this document?
 11 A Yes.
 12 MS. EILBAUM: For everyone, this is
 13 Bates stamp SHIP 0047549.
 14 Q Now, if you go to the second page
 15 of the document, the first E-Mail is from Scott
 16 Taylor to you, correct?
 17 A Um-hum. Yep.
 18 Q And this -- is this -- do you
 19 recognize this as the same E-Mail we just
 20 discussed?
 21 A Yes.
 22 Q This E-Mail is dated April 10th,
 23 2014, right?
 24 A Correct.
 25 Q All right. And if you go to the

Page 55

1 Brian Wegner
 2 next E-Mail, dated April 23rd, 2014.
 3 A Yes.
 4 Q You see that -- well, first, this
 5 is an E-Mail from you, correct?
 6 A Correct.
 7 Q And it's an E-Mail to Paul Lorentz,
 8 correct?
 9 A Yes.
 10 Q And Ginger Darrough?
 11 A Yes.
 12 Q Who is Ginger Darrough?
 13 A She was our head of analytics at
 14 Fuzion, also financial reporting.
 15 Q And in this E-Mail, you write:
 16 "Paul, is there any more due
 17 diligence you feel we need to conduct beyond the
 18 materials Beechwood provided? I'm also seeking
 19 their contract so we can review that in advance."
 20 Do you remember sending this
 21 E-Mail?
 22 A Yes.
 23 Q And, now, if you take a look at
 24 Paul's response, you've had a chance to look at
 25 this, correct?

Page 56

1 Brian Wegner
 2 A Yes.
 3 Q Now, Paul lays out three aspects
 4 for due diligence, correct?
 5 A Yes.
 6 Q And the first one is vetting the
 7 asset manager, correct?
 8 A Correct.
 9 Q And did you understand asset
 10 manager here to refer to Beechwood?
 11 A Yes.
 12 Q Okay. And now let's go to the
 13 first point, which is sub point one, where he
 14 says:
 15 "As to Beechwood as an asset
 16 manager, while I think we are comfortable with
 17 them from a relationship standpoint, it would
 18 seem that there should be some formal
 19 documentation of our due diligence."
 20 Do you see that?
 21 A Yes.
 22 Q Then he says:
 23 "Certain members of the board may
 24 be looking for this as well."
 25 Do you see that?

Page 57

1 Brian Wegner
 2 A Yes.
 3 Q "That said, I'm not sure how much
 4 additional evaluation we can do on our own. It
 5 might be good to engage a qualified third party
 6 to assist."
 7 Do you see that as well?
 8 A Yes.
 9 Q Just walking through each of these
 10 points, we noted that Paul says that there should
 11 be formal documentation of SHIP's due diligence.
 12 Was there formal documentation of SHIP's due
 13 diligence?
 14 A We retained documents from a due
 15 diligence, yes.
 16 Q I'm -- I'm sorry. You "retained
 17 documents from due diligence."
 18 What do you mean by that?
 19 A Documents were received from
 20 Beechwood, their guidelines, KPMG audit items,
 21 things like that. I don't recall all of them.
 22 Q The documents that Scott had sent
 23 you?
 24 MR. NAUNTON: Objection.
 25 A Well, the documents that Scott

Page 58

1 Brian Wegner

2 sent, and I believe we asked for more beyond

3 that.

4 Q What do you recall asking for?

5 A Well, KPMG audit. Samples of

6 their -- evaluations of their investments.

7 Q Anything else?

8 A I don't recall what we all asked

9 for.

10 Q Okay. If -- if -- if you had

11 wanted to find what you had asked for, where --

12 where would you look?

13 MR. NAUNTON: Objection. Calls for

14 speculation.

15 A I don't work there anymore. There

16 would be archives somewhere.

17 Q So at -- at the -- so at the time,

18 who would have been responsible for collecting

19 these documents?

20 A A combination of Paul and myself.

21 Q And do you remember if you -- if

22 you kept those documents anywhere?

23 A Again, in -- in our E-Mail

24 archives, in our file archives.

25 Q Was there any document that you

Page 59

1 Brian Wegner

2 asked for that you did not receive?

3 A I don't recall that specifically.

4 Q You don't recall -- sorry. So --

5 A I don't recall not receiving any

6 documents we requested.

7 Q Do you recall not receiving any

8 information you requested?

9 A I don't recall not receiving it.

10 Q Now, in this E-Mail, Paul also says

11 that it would be good to engage a third party to

12 do due diligence. Do you recall engaging a third

13 party for due diligence at this time?

14 A I believe, but I'm not 100 percent

15 certain, that at this point we engaged Protiviti.

16 (There was a discussion off the

17 record.)

18 A They could have been in a later

19 stage, but we did engage Protiviti at one point

20 to help us vet Beechwood. They were an

21 outsourced internal audit firm.

22 Q Okay. We'll -- we'll come back to

23 that.

24 MS. EILBAUM: All right. It's been

25 about an hour. So if everyone is in

Page 60

1 Brian Wegner

2 agreement, we'll take a short break. Does

3 that work for everyone here?

4 THE VIDEOGRAPHER: Going off the

5 record. The time is 11:17 a.m.

6 (A break is taken.)

7 THE VIDEOGRAPHER: The time is

8 11:35 a.m. We are back on the record.

9 CONTINUED DIRECT EXAMINATION

10 BY MS. EILBAUM:

11 Q All right. Mr. Wegner, before we

12 took a break, you had mentioned discussions about

13 Beechwood's investment thesis. Do you recall

14 discussing -- do you recall any other discussions

15 about Beechwood's investment thesis other than

16 the ones you've mentioned already?

17 A I remember we had multiple

18 conversations, but they were all in the same

19 light, same context of the thesis that we talked

20 about already.

21 Q Okay. Thank you.

22 I'm going to show you the next

23 exhibit, which I'll mark Exhibit 58 --

24 MS. EILBAUM: 59, thank you to the

25 room.

Page 61

1 Brian Wegner

2 (Exhibit No. D 59, May 22, 2014 IMA

3 Between Beechwood and SHIP, Bates Nos.

4 0019746 to 68, Document is marked by the

5 reporter for identification.)

6 Q Let me know when you've had a

7 chance to take a look at it.

8 A Yes, I -- I'm ready.

9 Q Can you tell me what this document

10 is?

11 A This is the IMA agreement between

12 Beechwood and SHIP.

13 Q And you've seen this document

14 before?

15 A Yes.

16 Q Can you turn to --

17 MS. EILBAUM: Well, first, for the

18 room, this is Bates No. SHIP 0019746.

19 Q Will you turn to the page with the

20 Bates No. SHIP 0019760.

21 A Yes.

22 Q Is that your signature?

23 A Yes.

24 Q Would you have reviewed this

25 document?

Page 66

1 Brian Wegner

2 Q What is -- what is NAIC?

3 A National Association of Insurance

4 Commission. So they have investment guidelines

5 from -- NAIC 1 is the highest rated, down to an

6 NAIC 6, which is junk.

7 Q Did you understand that Beechwood

8 would be investing in securities that were not

9 rated?

10 A That were not rated? Well, yes and

11 no. They could take them out to have them rated.

12 Q Are you referring to third-party

13 valuations?

14 A Yes.

15 Q What type of third-party evaluators

16 did -- did you understand Beechwood would have

17 rating the investments?

18 A Well, we understood that they had

19 them priced at -- on a monthly basis. I believe

20 Lincoln was one. Duff & Phelps was another.

21 They were audited by KPMG. So those weren't

22 necessarily the rating agencies, but they were

23 priced.

24 And we relied on Beechwood as a

25 fiduciary to make sure that the valuations were

Page 67

1 Brian Wegner

2 accurately reported to us.

3 MS. EILBAUM: I'm going to strike

4 the last part of your statement as not

5 responsive to the question that I asked.

6 MR. MATHIAS: Objection to that.

7 MR. NAUNTON: Join the objection.

8 Q Had you heard of Duff & Phelps,

9 Lincoln, and KPMG before executing the Beechwood

10 investment agreements?

11 MR. NAUNTON: Objection to the

12 form.

13 A We heard -- I had heard of Duff &

14 Phelps and KPMG. I had not heard of Lincoln

15 before that.

16 Q How did you -- what was your --

17 what was your -- what was your view of Duff &

18 Phelps at the time as a professional

19 organization?

20 A I -- I viewed them as a

21 professional organization.

22 Q Same thing for KPMG?

23 A Yes.

24 Q Did SHIP use KPMG?

25 A We used them for -- I'm trying to

Page 68

1 Brian Wegner

2 remember now if it was Consecoco or SHIP.

3 (Reporter clarification.)

4 A If it was Consecoco or SHIP where we

5 used KPMG. I had used -- I had worked with KPMG

6 before. I can't recall if it was under SHIP or

7 Consecoco.

8 Q One or the other?

9 A Yes.

10 Q Had you worked with Duff & Phelps

11 before?

12 A No.

13 Q One moment, please.

14 All right. Let me direct your

15 attention to the same document in front of you,

16 but the Bates No. SHIP 0019785.

17 A Okay.

18 Q Do you see it says:

19 "Guidelines for senior secured

20 credit opportunities"?

21 A Yes.

22 Q And what did you understand these

23 guidelines to be?

24 A Basically what I had stated

25 already, that the loans were highly

Page 69

1 Brian Wegner

2 collateralized. Up on the top it says:

3 "Beechwood, as a third-party

4 valuation company, provided quarterly valuation

5 reports."

6 And that would go to Beechwood and

7 the client as a basis for valuation.

8 Q Okay. Let me -- I'm sorry.

9 Was there anything else that you

10 wanted to say?

11 A No. That's basically what I just

12 stated before.

13 Q And -- and you saw -- you see here,

14 looking towards the last sentence of the

15 paragraph at the very top, in italics, of the

16 page, it says:

17 "These securities are not rated by

18 the FCO, as they are private transactions.

19 However, Beechwood has contracted a third-party

20 valuation company to provide quarterly valuation

21 reports to Beechwood and client in order to

22 provide a basis of valuation for the trust

23 account and credit quality for the client."

24 So you saw this and you would have

25 read this?

Page 74

1 Brian Wegner
2 describing Fuzion's background, correct?
3 A Correct.
4 Q Fuzion began as a purely analytics
5 business, right?
6 A Yes.
7 Q And the -- Fuzion was doing
8 analytics for SHIP?
9 A Yes.
10 Q Is that correct.
11 Anyone else, when it -- when it
12 began?
13 A Not at that time.
14 Q Okay. And it says:
15 "Beechwood brought the opportunity
16 to manage blocks."
17 Right?
18 A Right.
19 Q What do you mean here?
20 A It was the CNO block initially. So
21 at first we were administering it for CNO. We
22 became more active in managing the claims for
23 Beechwood, and Beechwood was seeking to find
24 other reinsurance opportunities for long-term
25 care business that we would then also administer

Page 75

1 Brian Wegner
2 and manage.
3 Q And if you turn to the third slide,
4 which is SHIP 0026039.
5 A Okay.
6 Q The title of the slide is "2014
7 Thematic Goal and Defining Objectives"?
8 A Yes.
9 Q And it says:
10 "Thematic goal. What is our focus
11 for the next six to nine months?"
12 And that thematic goal is, quote:
13 "Wow Beechwood," closed quote.
14 A Yes.
15 Q Can you explain what you mean
16 there?
17 A The long-term care industry was
18 suffering from much higher claims and very poor
19 performance. We felt there was an opportunity
20 for the block that we were managing for Beechwood
21 to improve the claim performance, so we wanted to
22 demonstrate our abilities in that area.
23 Q Do you believe you were successful
24 in that goal of "wowing Beechwood"?
25 A I believe so. They were

Page 76

1 Brian Wegner
2 complimentary of our management.
3 Q They asked you to join their board
4 of directors?
5 A No.
6 Q You said no?
7 A No. They -- they talked about an
8 opportunity at some point to join their board of
9 directors, but the invitation was never made.
10 Q Was that something you were
11 interested in doing?
12 A It seemed appealing at the time. I
13 took it to our board for discussion, if the -- if
14 the invitation had been made, to see what their
15 thoughts were on it. And there were mixed views,
16 but in general it seemed to be a good
17 opportunity.
18 Q And in -- so this is -- this is --
19 this E-mail is dated August 18, 2014. So around
20 this time period, were you also seeking to
21 partner with Beechwood on new business deals?
22 MR. NAUNTON: Objection to form.
23 A I didn't hear you.
24 Q Were you working with Beechwood at
25 the time for -- on deals to manage other -- other

Page 77

1 Brian Wegner
2 blocks of business?
3 A We were seeking deals to manage
4 other business. We never did acquire any others.
5 Q And was the objective of wowing
6 Beechwood, in part, related to continuing a
7 business relationship with Beechwood?
8 A Expanding the amount of business
9 that we would manage and increasing the revenue
10 to Fuzion, yes.
11 Q Okay. Thank you.
12 I would like to shift to the time
13 period in the fall of 2014. Can you tell me,
14 around this time, what the status of SHIP's
15 risk-based capital ratio was?
16 A What was the date again?
17 Q This is the summer of 2014.
18 MR. NAUNTON: Object to the form.
19 A I don't -- I don't recall our RBC
20 level at that time specifically. It was -- it
21 was something we were seeking to increase.
22 Q Do you remember a point in time
23 where the -- risk-based capital, if I refer to it
24 as RBC, will that --
25 A Yes.

Page 78

1 Brian Wegner

2 Q Do you recall a time when the RBC

3 was at risk of falling below 200?

4 A Under certain scenarios, it could

5 have fallen below 200.

6 Q Do you recall whether that was in

7 2014?

8 A Obviously, it was either 2014 or

9 2015.

10 Q What -- what would -- what would

11 happen if -- if -- if SHIP's RBC fell below 200?

12 A We would be going to the Department

13 of Insurance that oversaw SHIP, which was the

14 Pennsylvania Department of Insurance; and we'd

15 have to produce a plan that would show how we

16 were going to get it back up above 200.

17 Q Would that be something that you

18 viewed as a negative event?

19 A Sure.

20 Q Is that something that you were

21 concerned about in the fall of 2014?

22 A Well, I mean, it's always a

23 concern. And, again, that was under certain

24 scenarios. So we ran scenarios from optimistic

25 to very pessimistic; and somewhere along that

Page 79

1 Brian Wegner

2 line there were scenarios that would put us below

3 200.

4 Yeah, to guard against that, we

5 were looking for initiatives to offset that.

6 Q What type of initiatives?

7 A We had quite a few of them. You

8 know, one of them was investing in -- in getting

9 a higher return. Rate increases was another

10 one -- managing our risk side, which was the

11 claims side. So that's where the analytics and

12 fraud identification came in.

13 We also began working on the

14 reinsurance transaction to help offload some of

15 the risk.

16 Q So can you tell me how Beechwood

17 played into those initiatives?

18 MR. MATHIAS: Objection to form.

19 Q Did Beechwood play -- play a role

20 in these initiatives?

21 A Yes, on the investment side.

22 Q With the IMAs?

23 A With the IMAs and the surplus note.

24 Q So can you tell me about the

25 surplus note transaction, starting from your

Page 80

1 Brian Wegner

2 first recollection of it?

3 A Yes. We were -- at first we were

4 talking to Beechwood about doing a reinsurance

5 transaction for -- for the SHIP business, much

6 like they did for CNO. And that took a while,

7 and it became clear that there just wasn't enough

8 capital in the SHIP side to make Beechwood

9 comfortable that they could sustain it.

10 So Mark -- Mark in particular told

11 us about a family office of 500,000 -- or

12 \$500 million that could be brought in to support

13 their obligations. But even that wouldn't have

14 been enough to take the risk for the SHIP block.

15 So we were brainstorming, and the idea of a

16 surplus note came about.

17 Q Can you explain more about the

18 "family office" point?

19 A It was a point Mark made few times.

20 So when we -- when we were talking with them

21 about the 5.85 percent in particular, from the

22 IMAs, you know:

23 What stands behind that guarantee?

24 So we -- we saw in the KPMG report

25 that they were capitalized. Beyond that, Mark

Page 81

1 Brian Wegner

2 talked about the family office money that could

3 be brought in to fulfill the need shortcomes --

4 shortfalls.

5 Q Did you ask for more information

6 about the family office?

7 A We did not investigate that.

8 Q One moment.

9 Can you -- can you describe -- can

10 you -- can you even hear me?

11 MS. EILBAUM: Can everyone hear me?

12 Q Okay. Can you describe the surplus

13 note transaction?

14 A Yes. It was a \$50 million note

15 that we issued, and Beechwood funded it. It was

16 6 percent interest over a five-year period.

17 Q Do you recall what the effect of

18 the surplus note was on SHIP's RBC?

19 A I believe it was an increase of

20 100 points in the RBC.

21 Q Is that a big increase?

22 A Yes.

23 Q Do you recall 100 points from --

24 from what, what the starting point was?

25 A If I recall, it was in the mid --

Page 82

1 Brian Wegner
2 230, 240.
3 Q Do you recall around when the
4 surplus note transaction was executed?
5 A I believe it was late 2014. But I
6 don't -- I don't recall the specific date.
7 Q Do you recall whether other
8 transactions featured were executed around the
9 time that the surplus note were executed?
10 A We did another IMA. So the next
11 IMA was designed to give Beechwood the ability to
12 cover the risk on the surplus note. So the
13 surplus note repayment had to be approved by the
14 Department of Insurance.
15 And in the event that we could not
16 repay the \$50 million note, we did another IMA to
17 provide Beechwood with the ability to make more
18 income and offset the risk of the 50 million.
19 Q Do you recall whether you
20 brought -- and by "you," I mean you, SHIP -- and
21 we can explain further -- brought the surplus
22 note transaction to Beechwood or Beechwood
23 brought the transaction to SHIP?
24 A I don't recall specifically.
25 Q I'm going to show you the next

Page 83

1 Brian Wegner
2 exhibit, which I'm going to mark as Exhibit 63.
3 (Exhibit No. D 63, 12/29/14 E-Mail
4 From Mr. Wegner to Julianne Bowler,
5 Subject: Tuesday Call, Bates No. SHIP
6 0026103 is marked by the reporter for
7 identification.)
8 MS. EILBAUM: And for the record,
9 it is Bates No. SHIP 0026103.
10 BY MS. EILBAUM:
11 Q Have you finished reviewing it?
12 A Yes.
13 Q So this E-Mail is from
14 bwegner@shipltd.com, right?
15 A Yes.
16 Q That's your E-Mail address?
17 A Yes.
18 Q And it's to Julianne Bowler,
19 correct?
20 A Yes.
21 Q Who is Julianne Bowler?
22 A She was the chairperson of the
23 board of SHIP and the trustees.
24 Q And do you recall sending this
25 E-Mail?

Page 84

1 Brian Wegner
2 A Yes.
3 Q And in this E-Mail -- well, can you
4 tell me what -- what -- what you're saying in
5 this E-Mail?
6 A I was giving Julie information
7 about the transactions that we were planning to
8 do with -- with Beechwood. And, primarily, Greg
9 Serio was a board member. He raised the question
10 at a board meeting that, you know:
11 "Maybe we're doing too much
12 business with Beechwood. Are they trustworthy?"
13 All of that.
14 So we -- I had earlier -- I said I
15 couldn't recall when we engaged Protiviti to do
16 due diligence, and this outline is when they --
17 when they got involved to do that due diligence.
18 Q Okay. Do you recall what Greg
19 Serio's concerns were?
20 A I think just, you know:
21 "What do we really know about
22 Beechwood? Have we done enough due diligence on
23 them?"
24 Q Do you know why he had those
25 concerns?

Page 85

1 Brian Wegner
2 A Intuition, I guess. I don't know.
3 Q Who and -- well, was Protiviti
4 engaged?
5 A Yes.
6 Q And -- and do you recall them now
7 that -- being engaged subsequent to this E-Mail?
8 A Around this time, I was notifying
9 Julie that we had engaged Protiviti to do that
10 work.
11 Q And I believe you said this, but I
12 just want to confirm for the record.
13 Before this date, you had not hired
14 Protiviti to do due diligence on Beechwood; is
15 that correct?
16 A Well, around this date. Prior to
17 this engagement, yes.
18 Q Okay. Who would have been
19 responsible for engaging Protiviti?
20 A Either Paul or I.
21 Q Do you recall which of the two of
22 you engaged Protiviti?
23 A No. It could even have been
24 Pat Carmody who drew up the contract, or the
25 agreement, the work order. But, I mean, it would

Page 86

1 Brian Wegner
2 have been a senior management decision.
3 Q Do you recall who at Protiviti was
4 engaged?
5 A They brought in outside resources.
6 I don't recall their names.
7 Q Do you recall what transactions
8 Protiviti was brought in to -- to do due
9 diligence for?
10 A I don't -- I don't believe it was
11 transactions. It was due diligence of Beechwood
12 to -- to review what we had looked at for -- when
13 we initially engaged Beechwood, and do whatever
14 background checks they could. So I don't know.
15 Q But when you say "when we had
16 previously engaged Beechwood," are you referring
17 to the IMAs that -- that we reviewed earlier
18 today?
19 A Correct. Yes.
20 Q Do you recall how long the
21 Protiviti diligence engagement was?
22 A I don't recall how long, but it
23 wouldn't have been a long duration. We were
24 looking to finish it by January 15th. So it
25 looks like it was maybe three weeks long.

Page 87

1 Brian Wegner
2 Q Do you recall what the results of
3 Protiviti's diligence were?
4 A I don't recall the reports
5 specifically. But we moved forward with doing
6 the transaction, so apparently they weren't able
7 to come back with anything of concern.
8 Q One moment, please.
9 All right. I'm going to show you
10 the next exhibit. It's marked Exhibit Number 64.
11 (Exhibit No. D 64, February 2015
12 Memo to SHIP Management from Charles
13 Soranno and Rick Yager, Subject: Surplus
14 Loan Transaction Review and Analysis
15 Results Memo, Bates Nos. SHIP 0127259 to
16 62, Document is marked by the reporter for
17 identification.)
18 Q Have you looked at it?
19 A Yes.
20 MS. EILBAUM: For the record, it's
21 SHIP 0127259.
22 Q Have you seen this before?
23 A Yes.
24 Q When have you seen it?
25 A February of 2015, when they -- when

Page 88

1 Brian Wegner
2 Protiviti issued their report, findings.
3 Q And if you turn to the second page,
4 it's SHIP 0127260. Under -- under the heading
5 "Transactional," it says:
6 "Our observations regarding the
7 transaction itself were provided in comments on
8 the specific agreements being negotiated in the
9 January 5, 2015 version of the document. In
10 general, we noted the following."
11 And then in point two, it says:
12 "Due diligence on the entities
13 participating in this transaction. The Beechwood
14 entities directly involved and their beneficial
15 owners is essential. As of this writing,
16 Beechwood has not provided the ownership
17 structure to determine how BRE, BRIL, BAM, and
18 BRILLC relate and who owns them, nor have they
19 provided financial statements and biographies of
20 the principals involved in the transactions."
21 Do you recall at the time -- my
22 apologies -- I apologize. There's one more. It
23 says:
24 "This should be a non-negotiable
25 condition to closing."

Page 89

1 Brian Wegner
2 Do you recall at this time asking
3 for information about the Beechwood entities and
4 their beneficial owners?
5 A Yeah. I don't recall going -- what
6 conversations or documents we asked for. I'm --
7 I'm certain we -- we addressed the questions with
8 Beechwood. I know -- I can't recall when; but at
9 some point Mark provided documentation that said
10 he owned 99 percent of -- he and Scott owned 99
11 percent the company. I can't recall when that
12 was.
13 Q Which company?
14 A Beechwood.
15 Q Any particular entity?
16 A No, not -- we didn't break it down
17 by entity.
18 Q Do you recall whether that was
19 2013?
20 A I don't recall when it was. I
21 believe it was later, probably around this time
22 or soon after.
23 Q If you -- if -- well, do you recall
24 what form of document it was?
25 A Well, we had conversations about

Page 90

1 Brian Wegner

2 it. I believe when -- I know we got something in

3 2016 that Mark said that he and Scott owned

4 99 percent of the company.

5 Q But now -- do you recall receiving

6 anything before 2016?

7 A Before 2016?

8 Q Right.

9 A Related to that? I don't recall

10 specifically.

11 Q And if you had received it, would

12 you have given it to Protiviti?

13 MR. NAUNTON: Objection. Calls for

14 speculation.

15 A Sure. There were -- we did have

16 the initial documents that showed the

17 organization structure. So there --

18 Q Were you -- apologies. Go ahead.

19 A It didn't show ownership, but it

20 informed us of who was leading the company, and

21 we presumed it was also the ownership.

22 Q And -- and from your perspective,

23 was that -- was that enough information for you?

24 MR. MATHIAS: Objection.

25 MR. NAUNTON: Join.

Page 91

1 Brian Wegner

2 A Well, looking back, I wish we would

3 have had more information.

4 Q At the time?

5 A Yes.

6 Q I'm sorry. You said "looking

7 back." At the time, was that -- were you

8 satisfied with that, with the organizational

9 chart?

10 MR. NAUNTON: Objection.

11 A Back then, I think we were

12 satisfied by conversations with Beechwood.

13 Q What -- what conversations?

14 A Conversations about their

15 leadership and ownership of the company.

16 Q What specific conversations?

17 A I don't recall specific

18 conversations. But I'm saying that we were made

19 comfortable. But I don't recall what those were.

20 Q I'm going to show you the next

21 exhibit, which I believe is Exhibit 65.

22 (Exhibit No. D 65, Third IMA, Bates

23 Nos. SHIP 0019797 to 19833, and attachment

24 Bates Nos. SHIP 19793 to 19796 Document is

25 marked by the reporter for identification.)

Page 92

1 Brian Wegner

2 Q Let me know when you've had a

3 chance to look at this.

4 A Okay.

5 Q For the record, the beginning Bates

6 number is SHIP 0019797. Do you know what this

7 document is?

8 A It's the third IMA that was

9 associated with the surplus note that I

10 described.

11 Q And had -- had you seen it before?

12 A Yes.

13 Q Did you review it before executing

14 it?

15 A Yes.

16 Q Did you understand its terms?

17 MR. NAUNTON: Objection.

18 A Yes.

19 Q All right. If you turn to page

20 SHIP 0019811, is that your signature on this

21 page?

22 A Yes.

23 Q Can you turn to the next document,

24 which has the Bates No. SHIP 0019793? It's after

25 the blue sheet.

Page 93

1 Brian Wegner

2 A Okay. Yep.

3 Q What is this?

4 A This looks like a side letter to

5 the agreement.

6 Q Do you recall what it was for?

7 A To guarantee the 5.85 percent

8 return.

9 Q And if you turn to -- who is

10 guaranteeing the 5.85 percent?

11 A Beechwood Re, had guarantee.

12 Q Beechwood -- Beechwood Re?

13 A Well, it's on Beechwood Re paper.

14 Q What -- what is the --

15 A So BRILLC.

16 Q So that's Beechwood Re Investments,

17 LLC?

18 A I believe that's what it is, yes.

19 Q And do you recall reviewing this

20 document in January of 2015?

21 A I don't. Yeah, this actually is to

22 Paul, to me. But I would have seen it.

23 Q If you turn to the document with

24 the Bates No. SHIP 0019796, it's the last page.

25 A Um-hum.

Page 98

1 Brian Wegner
2 Beechwood Re, Investments, LLC was?
3 A I did not. Paul was very involved
4 with this. He -- Paul was organizing the IMAs
5 and determining which entities would be -- would
6 go in.
7 Q When you said -- well, you just
8 said, "I did not." Are you -- are you saying
9 that you did not ask, or you do not recall
10 asking?
11 A Asking what?
12 Q Who -- what Beechwood
13 Reinvestments, LLC was?
14 A I don't recall asking.
15 Q All right. You just signed it,
16 right?
17 MR. NAUNTON: Objection.
18 A I signed it after Paul presented
19 it, yes.
20 Q All right. Thank you.
21 I'm sorry. One moment, please.
22 I'm going to show you the next set
23 of exhibits, which I'll mark as Exhibit 67.
24 MR. NAUNTON: 66.
25 MS. EILBAUM: Right. Thank you,

Page 99

1 Brian Wegner
2 again.
3 (Exhibit No. D 66, Document
4 entitled "Pledge Agreement," Bates Nos.
5 SHIP 0009395 to 413 is marked by the
6 reporter for identification.)
7 MS. EILBAUM: For the record, I'm
8 going to give the Bates numbers. There are
9 -- there are three documents here. The
10 first is SHIP 0009395; the second is SHIP
11 0009405; and the third is SHIP 0009410.
12 Q Have you had a chance to review it?
13 A Yes.
14 Q Have you seen these documents
15 before?
16 A I don't recall seeing the first
17 two. I recall the third one, the surplus note.
18 Q All right. I'm going to show you
19 the next exhibit, which I'll mark as Exhibit 67.
20 (Exhibit No. D 67, November 9, 2015
21 Presentation to the SHIP Board of Trustees,
22 Bates Nos. SHIP 00122705 to 19, Document is
23 marked by the reporter for identification.)
24 Q For the record, this is Bates No.
25 SHIP 0122705.

Page 100

1 Brian Wegner
2 Have you had a chance to review it?
3 A Yes.
4 Q So this is a document titled
5 "Presentation to the SHIP Board of Trustees."
6 It's dated November 9th, 2015. On the bottom
7 left, there is the Vanbridge logo.
8 Have you seen these slides before?
9 A Yes.
10 Q When do you recall seeing them?
11 A At the November meeting,
12 November 9th meeting.
13 Q Who is Vanbridge?
14 A It's a consultant firm that we
15 engaged to help us with -- first to help us with
16 the reinsurance transaction that we were still
17 looking to do with Beechwood.
18 That was referenced in an earlier
19 document, with the three components that we were
20 looking to do with Beechwood, reinsurance being
21 the third one.
22 Q And who at SHIP was responsible for
23 engaging Vanbridge?
24 A I was.
25 Q And do you recall what this

Page 101

1 Brian Wegner
2 presentation was about?
3 A I'd have to go through it in much
4 more detail.
5 Q Taking -- taking a step back, when
6 you say that Vanbridge was engaged to help you
7 with the reinsurance trans -- transaction, can
8 you elaborate a little bit more about what --
9 what SHIP hired Vanbridge to do?
10 A Right. We had never renegotiated a
11 reinsurance transaction on -- on our behalf.
12 Vanbridge was in the business, so we hired them
13 to negotiate it with Beechwood.
14 Q And do you recall whether Vanbridge
15 made a presentation on or around November 9,
16 2015?
17 A That appears this would be the
18 presentation they made to the board.
19 Q If they made this at the board,
20 would you have seen it beforehand?
21 MR. NAUNTON: Objection.
22 Q Before the board meeting?
23 A I don't recall seeing it
24 beforehand. I may have.
25 Q Do you recall seeing it at the

<p style="text-align: right;">Page 102</p> <p>1 Brian Wegner</p> <p>2 presentation.</p> <p>3 My apologies. Let me -- let me</p> <p>4 strike that.</p> <p>5 If you turn to -- I'm going to</p> <p>6 withdraw that question and -- and ask another</p> <p>7 one.</p> <p>8 If you turn to the document, the</p> <p>9 last page of this presentation, which is Bates</p> <p>10 No. SHIP 0122719, and you look at the bottom</p> <p>11 left-hand corner of the page, under "Beechwood Re</p> <p>12 ownership"?</p> <p>13 A Yes.</p> <p>14 Q Do you see that it says:</p> <p>15 "The company is indirectly owned by</p> <p>16 Family Trust, Scott Taylor, Mark Feuer, and</p> <p>17 David Levy through their direct ownership of</p> <p>18 100 percent of the voting common shares and</p> <p>19 37 percent of the economic interest in</p> <p>20 Beechwood Re Holdings, Inc."?</p> <p>21 A I see that.</p> <p>22 Q Do you see it says that the</p> <p>23 additional 63 percent economic interest in Beech</p> <p>24 Re Holdings --</p> <p>25 (Reporter clarification.)</p>	<p style="text-align: right;">Page 104</p> <p>1 Brian Wegner</p> <p>2 record. The time is 12:40 p.m.</p> <p>3 (A break is taken.)</p> <p>4 THE VIDEOGRAPHER: This begins</p> <p>5 media unit number two. The time is</p> <p>6 12:54 p.m. We are back on the record.</p> <p>7 (At this point the telephone</p> <p>8 conference line was established, and people</p> <p>9 listed as attending telephonically joined</p> <p>10 the deposition.)</p> <p>11 CONTINUED DIRECT EXAMINATION</p> <p>12 BY MS. EILBAUM:</p> <p>13 Q All right. I'm going to shift</p> <p>14 focus now to the sale of Agera.</p> <p>15 When did you -- when do you first</p> <p>16 recall hearing discussion about a potential sale</p> <p>17 of Agera?</p> <p>18 A Sale of Agera to?</p> <p>19 Q The purchase -- well, first, have</p> <p>20 you heard of Agera before?</p> <p>21 A Yes.</p> <p>22 Q What do you understand Agera to be?</p> <p>23 A So it's an energy company of sorts</p> <p>24 that Beechwood invested some of our capital in</p> <p>25 earlier.</p>
<p style="text-align: right;">Page 103</p> <p>1 Brian Wegner</p> <p>2 Q Do you see that the additional</p> <p>3 63 percent economic interest in Beechwood Re</p> <p>4 Holdings, Inc. is owned by 19 trusts?</p> <p>5 A I see that.</p> <p>6 Q Do you -- do you know who the</p> <p>7 beneficiaries of those 19 trusts are?</p> <p>8 A I don't know them specifically.</p> <p>9 When we met with Scott, he said the purpose of</p> <p>10 Beechwood was to give financial independence to</p> <p>11 all the people that worked there. So I don't</p> <p>12 know if those were those trusts or others.</p> <p>13 Q Do you recall asking any questions</p> <p>14 about the 19 trusts?</p> <p>15 A I don't recall asking any</p> <p>16 questions.</p> <p>17 Q Do you recall anyone else asking</p> <p>18 any questions about the 19 trusts?</p> <p>19 A I don't recall any.</p> <p>20 MS. EILBAUM: All right. I think</p> <p>21 we should take another five-minute break,</p> <p>22 if that works for everyone.</p> <p>23 (There was a discussion off the</p> <p>24 record.)</p> <p>25 THE VIDEOGRAPHER: Going off the</p>	<p style="text-align: right;">Page 105</p> <p>1 Brian Wegner</p> <p>2 Q Did -- did there -- there come a</p> <p>3 point in time where -- where -- well, I'm sorry.</p> <p>4 "Beechwood invested some of our</p> <p>5 capital earlier."</p> <p>6 What are you referring to as</p> <p>7 "earlier"?</p> <p>8 A Through the IMAs. There was some</p> <p>9 investment of some of our IMA money that we found</p> <p>10 that they invested in Agera.</p> <p>11 Q And, actually, do you recall from</p> <p>12 the E-Mail that it was a bit earlier -- from</p> <p>13 2014 -- there were two investments in that</p> <p>14 E-Mail; one was Black Elk, and the other was</p> <p>15 Agera?</p> <p>16 MR. NAUNTON: Objection to form.</p> <p>17 A Yes.</p> <p>18 Q And when you say "IMA investments,"</p> <p>19 is that what you were referring to?</p> <p>20 A Yes.</p> <p>21 Q And, now, did SHIP make additional</p> <p>22 investments in Agera after that, after 2014?</p> <p>23 A Yes. Beechwood came to us and</p> <p>24 talked about an opportunity to do some purchase</p> <p>25 of -- of Agera. They were cash strapped. I</p>

<p style="text-align: right;">Page 122</p> <p>1 Brian Wegner</p> <p>2 But it was an unusual transaction, so we gave</p> <p>3 notice.</p> <p>4 Q So just perhaps let me just walk</p> <p>5 you through some of the points that Paul is</p> <p>6 making.</p> <p>7 He begins by saying:</p> <p>8 "Hi, Tom. I want to give you a</p> <p>9 heads-up on a notice you can expect to receive</p> <p>10 from Christian Thomas at Beechwood related to an</p> <p>11 investment SHIP is making. The notice is coming</p> <p>12 pursuant to the attached letter."</p> <p>13 MS. EILBAUM: I'll note for the</p> <p>14 record that the letter is not before the</p> <p>15 witness, that Tom Jenkins sent to Beechwood</p> <p>16 in 2014.</p> <p>17 Q The genesis of the letter, I</p> <p>18 believe, was the investment that Beechwood was</p> <p>19 making at the time in Triliant LLC, the company</p> <p>20 that is owned by Brian and his family.</p> <p>21 Does -- does that refresh your</p> <p>22 recollection about the notice?</p> <p>23 A Yes. Yes.</p> <p>24 Q Okay. Can you -- let me withdraw</p> <p>25 that question.</p>	<p style="text-align: right;">Page 124</p> <p>1 Brian Wegner</p> <p>2 quality-of-earnings analysis from Duff & Phelps?</p> <p>3 A Paul would have reviewed that.</p> <p>4 (There was a discussion off the</p> <p>5 record.)</p> <p>6 Q And is Paul here -- would you say</p> <p>7 Paul here is laying out the bases for SHIP's</p> <p>8 decision to enter into the transaction?</p> <p>9 MR. NAUNTON: Objection to form.</p> <p>10 MR. MATHIAS: Objection to the</p> <p>11 form.</p> <p>12 Q If you feel comfortable answering.</p> <p>13 A So your question is:</p> <p>14 Is Paul explaining to the board</p> <p>15 that we are investing this money?</p> <p>16 Q Correct.</p> <p>17 A Yeah. I believe Paul is</p> <p>18 providing -- making a case for this investment.</p> <p>19 Q And -- and the case that Paul is</p> <p>20 making is based on the factors that he's</p> <p>21 identified?</p> <p>22 MR. NAUNTON: Objection to form.</p> <p>23 Q In -- your answer -- did you answer</p> <p>24 the question?</p> <p>25 A Yeah. I mean, he's laying out the</p>
<p style="text-align: right;">Page 123</p> <p>1 Brian Wegner</p> <p>2 What do you recall about the notice</p> <p>3 requirement?</p> <p>4 A I think after Beechwood invested in</p> <p>5 Triliant, as part of that transaction, there was</p> <p>6 a -- an agreement that Beechwood would notify the</p> <p>7 trust of any further transactions that were</p> <p>8 unusual.</p> <p>9 Q And it was making this notice</p> <p>10 pursuant to that agreement?</p> <p>11 A Yes.</p> <p>12 Q Okay. I want to call your</p> <p>13 attention to the third paragraph of this E-Mail,</p> <p>14 where Paul says:</p> <p>15 "There has been exhaustive due</p> <p>16 diligence of the company, including a</p> <p>17 comprehensive review of the financials and a</p> <p>18 quality-of-earnings analysis by Duff & Phelps.</p> <p>19 We engaged Drinker Biddle to review the</p> <p>20 investment agreements and have become comfortable</p> <p>21 that this is a sound investment for SHIP."</p> <p>22 Do you recall this paragraph of</p> <p>23 that E-Mail?</p> <p>24 A Yes.</p> <p>25 Q And had -- had you seen the</p>	<p style="text-align: right;">Page 125</p> <p>1 Brian Wegner</p> <p>2 criteria that we would value the investment from.</p> <p>3 Q Did you agree with the statement</p> <p>4 that Paul made?</p> <p>5 A Yes, I agreed. Paul reviewed the</p> <p>6 detail; and he presented it to me, and I felt</p> <p>7 comfortable that he did a thorough job.</p> <p>8 Q Thank you.</p> <p>9 All right. I'm going to fast</p> <p>10 forward.</p> <p>11 Okay. Do -- do you recall a point</p> <p>12 in time where Wall Street Journal articles came</p> <p>13 out about Platinum?</p> <p>14 A Yeah, but it wasn't right away.</p> <p>15 But I came to learn of it a few days after the</p> <p>16 article came out, I believe.</p> <p>17 Q And what do you -- do you remember</p> <p>18 around the time the article came out?</p> <p>19 A It was late spring of 2016, I</p> <p>20 believe.</p> <p>21 Q Okay. What do you recall the</p> <p>22 article saying?</p> <p>23 A It's been while. But I believe the</p> <p>24 article was talking about how Platinum had</p> <p>25 essentially not been able to uphold its</p>

<p style="text-align: right;">Page 130</p> <p>1 Brian Wegner</p> <p>2 A Yes.</p> <p>3 Q And theres' a -- the subject line</p> <p>4 is "one o'clock call," right?</p> <p>5 A Yes.</p> <p>6 Q Do you recall what the one o'clock</p> <p>7 call was for?</p> <p>8 A I believe at this time it was</p> <p>9 heating up. The issues were becoming more known</p> <p>10 about investments that Beechwood made into</p> <p>11 Platinum with SHIP's funds, and the board had</p> <p>12 asked for a phone call to discuss the</p> <p>13 Beechwood-Platinum transactions.</p> <p>14 Q You're -- in this E-Mail, you're</p> <p>15 asking -- well, in this E-Mail, you say:</p> <p>16 "It may be best not to venture into</p> <p>17 that issue today."</p> <p>18 By "that issue, "are you referring</p> <p>19 to the Agera investment?</p> <p>20 A Right. The call would have been</p> <p>21 about the IMAs and the investments from the IMAs</p> <p>22 into Platinum funds.</p> <p>23 Q Now, were -- were you -- in this</p> <p>24 E-Mail, are you telling Mark, Scott, and Dhruv --</p> <p>25 or sorry -- asking Mark, Scott, and Dhruv not to</p>	<p style="text-align: right;">Page 132</p> <p>1 Brian Wegner</p> <p>2 Q Okay. Were there -- were there any</p> <p>3 other -- do you recall any other issues about</p> <p>4 Platinum that you or the board were concerned</p> <p>5 about at the time?</p> <p>6 A At what time?</p> <p>7 Q August 2016?</p> <p>8 A It was just coming to light then.</p> <p>9 So what -- what we started to learn was that</p> <p>10 investments that SHIP had made through the IMA</p> <p>11 into Beechwood were then invested in Platinum.</p> <p>12 At first we were led to believe</p> <p>13 that it was pretty limited to PPVA and PPCO. It</p> <p>14 was probably after August that we learned that</p> <p>15 there were more investments into Platinum than we</p> <p>16 had realized.</p> <p>17 Q Okay. I'm going to show you the</p> <p>18 next document.</p> <p>19 MR. NAUNTON: 73.</p> <p>20 Q Which we'll mark as Exhibit 73.</p> <p>21 (Exhibit No. D 73, E-Mail chain,</p> <p>22 top E-Mail dated 9/12/16 to Brian Wegner</p> <p>23 from Thomas Hampton, Bates Nos. SHIP 76754</p> <p>24 to 755, Document is marked by the reporter</p> <p>25 for identification.)</p>
<p style="text-align: right;">Page 131</p> <p>1 Brian Wegner</p> <p>2 mention Agera on the call?</p> <p>3 A What this E-Mail is saying would be</p> <p>4 that Paul and I hadn't had a board meeting yet</p> <p>5 with the board to go over the Agera transaction,</p> <p>6 and we wanted to have that conversation with them</p> <p>7 before they had the conversation with Beechwood.</p> <p>8 Q One moment.</p> <p>9 So -- so you had just said that you</p> <p>10 and -- you and Paul had not had a board meeting</p> <p>11 yet, and you wanted to have a conversation with</p> <p>12 them before -- before they had a conversation</p> <p>13 with Beechwood about Agera.</p> <p>14 In this E-Mail, though, are you</p> <p>15 asking Mark, Scott, and Dhruv not to discuss the</p> <p>16 Agera investment on the 1 o'clock call?</p> <p>17 MR. MATHIAS: Objection.</p> <p>18 MR. NAUNTON: Objection. Asked and</p> <p>19 answered.</p> <p>20 A I believe I already responded to</p> <p>21 that.</p> <p>22 Q And what was your response?</p> <p>23 A That -- that I was saying we would</p> <p>24 like to address the board about the transaction</p> <p>25 before they engaged Beechwood about it.</p>	<p style="text-align: right;">Page 133</p> <p>1 Brian Wegner</p> <p>2 Q Let me know when you've had a</p> <p>3 chance to review it.</p> <p>4 I'm sorry. Have you had a chance</p> <p>5 to review it?</p> <p>6 A Yes.</p> <p>7 Q Okay. So this E-Mail is -- there</p> <p>8 are a few E-Mails here. I'm looking at the page</p> <p>9 Bates stamped SHIP 0076754, and I'm looking at</p> <p>10 the E-Mail that you wrote to Tom Hampton on</p> <p>11 September 12, 2016, at 10:43 a.m.</p> <p>12 Do you recall seeing -- have you --</p> <p>13 do you recognize this E-Mail?</p> <p>14 A Yes.</p> <p>15 Q Do you remember writing it?</p> <p>16 A Yes.</p> <p>17 Q Now, in the second paragraph, you</p> <p>18 say, starting on the second sentence:</p> <p>19 "We, by no means, will ever</p> <p>20 withhold information from the board, but</p> <p>21 Greg's" -- "but Greg's questions were framed and</p> <p>22 his general demeanor have been in an antagonistic</p> <p>23 manner."</p> <p>24 Can you tell me what you're</p> <p>25 referring -- referring to here?</p>

<p style="text-align: right;">Page 134</p> <p>1 Brian Wegner</p> <p>2 A Greg is a board member, and we</p> <p>3 felt -- "we" being management -- felt we had a</p> <p>4 good relationship, trustworthy relationship, with</p> <p>5 Beechwood. And as you saw from an earlier</p> <p>6 E-Mail, Greg did not -- his instincts were not</p> <p>7 feeling good about Beechwood.</p> <p>8 Q That doesn't exactly answer the</p> <p>9 question.</p> <p>10 So he's saying -- so you say, by --</p> <p>11 "by no means will we ever withhold information</p> <p>12 from the board."</p> <p>13 Did anyone on the board accuse you</p> <p>14 of withholding information from them?</p> <p>15 A No. I don't recall ever being</p> <p>16 accused of that.</p> <p>17 Q And do you recall ever withholding</p> <p>18 information from the board?</p> <p>19 A No.</p> <p>20 Q And in the next sentence, you</p> <p>21 write:</p> <p>22 "Greg feels Beechwood is the enemy,</p> <p>23 but they literally saved the company when they</p> <p>24 gave us the 50 million surplus note."</p> <p>25 Can you tell me what you mean by</p>	<p style="text-align: right;">Page 136</p> <p>1 Brian Wegner</p> <p>2 Q And I'm looking at the E-Mail that</p> <p>3 you sent from bwegner@fuzionanalytics on</p> <p>4 October 3, 2016. It's on SHIP 0039882.</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Do you -- do you recall in the --</p> <p>8 in the -- in the press at the time any reports</p> <p>9 about connections between Platinum and Beechwood?</p> <p>10 A By this time, I believe there were</p> <p>11 some, not in -- not originally when we were</p> <p>12 looking at it in August. But I believe by</p> <p>13 October, it was starting to come out.</p> <p>14 Q Okay. And let me -- let me direct</p> <p>15 your attention to -- do you see where it says</p> <p>16 "further comments"?</p> <p>17 A I'm on that page. Oh, yeah. Yes.</p> <p>18 I do.</p> <p>19 Q And do you see where it says "this</p> <p>20 report"?</p> <p>21 A "This report." Got it. Okay.</p> <p>22 Q All right. The next sentence, it</p> <p>23 says:</p> <p>24 "If we go back to 2013, when SHIP</p> <p>25 was negotiating with Beechwood" --</p>
<p style="text-align: right;">Page 135</p> <p>1 Brian Wegner</p> <p>2 "They literally saved the company when they gave</p> <p>3 us the 50 million surplus note"?</p> <p>4 A The RBC matter we talked about</p> <p>5 earlier.</p> <p>6 Q All right. Great.</p> <p>7 You felt that that saved the</p> <p>8 company?</p> <p>9 A It was part of the solution. We</p> <p>10 talked about several initiatives that we had.</p> <p>11 That was -- that was a big piece of it.</p> <p>12 Q Okay. Thank you.</p> <p>13 All right. I'm going to show you</p> <p>14 the next document, which I'll mark as Exhibit 74.</p> <p>15 MS. EILBAUM: It is SHIP 0039881.</p> <p>16 (Exhibit No. D 74, E-Mail chain,</p> <p>17 top E-Mail dated 10/3/16 to Brian Wegner</p> <p>18 from Thomas Hampton; Subject: Draft</p> <p>19 Reports for Transmission to SHIP, Bates</p> <p>20 Nos. SHIP 0039881 to 883, Document is</p> <p>21 marked by the reporter for identification.)</p> <p>22 Q All right. Apologies for that.</p> <p>23 So have you seen this E-Mail</p> <p>24 before?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 137</p> <p>1 Brian Wegner</p> <p>2 A Yes.</p> <p>3 Q -- "many of the issues reported now</p> <p>4 were unknown or would not have raised an issue."</p> <p>5 Do you recall -- do you see that?</p> <p>6 A Yes.</p> <p>7 Q Do you recall writing that?</p> <p>8 A Yes.</p> <p>9 Q And you say:</p> <p>10 "For example, had it been known in</p> <p>11 2013 that Mike Nordlicht, a Platinum executive,</p> <p>12 was an owner of Beechwood, it would not have been</p> <p>13 a concern because Platinum was a respected hedge</p> <p>14 fund at the time."</p> <p>15 Do you remember writing this?</p> <p>16 A I acknowledge that I wrote it.</p> <p>17 Q Do you have any reason to doubt --</p> <p>18 do you have any reason to -- to doubt that --</p> <p>19 that you wrote this at the time?</p> <p>20 A No. I acknowledge that I wrote it.</p> <p>21 Q Do you have any reason to doubt</p> <p>22 that you meant this at the time you wrote it?</p> <p>23 A No.</p> <p>24 Q Okay. Let -- Let's just take a</p> <p>25 two-minute break, and then I think we'll be --</p>

<p style="text-align: right;">Page 142</p> <p>1 Brian Wegner</p> <p>2 Q Thank you very much.</p> <p>3 You mentioned earlier that you had</p> <p>4 relationships with numerous people at CNO,</p> <p>5 including Ed Bonach?</p> <p>6 A Yes.</p> <p>7 Q And what -- what was his role?</p> <p>8 A Ed was CEO. He was the CFO when</p> <p>9 Jim Prieur was CEO. And when Jim Prieur stepped</p> <p>10 down, Ed Bonach became CEO.</p> <p>11 Q And during the time that you were</p> <p>12 at Conseco and at any time thereafter, did you</p> <p>13 come to know a man named Matt Hall, Matthew Hall?</p> <p>14 A The name rings a bell. I believe</p> <p>15 he was in compliance.</p> <p>16 Q When you were there, when you were</p> <p>17 at Conseco?</p> <p>18 A Yes.</p> <p>19 Q And what about Greg Cicada</p> <p>20 [phonetic]?</p> <p>21 A That name does not ring a bell.</p> <p>22 Q In 2008, you became the CEO of --</p> <p>23 or the COO of SHIP -- withdrawn.</p> <p>24 In 2008, SHIP was -- was begun.</p> <p>25 Describe how that came about.</p>	<p style="text-align: right;">Page 144</p> <p>1 Brian Wegner</p> <p>2 really been formed yet, so it was really Conseco</p> <p>3 that was, I think, making the call as to who</p> <p>4 would take on which role. So I was offered the</p> <p>5 position by John Wells.</p> <p>6 Q Okay. And how long did you remain</p> <p>7 in the position of COO?</p> <p>8 A So it was 2008. I believe it was</p> <p>9 until 2010. I am not certain on the dates. But</p> <p>10 it was -- it was, I believe, 2010. So John had</p> <p>11 left in early 2009, was let go by the trust. A</p> <p>12 few months later, they hired somebody named Holly</p> <p>13 Bakke to be CEO.</p> <p>14 (Reporter clarification.)</p> <p>15 A Holly Bakke, B-a-k-k-e.</p> <p>16 Holly was in that role for a little</p> <p>17 over a year, I believe. So it was probably</p> <p>18 summer of 2010.</p> <p>19 When she was let go, I was given</p> <p>20 the interim CEO position. And then I believe in</p> <p>21 2011 I was given the position formally.</p> <p>22 Q Do you know why they were let go,</p> <p>23 those individuals?</p> <p>24 A I don't really know why John was</p> <p>25 let go. I think there was just animosity between</p>
<p style="text-align: right;">Page 143</p> <p>1 Brian Wegner</p> <p>2 A Yeah. My -- I wasn't involved in</p> <p>3 the -- in the design of it. But I understand</p> <p>4 that Conseco had engaged Morgan Stanley to come</p> <p>5 up with an idea for what to do with the long-term</p> <p>6 care block that became SHIP, and the concept of</p> <p>7 spinning it off into its own company.</p> <p>8 That transaction was laid out with</p> <p>9 the Pennsylvania Department of Insurance. So to</p> <p>10 spin it off, Conseco had to put some more money</p> <p>11 in. I don't recall how much more money they had</p> <p>12 to put into it.</p> <p>13 But that -- that coupled with the</p> <p>14 trust that would be formed specifically to own</p> <p>15 SHIP was -- was a concept that was approved.</p> <p>16 Q And in 2008, when that occurred,</p> <p>17 what -- what was the title that you achieved?</p> <p>18 A They offered me the role of COO of</p> <p>19 SHIP.</p> <p>20 Q And when you say "they," who is</p> <p>21 "they"?</p> <p>22 A There was a conglomeration at that</p> <p>23 point -- Ed Bonach, Jim Prieur, and John Wells.</p> <p>24 So John Wells was offered the position of CEO,</p> <p>25 reporting to the trust. But the trust had not</p>	<p style="text-align: right;">Page 145</p> <p>1 Brian Wegner</p> <p>2 him and the trustees.</p> <p>3 Holly had a complaint filed against</p> <p>4 her internally. It was -- it was anonymous, and</p> <p>5 the board investigated and found some</p> <p>6 improprieties that Holly had been accused of and</p> <p>7 found that they were true. So they let her go.</p> <p>8 Q Do you know what kind of</p> <p>9 improprieties we're talking about?</p> <p>10 A I think -- I think she had another</p> <p>11 job while she was performing her duties at SHIP</p> <p>12 that she did not make the board aware of; and she</p> <p>13 took a vacation when she said she was taking care</p> <p>14 of her mother that was having surgery, which</p> <p>15 turned out not to be true.</p> <p>16 So those are two things that I</p> <p>17 recall.</p> <p>18 Q When you were COO describe your</p> <p>19 duties and responsibilities?</p> <p>20 A I was overseeing the administration</p> <p>21 of the policies again. I had outsourced a lot of</p> <p>22 the administration to a TPA called Long Term Care</p> <p>23 Group, LTCG. I was responsible for that</p> <p>24 relationship.</p> <p>25 We had to take on all of legal and</p>

<p style="text-align: right;">Page 150</p> <p>1 Brian Wegner</p> <p>2 systems that were designed for long-term care</p> <p>3 business. Our systems were not.</p> <p>4 So, you know, the claims weren't</p> <p>5 necessarily being handled properly because of</p> <p>6 either poor training or poor systems or a</p> <p>7 combination of both in some cases. So by</p> <p>8 outsourcing it, we improved -- for example, call</p> <p>9 answer times were averaging 11 minutes when I</p> <p>10 arrived.</p> <p>11 By the time we spun -- spun it off</p> <p>12 to become SHIP, we were down to 80 percent in 30</p> <p>13 seconds for call-response time. That's one</p> <p>14 example.</p> <p>15 Our claims compliance was not even</p> <p>16 measured when I got there, but it was considered</p> <p>17 to be between 0 to 5 percent. And there's a</p> <p>18 number of measures that you use to determine</p> <p>19 whether you're compliant. We had improved that</p> <p>20 to close to 95 percent.</p> <p>21 Q Now, you described how you reacted</p> <p>22 to the long-term care business while you were at</p> <p>23 SHIP. But while you were at SHIP, can you</p> <p>24 describe what the long-term care business was</p> <p>25 like?</p>	<p style="text-align: right;">Page 152</p> <p>1 Brian Wegner</p> <p>2 undertaking to improve that book's performance.</p> <p>3 They then did another transaction,</p> <p>4 which everybody here is aware of, where they</p> <p>5 reinsured the book of business with -- with</p> <p>6 Beechwood. It was about a \$500 million book.</p> <p>7 And after -- after it spun off to Beechwood -- we</p> <p>8 really didn't have a relationship with CNO</p> <p>9 anymore.</p> <p>10 Q Now, the SHIP offices, where are</p> <p>11 they located?</p> <p>12 A Initially, they were on the CNO</p> <p>13 campus, in one of their buildings that we rented</p> <p>14 from CNO. Probably 2014-ish, we moved into other</p> <p>15 offices.</p> <p>16 Q And where are the other offices?</p> <p>17 A They're nearby. They are in the</p> <p>18 same office park, but not on Consecoco property.</p> <p>19 It's in Carmel, Indiana.</p> <p>20 Q You said they're the same office --</p> <p>21 I'm sorry.</p> <p>22 A Office park.</p> <p>23 Q Park. Okay. So it's like the same</p> <p>24 campus?</p> <p>25 A Yes. It's not Consecoco buildings,</p>
<p style="text-align: right;">Page 151</p> <p>1 Brian Wegner</p> <p>2 A The entire industry?</p> <p>3 Q As it relates to your business.</p> <p>4 A As it relates to our business.</p> <p>5 Well, our business was reflective of the</p> <p>6 industry, which was claim -- the biggest issue</p> <p>7 was people were holding on to their policies</p> <p>8 longer than they were expected when the plans</p> <p>9 were designed; so that requires holding reserves</p> <p>10 for a longer period of time.</p> <p>11 Claims were higher than they were</p> <p>12 expected to be and investment rates were lower</p> <p>13 than they were expected to be.</p> <p>14 Q When you were CEO of SHIP, can you</p> <p>15 describe your chain of command then?</p> <p>16 A I reported to the board of</p> <p>17 trustees.</p> <p>18 Q After you spun -- withdrawn.</p> <p>19 After SHIP was spun off from CNO,</p> <p>20 can you describe the relationship between SHIP</p> <p>21 and CNO?</p> <p>22 A Initially, it was -- it was close.</p> <p>23 We were still administering the -- their</p> <p>24 business, so we -- we met with them quarterly to</p> <p>25 review their book of business, and initially</p>	<p style="text-align: right;">Page 153</p> <p>1 Brian Wegner</p> <p>2 but it's nearby.</p> <p>3 Q Okay.</p> <p>4 A Same road.</p> <p>5 Q Same area?</p> <p>6 A Yes.</p> <p>7 Q Did you see each other on the</p> <p>8 streets when you passed by in the mornings?</p> <p>9 A Not that I recall. But I'm sure --</p> <p>10 I'm sure there were times when we did.</p> <p>11 Q Did you share any kind of cafeteria</p> <p>12 or anything like that?</p> <p>13 A No.</p> <p>14 Q I assume you had friends at CNO?</p> <p>15 A I did. I mean, it started fading</p> <p>16 away over time.</p> <p>17 Q But in around the time we're</p> <p>18 talking about here, '14, '15, you were still in</p> <p>19 touch with people from CNO, correct?</p> <p>20 A Yes.</p> <p>21 Q Do you still have friends at CNO?</p> <p>22 A Not -- I don't know who's left</p> <p>23 there anymore. I don't stay in touch with them</p> <p>24 anymore.</p> <p>25 Q No, no. I mean -- I'll withdraw</p>

<p style="text-align: right;">Page 170</p> <p>1 Brian Wegner</p> <p>2 Q Were there any discussions about</p> <p>3 regulatory issues with Beechwood concerning what</p> <p>4 you were able to invest in?</p> <p>5 A Yeah. We -- we reviewed that, and</p> <p>6 our agreement said they had to be compliant.</p> <p>7 Q Okay. Well, what was your</p> <p>8 understanding that you needed to be concerned</p> <p>9 about for your regulators?</p> <p>10 A That they were -- they were valued</p> <p>11 and protected. They were -- I don't know the</p> <p>12 specific guidelines, all the specific guidelines;</p> <p>13 but my understanding is they had to be equivalent</p> <p>14 to NAIC 1s and 2s.</p> <p>15 Q You said, "I don't" -- withdrawn.</p> <p>16 Is it fair to say you relied upon</p> <p>17 Paul Lorentz for regulatory issues as it relates</p> <p>18 to investments?</p> <p>19 A The investment area reported to</p> <p>20 Paul --</p> <p>21 Q Say it again.</p> <p>22 A The investment area reported to</p> <p>23 Paul, and he was responsible for Conning and</p> <p>24 became responsible when Beechwood was doing the</p> <p>25 investments.</p>	<p style="text-align: right;">Page 172</p> <p>1 Brian Wegner</p> <p>2 annum, noncompounded, of the net asset value of</p> <p>3 the assets contributed to the account as of the</p> <p>4 date of this agreement, the initial NAV, which</p> <p>5 shall be prorated for any year that is less than</p> <p>6 12 complete calendar months."</p> <p>7 Did you negotiate that?</p> <p>8 A The 5.85?</p> <p>9 Q Yes.</p> <p>10 A Yes.</p> <p>11 Q Now, you mentioned earlier that you</p> <p>12 had asked Beechwood how they would stand behind</p> <p>13 that, and "we further discussed something about a</p> <p>14 family office."</p> <p>15 A Yes.</p> <p>16 Q Can you tell me what</p> <p>17 specifically -- well, withdrawn.</p> <p>18 With whom did you have that</p> <p>19 conversation?</p> <p>20 A Mark Feuer.</p> <p>21 Q All right. 5.8 percent is --</p> <p>22 that's a pretty good deal, right?</p> <p>23 A If you're living in the corporate</p> <p>24 bond world, it is.</p> <p>25 Q And you were living in the</p>
<p style="text-align: right;">Page 171</p> <p>1 Brian Wegner</p> <p>2 Q Yes. But when I asked you about</p> <p>3 your concerns with regulatory, you said Paul</p> <p>4 knows better. My question was:</p> <p>5 Do you defer to Paul in those kinds</p> <p>6 of instances?</p> <p>7 A I relied on Paul's expertise, yes.</p> <p>8 Q Okay. Now, earlier we looked at</p> <p>9 the investment management agreements, which I</p> <p>10 believe is still before you as Exhibit 59.</p> <p>11 A I'll have to get that back.</p> <p>12 Q Yeah.</p> <p>13 (There was a discussion off the</p> <p>14 record.)</p> <p>15 A Okay.</p> <p>16 Q Okay. Now, you talked earlier</p> <p>17 about your percentage return, your investment</p> <p>18 return, which is on page 20 of Exhibit B, which,</p> <p>19 if you'll turn to the third page in from the</p> <p>20 back, I think is where you'd find it.</p> <p>21 A Okay.</p> <p>22 Q Are you with me? Okay.</p> <p>23 "The client shall be entitled to</p> <p>24 investment return calculated and payable each</p> <p>25 year. The investment return is equal to 5.85 per</p>	<p style="text-align: right;">Page 173</p> <p>1 Brian Wegner</p> <p>2 corporate bond world then?</p> <p>3 A Yes.</p> <p>4 Q And that was a 2 percent return?</p> <p>5 A Yes.</p> <p>6 Q So -- so clearly, 5.85 was an</p> <p>7 achievement for you?</p> <p>8 A Yes.</p> <p>9 Q Now, it's important to understand</p> <p>10 that you're going to achieve that 5.85 percent</p> <p>11 with real money, right?</p> <p>12 A Yes.</p> <p>13 Q So it's important to understand who</p> <p>14 it is that's backing up this promise to you of</p> <p>15 5.85 percent, right?</p> <p>16 You've got to say "yes" or "no."</p> <p>17 A Yes.</p> <p>18 Q Okay. And when you asked Mark</p> <p>19 Feuer about it, he -- you told us he mentioned</p> <p>20 something about a "family office"?</p> <p>21 MS. EILBAUM: Objection.</p> <p>22 (There was a discussion off the</p> <p>23 record.)</p> <p>24 Q You mentioned something about a</p> <p>25 family office, and I'm just -- and my question</p>

<p style="text-align: right;">Page 174</p> <p>1 Brian Wegner</p> <p>2 is:</p> <p>3 Describe the whole give and take of</p> <p>4 that conversation.</p> <p>5 A Well, the family office was a</p> <p>6 fallback position that -- that we never expected</p> <p>7 would ever be needed. The investments themselves</p> <p>8 were, as I stated earlier, described as being</p> <p>9 highly collateralized, low LTVs, very safe</p> <p>10 investments.</p> <p>11 And if -- if the loans were not</p> <p>12 repayable and they had senior positions --</p> <p>13 Beechwood had senior positions -- they would take</p> <p>14 the company, sell off the assets; and they would</p> <p>15 actually do better than if they got repaid for</p> <p>16 the loans.</p> <p>17 So that was the whole concept</p> <p>18 behind that.</p> <p>19 Further, they had capitalization</p> <p>20 within the company that we felt would be a help</p> <p>21 in securing. As a third measure, there was this</p> <p>22 family office.</p> <p>23 Q And what did they say about the</p> <p>24 family office?</p> <p>25 A He said, you know:</p>	<p style="text-align: right;">Page 176</p> <p>1 Brian Wegner</p> <p>2 and Scott; and we were led to believe that Mark</p> <p>3 and Scott were the owners of the company.</p> <p>4 Q And when you said you were "led to</p> <p>5 believe" that, what do you mean?</p> <p>6 A Discussions that we had. It was,</p> <p>7 you know, Mark was the head of the company. He</p> <p>8 owned the majority of it. That's -- in</p> <p>9 discussions, that's what we came to -- that's</p> <p>10 what we walked away believing.</p> <p>11 Q Now, how much money did you invest</p> <p>12 with Beechwood?</p> <p>13 A Initially, I think it was</p> <p>14 30 million, ultimately 270.</p> <p>15 Q 270 million dollars are being</p> <p>16 invested in Beechwood. Did you do anything</p> <p>17 besides ask Mark about the makeup of the family</p> <p>18 business -- well, withdrawn.</p> <p>19 \$270 million being invested in</p> <p>20 Beechwood, can you tell us what else you did</p> <p>21 besides talk to Mark to do due diligence?</p> <p>22 MR. MATHIAS: Objection.</p> <p>23 MR. NAUNTON: Join.</p> <p>24 A We did a -- we got documents, a</p> <p>25 KPMG audit. We got their -- their structure,</p>
<p style="text-align: right;">Page 175</p> <p>1 Brian Wegner</p> <p>2 "We have \$500 million more in the</p> <p>3 family office that we can put into the business</p> <p>4 if we need to."</p> <p>5 Q And did -- did you ask whose family</p> <p>6 we're talking about?</p> <p>7 A The way he talked about it, it was</p> <p>8 his family office.</p> <p>9 Q Did he mention anybody's name</p> <p>10 besides Feuer --</p> <p>11 A No.</p> <p>12 Q -- involved with the family office?</p> <p>13 A No.</p> <p>14 Q No other family name?</p> <p>15 A No, not that I've ever -- not that</p> <p>16 I've heard.</p> <p>17 Q And we also talked earlier about</p> <p>18 60 percent of the ownership of Beechwood which</p> <p>19 would be standing behind this 5.85 percent -- was</p> <p>20 60 percent owned by trusts, right?</p> <p>21 MR. NAUNTON: Objection to form.</p> <p>22 MR. MATHIAS: Same.</p> <p>23 A No. We didn't -- we did not see</p> <p>24 that. We got the org chart, which indicated that</p> <p>25 the structure of the company was a board, Mark</p>	<p style="text-align: right;">Page 177</p> <p>1 Brian Wegner</p> <p>2 their -- all the documents they provided about</p> <p>3 their financials. The KPMG audit confirmed that</p> <p>4 they had \$100 million in cash, if I recall</p> <p>5 correctly. We did not do a deep dive into the</p> <p>6 ownership of the company.</p> <p>7 Q Why not?</p> <p>8 A I don't know. I -- it just never</p> <p>9 was thought to be an issue.</p> <p>10 Q It wasn't thought to be an issue</p> <p>11 when you were investing \$270 million of the</p> <p>12 company's money?</p> <p>13 MR. NAUNTON: Objection to form.</p> <p>14 A It wasn't -- it wasn't ever a</p> <p>15 question in our mind as to who the owners were.</p> <p>16 Q I mean, you -- you have a fraud</p> <p>17 identification unit in SHIP because you, as a</p> <p>18 normal business person, don't necessarily trust</p> <p>19 more than an arm's length investment -- more than</p> <p>20 an arm's length transaction.</p> <p>21 Can you explain more why you didn't</p> <p>22 do more of a deeper dive here?</p> <p>23 MR. MATHIAS: Objection to form.</p> <p>24 MR. NAUNTON: Objection to form.</p> <p>25 Q You can answer.</p>

Page 182	Page 184
<p>1 Brian Wegner</p> <p>2 A I know that Lincoln and Duff &</p> <p>3 Phelps were pricing agents. I don't know if that</p> <p>4 was -- if they were both in place at this time.</p> <p>5 I believe Duff & Phelps replaced Lincoln.</p> <p>6 Q Now, when you mentioned that you</p> <p>7 asked for more valuation of investments, do you</p> <p>8 remember if you got valuations from Duff & Phelps</p> <p>9 or Lincoln in response to that request?</p> <p>10 A We got them from one or the other.</p> <p>11 I don't recall which one.</p> <p>12 Q Okay. And you did this because</p> <p>13 it's important to understand the track record of</p> <p>14 the person who is going to be investing your</p> <p>15 money, right?</p> <p>16 A Yeah. Know the pricing -- is the</p> <p>17 pricing of their investments in line with what</p> <p>18 they told us their investments would return?</p> <p>19 Q Because, again, it's important to</p> <p>20 understand the track record of the person who is</p> <p>21 going to be investing all of your money is a good</p> <p>22 one, right?</p> <p>23 A Yes.</p> <p>24 Q So in understanding his track</p> <p>25 record, you looked at his investments while he</p>	<p>1 Brian Wegner</p> <p>2 Q Well, you do now, right?</p> <p>3 A I do now.</p> <p>4 Q You call him Mike or you call him</p> <p>5 Michael?</p> <p>6 A I don't call him anything. I don't</p> <p>7 know who he is.</p> <p>8 MS. DOHERTY: Object to the form.</p> <p>9 Do you mean Marc Nordlicht?</p> <p>10 A Oh, Mark.</p> <p>11 MS. DOHERTY: Mr. Moran?</p> <p>12 MR. MORAN: I'm asking the witness</p> <p>13 what he knows.</p> <p>14 Q What is Kala, K-a-l-a?</p> <p>15 A It's a company my son and I</p> <p>16 started.</p> <p>17 Q When did you start it?</p> <p>18 A We formed it in 2011.</p> <p>19 Q And what does it do?</p> <p>20 A It's an online retail marketplace.</p> <p>21 Q For what?</p> <p>22 A Similar to Amazon, we sell products</p> <p>23 online.</p> <p>24 Q What is Triliant?</p> <p>25 A Triliant is the name of the</p>
Page 183	Page 185
<p>1 Brian Wegner</p> <p>2 was at Platinum, right?</p> <p>3 A No. We looked at Beechwood's track</p> <p>4 record.</p> <p>5 Q Well, again, if you want to</p> <p>6 understand what the track record of the</p> <p>7 individual is who is going to be in charge of</p> <p>8 investing SHIP's money, would you want to look at</p> <p>9 the Platinum investments as well?</p> <p>10 A I don't believe Beechwood would</p> <p>11 have had access to Platinum's investments.</p> <p>12 Q That's right. That's why you would</p> <p>13 do due diligence on it, to dig down further.</p> <p>14 Did you?</p> <p>15 A No. We looked at Beechwood's track</p> <p>16 record.</p> <p>17 Q Did you look at anything beyond</p> <p>18 Beechwood before investing \$270 million?</p> <p>19 A We looked into Mark's background.</p> <p>20 We looked at Mark Feuer's background and Scott</p> <p>21 Taylor's background.</p> <p>22 Q What about Mike Nordlicht's</p> <p>23 background?</p> <p>24 A Never heard the name Mike Nordlicht</p> <p>25 initially.</p>	<p>1 Brian Wegner</p> <p>2 company. It's d/b/a Kala.</p> <p>3 Q Did there come a time that you</p> <p>4 solicited Beechwood personnel to invest in Kala?</p> <p>5 A Mark Feuer. I talked with him</p> <p>6 about it.</p> <p>7 Q When?</p> <p>8 A Probably initial discussions in</p> <p>9 2013, and more actively in 2014.</p> <p>10 (Exhibit No. P 76, E-Mail chain,</p> <p>11 top E-Mail dated 11/11/13 from Mr. Feuer to</p> <p>12 Marc Nordlicht; Subject: Investor Info, No</p> <p>13 Bates numbers, Document is marked by the</p> <p>14 reporter for identification.)</p> <p>15 Q I'm going to hand you what we've</p> <p>16 marked as Plaintiff's Exhibit 76.</p> <p>17 MR. MATHIAS: Does this have any</p> <p>18 Bates identifying number?</p> <p>19 MR. MORAN: I don't have Bates</p> <p>20 numbers on my documents. No, I don't. For</p> <p>21 the record, I will represent that it's an</p> <p>22 E-Mail thread to Marc Nordlicht, David</p> <p>23 Levy, Scott Taylor, from M. Feuer, dated</p> <p>24 November 11, 2013, subject: "Investor</p> <p>25 info"; and it is following a forwarded</p>

<p style="text-align: right;">Page 190</p> <p>1 Brian Wegner</p> <p>2 It's from you to David Levy, dated</p> <p>3 June 10th, and you -- and you're asking if</p> <p>4 there's anything else you might need regarding</p> <p>5 Kala.</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q Okay. What were your discussions</p> <p>9 with David Levy about Kala?</p> <p>10 A I believe he was asked by Mark to</p> <p>11 do due diligence on Kala.</p> <p>12 Q And I'm sorry. It's Kala. I'm</p> <p>13 saying it wrong.</p> <p>14 A Yes.</p> <p>15 Q And what kind of due diligence did</p> <p>16 David Levy ask of you about Kala?</p> <p>17 A Financial models, balance sheets,</p> <p>18 business plans -- we had a PPM that we had</p> <p>19 written that they received.</p> <p>20 Q Did he ask for any individual's</p> <p>21 information?</p> <p>22 A I don't recall if he asked for that</p> <p>23 or not.</p> <p>24 Q Did he ask for any other investor's</p> <p>25 information?</p>	<p style="text-align: right;">Page 192</p> <p>1 Brian Wegner</p> <p>2 well?</p> <p>3 A I did.</p> <p>4 Q Okay. I noticed in the exhibit we</p> <p>5 just looked at before, Exhibit 76, you also had a</p> <p>6 Brian Wegner, CEO of Triliant, address at the</p> <p>7 bottom.</p> <p>8 Is that correct?</p> <p>9 A Yes.</p> <p>10 Q But in this E-Mail that we've just</p> <p>11 marked as Exhibit 77, you used your Fuzion</p> <p>12 Analytics E-Mail?</p> <p>13 A Yes.</p> <p>14 Q Can I ask you why you did that?</p> <p>15 A That automatically populated when</p> <p>16 I -- automatically inserts that when I get</p> <p>17 Fuzion. So it depends on which E-Mail I sent it</p> <p>18 from.</p> <p>19 Q And I'd like to show you the next</p> <p>20 document, which we'll mark as 78.</p> <p>21 (Exhibit No. P 78, E-Mail chain,</p> <p>22 top E-Mail dated 7/11/14 from Brian Wegner</p> <p>23 to Sandy Wegner and others, Document,</p> <p>24 E-Mail Thread is marked by the reporter for</p> <p>25 identification.)</p>
<p style="text-align: right;">Page 191</p> <p>1 Brian Wegner</p> <p>2 A We didn't have any other investors,</p> <p>3 except for myself.</p> <p>4 Q Okay. At the top line, on the very</p> <p>5 first E-Mail on the -- on the exhibit, it says:</p> <p>6 "David, here is a quick update of</p> <p>7 progress over the past few weeks. Some of this</p> <p>8 presumes that we have the Beechwood funding in</p> <p>9 place, which will support marketing and</p> <p>10 implementation of the new clients."</p> <p>11 What were you referring to there?</p> <p>12 A We had talked about a \$250,000</p> <p>13 investment. That's what they were doing the due</p> <p>14 diligence for. And we had made some progress on</p> <p>15 engaging prospective clients; so the funding</p> <p>16 would help us implement and support operations.</p> <p>17 Q Now, I also noticed that the</p> <p>18 copies, the cc's, is to "R. Wegner at My Kala."</p> <p>19 A Yep.</p> <p>20 Q Who is R. Wegner?</p> <p>21 A My son.</p> <p>22 Q And you have a "My Kala" E-Mail</p> <p>23 address, correct?</p> <p>24 A Yes.</p> <p>25 Q Your son does. Did you have one as</p>	<p style="text-align: right;">Page 193</p> <p>1 Brian Wegner</p> <p>2 Q I'll represent it's a one-page</p> <p>3 document, E-Mail thread, from Brian Wegner to</p> <p>4 Sandy Wegner and a number of others dated Friday,</p> <p>5 11th of July, 2014, also including an E-Mail from</p> <p>6 Scott Taylor to Brian Wegner dated July 11, 2014.</p> <p>7 Have you seen this before?</p> <p>8 A Yes.</p> <p>9 Q What is this?</p> <p>10 A This is Scott letting me know that</p> <p>11 they are going to proceed with funding Kala, and</p> <p>12 I was letting my family know.</p> <p>13 Q And when you wrote at the top,</p> <p>14 "Sorry it took so long," what are you referring</p> <p>15 to?</p> <p>16 A We had started this back in 2013</p> <p>17 and took almost a year to get the funding, so --</p> <p>18 Q How much money did Beechwood</p> <p>19 actually invest in Kala?</p> <p>20 A 250,000.</p> <p>21 Q I'm going to show you what we're</p> <p>22 marking as Exhibit 79, which I will represent is</p> <p>23 an E-Mail thread from Brian Wegner to Christian</p> <p>24 Thomas, and then below that, Christian Thomas and</p> <p>25 Brian Wegner, both dated September 24, 2014, with</p>

<p style="text-align: right;">Page 206</p> <p>1 Brian Wegner</p> <p>2 A I really don't know.</p> <p>3 Q Okay. Focusing again on the same</p> <p>4 paragraph you did earlier, under the subheading</p> <p>5 on the second page, Transactional, number two?</p> <p>6 A Um-hum.</p> <p>7 Q "Due diligence on the entities</p> <p>8 participating in this transaction. The Beechwood</p> <p>9 entities directly involved in their beneficial</p> <p>10 owners is essential. As of this writing,</p> <p>11 Beechwood has not provided the ownership</p> <p>12 structure to determine how BRe, BRIL, BAM, and</p> <p>13 BRILLC relate and who owns them, nor have they</p> <p>14 provided financial statements and biographies of</p> <p>15 the principals involved in the transactions.</p> <p>16 This should be a non-negotiable condition to</p> <p>17 closing."</p> <p>18 Did you agree with that assessment?</p> <p>19 A I received this assessment. Paul</p> <p>20 and I walked through these items, yes.</p> <p>21 Q You agree that it should be a</p> <p>22 non-negotiable condition to closing?</p> <p>23 MR. MATHIAS: Objection to form.</p> <p>24 Q Is that what you're saying?</p> <p>25 A I agreed that it needed to be</p>	<p style="text-align: right;">Page 208</p> <p>1 Brian Wegner</p> <p>2 it. We satisfied it.</p> <p>3 Q And you proceeded without them</p> <p>4 having provided financial statements and</p> <p>5 biographies of the principals involved; is that</p> <p>6 right?</p> <p>7 MR. NAUNTON: Objection to form.</p> <p>8 MR. MATHIAS: Objection to form.</p> <p>9 Q Is that right?</p> <p>10 A We did not get financial statements</p> <p>11 for the individuals.</p> <p>12 Q Nor did you get the ownership</p> <p>13 structure, correct?</p> <p>14 MR. NAUNTON: Objection.</p> <p>15 A As I said, we had conversations,</p> <p>16 and we were told that Mark and Scott owned</p> <p>17 99 percent of the company. That would be the</p> <p>18 ownership structure.</p> <p>19 Q Did they provide you with</p> <p>20 documentation of that?</p> <p>21 A I have -- there's an E-Mail</p> <p>22 somewhere that states that, where Mark and Scott</p> <p>23 said that to me. But I don't know what the date</p> <p>24 is of that. But it was reiterated throughout our</p> <p>25 relationship.</p>
<p style="text-align: right;">Page 207</p> <p>1 Brian Wegner</p> <p>2 looked into; and I believe as a result we had a</p> <p>3 conversation with Mark and Scott about -- about</p> <p>4 the ownership. And, again, as other documents</p> <p>5 show, it was stated that Mark and Scott owned 99</p> <p>6 percent of the company.</p> <p>7 Q Okay. Well, my question was:</p> <p>8 Did you agree with the assessment</p> <p>9 that this should be a non-negotiable condition to</p> <p>10 closing?</p> <p>11 MR. NAUNTON: Objection. Asked and</p> <p>12 answered.</p> <p>13 Q Did you agree with that, that this</p> <p>14 should be "non-negotiable"?</p> <p>15 A Well, I thought it was very strong.</p> <p>16 There's multiple points in here. I felt that we</p> <p>17 knew who the owners were and that we had a</p> <p>18 conversation with Mark and Scott to verify that.</p> <p>19 So we felt that it was addressed.</p> <p>20 Q So is it fair to say that you</p> <p>21 overruled that assessment of non-negotiability?</p> <p>22 MR. NAUNTON: Objection.</p> <p>23 MR. MATHIAS: Objection.</p> <p>24 A I think we satisfied that by having</p> <p>25 the conversation with them. We didn't overrule</p>	<p style="text-align: right;">Page 209</p> <p>1 Brian Wegner</p> <p>2 MR. MORAN: Do you want to take a</p> <p>3 five-minute break?</p> <p>4 MR. NAUNTON: Sure.</p> <p>5 THE VIDEOGRAPHER: Going off the</p> <p>6 record. The time is 3:48 p.m.</p> <p>7 (A break is taken.)</p> <p>8 THE VIDEOGRAPHER: This begins</p> <p>9 media unit number four. The time is</p> <p>10 4:02 p.m. We are back on record.</p> <p>11 CONTINUED DIRECT EXAMINATION</p> <p>12 BY MR. MORAN:</p> <p>13 MR. MORAN: All right. At this</p> <p>14 time we're going to put before the witness</p> <p>15 what we marked as Exhibit 80.</p> <p>16 (Exhibit No. P 80, E-Mail dated</p> <p>17 5/20/15 from Brian Wegner to Ryan Wegner,</p> <p>18 Document is marked by the reporter for</p> <p>19 identification.)</p> <p>20 (There was a discussion off the</p> <p>21 record.)</p> <p>22 MR. MORAN: And I'll represent that</p> <p>23 it's an E-Mail from Brian Wegner to</p> <p>24 Ryan Wegner dated 20th of May, 2015. At</p> <p>25 the top, it reads "Kala."</p>

<p style="text-align: right;">Page 210</p> <p>1 Brian Wegner</p> <p>2 Q Have you seen this before?</p> <p>3 A I don't recall it, but I</p> <p>4 acknowledge it.</p> <p>5 Q All right. And it reads:</p> <p>6 "I had an interesting, valuable,</p> <p>7 and transparent talk with Mark today about Kala,</p> <p>8 among other things."</p> <p>9 Who is the Mark we're talking about</p> <p>10 here?</p> <p>11 A Mark Feuer.</p> <p>12 Q It goes on to say:</p> <p>13 "I asked him what, in addition to</p> <p>14 the three questions from last week, we would need</p> <p>15 in order for investors to be interested in Kala.</p> <p>16 He likes that we added Lisa and Tim -- he was</p> <p>17 finding that we are in a space where we had no</p> <p>18 expertise. It was good we recognized that. He</p> <p>19 thought it would be critical for us to show it</p> <p>20 works, consumers and retailers, or we will be</p> <p>21 giving away a ton of equity at this point. He</p> <p>22 said there is smart money which either wouldn't</p> <p>23 invest now or require a huge amount of equity or</p> <p>24 dumb money that just doesn't know better. He</p> <p>25 said his \$250,000 is friend money, not dumb</p>	<p style="text-align: right;">Page 212</p> <p>1 Brian Wegner</p> <p>2 And my question is:</p> <p>3 Did you consider him a "friend"?</p> <p>4 A I don't -- he considered me a</p> <p>5 friend. That's what he said. We never hung out</p> <p>6 together, if that's what -- you know, what is a</p> <p>7 "friend"? We only did business together.</p> <p>8 Q And would you -- would you say your</p> <p>9 business together was a strong business?</p> <p>10 A I would. At the time I would have.</p> <p>11 Q Now, in 2016 -- in 2016, news</p> <p>12 reports came out about the Beechwood-Platinum</p> <p>13 relationship that you were asked to comment on,</p> <p>14 right?</p> <p>15 A By whom?</p> <p>16 Q Wall Street Journal, Reuters,</p> <p>17 Bloomberg?</p> <p>18 A Yes.</p> <p>19 Q And at that time, you had</p> <p>20 Platinum-related investments in SHIP's portfolio,</p> <p>21 right?</p> <p>22 A Yes.</p> <p>23 Q How did you come to learn that?</p> <p>24 A This was just evolving. We thought</p> <p>25 our exposure was limited to PPVA and PPCO. Mark</p>
<p style="text-align: right;">Page 211</p> <p>1 Brian Wegner</p> <p>2 money, hence his acceptance of our valuation and</p> <p>3 that, if we lose it all, we wouldn't think one</p> <p>4 iota less of us and never" be concerned -- "to be</p> <p>5 concerned about that."</p> <p>6 Do you remember that conversation</p> <p>7 with Mark?</p> <p>8 A Yes.</p> <p>9 Q What was your -- in 2015, what was</p> <p>10 your relationship -- how would you describe your</p> <p>11 relationship with Mark Feuer?</p> <p>12 A We had known each other by then for</p> <p>13 almost two years. We were doing a lot of</p> <p>14 business on the SHIP side. We were administering</p> <p>15 their book of business. He was happy with the</p> <p>16 results of our administration of their block of</p> <p>17 long-term care business.</p> <p>18 Q And in the next paragraph, in the</p> <p>19 middle, he writes -- you write:</p> <p>20 "He" -- meaning Mark -- "also said</p> <p>21 if we came to him and said we absolutely need</p> <p>22 another \$250,000 to keep" this -- "to keep things</p> <p>23 moving, he would probably do it just because of</p> <p>24 our relationship. It's nice to have friends like</p> <p>25 that."</p>	<p style="text-align: right;">Page 213</p> <p>1 Brian Wegner</p> <p>2 and Scott reassured us repeatedly that PPCO is</p> <p>3 not an issue; PPVA was a very nominal position</p> <p>4 for us; and that they were replacing our PPVA</p> <p>5 investments with investments that would not be at</p> <p>6 risk.</p> <p>7 Q You thought your exposure was</p> <p>8 limited to PPVA and PPCO?</p> <p>9 A Right.</p> <p>10 Q But then you learned it was more,</p> <p>11 right?</p> <p>12 A It started coming about later in</p> <p>13 2016, and it wasn't really fully uncovered until</p> <p>14 after I was gone.</p> <p>15 Q Describe the conversation you had</p> <p>16 with Mark in which he -- in which you discussed</p> <p>17 divesting from PPVA.</p> <p>18 MR. NAUNTON: Objection.</p> <p>19 A The conversation was, you know, at</p> <p>20 first, for a -- for a while, I thought Beechwood</p> <p>21 was a victim of Platinum as well. And nobody</p> <p>22 really knew what was going on, other than</p> <p>23 Platinum funds were problematic.</p> <p>24 Again, Mark reassured me that PPCO</p> <p>25 was not a problematic fund, just PPVA; and he</p>

<p style="text-align: right;">Page 258</p> <p>1 Brian Wegner</p> <p>2 he, of holdings that SHIP -- that he -- he said</p> <p>3 were related to Platinum?</p> <p>4 A That was his claim, yes.</p> <p>5 Q Did you investigate that?</p> <p>6 A I think that, yes, this is the time</p> <p>7 when we started doing our investigation.</p> <p>8 Q And is -- is it your testimony that</p> <p>9 you were not aware of this connection until</p> <p>10 August of 2016?</p> <p>11 A Right. We did not know that these</p> <p>12 investments were related to Beechwood -- to</p> <p>13 Platinum.</p> <p>14 Q Now, just so I'm clear, when you</p> <p>15 say "we," are you referring to SHIP, or are you</p> <p>16 referring to yourself?</p> <p>17 A SHIP, to my knowledge.</p> <p>18 Q And how did you go about</p> <p>19 investigating whether these were related to</p> <p>20 Platinum or not?</p> <p>21 A That would have been Paul's role in</p> <p>22 dealing with Dhruv, digging into these</p> <p>23 investments in more detail.</p> <p>24 Q Can you -- can you turn to</p> <p>25 Exhibit 61?</p>	<p style="text-align: right;">Page 260</p> <p>1 Brian Wegner</p> <p>2 and Agera investments?</p> <p>3 A No.</p> <p>4 Q Do you recall -- prior to August</p> <p>5 of 2016, do you recall any discussions with</p> <p>6 anyone at Beechwood concerning Black Elk or</p> <p>7 Agera?</p> <p>8 A Earlier in 2016, we had worked on</p> <p>9 an acquisition of Agera that Beechwood was</p> <p>10 facilitating, and they were looking for us to</p> <p>11 fund it. Black Elk was not a company that we had</p> <p>12 discussions on to my knowledge.</p> <p>13 Q And do you recall, at any point in</p> <p>14 time prior to 2016, anyone at SHIP raising any</p> <p>15 concerns to you about the investment in</p> <p>16 Black Elk?</p> <p>17 A No.</p> <p>18 Q Do you recall, prior to 2016,</p> <p>19 anyone raising any concerns at SHIP with you</p> <p>20 concerning the Agera Energy investment?</p> <p>21 A No.</p> <p>22 Q Do you recognize the name</p> <p>23 Naftali Manela?</p> <p>24 A I do not.</p> <p>25 Q So I take it you don't recall ever</p>
<p style="text-align: right;">Page 259</p> <p>1 Brian Wegner</p> <p>2 Now, this is an E-Mail from</p> <p>3 David Levy at Beechwood to yourself, dated</p> <p>4 July 1, 2014; and it refers to investments in</p> <p>5 Black Elk Energy and Agera Energy LLC.</p> <p>6 Do you see that?</p> <p>7 A Yes.</p> <p>8 Q Do you recall having any</p> <p>9 discussions with anyone at Beechwood about the</p> <p>10 investments in Black Elk or Agera Energy?</p> <p>11 A Investments that we made into</p> <p>12 these? Yes. In 2016, we spent a lot of time</p> <p>13 talking about Agera Energy. I don't -- other</p> <p>14 than these summaries, I don't believe that we, at</p> <p>15 that time in 2014, dug deeper into these</p> <p>16 particular investments.</p> <p>17 Q Okay. But you were well aware from</p> <p>18 July of 2014 that there were investments made on</p> <p>19 your behalf in Black Elk and Agera, correct?</p> <p>20 MR. NAUNTON: Objection to form.</p> <p>21 MR. MATHIAS: Yes, objection.</p> <p>22 Q On SHIP's behalf, is that right?</p> <p>23 A Yes, from this E-Mail.</p> <p>24 Q So do you recall any discussion at</p> <p>25 that time concerning Black Elk or the Black Elk</p>	<p style="text-align: right;">Page 261</p> <p>1 Brian Wegner</p> <p>2 having any meeting or conversation or</p> <p>3 correspondence or any other communication with</p> <p>4 Naftali Manela?</p> <p>5 A I don't recall any.</p> <p>6 Q And you recall -- there's been</p> <p>7 testimony by you concerning a report by</p> <p>8 Protiviti.</p> <p>9 Do you still have a copy of that</p> <p>10 report?</p> <p>11 A I do not.</p> <p>12 Q Do you know whether SHIP has a copy</p> <p>13 of that?</p> <p>14 A I would presume they've retained</p> <p>15 it.</p> <p>16 MR. CHASE: Okay. I'm going to</p> <p>17 call for the production of that report as</p> <p>18 well.</p> <p>19 (Document, Protiviti Report,</p> <p>20 requested.)</p> <p>21 Q All right. How often did you go to</p> <p>22 Beechwood's offices?</p> <p>23 A Once a quarter.</p> <p>24 Q And when you went to their offices,</p> <p>25 would you typically just meet with Mark?</p>

<p style="text-align: right;">Page 262</p> <p>1 Brian Wegner</p> <p>2 A No. We did what we call a QBR,</p> <p>3 "Quarterly Business Review." There were a number</p> <p>4 of parties, including Mark, Scott, Rick. And</p> <p>5 David Lessing is another person I met there. I</p> <p>6 can't recall anybody else who attended from the</p> <p>7 Beechwood side.</p> <p>8 But we would discuss with them. It</p> <p>9 was generally myself, Paul Lorentz, and</p> <p>10 Ginger Darrough. We would present to them</p> <p>11 statistics and business issues dealing with the</p> <p>12 book of reinsurance business we were</p> <p>13 administering for them.</p> <p>14 Q And those were the only meetings</p> <p>15 that you had, basically, with the quarterly</p> <p>16 reports at Beechwood offices?</p> <p>17 A Until we did the IMAs. And then</p> <p>18 the second part of the meeting, then Beechwood</p> <p>19 would talk about investments.</p> <p>20 Q Are you aware of any</p> <p>21 misrepresentation that was made by anyone at</p> <p>22 Beechwood concerning what holdings they had at</p> <p>23 any given time on SHIP's behalf?</p> <p>24 MS. EILBAUM: Objection.</p> <p>25 MR. NAUNTON: Objection to form.</p>	<p style="text-align: right;">Page 264</p> <p>1 Brian Wegner</p> <p>2 were stated to be valued at.</p> <p>3 Q Okay. Apart from the valuation,</p> <p>4 what about the actual holding, that is, the</p> <p>5 number of shares or the equity interest that was</p> <p>6 owned by Beechwood in a given investment?</p> <p>7 A By the time I left, I was not aware</p> <p>8 of any of those issues.</p> <p>9 Q Just give me a second. I have one</p> <p>10 more exhibit. Exhibit 87, right.</p> <p>11 (Exhibit No. D 87, September 11,</p> <p>12 2014 Letter from Thomas Jenkins to</p> <p>13 Christian Thomas, Bates No. PPVA RH 0473693</p> <p>14 is marked by the reporter for</p> <p>15 identification.)</p> <p>16 Q Let me hand you what I've marked as</p> <p>17 Exhibit 87.</p> <p>18 Exhibit 87 is Bates stamped PPVA RH</p> <p>19 0473693, and it is an E-Mail -- it looks like a</p> <p>20 letter dated September 11, 2014, to</p> <p>21 Christopher Thomas.</p> <p>22 A Christian Thomas.</p> <p>23 Q Christian. I'm sorry.</p> <p>24 Christian Thomas. From Locke Lord LLP?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 263</p> <p>1 Brian Wegner</p> <p>2 MR. MATHIAS: Objection to form.</p> <p>3 A That's -- that's a pretty broad</p> <p>4 question about. What holdings?</p> <p>5 Q About the holdings that they had on</p> <p>6 behalf of SHIP?</p> <p>7 A I -- I feel now, looking back, that</p> <p>8 there were misrepresentations, yes.</p> <p>9 Q Okay. What misrepresentations?</p> <p>10 A Even when we were dealing with the</p> <p>11 Platinum issue, they said, "Our only Platinum</p> <p>12 investments were PPVA and PPCO," and we later</p> <p>13 came to learn that it was broader than that.</p> <p>14 Q Okay. Let me ask it a different</p> <p>15 way then.</p> <p>16 Did anyone from SHIP ever</p> <p>17 communicate to you that there was a</p> <p>18 misrepresentation in any of the monthly,</p> <p>19 quarterly, or annual reports provided by</p> <p>20 Beechwood concerning the holdings that Beechwood</p> <p>21 had on SHIP's behalf?</p> <p>22 A Towards the end of my employment,</p> <p>23 there were a lot of accusations that the</p> <p>24 investments, particularly in Platinum, were</p> <p>25 not -- were not valued at the level that they</p>	<p style="text-align: right;">Page 265</p> <p>1 Brian Wegner</p> <p>2 Q Have you seen this before?</p> <p>3 A I have not.</p> <p>4 Q Okay. And who is -- what -- well,</p> <p>5 who is Locke Lord LLP?</p> <p>6 A Tom Jenkins is a senior partner at</p> <p>7 Locke Lord. He was counsel to the trust,</p> <p>8 general, at SHIP.</p> <p>9 Q And do you recall having any</p> <p>10 discussion relating to the content of this</p> <p>11 correspondence?</p> <p>12 A Not of this correspondence.</p> <p>13 Q Is it accurate, the third paragraph</p> <p>14 of this letter?</p> <p>15 "All the facts regarding your</p> <p>16 client's proposed investment in Triliant have</p> <p>17 been fully disclosed and discussed by the audit</p> <p>18 committee for both Fuzion and SHIP. This is to</p> <p>19 advise you there is no objection by either</p> <p>20 committee to the proposed transaction."</p> <p>21 Is that accurate?</p> <p>22 A To my knowledge, yes. That's my</p> <p>23 understanding from the audit committee meeting.</p> <p>24 I was not in attendance at that meeting.</p> <p>25 Q Okay. Is there -- is the --</p>

<p style="text-align: right;">Page 354</p> <p>1 Brian Wegner</p> <p>2 Q Yes.</p> <p>3 A No.</p> <p>4 Q All the way up until sitting here</p> <p>5 now, you've never heard that?</p> <p>6 A No.</p> <p>7 Q You don't know whether it's related</p> <p>8 to any of the parties that you've been talking</p> <p>9 about here?</p> <p>10 A No. I don't recall that name from</p> <p>11 anywhere.</p> <p>12 MR. GOULD: Can we go off the</p> <p>13 record just, I think, for two minutes? And</p> <p>14 I just want to confer with my colleague,</p> <p>15 and we may be done.</p> <p>16 THE VIDEOGRAPHER: Going off the</p> <p>17 record. The time is 7:27 p.m.</p> <p>18 (A break is taken.)</p> <p>19 THE VIDEOGRAPHER: The time is</p> <p>20 7:28 p.m. We are back on record.</p> <p>21 MR. GOULD: Mr. Wegner, you can see</p> <p>22 who the brains of the operation are, with</p> <p>23 my conferring to my right here. We have no</p> <p>24 further questions, and I really do</p> <p>25 appreciate you answering our question --</p>	<p style="text-align: right;">Page 356</p> <p>1 Brian Wegner</p> <p>2 that investment in Triliant?</p> <p>3 A Communications when?</p> <p>4 Q Both -- well, I'll start:</p> <p>5 Before the investment was made?</p> <p>6 A Yes.</p> <p>7 Q And also after the investment was</p> <p>8 made?</p> <p>9 A Um-hum.</p> <p>10 Q At any time during those</p> <p>11 communications with Beechwood about the</p> <p>12 investment in Triliant, did the subject of the</p> <p>13 source of the money for Beechwood's investment in</p> <p>14 Triliant come up?</p> <p>15 A My first impression was that it was</p> <p>16 going to be Mark Feuer investing directly, and</p> <p>17 then it became clear that the money was coming</p> <p>18 from Beechwood. It wasn't until late 2016 when I</p> <p>19 was notified that CNO received their money back</p> <p>20 from Beechwood, and part of it was the investment</p> <p>21 in my company. And I was questioned -- you know,</p> <p>22 I was shocked at that.</p> <p>23 I reached out to Beechwood and</p> <p>24 asked basically, "What's going on here?"</p> <p>25 The response I got -- and I've seen</p>
<p style="text-align: right;">Page 355</p> <p>1 Brian Wegner</p> <p>2 questions so late in the evening.</p> <p>3 THE WITNESS: Thank you.</p> <p>4 (There was a discussion off the</p> <p>5 record.)</p> <p>6 DIRECT EXAMINATION</p> <p>7 BY MS. POLIVY:</p> <p>8 Q My name is Jenna Polivy. I'm from</p> <p>9 the firm of Alston & Bird, and I represent</p> <p>10 Washington National Insurance Company and Bankers</p> <p>11 Consec Life Insurance Company. I think you</p> <p>12 referred to them earlier as WNIC and BCLIC, which</p> <p>13 is also how we refer to them.</p> <p>14 A Yes.</p> <p>15 Q So I just have a few questions.</p> <p>16 Do you recall testifying earlier</p> <p>17 about Beechwood's investment in Triliant and</p> <p>18 Kala?</p> <p>19 A Yes.</p> <p>20 Q And that was a company that was</p> <p>21 owned by you and your son?</p> <p>22 A It's actually owned by a family</p> <p>23 trust that we put together, but, yes.</p> <p>24 Q And you recall testifying that</p> <p>25 you'd had communications with Beechwood about</p>	<p style="text-align: right;">Page 357</p> <p>1 Brian Wegner</p> <p>2 this E-Mail recently -- was that:</p> <p>3 "Boy, that was a mistake. We</p> <p>4 didn't do that intentionally."</p> <p>5 Q And -- and your understanding at</p> <p>6 first, that the money was coming from Beechwood,</p> <p>7 was that based on any representations made to you</p> <p>8 by anyone at Beechwood?</p> <p>9 MS. EILBAUM: Objection to the form</p> <p>10 of the question.</p> <p>11 A Yeah. I mean, it -- it was</p> <p>12 Beechwood investing the money. And then Mark</p> <p>13 said, you know:</p> <p>14 "If you need -- if you need more,</p> <p>15 I'm available to put more in," which I never</p> <p>16 asked him to do.</p> <p>17 But it was -- he stated it was</p> <p>18 Beechwood's investment.</p> <p>19 Q Mark Feuer stated that it was</p> <p>20 Beechwood's investment?</p> <p>21 A Yes.</p> <p>22 Q And you testified that you were</p> <p>23 shocked when you found out that the money had</p> <p>24 come from CNO; is that right?</p> <p>25 A Yes.</p>

Page 358	Page 360
<p>1 Brian Wegner</p> <p>2 Q Why was that your reaction?</p> <p>3 A Well, because I thought it was</p> <p>4 Beechwood's money. The fact that I worked at CNO</p> <p>5 and now they owned the shares of my company is</p> <p>6 nothing I ever anticipated.</p> <p>7 Q And was your reaction at all --</p> <p>8 withdrawn.</p> <p>9 Did you have any reaction based on</p> <p>10 the propriety of such an investment for a</p> <p>11 reinsurance trust securing policyholder claims?</p> <p>12 A Which reinsurance trust?</p> <p>13 Q That the -- the CNO reinsurance</p> <p>14 trust?</p> <p>15 A Yeah, for CNO, that would not be a</p> <p>16 typical investment for them.</p> <p>17 Q And for any -- for a reinsurance</p> <p>18 trust that's securing policyholder claims?</p> <p>19 A Correct.</p> <p>20 Q I just have one other document to</p> <p>21 mark. I believe it's Exhibit 101.</p> <p>22 MS. POLIVY: For the record, the</p> <p>23 Bates number is, okay, CNO CSO 00526294.</p> <p>24 (Exhibit No. D 101, E-Mail chain,</p> <p>25 top E-Mail dated 10/18/16 from Eric Johnson</p>	<p>1 Brian Wegner</p> <p>2 this."</p> <p>3 Is that what you were referring to</p> <p>4 earlier?</p> <p>5 A Yes. And Scott Taylor replied that</p> <p>6 it was done by mistake; it was never intended to</p> <p>7 be that way.</p> <p>8 Q I'm sorry. That what was done by</p> <p>9 mistake?</p> <p>10 A Using CNO's money for the</p> <p>11 investment, that the investment was CNO's. Scott</p> <p>12 Taylor responded, and it's in writing in some</p> <p>13 document you probably -- and I don't --</p> <p>14 (Reporter clarification.)</p> <p>15 A Scott Taylor wrote in response to</p> <p>16 my question that the investment in Triliant was</p> <p>17 never meant to be using CNO money. He said that</p> <p>18 was a mistake, like an error, not a -- yeah.</p> <p>19 MS. POLIVY: Can I just take a</p> <p>20 minute off the record?</p> <p>21 (There was a discussion off the</p> <p>22 record.)</p> <p>23 MS. POLIVY: Go back on the record.</p> <p>24 I'll just have one more question, to</p> <p>25 clarify.</p>
Page 359	Page 361
<p>1 Brian Wegner</p> <p>2 to Rich Burke II, Bates No. CNO CSO</p> <p>3 00526294 is marked by the reporter for</p> <p>4 identification.)</p> <p>5 Q And I think you may have referred</p> <p>6 to this in your answer before, but I just wanted</p> <p>7 to confirm.</p> <p>8 So the E-Mail at the bottom that is</p> <p>9 from bwegner@mykala.com to Karl Kindig and</p> <p>10 Eric Johnson, that -- that E-Mail was sent by</p> <p>11 you; is that correct?</p> <p>12 A Yes.</p> <p>13 Q And who are Karl Kindig and</p> <p>14 Eric Johnson?</p> <p>15 A Eric Johnson is the SHIP investment</p> <p>16 officer for the 86, which is Consec's investment</p> <p>17 company.</p> <p>18 Q Okay.</p> <p>19 A And Karl Kindig was treasurer at --</p> <p>20 Q Right. And there's -- I'm sorry.</p> <p>21 I just want to direct your</p> <p>22 attention to the -- your second sentence there.</p> <p>23 It says:</p> <p>24 "This was never supposed to involve</p> <p>25 CNO at all, but I'll find out why Beechwood did</p>	<p>1 Brian Wegner</p> <p>2 Q You had testified that Mark Feuer</p> <p>3 had told you that the investment was Beechwood's</p> <p>4 money, and that, if you needed further money,</p> <p>5 that he would also provide it.</p> <p>6 What was the first representation</p> <p>7 he made? That was about the initial investment?</p> <p>8 A Yes. So we started having</p> <p>9 conversations in 2013. They came back in earlier</p> <p>10 2014 and said, "No, we're not going to be able to</p> <p>11 do this," and walked away.</p> <p>12 And at some point a little bit</p> <p>13 later in 2014, they -- they offered to look at it</p> <p>14 again.</p> <p>15 So at first I thought they weren't</p> <p>16 going to invest, and then, okay, so maybe they</p> <p>17 will invest. So -- but that was at the first</p> <p>18 250,000. And there was the E-Mail that I</p> <p>19 testified about earlier that Mark made that</p> <p>20 comment:</p> <p>21 "If you need," you know -- you</p> <p>22 know --</p> <p>23 Q Right.</p> <p>24 A -- "if you need another 250, I'm</p> <p>25 happy to do it."</p>

Page 362

1 Brian Wegner

2 Q That was in 2015?

3 A Yes.

4 Q But at the time of the initial

5 investment, he also made the representation that

6 the money was coming from him?

7 A From Beechwood.

8 Q From Beechwood?

9 A Yes. My initial impression was

10 that it was going to be Mark investing; and

11 somehow that evolved, and it became Beechwood's

12 investment.

13 Q Okay. And just to clarify, your --

14 your impression that it was going to be Mark

15 investing at first, what was that based on?

16 A Because my conversation was with

17 Mark, and he -- he said "I" versus "my company."

18 So when I heard him say "I," I presumed it meant

19 him.

20 Q He said, "I will be investing"?

21 A Yeah. He said, you know, "I'm

22 interested in this." So I took it to mean he was

23 personally interested in it.

24 Q Understood.

25 MS. POLIVY: I think that's it.

Page 363

1 Brian Wegner

2 Thank you, Mr. Wegner.

3 THE WITNESS: Okay. Thank you.

4 MS. POLIVY: I don't have any other

5 questions.

6 DIRECT EXAMINATION

7 BY MR. STEINBERG:

8 Q Hi. I'm David Steinberg. I'm a

9 pro se defendant, so I'm representing myself.

10 A Okay.

11 Q You testified earlier, I believe,

12 that it was presented to you by Mark Feuer and --

13 and Scott and maybe Dhruv that there was some

14 kind of cash exigency at Agera, that you

15 interpreted that to mean some kind of, in your

16 term, debt maturity or something like that. And

17 so -- is that correct?

18 A That was what I walked away

19 believing, yes.

20 Q Right. That -- that -- and that --

21 that emergency of cash was at Agera, not

22 Platinum?

23 A That was my understanding.

24 Q Okay. Did -- did -- at any point,

25 did SHIP request Agera's financial statements or

Page 364

1 Brian Wegner

2 get them?

3 A We did receive those in a meeting

4 where we met with them at their office.

5 Q Do you have experience in analyzing

6 financial statements or reviewing them?

7 A I do not, no. But my CFO was

8 there.

9 Q Okay. So do you know if the CFO is

10 Paul?

11 A Yes, Paul Lorentz.

12 Q All right. So did -- do you know

13 if Paul ever mentioned to you that the financial

14 statements reflect this near-term debt maturity

15 or this cash emergency liquidity crisis at Agera?

16 A I -- I would have to go back and

17 look at those. You know, I believe that we felt

18 comfortable that the financials of the company

19 would be fixed with -- with the cash that we

20 bought the company with and it would sustain

21 itself.

22 Q So -- so you also testified earlier

23 that the structure of the transaction was where

24 SHIP invested money into this LLC, AGH Parent

25 LLC, and some kind of equity piece in AGH Parent

Page 365

1 Brian Wegner

2 LLC, and then AGH Parent used that money to

3 purchase Agera from Platinum?

4 A That was --

5 MR. NAUNTON: Objection to form.

6 A That was our understanding.

7 Q So if the money from the purchase

8 that SHIP was making alongside whoever else was

9 investing in AGH Parent was used to send -- that

10 Platinum received that money, how did that help

11 Agera's cash crisis?

12 A Well, I think the -- the purchase

13 price wasn't the only financial commitment by

14 Beechwood. My understanding was, with the

15 acquisition of the company, it would be funding

16 operations as well.

17 Q So besides this investment that was

18 made by SHIP, Beechwood was committing additional

19 capital to Agera?

20 A Right. Again, I think the purchase

21 price was proposed to be 199 million. We were

22 only funding 50 million. So the other 150

23 million was coming from somewhere else, which

24 ended up being less, as I understand it. But

25 then on top of that, there were operating

Page 366	Page 368
<p>1 Brian Wegner</p> <p>2 expenses.</p> <p>3 Q So do you know how much money</p> <p>4 AGH Parent paid to Platinum --</p> <p>5 A No, I do not.</p> <p>6 Q -- for the purchase price?</p> <p>7 (Reporter clarification.)</p> <p>8 Q How much money AGH Parent paid to</p> <p>9 Platinum to receive the ownership in Agera?</p> <p>10 A I do not.</p> <p>11 Q Okay. Did you review the</p> <p>12 transaction documents in the Agera transaction?</p> <p>13 A These that related to SHIP's</p> <p>14 investment.</p> <p>15 Q When you say "related," would that</p> <p>16 include AGH's purchase of Agera?</p> <p>17 A No. No. We just had our SHIP</p> <p>18 investment in -- into Beechwood.</p> <p>19 Q Okay. Prior to the closing of the</p> <p>20 Agera transaction, did SHIP perform any due</p> <p>21 diligence in the capital structure of Agera?</p> <p>22 A We had -- so I think Paul's note</p> <p>23 outlined that we did do due diligence. We</p> <p>24 reviewed the financials, and Paul led the due</p> <p>25 diligence review.</p>	<p>1 Brian Wegner</p> <p>2 Beechwood.</p> <p>3 Q Okay.</p> <p>4 MR. MATHIAS: There's no question</p> <p>5 pending.</p> <p>6 Q I think you previously testified</p> <p>7 that the -- you and Paul on one hand negotiated</p> <p>8 the Agera transaction with Mark Feuer, and maybe</p> <p>9 Scott and Dhruv -- you weren't sure -- but those</p> <p>10 are the only people that were involved in the</p> <p>11 negotiation of the Agera transaction?</p> <p>12 A That I recall, yes.</p> <p>13 Q Did anybody else present SHIP with</p> <p>14 any information about Agera prior to the closing?</p> <p>15 A It came from Beechwood, but</p> <p>16 there -- Beechwood hired a third party, and it</p> <p>17 may have been Morris Manning. I'm not certain of</p> <p>18 the name. But there is a thick record on Agera</p> <p>19 from a third party that we also reviewed and</p> <p>20 relied on.</p> <p>21 Q Okay. Would it -- would it be</p> <p>22 Morgan Lewis maybe?</p> <p>23 A Morgan Lewis.</p> <p>24 Q Other than the Morgan Lewis report</p> <p>25 and the presentations that Agera made on that</p>
Page 367	Page 369
<p>1 Brian Wegner</p> <p>2 Q Okay. And did you have an</p> <p>3 understanding of if Agera had any other --</p> <p>4 besides this debt -- near-term debt maturity, had</p> <p>5 any other lenders besides that issue that was</p> <p>6 going to resolve?</p> <p>7 A I don't recall if there were other</p> <p>8 lenders or not.</p> <p>9 Q Okay. I think you testified</p> <p>10 previously that at some point SHIP hired a third</p> <p>11 party to perform background checks on the</p> <p>12 executives at Beechwood.</p> <p>13 Is that correct?</p> <p>14 A We hired Protiviti to do a due</p> <p>15 diligence of Beechwood.</p> <p>16 Q And that included background checks</p> <p>17 on the executives?</p> <p>18 A I believe they performed background</p> <p>19 checks on what we believed to be owners of the</p> <p>20 company, which are Mark and Scott.</p> <p>21 Q Right. But when it came to the</p> <p>22 Agera transaction, SHIP did not perform that kind</p> <p>23 of due diligence on the executives or the owners</p> <p>24 of Agera?</p> <p>25 A No, no. We were investing through</p>	<p>1 Brian Wegner</p> <p>2 meeting at Agera's office, Mark Feuer, Scott</p> <p>3 Taylor, and Dhruv, did anybody else make any</p> <p>4 presentations?</p> <p>5 A Not that I recall.</p> <p>6 Q Okay. Thank you.</p> <p>7 Do you know who I am?</p> <p>8 A No.</p> <p>9 Q You never met me before?</p> <p>10 A No.</p> <p>11 Q Okay.</p> <p>12 A Have we met?</p> <p>13 Q I don't think so. I know we have</p> <p>14 not met.</p> <p>15 The monthly reports that Beechwood</p> <p>16 was supposed to send to SHIP under the IMA, I</p> <p>17 think you've said that you haven't reviewed</p> <p>18 those?</p> <p>19 A Right. That wasn't my role to</p> <p>20 review those.</p> <p>21 Q That was Paul's responsibility?</p> <p>22 A Right.</p> <p>23 Q Do you -- do you know, though, if</p> <p>24 those reports were just like a brokerage</p> <p>25 statement, so to speak, where it says the number</p>

Page 382

1 Brian Wegner

2 MR. NAUNTON: No, no. The time

3 which -- the time at which you're asking

4 about his knowledge.

5 MS. EILBAUM: Okay. Yeah.

6 Q So -- so I'm -- in particular, I'm

7 asking about -- so I'm asking about -- I'm trying

8 to unpack a statement that you made -- that you

9 made. And you said:

10 "When we were dealing with the

11 Platinum issue."

12 Do you -- are you -- do you -- do

13 you believe that refers to 2016?

14 A Yes. So that context was, when we

15 were becoming aware of the Platinum issues,

16 E-Mailing Mark in particular -- it may have been

17 Mark and Scott -- the response was:

18 "You have \$53 million invested in

19 Platinum."

20 So much was in PPVA; so much was in

21 PPCO; but they did not disclose that other

22 investments which did not have the "Platinum"

23 name in the investment were also

24 Platinum-related.

25 Q In response -- well, so do you

Page 383

1 Brian Wegner

2 recall -- right now, you said that -- let me

3 just -- I apologize. One moment.

4 You said, when you were E-Mailing

5 with them, do you recall -- you recall the E-Mail

6 that you received back.

7 Do you recall the question or

8 E-Mail that prompted that response?

9 A It was in testimony earlier today.

10 I don't recall the specific question, but I think

11 it was one where I said you're probably dealing

12 with fallout.

13 (There was a discussion off the

14 record.)

15 A It was after that message. It had

16 something to do with what is our exposure in

17 this. And I said if -- I believe it was

18 \$53 million total invested in Platinum funds, was

19 roughly, if I recall 15 to 20 million was in

20 PPVA. That's the fund that was in question. The

21 PPCO fund was not a problem, so we didn't need to

22 worry about that.

23 Over the course of the coming

24 weeks, we learned that PPCO did have some risk to

25 it, and Beechwood said:

Page 384

1 Brian Wegner

2 "Well, we will unwind that."

3 So we had an immediate strategy to

4 have them buy out our PPVA; and then, over the

5 course of a couple of quarters, they would get us

6 out of the PPCO positions.

7 We later learned, actually, I think

8 through that E-Mail from -- from Reuters or Wall

9 Street Journal -- I can't remember which one --

10 that's when they alerted us to all of these other

11 investments were also tied to Platinum. But we

12 did not know that.

13 Q Now, SHIP -- did -- did SHIP keep a

14 list of all of the investments that Beechwood had

15 made on its behalf?

16 A We should have had that, yes.

17 Q And -- did -- did you ask any

18 questions about any of the other investments that

19 Beechwood had made on SHIP's behalf at the time?

20 MR. NAUNTON: Objection to form.

21 MR. MATHIAS: Objection to form.

22 A Did we ask any questions about any

23 other investments that Beechwood made? We got

24 the valuation numbers. Those were the reports

25 that we relied on. We had the Duff & Phelps

Page 385

1 Brian Wegner

2 reports, which I talked about.

3 I think, you know, as this was

4 unwinding, we certainly had more discussions with

5 Beechwood about the individual investments.

6 Q And at the time that you were

7 E-Mailing with Mark and Scott, was there -- are

8 you aware of any activity within SHIP to review

9 its -- its investments with Beechwood as well?

10 MR. NAUNTON: Objection to form.

11 MR. MATHIAS: Objection to form.

12 A Its overall investment with

13 Beechwood?

14 Q Correct.

15 A Early on, I did not -- I was not of

16 the belief that Beechwood was doing anything

17 incorrectly -- I thought they were improper. I

18 thought they were being -- that they were a

19 victim of the Platinum --

20 Q Well, let -- let me stop -- stop

21 you there because I --

22 MR. NAUNTON: Counsel.

23 Q -- I don't think --

24 MR. NAUNTON: The witness had not

25 finished answering your question.

Page 386

1 Brian Wegner

2 MS. EILBAUM: What he was answering

3 wasn't responsive to my question.

4 MR. MATHIAS: I'd let him finish

5 his answer.

6 MS. EILBAUM: Okay.

7 Q Please continue.

8 A I don't remember where I was.

9 MR. NAUNTON: Can the court

10 reporter read back the question posed and

11 the answer?

12 (Reporter read back pending

13 question and answer.)

14 MR. NAUNTON: You want to continue

15 your answer?

16 A So it didn't drive us to do any

17 review of the overall Beechwood investment. We

18 didn't realize there was anything improper going

19 on at that point. We thought the issues were

20 with Platinum, and that's what our focus was, was

21 to get the Platinum issues resolved.

22 Q And if there were someone

23 responsible for reviewing Beechwood investments,

24 would you be the one to have done that at SHIP?

25 MR. NAUNTON: Objection.

Page 387

1 Brian Wegner

2 MR. MATHIAS: Objection.

3 A No. Paul Lorentz was overseeing

4 the investments. We -- we did not have an

5 individual who was qualified to do a deep dive

6 into investments.

7 MS. EILBAUM: All right. Thank

8 you. No further questions.

9 THE VIDEOGRAPHER: Going off the

10 record. The time is 8:16 p.m.

11 (There was a discussion off the

12 record.)

13 (The deposition adjourned at

14 8:16 p.m.)

15

16

17

18

19

20

21

22

23

24

25

Page 388

1

2 J U R A T

3

4 I DO HEREBY CERTIFY that I have read the

5 foregoing transcript of my deposition testimony.

6

7

8

9

10 SWORN TO AND SUBSCRIBED

11 BEFORE ME THIS

12 DAY OF 2019

13 -----

14

15

16

17

18

19

20

21

22

23

24

25

Page 389

1

2 I N D E X

3

4

5	WITNESS	DIRECT	CROSS
6			
7	BRIAN WEGNER		
8			
9	BY MS. EILBAUM	12, 380	
10			
11	BY MR. MORAN	138	
12			
13	BY MR. CHASE	237	
14			
15	BY MS. COLLINS	266	
16			
17	BY MR. GOULD	321	
18			
19	BY MS. POLIVY	355	
20			
21	BY MR. STEINBERG	363	
22			
23	BY MS. DOHERTY	375	
24			
25			

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, TAB PREWETT, A Registered Professional Reporter, Notary Public, Certified LiveNote Reporter, and Certified Shorthand Reporter, do hereby certify that prior to the commencement of the examination BRIAN WEGNER was sworn by the notary public to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

TAB Prewett

TAB PREWETT
Notary Public

My Commission expires February 9, 2024
Dated: September 23, 2019

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Errata Sheet

NAME OF CASE: MARTIN TROTT and CHRISTOPHER SMITH vs PLATINUM MANAGEMENT (NY) LLC

DATE OF DEPOSITION: 09/18/2019

NAME OF WITNESS: Brian Wegner

Reason Codes:

- 1. To clarify the record.
- 2. To conform to the facts.
- 3. To correct transcription errors.

Page ____ Line ____ Reason ____
 From _____ to _____
 Page ____ Line ____ Reason ____
 From _____ to _____
 Page ____ Line ____ Reason ____
 From _____ to _____
 Page ____ Line ____ Reason ____
 From _____ to _____
 Page ____ Line ____ Reason ____
 From _____ to _____
 Page ____ Line ____ Reason ____
 From _____ to _____
 Page ____ Line ____ Reason ____
 From _____ to _____

EXHIBIT 6

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 1:18-cv-06658

IN RE: PLATINUM-BEECHWOOD LITIGATION

Videotaped deposition of CHRISTIAN THOMAS,
taken pursuant to Notice, was held at the offices of
US LEGAL SUPPORT, 90 Broad Street, New York, New
York, commencing December 17, 2019, at 9:31 a.m., on
the above date, before Amanda McCredo, a Court
Reporter and Notary Public in the State of New York.

Page 2

2 A P P E A R A N C E S:
3 DLA PIPER, LLP (US)
1251 Avenue of the Americas
4 New York, New York 10020-1104
BY: ELLEN ELIZABETH DEW, ESQ. (Baltimore Office)
5 STEVEN M. ROSATO, ESQ.
6 Attorneys for SHIP
7
8
9 HOLLAND & KNIGHT LLP
31 West 52nd Street
10 12th Floor
New York, New York 10019
11 BY: WARREN E. GLUCK, ESQ.
ELLIOT MAGRUDER, ESQ.
12
Attorneys for PPVA and Joint Liquidators
13
14
15
16 OTTERBOURG, P.C.
230 Park Avenue
New York, New York 10169
17 BY: WILLIAM M. MORAN, ESQ.
18 Attorneys for Plaintiff Receiver
19
20
21 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
101 Park Avenue
New York, New York 10178
22 BY: ABIGAIL JOHNSTON, ESQ.
23 Attorneys for David Bodner and Witness
24
25

Page 3

2
3 A P P E A R A N C E S: (continued)
4 MORRISON COHEN LLP
909 Third Avenue
5 New York, New York 10022-4784
BY: DANIEL C. ISAACS, ESQ.
6
Attorneys for Huberfeld Family Foundation, Inc.
7
8
9 PROSKAUER ROSE LLP
Eleven Times Square
10 New York, New York 10036-8299
BY: MARK D. HARRIS, ESQ.
11 STACEY EILBAUM, ESQ.
12
Attorneys for Beechwood and Witness
13
14
15 ALSO PRESENT:
16 Darrak Lighty - videographer
17
18
19
20
21
22
23
24
25

Page 4

1 C. Thomas
2 THE VIDEOGRAPHER: This is the video
3 deposition of Christian Thomas in the matter of
4 Platinum-Beechwood litigation. This deposition
5 is being held in the office of U.S. Legal
6 Support, 90 Broad Street, New York, New York,
7 on December 17, 2019.
8 My name is Darrak Lighty from U.S. Legal
9 Support, and I am the video specialist. The
10 court reporter today is Amanda McCredo, also
11 associated with U.S. Legal Support.
12 We're going on the record at 9:31 a.m.
13 All appearances have been noted on the
14 record.
15 Will the court reporter please swear in the
16 witness.
17 CHRISTIAN THOMAS, the witness herein, after having
18 been first duly sworn by a Notary Public
19 of the State of New York, was examined and
20 testified as follows:
21 EXAMINATION BY
22 MR. GLUCK:
23 Q Good morning, Mr. Thomas. My name is
24 Warren Gluck. I'm with Holland & Knight. Holland &
25 Knight represents the joint official liquidators of

Page 5

1 C. Thomas
2 Platinum Partners Value Arbitrage Fund, PPVA, as
3 well as PPVA.
4 Can you please state your full name for the
5 record?
6 A Christian Rainy Thomas.
7 Q Mr. Thomas, have you ever been deposed
8 before?
9 A I have.
10 Q And in what context were you deposed?
11 A It was in connection with a transaction
12 that took place with a prior employer.
13 Q And what prior employer was that?
14 A Laurus Capital Management.
15 Q Okay. And other than that deposition, have
16 you provided any other depositions?
17 A I have not.
18 Q You are a trained lawyer?
19 A I am.
20 Q You're a practicing attorney?
21 A I am.
22 Q Do you understand that you will be asked a
23 series of questions today and you are required to
24 give oral responses concerning those questions?
25 A I do.

Page 86

1 C. Thomas
2 anything to say for them. I'm not here for them.
3 Q And does Beechwood -- does Beechwood have
4 anything to say about whether the financial
5 condition issue was a positive issue or a negative
6 issue?
7 A Again, I think I answered that already.
8 Q The answer is no, it doesn't have anything
9 to say?
10 A I said I'm not here for Beechwood Re.
11 Q But do the other Beechwood entities that
12 you do represent, does Beechwood have a position on
13 this issue?
14 A The other Beechwood entities were not
15 involved in this transaction.
16 Q But do they have a position on this email?
17 A They don't have a position on this email
18 because they were not involved in this transaction.
19 Q Okay. So they don't have a position on the
20 email.
21 I've marked as Exhibit 866 an email from
22 Mr. Feuer to Mr. Huberfeld.
23 (CNOCSL_01578961 was marked as
24 Exhibit 866 for identification,
25 as of this date.)

Page 87

1 C. Thomas
2 Q I'll ask if you've seen it before.
3 A Okay.
4 Q What's Beechwood's position on why
5 Mr. Feuer is sending this email?
6 A Beechwood's position is to adopt
7 Mr. Feuer's view on this email.
8 Q Did you speak with Mr. Feuer regarding this
9 email?
10 A I reviewed his testimony, but that's what I
11 did.
12 Q Did Mr. Huberfeld have the power to set
13 compensation for Mr. Huberfeld or Mr. Feuer?
14 A I'm not aware of any control or power that
15 Mr. Huberfeld had. Mr. Huberfeld, through his
16 family members, however, obviously they were
17 investors and provided capital for the business.
18 (BW-SHIP-00000801 through 808
19 was marked as Exhibit 867 for
20 identification, as of this
21 date.)
22 Q I marked as Exhibit 867 a document that's
23 been produced in this case, and I'll ask you if
24 you've seen it before.
25 MR. HARRIS: It's 827 or 867?

Page 88

1 C. Thomas
2 MR. GLUCK: 867.
3 A I believe I've seen this document before,
4 although I'm having a hard time reading all the
5 bubbles on the left.
6 Q If you flip to the second page of that
7 document, there's a table.
8 A Second page, okay. A table?
9 Q Yeah.
10 A I don't see a table. Oh, on the back.
11 Okay.
12 Q Have you seen this table before?
13 A I have.
14 Q Does this table accurately reflect the
15 ownership interests of Beechwood?
16 A Let me take a look. I mean, I would refer
17 you to the organization documents, but I believe
18 this looks to be accurate.
19 Q Do you see where it says ownership interest
20 in B Asset Manager, LP?
21 A I do.
22 Q Now I'm going to ask you to flip to the
23 next table. It's two pages further.
24 A Okay. Two pages further. Okay.
25 Q And that table's entitled Ownership in

Page 89

1 C. Thomas
2 B Asset Manager II, LP.
3 Do you see that?
4 A Uh-huh.
5 Q Is that table accurate?
6 A It looks to be, yes.
7 Q And the numbers are the same between the
8 two tables, correct?
9 A I have to compare, but I assume they are,
10 but I shouldn't be assuming. Bear with me.
11 Okay.
12 Q What is the distinction between B Asset
13 Manager and B Asset Manager II?
14 A B Asset Manager II provided services with
15 respect to, I think, the offshore -- offshore debt
16 investments.
17 Q Versus B Asset Manager I which?
18 A B Asset Manager, I was the first asset
19 manager and initially provided investment services
20 with respect to its clients, which I think were
21 Beechwood Re and Beechwood Bermuda International
22 Limited, initially.
23 Q Fine. If you flip to the next page, the
24 next table, it's entitled Common Equity Ownership in
25 Beechwood Re Holdings, Inc.

Page 90

1 C. Thomas

2 A Okay.

3 Q Now, that is an entity that you are

4 testifying on behalf of today, correct?

5 A I am, that's correct.

6 Q Is this table accurate?

7 A Let's see. I believe so, although I'd

8 probably want to look at --

9 Q Okay.

10 A -- a document to confirm.

11 Q Now, what -- sorry. What was the purpose

12 of a distinction in corporate structure made for

13 Beechwood Re Holdings, Inc.?

14 A Can you clarify your question?

15 Q What was the role of the company?

16 A It was a holding company.

17 Q For?

18 A Beechwood Re.

19 Q Okay.

20 A Yes.

21 Q And this is the ownership interest in that

22 holding company?

23 A Uh-huh.

24 Q What was Mr. Nordlicht's role in respect of

25 that holding company?

Page 91

1 C. Thomas

2 A I'm not aware of any role that

3 Mr. Nordlicht had with respect to that holding

4 company.

5 Q None whatsoever?

6 A Other than through his family members

7 having interests in that holding company.

8 Q Okay. Have you ever heard the entity

9 N Management?

10 A I have.

11 Q Now, what is that?

12 A N Management is the manager of a company

13 called Beechwood Re Investments, LLC, I believe.

14 Q Okay. And what is Beechwood Re

15 Investments, LLC?

16 A Beechwood Re Investments, LLC, is a

17 Delaware series limited liability company. The

18 series -- I mean, that's what it is.

19 And the purpose is it was where the

20 Nordlicht, Bodner, Huberfeld family enterprises put

21 capital into their respective series, and that

22 entity then issued demand notes to Beechwood Bermuda

23 Limited and to Beechwood Re Holdings, I believe.

24 Q And --

25 A I have to refresh my recollection, I

Page 92

1 C. Thomas

2 forget. But I would refer you to the actual demand

3 notes to see who they were issued to.

4 Q Are you testifying here today on behalf of

5 Beechwood Re Holdings, LLC?

6 A There's no entity that I'm aware of that's

7 called Beechwood Re Holdings, LLC.

8 Q Excuse me. We just went over --

9 A If you're talking about Beechwood Re

10 Holdings Inc., yes.

11 Q Okay. But the company for which

12 N Management was --

13 A Beechwood Re Investments, LLC.

14 Q Excuse me, Beechwood Re Investments, LLC.

15 Are you testifying here today on behalf of

16 Beechwood Re Investments, LLC?

17 A I am.

18 Q You are. What was Mr. Nordlicht's role in

19 connection with that entity?

20 A Mr. Nordlicht, I believe, owned

21 N Management. And so, he was effectively the sole

22 member of the managing member of Beechwood Re

23 Investments, LLC.

24 Mr. Nordlicht also, through family members,

25 I believe, had certain -- certain of the series,

Page 93

1 C. Thomas

2 although I don't know -- I forget which ones.

3 Q Okay. Now, in relation to the Beechwood

4 structure, what was the role of N Management?

5 A Well, when you establish a limited

6 liability company, it is -- from the formation

7 perspective, it requires either a manager or a board

8 of managers or something. So N Management was an

9 entity that was created to serve as the manager of

10 Beechwood Re Investments, LLC.

11 Q Okay. And what was the role of Beechwood

12 Re Investments, LLC, within the Beechwood ownership

13 structure?

14 A Again, I think I answered that. But the

15 families of Nordlicht, Bodner, and Huberfeld had put

16 assets, which represented available capital, into

17 that entity. So it was basically where those assets

18 first stopped before they were drawn on the demand

19 notes.

20 Q Now, given the role of Beechwood Re

21 Investments in the Beechwood structure, Beechwood

22 would have knowledge of what Beechwood Re

23 Investments knew; is that accurate?

24 A Would have knowledge of what they knew?

25 Q Yup.

Page 354

1 C. Thomas

2 Q Are those -- the investments in the first

3 IMA, they are also including Platinum assets,

4 correct?

5 A I'd have to refer to a Holdings' report and

6 unfortunately I don't know what the scope of the

7 Holdings' report --

8 Q So you don't know, off the top of your

9 head, whether or not -- whether or not the assets

10 that were in the first IMA are the same assets that

11 are being pledged here by BRILC?

12 A I don't -- I don't know.

13 Q They might be?

14 A I don't know.

15 Q All right. I'm going to show you now what

16 has been previously marked as Exhibit 393.

17 (Exhibit 393 was shown to the

18 witness.)

19 Q I'll represent it's a Wilmington Trust

20 statement, statement of account, dated May 27, 2014,

21 with Beechwood Bermuda International Limited.

22 Are you familiar with this document?

23 A I'm familiar with Wilmington Trust, but I

24 haven't had an opportunity to review this document.

25 Q Okay. You, as a 30(b)(6) witness for

Page 355

1 C. Thomas

2 Beechwood, have familiarity with the fact that

3 Wilmington Trust held the assets for the IMAs,

4 correct?

5 A I do, yes.

6 Q And this specific Wilmington Trust

7 statement sets forth at least one month of assets

8 held in the BBIL IMA, correct?

9 A It's been a while since I looked at this.

10 Beechwood Bermuda International, it seems to be,

11 yes.

12 Q Okay. Let me direct your attention to

13 page 5 of 6 of this statement.

14 MR. HARRIS: What's the Bates number?

15 Q For ease of reference, the Bates number at

16 the bottom is SHIP0104391.

17 A Okay.

18 Q I'm going to further direct your attention

19 to the entry on February 18, 2015, "transfer

20 addition."

21 A Yes.

22 Q Do you see that?

23 A I do.

24 Q Can you tell us, as the 30(b)(6) witness,

25 what's happening in that transaction?

Page 356

1 C. Thomas

2 A On 218, are you referring to "other

3 disbursement"?

4 Q No, the one above it. 2/18.

5 A That was 2/19, sorry.

6 Transfer addition, cash receipt, wire

7 received. Cash receipt, wire from Senior Health

8 Insurance Company of Pennsylvania.

9 It implies that Senior Health Insurance

10 Company of Pennsylvania deposited \$60 million in

11 this Wilmington Trust account.

12 Q And do you know if this was part of the

13 surplus strengthening plan on behalf of SHIP?

14 A I don't know if a deposit of \$60 million

15 with BBIL was part of their plan, no, I don't.

16 Q Do you know whether that \$60 million was

17 intended as part of the transaction for BRILC's

18 surplus note?

19 A I think that a part of this deposit was

20 used by BBIL to lend to BRIL, which BRIL then in

21 turn used to purchase a surplus note.

22 Q And the next line down, "other

23 disbursements," you referenced it before on

24 February 19th --

25 A Yes.

Page 357

1 C. Thomas

2 Q -- what's happening in that transaction?

3 A So this reflects a payment made from BBIL

4 to Beechwood Re Investments, LLC.

5 Q Okay. Is that the transaction you were

6 just describing?

7 A That's correct.

8 Q So SHIP sends money into BBIL's account;

9 and then the next day, BBIL sends that same money to

10 BRILC to use in the surplus note?

11 A The next day, BBIL lends the money to BRIL

12 and then BRIL uses the cash, correct.

13 Q Does Beechwood have experience with the

14 Pennsylvania Department of Insurance?

15 A Personal -- personally, I don't know if

16 anyone at Beechwood has, but I believe -- I believe

17 that they've had some interaction with Pennsylvania.

18 From the company perspective, I would have

19 to refer to -- Mark Feuer or Scott Taylor would be

20 the best people to answer that on behalf of the

21 company to the extent this question was asked of

22 them.

23 (Whereupon, Ellen Dew, Esq.,

24 exits the deposition room and

25 Steven Rosato, Esq., enters the

Page 358

1 C. Thomas
2 deposition room.
3 Q So then if I asked if the Department of
4 Insurance would have approved of this type of
5 transaction of money going in and money going out
6 the next day to be used in the surplus note, a
7 circular transaction, would you be able to answer
8 that question?
9 A I would not be able to answer that
10 question, no.
11 Q And the idea for the surplus note, you
12 said, was SHIP's management, right?
13 A Yes.
14 Q Did SHIP actually propose this idea?
15 A Of the surplus note? I believe
16 Beechwood -- personally, I have no knowledge of who
17 proposed what.
18 But the company's position is that SHIP
19 proposed the surplus note.
20 Q Does the company have a position as to
21 communications surrounding the proposal?
22 A I'm sorry? I'm not -- position?
23 Q Withdrawn. Terrible question.
24 Did -- were you aware of a conversation
25 between Feuer and Wegner in which he says, "Brian,

Page 359

1 C. Thomas
2 we love you, but we don't have \$50 million to loan
3 you"?
4 A I recall seeing a communication.
5 Q Do you recall any communications with the
6 Department of Insurance in Pennsylvania about the
7 \$60 million being wired into BBIL IMA on one day,
8 and then 50 million coming out the next day?
9 A Communication -- can you be more specific?
10 Communication between whom?
11 Q I'm asking you if you know of any
12 communications within Beechwood.
13 A Oh, within Beechwood. I do not.
14 Q I'm going to show you what we've marked
15 previously as Exhibit 65.
16 (Exhibit 65 was shown to the
17 witness.)
18 Q And I'll ask you have you seen that before?
19 A I have.
20 Q What is that?
21 A It's an investment management agreement
22 between B Asset Manager and Senior Health Insurance
23 Company of Pennsylvania.
24 Q And I'm going to refer you to the Bates
25 number at the bottom ending in 19811.

Page 360

1 C. Thomas
2 A Okay.
3 Q And who signed this agreement?
4 A On behalf of B Asset Manager, Danny Saks
5 executed it. On behalf of SHIP, Brian Wegner
6 executed it.
7 Q Now, if you turn the page to SHIP ending in
8 19793, towards the end of that exhibit --
9 A I'm sorry, 19793?
10 Q 19793, yes.
11 A Okay.
12 Q And that is the side letter that we
13 discussed about, that Mr. Gluck was asking you
14 about; is that right?
15 A I believe so, yes.
16 Q And that side letter is signed by?
17 A Looks to be -- it's not signed on behalf of
18 SHIP.
19 On behalf of B Asset Manager, it's signed
20 by Mark Nordlicht.
21 Q And, actually, if you'll turn the page,
22 you'll see who signed on behalf of SHIP.
23 A Brian Wegner.
24 Q Now, N Management, LLC, describe that
25 relationship between N Management and the Beechwood

Page 361

1 C. Thomas
2 entities.
3 A N Management, to Beechwood's understanding,
4 was set up to act as the manager of Beechwood Re
5 hold -- Beechwood Re Investments, LLC. Initially N
6 Management was solely owned by Mark Nordlicht.
7 There was a point in time where Mark Feuer took over
8 the ownership of N Management from Mark Feuer -- I'm
9 sorry, from Mark Nordlicht.
10 Mark Nordlicht transferred the ownership
11 interest in N Management to Mark Feuer, and Mark
12 Feuer then assumed sole control of N Management.
13 Q When did that happen?
14 A I don't have a good recollection of the
15 date that that happened. But the organization
16 documents and legal files for N Management would
17 have, would have the transfer documents which would
18 indicate the date.
19 Q Well, clearly by the date of this letter,
20 that had not yet happened, correct?
21 A That's -- right.
22 Q Which is January 15, 2015?
23 A That's correct.
24 Q So Mark Nordlicht had the authority to
25 manage BRILC; is that correct?

Page 374

1 C. Thomas

2 Q Okay. Reading the next paragraph in this

3 article, "Consider the situation, however, without

4 the \$50 million capital contribution that resulted

5 from showing the surplus note receivable as an

6 asset: SHIP's total adjusted capital would have been

7 \$68 million (\$118 million minus 50 million).

8 Therefore, SHIP's RBC ratio would have been

9 62 percent."

10 Do you see that?

11 A I see that.

12 Q Do you have any information one way or the

13 other whether that's accurate?

14 A I do not.

15 Q And were there any -- do you know of any

16 discussions with SHIP prior to entering into the

17 surplus note about that?

18 A I'm not aware of any.

19 Q In 2015, were there any discussions about

20 unwinding Platinum-related assets in accounts

21 managed by Beechwood?

22 A With SHIP?

23 Q With anyone.

24 A With anyone. I would refer to the

25 testimony of Mark Feuer and Scott Taylor on that

Page 375

1 C. Thomas

2 topic or Dhruv Narain -- or, actually, it was prior

3 to 2015, so he wouldn't have been there -- no, he

4 was there. No, Dan -- sorry.

5 Q You knew that CNO had indicated that it

6 wanted Beechwood to divest its Platinum interests,

7 correct?

8 A I'm aware of that, yes.

9 Q You also know that there were -- withdrawn.

10 Earlier today with Mr. Gluck you testified

11 that there were meetings in 2016 in Carmel, right?

12 A I think I testified I wasn't sure of

13 whether or not there were meetings, but I referred

14 him to the testimony of either Dhruv Narain, Mark

15 Feuer, or Scott Taylor to the extent they attended

16 any meetings in Indiana.

17 Q Okay. But he was asking you about 2016,

18 and I guess that's where we're going.

19 A Right.

20 Q There were meetings in 2015 and 2014 in

21 Carmel with Beechwood, right?

22 A I think there were meetings. I can't tell

23 you who may have attended those meetings and when

24 they occurred. I don't have that information.

25 Q You said you read Dhruv Narain's testimony?

Page 376

1 C. Thomas

2 A I did read his testimony, yes.

3 Q Now, you're aware, then, that Dhruv Narain

4 testified that when he began work with Beechwood in

5 2016, there had been ongoing discussions about

6 divesting SHIP's Platinum assets that were

7 originated from SHIP, correct?

8 A I don't recall that specifically. I looked

9 through a lot of testimony, so I just don't recall

10 that specifically.

11 Q Okay. Well, on behalf of SHIP --

12 withdrawn.

13 On behalf of Beechwood as Beechwood's

14 30(b)(6), can you tell me if there were ongoing

15 discussions to divest SHIP's Platinum assets?

16 A I can say that to the extent that

17 Mr. Narain's belief was that there were discussions,

18 the company would adopt his belief that there were

19 discussions.

20 Q Do you have any further information as to

21 that issue?

22 A I do not.

23 Q I'm going to show you what we previously

24 marked as Plaintiff's Exhibit 83.

25 (Exhibit 83 was shown to the

Page 377

1 C. Thomas

2 witness.)

3 Q Have you seen that before?

4 A Yes.

5 Q What is that?

6 A That is a delayed draw demand note entered

7 into on December 23 of 2015 with Platinum Partners

8 Credit Opportunities Master Fund, LP, as the issuer,

9 and SHIP as the lender.

10 Q All right. So SHIP loaned PPCO

11 \$15,500,000, right?

12 A That's what it says, yes.

13 Q Do you know what the purpose for that loan

14 was?

15 A I would want to see the other documentation

16 to see if there was a use of proceeds. So off the

17 top of my head, I don't know. There would have also

18 potentially been a disbursement letter that would

19 have indicated any use of proceeds there.

20 Q Okay. We'll get to that in a minute.

21 A Okay.

22 Q Can you describe how this instrument came

23 about?

24 A This date was December 23. So as far as

25 the origination of this loan, I don't know how this

Page 378

1 C. Thomas

2 loan came about, no. It's something that would have

3 been handled by the chief investment officer.

4 Q Which was who?

5 A At this time, I'm not sure if Danny was

6 still acting as CIO. It might have been a period of

7 time where there was a gap, and I think -- yeah, I

8 think there was a gap. I think Dhruv Narain may

9 have been starting to get up to speed at Beechwood.

10 I don't think he officially started as an employee

11 until February of 2016 -- 2016, however.

12 Q Did PPCO provide any security for this

13 loan?

14 A I believe they did, yes.

15 (Exhibit 233 was shown to the

16 witness.)

17 Q I'm going to show you what we previously

18 marked as Exhibit 233.

19 I'll ask have you seen that before?

20 A I have.

21 Q What is that?

22 A This is a master security agreement where

23 BAM Administrative Services is the agent on behalf

24 of lenders under -- the holders demand note -- on

25 behalf of the holder of the demand note.

Page 379

1 C. Thomas

2 Q And who is BAM Administrative?

3 A BAM Administrative Services, LLC, is an

4 entity which I believe is right now a subsidiary of

5 Beechwood Re Holdings that was established to hold

6 collateral and act as collateral agent with respect

7 to syndicated loans that were being originated by

8 Beechwood.

9 Q And what did this instrument do?

10 A This instrument would have granted a

11 security interest in the assets described in the

12 agreement.

13 Q And the assets described in the agreement

14 are all the assets in PPCO and its subsidiaries,

15 right?

16 A The assets list what seem to be all the

17 assets under the master security agreement.

18 Q And who is the signatory on behalf of all

19 of the -- withdrawn.

20 Who is the signatory for PPCO and its

21 subsidiaries?

22 A The signatory throughout was Mark

23 Nordlicht.

24 Q Throughout?

25 A Well, let me just make sure -- appears to

Page 380

1 C. Thomas

2 be Mark Nordlicht.

3 Q And Mark Nordlicht was the principal of

4 PPCO, right?

5 A Mark Nordlicht was a -- right, I think he

6 was the principal of Platinum Management and was the

7 manager of PPCO.

8 Q And as such, he was obligated to act in

9 good faith toward PPCO, right?

10 A I don't know what Mark Nordlicht's

11 obligations were to PPCO. I haven't looked at their

12 organization documents.

13 Q Well, if you look at the first signature on

14 the signatory page.

15 A Okay.

16 Q Platinum Partners Credit Opportunities

17 Master Fund, LP, by Mark Nordlicht, title CIO,

18 right?

19 A Yes.

20 Q What is CIO?

21 A I'm assuming it's chief investment officer.

22 Q Does a chief investment officer of a

23 company have the obligation to act in good faith

24 toward that company?

25 A I don't know if I'm here to provide a legal

Page 381

1 C. Thomas

2 opinion.

3 Q I'm not asking you in your legal opinion.

4 I'm asking you as the representative of Beechwood.

5 A I don't think this is a Beechwood matter.

6 Q I'm asking you if --

7 A You're asking me if --

8 Q Well, withdrawn.

9 Does Beechwood have CIOs?

10 A Beechwood has not currently, no. But it

11 did have CIOs, yes.

12 Q And when it did have their CIOs, did

13 Beechwood expect their CIOs to act in good faith

14 toward the company?

15 A Beechwood would have, yeah, like any

16 employee.

17 Q And specifically as it relates to a CIO,

18 doesn't the CIO on behalf of Beechwood -- didn't

19 CIOs at Beechwood have enhanced obligations to act

20 in good faith towards the company?

21 A So, I think -- I think the obligation of

22 the CIO to a client would relate to the agreement in

23 place where there is a relationship established and

24 that agreement would define the relationship.

25 And I don't know what the agreement is

Page 382

1 C. Thomas

2 between Mark Nordlicht and Platinum Partners Credit

3 Opportunities Master Fund, so I don't know what the

4 scope of his obligations may have been by virtue of

5 his title as the CIO, because I don't have that

6 agreement and I haven't looked at that agreement.

7 Q And Mark Nordlicht signed this agreement on

8 behalf of not just PPCO, but on behalf of all of the

9 subs, too, right?

10 A Yes. He signed all of the other entities,

11 too.

12 Q And who signed on behalf of BAM?

13 A I don't recall, and I don't see a signature

14 to this here. But it would be the CIO.

15 Q Do you know -- withdrawn.

16 A Or it would be someone who was able to

17 control B Asset Manager -- I'm sorry, it would be an

18 authorized signatory for BAM Administrative

19 Services, so I don't know right off the top of my

20 head who that was at that time.

21 Q Have you ever seen a signed copy of this

22 agreement --

23 A I don't recall.

24 Q -- master security agreement?

25 A I believe that we would have obtained a

Page 383

1 C. Thomas

2 signed copy of this as part of the closing process,

3 but I don't have one in front of me.

4 MR. MORAN: To the extent it exists, we

5 call for its production.

6 MR. HARRIS: Okay.

7 Q All right. I'm going to direct your

8 attention to page 2 of this agreement.

9 A We're on the master security agreement?

10 Q Yes, we're still on it.

11 A Okay.

12 Q And specifically paragraph 3, "Each

13 assignor hereby jointly and severally represents,

14 warrants, and covenants to Agent, for the benefit of

15 Credit Parties that (a) it is a corporation,

16 partnership, or limited liability company, as the

17 case may be, validly existing in good standing, and

18 formed under the respective laws of its jurisdiction

19 of formation set forth on Schedule A."

20 Do you see that?

21 A I do.

22 Q And then "(b) its legal name is as set

23 forth in its Certificate of Incorporation or other

24 organizational document (as applicable) as amended

25 through the date hereof and as set forth on Schedule

Page 384

1 C. Thomas

2 A."

3 Do you see that?

4 A I do.

5 Q And then "(c) its organizational

6 identification number (if applicable) is as set

7 forth on Schedule A."

8 Do you see that?

9 A I do.

10 Q Let's go look at Schedule A.

11 Does Schedule A have all of that

12 information set forth in this table?

13 A This Schedule A does not.

14 Q Have you seen any Schedule A that does?

15 A I don't recall.

16 MR. MORAN: To the extent it exists, we

17 call for its production.

18 Q Does Beechwood deem this agreement

19 enforceable?

20 A Beechwood deems its securities agreements

21 that it enters into enforceable to the extent

22 they're still outstanding, yes.

23 Q What about if they're not signed or if the

24 information is lacking?

25 A If the agreement is not signed by the

Page 385

1 C. Thomas

2 agent, you're asking me?

3 Q By Beechwood.

4 A So to the extent that you're asking me to

5 provide a legal opinion, I don't think I'm in a

6 position to provide a legal opinion.

7 Q All right. What was the purpose for the

8 security?

9 A The purpose generally speaking?

10 Q Of this master security agreement.

11 A The purpose of this master security

12 agreement would be to provide security against the

13 repayment of the loan that's referenced in the

14 security agreement.

15 Q So for funds received in exchange for the

16 delayed demand December 23rd note, right?

17 A That's correct.

18 Q Which money was used to purchase assets,

19 right?

20 A I don't recall what the proceeds of this

21 loan were used for. I'd have to look at the -- see

22 some other information. I'd want to see the use of

23 proceeds that may be set out in -- if there was a

24 note purchase agreement. I'd also want to see the

25 disbursement letter to see if they had any

Page 386

1 C. Thomas
2 references in the disbursement letter.
3 Q We'll get to that again in a second.
4 A Okay.
5 Q We'll come back to that.
6 A Okay.
7 Q I'm going to show you what we marked as
8 234.
9 (Exhibit 234 was shown to the
10 witness.)
11 Q Have you seen that before?
12 A I have seen that before.
13 Q And what is that?
14 A This is a subsidiary guaranty.
15 Q Can you describe what this instrument
16 accomplished?
17 A So this instrument accomplished effectively
18 having the entities -- which I believe are
19 subsidiaries of PPCO -- effectively guarantee the
20 obligations of PPCO that are referenced here under
21 the demand note.
22 Q And who are the signatories?
23 A The signatories were various subsidiaries
24 all signed by, it looks to be, Mark Nordlicht.
25 Q Do you have any information relating to why

Page 387

1 C. Thomas
2 PPCO agreed to provide guaranties from each and
3 every subsidiary for the December 23rd note?
4 A Generally?
5 Q Sure.
6 A Generally speaking, it would be part of the
7 transaction to ensure that a loan was adequately
8 collateralized. And to the extent that there was a
9 master security agreement on itself that was being
10 used, generally you would see a subsidiary guaranty
11 go along with that.
12 Q All right.
13 (Exhibit 235 was shown to the
14 witness.)
15 Q I'm going to show what you we've marked as
16 Exhibit 235, which I believe is the flow of funds
17 letter you were discussing before, right?
18 A Okay, yes.
19 Q And this document was received by B Asset
20 Manager, right?
21 A That's correct.
22 Q And you reviewed this before?
23 A I have seen this document before, yes.
24 Q And this describes certain funds from the
25 loan proceeds used to pay for the indebtedness owing

Page 388

1 C. Thomas
2 from Desert Hawk, right?
3 A Sorry, I have to refresh my recollection.
4 Yes.
5 Q You're familiar with Desert Hawk?
6 A Yes.
7 Q It's a Platinum portfolio company, right?
8 A I believe Platinum had an outstanding loan
9 to Desert Hawk. I'm not aware of what other
10 interests it may have had in Desert Hawk.
11 Q I'm going to refer your attention to the
12 footnote at the bottom.
13 A Yes.
14 Q And it reads, one million seven hundred
15 eleven dollars -- I'm sorry, "\$1,711,989.58 of the
16 funding is intended to be applied in payment of the
17 purchase price owing from the company to Beechwood
18 Bermuda International Limited (BBIL) (BBIL Custody)
19 for that certain Participation Agreement dated as of
20 May 22, 2015, by and between DMRJ Group I, LLC
21 (DMRJ) and Beechwood Re as nominee of Senior Health
22 Insurance Company of Pennsylvania (SHIP) (as
23 subsequently assigned by SHIP to BBIL) as relates to
24 BBIL's participation in \$1,675,000 of principal
25 indebtedness owing by Desert Hawk Gold Corp (Desert

Page 389

1 C. Thomas
2 Hawk), as well as \$36,989.58 of accrued and unpaid
3 interest guaranteed by the Company thereunder."
4 Do you see that?
5 A I do.
6 Q What is BBIL?
7 A BBIL is Beechwood Bermuda International
8 Limited.
9 Q And what is Beechwood Re?
10 A Beechwood Re is Beechwood Re.
11 Q Another -- another Beechwood-related
12 entity, correct?
13 A That's correct.
14 Q What is DMRJ Group?
15 A DMRJ Group, I believe, is a
16 Platinum-related entity.
17 Q Now, \$1,711,989 of the proceeds was used by
18 PPCO insiders to purchase Desert Hawk debt from BBIL
19 as nominee of SHIP, right?
20 A I'm sorry. Can you go through that one
21 more time?
22 Q \$1,711,989 of the loan proceeds was used by
23 the PPCO insiders to purchase Desert Hawk debt from
24 Beechwood Bermuda International Limited as nominee
25 of SHIP, right?

Page 390

1 C. Thomas

2 MR. ISAACS: Objection.

3 Q Is that accurate?

4 A This says PPCO instructed BAM to apply one

5 \$1.711 million in payment of a purchase price owing

6 to BBIL.

7 Q To purchase Desert Hawk debt?

8 A That's correct.

9 Q BBIL previously had been assigned its

10 interest in this debt by Beechwood Re as nominee of

11 SHIP, correct?

12 A Repeat that one more time. I'm just trying

13 to follow.

14 Q Sure. BBIL previously had been assigned

15 its interest in this debt by Beechwood Re as nominee

16 of SHIP, that's what that sets forth in that note,

17 doesn't it?

18 A Okay.

19 Q Correct?

20 A That's correct, right.

21 Q That debt had been acquired by Beechwood Re

22 on behalf of SHIP pursuant to a May 22, 2015,

23 participation agreement between Beechwood Re and

24 DMRJ Group I, LLC, right?

25 A I believe that's the case, yes.

Page 391

1 C. Thomas

2 Q And that was for the principal indebtedness

3 in the amount of \$1,675,000?

4 A It looked to be, yes.

5 Q Now, the flow of the loan proceeds further

6 specifies that \$36,989.58 of accrued and unpaid

7 interest on that debt increased the purchase price

8 to 1.7 million, right?

9 A That's what it says, yes.

10 Q So no interest had been paid on that

11 underlying debt, had it?

12 A I don't know if interest had been paid on

13 the underlying debt.

14 Q Do you know of any other reason why that

15 would have been added to the indebtedness?

16 A It depends on what time of the month this

17 may have been applied. There could have been

18 interest payments made prior. But inter-month

19 transactions might have an accrual amount of

20 interest that remains unpaid. And here the

21 transaction is dated as of 12/23. So it's possible

22 there had been accrual over the month of December

23 that wouldn't ordinarily have been paid.

24 Q In that amount?

25 A It could be.

Page 392

1 C. Thomas

2 Q Thirty-six, isn't that a lot?

3 A It could be.

4 Q Isn't that a lot for a one-month accrual?

5 MR. ISAACS: Objection.

6 A I don't know. I don't know without looking

7 at the underlying terms of the loan to see what the

8 interest rate was.

9 Q Do you know, as Beechwood Re's -- as

10 Beechwood's 30(b)(6) witness whether that debt was

11 nonperforming?

12 A I don't know. It was a participation

13 interest, and I don't know if the debt was

14 performing because the debt was still held by

15 Platinum.

16 Q And that was -- and Platinum was

17 guaranteeing that debt, right?

18 A Platinum was guaranteeing the participation

19 interest rate to the purchasers.

20 Q Now, as per this flow of the loan proceeds,

21 that debt was paid in full by PPCO, right?

22 MR. ISAACS: Objection; mischaracterizes

23 the document.

24 A I think the participation was repurchased

25 by Platinum.

Page 393

1 C. Thomas

2 Q In full?

3 A Eventually. I don't know if this

4 transaction affected that -- I believe that the

5 participations, if I recall, were purchased in two

6 tranches. But I don't know if this reflects the

7 full amount that was left at that time. I just

8 don't recall.

9 Q Doesn't this reflect that PPCO paid the

10 same par price as Beechwood Re?

11 A The same par -- the same par price? I

12 mean, it reflects that it's paying the outstanding

13 principal and interest.

14 Q And isn't that the same par price that

15 Beechwood Re paid?

16 A I'd have to look at the original

17 participation agreements to know what Beechwood Re

18 paid for it. I don't have that recollection.

19 Q So you don't know whether PPCO had made

20 that payment in full as you're sitting here today?

21 A Which payment? This payment that's

22 referenced here?

23 Q No, the par price that Beechwood Re paid.

24 A Well, this here -- I don't know what

25 Beechwood -- but if Beechwood Re did pay 1.675, then

Page 394

1 C. Thomas
2 Platinum would have paid that amount.
3 Q When --
4 A -- the \$1,711,000, right?
5 Q When adding in the --
6 A When you added the accrued interest on top
7 of it.
8 Q That had not been paid?
9 A That had not been paid over the month of
10 December, right. I don't know if it was accrued
11 prior to that or not.
12 Q If it was not just that one accrual of one
13 month and in fact had not been paying interest, that
14 would have been nonperforming, correct?
15 A Again, I'd have to refer to the terms of
16 the participation to see if that would trigger any
17 types of remedies and if it was considered
18 nonperforming at that time.
19 Q If --
20 A Participation is a little different than,
21 you know, direct debt investment.
22 Q Understood. But the fact is that if it was
23 nonperforming, then there is no reason why the full
24 par price should have been paid, right?
25 MR. ISAACS: Objection.

Page 395

1 C. Thomas
2 Q Shouldn't it have been paid at a discount
3 if it was nonperforming?
4 A Not -- so this is a participation that I
5 believe that Platinum guaranteed so that, at the end
6 of the day, whether or not Desert Hawk was paying
7 Platinum, that was between Desert Hawk and Platinum,
8 but Platinum had obligated itself to pay the full
9 amount of this participation.
10 MR. HARRIS: It's been over an hour and we
11 should take a break.
12 MR. MORAN: Good point. Okay. Good place
13 to do it.
14 THE VIDEOGRAPHER: Going off the record.
15 The time is 6:41 p.m.
16 (Recess taken.)
17 THE VIDEOGRAPHER: This begins Media Unit
18 No. 5. The time is 6:55 p.m.
19 We're back on the record.
20 Q All right, Mr. Thomas, sticking with
21 Exhibit 235.
22 A Yes.
23 Q And, again, referring to the footnote at
24 the bottom of the PPCO Funds Flow.
25 A Uh-huh.

Page 396

1 C. Thomas
2 Q Moving to letter B, it reads,
3 "\$33,398,427.08 of the funding is intended to be
4 applied in payment of the purchase price owing from
5 the company to BBIL (BBIL Custody) for that certain
6 Participation Agreement, dated as of May 22, 2015,
7 by and between DMRJ and BBIL as it relates to BBIL's
8 participation in \$3,325,000 of principal
9 indebtedness owing by Desert Hawk, as well as
10 \$73,427 of accrued and unpaid interest guaranteed by
11 the Company thereunder."
12 Do you see that?
13 A I do.
14 Q So \$3.3 million of the loan proceeds was
15 used by PPCO insiders to purchase Desert Hawk debt
16 from BBIL, which held it in a custody account on
17 behalf of SHIP, correct?
18 MR. ROSATO: Objection.
19 A I don't know that "B" relates to an
20 interest held by SHIP, I'm sorry.
21 Q You know what --
22 A I see -- I see the purchase price owing
23 from the company to BBIL and then, in parentheses,
24 it's BBIL Custody. I don't believe that relates to
25 a BBIL account -- I'm sorry, a SHIP account. I

Page 397

1 C. Thomas
2 don't think that relates to a SHIP account.
3 Q What else would BBIL Custody mean?
4 A It could mean to a ULICO account.
5 Q And that debt had been acquired by BBIL
6 pursuant to a May 22, 2015, participation agreement
7 between BBIL and DMRJ Group, correct?
8 A Yes, that's correct.
9 MR. ROSATO: Objection.
10 Q For debt in the amount of \$3,325,000 of
11 principal indebtedness?
12 A That's what this says, yes.
13 Q And as before, the flow of the loan
14 proceeds further specifies that \$73,427.08 of
15 accrued and unpaid interest on that debt increased
16 the purchase price to the \$3.3 million amount,
17 right?
18 A That's correct.
19 Q So as before, no interest having been paid
20 on the underlying debt?
21 A At least no interest in December. I don't
22 know if interest had been paid prior to that.
23 Q Well, as we discussed before, does this
24 indicate to you whether or not that debt was
25 nonperforming?

<p style="text-align: right;">Page 398</p> <p>1 C. Thomas</p> <p>2 A It does not. It's not odd for an</p> <p>3 inter-month transaction to include a component of</p> <p>4 interest because, generally speaking, interest</p> <p>5 payments would have been otherwise due at the</p> <p>6 beginning of the month. So this would still be in</p> <p>7 the accrual stage --</p> <p>8 Q But the --</p> <p>9 A -- for the month of December.</p> <p>10 Q I'm sorry, are you finished?</p> <p>11 A Yeah.</p> <p>12 Q But by that flow of the loan proceeds, that</p> <p>13 debt was paid in full, correct?</p> <p>14 A The participation was purchased from BBIL.</p> <p>15 Q In full?</p> <p>16 A I don't know. I believe so.</p> <p>17 Q All right. Moving on to footnote 1,</p> <p>18 letter C.</p> <p>19 A Okay.</p> <p>20 Q It reads "\$4,088,333.34 of the Funding is</p> <p>21 intended to be applied in payment of the purchase</p> <p>22 price owing from the Company to Beechwood Re for</p> <p>23 that certain Participation Agreement, dated as of</p> <p>24 May 22, 2015, by and between DMRJ and BAM</p> <p>25 Administrative Services, LLC (BAM), as agent (as</p>	<p style="text-align: right;">Page 400</p> <p>1 C. Thomas</p> <p>2 Q Doesn't it say "as agent"?</p> <p>3 A Where are you looking at? BAM</p> <p>4 Administrative Services was an agent.</p> <p>5 Q Okay. So you're saying that Beechwood Re</p> <p>6 might have been holding that on its own?</p> <p>7 A Yeah, I don't know if it related to SHIP.</p> <p>8 I'd have to refer to the Holdings report to see if</p> <p>9 it was part of a SHIP account or not.</p> <p>10 Q And as it relates to the outstanding</p> <p>11 interest and the additional interest, does that</p> <p>12 indicate whether or not that loan -- that debt was</p> <p>13 nonperforming?</p> <p>14 A Whether or not the participation was</p> <p>15 nonperforming? I believe that the participation</p> <p>16 that was purchased was in both a component of</p> <p>17 principal and a component of interest, and that was</p> <p>18 what was bought.</p> <p>19 Now whether or not you're asking if the</p> <p>20 Desert Hawk underlying loan that it owed to DMRJ was</p> <p>21 performing or not, I don't know the answer to that.</p> <p>22 Q But by the flow of the loan proceeds, that</p> <p>23 debt was paid in full, correct?</p> <p>24 A By the flow, that participation was</p> <p>25 repurchased by Platinum.</p>
<p style="text-align: right;">Page 399</p> <p>1 C. Thomas</p> <p>2 assigned by BAM to BRE) as relates to BRE's</p> <p>3 participation in \$1,789,492 of principal</p> <p>4 indebtedness and \$2,210,508 of interest outstanding,</p> <p>5 in each case, of Desert Hawk, as well as \$88,333.34</p> <p>6 of accrued and unpaid interest guaranteed by the</p> <p>7 Company thereunder."</p> <p>8 Do you see that?</p> <p>9 A I do.</p> <p>10 Q What is BAM Administrative?</p> <p>11 A BAM Administrative, in this context, is a</p> <p>12 collateral agent.</p> <p>13 Q And it's a Beechwood-related entity, right?</p> <p>14 A That's correct.</p> <p>15 Q \$4,088,333.34 of the loan proceeds was used</p> <p>16 by PPCO insiders to purchase Desert Hawk debt held</p> <p>17 by Beechwood Re on behalf of SHIP pursuant to that,</p> <p>18 correct?</p> <p>19 MR. ROSATO: Objection; mischaracterizes</p> <p>20 the document.</p> <p>21 A I don't know if, if -- Beechwood Re was</p> <p>22 holding this on behalf of SHIP.</p> <p>23 Q Who else might it be holding it on behalf</p> <p>24 of?</p> <p>25 A For Beechwood Re's own account.</p>	<p style="text-align: right;">Page 401</p> <p>1 C. Thomas</p> <p>2 Q In full?</p> <p>3 A I believe so.</p> <p>4 Q Do you know whether SHIP communicated with</p> <p>5 anyone at Beechwood in connection with the</p> <p>6 December 2015 transactions?</p> <p>7 A I don't know.</p> <p>8 Q Did Beechwood negotiate actual wording in</p> <p>9 these December 2015 documents?</p> <p>10 A Which? I mean --</p> <p>11 Q The documents that we just went through.</p> <p>12 The delayed draw note, the master security</p> <p>13 agreement, and the subsidiary guarantee.</p> <p>14 A Right, for this transaction, I would expect</p> <p>15 that the documents would have been provided to</p> <p>16 the -- to someone at Platinum and likely, also,</p> <p>17 their counsel. I think it was Suzanne Horowitz was</p> <p>18 counsel at the time.</p> <p>19 Q My question is did Beechwood negotiate</p> <p>20 actual wording?</p> <p>21 A Well, Beechwood -- Beechwood would have</p> <p>22 provided, as lender, the original form of the</p> <p>23 document to be negotiated from. That would be</p> <p>24 standard practice.</p> <p>25 Q Did anyone at SHIP negotiate terms within</p>

Page 402

1 C. Thomas

2 any of these instruments?

3 A I'm not aware that SHIP was involved with

4 the negotiation of these documents.

5 Q Do you know whether SHIP approved these

6 documents?

7 A I'm not aware that SHIP approved these

8 documents.

9 Q When you say you're not aware, does that

10 mean no, or you just don't know?

11 A I don't believe SHIP approved these

12 documents. I believe that Dhruv Narain, to the

13 extent that SHIP was a signatory to these documents,

14 Dhruv Narain acted or whoever -- I have to see who

15 signed it -- would have acted under the authority

16 granted to them under whatever the agreement was

17 that was in place.

18 Q The IMAs you're referring to?

19 A Right.

20 Q I'm going to show you what we marked

21 previously as Exhibit 84.

22 (Exhibit 84 was shown to the

23 witness.)

24 Q And I'll represent that the first page is

25 another flow of funds letter followed by the amended

Page 403

1 C. Thomas

2 and restated delayed draw demand note dated

3 January 20 of 2016.

4 A Okay.

5 Q And I'm going to refer you first to the

6 note.

7 Have you seen that before?

8 A The amended and restated delay draw demand

9 note, yes --

10 Q Yes.

11 A -- I have.

12 Q And that note is amending and restating the

13 delayed draw demand note of December 23, 2015, that

14 we just looked at, right?

15 A That's what it says, yeah.

16 Q And increased the total amount of debt to

17 \$18,500,000?

18 A Right. It increased the total, I guess,

19 credit line.

20 Q To 18,500,000?

21 A That's right.

22 Q And was the security agreement and

23 subsidiary guaranty agreements, likewise, restated?

24 A I think they were reaffirmed.

25 Q Is there a difference?

Page 404

1 C. Thomas

2 A The agreements themselves would not

3 necessarily be amended and restated, but provisions

4 of those agreements would be ratified and reaffirmed

5 with respect to the increase of the principal amount

6 that was being secured or guaranteed.

7 Q I'm going to show you what's been marked as

8 Exhibit 236.

9 (Exhibit 236 was shown to the

10 witness.)

11 A I think that was attached in here, unless

12 this is different.

13 Q Is that the reaffirmation and ratification

14 agreement you were just referring to?

15 A Yes.

16 Q Have you read through this?

17 A I haven't read through this recently, no,

18 but I've seen this document before.

19 Q And who are the -- well, withdrawn.

20 Yeah, who are the signatories to this

21 document?

22 A Signatories are Mark Nordlicht, on behalf

23 of the borrower and the subsidiary guarantors, and

24 Scott Taylor, as an authorized signatory on behalf

25 of BAM Administrative Services.

Page 405

1 C. Thomas

2 Q Do you have any information relating to why

3 PPCO agreed to reaffirm and ratify security in its

4 assets in the assets of each and every subsidiary

5 for the 1/20/16 note?

6 A I'm not familiar with their approval

7 process.

8 But from Beechwood's perspective, a

9 reaffirmation and ratification agreement would have

10 been requested in connection with increasing the

11 credit line to protect against the possible claims

12 that somehow the additional amount was not otherwise

13 secured.

14 Q And were there any discussions with anyone

15 at SHIP about this agreement?

16 A I'm not aware of any discussions with SHIP.

17 I wouldn't think that there would be a discussion

18 with SHIP about this particular document, no.

19 Q Why?

20 A Because this document was a loan document

21 and it would have been, number one, negotiated

22 between counsel based off of the terms that would

23 have been negotiated by the chief investment officer

24 under its powers granted under the contracts with

25 SHIP.

<p style="text-align: right;">Page 406</p> <p>1 C. Thomas</p> <p>2 Q All right. I'm going to show you now</p> <p>3 what's been previously marked as Exhibit 85.</p> <p>4 (Exhibit 85 was shown to the</p> <p>5 witness.)</p> <p>6 Q And I think we saw this earlier today.</p> <p>7 I'll ask have you seen that before?</p> <p>8 A Yes, I have.</p> <p>9 Q You saw it earlier today, right?</p> <p>10 A I don't know if this is the one I saw</p> <p>11 earlier today.</p> <p>12 Q It might have been?</p> <p>13 A It's all merging together. But there was</p> <p>14 another note purchase agreement that I saw, and I</p> <p>15 don't know if it's the same one.</p> <p>16 Q What's the purpose of this note?</p> <p>17 A Well, this is not a note. It's a note</p> <p>18 purchase agreement. It's just a purchase agreement.</p> <p>19 Q And what was the purpose of the purchase</p> <p>20 agreement?</p> <p>21 A The purchase agreement relates to -- if you</p> <p>22 could bear with me, I recall just looking at the</p> <p>23 date. There was a restructuring of the existing</p> <p>24 loan that was extended to Platinum Partners Credit</p> <p>25 Opportunities Fund, and this was included to allow</p>	<p style="text-align: right;">Page 408</p> <p>1 C. Thomas</p> <p>2 A Yes.</p> <p>3 Q And the first row under the column "note"</p> <p>4 is for \$42,963,949.04. \$123,190.55 consisting of</p> <p>5 accrued interest.</p> <p>6 Do you see that?</p> <p>7 A I do.</p> <p>8 Q What is that indicating?</p> <p>9 A To me, that indicates that, at the time of</p> <p>10 this restructuring, there was some outstanding</p> <p>11 interest which effectively became capitalized under</p> <p>12 the note.</p> <p>13 Q And -- all right.</p> <p>14 So pursuant to this note purchase</p> <p>15 agreement, PPCO received funds, correct?</p> <p>16 A Yes. They did receive funds. Although I'd</p> <p>17 look at the disbursement letter to understand what</p> <p>18 the magnitude of what they received was.</p> <p>19 Q Okay. And it's indicating here that this</p> <p>20 \$42.9 million amount was to go to SHIP?</p> <p>21 A I'm sorry?</p> <p>22 Q Can you describe what that first row is</p> <p>23 indicating?</p> <p>24 A Well, the whole schedule indicates what the</p> <p>25 aggregate commitment is of each one of the lenders</p>
<p style="text-align: right;">Page 407</p> <p>1 C. Thomas</p> <p>2 for not only a modification of that existing SHIP</p> <p>3 note, but also to provide additional syndicate</p> <p>4 lenders to lend money to PPCO.</p> <p>5 Q And that effectively increased the total</p> <p>6 outstanding indebtedness to \$69,153,626.82, correct?</p> <p>7 A I don't have the note and I don't have the</p> <p>8 full scope, but I see here that the purchase price</p> <p>9 referenced in this agreement was \$70 million.</p> <p>10 Q Well, let's turn to Schedule 1 --</p> <p>11 A Okay.</p> <p>12 Q -- which is -- well, there are no Bates</p> <p>13 numbers on this. But Schedule 1, I think you can</p> <p>14 find it.</p> <p>15 A Okay, got it.</p> <p>16 Q All right. What's being set forth in</p> <p>17 Schedule 1?</p> <p>18 A This is a commitment for the benefit of</p> <p>19 PPCO of what was being lent to PPCO, whether it had</p> <p>20 already been lent or whether it reflected future</p> <p>21 loans, the aggregate of all was -- of their</p> <p>22 commitment to do so was 69,153,626.82.</p> <p>23 Q Okay. And the first row under "purchaser"</p> <p>24 says, "Senior Health Insurance Company of</p> <p>25 Pennsylvania"?</p>	<p style="text-align: right;">Page 409</p> <p>1 C. Thomas</p> <p>2 in here.</p> <p>3 Q Okay. And then the next one down is BRE</p> <p>4 BCLIC Primary for \$10 million, right?</p> <p>5 A That's correct.</p> <p>6 Q The next one is for BRE BCLIC Sub for</p> <p>7 \$500,000?</p> <p>8 A That's right.</p> <p>9 Q BRE WNIC 2013 LTC Primary for</p> <p>10 \$14.9 million, right?</p> <p>11 A That's correct.</p> <p>12 Q And then BRE WNIC 2013 LTC Sub for</p> <p>13 \$700,000, right?</p> <p>14 A That's right.</p> <p>15 Q Who negotiated this note purchase agreement</p> <p>16 on behalf of Beechwood?</p> <p>17 A On behalf of Beechwood, Dhruv Narain.</p> <p>18 Q And did anyone negotiate this on behalf of</p> <p>19 SHIP?</p> <p>20 A On the business side, I believe it was</p> <p>21 David Steinberg.</p> <p>22 Q For SHIP?</p> <p>23 A I'm sorry, for SHIP. My apologies.</p> <p>24 I'm not aware that anyone negotiated on</p> <p>25 behalf of SHIP, other than Dhruv Narain through his</p>

Page 410

1 C. Thomas

2 powers under the IMA.

3 Q And how about CNO?

4 A Same answer.

5 Q And by the way, CNO is the owner of BCLIC,

6 right, and WNIC?

7 A At this time, this is before -- so they

8 are -- well, stated accurately, they're the

9 beneficiaries of these four trusts.

10 Q I'm going to show you what we marked

11 previously as Exhibit 237.

12 (Exhibit 237 was shown to the

13 witness.)

14 Q I'll ask have you seen that before?

15 A I have.

16 Q What is that?

17 A That is an amended and restated master

18 security agreement.

19 Q And what was the purpose of this

20 instrument?

21 A This amended and restated -- let me just

22 see here.

23 Platinum Partners Credit Opportunities

24 Master Fund, LP, was amending and restating the

25 master security agreement.

Page 411

1 C. Thomas

2 Q Who signed on behalf of the subsidiaries?

3 A This agreement -- this amendment was not

4 signed by the subsidiaries.

5 Q Who was the signatory on behalf of

6 Beechwood?

7 A Dhruv Narain.

8 Q And who signed on behalf of PPCO?

9 A Mark Nordlicht, that looks like his

10 signature.

11 Q Now, I'm going to direct your attention to

12 the first page of this agreement under number 1.

13 The last portion of it there begins, "On

14 the Closing Date."

15 Do you see that?

16 A Yes.

17 Q It reads, "On the Closing Date, the

18 Existing Security Agreement shall be amended and

19 restated in its entirety by this Master Security

20 Agreement except for the liens and security interest

21 granted pursuant to the Existing Security Agreement,

22 which liens and security interests shall continue in

23 full force and effect during the term of this Master

24 Security Agreement and any renewals or extensions

25 thereof and shall continue to secure the Obligations

Page 412

1 C. Thomas

2 (as such term is defined below)."

3 A Right.

4 Q So this did not amend and restate the

5 December 2015 master security agreement?

6 A I'm looking for --

7 Q It says "except for the liens and security

8 interests granted" --

9 A I'm looking to see if there is a defined

10 term existing security agreement. Sorry, bear with

11 me.

12 Okay. Ask me your question one more time.

13 Q So this does not amend and restate the 2016

14 master security agreement, does it -- I'm sorry, the

15 2015 master security agreement?

16 A I'm trying to -- I don't know if I have all

17 the documents. I haven't gone through this in some

18 time to see if "existing security agreement" is

19 defined elsewhere to define what exactly the

20 existing security agreement was.

21 Q But it's not defined here, correct?

22 A I don't see it defined here. I haven't --

23 I've skimmed through the agreement. I don't see the

24 definition in here.

25 Q And then I'm going to refer your attention

Page 413

1 C. Thomas

2 to page 4. Okay.

3 At the top there for letter (k), do you see

4 that?

5 A Uh-huh.

6 Q It says, "Schedule C to this Master

7 Security Agreement lists all of the equity interests

8 owned by each Assignee and the percentage ownership

9 of each Assignee therein."

10 Do you see that?

11 A I see that.

12 Q If you go to Schedule C, that information

13 is not indicated, is it?

14 A This schedule is not completed.

15 Q Have you ever seen a completed schedule?

16 A I don't recall.

17 MR. MORAN: To the extent it exists, we

18 call for its production.

19 MR. HARRIS: Sure.

20 Q Okay. We're going to show you what we

21 previously marked as Exhibit 238.

22 (Exhibit 238 was shown to the

23 witness.)

24 Q And I'll ask have you seen that before?

25 A Yes.

<p style="text-align: right;">Page 414</p> <p>1 C. Thomas</p> <p>2 Q What is that?</p> <p>3 A It is a subsidiary guaranty.</p> <p>4 Q Describe the purpose for this instrument.</p> <p>5 A The subsidiary guaranty would provide a</p> <p>6 direct or create a direct obligation of the</p> <p>7 guarantors.</p> <p>8 Q Who signed on behalf of -- I'm sorry, did</p> <p>9 you finish?</p> <p>10 A Yeah, go ahead.</p> <p>11 Q Who signed on behalf of the subsidiaries?</p> <p>12 A That looks like Mark Nordlicht.</p> <p>13 Q Okay. I'm going to show you what we</p> <p>14 previously marked as Exhibit 239.</p> <p>15 (Exhibit 239 was shown to the</p> <p>16 witness.)</p> <p>17 Q Have you seen that before?</p> <p>18 A I have.</p> <p>19 Q And what is that?</p> <p>20 A This is an amendment and restatement of a</p> <p>21 note.</p> <p>22 Q And that's the note that was indicated in</p> <p>23 the note purchase agreement in that table, correct?</p> <p>24 A That's correct.</p> <p>25 Q In the Schedule 1?</p>	<p style="text-align: right;">Page 416</p> <p>1 C. Thomas</p> <p>2 lender, to Platinum Partners Credit Opportunities</p> <p>3 Master Fund, LP.</p> <p>4 Q And that also is one of the allocations set</p> <p>5 forth in that schedule, right?</p> <p>6 A That's correct.</p> <p>7 Q And who signed this?</p> <p>8 A This note is signed by -- looks to be Mark</p> <p>9 Nordlicht's signature.</p> <p>10 Q And what's the amount?</p> <p>11 A \$10 million.</p> <p>12 Q I'm showing you what we are marking as</p> <p>13 Exhibit 927 -- I'm sorry, 928.</p> <p>14 (BW-SHIP-00175397 through 406</p> <p>15 was marked as Exhibit 928 for</p> <p>16 identification, as of this</p> <p>17 date.)</p> <p>18 Q And I'll represent that it is a secured</p> <p>19 term note dated March 21, 2016, bearing Bates stamp</p> <p>20 BW-SHIP-00175397 through 406.</p> <p>21 Have you seen this before?</p> <p>22 A I have.</p> <p>23 Q What is that?</p> <p>24 A It's another secured term note.</p> <p>25 Q Also on the same allocation table and</p>
<p style="text-align: right;">Page 415</p> <p>1 C. Thomas</p> <p>2 A Uh-huh.</p> <p>3 Q And who signed this note?</p> <p>4 A That looks to be Mark Nordlicht's</p> <p>5 signature.</p> <p>6 Q And what's the amount of the note?</p> <p>7 A The amount of this note is \$42,963,949.04.</p> <p>8 Q I'm going to hand you what we're marking as</p> <p>9 Exhibit 927.</p> <p>10 (BW-SHIP-00175387 through 396</p> <p>11 was marked as Exhibit 927 for</p> <p>12 identification, as of this</p> <p>13 date.)</p> <p>14 Q And I'll represent it is a secured term</p> <p>15 note dated March 21, 2016, with -- bearing Bates</p> <p>16 stamp BW-SHIP-00175387 through 5396.</p> <p>17 A Okay.</p> <p>18 Q Have you seen that before?</p> <p>19 A I have.</p> <p>20 Q What is that?</p> <p>21 A This is a secured term note --</p> <p>22 MR. ROSATO: Can I get a copy?</p> <p>23 MR. MORAN: I don't know.</p> <p>24 MR. ROSATO: You don't have one? Okay.</p> <p>25 A -- by Beechwood -- BRE BCLIC Primary, as</p>	<p style="text-align: right;">Page 417</p> <p>1 C. Thomas</p> <p>2 schedule --</p> <p>3 A Also referenced in the note purchase</p> <p>4 agreement, yes.</p> <p>5 Q For what amount?</p> <p>6 A \$500,000.</p> <p>7 Q And who signed that note?</p> <p>8 A This note was signed by -- looks to be Mark</p> <p>9 Nordlicht's signature.</p> <p>10 Q I'm handing you what we've marked as</p> <p>11 Exhibit 929.</p> <p>12 (BW-SHIP-00175407 through 416</p> <p>13 was marked as Exhibit 929 for</p> <p>14 identification, as of this</p> <p>15 date.)</p> <p>16 Q Have you seen that before?</p> <p>17 A I have.</p> <p>18 Q What is that?</p> <p>19 A This is also a secured term note in the</p> <p>20 amount of \$14,989,677.78.</p> <p>21 Q What was the -- I'm sorry, who signed that?</p> <p>22 A That looks to be Mark Nordlicht's</p> <p>23 signature.</p> <p>24 Q Also on the same schedule from the same</p> <p>25 agreement we looked at?</p>

Page 418

1 C. Thomas

2 A Also in the same schedule, yes.

3 Q I'm handing what you we marked as

4 Exhibit 930.

5 (BW-SHIP-00175417 through 426

6 was marked as Exhibit 930 for

7 identification, as of this

8 date.)

9 Q I'll represent it is a secured term note

10 dated March 21, 2016, bearing Bates number

11 BW-SHIP-00175417 through 5426.

12 Same questions. Have you seen that before?

13 A I have seen this before, yes.

14 Q What is this?

15 A This is another secured term note in the

16 amount of \$700,000.

17 Q Dated March 21, 2016, correct?

18 A That's correct.

19 Q Also set forth in the same schedule?

20 A Also set forth in the schedule, right.

21 Q And who signed this note?

22 A That looks to be Mark Nordlicht's

23 signature.

24 Q What is the amount?

25 A The amount is \$700,000.

Page 419

1 C. Thomas

2 Q Okay. I'm going to show you what has been

3 previously marked as Exhibit 240.

4 (Exhibit 240 was shown to the

5 witness.)

6 Q I'll ask have you seen that before?

7 A Yes.

8 Q What is that?

9 A This is a disbursement letter.

10 Q And this is the disbursement letter for the

11 flow of funds from the March 21, 2016, note purchase

12 agreement, correct?

13 A Right. These are Platinum's directions to

14 the lenders of how to pay over the funds.

15 Q All right. And on the first page, Platinum

16 insiders are directing you to use the funds to pay

17 700,000 to BAM Administrative Services, LLC,

18 pursuant to the following wire instructions, right?

19 A That's correct.

20 Q And that was to be paid to BAM for the

21 benefit of BRE WNIC; is that correct?

22 A Bear with me.

23 It says here "disbursement on the

24 company" -- the first one is disbursement on the

25 company's behalf to BAM Admin as agent for each of

Page 420

1 C. Thomas

2 the lender, which is defined as BRE WNIC 2013 LTC

3 Sub, BRE WNIC 2013 LTC Primary, Beechwood Bermuda

4 International Limited, and Beechwood Bermuda

5 Investment Holdings, four segregated accounts.

6 Q And then the next page has the flow of

7 funds.

8 Who is that going to?

9 A This is also going to BAM Administrative

10 Services as agent for each of BRE WNIC 2013 LTC

11 Primary [sic], BRE WNIC 2013 LTC Primary, Beechwood

12 Bermuda International Limited, Beechwood Bermuda

13 Investment Holdings Limited, four segregated

14 accounts.

15 Q And then the next one?

16 A The next one is a direction to pay \$500,000

17 to BAM as agent for each of BRE BCLIC Sub, BRE WNIC

18 2013 LTC Primary, Beechwood Bermuda International

19 Limited, Beechwood Bermuda Investment Holdings

20 Limited, four segregated accounts.

21 Q Okay. And then the next one?

22 A The next one is a direction to pay over

23 \$10 million to BAM Administrative Services as agent

24 for each of BRE BCLIC Primary, BRE WNIC 2013 LTC

25 Primary, Beechwood Bermuda International Limited,

Page 421

1 C. Thomas

2 and Beechwood Bermuda Investment Holdings Limited,

3 four segregated accounts.

4 Q And then the last one?

5 A The last one is a direction from Platinum

6 to SHIP to disburse funds to BAM Administrative

7 Services as agent for each of SHIP, BRE WNIC 2013

8 LTC Primary, Beechwood Bermuda International

9 Limited, and Beechwood Bermuda Investment Holdings

10 Limited, four segregated accounts, in the amount of

11 \$26,590,877.78.

12 Q Now, in each one of these funds flow

13 letters, it indicates the disbursements for each of

14 the lenders, and then it includes Beechwood Bermuda

15 Investment Holdings.

16 Do you see that?

17 A Yes.

18 Q Is that now known as PB Investment Holdings

19 Limited?

20 A I believe -- I don't -- I don't recall what

21 the name change was. I think it's -- it's now

22 controlled by Eli Global, which I think PB

23 Investment Holdings -- I just don't know what the

24 name of the -- the change name is.

25 Q Do you know what the legal relationship

Page 422

1 C. Thomas

2 between Beechwood Bermuda Investment Holdings and PB

3 Investment Holdings is?

4 A Well, at the time of this agreement, there

5 was no relationship.

6 Q Okay. What about now?

7 A About now, PB Holdings, I'd have to -- I

8 don't recall what the relationship is exactly. I

9 just don't.

10 Q If I left a blank in the transcript for you

11 to fill in the relationship, could you do that?

12 A What I would do is refer to sale documents

13 to see if, you know, what they changed the name of

14 this company to. I just don't know if it's the name

15 of the company you referred to specifically.

16 Q And specifically what sale document are you

17 identifying?

18 A So there were purchase agreements relating

19 to Eli Global that dealt with taking over the

20 reinsurance business by Eli Global from Beechwood

21 Bermuda companies.

22 Q And that specific agreement would set forth

23 the legal relationship between Beechwood Bermuda

24 Investment Holdings and PB Investment Holdings

25 Limited?

Page 423

1 C. Thomas

2 A It would be a place that I would look to

3 see what the relationship was. I don't know if it's

4 in there. I'm assuming it's in there.

5 Q I'm pressing you because you're here for

6 that reason, right?

7 A No, I understand that. You know, I had lot

8 of documents presented and it's been a long day --

9 Q Yes, I get it. I'm trying --

10 A -- and I want to be specific and accurate.

11 Q I'm trying to figure out a reasonable way

12 to get the answer from you.

13 MR. MORAN: If I ask you to produce the

14 documents, would that suffice?

15 MR. HARRIS: Yeah, we can do that.

16 MR. MORAN: Even if they've already been

17 produced before.

18 MR. HARRIS: It's fine.

19 MR. MORAN: Thank you.

20 Q Part of these loan proceeds in this

21 document also resulted in assignment of interests in

22 Northstar GOM Holdings Group, LLC; isn't that

23 correct?

24 A I believe that some of the proceeds were

25 used in connection with an acquisition of Northstar

Page 424

1 C. Thomas

2 interests, yes.

3 Q And those interests were from SHIP and WNIC

4 to PPCO, right?

5 A I believe they were, although I do recall

6 there were assignment agreements, and I would want

7 to refer to the assignment agreements for the

8 specific details of what was purchased from whom.

9 Q Now, Northstar GOM Holdings Group, LLC, is

10 a Platinum portfolio company, correct?

11 A Is it a Platinum portfolio company -- I

12 believe it is.

13 Q And let's take a look at the assignment

14 agreement.

15 I'm handing you what we've marked as

16 Plaintiff's Exhibit 86.

17 (Exhibit 86 was shown to the

18 witness.)

19 Q Is that the agreement you were referencing?

20 A This is one of the agreements. I think

21 there were two assignment agreements.

22 Q I'm sorry, say that again?

23 A I believe there were two assignment

24 agreements.

25 Q And that's one of them?

Page 425

1 C. Thomas

2 A That's one of -- this is one of them.

3 Q And who signed this document?

4 A On behalf of BRE WNIC 2013 LTC Primary,

5 it's executed by Dave Young, who is a trustee at

6 Wilmington Trust on behalf of that entity.

7 It's also signed, it looks to be, Mark

8 Nordlicht's signature on behalf of Platinum Partners

9 Credit Opportunities Master Fund.

10 And on behalf of B Asset Manager, acting in

11 its capacity as investment manager for SHIP, it's

12 signed by Dhruv Narain.

13 Q And if we look at Exhibit A on the back.

14 A Yes.

15 Q What is that telling us?

16 A That's telling us the identity of the

17 signor. It is telling us, in this case, the asset.

18 It describes the asset. It describes the amount

19 outstanding including interest. It describes the

20 purchase price. And then it seems to require

21 whether or not there is a notice or consent

22 requirement related to the assignment.

23 Q And the assignor for the first row is BRE

24 WNIC, right?

25 A That's what it says, yes.

Page 426	<p>1 C. Thomas</p> <p>2 Q And then the assignee -- the assignor for</p> <p>3 the second row is SHIP, right?</p> <p>4 A That's correct.</p> <p>5 Q Do you know whether Northstar -- the</p> <p>6 Northstar debt was nonperforming?</p> <p>7 A I don't know.</p> <p>8 Q Who at SHIP did Beechwood communicate with</p> <p>9 for this March 2016 transaction?</p> <p>10 A I'm not sure that SHIP communicated with</p> <p>11 Beechwood, because I see that it's signed by Dhruv</p> <p>12 Narain. So I don't know if Dhruv Narain</p> <p>13 communicated with anyone at SHIP or not.</p> <p>14 Q I'm going to show you what we've previously</p> <p>15 marked as Plaintiff's Exhibit 232.</p> <p>16 Have you seen that before?</p> <p>17 A I have seen, from time to time, Duff &</p> <p>18 Phelps reports. I don't know if I've seen this</p> <p>19 particular report.</p> <p>20 Q This one is directed specifically to B</p> <p>21 Asset Manager LP, right?</p> <p>22 A Right. That would be normal.</p> <p>23 Q Is there any doubt this was received by B</p> <p>24 Asset Manager?</p> <p>25 A I don't -- I don't doubt that, no.</p>	Page 428	<p>1 C. Thomas</p> <p>2 A Well, I know that SHIP was one of B Asset</p> <p>3 Manager's clients, yes.</p> <p>4 Q All right. And this report sets forth</p> <p>5 information as to each of the assets for B Asset</p> <p>6 Manager, right?</p> <p>7 A The inclusiveness I would refer you to</p> <p>8 Dhruv Narain, but it looks to be there's a number of</p> <p>9 assets on here.</p> <p>10 Q And then again, if we look at the Northstar</p> <p>11 entry, which begins on 51. I'm going to refer your</p> <p>12 attention to page 54.</p> <p>13 A Page 54.</p> <p>14 Q All right. Are you with me?</p> <p>15 A I'm on page 54.</p> <p>16 Q All right. The last paragraph before</p> <p>17 Coverage Analysis.</p> <p>18 Do you see that?</p> <p>19 A I do.</p> <p>20 Q And then the last sentence reads, "Lastly,</p> <p>21 Platinum, the company's private equity sponsor, is</p> <p>22 continuing to fund the company's obligation --</p> <p>23 obligations, interests, and capex. As such, there</p> <p>24 appears to be sufficient coverage for the Second</p> <p>25 Priority Senior Secured Notes."</p>
Page 427	<p>1 C. Thomas</p> <p>2 Q All right. Okay. Let's turn to page 51 of</p> <p>3 this report.</p> <p>4 A Okay.</p> <p>5 Q At page 51 is the entry for Northstar GOM</p> <p>6 Holdings Group, LLC, right?</p> <p>7 A That is -- yeah, it's Northstar GOM</p> <p>8 Holdings Group, LLC, right.</p> <p>9 Q And this report was prepared by Duff &</p> <p>10 Phelps, you said?</p> <p>11 A That's what it says.</p> <p>12 Q What is the function of Duff & Phelps in</p> <p>13 relation to Beechwood?</p> <p>14 A A third-party valuation firm which was</p> <p>15 engaged to provide ranges of valuations for</p> <p>16 privately held investments.</p> <p>17 Q And these privately held investments were</p> <p>18 held by B Asset Manager for the benefit of SHIP,</p> <p>19 right?</p> <p>20 A I don't believe that B Asset Manager held</p> <p>21 title to any of these assets.</p> <p>22 Q But they were investing these?</p> <p>23 A They were investing these for clients.</p> <p>24 Q And the client that B Asset Manager was</p> <p>25 investing this for in this instance was SHIP, right?</p>	Page 429	<p>1 C. Thomas</p> <p>2 Now, the fact that Platinum is continuing</p> <p>3 to fund the company's obligations, interests, and</p> <p>4 capex, does that bear any indication to you as to</p> <p>5 whether the debt was nonperforming?</p> <p>6 A It doesn't to me.</p> <p>7 Q It doesn't to you as Beechwood's --</p> <p>8 A I don't know what the relationship was</p> <p>9 between, like, what agreements were in place between</p> <p>10 Northstar and Platinum that may have required</p> <p>11 Platinum or obligated Platinum to make these -- I</p> <p>12 don't have any details about why they're making</p> <p>13 payments, why they're doing things for --</p> <p>14 Q I'm sorry, did you finish?</p> <p>15 A Yeah, go ahead.</p> <p>16 Q In the previous exhibit we looked at, the</p> <p>17 assignment agreement --</p> <p>18 A That's correct.</p> <p>19 Q -- what information do you have about why</p> <p>20 this assignment came about? What was the impetus?</p> <p>21 A I would refer you to the investment</p> <p>22 manager, Dhruv Narain, who would have negotiated the</p> <p>23 transaction, and he would be best positioned and the</p> <p>24 company would adopt his position on how this</p> <p>25 transaction arose.</p>

<p style="text-align: right;">Page 430</p> <p>1 C. Thomas</p> <p>2 Q And who negotiated that assignment for B</p> <p>3 Asset Manager?</p> <p>4 A I would expect Dhruv Narain to have</p> <p>5 negotiated this assignment.</p> <p>6 Q And would Mr. Narain have had any</p> <p>7 communications with SHIP or WNIC in relation to</p> <p>8 that?</p> <p>9 A I don't know if he did have communications.</p> <p>10 He would not necessarily have had communications</p> <p>11 with SHIP.</p> <p>12 Q Because he had discretion?</p> <p>13 A He had discretion under the IMA.</p> <p>14 MR. HARRIS: You referred to Dhruv Narain</p> <p>15 as investment manager. I don't know if you</p> <p>16 meant chief investment officer.</p> <p>17 THE WITNESS: Sorry, chief investment</p> <p>18 officer.</p> <p>19 Q For B Asset Manager?</p> <p>20 A That's right. He was the president of B</p> <p>21 Asset Manager.</p> <p>22 Q I'm going to show you what we've previously</p> <p>23 marked as Exhibit 231.</p> <p>24 (Exhibit 231 was shown to the</p> <p>25 witness.)</p>	<p style="text-align: right;">Page 432</p> <p>1 C. Thomas</p> <p>2 held a put option?</p> <p>3 A In this context, I do.</p> <p>4 Q What does it mean?</p> <p>5 A It means that BAM has the ability, under</p> <p>6 certain circumstances, to demand that PPVA buy the</p> <p>7 notes.</p> <p>8 Q And PP --</p> <p>9 A Or buy the participation interests in this</p> <p>10 case.</p> <p>11 Q And when it says a putback to PPVA, PPVA</p> <p>12 initially owned that debt, right?</p> <p>13 A Well, DMRJ held the debt. DMRJ sold the</p> <p>14 participations to BAM together with a guarantee from</p> <p>15 PPVA to buy those participations back.</p> <p>16 Q But that debt was not put back to PPVA, was</p> <p>17 it?</p> <p>18 A I don't -- I forget. It's late in the day.</p> <p>19 Q That debt went to PPCO, didn't it?</p> <p>20 A Let me just double-check here. Yes.</p> <p>21 Q And were there any discussions or</p> <p>22 communications about why?</p> <p>23 A Why it went to PPCO?</p> <p>24 Q Instead of put back to PPVA?</p> <p>25 A I don't know the information on which the</p>
<p style="text-align: right;">Page 431</p> <p>1 C. Thomas</p> <p>2 Q And I'll ask have you seen that before?</p> <p>3 A Again, same answer. I don't know if I've</p> <p>4 seen this particular valuation report, but I've seen</p> <p>5 a couple of Duff & Phelps valuation reports in the</p> <p>6 past.</p> <p>7 Q And I'll note it's referencing B Asset</p> <p>8 Manager, LP, dated June 24, 2015. I'll ask you to</p> <p>9 turn to page 42 of this report.</p> <p>10 Are you with me?</p> <p>11 A I am.</p> <p>12 Q Okay. Under -- in the middle it says,</p> <p>13 "financial review and analysis," do you see that,</p> <p>14 "capitalization"?</p> <p>15 A Yes.</p> <p>16 Q It reads, "The Senior Secured Promissory</p> <p>17 Notes are Pan Passu with existing DMRJ Group debt.</p> <p>18 However, BAM holds a put option and can put the</p> <p>19 notes back to PPVA if Desert Hawk does not meet</p> <p>20 expected production levels. As of the Valuation</p> <p>21 Date, there was \$10 million of exposure through</p> <p>22 BAM's investment of the Senior Secured Notes."</p> <p>23 Do you see that?</p> <p>24 A I do.</p> <p>25 Q Do you know what it means when it says BAM</p>	<p style="text-align: right;">Page 433</p> <p>1 C. Thomas</p> <p>2 information in this report is based. I don't know</p> <p>3 if there was an error here or not. I don't know if</p> <p>4 they mentioned -- if they intended to refer to PPCO</p> <p>5 instead of PPVA. I'm not sure.</p> <p>6 Q Well, I'll move to strike as nonresponsive</p> <p>7 as to what you don't know.</p> <p>8 A Okay.</p> <p>9 Q I'm asking you do you know whether there</p> <p>10 was any discussions within Beechwood about that debt</p> <p>11 going to PPCO or rather than being put back to PPVA?</p> <p>12 A I don't know if there are any discussions.</p> <p>13 I haven't been provided the participation agreement,</p> <p>14 which would answer a lot of questions for me.</p> <p>15 Q And do you know whether there are any</p> <p>16 discussions with anyone on the Platinum side about</p> <p>17 that?</p> <p>18 A I don't know.</p> <p>19 MR. HARRIS: Mr. Thomas was referring to --</p> <p>20 he was checking a document. I don't know if he</p> <p>21 could put on the record just what document he</p> <p>22 was referring to or looking at when he did</p> <p>23 that.</p> <p>24 MS. EILBAUM: Just a few moments ago.</p> <p>25 A I was looking at --</p>

EXHIBIT 7

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4

5 In re:) Civil Action
) No. 18-cv-6658
6 PLATINUM-BEECHWOOD LITIGATION.) (JSR)
-----)
7 MARTIN TROTT and CHRISTOPHER)
SMITH, as Joint Official)
8 Liquidators and Foreign)
Representatives of PLATINUM)
9 PARTNERS VALUE ARBITRAGE FUND)
L.P. (in Official Litigation))
10 and PLATINUM PARTNERS VALUE)
ARBITRAGE FUND L.P. (in)
11 Official Liquidation),)
) Civil Action
12 Plaintiffs,) No. 18-cv-10936
) (JSR)
13 vs.)
))
14 PLATINUM MANAGEMENT (NY) LLC,)
et al.,)
15)
Defendants.)
16 -----)
17

18 * CONFIDENTIAL PORTION BOUND SEPARATELY *
19

20 VIDEOTAPED DEPOSITION OF DAHLIA KALTER
21 New York, New York
22 Monday, December 30, 2019
23

24 Reported by:
KRISTIN KOCH, RPR, RMR, CRR
25 JOB NO. 174256

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

December 30, 2019
10:11 a.m.

Videotaped Deposition of DAHLIA
KALTER, held at the offices of Curtis,
Mallet-Prevost, Colt & Mosle LLP, 101 Park
Avenue, New York, New York, before Kristin
Koch, a Registered Professional Reporter,
Registered Merit Reporter, Certified
Realtime Reporter and Notary Public of the
State of New York.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S :

HOLLAND & KNIGHT LLP
Attorneys for Plaintiffs

1650 Tysons Boulevard
Tysons, Virginia 22102

BY: MEGAN MOCHO JESCHKE, ESQ.

CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
Attorneys for Defendants

101 Park Avenue
New York, New York 10178

BY: ELIOT LAUER, ESQ.

ALSO PRESENT :

PHIL RIZZUTI, Legal Video Specialist

1 D. Kalter

2 THE VIDEOGRAPHER: This is the
3 start of media labeled number 1 of the
4 video-recorded deposition of Ms. Dahlia
5 Kalter in the matter of In re:
6 Platinum-Beechwood Litigation, Martin Trott
7 and Christopher Smith, et al., versus
8 Platinum Management (NY) LLC, et al., in
9 the United States District Court for the
10 Southern District of New York, case numbers
11 18-cv-6658 and 18-cv-10936.

12 This deposition is being held at 101
13 Park Avenue, New York, New York, on
14 December 30, 2019, at approximately
15 10:11 a.m.

16 My name is Phil Rizzuti. I am the
17 legal video specialist from TSG Reporting,
18 Inc. The court reporter is Kristin Koch in
19 association with TSG Reporting.

20 Counsel, please introduce
21 yourselves.

22 MS. JESCHKE: My name is Megan
23 Jeschke. I am with Holland & Knight.

24 MR. LAUER: Eliot Lauer, Curtis,
25 Mallet-Prevost, Colt & Mosle LLP.

1 D. Kalter

2 e-mail accounts?

3 A. I had an AOL account, which was
4 forwarded to the Gmail, so when I did the
5 search, both the AOL and the Gmail --

6 Q. Okay.

7 A. -- was searched.

8 Q. And any other e-mail accounts that
9 you are aware of?

10 A. I have an office e-mail that
11 would -- that my -- dkalter@kalterlaw.com.

12 Q. Okay.

13 A. I didn't search that e-mail.

14 Q. Okay. Do you think that you have --
15 didn't use that for --

16 A. No, I would not have used that for
17 anything personal. I don't even -- I barely
18 use it for work, so I definitely didn't.

19 Q. Your husband is Mark Nordlicht;
20 correct?

21 A. Correct.

22 Q. Do you have children?

23 A. Yes.

24 Q. How many?

25 A. Six.

1 D. Kalter

2 Q. And what are their names?

3 A. Rachel Nordlicht, Noah Nordlicht,
4 Emma Nordlicht, Sarah Nordlicht, Jack
5 Nordlicht, and Ava Nordlicht.

6 Q. Okay. Busy mom.

7 How old are they?

8 A. Rachel is 22, Noah is 20, Emma is
9 17, Sarah is 15, Jack is 11 and Ava is 9.

10 Q. Okay. What are your parents' names?

11 A. Brenda and Albert Kalter.

12 Q. Okay. What does your mom do?

13 A. My mom is unemployed.

14 Q. Okay. And your father is an
15 attorney?

16 A. Yes.

17 Q. Okay. Does he have his own
18 practice?

19 A. Yes.

20 Q. What type of practice is it?

21 A. Primarily trusts and estates and
22 some employee benefits.

23 Q. And you mentioned that you have an
24 e-mail address there. Do you work at that
25 firm?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

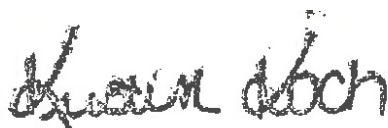
STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

I, KRISTIN KOCH, a Notary Public
within and for the State of New York, do
hereby certify:

That DAHLIA KALTER, the witness whose
deposition is hereinbefore set forth, was
duly sworn by me and that such deposition
is a true record of the testimony given by
such witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage; and that I am
in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 10th day of January, 2020.



KRISTIN KOCH, RPR, RMR, CRR, CLR

EXHIBIT 8

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

 Plaintiffs,

 vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

 Defendants.

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF

 DANIEL SAKS

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Tuesday, November 19, 2019,
commencing at 9:36 a.m.

Page 2	Page 4
1	1
2 A P P E A R A N C E S:	2
3	3 MORRISON COHEN LLP
4 HOLLAND & KNIGHT LLP	4 BY: DANIEL C. ISAACS, ESQ.
5 BY: MEGAN MOCHO JESCHKE, ESQ.	5 909 Third Avenue
6 1650 Tysons Boulevard, Suite 1700	6 New York, New York 10022-4784
7 Tysons, Virginia 22102	7 Attorneys for the
8 Attorneys for the Plaintiffs,	8 Huberfeld Family Foundation, Inc.
9 Martin Trott	9
10	10
11	11
12 Megan Jeschke left the deposition	12
13 at the conclusion of her examination.	13
14	14
15 HOLLAND & KNIGHT LLP	15
16 BY: ELLIOT MAGRUDER, ESQ.	16 LIPSIUS-BENHAIM LAW LLP
17 31 West 52nd Street	17 BY: DAVID BENHAIM, ESQ.
18 New York, New York 10019	18 80-02 Kew Gardens Road, Suite 1030
19 Attorneys for the Plaintiffs,	19 Kew Gardens, New York 11415
20 Martin Trott	20 Attorneys for the Beechwood Defendants
21	21
22	22
23 Mr. Magruder was present as noted in	23
24 transcript.	24
25	25
Page 3	Page 5
1	1
2	2
3 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP	3 CONDON TOBIN SLADEK THORNTON
4 BY: ABIGAIL JOHNSTON, ESQ.	4 BY: MICHAEL J. MERRICK, ESQ.
5 101 Park Avenue	5 8080 Park Lane, Suite 700
6 New York, New York 10178	6 Dallas, Texas 75231
7 Attorneys for the Defendant,	7 Attorneys for PB Investments
8 David Bodner	8
9	9
10	10
11	11
12	12
13	13
14 MINTZ, LEVIN, COHN, FERRIS,	14
15 GLOVSKY and POPEO, P.C.	15 ALSTON & BIRD LLP
16 BY: ALEXANDRA G. CALISTRU, ESQ.	16 BY: JENNA C. POLIVY, ESQ.
17 The Chrysler Center	17 90 Park Avenue
18 666 Third Avenue	18 15th Floor
19 New York, New York 10017	19 New York, New York 10016-1387
20 Attorneys for Defendants	20 Attorneys for
21 Kevin Cassidy and Michael Nordlicht	21 Washington National Insurance Company
22	22 Bankers Conesco
23	23
24	24
25	25

Page 6

1
2
3 OTTERBOURG, P.C.
4 BY: WILLIAM M. MORAN, ESQ.
5 GABRIELA LEON, ESQ.
6 230 Park Avenue
7 New York, New York 10169
8 Attorneys for Plaintiff Receiver
9
10
11
12
13
14
15
16 BINDER & SCHWARTZ LLP
17 BY: WENDY H. SCHWARTZ, ESQ.
18 366 Madison Avenue, 6th Floor
19 New York, New York 10017
20 Attorneys for the Witness, Mr. Saks
21
22
23
24
25

Page 7

1
2
3 DLA PIPER, LLP (US)
4 BY: MARK DECKMAN, ESQ.
5 1251 Avenue of the Americas, 38th Floor
6 New York, New York 10020-1104
7 Attorneys for Plaintiff, SHIP
8
9
10
11
12
13
14
15
16
17
18
19 ALSO PRESENT:
20
21
22 Darrak Lighty, Videographer
23
24
25

Page 8

1 Daniel Saks
2 P R O C E E D I N G S
3 THE VIDEOGRAPHER: This is the
4 video deposition of Daniel Saks in the
5 matter of Platinum-Beechwood litigation.
6 This deposition is being held at the
7 offices of US Legal Support, 90 Broad
8 Street, New York, New York, on November 19,
9 2019.
10 My name is Darrak Lighty, from US
11 Legal Support; and I am the video
12 specialist. The court reporter today is
13 Tab Prewett, also associated with US Legal
14 Support. We are going on the record at
15 9:36 a.m. All appearances have been noted
16 on the record.
17 Will the court reporter please
18 swear in the witness.
19 (There was a discussion off the
20 record.)
21 D A N I E L S A K S,
22 residing at 1285 Mercedes Street,
23 Teaneck, New Jersey 07666,
24 having been affirmed by the notary public to
25 testify to the truth, testified as follows:

Page 9

1 Daniel Saks
2 DIRECT EXAMINATION
3 BY MS. JESCHKE:
4 Q Good morning, Mr. Saks. My name is
5 Megan Jeschke. I'm a partner with Holland &
6 Knight. Our firm represents Christopher Smith
7 and Martin Trott, who are appointed the Joint
8 Official Liquidators of the Platinum Partners
9 Arbitrage -- Value Arbitrage Fund. I'm going to
10 be asking you some questions today.
11 Have you ever been deposed before?
12 A No.
13 Q No? Okay.
14 Your testimony today is affirmed,
15 and you've affirmed that you're going to tell the
16 truth. Penalties for --
17 (There was a discussion off the
18 record.)
19 Q You have promised to tell the
20 truth. If you're not truthful today in your
21 deposition, you can face charges for perjury; and
22 the penalty for perjury is imprisonment or a
23 fine.
24 Do you understand?
25 A Yes.

Page 34

1 Daniel Saks
2 Ms. Schwartz: Object as to form.
3 A Can you rephrase the question? I'm
4 not sure what you're asking.
5 Q If -- you described a put, I
6 believe, in my words, not yours, as an assurance
7 that you can get paid back on the investment, and
8 I'm wondering whether if -- if one were to invest
9 in something that they felt reasonably confident
10 they were going to be paid back, would it be
11 common to request a put in that instance?
12 MS. SCHWARTZ: Object as to form.
13 A An important feature of a "foot"
14 is -- a put is to get paid back at a specific
15 time so you could buy an investment that had a
16 longer maturity and you wanted to get that
17 payback shorter. So the put would be helpful in
18 that situation.
19 Q Okay. So it -- it would not be
20 fair to say that puts are only present in
21 investments that are unlikely to be paid back?
22 MS. SCHWARTZ: Objection to form.
23 A It's a double negative.
24 Q It is a double negative. But
25 I'm -- I'm just trying to get a sense of puts,

Page 35

1 Daniel Saks
2 their placement vis-a-vis questionable
3 investments that are unlikely to be paid back.
4 And -- and I'm trying to get a sense of whether
5 you only see those in instances in which you're
6 unlikely to be paid back.
7 MS. SCHWARTZ: Object as to form.
8 THE WITNESS: Should I answer it?
9 MS. SCHWARTZ: You can answer, if
10 you can.
11 A No. I think puts are fairly
12 common -- you use puts, you know, in many
13 transactions.
14 Q Okay. These transactions involving
15 Black Elk, were you personally involved while at
16 Genesis?
17 A I was -- I think I was involved not
18 in the diligence of -- of the -- of the
19 underlying assets, the oil assets. I had a
20 partner who was more versed in oil and gas, and
21 he focused on that.
22 Q Okay. Excuse me. So then what was
23 your role vis-a-vis those investments, if
24 anything?
25 A I don't remember exactly what I --

Page 36

1 Daniel Saks
2 what I did in it.
3 Q Okay. Did -- did you have a role?
4 A I assume that I saw the put and
5 that I -- you know, the actual structure, that I
6 had seen it.
7 Q And is that true with respect to
8 both transactions?
9 A Yes.
10 Q When did you officially agree to
11 move to Platinum? Was it in December you
12 provided notice to your prior entity?
13 A The -- the end of the year.
14 Q Okay. And you said you started in
15 March 2014. Which entity actually hired you?
16 Was it Platinum Management? Platinum Credit
17 Management? I'm -- what showed up on your W-2?
18 A Well, I got a 1099. But it was --
19 I think -- I think I had -- it was both. I think
20 Platinum Management and -- what was the other
21 one? Credit?
22 Q Platinum Credit Management?
23 A I'm not 100 percent sure, but I --
24 Q Okay.
25 A -- I think that it was both of

Page 37

1 Daniel Saks
2 those.
3 Q Okay. Was your salary split
4 between two entities? Why would you receive two?
5 A Yes.
6 Q Okay. Roughly, what was your
7 salary, base salary?
8 A I don't remember the exact number.
9 It was about, a ballpark, maybe \$100,000 a month.
10 Q Okay. How did that compare to your
11 prior work at -- I'm sorry; I keep looking
12 back at the name -- Genesis?
13 A It was a little bit -- it was in
14 range, maybe on the low side, an average year.
15 Q Okay. Was there an agreement that
16 you would be eligible for bonus at Platinum?
17 A There was an understanding that at
18 some point I would get some equity -- I would get
19 equity in -- in the Platinum Management
20 companies.
21 Q Can you describe your discussions
22 about possibly getting equity?
23 A That I was -- I was interested in
24 the upside, the amount of salary was not
25 sufficient. And so he discussed that after a

Page 38

1 Daniel Saks
2 period of time if I -- you know, working there, I
3 would get a certain percentage.
4 I don't remember the exact
5 percentage at this point because it never
6 happened. But --
7 Q Um-hum. Was there a time period
8 discussed? You keep saying "after a period of
9 time."
10 A Right. I don't recall a specific
11 time period.
12 Q Okay. When you were having the
13 discussions about possibly gaining equity, did
14 Mr. Nordlicht describe to you the ownership
15 structure at that time?
16 A No. I don't recall.
17 Q So --
18 A When you say "ownership," just
19 to -- can you clarify your question when you say
20 "ownership structure"?
21 Q Sure. So if you are to receive
22 equity in the firm, was it your understanding you
23 would be receiving portions of Mr. Nordlicht's
24 ownership?
25 A No. I didn't understand it that

Page 39

1 Daniel Saks
2 way.
3 Q Did he tell you there were other
4 owners in the company?
5 A I knew that Uri Landesman owned a
6 portion of the company. But I don't remember
7 specifically talking about the ownership. I
8 think it was in the context of, you know, a
9 percentage that I would get. I don't know who it
10 was coming from or if it was with other people
11 or --
12 Q Okay. Okay. What -- what role was
13 described to you -- in the recruitment process,
14 how did Mr. Nordlicht describe what you would be
15 doing?
16 A He wanted me to originate, then
17 negotiate, senior secured loans.
18 Q What title would that fall under?
19 Like, what -- what title would you have at
20 Platinum?
21 A Co-chief investment officer.
22 Q You say "co." Would that be with
23 Mr. Nordlicht?
24 A Yes.
25 Q Did he describe why he needed a

Page 40

1 Daniel Saks
2 co-chief investment officer?
3 A His hope was that I would work
4 there for a few years and be able to build up
5 a -- my own book of senior secured loans, and
6 then eventually he would retire.
7 Q Okay. How did Mr. Nordlicht
8 describe the funds that they -- you mentioned you
9 knew they had a credit and a liquid and a regular
10 hedge fund. Did he tell you what types of things
11 those various funds invested in?
12 MS. SCHWARTZ: Objection. Time
13 frame. Is this still in the recruitment
14 process?
15 MS. JESCHKE: Yes.
16 A In the recruitment process, I don't
17 recall specifically what he told me about the
18 exact nature of the investments in each of the
19 funds.
20 Q Okay. You're electing at this
21 point to leave a firm in which you're an owner?
22 A Um-hum.
23 Q What exactly gave you comfort that
24 you were going to be able to succeed in building,
25 as you -- as you described it?

Page 41

1 Daniel Saks
2 A I had known Mr. Nordlicht for many
3 years. He was a successful businessman. And the
4 current firm where I was at, one of the partners
5 had moved away and was still working as a
6 partner, and the dynamic had changed a little
7 bit.
8 And I felt that Mr. Nordlicht was
9 managing a billion dollar fund and that it was a
10 good platform on which to build a new business or
11 a new book of -- of senior secured loans.
12 Q Okay. What do you need to build a
13 book of business of loans, like, in an ideal
14 setting?
15 A You need capital.
16 Q Okay.
17 A And you need analysts. You need
18 relationships with brokers who bring you
19 transactions.
20 Q Okay. Was Platinum described as
21 having those things available for you if you were
22 to move?
23 A Yes.
24 Q Was there a particular fund that
25 you were going to be able to create opportunities

Page 42

1 Daniel Saks
2 for, or was it any of the funds?
3 A I think it was for either of the
4 funds.
5 Q Okay. Okay. Did Mr. Nordlicht
6 describe where the sources of capital were coming
7 from?
8 A In recruiting me, Mr. Nordlicht was
9 confident that he was going to be able to sell
10 one of his large positions, maybe his largest
11 position, Black Elk.
12 Q Okay.
13 A And that he was helping start a --
14 an insurance company, and he was going to be able
15 to use those funds, funds from the insurance
16 company, to make, you know, investments.
17 Q Did he tell you the name of that
18 insurance company?
19 A He said it was called Beechwood.
20 Q Did he provide any details as to
21 what he was doing to set up Beechwood?
22 A No.
23 Q Okay. But to -- just so that I'm
24 clear, he described Beechwood as a source of
25 capital for Platinum?

Page 43

1 Daniel Saks
2 A Correct.
3 MR. BENHAIM: Objection.
4 MS. JESCHKE: What's your
5 objection?
6 MR. BENHAIM: As to the form.
7 MS. JESCHKE: Thank you.
8 Q When you actually started in 2014,
9 did you, in fact, take the role as co-CIO?
10 A Was that my title?
11 Q Yes.
12 A Yes.
13 Q How long did you work in that role?
14 A Six months.
15 Q Is that shorter than you expected
16 to be there?
17 A Yes.
18 Q When did you give notice that you
19 were leaving?
20 A I believe in July of 2014.
21 Q When did you actually leave?
22 A The beginning of September 2014.
23 Q Why the delay between notice and
24 actual departure?
25 A We had a relationship, and I kind

Page 44

1 Daniel Saks
2 of helped as best as I could to transition.
3 Q Okay. Who did you transition your
4 work to?
5 A No one specifically. I think
6 Mr. Nordlicht took over more of the work.
7 Q Can you describe the conversation
8 with Mr. Nordlicht with -- when you gave notice?
9 A I told him that I saw the lifestyle
10 that he had, worked very, very hard, crazy hours,
11 and that I -- if he ultimately wants me to take
12 over, that I don't think that that was going to
13 happen.
14 I -- you know, it wasn't the
15 quality of lifestyle that I wanted, and that I
16 wanted to pursue other things.
17 Q Okay. Did -- did you have any
18 conversations about Platinum as an entity at that
19 time?
20 A Can you be more specific?
21 Q For example, the -- the office
22 environment, was -- was it a collegial
23 environment? Was it toxic?
24 A The office was collegial.
25 Q Okay. You -- earlier, I asked you

Page 45

1 Daniel Saks
2 what you needed to build a book, and you
3 described things along the lines of capital and
4 brokers.
5 Did you find those available to
6 you?
7 A No. It wasn't -- there wasn't
8 really much capital to make new investments.
9 Q The capital that was expected from
10 Beechwood that Mr. Nordlicht described to you,
11 was that not available to you?
12 A No.
13 Q Can you -- do you know why?
14 A I understand -- when I -- when I
15 took the position, my understanding was that
16 Beechwood was some sort of captive -- my
17 understanding.
18 I mean, he didn't tell it to me
19 that way -- but captive -- some sort of captive
20 insurance company. And it turned out that
21 Beechwood was -- was more independent than I
22 guess they were expecting, that they could do
23 more from Beechwood, and they couldn't.
24 Q Okay. Compared to the firm that
25 you owned previously or firms that you worked at,

Page 62

1 Daniel Saks
2 Q Do you know whether Mr. Huberfeld
3 ever hired -- hired anybody for Platinum?
4 A No.
5 Q Do you know whether Mr. Fuchs hired
6 anybody for Platinum while you were there?
7 A No.
8 Q In your role as a board member for
9 China Horizon, did you report back to
10 Mr. Nordlicht about what you learned in your role
11 as a board member?
12 A Yes, at times.
13 Q Did he ever direct you to take
14 positions on votes for China Horizon?
15 A I don't recall him directing me on
16 specific votes.
17 Q What about things not requiring a
18 vote, just general strategy for China Horizon,
19 did he try to influence you?
20 A I mean, he was -- he was involved.
21 He would -- he would attend, at times, board
22 meetings; and he knew what was going on with
23 China Horizon. He didn't need me to tell him.
24 Q Did you view your role as
25 independent from him?

Page 63

1 Daniel Saks
2 A No. It was -- I was there -- I was
3 his appointee; and it was to, you know, do the
4 best for China Horizon, but also look out for the
5 interests of Platinum.
6 Q How long did you serve in that
7 role?
8 A Until -- from, I think it was
9 approximately 2010. I don't remember the exact
10 date. But until -- then I continued when I --
11 when I joined Platinum. And when I went to
12 Beechwood, I -- I resigned from the board at some
13 point at Beechwood.
14 Q You resigned?
15 A Yes.
16 Q Okay. Around what time period did
17 you start at Beechwood?
18 A In September of 2014.
19 Q Okay.
20 MS. JESCHKE: Wendy, I'm about to
21 go into a new line of questions and it's
22 been about an hour. I am happy to take a
23 comfort break if you need to.
24 MS. SCHWARTZ: Sure. Let's take a
25 break.

Page 64

1 Daniel Saks
2 THE VIDEOGRAPHER: Going off the
3 record. The time is 10:39 a.m.
4 (A break is taken.)
5 THE VIDEOGRAPHER: The time is
6 10:48 a.m. We are back on the record.
7 CONTINUED DIRECT EXAMINATION
8 BY MS. JESCHKE:
9 Q Mr. Saks, were you involved in
10 valuation when you were at Platinum?
11 A I attended a valuation meeting.
12 Q A meeting?
13 A I recall attending one meeting.
14 Q Not more than one?
15 A That's all I recall.
16 Q Can you -- can you describe what
17 your understanding was of the valuation
18 committee, who was on it?
19 A I don't recall who was on the
20 committee.
21 Q In your prior roles at your other
22 firms, did you -- were you involved in valuation
23 at those entities?
24 A Yes.
25 Q In what sense?

Page 65

1 Daniel Saks
2 A In developing what an appropriate
3 valuation would be for positions in the -- in the
4 book.
5 Q Were you trained in valuation to do
6 that?
7 A No. I didn't get any specific
8 training to do that.
9 Q Okay. When you joined Platinum,
10 how did you know that you were going to sit in
11 on a -- on a valuation meeting?
12 Did you sit on the committee?
13 A I was asked to go to a valuation
14 meeting.
15 Q Okay. Was there a valuation
16 committee?
17 A I think at some point there was a
18 valuation committee.
19 Q Do you know how often it met?
20 A No.
21 Q At your prior funds, did they have
22 valuation committees?
23 A No.
24 Q Was the meeting that you recall
25 attending in roughly July of 2014?

Page 66

1 Daniel Saks
2 A It could be.
3 Q Can you describe that meeting to
4 me? What were the topics of discussion?
5 A I don't know the specific topics of
6 discussion. My recollection of what a valuation
7 meeting was there -- was that portfolio managers
8 would come in and explain, describe their
9 positions, the positions that they had, that they
10 were managing, and talk about what was going on
11 at those companies and what was going on with the
12 position.
13 And some questions were asked.
14 There was the valuation firm. A representative
15 of the valuation firm was there, and he asked
16 questions about the positions.
17 And that was the -- the nature of
18 the -- that was the meeting to discuss the
19 positions, but not -- I don't recall them at the
20 meeting coming up with a valuation, a specific
21 valuation for a position.
22 Q Okay. If it wasn't made at that
23 meeting, do you know how valuation was handled at
24 Platinum?
25 A Yes. Mr. Nordlicht made the

Page 67

1 Daniel Saks
2 valuations.
3 Q Do you know whether he obtained
4 inputs other than from the descriptions that were
5 provided to him at that meeting?
6 A No.
7 Q Was there --
8 A I believe that he valued the
9 positions monthly, on a monthly basis.
10 Q Okay.
11 A I don't think that those meetings
12 occurred on a monthly basis, so --
13 Q I see.
14 A To clarify.
15 Q Was there anybody else involved in
16 the valuation of positions?
17 A Not that I know of.
18 Q Did he ever discuss his process for
19 valuation?
20 A No.
21 Q Did he seem to be knowledgeable
22 about -- scratch that.
23 Do you know whether Mr. Nordlicht
24 had training in valuation?
25 A I don't know.

Page 68

1 Daniel Saks
2 Q If you could please turn to Tab 4.
3 A Um-hum.
4 Q And the -- again, I apologize. The
5 attachment that is referenced in this did not end
6 up printing. So I have a copy of that here.
7 (There was a discussion off the
8 record.)
9 (Exhibit No. 446, Tab 4, E-Mail and
10 Attachment, Bates Nos. CTRL 5230598 and
11 CTRL 5822306 is marked by the reporter for
12 identification.)
13 Q This is the -- the E-Mail is
14 document CTRL 5230598, and the attachment is CTRL
15 5822306. Looking to the attachment that's
16 referenced in the first segment of the E-Mail, at
17 Roman III, it says:
18 "The valuation committee was
19 presented with an updated valuation policy for
20 the committee's review, and a discussion
21 followed. Approval of the policy by the
22 committee is pending further review."
23 Do you recall there being a written
24 valuation policy?
25 A I don't recall.

Page 69

1 Daniel Saks
2 Q Do you know whether portfolio
3 managers or others at Platinum ever sent synopses
4 of their positions to a list E-Mail; so, for
5 example, like -- I'm going to give an example. I
6 don't know if it's this -- but
7 valuations@platinum.com, and that list would be
8 distributed to people on the list serve?
9 MS. SCHWARTZ: Object as to form.
10 A Just -- ask me what you're asking
11 again.
12 Do I recall which thing
13 specifically?
14 Q Whether there was a list serve to
15 which -- internal list serve to which portfolio
16 managers or others were required to give updates
17 as to their positions.
18 A I don't recall if there was a list
19 serve that they're required to send something to.
20 Q Okay. Did you participate in calls
21 with the valuation firm?
22 A I don't remember. I remember
23 attending one meeting with the valuation firm. I
24 don't recall participating in calls with the
25 valuation firm.

Page 70

1 Daniel Saks
2 Q Can you turn to Exhibit 6, please?
3 MS. SCHWARTZ: Do you mean Tab 6?
4 MS. JESCHKE: Yes. I apologize.
5 Yes. Tab 6.
6 (Exhibit No. 446, Tab 6, E-Mail
7 between Mark Nordlicht and Joseph
8 SanFilippo, Bates No. CTRL 6105699 is
9 marked by the reporter for identification.)
10 Q Tab 6 is a document with an ID
11 number CTRL 6105699. This is an E-Mail between
12 Mark Nordlicht and Joseph SanFilippo.
13 Who was Joseph SanFilippo?
14 A He was the CFO of the Platinum
15 PPVA.
16 Q And you are cc'd on the top E-Mail.
17 A Um-hum.
18 Q In the bottom E-Mail, the beginning
19 of the string, Mark asks Mr. SanFilippo:
20 "What has been the method we have
21 used to value Golden Gate and Black Elk
22 previously? Please lay off the methodology."
23 Were Golden Gate and Black Elk
24 positions of the company?
25 A Yes.

Page 71

1 Daniel Saks
2 Q Do you remember Mr. SanFilippo
3 being involved in valuation?
4 A I remember him being involved in
5 the audit. So valuation not specifically, no, I
6 don't remember that.
7 Q Earlier, you had stated that
8 Mr. Nordlicht did the valuations for the
9 positions, and here he's asking:
10 "How did we do that?"
11 I am trying to reconcile the two.
12 Why would he be asking -- what would be your
13 guess as to why he would be asking about the
14 method?
15 MS. SCHWARTZ: Object as to form.
16 I'm going to ask the witness not to
17 speculate.
18 Q Did you know whether Mr. Nordlicht
19 did a valuation of Golden Gate or Black Elk?
20 A I think that he did.
21 Q Were you aware that -- let me state
22 it this way.
23 Was the fund a "two and twenty"
24 fund?
25 A I don't recall.

Page 72

1 Daniel Saks
2 Q But you are aware that there were
3 fees due to the management company; am I correct?
4 A That there were fees due to the
5 management company? You mean for managing the
6 fund?
7 Q Yes.
8 A Yes. That was my assumption, yes.
9 Q Right.
10 Do you know whether these fees were
11 based on position values?
12 A I don't recall specifically at
13 Platinum. At a typical hedge fund, the fees are
14 based on a percentage of assets.
15 Q And do you know whether the
16 valuations that were discussed -- that were
17 provided by Sterling, the valuation company --
18 I'm sorry. I should back up.
19 Do you know Sterling to be the
20 valuation company for Platinum?
21 A Yes.
22 Q Do you know whether the valuations
23 that they provided were used to calculate
24 management fees?
25 A I don't know who calculated the

Page 73

1 Daniel Saks
2 management fees and how they calculated them.
3 Q Okay. Earlier, you mentioned an
4 audit. Were you involved in the financial audit
5 conducted by BDO?
6 A I assisted in the coordinating,
7 making sure that people would answer questions
8 that they were receiving either from the auditor
9 or from the CFO, to make sure that everybody was
10 getting back in a timely manner.
11 Q Okay. What time period --
12 A Just to be clear, to clarify,
13 you're talking about the 2013 audit?
14 Q That's actually where I was about
15 to go.
16 So it was the 2013 year-end audit?
17 A Yes.
18 Q And what time period was that audit
19 occurring in?
20 A I don't know. It must have been
21 somewhere between March and when I left in -- in
22 August of 2014.
23 Q Did you understand that audit to be
24 delayed?
25 A Yes.

Page 74

1 Daniel Saks

2 Q What was your understanding of why

3 it was delayed?

4 A The -- the auditor was slow in

5 developing and understanding of what the

6 valuations were.

7 Q Did the auditor have concerns about

8 the valuations?

9 A I think they had questions about

10 the valuations.

11 Q Do you know the nature of the

12 questions?

13 A I don't recall the specific nature

14 of the questions.

15 Q Can you turn to Tab 61, please.

16 I'm sorry. You have to flip.

17 (Exhibit No. 446, Tab 61,

18 June 20, 2014 E-Mail from Uri Landesman to

19 Danny Saks, CTRL 6173193 is marked by the

20 reporter for identification.)

21 Q 61 is a document with an ID

22 CTRL 6173193. It's an E-Mail from Uri Landesman

23 to yourself dated June 20th, 2014. And in it,

24 Mr. Landesman says:

25 "Not surprisingly, BDO is taking a

Page 75

1 Daniel Saks

2 long look at Black Elk, Golden Gate, China

3 Horizon, VistaGen, Viper and" -- I'm going to

4 butcher this name" -- Angio -- "AngioLight."

5 Do you know why BDO would be

6 looking hard at those particular entities?

7 A These are all privately held

8 companies that valuation is -- is not as easy in

9 a publicly traded security. So I don't know

10 specifically what BDO was thinking at that time;

11 but, looking at that now, that makes sense to me.

12 Q Okay. Do you know whether Platinum

13 had other privately held positions similar to

14 these?

15 A Yes.

16 Q But they're not on this list?

17 A Correct.

18 Q Do you recall whether there were --

19 I'm sorry.

20 Did Mr. Bodner and Mr. Huberfeld

21 sit in on the valuation meeting you attended?

22 A No.

23 Q Do you know whether Mr. Bodner or

24 Mr. Huberfeld ever met with Mr. Nordlicht about

25 valuation?

Page 76

1 Daniel Saks

2 A I don't know.

3 Q Were you involved in valuation of

4 any particular position?

5 A I don't recall being -- valuing any

6 particular position.

7 Q What position -- did you have

8 oversight over any particular positions?

9 MS. SCHWARTZ: Objection. Time

10 frame. Are we talking Platinum here?

11 MS. JESCHKE: Platinum, yes.

12 A I don't -- if you give me names, I

13 could tell you.

14 Q Were -- did you have oversight over

15 Black Elk?

16 A No.

17 Q What was your involvement with

18 Black Elk while you were at Platinum?

19 A I was kept up to date as the

20 progress of trying to liquidate Black Elk. As I

21 mentioned before, that was one of the things that

22 Mark Nordlicht convinced me to join Platinum

23 with.

24 He was going to be selling Black

25 Elk. But I didn't -- I never met with Black --

Page 77

1 Daniel Saks

2 Black Elk management. So I saw a lot of E-Mails

3 about different ideas that they were trying to do

4 with Black Elk, but never really worked actively

5 on Black Elk.

6 Q Okay. Did you -- were you involved

7 with Mr. Nordlicht in coming up with the ideas

8 that were being discussed?

9 A No.

10 Q How did you know that there were

11 ideas being discussed?

12 A He would send E-Mails,

13 brainstorming kind of our lists of ideas that he

14 wanted to do and look at.

15 Q Did you ever meet with him to

16 discuss the --

17 A Black Elk?

18 Q -- Black Elk strategy?

19 A I don't recall specifically meeting

20 with him to discuss Black Elk.

21 Q Is it possible that you did?

22 A It is possible.

23 Q Can you please turn to Tab 10.

24 (Exhibit No. 446, Tab 10, 3/26/14

25 E-Mail From Danny Saks to Mark Nordlicht,

Page 94

1 Daniel Saks
2 others copied. The subject of the E-Mail is
3 "PPBE fund wind-down." Naftali reports:
4 "All redemption wires to investors
5 have been released. Remaining item to deal with
6 is the in-kind distribution of Black Elk common
7 shares to investors, which will take place most
8 likely in September. Thank you, Jason and Yoshe,
9 for making this progress go smoothly and
10 efficiently."
11 You're copied -- you're not copied.
12 You're -- you are sent this E-Mail from Naftali.
13 Do you know why he would have sent this E-Mail to
14 you?
15 A No.
16 Q Do you know anything about the
17 "PPBE fund wind-down"?
18 A No.
19 Q Do you know when PPBE was started,
20 when the fund was started?
21 A No.
22 I do notice that the date on this
23 is 8/21/2014, very shortly before me leaving
24 Platinum.
25 Q Earlier, you had mentioned a

Page 95

1 Daniel Saks
2 company called China Horizon. You sat on its
3 board. What was your understanding of what China
4 Horizon did?
5 A China Horizon had a -- it was
6 formerly a joint venture with China Post, which
7 is the postal system in China. It also operated
8 thousands of -- of retail stores at their post
9 office locations.
10 And China Horizon's goal was to
11 form a joint venture with China Post to provide
12 management and get ownership of those retail
13 stores and use it as a form of providing --
14 creating a distribution platform within China to
15 sell goods to rural China.
16 Q Okay. What was your understanding
17 of the company's financial condition in --
18 sorry -- in this time period when you worked at
19 Platinum?
20 MS. SCHWARTZ: Objection to form.
21 Do you mean the company China Horizon or
22 the company --
23 Q Yes, China Horizon.
24 A I don't remember specifically.
25 They had raised a lot of money. There were a lot

Page 96

1 Daniel Saks
2 of different investors in it. You know, at that
3 time period, it's hard for me to go back and say
4 exactly what its financial position was.
5 Q Okay. Without a time period
6 limitation, what was China Horizon's financial
7 condition?
8 A Well, there were time periods when
9 it had a lot of investor interest in it. There
10 was a large investment bank that was seeking to
11 raise a significant amount of money for them.
12 Maybe it was Barclays. I don't
13 remember exactly which bank it was. Seoul
14 [phonetic] Bank was an investor in the company.
15 And there was a lot of excitement around the
16 company being able to break into China and create
17 this retail distribution platform within China.
18 But other than that, I'm not sure
19 what you're asking.
20 Q Did that happen?
21 A Did that ultimately happen? I
22 don't -- since I left, you know, Platinum and
23 Beechwood -- I didn't follow what happened in
24 China Horizon ultimately.
25 Q Okay.

Page 97

1 Daniel Saks
2 MS. JESCHKE: We're welcome to push
3 through or if anybody needs a break.
4 MS. SCHWARTZ: Are you okay? Do
5 you want a break, or do you want to
6 continue?
7 (There was a discussion off the
8 record.)
9 Q You -- after you left Platinum, you
10 started working at Beechwood; did you not?
11 A Yes.
12 Q And you said that was around
13 September two --
14 A September of 2014.
15 Q What was your title at Beechwood?
16 A Chief investment officer of
17 structured products.
18 Q Okay. Were there other chief
19 investment officers of other products?
20 A I believe there was a chief
21 investment officer of some other title or liquid
22 products. But I don't remember the exact title.
23 Q Okay. Who was that?
24 A Stewart Kim.
25 Q Your interview for Beechwood, was

<p style="text-align: right;">Page 110</p> <p>1 Daniel Saks</p> <p>2 A Yes.</p> <p>3 Q Where were the offices?</p> <p>4 A On 56th Street and 6th Avenue.</p> <p>5 Q Did Mr. Huberfeld have an office</p> <p>6 there?</p> <p>7 A Yes.</p> <p>8 Q Did Mr. Bodner have an office</p> <p>9 there?</p> <p>10 A No.</p> <p>11 Q Did Mr. Nordlicht have an office</p> <p>12 there?</p> <p>13 A Not while I was there.</p> <p>14 Q Did you recognize employees of</p> <p>15 Platinum from your time there now working at</p> <p>16 Beechwood?</p> <p>17 A Yes.</p> <p>18 Q Who?</p> <p>19 A Stewart Kim.</p> <p>20 Q Anyone else?</p> <p>21 A At some point, Ezra Beren.</p> <p>22 Q What did Mr. Beren do?</p> <p>23 A He was a portfolio manager.</p> <p>24 Q For both Platinum and Beechwood?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 111</p> <p>1 Daniel Saks</p> <p>2 Q Anybody else?</p> <p>3 A Naftali Manela performed things,</p> <p>4 did things for Beechwood as well as Platinum.</p> <p>5 And Eli Rakower.</p> <p>6 Q What did he do?</p> <p>7 A He worked on valuation.</p> <p>8 Q And did he work on valuation for</p> <p>9 both Beechwood and Platinum?</p> <p>10 A Yes.</p> <p>11 Q For Mr. Rakower, did he do</p> <p>12 valuation at the same time for both entities, or</p> <p>13 was it one and then the other?</p> <p>14 A I don't -- when I was at Beechwood,</p> <p>15 I don't know what Mr. Rakower was doing for</p> <p>16 Platinum. My understanding was he was still</p> <p>17 working for Platinum.</p> <p>18 Q Same question with respect to</p> <p>19 Mr. Manela:</p> <p>20 Was it at the same time, or was it</p> <p>21 sequential?</p> <p>22 A At the same time.</p> <p>23 Q The same question for Mr. Beren:</p> <p>24 Was it sequential or at the same</p> <p>25 time?</p>	<p style="text-align: right;">Page 112</p> <p>1 Daniel Saks</p> <p>2 A I think it was sequential.</p> <p>3 Q Same question for Mr. Kim?</p> <p>4 A I think it was sequential.</p> <p>5 Q Did you know who Mr. Ottensoser</p> <p>6 was?</p> <p>7 A Yes.</p> <p>8 Q Who was he?</p> <p>9 A He was the -- I forget his title.</p> <p>10 He was the legal officer at Platinum.</p> <p>11 Q Did he ever do work for Beechwood?</p> <p>12 A Not that I know of.</p> <p>13 Q Mr. Small. We've seen his</p> <p>14 name, Daniel Small. Who was he?</p> <p>15 A He was a portfolio manager at</p> <p>16 Platinum.</p> <p>17 Q Did he ever work for Beechwood?</p> <p>18 A Not when I was there. Not that I</p> <p>19 can recall.</p> <p>20 Q Can you turn to Tab 21, please.</p> <p>21 (Exhibit No. 446, Tab 21, Bates No.</p> <p>22 BW-SHIP-00094654, April 2015 E-Mail</p> <p>23 Exchange Between Daniel Small and Danny</p> <p>24 Saks is marked by the reporter for</p> <p>25 identification.)</p>	<p style="text-align: right;">Page 113</p> <p>1 Daniel Saks</p> <p>2 Q Tab 21 is a document with an ID</p> <p>3 BW-SHIP-00094654, and it's an E-Mail exchange</p> <p>4 between Daniel Small and Danny Saks in April of</p> <p>5 2015.</p> <p>6 MS. SCHWARTZ: Did you review the</p> <p>7 document.</p> <p>8 A I haven't. But do you want me to</p> <p>9 review the whole document?</p> <p>10 MS. SCHWARTZ: Please do.</p> <p>11 A Okay.</p> <p>12 Q Okay. In this E-Mail, is Mr. Small</p> <p>13 bringing up a potential investment to your</p> <p>14 attention?</p> <p>15 A Yes.</p> <p>16 Q And at this time, you were working</p> <p>17 for Beechwood?</p> <p>18 A Yes.</p> <p>19 Q Halfway through on the first page,</p> <p>20 Mr. Small asks you:</p> <p>21 "Danny, any feedback on me being a</p> <p>22 PM for this deal?"</p> <p>23 Did Mr. Small ask to serve as a PM</p> <p>24 on deals that were for Beechwood?</p> <p>25 A I don't -- I don't recall. I mean,</p>
---	--	--	---

Page 170

1 Daniel Saks
2 A No. Not to my knowledge.
3 Q Did Mr. Katz work at Beechwood?
4 A No.
5 Q I'm trying to understand why
6 Mr. Katz is E-Mailing you about this document,
7 then.
8 A He -- he brought this investment to
9 Beechwood.
10 Q Okay.
11 A I'm just -- I just want to point
12 out to you that the date of this E-Mail is
13 October 8th, 2014. I just started as a portfolio
14 manager at Beechwood. I was not the CIO --
15 Q Right.
16 A -- at that point.
17 And I was asked to assist him
18 getting the transaction closed for Beechwood.
19 This was not my transaction, nor was -- was I
20 overseeing and -- as the CIO.
21 Q Right. Mr. Katz worked for
22 Platinum, correct?
23 A Um-hum.
24 Q And he was sourcing an investment
25 for Beechwood?

Page 171

1 Daniel Saks
2 A Um-hum.
3 MS. SCHWARTZ: Again, I ask the
4 witness to say "yes" or "no" instead of
5 "um-hum."
6 MS. JESCHKE: Oh, I'm sorry. Yes.
7 Thank you.
8 A Bad habit.
9 Q In -- in the beginning of the
10 E-Mail, in October, at the bottom of the front of
11 the page -- I'm sorry.
12 At the very start of the E-Mail
13 chain, Mr. Katz wrote to you:
14 "Danny, I didn't know you wanted
15 the material for valuation purposes preclosing."
16 Can you explain what he's
17 referencing there?
18 A Reading it now, it's -- it's hard
19 for me to -- to say exactly what he's talking
20 about. What I think he's talking about is that,
21 when you close a transaction, when I closed
22 transactions, I wanted to know -- have backup for
23 what -- you're making a loan based on a certain
24 collateral value. I wanted to see backup for
25 what that value was.

Page 172

1 Daniel Saks
2 Q Okay. And that's part of your
3 diligence process?
4 A That's what I do.
5 Q That's what you do. Okay.
6 Is that common to the diligence
7 process, or is it unique to you?
8 A Well, I think it's common.
9 Q Okay. And it appears from this
10 E-Mail -- and correct me if I'm wrong -- that you
11 were not provided with that information in
12 advance?
13 A Yes.
14 Q Did -- in deals -- I'm sorry.
15 Did Platinum frequently source
16 deals for Beechwood?
17 A Once I started at -- at -- at
18 Beechwood as -- as CIO, I think that that had
19 stopped. My understanding was that, prior to me
20 being there, there was some transactions that had
21 been originally by people who worked at Platinum
22 and that Beechwood had funded.
23 Q I see. But that -- you -- did you
24 stop that?
25 A No.

Page 173

1 Daniel Saks
2 Q It stopped before you arrived?
3 A It stopped at -- at some point. I
4 don't remember exactly. But I think it stopped
5 before I was the CIO.
6 Q Okay. Do you know who put a stop
7 to that?
8 A No.
9 Q Had you ever heard of a -- there
10 being a Chinese wall between Beechwood and
11 Platinum?
12 A No.
13 Q Maybe not in that terminology, but
14 was there supposed to be a separation between
15 Beechwood and Platinum?
16 A I had heard Mark Feuer and
17 Scott Taylor say numerous times that they wanted
18 there to be a complete separation between
19 Beechwood and Platinum.
20 Q Okay. Do you think that there was
21 a separation between Beechwood and Platinum?
22 MR. BENHAIM: Objection. Form.
23 A You are asking my opinion --
24 Q Yes --
25 A -- of -- I don't think it was ever

Page 174

1 Daniel Saks
2 totally separated.
3 Q Was it your impression that
4 Platinum had influence over Beechwood's
5 transactions?
6 MR. BENHAIM: Objection. Form.
7 A It was my impression that certain
8 people at Platinum had influence over Beechwood.
9 Q Who? Which people?
10 A Murray Huberfeld, David Bodner, and
11 Mark Nordlicht.
12 Q Okay. What is your impression
13 based on?
14 A Transactions that I saw or
15 conversations that I had.
16 Q Can you give me an example?
17 A An example, David Bodner introduced
18 me to -- to Beechwood, so he wanted me to go
19 there. And so I took that as a clue that he had
20 some sort of benefit and he knew what was
21 happening at Beechwood.
22 Q Okay. What about on deals?
23 Do you have any examples of deals
24 where they were involved in influencing the deal?
25 MR. BENHAIM: Objection.

Page 175

1 Daniel Saks
2 MS. JESCHKE: To?
3 MR. BENHAIM: Form.
4 A Murray Huberfeld introduced
5 investment opportunities to Beechwood, numerous
6 investment opportunities to Beechwood, and on
7 occasion pushed for investments to be made.
8 Q Did you think that those were good
9 investments?
10 A On one occasion, I thought it
11 was -- it was not a good investment.
12 Q Which occasion was that?
13 A There was a loan made to China
14 Horizon, an additional loan made to China
15 Horizon, by Beechwood.
16 Q Was that an additional loan beyond
17 other loans that had been made to China Horizon?
18 A Yes.
19 Q Was it the third loan, to your
20 recollection?
21 A It -- it was a loan in the end of
22 2015. I don't know if it was the first loan or
23 the second loan or the third one. I don't know
24 how many loans there were. I know there was an
25 additional loan.

Page 176

1 Daniel Saks
2 Q Okay. And why did you think it was
3 a bad deal?
4 A It was -- CNO had expressed a
5 desire to get out of that, get out of that loan;
6 and -- and we were being asked to -- to make an
7 additional, I think, a million dollar loan to
8 that entity. So I thought it was a bad idea.
9 Q Okay. Do you know whether that
10 loan was made?
11 A Yes. Yes, it was.
12 Q Did you discuss that loan before it
13 was made with anybody above you?
14 A Yes.
15 Q Who was that?
16 A Scott Taylor.
17 Q Was Mr. Taylor in agreement with
18 you that it was a bad loan?
19 A If I recall correctly, he expressed
20 surprise as to the request that I had gotten to
21 make the loan.
22 Q Okay. Is "surprise" a gentle way
23 of describing his reaction?
24 MR. BENHAIM: Objection. Form.
25 MR. ISAACS: Objection to form.

Page 177

1 Daniel Saks
2 Q Can you I show you a document
3 relative to this?
4 A Sure.
5 (Exhibit No. 446, Tab 49, E-Mail
6 from Scott Taylor to Danny Saks, Subject:
7 "China Horizon," Bates No. BW-SHIP-01094505
8 is marked by the reporter for
9 identification.)
10 Q If you could turn to Tab 49,
11 please.
12 A Okay.
13 Q Tab 49 has a document identifier of
14 BW-SHIP-01094505. It's an E-Mail from Scott
15 Taylor to dsaks@bassetmanager, subject, "China
16 Horizon"; is that correct?
17 A Yes.
18 Q And in the beginning of the E-Mail
19 chain, you say -- you write:
20 "Just want to make sure you are
21 okay with another 1MM" -- which is a million,
22 yes?
23 A Yes.
24 Q -- "loan to China Horizon. Murray
25 told me about it yesterday."

<p style="text-align: right;">Page 178</p> <p>1 Daniel Saks</p> <p>2 And his response is "WTF."</p> <p>3 A Yes.</p> <p>4 Q Did you talk to him about it beyond</p> <p>5 this E-Mail?</p> <p>6 A Yes.</p> <p>7 Q What did he say?</p> <p>8 A He told me I should go ahead and do</p> <p>9 the loan.</p> <p>10 Q Do you know whether Mr. Taylor had</p> <p>11 spoken to Murray about the loan?</p> <p>12 A I assume that he did.</p> <p>13 Q But you don't know if he did?</p> <p>14 A I wasn't part of that conversation.</p> <p>15 Q Okay. Murray telling you about a</p> <p>16 loan, did -- is that -- did you take that as a</p> <p>17 directive from Murray to make the loan?</p> <p>18 A That was an indication, as you</p> <p>19 asked before, of his influence. But I checked</p> <p>20 with, you know, the person I reported to; and I</p> <p>21 copied Mark Feuer as well.</p> <p>22 Q Okay. Can you recall any instances</p> <p>23 of influence by Mr. Bodner aside from your being</p> <p>24 hired?</p> <p>25 A Beechwood had a loan, a large loan,</p>	<p style="text-align: right;">Page 180</p> <p>1 Daniel Saks</p> <p>2 MS. JESCHKE: Thank you.</p> <p>3 CONTINUED DIRECT EXAMINATION</p> <p>4 BY MS. JESCHKE:</p> <p>5 Q Mr. Saks, before the break, we were</p> <p>6 starting to talk about Mr. Bodner and any</p> <p>7 requests he had made to you regarding</p> <p>8 transactions while you were at Beechwood, and you</p> <p>9 had started to mention an Agera loan. Could you</p> <p>10 go back and explain that to me again? I</p> <p>11 apologize.</p> <p>12 A Sure. Beechwood had made a loan to</p> <p>13 Agera, and Mr. Bodner called me and asked me --</p> <p>14 he told me that he was concerned that the loan</p> <p>15 was a fairly large-sized loan.</p> <p>16 And he asked if I could meet with</p> <p>17 Agera and make sure that I'm comfortable with the</p> <p>18 risk that's involved in the loan.</p> <p>19 Q Okay. And what was your</p> <p>20 determination?</p> <p>21 A And so I -- I met with Agera. And</p> <p>22 I thought that there was enough collateral there</p> <p>23 on that loan, you know, that it -- that it was</p> <p>24 okay, but I -- I was monitoring it.</p> <p>25 Q Okay. Did you report your findings</p>
<p style="text-align: right;">Page 179</p> <p>1 Daniel Saks</p> <p>2 to Agera, and he was concerned about the size of</p> <p>3 the loan. He asked me to meet with Agera and do</p> <p>4 some additional due diligence to make sure that I</p> <p>5 was comfortable with the loan to Agera.</p> <p>6 Q Okay. Did you --</p> <p>7 MS. JESCHKE: Oh, I'm sorry. Yes.</p> <p>8 No.</p> <p>9 MS. SCHWARTZ: I don't want to</p> <p>10 interrupt your line of questioning. But if</p> <p>11 you have a lot more on this topic, could I</p> <p>12 suggest we wait --</p> <p>13 MS. JESCHKE: No.</p> <p>14 MS. SCHWARTZ: -- 30 minutes?</p> <p>15 MS. JESCHKE: I want to be</p> <p>16 respectful of your time. Be my guest. And</p> <p>17 I'll pick up from there. And after that,</p> <p>18 I'll concede my time.</p> <p>19 THE VIDEOGRAPHER: Going off the</p> <p>20 record. The time is 1:55 p.m.</p> <p>21 (A break is taken.)</p> <p>22 (There was a discussion off the</p> <p>23 record.)</p> <p>24 THE VIDEOGRAPHER: The time is</p> <p>25 2:23 p.m. We are back on the record.</p>	<p style="text-align: right;">Page 181</p> <p>1 Daniel Saks</p> <p>2 back to Mr. Bodner?</p> <p>3 A I think so. Yes.</p> <p>4 Q Do you know how Mr. Bodner knew</p> <p>5 that Agera had a -- or Beechwood had a loan with</p> <p>6 Agera?</p> <p>7 A No.</p> <p>8 Q Did Mr. Bodner have a -- let me</p> <p>9 back up.</p> <p>10 You had mentioned giving status</p> <p>11 reports to Mr. Huberfeld about various</p> <p>12 transactions.</p> <p>13 Did you ever give similar</p> <p>14 transaction -- or status reports to Mr. Bodner?</p> <p>15 A No, not like to Mr. Huberfeld.</p> <p>16 Q Okay.</p> <p>17 (There was a discussion off the</p> <p>18 record.)</p> <p>19 Q Okay. Did Mr. Bodner ever call you</p> <p>20 about transactions other than this Agera</p> <p>21 transaction?</p> <p>22 A On a few occasions, he called me</p> <p>23 and asked me to take a meeting and look at some</p> <p>24 investment. And one time he asked me if I could</p> <p>25 help train his son, who was looking to get into</p>

Page 182

1 Daniel Saks
2 the business, which I declined.
3 Q Okay. What was his son's name?
4 A I don't recall.
5 Q Was it Itchy Bodner?
6 A Maybe.
7 Q Okay.
8 A Yes.
9 Q The investments that Mr. Bodner
10 brought to your attention, was he asking to look
11 at the investments as potential for Beechwood?
12 A Yes.
13 Q And the same way that Mr. Huberfeld
14 would bring investments for you to look at --
15 A Yes.
16 Q -- for Beechwood?
17 Okay.
18 MR. ISAACS: Objection to form.
19 Q Did you decline on those
20 investments?
21 A Yes.
22 Q Why?
23 A I didn't think that they were good
24 investments or appropriate for Beechwood.
25 Q Did you report that back to

Page 183

1 Daniel Saks
2 Mr. Bodner?
3 A I presume so.
4 Q Okay. Do you recall any instance
5 in which he was upset that you didn't take the
6 investment?
7 A No.
8 Q Mr. Bodner's presence, was he in
9 the office at Beechwood?
10 A Rarely.
11 Q Okay. I think I might have asked
12 this, but just in case:
13 Did he have an office in Beechwood?
14 A No.
15 Q Can you quickly look to Tab 27.
16 (Exhibit No. 446, Tab 27, Bates No.
17 CNO CSL_01067250, July 12, 2015 E-Mail From
18 Danny Saks to Murray Huberfeld is marked by
19 the reporter for identification.)
20 Q Tab 27 has the document identifier
21 of CNO CSL_01067250. It's an E-Mail from you to
22 Murray Huberfeld dated July 12, 2015. And it
23 says:
24 "Welcome back. I will be out
25 Monday," Tuesday -- "and Tuesday. Here is an

Page 184

1 Daniel Saks
2 update on things we are working on."
3 And you provide information about
4 various things.
5 Is this the type of status report
6 that you would give Mr. Huberfeld?
7 A Yes. Um-hum.
8 Q Okay. With respect to Agera, were
9 you at Beechwood when that investment was first
10 made?
11 A No.
12 Q It was already there when you
13 arrived?
14 A Yes.
15 Q What was your understanding of
16 Mr. Bodner's relationship to Agera?
17 A He knew of the -- he knew of the
18 investment. I don't know, if anything, what his
19 other relationship was to -- to Agera.
20 Q Okay.
21 A I don't recall any relationship
22 that he had.
23 Q Okay. Have you ever heard of a
24 fund named Bainbridge?
25 A It sounds familiar. I can't place

Page 185

1 Daniel Saks
2 it.
3 Q Do you recall whether Itchy had any
4 involvement with a fund named Bainbridge?
5 A I don't recall.
6 Q No? Okay.
7 And one quick follow-up on the
8 forward -- on the China Horizon additional
9 \$1 million loan, why was that not a good deal?
10 Why were you concerned about loaning additional
11 money to China Horizon?
12 MR. ISAACS: Objection to form.
13 MR. BENHAIM: Objection. Form.
14 Q Were you concerned about loaning
15 additional money to China Horizon?
16 A Yes.
17 Q Why were you concerned?
18 A Because CNO had expressed a desire
19 to be out of the China Horizon loan because it
20 wasn't a typical senior secured loan because
21 there were no hard assets to the business and the
22 business was in China.
23 Q Okay.
24 A And so they had wanted to get out
25 of the loan, so I didn't want to increase the

<p style="text-align: right;">Page 198</p> <p>1 Daniel Saks</p> <p>2 description of the collateral, we'd give them</p> <p>3 that type of information.</p> <p>4 Q Okay. And, for example, if a</p> <p>5 company couldn't make payroll, would that be</p> <p>6 something that you would convey up to the</p> <p>7 valuation company?</p> <p>8 A I think that -- that would show up</p> <p>9 in the financial information that we would give</p> <p>10 them, but I don't recall specifically discussing</p> <p>11 whether a company was making payroll or not.</p> <p>12 Q Do you -- just in general, do you</p> <p>13 think that a company's cash flow ability to make</p> <p>14 payroll was something relevant to valuation?</p> <p>15 A I think it's a factor.</p> <p>16 Q Okay. Can you think of -- I'm</p> <p>17 sorry.</p> <p>18 The resignation of key employees,</p> <p>19 is that something relevant to valuation?</p> <p>20 A If it's a big earnings -- you know,</p> <p>21 earning producer to a company, then I would think</p> <p>22 that's a factor, also, as part of valuation.</p> <p>23 Q Okay. After you left Platinum, you</p> <p>24 started working for a new company. Can you</p> <p>25 remind me of the name?</p>	<p style="text-align: right;">Page 200</p> <p>1 Daniel Saks</p> <p>2 treated their clients and how they acceded to</p> <p>3 their client's wishes and what they told their</p> <p>4 clients and they didn't tell their clients, as</p> <p>5 well as the relationship that they had with</p> <p>6 Platinum and the -- the influence that certain</p> <p>7 people at Platinum had on Beechwood, which I</p> <p>8 guess in hindsight made me uncomfortable.</p> <p>9 Q Who in specific are you referring</p> <p>10 to in that sentence?</p> <p>11 A I think we discussed, you know,</p> <p>12 Murray Huberfeld and David Bodner and Mark</p> <p>13 Nordlicht.</p> <p>14 Q Okay.</p> <p>15 (There was a discussion off the</p> <p>16 record.)</p> <p>17 Q Was there anybody else that you</p> <p>18 would put into that category?</p> <p>19 A Influence from Platinum?</p> <p>20 Q Influence from Platinum?</p> <p>21 A No.</p> <p>22 Q David Levy?</p> <p>23 A No. I didn't see him having so</p> <p>24 much influence.</p> <p>25 Q Okay. You had mentioned the way</p>
<p style="text-align: right;">Page 199</p> <p>1 Daniel Saks</p> <p>2 A B Asset Manager.</p> <p>3 Q After you -- I'm sorry. After you</p> <p>4 left B Asset Manager, you started working for a</p> <p>5 new company?</p> <p>6 A Stonehenge.</p> <p>7 Q Stonehenge Capital.</p> <p>8 When -- when did you start at</p> <p>9 Stonehenge?</p> <p>10 A I started at Stonehenge in January,</p> <p>11 yes, right after I left, January of 2016.</p> <p>12 Q Okay. And how did you end up at</p> <p>13 Stonehenge?</p> <p>14 A I was introduced to the person who</p> <p>15 was founding Stonehenge, and I met him. He was</p> <p>16 looking maybe for an investment or something.</p> <p>17 And I liked him, and I was looking for something</p> <p>18 else to do, be more an owner of, and --</p> <p>19 (Reporter clarification.)</p> <p>20 A -- be an owner of, and that's how I</p> <p>21 met him.</p> <p>22 Q Okay. Why did you leave Beechwood?</p> <p>23 A I left Beechwood in -- in part</p> <p>24 because I was becoming uncomfortable with their</p> <p>25 client relationships and how they -- how they</p>	<p style="text-align: right;">Page 201</p> <p>1 Daniel Saks</p> <p>2 that they treat their clients. Can you give me</p> <p>3 an example of something that you felt was not</p> <p>4 appropriate?</p> <p>5 A I mentioned before that they --</p> <p>6 they -- CNO wanted to get rid of a position in</p> <p>7 China Horizon; instead of getting rid of it, they</p> <p>8 increased it.</p> <p>9 Q Okay. All right. I see.</p> <p>10 And you said something else, things</p> <p>11 that they didn't tell their clients. What didn't</p> <p>12 they tell their clients?</p> <p>13 A I mean, I don't think they told</p> <p>14 their clients about the -- about some of the</p> <p>15 people that were involved, the fact that those</p> <p>16 people had influence, that they were -- had deals</p> <p>17 with them, that they, you know, were reluctant to</p> <p>18 disclose that.</p> <p>19 Q Okay. Did CNO know -- based on</p> <p>20 your knowledge, did CNO know that Murray</p> <p>21 Huberfeld was involved in Beechwood?</p> <p>22 MR. ISAACS: Objection to the form.</p> <p>23 A Based on my knowledge, no.</p> <p>24 Q Based on your knowledge?</p> <p>25 A No.</p>

Page 214

1 Daniel Saks

2 performing well?

3 A Yes.

4 Q Are you familiar with the assets

5 known as Desert Hawk held -- held by SHIP?

6 A Yes.

7 Q In 2015, do you have an

8 understanding as to how Desert Hawk was

9 performing?

10 A What time frame?

11 Q 2015.

12 A I don't have a recollection.

13 Q Do you have any general

14 recollection of how Desert Hawk did as an

15 investment?

16 A No.

17 Q Let me show you what we're going to

18 mark -- what's next?

19 (There was a discussion off the

20 record.)

21 A As 447.

22 (There was a discussion off the

23 record.)

24 Q And I'll represent that --

25 (There was a discussion off the

Page 215

1 Daniel Saks

2 record.)

3 Q And I'll represent that Exhibit 447

4 is on Beechwood SHIP numbering, at the bottom,

5 01375372.

6 (Exhibit No. 447, May 2015 E-Mail

7 Thread, Bates No. SHIP 01375372 is marked

8 by the reporter for identification.)

9 Q And it's an E-Mail thread started

10 at the top with Mark Feuer to Naftali Manela,

11 where you are copied, dated May 22nd, 2015.

12 Have you seen this before?

13 A I don't recall seeing it. I mean,

14 it looks like I received it once. I just don't

15 recall the E-Mail. I can just read it.

16 Q Well, you will recognize that, in

17 each one of these E-Mails on this thread, you're

18 copied on each one of them.

19 A Yes.

20 Q Correct?

21 A Um-hum. Yes.

22 Q Do you have any reason to doubt

23 that you received this?

24 A No. No.

25 Q Now, I'm going to direct your

Page 216

1 Daniel Saks

2 attention to the E-Mail at the bottom of the

3 first page, from Naftali Manela, dated May 21st,

4 2015, to Moti Edelstein.

5 Do you see that?

6 A Yes.

7 Q Who is Moti Edelstein?

8 A He worked in the back office at

9 Beechwood.

10 Q And it says:

11 "Subject: Desert Hawk

12 participation."

13 A Um-hum.

14 Q It says:

15 "Moti, in addition to the 10

16 million participation previously discussed, the

17 BAM entity will be receiving an additional

18 participation of 4 million in Desert Hawk note

19 that effectively is a prepayment of interest that

20 is due on PPVA and its related companies, which

21 include the Montsant loan, Golden Gate loan, and

22 the Implant Sciences loan. So the April interest

23 that is owed by PPVA from Montsant and Golden

24 Gate will be paid for by the respective trusts

25 receiving a piece of the Desert Hawk note from

Page 217

1 Daniel Saks

2 BAM, which will accrue interest at 15 percent."

3 Do you see that?

4 A Yes.

5 Q So the -- am I correct that the

6 additional participation -- I'm sorry.

7 Am I correct that the initial

8 participation was 10 million?

9 A That's what it looks like.

10 "In addition to the 10 million

11 participation previously discussed."

12 Q Okay. And do you have any memory

13 of that?

14 A No.

15 Q Okay. And it goes on to say there

16 was an additional 4 million. Do you know what

17 that's about?

18 (Mr. Magruder joined the

19 proceedings.)

20 A Based on this E-Mail, it says it's

21 a prepayment of interest that's due from PPVA on

22 other related loans.

23 Q A prepayment of interest due from

24 PPVA?

25 A Yes.

Page 218

1 Daniel Saks

2 Q Do you have any understanding why a

3 prepayment of interest due from PPVA would be

4 added to a -- owing in Desert Hawk?

5 A No. But maybe they were paying --

6 MS. SCHWARTZ: I'm going to caution

7 the witness not to speculate.

8 A I won't speculate.

9 Q Was PPVA paying the interest on the

10 Desert Hawk loan?

11 A I don't know. I can't tell from

12 this E-Mail. It looks like they were paying

13 the -- they were paying interest on the Montsant

14 loan and the Golden Gate loan and the Implant

15 Sciences loan in the previous Desert Hawk

16 participation.

17 Q Have you known -- withdrawn.

18 Did -- do you have any experience

19 in your time with Platinum where Platinum would

20 pay the interest on loans for the issuer?

21 A For the issuer, meaning another --

22 a debtor who owed money?

23 Q For a Platinum investment such as

24 Desert Hawk?

25 A No, not a direct recollection.

Page 219

1 Daniel Saks

2 Q And under this circumstance, PPVA

3 paying the interest on the Desert Hawk loan,

4 would that have given any indication to you, in

5 your experience of valuing companies, how that

6 company is faring?

7 A That they were unable to pay their

8 interest on their own.

9 Q Which means that they're not faring

10 well, right?

11 A Well, they don't have cash flow to

12 pay interest.

13 (Exhibit No. 448, 5/22/15 and

14 5/21/15 E-Mail Chain involving Mr. Saks,

15 Mr. Thomas, and Mr. Manela, Bates No.

16 BW-SHIP-0113490 is marked by the reporter

17 for identification.)

18 Q It's another E-Mail thread,

19 beginning with you on May 22nd, to

20 Christian Thomas.

21 I will ask you:

22 Have you seen this before?

23 A Yes. I mean, I sent the E-Mail, so

24 I must have seen it.

25 Q Okay. I'm going to direct your

Page 220

1 Daniel Saks

2 attention to the -- the second E-Mail on this

3 page, from Naftali Manela, dated May 21, 2015, to

4 Christian Thomas.

5 Do you see that?

6 A You're talking about from Naftali

7 Manela to Christian Thomas?

8 Q Right. Well, the top --

9 A Danny. Okay. Got it.

10 Q Are you with me?

11 A Yes.

12 Q Okay. First of all, who is

13 Christian Thomas?

14 A He's the general counsel of

15 Beechwood, BAM, Beechwood entities.

16 Q All right. And it reads:

17 "Danny, an investment memo has to

18 be created for this investment. Keep in mind

19 that the put agreements is a big part of the

20 security."

21 Do you see that?

22 A Yes.

23 Q Okay. The subject for this E-Mail

24 is:

25 "Put agreements Desert Hawk,"

Page 221

1 Daniel Saks

2 right?

3 A Um-hum.

4 Q And the "Danny" in -- he's

5 referring to is you, correct?

6 A Yes, I think so.

7 Q All right. Do you -- do

8 you generally have an understanding as to what

9 he's talking about here?

10 A Yes, and -- general understanding,

11 I recall, with regard to Desert Hawk, there were

12 certain investments where I was -- that were

13 negotiated and structured by others at Beechwood

14 that I was asked to paper.

15 Q They were structured by others at

16 Beechwood, but you were the chief investment

17 officer for structured investments, right?

18 A Yes.

19 Q So all of these people who

20 structured that reported to you, right?

21 A No.

22 Q Who were the people who would have

23 structured this?

24 A Mark Feuer.

25 Q Anyone else?

Page 242

1 Daniel Saks

2 Q So does that raise the Desert Hawk

3 loan up to 14 million?

4 A The way it looks like to me is that

5 the loan was already outstanding; it's a

6 participation -- they're purchasing a

7 participation in an already existing loan.

8 Q So then it's two different loans,

9 or is it the same -- is it two different

10 instruments for the same loan? Is that --

11 A The way I read it is that there was

12 one loan. I don't know what the total dollar

13 amount of it was, but that Beechwood was -- was

14 purchasing a \$10 million participation in a

15 certain loan and BAM was getting a \$4 million

16 participation in that same loan. I don't know

17 from here what the total amount of the loan is.

18 Q So Beechwood and BAM are two

19 separate parties in this transaction?

20 A That's what it looks like to me.

21 Q And BAM is -- that's B Asset

22 Manager?

23 A Yes.

24 Q Is PPVA now off the hook for paying

25 that interest?

Page 243

1 Daniel Saks

2 A Paying the interest of the

3 \$4 million?

4 Q Yes.

5 A No. I guess, because the put still

6 exists, then, if for some reason interest wasn't

7 paid, then maybe the put still exists.

8 Q Which means you would put it back

9 to PPVA, right?

10 A Yes.

11 Q I'm going to hand you now what we

12 marked as Exhibit 454.

13 (Exhibit No. 454, Document Entitled

14 "Notice of Exercise," With Attachments,

15 Bates Nos. BW-SHIP-00689378 through

16 00689417 is marked by the reporter for

17 identification.)

18 Q And I'll represent it's on Bates

19 stamp Bates numbering BW-SHIP-00689378 through

20 9417. It is a document entitled "Notice of

21 Exercise," and then it's got exhibits attached

22 thereto.

23 And I'll ask:

24 Have you ever seen this before?

25 A I think so. Yes.

Page 244

1 Daniel Saks

2 Q And that's your signature?

3 A Yes.

4 Q Correct?

5 A Yes.

6 Q For both entities, for BAM and for

7 Beechwood?

8 A Yes.

9 Q What is happening with this

10 document?

11 A BAM and Beechwood are exercising

12 the put.

13 Q Now, your investment memo earlier

14 said that the exercise of that put would depend

15 upon the progress of the company, right?

16 A Yes.

17 Q And here you exercise that put?

18 A Yes.

19 Q Is it fair to assume that the

20 progress was not good?

21 A That's a fair assumption.

22 Q You have experience -- withdrawn.

23 You have experience in -- in

24 exercising puts, right?

25 A Yes.

Page 245

1 Daniel Saks

2 Q Do you have an understanding of how

3 it was to happen here? In other words, would

4 Beechwood be reimbursed for the full amount of

5 the investment from PPVA?

6 A Beechwood would get \$14,128,000,

7 and they would get back, in participation for

8 their purchase, \$14 million.

9 Q So they got back the 10 million

10 plus the 4 million plus whatever interest was

11 involved, right?

12 A Yes.

13 Q And the date of that exercise is

14 September 1, 2015?

15 A Yes.

16 Q I -- I need you to wait --

17 A Yes.

18 Q -- until I finish --

19 A Oh.

20 Q I need you to wait for me to finish

21 the question before you answer, just so that we

22 have a clean record. Okay. If we talk over one

23 another, it doesn't help. I appreciate the

24 enthusiasm.

25 Now, I'm going to show you what

Page 246

1 Daniel Saks

2 we've marked as 455.

3 (There was a discussion off the

4 record.)

5 (Exhibit No. 487, E-Mail Chain,

6 Bates Nos. BW-SHIP-01084111 through

7 01084113 is marked by the reporter for

8 identification.)

9 Q Strike that.

10 I'm handing you what we've marked

11 as 487, and it's on Bates stamp BW-SHIP-01084111

12 through 113. And I'll represent it's an E-Mail

13 thread beginning with Jeremy Apfel to

14 Rittik Chakrabarti. And I'll ask:

15 Have you seen that one before?

16 A Yes.

17 Q I notice you -- you will notice

18 that you've been copied on each of these E-Mails,

19 right?

20 A Yes.

21 Q Who is Mr. Chakrabarti?

22 A He worked at Duff & Phelps.

23 Q And you mentioned before that

24 Duff & Phelps does the valuation for your

25 asset -- the assets you've been involved in at

Page 247

1 Daniel Saks

2 Beechwood?

3 A Yes.

4 Q All right. Just reading from the

5 bottom of this page, the very first page, it

6 says:

7 "On September 24th, 2015, at

8 10:18 a.m., Chakrabarti Rittik wrote" -- then

9 following on the next page -- "BAM Team, what's

10 the latest on Desert Hawk? Is that credit paid

11 off and off the books at this point?"

12 Do you see that?

13 A Yes.

14 MS. SCHWARTZ: We're missing

15 page -- I'm missing page two in my copy.

16 Oh, I see you have it. I'll share.

17 THE WITNESS: It's on the back.

18 MR. MORAN: You have it?

19 MS. SCHWARTZ: I don't have it, but

20 I will share the back of his exhibit.

21 MR. MORAN: Okay.

22 MS. SCHWARTZ: If I could get a

23 copy later --

24 MR. MORAN: I apologize for that.

25 MS. SCHWARTZ: -- that would be

Page 248

1 Daniel Saks

2 helpful.

3 MR. MORAN: We'll get you that.

4 (Document, Exhibit 487, requested.)

5 Q And it says:

6 "BAM Team, what's the latest on

7 Desert Hawk? Is that credit paid off and off the

8 books at this point?"

9 Do you see that?

10 A Yes.

11 Q So does that indicate that on

12 September 24th, 2015 -- well, withdrawn.

13 What -- what was -- why was

14 Mr. Chakrabarti looking for this information?

15 A He was -- I don't know why he was

16 looking for the information.

17 Q Well, what did Mr. -- did you have

18 any -- withdrawn.

19 Did you have any familiarity with

20 Mr. Chakrabarti at -- and his work at

21 Duff & Phelps?

22 A Yes.

23 Q And what was that familiarity?

24 A He was doing valuations on the

25 positions.

Page 249

1 Daniel Saks

2 Q Okay. And when he writes, "What's

3 the latest on Desert Hawk," what does that

4 indicate to you he's looking for?

5 A What's the status of the -- of the

6 investment in Desert Hawk.

7 Q Now, in response to that,

8 Naftali Manela writes to him and copies you:

9 "No. It is still on. We're

10 expecting payoff in the next few weeks as part of

11 the put agreement which was exercised."

12 Now, does that indicate to you that

13 it was the -- even though you exercised the put

14 on September 1, you haven't been paid?

15 A Yes.

16 Q In your experience, is that normal?

17 A Sometimes it takes time for a put

18 to be paid. It's not abnormal.

19 Q Do you know why it was taking time

20 for PPVA to pay?

21 A I don't know why.

22 Q Did you have any understanding at

23 or around this time of any liquidity problems at

24 PPVA?

25 A I do not recall being aware of

Page 250

1 Daniel Saks

2 liquidity problems at PPVA at that time.

3 Q Okay. Well, let me ask you this:

4 Did there come a time that you

5 became of -- aware of liquidity problems at PPVA?

6 A Yes.

7 Q When?

8 A They had -- I don't remember the

9 date; but there was a period of time, I believe

10 later than this, where they had to make premium

11 payments on some life insurance policies that

12 they loaned as part of a portfolio that Beechwood

13 had loaned against it; and they were unable to

14 make those premium payments.

15 Q Would liquidity problems be an

16 answer as to why they had not paid yet?

17 A Could be.

18 Q In response to Mr. Manela's E-Mail,

19 Mr. Chakrabarti writes back:

20 "Jeremy, what is current OS balance

21 on Desert Hawk?"

22 And then Jeremy, at the top,

23 responds to Mr. Chakrabarti:

24 "10 million."

25 Do you see that?

Page 251

1 Daniel Saks

2 A Yes.

3 Q Okay. What about the additional

4 4 million?

5 A As you pointed out, the -- the

6 4 million was owned by BAM, and Duff & Phelps was

7 only valuing things that were in the -- that were

8 held for Beechwood clients, not what was held for

9 BAM.

10 Q Wait a minute. Is it your

11 testimony that Duff & Phelps didn't do any

12 valuations for anything in the B Asset Management

13 accounts?

14 A I believe so.

15 Q That means that you haven't seen

16 Duff & Phelps reports on B Asset Management

17 accounts?

18 A I mean, let's -- to be clear, B

19 Asset Management was the manager of the insurance

20 trust; and so, if B Asset Manager owns something

21 in its own right, outside of the insurance trust,

22 then my understanding was that Duff & Phelps

23 would not be valuing what they were worth.

24 Q When we say "insurance trusts,"

25 what do you mean?

Page 252

1 Daniel Saks

2 A The moneys of SHIP or CNO.

3 Q Okay. Now, the -- the CNO

4 investments were in a reinsurance trust, correct?

5 A Okay. I don't know exactly how

6 they were held, but, yes, it makes sense.

7 Q And the -- do you know in what type

8 of accounts the SHIP investments were held in?

9 A The form of it, I don't -- I don't

10 recall exactly what the legal form of their

11 account was.

12 Q They were investment management

13 accounts, right?

14 A Yes.

15 Q Do you know how many there were?

16 A Not off -- no, I don't recall.

17 Q Are you familiar with BBIL?

18 A I am familiar with the initials.

19 Q What does that mean to you?

20 A I don't know -- I don't know what

21 BBIL. Maybe it's Beechwood Bermuda International

22 Limited.

23 Q Okay. And did you have any

24 involvement -- well, withdrawn.

25 And Beechwood Bermuda Investment

Page 253

1 Daniel Saks

2 Limited -- I'm sorry.

3 Beechwood Bermuda International

4 Limited was one of the account managers for one

5 of the SHIP IMAs, right?

6 A I don't recall.

7 Q Did you have any involvement in

8 that account?

9 A I managed the investments, and

10 other people put them in the accounts where

11 they -- where they ended up. So it's hard for me

12 to say, you know, which account which things were

13 in and what those accounts were, the structures

14 of those accounts.

15 Q So when you made your investments,

16 you didn't necessarily know which account

17 these -- these assets were being held in?

18 A Correct.

19 Q Who did?

20 A There were people in the back

21 office, between Chris Thomas and Moti Edelstein

22 and Sam Adler, who allocated, you know, from

23 which accounts those investments would be made.

24 Q Did anybody have oversight of --

25 over those people?

Page 270

1 Daniel Saks

2 A Yes.

3 Q Do you know what this is referring

4 to?

5 A No.

6 Q Does this have anything to do with

7 Platinum -- or withdrawn.

8 Does this have anything to do with

9 the PPVA and the put?

10 MS. SCHWARTZ: I'm going to caution

11 the witness not to speculate.

12 A I can't tell from the E-Mail that

13 I'm looking at.

14 (Exhibit No. 491, E-Mail Chain

15 beginning with Moti Edelstein

16 November 18, 2015, to Daniel Saks, Bates

17 No. BW-SHIP-0128755 is marked by the

18 Oreporter for identification.)

19 Q I'm handing you what's been marked

20 as Exhibit 491, Bates stamp BW-SHIP-0128755,

21 E-Mail thread beginning with Moti Edelstein

22 November 18, 2015, to you.

23 Do you see that?

24 MS. SCHWARTZ: This also does not

25 have a back.

Page 271

1 Daniel Saks

2 MR. MORAN: It doesn't. We seem to

3 have an issue with our copying. I

4 apologize.

5 MS. SCHWARTZ: I'm just going to

6 note on the record so I have a record of

7 what I need to ask you for.

8 MR. MORAN: That's fine. We'll get

9 those to you.

10 (Document, Exhibit 491, requested.)

11 A Where would you like me to start

12 reading from?

13 Q Okay. Well, let's look at the

14 E-Mail from Bernstein Client Services to you on

15 November 17.

16 A Okay.

17 Q Okay. First of all, what is

18 Bernstein Client Services?

19 A Bernstein Client Services.

20 AllianceBernstein is a money manager in -- based

21 in New York City, very large money management

22 firm.

23 Q Okay. And then the subject line

24 for this E-Mail says:

25 "Private credit investors middle

Page 272

1 Daniel Saks

2 market capital call notice. Action required."

3 Do you see that?

4 A Yes.

5 Q Does that mean anything to you?

6 A Yes.

7 Q What does that mean?

8 A One of the accounts was an investor

9 in an AllianceBernstein fund that purchased middle

10 market loans, senior secured loans. And this

11 looks like it was a capital call notice that the

12 fund was buying more loans and that the Beechwood

13 client had to make its investment contribution

14 towards that fund.

15 Q They were looking for money from

16 Beechwood?

17 A Yes. It was a capital call.

18 Q So then Moti Edelstein, on the 18th

19 of November, writes to you:

20 "Thanks. I attached them in the

21 attached E-Mail. We are assigning Desert Hawk

22 today, which will avail cash for this call."

23 Do you see that?

24 A Yes.

25 Q Do you recall that?

Page 273

1 Daniel Saks

2 A No.

3 Q Does that indicate to you as to

4 whether or not PPVA was finally paying?

5 A It doesn't.

6 Q Do you know where the money from

7 assigning Desert Hawk was to come from?

8 A No. I can't tell from this E-Mail.

9 Q Do you have any memory of the

10 assignment of Desert Hawk?

11 A No.

12 (Exhibit No. 492, E-Mail From

13 Jeremy Apfel to Danny Saks, Subject:

14 "Egan-Jones," Bates No. BW-SHIP-00826916 is

15 marked by the reporter for identification.)

16 Q I'm handing you what we've marked

17 as 492, Bates stamp BW-SHIP-00826916. And it's

18 an E-Mail from Jeremy Apfel to you, dated

19 November 18th, subject "Egan-Jones."

20 Have you seen this before?

21 A It was sent to me.

22 Q What is Egan-Jones?

23 A Egan-Jones is a rating agency.

24 Q And what do they do?

25 A They rate securities.

Page 274	<p>1 Daniel Saks</p> <p>2 Q And do they also value securities?</p> <p>3 A Not to my knowledge.</p> <p>4 Q And it says:</p> <p>5 "Greg just called to discuss."</p> <p>6 That's the E-Mail from Jeremy</p> <p>7 Apfel. It starts with:</p> <p>8 "Greg just called to discuss."</p> <p>9 Do you know who Greg is?</p> <p>10 A No.</p> <p>11 Q Okay. It goes on to say:</p> <p>12 "Agera, we're getting tomorrow,</p> <p>13 Montsant soon. We should talk about what to send</p> <p>14 next to solve the SHIP issue. These are the</p> <p>15 loans in SHIP. Maybe next we should send</p> <p>16 Implant, LC Energy, and Desert Hawk. I think we</p> <p>17 need to keep this rolling if we're going to get</p> <p>18 this done by year-end."</p> <p>19 Do you recognize that list?</p> <p>20 A In what way? Do I recognize the</p> <p>21 names on this list?</p> <p>22 Q Well, do you -- do you recognize</p> <p>23 them to be assets held in the accounts that you</p> <p>24 were managing?</p> <p>25 A Yes.</p>	Page 276
Page 275	<p>1 Daniel Saks</p> <p>2 Q Okay. Do you recognize them to be</p> <p>3 assets held in the accounts that you were</p> <p>4 managing for SHIP?</p> <p>5 A I mean, that's what it says in the</p> <p>6 E-Mail. But I don't recall what SHIP</p> <p>7 specifically had. But based on the E-Mail, it</p> <p>8 looks like that.</p> <p>9 Q And why is Egan-Jones calling to</p> <p>10 discuss these loans?</p> <p>11 A I don't know what the nature of</p> <p>12 their call is.</p> <p>13 Q In your experience as the CIO of</p> <p>14 Beechwood, do you know what the nature of calls</p> <p>15 from Egan-Jones normally is?</p> <p>16 MS. SCHWARTZ: Objection to form.</p> <p>17 A I don't know that there were usual</p> <p>18 calls from Egan-Jones. Egan-Jones was -- as I</p> <p>19 mentioned, was a rating agency that -- that rated</p> <p>20 loans that Beechwood had for its insurance</p> <p>21 clients.</p> <p>22 Q Now, Apfel wrote:</p> <p>23 "We should talk about what to send</p> <p>24 next to solve the SHIP issue."</p> <p>25 Do you see that?</p>	Page 277
Page 274	<p>1 Daniel Saks</p> <p>2 A Yes.</p> <p>3 Q Apfel was your analyst, right?</p> <p>4 A Yes.</p> <p>5 Q He worked for you more than anyone</p> <p>6 else at Beechwood?</p> <p>7 A Yes.</p> <p>8 Q And you understood what he meant by</p> <p>9 "solve the SHIP issue" when he sent this, right?</p> <p>10 A Presumably.</p> <p>11 Q He says:</p> <p>12 "We need to keep this rolling if</p> <p>13 we're going to get this done by year-end."</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q So is it fair to say that the SHIP</p> <p>17 issue is to be solved by year-end?</p> <p>18 MS. SCHWARTZ: Object as to form.</p> <p>19 A I want to say I guess, but I'm</p> <p>20 not -- I'm -- it looks that way from this E-Mail.</p> <p>21 Q Which is about a month and a half</p> <p>22 from the date of this E-Mail, right?</p> <p>23 A Yes, the end of the year is a month</p> <p>24 and a half.</p> <p>25 Q Does that indicate to you that</p>	Page 277
Page 275	<p>1 Daniel Saks</p> <p>2 there was some sort of level of urgency?</p> <p>3 A If it was going to be done by</p> <p>4 year-end, yes.</p> <p>5 Q Now, the previous E-Mail, we</p> <p>6 discussed the assignment of Desert Hawk, right?</p> <p>7 A Yes.</p> <p>8 Q Do you remember that?</p> <p>9 A Yes.</p> <p>10 Q Do you know if that was also to</p> <p>11 solve the SHIP issue?</p> <p>12 MS. SCHWARTZ: Objection. Lacks</p> <p>13 foundation.</p> <p>14 A I don't know.</p> <p>15 Q Do you know what is meant by "solve</p> <p>16 the SHIP issue"?</p> <p>17 A I know that SHIP required, for</p> <p>18 certain loans, for there to be ratings on those</p> <p>19 loans. I'm not sure for what reason, but they</p> <p>20 needed ratings on some of the loans. And to me,</p> <p>21 this E-Mail looks like -- I know in terms of the</p> <p>22 interaction with Egan-Jones that it was</p> <p>23 advantageous to -- to Beechwood that the loans</p> <p>24 were to be rated.</p> <p>25 And so to me, this E-Mail looks</p>	Page 277

Page 278

1 Daniel Saks

2 like it's an attempt to get as many loans rated

3 by Egan-Jones before the end of the year.

4 Q Are you familiar with the Northstar

5 assets held by SHIP?

6 A A little bit.

7 Q Can you describe how that -- those

8 assets were doing in 2015?

9 A I don't recall exactly the

10 performance of the Northstar loan.

11 Q At all?

12 A Not so much. And it was there. I

13 mean, it came onto the books, but I'm not sure

14 who made the investment. And I -- I monitored

15 it, but I don't recall because I wasn't involved

16 in the originating of the loan. I don't recall

17 so much about that one.

18 Q Now, these were assets that were

19 also held in SHIP's accounts, right?

20 A It looks that way from the E-Mail.

21 Q You said you monitored it. Do you

22 have a memory of monitoring it and knowing that

23 they were nonperforming?

24 A No, I don't have a recollection of

25 that.

Page 279

1 Daniel Saks

2 Q You don't have a general sense of

3 that one way or the other?

4 A No.

5 MR. MORAN: Do you want to take a

6 break?

7 MS. SCHWARTZ: Sure.

8 THE VIDEOGRAPHER: Going off the

9 record. The time is 4:16 p.m.

10 (A break is taken.)

11 THE VIDEOGRAPHER: The time is

12 4:24 p.m. We are back on the record.

13 (Exhibit No. 493, December 11, 2015

14 E-Mail Chain beginning from Zach Weiner on

15 December 11, 2015, to "Position Updates,"

16 and then sent from iPhone from Ezra Beren

17 on December 11th to Jeremy Apfel, who then

18 forwards it on December 11th to Daniel

19 Saks, Bates Nos. BW-SHIP-01073816 through

20 01073818 is marked by the reporter for

21 identification.)

22 CONTINUED DIRECT EXAMINATION

23 BY MR. MORAN:

24 Q All right. Mr. Saks, I'm handing

25 what we've marked 493, Bates numbered

Page 280

1 Daniel Saks

2 BW-SHIP-01073816 through 18.

3 MS. SCHWARTZ: My copy does not

4 have 3817.

5 MR. MORAN: Yeah. We have the same

6 issue. I understand the issue. We'll make

7 sure you get those. In the meantime, if

8 you want -- I know that the witness has the

9 full copy.

10 (Document, Exhibit 493, requested.)

11 Q I'll represent it's an E-Mail

12 thread beginning from Zach Weiner on December 11,

13 2015, to position updates, and then sent from

14 iPhone from Ezra Beren on December 11th to Jeremy

15 Apfel, who then forwards it on December 11th to

16 you, among others.

17 Do you see that?

18 A Yes.

19 Q Have you seen this before?

20 A I need to read it.

21 Q Go ahead.

22 A Okay.

23 Q The question was:

24 Have you seen this before?

25 A I was copied on it. I don't recall

Page 281

1 Daniel Saks

2 seeing it.

3 Q All right. Who is Zach Weiner?

4 A Zach Weiner is, I believe, a

5 portfolio manager at Platinum.

6 Q Did you know him when you worked

7 there?

8 A Yes.

9 Q And who is Ezra Beren?

10 A Ezra Beren was a portfolio manager

11 at Platinum who then became a portfolio manager

12 at Beechwood.

13 Q At this time, though, he was at

14 Platinum, correct?

15 A Yes, I thought at this time he was

16 at Beechwood. I'm surprised to see that -- this

17 is December 11, 2015, before I left, so --

18 Q Was he doing work for both

19 companies?

20 A My understanding was that he was

21 working for Platinum -- for -- for Beechwood at

22 that time.

23 Q Can you explain why he has still

24 a Platinum --

25 A No, I can't.

Page 282

1 Daniel Saks

2 Q -- E-Mail, then?

3 Again, you have to wait for me to

4 finish before you answer. It's okay.

5 Now, moving down to the first

6 E-Mail from Zach Weiner, "Position Update," and

7 then going down to "N Star."

8 Do you see that?

9 A Um-hum. Yes.

10 Q Would you agree with me that means

11 Northstar?

12 A Yes.

13 Q It says, in the second sentence

14 there:

15 "The company is reducing head count

16 by 40 percent and cutting yearly costs by over

17 8 million a year for both LEO and G and A. The

18 company needs some cash for work-overs and

19 payables, maintenance in the short run. Working

20 on merging the company with PED. We went down to

21 Houston this week to integrate the management

22 teams, which went okay in the final analysis.

23 There's 320,000 of payables that need to be paid

24 to get the account moving forward and within the

25 time frame that we want for the public merger.

Page 283

1 Daniel Saks

2 We need to do that ASAP. The company also needs

3 money for payables, as the timing that we

4 promised money in has elapsed and now payables

5 are getting pushed out even further, and it will

6 require more money to get back to normal. I'm

7 nervous that at some point there is a BK risk."

8 Do you see that?

9 A Yes.

10 Q Does "BK risk" mean anything to

11 you?

12 A It sounds like "bankruptcy risk."

13 Q It's not a very promising picture

14 of this business; is it?

15 A No.

16 Q Moving down to Desert Hawk:

17 "The company needs money to be able

18 to fund working capital and drilling. We are

19 targeting a 150,000- to 200,000-ounce gold

20 certification report that will be the result of

21 some drilling. The company is in need of

22 \$100,000 this week to keep mining and crushing

23 going."

24 Do you see that?

25 A Yes.

Page 284

1 Daniel Saks

2 Q Do you have any memory of that?

3 A No.

4 Q That's also not a pretty picture of

5 a company; is it?

6 A No.

7 (Exhibit No. 494, E-Mail Thread

8 with Attachments, Bates Nos.

9 BW-SHIP-01330674 through 01330793 is marked

10 by the reporter for identification.)

11 Q All right. I'm handing you what

12 we've marked as 494. It's on Beechwood -- Bates

13 No. BW-SHIP-01330674 through 793. I will

14 represent that it's an E-Mail thread with

15 attachments. I will note that you are copied on

16 the E-Mails, and I'll ask you:

17 Do you recall receiving these

18 E-Mails?

19 A I don't recall receiving the

20 E-Mails. I see that I'm copied.

21 Q Christian Thomas was the general

22 counsel of Beechwood; is that right?

23 A Yes.

24 Q Who is Suzanne Horowitz?

25 A I don't know.

Page 285

1 Daniel Saks

2 Q Down below on the first page, he

3 writes:

4 "Hi, Suzanne. Attached are the

5 material loan docs for the proposed funding

6 tomorrow. I'm working on a disbursement letter

7 and the assignment of a Desert Hawk participation

8 and will send to you separately. The signatories

9 to the security agreement and guarantee are being

10 populated as we speak and will follow the list of

11 subs that is attached. Please let me know if you

12 have any questions. The attached docs are being

13 sent to all parties simultaneously and remain

14 subject to further comment. You will note that

15 certain basket amounts in the security agreement

16 need to be filled in. Danny will be providing a

17 separate note on what the expectations are in

18 respect of reporting collateral call coverage,

19 AUM to debt ratio, et cetera."

20 Do you see that?

21 A Yes.

22 Q It says Danny will be providing

23 that information, right?

24 A Yes.

25 Q So that's in accordance with this

Page 286

1 Daniel Saks

2 plan under the subject PPCO note, right?

3 A It looks that way.

4 (There was a discussion off the

5 record.)

6 Q Okay. Do you recall this?

7 A No.

8 Q Why not? You recalled a lot of the

9 other debt instruments and documents you looked

10 at before my questioning. I'm curious as to why

11 it is you don't have any memory of the Desert

12 Hawk one.

13 A The Desert Hawk one or this --

14 Q Or the PPCO note?

15 A Some things I worked on more than

16 others. I also note that the date of this is,

17 like -- it's after I've already resigned, my last

18 week there.

19 Q But you were still the CIO of the

20 Beechwood structured products, right?

21 A Yes.

22 Q Now, it states -- it talks about

23 the security agreement, material loan docs and

24 the guarantee. Do you have any memory of those,

25 leafing through this attachment?

Page 287

1 Daniel Saks

2 A No. I could -- I could read all of

3 this.

4 Q Well, then going back up to the

5 first page, up to the top E-Mail, it says:

6 "Suzanne Horowitz at Platinum LP."

7 Do you see that?

8 A This -- this E-Mail, on the top?

9 Q And the very top, from

10 Christian Thomas, December 22nd?

11 A Yep.

12 Q And does that refresh your memory

13 as to who Suzanne Horowitz is?

14 A No.

15 Q Did you ever have any

16 communications with Suzanne Horowitz aside from

17 this E-Mail?

18 A Not -- I don't recall knowing who

19 Suzanne Horowitz is or communicating with her.

20 Q And in that E-Mail, which you were

21 copied on, just as the other, it says:

22 "Attached are further revised loan

23 docs with a disbursement letter."

24 Do you see that?

25 A Um-hum.

Page 288

1 Daniel Saks

2 Q So you received these attachments

3 in two separate E-Mails, right?

4 A Yes. It looks that way.

5 Q And looking through the

6 attachment -- attachments, the first one is a

7 letter with the subject, "PPCO funds flow."

8 Do you see that?

9 A How far into it are you?

10 Q The first attachment.

11 A Okay.

12 Yes.

13 Q Do you have a memory of receiving

14 that?

15 A No.

16 Q On the page ending with the numbers

17 0678 is a master security agreement. Do you see

18 that?

19 A Um-hum.

20 Q Do you recall looking at that?

21 A No.

22 Q On the page ending in 732 is a

23 subsidiary guarantee.

24 Do you see that?

25 A 732, you say?

Page 289

1 Daniel Saks

2 Q Yes.

3 A No.

4 Q You don't see 732?

5 A I see it. I see it.

6 Q Do you recall receiving that?

7 A No.

8 Q What about the third-to-the-last

9 page, ending 788, the delayed draw demand note?

10 Do you see that?

11 A Yes, I see it.

12 Q Do you recall receiving that

13 attachment?

14 A No.

15 Q I'm going to show you what we've

16 already marked in another deposition as

17 Exhibit 83.

18 (Previously Marked Exhibit No. 83,

19 December 23, 2015 Delay Draw Demand Note is

20 introduced into the proceedings.)

21 Q Now, that looks like an executed

22 version of the same delayed draw demand note that

23 you were a recipient of the attachment, right?

24 A Yes.

25 Q I'm going to ask you to look about

Page 290

1 Daniel Saks
2 the sixth page in. There's a signature at the
3 bottom there.
4 Do you recognize the signature?
5 A Yes.
6 Q Whose signature is that?
7 A It's my signature.
8 Q Now, this is a delayed demand draw
9 note -- delay draw demand note, rather, dated
10 December 23, 2015, in the amount of 15,500,000,
11 between Platinum Partners Credit Opportunities
12 Master Fund and SHIP, right?
13 A Yes.
14 Q And you signed on behalf of SHIP as
15 its allocation manager, right?
16 A Yes.
17 Q Did you understand what you were
18 doing here?
19 MS. SCHWARTZ: Object as to form.
20 A I mean, I understood that I was
21 signing. I don't -- I just don't remember the --
22 I don't remember the substance of this. I see
23 the 15-and-a-half million dollar loan, but I
24 don't remember the transaction.
25 Q Now, you mentioned before that

Page 291

1 Daniel Saks
2 documents were put in front of you that you just
3 signed, right?
4 A Yes.
5 Q Now, you mentioned, also, before
6 that you went to NYU Law School?
7 A Yes.
8 Q And you worked at Skadden Arps?
9 A Yes.
10 Q As an attorney?
11 A Yes.
12 Q Do you have an understanding of
13 what it means to sign on behalf of an entity in
14 an instrument such as this?
15 A Yes.
16 Q And are you taking the position
17 that you didn't read it or that you don't
18 remember it?
19 A No. I'm telling you that I don't
20 remember it.
21 Q Do you know what the purpose of
22 this loan was?
23 A I would need to read the loan so
24 that I could try to figure it out.
25 Q Well, it's right in front of you as

Page 292

1 Daniel Saks
2 Exhibit 83.
3 A Yeah. But there's a lot of
4 documents here.
5 Q Well, why don't you look at the one
6 you signed.
7 MS. SCHWARTZ: Look at whatever
8 documents you need to look at in order to
9 answer the question, if you're able.
10 A The page that's stapled at the end,
11 it's not part of this note; is it?
12 Q No, it's not. It's inadvertently
13 put in. You're correct about that.
14 Now, the question was:
15 What was the purpose of this
16 instrument?
17 A Looking at the instrument now, it
18 looks like it's a 15-and-a-half million dollar --
19 up to a 15-and-a-half million dollar loan from
20 SHIP to PPCO.
21 Q Now, you were the CIO of B Asset
22 Manager, right?
23 A Yes.
24 Q And B Asset Manager was the --
25 B Asset Management was, again, the investment --

Page 293

1 Daniel Saks
2 the investment advisor for that SHIP account,
3 right?
4 A Yes.
5 Q You also were the president of
6 B Asset Manager, right?
7 MS. SCHWARTZ: I'm just going to
8 ask the witness, either listen to the
9 question or read the document, but don't do
10 both. If counsel wants you to read the
11 document, he'll ask you to read it.
12 THE WITNESS: Okay.
13 Q You also mentioned before that you
14 left Beechwood partly because you became
15 uncomfortable with the way Beechwood would not
16 tell clients certain things, right?
17 A Yes.
18 Q I -- I take it that your leaving
19 means that you wouldn't be one of those people
20 who would not tell their clients one of these
21 things?
22 Withdrawn.
23 You are the type of person who
24 would not keep something from their client,
25 right?

Page 294

1 Daniel Saks
2 MS. SCHWARTZ: Object as to form.
3 A I didn't say that.
4 Q That's what I'm asking you. Are
5 you?
6 MS. SCHWARTZ: Object as to form.
7 A So -- so what -- what is the
8 question? Because --
9 Q Well, I'll withdraw the -- I'll
10 withdraw the question.
11 A -- it's a couple of negatives.
12 Q I'll withdraw the question.
13 Did you leave Beechwood, in
14 addition, because you did not want to be one of
15 the people who are not informing their clients of
16 important things?
17 A I was uncomfortable with the way
18 they communicated with their clients.
19 Q As the CIO, you had fiduciary
20 duties to your client, right?
21 A B Asset --
22 MS. SCHWARTZ: Object to the extent
23 it calls for a legal conclusion.
24 Q Well, you're a lawyer, correct?
25 A I haven't practiced law in --

Page 295

1 Daniel Saks
2 Q Yes. But you went to law school
3 and you worked at Skadden, correct?
4 A Yes.
5 Q Do you have an understanding of
6 what "fiduciary duties" are?
7 MS. SCHWARTZ: I'm not going to let
8 the witness give a legal opinion. He can
9 answer the question as a factual matter.
10 I'm just noting that it won't be a legal
11 opinion.
12 Q You can answer.
13 A The question was?
14 Q As CIO, you had fiduciary duties
15 towards SHIP, right?
16 A B Asset Manager had fiduciary
17 duties to SHIP.
18 Q And you were the president of
19 Beechwood -- B Asset Management?
20 A Yes.
21 Q And you were the CIO of B Asset
22 Management, right?
23 A Yes.
24 Q And doesn't the CIO also have
25 fiduciary duties?

Page 296

1 Daniel Saks
2 MS. SCHWARTZ: Asked and answered.
3 Q You can answer.
4 A B Asset Manager had fiduciary
5 duties.
6 Q Does that mean the CIO does not?
7 MS. SCHWARTZ: Asked and answered.
8 Q You can answer.
9 A B Asset Manager had fiduciary
10 duties to SHIP.
11 Q I understand that -- that you want
12 me to take from that that B Asset Manager -- does
13 that mean that you as CIO did not have fiduciary
14 duties? I just -- is that your testimony?
15 A Yeah. I'm not clear that I did.
16 Q I'm sorry.
17 A I'm not clear that I did.
18 Q Are you unclear as to whether or
19 not a CIO -- withdrawn -- a chief investment
20 officer of a company, do you have an
21 understanding as to whether or not that officer
22 has fiduciary duties?
23 MS. SCHWARTZ: Object to asking
24 this witness for a legal opinion. He can
25 answer as a factual matter if he's able.

Page 297

1 Daniel Saks
2 A And your question again, because I
3 was interrupted.
4 Q Does a CIO -- withdrawn.
5 Do you have an understanding as to
6 whether a CIO has fiduciary duties?
7 MS. SCHWARTZ: Same objection.
8 A I don't have an understanding.
9 Q I'm going to show you what we
10 marked at a previous deposition as Exhibit 233.
11 (Previously Marked Exhibit No. 233,
12 Executed Copy of Master Security Agreement
13 Instrument, Document is introduced into the
14 proceedings.)
15 Q Now, that is an executed copy of
16 one of the instruments that was sent as an
17 attachment to the previous E-Mail we looked at,
18 right?
19 A Okay.
20 Q Do you agree with me?
21 A If you say it is, yeah, I didn't
22 read the whole document.
23 Q And I'm going to ask you to look at
24 the signature pages of those. And you see that
25 these master -- this master security agreement is

Page 298

1 Daniel Saks

2 providing security to the delayed demand draw

3 note we just looked at from all of these entities

4 signed by Mark Nordlicht?

5 A I see that it's signed by

6 Mark Nordlicht. I didn't read the security

7 agreement. So if you want, I can read the

8 security agreement.

9 Q Have you seen this before?

10 A This is the same thing that you

11 asked me before. I don't recall seeing this.

12 Q You don't recall getting involved

13 with -- withdrawn.

14 You don't recall getting a security

15 interest in all of PPCO's interests and

16 subsidiaries?

17 A I don't recall the transaction.

18 Q Do you recall having conversations

19 with anyone about it?

20 A No.

21 Q When you received the E-Mail

22 containing these attachments, did you say to

23 somebody, "Hey, what are we doing here?"

24 A Possibly. I just don't remember

25 the transaction.

Page 299

1 Daniel Saks

2 Q Why?

3 A I don't know.

4 Q Have you done many transactions

5 such as this?

6 A I've done many transactions in my

7 career. This one, I just don't remember.

8 Q Have you done many transactions

9 where SHIP is loaning money to a Platinum entity

10 which is then getting -- taking security interest

11 in the Platinum entity?

12 A Yes, I did one.

13 Q Montsant, right?

14 A Yes.

15 Q And the reason why you were doing

16 the Montsant transaction was because you were

17 directed to get out of that, the Platinum

18 investments, by CNO, right?

19 MS. SCHWARTZ: Objection.

20 Mischaracterization.

21 A The reason why I did Montsant was

22 because I was directed to do Montsant. What the

23 purpose of Montsant was wasn't my decision or my

24 negotiation.

25 Q You were directed by whom to do

Page 300

1 Daniel Saks

2 Montsant?

3 A Mark Feuer and Scott Taylor.

4 Q Were you directed to do this

5 Desert Hawk transaction -- I'm sorry -- the PPCO

6 transaction here?

7 A This PPCO --

8 Q -- as well?

9 A -- loan is \$9 million, 9.1 --

10 Q It's \$15.5 million, right?

11 A Right. I know. But the first draw

12 was \$9.19 million. I don't remember the

13 transaction. So it's hard for me to say how it

14 came about, given that I don't remember the

15 transaction.

16 Q Do you remember if you were

17 directed to undertake this by Feuer and/or

18 Taylor?

19 A I just don't remember without

20 having any other materials. I don't remember.

21 Q I'm going to show you what we've

22 previously marked as Exhibit 234, entitled

23 "Subsidiary Guarantee."

24 (Previously Marked Exhibit No. 234,

25 Subsidiary Guarantee, Document is

Page 301

1 Daniel Saks

2 introduced into the deposition.)

3 Q Which I think you will agree with

4 me is the execution copy of the attachment you

5 received previously?

6 A Yes.

7 Q Also signed by Mark Nordlicht on

8 behalf of all of the PPCO entities?

9 A Yes.

10 I notice that I'm not -- I am not a

11 signatory to these.

12 Q I was going to ask you that.

13 On the last page, there's a blank

14 signature line. Do you recall signing either the

15 subsidiary guarantee or the master security

16 agreement?

17 A No.

18 Q Were you still the CIO at -- on

19 December 23, 2015?

20 A Yes.

21 Q Now, as you just reviewed this

22 note, you see that PPCO borrows \$15 million from

23 SHIP's accounts, right?

24 MS. SCHWARTZ: Which document are

25 you looking at?

Page 302

1 Daniel Saks
2 MR. MORAN: That was Exhibit 83.
3 A Well, I read the note that it's
4 a -- it's up to 15-and-a-half million dollars.
5 The initial tranche is \$9,198,750.
6 Q Okay. And then there's security
7 interest and guarantees provided for that debt,
8 right?
9 A Yes.
10 Q And this -- this whole transaction,
11 do you have an understanding of it being in
12 connection with Desert Hawk?
13 A No.
14 (Exhibit No. 495, E-Mail Chain at
15 the top, Christian Thomas to Suzanne
16 Horowitz, copy to Daniel Saks, and then
17 below Christian Thomas, Suzanne Horowitz,
18 copy to Daniel Saks, Bates Nos.
19 BW-SHIP-0133954 through 0133964 is marked
20 by the reporter for identification.)
21 Q All right. I'm going to show you
22 what we've marked as Exhibit 495, Bates stamps
23 BW-SHIP-01330954 through 64.
24 MS. SCHWARTZ: I don't have the
25 back. So I'll have to share with the

Page 303

1 Daniel Saks
2 witness.
3 MR. MORAN: I apologize.
4 (Document, Exhibit 495, requested.)
5 Q And I will represent it's an E-Mail
6 thread, first at the top, Christian Thomas to
7 Suzanne Horowitz, copy to you, and then below,
8 same thing, Christian Thomas, Suzanne Horowitz,
9 copy to you.
10 Do you see that?
11 A Yes.
12 Q The top E-Mail, it says:
13 "Susanne, attached are the three
14 Desert Hawk assignment agreements. I will resend
15 the disbursement letter with wiring instructions
16 in the morning."
17 Do you see that?
18 A Yes.
19 Q Do you recall receiving this?
20 A No.
21 Q Do you recall seeing the draft
22 assignment agreement?
23 A No.
24 Q Do you recall seeing in the
25 assignment agreement where it says:

Page 304

1 Daniel Saks
2 "Whereas on or about May 22, 2015,
3 the initial acquisition date, Beechwood Re as
4 nominee for Senior Health Insurance Company of
5 Pennsylvania (SHIP) acquired a \$3,350,000
6 participation in certain indebtedness of Desert
7 Hawk Gold Corp."
8 Do you see that?
9 A Yes.
10 Q And then at the bottom, in bold, is
11 the amount of over \$1.7 million, right?
12 A Where is the 1.7 -- yeah, at the
13 bottom.
14 Q Okay. Then if we leaf through to
15 the second assignment, it's also a participation
16 in Desert Hawk; do you see that?
17 A Um-hum.
18 Q And again in bold, in excess of
19 \$3.3 million.
20 A Yes.
21 Q And then the next one, again,
22 another participation in Desert Hawk, and at the
23 bottom, in bold, over \$4 million, do you see
24 that?
25 A Yes.

Page 305

1 Daniel Saks
2 Q So does this refresh your
3 recollection that these -- that this assignment
4 agreement is in connection with the PPCO note and
5 participations in Desert Hawk?
6 A I mean, it's in the same E-Mail
7 as -- as it's discussed as -- as the loan.
8 Q And --
9 A So --
10 Q -- you were copied on all this,
11 right?
12 A Yes.
13 Q So you received all these
14 documents, right?
15 A Yes.
16 (Exhibit No. 496, Assignment
17 Agreement, Document, Bates Nos. SHIP
18 0021189 through 0021197 is marked by the
19 reporter for identification.)
20 Q I'm handing you what we've marked
21 as Exhibit 496, Bates numbered SHIP 0021189
22 through 1197.
23 Have you seen that exhibit before?
24 A I saw the draft of this a minute
25 ago.

Page 306

1 Daniel Saks

2 Q And I'm going to refer your

3 attention to the signature page of each one of

4 these three assignment agreements and ask you if

5 you recognize any signatures.

6 A Yes.

7 Q Whose signatures do you recognize?

8 A Mine.

9 Q Yours, right?

10 A Yes.

11 Q By these agreements, PPCO received

12 the interest in Desert Hawk that was supposed to

13 be put back to PPVA; didn't it?

14 A Yes.

15 Q And you were involved in

16 determining the flow of the funds from SHIP to

17 pay for the Desert Hawk assets; weren't you?

18 MS. SCHWARTZ: Objection.

19 Mischaracterization.

20 A Where is the "flow of funds"?

21 Q Well, I'm asking, do you -- do you

22 remember being involved with it?

23 A No.

24 (Exhibit No. 497, December 22, 2015

25 E-Mail Thread from Christian Thomas dated

Page 307

1 Daniel Saks

2 December 22, 2015, to Suzanne Horowitz at

3 Platinum, and a copy to Daniel Saks amongst

4 others, Bates Nos. BW-SHIP-01330976 through

5 01330979 is marked by the reporter for

6 identification.)

7 Q I show you what we've marked as

8 497, Bates numbered BW-SHIP-01330976 through 79.

9 And I'll note it's an E-Mail thread from

10 Christian Thomas dated December 22, 2015, to

11 Suzanne Horowitz at Platinum, and a copy to you

12 amongst others.

13 Do you see that?

14 A Yes.

15 Q Do you recall receiving this

16 E-Mail?

17 A No.

18 Q The E-Mail reads:

19 "Disbursement letter with wire

20 instructions is attached. Best, Christian."

21 Then if you look on the attachment,

22 there's a draft of the flow-of-funds letter,

23 right?

24 A Yes.

25 Q Have you seen that before?

Page 308

1 Daniel Saks

2 A I don't recall seeing it, no.

3 Q Well, let me show you the executed

4 copy of that.

5 (Previously Marked Exhibit No. 235,

6 Flow of Funds Letter is introduced into the

7 proceedings.)

8 Q Which was marked at a previous

9 deposition as -- as Exhibit 235.

10 Executed on the back by whom?

11 A Mark Nordlicht.

12 Q Do you recall seeing that?

13 A No.

14 Q Now, this is the same document as

15 the attachment that you received, right?

16 A Yes.

17 Q And this describes certain funds

18 from the loan proceeds being used to pay for the

19 indebtedness owing from Desert Hawk, right?

20 A Yes.

21 Q And if we look down to footnote

22 A -- I'm sorry, footnote one, this demonstrates

23 exactly where the money is to be paid to, right?

24 A Let me read it first.

25 Q Well, why don't you work along with

Page 309

1 Daniel Saks

2 me.

3 MS. SCHWARTZ: If you'd like him to

4 answer a question about the document, you

5 have to let him read it.

6 MR. MORAN: Yeah. I'm going to

7 read it.

8 Q Footnote 1A, it reads:

9 "\$1,711,989.58 of the funding is

10 intended to be applied in payment of the purchase

11 price owing from the company to Beechwood Bermuda

12 International Limited (BBIL), BBIL custody, for

13 that certain participation agreement dated as of

14 May 22nd, 2015, by and between DMRJ Group I LLC

15 (DMRJ) and Beechwood Re as nominee of Senior

16 Health Insurance Company of Pennsylvania (SHIP)

17 as subsequently assigned by SHIP to BBIL as

18 relates to BBIL's participation in 1,675,000 of

19 principal indebtedness owing by of Desert Hawk

20 Gold Corp. (Desert Hawk), as well as \$36,909.58

21 of accrued and unpaid interest guaranteed by the

22 company thereunder."

23 Do you see that?

24 A Yes.

25 Q What is BBIL?

Page 310

1 Daniel Saks
2 A BBIL is Beechwood Bermuda
3 International Limited.
4 Q And BBIL is also the investment
5 advisor for one of the SHIP IMAs, right?
6 A I don't recall.
7 Q What is Beechwood Re?
8 A It's one of the Beechwood
9 reinsurance companies. I don't really know the
10 distinction between all the different Beechwood
11 names.
12 Q And isn't Beechwood Re also the
13 investment advisor for another of the SHIP IMAs?
14 A Again, I don't know what exactly
15 the different functions of the different
16 Beechwood entities are.
17 Q And we already established that the
18 DMRJ Group is that PPVA-related entity we talked
19 about, right?
20 A Yes.
21 Q \$1,711,989 of the loan proceeds was
22 used by PPCO insiders to purchase Desert Hawk
23 debt from BBIL as nominee of SHIP, right?
24 MS. SCHWARTZ: Object as to form.
25 You are not reading anymore.

Page 311

1 Daniel Saks
2 That's a question, right?
3 MR. MORAN: Yeah, that's a
4 question.
5 MS. SCHWARTZ: Okay.
6 Q Isn't that your -- is that your
7 understanding of what's happening here?
8 MS. SCHWARTZ: Do you understand
9 the question?
10 A I'm trying to make sure I
11 understand what this footnote is saying.
12 Q Withdrawn.
13 Doesn't this "A" section of
14 footnote one indicate that the \$1.7 million of
15 the loan proceeds to PPCO --
16 A Um-hum.
17 Q -- was used to purchase the
18 Desert Hawk debt from BBIL as nominee for SHIP?
19 A Yes.
20 Q And this also demonstrates that
21 BBIL previously had been assigned its interest in
22 this debt by Beechwood Re as nominee of SHIP,
23 right?
24 A By SHIP, assigned by SHIP to BBIL.
25 Q That debt had been acquired by

Page 312

1 Daniel Saks
2 Beechwood Re on behalf of SHIP pursuant to a
3 May 22nd, 2015 participation agreement between
4 Beechwood Re and DMRJ Group I LLC, right?
5 A I don't recall. Do you want me to
6 look at where that was?
7 Q Does that properly reflect what is
8 being set forth in that footnote 1A?
9 A It's a very complicated footnote,
10 you'd have to agree; and -- but it's saying it
11 was purchased -- there was a participation
12 agreement on May 22nd, 2015, yes.
13 Q And the flow-of-funds proceed --
14 proceeds further specifies that in excess of
15 \$36,000 of accrued and unpaid interest on that
16 debt increased the purchase price to the
17 1.7 million, right?
18 A Yes.
19 Q So no interest had been paid on the
20 underlying debt, right?
21 A That's what it looks like.
22 Q Which makes --
23 A Or maybe only a portion of the
24 interest had been paid at the -- the interest
25 that was due at that point. Maybe some interest

Page 313

1 Daniel Saks
2 was paid earlier.
3 Q When interest is not paid on an
4 underlying debt, that makes the debt
5 nonperforming; doesn't it?
6 A It depends when the interest is
7 due.
8 Q If it's due and not paid?
9 A Yes.
10 Q And that interest was now being
11 guaranteed by PPCO?
12 A No. It looks like in here that --
13 that -- that this was being -- it's -- it was
14 being purchased by PPCO.
15 Q Doesn't it say as well as
16 \$36,989.58 of accrued and unpaid interest
17 guaranteed by the company?
18 A Which -- I think, which had been
19 guaranteed by the company. Isn't that how you'd
20 read it?
21 Q So you're saying that that was
22 guaranteed by whom?
23 A Well --
24 MS. SCHWARTZ: Are you asking him
25 to read the document or --

Page 314

1 Daniel Saks

2 MR. MORAN: I'm asking him to give

3 his --

4 MS. SCHWARTZ: -- testify from his

5 own knowledge?

6 MR. MORAN: His own knowledge.

7 MS. SCHWARTZ: Because there's a

8 difference.

9 Okay. So --

10 A I can tell you what it says in the

11 document. The company is defined as PPCO.

12 Q Thank you.

13 And as for the flow of the loan

14 proceeds, that debt was now paid in full by PPCO,

15 right?

16 A Yes.

17 Q In other words, PPCO paid the same

18 hard price as Beechwood Re?

19 A It looks that way.

20 Q Do you know why PPC -- do you know

21 why PPCO was made to pay that debt in full?

22 MS. SCHWARTZ: Object as to form.

23 A No.

24 Q What was your answer?

25 A No.

Page 315

1 Daniel Saks

2 Q Now, your work involved buying and

3 selling loans, right?

4 A Yes.

5 Q It involves understanding whether a

6 loan is worth the price?

7 A Yes.

8 Q In your experience, is a loan still

9 worth the par price if it becomes nonperforming?

10 A Not always, but sometimes. It

11 depends what the assets are.

12 Q If the -- if the asset is

13 nonperforming?

14 A If -- if the value of the

15 collateral is -- is still substantial, then the

16 loan could be worth the value of the -- of a

17 principal amount of the loan.

18 Q Do you know whether the Desert Hawk

19 collateral was worth it?

20 A I don't know.

21 Q If it was nonperforming and the

22 collateral was not worth it, shouldn't the debt

23 be at a discount?

24 MS. SCHWARTZ: Objection. Calls

25 for speculation.

Page 316

1 Daniel Saks

2 A Yes.

3 Q Now, B of the footnote reads:

4 "\$3,398,427.08 of the funding is

5 intended to be applied in payment of the purchase

6 price owing from the company to BBIL for that

7 certain participation agreement dated as of

8 May 22nd, 2015, by and between DMRJ and BBIL as

9 relates to BBIL's participation in 3,325,000 of

10 principal indebtedness owing by Desert Hawk, as

11 well as 73,427.8 of accrued and unpaid interest

12 guaranteed by the company thereunder."

13 Do you see that?

14 A Um-hum.

15 Q So this is basically the same thing

16 happening?

17 A Um-hum. Yes.

18 Q And then C:

19 "\$4,088,333.34 of the funding is

20 intended to be applied in payment of the purchase

21 price owing from the company to Beechwood Re for

22 that certain participation agreement dated as of

23 May 22nd, 2015, by and between DMRJ and BAM

24 Administrative Services as agent as it relates to

25 BR's participation in \$1,789,492 of principal

Page 317

1 Daniel Saks

2 indebtedness and \$2,210,508 of interest

3 outstanding in each case of Desert Hawk, as well

4 as" 88,333 -- eight -- excuse me -- "\$88,333.34

5 of accrued and unpaid interest guaranteed by the

6 company thereunder."

7 So that's the same thing happening

8 with another part of the account, right?

9 A Yes.

10 Q Now, we looked before at the

11 Montsant investment. And that had a similar kind

12 of structure; didn't it?

13 A No. It wasn't a participation.

14 Q Well, not -- well, withdrawn.

15 The Montsant loan also involved

16 SHIP loaning money in that case to PPVA, which

17 then used that money to get by -- to get involved

18 with the Montsant assets, right?

19 MS. SCHWARTZ: Object as to form.

20 A To -- no, it wasn't used to get

21 Montsant assets.

22 Q You spoke before about CNO asking

23 to get out of the Black Elk.

24 A Yes.

25 Q To do that, SHIP loaned money to

Page 318

1 Daniel Saks

2 PPVA, right?

3 MS. SCHWARTZ: Object as to form.

4 A I didn't know that that was the

5 intention at the time of -- of SHIP's loan to

6 Montsant.

7 Q And didn't SHIP -- and didn't PPVA

8 then use that money to get the Montsant to get --

9 to use the money to get out of Black Elk?

10 A I'm sorry. You said PPVA --

11 Q Well, what's your understanding --

12 what's your understanding of how that happened?

13 A Montsant was loaned the money. It

14 was going to pledge collateral. It was

15 personally guaranteed. And a Montsant dividend

16 or -- or moved the money up to PPVA, and PPVA

17 ultimately bought the Black Elk fund.

18 Q And that was at the direction of

19 CNO, ultimately, correct?

20 MS. SCHWARTZ: Objection to form.

21 Mischaracterization.

22 A No. CNO wanted to get rid of the

23 Black Elk notes in our portfolio. They didn't --

24 to my knowledge, they didn't discuss how that

25 should be done.

Page 319

1 Daniel Saks

2 Q And didn't SHIP, similarly, direct

3 Beechwood to get Platinum assets out of its

4 accounts?

5 A I'm unaware of SHIP requesting --

6 at least, I'm unaware of SHIP requesting anything

7 with regard to their investment.

8 Q You -- you received all these

9 documents by E-mail, and we've just looked

10 through them now.

11 Do you know of any other reason why

12 this whole transaction occurred?

13 MS. SCHWARTZ: Object as to form.

14 Calls for speculation.

15 A Any other reason other than what?

16 Q Other than it was directed by SHIP

17 to get out of Platinum investments.

18 MS. SCHWARTZ: Objection to form.

19 Calls for speculation. The witness said he

20 doesn't remember the transaction.

21 You can answer.

22 A No. I don't think that SHIP -- I'm

23 not -- I'm not aware of SHIP asking to remove

24 these assets. I'm not aware of them.

25 Q Do you know why this transaction

Page 320

1 Daniel Saks

2 took place?

3 A No. Unfortunately, I don't -- I

4 don't recollect the transaction.

5 Q Do you understand why the put to

6 PPVA of these assets winds up in the holdings of

7 PPCO?

8 A No.

9 Q Who negotiated this on behalf of

10 Beechwood?

11 A I don't know. Unfortunately, I

12 don't recall the transaction. So it's hard for

13 me to say, without looking at other materials,

14 who was involved in negotiating the transaction.

15 Q Were you a party to any of this

16 litigation at any time?

17 A To which litigation?

18 Q To any of these litigations?

19 A Yes.

20 Q Tell us about that.

21 MS. SCHWARTZ: Object as to form.

22 Q Were you named as a third-party

23 defendant in a claim brought by SHIP?

24 A Yes.

25 Q Are you still?

Page 321

1 Daniel Saks

2 A No.

3 Q What happened?

4 A They dismissed me.

5 Q Did you enter into a settlement

6 agreement?

7 MS. SCHWARTZ: I'm going to allow

8 the witness to answer that question "yes"

9 or "no"; then I'm going to caution him not

10 to answer anything confidential about the

11 settlement agreement. So --

12 A Yes.

13 Q Yes or no, is there a

14 confidentiality provision in the settlement

15 agreement?

16 MS. SCHWARTZ: I will represent

17 that there is.

18 Q And in connection with this

19 settlement, did you provide SHIP an affidavit?

20 MS. SCHWARTZ: I'm going to object

21 and direct the witness not to answer.

22 MR. MORAN: On what grounds?

23 MS. SCHWARTZ: On the grounds of

24 confidentiality of the settlement and

25 common interest privilege.

1
2 CERTIFICATE
3
4 I, TAB PREWETT, A Registered
5 Professional Reporter, Notary Public, Certified
6 LiveNote Reporter, and Certified Shorthand
7 Reporter, do hereby certify that prior to the
8 commencement of the examination DANIEL SAKS
9 affirmed to the notary public to testify to the
10 truth, the whole truth and nothing but the truth.
11
12 I DO FURTHER CERTIFY that the
13 foregoing is a true and accurate transcript of
14 the testimony as taken stenographically by and
15 before me at the time, place and on the date
16 hereinbefore set forth.
17
18 I DO FURTHER CERTIFY that I am
19 neither a relative nor employee nor attorney nor
20 counsel of any of the parties to this action, and
21 that I am neither a relative nor employee of such
22 attorney or counsel, and that I am not
23 financially interested in the action.
24
25 Tab Prewett
TAB PREWETT
Notary Public
My Commission expires February 9, 2024
Dated: December 4, 2019

1 Errata Sheet
2
3 NAME OF CASE: IN RE: PLATINUM-BEECHWOOD LITIGATION
4 DATE OF DEPOSITION: 11/19/2019
5 NAME OF WITNESS: Daniel Saks
6 Reason Codes:
7 1. To clarify the record.
8 2. To conform to the facts.
9 3. To correct transcription errors.
10 Page _____ Line _____ Reason _____
11 From _____ to _____
12 Page _____ Line _____ Reason _____
13 From _____ to _____
14 Page _____ Line _____ Reason _____
15 From _____ to _____
16 Page _____ Line _____ Reason _____
17 From _____ to _____
18 Page _____ Line _____ Reason _____
19 From _____ to _____
20 Page _____ Line _____ Reason _____
21 From _____ to _____
22 Page _____ Line _____ Reason _____
23 From _____ to _____
24
25 _____

EXHIBIT 9

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

(Caption continued on page 2)
VOLUME I

TRANSCRIPT OF DEPOSITION OF
DAVID PRAGER

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Tuesday, December 17, 2019,
commencing at 10:05 a.m. (Caption continued)

Page 2

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658(JSR)
5 CASE NO. 1-19-CV-07137(JSR)
6 -----
7 SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA,
8
9 Plaintiff,
10 vs.
11
12 LINCOLN INTERNATIONAL LLC and LINCOLN
13 PARTNERS ADVISORS LLC,
14 Defendants.
15 -----
16
17
18
19
20
21
22
23
24
25

Page 3

1
2 A P P E A R A N C E S :
3
4 DLA PIPER, LLP (US)
5 BY: STEVEN M. ROSATO, ESQ.
6 ROBERT C. SANTORO, ESQ.
7 1251 Avenue of the Americas, 38th Floor
8 New York, New York 10020-1104
9 Attorneys for Plaintiff, SHIP
10
11
12
13
14
15
16
17
18 BRENT WEISENBERG, ESQ.
19 Platinum Partners
20 230 Park Avenue, Suite 135
21 New York, New York 10169
22 Attorneys for the
23 Receivership Entities
24
25

Page 4

1
2 OTTERBOURG, P.C.
3 BY: ERIK WEINICK, ESQ.
4 230 Park Avenue
5 New York, New York 10169
6 Attorneys for Plaintiff Receiver
7
8
9
10
11
12 CONDON TOBIN SLADEK THORNTON
13 BY: KENDAL B. REED, ESQ.
14 8080 Park Lane, Suite 700
15 Dallas, Texas 75231
16 Attorneys for PB Investments
17
18
19
20 ALSO PRESENT:
21
22 Tim Hart, Expert Witness for SHIP
23
24
25 Derek Rose, Videographer

Page 5

1 David Prager
2 P R O C E E D I N G S
3 THE VIDEOGRAPHER: This is the
4 videotaped deposition of David Prager taken
5 In Re: Platinum-Beechwood Litigation in the
6 United States District Court,
7 Southern District of New York, Case Number
8 18-CV-6658(JSR). This deposition is being
9 held at 90 Broad Street, New York,
10 New York.
11 My name is Derek Rose, from US
12 Legal Support; and I am the video
13 specialist. The court reporter today is
14 Tab Prewett, also from US Legal Support.
15 We are going on the record at 10:05 a.m.
16 Counsel will be noted on the stenographic
17 record.
18 Will the court reporter please
19 swear in the witness.
20 D A V I D W. P R A G E R,
21 doing business at
22 Goldin Associates LLC,
23 350 Fifth Avenue
24 New York, New York 10118
25 having affirmed to the notary public to testify

Page 14

1 David Prager

2 Q Is that a true and accurate copy of

3 the report that you provided in this matter?

4 A I'm using the copy that was handed

5 to me by my counsel, so I will assume it is.

6 Q Did you have a chance to flip

7 through it and take a look and make sure?

8 A It's a long -- long report with a

9 lot of words, but it appears to be.

10 Q And does it have 275 pages?

11 A It has 275 pages before the two

12 exhibits that are not numbered alongside it.

13 Q And then that would be Exhibit 1,

14 Exhibit 2?

15 A Correct.

16 Q Do you still today stand by and

17 agree with everything in this report?

18 A Yes.

19 Q Is there anything today that you

20 would like to change in this report?

21 A In the course of -- of preparing

22 for the deposition, I've noticed some

23 typographical errors, nothing that changes any of

24 the substance.

25 Q So other than some typographical

Page 15

1 David Prager

2 errors, there's nothing else that you would like

3 to change in this report?

4 A That's correct.

5 Q What did you do to prepare for the

6 deposition today?

7 A In preparation for the deposition

8 today, I reviewed the report. I reviewed various

9 other documents that I relied upon to -- to

10 prepare the report. I reviewed Mr. Hart's

11 rebuttal to my report. I met with counsel. I

12 met with members of my team.

13 Q What documents that you relied on

14 to prepare the report did you review?

15 A You know, I probably relied on -- I

16 relied on -- I've listed 142 documents here that

17 I relied on, and I've reviewed several dozen of

18 them.

19 Q Any specific ones that you can

20 remember today?

21 A I remember the coal mining

22 valuation report. I -- I looked at some of these

23 reserve reports.

24 Q Could you identify the document

25 number?

Page 16

1 David Prager

2 A I mean, if you want, we can go

3 down. I mean, I'm not sure I can tell you all

4 the ones that I -- I've reviewed.

5 I've reviewed at least some portion

6 of 10, 11, 12. If I had known we were going

7 through this, I would have made it -- I would

8 have printed it larger. I believe I reviewed 2,

9 18, 19, 27 and 28. At least 1 of 34 through 37.

10 I'm not sure. 38, 39, 40, 41. I may have

11 reviewed 72. 78, 79, 101, 102, 103, 105, 110

12 maybe, 109, I think, portions of 108, 134. I

13 think 134 through 142. I believe I reviewed all

14 of those.

15 There may have been others that I

16 reviewed that I'm just, from the document names,

17 not recalling or not recalling as I sit here

18 today. I think there were also some documents

19 that I reviewed that were produced recently

20 that -- that Mr. Hart had referred to in his

21 report.

22 And there was a SHIP board meeting

23 packet that I reviewed as well that was produced

24 and that -- that I know was discussed at

25 Mr. Hart's deposition.

Page 17

1 David Prager

2 I also -- going back to your

3 question, I think your original question was what

4 did I review in preparation for today. I know

5 there was a letter that your firm had sent

6 respecting Mr. Kirschner's testimony and subjects

7 that -- that you would anticipate discussing

8 today.

9 Q The documents that you reviewed,

10 were there any of them that you reviewed that

11 were not referenced in Mr. Hart's report?

12 MR. WEINICK: Objection to the

13 form.

14 A I -- I don't understand the

15 question.

16 Q I just want to make sure I

17 understood your last answer clearly.

18 You said that you reviewed

19 documents that were produced recently that

20 Mr. Hart had referred to in his report. And so

21 was that volume of documents specifically limited

22 to documents referenced in his report or did it

23 include other documents that were not referenced

24 in his report?

25 A I'm not sure. There were some

Page 318

1		
2		
3	Exhibit No. Prager 3,	83
	December 23, 2105 E-Mail From Joe	
4	Mann; subject: RE: Execution	
	Versions of PPCO Loan Docs, With	
5	Attachments, first Bates No.	
	BW-SHIP-01331549	
6		
	Exhibit No. Prager 4,	131
7	December 31, 2015 Wilmington Trust	
	Account Statement, Bates No. WT	
8	0000565	
9	Exhibit No. Prager 5, January 15, 2015	136
	Wilmington Trust North America Account	
10	Statement with Senior Health Insurance	
	Company of Pennsylvania, Bates No. WT	
11	001257	
12	Exhibit No. Prager 6, First Amended	142
	Complaint Filed By the Receiver	
13		
	Exhibit No. Prager 7, January 20, 2016	160
14	E-Mail from Christian Thomas to	
	Suzanne Horowitz, Subject: BAM	
15	Administrative Services PPCO Fully	
	Executed Documents, first Bates No.	
16	BW-SHIP-00167640	
17	Exhibit No. Prager 8, \$5 Million	168
	LC Energy Note Purchase Agreement,	
18	Bates No. CTRL 8961743	
19	Exhibit No. Prager 9, An Article	206
	Titled "Solvency Tests" By J.B.	
20	Heaton, Bates No. CTRL 969841	
21	Exhibit No. Prager 10, Decision in	247
	Lehman Brothers International (Europe)	
22	(in administration) versus AG	
	Financial Products, Inc. Document	
23		
24		
25		

Page 320

1

2 CERTIFICATE

3

4 I, TAB PREWETT, A Registered

5 Professional Reporter, Notary Public, Certified

6 LiveNote Reporter, and Certified Shorthand

7 Reporter, do hereby certify that prior to the

8 commencement of the examination DAVID PRAGER was

9 affirmed by the notary public to testify to the

10 truth, the whole truth and nothing but the truth.

11

12 I DO FURTHER CERTIFY that the

13 foregoing is a true and accurate transcript of

14 the testimony as taken stenographically by and

15 before me at the time, place and on the date

16 hereinbefore set forth.

17

18 I DO FURTHER CERTIFY that I am

19 neither a relative nor employee nor attorney nor

20 counsel of any of the parties to this action, and

21 that I am neither a relative nor employee of such

22 attorney or counsel, and that I am not

23 financially interested in the action.

24

25 TAB Prewett

TAB PREWETT
 Notary Public

My Commission expires February 9, 2024
 Dated: January 3, 2020

Page 319

1		
2		
3	There was an instruction not to	253
	answer.	
4		
	Exhibit No. Prager 11, Valuation	258
5	Memorandum on Desert Hawk, Bates No.	
	CTRL 8961340	
6		
	Exhibit No. Prager 12, Valuation	293
7	Model, Bates No. CTRL 8967157	
8	Exhibit No. Prager 13, 12/31/15	307
	Valuation Document, Bates No. CTRL	
9	8960018	
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Page 321

1 Errata Sheet

2

3 NAME OF CASE: IN RE: PLATINUM-BEECHWOOD LITIGATION

4 DATE OF DEPOSITION: 12/17/2019

5 NAME OF WITNESS: David Prager

6 Reason Codes:

7 1. To clarify the record.

8 2. To conform to the facts.

9 3. To correct transcription errors.

10 Page ____ Line ____ Reason ____

11 From _____ to _____

12 Page ____ Line ____ Reason ____

13 From _____ to _____

14 Page ____ Line ____ Reason ____

15 From _____ to _____

16 Page ____ Line ____ Reason ____

17 From _____ to _____

18 Page ____ Line ____ Reason ____

19 From _____ to _____

20 Page ____ Line ____ Reason ____

21 From _____ to _____

22 Page ____ Line ____ Reason ____

23 From _____ to _____

24

25

EXHIBIT 10

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as JOINT
OFFICIAL LIQUIDATORS and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

TRANSCRIPT OF DEPOSITION OF
DAVID STEINBERG

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Monday, November 18, 2019,
commencing at 10:04 a.m.

Page 2	Page 4
1	1
2 A P P E A R A N C E S:	2 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
3	3 BY: ABIGAIL JOHNSTON, ESQ.
4	4 GABRIEL HERTZBERG, ESQ.
5 DLA PIPER, LLP (US)	5 101 Park Avenue
6 BY: MARK DECKMAN, ESQ.	6 New York, New York 10178
7 1251 Avenue of the Americas, 38th Floor	7 Attorneys for the Defendant,
8 New York, New York 10020-1104	8 David Bodner
9 Attorneys for Plaintiff, SHIP	9
10	10
11	11
12	12
13	13 MINTZ, LEVIN, COHN, FERRIS,
14 LANKLER SIFFERT & WOHL, LLP	14 GLOVSKY and POPEO, P.C.
15 BY: DAVID E. HODGES, ESQ.	15 BY: THERESE M. DOHERTY, ESQ.
16 MATT COOGAN, ESQ.	16 The Chrysler Center
17 500 Fifth Avenue	17 666 Third Avenue
18 New York, New York 10110-3398	18 New York, New York 10017
19 Attorneys for David Steinberg, Witness	19 Attorneys for Defendants
20	20 Kevin Cassidy and Michael Nordlicht
21	21
22	22
23	23
24	24
25	25
Page 3	Page 5
1	1
2 HOLLAND & KNIGHT LLP	2
3 BY: JOHN L. BROWNLEE, ESQ.	3 MORRISON COHEN LLP
4 800 17th Street, N.W., Suite 1100	4 BY: DANIEL C. ISAACS, ESQ.
5 Washington, DC 20006	5 909 Third Avenue
6 Attorneys for the Plaintiffs,	6 New York, New York 10022-4784
7 Martin Trott	7 Attorneys for the
8	8 Huberfeld Family Foundation, Inc.
9	9
10	10
11	11
12 HOLLAND & KNIGHT LLP	12 ALSTON & BIRD LLP
13 BY: WARREN ERNEST GLUCK, ESQ.	13 BY: JENNA C. POLIVY, ESQ.
14 31 West 52nd Street	14 90 Park Avenue
15 New York, New York 10019	15 15th Floor
16 Attorneys for the Plaintiffs,	16 New York, New York 10016-1387
17 Martin Trott	17 Attorneys for
18	18 Washington National Insurance Company
19	19 Bankers Conesco
20	20
21	21
22	22
23	23
24	24
25	25

<p style="text-align: right;">Page 354</p> <p>1 David Steinberg</p> <p>2 Q Fair enough.</p> <p>3 So I just have a few follow-up</p> <p>4 questions about that.</p> <p>5 Do you know what particular space</p> <p>6 in the office was used by those individuals?</p> <p>7 A I have a recollection there was a</p> <p>8 small conference room that was -- there were</p> <p>9 three conference rooms on the 4th floor -- on the</p> <p>10 14th floor or 4th floor? I forget which floor I</p> <p>11 was on. I think it was the 4th floor. Yes, I</p> <p>12 think it was the 4th floor that -- where I worked</p> <p>13 on and where Nordlicht sat.</p> <p>14 There were three conference rooms.</p> <p>15 There was the big nice one, and there were two</p> <p>16 other ones. Of those two other ones, there was a</p> <p>17 small one, and I believe that -- that I saw</p> <p>18 Taylor and Feuer sitting there at some point.</p> <p>19 But like I mentioned before, I</p> <p>20 don't have a recollection of them, like, coming</p> <p>21 to work there every day. They were definitely --</p> <p>22 they were there frequently.</p> <p>23 Q Okay. So just drilling down on</p> <p>24 that, do you know about how many days a week that</p> <p>25 Feuer was using that conference room?</p>	<p style="text-align: right;">Page 356</p> <p>1 David Steinberg</p> <p>2 recall any other meetings in those offices?</p> <p>3 A No.</p> <p>4 Q You also -- you mentioned earlier</p> <p>5 that, during the second quarter of 2014, that it</p> <p>6 was your understanding that Mark Nordlicht had an</p> <p>7 office at Beechwood.</p> <p>8 Do you recall that?</p> <p>9 A Yes.</p> <p>10 Q Okay. You recall -- do you</p> <p>11 recall -- do you remember whether Mark Nordlicht</p> <p>12 was at Beechwood's offices every day during the</p> <p>13 second quarter of 2014?</p> <p>14 A I don't know if it was every day.</p> <p>15 Q Do you recall at some point him</p> <p>16 ceasing to use office space at Beechwood?</p> <p>17 A Yes.</p> <p>18 Q When was that?</p> <p>19 A Towards the end of 2014.</p> <p>20 Q Okay. We've talked a little bit</p> <p>21 today about the so-called 2015 restructuring.</p> <p>22 A 2015? 2016.</p> <p>23 Q 2016. I apologize. What was your</p> <p>24 role in that restructuring?</p> <p>25 A It was -- my recollection is that</p>
<p style="text-align: right;">Page 355</p> <p>1 David Steinberg</p> <p>2 A No.</p> <p>3 Q Do you know how many days a week</p> <p>4 that Taylor was using that conference room?</p> <p>5 A No.</p> <p>6 Q Do you recall them being there</p> <p>7 every day?</p> <p>8 A No.</p> <p>9 Q Do you recall them being there all</p> <p>10 day during the days that they were involved with</p> <p>11 it?</p> <p>12 MR. WEINICK: Objection to form.</p> <p>13 A No.</p> <p>14 Q Okay. Do you know what they used</p> <p>15 those offices for?</p> <p>16 A No. I don't know what they were</p> <p>17 doing in the office.</p> <p>18 Q Do you know whether they were</p> <p>19 bringing people in to meet with them in those</p> <p>20 offices?</p> <p>21 A I don't -- I have one recollection</p> <p>22 of, actually, a lawyer that was looking for a job</p> <p>23 that I referred to them, which they met in that</p> <p>24 conference room.</p> <p>25 Q Yes. Other than that, do you</p>	<p style="text-align: right;">Page 357</p> <p>1 David Steinberg</p> <p>2 Nordlicht called me up and said:</p> <p>3 "Call Chris Thomas or somebody at</p> <p>4 Beechwood" -- I don't know if Dhruv was there at</p> <p>5 the -- yes, Dhruv was there already -- "and tell</p> <p>6 them you want" X, Y and Z -- I think it was like</p> <p>7 interest rate reduction and cleaning up something</p> <p>8 with the Northstar notes -- "and they're going to</p> <p>9 have something -- they're going to have what they</p> <p>10 need prepared to respond to you, and see if we</p> <p>11 can make a deal."</p> <p>12 So it seemed to be almost like one</p> <p>13 of those prearranged marriages, where I was put</p> <p>14 into a situation where the outcome was already</p> <p>15 determined prior to my involvement; and Mark was</p> <p>16 just sending me to basically like usher the</p> <p>17 transaction to its conclusion.</p> <p>18 There were definitely parts of the</p> <p>19 transaction that were negotiated, and there were</p> <p>20 legal documents that we -- that me and Suzanne</p> <p>21 and Ottensoser went through. And we, you know,</p> <p>22 had negotiations about different points.</p> <p>23 But the general concept of the</p> <p>24 construct of the deal, if I recall correctly, was</p> <p>25 pretty much preordained, I guess is what I want</p>

<p style="text-align: right;">Page 362</p> <p>1 David Steinberg</p> <p>2 were investing in level one kind of assets, where</p> <p>3 things that could be sold pretty quickly. And he</p> <p>4 wanted to get back to that balance where part of</p> <p>5 the funds AUM would still in be level three.</p> <p>6 He felt he was strong in level</p> <p>7 three, but also part of it would be level one</p> <p>8 assets. That's -- that's what his -- that's what</p> <p>9 he needed. That's where he knew he needed to get</p> <p>10 to -- for the fund to, in his mind, be successful</p> <p>11 again.</p> <p>12 Q So just breaking that down a little</p> <p>13 bit, with respect to the management share class,</p> <p>14 what would the benefit of the management share</p> <p>15 class have been?</p> <p>16 MR. HODGES: Object to form.</p> <p>17 MR. GLUCK: Objection to form.</p> <p>18 A I just know the words "management</p> <p>19 share class." What it meant to me was, whoever</p> <p>20 came in and put in whatever number of money he</p> <p>21 was looking for would get a piece of the</p> <p>22 management company.</p> <p>23 So besides being an investor, they</p> <p>24 would all -- I mean, being a limited partner in</p> <p>25 the fund, they would also get, you know, part of</p>	<p style="text-align: right;">Page 364</p> <p>1 David Steinberg</p> <p>2 held did not match those redemption terms. And</p> <p>3 that is something that's not sustainable in the</p> <p>4 long-term.</p> <p>5 So either you have a choice of</p> <p>6 changing your fund into what's known as more of a</p> <p>7 private entity structure, where there's no</p> <p>8 redemptions -- you only get paid as assets are</p> <p>9 monetized; or you become liquid again and have</p> <p>10 liquid securities that can -- that can pay</p> <p>11 redemptions, you know, that are available to draw</p> <p>12 down on when redemptions come in, you know, on</p> <p>13 the liquid side of things.</p> <p>14 And I don't think he thought going</p> <p>15 private entity was a viable structure for his</p> <p>16 existing investors, and he didn't want to start</p> <p>17 from scratch again; so he figured:</p> <p>18 "My best bet here is to bring in</p> <p>19 cash that I could start up my liquid book again,</p> <p>20 and then my liquidity terms to investors would be</p> <p>21 more aligned with the liquidity profile of his</p> <p>22 assets."</p> <p>23 So a classic asset-liability</p> <p>24 matching exercise.</p> <p>25 Q So is it your understanding that</p>
<p style="text-align: right;">Page 363</p> <p>1 David Steinberg</p> <p>2 the hedge fund business, the fee generation</p> <p>3 business of running a hedge fund as, like, a</p> <p>4 kicker to that investment into Platinum.</p> <p>5 Q But new money would be coming in</p> <p>6 with that management share class?</p> <p>7 MR. WEINICK: Objection to the</p> <p>8 form.</p> <p>9 MR. GLUCK: Objection.</p> <p>10 A Yes. That was my understanding.</p> <p>11 Q Okay. And then to the extent there</p> <p>12 was a benefit with rebalancing the portfolio,</p> <p>13 what's your understanding of what that benefit</p> <p>14 would be?</p> <p>15 MR. HODGES: Object to form.</p> <p>16 A I think that -- I think it was</p> <p>17 obvious; and I don't recall anybody telling me</p> <p>18 this or seeing it in a document somewhere; but I</p> <p>19 think it was obvious that Platinum's redemption</p> <p>20 structure didn't match the assets that it</p> <p>21 currently had in its balance sheet.</p> <p>22 And that is that Platinum was</p> <p>23 structured as a traditional hedge fund, which</p> <p>24 allows redemptions on some kind of notice period.</p> <p>25 And the liquidity profile of the assets that it</p>	<p style="text-align: right;">Page 365</p> <p>1 David Steinberg</p> <p>2 rebalancing the portfolio would make the funds</p> <p>3 more sustainable?</p> <p>4 A Yes.</p> <p>5 Q Okay. You mentioned that you,</p> <p>6 after an initial conversation with Mr. Nordlicht,</p> <p>7 were kind of the point person on the</p> <p>8 restructuring; is that correct?</p> <p>9 A March 2016 restructuring?</p> <p>10 Q Yes.</p> <p>11 A That's my recollection.</p> <p>12 Q Okay. And in negotiating that on</p> <p>13 behalf of Platinum, were you acting in the fund's</p> <p>14 best interests?</p> <p>15 A In hindsight, it's hard to know if</p> <p>16 I was acting in the fund's best interests or not.</p> <p>17 But I was -- I was assuming that Mark was giving</p> <p>18 the instructions that were in the fund's best</p> <p>19 interests, and I was acting on those</p> <p>20 instructions.</p> <p>21 Q Did you believe yourself to be</p> <p>22 acting in the fund's best interests?</p> <p>23 A At the time, yes.</p> <p>24 Q I don't want to spend too much time</p> <p>25 on Agera, but just a couple of quick follow-up</p>

EXHIBIT 11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

TRANSCRIPT OF DEPOSITION OF
DHRUV NARAIN

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Wednesday, October 23, 2019,
commencing at 9:59 a.m.

Page 2

1

2 A P P E A R A N C E S:

3

4 DLA PIPER, LLP (US)

5 BY: KATHLEEN BIRRANE, ESQ.

6 6225 Smith Avenue

7 Baltimore, Maryland 21209-3600

8 Attorneys for Plaintiff, SHIP

9 Baltimore

10

11

12

13 DLA PIPER, LLP (US)

14 BY: ROBERT C. SANTORO, ESQ.

15 1251 Avenue of the Americas, 38th Floor

16 New York, New York 10020-1104

17 Attorneys for Plaintiff, SHIP

18

19

20

21

22

23

24

25

Page 4

1

2 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP

3 BY: ABIGAIL JOHNSTON, ESQ.

4 101 Park Avenue

5 New York, New York 10178

6 Attorneys for the Defendant,

7 David Bodner

8

9

10

11

12 MINTZ, LEVIN, COHN, FERRIS,

13 GLOVSKY and POPEO, P.C.

14 BY: THERESE M. DOHERTY, ESQ.

15 LISAMARIE COLLINS, ESQ.

16 The Chrysler Center

17 666 Third Avenue

18 New York, New York 10017

19 Attorneys for Defendants

20 Kevin Cassidy and Michael Nordlicht

21

22

23

24

25

Page 3

1

2 HOLLAND & KNIGHT LLP

3 BY: WILLIAM F. GOULD, ESQ.

4 800 17th Street, N.W., Suite 1100

5 Washington, DC 20006

6 Attorneys for the Plaintiffs,

7 Martin Trott

8

9

10

11 HOLLAND & KNIGHT LLP

12 BY: WARREN ERNEST GLUCK, ESQ.

13 ELLIOT MAGRUDER, ESQ.

14 31 West 52nd Street

15 New York, New York 10019

16 Attorneys for the Plaintiffs,

17 Martin Trott

18

19

20

21

22

23

24

25

Page 5

1

2 MORRISON COHEN LLP

3 BY: DANIEL C. ISAACS, ESQ.

4 909 Third Avenue

5 New York, New York 10022-4784

6 Attorneys for the

7 Huberfeld Family Foundation, Inc.

8 Mr. Isaacs present telephonically

9

10

11

12

13

14 CONDON TOBIN SLADEK THORNTON

15 BY: KENDAL B. REED, ESQ.

16 8080 Park Lane, Suite 700

17 Dallas, Texas 75231

18 Attorneys for PB Investments

19

20

21

22

23

24

25

Page 6

1

2 ALSTON & BIRD LLP

3 BY: ADAM J. KAISER, ESQ.

4 90 Park Avenue

5 15th Floor

6 New York, New York 10016-1387

7 Attorneys for

8 Washington National Insurance Company

9 Bankers Conseco

10

11

12

13 PROSKAUER ROSE LLP

14 BY: STACEY EILBAUM, ESQ.

15 EDWARD J. CANTER, ESQ.

16 STEVEN HOLINSTAT, ESQ.

17 Eleven Times Square

18 New York, New York 10036-8299

19 Attorneys for Beechwood

20

21

22

23

24

25

Page 7

1

2 OTTERBOURG, P.C.

3 BY: WILLIAM M. MORAN, ESQ.

4 GABRIELA LEON, ESQ.

5 ERIK WEINICK, ESQ.

6 230 Park Avenue

7 New York, New York 10169

8 Attorneys for Plaintiff Receiver

9

10

11

12

13

14

15 GIBSON DUNN LLP

16 BY: NAIMA L. FARRELL, ESQ.

17 1050 Connecticut Avenue, N.W.

18 Washington, DC 20036-5306

19

20

21 Present telephonically as noted

22 in transcript

23

24

25

Page 8

1

2 ALSO PRESENT:

3

4 DIAMOND McCARTHY LLP

5 BY: JAMES KING, ESQ.

6 Lefcourt Colonial Building

7 295 Madison Avenue, 27th Floor

8 New York, New York 10017

9 Observing Only

10

11

12

13

14 Darrak Lighty, Videographer

15

16

17

18

19

20

21

22

23

24

25

Page 9

1 Dhruv Narain

2 P R O C E E D I N G S

3 THE VIDEOGRAPHER: This is the

4 video deposition of Dhruv Narain in the

5 matter of Platinum-Beechwood litigation.

6 This deposition is being held at the

7 offices of US Legal Support, 90 Broad

8 Street, New York, New York, on

9 October 23rd, 2019.

10 My name is Darrak Lighty, from US

11 Legal Support; and I am the video

12 specialist. The court reporter today is

13 Tab Prewett, also associated with US Legal

14 Support.

15 We are going on the record at

16 10:01 a.m.

17 All appearances have been noted on

18 the record.

19 Will the court reporter please

20 swear in the witness.

21 D H R U V N A R A I N,

22 residing at 3 Stone Bridge Road,

23 Purchase, New York 10577,

24 having been sworn by the notary public to testify

25 to the truth, testified as follows:

Page 78

1 Dhruv Narain

2 A I don't.

3 (Exhibit No. 176, Document headed

4 "Potential Platinum Restructuring," Bates

5 No. CTRL 8222121 is marked by the reporter

6 for identification.)

7 Q So I'm showing you what has been

8 marked as Deposition Exhibit 176, which bears the

9 control number CTRL 8222121.

10 Are you ready?

11 A Yes.

12 Q Do you recall seeing this document

13 before?

14 A I don't. No.

15 Q Do you recall the subject of this

16 document, which is entitled "Potential Platinum

17 Restructuring"?

18 A I do.

19 Q And were you having conversations

20 with Mr. Steinberg about a potential Platinum

21 restructuring?

22 A Yes.

23 Q And were those conversations

24 occurring in February of 2016?

25 A I don't remember.

Page 79

1 Dhruv Narain

2 Q So does the previous E-Mail that

3 was sent by Mr. Steinberg to you, the one that's

4 reflected in Exhibit 175 on February 8th, 2016,

5 in which he says, "What's the game plan for today

6 for the Platinum-BAM restructuring," does that

7 refresh your recollection about whether you were

8 discussing potential Platinum restructuring with

9 Mr. Steinberg in February of 2016?

10 A I don't remember when the

11 discussions were, no. I just don't remember.

12 Q Do you have any reason to believe

13 that Mr. Steinberg -- that this was not the time

14 frame in which these conversations were

15 occurring, given Mr. Steinberg's E-Mail?

16 A I just don't remember.

17 Q What precipitated discussions about

18 a potential Platinum restructuring?

19 A My recollection is that there

20 were -- Northstar, Golden Gate, and PEDEVCO were

21 oil -- all oil and gas companies that, like a lot

22 of other oil and gas companies in late 2015,

23 early 2016, following the collapse in oil prices

24 from \$140 to \$40, were facing liquidity issues,

25 and that there were liquidity issues at PEDEVCO,

Page 80

1 Dhruv Narain

2 Golden Gate, Northstar, and that we needed to

3 have conversations about how to potentially

4 restructure the debt.

5 Just like there were conversations

6 happening with respect to oil and gas companies,

7 you know, everywhere, they were all facing

8 similar issues.

9 Q And when you talked about -- you

10 talk about conversations about the debt, you're

11 talking about debt that was held by Beechwood on

12 behalf of its investor clients?

13 MR. CANTER: Objection.

14 A Well, nothing was held by

15 Beechwood. It was all held in client accounts.

16 It was managed by BAM on behalf of the clients

17 whose money it was.

18 Q Okay. But we're talking about debt

19 that was held by -- within those accounts that

20 was being managed by BAM?

21 A That's correct.

22 Q And with respect to that debt, were

23 there nonperforming loans?

24 A I specifically remember PEDEVCO

25 being a nonperforming loan. I just don't recall

Page 81

1 Dhruv Narain

2 with respect to the others.

3 Q With respect to Golden Gate, for

4 example, you don't recall whether or not they had

5 defaulted on, for example, interest payments?

6 A That's correct, I don't recall.

7 Q What about Montsant? What was

8 Montsant?

9 A My understanding was that Platinum

10 had created a subsidiary that held a bunch of

11 publicly traded securities -- excuse me -- and

12 there was a loan to that entity that held where

13 the underlying assets were a bunch of publicly

14 traded securities, and that's what Montsant was.

15 Q Was that a collateralized loan?

16 A That's my recollection, that it was

17 collateralized by the publicly traded securities

18 that the SPV held.

19 Q Was the loan also guaranteed?

20 A That's my recollection.

21 Q Was it guaranteed by Mr. Nordlicht

22 and by Dahlia Kalter?

23 (Reporter clarification.)

24 Q Dahlia, D-a-h-l-i-a, Kalter,

25 K-a-l-t-e-r.

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658(JSR)
5 CASE NO. 18-CV-10936(JSR)

6 -----
7 IN RE: PLATINUM-BEECHWOOD LITIGATION
8 -----

9 MARTIN TROTT and CHRISTOPHER SMITH, as Joint
10 Official Liquidators and
11 Foreign Representatives of
12 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
13 (in Official Liquidation), and
14 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
15 (in Official Liquidation),

16 Plaintiffs,

17 vs.

18 PLATINUM MANAGEMENT (NY) LLC, et al.,

19 Defendants.
20 -----

21 VOLUME II

22 TRANSCRIPT OF DEPOSITION OF
23 DHRUV NARAIN

24 TRANSCRIPT of the stenographic notes of
25 the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Friday, December 13, 2019,
commencing at 10:04 a.m.

Page 320

1
2 A P P E A R A N C E S:
3
4
5 DLA PIPER, LLP (US)
6 BY: JOHN BERKE, ESQ.
7 1251 Avenue of the Americas, 38th Floor
8 New York, New York 10020-1104
9 Attorneys for Plaintiff, SHIP
10
11
12
13
14 HOLLAND & KNIGHT LLP
15 BY: WARREN ERNEST GLUCK, ESQ.
16 ELLIOT MAGRUDER, ESQ.
17 31 West 52nd Street
18 New York, New York 10019
19 Attorneys for the Plaintiffs,
20 Martin Trott
21
22
23
24
25

Page 322

1
2 ALSTON & BIRD LLP
3 BY: JOHN AERNI, ESQ.
4 90 Park Avenue
5 15th Floor
6 New York, New York 10016-1387
7 Attorneys for
8 Washington National Insurance Company
9 Bankers Conseco
10
11
12
13 PROSKAUER ROSE LLP
14 BY: STACEY EILBAUM, ESQ.
15 STEVEN HOLINSTAT, ESQ.
16 Eleven Times Square
17 New York, New York 10036-8299
18 Attorneys for Beechwood
19
20
21
22
23
24
25

Page 321

1
2 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
3 BY: ABIGAIL JOHNSTON, ESQ.
4 101 Park Avenue
5 New York, New York 10178
6 Attorneys for the Defendant,
7 David Bodner
8
9
10
11
12
13 CONDON TOBIN SLADEK THORNTON
14 BY: MICHAEL MERRICK, ESQ.
15 8080 Park Lane, Suite 700
16 Dallas, Texas 75231
17 Attorneys for PB Investments
18
19
20
21
22
23
24
25

Page 323

1
2 OTTERBOURG, P.C.
3 BY: WILLIAM M. MORAN, ESQ.
4 230 Park Avenue
5 New York, New York 10169
6 Attorneys for Plaintiff Receiver
7
8
9
10
11 ALSO PRESENT:
12
13
14
15
16 Darrak Lighty, Videographer
17
18
19
20
21
22
23
24
25

Page 324

1 Dhruv Narain - Volume II
2 P R O C E E D I N G S
3 THE VIDEOGRAPHER: This is the
4 video deposition of Dhruv Narain in the
5 matter of Platinum-Beechwood litigation.
6 This deposition is being held at the
7 offices of US Legal Support, 90 Broad
8 Street, New York, New York, on December 13,
9 2019.
10 My name is Darrak Lighty, from US
11 Legal Support; and I am the video
12 specialist. The court reporter today is
13 Tab Prewett, also associated with US Legal
14 Support. We are going on the record at
15 10:04 a.m. All appearances have been noted
16 on the record.
17 Will the court reporter please
18 swear in the witness.
19 D H R U V N A R A I N,
20 residing at 3 Stone Bridge Road,
21 Purchase, New York 10577,
22 having been sworn by the notary public to testify
23 to the truth, testified as follows:
24 MS. EILBAUM: Before we begin, I'd
25 just like to note for the record that on

Page 325

1 Dhruv Narain - Volume II
2 the last day of deposition we had seven
3 hours and 38 minutes and, by agreement of
4 the parties, to no more than 14 hours of
5 deposition time. That leaves 6 hours and
6 22 minutes for today.
7 MR. GLUCK: Okay.
8 DIRECT EXAMINATION
9 BY MR. GLUCK:
10 Q Good morning, Mr. Narain. My name
11 is Warren Gluck. I represent the Joint Official
12 Liquidators of Platinum Partners Value Arbitrage
13 Fund LP. I'm going to refer to them as "the
14 liquidators," and "the fund" is PPVA. Will you
15 understand what I mean when I refer to them that
16 way?
17 A I do.
18 Q This is the continuation of your
19 deposition as a fact witness in this matter. Do
20 you understand that?
21 A I do.
22 Q What I'm going to do is I'm not
23 going to repeat the prior deposition, but I am
24 going to ask you some questions to try to orient
25 your mind so you can recall in a sort of

Page 326

1 Dhruv Narain - Volume II
2 chronological way some of the topics we'll be
3 discussing today.
4 Is that all right?
5 A Sure.
6 Q Firstly, it has been some time
7 since your prior deposition. Can you tell me
8 broadly whether you have prepared additionally
9 for this deposition since your last deposition?
10 A I have.
11 Q And what did you do to prepare?
12 A Met with counsel and looked at some
13 documents.
14 Q Your counsel at Proskauer?
15 A Correct.
16 Q Did you meet with any other
17 counsel?
18 A No.
19 Q For approximately how long did you
20 meet with counsel?
21 A I don't recall.
22 Q Approximately, when did you meet
23 with counsel?
24 A Yesterday.
25 Q And what documents did you review?

Page 327

1 Dhruv Narain - Volume II
2 MS. EILBAUM: Objection. That's
3 privileged.
4 Q I understand that you are preparing
5 a rebuttal report to be submitted on behalf of
6 either yourself or the Beechwood entities. Is
7 that accurate?
8 MS. EILBAUM: Let me -- let me just
9 stop you here. That's not the subject of
10 his deposition testimony here today, and so
11 he's here as a fact witness. You can ask
12 him about that. The rebuttal report is not
13 the subject of this deposition.
14 MR. GLUCK: What I'm going to be
15 asking about are the preparations he has
16 made and the documents he has reviewed in
17 connection with that expert rebuttal
18 report.
19 MS. EILBAUM: When he testifies as
20 an expert, you can ask him about that.
21 That's not the purpose of his deposition
22 here today.
23 MR. GLUCK: It goes to his
24 knowledge for today, though.
25 MS. EILBAUM: It doesn't.

Page 484

1 Dhruv Narain - Volume II

2 Q Not CNO?

3 A I don't recall whether we met with

4 CNO on that trip or not.

5 Q The second trip, within a month or

6 so of mid April, was Feuer with you?

7 A That's right.

8 Q And, again, Feuer says that

9 whenever he went he went from one to the other.

10 Is that fair to say -- in the second meeting?

11 A I just don't recall. I don't

12 recall the second meeting, whether we went only

13 to SHIP or whether we went to SHIP and CNO.

14 Q So you may have; you just don't

15 remember?

16 A That's correct.

17 Q Now, in this E-Mail, it references

18 NYDSF.

19 What is that?

20 A NYDF -- it should be DFS. My

21 understanding is that's the New York Department

22 of Financial Services.

23 Q And it references that the team

24 described to you the steps that Beechwood has

25 taken to resolve the asset issues raised by the

Page 485

1 Dhruv Narain - Volume II

2 New York -- and you're saying it's the DFS. What

3 were those issues?

4 A These were issues that were raised

5 before I joined Beechwood, so I'm not aware of

6 exactly what they are.

7 Q Do you remember what the steps

8 were -- were that were being taken to resolve the

9 issues?

10 A Getting ratings, obtaining private

11 placement numbers, and having them being

12 independently valued.

13 Q And it goes on to say:

14 "In addition, the team described to

15 you the steps we have taken to continue to

16 diversify the portfolio away from

17 Platinum-related entities."

18 What were those steps?

19 A I don't recall.

20 Q But you do recall that you were

21 diversifying the portfolio away from

22 Platinum-related entities, right? You just don't

23 remember the specific steps. You remember that,

24 though?

25 A Yes.

Page 486

1 Dhruv Narain - Volume II

2 Q And that's because you were

3 directed by CNO to do that, right?

4 MS. EILBAUM: Objection to the

5 form.

6 A I mean, look, my understanding is

7 that there was -- it was the subject of a topic,

8 an ongoing conversation that had been going on

9 between Beechwood and Platinum before I joined,

10 and that's what it's being -- it was being

11 referenced for.

12 Q And that's what I was referring to

13 with my first set of questions, was:

14 When you began working, did you

15 have any specific instructions as it related to

16 Platinum-related investments?

17 MS. EILBAUM: Objection to the

18 form.

19 Q Does that help you remember now?

20 A Well, there was no specific

21 instruction. It was -- it was -- it was no

22 specific instruction that said, "You should do

23 the following or not do the following."

24 It was:

25 "Invest the money wisely. Invest

Page 487

1 Dhruv Narain - Volume II

2 it -- reduce the concentration that -- perceived

3 a real concentration between -- in entities

4 related to Platinum."

5 Q That was explained to you when you

6 began working for B Asset Manager, right?

7 A That's correct.

8 Q Who explained that to you?

9 A I don't recall whether it was

10 Mark Feuer or Scott Taylor.

11 Q It was -- could it only have been

12 one of those two?

13 A That's my recollection.

14 Q And is it your recollection, also,

15 that you had the same marching orders, as it

16 were, as related to SHIP's investments?

17 MS. EILBAUM: Objection to the

18 form.

19 A General idea was the same.

20 Q And who explained that idea, that

21 general idea, to you when you started?

22 MS. EILBAUM: Objection to the

23 form.

24 A Either Mark Feuer or Scott Taylor.

25 Q When you began, you said January

Page 500

1 Dhruv Narain - Volume II
2 A Sorry. December 31, 2015, you
3 mean, right?
4 Q Anytime in December 2015, but okay.
5 A Right, right. Yes.
6 Q So when -- if you had viewed
7 that -- withdrawn.
8 When you viewed the December 2015
9 holdings, you at that point knew that Desert Hawk
10 and LC Energy had been divested from the company,
11 right -- withdrawn.
12 That it had been divested from the
13 assets, right?
14 MS. EILBAUM: Objection to the
15 form.
16 A I don't recall.
17 Q Upon working or commencing work at
18 B Asset Manager, you became familiar with the
19 assets in the SHIP accounts, right?
20 A That's correct.
21 Q You knew what was performing well?
22 MS. EILBAUM: Objection to the
23 form.
24 Q Is that fair to say?
25 A That's fair.

Page 501

1 Dhruv Narain - Volume II
2 Q And by the same token, you knew
3 what was not performing well, right?
4 MS. EILBAUM: Objection to the
5 form.
6 A That would be accurate.
7 Q And you, by that same token again,
8 would have become familiar with the Northstar
9 assets that were held by SHIP, right?
10 A I don't have -- sitting here today,
11 I don't have any recollection of the details of
12 Northstar.
13 Q Do you have a recollection of -- a
14 general sense that Northstar was one of those
15 assets that was not doing well?
16 MS. EILBAUM: Objection to the
17 form. Lack of foundation.
18 A My recollection is that it was an
19 oil and gas exploration and production company
20 and, you know, like a lot of other oil and gas
21 exploration companies that were facing challenges
22 post the drop in oil prices, that it happened to
23 be one of those.
24 That's my general recollection.
25 Q So the general recollection is

Page 502

1 Dhruv Narain - Volume II
2 Northstar was not doing well, right?
3 MS. EILBAUM: Objection to the
4 form.
5 A Well, I mean, my recollection is
6 that it was not -- that it was not generating a
7 tremendous amount of cash flow. I don't --
8 sitting here today, I don't recall as to what the
9 circumstances were related to the value of the
10 acreage and the value of the oil that they held.
11 Q But sitting here today, you do have
12 a general recollection that Northstar's business
13 was not doing well, right?
14 MS. EILBAUM: Objection to the
15 form.
16 A I think I testified -- I just gave
17 you the answer.
18 Q So then your answer to my -- that
19 question is yes, right?
20 MS. EILBAUM: Objection to the
21 form. That's not what he said.
22 A I think I answered it. I mean, we
23 can review my answer if you would like. I just
24 answered your question.
25 Q Actually, you didn't. So I'm going

Page 503

1 Dhruv Narain - Volume II
2 to ask you to try to listen to my question. Can
3 you do that?
4 MS. EILBAUM: Now, you're just
5 arguing with him.
6 MR. MORAN: Do you have an
7 objection?
8 MS. EILBAUM: Not yet.
9 Q As you sit here today, you have a
10 general recollection that the Northstar business
11 was not doing well; is that correct?
12 MS. EILBAUM: Objection. Objection
13 to the form. Asked and answered.
14 A As I sit here today, my
15 recollection is that Northstar was not generating
16 a lot of cash flow. That's true of a lot of
17 companies post the drop in oil prices. I don't,
18 sitting here today, have a view or recollection
19 of the value of the acreage and the assets of
20 Northstar.
21 Q Did I ask you about the acreage or
22 the value of Northstar?
23 A You asked me whether it was
24 performing well or not. I gave you an answer.
25 Q I did not, actually. If you listen

Page 520

1 Dhruv Narain - Volume II
2 form.
3 A Yes.
4 Q And what is that understanding?
5 A Exactly what you described.
6 Q That you had an obligation to act
7 in the best interests of that company, right?
8 A That's right.
9 Q And were you the CIO of B Asset
10 Manager?
11 A That's right.
12 Q Did you discuss this master
13 security agreement, Exhibit 233, with anyone at
14 Beechwood?
15 A Not that I recall.
16 Q Do you recall -- well, withdrawn.
17 Do you know if Beechwood, on behalf
18 of SHIP, filed a UCC statement in connection with
19 this master security agreement?
20 A I don't.
21 Q All right. I'm going to show you
22 what's been previously marked as Exhibit 234.
23 (Previously Marked Exhibit No. 234,
24 December 23, 2015 Subsidiary Guarantee is
25 introduced into the proceedings.)

Page 521

1 Dhruv Narain - Volume II
2 Q It's a document entitled
3 "Subsidiary Guarantee," dated also December 23,
4 2015.
5 Have you seen this before?
6 A Not that I recall.
7 Q I'm going to show you what has been
8 marked as Exhibit 235.
9 (Previously Marked Exhibit No. 235,
10 Flow of Funds Memo Concerning the
11 December 23rd, 2015 Note is introduced into
12 the proceedings.)
13 Q And in your review of the
14 underlying documents, before you signed the note
15 purchase agreement in March 2016, do you recall
16 whether or not you looked at this flow of funds
17 memo concerning the December 23rd, 2015 initial
18 note?
19 A I don't recall.
20 Q Now, in this -- in this document,
21 it mentions in the footnote where the funds were
22 to be paid, and it references Desert Hawk.
23 Have you ever heard of Desert Hawk
24 before we sat here today?
25 A Not that I recall.

Page 522

1 Dhruv Narain - Volume II
2 Q I'm going to show you what we
3 previously marked as -- well, hang on a second.
4 Now, the existing note that we
5 discussed earlier, which is exhibit -- before
6 you, Exhibit 84, now, this instrument increased
7 the total debt of the initial note up to
8 18,500,000, right?
9 A That's correct.
10 Q Was this security agreement, when
11 you were looking at it -- well, withdrawn.
12 When you did your review of this
13 agreement, of this note, rather, did you
14 determine whether or not there was any security
15 agreement or subsidiary agreement as set forth in
16 the initial note?
17 MS. EILBAUM: Objection to the
18 form.
19 A I don't recall.
20 Q All right. I'm going to show you
21 what -- what we've marked as Exhibit 236 and is
22 entitled "Reaffirmation and Ratification
23 Agreement," dated January 20, 2016, which is the
24 date of the existing note as set forth in the one
25 that you signed.

Page 523

1 Dhruv Narain - Volume II
2 (Previously Marked Exhibit No. 236,
3 January 20, 2016 Reaffirmation and
4 Ratification Agreement is introduced into
5 the proceedings.)
6 Q Do you see that?
7 A Sorry. What are you saying is the
8 relationship between the March 21, 2016 note and
9 this January 20, 2016 reaffirmation and
10 ratification agreement?
11 Q Well, we previously mentioned that
12 the March 31st, 2016 note that you signed
13 references the existing note dated January 20th,
14 2016.
15 A Right.
16 Q And I asked you whether you knew or
17 had discussed the fact that there were -- whether
18 or not there were any security similar to the
19 December of 2015 note. And you said you didn't
20 know, so I'm showing you this document.
21 A Right.
22 Q And I'm saying -- do you have this
23 in front of you?
24 A I do.
25 Q Okay. And this reaffirmation and

Page 524

1 Dhruv Narain - Volume II
2 ratification agreement, have you seen this
3 before?
4 A Not that I recall.
5 Q All right. I'm going to ask you to
6 take a look at the signatories for this document
7 again. And it's a similar type of set of
8 signatories, correct?
9 A That's what it appears.
10 Q Also signed by Mark Nordlicht as
11 CIO, right?
12 A That's what it appears.
13 Q And signed by BAM Administrative
14 Services by Scott Taylor, right?
15 A That's what it appears.
16 Q And Scott Taylor was a principal at
17 Beechwood, correct?
18 A Sorry. When you say "principal,"
19 what does that mean?
20 Q Equity owner?
21 A That's correct.
22 Q Manager?
23 A That's correct.
24 Q In fact, he was one of the top two
25 guys at Beechwood, right?

Page 525

1 Dhruv Narain - Volume II
2 MS. EILBAUM: Objection to the
3 form.
4 A That's correct.
5 Q What was his title?
6 A President, I believe.
7 Q Do you have any information
8 concerning why the December 2015 transactions
9 came about?
10 MS. EILBAUM: Objection to the
11 form.
12 A I don't recall.
13 Q Do you have any information as to
14 why the January 20th, 2016 transaction came
15 about?
16 A I don't recall.
17 Q Now, going back to your -- the note
18 that you signed, Exhibit 85, do you know -- well,
19 withdrawn.
20 Why was this transaction taking
21 place?
22 A I don't recall the exact
23 circumstances around -- around it. It was after
24 a lot of negotiation. I don't recall the
25 circumstances around this.

Page 526

1 Dhruv Narain - Volume II
2 Q There was a lot of negotiation?
3 A Yes.
4 Q Who was involved in negotiation?
5 A I believe I was, with -- in
6 consultation with and working with Mark Feuer and
7 Scott Taylor on behalf of BAM.
8 Q And I'm going to direct your
9 attention to Schedule 1, which is soon after the
10 signature page that you signed, the next page.
11 A Yes.
12 Q What is this schedule indicating?
13 A The entities that are purchasing
14 portions of the note.
15 Q And why were these -- why was this
16 transaction taking place? What was the purpose?
17 A As I said, I don't -- I don't
18 recall the circumstances.
19 Q All right. So in this schedule, it
20 has set forth as purchaser Senior Health
21 Insurance Company of Pennsylvania in the amount
22 of 4 million -- \$42,963,949.04, \$123,190.55,
23 consisting of accrued interest.
24 Do you see that?
25 A I do.

Page 527

1 Dhruv Narain - Volume II
2 Q And this means that that was the
3 amount of money that was going to end up with
4 SHIP, right?
5 MS. EILBAUM: Objection to the
6 form.
7 A That was the amount of notes that
8 were going to end up with SHIP.
9 Q Okay. So SHIP was loaning that
10 much money to PPCO, right?
11 A That's correct.
12 Q And do you know:
13 Was there any discussion about what
14 was to be done with those funds?
15 A I don't recall.
16 Q There may have been, but you just
17 don't remember?
18 A I don't recall one way or the
19 other.
20 Q Well, again, you -- you mentioned
21 before that you negotiated this agreement, right?
22 A Well, I was involved, yes.
23 Q What was your involvement?
24 Describe that.
25 A Well, like I said, I don't recall

Page 528

1 Dhruv Narain - Volume II
2 the exact details. But there were a number of
3 transactions that occurred in March or April of
4 2016, a couple of months after I joined. This
5 was one of those. I just don't recall the exact
6 negotiations and the circumstances exactly around
7 this note.
8 Q All right. Well, based upon your
9 experience with Beechwood, putting aside what you
10 specifically remember, what can you tell us, in
11 your experience, you would have done?
12 What would have been your role in
13 such a deal as this?
14 MS. EILBAUM: Objection to the
15 form. Calls for speculation.
16 A I don't remember. I don't recall
17 this transaction, sitting here today.
18 Q Do you recall who at SHIP you would
19 have negotiated with?
20 MS. EILBAUM: Objection to the
21 form.
22 Q If anyone?
23 MS. EILBAUM: Objection to the
24 form.
25 A I don't recall anyone from SHIP

Page 529

1 Dhruv Narain - Volume II
2 being involved.
3 Q So Beechwood was loaning money to
4 PPCO on behalf of SHIP, and SHIP was not
5 involved?
6 MS. EILBAUM: Objection to the
7 form.
8 A That's my recollection.
9 Q I'm going to show you what we've
10 previously marked as Exhibit 237.
11 (Previously Marked Exhibit No. 237,
12 March 21, 2016 Amended and Restated Master
13 Security Agreement is introduced into the
14 proceedings.)
15 Q It's a document entitled "Amended
16 and Restated Master Security Agreement." It's
17 dated March 21, 2016, the same date as the note
18 you signed.
19 Do you see that?
20 A I do.
21 Q Do you -- can you describe the
22 purpose of this instrument?
23 A Look, I understand generally what
24 security agreements mean. This -- my
25 recollection is that mostly counsel reviewed

Page 530

1 Dhruv Narain - Volume II
2 these documents. I don't recall spending a lot
3 of time with it.
4 Q Okay. But, again, your good name
5 is important to you, right?
6 MS. EILBAUM: Objection to the
7 form.
8 A It is.
9 Q I'm going to ask you to look at the
10 signature page and ask you if that's your
11 signature.
12 A It is.
13 Q All right. So you -- before you
14 signed this, you would have read it, right?
15 MS. EILBAUM: Objection to the
16 form.
17 Q Well, withdrawn.
18 Before you signed this, did you
19 read it?
20 A As I testified earlier, I'm sure
21 counsel reviewed it. I don't recall whether I
22 did or not.
23 Q Would it have been your practice to
24 sign documents that you had not read?
25 A If they were reviewed by counsel

Page 531

1 Dhruv Narain - Volume II
2 and represented to be something that was ready
3 for my signature, yes.
4 Q Did you have any understanding as
5 to why PPCO would have provided the security in
6 all of its assets and subsidiaries in connection
7 with these loans?
8 MS. EILBAUM: Objection to the
9 form.
10 A As I said, I don't recall the
11 circumstances of these transactions, sitting here
12 today.
13 Q So the answer is no?
14 A I don't recall, sitting here today.
15 Q Did you at the time have an
16 understanding?
17 A I believe I did.
18 Q And how is it you -- you came to
19 have that understanding?
20 MS. EILBAUM: I'd just instruct you
21 not to answer anything that you know from
22 counsel.
23 A Look, I mean, I -- in the context
24 of -- of all of the investments that were at BAM,
25 you know, I would have reviewed the circumstances

<p style="text-align: right;">Page 532</p> <p>1 Dhruv Narain - Volume II</p> <p>2 of these -- of all of these investments. And as</p> <p>3 I said, some of these were the subject of</p> <p>4 negotiation. But sitting here today, I don't</p> <p>5 recall.</p> <p>6 Q I'm going to put before you what</p> <p>7 we've marked as Exhibit 238.</p> <p>8 (Previously Marked Exhibit No. 238,</p> <p>9 March 21, 2016 Subsidiary Guarantee is</p> <p>10 introduced into the proceedings.)</p> <p>11 Q It's a document entitled</p> <p>12 "Subsidiary Guarantee," also dated March 21st,</p> <p>13 2016. And I'll ask:</p> <p>14 Have you seen that before?</p> <p>15 A I don't recall.</p> <p>16 Q Can you take a look at the</p> <p>17 signature page on the last page? The last page.</p> <p>18 A Yes.</p> <p>19 Q Is that your signature?</p> <p>20 A It is.</p> <p>21 Q Do you recall if you read this</p> <p>22 document before you signed it?</p> <p>23 A I don't recall.</p> <p>24 Q So you might not have?</p> <p>25 A As long as it was appropriately</p>	<p style="text-align: right;">Page 534</p> <p>1 Dhruv Narain - Volume II</p> <p>2 right?</p> <p>3 MS. EILBAUM: Objection to the</p> <p>4 form.</p> <p>5 A That's fair.</p> <p>6 MR. MORAN: I have nothing further.</p> <p>7 DIRECT EXAMINATION</p> <p>8 BY MR. AERNI:</p> <p>9 Q Good afternoon, Mr. Narain.</p> <p>10 A Good afternoon.</p> <p>11 Q My name is John Aerni. I'm with</p> <p>12 the law firm of Alston & Bird. We represent two</p> <p>13 insurance subsidiaries of CNO, Washington</p> <p>14 National Insurance Company and Bankers Conseco</p> <p>15 Life Insurance Company. For most of the day,</p> <p>16 we've been referring to those two companies as</p> <p>17 CNO.</p> <p>18 Does that still work for you?</p> <p>19 A Yes.</p> <p>20 Q I'm going to first start by giving</p> <p>21 you an idea of the time frame that most of my</p> <p>22 questions are going to involve. Again, I'll be</p> <p>23 taking us back to some things you said earlier</p> <p>24 today.</p> <p>25 So you started at Beechwood or B</p>
<p style="text-align: right;">Page 533</p> <p>1 Dhruv Narain - Volume II</p> <p>2 reviewed by counsel and represented that it was</p> <p>3 ready for my signature, I may not have.</p> <p>4 Q But you just don't recall if that</p> <p>5 happened?</p> <p>6 A That's correct.</p> <p>7 MR. MORAN: Why don't we take a</p> <p>8 break. I might be able to shorten this a</p> <p>9 bit.</p> <p>10 THE VIDEOGRAPHER: Going off the</p> <p>11 record. The time is 4:14 p.m.</p> <p>12 (A break is taken.)</p> <p>13 THE VIDEOGRAPHER: The time is</p> <p>14 4:27 p.m. We are back on the record.</p> <p>15 CONTINUED DIRECT EXAMINATION</p> <p>16 BY MR. MORAN:</p> <p>17 Q Mr. Narain, you testified earlier</p> <p>18 that, when you began investing at Beechwood for</p> <p>19 SHIP, you had a general understanding of the idea</p> <p>20 of divesting away from Platinum-related entities,</p> <p>21 but you're just not sure if that general sense</p> <p>22 came from Mr. Feuer or Mr. Taylor.</p> <p>23 My question is:</p> <p>24 You did have an understanding that</p> <p>25 that general idea initially came from SHIP,</p>	<p style="text-align: right;">Page 535</p> <p>1 Dhruv Narain - Volume II</p> <p>2 Asset Manager around the end of January of 2016,</p> <p>3 right?</p> <p>4 A That's correct.</p> <p>5 Q And we saw a document earlier today</p> <p>6 that said that you signed the Agera -- documents</p> <p>7 for the Agera transaction on June 9th of 2016.</p> <p>8 Do you recall that?</p> <p>9 A I do.</p> <p>10 Q And I don't know if you'll recall</p> <p>11 this, but I'll represent to you that</p> <p>12 Mr. Huberfeld was arrested one day before that,</p> <p>13 on June 8th, 2016.</p> <p>14 So -- but the questions I'll be</p> <p>15 asking today, unless I say otherwise, will</p> <p>16 generally refer to that period when you joined</p> <p>17 Beechwood in late January until June 9th of 2016.</p> <p>18 Are you with me?</p> <p>19 A Yes, I am.</p> <p>20 Q And just a couple of quick things</p> <p>21 on terminology:</p> <p>22 Earlier today you've referred to</p> <p>23 reinsurance agreements with CNO, right?</p> <p>24 A I did.</p> <p>25 Q And you understood that under</p>

Page 584

1 Dhruv Narain - Volume II
2 MR. MORAN: Objection.
3 Q Do you have a copy of the
4 previously marked Exhibit 186?
5 Do you recognize this document?
6 A I do.
7 Q This deals with the Agera
8 transaction from June of 2016, correct?
9 A That is correct.
10 Q It was Beechwood or BAM that
11 proposed this investment to SHIP, correct?
12 A That's correct.
13 Q And the subject line reads:
14 "Proposed Agera Straw Man."
15 Correct?
16 (There was a discussion off the
17 record.)
18 A Correct.
19 Q And this was being sent from you to
20 Paul Lorentz at SHIP, correct?
21 A Correct.
22 Q He didn't bring these investments
23 to Beechwood; is that right?
24 A This --
25 MS. EILBAUM: Objection. Asked and

Page 585

1 Dhruv Narain - Volume II
2 answered.
3 A Sorry. This particular investment,
4 yes.
5 Q In the second paragraph, you talk
6 about an NAIC 2 debt and NAIC 3 debt. What are
7 those -- what do those mean?
8 A The NAIC rates or -- there are
9 categories of NAIC ratings that go, I believe,
10 from 1 through 5 -- and either -- the NAIC can
11 rate the debt themselves. They have what is
12 known as the SVO, which is the Securities
13 Valuation Office, or the nationally recognized
14 rating agencies that provide ratings.
15 There is an equivalence between
16 those ratings and between the NAIC debt ratings.
17 Q Thank you.
18 And when it's -- when -- in my --
19 in paragraph three, when it says "single issuer
20 limit," what is that referring to?
21 A I believe that is a reference to
22 the SHIP investment guidelines that govern the
23 Investment Management Agreement.
24 Q So there were certain limitations
25 on what type of debt Beechwood was able to invest

Page 586

1 Dhruv Narain - Volume II
2 SHIP assets into?
3 A That's correct.
4 Q So when in paragraph four you
5 discuss the interest in PPCO LP being reduced to
6 below the 5.5 million limit, that -- is it your
7 understanding that that is a reference to
8 conforming their current assets with the
9 investment limits?
10 MR. MORAN: Objection.
11 A My understanding is that, in
12 addition to the specific investment guidelines
13 that were specified in the agreements between
14 SHIP and BAM, that there were also -- that there
15 were also stated investment guidelines that
16 applied, and this is a reference to one of those.
17 I forget one which it is.
18 Q But it is not a reference to a
19 request from SHIP to divest from Platinum --
20 MR. MORAN: Objection.
21 Q -- related investments, correct?
22 MS. EILBAUM: Objection to the
23 form.
24 A I'm sorry. Please restate the
25 question.

Page 587

1 Dhruv Narain - Volume II
2 Q You just testified that this
3 reference to the reduction of the PPCO LP
4 interests was either in reference to the SHIP
5 investment guidelines, the SHIP IMA investment
6 guidelines, or the State regulatory guidelines,
7 but it is not a reference -- or a response to a
8 request from anyone at SHIP to reduce that
9 specific asset, correct?
10 MR. MORAN: Objection.
11 MS. EILBAUM: Objection to the
12 form.
13 A Well, my recollection is that
14 these -- that there were three LP investments in
15 three kinds of LP interests that were made prior
16 to when I joined BAM, and that at that time it
17 was not communicated that these -- that this
18 5-and-a-half million dollar limit existed as it
19 related to LP interests.
20 And my recollection is that Paul
21 Lorentz communicated to BAM around the time that
22 this E-Mail was sent that the LP interests
23 investments -- investments in LP interests and
24 PPCO, PPVA, NEV private credit were above the
25 5-and-a-half million dollar limit and were in

Page 588

1 Dhruv Narain - Volume II
2 violation of those guidelines; and they wanted --
3 and Paul Lorentz, on behalf of SHIP, made the
4 request to bring those LP investments down to
5 below the 5-and-a-half million dollar limit.
6 Q And as of the date of this E-Mail
7 in May of 2016, you had not personally had any
8 conversations with Paul Lorentz, Brian Wegner, or
9 anyone else from SHIP directing you to -- to
10 reduce investments in Platinum for the purpose of
11 reducing interest in Platinum?
12 MR. MORAN: Objection.
13 MS. EILBAUM: Objection to the
14 form.
15 A I believe that's correct.
16 MR. MERRICK: I have no further
17 questions.
18 MR. GLUCK: PPVA reserves all
19 rights relating to the non-production of
20 materials from the CNO-Beechwood operation,
21 including but not limited to documents
22 which reference Golden Gate and Agera.
23 MR. MORAN: On behalf of PPCO, we
24 join.
25 MS. EILBAUM: One moment.

Page 589

1 Dhruv Narain - Volume II
2 Nothing.
3 THE VIDEOGRAPHER: This completes
4 the video deposition of Dhruv Narain on
5 December 13, 2019, at 6:01 p.m. We are off
6 the record.
7 (The deposition adjourned at
8 6:01 p.m.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 590

1
2 J U R A T
3
4 I DO HEREBY CERTIFY that I have read the
5 foregoing transcript of my deposition testimony.
6
7
8
9
10 SWORN TO AND SUBSCRIBED
11 BEFORE ME THIS
12 DAY OF 2019
13 - - - - -
14
15
16
17
18
19
20
21
22
23
24
25

Page 591

1
2 I N D E X
3
4
5 WITNESS DIRECT CROSS
6
7
8 DHRUV NARAIN
9
10
11 BY MR. GLUCK 325
12
13 BY MR. MORAN 478
14
15 BY MR. AERNI 534
16
17 BY MS. JOHNSTON 578
18
19 BY MR. MERRICK 580
20
21 BY MR. BERKE 582
22
23
24
25

Page 596	Page 598
1	1
2	2
3 Exhibit No. 812, 1/26/17 AGH Parent 439	3 Exhibit No. 821, Declaration From 560
4 Second Assignment Agreement, Bates	4 Dhruv Narain, Document
5 Nos. SHIP 50492 to 496	5 Exhibit No. 822, February 8, 2016 569
6 Exhibit No. 813, 3/30/16 E-Mail From 443	6 E-Mail From Dhruv Narain to Scott
7 Jeremy Apfel to Dhruv Narain and Ezra	7 Taylor, Bates No. B 158991 and Bates
8 Beren, Subject: PEDEVCO 2015 10k and	8 No. CNO CSL_01030251
9 reserve report, Bates No. BW-SHIP	9 Exhibit No. 823, February 9, 2016 571
10 79710	10 E-Mail From Dhruv Narain to
11 Exhibit No. 814, Document, Bates No. 449	11 David Steinberg and Scott Taylor,
12 BW-SHIP 766784, January 27, 2016	12 Bates No. CNO CSL_01030253
13 E-Mail From Dhruv Narain to Jeremy	13
14 Apfel	14 Exhibit No. 824, Terms of a Potential 573
15 Exhibit No. 815, Document, Bates No. 454	15 Platinum Restructuring in the March Or
16 BW-SHIP 762883, 3/30/16 E-Mail From	16 April 2016 Time Period, Bates No.
17 Jeremy Apfel to Dhruv Narain	17 CTRL 8245655
18 Concerning PEDEVCO and a Duff & Phelps	18 Exhibit No. 825, June 6, 2016 E-Mail 574
19 Assessment	19 Chain, Bates Nos. CNO CSL_1151090
20 Exhibit No. 816, Document, Bates No. 455	20 through 1151091
21 BW-SHIP 25957, 4/8/16 E-Mail From	21 Exhibit No. 826, July 11, 2017 E-Mail 575
22 Alexis Northwood to Mark Feuer and	22 from Dhruv Narain to Brian Stewart and
23 Scott Taylor	23 others, Bates No. CNO CSL_02086301
24 Exhibit No. 817, 10/10/16 E-Mail Chain 466	24
25 between Mr. Narain, Beechwood, and	25
1 people at CC Capital	
2 Exhibit No. 818, Document, Bates No. 476	
3 BW-SHIP 253692, 6/12/17 E-Mail from	
4 Scott Taylor to Eli Equity and Global	
5 Bankers	
6	
7 Previously Marked Exhibit No. 186, May 493	
8 26, 2016 E-Mail From Dhruv Narain to	
9 Paul Lorentz	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
Page 597	Page 599
1	1
2	2
3 Exhibit No. 819, 8/18/16 E-Mail Chain 497	3 CERTIFICATE
4 between Mr. Wegner, Mr. Taylor, and	4
5 Mr. Narain, Bates No. SHIP 0026137	5 I, TAB PREWETT, A Registered
6 Previously Marked Exhibit No. 85, Note 506	6 Professional Reporter, Notary Public, Certified
7 Purchase Agreement	7 LiveNote Reporter, and Certified Shorthand
8	8 Reporter, do hereby certify that prior to the
9 Previously Marked Exhibit No. 84, 510	9 commencement of the examination DHRUV NARAIN was
10 January 20, 2016 Flow of Funds Letter	10 sworn by the notary public to testify to the
11 and Note	11 truth, the whole truth and nothing but the truth.
12	12
13 Previously Marked Exhibit No. 83, 511	13 I DO FURTHER CERTIFY that the
14 December 23, 2015 Delay Draw Demand	14 foregoing is a true and accurate transcript of
15 Note	15 the testimony as taken stenographically by and
16	16 before me at the time, place and on the date
17 Previously Marked Exhibit No. 233, 513	17 hereinbefore set forth.
18 December 23, 2015 Master Security	18
19 Agreement	19 I DO FURTHER CERTIFY that I am
20	20 neither a relative nor employee nor attorney nor
21 Previously Marked Exhibit No. 234, 520	21 counsel of any of the parties to this action, and
22 December 23, 2015 Subsidiary Guarantee	22 that I am neither a relative nor employee of such
23 Previously Marked Exhibit No. 235, 521	23 attorney or counsel, and that I am not
24 Flow of Funds Memo Concerning the	24 financially interested in the action.
25 December 23rd, 2015 Note	25
1 Previously Marked Exhibit No. 236, 523	
2 January 20, 2016 Reaffirmation and	
3 Ratification Agreement	
4 Previously Marked Exhibit No. 237, 529	
5 March 21, 2016 Amended and Restated	
6 Master Security Agreement	
7 Previously Marked Exhibit No. 238, 532	
8 March 21, 2016 Subsidiary Guarantee	
9	
10 Exhibit No. 820, Declaration of 557	
11 Lassaad Adel Turki, Document	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

EXHIBIT 12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----)	
IN RE: PLATINUM-BEECHWOOD)	
LITIGATION)	
-----)	
MARTIN TROTT and)	
CHRISTOPHER SMITH, as Joint)	
Official Liquidators and)	
Foreign Representatives of)	
PLATINUM PARTNERS VALUE)	
ARBITRAGE FUND L.P.)	
(in Official Liquidation),)	CASE NO.
and PLATINUM PARTNERS VALUE)	18-CV-6658(JSR)
ARBITRAGE FUND L.P. (in)	CASE NO.
Official Liquidation),)	18-CV-10936(JSR)
)	
Plaintiffs,)	
)	
vs.)	
)	
PLATINUM MANAGEMENT (NY))	
LLC, et al.,)	
)	
Defendants.)	
-----)	

VIDEO DEPOSITION OF EZRA DAVID BEREN

New York, New York

Tuesday, December 31, 2019

Reported Stenographically By:
PATRICIA A. BIDONDE
Registered Professional Reporter
Realtime Certified Reporter
JOB#: 295301

Page 2

1
2
3
4 December 31, 2019
 9:46 a.m.

5
6
7 Video Deposition of EZRA DAVID
8 BEREN, held at the offices of US Legal
9 Support, 90 Broad Street, New York, New
10 York, before Patricia A. Bidonde,
11 Stenographer, Registered Professional
12 Reporter, Realtime Certified Reporter,
13 Certified eDepoze Court Reporter, Notary
14 Public of the State of New York, and
15 Notary Public of the State of
16 Connecticut.

17
18
19
20
21
22
23
24
25

Page 4

1
2 A P P E A R A N C E S (CONTINUED)
3
4 PROVENZANO GRANNE & BADER LLP
5 Attorneys for Witness
6 1130 Avenue of the Americas
7 Suite 23A
8 New York, New York 10019
9 BY: S. CHRISTOPHER PROVENZANO, ESQ.
10
11
12 BY: JENNIFER BADER, ESQ.
13
14
15
16
17
18 ALSO PRESENT:
19 DARRAK LIGHTY, VIDEOGRAPHER
20
21
22
23
24
25

Page 3

1
2 A P P E A R A N C E S
3
4 HOLLAND & KNIGHT, LLP
5 Attorneys for Plaintiff
6 31 West 52nd Street
7 12th Floor
8 New York, New York 10019
9 BY: WARREN E. GLUCK, ESQ.
10
11
12 ELLIOT MAGRUDER, ESQ.
13
14
15
16
17 CURTIS, MALLET-PREVOST, COLT & MOSLE, LLP
18 Attorneys for David Bodner
19 101 Park Avenue
20 New York, New York 10178
21 BY: BETSY FEUERSTEIN, ESQ.
22
23 (Via teleconference)
24
25

Page 5

1
2 IT IS HEREBY STIPULATED AND
3 AGREED, by and between the attorneys for
4 the respective parties, that all
5 objections, except as to the form of the
6 questions, shall be reserved to the time
7 of the trial.
8
9 IT IS FURTHER STIPULATED AND
10 AGREED that the within examination may
11 be signed and sworn to before any Notary
12 Public with the same force and effect as
13 if signed and sworn to before the court.
14
15 IT IS FURTHER STIPULATED AND
16 AGREED that the filing of the original
17 transcript of the examination is waived.
18
19
20
21
22
23
24
25

Page 114

1 E. Beren
2 signature line is blank. Is that the
3 one?
4 MR. GLUCK: Yup.
5 MR. PROVENZANO: Okay.
6 Q. So I'll ask you: Do you recall
7 this particular loan or transaction?
8 A. I do not recall.
9 Q. Did you participate in it?
10 A. I just -- I don't recall.
11 Q. If you look to Schedule A, you
12 see there's a participation amount of
13 \$100,000?
14 A. That's what it says.
15 Q. Okay. Do you -- does that
16 refresh your recollection at all?
17 A. No, it does not.
18 Q. You had a business relationship
19 as well as a friend relationship with
20 Mr. Friedman. Right?
21 A. That's correct.
22 Q. Okay. And you don't know the
23 ownership of Mr. Friedman's fund?
24 A. That's correct.
25 MR. PROVENZANO: Are you done

Page 115

1 E. Beren
2 with this document?
3 MR. GLUCK: I am.
4 MR. PROVENZANO: Okay. I just --
5 Ezra, do you recall ever signing this
6 document?
7 THE WITNESS: I do not recall.
8 MR. PROVENZANO: Okay.
9 Q. Let's turn to Tab 14, please.
10 Have you seen this document before, Tab 14?
11 A. I don't recall seeing this.
12 Q. Were you on the valuation
13 committee for Platinum?
14 A. No.
15 Q. Why do you say that?
16 A. Because I wasn't on the valuation
17 committee.
18 Q. Just give me a minute. Okay.
19 Sorry. Can you flip to -494153 -- -1593-1?
20 MR. PROVENZANO: Okay. I think I
21 lost that.
22 -4941593-1, did you say?
23 Q. Yes.
24 A. Okay.
25 MR. GLUCK: Yes. It's a couple

Page 116

1 E. Beren
2 pages in.
3 MR. PROVENZANO: The valuation
4 committee meeting minutes?
5 MR. GLUCK: Yup.
6 Q. You were a portfolio manager?
7 A. Was I a portfolio manager?
8 Q. Yeah.
9 A. Can you expand on your question?
10 Q. You participated in this
11 particular valuation committee meeting.
12 Right?
13 MR. PROVENZANO: Wait. Did
14 you -- one question at a time. You
15 asked him to confirm he was a portfolio
16 manager.
17 Q. Well, first -- okay -- were you a
18 portfolio manager?
19 A. Was I a portfolio manager --
20 Q. At Platinum.
21 A. That is correct.
22 Q. And did you participate in this
23 valuation committee meeting?
24 A. When you say "this valuation
25 committee meeting," what do you --

Page 117

1 E. Beren
2 Q. The one that is the subject of
3 the July 24 document we're looking at.
4 A. Let me review this document.
5 Q. Sure.
6 A. (Document review.)
7 Okay.
8 Q. Did you participate in this
9 valuation committee meeting?
10 A. Yes. I was at this meeting.
11 Q. Okay.
12 A. But if I could -- if I could
13 specify, I was not physically present at the
14 meeting. I joined the meeting by telephone.
15 Q. Okay. But you did -- you were
16 included in the minutes of the meeting.
17 Right?
18 A. When you say "included in the
19 minutes," what are you referring to?
20 Q. These minutes that we're looking
21 at here.
22 A. Yes, I see my name there.
23 Q. Okay.
24 MR. PROVENZANO: Ezra, your name
25 is there, but did you have anything to

Page 130

1 E. Beren
2 you talk to Murray Huberfeld about you joining
3 Beechwood?
4 A. Well, Murray is my father-in-law.
5 Suggested I speak to Mark and I met with Mark.
6 Q. You know that your father-in-law,
7 Murray Huberfeld, is an owner of Beechwood.
8 Right? Is that right?
9 A. Ask your question again.
10 Q. Did Mr. Huberfeld own Beechwood?
11 A. I don't know.
12 Q. You don't know?
13 A. No.
14 Q. You never talked about that with
15 him?
16 A. No.
17 Q. Well, how did -- on what basis
18 did he suggest that you speak to Mark Feuer?
19 A. Well, I had gone to my
20 father-in-law because at Platinum -- it was a
21 tough time for me. David Steinberg had moved
22 on into a larger capacity as co-chief risk
23 officer and, kind of, moved away from me, and
24 I had stumbled on his desk an org chart
25 showing demotion to a junior credit analyst,

Page 131

1 E. Beren
2 and I was obviously not very happy about that.
3 So I had gone to my father-in-law
4 and I said, Listen, I see this coming here
5 based on an org chart on David's desk showing
6 me to be a junior credit analyst, and that's
7 not what I'm interested in doing, so should I
8 meet with Mark Feuer?
9 And he said, Absolutely. You
10 should meet with Mark Feuer to see if there's
11 something available by Beechwood.
12 Q. Would you flip to Tab 19.
13 MR. PROVENZANO: 19?
14 MR. GLUCK: 19.
15 MR. PROVENZANO: So we're
16 skipping 18?
17 MR. GLUCK: Yeah, just try to get
18 through this this century.
19 MR. PROVENZANO: Okay.
20 A. Okay.
21 Q. Okay. So when you switched over
22 to Beechwood, did you stop being an employee
23 of Platinum or receiving money from Platinum?
24 A. So when I worked at Beechwood in
25 January of 2016, I believe was the date, I was

Page 132

1 E. Beren
2 only paid from Beechwood.
3 Q. Okay. Only paid by Beechwood?
4 A. From January 1 on. Correct.
5 Q. Did you continue to do work for
6 Platinum?
7 A. No.
8 Q. Or bring deals to Platinum?
9 A. No.
10 Q. Okay. Tab 20, please.
11 A. Well, let's specify. When you
12 say "continue to bring deals," at what
13 juncture? At what point?
14 Q. After -- once you began what you
15 just said, once you began working at Beechwood
16 and only being paid by Beechwood.
17 A. That's correct. I only brought
18 deals to Beechwood.
19 Q. Okay. Tab 20, please.
20 MR. PROVENZANO: Warren, I have
21 to object, because you skipped the
22 document that says very clearly that
23 Ezra was offboarded from Platinum as of
24 December 14, 2015 --
25 MR. GLUCK: You objected to --

Page 133

1 E. Beren
2 MR. PROVENZANO: -- and then you
3 asked him if he continued to work.
4 MR. GLUCK: Well, I asked him if
5 he continued to bring deals to Platinum.
6 MR. PROVENZANO: Okay.
7 A. Which tab?
8 BY MR. GLUCK:
9 Q. Now let's go to Tab 20, please.
10 A. Tab 20. Okay.
11 Q. Have you seen this document
12 before?
13 A. I don't recall.
14 Q. By February 19, 2015, your -- you
15 had been offboarded from Platinum and you
16 were -- you'd begun working at Beechwood.
17 Right?
18 A. Ask your question again.
19 Q. By February 19, 2015, you had
20 been, quote, "offboarded" at Platinum and
21 begun working at Beechwood. Right?
22 A. That's not what I -- that's not
23 what we just discussed. We just discussed
24 that January 1, 2016, I went to go work for
25 Beechwood. Before that I was working for

Page 134

1 E. Beren
2 Platinum.
3 Q. Not '16, '15. Right?
4 A. No. I said January 1, 2016.
5 Q. December 2015, December 2015. So
6 this was while you were still at Platinum?
7 A. That is correct.
8 Q. So this is before -- okay. This
9 is February before you left. Understood.
10 These three e-mail addresses, do you see that?
11 A. I see.
12 Q. Are those your e-mail addresses?
13 A. Yes.
14 Q. Have you -- have you made a
15 production of documents in this matter?
16 MR. PROVENZANO: We've never been
17 asked to make a production in this
18 matter.
19 MR. GLUCK: All right. Well,
20 we'll make a request on the record.
21 MR. PROVENZANO: Sorry?
22 MR. GLUCK: We'll make a request
23 on the record for the production of
24 documents concerning Mr. Beren's role at
25 Platinum or Beechwood utilizing these

Page 135

1 E. Beren
2 three e-mail addresses.
3 MR. PROVENZANO: So just to be
4 precise, you would like any documents
5 concerning Mr. Beren's role at
6 Beechwood --
7 MR. GLUCK: Or Platinum.
8 MR. PROVENZANO: -- or Platinum
9 utilizing these three addresses?
10 MR. GLUCK: Correct.
11 MR. PROVENZANO: Okay. We'll
12 take that under consideration.
13 MR. GLUCK: Okay.
14 MS. FEUERSTEIN: Warren,
15 discovery closes today.
16 MR. GLUCK: Yeah, we're making
17 the request today.
18 MS. FEUERSTEIN: Just putting
19 that on the record.
20 MR. GLUCK: There are a variety
21 of parties making productions, I believe
22 including your client, through the
23 course of the next weeks. So we're
24 making the request today.
25 BY MR. GLUCK:

Page 136

1 E. Beren
2 Q. Can you flip to Tab 21, please?
3 Have you seen this document before?
4 A. I do not recall.
5 Q. You didn't review it in
6 connection with your preparation today?
7 A. No.
8 Q. Do you know why it's partially
9 redacted?
10 A. I do not.
11 Q. Do you have any recollection of
12 you asking or Mr. Saks asking you whether the
13 tech guy should sign an NDA?
14 A. I do not recall.
15 Q. Do you know why you're on this
16 e-mail?
17 A. I do not recall.
18 Q. What's Refundo?
19 MR. PROVENZANO: What's what?
20 MR. GLUCK: Second page, Refundo.
21 A. Did you turn the page?
22 Q. Yeah. So Michael de Senna at
23 refundo.com ...
24 MR. PROVENZANO: Okay. Got it.
25 A. I don't recall much about

Page 137

1 E. Beren
2 Refundo.
3 Q. Was it a deal that you were
4 bringing to Beechwood?
5 A. It's possible but I don't recall.
6 Q. You have no idea why you're on
7 this e-mail string?
8 A. I didn't say I had no idea. I
9 said I don't recall.
10 Q. Do you -- you don't -- so do --
11 what's -- where is the distinction between you
12 not recalling and no idea?
13 A. Well, again, just looking through
14 the e-mails here, it is possible that I found
15 a deal and did show it to Beechwood.
16 Q. Okay. Can you tab -- turn to Tab
17 22, please?
18 A. Sure.
19 Q. I'll ask you if you've seen this
20 e-mail before.
21 A. (Document review.)
22 Yes, I have seen this e-mail in
23 preparation with counsel.
24 Q. Okay. Now, I asked you earlier
25 whether you knew whether Mr. Huberfeld owned

Page 290

1 E. Beren

2 C E R T I F I C A T E

3

4 STATE OF NEW YORK)

5 : ss.

6 COUNTY OF NASSAU)

7

8 I, PATRICIA A. BIDONDE, a Notary

9 Public within and for the State of New

10 York, do hereby certify:

11 That EZRA DAVID BEREN, the

12 witness whose deposition is hereinbefore

13 set forth, was duly sworn by me, and

14 that such deposition is a true record of

15 the testimony given by the witness.

16 I further certify that I am not

17 related to any of the parties to this

18 action by blood or marriage, and that I

19 am in no way interested in the outcome

20 of this matter.

21 IN WITNESS WHEREOF, I have

22 hereunto set my hand this day,

23 January 14, 2020.

24 *Patricia A. Bidonde*

25 PATRICIA A. BIDONDE
 Registered Professional Reporter

Page 292

1 E R R A T A

2 INSTRUCTIONS TO WITNESS

3

4 Please read your deposition over

5 carefully and make any necessary corrections. You

6 should state the reason in the appropriate space

7 on the errata sheet for any corrections that are

8 made.

9 After doing so, please sign the errata

10 sheet and date it.

11 You are signing same subject to the

12 changes you have noted on the errata sheet, which

13 will be attached to your deposition.

14 It is imperative that you return the

15 original errata sheet to the deposing attorney

16 within thirty (30) days of receipt of the

17 deposition transcript by you. If you fail to do

18 so, the deposition transcript may be deemed to be

19 accurate and may be used in court.

20

21

22

23

24

25

Page 291

1 I N D E X

		Page	Line
2	Examinations		
	MR. GLUCK	7	4
3	MR. PROVENZANO	286	8
4	E X H I B I T S		
5	Beren	Page	Line
6	Exhibit 1 Binder.....	6	20
7	Exhibit 2 E-mails including Ezra		
8	Beren and David		
9	Steinberg.....	287	2
10			
11	INFORMATION REQUESTED:	13	18
12		50	19
13		134	22
14		263	8
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

Page 293

1 E R R A T A

2 ERRATA SHEET FOR THE TRANSCRIPT OF:

3 Case Name: In re: Platinum

4 Dep Date: December 31, 2019

5 Deponent: Ezra David Beren

6	Pg. Ln.	Now Reads	Should Read	Reason
7	_____	_____	_____	_____
8	_____	_____	_____	_____
9	_____	_____	_____	_____
10	_____	_____	_____	_____
11	_____	_____	_____	_____
12	_____	_____	_____	_____
13	_____	_____	_____	_____
14	_____	_____	_____	_____
15	_____	_____	_____	_____
16	_____	_____	_____	_____
17	_____	_____	_____	_____
18	_____	_____	_____	_____
19	_____	_____	_____	_____
20	_____	_____	_____	_____
21	_____	_____	_____	_____
22	_____	_____	_____	_____
23	_____	_____	_____	_____
24	_____	_____	_____	_____
25	_____	_____	_____	_____

EXHIBIT 13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-12018(JSR)
-----X
IN RE: PLATINUM-BEECHWOOD LITIGATION
-----X

MELANIE L. CYGANOWSKI, AS RECEIVER FOR PLATINUM
PARTNERS CREDIT OPPORTUNITIES MASTER FUND LP, ET
AL,

Plaintiffs,

vs.

BEECHWOOD RE LTD., ET AL.,

Defendants.
-----X

DEPOSITION OF GREG SERIO
Friday, December 20, 2019
New York, New York

Reported By:
LINDA J. GREENSTEIN
JOB NO. 293724

Page 2

1 December 20, 2019
 2 9:25 A.M.
 3
 4
 5
 6
 7 Deposition of Greg Serio, taken by
 8 Plaintiff, held at U.S. Legal Support, 90 Broad
 9 Street, New York, New York, before Linda J.
 10 Greenstein, a Certified Shorthand Reporter and
 11 Notary Public of the State of New York.
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 4

1 GREG SERIO,
 2 having been first duly sworn, was examined and
 3 testified as follows:
 4 EXAMINATION BY
 5 MR. WEINICK:
 6 Q. Good morning, Mr. Serio.
 7 A. Good morning.
 8 Q. We met just before. My name is Eric
 9 Weinick. I'm with the firm of Otterbourg P.C.,
 10 along with my colleague, Gabriella Leon. We
 11 represent Melanie Cyganowski.
 12 In this case, she serves as the
 13 receiver of various entities that are affiliated
 14 with Platinum Partners Credit Opportunities Fund.
 15 We'll refer to that as "PPCO" or
 16 "Platinum."
 17 Will you understand that?
 18 A. Yes.
 19 Q. And we'll get to a formal definition
 20 in a moment, but if I refer to "SHIP," will you
 21 understand that to be both Senior Health Insurance
 22 Company of Pennsylvania as well as Fuzion? And if
 23 we need to distinguish in an answer between SHIP
 24 and Fuzion, you'll do so?
 25 A. That's fine.

Page 3

1 A P P E A R A N C E S :
 2
 3
 4 OTTERBOURG, P.C.
 Counsel for Plaintiff Receiver
 5 230 Park Avenue
 New York, New York 10169
 6
 7 BY: ERIK B. WEINICK, ESQ.
 GABRIELA LEON, ESQ.
 8
 9
 10 DLA PIPER, LLP (US)
 Counsel for Plaintiff SHIP
 11 1251 Avenue of the Americas
 38th Floor
 12 New York, New York 10020-1104
 13 BY: AIDAN M. MCCORMACK, ESQ.
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 5

1 GREG SERIO
 2 Q. And similarly, I may just refer to
 3 "the board," and I'm referring collectively both
 4 to the trustees of SHOT, the Senior Health
 5 Operating Trust and the board of directors of
 6 SHIP. And similarly, if you need to distinguish
 7 between those two entities, you'll do that?
 8 A. That's fine.
 9 Q. Mr. Serio, have you been deposed
 10 before?
 11 A. I have.
 12 Q. I assume you know the rules of the
 13 road?
 14 A. I do.
 15 Q. Just for formality's sake, I will
 16 allow you to complete your answers if you allow me
 17 to complete the question before you begin your
 18 answers, okay?
 19 A. Okay.
 20 Q. And if you don't understand one of my
 21 questions, please let me know because we're going
 22 to assume that you understood the question.
 23 A. Okay.
 24 Q. If you need a break at any time, just
 25 let us know. As long as there's not a question

Page 6

1 GREG SERIO
2 pending, we can accommodate that.
3 A. Okay.
4 Q. Anything that would preclude you from
5 testifying completely and honestly here today?
6 A. No.
7 Q. You've been deposed before.
8 Have you been deposed before in
9 connection with -- strike that. Let me lay some
10 foundation.
11 Are you currently a member of the
12 SHIP board?
13 A. Yes.
14 Q. And for how long have you held that
15 position?
16 A. 11 years.
17 Q. In the 11 years that you've been on
18 the SHIP board, have you ever been deposed in
19 connection with your duties on the SHIP board?
20 A. I don't believe -- I can't recall any
21 time having been deposed before.
22 Q. And have you offered any testimony in
23 court or before another tribunal in connection
24 with your duties as a member of the SHIP board?
25 A. No.

Page 7

1 GREG SERIO
2 Q. Did you do anything to prepare for
3 today's deposition?
4 A. I did.
5 Q. What was that?
6 A. I reviewed documents and consulted
7 with counsel.
8 Q. Okay.
9 Did you meet with counsel?
10 A. Yes.
11 Q. How many times?
12 A. Two or three times.
13 Q. For a total amount of time?
14 A. Maybe a day's worth, total.
15 Q. And was anyone, other than counsel
16 for SHIP, present at any of those meetings?
17 A. No.
18 Q. Other than counsel for SHIP, did you
19 confer with anybody about today's deposition?
20 A. No.
21 Q. About how many documents did you
22 review in preparation for the deposition?
23 A. If I'm going by tabs, 35 or 40.
24 Q. Are you aware if all of the tabs that
25 you've reviewed in preparation for the deposition

Page 8

1 GREG SERIO
2 were produced in the course of this litigation?
3 A. I have no idea.
4 Q. Okay.
5 MR. McCORMACK: They were.
6 MR. WEINICK: Thank you, counsel.
7 MR. McCORMACK: You're welcome.
8 BY MR. WEINICK:
9 Q. Other than the documents you reviewed
10 with counsel, have you seen any other documents in
11 the time leading up to your deposition that
12 refreshed your memories about any of the topics
13 which you anticipated may be part of the
14 deposition?
15 A. Other than the ones I reviewed with
16 counsel?
17 Q. Correct.
18 A. No. I reviewed nothing other than
19 with counsel.
20 Q. Other than conversations or meetings
21 with counsel for SHIP, did you speak with anyone
22 else affiliated with SHIP in preparation for the
23 deposition?
24 A. No.
25 Q. You're currently also employed by

Page 9

1 GREG SERIO
2 Park Strategies; correct?
3 A. Correct.
4 Q. Did you speak with anyone at Park
5 Strategies about the deposition other than perhaps
6 to say that you would be here today?
7 A. Other than that, no.
8 Q. I just want to briefly go over your
9 background and qualifications.
10 You're a 1986 graduate of Albany Law?
11 A. Correct.
12 Q. What did you do after that?
13 A. Right after Albany Law, I was an
14 associate at Rivkin, Radler, Dunne & Bayh on Long
15 Island for about a year and-a-half and then
16 returned to a position with the New York Senate.
17 Q. And what were your duties and
18 responsibilities at the New York Senate?
19 A. I was counsel to Senator John Dunne,
20 who was a senator from Garden City and who I
21 worked for previously, and I returned as his
22 counsel.
23 Q. And then in 1995 you departed the
24 Senate for the Insurance Department; is that
25 correct?

Page 70

1 GREG SERIO

2 its RBC was performing better than what had been

3 projected.

4 Q. Okay. I just want to make sure we're

5 all looking at RBC in the same way because

6 sometimes you say dip as a good thing versus a bad

7 thing, so using real numbers --

8 A. Okay.

9 Q. Can we talk about RBC for a moment?

10 A. Sure.

11 Q. Can you go through what, at least

12 with respect to SHIP, the actual RBC numbers that

13 were being measured were?

14 A. Okay. And --

15 Q. In terms of percentages.

16 A. Yes. That's what I was going to say.

17 RBC is measured in percentage, and the charts I

18 was referring to showed RBC dropping below 200 or

19 approaching other RBC benchmarks sooner than 2014,

20 where it would have required some action prior to

21 that date.

22 But I do remember this because -- and

23 I remember commenting -- I don't remember what my

24 comments were, but remembering commenting on how

25 our -- the whole curve had moved forward so that

Page 71

1 GREG SERIO

2 we were not at 200 or 150 or 100 at the point that

3 we were expecting to be, but rather later on.

4 Q. So is it better to have a higher RBC

5 or a lower RBC?

6 A. Intuitively, it's better to have a

7 higher RBC.

8 Q. Are there points at which, if an RBC

9 reaches below a certain threshold, a regulator

10 will take action?

11 A. There's a point where a regulator

12 will have to take action if the RBC got to that

13 point or below.

14 Q. Are you aware of any concerns at SHIP

15 Atlanta anytime that the RBC was approaching a

16 level at which the regulator would take action?

17 A. Well, almost through the entirety of

18 the history of SHIP, there was concern about RBC,

19 and it was great diligence taken to scrub RBC to

20 make sure we understood exactly where it was,

21 particularly as it did not develop the way the

22 projections had.

23 But as -- as RBC dipped, we did talk

24 about that, and we talked about it. Like I think

25 we said earlier, we spoke about RBC regularly,

Page 72

1 GREG SERIO

2 irrespective of its trending with the regulator.

3 Q. Were those discussions focused on

4 ensuring that the RBC number was accurate or were

5 they focused on improving the RBC number?

6 MR. McCORMACK: Object to form.

7 A. The conversation was -- the

8 conversations to my recollection were about what

9 to do about the RBC number as well as whether

10 there would be opportunities to waive the RBC

11 requirements given that this is a runoff company.

12 And there were extensive discussions about that

13 because, in our view, the RBC was a measure of

14 more opportune to a going concern than a runoff

15 company.

16 Q. Taking the second half of that,

17 first, it was SHIP's feeling that the RBC was an

18 inappropriate measure for a company in runoff?

19 MR. McCORMACK: Object to form.

20 A. Not that it's an inappropriate

21 measure, but it was somewhat of a redundancy if

22 it's already in runoff, that you're taking

23 regulatory action -- you're already taking

24 regulatory action on.

25 Q. I see.

Page 73

1 GREG SERIO

2 Nonetheless, as I understand your

3 testimony, SHIP was making efforts to either level

4 off or improve the RBC; correct?

5 A. It was a major area of concern and

6 work for the board and the management.

7 Q. Okay.

8 Specifically, what work was

9 undertaken by the board and/or management with

10 respect to RBC?

11 A. Constant monitoring of the -- of the

12 RBC levels, constant review of our financials and

13 discussions about a variety of things that could

14 be done, that could possibly be done or at least

15 discuss with the Department about improving --

16 improving RBC.

17 Q. Are you aware of any specific

18 investment decisions that were made in order to

19 improve SHIP's RBC?

20 A. I believe the one that I could think

21 of off the top of my head -- because investments

22 don't always impact RBC, but I believe that the

23 surplus note -- and actually that's not an

24 investment we're making out, but somebody making

25 in -- would impact RBC.

Page 74

1 GREG SERIO

2 Q. You referred to the surplus note

3 there as an investment making out -- was not an

4 investment you were making out, but somebody

5 making in.

6 A. Right.

7 Q. What do you mean by that?

8 A. Surplus notes are issued by insurance

9 companies to raise capital. People buy surplus

10 notes, and they provide capital to the insurance

11 company for that. So that's what I mean when I

12 say "make an investment in."

13 Q. In your experience, have you seen

14 instances where a surplus note was purchased by an

15 outside investor, but the actual funds for the

16 purchase came from the issuer of the note?

17 MR. McCORMACK: Object to form.

18 A. I think I have seen models where that

19 has been done, yes.

20 Q. In your experience, is that the

21 exception or the rule when it comes to surplus

22 notes?

23 A. It's hard to say, you know, what's

24 exception, what's rule, you know, the entirety of

25 surplus note traffic.

Page 75

1 GREG SERIO

2 I know it is something that has been

3 done with greater frequency in and around the time

4 we were -- we were discussing it and since then.

5 Q. Surplus notes in general increased in

6 frequency around this time or surplus notes that

7 were really funded by the issuer of the note

8 increased in frequency?

9 MR. McCORMACK: Object to form.

10 A. Surplus notes that are funded by the

11 issuer.

12 Q. Did the board have discussions prior

13 to the issuance of the surplus note regarding its

14 issuance?

15 A. I recall that there were discussions

16 generally about it, yes.

17 Q. Did management present the structure

18 of the surplus note to the board prior to its

19 implementation?

20 A. Correct.

21 Q. Were there any questions by the board

22 to management about the implementation of the

23 surplus note?

24 A. I recall generally my major point of

25 interest, and I believe I asked a question -- I

Page 76

1 GREG SERIO

2 can't tell you what the question was, but I did

3 ask a question about the Department's view of

4 this, specifically on the surplus note.

5 Q. What in particular, if anything, were

6 you asking management about the regulator's

7 interest in the note?

8 A. Well, I wanted to make sure --

9 generally speaking, my view of all of these things

10 we were doing was, where are we with the

11 regulator, where is the regulator thing. I always

12 look at the regulator as our safe harbor.

13 And I know specifically on the

14 surplus notes because it relates directly to the

15 regulator, because you can't have repayment

16 without -- without regulatory approval, that I

17 wanted to make sure that the regulator was

18 involved in this conversation directly.

19 Q. And what were you told in response to

20 your inquiry?

21 A. That, I don't recall.

22 Q. Do you recall forming any opinion at

23 the time as to whether or not the regulator had

24 been adequately informed about the specifics of

25 the surplus note transaction?

Page 77

1 GREG SERIO

2 A. I don't recall what -- I think I just

3 said I don't recall what the reaction was or what

4 the discussion was around that other than my

5 concern would have been with respect to the

6 regulator.

7 Q. And am I summarizing your testimony

8 accurately by saying your overriding concern was

9 that the regulator be fully informed about the

10 transaction prior to it occurring?

11 MR. McCORMACK: Objection.

12 A. Yes.

13 Q. Going back to Exhibit 63, sir -

14 A. 60 --

15 Q. It's the last one.

16 MR. McCORMACK: The one-pager.

17 A. Yes, got it.

18 Q. Hard to keep them in order when I

19 jump around.

20 Back to the first sentence, "One item

21 for tomorrow's call it to discuss the RBC's

22 strengthening." We discussed that a bit.

23 Mr. Wegner writes about, "Various vehicles we are

24 planning with Beechwood."

25 Other than the surplus notes, were

Page 94

1 GREG SERIO

2 Q. Was it unusual at that time for an

3 investment manager to offer a guarantee like that?

4 MR. McCORMACK: Object to form.

5 A. Again, it is a balance of risk and

6 reward. I think that's part of it.

7 I don't -- I can't say because I'm

8 not an expert in that field, about whether it

9 would be done routinely in the market.

10 Q. Did SHIP undertake any investigations

11 to see whether that was routinely done in the

12 market?

13 A. I could only speak for the board.

14 I don't recall there being a

15 conversation with the management about -- I don't

16 recall that there was a conversation about whether

17 they had done any background work on that.

18 (A recess was taken.)

19 BY MR. WEINICK:

20 Q. Mr. Serio, other than counsel and

21 some friendly banter, you didn't talk to anyone

22 during the break about the deposition; correct?

23 A. No.

24 Q. Are you familiar with an entity

25 called Triliant?

Page 95

1 GREG SERIO

2 A. Yes.

3 Q. What do you know about Triliant?

4 A. It was a family-owned business of

5 Mr. Wegner.

6 Q. And what business was it in?

7 A. I believe it was a data analytics

8 business.

9 Q. And did there come a time when

10 Triliant became an issue for the SHIP board?

11 A. Yes.

12 Q. Can you describe that?

13 A. It became an issue because of a

14 prospective investment in Triliant by Beechwood.

15 Q. And how did the board become aware of

16 that?

17 A. I'm not entirely certain as to the

18 course of events of how we got it. I know we were

19 aware of it.

20 Q. Let's take a look at an e-mail that

21 may help with that.

22 MR. WEINICK: This is 774.

23 (Plaintiff's previously

24 marked Exhibit 774 for identification, shown to

25 witness.)

Page 96

1 GREG SERIO

2 BY MR. WEINICK:

3 Q. Mr. Serio, you've been handed what's

4 previously been marked as Exhibit 774.

5 MR. WEINICK: I'll state for the

6 record, while you review it, it is an e-mail that

7 begins -- and it may be cut off on the copy --

8 with SHIP 0127947 and concludes with 127949.

9 BY MR. WEINICK:

10 Q. The topmost e-mail dated August 26,

11 2014, which is from you to Julie Bowler, Thomas

12 Hampton, copy to John Morrison?

13 A. Uh-huh.

14 Q. Do you recall sending and/or

15 receiving this e-mail?

16 A. I don't recall specifically sending

17 it.

18 Q. Any reason to believe you did not?

19 A. No.

20 Q. I'd like to focus on the second page,

21 which is the e-mail dated August 26, 2014 at 11:13

22 a.m. from you.

23 A. Okay.

24 Q. You write that, at the second

25 sentence, "I am deeply concerned about our

Page 97

1 GREG SERIO

2 relationship with Beechwood with the seeming

3 closeness of Brian to them and the optics of this

4 proposed arrangement."

5 Do you see that?

6 A. Yes.

7 Q. Do you recall what your deep concerns

8 about the relationship with Beechwood were at the

9 time of this e-mail?

10 A. Yes. I -- my concern was that we

11 were coming to rely upon them too much.

12 Q. How was SHIP relying on Beechwood too

13 much?

14 A. We had started with the CNO deal

15 investment, and it just seemed to be an

16 omnipresence of Beechwood at that point, and then

17 this issue comes up. And that just one more

18 manifestation of us being too reliant upon them.

19 Q. This issue being Triliant?

20 A. Yes.

21 Q. Was Triliant also sometimes referred

22 to as Kala, K-A-L-A?

23 A. I believe they were used

24 interchangeably.

25 Q. You refer in this sentence to "the

Page 98

1 GREG SERIO

2 seeming closeness of Brian to them."

3 What did you mean by that?

4 A. I recall, again, I think I would just

5 describe it as kind of the omnipresence of

6 Beechwood. When you have a management

7 relationship with a vendor, you have -- you know,

8 they're going to work with them on a regular

9 basis. It was something that I was concerned

10 about maintaining some level of objectivity there.

11 Q. Did you or the board do anything to

12 address your concerns about the closeness of

13 Mr. Wegner to Beechwood in August of 2014?

14 A. I believe I opposed this transaction.

15 Q. And was your opposition successful?

16 A. No.

17 Q. Mr. Wegner went ahead with the

18 transaction with Triliant and Beechwood?

19 A. I believe the transaction -- I

20 believe the investment went forward, yes.

21 Q. You conclude in that paragraph,

22 writing, "Frankly, part of my concern is rooted in

23 some of the rather flip comments Beechwood's reps

24 made concerning the relationship with Brian during

25 our last board meeting."

Page 99

1 GREG SERIO

2 A. Yes.

3 Q. First of all, is that board meeting

4 that you reference the Washington meeting that we

5 were discussing earlier where Mr. Feuer was

6 present?

7 A. I think so.

8 Q. Okay.

9 Do you recall what the flip comments

10 Beechwood's reps had made were?

11 A. I don't, and I don't recall

12 specifically what the comments were or why I

13 considered them to be flip, but that's apparently

14 what I thought at the time.

15 Q. Did you think that the Beechwood's

16 comments were disrespectful?

17 A. Again, I don't know -- not

18 remembering them specifically, and I use the term

19 "flip" more so than anything else. So I don't

20 know if they were -- I don't know if I can put

21 another moniker on it, whether it was

22 disrespectful or some other word. I have to stick

23 by the word I used in the e-mail.

24 Q. And you refer to multiple reps here

25 of Beechwood. Were there comments made by

Page 100

1 GREG SERIO

2 Mr. Feuer or by somebody else from Beechwood?

3 A. I don't recall who specifically may

4 have made them, and I don't have any recollection

5 of the other guys. So I don't want to connect

6 those two dots together necessarily.

7 Q. And do you recall how, if in any way,

8 other members of the board responded to your

9 concerns articulated in this e-mail?

10 A. I don't know that for sure.

11 Q. Okay.

12 Do you recall any further discussions

13 following this e-mail about the Triliant

14 investment?

15 A. No. No, I don't. I -- just to go

16 back a question, I don't know who all made

17 comments.

18 I do recall that comments were made

19 by Mr. Feuer. I did not single him out, but I do

20 remember him making comments.

21 Q. Mr. Feuer made comments that you

22 considered to be flip?

23 A. Yes.

24 Q. Is it possible that others from

25 Beechwood also made comments you considered to be

Page 101

1 GREG SERIO

2 flip?

3 A. They might have. Again, I don't

4 recall anything they may have said.

5 Q. Is it your practice to take notes

6 during board meetings?

7 A. No.

8 Q. Did the SHIP board have a secretary

9 of any type?

10 A. Yeah.

11 Q. That took notes?

12 A. Yes. For the purposes of the

13 minutes.

14 REQ MR. WEINICK: Counsel, to the extent

15 that in addition to minutes, there are underlying

16 source notes that were taken during any board

17 meetings, we would call for their production.

18 MR. MCCORMACK: Noted.

19 MR. WEINICK: Thank you.

20 BY MR. WEINICK:

21 Q. If I represented to you that

22 Mr. Wegner testified that you saw no issue with

23 the Triliant investment, would he be mistaken?

24 A. If he characterized my view as not

25 having a problem with the Triliant -- he might be

Page 106

1 GREG SERIO
2 specifically what I said to them.
3 I know that this sentence or this
4 first paragraph apparently is a recitation of
5 that -- of what I communicated to them.
6 Q. Was Exhibit 783 an attempt by you to
7 bring Mr. Hampton and Ms. Bykirk up to speed on
8 what you had already conveyed to Julie and to
9 John?
10 MR. McCORMACK: Object to form.
11 A. It appears that way. It appears that
12 way.
13 Q. You go on in the sentence,
14 "Increasingly frustrated with the management."
15 Who is "the management" referenced
16 there?
17 A. That would be the senior management
18 of SHIP. It would be Mr. Wegner, Mr. Lorenz and
19 Mr. Carmody.
20 Q. What was Mr. Carmody's role at SHIP?
21 A. He was the general counsel and --
22 yes.
23 Q. You write you are concerned that they
24 may not have the skillset to be true insurance
25 company managers.

Page 107

1 GREG SERIO
2 What skills did you believe they were
3 lacking?
4 A. Well, I think -- well, very
5 specifically, I know that they were lacking
6 reinsurance skills, just based upon this e-mail
7 and remembering certainly the tone and tenor, if
8 not the actual content of several reinsurance
9 conversations we had.
10 And I think I was starting to
11 crystallize where some of my frustrations were
12 coming from, having had experience with real
13 insurance company managers.
14 Q. What particular skills in your mind
15 were necessary for reinsurance at this point?
16 A. Skills -- maybe skill wasn't the
17 right word, but certainly experience in
18 reinsurance transactions, in the reinsurance
19 marketplace, having access or a Rolodex of
20 reinsurance intermediaries and what intermediaries
21 do versus what the reinsurance underwriters do.
22 I do recall having had a conversation
23 about the role of a reinsurance intermediary, and
24 I just got the sense that they did not really
25 understand what a reinsurance intermediary does

Page 108

1 GREG SERIO
2 versus what a reinsurance underwriter does.
3 Q. Did SHIP have a role in retaining
4 Mr. Wegner or did you inherit him?
5 A. We inherited him as a COO. We had no
6 role in his -- in his coming into SHIP.
7 He was -- in '08, he was a COO to
8 Mr. Wells, who was the CEO.
9 Q. And when did Mr. Wells depart?
10 A. Two months later.
11 Q. Why?
12 A. Two months into it.
13 We realized almost immediately that
14 he was not going to be an appropriate fit for the
15 company.
16 Q. What was it that didn't fit about
17 Mr. Wells with the company?
18 A. That was a really long time ago. I
19 don't know what specifically -- and, again, I'm
20 not going to try and pinpoint it because I don't
21 know if it was stylistic or substantive.
22 Q. And what about Mr. Lorenz? Was he
23 hired by the SHIP board or was he inherited as
24 well?
25 A. I don't recall how he came to the

Page 109

1 GREG SERIO
2 company.
3 Q. And same question. Mr. Carmody?
4 A. Mr. Carmody -- again, I don't know.
5 They both were there, I believe,
6 close to the beginning, so I don't know if they
7 were actual hires or whether we inherited them as
8 well.
9 Q. I'm going to skip down on 783 to the
10 fourth paragraph, "The apparent overreliance on
11 Beechwood as a default answer for most, if not
12 all, of our issues and certainly as a substitute
13 for objective due diligence, especially in the
14 critical area of reinsurance, which may prove to
15 be the company's lifeline, is an impression that
16 needs to be addressed at minimum."
17 Let's stop there.
18 A. Uh-huh.
19 Q. The beginning of the sentence, "The
20 apparent overreliance on Beechwood as a default
21 answer," is that what you were just testifying to?
22 A. Yes.
23 Q. So is it correct to say that you were
24 concerned that anytime an issue arose,
25 Mr. Wegner's proposed solution was to enter into

Page 110

1 GREG SERIO

2 some type of transaction with Beechwood?

3 A. Yes.

4 Q. And what do you mean when you're

5 referring to a "substitute for objective due

6 diligence"?

7 A. What I meant by that, what I think I

8 was alluding to a minute ago, because, you know,

9 Beechwood was kind of in my view set as the

10 default -- what I mean by objective due diligence

11 in that case is going into the marketplace and

12 doing due diligence on a what else is out there.

13 Not necessarily due diligence on a party, but

14 doing a market due diligence; what's out there,

15 what do they have, who can do it, things like

16 that.

17 Q. So this is not a reference to due

18 diligence on your existing partnership and agent,

19 Beechwood; correct?

20 A. No. I believe this was a market

21 reference.

22 Q. Okay. Because I think you've

23 testified you don't recall any discussions

24 regarding due diligence on Beechwood itself;

25 correct?

Page 111

1 GREG SERIO

2 A. Correct.

3 Q. You go on to write, "If it actually

4 is the default for whatever reason, then that is

5 far more troubling."

6 What did you mean by that? I'm

7 looking --

8 A. Yes, I'm reading it. I'm trying to

9 see if I can recall what I meant by that.

10 And I don't know specifically what I

11 was referencing at that point, you know, in terms

12 of what was troubling me other than what had

13 already been expressed in the e-mail, which is

14 that we were just not getting the kind of options

15 or, you know, we did not have optionality.

16 Q. Was part of the trouble that you're

17 referencing here what we saw in another e-mail,

18 where you talked about the closeness between

19 Mr. Wegner and Beechwood?

20 A. I don't know if I can connect those

21 dots. I just don't recall that.

22 Q. But at least at some point in time,

23 if not at the point in time of e-mail 783, you did

24 have a concern about the closeness between

25 Mr. Wegner and Beechwood; correct?

Page 112

1 GREG SERIO

2 A. Yeah, apparently I did as I wrote.

3 Q. Do you recall having concerns about

4 the closeness between any other SHIP executives

5 and Beechwood?

6 A. Not to the same extent.

7 Q. To any extent?

8 A. Well, yeah, I think maybe Mr. Lorenz

9 in terms of his reliance. He had some of the same

10 issues that Mr. Wegner did. I think that's my

11 reference up at the top -- top of the page. I

12 think they were all suffering from kind of the

13 same problem.

14 Q. Did you have a belief at the time of

15 this e-mail or any other that Mr. Wegner was not

16 employing an adequate level of skepticism when it

17 came to dealing with Beechwood?

18 A. That's probably a fair

19 characterization.

20 Q. And what about if I asked the same

21 question with respect to Mr. Lorenz?

22 A. That is a fair characterization.

23 Q. Moving on in e-mail 783, you write,

24 "John Collins gave us some great insights

25 yesterday, and he, too, found the procedural path

Page 113

1 GREG SERIO

2 of this reinsurance exercise to be odd and the

3 board's total involvement in this issue to be

4 troubling."

5 Who is John Collins?

6 A. John Collins is a reinsurance

7 executive, who was brought to our attention by

8 Mr. Morrison. And Mr. Morrison arranged to have a

9 conference call just between the board and

10 Mr. Collins.

11 Q. Mr. Morrison being the regulator;

12 correct?

13 A. Mr. Morrison being one of the board

14 members.

15 Q. Was there a telephone call or a

16 meeting with Mr. Collins?

17 A. I don't know if people were meeting

18 with him directly. I was on the phone for that

19 conversation.

20 Q. So this would have been the day

21 before September 15th? My question was, so the

22 conversation with Mr. Collins was the day before

23 September 15th?

24 A. Right.

25 MR. WEINICK: And I think we made a

<p style="text-align: right;">Page 138</p> <p>1 GREG SERIO</p> <p>2 non-admitted?</p> <p>3 A. Ability for repayment, if you have a</p> <p>4 loan, if you have any insurance. Insurance you</p> <p>5 can take credit for reinsurance, if you have. It</p> <p>6 can be redeemed within, I think, 90 days. That</p> <p>7 would be one example.</p> <p>8 Q. So liquidity versus illiquidity of an</p> <p>9 asset could be a determination of whether it's</p> <p>10 admitted or not admitted?</p> <p>11 A. Yes.</p> <p>12 Q. And is there a relationship between</p> <p>13 the TAC and the RBC?</p> <p>14 A. There is, but they actually measure</p> <p>15 different things, but there is a relationship</p> <p>16 between the two.</p> <p>17 You can have fluctuations in both.</p> <p>18 It won't be a -- a correlative interaction all the</p> <p>19 way through an analysis, so you either have a</p> <p>20 change in RBC that's different than a change --</p> <p>21 than the same percentage of change in total</p> <p>22 adjusted capital.</p> <p>23 Q. So if I'm hearing you right, one does</p> <p>24 not necessarily impact the other?</p> <p>25 A. My understanding is that one doesn't</p>	<p style="text-align: right;">Page 140</p> <p>1 GREG SERIO</p> <p>2 those two data points rather than -- rather than</p> <p>3 just a correlative aspect between them.</p> <p>4 Q. And what are you looking for</p> <p>5 trend-wise?</p> <p>6 MR. McCORMACK: Object to form.</p> <p>7 A. I'm looking for trend in obviously</p> <p>8 with the benchmarks on RBC specifically because</p> <p>9 that has very specific -- that has very specific</p> <p>10 regulatory consequences.</p> <p>11 MR. McCORMACK: Are you testifying in</p> <p>12 your role as SHIP or something else right now?</p> <p>13 THE WITNESS: That's just the way I</p> <p>14 looked at it with SHIP, specifically with SHIP.</p> <p>15 MR. McCORMACK: That's fine.</p> <p>16 A. I just -- I was very focused on --</p> <p>17 and, frankly, I was more focused on RBC,</p> <p>18 risk-based capital, because of the attenuation to</p> <p>19 RBC of very specific regulatory activities.</p> <p>20 Q. Because at certain RBC levels, even</p> <p>21 though you previously stated that you -- I'll use</p> <p>22 the word "objected" to the use of RBC because</p> <p>23 you're already in runoff, why have regulatory</p> <p>24 action on something that's in regulatory action,</p> <p>25 but there could be further regulatory action if</p>
<p style="text-align: right;">Page 139</p> <p>1 GREG SERIO</p> <p>2 necessarily impact the other. They're both used</p> <p>3 as tools to measure from different perspectives</p> <p>4 the overall strength of a company.</p> <p>5 Q. Are either measured off of each</p> <p>6 other? In other words, just so the record is</p> <p>7 clear -- I know you understand by your head motion</p> <p>8 -- is TAC measured against RBC or RBC measured</p> <p>9 against TAC?</p> <p>10 A. I haven't looked at it that way.</p> <p>11 Q. Okay. How do you look at it?</p> <p>12 A. Well, I look at the two separate and</p> <p>13 necessarily independent financial barometers for</p> <p>14 the regulators.</p> <p>15 Q. So if you're thinking about it</p> <p>16 mathematically, they're independent formulas for</p> <p>17 calculating each?</p> <p>18 A. Yeah, TAC is a dollar. Risk-based</p> <p>19 capital are dollars or percentages of the dollars.</p> <p>20 Q. So if someone were to say something</p> <p>21 like, "TAC is dropping below 100 percent of RBC,"</p> <p>22 is that a misstatement of some type?</p> <p>23 A. I don't -- I don't know if that's a</p> <p>24 misstatement, but I think it's -- to me, as a</p> <p>25 nonfinancial examiner type, I look at the trend in</p>	<p style="text-align: right;">Page 141</p> <p>1 GREG SERIO</p> <p>2 RBC fell below a certain level?</p> <p>3 A. And while that was my opinion serving</p> <p>4 on the board, you know, we were not getting</p> <p>5 that -- we weren't getting agreement on that by</p> <p>6 the regulator, so we had to be concerned about the</p> <p>7 RBC number.</p> <p>8 Q. So as a member of the SHIP board, you</p> <p>9 had an understanding that the position of the</p> <p>10 regulators were that if RBC fell below a certain</p> <p>11 level, the regulators would take actions against</p> <p>12 SHIP; correct?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know what those actions might</p> <p>15 have been?</p> <p>16 A. Well, it's a unique -- this is a</p> <p>17 unique situation because we're already under an</p> <p>18 order of the Department. Pennsylvania also has an</p> <p>19 administrative supervision power, which allows the</p> <p>20 Department to come in and impose certain</p> <p>21 requirements on a company without having taken it</p> <p>22 into rehabilitation.</p> <p>23 So I know what options they had</p> <p>24 generally, but I didn't know specifically what</p> <p>25 they might do with it.</p>

Page 150

1 GREG SERIO

2 A. Sounds like a related question.

3 No. No. I don't recall having those

4 conversations. I do recall the conversation

5 regarding loss development.

6 Q. If anyone, either on the SHIP board

7 or SHIP management, had been having conversations

8 regarding a change in the composition of SHIP's

9 investment basket, increasing so there's more

10 rated assets versus unrated, would you have been a

11 part of those discussions?

12 A. Likely, and I do remember having

13 conversations about our investments generally with

14 Mr. Lorenz. It was a regularly reported item at

15 our board meetings.

16 But as it related to TAC or RBC, I --

17 I did not -- I don't recall having those -- having

18 that linkage as compared to having a linkage

19 directly to loss development and the deterioration

20 of TAC and RBC.

21 Q. What discussions about investments do

22 you recall with Mr. Lorenz?

23 A. We had -- every quarter we went

24 through the investments, those sold, those bought

25 and just what the performance of the investment

Page 151

1 GREG SERIO

2 portfolio was.

3 Nothing jumps out of my recollection

4 that there were at least this period of time, that

5 there was significant or -- that there was issues

6 of concern. I don't remember, so like sitting

7 here today, I don't recall that jumping off the

8 page the way loss development did.

9 Q. Do you recall any instructions given

10 to Mr. Lorenz or others with respect to SHIP's

11 investments?

12 A. I think they understood to the extent

13 otherwise that they were operating under the

14 investment policy and that -- and there was not a

15 lot of instruction on that.

16 We did not affirmatively manage the

17 investment portfolio at the board level.

18 Q. Did the board give any general

19 instructions other than understanding that the

20 senior management was aware of the investment

21 policies as to investment direction?

22 A. I don't think so other than what

23 those -- what were brought to the board for

24 consideration, like we talked about before, the

25 IMAs or otherwise.

Page 152

1 GREG SERIO

2 I don't think we did anything on an

3 affirmative basis in that regard.

4 Q. Let's go back to the exhibit. I

5 brought it out for a reason.

6 You respond back just to Mr. Hampton

7 on December 8th at 8:10 p.m.

8 Do you see that?

9 A. Yes.

10 Q. And you ask "have you spoken with

11 Steve."

12 Is that a reference to the regulator?

13 A. I believe so.

14 Q. Moving forward, Mr. Hampton writes

15 back to you on December 9th at 10:29 a.m., and you

16 exchange some pleasantries about his daughter's

17 graduation, right, in the first paragraph?

18 A. Yes, yes.

19 Q. And Mr. Hampton wrote to you in the

20 second paragraph, "I told Steve that management

21 believed that SHIP total adjusted capital, TAC,

22 will go below 100 percent of RBC, and that as

23 board members we want to perform our fiduciary

24 duty of reviewing and implementing strategies to

25 mitigate this reduction in RBC."

Page 153

1 GREG SERIO

2 Did you understand what Mr. Hampton

3 was discussing here?

4 A. Yes.

5 Q. What was that?

6 A. He was talking about RBC hitting or

7 going below 100 percent. That we were having

8 ongoing discussions about -- and I think we talked

9 about earlier -- surplus -- mitigation strategies

10 throughout that year, as you could tell.

11 So that -- I assume it was connected

12 to that.

13 Q. So as of December 9, 2015, SHIP's RBC

14 was in the range of potentially dropping below a

15 level which would prompt a regulatory takeover?

16 A. Not a takeover, necessarily.

17 Specifically, it would be regulatory action.

18 Q. And what types of action might the

19 regulators have taken?

20 A. Well, in Pennsylvania they could --

21 like as I said earlier, they're an administrative

22 supervision state. They could have imposed an

23 administrative supervision order beyond the order

24 that the company had been operating under.

25 They could take a petition for

<p style="text-align: right;">Page 154</p> <p>1 GREG SERIO</p> <p>2 rehabilitation. They could have directed specific</p> <p>3 capital and reserve strengthening measures.</p> <p>4 There's a wide range of things they</p> <p>5 could have done.</p> <p>6 Q. The potential remedies you just</p> <p>7 mentioned, administrative supervision, petition</p> <p>8 for rehabilitation, would any of those have</p> <p>9 resulted in the removal of management?</p> <p>10 A. Not -- not automatically. One would</p> <p>11 not, you know, equate always with the other, you</p> <p>12 know, even an of rehab would not necessarily</p> <p>13 result in a removal of management.</p> <p>14 Q. But the removal of management was a</p> <p>15 potential remedy available to the regulators;</p> <p>16 correct?</p> <p>17 A. Yeah, but I wouldn't look at -- I</p> <p>18 wouldn't choices removal of management as a remedy</p> <p>19 to the RBC problem.</p> <p>20 It was an option they had at their</p> <p>21 disposal.</p> <p>22 Q. It's an action that the regulators</p> <p>23 could have taken as a result of the RBC dropping</p> <p>24 below a threshold?</p> <p>25 A. We want to be very particular about</p>	<p style="text-align: right;">Page 156</p> <p>1 GREG SERIO</p> <p>2 SHIP's then-current management?</p> <p>3 A. Yes, yes.</p> <p>4 Q. And under the regulations that SHIP</p> <p>5 was subject to in December of 2015, if RBC fell</p> <p>6 below a certain level, could the regulators take</p> <p>7 steps which would ultimately result in the removal</p> <p>8 of SHIP's then-current board?</p> <p>9 A. Yes.</p> <p>10 Q. All right. Going back to 785.</p> <p>11 After congratulating -- and this is</p> <p>12 your response at 10:32 a.m., after congratulating</p> <p>13 Tom about his daughter, you go on to a more</p> <p>14 substantive response, and you -- in the second</p> <p>15 sentence, "I think it raises a significant</p> <p>16 question about the need to do something with it at</p> <p>17 this time. I look forward to that discussion."</p> <p>18 Do you see that?</p> <p>19 A. Uh-huh, yes.</p> <p>20 Q. What's the significant question that</p> <p>21 you're referring to there?</p> <p>22 A. I don't have an independent</p> <p>23 recollection of -- of that, going back to there,</p> <p>24 from that time. I don't have an independent</p> <p>25 recollection of that at the time.</p>
<p style="text-align: right;">Page 155</p> <p>1 GREG SERIO</p> <p>2 this.</p> <p>3 Q. Okay.</p> <p>4 A. The removal of management would be</p> <p>5 because of the action that the company took. Not</p> <p>6 because RBC was below the threshold. Two</p> <p>7 different things.</p> <p>8 Q. Do you mean the regulators took, not</p> <p>9 the management?</p> <p>10 A. No. The regulators -- the action</p> <p>11 that the regulator may take is -- is related -- is</p> <p>12 not necessarily -- action that regulators take in</p> <p>13 response to RBC -- put it this way, sorry.</p> <p>14 The removal of management is not an</p> <p>15 action that you take specifically to increase the</p> <p>16 RBC. It's an action you take as a consequence of</p> <p>17 one of those other actions, like rehabilitation,</p> <p>18 administrative supervision, something like that.</p> <p>19 Q. Understood. Let me ask it</p> <p>20 differently just to make sure we're absolutely</p> <p>21 clear.</p> <p>22 Under the regulations that SHIP was</p> <p>23 subject to in December of 2015, if RBC fell below</p> <p>24 a certain level, could the regulators take steps</p> <p>25 which would ultimately result in the removal of</p>	<p style="text-align: right;">Page 157</p> <p>1 GREG SERIO</p> <p>2 Q. Do you have a recollection now about</p> <p>3 what question you were talking about?</p> <p>4 A. Yes. In going back to the note that</p> <p>5 Tom sent to me, that if we were to be given a</p> <p>6 permitted practice to operate below 100 percent,</p> <p>7 we would not need to do reinsurance or any other</p> <p>8 reserve strengthening per se for the purposes of</p> <p>9 moving up RBC.</p> <p>10 That would have provided significant</p> <p>11 relief to the company to continue to run off</p> <p>12 without having to take, you know, an extraordinary</p> <p>13 -- an extraordinary action to improve the</p> <p>14 financials.</p> <p>15 Q. You say "I look forward to that</p> <p>16 discussion."</p> <p>17 Do you know if that discussion ever</p> <p>18 took place?</p> <p>19 A. I don't recall.</p> <p>20 Q. Skipping up to the very top, you</p> <p>21 write, "That is why I worry about Joe DiMemmo."</p> <p>22 A. Yes.</p> <p>23 Q. First of all, who is Joe DiMemmo?</p> <p>24 A. Joe DiMemmo is the current chief</p> <p>25 financial examiner for the Department.</p>

Page 166

1 GREG SERIO

2 pages, there's blank out of 215 and then there's

3 the Bates number. It may be easier if I refer to

4 the blank out of 215 when I'm referencing.

5 A. Okay.

6 Q. So now I'm looking at page 4 of 215

7 in Serio 1.

8 A. Yes.

9 Q. And would you agree this is the

10 second page of minutes from the prior quarterly

11 meeting, in August of 2015?

12 A. That would be right.

13 Q. On page 4 at the top, under the

14 heading "investments," it says, "After review of

15 the second quarter 2015 investment purchases and

16 sales as presented by Mr. Lorenz, a motion was

17 made by Mr. Hampton and seconded by Mr. Wegner to

18 approve the investments. The motion passed."

19 Do you see that?

20 A. Yes.

21 Q. My first question is, does that

22 recitation comport with your recollection of any

23 board actions taken at the August 2015 meeting?

24 A. I don't have a recollection of what

25 we did on investments at that meeting.

Page 167

1 GREG SERIO

2 Q. Okay.

3 I thought you had testified earlier

4 that the board in general did not approve or

5 disapprove of investments -- if I've

6 mischaracterized your earlier testimony, tell me,

7 but if I haven't, can you explain what is

8 referenced in these minutes?

9 A. Yes. You did a little bit,

10 mischaracterized a little bit. And I said we did

11 not -- we were not involved in the investing.

12 What we did, like most boards do, we

13 review the investments of the previous quarter and

14 then we re- -- then we approve the report of the

15 -- of the officials responsible for investments

16 for that previous quarter.

17 We are not affirmatively approving

18 those investments on a go-forward basis, but

19 rather on a retrospective basis, like most boards

20 do.

21 Q. And what would the consequence have

22 been if the board did not approve the investments

23 retroactively or retrospectively, to use your

24 word?

25 A. I don't know what the consequence

Page 168

1 GREG SERIO

2 might have been.

3 It would have depended upon the --

4 whatever the area of concern might have been.

5 Q. And just to clarify, the meeting

6 minutes we were just looking at, those were for

7 the August 26, 2015 meeting?

8 A. That's correct.

9 Q. And now if we flip to page 6 of 2015,

10 we see minutes from the August 27th meeting?

11 A. Yes.

12 Q. And a couple up from the bottom

13 there's a line entry that says, "The board has

14 requested that additional due diligence be

15 conducted on Beechwood."

16 Do you see that, on page 6 of 215?

17 A. 6 --

18 Q. If you find the word adjournment

19 underlined and you go three entries above that.

20 A. Yes, I see it.

21 Q. Do you know what that's referring to?

22 A. I don't know specifically what that

23 would be referring to.

24 Q. Do you know if the management carried

25 out that instruction?

Page 169

1 GREG SERIO

2 A. I don't know.

3 Q. Do you know where you might look to

4 find more detail on what this refers to?

5 A. I don't know if there's e-mail

6 traffic on it, but I'm not sure I would know where

7 else to go in terms of that specific discussion.

8 Q. Okay.

9 Do you have any recollection of what

10 was going on between SHIP and Beechwood in August

11 of 2015; for example, were there any transactions

12 being contemplated at that time?

13 A. Well, I believe that was around the

14 reinsurance -- the discussion about the

15 reinsurance transaction.

16 Q. Do you have any reason to believe

17 that the due diligence to be conducted on

18 Beechwood related to investments being made by

19 Beechwood under the IMAs?

20 A. I have no idea if that's what that

21 was about.

22 Q. Now, if you could, sir, flip forward,

23 and this is difficult to read so we'll go with the

24 Bates number to 96890.

25 A. Okay.

<p style="text-align: right;">Page 170</p> <p>GREG SERIO</p> <p>1 Q. The top of this page, it says, "Path 2 to 200 percent RBC." 3 4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know what that refers to?</p> <p>7 A. Refers to the management presentation 8 about getting back to 200 percent RBC.</p> <p>9 Q. What is 200 percent RBC represent?</p> <p>10 A. That represents the standard where 11 there is not a specific company -- compulsory 12 company or regulatory action to be taken.</p> <p>13 Q. The last main bullet point on the 14 bottom of this page says, "Mitigate RBC impact of 15 inability to convert BRE IMA to lateral note." 16 17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. What does that refer to?</p> <p>20 A. Just as I'm reading it here, and I 21 don't know -- I don't recall what we were 22 referencing at that point, but apparently the 23 management was discussing if there was not an 24 ability to convert the IMA to a collateral note 25 that that would have a negative RBC impact.</p> <p>Q. What does it mean to convert the IMA</p>	<p style="text-align: right;">Page 172</p> <p>GREG SERIO</p> <p>1 Q. Does the use of the word "collateral" 2 indicate to you a secured investment as opposed to 3 an unsecured investment? 4 5 A. Well, collateral would mean that it's 6 secured by some property or financial obligation, 7 but that -- that doesn't tell me anything more 8 than that.</p> <p>9 Q. And what about the final bullet point 10 "lower equity exposure"?</p> <p>11 A. Well, if it went to some kind of a 12 secured term, that would of course lower equity 13 exposure, where equity is you're wide open, 14 generally they are not secured, and if it was 15 secured by some property, that you would obviously 16 lower your equity exposure, but I don't know that 17 that's what we were talking about specifically. I 18 just don't know the rest of the context.</p> <p>19 Q. So you have no recollection about 20 whether at the November 2015 meeting the board was 21 discussing a move from equity-type investments to 22 secured loans as investments in an effort to 23 approve the RBC?</p> <p>24 A. By reading this, I can say that this 25 was a topic of conversation. I don't recall what</p>
<p style="text-align: right;">Page 171</p> <p>GREG SERIO</p> <p>1 to a collateral note?</p> <p>2 A. I don't recall specifically what our 3 conversation was around that, so I don't know what 4 -- what the particulars of that were. 5 6 Obviously looking to convert the 7 nature of the instrument, but -- with a security 8 -- the agreement -- but I don't know what that -- 9 what that entailed specifically.</p> <p>10 Q. Sitting here today, do you interpret 11 that as a discussion on converting an unsecured 12 investment position to a secured investment 13 position?</p> <p>14 A. I can't make that determination just 15 by reading that.</p> <p>16 Q. What would you need in order to make 17 that determination?</p> <p>18 A. Well, I would want to know -- I'd 19 want to know what the particulars of the proposal 20 were.</p> <p>21 Q. Do the sub-bullet points help you at 22 all? The first one says, "Investigate classifying 23 certain individual loans as collateral loans." 24 25 A. Not sufficient for me to make a judgment on it.</p>	<p style="text-align: right;">Page 173</p> <p>GREG SERIO</p> <p>1 -- I don't recall how the conversation proceeded. 2 3 Q. And I believe you testified earlier, 4 you don't keep personal notes from board meetings; 5 correct? 6 7 A. No.</p> <p>8 Q. Let's flip forward to page 60 out of 9 215.</p> <p>10 A. Okay.</p> <p>11 Q. Do you understand what page 60 of 215 12 is showing the board?</p> <p>13 A. This shows the transactions in the 14 previous quarter done by Beechwood.</p> <p>15 Q. Okay. By Beechwood on behalf of 16 SHIP?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall any discussion during 19 the November 2015 board meeting about these 20 particular acquisitions?</p> <p>21 A. I don't recall anything specifically 22 from that meeting on these investments.</p> <p>23 Q. Do you recall anything specifically 24 from that meeting about any particular 25 investments?</p> <p>A. No.</p>

<p style="text-align: right;">Page 178</p> <p>1 GREG SERIO</p> <p>2 you were provided?</p> <p>3 A. I don't.</p> <p>4 Q. You're not aware or they did not do</p> <p>5 so?</p> <p>6 A. No, I'm not aware.</p> <p>7 Q. If you could advance to page 77 and</p> <p>8 this now appears to be a sub document within the</p> <p>9 board materials, correct, it goes from about page</p> <p>10 77 to 91.</p> <p>11 A. Okay.</p> <p>12 Q. Would you agree with me</p> <p>13 encapsulation?</p> <p>14 A. Yes.</p> <p>15 Q. This appears to be an 11/5/15 draft</p> <p>16 of an amended and restated management agreement</p> <p>17 between Fuzion Analytics, Inc. and Senior Health</p> <p>18 Insurance Company of Pennsylvania; correct?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have any recollection about</p> <p>21 this draft amended and restated agreement?</p> <p>22 A. No.</p> <p>23 Q. No recollection about changes to the</p> <p>24 management agreement between Fuzion and SHIP at</p> <p>25 any point?</p>	<p style="text-align: right;">Page 180</p> <p>1 GREG SERIO</p> <p>2 Q. All right. Start with the investment</p> <p>3 gains harvest, what is meant by that?</p> <p>4 A. This was a -- a discussion to see</p> <p>5 what realized versus unrealized gains that we had,</p> <p>6 can we turn some unrealized gains into realized</p> <p>7 gains. That would require cashing out of certain</p> <p>8 investments to give them -- or change of</p> <p>9 investments in order to get the benefit of them</p> <p>10 for RBC purposes.</p> <p>11 Those would be those investments that</p> <p>12 did not figure into an RBC or total adjusted</p> <p>13 capital calculation, things of that nature.</p> <p>14 So it was an assessment of what we</p> <p>15 had in the portfolio and what we could potentially</p> <p>16 either liquidate or convert to give us some RBC</p> <p>17 benefit.</p> <p>18 Q. Do you recall the discussion of any</p> <p>19 particular investments that might fall under such</p> <p>20 a strategy?</p> <p>21 A. No. Not off the top of my head, no.</p> <p>22 I don't know how detailed we got into</p> <p>23 that conversation.</p> <p>24 Q. Does this relate at all to our</p> <p>25 discussion earlier about rated versus unrated</p>
<p style="text-align: right;">Page 179</p> <p>1 GREG SERIO</p> <p>2 A. No independent recollection of this,</p> <p>3 no.</p> <p>4 Q. Any recollection after taking a look</p> <p>5 at the draft?</p> <p>6 A. No, not specifically.</p> <p>7 Q. What about generally?</p> <p>8 A. No.</p> <p>9 Q. All right. Let's advance to page 94</p> <p>10 of 215.</p> <p>11 A. Okay.</p> <p>12 Q. This is entitled "SHIP RBC</p> <p>13 Enhancement Efforts and Options."</p> <p>14 Take a moment and review this page,</p> <p>15 please.</p> <p>16 A. Okay.</p> <p>17 Q. Does your review of page 94 of Serio</p> <p>18 1 refresh your recollection as to any RBC</p> <p>19 enhancement efforts that we haven't already</p> <p>20 discussed today?</p> <p>21 A. We haven't discussed the conversion</p> <p>22 to the P&C company, we haven't discussed the</p> <p>23 reserve release, we haven't discussed the</p> <p>24 investment gains harvest, some of the other</p> <p>25 things.</p>	<p style="text-align: right;">Page 181</p> <p>1 GREG SERIO</p> <p>2 assets?</p> <p>3 A. It might have. I think when I</p> <p>4 mentioned conversion to different types of</p> <p>5 qualities of investments, but I think more</p> <p>6 specifically, and I think more to the point of</p> <p>7 those conversations, when you're talking about</p> <p>8 investment gains, it's actually how do you turn</p> <p>9 them into realized gains so they give direct</p> <p>10 application to the balance sheet.</p> <p>11 Q. You would agree, though, that at</p> <p>12 minimum in November of 2015, SHIP was discussing a</p> <p>13 move from unrated to rated investments?</p> <p>14 MR. McCORMACK: Object to form.</p> <p>15 A. I think we were.</p> <p>16 Q. Now, what did you mean by reserve</p> <p>17 release?</p> <p>18 A. The IMR, the request for permitted</p> <p>19 practice to release IMR, I can't get into a lot of</p> <p>20 detail on this. I don't recall a lot of the</p> <p>21 conversation, but generally what it was was to</p> <p>22 allow for accounting treatment, which is why we</p> <p>23 require a permitted practice from the regulator,</p> <p>24 to allow us to release those reserves.</p> <p>25 I believe -- I believe we were given</p>

Page 190

1 GREG SERIO

2 there in person. There was a period of time when

3 that -- if I wasn't always able to make a meeting

4 in person.

5 Q. I can show you another document, but

6 I will represent to you that there are other

7 documents that indicate that you were at this

8 particular meeting by phone.

9 No reason to dispute that; right?

10 A. No, no reason.

11 Q. And when you participated by phone,

12 you were fully a part of the conversation.

13 You could hear everything; correct?

14 A. Yes.

15 Q. And they could hear you?

16 A. Yes.

17 Q. And you participated the full amount

18 of time of the on-the-record portion of the

19 meeting; correct?

20 A. No difference other than not being

21 there.

22 Q. Right. But the only difference would

23 be if there were conversations before and after in

24 the hallway, those you could not participate in?

25 A. Correct.

Page 191

1 GREG SERIO

2 Q. Let's start on page 3 of 127.

3 A. Okay.

4 Q. Under "Investments," do you see that?

5 A. Yes.

6 Q. "After review of the third quarter

7 2015 investment purchases and sales, as presented

8 by Mr. Lorenz, a motion was made by Mr. Hampton

9 and seconded by Mr. Wegner to approve the

10 investments. The motion passed."

11 Have I read that correctly?

12 A. Yes, you did.

13 Q. And this is indicating that the board

14 retroactively approved the investment purchases

15 and sales that have been made for the third

16 quarter of 2015; correct?

17 A. That's correct.

18 Q. Now let's jump ahead to page 31 of

19 127.

20 A. Okay.

21 Q. Do you recognize what is represented

22 on page 31?

23 A. Yes.

24 Q. What is that?

25 A. It's the record of the investment

Page 192

1 GREG SERIO

2 purchases by Beechwood for the fourth quarter of

3 2015.

4 Q. And there are a number of investments

5 listed. One of them about midway down the list is

6 Agera Holdings.

7 Do you see that?

8 A. Yes.

9 Q. Is that the Agera investment that you

10 were discussing before, where you had undertaken

11 an individual Google search of the company?

12 A. No.

13 Q. Did you think it was before or after

14 this?

15 A. I believe it was after this.

16 Q. Do you think that was in connection

17 with the June 2016 Agera transaction?

18 A. Yes.

19 Q. Do you recall any discussion at the

20 February 2016 meeting about the assets that had

21 been purchased in the fourth quarter of 2015?

22 A. I don't -- I don't recall whether

23 there was a conversation or not.

24 Q. Do you see there are at least three

25 entries that begin with the name Platinum

Page 193

1 GREG SERIO

2 partners?

3 A. Yes.

4 Q. Was there any discussion about

5 Platinum partners when this information was

6 presented to the board?

7 A. Like I said, I don't recall whether

8 we had conversations or not on this portfolio.

9 Q. Are you aware if any of the other

10 investments listed on page 31 are in any way

11 related to Platinum partners?

12 A. As I sit here today?

13 Q. Yes.

14 A. Well, I know now that Agera, there

15 was an Agera connection to Platinum partners.

16 I don't know of any of the others.

17 Q. And that's that you've learned since

18 the Wall Street Journal article we'll call it?

19 A. Yes.

20 Q. And, again, you're not aware of any

21 investigations undertaken by SHIP management as to

22 any of these assets at the time they were made;

23 correct?

24 A. I don't know what they did or did not

25 do with respect to it.

<p style="text-align: right;">Page 198</p> <p>1 GREG SERIO</p> <p>2 Q. And then, "Expectation is that no RBC</p> <p>3 plan will be required by PID."</p> <p>4 Do you know what that expectation was</p> <p>5 based upon?</p> <p>6 A. I don't.</p> <p>7 Q. Let's go forward now to page 50.</p> <p>8 And I'm looking -- this is under the</p> <p>9 title "Beechwood Holdings"; correct?</p> <p>10 A. Yes.</p> <p>11 Q. If we look at the third bullet point</p> <p>12 from the bottom, it says, "Of 30 holdings, 18 now</p> <p>13 have public ratings, including seven NAIC 1 and</p> <p>14 five NAIC 2."</p> <p>15 A. Yes.</p> <p>16 Q. Do you know what's meant by that</p> <p>17 entry?</p> <p>18 A. It appears -- yes, that 18 have</p> <p>19 public ratings rated by a nationally recognized</p> <p>20 rate service organization and an SRO, and it</p> <p>21 refers to the NAIC rating, which I think is on a 1</p> <p>22 to 4 or 1 to 5 basis, that seven of them are rated</p> <p>23 as NAIC 1, which is the highest, and five are</p> <p>24 rated NAIC 2, which is the second-highest.</p> <p>25 Q. So does this indicate to you that at</p>	<p style="text-align: right;">Page 200</p> <p>1 GREG SERIO</p> <p>2 A. Yes. And improving the overall</p> <p>3 strength of their portfolio, yes.</p> <p>4 Q. And one of the ways that SHIP</p> <p>5 intended to improve the rate of its portfolio was</p> <p>6 to move from unrated to rated investments;</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And that was a direction that was</p> <p>10 specifically implemented by SHIP's management?</p> <p>11 A. I don't know the genesis of that.</p> <p>12 Q. Do you know if the trend from having</p> <p>13 more unrated to having more rated was something</p> <p>14 that just happened or was it something that was</p> <p>15 intended to happen?</p> <p>16 A. I don't know for sure. I said before</p> <p>17 about the genesis. I don't know if it was -- I</p> <p>18 would presume that it was intended to happen, but</p> <p>19 I don't know whether it was management or the</p> <p>20 board or a combination or the investment advisor</p> <p>21 themselves.</p> <p>22 Q. You're not aware of any steps taken</p> <p>23 by SHIP to reverse the trend so that there would</p> <p>24 be, instead of being more rated there would be</p> <p>25 more unrated, do you?</p>
<p style="text-align: right;">Page 199</p> <p>1 GREG SERIO</p> <p>2 some point prior to February of 2016, SHIP's</p> <p>3 investments through Beechwood, less than 18 of</p> <p>4 them were publicly rated, and now, as of this</p> <p>5 date, 18 are publicly rated out of the 30</p> <p>6 holdings?</p> <p>7 A. That's what that bullet would seem to</p> <p>8 indicate.</p> <p>9 Q. So it's indicating --</p> <p>10 A. It's --</p> <p>11 Q. Go ahead.</p> <p>12 A. It only says it as of that date. Not</p> <p>13 whether they were rated prior to that. It's just</p> <p>14 giving a snapshot in time of that date.</p> <p>15 Q. Right. But would you agree that the</p> <p>16 word "now" in that sentence is indicating a</p> <p>17 change?</p> <p>18 MR. McCORMACK: Object to form.</p> <p>19 A. It would seem so, but it doesn't say</p> <p>20 that one way or the other. I just wanted to be</p> <p>21 careful in my response to is that.</p> <p>22 Q. The interpretation that there's been</p> <p>23 a change is consistent with SHIP's intention to</p> <p>24 improve the RBC, in part, through moving from</p> <p>25 unrated to rated investments; correct?</p>	<p style="text-align: right;">Page 201</p> <p>1 GREG SERIO</p> <p>2 A. No, I don't.</p> <p>3 Q. If such steps were undertaken to go</p> <p>4 from more rated to more unrated, that would likely</p> <p>5 have a detrimental impact on RBC; correct?</p> <p>6 MR. McCORMACK: Object to form.</p> <p>7 A. I don't know what the detrimental</p> <p>8 impact would be -- I don't know what the impact,</p> <p>9 if at all, would be on RBC. It would be a topic</p> <p>10 of conversation.</p> <p>11 Q. The board generally did not</p> <p>12 micromanage SHIP's management; correct?</p> <p>13 A. I don't believe that we micromanaged</p> <p>14 them.</p> <p>15 Q. And so when something became a topic</p> <p>16 of board discussion, it was something of</p> <p>17 importance; correct?</p> <p>18 A. I think everything that the board</p> <p>19 talked about was important.</p> <p>20 I don't know that -- I'd like to</p> <p>21 think that what was on the agenda, whatever we had</p> <p>22 to discuss was important.</p> <p>23 Q. Going to page 51, the next page under</p> <p>24 "Investment Strategies 2016," the first bullet</p> <p>25 point says, "No new asset classes pursued in</p>

Page 254

C E R T I F I C A T E

I, Linda J. Greenstein, Professional Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify that, GREG SERIO, the witness whose deposition is hereinbefore set forth, was duly sworn and that such deposition is a true record of the testimony given by the witness to the best of my skill and ability.

I further certify that I am neither related to or employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of January 2020.

Linda J. Greenstein

Linda J. Greenstein

My commission expires: January 31, 2021

Page 255

I N D E X

WITNESS	EXAMINED BY	PAGE
GREG SERIO	Mr. Weinick	4

----- INFORMATION REQUESTS -----

DIRECTIONS:

RULINGS:

TO BE FURNISHED:

REQUESTS: 101, 219

MOTIONS:

----- E X H I B I T S -----	
NO.	PAGE
(Plaintiff's previously marked Exhibit 767 for identification, shown to witness.)	22
(Plaintiff's previously marked Exhibit 768 for identification, shown to witness.)	29
(Plaintiff's previously marked Exhibit 770 for identification, shown to witness.)	44
(Plaintiff's previously marked Exhibit 769 for identification, shown to witness.)	58
(Plaintiff's previously marked Exhibit D-149 for identification, shown to witness.)	79
(Plaintiff's previously marked Exhibit 774 for identification, shown to witness.)	95

Page 256

CONTINUED
INDEX:

----- E X H I B I T S -----	
NO.	PAGE
(Plaintiff's previously marked Exhibit 783 for identification, shown to witness.)	103
(Plaintiff's previously marked Exhibit D-145 for identification, shown to witness.)	117
(Plaintiff's previously marked Exhibit 776 for identification, shown to witness.)	122
(Plaintiff's previously marked Exhibit 391 for identification, shown to witness.)	128
(Plaintiff's previously marked Exhibit 785 for identification, shown to witness.)	143
(Serio Exhibit 1 for identification, document re meeting agendas, production numbers SHIP 0096873 through 97087.)	163
(Plaintiff's previously marked Exhibit 779 for identification, shown to witness.)	189
(Serio Exhibit 2 for identification, document re March 2016 board meeting, production numbers SHIP 95655 through 95687.)	204
(Serio Exhibit 3 for identification, Series of e-mails, including e-mail dated 8/5/16 from Greg Serio to Julie Bowler and others, production numbers SHIP 0039813 through 39819.)	208
(Plaintiff's previously marked Exhibit 96 for identification, shown to the witness.)	220
(Serio Exhibit 4 for identification, e-mail dated October 2016, production numbers SHIP 47815 through 47817.)	241
(Plaintiff's previously marked Exhibit 790 for identification, shown to the witness.)	244

Page 257

DEPOSITION ERRATA SHEET

Our Assignment No.: 293724

Case Caption: Platinum Litigation

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

GREG SERIO

Subscribed and sworn to on the ____ day of _____, 20 ____ before me.

Notary Public,

in and for the State of _____.

EXHIBIT 14

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658 (JSR)
5 CASE NO. 18-CV-10936 (JSR)

6 -----
7 IN RE: PLATINUM-BEECHWOOD LITIGATION
8 -----

9 MARTIN TROTT and CHRISTOPHER SMITH, as Joint
10 Official Liquidators and
11 Foreign Representatives of
12 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
13 (in Official Liquidation), and
14 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
15 (in Official Liquidation),

16 Plaintiffs,

17 vs.

18 PLATINUM MANAGEMENT (NY) LLC, et al.,

19 Defendants.
20 -----

21 VOLUME I

22 TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
23 MURRAY HUBERFELD

24 TRANSCRIPT of the stenographic notes of
25 the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Monday, November 25, 2019,
commencing at 10:06 a.m.

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4</p> <p>5 DLA PIPER, LLP (US)</p> <p>6 BY: ROB C. SANTORO, ESQ.</p> <p>7 1251 Avenue of the Americas, 38th Floor</p> <p>8 New York, New York 10020-1104</p> <p>9 Attorneys for Plaintiff, SHIP</p> <p>10 212-335-4750</p> <p>11 robert.santoro@dlapiper.com</p> <p>12</p> <p>13 HOLLAND & KNIGHT LLP</p> <p>14 BY: JOHN L. BROWNLEE, ESQ.</p> <p>15 800 17th Street, N.W., Suite 1100</p> <p>16 Washington, DC 20006</p> <p>17 Attorneys for the Plaintiffs,</p> <p>18 Martin Trott</p> <p>19 Phone No. 1-202-419-2577</p> <p>20 john.brownlee@hklaw.com</p> <p>21 Present telephonically</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 MINTZ, LEVIN, COHN, FERRIS,</p> <p>3 GLOVSKY and POPEO, P.C.</p> <p>4 BY: THERESE M. DOHERTY, ESQ.</p> <p>5 The Chrysler Center</p> <p>6 666 Third Avenue</p> <p>7 New York, New York 10017</p> <p>8 Attorneys for Defendants</p> <p>9 Kevin Cassidy and Michael Nordlicht</p> <p>10 tdoherty@mintz.com</p> <p>11 212-692-6722</p> <p>12</p> <p>13 MORRISON COHEN LLP</p> <p>14 BY: DONALD H. CHASE, ESQ.</p> <p>15 909 Third Avenue</p> <p>16 New York, New York 10022-4784</p> <p>17 Attorneys for the</p> <p>18 Huberfeld Family Foundation, Inc.</p> <p>19 dchase@morrisoncohen.com</p> <p>20 212-735-8600</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 HOLLAND & KNIGHT LLP</p> <p>3 BY: WARREN ERNEST GLUCK, ESQ.</p> <p>4 SHEILA SHEN, ESQ.</p> <p>5 31 West 52nd Street</p> <p>6 New York, New York 10019</p> <p>7 Attorneys for the Plaintiffs,</p> <p>8 Martin Trott</p> <p>9 Phone No. 1-212-513-3560</p> <p>10 warren.gluck@hklaw.com</p> <p>11 qian.shen@hklaw.com</p> <p>12</p> <p>13 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP</p> <p>14 BY: ABIGAIL JOHNSTON, ESQ.</p> <p>15 101 Park Avenue</p> <p>16 New York, New York 10178</p> <p>17 Attorneys for the Defendant,</p> <p>18 David Bodner</p> <p>19 Phone No. 1-212-696-6000</p> <p>20 ajohnston@curtis.com</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 LIPSIUS-BENHAIM LAW LLP</p> <p>3 BY: DAVID BENHAIM, ESQ.</p> <p>4 80-02 Kew Gardens Road, Suite 1030</p> <p>5 Kew Gardens, New York 11415</p> <p>6 Attorneys for the Beechwood Defendants</p> <p>7 dbenhaim@lipsiuslaw.com</p> <p>8 212-981-8446</p> <p>9</p> <p>10 CONDON TOBIN SLADEK THORNTON</p> <p>11 BY: AARON Z. TOBIN, ESQ.</p> <p>12 8080 Park Lane, Suite 700</p> <p>13 Dallas, Texas 75231</p> <p>14 Attorneys for PB Investments</p> <p>15 atobin@ctstlaw.com</p> <p>16 214-265-3800</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Page 6

1
2 ALSTON & BIRD LLP
3 BY: JOHN AERNI, ESQ.
4 90 Park Avenue
5 15th Floor
6 New York, New York 10016-1387
7 Attorneys for
8 Washington National Insurance Company
9 Bankers Conseco
10 john.aerni@alston.com
11 212-210-1257
12
13
14 OTTERBOURG
15 BY: ERIK WEINICK, ESQ.
16 230 Park Avenue
17 New York, New York 10169
18 Attorneys for Plaintiff Receiver
19 eweinick@otterbourg.com
20 212-905-3625
21
22
23
24
25

Page 7

1
2
3
4 JEFFREY C. DANIELS, ESQ.
5 4 Carren Circle
6 Huntington, New York 11743
7 Attorneys for Murray Huberfeld
8 jdaniels@jcdpc.com
9 516-745-5430
10
11
12 MEISTER SEELIG & FEIN LLP
13 BY: EVAN L. LIPTON, ESQ.
14 125 Park Avenue, 7th Floor
15 New York, New York 10017
16 Attorneys for Murray Huberfeld
17 in criminal proceedings
18 ell@msf-law.com
19 212-655-3517
20
21
22 ALSO PRESENT:
23
24 Darrak Lighty, Videographer
25

Page 8

1 Murray Huberfeld
2 P R O C E E D I N G S
3 THE VIDEOGRAPHER: This is the
4 video deposition of Murray Huberfeld in the
5 matter of Platinum-Beechwood litigation.
6 This deposition is being held at the
7 offices of US Legal Support, 90 Broad
8 Street, New York, New York, on
9 November 25th, 2019.
10 My name is Darrak Lighty, from US
11 Legal Support; and I am the video
12 specialist. The court reporter today is
13 Tab Prewett, also associated with US Legal
14 Support. We are going on the record at
15 10:06 a.m. All appearances have been noted
16 on the record.
17 Will the court reporter please
18 swear in the witness.
19 M U R R A Y H U B E R F E L D,
20 residing at 15 Manor Lane,
21 Lawrence, New York,
22 having been sworn by the notary public to testify
23 to the truth, testified as follows:
24 MR. LIPTON: Good morning. Just a
25 preliminary statement.

Page 9

1 Murray Huberfeld
2 My name is Evan Lipton. I
3 represent Murray Huberfeld in connection
4 with his criminal matter currently pending
5 in the Southern District of New York.
6 Mr. Huberfeld does not intend to
7 and will not be waiving his Fifth Amendment
8 rights with regard to the pending
9 litigation. If questioning gets into areas
10 that affect that litigation, he will assert
11 that right.
12 Thank you.
13 DIRECT EXAMINATION
14 BY MR. GLUCK:
15 Q Good morning, Mr. Huberfeld. My
16 name is Warren Gluck, and I'm an attorney with
17 Holland & Knight. Holland & Knight represents
18 the joint official liquidators of PPVA, who I
19 will refer to as "the liquidators," as well as
20 Platinum Partners Value Arbitrage Fund LP (in
21 Official Liquidation), which I'll refer to as
22 PPVA.
23 Will you understand how I refer to
24 both the liquidators and PPVA?
25 A Okay.

Page 10

1 Murray Huberfeld
2 Q How are you feeling today?
3 A Medium.
4 Q If you need to take a break at any
5 time, please let me know. So long as there's not
6 a question pending, we can take that break.
7 Please state your name for the
8 record.
9 A Murray Aaron Huberfeld.
10 Q And what year were you born?
11 A 1960.
12 Q What is your address?
13 A I live at 15 Manor Lane, Lawrence,
14 New York.
15 Q Have you ever been deposed before?
16 A I have.
17 Q In what context?
18 A I believe I was deposed several
19 times in the -- in some regulatory matters. I
20 don't recall if it was any commercial matters.
21 Q Have you ever been deposed before
22 in connection with Platinum Partners?
23 A I'm not sure.
24 Q Are you married?
25 A I am.

Page 11

1 Murray Huberfeld
2 Q And what is the name of your
3 spouse?
4 A Laura Huberfeld.
5 Q Do you have a daughter named
6 Rachel?
7 A I do.
8 Q And what is her last name?
9 A I'm not sure officially.
10 Q How about unofficially?
11 A Her name is Huberfeld. She's
12 married. And I don't know if it was officially
13 changed or not.
14 Q And what might it have been changed
15 to?
16 A Her husband's name is -- Jacobs is
17 the last name.
18 Q Same question, Jessica?
19 A Jessica is my daughter. It's the
20 same -- same answer.
21 Q Huberfeld. Do you know whether she
22 changed her name to anything?
23 A I'm not sure.
24 Q What would it have been?
25 A Husband's name is, last name is

Page 12

1 Murray Huberfeld
2 Beren.
3 Q What is her husband's first name?
4 A Ezra.
5 Q Ariella?
6 A Ariella is my third daughter.
7 Q Alexander?
8 A Alexander is my son.
9 Q Jacob?
10 A Jacob is my youngest son.
11 Q Do you have a relationship to
12 Mr. David Levy?
13 A David Levy is the son of my sister.
14 Q Mr. Huberfeld, do you maintain, or
15 your family -- when I say "you or your family,"
16 do you understand what I mean by "you and your
17 family," the names that we just went over?
18 A Okay.
19 Q Okay. Do you or your family
20 maintain interest in a variety of entities and
21 trusts?
22 MS. DOHERTY: Object to the form.
23 Are you including David Levy in
24 that?
25 Q For the purposes of this question,

Page 13

1 Murray Huberfeld
2 I am not including David Levy.
3 A I need the question to be more
4 specific.
5 Q Sure. If I go through a list of
6 entities and trusts, which -- each of which have
7 some relationship to this case, I would just like
8 to tell you -- whether you recognize the name of
9 the trust or entity, and then effectively what it
10 does and -- and how you're related to it, so let
11 me begin.
12 The 2007 Green Trust. Do you
13 recognize that?
14 A It sounds familiar. I'm not sure.
15 Q Do you know whether Ms. Laura
16 Huberfeld is the beneficial owner of that trust?
17 A I don't.
18 Q 2007 Investor Trust?
19 A Same answer.
20 Q Do you know whether Ms. Jessica
21 Beren, Rachel Huberfeld Jacobs, or Alexander
22 Huberfeld are the beneficiaries of that trust?
23 A I'm not sure.
24 Q 2007 Picture Trust?
25 A I'm not sure.

Page 266	<p>1 Murray Huberfeld</p> <p>2 reinsurance business.</p> <p>3 I don't recall it was about</p> <p>4 Alpha Re because I don't remember that name.</p> <p>5 Q And you asked, at the top E-Mail,</p> <p>6 Ms. Albanese to "print and give to David Bodner,"</p> <p>7 right?</p> <p>8 A Yes.</p> <p>9 Q I'm going to ask you if you</p> <p>10 recognize this.</p> <p>11 (Exhibit No. 654, E-Mail Chain,</p> <p>12 Attaching Term Sheet For Beechwood is</p> <p>13 marked by the reporter for identification.)</p> <p>14 Q This is what -- Exhibit 654.</p> <p>15 A Excuse me. I think there's --</p> <p>16 there's an issue with the dates. There's a</p> <p>17 change of four months on this chain. I don't</p> <p>18 want to get incorrect on that. It starts in</p> <p>19 March and ends in August.</p> <p>20 Q The document -- the document is</p> <p>21 what it is.</p> <p>22 A I don't think we were having the</p> <p>23 same conversation four months later.</p> <p>24 MS. DOHERTY: You're referring to</p> <p>25 Exhibit 653?</p>	Page 268	<p>1 Murray Huberfeld</p> <p>2 Q Do you see where it says:</p> <p>3 "David Levy to provide investment</p> <p>4 expertise"?</p> <p>5 A Yes, I do.</p> <p>6 Q Okay. Did David Levy have</p> <p>7 \$50 million in capital at this point in time?</p> <p>8 MR. DANIELS: Objection to form.</p> <p>9 A I don't know his financial</p> <p>10 condition, but I would doubt it.</p> <p>11 Q So had you discussed with</p> <p>12 Mr. Bodner and Mr. Nordlicht, by this time, the</p> <p>13 Beechwood investment structure?</p> <p>14 MR. DANIELS: Objection to form.</p> <p>15 A I'm not sure when we're talking</p> <p>16 about.</p> <p>17 I don't recall when we started</p> <p>18 talking about it. This was going on over many,</p> <p>19 many, many months, as you can see that it started</p> <p>20 in December of 2012, until this is now March of</p> <p>21 2013.</p> <p>22 And I believe Beechwood doesn't</p> <p>23 start until sometime in 2014.</p> <p>24 So you're asking me when I spoke to</p> <p>25 Bodner about it? I imagine --</p>
Page 267	<p>1 Murray Huberfeld</p> <p>2 MR. GLUCK: 653, referring to --</p> <p>3 A I don't know what -- I don't know</p> <p>4 what it's referring to. I'm just telling you the</p> <p>5 dates make no sense.</p> <p>6 Q Well, there's a -- to clarify the</p> <p>7 record, there's a -- there are two bottom E-Mails</p> <p>8 on March 20th, and then followed by two E-Mails</p> <p>9 on March 28th, three E-Mails on March 28th.</p> <p>10 MS. DOHERTY: It's actually</p> <p>11 August 28th.</p> <p>12 Q August 28th, saying:</p> <p>13 "Looks like it's this one."</p> <p>14 The record speaks for itself.</p> <p>15 Can you take a look at Exhibit 654,</p> <p>16 please?</p> <p>17 A Okay.</p> <p>18 Q Can you look at the attachment,</p> <p>19 which is the term sheet for Beechwood?</p> <p>20 A Yes, I see it.</p> <p>21 Q David Levy is your nephew, right?</p> <p>22 A Correct.</p> <p>23 Q Did you discuss this term sheet</p> <p>24 with Mr. Levy?</p> <p>25 A I don't recall.</p>	Page 269	<p>1 Murray Huberfeld</p> <p>2 Q You did at some point, though,</p> <p>3 right?</p> <p>4 A We discussed it, of course.</p> <p>5 Q And who were the investors in</p> <p>6 Beechwood?</p> <p>7 A Is that a question?</p> <p>8 Q Yes. Who were the investors in</p> <p>9 Beechwood?</p> <p>10 A The investors in Beechwood was a</p> <p>11 family partnership that I had for my children and</p> <p>12 a family partnership that Mr. Bodner had. And I</p> <p>13 don't know Nordlicht's structure that he had.</p> <p>14 Q Was it understood that Beechwood</p> <p>15 was going to be -- excuse me -- that Platinum was</p> <p>16 going to be the recipient of the Beechwood</p> <p>17 reinsurance proceeds?</p> <p>18 A I wasn't privy to that discussion,</p> <p>19 but I think that there was a -- it was discussed</p> <p>20 that some money would be invested in Platinum. I</p> <p>21 don't know if they knew exactly how much can be</p> <p>22 invested, could it be invested. I think that</p> <p>23 discussion was up in the air.</p> <p>24 Q Exhibit 655.</p> <p>25 (There was a discussion off the</p>

Page 426

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, TAB PREWETT, A Registered Professional Reporter, Notary Public, Certified LiveNote Reporter, and Certified Shorthand Reporter, do hereby certify that prior to the commencement of the examination MURRAY HUBERFELD affirmed to the notary public to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

TAB Prewett

Notary Public

My Commission expires February 9, 2024
Dated: November 29, 2019

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

VOLUME II

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
MURRAY HUBERFELD

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Tuesday, November 26, 2019,
commencing at 10:05 a.m.

Page 428

1
2 A P P E A R A N C E S:
3
4
5 DLA PIPER, LLP (US)
6 BY: ROB C. SANTORO, ESQ.
7 1251 Avenue of the Americas, 38th Floor
8 New York, New York 10020-1104
9 Attorneys for Plaintiff, SHIP
10
11
12
13 HOLLAND & KNIGHT LLP
14 BY: JOHN L. BROWNLEE, ESQ.
15 800 17th Street, N.W., Suite 1100
16 Washington, DC 20006
17 Attorneys for the Plaintiffs,
18 Martin Trott
19
20
21 Present telephonically
22
23
24
25

Page 429

1
2 HOLLAND & KNIGHT LLP
3 BY: WARREN ERNEST GLUCK, ESQ.
4 31 West 52nd Street
5 New York, New York 10019
6 Attorneys for the Plaintiffs,
7 Martin Trott
8
9
10
11
12 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
13 BY: ABIGAIL JOHNSTON, ESQ.
14 101 Park Avenue
15 New York, New York 10178
16 Attorneys for the Defendant,
17 David Bodner
18
19
20
21
22
23
24
25

Page 430

1
2 MINTZ, LEVIN, COHN, FERRIS,
3 GLOVSKY and POPEO, P.C.
4 BY: THERESE M. DOHERTY, ESQ.
5 The Chrysler Center
6 666 Third Avenue
7 New York, New York 10017
8 Attorneys for Defendants
9 Kevin Cassidy and Michael Nordlicht
10
11
12
13
14 MORRISON COHEN LLP
15 BY: DONALD H. CHASE, ESQ.
16 909 Third Avenue
17 New York, New York 10022-4784
18 Attorneys for the
19 Huberfeld Family Foundation, Inc.
20
21
22
23
24
25

Page 431

1
2 LIPSIUS-BENHAIM LAW LLP
3 BY: DAVID BENHAIM, ESQ.
4 80-02 Kew Gardens Road, Suite 1030
5 Kew Gardens, New York 11415
6 Attorneys for the Beechwood Defendants
7
8
9
10 CONDON TOBIN SLADEK THORNTON
11 BY: AARON Z. TOBIN, ESQ.
12 8080 Park Lane, Suite 700
13 Dallas, Texas 75231
14 Attorneys for PB Investments
15
16
17
18
19
20
21
22
23
24
25

Page 432

1
2 ALSTON & BIRD LLP
3 BY: JOHN AERNI, ESQ.
4 90 Park Avenue
5 15th Floor
6 New York, New York 10016-1387
7 Attorneys for
8 Washington National Insurance Company
9 Bankers Conseco
10
11
12
13
14 OTTERBOURG, P.C.
15 BY: ERIK WEINICK, ESQ.
16 230 Park Avenue
17 New York, New York 10169
18 Attorneys for Plaintiff Receiver
19
20
21
22
23
24
25

Page 433

1
2
3
4 JEFFREY C. DANIELS, ESQ.
5 4 Carren Circle
6 Huntington, New York 11743
7 Attorneys for Murray Huberfeld
8
9
10
11 MEISTER SEELIG & FEIN LLP
12 BY: EVAN L. LIPTON, ESQ.
13 125 Park Avenue, 7th Floor
14 New York, New York 10017
15 Attorneys for Murray Huberfeld
16 in criminal proceedings
17
18
19
20
21 ALSO PRESENT:
22 Darrak Lighty, Videographer
23
24
25

Page 434

1 Murray Huberfeld
2 THE VIDEOGRAPHER: This is the
3 continued video deposition of
4 Murray Huberfeld in the matter of
5 Platinum-Beechwood litigation. This
6 deposition is being held at the offices of
7 US Legal Support, 90 Broad Street,
8 New York, New York, on November 26, 2019.
9 My name is Darrak Lighty, from US
10 Legal Support; and I am the video
11 specialist. The court reporter today is
12 Tab Prewett, also associated with US Legal
13 Support. We are going on the record at
14 10:05 a.m. All appearances have been noted
15 on the record. The witness has been
16 previously duly affirmed.
17 M U R R A Y H U B E R F E L D,
18 residing at 15 Manor Lane,
19 Lawrence, New York,
20 having been previously affirmed by the notary
21 public to testify to the truth,
22 Testified as follows:
23 DIRECT EXAMINATION
24 BY MR. WEINICK:
25 Q Good morning, Mr. Huberfeld.

Page 435

1 Murray Huberfeld
2 A Good morning.
3 Q My name is Eric Weinick. I'm with
4 the law firm of Otterbourg PC. We represent
5 Melanie Cyganowski, who is the Court-appointed
6 receiver of various PPCO entities.
7 You understand that you are still
8 obligated under the affirmation you took
9 yesterday?
10 A I do.
11 Q Have you, since we broke yesterday,
12 discussed your deposition with anyone other than
13 your counsel?
14 A I spoke to Gabe Hertzberg from
15 Curtis Mallet; and I spoke to my nephew, and I
16 spoke to my wife. I spoke to my son-in-law, Ezra
17 Beren. I spoke to my driver in the car. I think
18 that's about it.
19 Q Okay. Is Mr. Hertzberg
20 representing you currently?
21 A Mr. Hertzberg was representing me
22 in the past on different matters. I don't think
23 he's currently representing me.
24 Q What did you discuss with
25 Mr. Hertzberg about your deposition?

<p style="text-align: right;">Page 440</p> <p>1 Murray Huberfeld</p> <p>2 not on a regular basis, but maybe I met in a</p> <p>3 synagogue as well.</p> <p>4 Q Other than it being a street near</p> <p>5 your home, when did you first hear of Beechwood?</p> <p>6 A I think during the time period when</p> <p>7 Beechwood was set up was the first time I heard</p> <p>8 of it.</p> <p>9 Q Was that before or after you</p> <p>10 introduced Mr. Nordlicht to Mr. Feuer?</p> <p>11 A I believe after.</p> <p>12 Q So the sequence was:</p> <p>13 You had a conversation with</p> <p>14 Mr. Nordlicht about reinsurance. You mentioned</p> <p>15 to him:</p> <p>16 "You should speak to Mr. Feuer."</p> <p>17 You made the introduction. And</p> <p>18 then after that, you heard about the name</p> <p>19 Beechwood in the context of reinsurance?</p> <p>20 A Correct.</p> <p>21 Q Did Mr. Nordlicht tell you why he</p> <p>22 was looking into the concept of reinsurance?</p> <p>23 A No.</p> <p>24 Q Did you do anything to support or</p> <p>25 aid in the creation of Beechwood?</p>	<p style="text-align: right;">Page 442</p> <p>1 Murray Huberfeld</p> <p>2 Did you come at any point to learn</p> <p>3 why Mr. Nordlicht was interested in developing a</p> <p>4 reinsurance company?</p> <p>5 A Specifically, no.</p> <p>6 Q Did you come to a general</p> <p>7 understanding?</p> <p>8 A I thought he understood that it was</p> <p>9 a possible business opportunity in which -- which</p> <p>10 he wanted to pursue.</p> <p>11 Q What was the business opportunity</p> <p>12 that he wanted to pursue?</p> <p>13 A I think it was -- he thought there</p> <p>14 was a business opportunity to invest in the</p> <p>15 reinsurance business; and he thought there it was</p> <p>16 interesting and he, you know, said he wanted to</p> <p>17 explore it further.</p> <p>18 Q Did you have any understanding if</p> <p>19 Mr. Nordlicht was interested in reinsurance as a</p> <p>20 vehicle to attract institutional investment into</p> <p>21 Platinum that was not -- not otherwise eligible?</p> <p>22 A I couldn't say that.</p> <p>23 Q Why couldn't you say that?</p> <p>24 A Because you gave me a very specific</p> <p>25 question and I just can't say that he -- he</p>
<p style="text-align: right;">Page 441</p> <p>1 Murray Huberfeld</p> <p>2 A You have to be more specific.</p> <p>3 Q Sure. After the initial meeting</p> <p>4 between Feuer and Nordlicht regarding -- first of</p> <p>5 all, did you participate in that meeting?</p> <p>6 A No. I think I testified yesterday</p> <p>7 that I did not.</p> <p>8 Q Okay. Did you have any</p> <p>9 conversations with either Mr. Nordlicht or</p> <p>10 Mr. Feuer following their meeting?</p> <p>11 A Again, I need a time frame.</p> <p>12 Q 2013 or earlier?</p> <p>13 A I don't recall. I spoke to</p> <p>14 Nordlicht often, so I don't know when -- I can't</p> <p>15 time frame exactly when he mentioned to me he's</p> <p>16 interested or not interested, or it's possibly</p> <p>17 going to move ahead -- some business relationship</p> <p>18 will happen or not.</p> <p>19 I know that it happened. I just</p> <p>20 don't know the -- how exactly that went on.</p> <p>21 Q I asked you a few moments ago if</p> <p>22 you -- if Mr. Nordlicht had told you why he was</p> <p>23 interested in the concept of reinsurance, and you</p> <p>24 said no.</p> <p>25 My question now is:</p>	<p style="text-align: right;">Page 443</p> <p>1 Murray Huberfeld</p> <p>2 expounded in that manner.</p> <p>3 Q Did you have any communications</p> <p>4 prior to -- in 2013 or earlier with Mr. Nordlicht</p> <p>5 about whether or not counterparties to a</p> <p>6 reinsurance company could invest -- withdrawn.</p> <p>7 Did you have any communications</p> <p>8 with Mr. Nordlicht in 2013 or prior about</p> <p>9 attracting institutional investors for Platinum</p> <p>10 through a reinsurance company that couldn't</p> <p>11 otherwise invest directly with Platinum?</p> <p>12 A I don't recall that.</p> <p>13 Q Do you recall conversations like</p> <p>14 that at any time?</p> <p>15 A I recall conversations about the</p> <p>16 possibility of some Beechwood money being</p> <p>17 invested in Platinum. I don't know if it was all</p> <p>18 based on the way you're presenting it.</p> <p>19 Q And what --</p> <p>20 A That they couldn't invest because</p> <p>21 of that, I did not understand. I did not ever</p> <p>22 hear that.</p> <p>23 Q What do you recall about</p> <p>24 conversations about Beechwood money going into</p> <p>25 Platinum?</p>

<p style="text-align: right;">Page 460</p> <p>1 Murray Huberfeld</p> <p>2 Q Okay. I just want to be clear.</p> <p>3 This isn't Mr. Feuer reporting to</p> <p>4 his de facto boss, correct?</p> <p>5 A Absolutely not.</p> <p>6 Q This is just Mr. Feuer being a</p> <p>7 "mensch," in your words?</p> <p>8 A Absolutely.</p> <p>9 Q In your business experience, would</p> <p>10 it be unusual for the CEO of a company not to</p> <p>11 consider the words and recommendations of his</p> <p>12 largest investor to be equivalent to a directive?</p> <p>13 MR. DANIELS: Objection to the</p> <p>14 form.</p> <p>15 You may answer.</p> <p>16 A I can't testify to what somebody</p> <p>17 else would think or not think.</p> <p>18 Q Have you ever had a business</p> <p>19 experience where you conferred with the largest</p> <p>20 investor or shareholder in the entity that was</p> <p>21 employing you?</p> <p>22 A I don't know if I was ever employed</p> <p>23 by anyone. I can't answer that.</p> <p>24 Q During the time when you had your</p> <p>25 office at Beechwood, did you have communications</p>	<p style="text-align: right;">Page 462</p> <p>1 Murray Huberfeld</p> <p>2 A I don't know.</p> <p>3 Q During your time when you had an</p> <p>4 office at Beechwood, did Mr. Nordlicht ever have</p> <p>5 an office at Beechwood?</p> <p>6 A During the time that I was there, I</p> <p>7 don't think so.</p> <p>8 Q Are you aware of Mr. Nordlicht</p> <p>9 having an office at Beechwood at any time other</p> <p>10 than when you were having an office there?</p> <p>11 A I believe that the -- that before I</p> <p>12 arrived there, the same office, which was called</p> <p>13 the guest office, I think he used it from time to</p> <p>14 time. I don't know how often.</p> <p>15 Q Did Mr. Nordlicht ever have a role</p> <p>16 of any kind at Beechwood?</p> <p>17 MR. DANIELS: Objection to the</p> <p>18 form.</p> <p>19 You may answer.</p> <p>20 A I'm not sure.</p> <p>21 Q Have you ever heard of an entity</p> <p>22 known as SHIP?</p> <p>23 A Yes.</p> <p>24 Q Okay. What is your understanding</p> <p>25 of what SHIP is?</p>
<p style="text-align: right;">Page 461</p> <p>1 Murray Huberfeld</p> <p>2 with anyone at Platinum about Beechwood</p> <p>3 investments in Platinum?</p> <p>4 A Again, I don't recall any specific</p> <p>5 conversations.</p> <p>6 Q Do you recall any general</p> <p>7 conversations of that nature?</p> <p>8 A Again, I spoke to Mark Nordlicht</p> <p>9 from time to time. I spoke to David Bodner from</p> <p>10 time to time. I'm sure that some of these things</p> <p>11 came up in conversation.</p> <p>12 Q Do you recall any specific assets</p> <p>13 you discussed with either Mr. Nordlicht or</p> <p>14 Mr. Bodner?</p> <p>15 A I don't.</p> <p>16 Q Do you know if -- Beechwood's first</p> <p>17 office was in Hewlett, correct?</p> <p>18 A You're asking me if -- I don't know</p> <p>19 that.</p> <p>20 Q Did you ever have occasion to visit</p> <p>21 Mr. Feuer in an office in Hewlett?</p> <p>22 A I don't think so.</p> <p>23 Q Do you think if Mr. Feuer obtained</p> <p>24 that office before or after the creation of</p> <p>25 Beechwood?</p>	<p style="text-align: right;">Page 463</p> <p>1 Murray Huberfeld</p> <p>2 A Some sort of insurance company.</p> <p>3 Q When did you first learn of SHIP?</p> <p>4 A I had heard the name as one of the</p> <p>5 investors in -- or transactions of some sort with</p> <p>6 Beechwood.</p> <p>7 Q Did you learn of the existence of</p> <p>8 SHIP once your office moved to Beechwood?</p> <p>9 A I don't recall when.</p> <p>10 Q Is it possible you may have learned</p> <p>11 of SHIP prior to moving your office to Beechwood?</p> <p>12 A I may have heard the name. I don't</p> <p>13 know when the transaction happened; so, before or</p> <p>14 after, I just don't know.</p> <p>15 Q So do you recall from whom you</p> <p>16 first heard the name SHIP?</p> <p>17 A No.</p> <p>18 Q Do you know who Brian Wegner is?</p> <p>19 A It sounds familiar. I'm not sure.</p> <p>20 Q Are you aware of any communications</p> <p>21 between yourself and Mr. Wegner at any time?</p> <p>22 A I'm not sure. I don't think so.</p> <p>23 Q Have you ever heard of Paul</p> <p>24 Lorentz?</p> <p>25 A Again, I don't know when I may have</p>

<p style="text-align: right;">Page 512</p> <p>1 Murray Huberfeld</p> <p>2 A I don't recall.</p> <p>3 Q Did you ever know?</p> <p>4 A No.</p> <p>5 Q You and Mr. Gluck were having a</p> <p>6 back and forth about the New York Mets yesterday.</p> <p>7 Do you recall that?</p> <p>8 A Yes.</p> <p>9 Q Okay. And you made a comment to</p> <p>10 the effect of:</p> <p>11 "Just because I say the Mets should</p> <p>12 take a certain course of action and they do it</p> <p>13 the next day doesn't mean I caused that action."</p> <p>14 Right?</p> <p>15 A Correct.</p> <p>16 Q But you don't sit in the dugout at</p> <p>17 Citi Field, right?</p> <p>18 A I have.</p> <p>19 Q During a game?</p> <p>20 A Yes.</p> <p>21 Q Okay. Do you have an ownership</p> <p>22 stake in the Mets?</p> <p>23 A No.</p> <p>24 Q Fine.</p> <p>25 But you did have an ownership stake</p>	<p style="text-align: right;">Page 514</p> <p>1 Murray Huberfeld</p> <p>2 4:01 called me and gave me the P&L, every single</p> <p>3 day, because it was an important investment to me</p> <p>4 at the time.</p> <p>5 And Israel Englander, who was a</p> <p>6 personal friend of mine, considered my advice,</p> <p>7 did business with me, took investments that I</p> <p>8 did, exactly what I did at Beechwood. And I</p> <p>9 wasn't sitting there, but he still took my advice</p> <p>10 and my phone call and did deals together with us</p> <p>11 and listened -- listened to me about hiring</p> <p>12 different people and asked my advice about</p> <p>13 different things.</p> <p>14 And that's the facts. That's the</p> <p>15 way business is done.</p> <p>16 MR. WEINICK: Counsel, we call for</p> <p>17 the production of the documents the witness</p> <p>18 just referenced.</p> <p>19 (Documents regarding daily P&Ls of</p> <p>20 Mr. Huberfeld's investments in Millennium</p> <p>21 Partners requested.)</p> <p>22 Q Mr. Huberfeld, can you think of an</p> <p>23 instance where Mr. Feuer did not take your advice</p> <p>24 or recommendation?</p> <p>25 A I don't remember.</p>
<p style="text-align: right;">Page 513</p> <p>1 Murray Huberfeld</p> <p>2 in Beechwood, right?</p> <p>3 A I think we testified to that, that</p> <p>4 my family had an ownership stake in parts of</p> <p>5 Beechwood, Lawrence Partners.</p> <p>6 Q You would agree that you sitting in</p> <p>7 and offering advice to the Mets manager where</p> <p>8 you're not an owner and don't have enough -- a</p> <p>9 management position, is different than you</p> <p>10 offering advice and recommendations to</p> <p>11 Beechwood's officers, correct?</p> <p>12 A No. And I actually thought about</p> <p>13 this last night after we spoke. And I had been</p> <p>14 an investor in other funds previously where I</p> <p>15 actually thought about it and got the P&L on a</p> <p>16 daily basis, and the manager of the fund was</p> <p>17 asking my advice about certain things.</p> <p>18 And I wasn't an owner, but he still</p> <p>19 listened to my advice from time to time and</p> <p>20 didn't listen to my advice from time to time.</p> <p>21 Q And which funds were those?</p> <p>22 A That was Millennium Partners. It's</p> <p>23 a \$35 billion fund. And it was a time when I was</p> <p>24 a significant investor in the fund.</p> <p>25 And every single day, the CFO at</p>	<p style="text-align: right;">Page 515</p> <p>1 Murray Huberfeld</p> <p>2 Q I'm sorry.</p> <p>3 A I don't recall.</p> <p>4 Q You don't recall.</p> <p>5 Can you look at Exhibit 650 from</p> <p>6 yesterday, please.</p> <p>7 A 650?</p> <p>8 Q Yes. Please take a moment to</p> <p>9 refamiliarize yourself with the exhibit, which</p> <p>10 bears the Bates No. Control 4401044.</p> <p>11 (Previously Marked Exhibit No. 650,</p> <p>12 March 10, 2013 E-Mail From Mark Nordlicht</p> <p>13 to Murray Huberfeld, Document, Bates No.</p> <p>14 CTRL 4401044 is introduced into the</p> <p>15 proceedings.)</p> <p>16 A Okay.</p> <p>17 Q Do you see the reference to the</p> <p>18 "Bear settlement" on the last line?</p> <p>19 A Yes.</p> <p>20 Q What is that?</p> <p>21 A What I recall is during my time at</p> <p>22 the credit fund Centurion I did a transaction in</p> <p>23 which we funded a litigation concerning Bear</p> <p>24 Stearns and the 2008 mortgage meltdown. So I</p> <p>25 imagine he's referring to that transaction.</p>

Page 596

1		
2		
3	Previously Marked Exhibit No. 678,	516
4	4/6/14 E-Mail regarding	
	Mr. Nordlicht's coming to Beechwood	
	office, E-Mail chain, Document	
5		
6	Exhibit No. 701, E-Mail Chain, top	522
	E-Mail from Mr. Feuer to Murray	
	Huberfeld in December of 2013, Bates	
	No. CNO CSL_01577187	
7		
8	Exhibit No. 702, Document regarding	525
	Platinum hiring Lincoln as valuation	
	company, Bates Nos. CNO CSL_329310 to	
	329312	
9		
10		
11	Exhibit No. 703, E-Mail Chain	528
	involving Mark Nordlicht and John	
	Hoffman, Bates No. CTRL 6328601	
12		
13	Exhibit No. 704, E-Mail Chain Between	529
	Murray Huberfeld and Danny Saks, Bates	
	No. CNO CSL_1162925	
14		
15	Exhibit No. 705, March 2015 E-Mail	532
	Between Mark Nordlicht and Murray	
	Huberfeld, Bates No. CTRL 6585163	
16		
17	Exhibit No. 707, August 2015 E-Mail	536
	from Murray Huberfeld to	
	Mark Nordlicht, Bates No. CTRL 7196464	
18		
19	Exhibit No. 708, August 2015 E-Mail	539
	From Mark Nordlicht to Murray	
	Huberfeld, Bates No. CTRL 7222163	
20		
21	Exhibit No. 709, September 2015 E-Mail	540
	From Alan Clingman to Murray Huberfeld	
	and Danny Saks, Bates No. CNO	
	CSL_1174961	
22		
23		
24		
25		

Page 598

CERTIFICATE

I, TAB PREWETT, A Registered Professional Reporter, Notary Public, Certified LiveNote Reporter, and Certified Shorthand Reporter, do hereby certify that prior to the commencement of the examination MURRAY HUBERFELD affirmed to the notary public to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

TAB Prewett

TAB PREWETT
Notary Public

My Commission expires February 9, 2024
Dated: November 30, 2019

Page 597

1		
2		
3	Previously Marked Exhibit No. 693,	543
	November 18, 2015 E-Mail From Mark	
	Nordlicht to Murray Huberfeld	
4		
5	Previously Marked Exhibit No. 694,	547
	January 2016 E-Mail From Mark	
	Nordlicht	
6		
7	Previously Marked Exhibit No.	551
	Huberfeld 3, Document marked at	
	Mr. Huberfeld's 1/8/19 Deposition,	
	Document	
8		
9		
10	Previously Marked Exhibit No.	561
	Huberfeld 2, Document marked in	
	Mr. Huberfeld's January 8, 2019	
	Deposition, Document	
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Page 599

1 Errata Sheet

2

3 NAME OF CASE: IN RE: PLATINUM-BEECHWOOD LITIGATION

4 DATE OF DEPOSITION: 11/26/2019

5 NAME OF WITNESS: Murray Huberfeld

6 Reason Codes:

7 1. To clarify the record.

8 2. To conform to the facts.

9 3. To correct transcription errors.

10 Page ____ Line ____ Reason ____

11 From _____ to _____

12 Page ____ Line ____ Reason ____

13 From _____ to _____

14 Page ____ Line ____ Reason ____

15 From _____ to _____

16 Page ____ Line ____ Reason ____

17 From _____ to _____

18 Page ____ Line ____ Reason ____

19 From _____ to _____

20 Page ____ Line ____ Reason ____

21 From _____ to _____

22 Page ____ Line ____ Reason ____

23 From _____ to _____

24

25

EXHIBIT 15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

(Caption Continued on Page 2)
VOLUME I

TRANSCRIPT OF DEPOSITION OF
JOHN ROBISON

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Wednesday, October 30, 2019,
commencing at 10:06 a.m.

Page 2

1
2 (Caption continued)
3 UNITED STATES DISTRICT COURT
4 SOUTHERN DISTRICT OF NEW YORK
5 CASE NO. 18-CV-6658(JSR)
6 CASE NO. 1-19-CV-07137(JSR)
7 -----
8 SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA,
9
10 Plaintiff,
11 vs.
12
13 LINCOLN INTERNATIONAL LLC and LINCOLN
14 PARTNERS ADVISORS LLC,
15 Defendants.
16 -----
17
18
19
20
21
22
23
24
25

Page 4

1
2 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
3
4 BY: ABIGAIL JOHNSTON, ESQ.
5
6 101 Park Avenue
7
8 New York, New York 10178
9
10 Attorneys for the Defendant,
11
12 David Bodner
13
14
15
16
17
18
19
20
21
22
23
24
25

12 MINTZ, LEVIN, COHN, FERRIS,
13 GLOVSKY and POPEO, P.C.
14 BY: THERESE M. DOHERTY, ESQ.
15 LISAMARIE COLLINS, ESQ.
16 The Chrysler Center
17 666 Third Avenue
18 New York, New York 10017
19 Attorneys for Defendants
20 Kevin Cassidy and Michael Nordlicht
21
22
23
24
25

Page 3

1
2 A P P E A R A N C E S :
3
4 HOLLAND & KNIGHT LLP
5 BY: WARREN ERNEST GLUCK, ESQ.
6 ELLIOT MAGRUDER, ESQ.
7 31 West 52nd Street
8 New York, New York 10019
9 Attorneys for the Plaintiffs,
10 Martin Trott
11
12
13
14
15 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
16 BY: MARIANNE H. COMBS, ESQ.
17 LINDSEY SIELING, ESQ.
18 155 North Wacker Drive
19 Chicago, Illinois 60606-1720
20 Attorneys for Lincoln Partners,
21 Third-Party Defendants
22
23
24
25

Page 5

1
2
3 DUANE MORRIS, LLP
4 BY: MELISSA S. GELLER, ESQ.
5 One Riverfront Plaza
6 1037 Raymond Boulevard, Suite 1800
7 Newark, New Jersey 07102-5429
8 Attorneys for the
9 Estate of Uri Landesman
10
11
12
13
14
15 DUANE MORRIS, LLP
16 BY: ARLETTA BUSSIÈRE, ESQ.
17 1540 Broadway
18 New York, New York 10036-4086
19 Attorneys for the
20 Estate of Uri Landesman
21
22
23
24
25

Page 6	Page 8
1	1
2	2
3	3
4 MORRISON COHEN LLP	4 SEIDEN LAW GROUP LLP
5 BY: DANIEL C. ISAACS, ESQ.	5 BY: AMIAD KUSHNER, ESQ.
6 909 Third Avenue	6 469 Seventh Avenue
7 New York, New York 10022-4784	7 5th Floor
8 Attorneys for Lawrence Partners	8 New York, New York 10018
9	9 Attorneys for SHIP in the
10	10 Lawrence Partners Litigation
11	11
12	12
13	13
14 ALSTON & BIRD LLP	14
15 BY: JENNA C. POLIVY, ESQ.	15 PROSKAUER ROSE LLP
16 90 Park Avenue	16 BY: STACEY P. EILBAUM, ESQ.
17 15th Floor	17 ERIC WERTHEIM, ESQ.
18 New York, New York 10016-1387	18 Eleven Times Square
19 Attorneys for	19 New York, New York 10036-8299
20 Washington National Insurance Company	20 Attorneys for Beechwood
21 Bankers Conseco	21
22	22
23	23
24 Present telephonically	24
25	25
Page 7	Page 9
1	1
2 PIERCE BAINBRIDGE BECK PRICE & HECHT, LLP	2
3 BY: MICHAEL EGGENBERGER, ESQ.	3 OTTERBOURG, P.C.
4 277 Park Avenue	4 BY: WILLIAM M. MORAN, ESQ.
5 45th Floor	5 ERIK WEINICK, ESQ.
6 New York, New York 10172	6 230 Park Avenue
7 Attorneys for David Ottensoser	7 New York, New York 10169
8	8 Attorneys for Plaintiff Receiver
9	9
10 Present telephonically	10
11	11
12	12
13 DLA PIPER, LLP (US)	13 ALSO PRESENT:
14 BY: A. NEILL THUPARI, ESQ.	14
15 KATHLEEN BIRRANE, ESQ.	15 KRISTINE TEJANO RICKARD, ESQ.
16 6225 Smith Avenue	16 General Counsel, SHIP
17 Baltimore, Maryland 21209-3600	17 550 Congressional Boulevard
18	18 Carmel, Indiana 46032
19	19
20 Attorneys for Plaintiff, SHIP	20
21	21 Darrak Lighty, Videographer
22	22 US Legal Support
23	23
24	24
25	25

Page 10

1 John Robison
2 P R O C E E D I N G S
3 THE VIDEOGRAPHER: This is the
4 video deposition of John Robison in the
5 matter of Platinum-Beechwood litigation.
6 This deposition is being held at the
7 offices of US Legal Support, 90 Broad
8 Street, New York, New York, on
9 October 30th, 2019.
10 My name is Darrak Lighty, from US
11 Legal Support; I am the video specialist.
12 The court reporter today is Tab Prewett,
13 also associated with US Legal Support. We
14 are going on the record at 10:06 a.m. All
15 appearances have been noted on the record.
16 Will the court reporter please
17 swear in the witness.
18 J O H N R O B I S O N,
19 residing at 3321 Ivy Hills Boulevard,
20 Newton, Ohio 45244,
21 having been sworn by the notary public to testify
22 to the truth, testified as follows:
23 DIRECT EXAMINATION
24 BY MR. MORAN:
25 Q Good morning, sir.

Page 11

1 John Robison
2 A Good morning.
3 Q My name is William Moran. I
4 represent the receiver in the Cyganowski action.
5 I'll be asking you a series of questions today.
6 If at any time you don't understand my question,
7 let me know that. I will try to restate it for
8 you.
9 Do you understand?
10 A Yes, sir.
11 Q And if at any time you need to take
12 a break, as long as there's no question pending,
13 we'll try to accommodate you.
14 Do you understand that?
15 A Thank you.
16 Q Now, let me ask you:
17 Do you -- have you taken any
18 medications today that might impact your
19 understanding or answering my questions today?
20 A Just two Advil knowing I'm going to
21 have a headache after this.
22 Q All right. Can you tell us what is
23 your current employment?
24 A I am the chief investment officer
25 at American Fidelity.

Page 12

1 John Robison
2 Q And how long have you held that
3 position?
4 A Since August.
5 Q Okay. And prior to that where were
6 you?
7 A I was at SHIP, as their chief
8 investment officer.
9 Q Can you tell us why you made the
10 change from SHIP to your current employment?
11 A It was a new opportunity with a
12 bigger portfolio. And SHIP is in a runoff
13 status, and I was looking for longer term
14 employment.
15 Q How long had you been with SHIP?
16 A Since December of 2016.
17 Q And where were you before you
18 started with SHIP?
19 A I spent nine months with
20 Global Indemnity. It's an insurance company in
21 Philadelphia, where I was the chief investment
22 officer.
23 Q And why did you leave that
24 position?
25 A My family didn't want to move to

Page 13

1 John Robison
2 Philadelphia.
3 Q I take it you moved from someplace
4 to Philadelphia?
5 A I rented there initially, and my
6 family was going to come.
7 (There was a discussion off the
8 record.)
9 THE VIDEOGRAPHER: The time is
10 10:11 a.m. We are back on the record.
11 BY MR. MORAN:
12 Q Okay. You said that you -- your
13 family did not want to move to Philadelphia. I
14 take it you moved from someplace else to
15 Philadelphia?
16 A Correct. We were in Cincinnati at
17 the time, so I took a job in Philadelphia with
18 the expectations that my family would move to
19 Philadelphia. And when they reviewed
20 Philadelphia, they really didn't like it.
21 Hopefully, that doesn't offend
22 anyone here.
23 Q And what did you do at Global?
24 A I was their chief investment
25 officer.

Page 42

1 John Robison
2 "Investments with Beechwood
3 entities now total \$270 million or 9.6 percent of
4 invested assets. This represents a significant
5 concentration of assets managed by Beechwood.
6 However, as noted above, these investments are
7 not with a single counterparty, but are spread
8 among multiple counterparties; and, thus, there
9 is not significant concentration with a single
10 counterparty."
11 Is there any restriction on an
12 amount with a single party?
13 MS. BIRRANE: Objection.
14 A Yes.
15 Q And what is that restriction?
16 A I believe it's 5 percent.
17 Q Now, it says here that this --
18 the -- the investments are spread among multiple
19 counterparties.
20 Does that -- how would that be
21 impacted if the multiple counterparties are
22 affiliated?
23 MS. BIRRANE: Objection.
24 Q Well, withdrawn.
25 Are they impacted if the

Page 43

1 John Robison
2 counterparties are affiliates of one another?
3 A Yes.
4 Q And how would that be?
5 A 5 percent is the limit for an
6 issuer. So at a time I could buy 5 percent of
7 our invested assets in GE, for example. Because
8 we were recording these assets as Schedule BA
9 assets, each individual loan was on our balance
10 sheet as a separate investment.
11 Even though Beechwood was the asset
12 manager and had a larger sum of money, we owned
13 the underlying assets on our balance sheet. It's
14 similar to Conning managing our portfolio where
15 we have a thousand CUSIPs.
16 Even though Conning is the asset
17 manager, each individual asset, we own.
18 Q You understand that this lawsuit is
19 about Platinum investments in the --
20 A Yes.
21 Q -- portfolio companies, right?
22 A Yes.
23 Q You understand what I mean when I
24 say "Platinum portfolio companies"?
25 A Yes.

Page 44

1 John Robison
2 Q Would the fact that Beechwood was
3 investing SHIP's money in various Platinum
4 portfolio companies combine to impact the
5 limitation, the 5 percent limitation?
6 A Can you ask that again?
7 Q Sure. Beechwood has been
8 investing -- had been investing SHIP's money in
9 various companies, correct?
10 A Correct.
11 Q It turns out various of these
12 companies were portfolio companies of Platinum,
13 right?
14 A Correct.
15 Q Would those various Platinum
16 portfolio companies combine to violate the
17 5 percent limitation?
18 MS. BIRRANE: Objection.
19 A If we were over 5 percent, it
20 would.
21 Q Now, the IMA that was discussed in
22 this, what we just read here, is the third IMA
23 that was put in place in accordance with a plan
24 for a surplus note, right?
25 MS. BIRRANE: Objection.

Page 45

1 John Robison
2 Characterization.
3 Q You can answer.
4 A I wouldn't characterize it that
5 way, no.
6 Q How would you characterize it?
7 A It was a third Investment
8 Management Agreement where we were going to
9 invest more money with Beechwood and with our
10 guaranteed return and our 5.85 percent yield.
11 Q Was there -- withdrawn.
12 Do you have an understanding of
13 what I mean by "surplus note"?
14 A Yes.
15 Q Was there a connection between the
16 surplus note and the third IMA?
17 A Can you -- can you tell me what you
18 mean by "connection"?
19 Q Well, I'm -- I'm trying to find out
20 what -- what SHIP's understanding of the --
21 withdrawn.
22 Brian Wegner and Paul Lorentz
23 approached the board with a plan to try to
24 increase investment revenue and increase RBC,
25 correct?

Page 46

1 John Robison
2 MS. BIRRANE: Objection.
3 A Correct.
4 Q Do you know what I mean by "RBC"?
5 A I do.
6 Q What do I mean?
7 A Risk-based capital.
8 Q What was that plan?
9 A SHIP is in the business of the
10 long-term care industry. So the goal and
11 objective is to -- as a runoff company, to make
12 sure that we have enough assets to pay the very
13 final claim coming in.
14 RBC is a metric I use by regulators
15 related to solvency. And so the objective was to
16 make sure that we had enough RBC to maintain the
17 ability to continue making claims.
18 Q And to reach that objective,
19 Brian Wegner and Paul Lorentz came up with a plan
20 concerning a surplus note, correct?
21 MS. BIRRANE: Objection.
22 A Correct.
23 Q What was that plan?
24 A Surplus notes are pretty common in
25 the insurance industry. You -- you get -- you

Page 47

1 John Robison
2 borrow money, and it goes onto your balance sheet
3 as debt. But because of the longer term nature
4 of it and the fact that it requires regulatory
5 approval for payments, you can treat that as
6 capital.
7 Q And --
8 A Which is positive for the RBC.
9 Q And what entity did Brian Wegner
10 and Paul Lorentz suggest the surplus note be
11 entered into with?
12 A It was a Beechwood Re entity.
13 Q And did Brian Wegner and Paul
14 Lorentz describe what Beechwood wanted in return?
15 MS. BIRRANE: Objection.
16 A I don't recall that.
17 Q Didn't Brian Wegner and Paul
18 Lorentz propose to the board opening up the third
19 IMA so that Beechwood can make additional money
20 to cover the surplus note?
21 A That's not how I would characterize
22 it.
23 Q How would you characterize it?
24 A I would characterize it as that
25 they were two separate transactions and that the

Page 48

1 John Robison
2 Beechwood surplus -- the surplus note on our
3 balance sheet created capital, which is very
4 common for insurance companies.
5 And I would characterize the
6 Investment Management Agreement as another
7 opportunity to enhance the yield of the
8 portfolio.
9 Q Did you read Brian Wegner's
10 deposition transcript before coming here?
11 A I briefly read over it.
12 Q Did you see where Brian Wegner
13 described that the two -- that the IMA and the
14 surplus note were linked?
15 MS. BIRRANE: Objection.
16 Characterization.
17 Go ahead.
18 A I did not. If you want to show me
19 that, I can look it over.
20 Q Did you understand when you read
21 the Brian Wegner -- well, withdrawn.
22 I'm going to hand you what has been
23 previously marked in another deposition as
24 Exhibit 145.
25 (Previously Marked Exhibit No. 145,

Page 49

1 John Robison
2 January 5, 2015 E-Mail From Paul Lorentz to
3 Thomas Hampton and Julie Bowler, Bates Nos.
4 0060508, E-Mail and Note From Paul Lorentz
5 with document "A Transaction For Surplus
6 Strengthening Plan" is introduced into the
7 proceedings.)
8 Q Have you seen that before?
9 A Yes.
10 Q Okay. What is that?
11 A This is a note from Paul and an
12 E-Mail to Tom Hampton and Julie Bowler regarding
13 a transaction for surplus strengthening plan.
14 Q Okay. Turning to the second page,
15 which is ending at 509, at the top it says:
16 "Surplus Strengthening Plan
17 Conference Call, January 5th, 2015, Specific
18 Transactions."
19 Do you see that?
20 A Yes.
21 Q "\$50 million to SHIP in exchange
22 for surplus note. \$60 million added to existing
23 100M Investment Management Agreement, IMA, then
24 converted to two \$80 million collateral loans and
25 then 110 million funded under new IMA."

Page 54

1 John Robison
2 A A negative how?
3 Q Well, you said that the -- it was a
4 positive impact. I'm -- I'm asking you:
5 Did there come a time where the
6 surplus impact became a negative?
7 A Of this transaction?
8 Q Yes.
9 MS. BIRRANE: Objection.
10 A The negative would have been on the
11 Beechwood investment side.
12 Q All right. Let's turn to 519,
13 Investment Policy Compliance.
14 Are you with me?
15 A I am.
16 Q The second paragraph:
17 "While the planned investments are
18 generally consistent with the spirit and intent
19 of the policy, there may be aspects of these
20 transactions that technically fall outside the
21 policy parameters. Specifically, the collateral
22 loans at \$80 million each will be in excess of a
23 2 percent limit on investments in any single
24 entity, and together with the existing
25 investments in foreign entities would be in

Page 55

1 John Robison
2 excess of a 10 percent limit on foreign
3 investments."
4 Do you see that?
5 A I do.
6 Q What policies are we talking about
7 here?
8 A Our investment policy.
9 Q And, specifically, what -- what
10 policies is he referring to here?
11 A SHIP's investment policy.
12 Q No, no. I understand that. But he
13 said that the \$80 million would be in excess of a
14 2 percent limit on investments.
15 Well, what -- on what type of
16 investments is there a 2 percent limit?
17 A He's talking about the notes
18 being -- or the IMAs being converted to notes.
19 Q He's not talking about the types of
20 investments?
21 MS. BIRRANE: Objection.
22 A He's talking about the IMAs being
23 converted to notes.
24 Q Is he talking at all about the
25 specific investments within the IMAs?

Page 56

1 John Robison
2 MS. BIRRANE: Objection.
3 Q Well, I'll withdraw the question.
4 Did -- does this relate at all in
5 any way to the investments in business loans?
6 A Yes.
7 Q How so?
8 A That the underlying securities, if
9 the IMAs are converted to a bond-like structure,
10 they would have underlying instruments -- would
11 be loans, similar to any other structured product
12 or asset-backed security.
13 Q Now, Brian Wegner had been the CEO
14 since 2011 up to this point, right?
15 MS. BIRRANE: Objection.
16 You can answer.
17 A Correct.
18 Q And between 2011 and 2015, was SHIP
19 investing in the IMAs proving successful?
20 MS. BIRRANE: Objection.
21 Mischaracterizes.
22 MR. MORAN: I'm asking him: Was it
23 successful? It wasn't mischaracterized.
24 MS. BIRRANE: The date that it
25 begins, you just said "2011."

Page 57

1 John Robison
2 MR. MORAN: Ah, okay.
3 Q Well, between 2011, when Brian
4 Wegner was the CEO -- well, withdrawn.
5 Between 2014, yes, and 2015, was
6 SHIP's investing in the IMAs proving successful?
7 A Yes.
8 Q Okay. Was it reaching all of its
9 objectives?
10 A As far as --
11 MS. BIRRANE: Objection.
12 A As far as we could determine, yes.
13 Q But, yet, the RBC was an issue,
14 correct?
15 A RBC is related to a lot of things,
16 not just the investment portfolio, but also
17 claims activity in the financials of the
18 organization. So it's not just investments that
19 impact RBC. It's forecasting of claims and
20 actuarial studies on cash flow testing.
21 Q All right.
22 A I did want to say one thing,
23 though.
24 Q No. There's no question pending.
25 A Okay.

Page 58

1 John Robison
2 Q Wegner was ultimately terminated by
3 the board in 2016, correct?
4 A Correct.
5 Q SHIP is aware that members of the
6 board lost confidence in Wegner, right?
7 A Correct.
8 Q Board members expressed concern
9 that Wegner had become too close to Beechwood?
10 A Correct.
11 Q Wegner had communicated with
12 Beechwood concerning his possibly attaining a
13 seat on Beechwood's board?
14 MS. BIRRANE: Objection.
15 A I believe that's correct.
16 Q Beechwood invested into Wegner -- a
17 Wegner family business enterprise, right?
18 A I believe that's correct, too.
19 Q All of this had to do with his
20 termination?
21 A Correct.
22 MS. BIRRANE: Objection.
23 A Correct.
24 Q Now, we spoke earlier about
25 Mr. Staldine suggesting you would be able to

Page 59

1 John Robison
2 answer my questions about regulatory restrictions
3 on types of invest -- investments.
4 Were there any restrictions that
5 investment managers of SHIP assets needed to be
6 concerned about?
7 MS. BIRRANE: Objection.
8 A Yes.
9 Q And how was that conveyed to
10 investment managers?
11 A Through the investment policy and
12 guidelines.
13 Q I'm going to show you -- let me
14 show you another document we have already marked.
15 I'm going to show what we've
16 already marked, or it's already been marked in
17 another deposition, as Exhibit 64.
18 (Previously Marked Exhibit No. 64,
19 February 2015 Memo to SHIP Management from
20 Charles Soranno and Rick Yager, Subject:
21 Surplus Loan Transaction Review and
22 Analysis Results Memo, Bates Nos. SHIP
23 0127259 to 62, Document is introduced into
24 the proceedings.)
25 Q Have you seen that before?

Page 60

1 John Robison
2 A I've -- I've literally looked at
3 and flipped through thousands of pages. I may
4 have come across this.
5 Q Well, this is a report that we
6 showed Mr. Staldine, and he discussed it was
7 generated by Protiviti. Are you familiar with
8 Protiviti?
9 A I am.
10 Q And the subject of this is:
11 "Surplus Note Loan Transaction
12 Review and Analysis Results Memo."
13 Do you see that?
14 A I do.
15 Q I'm going to turn your -- well, you
16 see the -- it starts off with an "executive
17 summary." It has a background on the next page
18 that is "scope of work performed." And then
19 there's "observations and recommendations," and
20 then "transactional."
21 Do you see that?
22 A I do.
23 Q All right. Under transactional, on
24 item number four, it reads:
25 "The company intends to submit to

Page 61

1 John Robison
2 the NAIC Security Valuations Office, SVO, for
3 review and rating the collateral investments
4 placed in escrow at Wilmington Trust Company."
5 Do you see that?
6 A I do.
7 Q What is NI -- NAIC?
8 A The National Association of
9 Insurance Commissioners.
10 Q And do you have an understanding as
11 to what this reference to "review and rating" is
12 about?
13 A Yes.
14 MS. BIRRANE: I'm going to object
15 because these questions relate to a topic
16 that Mr. Staldine, or Staldine, testified
17 as to. You've gone over this with one of
18 our 30(b)(6) witnesses.
19 MR. MORAN: And as you might
20 recall, and -- and specifically as it
21 relates to this question, Mr. Staldine
22 said --
23 MS. BIRRANE: Well, that's what I'm
24 waiting for you to say. If there's
25 something specific that Mr. Staldine said

Page 74

1 John Robison

2 reflect how Protiviti was paid by SHIP for this

3 report?

4 MS. BIRRANE: Objection.

5 A I'm sure we would have paid them as

6 a part of their fee structure. I don't have that

7 information.

8 Q Is there an agreement between SHIP

9 and Protiviti reflecting that fee structure?

10 A Yes.

11 MR. MORAN: I call for its

12 production.

13 (Document, Agreement between SHIP

14 and Protiviti reflecting the fee structure

15 for the surplus note loan transaction

16 review and analysis, requested.)

17 MS. BIRRANE: Specific to this

18 report?

19 MR. MORAN: Yes, specific to this

20 report.

21 Q I'm going to show you what we're

22 marking as Exhibit 227.

23 (Exhibit No. 227, Revised 8/28/15

24 Investment Guidelines For SHIP, SHIP Bates

25 number 0175071, Document is marked by the

Page 75

1 John Robison

2 reporter for identification.)

3 Q Have you seen that before?

4 A Yes.

5 Q What is that document?

6 A It's the investment guidelines for

7 SHIP.

8 Q And I'll note they're on SHIP Bates

9 number 0175071.

10 And these are revised as of

11 August 28, 2015; is that right?

12 A I believe so. Correct.

13 Q Are these policies applicable to

14 the investments held in the IMAs?

15 A Yes.

16 Q Was there any mechanism at SHIP to

17 monitor whether these policies were being

18 followed?

19 A Yes.

20 Q Describe that.

21 A It would have been in a spreadsheet

22 format where the accounting team led by Paul

23 Lorentz would put the investments and compare

24 them to the policy to make sure they were in

25 compliance.

Page 76

1 John Robison

2 Q And on this spreadsheet, would the

3 investments that are entered -- withdrawn.

4 Would there be an entry on this

5 spreadsheet for every single investment in all

6 three IMAs?

7 A I believe the spreadsheet was a

8 summary, not each individual asset.

9 Q And how was it classified in the

10 summaries? In other words, how would each

11 individual -- withdrawn.

12 How would they summarize each

13 individual investment to determine if it was in

14 compliance?

15 MS. BIRRANE: Objection.

16 You can answer.

17 A I'd have to go back and look at

18 that spreadsheet. It would be common things like

19 asset size, how big we are into a particular

20 name, things of that nature.

21 Q And was this spreadsheet among the

22 documents that you reviewed in your preparation

23 for your testimony today?

24 A No, it was not.

25 Q Was this document produced in this

Page 77

1 John Robison

2 litigation?

3 A Not that I'm aware.

4 MR. MORAN: I call for its

5 production.

6 (Document, Spreadsheet comparing

7 investments to the SHIP's policy to make

8 sure they were in compliance, requested.)

9 Q All right. On the first page, at

10 the bottom of the page, the last paragraph, I'm

11 going to start with the last sentence there:

12 "Assets purchased outside the

13 limitations of these guidelines."

14 A I'm sorry. What page are you on?

15 Q I'm sorry. It's the very first

16 page of Exhibit 227.

17 A Okay.

18 Q Okay. And then at the very bottom,

19 it says "investment policies."

20 Do you see that?

21 A Yes.

22 Q Then "environment"?

23 A Yes.

24 Q So I'm going to the second

25 paragraph, and then I'm going to start with the

Page 86

1 John Robison
2 would know?
3 A Paul Lorentz.
4 Q Anyone else?
5 A I think Paul would be your best
6 source.
7 Q And this third IMA, can you tell
8 us -- well, withdrawn.
9 How does this third IMA differ from
10 the first and second IMAs?
11 A I'd have to see the first two IMAs
12 and go through it.
13 Q Sitting here without the other two,
14 you don't know?
15 A I'm not sure.
16 Q And do you know whether this third
17 IMA grants discretionary trading authority to the
18 investment advisor, B Asset Manager?
19 A Yes, I believe it does.
20 Q Are there any caveats to that
21 discretion?
22 MS. BIRRANE: Objection.
23 A Can you re-ask that question?
24 Q Yes. Is there anything that the
25 investment advisor needs to be knowledgeable of

Page 87

1 John Robison
2 that will undercut his ability to trade with full
3 discretion?
4 MS. EILBAUM: Object to the form.
5 MS. BIRRANE: Objection.
6 Q Did you understand my question?
7 A Can you rephrase it?
8 Q You understand from this IMA that
9 B Asset Manager had full discretion to trade the
10 account any way it wished, right?
11 A Correct.
12 Q Is there anything that would have
13 impacted that discretion one way or another that
14 you know of?
15 A Our investment guidelines.
16 Q Okay. And what specifically in
17 your investment guidelines would have impacted
18 the full discretion by the --
19 A That they have to comply with the
20 overall investment guidelines.
21 Q And was your investment guidelines
22 provided to the B Asset Manager?
23 A I believe so.
24 Q Who gave it to them?
25 A I'm unsure.

Page 88

1 John Robison
2 Q Are there documents that
3 demonstrate that the -- that the investment
4 guidelines were, in fact, sent to B Asset
5 Manager?
6 A I'm unsure about that.
7 Q Is there anyone at SHIP who would
8 be, more than you -- probably a lot of people,
9 right?
10 A Paul Lorentz.
11 Q All right.
12 MR. MORAN: And to the extent that
13 such document exists, I call for its
14 production.
15 (Document demonstrating that
16 the investment guidelines were sent to
17 B Asset Manager requested.)
18 MS. BIRRANE: We'll take that up.
19 I believe they have been produced.
20 MR. MORAN: Okay.
21 Q Who from SHIP was involved with the
22 negotiation for the IMA?
23 A Brian Wegner and Paul Lorentz.
24 Q Now, this IMA does not have the
25 same guarantee of 5.85 percent of the other IMAs.

Page 89

1 John Robison
2 Did you know that?
3 MS. BIRRANE: Objection.
4 A I was aware of that.
5 Q You were aware of that. Okay. Do
6 you know why?
7 A I do not.
8 Q But, yet, the 5.85 percent
9 guarantee was resolved in a side letter, correct?
10 A Correct.
11 Q And the side letter is affixed to
12 this exhibit attached to the blue sheet, right?
13 A I don't have a blue sheet.
14 Q Well, Okay. It's the last two
15 pages -- last four pages, I guess.
16 A Correct.
17 Q Have you seen that side letter
18 before?
19 A I have.
20 Q And it's addressed to Paul Lorentz,
21 right?
22 A Correct.
23 Q And it's signed by Brian Wegner?
24 A Correct.
25 Q And who signed for Beechwood?

Page 90

1 John Robison
2 A Mark Nordlicht.
3 Q And do you know who Mark Nordlicht
4 is?
5 A I do.
6 Q Who is Mark Nordlicht?
7 A He ran Platinum Partners.
8 Q Was that SHIP's understanding at
9 the time that this was entered into?
10 A No.
11 Q Why not?
12 MS. BIRRANE: Objection.
13 A How would we know? He signed on
14 behalf of Beechwood Re.
15 Q Wouldn't -- wouldn't your legal
16 department want to know who they're signing an
17 agreement with?
18 MS. BIRRANE: Objection.
19 Argumentative.
20 Q You can answer.
21 A No, as long as he had the authority
22 to sign on behalf of Beechwood Re.
23 Q SHIP didn't care as long as it was
24 somebody who ostensibly has authorization?
25 MS. BIRRANE: Objection.

Page 91

1 John Robison
2 Mischaracterizes.
3 Q Is that right?
4 A We would care, but that name
5 wouldn't have registered with us.
6 Q Shouldn't any name that would be
7 set forth in the agreement -- well, withdrawn.
8 This is being signed by Beechwood
9 Re Investments LLC, by N Management LLC.
10 Did anyone at SHIP try to determine
11 what N Management LLC was?
12 A I'm unsure. Not to my knowledge.
13 Q Is there anyone at SHIP that would
14 know this answer better?
15 A Paul Lorentz.
16 Q You said before that, as long as
17 Nordlicht had authority, it was fine with SHIP.
18 How did SHIP know that Nordlicht had authority?
19 A The documents came from Beechwood.
20 Q How did SHIP know that Nordlicht
21 and N Management LLC had authority?
22 A Again, the documents came from
23 Beechwood. So we assumed whoever signed on their
24 behalf -- that they're sending documents to us
25 would have authority.

Page 92

1 John Robison
2 Q Were there any communications at
3 SHIP -- withdrawn.
4 Were there any communications among
5 personnel at SHIP at the time -- at or about the
6 time this document was entered into about
7 N Management LLC?
8 A Can you be specific?
9 Q E-Mails?
10 A Relating to this entity?
11 Q Yes.
12 A I don't believe so.
13 Q There may have been?
14 MS. BIRRANE: Objection.
15 A I'm unsure.
16 MR. MORAN: To the extent that
17 there are any, I call for its production.
18 MS. BIRRANE: We'll take that up.
19 Anything that existed would have been
20 produced.
21 (Document, Communications Regarding
22 N Management LLC, requested.)
23 Q I'm going to show what has been
24 marked Exhibit 66.
25 (Previously Marked Exhibit No.

Page 93

1 John Robison
2 D 66, February 20, 2015 Pledge Agreement,
3 Promissory Note and Surplus Note is
4 introduced into the proceedings.)
5 Q Have you seen this exhibit before?
6 A Yes.
7 Q Okay. What is this exhibit?
8 A It's a surplus note.
9 Q Okay. The surplus note is actually
10 the very last instrument --
11 A Yes.
12 Q -- in this exhibit; isn't that
13 correct?
14 A That's correct.
15 Q Let's look at that note.
16 It's signed by Brian Wegner, right?
17 A Correct.
18 Q It was signed effective the 20th
19 day of February of 2015; am I right?
20 A I believe that's correct.
21 Q What is that instrument evidencing?
22 MS. BIRRANE: Objection.
23 A I'm sorry. What is your question?
24 Q What is that -- what is that
25 document? What is a "surplus note"?

Page 94

1 John Robison
2 MS. BIRRANE: Objection. It speaks
3 for itself.
4 Q Can you describe what that
5 instrument is?
6 A It's a surplus note.
7 Q Okay. SHIP borrowed from
8 Beechwood Re \$50 million, and this note evidences
9 the debt, right?
10 A Correct.
11 Q Did this note and the taking in of
12 \$50 million have an impact on SHIP's RBC?
13 A Yes.
14 Q How so?
15 A It would have improved our RBC
16 calculation.
17 Q Now, this debt would have been
18 junior to SHIP's policyholders' claims, right?
19 A I'm sorry. What?
20 Q This debt would have been junior to
21 SHIP's policyholders' claims?
22 A Correct.
23 Q And, therefore, this money would
24 have been immediately increasing SHIP's RBC,
25 right?

Page 95

1 John Robison
2 A Correct.
3 Q And as a result of that, SHIP was
4 above 200; is that right?
5 A I'm not sure of the exact figure.
6 Q Why not? You're the 30(b)(6)
7 witness. Shouldn't you know what that is?
8 MS. BIRRANE: Object.
9 Q Well, I'll withdraw the question.
10 MS. BIRRANE: Yes. Thank you.
11 Q Is there somebody else at SHIP who
12 would know better whether or not the surplus note
13 would have brought SHIP up above 200 RBC?
14 MS. BIRRANE: So I'm going to
15 object. There are thousands of pages of
16 documents in this case. The fact that
17 sitting here right now he can't remember a
18 number in a document from a number of years
19 ago is unfair to mischaracterize, like,
20 what he does or doesn't know.
21 MR. MORAN: Okay. I'm going to
22 object to the speaking objections and
23 suggesting answers in your objections,
24 which is really coaching the witness.
25 MS. BIRRANE: Well, I'm not trying

Page 96

1 John Robison
2 to coach the witness. I'm trying to
3 respond to the question. I'm happy for him
4 to get up at any time and have this
5 discussion off the record about him.
6 MR. MORAN: There's no reason to.
7 If you could just try to -- try to keep
8 your objections to nonspeaking objections,
9 and I think we can move forward.
10 Q Do you understand my question?
11 A Can you ask it one more time?
12 Q Sure.
13 (There was a discussion off the
14 record.)
15 (Reporter read back pending
16 question.)
17 Q Okay. Yeah. I actually withdrew
18 that question, and my question now is:
19 Is there someone else at SHIP who
20 would know the answer to my question about
21 whether or not this would have brought it up
22 above 200 RBC better than you?
23 A Paul Lorentz.
24 Q Is there anyone else? You keep
25 going to Paul Lorentz. I'm wondering why.

Page 97

1 John Robison
2 A Paul is the chief financial officer
3 responsible for the forecasting of RBC.
4 Q Are you familiar with the other
5 instruments in this exhibit? For instance, let's
6 focus on the instrument directly in front of the
7 surplus note, dated February 19, 2015.
8 MS. BIRRANE: What's the Bates
9 number?
10 Q On SHIP Bates No. ending 9405.
11 Are you with me?
12 A I'm -- I'm there.
13 Q Okay. Have you reviewed this
14 instrument before?
15 A Yes.
16 Q Okay. And this instrument -- by
17 "this instrument" -- well, withdrawn.
18 This instrument evidences a debt of
19 \$50 million that was entered into the day before
20 the surplus note, right?
21 A Yes.
22 Q Okay. And that -- by this
23 instrument, it's evidencing that Beechwood Re
24 borrowed from Beechwood Bermuda International
25 Limited, or BBIL, the 50 million, right?

Page 98

1 John Robison
2 MS. BIRRANE: Objection.
3 A I believe that's the case.
4 Q Okay. And the security for this is
5 evidenced by the first doc in the pledge
6 agreement, isn't that right, the first document,
7 ending in 395?
8 A I believe that's correct.
9 Q And that's the same date, right?
10 It's dated the same day, the 19th of February?
11 A Yes.
12 Q Now, you mentioned before that
13 Paul Lorentz and his team would have been in
14 place to monitor the investments, to determine
15 that the investments were in compliance, right?
16 A Correct.
17 Q Do you know whether Paul or his
18 team would communicate with B Asset Manager?
19 A Over that time period?
20 Q Yes.
21 A Yes.
22 Q How so?
23 A Telephone calls, E-Mails.
24 Q Face to face?
25 A Some face-to-face meetings.

Page 99

1 John Robison
2 Q Would they review documents about
3 the investments?
4 A Yes.
5 Q Including valuation reports?
6 A Yes.
7 Q All right. I'm going to show you
8 what I'm marking as Exhibit 228.
9 (Exhibit No. 228, August 13, 2015
10 Duff & Phelps Letter, Bates No. SHIP
11 0055260, Document is marked by the reporter
12 for identification.)
13 Q And it's a document from SHIP's
14 production, 0055260.
15 Have you seen that before?
16 A I have.
17 Q Okay. It's on Duff & Phelps
18 letterhead. It's addressed to Paul Lorentz,
19 dated April 13th, 2015, and it reads:
20 "Dear Mr. Lorentz, in connection
21 with our valuation analysis of certain debt
22 investments managed by B Asset Manager LP, BAM,
23 or the company, has requested that Duff & Phelps
24 LLC, Duff & Phelps, allow Senior Health Insurance
25 Company of Pennsylvania, SHIP, access to our

Page 100

1 John Robison
2 report entitled 'Estimation of a Fair Value Range
3 of Certain Debt Investments as of March 31,
4 2015,' dated April 14, 2015, the report."
5 It then goes on to discuss terms
6 for providing the document.
7 Do you see that?
8 A Yes.
9 Q All right. And then the last page
10 reads:
11 "Please confirm your acceptance of
12 the above terms and conditions by signing and
13 dating this letter and returning it to us."
14 Do you see that?
15 A Yes.
16 Q How did this come about?
17 A Mr. Lorentz would have asked for a
18 valuation report, and Duff & Phelps would want a
19 signed confidentiality agreement such as this in
20 front of us.
21 Q How did Lorentz ask for it?
22 A I'm unsure. Maybe he called
23 Beechwood and asked for it. It would have gone
24 through Beechwood to start.
25 Q You said maybe he called Beechwood?

Page 101

1 John Robison
2 A Yes. I'm unsure of how he
3 requested the report.
4 Q So he might have done it by E-Mail
5 as well?
6 A Perhaps.
7 Q Or he might have done it
8 face-to-face?
9 A Correct.
10 Q So SHIP does not know all the
11 communications between Lorentz and the B Asset
12 Manager, correct?
13 MS. BIRRANE: Objection.
14 Mischaracterizes.
15 MR. MORAN: I'm asking him:
16 Does SHIP know all of the
17 communications between Lorentz and the
18 Beechwood entities?
19 A I think we know most of them. I
20 don't know if we know every single one.
21 Q And I guess the same thing would go
22 for Wegner's communications with --
23 A Sure.
24 Q -- Beechwood.
25 Now, we did not find a copy of that

Page 106	<p>1 John Robison</p> <p>2 report dated April 9, 2015, with a Bates No.</p> <p>3 BW_SHIP_00006971.</p> <p>4 Have you seen that before?</p> <p>5 A I believe so.</p> <p>6 Q And this is dated April 9, 2015,</p> <p>7 and it encompasses investments through</p> <p>8 March 31st, 2015; is that right?</p> <p>9 A Can you repeat those dates?</p> <p>10 Q It's dated April 9th -- April 9,</p> <p>11 2015, right?</p> <p>12 A Yes.</p> <p>13 Q On the first page.</p> <p>14 And it -- on the first page, sir.</p> <p>15 The first page.</p> <p>16 A Yep.</p> <p>17 Q It sets forth debt investments as</p> <p>18 of March 31st, 2015, right?</p> <p>19 A Correct.</p> <p>20 Q Now, in the very first letter --</p> <p>21 page that you were just looking at, smaller "i,"</p> <p>22 it's addressed to Mr. Daniel Saks.</p> <p>23 Do you see that?</p> <p>24 A I do.</p> <p>25 Q Do you know who Daniel Saks is?</p>	Page 108
Page 107	<p>1 John Robison</p> <p>2 A He's the president of Beechwood.</p> <p>3 Q Did you know that before you just</p> <p>4 read that right now?</p> <p>5 A Through our discovery and our</p> <p>6 review of the documents, that's when I -- I knew</p> <p>7 that before here.</p> <p>8 Q Okay. And it reads:</p> <p>9 "Dear Mr. Saks, in accordance with</p> <p>10 our engagement letter dated March 9th, 2015, the</p> <p>11 engagement letter, please find below a</p> <p>12 summary" -- "a summary of the investments, each,</p> <p>13 an investment, and, collectively, the</p> <p>14 investments, for which we have been asked by</p> <p>15 B Asset Manager to estimate a range of fair value</p> <p>16 as of March 31st, 2015."</p> <p>17 Do you see that?</p> <p>18 A I do.</p> <p>19 Q Are you familiar with this type of</p> <p>20 a report?</p> <p>21 A I am.</p> <p>22 Q And it provides an analysis of the</p> <p>23 economics of each investment that B Asset Manager</p> <p>24 was investing pursuant to the third IMA, right?</p> <p>25 MS. BIRrane: Objection.</p>	Page 109
	<p>1 John Robison</p> <p>2 Q Am I right?</p> <p>3 A Correct.</p> <p>4 Q Let's turn to page 20. At.</p> <p>5 All right. At page 20 -- are you</p> <p>6 with me?</p> <p>7 A I am with you.</p> <p>8 Q It has the entry "Northstar GOM</p> <p>9 Holdings Group LLC."</p> <p>10 Do you see that?</p> <p>11 A I do.</p> <p>12 Q Are you familiar with that entity?</p> <p>13 A I am not.</p> <p>14 Q Are you familiar with that</p> <p>15 investment?</p> <p>16 A I am.</p> <p>17 Q And are you aware that Northstar</p> <p>18 GOM Holdings Group LLC is a Platinum portfolio</p> <p>19 company?</p> <p>20 A I was not aware of that.</p> <p>21 Q Now, these investments were</p> <p>22 originating in September 18th, 2014, right, the</p> <p>23 Northstar investment?</p> <p>24 A I believe that's correct.</p> <p>25 Q Let's turn to page 24.</p>	

<p style="text-align: right;">Page 110</p> <p>1 John Robison</p> <p>2 that report, right?</p> <p>3 A I don't know if he signed the</p> <p>4 report or not.</p> <p>5 Q Well, he signed the letter to get</p> <p>6 the report that's set forth in the exhibit that</p> <p>7 we just looked at, right?</p> <p>8 A Okay.</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 Go ahead.</p> <p>11 A Okay.</p> <p>12 Q Do you know if there were any</p> <p>13 discussions between Lorentz and SHIP management</p> <p>14 about Northstar's negative outlook?</p> <p>15 MS. BIRRANE: Objection.</p> <p>16 A I wouldn't characterize this as a</p> <p>17 negative outlook.</p> <p>18 Q You wouldn't characterize an</p> <p>19 investment becoming uneconomic as not negative?</p> <p>20 MS. BIRRANE: Objection.</p> <p>21 A I would --</p> <p>22 Q Go ahead.</p> <p>23 A I would characterize it as downside</p> <p>24 risk to an investment.</p> <p>25 Q Were there any discussions between</p>	<p style="text-align: right;">Page 112</p> <p>1 John Robison</p> <p>2 marking as Exhibit 231.</p> <p>3 (Exhibit No. 231, June 24, 2015</p> <p>4 Duff & Phelps Report, Bates No.</p> <p>5 BW_SHIP_00007018 is marked by the reporter</p> <p>6 for identification.)</p> <p>7 Q It is a Duff & Phelps report dated</p> <p>8 June 24th, 2015, Bates stamped BW_SHIP_00007018.</p> <p>9 Have you seen this Duff & Phelps</p> <p>10 report before?</p> <p>11 A I have the exact same report you --</p> <p>12 you just gave me.</p> <p>13 MS. BIRRANE: The exhibit he has is</p> <p>14 not the new one. It's just another copy of</p> <p>15 the previous one.</p> <p>16 MR. MORAN: I'm sorry. Let me see</p> <p>17 that back.</p> <p>18 Do you have the right one?</p> <p>19 MS. BIRRANE: I do.</p> <p>20 Q Okay. I'll read the Bates number</p> <p>21 again. BW_SHIP_00007018.</p> <p>22 Have you seen this Duff & Phelps</p> <p>23 report before?</p> <p>24 A Yes, I have.</p> <p>25 Q Okay. And this report was after</p>
<p style="text-align: right;">Page 111</p> <p>1 John Robison</p> <p>2 Lorentz and SHIP management about the downside</p> <p>3 risks of Northstar?</p> <p>4 A Not that I'm aware of.</p> <p>5 MR. MORAN: To the extent that any</p> <p>6 such document exists, I call for its</p> <p>7 production.</p> <p>8 (Document reflecting discussions</p> <p>9 between Paul Lorentz and SHIP management</p> <p>10 about the downside risks of Northstar</p> <p>11 requested.)</p> <p>12 Q Does SHIP know whether Lorentz had</p> <p>13 any communications with Wegner about this report?</p> <p>14 A I'm not sure if Paul passed this</p> <p>15 along. My assumption would be yes.</p> <p>16 Q But you don't know?</p> <p>17 A I don't know.</p> <p>18 Q Do you -- I take it that you don't</p> <p>19 know about whether Wegner and Lorentz talked</p> <p>20 about Northstar in particular?</p> <p>21 A I do not.</p> <p>22 Q Or if there are any documents that</p> <p>23 reflect that?</p> <p>24 A I do not.</p> <p>25 Q I'm going to show you what we're</p>	<p style="text-align: right;">Page 113</p> <p>1 John Robison</p> <p>2 SHIP entered into the supply note, right --</p> <p>3 surplus note, rather?</p> <p>4 A Yes, I believe that's correct.</p> <p>5 Q And it's after SHIP entered into</p> <p>6 the third IMA with B Asset Manager, right?</p> <p>7 A I believe that's correct, yes.</p> <p>8 Q All right. Can -- can you turn to</p> <p>9 page 42? It's the analysis of Desert Hawk Gold</p> <p>10 Corp. Do you see that?</p> <p>11 Are you with me?</p> <p>12 A I do.</p> <p>13 Q All right. And Desert Hawk was an</p> <p>14 asset held in the account with B Asset Manager,</p> <p>15 right?</p> <p>16 A Correct.</p> <p>17 Q Was SHIP aware that Desert Hawk was</p> <p>18 a Platinum portfolio company?</p> <p>19 A No.</p> <p>20 Q Okay. In this report, it starts</p> <p>21 with a company overview; and then it goes to</p> <p>22 transactions overview and key terms, and then</p> <p>23 there's transactions description. Are you with</p> <p>24 me?</p> <p>25 A I am.</p>

<p style="text-align: right;">Page 114</p> <p>1 John Robison</p> <p>2 Q And it reads:</p> <p>3 "On May 22, 2015, the origination</p> <p>4 date, Desert Hawk issued \$10 million worth of</p> <p>5 senior secured notes, senior secured notes, from</p> <p>6 DMRJ Group, a wholly owned subsidiary of Platinum</p> <p>7 Partners Value Arbitration Fund LP, PPVA. The</p> <p>8 senior secured notes holds 100" -- I'm sorry --</p> <p>9 "holds 15 percent interest payable monthly and</p> <p>10 maturity date of October 31, 2016. The senior</p> <p>11 secured notes include a put option in which BAM</p> <p>12 can put the note back to PPVA at any time after</p> <p>13 90 days by the principal amount of \$10 million</p> <p>14 plus any accrued interest. The senior secured</p> <p>15 notes are guaranteed by Mark Nordlicht, the</p> <p>16 managing member of PPVA's general partner, and</p> <p>17 are collateralized by all assets of Desert Hawk,</p> <p>18 including its approximately 52,000 ounces of gold</p> <p>19 reserves."</p> <p>20 Now, these \$10 million worth of</p> <p>21 notes in SHIP's -- these \$10 million worth of</p> <p>22 notes in SHIP's third IMA account were issued on</p> <p>23 May 22nd, 2015, from PPVA's wholly owned sub DMRJ</p> <p>24 Group.</p> <p>25 Isn't that right?</p>	<p style="text-align: right;">Page 116</p> <p>1 John Robison</p> <p>2 Are you still with me?</p> <p>3 A I am.</p> <p>4 Q All right. The last --</p> <p>5 second-to-last full sentence there:</p> <p>6 "For the year ended 2014, the</p> <p>7 company had an operating loss of \$865,890 and a</p> <p>8 net loss of 3,372,202. In 1Q '15, the company</p> <p>9 generated 1,239,869 of revenue and had an</p> <p>10 operating loss of 138,237 and a net loss of</p> <p>11 612,391."</p> <p>12 Do you see that?</p> <p>13 A I do.</p> <p>14 Q Was there any communication among</p> <p>15 SHIP personnel around this time about Desert</p> <p>16 Hawk's losses?</p> <p>17 MS. BIRRANE: Objection.</p> <p>18 Q In or around 2015?</p> <p>19 MS. BIRRANE: Objection.</p> <p>20 Foundation. Assumes facts not in evidence.</p> <p>21 Q You can answer.</p> <p>22 A Not to my knowledge.</p> <p>23 Q There may have been?</p> <p>24 MS. BIRRANE: Objection.</p> <p>25 A I highly doubt it.</p>
<p style="text-align: right;">Page 115</p> <p>1 John Robison</p> <p>2 MS. BIRRANE: Objection.</p> <p>3 A That's what it states.</p> <p>4 Q And it also states that there was a</p> <p>5 put option in effect; wasn't there?</p> <p>6 A That's what it says.</p> <p>7 Q Are you familiar with what a "put</p> <p>8 option" is?</p> <p>9 A Yes.</p> <p>10 Q What is your understanding of that?</p> <p>11 A That the buyer has the option of</p> <p>12 putting the security back for a set amount over</p> <p>13 an extended period of time, the specific date of</p> <p>14 expiration.</p> <p>15 Q Okay. Below that, it says:</p> <p>16 "Financial review and analysis.</p> <p>17 Capitalization. The senior secured promissory</p> <p>18 notes are pari passu with existing DMRJ Group.</p> <p>19 However, BAM holds a put option and can put the</p> <p>20 notes back to PPVA if Desert Hawk does not meet</p> <p>21 expected production levels. As of the valuation</p> <p>22 date, there was \$10 million of exposure through</p> <p>23 BAM's investment of the senior secured notes."</p> <p>24 And then it goes on for financial</p> <p>25 performance and ratios.</p>	<p style="text-align: right;">Page 117</p> <p>1 John Robison</p> <p>2 MR. MORAN: Well, to the extent</p> <p>3 there was any, I call for its production.</p> <p>4 (Communication among SHIP personnel</p> <p>5 about Desert Hawk's losses requested.)</p> <p>6 MS. BIRRANE: While you're going to</p> <p>7 the next exhibit, can I ask you a favor.</p> <p>8 MR. MORAN: Are we still on the</p> <p>9 record?</p> <p>10 MS. BIRRANE: I'm going to ask you</p> <p>11 about -- yeah, I mean, we're still on the</p> <p>12 record.</p> <p>13 Could I just ask you a favor, that,</p> <p>14 when you pass the documents around, can you</p> <p>15 add one more so I can give it to SHIP's</p> <p>16 other counsel?</p> <p>17 MR. MORAN: Sure.</p> <p>18 MS. BIRRANE: Thank you.</p> <p>19 Q All right.</p> <p>20 (Exhibit No. 232, January 19, 2016</p> <p>21 Duff & Phelps Report, Bates No. SHIP</p> <p>22 0071776 is marked by the reporter for</p> <p>23 identification.)</p> <p>24 Q I'm showing you what we've just</p> <p>25 marked as 232. Did I write 232 on there?</p>

<p style="text-align: right;">Page 118</p> <p>1 John Robison</p> <p>2 A Yes.</p> <p>3 MS. BIRRANE: It's 232.</p> <p>4 Q Good.</p> <p>5 A Yes.</p> <p>6 Q All right. And it's a -- I'll</p> <p>7 represent it's a document on SHIP production</p> <p>8 0071776, dated January 19, 2016, Duff & Phelps</p> <p>9 report.</p> <p>10 Have you seen that before?</p> <p>11 A Yes.</p> <p>12 Q And this is for debt investments as</p> <p>13 of December 31st, 2015; is that right?</p> <p>14 A That's correct.</p> <p>15 Q Now, let's look at the table of</p> <p>16 contents, which is SHIP document number ending</p> <p>17 779.</p> <p>18 Are you with me?</p> <p>19 A I am.</p> <p>20 Q Okay. Under "investments, fair</p> <p>21 value," it has a list of the debt instrument --</p> <p>22 the debt investments that are in this IMA,</p> <p>23 correct?</p> <p>24 A Right.</p> <p>25 Q Desert Hawk is not listed among</p>	<p style="text-align: right;">Page 120</p> <p>1 John Robison</p> <p>2 Q Okay. The second paragraph below</p> <p>3 that, the last -- second-to-last full sentence</p> <p>4 says:</p> <p>5 "Lastly, Platinum, the company's</p> <p>6 private equity sponsor, is continuing to fund the</p> <p>7 company obligations, interests, and CapEx."</p> <p>8 Do you see that?</p> <p>9 A I don't. Where are you again?</p> <p>10 Q SHIP production number ending 1830.</p> <p>11 It's page 54 of the report.</p> <p>12 A Yep.</p> <p>13 Q Under the table, there are two</p> <p>14 paragraphs.</p> <p>15 A Correct.</p> <p>16 Q I'm in the last paragraph there.</p> <p>17 A Okay.</p> <p>18 Q The second-to-the-last sentence,</p> <p>19 starting with the word "lastly."</p> <p>20 MS. BIRRANE: Do you see?</p> <p>21 THE WITNESS: I don't.</p> <p>22 MS. BIRRANE: Can I point it out to</p> <p>23 him?</p> <p>24 A Okay. Thank you.</p> <p>25 Q All right. Again, it reads:</p>
<p style="text-align: right;">Page 119</p> <p>1 John Robison</p> <p>2 them. Do you know why?</p> <p>3 A I don't.</p> <p>4 Q Northstar GOM Holdings Group LLC</p> <p>5 is. Do you see that?</p> <p>6 A I do.</p> <p>7 Q So let's turn to page 51.</p> <p>8 Okay. So you see on page 51 it</p> <p>9 begins, "The analysis of the Northstar GOM</p> <p>10 Holdings Group"?</p> <p>11 A I do.</p> <p>12 Q It starts with the company</p> <p>13 overview, goes through the transaction overview</p> <p>14 and key terms.</p> <p>15 Let's turn to page 53.</p> <p>16 Do you see that? Are you on page</p> <p>17 53?</p> <p>18 A Yes, sir.</p> <p>19 Q Okay. So this -- this now goes on</p> <p>20 to "collateral coverage" and then under that</p> <p>21 "coverage analysis income approach." And then</p> <p>22 continuing onto the next page, there's a table</p> <p>23 and then two paragraphs below that.</p> <p>24 Are you with me?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 121</p> <p>1 John Robison</p> <p>2 "Lastly, Platinum, the company's</p> <p>3 private equity sponsor, is continuing to fund the</p> <p>4 company's obligations, interests, and CapEx."</p> <p>5 Do you see that?</p> <p>6 A I do.</p> <p>7 Q Were there any communications</p> <p>8 between SHIP personnel concerning Platinum being</p> <p>9 Northstar's private equity sponsor?</p> <p>10 MS. BIRRANE: Objection.</p> <p>11 Foundation. Facts not in evidence.</p> <p>12 Mischaracterizes.</p> <p>13 Q You can answer.</p> <p>14 A I don't believe so.</p> <p>15 MR. MORAN: To the extent that</p> <p>16 there are, I call for its production.</p> <p>17 (Communications between SHIP</p> <p>18 personnel concerning Platinum being</p> <p>19 Northstar's private equity sponsor</p> <p>20 requested.)</p> <p>21 Q Now, it says that Platinum was</p> <p>22 funding Northstar's interests.</p> <p>23 Do you see that?</p> <p>24 A I do.</p> <p>25 Q Platinum is paying the interest on</p>

<p style="text-align: right;">Page 130</p> <p>1 John Robison</p> <p>2 December 23rd, 2015. It's addressed to Senior</p> <p>3 Health Insurance Company of Pennsylvania, care of</p> <p>4 B Asset Manager, regarding PPCO funds flow.</p> <p>5 Have you seen this before?</p> <p>6 A I have not seen this before.</p> <p>7 Q Are you aware that the funds --</p> <p>8 withdrawn.</p> <p>9 Is SHIP aware that the funds it</p> <p>10 loaned to PPCO were used by PPCO to purchase</p> <p>11 Desert Hawk?</p> <p>12 MS. BIRRANE: Objection.</p> <p>13 A I am not specifically aware of how</p> <p>14 they used those funds.</p> <p>15 Q Earlier, we looked at documents</p> <p>16 that demonstrated that Dessert Hawk was among the</p> <p>17 assets in the third IMA, right?</p> <p>18 A Sure.</p> <p>19 Q And then we looked at a document by</p> <p>20 Duff & Phelps; and by, the end of that year,</p> <p>21 2015, it was no longer in the account, right?</p> <p>22 MS. BIRRANE: Let me object.</p> <p>23 Characterization.</p> <p>24 Q You can answer. Do you remember</p> <p>25 that?</p>	<p style="text-align: right;">Page 132</p> <p>1 John Robison</p> <p>2 Have you seen this before?</p> <p>3 A No, I have not.</p> <p>4 Q Are you aware that SHIP increased</p> <p>5 its debt to PPCO up to 18.5 million?</p> <p>6 MS. BIRRANE: Objection.</p> <p>7 A Based off of this, I would assume</p> <p>8 so. But we had an outside manager, Beechwood,</p> <p>9 who had discretionary authority to manage the</p> <p>10 assets.</p> <p>11 Q I'm asking if SHIP had an</p> <p>12 understanding of this particular --</p> <p>13 A No.</p> <p>14 (There was a discussion off the</p> <p>15 record.)</p> <p>16 (Exhibit No. 236, January 20, 2016</p> <p>17 Reaffirmation and Ratification Agreement is</p> <p>18 marked by the reporter for identification.)</p> <p>19 Q I'm going to show you what I've</p> <p>20 just marked as Exhibit 235.</p> <p>21 (There was a discussion off the</p> <p>22 record.)</p> <p>23 Q Sorry, 236.</p> <p>24 And I will represent it's a</p> <p>25 multipage document entitled "Reaffirmation and</p>
<p style="text-align: right;">Page 131</p> <p>1 John Robison</p> <p>2 A I believe that's true. Yeah.</p> <p>3 Q Is SHIP aware that that's because</p> <p>4 it was sold to PPCO pursuant to this PPCO funds</p> <p>5 flow payment schedule?</p> <p>6 MS. BIRRANE: Objection.</p> <p>7 Foundation. Characterization.</p> <p>8 A I am not aware of how the funds</p> <p>9 flow worked.</p> <p>10 Q Okay. I'm going to show you what</p> <p>11 we have marked at a prior deposition as 84.</p> <p>12 (Previously Marked Exhibit No. 84,</p> <p>13 January 20, 2016 Platinum Partners Credit</p> <p>14 Opportunities Master Fund Funds Flow Letter</p> <p>15 Addressed to SHIP, Care of B Asset Manager,</p> <p>16 Followed By the Amended and Restated</p> <p>17 Delayed Draw Demand Note is introduced into</p> <p>18 the proceedings.)</p> <p>19 Q And I'll represent the first page</p> <p>20 is on Platinum Partners Credit Opportunities</p> <p>21 Master Fund letterhead dated January 20th, 2016,</p> <p>22 addressed to SHIP, care of B Asset Manager. It's</p> <p>23 another fund -- PPCO funds flow letter, and it's</p> <p>24 followed by the amended and restated delayed draw</p> <p>25 demand note.</p>	<p style="text-align: right;">Page 133</p> <p>1 John Robison</p> <p>2 Ratification Agreement," dated January 20th,</p> <p>3 2016.</p> <p>4 Are you familiar with that</p> <p>5 document?</p> <p>6 A I have it in front of me now.</p> <p>7 Q Are you familiar with it? Have you</p> <p>8 seen it before?</p> <p>9 A Not that I recall now.</p> <p>10 Q Do you understand that by this</p> <p>11 document -- withdrawn.</p> <p>12 This reaffirmed and ratified the</p> <p>13 security of the prior debt we were discussing</p> <p>14 that had been increased up to 18.5 million.</p> <p>15 Are you aware of that? Is SHIP</p> <p>16 aware of that?</p> <p>17 MS. BIRRANE: Objection.</p> <p>18 Foundation. Mischaracterizes.</p> <p>19 A No, just by what it says here.</p> <p>20 Q I'm going to show you what has been</p> <p>21 previously marked as Exhibit 85.</p> <p>22 (Previously Marked Exhibit No. 85,</p> <p>23 Note Purchase Agreement, BAM Administrative</p> <p>24 Services LLC as Agent, Purchases, From Time</p> <p>25 to Time Party Hereto, Platinum Partners</p>

<p style="text-align: right;">Page 150</p> <p>1 John Robison</p> <p>2 A Yes.</p> <p>3 Q Okay. And is SHIP aware whether</p> <p>4 Lincoln was involved in drafting this</p> <p>5 presentation to SHIP?</p> <p>6 A SHIP is not aware.</p> <p>7 Q If you will turn to the next page,</p> <p>8 ending in 70296, it indicates that Lincoln -- the</p> <p>9 scope of Lincoln will be "providing monthly</p> <p>10 negative assurance."</p> <p>11 Do you see that?</p> <p>12 A I do.</p> <p>13 Q And then "quarterly positive</p> <p>14 assurance."</p> <p>15 Do you see that?</p> <p>16 A I do.</p> <p>17 Q Does SHIP have an understanding of</p> <p>18 the difference between "negative assurance" and</p> <p>19 "positive assurance" valuations?</p> <p>20 MS. BIRRANE: I'm going to object</p> <p>21 to the -- are you asking about an</p> <p>22 understanding as to what this document</p> <p>23 means or an understanding generally.</p> <p>24 Q I'm asking generally.</p> <p>25 (Mr. Wertheim arrived at the</p>	<p style="text-align: right;">Page 152</p> <p>1 John Robison</p> <p>2 Q And in the last bullet point, under</p> <p>3 the "negative assurance," you can see:</p> <p>4 "Limited due diligence, including</p> <p>5 teleconferences with representatives of deal team</p> <p>6 as deemed necessary."</p> <p>7 Does SHIP have any reason to</p> <p>8 believe that that is not correct?</p> <p>9 MR. KUSHNER: Object to the form.</p> <p>10 A No.</p> <p>11 Q And was SHIP aware that Lincoln</p> <p>12 would be relying on the valuation conclusions and</p> <p>13 data provided by Beechwood?</p> <p>14 MS. EILBAUM: Objection to the</p> <p>15 form.</p> <p>16 A No.</p> <p>17 Q But you do see in -- in the</p> <p>18 first -- first sub-bullet:</p> <p>19 "Valuation conclusions and data</p> <p>20 provided by Beechwood to Lincoln."</p> <p>21 Do you see that?</p> <p>22 MR. KUSHNER: Objection.</p> <p>23 Argumentative.</p> <p>24 A I do.</p> <p>25 Q So SHIP understood after receiving</p>
<p style="text-align: right;">Page 151</p> <p>1 John Robison</p> <p>2 deposition.)</p> <p>3 A I'm unsure if SHIP understood the</p> <p>4 difference.</p> <p>5 Q Okay. Was SHIP's understanding</p> <p>6 after receiving this presentation that Lincoln</p> <p>7 would be conducting limited procedures in</p> <p>8 connection with the valuation of Beechwood's</p> <p>9 investments?</p> <p>10 MR. KUSHNER: Object to the form.</p> <p>11 Q You can answer. Sorry.</p> <p>12 A I'm unsure if SHIP knew that.</p> <p>13 Q You see here that the second bullet</p> <p>14 under negative assurance is:</p> <p>15 "Limited procedures performed on</p> <p>16 the methods employed, model inputs, and resulting</p> <p>17 values."</p> <p>18 Do you see that?</p> <p>19 A I do.</p> <p>20 Q Do you have any reason to believe</p> <p>21 that is not correct?</p> <p>22 MR. KUSHNER: Object to the form.</p> <p>23 Q You can answer.</p> <p>24 A I have no reason to think that's</p> <p>25 incorrect.</p>	<p style="text-align: right;">Page 153</p> <p>1 John Robison</p> <p>2 this presentation that Lincoln would be relying</p> <p>3 on information provided by Beechwood, correct?</p> <p>4 A Correct.</p> <p>5 Q With respect to the second IMA that</p> <p>6 was entered into in June of 2014, did anything</p> <p>7 change or -- with respect to SHIP's knowledge of</p> <p>8 Lincoln's engagement with Beechwood?</p> <p>9 MR. KUSHNER: Object to the form.</p> <p>10 A Not that I'm aware of.</p> <p>11 Q And SHIP, again, did not have any</p> <p>12 communications with Lincoln prior to entering</p> <p>13 into the second IMA; is that correct?</p> <p>14 A In -- in the documents I've</p> <p>15 reviewed, I have not come across any.</p> <p>16 Q And you have not been informed that</p> <p>17 there were any verbal communications; is that</p> <p>18 correct?</p> <p>19 A I'm aware of none.</p> <p>20 Q What is SHIP's understanding of --</p> <p>21 strike that.</p> <p>22 Is it SHIP's understanding that</p> <p>23 Lincoln performed valuations on the SHIP</p> <p>24 investments pursuant to the invested under the</p> <p>25 IMAs?</p>

<p style="text-align: right;">Page 166</p> <p>1 John Robison</p> <p>2 it's not false?</p> <p>3 A Because we -- we were paying</p> <p>4 performance fees on -- for the IMAs for the</p> <p>5 valuation of assets.</p> <p>6 Q You just said a few moments ago</p> <p>7 that SHIP had not been receiving Lincoln's</p> <p>8 valuation reports; is that correct?</p> <p>9 A Correct.</p> <p>10 Q So it was not reviewing Lincoln's</p> <p>11 valuation reports, correct?</p> <p>12 A Correct.</p> <p>13 Q So it could not be reviewing and</p> <p>14 relying on those valuation reports, correct?</p> <p>15 A No. Our asset manager was</p> <p>16 providing the valuations for us, which identified</p> <p>17 Lincoln as the source. That's what we relied on.</p> <p>18 Q So you relied on the spreadsheet</p> <p>19 provided by Beechwood that identified Lincoln as</p> <p>20 the price source?</p> <p>21 A Correct.</p> <p>22 Q And not on Lincoln's valuation</p> <p>23 reports?</p> <p>24 A Correct.</p> <p>25 Q Are you aware of any other</p>	<p style="text-align: right;">Page 168</p> <p>1 John Robison</p> <p>2 included the market value of SHIP's holdings?</p> <p>3 A Correct.</p> <p>4 Q Correct.</p> <p>5 And what is SHIP's understanding of</p> <p>6 Wilmington -- where Wilmington Trust got the</p> <p>7 market value that it included in its reports?</p> <p>8 A Our understanding is from</p> <p>9 Beechwood.</p> <p>10 Q What does SHIP understand that</p> <p>11 Wilmington Trust received from Beechwood with</p> <p>12 respect to the market values of the investment?</p> <p>13 A I'm unsure.</p> <p>14 Q Did SHIP ever discuss with</p> <p>15 Wilmington Trust what information they were</p> <p>16 receiving from Beechwood with respect to the</p> <p>17 market values of the investments?</p> <p>18 A Not to my knowledge.</p> <p>19 Q Did Beechwood ever tell SHIP what</p> <p>20 they were providing to Wilmington Trust with</p> <p>21 respect to the market values?</p> <p>22 A I'm sorry. One more time.</p> <p>23 Q Did Beechwood ever tell SHIP what</p> <p>24 it was providing to Wilmington Trust with respect</p> <p>25 to the market values of SHIP investments?</p>
<p style="text-align: right;">Page 167</p> <p>1 John Robison</p> <p>2 allegations in the complaint that lack</p> <p>3 evidentiary basis?</p> <p>4 MR. KUSHNER: Objection to form.</p> <p>5 Q You can answer.</p> <p>6 A No.</p> <p>7 MR. KUSHNER: I'm just going to</p> <p>8 object. I mean, it's 90 pages, Counsel.</p> <p>9 Something specific --</p> <p>10 MS. SIELING: You're right, it is</p> <p>11 90 pages.</p> <p>12 MR. KUSHNER: I think it's going to</p> <p>13 get shorter in the amended version. But if</p> <p>14 there's something specific you'd like to</p> <p>15 ask the witness about, please do.</p> <p>16 Q I'd like to talk for a few minutes</p> <p>17 about Wilmington Trust.</p> <p>18 SHIP's investments with Beechwood</p> <p>19 were held in custodial accounts at Wilmington</p> <p>20 Trust; is that correct?</p> <p>21 A That's correct.</p> <p>22 Q And Wilmington provided monthly</p> <p>23 statements to SHIP; is that correct?</p> <p>24 A Correct.</p> <p>25 Q And did those -- those statements</p>	<p style="text-align: right;">Page 169</p> <p>1 John Robison</p> <p>2 MS. EILBAUM: Object to the form.</p> <p>3 Q You can answer.</p> <p>4 A Again, I looked at a lot of</p> <p>5 documents. My belief -- I believe I saw a</p> <p>6 document where it reflects that the Lincoln</p> <p>7 valuations are used for the Wilmington Trust, as</p> <p>8 I recall. I -- I can't remember that specific</p> <p>9 document, but that was my understanding.</p> <p>10 Q Do you remember what that</p> <p>11 document -- anything additional about that</p> <p>12 document?</p> <p>13 A No. I think it was in a</p> <p>14 presentation of something, or maybe in a</p> <p>15 conversation. I'm not sure. I know explicitly</p> <p>16 we believed that the valuations going to</p> <p>17 Wilmington Trust were provided by Beechwood from</p> <p>18 Lincoln Partners.</p> <p>19 Q Was it SHIP's understanding that</p> <p>20 Beechwood was provided -- providing Lincoln's</p> <p>21 valuation reports to Wilmington Trust or that</p> <p>22 they were reporting?</p> <p>23 A I'm unsure.</p> <p>24 Q Did SHIP know whether any of</p> <p>25 Lincoln's valuation reports were provided to</p>

<p style="text-align: right;">Page 170</p> <p>1 John Robison</p> <p>2 Wilmington Trust?</p> <p>3 A I'm unsure.</p> <p>4 Q So last night your -- your counsel</p> <p>5 provided us with additional allegations that are</p> <p>6 going to be included in the amended complaint</p> <p>7 tomorrow. I just have a few questions on those.</p> <p>8 I'm not going to mark this as an</p> <p>9 exhibit.</p> <p>10 MS. DOHERTY: Just mark it as an</p> <p>11 exhibit, that none of us have it.</p> <p>12 MS. SIELING: We can provide it to</p> <p>13 you.</p> <p>14 MS. DOHERTY: You should mark it as</p> <p>15 an exhibit.</p> <p>16 MS. SIELING: We don't mark the</p> <p>17 complaints as exhibits. I don't see</p> <p>18 there's any reason to mark an E-Mail from</p> <p>19 counsel.</p> <p>20 MS. EILBAUM: We have had a</p> <p>21 practice of marking anything with Bates</p> <p>22 numbers.</p> <p>23 MR. GLUCK: Including complaints,</p> <p>24 by the way.</p> <p>25 MS. SIELING: Okay. Then we will</p>	<p style="text-align: right;">Page 172</p> <p>1 John Robison</p> <p>2 A Correct.</p> <p>3 Q And that is before SHIP entered</p> <p>4 into the IMAs with Beechwood; is that correct?</p> <p>5 A Correct.</p> <p>6 Q So SHIP does not have any</p> <p>7 information that Beechwood provided Lincoln</p> <p>8 valuation reports to Wilmington Trust during the</p> <p>9 time that SHIP was investing in the IMAs?</p> <p>10 MR. KUSHNER: Objection.</p> <p>11 Mischaracterizes the document and</p> <p>12 mischaracterizes the witness's testimony,</p> <p>13 ignores the fact that the witness has</p> <p>14 testified that he has not seen this before.</p> <p>15 A Yes. This is the first time I have</p> <p>16 seen this.</p> <p>17 What is your question again?</p> <p>18 Q Okay. My question is:</p> <p>19 Is SHIP aware of any other</p> <p>20 instances -- or any instance in which Beechwood</p> <p>21 provided Lincoln's valuation reports to</p> <p>22 Wilmington Trust during the time that SHIP was</p> <p>23 investing in the IMAs?</p> <p>24 A Again, I've looked at thousands of</p> <p>25 documents. I'm unsure of that one.</p>
<p style="text-align: right;">Page 171</p> <p>1 John Robison</p> <p>2 mark it as an exhibit.</p> <p>3 What are we on?</p> <p>4 (Exhibit No. 243, Complaint in SHIP</p> <p>5 v. Lincoln International LLC and Lincoln</p> <p>6 Partnership Advisors LLC Lawrence Partners</p> <p>7 Litigation, Document is marked by the</p> <p>8 reporter for identification.)</p> <p>9 Q Okay. Have you seen these new</p> <p>10 allegations that will be included in the amended</p> <p>11 complaint against Lincoln?</p> <p>12 A I have not.</p> <p>13 Q I would like to direct you to the</p> <p>14 second-to-last bullet point. It says:</p> <p>15 "On March 7, 2014, Will Slota of</p> <p>16 Beechwood E-Mailed David Young at Wilmington</p> <p>17 Trust, asking, 'Our CFO asked that I send you the</p> <p>18 attached report from Lincoln International, our</p> <p>19 independent valuation agent, for the purpose of</p> <p>20 marking the private positions as of 2/28. Can</p> <p>21 you update positions as discussed?'"</p> <p>22 Do you see that?</p> <p>23 A I do.</p> <p>24 Q You see that that is dated</p> <p>25 March 7, 2014, correct?</p>	<p style="text-align: right;">Page 173</p> <p>1 John Robison</p> <p>2 Q Pursuant to the IMAs, Beechwood</p> <p>3 could take performance fee withdrawals; is that</p> <p>4 correct?</p> <p>5 A Correct.</p> <p>6 Q And what was the process for</p> <p>7 Beechwood requesting to withdraw performance</p> <p>8 fees?</p> <p>9 A It was via E-Mail. They would send</p> <p>10 information regarding the assets and the</p> <p>11 valuations versus the guaranteed return, and</p> <p>12 when -- if the account were short, they would</p> <p>13 true it up. If there was an excess of that, they</p> <p>14 would get their performance fee.</p> <p>15 Q Did Beechwood provide any</p> <p>16 documentation to SHIP in connection with those</p> <p>17 requests to with -- withdraw performance fees?</p> <p>18 A A spreadsheet.</p> <p>19 Q And what did SHIP do when it</p> <p>20 received a request to withdraw performance fees</p> <p>21 from Beechwood?</p> <p>22 A Reviewed the spreadsheet, compared</p> <p>23 it to the Wilmington Trust, make sure it was in</p> <p>24 line, and then pay the fees.</p> <p>25 Q If there were discrepancies between</p>

<p style="text-align: right;">Page 190</p> <p>1 John Robison</p> <p>2 Q Okay. Thank you.</p> <p>3 Did SHIP's board of directors</p> <p>4 review the investments that Beechwood was making</p> <p>5 with SHIP assets under the IMAs?</p> <p>6 A In what time period?</p> <p>7 Q Let's start in 2014.</p> <p>8 A My recollection and the documents</p> <p>9 I've seen, they've reviewed it on a very high</p> <p>10 level.</p> <p>11 Q Well, so -- so the answer is, yes,</p> <p>12 they reviewed the investments, correct?</p> <p>13 A Yes.</p> <p>14 MS. BIRRANE: Objection.</p> <p>15 Q How often were these investments</p> <p>16 reviewed?</p> <p>17 A I believe quarterly.</p> <p>18 Q Were they reviewed at meetings of</p> <p>19 the board of directors?</p> <p>20 A Yes.</p> <p>21 Q And did the board of directors meet</p> <p>22 quarterly?</p> <p>23 A That's my understanding.</p> <p>24 Q Were they reviewed by any other</p> <p>25 committee of the board -- I'm sorry. Let me just</p>	<p style="text-align: right;">Page 192</p> <p>1 John Robison</p> <p>2 Did anything change in 2015 in how</p> <p>3 the board or committee reviewed investments?</p> <p>4 A Not that I'm aware of.</p> <p>5 Q And the audit committee was still</p> <p>6 the committee responsible for reviewing</p> <p>7 investments?</p> <p>8 A That's what I believe.</p> <p>9 Q Would the audit committee review</p> <p>10 investments at the same time that the board would</p> <p>11 review them in 2014, 2015?</p> <p>12 A Not necessarily.</p> <p>13 Q Can you elaborate?</p> <p>14 A I think the audit committee -- SHIP</p> <p>15 would have an audit committee meeting and then</p> <p>16 the full board; and the committees would report</p> <p>17 to the board.</p> <p>18 Q Was there a particular individual</p> <p>19 or multiple persons responsible for reporting on</p> <p>20 the Beechwood investments to the audit committee</p> <p>21 and the board?</p> <p>22 A The CFO.</p> <p>23 Q Okay. And we have been discussing</p> <p>24 2014 and 2015. Going into 2016, did the audit</p> <p>25 committee and the board continue that review</p>
<p style="text-align: right;">Page 191</p> <p>1 John Robison</p> <p>2 strike that and qualify it.</p> <p>3 Were they reviewed by any committee</p> <p>4 of the board?</p> <p>5 A I believe at that time period</p> <p>6 you're talking about, it would have been the</p> <p>7 audit committee.</p> <p>8 Q And how often would the audit</p> <p>9 committee have reviewed the investments?</p> <p>10 A I haven't reviewed all the</p> <p>11 documents. But based on what I saw, quarterly.</p> <p>12 Q And how often did the audit</p> <p>13 committee meet?</p> <p>14 A Again, I -- the things I reviewed,</p> <p>15 it appears quarterly.</p> <p>16 Q Just to clarify, from what you</p> <p>17 reviewed, your understanding is that the audit</p> <p>18 committee met quarterly?</p> <p>19 A Correct. At least quarterly.</p> <p>20 Q Do you recall who was on the audit</p> <p>21 committee in 2014?</p> <p>22 A I'm sorry, I don't.</p> <p>23 Q Now, we've been discussing 2014.</p> <p>24 Did -- is there any additional information or --</p> <p>25 strike that.</p>	<p style="text-align: right;">Page 193</p> <p>1 John Robison</p> <p>2 practice?</p> <p>3 MS. BIRRANE: Objection.</p> <p>4 Q You can answer.</p> <p>5 A In 2016, a formal investment</p> <p>6 committee was formed.</p> <p>7 Q Do you recall when in 2016?</p> <p>8 A I don't.</p> <p>9 Q Had an investment committee existed</p> <p>10 prior to 2016?</p> <p>11 A Not to my knowledge.</p> <p>12 Q Was the investment committee formed</p> <p>13 before you joined SHIP?</p> <p>14 A Yes.</p> <p>15 Q What is your understanding as the</p> <p>16 -- strike that.</p> <p>17 What was SHIP's reason for --</p> <p>18 sorry. Strike that again.</p> <p>19 What was -- what was the board's --</p> <p>20 why did the board create an investment committee</p> <p>21 in 2016?</p> <p>22 A More oversight and dedication to</p> <p>23 the investment portfolio.</p> <p>24 Q And how often does the investment</p> <p>25 committee meet?</p>

<p style="text-align: right;">Page 194</p> <p>1 John Robison</p> <p>2 A There was a period where it</p> <p>3 changed. On average, it's monthly.</p> <p>4 Q Do you recall when it changed?</p> <p>5 A I don't.</p> <p>6 Q Is it 2016?</p> <p>7 A Yeah. So in 2016, I believe we</p> <p>8 would have met every other week, and then we went</p> <p>9 to monthly meetings.</p> <p>10 Q Do you recall who the members of</p> <p>11 the investment committee were?</p> <p>12 A I do.</p> <p>13 Q Okay. And who are they?</p> <p>14 A Paul Lorentz, Greg Serio, and</p> <p>15 Tom Hampton.</p> <p>16 Q And after Paul Lorentz left SHIP?</p> <p>17 A Ginger Darrough. She's been off,</p> <p>18 too. So it's Greg and Tom.</p> <p>19 Q When did Ginger Darrough leave the</p> <p>20 committee?</p> <p>21 A I don't recall.</p> <p>22 Q Now, we've been discussing the</p> <p>23 review of investments. Were these reviews of</p> <p>24 investments before or after they -- they had been</p> <p>25 made? Let's start with 2014.</p>	<p style="text-align: right;">Page 196</p> <p>1 John Robison</p> <p>2 in -- in SHIP's -- of SHIP's assets.</p> <p>3 Were those reviewed before or after</p> <p>4 they were made by the board and audit committee?</p> <p>5 MS. BIRRANE: Objection.</p> <p>6 A I believe, from what I've seen,</p> <p>7 after.</p> <p>8 (Exhibit No. 247, October 10, 2013</p> <p>9 E-Mail Attaching Beechwood Re Background</p> <p>10 Information PDF is marked by the reporter</p> <p>11 for identification.)</p> <p>12 Q I just handed you a document which</p> <p>13 will be Exhibit 247. Take a look at it and let</p> <p>14 me know when you are ready.</p> <p>15 Ready.</p> <p>16 A Yes.</p> <p>17 Q Okay. So I handed you a document,</p> <p>18 Exhibit 247. If you take a look at the -- the</p> <p>19 very first page of the document, do you see that</p> <p>20 it says from Rick Hodgen, with an</p> <p>21 rhodgen@beechwoodreinsurance.com to Brian Wegner,</p> <p>22 bwegner@shipltd.com?</p> <p>23 A I do.</p> <p>24 Q Okay. You see it's dated</p> <p>25 October 10th, 2013.</p>
<p style="text-align: right;">Page 195</p> <p>1 John Robison</p> <p>2 A It would have been after they had</p> <p>3 been made and before. So the individual</p> <p>4 securities wouldn't have been known until after</p> <p>5 they had been purchased and put into our account,</p> <p>6 which is the time they would have reviewed them.</p> <p>7 Q Well, so what -- so -- so what's</p> <p>8 your -- what would have been reviewed before they</p> <p>9 were -- what investments would have been reviewed</p> <p>10 before they were made?</p> <p>11 A All asset managers are reviewed.</p> <p>12 Q I'm sorry. What do you mean by</p> <p>13 "all asset managers are reviewed"?</p> <p>14 A Any time we were going to hire an</p> <p>15 external manager, it would have been reviewed by</p> <p>16 the investment committee.</p> <p>17 Q When you refer to the -- well, when</p> <p>18 you refer to the investment committee, you're --</p> <p>19 you're talking about 2016, right?</p> <p>20 A Correct.</p> <p>21 Q Okay. So --</p> <p>22 A Prior to that, it would have been</p> <p>23 the audit committee.</p> <p>24 Q So -- so -- so my question -- my</p> <p>25 question is about the -- the actual investments</p>	<p style="text-align: right;">Page 197</p> <p>1 John Robison</p> <p>2 A Correct.</p> <p>3 Q And that it has, under, an</p> <p>4 attachment, Beechwood Re background information</p> <p>5 PDF.</p> <p>6 You see that, right?</p> <p>7 A Yes.</p> <p>8 Q And, also, I've given you -- with</p> <p>9 Exhibit 241, there's a blue sheet and a document</p> <p>10 Bates No. SHIP 0176989; and you see that's titled</p> <p>11 "Beechwood Re Background Information 2013,"</p> <p>12 right?</p> <p>13 A Correct.</p> <p>14 MS. BIRRANE: Just for the record,</p> <p>15 you mean 247?</p> <p>16 MS. EILBAUM: Yes. Yes. Thank you</p> <p>17 for that.</p> <p>18 Q Do you have any reason to doubt</p> <p>19 that this E-Mail was sent to Brian Wegner on</p> <p>20 October 10, 2013?</p> <p>21 A I do not.</p> <p>22 Q Or that this attachment was sent as</p> <p>23 well?</p> <p>24 A I do not.</p> <p>25 Q Okay. And let me -- let me direct</p>

<p style="text-align: right;">Page 198</p> <p>1 John Robison</p> <p>2 you to the page with the Bates No. SHIP 0177052.</p> <p>3 Do you see that the title of the</p> <p>4 document is:</p> <p>5 "Key Personal Information For David</p> <p>6 Levy"?</p> <p>7 A I do.</p> <p>8 Q Okay. And look down to the last</p> <p>9 row on this page.</p> <p>10 Do you see where it says:</p> <p>11 "Present occupation or employment,</p> <p>12 and occupations and employment during the last</p> <p>13 ten years"?</p> <p>14 A Yes.</p> <p>15 Q Okay. And that's on the left-hand</p> <p>16 column.</p> <p>17 And if you look on the right-hand</p> <p>18 column, the last row, you see it says "current</p> <p>19 occupation" underneath "see attached"?</p> <p>20 A Yes.</p> <p>21 Q Same thing, previous occupation</p> <p>22 one, see attached, and for previous occupation</p> <p>23 two, see attached?</p> <p>24 A Yes.</p> <p>25 Q Okay. So if you turn two more</p>	<p style="text-align: right;">Page 200</p> <p>1 John Robison</p> <p>2 says "PPVE LLC."</p> <p>3 Do you see that?</p> <p>4 A I do.</p> <p>5 Q Do you know what PPVE stands for?</p> <p>6 A No.</p> <p>7 Q Are you familiar with the term</p> <p>8 Platinum Partners Black Elk Opportunities Fund?</p> <p>9 A I am today.</p> <p>10 Q Do you know whether anyone at SHIP</p> <p>11 asked Mr. Levy or anyone else at Beechwood Re</p> <p>12 what PPVE stood for?</p> <p>13 A No, I'm not aware.</p> <p>14 Q And do you know if anyone at SHIP</p> <p>15 Googled what PPVE stands for?</p> <p>16 A I'm unsure.</p> <p>17 Q You haven't seen any documents to</p> <p>18 suggest that this was done?</p> <p>19 A Correct.</p> <p>20 Q Are you aware of whether anyone at</p> <p>21 SHIP reviewed publicly filed documents related to</p> <p>22 PPVE in October of 2013?</p> <p>23 A Again, while I've reviewed</p> <p>24 thousands of documents, I'm unaware of seeing</p> <p>25 anything where that was reviewed.</p>
<p style="text-align: right;">Page 199</p> <p>1 John Robison</p> <p>2 pages to the document with the bottom number</p> <p>3 Bates stamp 056, are you there?</p> <p>4 You see that that says "current</p> <p>5 occupation, previous occupation one," and</p> <p>6 "previous occupation two"?</p> <p>7 A Yes.</p> <p>8 Q And under the first, it says:</p> <p>9 "Current occupation, portfolio</p> <p>10 manager and deputy chief investment officer,"</p> <p>11 under sub I.</p> <p>12 And the sub I 3, it says:</p> <p>13 "Platinum Partners Value Arbitrage</p> <p>14 Fund LP"?</p> <p>15 A Yes.</p> <p>16 Q In October of 2013, did SHIP ask</p> <p>17 Mr. Levy or anyone at Beechwood Re about Levy's</p> <p>18 role at Platinum Partners Value Arbitrage Fund?</p> <p>19 A I'm not aware.</p> <p>20 Q You're not aware of any questions?</p> <p>21 A Correct.</p> <p>22 Q And, now, if you look beneath</p> <p>23 previous occupation one, it says "chief</p> <p>24 investment office." It says "office," but</p> <p>25 presumably "officer." And then under sub I 3 it</p>	<p style="text-align: right;">Page 201</p> <p>1 John Robison</p> <p>2 Q Under "occupation two, previous</p> <p>3 occupation," do you see it says "general partner</p> <p>4 and CIO" under sub I; then you go down to sub I</p> <p>5 3, it says "Marbridge Management LLC"?</p> <p>6 A I do.</p> <p>7 (There was a discussion off the</p> <p>8 record.)</p> <p>9 Q Are you familiar with</p> <p>10 Marbridge Management?</p> <p>11 A I am not.</p> <p>12 Q Do you know whether anyone at SHIP</p> <p>13 asked Mr. Levy or anyone at Beechwood for</p> <p>14 additional information about Marbridge in October</p> <p>15 of 2013?</p> <p>16 A I have not seen any documentation</p> <p>17 of that.</p> <p>18 Q Okay. Let's go back to the</p> <p>19 document which had the last Bates stamp 53, in</p> <p>20 the exhibit in front of you.</p> <p>21 MS. BIRrane: I'm sorry. 53 at the</p> <p>22 bottom.</p> <p>23 MS. EILBAUM: 53 at the bottom.</p> <p>24 Q Do you see on the left-hand side it</p> <p>25 says:</p>

<p style="text-align: right;">Page 202</p> <p>1 John Robison</p> <p>2 "Of what bodies corporate, A, are</p> <p>3 you now a director or controller, or B, have you</p> <p>4 been a director or controller at any time during</p> <p>5 the last ten years"?</p> <p>6 A Yes.</p> <p>7 Q And you see that in response to A,</p> <p>8 it says, under I:</p> <p>9 "Desert Hawk Gold Corp."?</p> <p>10 A Yes.</p> <p>11 (There was a discussion off the</p> <p>12 record.)</p> <p>13 Q In October of 2013, did SHIP follow</p> <p>14 up with Mr. Levy or anyone else at Beechwood Re</p> <p>15 to ask additional -- well, ask any questions</p> <p>16 about Levy's role at Desert Hawk Gold Corp.?</p> <p>17 MS. BIRrane: Objection to the</p> <p>18 form.</p> <p>19 A I don't recall seeing any documents</p> <p>20 relating to that.</p> <p>21 Q Relating to -- to the questions?</p> <p>22 A Questions following up.</p> <p>23 Q Okay. Last one.</p> <p>24 You see it says "previous director</p> <p>25 and controller two," also on that page?</p>	<p style="text-align: right;">Page 204</p> <p>1 John Robison</p> <p>2 Q I'm now going to mark Exhibit 248.</p> <p>3 (Exhibit No. 248, E-Mail From David</p> <p>4 Levy to Brian Wegner, Subject:</p> <p>5 "Investments," With Attachments is marked</p> <p>6 by the reporter for identification.)</p> <p>7 Q Take a look at this document and</p> <p>8 let me know when you're ready.</p> <p>9 A Okay.</p> <p>10 Okay.</p> <p>11 Q So what I've handed you is --</p> <p>12 looking at the first page, you see that it is an</p> <p>13 E-Mail, right?</p> <p>14 A Correct.</p> <p>15 Q From David Levy to Brian Wegner,</p> <p>16 with the subject line, "investments" -- is</p> <p>17 that --</p> <p>18 A Correct.</p> <p>19 Q And you see that there are two</p> <p>20 attachments. One is an Agera report draft, and</p> <p>21 the other one is Black Elk PDF page -- PDF?</p> <p>22 A Correct.</p> <p>23 Q Do you have any reason to doubt</p> <p>24 that this is the E-Mail that -- sorry -- that</p> <p>25 Brian Wegner received this E-Mail with</p>
<p style="text-align: right;">Page 203</p> <p>1 John Robison</p> <p>2 A Yes.</p> <p>3 Q It says:</p> <p>4 "Glacial Energy Holdings, Inc."?</p> <p>5 A Correct.</p> <p>6 Q Are you familiar with Glacial</p> <p>7 Energy?</p> <p>8 A Somewhat.</p> <p>9 Q Can you elaborate on -- on what --</p> <p>10 what is your familiarity with that asset?</p> <p>11 A That it was a bankrupt energy</p> <p>12 company that Agera had purchased.</p> <p>13 Q When did Agera purchase it?</p> <p>14 A I'm not sure of the date.</p> <p>15 Q And in October of 2013, are you</p> <p>16 aware of whether SHIP followed up with Mr. Levy</p> <p>17 or anyone else at Beechwood Re to ask questions</p> <p>18 about Levy's role at Glacial Energy Holdings?</p> <p>19 A No. I'm not aware of documents</p> <p>20 I've reviewed -- come across that.</p> <p>21 Q You have not -- you have no basis</p> <p>22 to believe that questions were asked about</p> <p>23 Glacial Energy; is that correct?</p> <p>24 A I have not found anything to</p> <p>25 support that. Correct.</p>	<p style="text-align: right;">Page 205</p> <p>1 John Robison</p> <p>2 attachments?</p> <p>3 A I have no doubt at this point in</p> <p>4 time.</p> <p>5 Q You see that this E-Mail contains a</p> <p>6 description of two investments, right?</p> <p>7 A I do.</p> <p>8 MS. DOHERTY: Stacey, can I just</p> <p>9 note for the record that that's the same</p> <p>10 document as Exhibit 61.</p> <p>11 MS. EILBAUM: Yes.</p> <p>12 MS. DOHERTY: Just so you know</p> <p>13 that.</p> <p>14 MS. EILBAUM: Thank you.</p> <p>15 Q The first one is Black Elk, and it</p> <p>16 says "public investment," right?</p> <p>17 A Correct.</p> <p>18 Q And the second one is Agera Energy</p> <p>19 LLC?</p> <p>20 A Correct.</p> <p>21 Q Now, in July of 2014, who at SHIP</p> <p>22 was responsible for monitoring the investments</p> <p>23 that were made under the Beechwood IMAs?</p> <p>24 A The CFO.</p> <p>25 Q That would have been Paul Lorentz?</p>

<p style="text-align: right;">Page 218</p> <p>1 John Robison</p> <p>2 you looking at?</p> <p>3 MS. EILBAUM: Oh, SHIP 0019690.</p> <p>4 MS. BIRRANE: That's not the</p> <p>5 exhibit.</p> <p>6 Q Oh, I'm so sorry.</p> <p>7 MS. BIRRANE: That's all right.</p> <p>8 MS. EILBAUM: I'm -- I'm</p> <p>9 referring -- I'm -- let's see.</p> <p>10 MS. BIRRANE: I can read it, if it</p> <p>11 helps.</p> <p>12 MS. EILBAUM: Okay. Yes. Yes.</p> <p>13 MS. BIRRANE: It's</p> <p>14 BW_SHIP_00006972.</p> <p>15 MS. EILBAUM: Thanks.</p> <p>16 Q So you see it's the cover page --</p> <p>17 well, hold on one moment.</p> <p>18 MS. EILBAUM: Anyone else have a</p> <p>19 copy of the exhibit? Because I'm going to</p> <p>20 refer to Bates numbers, the version I have.</p> <p>21 Thank you.</p> <p>22 MS. DOHERTY: Give it back when you</p> <p>23 finish.</p> <p>24 MS. EILBAUM: Yes. Thank you.</p> <p>25 Q So looking at the page, you see</p>	<p style="text-align: right;">Page 220</p> <p>1 John Robison</p> <p>2 Q And are you aware of any questions</p> <p>3 that SHIP asked about Levy's departure from the</p> <p>4 company?</p> <p>5 MS. BIRRANE: Objection.</p> <p>6 Foundation. Assumes facts not in evidence.</p> <p>7 A I can't recall.</p> <p>8 Q Okay. I would like you to turn to</p> <p>9 the document which is Bates stamped</p> <p>10 BW_SHIP_000060 -- I believe it's 83.</p> <p>11 Oh, is it 6983?</p> <p>12 A 6983.</p> <p>13 Q Do you see at the top of the</p> <p>14 document, it says "Montsant Partners LLC"?</p> <p>15 A Yes.</p> <p>16 Q And underneath that, it says:</p> <p>17 "Montsant Partners LLC is a</p> <p>18 special-purpose entity set up by Platinum</p> <p>19 Partners Value Arbitrage Fund LP"?</p> <p>20 A Yes.</p> <p>21 Q So in 2015, SHIP was aware that</p> <p>22 Montsant was set up by Platinum Partners Value</p> <p>23 Arbitrage Fund LP, right?</p> <p>24 MS. BIRRANE: Objection.</p> <p>25 A I'm unsure of the specific review</p>
<p style="text-align: right;">Page 219</p> <p>1 John Robison</p> <p>2 it's addressed to Daniel Saks, right?</p> <p>3 A Correct.</p> <p>4 Q What was your understanding of</p> <p>5 Daniel Saks's role at B Asset Manager?</p> <p>6 A That he was president.</p> <p>7 Q Are you aware of whether he held</p> <p>8 any other positions?</p> <p>9 A I don't recall.</p> <p>10 Q Are you aware of whether David Levy</p> <p>11 was still working at B Asset Manager at the time?</p> <p>12 A I don't recall the date, no.</p> <p>13 Q Do you recall a point in time where</p> <p>14 he left B Asset Manager?</p> <p>15 A Yeah. I just don't remember when</p> <p>16 that was.</p> <p>17 Q Do you know where he went after he</p> <p>18 left?</p> <p>19 A No.</p> <p>20 Q No.</p> <p>21 Do you know whether -- well, so at</p> <p>22 a point in time, SHIP was made aware that David</p> <p>23 Levy was no longer working for B Asset Manager,</p> <p>24 correct?</p> <p>25 A I believe that's the case.</p>	<p style="text-align: right;">Page 221</p> <p>1 John Robison</p> <p>2 of these individual assets in this report. It's</p> <p>3 clearly in here. I'm just unsure of the review</p> <p>4 of that particular asset by SHIP.</p> <p>5 Q So SHIP received this report in</p> <p>6 April of 2015, right?</p> <p>7 MS. BIRRANE: Objection.</p> <p>8 A I'm unsure when we got it.</p> <p>9 Q I'm going to ask you to put that</p> <p>10 aside. I'm going to mark the next exhibit.</p> <p>11 (Exhibit No. 251, E-Mail From</p> <p>12 Elliot Feit to Paul Lorentz, Attaching SHIP</p> <p>13 Final Report With Signature 3/31/15 PDF is</p> <p>14 marked by the reporter for identification.)</p> <p>15 Q Let me know when you're ready.</p> <p>16 A I'm ready.</p> <p>17 Q Okay. So I put in front of you an</p> <p>18 E-Mail and an attachment. The E-Mail, it states</p> <p>19 from Elliot Feit, efeit@beechwood.com. And it's</p> <p>20 to Paul Lorentz, with a subject, "Duff & Phelps</p> <p>21 reports."</p> <p>22 And the attachment states that</p> <p>23 it's:</p> <p>24 "SHIP final report with signature</p> <p>25 3/31/15 PDF."</p>

Page 222	Page 224
1 John Robison	1 John Robison
2 A Correct.	2 Partners Value Arbitrage Fund."
3 Q Do you see that?	3 Do you see that?
4 A Yes.	4 A I do.
5 Q And the sentence says:	5 Q Any reason to doubt that Paul
6 "Paul, please find attached the	6 Lorentz would have reviewed this page --
7 final 3/31/15 Duff & Phelps third-party valuation	7 MS. BIRRANE: Objection.
8 report."	8 Q -- of the Duff & Phelps report?
9 Do you see that?	9 MS. BIRRANE: Objection.
10 A Right.	10 A Can I answer?
11 Q And you see the attachment to the	11 Q Yes.
12 report?	12 A I'm unsure what Paul reviewed of
13 A I do.	13 this page.
14 Q Okay. And in the bottom right-hand	14 Q If you look under -- do you see
15 corner, SHIP 0019698, is this -- is this -- what	15 where it says "transaction description"?
16 we were just looking at as the exhibit, this	16 A Yes.
17 attachment, what we were just looking at, the	17 Q And it says:
18 exhibit --	18 "On January 30th, 2015, BAM
19 A I believe it is.	19 acquired a 35.5 --
20 Q Just so that the court reporter can	20 (There was a discussion off the
21 appreciate your answer -- so that the court	21 record.)
22 reporter can capture the question and -- and the	22 Q Actually, for the record, when I
23 answer.	23 say "BAM," do you understand what I'm referring
24 A Yes.	24 to?
25 MS. BIRRANE: And I would	25 A I do.
Page 223	Page 225
1 John Robison	1 John Robison
2 appreciate it if you would pause a second,	2 Q And -- and -- and what -- what am I
3 too.	3 referring to?
4 Q Do you have any reason to doubt	4 A Beechwood Asset Management.
5 that this report was sent to Paul Lorentz on	5 Q Well, actually, just to clarify, if
6 April 20th, 2015?	6 you go to the first page of this report, which is
7 A Not sitting here today, no.	7 SHIP 0019690, it says B Asset Manager LP. Is
8 Q And you had testified earlier that	8 that your understanding of BAM?
9 SHIP reviewed the Duff & Phelps reports that it	9 A Yes.
10 received, correct?	10 Q Okay. Turning back to the Montsant
11 MS. BIRRANE: Objection.	11 Partner LLC page, it says:
12 A Correct.	12 "On January 30th, 2015, BAM
13 Q And now if you could turn to the	13 acquired a 35.5 million senior unsecured loan,
14 page which has the bottom Bates No. SHIP 0019701,	14 the unsecured loan, issued by Montsant that is
15 back to the Montsant Partners LLC page.	15 guaranteed by the managing member of the GP of
16 Now, who at SHIP would have been	16 PPVA."
17 responsible for reviewing this Duff & Phelps	17 Do you see that?
18 report?	18 A I do.
19 A The CFO.	19 Q Are you aware of whether anyone at
20 Q And that was Paul Lorentz?	20 SHIP asked who the managing member of the GP of
21 A Correct.	21 PPVA was?
22 Q And it says under "company	22 A No, I'm not aware.
23 overview" what I had read earlier, which is:	23 Q And -- and do you see that there --
24 "Montsant Partners LLC is a	24 or on the same page, the next sentence, it says:
25 special-purpose entity set up by Platinum	25 "As collateral, BAM holds first

<p style="text-align: right;">Page 226</p> <p>1 John Robison</p> <p>2 lien secured interest or pledged investor</p> <p>3 interest of certain publicly traded companies,</p> <p>4 the pledged interest, which includes the</p> <p>5 following?"</p> <p>6 You see that, right?</p> <p>7 A I do see that.</p> <p>8 Q And you see there are -- there are</p> <p>9 three paragraphs listed below this?</p> <p>10 A Yes.</p> <p>11 Q All right. And you see that</p> <p>12 this -- that these -- these paragraphs refer to</p> <p>13 Navidea Biopharmaceuticals in point one, and you</p> <p>14 see in -- in point three Vistagen Therapeutics?</p> <p>15 A I do.</p> <p>16 Q V-i-s-t-a-g-e-n. V as in Victor.</p> <p>17 Are you aware what -- that these</p> <p>18 are public companies?</p> <p>19 MS. BIRRANE: Objection.</p> <p>20 A I am not sure SHIP realized those</p> <p>21 were publicly traded companies.</p> <p>22 Q Okay. Let's turn to the same</p> <p>23 document, the page which has the bottom Bates</p> <p>24 stamp SHIP 0019704.</p> <p>25 Do you see it says "NYSYRL Capital</p>	<p style="text-align: right;">Page 228</p> <p>1 John Robison</p> <p>2 A Yes.</p> <p>3 Q And you see that it says that it is</p> <p>4 a majority owner in ALS?</p> <p>5 A Correct.</p> <p>6 Q "ALS" referring to ALS Capital</p> <p>7 Ventures from the first sentence, right?</p> <p>8 A Yes.</p> <p>9 Q Are you aware of whether anyone at</p> <p>10 SHIP raised any concern about the connection of</p> <p>11 this loan to Platinum Partners Credit</p> <p>12 Opportunities Master Fund LP?</p> <p>13 MS. BIRRANE: Objection.</p> <p>14 A I -- again, I've reviewed thousands</p> <p>15 of documents. I haven't -- I can't recall</p> <p>16 anywhere in those documents where they've raised</p> <p>17 that concern.</p> <p>18 Q And you're not aware of any other</p> <p>19 source of information where that concern is</p> <p>20 raised?</p> <p>21 A No.</p> <p>22 Q No, you're not aware?</p> <p>23 A I am not aware.</p> <p>24 Q Let's turn to the page which is --</p> <p>25 let's turn to the page which is Bates stamped</p>
<p style="text-align: right;">Page 227</p> <p>1 John Robison</p> <p>2 LLC?</p> <p>3 A I do.</p> <p>4 Q And if I refer to this as NYSYRL,</p> <p>5 would -- would you follow that?</p> <p>6 A Yes.</p> <p>7 Q So do you see under the company</p> <p>8 overview, this says:</p> <p>9 "NYSYRL Capital is the owner of the</p> <p>10 right to receive 5.5 percent of the first hundred</p> <p>11 million of death benefit on a portfolio of 46</p> <p>12 life insurance policies with an aggregate death</p> <p>13 benefit of 328 million owed by ALS Capital</p> <p>14 Ventures?"</p> <p>15 A Yes.</p> <p>16 Q Are you aware of whether anyone at</p> <p>17 SHIP -- sorry. Withdraw that question.</p> <p>18 So -- so we just read the -- the</p> <p>19 first sentence of this paragraph. And now if you</p> <p>20 go to the -- the -- the last sentence, do you see</p> <p>21 it says "Credit Strategies LLC"?</p> <p>22 A Yes.</p> <p>23 Q It says:</p> <p>24 "Owned by Platinum Partners Credit</p> <p>25 Opportunities Master Fund LP"?</p>	<p style="text-align: right;">Page 229</p> <p>1 John Robison</p> <p>2 SHIP 0019709.</p> <p>3 Do you see on the top -- on the top</p> <p>4 of this page, it says "Northstar GOM Holdings</p> <p>5 Group LLC"?</p> <p>6 A I do.</p> <p>7 Q And you looked at this earlier</p> <p>8 today, correct?</p> <p>9 A Correct.</p> <p>10 Q Okay. And if you turn to the next</p> <p>11 page, it says SHIP 0019710 is the -- is the Bates</p> <p>12 number.</p> <p>13 A Yes.</p> <p>14 Q Okay. And do you see the paragraph</p> <p>15 that begins:</p> <p>16 "Finally, Principal Growth</p> <p>17 Strategies LLC"?</p> <p>18 A Yes.</p> <p>19 Q Okay. It says:</p> <p>20 "Finally, Principal Growth</p> <p>21 Strategies LLC, Platinum Partners Credit</p> <p>22 Opportunities Master Fund LP, and Agera Holdings</p> <p>23 LLC have further pledged the following equity</p> <p>24 interest as additional collateral for BAM's</p> <p>25 interest in the second priority senior secured</p>

Page 230	<p>1 John Robison</p> <p>2 note."</p> <p>3 You see that, right?</p> <p>4 A I do.</p> <p>5 Q Again, you're not aware of any</p> <p>6 questions that SHIP asked about -- about the</p> <p>7 relationship of -- of Principal Growth</p> <p>8 Strategies, Platinum Partners Credit</p> <p>9 Opportunities Master Fund LP, or Agera Holdings</p> <p>10 LLC to this investment?</p> <p>11 MS. BIRRANE: Just objection. And</p> <p>12 just so for my own understanding, you're</p> <p>13 talking more or less contemporaneously with</p> <p>14 the date of this report?</p> <p>15 MS. EILBAUM: Correct. Correct.</p> <p>16 Thanks for the clarification.</p> <p>17 Q In -- when this report was received</p> <p>18 in April 2015, are you aware of any questions</p> <p>19 that -- that were asked?</p> <p>20 A I am not.</p> <p>21 Q Okay. Let's turn to the document</p> <p>22 Bates stamped SHIP 0019720.</p> <p>23 You see the title of this page is</p> <p>24 the "New Bradley House, Ltd.," right?</p> <p>25 A I do.</p>	Page 232	<p>1 John Robison</p> <p>2 Q Now, there are multiple references</p> <p>3 to Platinum in this report, correct?</p> <p>4 A Correct.</p> <p>5 Q And after receiving this report in</p> <p>6 April of 2015, are you aware of whether SHIP</p> <p>7 expressed any concern about the multiple</p> <p>8 references to Platinum?</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 A I'm not aware at this time.</p> <p>11 Q And after receiving this report in</p> <p>12 April of 2015, are you aware of whether SHIP</p> <p>13 asked Duff & Phelps for any additional</p> <p>14 information about the investments discussed in</p> <p>15 the report?</p> <p>16 A I have not seen any documents</p> <p>17 reflecting that.</p> <p>18 Q And you have no other basis to --</p> <p>19 to believe that -- that questions were asked,</p> <p>20 again, at this time?</p> <p>21 MS. BIRRANE: Objection.</p> <p>22 A Yes. At this time, I'm unsure what</p> <p>23 anybody asked.</p> <p>24 Q Are you aware -- are you aware --</p> <p>25 are you aware of whether SHIP asked Duff & Phelps</p>
Page 231	<p>1 John Robison</p> <p>2 Q Okay. Under "transaction</p> <p>3 description," it says:</p> <p>4 "On April 11, 2012."</p> <p>5 Are you following?</p> <p>6 A Yes.</p> <p>7 Q It says:</p> <p>8 "New Bradley House issued a</p> <p>9 2.6 million senior secured loan in order to</p> <p>10 refinance existing indebtedness. As of the</p> <p>11 valuation date, BAM acquired the senior secured</p> <p>12 loan outstanding principal of 2.6 million from</p> <p>13 Platinum Partners Value Arbitrage Fund LP on</p> <p>14 March 17th, 2014."</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q And, again, in April 2015 -- or</p> <p>18 let's just say -- in 2015, are you aware of</p> <p>19 whether SHIP made any inquiries about this</p> <p>20 investment?</p> <p>21 MS. BIRRANE: Objection.</p> <p>22 Foundation.</p> <p>23 A No.</p> <p>24 Q No, you're not aware?</p> <p>25 A I'm not aware.</p>	Page 233	<p>1 John Robison</p> <p>2 for additional information about the investments</p> <p>3 at any time in 2015?</p> <p>4 A I'm not aware of any.</p> <p>5 Q What about 2014?</p> <p>6 A The same.</p> <p>7 Q 2016?</p> <p>8 A I'm unsure about that one.</p> <p>9 Q And what is the basis for -- for</p> <p>10 your uncertainty?</p> <p>11 MS. BIRRANE: I'm sorry. I didn't</p> <p>12 hear you.</p> <p>13 Q What's the basis for your</p> <p>14 uncertainty?</p> <p>15 A I just don't recall at this time</p> <p>16 who or if anyone may have reached out to them.</p> <p>17 Q If someone would have reached out</p> <p>18 to them, who would it have been?</p> <p>19 A Perhaps the CFO.</p> <p>20 MS. EILBAUM: If this is in</p> <p>21 documents, I call for their production.</p> <p>22 MS. BIRRANE: Are you talking about</p> <p>23 2016, somebody reached out to Duff & Phelps</p> <p>24 in 2016, who would it have been?</p> <p>25 MS. EILBAUM: Correct.</p>

<p style="text-align: right;">Page 250</p> <p>1 John Robison</p> <p>2 Q Right.</p> <p>3 And you see it says:</p> <p>4 "Name of borrower, Montsant</p> <p>5 Partners LLC"?</p> <p>6 A Correct.</p> <p>7 Q And credit line 35.5 million?</p> <p>8 A Yes.</p> <p>9 Q Are you familiar with this</p> <p>10 investment?</p> <p>11 A Vaguely.</p> <p>12 Q Do you see the "additional notes"</p> <p>13 box on this deal sheet?</p> <p>14 A I do.</p> <p>15 Q Do you see it says:</p> <p>16 "Personal guarantee by M. Nordlicht</p> <p>17 and D. Kalter"?</p> <p>18 A I do.</p> <p>19 Q Do you recall earlier, when you</p> <p>20 were reviewing the Duff & Phelps report, it had</p> <p>21 mentioned that BAM had acquired a 35.5 million</p> <p>22 senior unsecured loan issued by Montsant that is</p> <p>23 guaranteed by the managing member of the GP of</p> <p>24 PPVA?</p> <p>25 MS. BIRrane: Objection.</p>	<p style="text-align: right;">Page 252</p> <p>1 John Robison</p> <p>2 "Back to additional notes, personal</p> <p>3 guarantee by M. Nordlicht and D. Kalter"?</p> <p>4 A I do.</p> <p>5 Q Are you aware of whether SHIP asked</p> <p>6 any questions about the personal guarantee by</p> <p>7 M. Nordlicht and D. Kalter?</p> <p>8 A I do not.</p> <p>9 Q Do you know what M. Nordlicht</p> <p>10 refers to?</p> <p>11 A My assumption here today would be</p> <p>12 Mark Nordlicht.</p> <p>13 Q And D. Kalter refers to?</p> <p>14 A No.</p> <p>15 Q Okay. Let's move on to the next</p> <p>16 exhibit. This is 254.</p> <p>17 (Exhibit No. 254, Document with</p> <p>18 Bates No. SHIP 0016271, July 14, 2015</p> <p>19 E-Mail from Paul Lorentz to Janna Zaichek,</p> <p>20 with attachments is marked by the reporter</p> <p>21 for identification.)</p> <p>22 A Thank you.</p> <p>23 Q Let me know when you're ready.</p> <p>24 A I'm ready.</p> <p>25 Q So this is an E-Mail from Paul</p>
<p style="text-align: right;">Page 251</p> <p>1 John Robison</p> <p>2 Go ahead.</p> <p>3 A I don't recall that specifically,</p> <p>4 but --</p> <p>5 Q Let's just pull up Exhibit 251.</p> <p>6 A Okay.</p> <p>7 Q You have it.</p> <p>8 (There was a discussion off the</p> <p>9 record.)</p> <p>10 Q So if you can turn to the page with</p> <p>11 the Bates No. SHIP 0019701.</p> <p>12 A I see it, yes.</p> <p>13 Q Okay. And -- and you see it says:</p> <p>14 "On January 30th, 2015, BAM</p> <p>15 acquired a 35.5 million senior unsecured loan</p> <p>16 issued by Montsant that is guaranteed by the</p> <p>17 managing member of the GP of PPVA"?</p> <p>18 A Correct.</p> <p>19 Q Okay. And now -- and this is --</p> <p>20 this is from April of 2015, correct?</p> <p>21 A Correct.</p> <p>22 Q Okay. And now turning back to --</p> <p>23 turning back to the 253 and the deal sheet for</p> <p>24 the -- for the Montsant transaction, do you see</p> <p>25 that it says:</p>	<p style="text-align: right;">Page 253</p> <p>1 John Robison</p> <p>2 Lorentz to Janna Zaichek, correct?</p> <p>3 A Correct.</p> <p>4 Q Dated July 14, 2015?</p> <p>5 A Correct.</p> <p>6 Q And it has a number of attachments?</p> <p>7 A Yes.</p> <p>8 Q And those attachments are in front</p> <p>9 of you.</p> <p>10 MS. BIRrane: Objection.</p> <p>11 Q There -- there are attachments --</p> <p>12 there are attachments -- I'll represent that the</p> <p>13 attachments that were produced as SHIP 0016271</p> <p>14 are in front of you.</p> <p>15 MS. BIRrane: We have no reason to</p> <p>16 doubt you. It is what it is. It speaks</p> <p>17 for itself. So --</p> <p>18 MS. EILBAUM: Yeah. Understood.</p> <p>19 Q Do you have any reason to doubt</p> <p>20 that this E-Mail was not sent from Paul Lorentz</p> <p>21 to Janna Zaichek on July 14, 2015?</p> <p>22 A I do not.</p> <p>23 Q I would like to focus your</p> <p>24 attention to the document within this packet that</p> <p>25 you have with the bottom right-hand SHIP</p>

<p style="text-align: right;">Page 254</p> <p>1 John Robison</p> <p>2 identifier as SHIP 0016275.</p> <p>3 A Okay.</p> <p>4 Q Do you see that?</p> <p>5 Are you -- are ou familiar with</p> <p>6 this document?</p> <p>7 MS. BIRRANE: Once again, are you</p> <p>8 asking about him? Are you asking about</p> <p>9 SHIP?</p> <p>10 Q Well, as SHIP -- sitting here today</p> <p>11 as a 30(b)(6) witness, are you -- are you</p> <p>12 familiar with this document?</p> <p>13 A I am not.</p> <p>14 Q Would you like to take a minute to</p> <p>15 look at it?</p> <p>16 A Yes. Can I?</p> <p>17 Q Yes.</p> <p>18 A Okay.</p> <p>19 Q So if you look at -- if you look at</p> <p>20 the first "whereas" clause, it says:</p> <p>21 "Whereas purchaser" -- defined</p> <p>22 as -- up above, as "Beechwood Re" -- "desires to</p> <p>23 purchase from seller" -- defined as "Michael</p> <p>24 Nordlicht" --</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 256</p> <p>1 John Robison</p> <p>2 Q And -- and who -- who is the</p> <p>3 authorized signatory?</p> <p>4 A It appears to be Michael Nordlicht.</p> <p>5 Q And do you see the signature block</p> <p>6 for Principal Growth Strategies LLC?</p> <p>7 A I do.</p> <p>8 Q And who is the authorized</p> <p>9 signatory?</p> <p>10 A Mark Nordlicht.</p> <p>11 Q Now, this purchase agreement was</p> <p>12 sent to SHIP in July of 2015, right?</p> <p>13 A It appears correct, yes.</p> <p>14 Q And at this point, SHIP had already</p> <p>15 held Agera related debt, right?</p> <p>16 A I believe that's true. Yes.</p> <p>17 Q And in July of 2015, SHIP had also</p> <p>18 already executed the side letter for the third</p> <p>19 IMA with -- with B Asset Manager, correct?</p> <p>20 MS. BIRRANE: Objection.</p> <p>21 MS. EILBAUM: Oh, I apologize.</p> <p>22 You're correct. Well, your objection is</p> <p>23 getting where I'm going.</p> <p>24 Q The side letter -- at this point,</p> <p>25 SHIP had already entered a side letter for the</p>
<p style="text-align: right;">Page 255</p> <p>1 John Robison</p> <p>2 Q -- "and seller desires to sell to</p> <p>3 purchaser such number of units of common</p> <p>4 membership interest of the company" -- defined as</p> <p>5 "Agera Energy LLC" -- do you see that?</p> <p>6 A Correct.</p> <p>7 Q -- "as shall equal 4.99 percent of</p> <p>8 the equity interest of the company outstanding as</p> <p>9 of the date hereof."</p> <p>10 Do you see that?</p> <p>11 A Correct.</p> <p>12 Q This appears to be the transfer of</p> <p>13 certain interest in Agera Energy from</p> <p>14 Michael Nordlicht.</p> <p>15 Would you agree?</p> <p>16 MS. BIRRANE: Objection.</p> <p>17 A That appears to be the case.</p> <p>18 Q And I want to direct your attention</p> <p>19 to the signature page, which is SHIP 0016280.</p> <p>20 A I'm there.</p> <p>21 Q Do you see the signature block</p> <p>22 for -- let's see.</p> <p>23 Do you see the signature block for</p> <p>24 Agera Energy LLC?</p> <p>25 A I do.</p>	<p style="text-align: right;">Page 257</p> <p>1 John Robison</p> <p>2 third IMA with Beechwood Re Investments LLC; is</p> <p>3 that correct?</p> <p>4 A I believe that's correct.</p> <p>5 Q And do you recall who signed the</p> <p>6 side letter on behalf of Beechwood Re Investments</p> <p>7 LLC?</p> <p>8 A No. I would have to see it.</p> <p>9 Q I believe this has been previously</p> <p>10 marked as an exhibit in this case. But for ease</p> <p>11 of reference, I'm going to just mark it as a --</p> <p>12 the next exhibit in line.</p> <p>13 (Exhibit No. 255, Document with</p> <p>14 Bates stamp SHIP 0019587, January 15, 2015</p> <p>15 Side Letter to the BAM IMA is marked by the</p> <p>16 reporter for identification.)</p> <p>17 Q Let me know when you're ready.</p> <p>18 A I'm ready.</p> <p>19 Q Is -- is the document before you</p> <p>20 your understanding of the side letter to the BAM</p> <p>21 IMA?</p> <p>22 A It is.</p> <p>23 Q And if you turn to the page Bates</p> <p>24 stamped SHIP 0019587, does this refresh your</p> <p>25 recollection as to --</p>

<p style="text-align: right;">Page 258</p> <p>1 John Robison</p> <p>2 A Yes, it does.</p> <p>3 Q Okay. And -- and --</p> <p>4 A Thank you.</p> <p>5 Q And who -- who signed for Beechwood</p> <p>6 Re Investments LLC?</p> <p>7 A Mark Nordlicht.</p> <p>8 Q And the side letter is executed on</p> <p>9 January 15, 2015, right?</p> <p>10 A Correct.</p> <p>11 Q And Paul Lorentz -- well, and SHIP</p> <p>12 received the purchase agreement we were just</p> <p>13 looking at in July of 2015, right, in</p> <p>14 Exhibit 254?</p> <p>15 A Correct.</p> <p>16 Q Did SHIP ask any additional</p> <p>17 information from Beechwood after seeing that</p> <p>18 Mark Nordlicht was the authorized signatory for</p> <p>19 Principal Growth Strategies LLC in July of 2015?</p> <p>20 MS. BIRRANE: Objection.</p> <p>21 A Not that I'm aware of, no.</p> <p>22 Q Keeping with the exhibit in front</p> <p>23 of you, which is 253.</p> <p>24 Sorry. No. We're done with --</p> <p>25 we're done with two fifty -- 255.</p>	<p style="text-align: right;">Page 260</p> <p>1 John Robison</p> <p>2 today?</p> <p>3 A Vaguely, yes.</p> <p>4 Q So if you look at the -- the first</p> <p>5 paragraph of the participation agreement.</p> <p>6 A Yes.</p> <p>7 Q You see that it states that:</p> <p>8 "On May 22nd, 2015, this</p> <p>9 participation agreement is entered into by and</p> <p>10 between" -- do you see it says "DMRJ Group One</p> <p>11 LLC, the grantor"?</p> <p>12 A Yes.</p> <p>13 Q "Beechwood Re, the participant"?</p> <p>14 A Yes.</p> <p>15 Q And, now, you also see it says:</p> <p>16 "As agreed and acknowledged to by</p> <p>17 Platinum Partners Value Arbitrage Fund LP"?</p> <p>18 A I do.</p> <p>19 Q And, now, just skipping forward to</p> <p>20 the "recitals," the first "whereas" clause.</p> <p>21 A Yes.</p> <p>22 Q Do you see that it says:</p> <p>23 "Whereas grantor"?</p> <p>24 So DMRJ Group One LLC, right?</p> <p>25 A Yep.</p>
<p style="text-align: right;">Page 259</p> <p>1 John Robison</p> <p>2 A I'm sorry. 254?</p> <p>3 Q 254, yes.</p> <p>4 Keeping with -- keeping with</p> <p>5 Exhibit 254, can you turn to the page which has</p> <p>6 the Bates No. SHIP 0016285?</p> <p>7 A Yes.</p> <p>8 Q Are you familiar with this</p> <p>9 document?</p> <p>10 A Vaguely.</p> <p>11 Q The top of the document says:</p> <p>12 "Participation Agreement, Desert</p> <p>13 Hawk Gold Corp."</p> <p>14 Do you see that?</p> <p>15 A Yes.</p> <p>16 Q You recall discussing Desert Hawk</p> <p>17 earlier today, right?</p> <p>18 A I'm sorry. What's your question?</p> <p>19 Q Do you recall discussing Desert</p> <p>20 Hawk Gold Corp. earlier? Right?</p> <p>21 A Yes.</p> <p>22 Q And do you recall that this is one</p> <p>23 of the companies on which David Levy listed that</p> <p>24 he was a current director in the Beechwood</p> <p>25 background information that we reviewed earlier</p>	<p style="text-align: right;">Page 261</p> <p>1 John Robison</p> <p>2 Q "... is a party to that certain</p> <p>3 investment agreement dated July 14, 2010, between</p> <p>4 grantor as lender and Desert Hawk Gold Corp.,</p> <p>5 here defined as the borrower."</p> <p>6 You see that, right?</p> <p>7 A I do.</p> <p>8 Q And I just want to direct your</p> <p>9 attention to the signature page of this document,</p> <p>10 which is SHIP 0016290.</p> <p>11 A Yes.</p> <p>12 Q Okay. Who is signing for DMRJ</p> <p>13 Group One LLC?</p> <p>14 A David Levy.</p> <p>15 Q And you see his signature there?</p> <p>16 MS. BIRRANE: Objection.</p> <p>17 A I do. I believe that's his</p> <p>18 signature.</p> <p>19 Q Right. Does -- does that --</p> <p>20 looking at this document, does that appear to be</p> <p>21 the same signature printed for Platinum Partners</p> <p>22 Value Arbitrage Fund LP?</p> <p>23 A I have -- I'm sorry. I don't know.</p> <p>24 I don't know that to be the case.</p> <p>25 Q After receiving this participation</p>

<p style="text-align: right;">Page 262</p> <p>1 John Robison</p> <p>2 agreement, did SHIP seek any additional</p> <p>3 information about Levy's relationship with PPVA</p> <p>4 or DMRJ?</p> <p>5 A As I've said before, no, I don't</p> <p>6 believe that's the case. But as an outsourced</p> <p>7 investment manager, we would have assumed</p> <p>8 Beechwood would have been asking those questions.</p> <p>9 Q Sitting here today, you're not --</p> <p>10 you're not aware of any -- of any additional</p> <p>11 information that -- that SHIP sought; is that</p> <p>12 correct?</p> <p>13 A Correct.</p> <p>14 Q You're not aware of any internal</p> <p>15 discussion within SHIP about Levy's relationship</p> <p>16 with PPVA or DMRJ?</p> <p>17 A No, I am not.</p> <p>18 Q Just -- just for the record, you're</p> <p>19 not aware, correct? Right?</p> <p>20 A Correct. Sorry.</p> <p>21 Q Okay. One moment.</p> <p>22 We discussed earlier the board's</p> <p>23 review of the investments that Beechwood was</p> <p>24 making under the IMAs. Were these investments</p> <p>25 reviewed by the board of directors of SHIP?</p>	<p style="text-align: right;">Page 264</p> <p>1 John Robison</p> <p>2 Beechwood Re IMA?</p> <p>3 A Yes.</p> <p>4 Q There -- there's a list of ten</p> <p>5 here?</p> <p>6 A Yes.</p> <p>7 Q These are ten assets, correct?</p> <p>8 MS. BIRRANE: Objection.</p> <p>9 A I believe so. The trade ticket,</p> <p>10 I'd have to look at to see what specifically that</p> <p>11 one is. But the other names look familiar to me.</p> <p>12 Q Are these -- well, are these BRE</p> <p>13 SHIP holdings?</p> <p>14 Would the -- would the -- would the</p> <p>15 assets listed here have been -- sorry.</p> <p>16 Were the assets listed here</p> <p>17 reviewed by the SHIP board of directors?</p> <p>18 MS. BIRRANE: Objection.</p> <p>19 A I believe any investment on our</p> <p>20 balance sheet is approved by the investment -- by</p> <p>21 the board of directors or a body of the board of</p> <p>22 directors.</p> <p>23 Q What do you -- what do you mean by</p> <p>24 body?</p> <p>25 A I don't know if it was the audit</p>
<p style="text-align: right;">Page 263</p> <p>1 John Robison</p> <p>2 MS. BIRRANE: Objection. Asked and</p> <p>3 answered.</p> <p>4 When you say "these," I'm sorry,</p> <p>5 what do you mean by "these"?</p> <p>6 MS. EILBAUM: The investment in</p> <p>7 Desert Hawk Gold Corp., as well as the --</p> <p>8 well, let me -- let me backtrack.</p> <p>9 Q Let's go to the -- the cover</p> <p>10 E-Mail. Do you see where it says:</p> <p>11 "From Andrew Gross to</p> <p>12 Christian Thomas, Monday, July 13, 2015"?</p> <p>13 A I do.</p> <p>14 Q And you see where the text of this</p> <p>15 says:</p> <p>16 "Chris, please find the trade</p> <p>17 tickets and documents for all of our BRE SHIP</p> <p>18 Holdings"?</p> <p>19 A Yes, I do.</p> <p>20 Q What do you understand "BRE SHIP</p> <p>21 Holdings" to refer to?</p> <p>22 MS. BIRRANE: Objection.</p> <p>23 A Securities purchased by our asset</p> <p>24 manager Beechwood Re here for SHIP.</p> <p>25 Q In addition to the relation to the</p>	<p style="text-align: right;">Page 265</p> <p>1 John Robison</p> <p>2 committee or the investment committee at the</p> <p>3 time.</p> <p>4 Q One or the other, though?</p> <p>5 A Yes.</p> <p>6 Q I'm going to show you the next</p> <p>7 exhibit.</p> <p>8 (Exhibit No. 256, Duff & Phelps</p> <p>9 Report to SHIP, Document, Bates No.</p> <p>10 BW_SHIP_00011343 is marked by the reporter</p> <p>11 for identification.)</p> <p>12 A Thank you.</p> <p>13 Q It's marked as Exhibit No. 256, and</p> <p>14 the Bates is BW_SHIP_00011343.</p> <p>15 (There was a discussion off the</p> <p>16 record.)</p> <p>17 Q Let me know when you're ready.</p> <p>18 A I'm ready.</p> <p>19 MS. BIRRANE: Go with yours?</p> <p>20 MS. EILBAUM: Yes. Yes. For --</p> <p>21 for everyone's sake.</p> <p>22 Q So have you seen this document</p> <p>23 before?</p> <p>24 A Yes.</p> <p>25 Q Is this -- is this one of the</p>

<p style="text-align: right;">Page 274</p> <p>1 John Robison</p> <p>2 Q And do you see that it says</p> <p>3 "private equity" and then "9,398,237"?</p> <p>4 A I do.</p> <p>5 Q Were these investments approved by</p> <p>6 SHIP's board of directors?</p> <p>7 Actually, let me -- let me -- let</p> <p>8 me take that back.</p> <p>9 This -- was this agenda viewed --</p> <p>10 reviewed by -- sorry.</p> <p>11 Was this agenda reviewed -- sorry.</p> <p>12 Strike that.</p> <p>13 Was this agenda sent to SHIP's</p> <p>14 board of directors?</p> <p>15 A I believe that is true -- or</p> <p>16 posted.</p> <p>17 Q What do you mean by "posted"?</p> <p>18 A Posted online, as opposed to</p> <p>19 E-Mailing it all out.</p> <p>20 Q And were the investments that we</p> <p>21 were just -- just talking about, the Beechwood</p> <p>22 investment purchases for the quarter ending</p> <p>23 December 31st, 2015, were those approved by</p> <p>24 SHIP's board of directors?</p> <p>25 A I'd have to go back and check. I</p>	<p style="text-align: right;">Page 276</p> <p>1 John Robison</p> <p>2 by Mr. Lorentz, a motion was made by Ms. Bowler</p> <p>3 and seconded by Mr. Serio to approve the</p> <p>4 investments. The motion passed."</p> <p>5 Do you see that?</p> <p>6 A I do.</p> <p>7 Q And this is consistent with -- with</p> <p>8 your understanding earlier that the</p> <p>9 transaction --</p> <p>10 A Correct.</p> <p>11 Q Just to make sure that the record</p> <p>12 is clear, the question that I -- that I was</p> <p>13 asking:</p> <p>14 Is this consistent with your</p> <p>15 understanding earlier that those transactions</p> <p>16 were approved?</p> <p>17 And your answer had been "correct"?</p> <p>18 A Yes.</p> <p>19 Q I'm going to mark the next exhibit.</p> <p>20 (Exhibit No. 259, Supplemental</p> <p>21 Information For Redomestication of SHIP,</p> <p>22 Bates No. SHIP 0173856 is marked by the</p> <p>23 reporter for identification.)</p> <p>24 A Thank you.</p> <p>25 Q For the record, this is</p>
<p style="text-align: right;">Page 275</p> <p>1 John Robison</p> <p>2 believe they were.</p> <p>3 Q Okay. Let me show you the next --</p> <p>4 the next document.</p> <p>5 (Exhibit No. 258, Minutes of the</p> <p>6 February 29, 2016, Meeting of the Board of</p> <p>7 Directors of SHIP, Bates No. SHIP 0103665</p> <p>8 is marked by the reporter for</p> <p>9 identification.)</p> <p>10 Q Let me know when you're ready.</p> <p>11 A I'm ready.</p> <p>12 Q These appear to be the minutes of</p> <p>13 the February 29, 2016, meeting of the board of</p> <p>14 directors of the Senior Health Insurance Company</p> <p>15 of Pennsylvania, right?</p> <p>16 A I believe that to be the case, yes.</p> <p>17 MS. DOHERTY: Is this 258?</p> <p>18 MS. EILBAUM: This is 258, correct.</p> <p>19 SHIP Bates No. SHIP 0103665.</p> <p>20 Q And do you see on the second page,</p> <p>21 SHIP 0103666, under "Investments"?</p> <p>22 A I do.</p> <p>23 Q It says:</p> <p>24 "After review of the fourth quarter</p> <p>25 2015 investment purchases and sales as presented</p>	<p style="text-align: right;">Page 277</p> <p>1 John Robison</p> <p>2 Exhibit 259, bottom Bates No. SHIP 0173856. Let</p> <p>3 me know when you're ready.</p> <p>4 A I'm ready.</p> <p>5 Q Are you familiar with this</p> <p>6 document?</p> <p>7 A I am vaguely familiar with it.</p> <p>8 Q Okay. Can you tell me what it is?</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 A It's supplemental information for</p> <p>11 redomestication of SHIP.</p> <p>12 Q And who is it addressed to?</p> <p>13 A The acting commissioner of the</p> <p>14 Pennsylvania Insurance Company Department,</p> <p>15 Jessica Altman.</p> <p>16 Q And was the Pennsylvania Insurance</p> <p>17 Department -- sorry.</p> <p>18 Is the Pennsylvania Insurance</p> <p>19 Department SHIP's regulator?</p> <p>20 A Yes.</p> <p>21 Q Let's turn to the document</p> <p>22 SHIP 0173862.</p> <p>23 A I'm there.</p> <p>24 Q Okay. Do you see -- let me direct</p> <p>25 you to the last paragraph.</p>

<p style="text-align: right;">Page 278</p> <p>1 John Robison</p> <p>2 Do you see that it says:</p> <p>3 "A more comprehensive forensic</p> <p>4 review of E-Mails also revealed that an outside</p> <p>5 law firm...."</p> <p>6 Do you see that sentence?</p> <p>7 A No.</p> <p>8 Q No. Okay.</p> <p>9 Actually, one moment. Before --</p> <p>10 let me strike that question and -- and just ask</p> <p>11 you to turn to the -- the very last page, which</p> <p>12 is SHIP 0173865.</p> <p>13 A Okay.</p> <p>14 Q Are you familiar with the</p> <p>15 individuals who have signed this document?</p> <p>16 A I'm familiar with the people whose</p> <p>17 names are on this document.</p> <p>18 Q And are these members of SHIP's</p> <p>19 board of directors in January of 2018?</p> <p>20 A Yes.</p> <p>21 Q And SHIP is the author -- SHIP's</p> <p>22 board of directors is the author of this</p> <p>23 document?</p> <p>24 MS. BIRRANE: Objection.</p> <p>25 A I believe that's the case.</p>	<p style="text-align: right;">Page 280</p> <p>1 John Robison</p> <p>2 who was at this time period for those IMAs.</p> <p>3 Q So it says -- so it says:</p> <p>4 "In addition to this impropriety, a</p> <p>5 more comprehensive review of E-Mails also</p> <p>6 revealed an outside law firm hired by the then</p> <p>7 general counsel to assist the IMA drafting had</p> <p>8 made a number of recommendations about the</p> <p>9 investments which were not implemented, and none</p> <p>10 of this information was disclosed to the</p> <p>11 trustee."</p> <p>12 You see that sentence, right?</p> <p>13 A I do.</p> <p>14 Q What recommendations about the</p> <p>15 investments is this letter referring to?</p> <p>16 A I'm not sure.</p> <p>17 MS. BIRRANE: Objection.</p> <p>18 Q Did you review this letter in</p> <p>19 preparation for today?</p> <p>20 A I don't recall looking at this.</p> <p>21 Q Take a look at footnote eight. You</p> <p>22 see it says:</p> <p>23 "It was also discovered that</p> <p>24 management had hired SHIP's internal auditor</p> <p>25 Protiviti to review the IMA process. The auditor</p>
<p style="text-align: right;">Page 279</p> <p>1 John Robison</p> <p>2 Q So let's go back to SHIP 0173862.</p> <p>3 A Okay.</p> <p>4 Q So do you see the paragraph that</p> <p>5 begins "in 2016"?</p> <p>6 A Yes.</p> <p>7 Q Okay. So at the bottom of that</p> <p>8 paragraph, there's a sentence that begins:</p> <p>9 "In addition to this</p> <p>10 impropriety...."</p> <p>11 (There was a discussion off the</p> <p>12 record.)</p> <p>13 A Okay. Yes.</p> <p>14 Q It says:</p> <p>15 "A more comprehensive forensic</p> <p>16 review of E-Mails also revealed that an outside</p> <p>17 law firm hired by the then general counsel to</p> <p>18 assist with the IMA drafting."</p> <p>19 Let me just -- let me just stop</p> <p>20 there.</p> <p>21 At the time that the IMAs were</p> <p>22 executed, who was -- who was the general counsel</p> <p>23 of SHIP?</p> <p>24 A I don't remember. I don't</p> <p>25 remember. I don't recall the name of the person</p>	<p style="text-align: right;">Page 281</p> <p>1 John Robison</p> <p>2 identified several deficiencies in the IMA</p> <p>3 process, but these deficiencies were not</p> <p>4 disclosed to the audit committee."</p> <p>5 Do you see that?</p> <p>6 A I do.</p> <p>7 Q Now, you have seen the draft</p> <p>8 Protiviti report from February of 2015, right?</p> <p>9 A Yes.</p> <p>10 Q Is it SHIP's position that the</p> <p>11 report was never finalized?</p> <p>12 A SHIP's position is that what</p> <p>13 Protiviti was reviewing, SHIP did not engage in.</p> <p>14 Q Can you elaborate on that?</p> <p>15 A One example is we were considering</p> <p>16 converting the IMA agreements, Investment</p> <p>17 Management Agreements, of Beechwood to notes.</p> <p>18 And that was one of the processes that Protiviti</p> <p>19 was reviewing, and we obviously didn't do that.</p> <p>20 Q But it said that Protiviti was</p> <p>21 also, footnote eight, hired to review the IMA</p> <p>22 process, right?</p> <p>23 A Correct.</p> <p>24 Q And all three IMAs were executed,</p> <p>25 right?</p>

<p style="text-align: right;">Page 282</p> <p>1 John Robison</p> <p>2 A By the time this letter was</p> <p>3 written, sure.</p> <p>4 Q Were any IMAs executed after</p> <p>5 Protiviti was engaged to review the IMA process?</p> <p>6 A I don't --</p> <p>7 MS. BIRRANE: Objection.</p> <p>8 A I don't recall.</p> <p>9 Q Well, the next sentence says:</p> <p>10 "The auditor identified several</p> <p>11 deficiencies in the IMA process."</p> <p>12 Right?</p> <p>13 A Correct.</p> <p>14 Q It's SHIP's position that -- that</p> <p>15 these deficiencies were never disclosed to the</p> <p>16 audit committee; is that correct?</p> <p>17 MS. BIRRANE: Objection.</p> <p>18 A That's what it says.</p> <p>19 Q Sorry. Go ahead.</p> <p>20 A That's what it says.</p> <p>21 Q Is that SHIP's position?</p> <p>22 MS. BIRRANE: Objection.</p> <p>23 A I'm unsure if the audit committee</p> <p>24 saw that or didn't see it.</p> <p>25 Q Was the audit committee aware that</p>	<p style="text-align: right;">Page 284</p> <p>1 John Robison</p> <p>2 Pennsylvania, and it refers to the meeting held</p> <p>3 on February 19th, 2014.</p> <p>4 A Correct.</p> <p>5 Q It's signed by Ginger Darrough</p> <p>6 and -- and Tom -- it appears to be signed by</p> <p>7 Ginger Darrough and Tom Hampton, correct?</p> <p>8 A That's what it appears to be.</p> <p>9 Q Any reason to doubt that these are</p> <p>10 the minutes from the February 19th, 2014 meeting?</p> <p>11 A No.</p> <p>12 Q And do you see it says under</p> <p>13 "Elections and Appointments" --</p> <p>14 A Yes.</p> <p>15 Q It says:</p> <p>16 "A motion was made by Mr. Bykerk</p> <p>17 and seconded by Mr. Morrison for the elections</p> <p>18 and appointments shown below. The motion</p> <p>19 passed."</p> <p>20 A Yes.</p> <p>21 Q And the 2014 audit committee</p> <p>22 members are Ms. Bowler, Ms. Bykerk [sic] --</p> <p>23 (There was a discussion off the</p> <p>24 record.)</p> <p>25 Q Ms. Bowler, Ms. Bykerk [sic],</p>
<p style="text-align: right;">Page 283</p> <p>1 John Robison</p> <p>2 SHIP was engaging Protiviti to review the IMA</p> <p>3 process?</p> <p>4 MS. BIRRANE: Objection.</p> <p>5 A I'm unsure.</p> <p>6 Q Does SHIP have any documents</p> <p>7 reflecting a final version of the Protiviti memo</p> <p>8 from 2015 that you reviewed earlier today?</p> <p>9 A I'm unsure. I think we've given</p> <p>10 you the documents that we have related to that.</p> <p>11 (There was a discussion off the</p> <p>12 record.)</p> <p>13 Q You can put it aside for now, but</p> <p>14 still leave it out.</p> <p>15 I'm going to mark the next</p> <p>16 exhibit 260.</p> <p>17 (Exhibit No. 260, Minutes of a</p> <p>18 February 19, 2014 Meeting of the Board of</p> <p>19 Directors of SHIP is marked by the reporter</p> <p>20 for identification.)</p> <p>21 Q Let me know when you're ready.</p> <p>22 A I'm ready.</p> <p>23 Q This document states that it is the</p> <p>24 minutes of a meeting of the board of directors of</p> <p>25 the Senior Health Insurance Company of</p>	<p style="text-align: right;">Page 285</p> <p>1 John Robison</p> <p>2 Mr. Hampton, Mr. Morrison and Mr. Serio?</p> <p>3 A It would be Mr. Bykerk.</p> <p>4 Q Oh. Apologies. Mr. Bykerk?</p> <p>5 A Correct.</p> <p>6 Q Are these the members of SHIP's</p> <p>7 audit committee in 2014?</p> <p>8 A It appears to be, yes.</p> <p>9 Q I'm going to mark the next exhibit,</p> <p>10 261.</p> <p>11 MS. EILBAUM: I apologize. I only</p> <p>12 have one extra copy. But the Bates number</p> <p>13 is SHIP 0026103.</p> <p>14 (Exhibit No. 261, December 29, 2014</p> <p>15 E-Mail from Brian Wegner to Julianne</p> <p>16 Bowler, Bates No. SHIP 0026103 is marked by</p> <p>17 the reporter for identification.)</p> <p>18 Q Let me know when you're ready.</p> <p>19 A I'm ready.</p> <p>20 Q You see this is an E-Mail from</p> <p>21 Brian Wegner to Julianne Bowler from</p> <p>22 December 29th, 2014?</p> <p>23 A Correct.</p> <p>24 Q And Ms. Bowler was on the audit</p> <p>25 committee in 2014, correct?</p>

<p style="text-align: right;">Page 302</p> <p>1</p> <p>2</p> <p>3 Exhibit No. 249, Valuation Report, 212 Document, Bates No. 0001135</p> <p>4</p> <p>5 Exhibit No. 250, Answer of SHIP and 214 Fuzion Analytics, Inc., and 6 Cross-Claim and Third-Party Claim of SHIP in the Consolidated Litigation, 7 Docket 18-CV-12081</p> <p>8</p> <p>9 Exhibit No. 251, E-Mail From 221 Elliot Feit to Paul Lorentz, Attaching SHIP Final Report With Signature 10 3/31/15 PDF</p> <p>11</p> <p>12 Exhibit No. 252, 3/26/15 E-Mail chain 234 with E-Mail from Paul Lorentz to Janna 13 Zaichek, Document</p> <p>14</p> <p>15 Exhibit No. 253, Document with Friday, 247 July 10th, 2015, 12:15 p.m., E-Mail 16 from Christian Thomas to Paul Lorentz, Bates No. SHIP 0016140</p> <p>17</p> <p>18 Exhibit No. 254, Document with Bates 252 No. SHIP 0016271, July 14, 2015 E-Mail 19 from Paul Lorentz to Janna Zaichek, with attachments</p> <p>20</p> <p>21 Exhibit No. 255, Document with Bates 257 stamp SHIP 0019587, January 15, 2015 22 Side Letter to the BAM IMA</p> <p>23</p> <p>24 Exhibit No. 256, Duff & Phelps Report 265 to SHIP, Document, Bates No. 25 BW_SHIP_00011343</p> <p>26</p> <p>27 Exhibit No. 257, Board of Directors 271 Panel For SHIP in a Board Meeting on Monday, February 29, 2016</p>	<p style="text-align: right;">Page 304</p> <p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4 I, TAB PREWETT, A Registered Professional Reporter, Notary Public, Certified 5 LiveNote Reporter, and Certified Shorthand Reporter, do hereby certify that prior to the 6 commencement of the examination JOHN ROBISON was sworn by the notary public to testify the truth, 7 the whole truth and nothing but the truth.</p> <p>8</p> <p>9 I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of 10 the testimony as taken stenographically by and before me at the time, place and on the date 11 hereinbefore set forth.</p> <p>12</p> <p>13 I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor 14 counsel of any of the parties to this action, and that I am neither a relative nor employee of such 15 attorney or counsel, and that I am not financially interested in the action.</p> <p>16</p> <p>17 <u>TAB Prewett</u></p> <p>18 TAB PREWETT</p> <p>19 11/7/19</p> <p>20 Notary Public</p> <p>21</p> <p>22 My Commission expires February 9, 2024</p> <p>23 Dated: November 6, 2019</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 303</p> <p>1</p> <p>2</p> <p>3 Exhibit No. 258, Minutes of the 275 February 29, 2016, Meeting of the 4 Board of Directors of SHIP, Bates No. SHIP 0103665</p> <p>5</p> <p>6 Exhibit No. 259, Supplemental 276 Information For Redomestication of SHIP, Bates No. SHIP 0173856</p> <p>7</p> <p>8 Exhibit No. 260, Minutes of a 283 February 19, 2014 Meeting of the Board 9 of Directors of SHIP</p> <p>10</p> <p>11 Exhibit No. 261, December 29, 2014 285 E-Mail from Brian Wegner to Julianne 12 Bowler, Bates No. SHIP 0026103</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 305</p> <p>1 Errata Sheet</p> <p>2</p> <p>3 NAME OF CASE: IN RE: PLATINUM-BEECHWOOD LITIGATION</p> <p>4 DATE OF DEPOSITION: 10/30/2019</p> <p>5 NAME OF WITNESS: John Robison</p> <p>6 Reason Codes:</p> <p>7 1. To clarify the record.</p> <p>8 2. To conform to the facts.</p> <p>9 3. To correct transcription errors.</p> <p>10 Page ____ Line ____ Reason ____</p> <p>11 From _____ to _____</p> <p>12 Page ____ Line ____ Reason ____</p> <p>13 From _____ to _____</p> <p>14 Page ____ Line ____ Reason ____</p> <p>15 From _____ to _____</p> <p>16 Page ____ Line ____ Reason ____</p> <p>17 From _____ to _____</p> <p>18 Page ____ Line ____ Reason ____</p> <p>19 From _____ to _____</p> <p>20 Page ____ Line ____ Reason ____</p> <p>21 From _____ to _____</p> <p>22 Page ____ Line ____ Reason ____</p> <p>23 From _____ to _____</p> <p>24</p> <p>25</p>

EXHIBIT 16

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: PLATINUM-BEECHWOOD LITIGATION

MELANIE L. CYGANOWSKI, AS RECEIVER FOR
PLATINUM PARTNERS CREDIT OPPORTUNITIES
MASTER FUND LP, ET AL.

Plaintiffs

vs.

BEECHWOOD RE LTD., ET AL,

Defendants

VIDEOTAPED DEPOSITION OF:

JULIANNE BOWLER

155 South Main Street

Providence, Rhode Island

December 13, 2019 9:33 a.m.

Darlene M. Coppola, RMR, CRR

Page 2

1 APPEARANCES:

2 Representing the Plaintiffs:

3 OTTERBOURG, P.C.

4 230 Park Avenue

5 New York, NY 10169

6 BY: GABRIELA S. LEON, ESQ.

7

8

9

10 Representing the Defendants:

11 DLA PIPER LLP

12 The Marbury Building

13 6225 Smith Avenue

14 Baltimore, MD 21209

15 BY: JAMES D. MATHIAS, ESQ.

16 NEILL THUPARI, ESQ.

17

18

19

20

21 Also Present:

22 Kyle Roy, Videographer

23

24

25

Page 4

1 (Deposition begins at 9:33 a.m.)

2

3 THE VIDEOGRAPHER: This is the

4 videotaped deposition of Julianne Bowler taken

5 by the plaintiff in the matter of In Re:

6 Platinum-Beechwood litigation in the United

7 States District Court, the Southern District

8 of New York, Case No. 118-CV-06658. This

9 deposition is being held at Catuogno Court

10 Reporting on December 13, 2019.

11 My name is Kyle Roy from US Legal

12 Support, and I am the video specialist. The

13 court reporter today is Darlene Coppola also

14 from US Legal Support.

15 We are going on the record today at

16 9:36 a.m. Counsel will now state their

17 appearances for the record, after which, the

18 court reporter will swear in the witness.

19 MS. LEON: Gabriela Leon from

20 Otterbourg on behalf of plaintiff, Melanie

21 Cyganowski as the court-appointed receiver for

22 the various PPCO entities.

23 MR. MATHIAS: Jim Mathias and

24 Neill Thupari for SHIP.

25

Page 3

1 INDEX

2 EXAMINATION

3 Witness Name Page

4 JULIANNE BOWLER

5 Direct By Ms. Leon 5

6

7 EXHIBITS

8 **None offered

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page 5

1 JULIANNE BOWLER,

2 a witness called for examination by

3 counsel for the Plaintiffs, being first duly

4 sworn by the Notary Public, was examined and

5 testified as follows:

6

7 DIRECT EXAMINATION

8 BY MS. LEON:

9 Q. Good morning, Ms. Bowler. Am I saying

10 that correctly?

11 A. You are, yes.

12 Q. Do you understand what I mean when I

13 say PPCO?

14 A. Platinum.

15 Q. Platinum Partners Credit Opportunities

16 fund as distinguished from PPVA?

17 A. I just know it as Platinum, yeah.

18 Q. We're here on behalf of Melanie

19 Cyganowski as the receiver solely for the

20 Platinum Partners Credit Opportunities

21 entities, not PPVA and their related entities?

22 A. Okay.

23 Q. Okay. Could you -- could you please

24 state your full name and address for the

25 record, please?

Page 82

1 different set of page numbers. It's 33 out of
2 127, and it ends in Bates number 96424.
3 A. Okay.
4 Q. This meeting was taking place on
5 February 29, 2016?
6 A. Okay.
7 Q. And the board was approving SHIP's
8 sales for the quarter ending in December 31,
9 2015.
10 Was it --
11 A. So we weren't approving because
12 that -- that would be -- this is after the
13 fact.
14 Q. Right.
15 A. They were reporting --
16 Q. That's exactly my question.
17 A. They were reporting to the board what
18 their buys and sells were, just like Conning
19 quarterly reports their buys and sells.
20 Q. Would you describe it more as a review
21 than an approval process?
22 A. It's more of an acceptance or an
23 acknowledgment that we received the report
24 from Conning ahead of it, and, I guess,
25 Beechwood on this one, of what their buys and

Page 83

1 sells were for the previous quarter.
2 Q. Would someone have walked the board
3 through --
4 A. No.
5 Q. -- the details?
6 A. Any more than they would have walked
7 us through, three, four pages earlier, all the
8 Conning ones. It's just not something that
9 the board did.
10 Q. Okay.
11 A. In fact, very few boards would ever do
12 that.
13 MS. LEON: I think we're at
14 another hour.
15 MR. MATHIAS: Sure.
16 MS. LEON: Can we take a break?
17 MR. MATHIAS: Sure.
18 THE VIDEOGRAPHER: This is Kyle
19 Roy, the videographer. We are going off the
20 record today, December 13, 2019, at 11:31 a.m.
21
22 (Recess was taken from 11:31 a.m.
23 to 11:44 a.m.)
24
25 THE VIDEOGRAPHER: This is Kyle

Page 84

1 Roy, the videographer. We are going back on
2 the record today, December 13, 2019, at 11:44
3 p.m.
4 BY MS. LEON:
5 Q. Ms. Bowler, I'm handing you what's
6 previously been marked as Exhibit 149.
7 THE VIDEOGRAPHER: I'm sorry to
8 interrupt. I just need to amend the time,
9 11:44 a.m., my mistake.
10 A. (Witness reviews document.)
11 Q. Exhibit 149 is an e-mail from you to
12 Mr. Morrison, Greg Serio, Cecil Bykerk, dated
13 November 23 2016, and its subject is
14 "privileged."
15 A. Uh-huh, okay.
16 Q. Do you recall writing this e-mail?
17 A. I do recall the circumstances around
18 it, yeah.
19 Q. What were those circumstances?
20 A. Barry Staldine had taken over as kind
21 of interim CEO and had discovered the attached
22 memo.
23 Q. When did he take over as interim CEO?
24 A. Not too much earlier than this.
25 Mr. Wegner was placed on paid leave in

Page 85

1 November.
2 Q. Do you know the circumstances by which
3 he discovered this report?
4 A. Well, the e-mail says that he received
5 it directly from somebody at Protiviti, from
6 David.
7 Q. Do you know whether David sent it upon
8 request from Barry?
9 A. I don't know. No, I don't know how
10 Barry -- if Barry discovered it or if it was
11 given to him.
12 Q. You write in the e-mail that you've
13 sent it to Tom H. Do you recall any
14 conversations with Tom after you forwarded the
15 report?
16 A. Sitting here, I don't recall it, but I
17 presume I had discussions with him about it.
18 Q. What was the board's response to the
19 discovery of this report?
20 A. Well, surprise that it hadn't been
21 shown to us.
22 Q. Was the board concerned?
23 A. Yeah, the board was concerned that our
24 internal auditors had produced a report that
25 seemed to be material to a control -- you

Page 86

1 know, to the controls, that the audit
2 committee should have had a copy of it.
3 Q. In what way would it have been
4 material?
5 A. Well, if your internal auditor is
6 doing a report and has observations and
7 recommendations, the board should have a copy
8 of this report.
9 Q. And prior to this date, the board
10 never received a copy of this report?
11 A. No.
12 Q. Did the discovery of this report
13 contribute to Barry taking over as interim
14 CEO?
15 A. It didn't contribute to him taking
16 over as interim. He was already appointed
17 interim.
18 Q. What were the reasons for appointing
19 him as interim CEO?
20 A. Well, Brian was placed on leave, and
21 we needed somebody.
22 Q. Why was --
23 A. Was --
24 Q. -- Mr. Wagner placed on leave?
25 A. Well, for a whole host of reasons.

Page 87

1 This is what, November? So in September, the
2 Pennsylvania department hired Noble to do a
3 review of the controls around the Beechwood
4 investments. This is post Platinum hitting
5 "The Wall Street Journal" in August.
6 At the same time, the Indiana
7 department hired a firm to come in and do a
8 review of Fuzion because we had a TPA license
9 renewal pending in Indiana.
10 While they were doing their reviews,
11 they did, like, a forensic review of e-mails,
12 and we were given copies of some of those
13 e-mails which indicated that Mr. Wegner had
14 been less than truthful to the board relative
15 to the Trilliant investment, the timing of
16 that, relative to his solicitation of other
17 large vendors that we had on behalf of
18 Trilliant, relative to his truthfulness to the
19 investigator that we had hired to look into an
20 HR issue that had arisen with him.
21 So those were some of the reasons. I
22 also had feedback from the Pennsylvania
23 department relative to their sense that Brian
24 had been less than forthcoming with them in
25 the summer of 2016.

Page 88

1 And so in an effort to get to the
2 bottom of what had gone on with Beechwood, we
3 hired DLA to come in and do an investigation,
4 we hired Protiviti to come and do a review,
5 and Brian was placed on paid administrative
6 leave to just kind of give some space between
7 him and the regulators and him and SHIP and
8 Fuzion.
9 Q. In what ways was Mr. Wegner less than
10 truthful about the Trilliant investment?
11 A. So when he approached Tom with the
12 request of August of 2014, which was after we
13 had done investments -- we had done the IMAs
14 with Beechwood, he said that Beechwood had
15 approached him -- Mark Feuer, in particular,
16 had approached him about investing, and it had
17 been, like, recent, so July, August -- July of
18 2014.
19 The e-mail traffic indicated that
20 actually Brian had solicited Mark Feuer much
21 earlier, like 2013, early 2014. And not only
22 that, but he had solicited Peter Goldstein and
23 LTCG, who is arguably our largest partner.
24 They administer all the claims for SHIP.
25 Q. You also mentioned that Mr. Wegner was

Page 89

1 less than truthful with the department.
2 In what ways was he less than truthful
3 with the department?
4 A. He was evasive. Let me change that.
5 The report back to me by Joe DiMemmo, who had
6 since taken over for Steve Johnson, was that
7 Brian was evasive when answering questions
8 that were placed to him about the Beechwood
9 transaction and that Joe was not comfortable
10 with Brian, and so that placed the board in a
11 position of, well, this is counterproductive
12 to our relationship with the department if the
13 new guy who's taking over has a serious issue
14 with the CEO.
15 Q. Was there a change in the relationship
16 with the department when DiMemmo replaced
17 Johnson?
18 A. If there was a change, the philosophy
19 was different.
20 Q. How was the philosophy different?
21 A. Sure. So -- well, Steve Johnson was
22 the head of the financial services department
23 within the PID.
24 Joe DiMemmo headed up the liquidation
25 bureau receivership, so Joe's view of troubled

Page 90

1 companies was different than Steve's, and Joe
 2 is more comfortable in the receivership
 3 liquidation traditional model and felt that
 4 that's really where SHIP belonged versus the
 5 experimental model that Steve and prior
 6 commissioners had set up.

7 Q. You testified that rather than being
 8 untruthful, Mr. Wegner was evasive.

9 What do you mean by that?

10 A. Didn't give a direct answer when Joe
 11 asked him questions, kind of talked around it,
 12 basically said, Hey, I've got X regulators on
 13 the board, don't worry about it, that kind of
 14 stuff, which is rather disrespectful to the
 15 current regulator.

16 Q. Was he evasive in his own personal
 17 discussions with DiMemmo or was he evasive in
 18 other contexts?

19 MR. MATHIAS: Objection to form.
 20 You may answer.

21 A. Joe DiMemmo's report to me was that
 22 Brian was evasive in answering questions that
 23 Joe had put to him.

24 BY MS. LEON:
 25 Q. Did you ever personally observe

Page 91

1 Mr. Wegner being evasive?

2 A. I observed Mr. Wegner being less than
 3 direct, yes, that marketing personality that I
 4 mentioned earlier. He was a salesman.

5 Q. Was Mr. Wegner's evasiveness the same
 6 basis for -- was that the basis for
 7 Mr. Serio's lack of trust in Mr. Wegner?

8 MR. MATHIAS: Objection to form.
 9 You may answer.

10 A. I'm sure it contributed to it. I
 11 mean, this is something that kind of evolved
 12 over time, so yeah, I mean, I think at the
 13 end, we all kind of came around to Greg's
 14 suspicion of Brian's evasiveness and weakness
 15 as a manager and, you know, probably
 16 exercising poor judgment.

17 Q. Were there any other factors, other
 18 than the factors you mentioned, that
 19 contributed to Mr. Wegner being put on
 20 administrative leave?

21 A. Yeah, and they were not related to
 22 this transaction, this issue.

23 There had been a prior investigation
 24 into Mr. Wegner in about May or June of that
 25 year relative to whistleblower accusations

Page 92

1 that we had received, so we had hired an
 2 outside investigator to take a look at this
 3 and make recommendations to the board.

4 And we discovered that, you know, he
 5 had lied outright to the investigator. We had
 6 also discovered that, you know, he exercised
 7 poor judgment in hiring his family and, you
 8 know, kind of freewheeling use of company
 9 expenses to wine and dine his girlfriend.

10 Q. Relative to the whistleblower
 11 accusation, what lie was revealed?

12 MR. MATHIAS: Objection to form.

13 A. Can you repeat that?

14 BY MS. LEON:
 15 Q. Yes. You testified that you
 16 discovered that Mr. Wegner had lied outright
 17 to the investigator?

18 A. Yeah.

19 Q. What was that lie that you discovered?

20 A. Well, he had denied that he was having
 21 an affair with an employee, and there was
 22 e-mail traffic that clearly indicated that was
 23 not the truth.

24 Q. How did Mr. Wegner freewheel use of
 25 company expenses to wine and dine his

Page 93

1 girlfriend?

2 A. So she was working for the company and
 3 they would have meetings, business meetings,
 4 and bill the company for dinner and drinks.

5 Q. I'm going to hand you what's been
 6 previously marked as Exhibit 781.

7 It's an e-mail from Brian Wegner to
 8 you, Mr. Hampton, Cecil Bykerk. It's dated
 9 February 10, 2015 and it's entitled "New
 10 Opportunity."

11 A. Okay.

12 Q. Do you recall receiving this e-mail
 13 from Mr. Wegner?

14 A. I have "Proposed Board Agenda." Do I
 15 have the wrong --

16 Q. Oh, I'm sorry. Did I give you the
 17 wrong one?

18 MR. THUPARI: You may have
 19 handed her 782.

20 MS. LEON: Yes, I think you're
 21 right. We can do 782.

22 BY MS. LEON:
 23 Q. Do you recall this e-mail?
 24 A. (Witness reviews document.)
 25 Okay.

Page 106

1 interviewing the subordinates as well as and
2 assessing their skills. We were really
3 looking for kind of a gap analysis to help us
4 plug holes that needed to be plugged.
5 Q. Did he help you plug those holes?
6 A. Well, he certainly showed us the
7 holes.
8 Q. What were the holes?
9 A. Well, Brian, you know, he -- I mean,
10 there's a point at which...
11 Yeah, I mean, Brian had some
12 shortcomings as a manager.
13 Q. You said that executive coach did a
14 skill assessment?
15 A. Yeah.
16 Q. Which of Mr. Wegner's skills did he
17 find to be lacking?
18 A. I don't know skills, per se. He
19 basically thought that he was not a good fit
20 for this board, for this job.
21 Q. Did he provide any reasons for why he
22 wasn't a good fit?
23 A. He really didn't have to because an
24 issue arose at the board, which -- at the
25 board meeting, which kind of made the

Page 107

1 executive coach's report superfluous.
2 Q. What was that issue that arose at the
3 board that made the executive coach's report
4 superfluous?
5 A. SHIP had received a subpoena from the
6 SEC, and that had been withheld from us.
7 Q. For how long did Mr. Wegner withhold
8 the subpoena from the SEC?
9 A. Three days.
10 Q. How did you ultimately discover the
11 subpoena from the SEC?
12 A. He told us.
13 Q. How did he deliver the message?
14 A. In the board meeting, he said, We
15 received a subpoena from the SEC three days
16 ago.
17 Q. Was Mr. -- withdrawn.
18 Was it at that point that SHIP knew it
19 had to let Mr. Wegner go?
20 A. Pretty much.
21 Q. After Mr. Wegner revealed the subpoena
22 from the SEC, did you in any way feel that
23 that validated Mr. Serio's earlier concerns
24 regarding Mr. Wegner?
25 A. No. I mean, they're kind of two

Page 108

1 different issues in my mind. Brian's lack of
2 urgency in notifying the board of something,
3 to me, showed poor judgment as a -- you know,
4 as another kind of straw that was breaking our
5 back, and I think that was different than
6 Mr. Serio's concern about Brian being close to
7 Beechwood. That's -- that wasn't our issue
8 with him at that point.
9 Q. Was -- was it, in your opinion,
10 Mr. Wegner's closeness to Beechwood that
11 contributed to his withholding information
12 about the subpoena?
13 A. No. I think Brian's -- and as the
14 coach told us afterwards, Brian's personality,
15 his makeup is to manage, is to massage, is to
16 be evasive at all times and, you know, try to
17 fix things.
18 Q. I'm now handing you what's been
19 previously marked as Exhibit 788.
20 This is an e-mail from Mr. Serio to
21 Thomas Hampton, you, John Morrison, Cecil
22 Bykerk, and it's dated October 13, 2016 and
23 it's entitled "Beechwood Asset Update."
24 Do you recall receiving this e-mail
25 chain?

Page 109

1 A. Probably, yes, because there was a lot
2 of e-mail flying around at this time.
3 Q. I'd like to direct your attention to
4 the bottom e-mail on the first page of this
5 exhibit.
6 A. Okay.
7 Q. It's from Mr. Serio dated October 12,
8 2016 at 9:51 p.m.
9 A. Yes.
10 Q. And in the second paragraph of this
11 e-mail, he says, "Brian is flying blind, to
12 put it mildly?
13 A. Yes.
14 Q. And then in the bottom paragraph, he
15 says, "He's setting this board up to be
16 compelled to make decisions that are
17 time-sensitive, as he seems to suggest in his
18 memo tonight, without the benefit of counsel
19 and financial advisors."
20 A. Uh-huh.
21 Q. Is this what you characterized earlier
22 as Mr. Wegner's tendency to massage things?
23 A. Uh-huh, yeah, to kind of go in alone,
24 you know, as opposed to bringing in expert
25 advice.

Page 118

1 his family's company. We find out he is, in
2 fact, working for his family's company, as was
3 his girlfriend, as was his son, the same time
4 that they were employed and supposed to be
5 giving 100 percent of their attention to
6 Fuzion.

7 Q. Was Mr. Wegner's termination in any
8 way related to the Wall Street Journal article
9 that you referenced earlier?

10 A. In the sense of losing the board's
11 support, losing the support of the regulator,
12 so he was an ineffective CEO for this
13 experiment that required a close working
14 relationship with the regulator, yes.

15 Q. Do you know the reason for Paul
16 Lorentz's resignation?

17 A. Yeah, he and I actually talked about
18 it. He offered it. You know, Paul was the
19 CFO. He was also a board member, so he really
20 had a fiduciary obligation to bring
21 information to the board -- which he didn't --
22 the Protiviti report being one of them.

23 He was in way over his head trying to
24 manage investments that he really had no
25 expertise doing and led us to believe that he

Page 119

1 did, and it was just in the best interest of
2 the company -- and I think for Paul, too. I
3 think he was probably having a nervous
4 breakdown -- that he retire.

5 Q. You testified earlier that Mr. --

6 MR. MATHIAS: Just -- excuse me,
7 just because this is a transcript, when you
8 say "nervous breakdown," you're using that as
9 a figure speech?

10 THE WITNESS: I'm sorry, yes.
11 Yes, yes, yes, yes, yes, yes. He was --

12 MR. MATHIAS: I just want to be
13 clear you're not --

14 THE WITNESS: Paul was highly
15 stressed over all of this.

16 MR. MATHIAS: Thank you.

17 THE WITNESS: He's a -- he is a
18 solid guy and was very disturbed about what
19 was happening.

20 BY MS. LEON:

21 Q. Did he express to you that he was
22 highly disturbed by what was happening?

23 A. Yeah, he was very sorry.

24 Q. You testified earlier that Mr. Wegner
25 lost the trust of the regulators?

Page 120

1 A. (Witness nodding.)

2 Q. Did Mr. Lorentz in any way lose the
3 trust of the regulators?

4 A. Well, he didn't lose the trust of the
5 Indiana regulator. And I don't think he
6 necessarily lost the trust of Joe DiMemmo, but
7 Joe was just so tainted by the whole -- you
8 know, I think Paul was painted with a broader
9 brush than should have, but no, I mean, if you
10 were to ask Joe DiMemmo, he would say that
11 Paul was a very honest and forthright
12 individual, just couldn't stand up to Brian.

13 Q. I'm going to hand you what's been
14 previously marked as Exhibit 792.

15 I'll represent for the record that
16 you're not copied on this e-mail. It's an
17 e-mail from Rochelle Veitenheimer to
18 Mr. Hampton, Paul Lorentz, Janna Broyles, and
19 it cc's a number of people related to
20 Protiviti.

21 A. Okay.

22 Q. It's dated December 16, 2016 and it's
23 entitled "Beechwood Due Diligence Draft," and
24 it has an attachment.

25 A. Okay.

Page 121

1 Q. Have you ever seen the attachment to
2 this e-mail?

3 A. (Witness reviews document.)
4 I'm not sure I ever saw a draft
5 report. I'm aware of their engagement.

6 Q. Was this engagement prompted by that
7 internal investigation you referenced earlier?

8 A. Yeah, so after the Wall Street Journal
9 appeared, there were a number of things that
10 we did, one of which was to engage Protiviti,
11 as the internal auditor, to take a look at the
12 Beechwood process.

13 Q. What were the other things that you
14 did?

15 A. We hired DLA Piper. They brought in
16 insurance expertise -- excuse me, investment
17 expertise until we could hire a chief
18 investment officer who had expertise in these
19 type of investments.

20 Q. And did the -- did the board
21 ultimately make the decision to bring the SHIP
22 versus Beechwood action?

23 A. Yeah, I mean, I think we did take a
24 vote. I -- believe me, this was all
25 discussed. I don't know if there was a formal

Page 122

1 vote, but there was agreement among the board
 2 members and the department, the Pennsylvania
 3 department, to pursue it.
 4 Q. The Pennsylvania department approved
 5 bringing of the action?
 6 A. They were aware of it, yeah, and in
 7 agreement that we could do this. Can I ask
 8 a...
 9 MR. MATHIAS: You have a
 10 question? Let's take a break and go off the
 11 record. I just need to consult with her.
 12 MS. LEON: Okay. I'm just about
 13 done.
 14 MR. MATHIAS: I know, but I just
 15 need to consult with her about --
 16 THE WITNESS: It's about how
 17 much I can -- this has --
 18 MR. MATHIAS: It's
 19 confidential.
 20 THE VIDEOGRAPHER: This is Kyle
 21 Roy, the videographer. We are now going off
 22 the record today, December 13, 2019, at 12:41
 23 p.m.
 24
 25 (Recess was taken from 12:41 p.m. to

Page 123

1 12:44 p.m.)
 2
 3 THE VIDEOGRAPHER: This is Kyle
 4 Roy, the videographer. We are going back on
 5 the record today, December 13, 2019, at 12:44
 6 p.m.
 7 MR. MATHIAS: When we went off
 8 the record, I consulted with Ms. Bowler about
 9 this document and some of the questions
 10 because there are both potential regulatory
 11 privilege and attorney-client privilege issues
 12 associated with this. I think we will take it
 13 question by question, and we'll assert a
 14 privilege, if we think we need to, but that's
 15 what the conversation was about off the
 16 record.
 17 MS. LEON: Okay.
 18 BY MS. LEON:
 19 Q. What was the business rationale for
 20 bringing the SHIP versus Beechwood action?
 21 MR. MATHIAS: Objection to form.
 22 You may answer.
 23 A. To recoup the write-off that we had to
 24 do of the investments. They were our
 25 fiduciary, and they didn't act -- they didn't

Page 124

1 exercise a fiduciary responsibility towards
 2 us.
 3 MS. LEON: I have no further
 4 questions for the witness.
 5 MR. MATHIAS: Okay. Thank you
 6 very much.
 7 THE VIDEOGRAPHER: This Kyle
 8 Roy, the videographer. We are going off the
 9 record today, December 13, 2019, at 12:45 p.m.
 10 in conclusion of the deposition of Julianne
 11 Bowler.
 12 THE STENOGRAPHER: Will you be
 13 ordering a transcript?
 14 MR. MATHIAS: I'll take an
 15 E-Tran, with signature, and a rough, which is
 16 our standing order.
 17 MS. LEON: Rough and an
 18 E-Tran.
 19
 20 (Deposition concluded at 12:45 p.m.)
 21
 22
 23
 24
 25

Page 125

CERTIFICATION


1 I, Darlene M. Coppola, a Notary Public, do hereby
 2 certify that JULIANNE BOWLER came before me on the
 3 13th day of December, 2019, in Providence, Rhode
 4 Island, and was by me duly sworn to testify to the
 5 truth and nothing but the truth as to her knowledge
 6 touching and concerning the matters in controversy in
 7 this cause; that she was thereupon examined upon her
 8 oath and said examination reduced to writing by me;
 9 and that the statement is a true record of the
 10 testimony given by the witness, to the best of my
 11 knowledge and ability.
 12
 13 I further certify that I am not a relative or
 14 employee of counsel/attorney for any of the parties,
 15 nor a relative or employee of such parties, nor am I
 16 financially interested in the outcome of the action.
 17 WITNESS MY HAND THIS 31st day of December, 2019.
 18
 19 
 20
 21
 22 DARLENE M. COPPOLA MY COMMISSION EXPIRES:
 23 NOTARY PUBLIC 11/16/2020
 24 REGISTERED MERIT REPORTER
 25 CERTIFIED REALTIME REPORTER

EXHIBIT 17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
KERRY PROPPER

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Friday, December 6, 2019, commencing
at 10:06 a.m.

Page 2

1
2 A P P E A R A N C E S:
3
4
5 DLA PIPER, LLP (US)
6 BY: ROB C. SANTORO, ESQ.
7 1251 Avenue of the Americas, 38th Floor
8 New York, New York 10020-1104
9 Attorneys for Plaintiff, SHIP
10
11
12
13
14 HOLLAND & KNIGHT LLP
15 BY: JOHN L. BROWNLEE, ESQ.
16 800 17th Street, N.W., Suite 1100
17 Washington, DC 20006
18 Attorneys for the Plaintiffs,
19 Martin Trott
20
21
22 Present telephonically
23
24
25

Page 3

1
2
3
4 HOLLAND & KNIGHT LLP
5 BY: WARREN ERNEST GLUCK, ESQ.
6 ELLIOT MAGRUDER, ESQ.
7 31 West 52nd Street
8 New York, New York 10019
9 Attorneys for the Plaintiffs,
10 Martin Trott
11
12
13
14
15
16 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
17 BY: ABIGAIL JOHNSTON, ESQ.
18 101 Park Avenue
19 New York, New York 10178
20 Attorneys for the Defendant,
21 David Bodner
22
23
24
25

Page 4

1
2
3
4
5 MORRISON COHEN LLP
6 BY: DANIEL C. ISAACS, ESQ.
7 909 Third Avenue
8 New York, New York 10022-4784
9 Attorneys for the
10 Huberfeld Family Foundation, Inc.
11
12
13
14
15
16
17 OTTERBOURG, P.C.
18 BY: WILLIAM M. MORAN, ESQ.
19 230 Park Avenue
20 New York, New York 10169
21 Attorneys for Plaintiff Receiver
22
23
24
25

Page 5

1
2
3
4
5 LOEB & LOEB LLP
6 BY: JAY K. MUSOFF, ESQ.
7 345 Park Avenue
8 New York, New York 10154
9 Attorneys for the Witness
10
11
12
13
14
15
16
17
18
19
20 ALSO PRESENT:
21
22
23 Darrak Lighty, Videographer
24
25

Page 6

1 Kerry Propper
2 P R O C E E D I N G S
3 THE VIDEOGRAPHER: This is the
4 video deposition of Kerry Propper in the
5 matter of Platinum-Beechwood litigation.
6 This deposition is being held at the
7 offices of US Legal Support, 90 Broad
8 Street, New York, New York, on December 6,
9 2019.
10 My name is Darrak Lighty from US
11 Legal Support, and I am the video
12 specialist. The court reporter today is
13 Tab Prewett, also associated with US Legal
14 Support. We are going on the record at
15 10:06 a.m. All appearances have been noted
16 on the record. Will the court reporter
17 please swear in the witness.
18 (There was a discussion off the
19 record.)
20 K E R R Y P R O P P E R,
21 doing business at 17 State Street,
22 Suite 2100,
23 ATW Partners,
24 New York, New York,
25 having been sworn by the notary public to testify

Page 7

1 Kerry Propper
2 to the truth, testified as follows:
3 DIRECT EXAMINATION
4 BY MR. GLUCK:
5 Q Good morning, Mr. Propper.
6 A Good morning.
7 Q My name is Warren Gluck. I am at
8 the firm of Holland & Knight. Holland & Knight
9 represents the joint official liquidators of
10 Platinum Partners Value Arbitrage Fund LP. If I
11 reference to them as "liquidators" or "PPVA,"
12 will that be -- will you understand what I mean?
13 A Yes.
14 Q Okay. Have you ever given a
15 deposition before?
16 A Yes.
17 Q Do you understand that you are
18 under oath right now and have an obligation to
19 tell the truth?
20 A Yes.
21 Q In what matters have you given a
22 deposition before?
23 A It's a good question. Let me think
24 about it. I have given the deposition in -- the
25 first one was an issue between a company called

Page 8

1 Kerry Propper
2 Early Bird Capital, and I was a -- I guess, a
3 witness or something.
4 I was deposed by the SEC for an
5 issue that was related to them. I think my next
6 deposition was related to a company called DJSP.
7 I had a series of depositions related to that
8 where I was a claimant in a suit against a
9 gentleman named David Stern.
10 And I am trying to think if there
11 are any others -- my parents' separation, I guess
12 I was served. Nothing else material that I
13 recall.
14 Q Fair enough. The reason I ask the
15 question is that -- you are familiar with the
16 deposition process; I'm going to ask you a series
17 of questions. And if you don't understand the
18 question I am asking, feel free to ask me to
19 rephrase it. But, otherwise, I will just assume
20 that you understand it.
21 A Yes.
22 Q And you understand that this is not
23 a memory test. If you would like to refer to any
24 documents that I show you, just let me know.
25 And then one more thing, you have

Page 9

1 Kerry Propper
2 nodded your head just now. When you give your
3 answers for the court reporter, it would be
4 helpful if you could say a "yes" or "no" --
5 verbal responses, please.
6 A Got it. Yes.
7 Q Very good. Is there any reason why
8 you can't testify truthfully today? Is there any
9 medication you are on that could be affecting
10 your memory or anything like that?
11 A No.
12 Q Have we ever met before?
13 A I don't think so.
14 Q I don't think so either.
15 Have you ever spoken with the
16 liquidators of PPVA before?
17 A I may have.
18 Q Okay. Have you -- do you know
19 whether you have been sued in any action by the
20 liquidators of PPVA?
21 A I don't think so.
22 Q I don't think so either?
23 A Yeah.
24 Q But have you been asked or promised
25 anything in connection with your testimony here

Page 14

1 Kerry Propper
2 the scope of our understanding of the
3 deposition today.
4 MR. GLUCK: Understood.
5 Q This is -- this is a deposition
6 regarding Platinum-Beechwood?
7 A Yes.
8 Q Okay. Did there come a time when
9 you began via Chardan -- began to have
10 interactions with Platinum?
11 A Yes.
12 Q And -- and, approximately, when was
13 that?
14 A It was a long time ago, like maybe
15 2006.
16 Q 2006?
17 A The first time I met them maybe.
18 And, again, I'm guessing. Sorry, I shouldn't do
19 that.
20 Q Very briefly -- because I think we
21 are going to skip to around 2012 shortly -- but
22 what were you doing when you -- when you first
23 began to have interactions?
24 A They were an investor in equities.
25 And Chardan was representing companies looking

Page 15

1 Kerry Propper
2 for financing. So --
3 Q You were on the sell side?
4 A We were sell side.
5 Q Very good.
6 A We were one of the --
7 Q Did there come a time when you
8 began discussing a reinsurance company with the
9 Platinum group?
10 A Yes.
11 Q I'm just going to go through some
12 names here; and, if you don't recognize any of
13 these names, let me know.
14 Do you know Mr. Murray Huberfeld?
15 A Yes.
16 Q And who is he?
17 A He's -- I mean, I who know him as
18 David Levy's uncle.
19 Q And who -- and do you know what his
20 role was at Platinum?
21 A I don't know his specific role at
22 Platinum. No.
23 Q Did there -- did there come a time
24 when you were actually working for Platinum as a
25 consultant?

Page 16

1 Kerry Propper
2 A Yes.
3 Q Based upon your time working for
4 Platinum as a consultant, do you have an
5 understanding of Mr. Huberfeld's role at
6 Platinum?
7 MR. ISAACS: Objection.
8 A He's a big investor, for sure, and
9 sort of hung around on occasion.
10 Q What about Mark Nordlicht?
11 A Mark Nordlicht ran the fund.
12 Q David Bodner?
13 A David Bodner was an investor and a
14 big investor as well. I believe he had an office
15 at the fund. I don't know any specific role.
16 Q David Levy?
17 A David Levy was chief investment
18 officer.
19 Q Mark Feuer?
20 A Mark Feuer was related to
21 Beechwood.
22 Q Do you know in what capacity?
23 A One of the founders.
24 Q Scott Taylor?
25 A One of the founders of Beechwood.

Page 17

1 Kerry Propper
2 Q Bernard Fuchs?
3 A Investor of Platinum.
4 Q Do you know whether he was a
5 partner at Platinum?
6 A I think he was a consultant in some
7 capacity.
8 Q Do you recall a company called
9 Alpha Re?
10 A No.
11 Q Do you recall being involved with a
12 due diligence in connection with Alpha Re,
13 anything like that?
14 A I don't recall.
15 Q So I'm going to show you some
16 documents and ask if you -- to review the
17 documents; and then we will see if your memory is
18 recollected; and then I will ask you about some
19 of the documents.
20 A Okay.
21 Q Okay. So this is Exhibit 713.
22 (Exhibit No. 713, E-Mail chain, top
23 E-Mail dated 2/4/14 from Stacia Burton to
24 David Levy, No Subject, Bates No. BW-SHIP
25 649084, Document is marked by the reporter

Page 18

1 Kerry Propper
2 for identification.)
3 A I should have brought my glasses.
4 I am familiar with this document.
5 I mean, with the material in this document.
6 Q Okay. And do you see where it says
7 "to," and then it says Kerry Propper?
8 MR. MUSOFF: "To David Levy and
9 Kerry Propper"?
10 MR. GLUCK: Yes.
11 A I just saw my -- I just read my
12 bio.
13 Q Right on the message line?
14 A Sorry. It says "to David Levy and
15 Kerry Propper," yes.
16 Q Okay. And I'm just gonna -- is
17 that -- is that your current or former E-Mail
18 address?
19 A Yes.
20 Q Okay.
21 MR. MUSOFF: Was that your current
22 E-Mail address or your former E-Mail
23 address?
24 THE WITNESS: I mean, I still use
25 it, but not very often.

Page 19

1 Kerry Propper
2 MR. MUSOFF: Your primary E-Mail
3 address is at ATW?
4 THE WITNESS: Correct.
5 Q Now, do you recall receiving this
6 E-Mail?
7 A No.
8 Q Who is Stacia Burton?
9 A She's my former assistant.
10 Q Okay. Is this -- would you have
11 directed her to send an E-Mail like this?
12 A Not necessarily.
13 Q Okay. Do you know why this E-Mail
14 was sent?
15 A No.
16 Q Who is Jack Liu? Do you remember
17 him?
18 A Yes.
19 Q Who is he?
20 A He was an analyst at Chardan.
21 Q I show you what's been marked as
22 Exhibit 714.
23 (Exhibit No. 714, E-Mail chain, top
24 E-Mail dated 12/12/2012 from Jack Liu to
25 Mark Nordlicht, Subject: Alpha Re, Draft

Page 20

1 Kerry Propper
2 Term Sheet, Bates No. CTRL 3467125, E-Mail
3 Attaching Term Sheet is marked by the
4 reporter for identification.)
5 Q See if -- I'd like you to review it
6 and then the term sheet that's attached to it,
7 and see if that refreshes your recollection on
8 Alpha Re.
9 A I don't really remember.
10 MR. MUSOFF: Take a moment to
11 review it as long as you think you need
12 right now.
13 A This is 2012?
14 Q 2012.
15 A I really don't remember this.
16 Q You don't remember whether Alpha Re
17 was the predecessor idea for the Beechwood funds?
18 A No.
19 Q You don't -- looking at this term
20 sheet, you don't recall being involved in --
21 you're -- you're on this -- you're on this E-Mail
22 with the attachment, right?
23 A Yeah, for sure.
24 Q Okay. Do you know who Mark Graham
25 is?

Page 21

1 Kerry Propper
2 A Oh, yeah, I do know who Mark Graham
3 is.
4 Q Okay. Who is Mark Graham?
5 A Okay. Mark Graham. I got it.
6 So Mark Graham is -- was a guy who
7 came to my office, I guess in -- I mean, I'm
8 guessing around 2012.
9 Q And what was he looking for?
10 A He was looking for money.
11 Q Okay.
12 A And he told me about the
13 reinsurance business.
14 Q Okay.
15 A Yeah.
16 Q And -- okay. There we go.
17 A Yeah.
18 Q Now, do you remember -- do you see
19 here where it says his E-Mail address,
20 mrg@bluefunds.com?
21 A Yes.
22 Q Do you remember Blue Funds at all?
23 A I mean, vaguely.
24 Q That's what he was asking for money
25 for, right?

Page 22

1 Kerry Propper

2 A I don't know the name of it, but

3 some -- something like that.

4 Q Okay. Do you remember -- so now

5 that your memory is refreshed a little bit, do

6 you remember that he came to you asking for

7 money, and then you perhaps reached out to

8 Platinum?

9 A Yes.

10 Q Okay. And the proposal, if you

11 look at this term sheet, on the flip page --

12 A Right.

13 Q -- do you recall that Alpha Re was

14 looking for capital and, in exchange, once the

15 capital was used to set up the reinsurance

16 business, the reinsurance money would then be

17 invested half in Platinum and half in Blue?

18 A I mean, I don't remember the

19 specifics, but --

20 Q Do you have any reason to dispute

21 that that was the proposed deal?

22 MR. MUSOFF: Well, the proposed

23 deal as outlined in the document --

24 MR. GLUCK: As outlined in the

25 document.

Page 23

1 Kerry Propper

2 MR. MUSOFF: -- he just looked at

3 in 2012?

4 MR. GLUCK: Correct.

5 A I don't have any reason to believe

6 it is or isn't. But this is in my capacity at

7 Chardan.

8 (There was a discussion off the

9 record.)

10 MR. MUSOFF: Yeah, we're kind of

11 getting into what he was doing at Chardan,

12 which is sort of we're viewing as outside

13 the scope of his testimony today. But --

14 MR. GLUCK: This is related to the

15 Platinum side, though.

16 Q So I'm asking you, was Platinum,

17 but I don't think that --

18 MR. MUSOFF: Okay.

19 Q Was Platinum going to invest in

20 Alpha Re and the Blue Capital?

21 MR. MUSOFF: Do you know?

22 A I don't know if Platinum was or

23 wasn't. But, clearly, we wanted them to.

24 Q Right.

25 MR. MUSOFF: Just based on

Page 24

1 Kerry Propper

2 reviewing this.

3 A Based on reviewing this document.

4 Q Based on reviewing the document.

5 A Yeah.

6 Q Okay. And just looking at the

7 document where you see capital -- where you -- do

8 you see where it says "capital allocation"?

9 A Yes.

10 Q Okay. And then on "I," it says:

11 "Platinum Partners will manage the

12 investment of 50 percent of the reinsurance

13 proceeds."

14 Do you see that?

15 A Yes.

16 Q Okay. Now, looking that over, do

17 you have any recollection, and your own

18 independent recollection, of bringing the deal to

19 Platinum and then Platinum being interested in

20 the deal because they would be putting up some

21 money and, in return, getting to manage the

22 reinsurance proceeds?

23 A I don't remember the specifics,

24 but --

25 Q No reason to dispute it?

Page 25

1 Kerry Propper

2 A -- it's plausible.

3 Q Okay.

4 MR. MUSOFF: But sitting here

5 today, does this spark a memory? Is your

6 memory refreshed over the terms of this

7 deal? Or are you just reading from the

8 document?

9 A I'm just reading this at the

10 moment. I don't remember.

11 Q Okay. I'm just going to show you

12 another document.

13 A Yeah.

14 Q I'm trying to --

15 A Yeah.

16 Q -- take you through this and

17 refresh your recollection as we go.

18 A Yes.

19 Q This has been marked as Exhibit 715

20 and is another E-Mail from you to Mr. Nordlicht

21 concerning Alpha Re.

22 (Exhibit No. 715, E-Mail chain, top

23 E-Mail dated 12/19/12 from Kerry Propper to

24 Mark Nordlicht, Bates No. CTRL 3318680,

25 E-Mail From Kerry Propper to Mark Nordlicht

Page 34

1 Kerry Propper
2 correspondence?
3 Now, who is Gilad Kalter?
4 A He worked at Platinum.
5 Q Okay. And this would have been
6 further revisions to the Alpha Re term sheet,
7 right?
8 A I -- I can only read it. That's
9 what it appears to be.
10 Q And now that you've looked at sort
11 of the series of E-Mails, what do you understand
12 that your -- what do you recall that your role
13 was in relation to this Alpha Re transaction?
14 Why -- are you on the Platinum
15 side? Are you on the Alpha Re side here?
16 A So I don't recall specifically
17 anything, but it's a normal course of business of
18 an investment bank to introduce somebody who
19 needs to raise money to somebody who has money --
20 Q Um-hum.
21 A -- and then help them get to a
22 deal. So --
23 Q Now, I'm going to mark Exhibit 718,
24 an E-Mail from Jack Liu, but copying you. And it
25 contains a PowerPoint as an attachment.

Page 35

1 Kerry Propper
2 (Exhibit No. 718, E-Mail chain, top
3 E-Mail dated 2/22/13 from Jack Liu to Mark
4 Nordlicht, Subject: Alpha Re Investment
5 Process, Bates No. CTRL 4425478, E-Mail
6 From Jack Liu Attaching a PowerPoint is
7 marked by the reporter for identification.)
8 Q I will ask you if you remember
9 either the E-Mail or the -- this PowerPoint.
10 A I don't.
11 Q Do you think you would have drafted
12 the PowerPoint, or would that have been somebody
13 at Alpha Re or somebody at Platinum?
14 A It was probably someone at
15 Alpha Re, definitely not me.
16 Q And if you flip to this last page,
17 do you see there's a sort of time line?
18 A Yes.
19 Q Okay. Is this -- is this like a
20 deal-closing time line, with a bunch of action
21 items?
22 A It looks like.
23 Q Okay. And you see that it's -- it
24 begins at February 25 and ends at March 1?
25 A Yes.

Page 36

1 Kerry Propper
2 Q So this is a series of tasks to be
3 done in about a couple of weeks, right?
4 A Yep.
5 Q Where certain things need to be
6 done?
7 A Yes.
8 Q So this deal was progressing along
9 fairly quickly. I mean, it was going on; you
10 have a series of term sheets, and then, in fact,
11 a time line to try to close this out in -- in --
12 by March, right, of that year?
13 MR. MUSOFF: I'm sorry. Objection.
14 Are you asking, does he remember that or --
15 Q I'm asking, does the document
16 say -- I'm asking:
17 Does the document say that and what
18 is your recollection?
19 A I don't have a recollection. I
20 don't know if it was quickly or not quickly
21 because I don't know when it -- when it started
22 versus other deals. I just don't have the full
23 context.
24 But I can tell you, written here,
25 it says February 25th to March 1st on the

Page 37

1 Kerry Propper
2 document. But I don't know of any other context
3 really.
4 Q Okay.
5 A It was 2012, right?
6 Q It's 2012.
7 A Yeah.
8 Q The reason I'm asking about this --
9 A Yeah.
10 Q -- to explain, is that this looks
11 an awful lot like what became Beechwood.
12 So -- and you will see the time
13 line sort of just continues as Beechwood instead
14 of Alpha Re. So let me just show you a few more
15 documents.
16 (Exhibit No. 719, E-Mail chain, top
17 E-Mail dated 2/28/13 from Jack Liu to Scott
18 Taylor, Subject: NDA, Bates No. BW-SHIP
19 918337 to 42, E-Mail From Jack Liu,
20 Attaching an NDA is marked by the reporter
21 for identification.)
22 Q Okay. So this is Exhibit 719.
23 A Yes.
24 Q Also from Jack Liu, and this one
25 contains an NDA.

Page 38

1 Kerry Propper
 2 You know what an NDA is, right?
 3 A Yes.
 4 Q And is it a nondisclosure
 5 agreement?
 6 A Yes.
 7 Q Okay. So by this point,
 8 Mr. Taylor, Mr. Feuer, and Mr. Levy are on the
 9 E-Mail strings?
 10 A That's what it shows.
 11 Q Okay. Now, you -- how did you know
 12 Platinum? I mean, you've been working with them
 13 since 2006, right?
 14 A I knew Mark from 2006 --
 15 Q Okay.
 16 A -- I think. Somewhere between 2006
 17 and 2008.
 18 Q Okay. And do you recall whether
 19 you had discussions with Mr. Huberfeld and
 20 Mr. Bodner about this Alpha Re deal?
 21 A I don't recall.
 22 Q When is the first time you recall
 23 meeting Mr. Huberfeld?
 24 A I don't recall the first time.
 25 Q Do you think it would have been --

Page 39

1 Kerry Propper
 2 it would have been after 2006, though, right?
 3 A Yes, a little after.
 4 Q Okay. And probably before this
 5 time in 2013?
 6 A I don't know.
 7 Q You met him before --
 8 A I met him through David Levy.
 9 Q Okay. And when you say "through
 10 David Levy," are you aware that Mr. Huberfeld had
 11 a firm called Centurion Capital?
 12 A Yes.
 13 Q Are you aware that he also -- that
 14 that firm became PPCO? Does that sound familiar
 15 to you?
 16 A Yes.
 17 Q And just based on what I've laid
 18 out, do you recall how many -- how often you
 19 would see Mr. Huberfeld?
 20 A Yeah. I mean, I -- I saw him maybe
 21 two to four times a year when I -- after I first
 22 met him.
 23 Q Okay. And what about Mr. Bodner?
 24 A Less than that.
 25 Q Less than that.

Page 40

1 Kerry Propper
 2 A Except when I was -- you know,
 3 later.
 4 Q Now, at this time -- that's why I'm
 5 going to --
 6 A Yeah.
 7 Q What about Mr. Feuer? When do you
 8 think the first time you met him was?
 9 A I met him a handful of times, once
 10 with -- Mark Nordlicht introduced me at some
 11 point.
 12 Q Okay. What about Mr. Taylor?
 13 A Even fewer times.
 14 Q Okay. So at this point --
 15 A The first -- I mean, you're talking
 16 about in the beginning, like --
 17 Q Yeah. I'm just -- I'm showing you
 18 an E-Mail. I'm saying at this point Mr. Taylor
 19 and Mr. Feuer are on the NDA E-Mail chains.
 20 A Yes.
 21 Q For this Alpha Re deal.
 22 A Yeah.
 23 Q Do you have a recollection of what
 24 Mr. Taylor and Mr. Feuer were doing on this deal?
 25 A Yes. Mark included them to do due

Page 41

1 Kerry Propper
 2 diligence or something to that effect.
 3 Q They were sort of consulting and
 4 advising Platinum on the deal, right, the
 5 Alpha Re deal?
 6 A I don't know for sure, but I know
 7 they showed up.
 8 Q They were insurance guys?
 9 A Yes.
 10 Q Okay. And so here you've got
 11 Jack Liu saying:
 12 "Scott and Mark, please find the
 13 NDA."
 14 And so here, in fact, Scott Taylor
 15 is providing a countersigned NDA; is that right?
 16 A Yep.
 17 Q And does it appear that the
 18 Alpha Re was -- Gregory Tolaram signed it on the
 19 last page?
 20 A Yes. I don't know who that is,
 21 but, yes.
 22 Q So just pushing this forward a
 23 little, now we're at February 26, and there's
 24 going to be an Alpha Re/Platinum call.
 25 So I'll show you what's been marked

Page 46

1 Kerry Propper
 2 can execute with Alpha Re."
 3 Do you see that second paragraph,
 4 where it says:
 5 "We have a segregated portfolio
 6 company in the Cayman Islands regulated by SEMA"?
 7 A Yes.
 8 Q Do you understand what that means?
 9 A No.
 10 Q Okay. It says:
 11 "It's licensed to reinsure
 12 commercial and" PC -- "P&C lines and has done
 13 most of its work in worker's compensation."
 14 Do you understand what "P&C" means?
 15 A Yes.
 16 Q What is that?
 17 A Property and casualty.
 18 Q And what is worker's compensation?
 19 Is that an area of insurance?
 20 A Yes.
 21 Q Okay. It says:
 22 "We have not engaged in any life
 23 transactions through this entity, nor do we plan
 24 to."
 25 Do you see that?

Page 47

1 Kerry Propper
 2 A Yes.
 3 Q Okay. Based on your understanding
 4 of Alpha Re and Blue, and refreshing your
 5 recollection, were the long-term liabilities
 6 related to health and life insurance?
 7 A I don't think so.
 8 Q What were they?
 9 A I remember them -- something
 10 related to -- maybe it was worker's comp or
 11 something like that, some long-term health or
 12 something. Maybe it was long-term health.
 13 Q Long-term health?
 14 A Something weird.
 15 Q Okay. So what -- do you recall, I
 16 mean, had you met Scott Taylor at this point?
 17 You're cc'd on a bunch of E-Mails with him.
 18 A I don't know the time line, so I
 19 know Mark introduced me to Scott and Mark.
 20 Q Okay. Now, do you recall whether
 21 the Alpha Re transaction ended up going forward?
 22 A It did not.
 23 Q Do you know why?
 24 A I do not know why.
 25 Q At some point, you became involved

Page 48

1 Kerry Propper
 2 with the Beechwood group of companies, though,
 3 correct?
 4 A Yes.
 5 Q And you know that transaction went
 6 forward?
 7 A I knew after it happened.
 8 Q Okay. You were granted an
 9 ownership interest in Beechwood?
 10 A Yes.
 11 Q Do you know why?
 12 A Yes.
 13 Q Why is that?
 14 THE WITNESS: I mean, tell the --
 15 MR. MUSOFF: Just answer the
 16 question as best as you can. He'll follow
 17 up.
 18 THE WITNESS: Yeah. Okay.
 19 A Because I introduced the concept of
 20 a reinsurance company.
 21 Q To Platinum?
 22 A To Platinum.
 23 Q And instead of doing the Alpha Re
 24 deal, they ended up doing their own version of
 25 Alpha Re, Beechwood Re?

Page 49

1 Kerry Propper
 2 A Without telling me.
 3 Q But they, nevertheless, gave you an
 4 interest?
 5 A Eventually.
 6 Q And how did that interest come
 7 about?
 8 A So after they said no to this
 9 particular transaction, I had wanted to move to
 10 the buy side, over a period of -- you know, I
 11 thought it would be fun to do. I wanted to do a
 12 reinsurance company and said:
 13 "Well, maybe this is doable," okay,
 14 to Mark, but I wanted -- "I want to do this.
 15 Look how this happened."
 16 And -- and Mark said:
 17 "Yeah, that would be great, yeah,
 18 yeah."
 19 And then he sort of went dark.
 20 And then I found out eventually
 21 that they had created it. And I was friends with
 22 Mark at the time, so I was like:
 23 "Well, what happened?"
 24 And -- and -- and I think he felt
 25 bad that:

Page 50

1 Kerry Propper
 2 "Oh, we're going to give you
 3 1 percent because you came up with the idea."
 4 Q You did come up with the idea;
 5 didn't you?
 6 A Not the Beechwood idea. I came up
 7 with the idea of -- of actually doing a
 8 reinsurance company.
 9 Q Right. That idea, that's what you
 10 came up with, right?
 11 A And then I got blocked out of the
 12 whole transaction.
 13 Q It wasn't Scott Taylor and Mark
 14 Feuer. They were brought in to do due diligence
 15 on your idea, right?
 16 A I don't know.
 17 Q Well, you came up with the idea and
 18 you brought --
 19 A I came up with an idea to do the
 20 Blue one; and then I wanted to do something with
 21 Mark, and he rejected it.
 22 Q But, in fact, he went ahead and did
 23 it anyway?
 24 A He did --
 25 Q Correct?

Page 51

1 Kerry Propper
 2 A He did something that was related
 3 to it.
 4 Q Okay. And did you receive
 5 distributions in connection with your Beechwood
 6 interests?
 7 A I think I received a total of
 8 \$5,000.
 9 Q Did you receive -- did you
 10 ultimately -- do you still have your Beechwood
 11 interest?
 12 A I don't know. I threw it in a
 13 drawer, never talked to those guys again.
 14 Q Okay. So you were never bought out
 15 of your Beechwood interests?
 16 A I don't believe so. No one has
 17 sent me any money.
 18 Q Okay. Did you ever have an office
 19 at Beechwood?
 20 A No.
 21 Q When you -- how did you find out
 22 that Mr. Nordlicht had set up Beechwood?
 23 A I don't remember. But it was
 24 probably through a conversation with somebody.
 25 Q Do you recall ever talking to

Page 52

1 Kerry Propper
 2 David Levy about it?
 3 A I mean, I talk to David Levy a lot.
 4 He's a friend of mine.
 5 Q What about Mr. Huberfeld?
 6 A No.
 7 Q Do you know where the money to
 8 capitalize Beechwood came from?
 9 A I was told it came from Huberfeld
 10 and Bodner.
 11 Q Who told you that?
 12 A I don't remember.
 13 Q But that's your understanding?
 14 A That was my understanding.
 15 Q Were you provided any kind of
 16 capitalization documents, subscription
 17 agreements, anything like that?
 18 A They sent me, like, limited stuff
 19 when they felt they had to, almost nothing.
 20 Q So in sum and substance, you learn
 21 from somebody that Beechwood and the reinsurance
 22 concept had actually been set up?
 23 A Right.
 24 Q You approached who, Mr. Nordlicht,
 25 and said, "What's the deal?"

Page 53

1 Kerry Propper
 2 A I basically -- yeah.
 3 Q And he at some point determined
 4 that you were correct, that you had come up with
 5 the idea, and granted you an interest in
 6 Beechwood?
 7 A He gave me 1 percent.
 8 Q Something like that?
 9 A Yes. Maybe less, half. I don't
 10 know.
 11 Q Did there come a time when you were
 12 asked to value the various interests in
 13 Beechwood?
 14 A I don't remember.
 15 Q You don't remember one way or
 16 another?
 17 Presumably, if -- if that had
 18 happened, would that have been after you were
 19 granted the interest, or did they ask you to
 20 value it before?
 21 A I have no idea.
 22 Q I'm going to show you an E-Mail
 23 from Yingjie Weng.
 24 Do you know who that is?
 25 A Yes.

Page 62

1 Kerry Propper
2 E-Mail dated 9/29/14 from Eli Miller to
3 Kerry Propper, Subject: Propper Equity
4 Documents, Bates Nos. BW-SHIP 01246971 to
5 991, Document is marked by the reporter for
6 identification.)
7 Q Exhibit 729.
8 MR. MAGRUDER: 725.
9 Q 725. Excuse me.
10 Do you know who Eli Miller at
11 Akin Gump is?
12 A I don't remember.
13 Q Does this appear to be an E-Mail
14 chain from September 2014 where you're receiving
15 your equity documents at Beechwood?
16 A It appears that way.
17 Q Okay. Do you recall -- do you
18 recall receiving these documents?
19 A I -- I don't recall specifically
20 receiving these documents. I just recall being
21 annoyed by the whole thing.
22 Q Okay. And do you know -- do you
23 have an understanding about what these documents
24 are?
25 A If I read them right now, I would

Page 63

1 Kerry Propper
2 probably understand it.
3 Q Can you quickly just take a look at
4 at least the cover pages, see if you
5 understand --
6 A One is a warrant agreement.
7 Q Okay.
8 A It says "Warrant Agreement."
9 Q All right.
10 A The other says "Subscription
11 Agreement."
12 Q Okay. And what -- what would a
13 subscription agreement, what is the purpose of
14 that?
15 A To be -- to subscribe to a
16 particular interest, entity.
17 Q Okay. If you flip to the -- I
18 guess the very last page of the exhibit, right
19 here.
20 A Yeah.
21 Q Where it says "Subscription
22 Agreement"?
23 A Um-hum.
24 MR. MUSOFF: It's the last page of
25 the exhibit.

Page 64

1 Kerry Propper
2 MR. GLUCK: Yeah.
3 MR. MUSOFF: Yes.
4 MR. GLUCK: So It's
5 BW-SHIP-1246991, right here.
6 A Yes.
7 Q Okay. So this appears to be a
8 subscription to Beechwood Bermuda, correct?
9 A It appears to be.
10 Q Okay. And do you have a
11 recollection of receiving these shares? Is that
12 what we discussed earlier?
13 A I only have a recollection that I
14 got -- I received, like, a half of a percent or
15 1 percent of the company.
16 Q Okay. Do you think this might
17 be -- these might be the documents that reflect
18 that?
19 A It might be, yeah. I assume.
20 Q Okay. That's where I'm going here.
21 A Yeah.
22 Q Okay. And the reason that you
23 received it was because of your role in coming up
24 with the reinsurance idea?
25 A The reason I received it was

Page 65

1 Kerry Propper
2 probably not that. I don't know why I received
3 it. All I know is I came up with the idea of
4 doing a reinsurance company with Mark Nordlicht.
5 Q Right.
6 A Not Scott Taylor, not all these
7 other people.
8 Q Right.
9 A So it didn't happen, what I wanted
10 to do.
11 Q Okay. And I accept that. I want
12 to -- so I -- you had the idea of coming up with
13 a reinsurance company with Mark Nordlicht.
14 Instead, Mark Nordlicht formed Beechwood --
15 A Right.
16 Q Correct me if I say anything wrong.
17 Instead, he formed Beechwood with
18 Mr. Bodner and Mr. Huberfeld?
19 A Yep.
20 Q And you kind of got cut out?
21 A That's how I recall it.
22 Q Okay.
23 A Approximately.
24 Q Understood.
25 So I'm now going to take you ahead

Page 226	Page 228
<p>1</p> <p>2</p> <p>3 Exhibit No. 753, E-Mail chain, top 188 E-Mail dated 11/26/14 from Scott 4 Taylor to Mark Feuer, Subject: Black Elk Agreement, Bates Nos. BW-SHIP 5 274983 to 86 and pages without Bates numbers, E-Mail Chain</p> <p>6</p> <p>7 Exhibit No. 754, October 1, 2014 198 E-Mail from Kerry Propper to David Levy, Bates No. BW-SHIP-00474323</p> <p>8</p> <p>9 Exhibit No. 755, E-Mail chain, top 202 E-Mail dated May 2, 2014, E-Mail from Jack Liu to Murray Huberfeld and David 10 Levy, Bates No. CNO CSL-01114129 to 30</p> <p>11 Exhibit No. 756, E-Mail chain, top 208 E-Mail dated 10/21/14 from David Levy 12 to Kerry Propper, Document, Bates Nos. CNO CSL-01257834 to 35</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Errata Sheet</p> <p>2</p> <p>3 NAME OF CASE: IN RE: PLATINUM-BEECHWOOD LITIGATION</p> <p>4 DATE OF DEPOSITION: 12/06/2019</p> <p>5 NAME OF WITNESS: Kerry Propper</p> <p>6 Reason Codes:</p> <p>7 1. To clarify the record.</p> <p>8 2. To conform to the facts.</p> <p>9 3. To correct transcription errors.</p> <p>10 Page ____ Line ____ Reason ____</p> <p>11 From _____ to _____</p> <p>12 Page ____ Line ____ Reason ____</p> <p>13 From _____ to _____</p> <p>14 Page ____ Line ____ Reason ____</p> <p>15 From _____ to _____</p> <p>16 Page ____ Line ____ Reason ____</p> <p>17 From _____ to _____</p> <p>18 Page ____ Line ____ Reason ____</p> <p>19 From _____ to _____</p> <p>20 Page ____ Line ____ Reason ____</p> <p>21 From _____ to _____</p> <p>22 Page ____ Line ____ Reason ____</p> <p>23 From _____ to _____</p> <p>24</p> <p>25 _____</p>
Page 227	
<p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4 I, TAB PREWETT, A Registered Professional Reporter, Notary Public, Certified 5 LiveNote Reporter, and Certified Shorthand Reporter, do hereby certify that prior to the 6 commencement of the examination KERRY PROPPER was sworn by the notary public to testify to the 7 truth, the whole truth and nothing but the truth.</p> <p>8</p> <p>9 I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of 10 the testimony as taken stenographically by and before me at the time, place and on the date 11 hereinbefore set forth.</p> <p>12</p> <p>13 I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor 14 counsel of any of the parties to this action, and that I am neither a relative nor employee of such 15 attorney or counsel, and that I am not financially interested in the action.</p> <p>16</p> <p>17 <u>TAB Prewett</u></p> <p>18 TAB PREWETT</p> <p>19 Notary Public</p> <p>20</p> <p>21</p> <p>22 My Commission expires February 9, 2024</p> <p>23 Dated: December 14, 2019</p> <p>24</p> <p>25</p>	

EXHIBIT 18

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- Stewart Kim -

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

IN RE: PLATINUM-BEECHWOOD LITIGATION)

-----)Case No:

MARTIN TROTT and CHRISTOPHER SMITH,)
as Joint Official Liquidators and)18-CV-6658(JSR)

Foreign Representatives of PLATINUM)
PARTNERS VALUE ARBITRAGE FUND L.P.)18-CV-10936(JSR)

(in Official Liquidation), and)
PLATINUM PARTNERS VALUE ARBITRAGE)
FUND L.P. (in Official Liquidation),)

Plaintiffs,)

-vs-)

PLATINUM MANAGEMENT (NY) LLC, et al.,)
Defendants.)

----- X

DATE: September 27, 2019

TIME: 9:45 a.m.

VIDEOTAPED DEPOSITION OF STEWART KIM,
held at the offices of U.S. Legal Support, 90
Broad Street, New York, New York, pursuant to
Notice, before Hope Menaker, a Shorthand Reporter
and Notary Public of the State of New York.

Page 2

1 - Stewart Kim -
 2 A P P E A R A N C E S
 3 ALSTON & BIRD LLP
 Attorneys for Washington National Insurance Co.,
 Bankers Conesco Life Insurance Co.
 90 Park Avenue
 New York, New York 10016
 BY: JOHN J. AERNI, ESQ.
 LAURA PALEY, ESQ.

DLA PIPER, LLP (US)
 Attorneys for Plaintiff - SHIP
 6225 Smith Avenue
 Baltimore, Maryland 21209-3600
 BY: ELLEN E. DEW, ESQ.
 NEILL THUPARI, ESQ.

CURTIS, MALLET-PREVOST, COLT & MOSLE, LLP
 Attorneys for Defendant - David Bodner
 101 Park Avenue
 New York, New York 10178
 BY: GABRIEL HERTZBERG, ESQ.
 BETSY FEUERSTEIN, ESQ.

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
 Attorneys for Defendants - Kevin Cassidy & Michael
 Nordlicht
 666 Third Avenue
 New York, New York 10017
 BY: THERESE M. DOHERTY, ESQ.

DUANE MORRIS, LLP
 Attorneys for the Estate of Uri Landesman
 1540 Broadway
 New York, New York 10036
 BY: KEVIN P. POTERE, ESQ.

DUANE MORRIS, LLP
 Attorneys for the Estate of Uri Landesman
 1037 Raymond Boulevard
 Suite 1800
 Newark, New Jersey 07102-5429
 BY: MELISSA S. GELLER, ESQ.

Page 3

1 - Stewart Kim -
 2 A P P E A R A N C E S: (Continued)
 3
 CONDON TOBIN SLADER THORNTON
 Attorneys for PB Investments
 8080 Park Lane
 Suite 700
 Dallas, Texas 75231
 BY: KENDAL B. REED, ESQ.

OTTERBOURG, P.C.
 Attorneys for Melanie Cyganowski
 230 Park Avenue
 New York, New York 10169
 BY: ERIK B. WEINICK, ESQ.
 GABRIELA LEON, ESQ.

HOLLAND & KNIGHT (via telephone)
 Attorneys for Martin Trott
 150 North Riverside Plaza, Suite 2700
 Chicago, Illinois 60606
 BY: RICHARD A. BIXTER, JR., ESQ.

PROSKAUER ROSE LLP
 Attorneys for Beechwood
 Eleven Times Square
 New York, New York 10036-8299
 BY: STACEY P. EILBAUM, ESQ.

LAW OFFICES OF STEWART KONG
 Attorney for the Witness
 3 Northern Boulevard
 Great Neck, New York 11021
 BY: STEWART KONG, ESQ.

ALSO PRESENT:
 Jose Rivera - Videographer

Page 4

1 - Stewart Kim -
 2 THE VIDEOGRAPHER: This is Media Unit
 3 Number 1 in the video deposition of Stewart
 4 Kim in the matter of In Re:
 5 Platinum-Beechwood litigation, in the United
 6 States District Court, Southern District of
 7 New York, Case Number 1:18-CV-06658.
 8 This deposition is being held at U.S.
 9 Legal Support, 90 Broad Street, New York, New
 10 York on September 27, 2019, at approximately
 11 9:45 a.m.
 12 My name is Jose Rivera from the firm
 13 of U.S. Legal Support and I am the legal
 14 video specialist.
 15 The court reporter is Hope Menaker,
 16 also in association with U.S. Legal Support.
 17 All counsel have been noted on the
 18 record. Will the court reporter please swear
 19 in the witness.
 20 STEWART KIM, called as a witness,
 21 having been duly sworn on September 27, 2019,
 22 by a Notary Public, was examined and
 23 testified as follows:
 24
 25 EXAMINATION BY MR. AERNI:

Page 5

1 - Stewart Kim -
 2 Q. Good morning, Mr. Kim. My name is
 3 John Aerni. I'm with the law firm of Alston &
 4 Bird and I represent two third-party plaintiffs in
 5 these lawsuits. One of them is Washington
 6 National Insurance Company, another is Bankers
 7 Conesco Life Insurance Company.
 8 I'm going to be asking you some
 9 questions today arising out of lawsuits that
 10 involve those two insurance companies' reinsurance
 11 agreements with Beechwood Re Limited.
 12 But before we go there, have you
 13 given a deposition before?
 14 A. No, first time.
 15 Q. You picked a crowded room for your
 16 first time to do that; so I'm going to just
 17 briefly go over some -- what I'll call ground
 18 rules here.
 19 First, I try to make my questions
 20 simple and comprehensible; too often I fail. So
 21 if you don't understand my question, please tell
 22 me, I will do my best to make it clearer.
 23 A. Okay.
 24 Q. Okay. Second, if there comes a time
 25 when you need a break, please let us know, and

Page 186

1 - Stewart Kim -
2 paid for. It was sometime in spring of 2014 when
3 they asked my services to be rendered at
4 Beechwood.
5 Q. Did you consider the question of
6 whether or not that was material to CNO?
7 A. Did I -- I'm sorry.
8 Q. Okay. I will start this way.
9 You're working at Beechwood --
10 A. Yes.
11 Q. -- 2014, right? Okay. Being paid by
12 Platinum, right?
13 A. Yes.
14 Q. And there was a period in 2014 where
15 you're working at Beechwood and only being paid by
16 Platinum, right?
17 A. Yes.
18 Q. You didn't consider that material,
19 correct? That's what you just said.
20 A. Well, I said it was immaterial to me
21 because I thought the transition would happen
22 sooner than it had happened. It dragged on --
23 dragged on for I'll say like a good seven, eight
24 months after that. I think we were trying to find
25 a replacement trying to get CRO to get -- Platinum

Page 187

1 - Stewart Kim -
2 Partners we couldn't find someone for \$180,000 a
3 year.
4 Q. My question to you is did you
5 consider whether it was material to CNO --
6 A. At that point I --
7 Q. Wait a minute. Hold on.
8 -- whether it was material to CNO
9 that you were working for Beechwood but being paid
10 by Platinum only? Did you consider that?
11 A. At that point I don't remember.
12 Q. At any point did you consider it
13 material to tell that to CNO or important to tell
14 it to CNO?
15 A. At that point, no, I don't remember.
16 At that point, no, I don't remember.
17 Q. You're saying at no point did you
18 consider that important. Is that what your to
19 testimony is?
20 A. I think it's because the sequence of
21 events that occurred, it happened -- it didn't -
22 there was no intention of me to be continued to be
23 paid by Platinum; but it just happened that
24 because we couldn't find a replacement but in that
25 way, that's why I probably did not -- did not

Page 188

1 - Stewart Kim -
2 think about it.
3 Q. Going back to Kim 21, the second
4 e-mail is from Mark Nordlicht on Friday, June 27
5 at 4:34 p.m.
6 Do you see that one?
7 A. The June 27, 2014 4:31?
8 Q. Yes. 4:34.
9 A. 4:34.
10 Q. The second one.
11 A. Yes, okay.
12 Q. His second sentence reads, "I think
13 we are going to test waters and short at some
14 point. If they don't want we can always liquidate
15 or move, but I think it's important to do and
16 justifiable."
17 Do you see that?
18 A. Yes.
19 Q. He was saying that it was his
20 intention that Beechwood test the waters with the
21 CNO reinsurance trust accounts, right?
22 MR. KONG: Objection.
23 A. Yeah, I don't know.
24 Q. Did you ask him?
25 A. I don't remember.

Page 189

1 - Stewart Kim -
2 Q. He said, "I think we are going to
3 test waters and short at some point."
4 Was he talking about Platinum funds
5 there?
6 A. I don't know.
7 Q. Did you ask him?
8 A. I don't remember.
9 Q. And going down one, let's look at the
10 e-mail he was responding to; yours of June 27,
11 2014 at 4:31, says, "Mark, just be mindful of
12 extreme cases where we might have excess reserves
13 in one trust and surplus in another."
14 You're talking about monies in the
15 reinsurance trust accounts, right?
16 A. I guess so, yes.
17 Q. Okay. So then Mark Nordlicht
18 responds and says, "I think we are going to test
19 waters and short at some point."
20 So he's also talking about the
21 Reinsurance Trust funds?
22 A. I guess. I don't know. I don't
23 know.
24 Q. Did you ask yourself why is Mark
25 Nordlicht telling me that we're going to test the


Page 322

1 - Stewart Kim -
 2 And you responded to Will Slota.
 3 "The answer should be yes." Fair to say?
 4 A. Yes.
 5 Q. And did you have that authority?
 6 A. I don't know.
 7 MR. AERNI: Thank you. That's all I
 8 have.
 9 MS. DEW: Nothing from SHIP.
 10 MR. WEINICK: Nothing from the
 11 Receiver.
 12 THE VIDEOGRAPHER: The time is
 13 6:29 p.m., September 27, 2019. This
 14 completes today's video deposition of Stewart
 15 Kim.
 16 (Whereupon, the deposition concluded
 17 at 6:29 p.m.)
 18
 19
 20
 21
 22
 23
 24
 25

Page 323

1
 2 A C K N O W L E D G E M E N T
 3
 4 STATE OF NEW YORK)
 5) ss.
 6 COUNTY OF NEW YORK)
 7
 8 I, STEWART KIM, hereby certify that I have
 9 read the transcript of my testimony taken under
 10 oath in my deposition of September 27, 2019; that
 11 the transcript is a true, complete and correct
 12 record of my testimony, and that the answers on
 13 the record as given by me are true and correct.
 14
 15 _____
 16 STEWART KIM
 17
 18 Subscribed and sworn
 19 to before me on this the
 20 _____ day of _____, 2019.
 21 Notary Public, State of New York
 22
 23
 24
 25

Page 324

1
 2 C E R T I F I C A T E
 3 STATE OF NEW YORK)
 4) ss.
 5 COUNTY OF NEW YORK)
 6
 7 I, HOPE LYNN MENAKER, a Notary Public within
 8 and for the State of New York, do hereby certify:
 9 That STEWART KIM, the witness whose
 10 deposition is hereinbefore set forth, was duly
 11 sworn by me and that such deposition is a true
 12 record of the testimony given by the witness.
 13 I further certify that I am not related to
 14 any of the parties to this action by blood or
 15 marriage, and that I am in no way interested in
 16 the outcome of this matter.
 17 IN WITNESS WHEREOF, I have hereunto
 18 set my hand this 9th day of October, 2019.
 19
 20 
 21 _____
 22 HOPE LYNN MENAKER
 23
 24
 25

Page 325

1
 2 I N D E X
 3
 4 WITNESS: STEWART KIM
 5 EXAMINATION BY PAGE
 6 MR. AERNI 4
 7 MR. HERTZBERG 227
 8 MS. DEW 234
 9 MR. WEINICK 272
 10 MR. KONG 308
 11 MR. AERNI 309
 12
 13 REQUEST FOR ADDITIONAL INFORMATION PAGE
 14 MR. AERNI 67
 15 MR. WEINICK 299
 16
 17 EXHIBITS FOR IDENTIFICATION
 18 NUMBER DESCRIPTION PAGE
 19 1 CNOCSL 36155 19
 20 2 CTRL 6072114 44
 21 3 CNOCSL 1576148 49
 22 4 CNOCSL 871898 -927 54
 23 5 CNOCSL 1365006 - 008 61
 24 6 CTRL 8305182 74
 25 7 CTRL 5104415 82

EXHIBIT 19

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA,

Plaintiff,
-against-

16-CR-640 (BMC)
United States Courthouse
Brooklyn, New York

MARK NORDLICHT, DAVID LEVY,
JOSEPH SANFILIPPO,

Defendants.
-----x

May 28, 2019
1:30 p.m.

TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
BEFORE THE HONORABLE BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE
BEFORE A JURY

APPEARANCES:

For the Government: RICHARD P. DONOGHUE, ESQ.
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: ALICYN L. COOLEY, AUSA
DAVID PITLUCK, AUSA
PATRICK HEIN, AUSA
LAUREN ELBERT, AUSA

For Defendant Nordlicht: THE BAEZ LAW FIRM
40 SW 13th Street
Miami, Florida 33130
BY: JOSE A. BAEZ, ESQ.

RONALD S. SULLIVAN, ESQ.
712 H Street, Suite 1354
Washington, D.C. 20002

Mandelbaum - direct - Pitluck

1 Q Do you remember any specific investments that you looked
2 at?

3 A I remember Island Breeze.

4 Q What was Island Breeze --

5 A Island Breeze was a loan --

6 MR. FORD: Objection. Can we state the fund?

7 THE COURT: Overruled.

8 Go ahead.

9 A Island Breeze was a loan that was collateralized by a
10 boat or a ship or a yacht, I'm not really sure, and based on
11 my -- based on Elliott Bertram's research, the boat no longer
12 existed.

13 MR. BAEZ: Objection.

14 THE COURT: Sustained.

15 MR. PITLUCK: I'm not offering it for the truth,
16 just for what he did next.

17 THE COURT: What did you do next?

18 THE WITNESS: I -- I -- the asset was just a dock
19 slip in Brooklyn, like, a shipping dock slip, and it was
20 valued at, I think, 1.5 million and I, over the next couple
21 months --

22 MR. BAEZ: Objection.

23 THE COURT: Overruled.

24 A -- marked it down a little each month to try to get it to
25 between 100- and \$250,000 because I didn't think it was worth

Mandelbaum - direct - Pitluck

1 1.5 million. I thought that was pretty crazy.

2 Q Why did you slowly mark it down as opposed to marking it
3 down all at once?

4 A I didn't want anyone to -- I didn't want people to start
5 asking questions or realize it.

6 Q And did there ever come a time where you discussed with
7 Mr. Nordlicht your efforts to mark down this smaller asset?

8 A Yes.

9 Q And what, if anything, did he say to you?

10 A I know full well what you're doing; just make sure you
11 don't affect my returns too badly.

12 Q Are you familiar with a company called Black Elk?

13 A Yes.

14 Q And was that an investment at PPVA when you started
15 working at Platinum Partners?

16 A I think it was, yes.

17 Q Did you discuss with anyone at Platinum Partners the
18 status of that investment while you were the CFO?

19 A I discussed the investment with David Levy.

20 Q And --

21 MR. FODEMAN: Objection. May we approach, Judge, on
22 this issue?

23 THE COURT: Okay.

24 MR. FODEMAN: Thank you.

25 (Sidebar.)

EXHIBIT 20

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
MARC S. KIRSCHNER

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Thursday, November 14, 2019,
commencing at 9:34 a.m.

Page 2

1
2 A P P E A R A N C E S:
3
4
5 DLA PIPER, LLP (US)
6 BY: STEVEN ROSATO, ESQ.
7 1251 Avenue of the Americas, 38th Floor
8 New York, New York 10020-1104
9 Attorneys for Plaintiff, SHIP
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 4

1
2 HOLLAND & KNIGHT LLP
3 BY: SHEILA (QUIAN) SHEN, ESQ.
4 31 West 52nd Street, 12th Floor
5 New York, NY 10019
6 Attorneys for the Plaintiffs,
7 Martin Trott
8
9
10 Present telephonically.
11
12 MINTZ, LEVIN, COHN, FERRIS,
13 GLOVSKY and POPEO, P.C.
14 BY: ALEXANDRA G. CALISTRI, ESQ.
15 The Chrysler Center
16 666 Third Avenue
17 New York, New York 10017
18 Attorneys for Defendants
19 Kevin Cassidy and Michael Nordlicht
20
21
22
23
24
25

Page 3

1
2 DLA PIPER, LLP (US)
3 BY: VIRGINIA CALLAHAN, ESQ.
4 PAUL NOVAK, ESQ.
5 KATHLEEN BIRRANE, ESQ.
6 6225 Smith Avenue
7 Baltimore, Maryland 21209-3600
8
9
10 Attorneys for Plaintiff, SHIP
11
12 Mr. Novak and Ms. Callahan present
13 telephonically.
14
15
16
17
18
19
20
21
22
23
24
25

Page 5

1
2
3 DUANE MORRIS, LLP
4 BY: KEVIN POTERE, ESQ.
5 1540 Broadway
6 New York, New York 10036-4086
7 Attorneys for the
8 Estate of Uri Landesman
9
10
11
12
13
14 CONDON TOBIN SLADEK THORNTON, PLLC
15 BY: AARON Z. TOBIN, ESQ.
16 JUSTIN HANNA, ESQ.
17 8080 Park Lane, Suite 700
18 Dallas, Texas 75231
19 Attorneys for PB Investments
20
21
22
23
24
25

Page 6

1
2 BRENT WEISENBERG, ESQ.
3 Platinum Partners
4 230 Park Avenue, Suite 135
5 New York, New York 10169
6 Attorneys for the
7 Receivership Entities
8
9
10
11 OTTERBOURG, P.C.
12 BY: ERIK B. WEINICK, ESQ.
13 GABRIELA S. LEON, ESQ.
14 230 Park Avenue
15 New York, New York 10169
16 Attorneys for Plaintiff Receiver
17
18
19
20 Ms. Leon present as noted in transcript
21
22 ALSO PRESENT:
23
24 Darrak Lighty, Videographer
25

Page 7

1 Marc Kirschner
2 P R O C E E D I N G S
3 THE VIDEOGRAPHER: This is the
4 video deposition of Marc Kirschner in the
5 matter of Platinum-Beechwood litigation.
6 This deposition is being held at the
7 offices of US Legal Support, 90 Broad
8 Street, New York, New York, on November 14,
9 2019.
10 My name is Darrak Lighty, from US
11 Legal Support; and I am the video
12 specialist. The court reporter today is
13 Tab Prewett, also associated with US Legal
14 Support. We are going on the record at
15 9:34 a.m. All appearances have been noted
16 on the record.
17 Will the court reporter please
18 swear in the witness.
19 (There was a discussion off the
20 record.)
21 M A R C S. K I R S C H N E R,
22 doing business at Goldin Associates,
23 350 Fifth Avenue,
24 New York, New York,
25 having been sworn by the notary public to testify

Page 8

1 Marc Kirschner
2 to the truth, testified as follows:
3 DIRECT EXAMINATION
4 BY MR. TOBIN:
5 Q State your full legal name.
6 A Marc, M-a-r-c, S. Kirschner,
7 Kirschner.
8 Q Mr. Kirschner, what does the "S"
9 stand for?
10 A Steven.
11 Q Thank you.
12 My name is Aaron Tobin, and I
13 represent Beechwood Bermuda Investment Holdings
14 Limited, a defendant in the lawsuit that we're
15 here on today.
16 I don't think we've ever met
17 before. Correct?
18 A Correct.
19 Q All right. And can you tell me in
20 what capacity you're here today, Mr. Kirschner?
21 A I am the 30(b)(6) witness for the
22 receiver Melanie Cyganowski.
23 Q Okay. And the receiver being the
24 representative plaintiff in this lawsuit that
25 we're on here today?

Page 9

1 Marc Kirschner
2 A Yes.
3 Q All right. And she's actually a
4 representative for a number of different entities
5 I'll just call the "Platinum entities" for short
6 now, correct?
7 A Correct. They're all listed as
8 plaintiff in the complaint that's a subject
9 matter of this morning's deposition.
10 Q Okay.
11 MR. WEINICK: Counsel, I would just
12 ask that if there's a cause to distinguish
13 between the PPVA entities and PPCO
14 entities, you do so in advance of any
15 question. Otherwise, we're fine with the
16 "Platinum" shorthand.
17 MR. TOBIN: Okay. Yeah. And I
18 actually wasn't defining anything. I was
19 just making sure we were on the same page
20 as to what capacity he's here. But I
21 understand your point.
22 Q Okay. So have you ever given a
23 deposition before?
24 A Yes.
25 Q How many times have you given a

Page 142

1 Marc Kirschner
2 ownership or common management that you haven't
3 already shared with us today?
4 A No.
5 Q And with respect to "deep personal
6 relationships," what were the "deep personal
7 relationships" between the Platinum funds and
8 Beechwood?
9 A I believe that is referring to the
10 principals of Platinum that I mentioned before:
11 Nordlicht, Huberfeld, Bodner, and the other
12 person whose name I can never remember. They had
13 deep personal relationships with themselves, with
14 Levy, Feuer, and Taylor, who were -- Feuer and
15 Taylor in particular, the Beechwood side of these
16 relationships.
17 And they just had personal
18 relationships. Certainly, the four Platinum
19 principals were all closely related prior to the
20 formation of Platinum, I believe, and during this
21 entire time.
22 Q When did SHIP first obtain actual
23 knowledge of common ownership between Beechwood
24 and the Platinum funds?
25 A As I understand it, Fuzion as

Page 143

1 Marc Kirschner
2 manager of SHIP and simultaneously manager of the
3 liabilities of CNO, introduced Platinum to SHIP.
4 And I believe that was probably early 2013 and
5 mid 2013? The introduction was provided.
6 I believe the liaison was David
7 Levy, if that's his first name, Levy
8 introducing -- or someone at Fuzion approached
9 Levy and/or Feuer and Taylor to introduce them
10 all to -- to the PPCO FUNDS.
11 So that was the first introduction.
12 And the knowledge of the relationship, which is
13 what I think you're asking, of the ownership took
14 place during that introductory meeting.
15 Q So you're describing an
16 introductory meeting in which someone at CNO
17 introduced Platinum to whom at SHIP?
18 A Someone at Fuzion introduced
19 Platinum to SHIP.
20 Q Okay. So who was the --
21 A And Fuzion was simultaneously -- or
22 at that time, was managing the liabilities of
23 CNO.
24 Q So what liabilities of CNO was
25 Fuzion managing in 2013?

Page 144

1 Marc Kirschner
2 A The long-term care liabilities.
3 Q Are you talking about claims
4 administration? Are you talking about
5 third-party claims administration?
6 A The claims administration, the
7 liability claims administration, that's what I'm
8 talking about. I understand Fuzion handled that
9 for CNO and then later for SHIP.
10 Q And who was the human being at
11 Fuzion who introduced Platinum partners to SHIP?
12 A I don't recall.
13 Q And who is the human being at SHIP
14 to whom this person at Fuzion introduced Platinum
15 Partners?
16 A The human being at SHIP? Wegner,
17 Brian Wegner.
18 Q And do you have an understanding of
19 what Mr. Wegner's role was at SHIP?
20 A I believe he was CEO, maybe
21 president, CEO or president or both.
22 Q Did he also have a role at Fuzion?
23 A That, I don't remember whether he
24 had a role at Fuzion. But he was the CEO of
25 Beechwood. That's what I intended to say, if I

Page 145

1 Marc Kirschner
2 didn't say that properly.
3 Q Brian Wegner was the CEO of
4 Beechwood?
5 A Brian Wegner -- no. I'm sorry. I
6 said it right the first time. He was the CEO of
7 SHIP. He was the CEO. He may have been
8 president, too. I just don't remember.
9 Q And this is a meeting that occurred
10 in 2013?
11 A I believe.
12 Q Early 2013?
13 A I'm not sure. I believe it was in
14 2013.
15 Q You're just not sure when over the
16 course of that 12-month period it occurred?
17 A No. And as a matter of fact, it
18 could have been -- I'm probably mistaken about
19 2013. It may have been in early 2014.
20 Q And you say that the unknown Fuzion
21 person introduced Mr. Wegner to Platinum
22 Partners.
23 A He introduced them to some
24 combination of Platinum and Beechwood, and put
25 together SHIP and Platinum. That's my testimony.

Page 154

1 Marc Kirschner
2 A I believe I've testified before
3 that the person with the most significant
4 knowledge was Mr. Eric Johnson. SHIP, CNO,
5 Fuzion, BCLIC, and WNIC all were located
6 physically right next to each other; and I
7 believe there's a good assumption that the
8 knowledge was shared.
9 In addition, Mr. Wegner had a
10 personal relationship with Beechwood, and
11 Beechwood was controlled by the Platinum
12 principals.
13 So that is the basis for us
14 believing, the receiver and me as a witness and
15 counsel writing this, for the basis for that
16 sentence.
17 Q And is it the receiver's
18 understanding that SHIP was aware of the fraud as
19 early as the initial meeting into 2013, early
20 2014?
21 A Yes.
22 Q So before SHIP signed its first
23 Investment Management Agreement, it had a
24 knowledge of and understanding of the fraud that
25 Platinum was perpetrating on its investors and

Page 155

1 Marc Kirschner
2 that the insiders were perpetrating on the fund?
3 MR. WEINICK: Objection to form.
4 Objection. Mischaracterizes the document.
5 Go ahead.
6 A Okay. The -- SHIP, at the time,
7 knew the substantial overlap, you know, the
8 substantial overlap. And that -- that's my
9 testimony. That's what my testimony is limited
10 to. They know the substantial overlap.
11 There was, in fact, a fraud going
12 on. Mr. Johnson suspected that there were
13 substantial problems with the Platinum
14 investments. And they were all located together,
15 and we're assuming they spoke to each other. So
16 I believe SHIP knew about the problems at that
17 time.
18 Q And at that time, we mean --
19 A 2014.
20 Q At that time, we mean prior to the
21 date of the first Investment Management
22 Agreement --
23 A No.
24 Q -- which I will represent was in
25 May of 2014.

Page 156

1 Marc Kirschner
2 A At and after the time of the first
3 meeting, because I don't think SHIP had any
4 knowledge of the Beechwood-Platinum people until
5 that meeting and in connection with the setting
6 up of that meeting.
7 Q So let's move to -- to Romanette
8 iii:
9 "The SHIP and the CNO defendants
10 substantially assisted Beechwood and certain of
11 the Platinum insiders in carrying out their
12 fraud."
13 I'll just stop there. Do you see
14 that section?
15 A Yes.
16 Q So who at SHIP substantially
17 assisted Beechwood and certain of the Platinum
18 insiders in carrying out their fraud?
19 MR. WEINICK: Objection to scope.
20 A I believe Wegner was the one acting
21 on behalf of SHIP, along with Fuzion, in setting
22 up the meeting and establishing the relationship
23 with Platinum with what ultimately became three
24 Investment Management Agreements.
25 Q Other than Brian Wegner, is there

Page 157

1 Marc Kirschner
2 anybody else at SHIP who substantially assisted
3 Beechwood and certain of the Platinum insiders in
4 carrying out their fraud?
5 A There may have been someone on
6 behalf of Fuzion. I just don't know the name of
7 a human being. But Fuzion was very much involved
8 and knew all about the CNO relationship with
9 Platinum.
10 Q And with respect to -- let just
11 start with Mr. Wegner on behalf of SHIP. Can you
12 provide examples of things that Mr. Wegner did in
13 his role at SHIP to substantially assist in the
14 carrying out of this fraud?
15 A Yes. Like CNO's reinsurance
16 agreement, SHIP ultimately put \$270 million into
17 the hands of the Beechwood enterprise to manage
18 under Investment Management Agreements, which
19 \$270 million in whole or in part was used to make
20 investments into PPVA, into partnership
21 interests, ultimately into some portfolio --
22 portfolio loans or equity positions at PPCO.
23 And that 270 million, along with
24 some 500 million, I think, or somewhere between 4
25 and 5 hundred million provided by CNO under their

Page 158

1 Marc Kirschner
2 reinsurance agreements, an aggregate of
3 \$900 million, was used to shore up the Platinum
4 PPVA funds, the PPCO FUNDS, to pay redemptions
5 and significant management fees to the manager of
6 Platinum's -- Platinum.
7 All of that was in connection with
8 sustaining and supporting the fraud because,
9 absent those funds, Platinum probably would have
10 gone out of business, like, shortly after this.
11 They had no ability to handle subject
12 redemptions.
13 They had a huge liquidity crisis
14 with all of their properties. They wouldn't have
15 been able to pay the management fees.
16 So because of all that, the
17 900 million provided by SHIP and CNO basically
18 enabled the organization to continue for some
19 period of time. And by "organization," I mean
20 PPCO, and, to the extent PPVA was being supported
21 by the funds from SHIP and CNO, PPVA.
22 Q So with respect to SHIP's
23 \$270 million, it's your understanding that
24 portions of that 270 million were used to pay
25 redemptions by PPVA and/or PPCO investors?

Page 159

1 Marc Kirschner
2 A And maybe -- redemptions kept
3 growing and growing, so they weren't able to be
4 funded. They were used to shore up failed
5 investments at PPVA initially, to pay management
6 fees, substantial management fees and incentive
7 fees, and ultimately to support some failing
8 investments at PPCO.
9 Q And how were SHIP's funds used to
10 shore up failing investments at PPVA?
11 A Beechwood, as manager under the
12 three Investment Management Agreements, together
13 with the money they received under the CNO
14 insurance agreements, funneled or paid into PPVA
15 and PPCO moneys to shore up PPVA and PPCO, as I
16 already testified.
17 Q What were the --
18 A And to fund management fees.
19 Q And what were the specific
20 transactions by which -- through which moneys
21 were funneled into PPCO?
22 A Well, there were dozens and dozens
23 of failing investments at PPVA and also at PPCO;
24 and this money, in whole or in part, was used to
25 shore up these investments. I can't tell you

Page 160

1 Marc Kirschner
2 here the names because there were dozens and
3 dozens of them.
4 But investments were made. Later
5 they were unwound. That is another part that
6 this complaint is going to explain in a minute.
7 Excuse me. There's some confusion
8 over here.
9 I was done with my answer.
10 Q Okay. So what I'm asking you is:
11 Is the mechanism, what -- a loan,
12 equity. I mean, someone didn't drop off a
13 satchel of cash.
14 What was the mechanism by which
15 funds got from SHIP via the IMA accounts to --
16 let's use PPCO as an example?
17 A Money was wired or given by check
18 to the investments through the Platinum
19 principals and designated -- and used for the
20 purposes that I'm explaining.
21 One by one, shoring up failing or
22 failed PPVA investments -- equities, loans. They
23 made equity investments. They made loans to PPVA
24 initially, then to shore up failing companies,
25 portfolio companies in Platinum assets at PPCO.

Page 161

1 Marc Kirschner
2 How the money got there, I assume
3 they were wire transfers, as opposed to walking
4 down to the end of the table and giving somebody
5 \$900 million.
6 Q So the investments you're talking
7 about are investments where SHIP would have
8 acquired debt or equity in something?
9 A Beechwood, on behalf of SHIP as its
10 agent under three IMAs, would have acquired
11 loans, equity investments, participations in
12 loans and the like in these failing PPVA
13 entities.
14 Q And in consideration of those
15 equity positions or those loans, Beechwood would
16 cause SHIP's money to transfer out of the IMA
17 accounts to a PPVA- or PPCO-related entity?
18 A Yes, because the Beechwood manager
19 had discretion, subject to SHIP's investment
20 guidelines and other limitations, to make those
21 investments, including identifying the
22 investments, making the investments, making the
23 wire transfers, et cetera.
24 Q And then those funds that were
25 transferred in consideration of the loan to the

Page 362	Page 364
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
Previously Marked Exhibit No. 392, February 12, 2015 Letter From Stephen Johnson at Pennsylvania Insurance Department to Brian Wegner, Bates No. SHIP 0036975 Exhibit No. 430, Document, Bates Nos. SHIP 0027167 through SHIP 0027190 Exhibit No. 431, November 30, 2015 E-Mail From Naftali Manela, Attaching Promissory Note, Bates Nos. BW-SHIP-00852460 through BW-SHIP-00852469 Exhibit No. 432, 12/22/2015 E-Mail From Christian Thomas to Suzanne Horowitz, attaching transaction documents related to the December 2015 transactions, Bates Nos. BW-SHIP-00138276 through BW-SHIP00138306 Exhibit No. 433, 12/22/2015 E-Mail from Christian Thomas to Suzanne Horowitz, Attaching drafts of the December 2015 Transaction Documents, Bates Nos. BW-SHIP-01330674 through 01330793 Exhibit No. 434, E-Mail Chain, top E-Mail from Christian Thomas at Beechwood, sent on 12/22/2015 at 9:28 p.m. to Naftali Manela, copying Ms. Horowitz and others, Bates No. BW-SHIP-00832872 through BW-SHIP-00832875	Exhibit No. 442, 2/17/2016 E-Mail From David Steinberg to Dhruv Narain, With Attachments, Bates Nos. BW-SHIP-00835062 through BW-SHIP-00835065 Exhibit No. 443, February 18, 2016 E-Mail from Dhruv Narain to David Steinberg, Bates Nos. BW-SHIP-0076716 through BW-SHIP-0076719 Exhibit No. 444, February 22, 2016 E-Mail From Suzanne Horowitz to Christian Thomas, Bates No. B 000638654 Exhibit No. 445, Document, Bates Nos. BW-SHIP-00175289 through BW-SHIP-00175451
Page 363	Page 365
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13	13
14	14
15	15
16	16
17	17
18	18
19	19
20	20
21	21
22	22
23	23
24	24
25	25
Exhibit No. 435, E-Mail Chain, Bates No. BW-SHIP-01331000 through BW-SHIP-001331024 Exhibit No. 436, E-Mail from Suzanne Horowitz at a Platinum E-Mail address, dated 12/23/2015 at 3:50 a.m., to Naftali Manela, E-Mail chain with attachments Exhibit No. 437, E-Mail from Mr. Adler to Mr. Manela, affirming attachment of documents with BAM's signatures, Bates Nos. BW-SHIP-01332105 through BW-SHIP-01332170 Exhibit No. 438, E-Mail From Mr. Mann to Christian Thomas, enclosing executed documents, Bates Nos. BW-SHIP-01331549 through 1618 Exhibit No. 439, E-Mail Chain With Attachments, first E-Mail an E-Mail from Christian Thomas to Suzanne Horowitz on January 20, 2016, Bates Nos. BW-SHIP-00167640 through 00167664 Exhibit No. 440, E-Mail with attachment, first page an E-Mail from Dhruv Narain to David Steinberg, Excel Spreadsheet Document, Bates Nos. BW-SHIP-00835030 through BW-SHIP-835031 Exhibit No. 441, E-Mail With Attachment, Bates Nos. BW-SHIP-00767446 through BW-SHIP-00767448	CERTIFICATE I, TAB PREWETT, A Registered Professional Reporter, Notary Public, Certified LiveNote Reporter, and Certified Shorthand Reporter, do hereby certify that prior to the commencement of the examination MARC KIRSCHNER was sworn by the notary public to testify the truth, the whole truth and nothing but the truth. I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth. I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action. <u>Tab Prewett</u> TAB PREWETT Notary Public My Commission expires February 9, 2024 Dated: November 20, 2019

EXHIBIT 21

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
CASE NO. 18-CV-6658 (JSR)
CASE NO. 18-CV-10936 (JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH,
as Joint Official Liquidators and
Foreign Representatives of PLATINUM
PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE
FUND L.P. (in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,
Defendants.

VIDEOTAPED DEPOSITION OF MARK FEUER

Wednesday, November 20, 2019

8:30 a.m.

Reported by:
Joan Ferrara, RMR, FCRR
Job No. 291982

Page 2

1
2
3 November 20, 2019
4 8:30 a.m.
5 New York, New York
6
7 Videotaped Deposition of MARK
8 FEUER, held at the offices of US Legal
9 Support, 90 Broad Street, New York, New
10 York, Pursuant to Subpoena, before Joan
11 Ferrara, a Registered Merit Reporter,
12 Federal Certified Realtime Reporter and
13 Notary Public of the State of New York.
14
15
16
17
18
19
20
21
22
23
24
25

Page 3

1
2 A P P E A R A N C E S:
3
4 DLA PIPER, LLP (US)
5 Attorneys for Plaintiff SHIP
6 The Marbury Building
7 6225 Smith Avenue
8 Baltimore, Maryland 21209
9 BY: JAMES MATHIAS, ESQ.
10 A. NEILL THUPARI, ESQ.
11
12 HOLLAND & KNIGHT LLP
13 Attorneys for Plaintiff Martin Trott
14 31 West 52nd Street
15 New York, New York 10019
16 BY: ELLIOT A. MAGRUDER, ESQ.
17 WARREN E. GLUCK, ESQ.
18
19 CURTIS MALLET-PREVOST COLT & MOSLE LLP
20 Attorneys for Defendant David Bodner
21 101 Park Avenue
22 New York, New York 10178
23 BY: ABIGAIL JOHNSTON, ESQ.
24
25 (Continued)

Page 4

1
2 A P P E A R A N C E S: (Continued)
3
4 MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
5 Attorneys for Defendants Kevin Cassidy and
6 Michael Nordlicht
7 The Chrysler Center
8 666 Third Avenue
9 New York, New York 10017
10 BY: THERESE M. DOHERTY, ESQ.
11
12 CONDON TOBIN SLADEK THORNTON
13 Attorneys for PB Investments
14 8080 Park Lane, Suite 700
15 Dallas, Texas 75231
16 BY: MICHAEL MERRICK, ESQ.
17
18 ALSTON & BIRD LLP
19 Attorneys for Washington National Insurance
20 Company Bankers Conseco
21 90 Park Avenue, 15th Floor
22 New York, New York 10016-1387
23 BY: JOHN M. AERNI, ESQ.
24
25 (Continued)

Page 5

1
2 A P P E A R A N C E S: (Continued)
3
4 PROSKAUER ROSE, LLP
5 Attorneys for Beechwood
6 Eleven Times Square
7 New York, New York 10036-8299
8 BY: MARK D. HARRIS, ESQ.
9 EDWARD CANTER, ESQ.
10
11
12 OTTERBOURG
13 Attorneys for Melanie L. Cyganowski,
14 As Receiver
15 230 Park Avenue
16 New York, New York 10169
17 BY: ERIC WEINICK, ESQ.
18 GABRIELA S. LEON, ESQ.
19
20
21
22
23
24
25 (Continued)

Page 6

1

2 A P P E A R A N C E S: (Continued)

3

4 SEIDEN LAW GROUP, LLP

5 Attorneys for SHIP in the Lawrence Partners

6 Litigation

7 469 Seventh Avenue, 5th Floor

8 New York, New York 10018

9 BY: AMIAD KUSHNER, ESQ.

10 MICHAEL D. CILENTO, ESQ.

11

12

13 (Via Telephone):

14 SKADDEN ARPS

15 Attorneys for Lincoln Partner

16 155 North Wacker Drive

17 Chicago, Illinois 60606-1720

18 BY: LINDSEY SIELING, ESQ.

19

20

21 ALSO PRESENT:

22 Darrak Lighty, Videographer

23

24

25

Page 7

1

2 IT IS HEREBY STIPULATED AND

3 AGREED, by and between the attorneys

4 for the respective parties herein,

5 that filing and sealing be and the

6 same are hereby waived.

7 IT IS FURTHER STIPULATED AND

8 AGREED that all objections, except as

9 to the form of the question, shall be

10 reserved to the time of the trial.

11 IT IS FURTHER STIPULATED AND

12 AGREED that the within deposition may

13 be affirmed to and signed before any

14 officer authorized to administer an

15 oath, with the same force and effect as

16 if signed and affirmed to before the

17 Court.

18

19

20

21

22

23

24

25

Page 8

1

2 THE VIDEOGRAPHER: This is the

3 video deposition of Mark Feuer in the

4 matter of Platinum-Beechwood

5 Litigation.

6 This deposition is being held at

7 the offices of U.S. Legal Support, 90

8 Broad Street, New York, New York, on

9 November 20, 2019.

10 My name is Darrak Lighty from

11 U.S. Legal Support, and I am the video

12 specialist.

13 The court reporter today is Joan

14 Ferrara, also associated with U.S.

15 Legal Support.

16 We are going on the record at

17 8:34 a.m.

18 All appearances have been noted

19 on the record.

20 Will the court reporter please

21 swear in the witness.

22 M A R K F E U E R,

23 called as a witness, having been duly

24 affirmed by a Notary Public, was

25 examined and testified as follows:

Page 9

1

2 EXAMINATION BY

3 MR. MATHIAS:

4 Q. Good morning, Mr. Feuer. Am I

5 saying that correctly?

6 A. You are.

7 Q. My name is Jim Mathias. I

8 represent Senior Health Insurance Company

9 of Pennsylvania, or SHIP, okay?

10 During today's testimony, I will

11 frequently refer to "SHIP" to include SHIP

12 and Fuzion. I may refer to Fuzion as well.

13 But if you think there is a reason to

14 distinguish between SHIP and Fuzion, please

15 do.

16 Okay?

17 A. Okay.

18 Q. All right.

19 What were the circumstances of

20 you first learning anything about SHIP or

21 Fuzion?

22 A. It was mentioned -- they were

23 introduced to me through Fred Crawford and

24 CNO.

25 Q. In what context?

Page 10

1 M. Feuer
2 A. That he had indicated that he had
3 worked with them and with regard to the
4 management of their block, and he thought
5 it would be a good idea for us to include
6 them as we thought about managing their
7 block.
8 Q. So if you were to manage the
9 block for CNO, Fuzion would be the
10 third-party administrator for that
11 potentially?
12 A. No.
13 Q. Okay.
14 What would the role be for
15 Fuzion?
16 A. They were like an intermediary
17 layer between the TPA and us as a
18 reinsurer.
19 Q. And who was the TPA?
20 A. I don't remember their previous
21 name, but it's the company that is now
22 known as the Long-Term Care Group.
23 Q. Did you have a primary point of
24 contact at either SHIP or Fuzion?
25 A. Yes, I did.

Page 11

1 M. Feuer
2 Q. Who was that?
3 A. Brian Wegner.
4 Q. Do you recall the first time you
5 ever met Mr. Wegner?
6 A. I do. Not particularly, but I
7 remember meeting with him, yes.
8 Q. Where was it?
9 A. It was -- to the best of my
10 recollection, it was in his offices in
11 Indiana.
12 Q. And was anyone there other than
13 you and Mr. Wegner?
14 A. To the best of my recollection, I
15 think Rick Hodgdon, one of my employees. I
16 don't recall if other people were there as
17 well.
18 Q. Do you remember the timeframe of
19 this first meeting?
20 A. It was well prior to us doing a
21 transaction with CNO.
22 Q. Sometime in 2013?
23 A. Yes.
24 Q. And again, with regard to names,
25 we're referring to CNO. Ultimately your

Page 12

1 M. Feuer
2 deal was with two of CNO's companies, BCLIC
3 and WNIC, is that correct?
4 A. That's correct.
5 Q. Okay.
6 And what was Mr. Hodgdon's role?
7 A. He was our chief underwriter.
8 Q. And when you say "our," he was an
9 employee of Beechwood?
10 A. He was going to be an employee of
11 Beechwood.
12 Q. Okay.
13 At the time back in 2013 when you
14 first met with Mr. Wegner, was Mr. Hodgdon
15 an employee of Platinum?
16 A. I couldn't tell you.
17 Q. Was he ever an employee of
18 Platinum?
19 A. There was a small time in which
20 he was an employee of Platinum.
21 Q. When you first met with
22 Mr. Wegner, would it be correct to say that
23 he was trying to solicit you so that you
24 would hire Fuzion?
25 A. Can you repeat that question?

Page 13

1 M. Feuer
2 Q. Sure.
3 When you first met with
4 Mr. Wegner, would it be correct to say that
5 he was essentially soliciting you and
6 trying to persuade you to use Fuzion in the
7 future?
8 A. That would be accurate.
9 Q. And I take it that you ultimately
10 did decide to hire Fuzion?
11 A. Yes, I did.
12 Q. Why?
13 A. Because they provided a service
14 that I thought was very necessary and in
15 our quest to manage a large block of
16 long-term care.
17 Q. And what did you or anyone at
18 Beechwood, to your knowledge, do to
19 familiarize yourself with SHIP and Fuzion
20 before you hired them?
21 A. I spent a lot of time with Brian
22 in trying to understand his business model.
23 Q. Anything else?
24 A. I spent a lot of time talking
25 with CNO and understanding what their firm

Page 14

1 M. Feuer
2 was performing for them.
3 Q. Anything else?
4 A. I'm sure that there were many,
5 many conversations and dialogue around
6 their capabilities and what they could do
7 for our block with a number of my folks.
8 Q. And just to be clear, my question
9 was what you did, and to your understanding
10 what anyone on behalf of Beechwood did.
11 Anything else?
12 A. I can speak to what I did. I can
13 speak to what I think my folks did. What I
14 did was, that I certainly spent a lot of
15 time with Brian, getting to know him,
16 getting to know his firm, and I definitely
17 spent time with Fred in better
18 understanding what it is that they provided
19 for him and how they would add value to our
20 relationship as well.
21 Q. Okay.
22 And do you have an understanding
23 of anything that anyone other than you did
24 for Beechwood?
25 A. Like I said, to the best of my

Page 15

1 M. Feuer
2 recollection, there were many conversations
3 and dialogues in that regard. I can't
4 recall exactly and when and what that
5 included.
6 Q. Did Beechwood hire any third
7 party to investigate or perform diligence
8 on either Fuzion or SHIP?
9 A. I know that I personally didn't.
10 I can't tell you whether my folks did or
11 not at this time, I don't remember.
12 Q. But you don't recall seeing any
13 third-party diligence or investigation?
14 A. I don't.
15 Q. SHIP's been described as a
16 reinsurance company in runoff. Do you have
17 an understanding of what that term means?
18 A. Yes.
19 Q. And what is it?
20 A. They're not open to new business.
21 Q. And you understood that back in
22 2013?
23 A. I did.
24 Q. In 2013, what was your
25 understanding of Fuzion and SHIP's

Page 16

1 M. Feuer
2 relationship to CNO?
3 A. I don't know what relationship
4 Fuzion had with CNO. The relationship that
5 I was under the understanding that SHIP had
6 with CNO is that they had taken on a very
7 large block of run off business from CNO
8 many years before.
9 Q. Are you familiar with something
10 called the Senior Healthcare Oversight
11 Trust?
12 A. No, I'm sorry.
13 Q. Did you understand that SHIP was
14 a regulated insurer?
15 A. I did.
16 Q. Who were the policyholders that
17 were covered by the reserves that SHIP was
18 holding?
19 A. Long-term care throughout many,
20 many states around the United States.
21 Q. Okay.
22 And do you know who Paul Lorentz
23 is?
24 A. Yes, I do.
25 Q. Who is he?

Page 17

1 M. Feuer
2 A. He was then the CFO of SHIP.
3 Q. In that 2013-2014 timeframe, how
4 frequently did you interact directly with
5 Mr. Lorentz?
6 A. My primary relationship was with
7 Brian. I don't know if in some of those
8 meetings Paul was present, but I don't
9 recall interacting with him a great deal in
10 2013.
11 Q. And that's really what I was
12 getting at. In 2013-14, you would say that
13 your primary point of contact was Brian
14 Wegner.
15 A. For me. For my group, I'm sure
16 they dealt with some of his people.
17 Q. And did Brian Wegner continue to
18 be your primary point of contact through
19 2016?
20 A. For me, me.
21 Q. At some point in time in 2013 or
22 2014 did Beechwood and SHIP begin to talk
23 about the possibility of Beechwood doing a
24 reinsurance deal for SHIP?
25 A. To the best of my recollection,

Page 18

1 M. Feuer
2 no.
3 Q. Did you have conversations on
4 behalf of Beechwood with Mr. Wegner about
5 investing some of SHIP's assets?
6 A. He asked us, he came to me and
7 asked us if we could help him out with
8 regard to investing some of his assets.
9 Q. And prior to those conversations
10 about investing SHIP's assets, you don't
11 recall consideration by Beechwood of trying
12 to do a reinsurance deal?
13 A. For SHIP?
14 Q. For SHIP.
15 A. I don't -- I don't recall.
16 Q. During your -- well, strike that.
17 We know that eventually the first
18 IMA, Investment Management Agreement, with
19 SHIP and Beechwood was signed in May of
20 2014.
21 Can you describe for me your
22 recollections about the discussions leading
23 up to that first IMA?
24 A. I can talk to perhaps -- you
25 know, I'm sure there were many

Page 19

1 M. Feuer
2 conversations that occurred prior to that
3 IMA -- I can speak mostly to the
4 recollection I have about how Brian
5 approached me and asked me if we would
6 consider investing some of his assets.
7 Q. Okay. That's what I'm asking you
8 to do.
9 A. He indicated that he obviously
10 had long-tailed liabilities and with
11 interest rates where they were in the
12 Treasury market -- I think back then it was
13 hovering about 100 basis points, if not
14 less -- that he really needed help with
15 regard to investing his basket assets to
16 ensure that his assets and liabilities
17 would match.
18 Q. In 2014, when you were having
19 these conversations with Mr. Wegner about
20 an Investment Management Agreement, what
21 was Beechwood's relationship with Platinum
22 Partners or any of its principals?
23 A. I didn't think I had a
24 relationship with Platinum Partners.
25 Q. Did you have a relationship with

Page 20

1 M. Feuer
2 Mark Nordlicht?
3 A. Can you define what you mean by
4 "relationship"?
5 Q. I'm asking you to define it. Did
6 you have a relationship with Mark
7 Nordlicht?
8 A. I knew Mark Nordlicht.
9 Q. Was Mark Nordlicht involved as an
10 owner of Beechwood, any Beechwood entity?
11 A. He was not involved as an owner.
12 Q. Were family members of Mark
13 Nordlicht involved as owners of any
14 Beechwood entities?
15 A. They were owners. They were not
16 involved.
17 Q. Who were the owners?
18 A. The owners were minority members
19 of family members of Mr. Nordlicht.
20 Q. What family members?
21 A. I think his wife and some of his
22 children.
23 Q. Did you have business
24 relationships with any of Mr. Nordlicht's
25 children or his wife?

Page 21

1 M. Feuer
2 A. I did not.
3 Q. Okay.
4 Did Mr. Huberfeld have an
5 ownership interest in any Beechwood
6 entities?
7 A. He personally did not.
8 Q. Did Mr. Huberfeld's wife or
9 children have ownership interest in any
10 Beechwood entities?
11 A. Through minority trusts, yes.
12 Q. Did you have any business
13 relationship with Mr. Huberfeld's wife or
14 children?
15 MR. HARRIS: When you say "you,"
16 you mean personally, a personal
17 relationship, is that what you mean?
18 MR. MATHIAS: Personal business
19 relationship, yes.
20 MR. HARRIS: You mean Mr. Feuer
21 personally?
22 MR. MATHIAS: Well, Mr. Feuer was
23 the CEO of Beechwood, so that would
24 encompass Beechwood.
25 MR. HARRIS: Well, no. You've

Page 22

1 M. Feuer
2 got to be clear. If you mean him
3 personally or if you mean all of
4 Beechwood.
5 MR. MATHIAS: Let's -- I disagree
6 with that, but let's do it this way.
7 BY MR. MATHIAS:
8 Q. Did you on behalf of Beechwood or
9 in any other capacity have a business
10 relationship with Mr. Huberfeld's wife or
11 children?
12 A. I did not.
13 Q. Okay.
14 A. To the best of my knowledge, I
15 did not.
16 Q. Did Mr. Bodner have an ownership
17 interest in any Beechwood entity?
18 A. He did not.
19 Q. Did Mr. Bodner's wife and
20 children have an ownership interest in
21 Beechwood entities?
22 A. Through minority trusts, yes.
23 Q. Did you personally or on behalf
24 of Beechwood or in any capacity have a
25 business relationship with Mr. Bodner's

Page 23

1 M. Feuer
2 wife or Mr. Bodner's children?
3 A. Other than the Beechwood --
4 Q. Other than any ownership interest
5 they had.
6 A. None.
7 Q. Okay.
8 How did you come to be put in
9 contact with the wife and children of
10 Mr. Nordlicht, Mr. Huberfeld and Mr. Bodner
11 in connection with their ownership interest
12 in Beechwood?
13 A. Through Mr. Huberfeld.
14 Q. In 2014, what was your business
15 relationship with Mr. Nordlicht?
16 A. In 2014?
17 Q. 2014, when you were talking to
18 Mr. Wegner about the first IMA.
19 A. In 2014, when I was talking with
20 Mr. Wegner about the first IMA. By then,
21 Beechwood had been formed. So in other
22 words, Beechwood largely was formed just
23 prior to the CNO transaction, which
24 consummated towards the end of February.
25 So are you speaking prior to that

Page 24

1 M. Feuer
2 or are you speaking subsequent to that?
3 Q. Up to that point -- let's be even
4 more specific.
5 A. Sure.
6 Q. Up to that point in time, say
7 April of 2014 when you're talking about the
8 first IMA with SHIP, what involvement, if
9 any, had Mr. Nordlicht, Mark Nordlicht, had
10 with regard to Beechwood's business in any
11 capacity?
12 A. He was someone who we bounced
13 many ideas off of throughout the formation
14 process and through the beginnings of
15 Beechwood's history.
16 Q. That's it?
17 A. I know how I worked with him.
18 I'm trying to include, as you asked, the
19 Beechwood entities in that regard. So I'm
20 thinking.
21 To the best of my knowledge, I
22 threw many ideas that I thought he had
23 expertise about to solicit his advice and
24 guidance on a number of formation and
25 investment ideas.

Page 25

1 M. Feuer
2 Q. What about Mr. Huberfeld, same
3 question, up through April of 2014, what
4 had his role been in any capacity in the
5 creation and development of Beechwood?
6 A. So he was the person -- he was my
7 counterparty with regard to negotiating our
8 deal.
9 Q. When you say "our deal," what are
10 you referring to?
11 A. Our -- my -- how Beechwood's
12 capital stack would work and what ownership
13 shares and economic shares we would each
14 have in that environment.
15 Q. How did you know Mr. Huberfeld?
16 A. He was a member of my community
17 and he was involved in some of the
18 charities that I sit on the board of.
19 Q. How long had you known him?
20 A. I really did not know him well.
21 I moved into the neighborhood roughly 12
22 years ago, so like 2008, I guess. He was a
23 large member of our community. So I knew
24 of him. I really wasn't friendly with him,
25 so I can't tell you exactly when I started,

Page 38

1 M. Feuer
2 Between that investment and say
3 April of 2014, did you invest anymore money
4 in any Platinum fund or Platinum entity?
5 A. The only thing that I recall I
6 invested in is Mr. Huberfeld approached me
7 with some investment in some foreign
8 exchange platform. I made -- to the best
9 of my recollection, I made a \$50,000
10 investment into that investment.
11 But I think that happened in
12 2013. I don't think there was anything
13 between the investment that I made in the
14 PPCO fund in that time.
15 Q. And in connection with your
16 investment in the approximate. PPCO fund
17 or following up on that investment over the
18 next years, you didn't meet Mr. Nordlicht
19 or Mr. Levy?
20 A. No.
21 Q. Did you remain in the PPCO fund
22 through 2014?
23 A. I did.
24 Q. Did there come a time where you
25 cashed out of that PPCO fund?

Page 39

1 M. Feuer
2 A. I have not.
3 Q. The Beechwood Capital name, did
4 that come from the street where your home
5 is?
6 A. It did.
7 Q. Okay.
8 Now I want to switch gears a
9 little bit and go back and talk about the
10 idea for a Beechwood reinsurance company.
11 A. Sure.
12 Q. Who are what became known as
13 Beechwood.
14 A. Sure.
15 Q. How did that idea first arise?
16 A. So we -- when we were CEO of
17 Marsh -- when we, I keep referring to us as
18 we, I tend to do that with Scott -- but
19 when I was CEO of Marsh, I got to see a lot
20 of risk and we probably wrote in the last
21 year that I was there some \$35 billion of
22 premium. One of the things that was very
23 apparent to us is that there was no claims
24 management that was happening with regard
25 to many risk categories. There was merely

Page 40

1 M. Feuer
2 claims administration.
3 We took that concept after we
4 left Marsh to try to see, like I said,
5 within the Worker's Comp space, if our
6 thesis actually held water. It did. And
7 we were constantly looking for larger pools
8 of risk in which to put that idea against.
9 Q. And what was different about the
10 idea in the 2013 timeframe that you were
11 going to look at long-term care?
12 A. We were leaving -- yeah, we were
13 going to go to a much larger pool of risk
14 category of long-term care, or life and
15 health, as a class, which includes
16 long-term care and annuity, as opposed to
17 staying in the GL/PL side of things, which
18 was largely Workers' Comp.
19 Q. So is it your testimony that the
20 idea for what became Beechwood Re was your
21 idea?
22 A. It was a combination of mine and
23 my partner's.
24 Q. You and Mr. Taylor?
25 A. Yes.

Page 41

1 M. Feuer
2 Q. And anyone else?
3 A. I mean, we may have gotten advice
4 along the way from, you know, that Cayman
5 Regulatory Authority or the Bermudian
6 Regulatory Authority with regard to where
7 large pools of risk is. But the idea of,
8 to attempt to bend the claims curve was
9 certainly something that I think myself and
10 Mr. Taylor dissolved together.
11 Q. How did Mr. Levy become involved
12 in what became Beechwood Re?
13 A. After we approached -- after I
14 approached Mr. Huberfeld with regard to his
15 interest in capitalizing our business and
16 he expressed interest in that regard and we
17 started talking about that, he asked us to
18 work with Mr. Levy as we were forming and
19 Flushing out the idea of the organization.
20 Q. In what capacity?
21 A. He was on the investment side.
22 Q. I apologize. I may have asked
23 you this before, but I don't think I did.
24 Prior to Mr. Huberfeld
25 introducing you to Mr. Bodner, had you had

Page 42

1 M. Feuer

2 any contact with him?

3 A. I never met him.

4 Q. So you met both Mr. Nordlicht and

5 Mr. Bodner through Mr. Huberfeld?

6 A. Yes.

7 Q. And that would have been in the

8 2013 timeframe, you believe?

9 A. Yes.

10 Q. Do you remember the first meeting

11 that you had, or face-to-face meeting that

12 you had with either of those gentlemen?

13 A. With Mr. Nordlicht, I mentioned

14 before to you that my first meeting was

15 with Alpha RE.

16 Q. So you are confident that's the

17 first time you met Mark Nordlicht?

18 A. To the best of my recollection,

19 yes.

20 Q. What about Mr. Bodner?

21 A. Mr. Bodner, don't recall the

22 first meeting that I had with him.

23 Q. And is it your testimony that you

24 and Mr. Taylor had the idea for a long-term

25 care reinsurance company that became

Page 43

1 M. Feuer

2 Beechwood and you introduced that idea to

3 Mr. Huberfeld?

4 A. Yes, to the best of my

5 recollection, yes.

6 Q. Is it also your testimony that

7 you introduced that idea to Mr. Nordlicht?

8 A. I can't say -- I know I

9 introduced is to Mr. Huberfeld. I can't

10 say what Mr. Huberfeld did with that or --

11 so I can't say if I introduced this to

12 Mr. Nordlicht or not. I don't recall.

13 Q. But at some point in time you did

14 say that Mr. Nordlicht began to at least

15 consult with you about Beechwood?

16 A. Correct.

17 Q. How did that come to be?

18 A. Well, as we started forming our

19 company, we started, like I said, utilizing

20 Mr. Nordlicht, or at least bouncing ideas

21 off Mr. Nordlicht for his investment

22 expertise. He knew nothing of reinsurance,

23 at least to the best of my knowledge.

24 Q. And at that point in time, you

25 did know that Mr. Nordlicht was the chief

Page 44

1 M. Feuer

2 investment officer of Platinum?

3 A. I did.

4 Q. Okay.

5 Your background is primarily in

6 insurance?

7 A. Financial services.

8 Q. Okay.

9 Do you consider yourself to have

10 expertise in investing?

11 A. I do not.

12 Q. What about Mr. Taylor?

13 A. I can't speak for him. He's

14 worked for me for the last 20 years. He

15 does not have either.

16 Q. Would it be correct to say then

17 that the focus of you and Mr. Taylor, from

18 your understanding in the Beechwood

19 business, was on the reinsurance side?

20 A. It is.

21 Q. Okay.

22 And that the investment side of

23 the business was going to be handled by

24 Mr. Levy, at least initially?

25 A. We weren't sure who that person

Page 45

1 M. Feuer

2 was going to be. It ultimately became

3 Mr. Levy.

4 Q. Okay.

5 And how did you get comfortable

6 with Mr. Levy as that person?

7 A. We spent a lot of time with him

8 through the formation process. We got to

9 know him. And he at least appeared to have

10 a stronghold on the alternative investments

11 category.

12 Q. Just give me your understanding

13 of what that means, alternative investments

14 category.

15 A. What it meant to us was in

16 largely the leveraged loan category.

17 Q. Sometimes what's referred to as

18 privates?

19 A. That's another way of referring

20 to some of the investments we made within

21 that category.

22 Q. Did you know in 2013 and 2014 was

23 Mr. Levy was Mr. Huberfeld's nephew?

24 A. I did.

25 Q. Did you know that Mr. Levy was

<p style="text-align: right;">Page 46</p> <p>1 M. Feuer</p> <p>2 the deputy chief investment officer to</p> <p>3 Mr. Nordlicht at Platinum?</p> <p>4 A. I did.</p> <p>5 Q. When Beechwood did its first</p> <p>6 reinsurance -- did its reinsurance deal</p> <p>7 with CNO, did you understand on the</p> <p>8 investment side that Mr. Levy was going to</p> <p>9 invest some portion of that money with</p> <p>10 Platinum Partners?</p> <p>11 A. I did not.</p> <p>12 Q. When did you become aware of</p> <p>13 that?</p> <p>14 A. We became aware of the fact that</p> <p>15 he did so sometime later after some of</p> <p>16 those investments had taken place.</p> <p>17 Q. You said that transaction began</p> <p>18 in February of 2014?</p> <p>19 A. February 11th or 17th of 2014,</p> <p>20 that's correct.</p> <p>21 MR. HARRIS: You're asking about</p> <p>22 the CNO transaction? Is that what</p> <p>23 you're referring to?</p> <p>24 MR. MATHIAS: Yeah.</p> <p>25 MR. HARRIS: Okay.</p>	<p style="text-align: right;">Page 48</p> <p>1 M. Feuer</p> <p>2 MR. HARRIS: Objection to the</p> <p>3 form of the question.</p> <p>4 BY MR. MATHIAS:</p> <p>5 Q. You may answer.</p> <p>6 A. What does that mean?</p> <p>7 Q. You may answer.</p> <p>8 MR. HARRIS: You can answer the</p> <p>9 question.</p> <p>10 THE WITNESS: Okay.</p> <p>11 A. So Mr. Levy wasn't going to</p> <p>12 manage the overall investment portfolio of</p> <p>13 Beechwood. Mr. Levy was largely tasked</p> <p>14 with investing the small allocation -- or</p> <p>15 the allocation that was given to the</p> <p>16 alternative investments.</p> <p>17 There were other professionals</p> <p>18 that were hired to handle some of the bulk</p> <p>19 of the portfolio which was largely in</p> <p>20 Treasury or Treasury-like investments.</p> <p>21 Q. Okay.</p> <p>22 On that bulk of the portfolio,</p> <p>23 were those people investing through BAM, B</p> <p>24 Asset Manager, or were they investing</p> <p>25 through some other entity?</p>
<p style="text-align: right;">Page 47</p> <p>1 M. Feuer</p> <p>2 A. It happened in February of 2014.</p> <p>3 I don't remember the exact date, but</p> <p>4 sometime in February.</p> <p>5 Q. And you said sometime later you</p> <p>6 learned that some of those investments had</p> <p>7 been in Platinum or Platinum-related</p> <p>8 entities. When did that occur?</p> <p>9 A. I knew that some investments had</p> <p>10 been made in related entities -- related is</p> <p>11 a -- I maybe used the word that I</p> <p>12 thought -- I knew that he had leveraged</p> <p>13 some of his experiences that he had at</p> <p>14 Platinum to invest some of the monies that</p> <p>15 we had in the Beechwood portfolio.</p> <p>16 We learned that he did a lot of</p> <p>17 it in that direction towards the end of</p> <p>18 2014.</p> <p>19 Q. Before turning over the</p> <p>20 investment side of Beechwood's business to</p> <p>21 Mr. Levy, what diligence did you or anyone</p> <p>22 at Beechwood, to your understanding, do on</p> <p>23 him to satisfy yourself that he was an</p> <p>24 appropriate person to invest your client's</p> <p>25 money?</p>	<p style="text-align: right;">Page 49</p> <p>1 M. Feuer</p> <p>2 A. Through the best of my</p> <p>3 recollection through BAM.</p> <p>4 Q. And the chief investment officer</p> <p>5 of BAM, at least initially, was David Levy?</p> <p>6 A. He was.</p> <p>7 Q. But you're saying David Levy's</p> <p>8 focus was on the private investments,</p> <p>9 private loans?</p> <p>10 A. Correct.</p> <p>11 Q. Okay.</p> <p>12 Again, my question stands, what</p> <p>13 did you or anyone at Beechwood, to your</p> <p>14 understanding, do to satisfy yourself that</p> <p>15 Mr. Levy was an appropriate person to be</p> <p>16 the chief investment officer?</p> <p>17 A. So like I said before, A, we</p> <p>18 spent a lot of time with Mr. Levy; B, he</p> <p>19 certainly shared with us his experience</p> <p>20 that he had at Platinum, and I don't recall</p> <p>21 if he was at other organizations and how he</p> <p>22 fared in that regard; C, we certainly got a</p> <p>23 lot of feedback from Mr. Nordlicht and</p> <p>24 other folks at Platinum with regard to</p> <p>25 Mr. Levy's performance; and D, we brought</p>

<p style="text-align: right;">Page 70</p> <p>1 M. Feuer</p> <p>2 A. I don't know where he went, but I</p> <p>3 heard that he's gone back to Platinum, yes.</p> <p>4 Q. To your knowledge, after Mr. Levy</p> <p>5 formally left Beechwood, did he have any</p> <p>6 role in the investment of the Beechwood</p> <p>7 client money after that?</p> <p>8 A. To my knowledge, no.</p> <p>9 MR. HARRIS: We can take a break</p> <p>10 whenever you --</p> <p>11 MR. MATHIAS: Couple more</p> <p>12 minutes.</p> <p>13 BY MR. MATHIAS:</p> <p>14 Q. Who replaced Mr. Levy as CIO of</p> <p>15 BAM?</p> <p>16 A. Ultimately, a gentleman by the</p> <p>17 name of Daniel Saks.</p> <p>18 Q. When you say "ultimately," was</p> <p>19 there a gap?</p> <p>20 A. There might have been a small gap</p> <p>21 between one coming and one going.</p> <p>22 Q. Where had Mr. Saks been employed</p> <p>23 prior to coming to Beechwood?</p> <p>24 A. He had been employed by Platinum</p> <p>25 for a short period.</p>	<p style="text-align: right;">Page 72</p> <p>1 M. Feuer</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 9:41 a.m. We are back on the record.</p> <p>4 BY MR. MATHIAS:</p> <p>5 Q. I want to go back to Exhibit 277</p> <p>6 that we were discussing. Finish up on</p> <p>7 that.</p> <p>8 Number 7 says, "All profits split</p> <p>9 50/50 to each group."</p> <p>10 Can we agree that in the context</p> <p>11 of this e-mail that each group would mean</p> <p>12 the Nordlicht Group and the Feuer Group?</p> <p>13 A. That seems logical, but I don't</p> <p>14 know what was in his head when he wrote</p> <p>15 this e-mail.</p> <p>16 Q. When you received it, was it your</p> <p>17 understanding that the 50/50 split referred</p> <p>18 to what Mr. Huberfeld calls the Nordlicht</p> <p>19 Group and the Feuer Group?</p> <p>20 A. Like I said, I don't recall</p> <p>21 receiving this e-mail, but it seems logical</p> <p>22 that is what he meant.</p> <p>23 Q. Did that, in fact, occur, that</p> <p>24 you reached an agreement to split profits</p> <p>25 50/50?</p>
<p style="text-align: right;">Page 71</p> <p>1 M. Feuer</p> <p>2 Q. Okay.</p> <p>3 And was he recommended to you by</p> <p>4 anyone at Platinum?</p> <p>5 A. He was.</p> <p>6 Q. By whom?</p> <p>7 A. By Mr. Huberfeld.</p> <p>8 Q. Okay.</p> <p>9 Only Mr. Huberfeld, not</p> <p>10 Mr. Nordlicht as well?</p> <p>11 A. I don't recall.</p> <p>12 Q. How long did Mr. Saks -- strike</p> <p>13 that.</p> <p>14 What was Mr. Saks' title when he</p> <p>15 was at Platinum?</p> <p>16 A. I don't recall.</p> <p>17 Q. How long did Mr. Saks serve as</p> <p>18 your CIO?</p> <p>19 A. I think for about a year.</p> <p>20 MR. MATHIAS: All right. Let's</p> <p>21 take a break.</p> <p>22 THE VIDEOGRAPHER: Going off the</p> <p>23 record. The time is 9:32 a.m.</p> <p>24 (Recess taken from 9:32 a.m. to</p> <p>25 9:41 a.m.)</p>	<p style="text-align: right;">Page 73</p> <p>1 M. Feuer</p> <p>2 A. That did not.</p> <p>3 Q. What happened in terms of profit</p> <p>4 split?</p> <p>5 A. In terms of profit split, I think</p> <p>6 Scott and I received something shy of 50</p> <p>7 percent.</p> <p>8 Q. And who received more than 50</p> <p>9 percent?</p> <p>10 A. The minority holders -- just,</p> <p>11 like I said, with regard to profits.</p> <p>12 Q. When you said the minority</p> <p>13 holders, who do you mean by that?</p> <p>14 A. The minority trusts that were the</p> <p>15 investment vehicles for the capital that</p> <p>16 was put into our company.</p> <p>17 Q. Where the beneficiaries were the</p> <p>18 family members of Mr. Nordlicht,</p> <p>19 Mr. Huberfeld and Mr. Bodner?</p> <p>20 A. That is correct.</p> <p>21 Q. You refer to them as the minority</p> <p>22 interest.</p> <p>23 A. I do.</p> <p>24 Q. At all times, did they own just a</p> <p>25 minority of Beechwood Re?</p>

Page 74

1 M. Feuer
2 A. They each owned minority
3 interests but they never -- the voting of
4 Beechwood Re was controlled by myself and
5 Mr. Taylor.
6 Q. But as a group, the Nordlicht
7 family members, the Huberfeld family
8 members and the Bodner family members owned
9 more than 50 percent of Beechwood Re?
10 A. I think a little bit more, that's
11 correct.
12 MR. HARRIS: Owned or voted?
13 THE WITNESS: Not voted. Owned.
14 Economic interest, they owned a little
15 bit more than 50 percent. From a vote
16 perspective, they owned less than 50
17 percent.
18 BY MR. MATHIAS:
19 Q. And then number 8, "Nordlicht
20 Group to retain all fees generated by
21 investments in Platinum funds."
22 Did that become your
23 understanding?
24 A. I don't think so.
25 Q. Would you agree that at least as

Page 75

1 M. Feuer
2 of March 20th of 2013 Mr. Huberfeld is
3 contemplating that fees would be generated
4 by investments in Platinum funds?
5 A. I can't speak to what he was
6 contemplating, but he seems to be
7 indicating that in this e-mail.
8 Q. And can we agree that on March
9 20th at least you didn't tell him that was
10 contrary, to your understanding?
11 A. I did not tell him that's
12 contrary, as this was the beginnings of a
13 long protracted negotiation.
14 Q. Are you aware, Mr. Feuer, of any
15 e-mail or other document that shows changes
16 to these eight terms?
17 A. I wouldn't -- I don't recall.
18 Q. So you're not aware of any
19 particular document?
20 A. Like I said, I don't know if
21 there were or there weren't. I don't
22 recall.
23 Q. In May of 2014, Beechwood
24 Bermuda, BBIL -- that was one of the
25 Beechwood entities, is that correct?

Page 76

1 M. Feuer
2 A. From my understanding, yes.
3 Q. All right. Let me start my
4 question over.
5 In May of 2014, BBIL signed the
6 first IMA with SHIP. You're aware of that?
7 A. I'm not aware of when it was
8 signed.
9 Q. I'll represent to you that it was
10 in May.
11 A. Okay.
12 Q. You're aware that that was the
13 first IMA?
14 A. If that's what the documents say.
15 Q. Okay.
16 And then a month later, Beechwood
17 Re entered into an IMA with SHIP.
18 Are you aware of that?
19 A. If that's what happened.
20 Q. Do you know at least, whether you
21 know the dates or not, you know that BBIL
22 and Beechwood Re entered into IMAs?
23 A. I don't recall the specifics of
24 what company entered into an IMA with SHIP.
25 I know that we entered into an IMA -- we

Page 77

1 M. Feuer
2 entered into an investment relationship
3 with SHIP.
4 Q. I'll represent to you that the
5 first IMA was with BBIL in May of 2014.
6 What was your role in the
7 negotiation of that IMA?
8 A. To the best of my recollection,
9 very little.
10 Q. Did you read it?
11 A. The IMA?
12 Q. Yes.
13 A. No, I did not.
14 Q. As the CEO of BBIL, what did you
15 do to assure that your company was
16 fulfilling its obligations under the IMA?
17 MR. HARRIS: When?
18 MR. MATHIAS: I'll take at any
19 time.
20 A. Like as the CEO of our company, I
21 would not be involved in the management of
22 the underlying IMA, sir.
23 Q. Who was?
24 A. We would have had professionals
25 that we would have had to deal with the

<p style="text-align: right;">Page 110</p> <p>1 M. Feuer</p> <p>2 Eric Johnson kept stating in the meeting</p> <p>3 was how long his team had been</p> <p>4 together/continuity.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Mr. Hodgdon says, "At the risk of</p> <p>8 Platinum, Bre needs to show experience and</p> <p>9 continuity of investment strategy."</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. Do you have any understanding of</p> <p>13 what Mr. Hodgdon or what you understood</p> <p>14 Mr. Hodgdon to mean when he said at the</p> <p>15 risk of Platinum?</p> <p>16 A. I don't know what Mr. Hodgdon was</p> <p>17 thinking at the time that he wrote that</p> <p>18 statement.</p> <p>19 Q. And sitting here today, you don't</p> <p>20 have an understanding of what that meant in</p> <p>21 the context of Beechwood?</p> <p>22 A. I can try to speculate if you'd</p> <p>23 like.</p> <p>24 Q. I don't want you to speculate.</p> <p>25 In November of 2013, was</p>	<p style="text-align: right;">Page 112</p> <p>1 M. Feuer</p> <p>2 Q. I will take any time.</p> <p>3 A. After 2014, after the meeting</p> <p>4 that I discussed with you with regard to</p> <p>5 CNO we certainly started diversifying</p> <p>6 ourselves or attempted to diversify</p> <p>7 ourselves within our risk bucket.</p> <p>8 Q. But that's talking about</p> <p>9 diversifying. I'm asking you whether,</p> <p>10 sitting here today, it's your testimony</p> <p>11 that at no point did Beechwood have a</p> <p>12 concerted effort to de-emphasize its</p> <p>13 connections to Platinum Partners and</p> <p>14 Platinum Partners' related individuals or</p> <p>15 entities?</p> <p>16 MR. HARRIS: Objection.</p> <p>17 MR. MATHIAS: Sure.</p> <p>18 A. I recall talking to my clients</p> <p>19 about Beechwood and what we were trying to</p> <p>20 build. I don't remember being -- I don't</p> <p>21 remember the inference that you're</p> <p>22 suggesting that I was going to emphasize or</p> <p>23 de-emphasize anything related to Platinum.</p> <p>24 Q. Okay.</p> <p>25 During discussions between</p>
<p style="text-align: right;">Page 111</p> <p>1 M. Feuer</p> <p>2 Beechwood trying to de-emphasize its</p> <p>3 connections to Platinum?</p> <p>4 A. I don't recall ever not setting</p> <p>5 forth the way things were. So I'm not sure</p> <p>6 what you mean by that question.</p> <p>7 Q. Okay.</p> <p>8 So is it your testimony that at</p> <p>9 no point in time was Beechwood trying to</p> <p>10 minimize its relationship with Platinum to</p> <p>11 its clients?</p> <p>12 A. We used what we used and we made</p> <p>13 that visible to our clients. You're saying</p> <p>14 that there was this relationship. We built</p> <p>15 our company the way we built our company</p> <p>16 and that's what we shared with our clients.</p> <p>17 Our company wasn't going to be Platinum, so</p> <p>18 I wasn't putting my Platinum on a placard.</p> <p>19 Q. I'm just asking questions. Your</p> <p>20 testimony is that there was never a</p> <p>21 concerted effort within Beechwood to</p> <p>22 de-emphasize its connections to Platinum or</p> <p>23 Platinum-related entities?</p> <p>24 A. I think after 2014 -- do you want</p> <p>25 to give me a specific timeframe?</p>	<p style="text-align: right;">Page 113</p> <p>1 M. Feuer</p> <p>2 Beechwood and SHIP leading up to the first</p> <p>3 IMA, which I've told you was in May of</p> <p>4 2014, to your knowledge, did anyone at</p> <p>5 Beechwood tell anyone at SHIP anything</p> <p>6 about Platinum?</p> <p>7 A. I definitely had a conversation</p> <p>8 with Brian Wegner and introducing my team</p> <p>9 and where they came from.</p> <p>10 Q. So sitting here today, you have a</p> <p>11 specific recollection that you told Brian</p> <p>12 Wegner that your team was coming from</p> <p>13 Platinum?</p> <p>14 A. Not my whole team, but that</p> <p>15 individuals on my team and certainly on the</p> <p>16 investment side, where their backgrounds</p> <p>17 were and where they came from.</p> <p>18 Q. I'm going to ask you to be as</p> <p>19 specific as you possibly can be in your</p> <p>20 recollections of what you told him and what</p> <p>21 individuals you named as coming from</p> <p>22 Platinum to Beechwood.</p> <p>23 A. Brian Wegner had met every member</p> <p>24 of my team numerous times. Numerous times.</p> <p>25 So I'm being very specific to answer your</p>

<p style="text-align: right;">Page 114</p> <p>1 M. Feuer</p> <p>2 question.</p> <p>3 Q. Okay, go ahead, go ahead.</p> <p>4 A. Brian Wegner had spent a lot of</p> <p>5 time in my offices in New York. We spent a</p> <p>6 lot of time in his offices in Indiana.</p> <p>7 Brian Wegner had met every single</p> <p>8 individual of my team. He had met them.</p> <p>9 He had gotten their backgrounds on them.</p> <p>10 He had heard about our investment</p> <p>11 strategies. He had sat through meetings of</p> <p>12 such. That I can say specifically.</p> <p>13 Beyond that, I can't tell you a</p> <p>14 specific conversation that I had with</p> <p>15 regard to this topic.</p> <p>16 Q. So Wegner met a number of people.</p> <p>17 A. All of my people.</p> <p>18 Q. All your people. Who had come</p> <p>19 from Platinum.</p> <p>20 What is it can you point to to</p> <p>21 demonstrate that Mr. Wegner was told or</p> <p>22 even was aware that those people came from</p> <p>23 Platinum?</p> <p>24 MR. HARRIS: Objection.</p> <p>25 BY MR. MATHIAS:</p>	<p style="text-align: right;">Page 116</p> <p>1 M. Feuer</p> <p>2 Q. Okay.</p> <p>3 Anyone else where you have that</p> <p>4 specific recollection?</p> <p>5 A. Since you're asking me for</p> <p>6 specifics --</p> <p>7 Q. Right.</p> <p>8 A. -- I can't answer that question.</p> <p>9 Q. Okay, fair enough.</p> <p>10 And the question -- so you</p> <p>11 focused on employees there, but the</p> <p>12 original question was about anything that</p> <p>13 you recall where during the negotiations of</p> <p>14 the first IMA anyone related to Beechwood</p> <p>15 told anyone related to SHIP anything about</p> <p>16 Beechwood's connections to Platinum.</p> <p>17 So we talked about employees</p> <p>18 coming over. Can you think of anything</p> <p>19 else?</p> <p>20 A. Mr. Wegner spent a lot of time in</p> <p>21 my office. So, therefore it's very tough</p> <p>22 for me to pin down a single conversation.</p> <p>23 We spent a lot of time in his offices --</p> <p>24 when I say "we," me and members of my</p> <p>25 team -- spent a lot of time in Indiana.</p>
<p style="text-align: right;">Page 115</p> <p>1 M. Feuer</p> <p>2 Q. You may answer.</p> <p>3 A. What can I point to?</p> <p>4 Q. Whether you remember a specific</p> <p>5 communication, a conversation, a document,</p> <p>6 anything. I want you to to be as specific</p> <p>7 as you can, because there is important.</p> <p>8 A. Okay. I'm trying.</p> <p>9 Q. Information -- anything you could</p> <p>10 tell me where you remember that a person</p> <p>11 was identified as a Platinum employee to</p> <p>12 Mr. Wegner.</p> <p>13 MR. HARRIS: Objection.</p> <p>14 BY MR. MATHIAS:</p> <p>15 Q. Or a former Platinum employee.</p> <p>16 A. I specifically remember</p> <p>17 introducing my team to Mr. Wegner, which</p> <p>18 included Mr. Levy where all of us,</p> <p>19 including Mr. Wegner's people, went through</p> <p>20 their backgrounds and what they were</p> <p>21 bringing to the table.</p> <p>22 Q. So you have a recollection that</p> <p>23 Mr. Levy was introduced as a former</p> <p>24 Platinum person?</p> <p>25 A. I do.</p>	<p style="text-align: right;">Page 117</p> <p>1 M. Feuer</p> <p>2 And he and his team, which included Paul</p> <p>3 and some other folks, spent a lot of time</p> <p>4 in our offices.</p> <p>5 During those meetings, we had,</p> <p>6 Mr. Wegner had the chance to meet all of</p> <p>7 our employees, get to know them, get to</p> <p>8 know their backgrounds, get to understand</p> <p>9 our investment strategies and what we were</p> <p>10 doing in that regard on many occasions.</p> <p>11 If you're asking me to pin down a</p> <p>12 specific conversation, I can't.</p> <p>13 Q. And that is exactly what I'm</p> <p>14 asking you to do.</p> <p>15 A. I can't.</p> <p>16 Q. And I have a limited amount of</p> <p>17 time, so I appreciate you trying to be</p> <p>18 helpful, but I want you to try to answer my</p> <p>19 questions.</p> <p>20 A. This is a long time ago, so I'm</p> <p>21 doing the best that I can.</p> <p>22 Q. Okay.</p> <p>23 Do you have a specific</p> <p>24 recollection of telling Mr. Wegner prior to</p> <p>25 the first IMA that Platinum Partners</p>

<p style="text-align: right;">Page 222</p> <p>1 M. Feuer</p> <p>2 tell you that Mr. Wegner had said to me</p> <p>3 several times as the investment portfolio</p> <p>4 that he had, had an Agera transaction in</p> <p>5 it, and he really appreciated that</p> <p>6 investment, he liked it very, very much,</p> <p>7 and he indicated to us that if we ever had</p> <p>8 the opportunity to do more of it, that he</p> <p>9 would like to do so.</p> <p>10 Q. And was anyone else from SHIP</p> <p>11 involved in that meeting?</p> <p>12 A. I am not sure if Mr. Wegner</p> <p>13 pulled in Paul Lorentz, but that would be a</p> <p>14 possibility.</p> <p>15 And I also want to -- just</p> <p>16 thinking to your question, again, you</p> <p>17 mentioned that we went to them to solicit</p> <p>18 them of doing this transaction -- we</p> <p>19 weren't in constant talks with Brian and he</p> <p>20 often times would impose upon us -- or not</p> <p>21 "impose" is the wrong word -- he would</p> <p>22 oftentimes ask us what more can we be doing</p> <p>23 together to help him obviously with his</p> <p>24 yield and his underlying portfolio. So I</p> <p>25 want to make sure I'm characterizing it</p>	<p style="text-align: right;">Page 224</p> <p>1 M. Feuer</p> <p>2 So I imagine he -- not I</p> <p>3 imagine -- he definitely -- what he was</p> <p>4 instructed and what he agreed was going to</p> <p>5 be utilizing his own independent advisors</p> <p>6 with regard to both valuation and legal.</p> <p>7 We certainly made Duff & Phelps</p> <p>8 and all of its opinions available to him</p> <p>9 and we certainly allowed his legal counsel</p> <p>10 to be in communication with our legal</p> <p>11 counsel. But this went over a multi-month</p> <p>12 period, so I'm confident that Mr. Wegner</p> <p>13 was well-informed with regard to what he</p> <p>14 was buying and what values it was.</p> <p>15 Q. When you say we certainly made</p> <p>16 Duff & Phelps and all of its opinions</p> <p>17 available to him, what do you base that on?</p> <p>18 A. I base that on, you know, our</p> <p>19 communication and what we agreed we would</p> <p>20 do.</p> <p>21 Q. You have a specific recollection</p> <p>22 of someone at Beechwood sending Duff &</p> <p>23 Phelps opinions to either SHIP or</p> <p>24 Mr. Wegner?</p> <p>25 A. I have specific recollections of</p>
<p style="text-align: right;">Page 223</p> <p>1 M. Feuer</p> <p>2 appropriately.</p> <p>3 Q. You were saying we were in</p> <p>4 constant talks with Brian. You mean you</p> <p>5 personally or other people at Beechwood?</p> <p>6 A. I'm sure my organization -- I can</p> <p>7 speculate or I can tell you what I thought</p> <p>8 was going on within my company. I can</p> <p>9 speak specifically with regard to my</p> <p>10 conversations with Mr. Wegner.</p> <p>11 Mr. Wegner was always looking for</p> <p>12 investments that would help him with the</p> <p>13 yield of his underlying portfolio and</p> <p>14 utilizing his basket in that regard.</p> <p>15 Q. Do you have any personal</p> <p>16 knowledge that would indicate to you that</p> <p>17 Mr. Wegner, when he agreed to invest in the</p> <p>18 June 2016 Agera AGH parent transaction,</p> <p>19 understood that the value of the interest</p> <p>20 he was buying was worth far more than what</p> <p>21 was being paid?</p> <p>22 A. Mr. Wegner agreed to get his own</p> <p>23 independent valuation as well as utilize</p> <p>24 his own counsel, because of the size of the</p> <p>25 transaction.</p>	<p style="text-align: right;">Page 225</p> <p>1 M. Feuer</p> <p>2 Mr. Wegner asking if we could get him</p> <p>3 started while he gets his valuation firms</p> <p>4 and his legal firms going. Therefore, I</p> <p>5 have specific recollection of him receiving</p> <p>6 all and any information that he requested</p> <p>7 in that regard.</p> <p>8 Q. Do you have any recollection that</p> <p>9 either Mr. Wegner or Mr. Lorentz in the</p> <p>10 lead-up to the June 8-9 transaction</p> <p>11 involving Agera expressed concern that SHIP</p> <p>12 was investing too much by investing \$50</p> <p>13 million?</p> <p>14 A. I don't have recollection of</p> <p>15 that. I can tell you ultimately Brian was</p> <p>16 the one who decided what number he wanted</p> <p>17 to do. If he wanted to do less, he could</p> <p>18 have done less. No one was twisting his</p> <p>19 arm to do a particular number if that's</p> <p>20 what you're asking me.</p> <p>21 Q. How did you learn about Murray</p> <p>22 Huberfeld being arrested?</p> <p>23 A. I learned about it while I was</p> <p>24 sitting and studying talmud with my study</p> <p>25 partner one morning at 6:20-ish in the</p>

<p style="text-align: right;">Page 250</p> <p>1 M. Feuer</p> <p>2 A. We had financial people that did</p> <p>3 this. There was complete transparency of</p> <p>4 those calculations to SHIP. And they</p> <p>5 wouldn't have been taken out SHIP's direct</p> <p>6 prior approval. So you'll not sure what</p> <p>7 you're asking.</p> <p>8 Q. Well, how would SHIP have known</p> <p>9 whether you had earned the performance</p> <p>10 fees?</p> <p>11 A. Because they would have gotten a</p> <p>12 report with a reconciliation, and I'm sure</p> <p>13 you have that in some of your exhibits that</p> <p>14 articulate the exact approval process on</p> <p>15 how fees are taken out of trusts.</p> <p>16 Q. What report are you referring to?</p> <p>17 A. I'm not sure if it's quarterly or</p> <p>18 monthly, but there is definitely a report</p> <p>19 that goes between us and any or all of our</p> <p>20 clients with regard to removing any funds</p> <p>21 from the trusts. And none is moved without</p> <p>22 their prior approval.</p> <p>23 Q. But sitting here today, you don't</p> <p>24 know what reports were actually given to</p> <p>25 SHIP, is that fair?</p>	<p style="text-align: right;">Page 252</p> <p>1 M. Feuer</p> <p>2 those transactions went?</p> <p>3 A. There were no proceeds. I'm not</p> <p>4 sure what you're referring to as proceeds.</p> <p>5 Q. So there was -- when those</p> <p>6 entities were sold, what were they sold</p> <p>7 for?</p> <p>8 A. They were sold for zero.</p> <p>9 Q. Okay.</p> <p>10 There was no recovery at all?</p> <p>11 A. We had a balance sheet. They</p> <p>12 negotiated what pieces of the balance sheet</p> <p>13 they wanted, and whatever remained was</p> <p>14 ours. When I say "ours," was the company</p> <p>15 in which they sat. But we weren't paid</p> <p>16 anything to do that transaction. I'm not</p> <p>17 sure what you're referring to.</p> <p>18 For the record, that transaction</p> <p>19 was transacted by the Bermudian regulatory</p> <p>20 authority under their behest and guidance.</p> <p>21 So Beechwood was not paid anything for that</p> <p>22 transaction, sir.</p> <p>23 MR. MATHIAS: Thank you. I think</p> <p>24 my time is up.</p> <p>25 THE VIDEOGRAPHER: Going off the</p>
<p style="text-align: right;">Page 251</p> <p>1 M. Feuer</p> <p>2 A. I know that factually any reports</p> <p>3 that were required to us under our</p> <p>4 reinsurance contract were supplied by my</p> <p>5 financial organization within my company.</p> <p>6 No, I didn't personally produce</p> <p>7 those reports. As you said, I was the CEO.</p> <p>8 But certainly my folks were producing the</p> <p>9 reports that were required both with regard</p> <p>10 to shoring up and shoring down any trusts</p> <p>11 within our company.</p> <p>12 Q. Were you aware that certain</p> <p>13 Beechwood interests were sold to affiliates</p> <p>14 of Eli Global at some point in 2017?</p> <p>15 A. I was.</p> <p>16 Q. Okay.</p> <p>17 Did you or any trusts or family</p> <p>18 members related to you receive any proceeds</p> <p>19 of those transactions?</p> <p>20 A. My personal or my trust, zero,</p> <p>21 none.</p> <p>22 Q. Any other related family members</p> <p>23 or entities?</p> <p>24 A. Zero, none.</p> <p>25 Q. Do you know where the proceeds of</p>	<p style="text-align: right;">Page 253</p> <p>1 M. Feuer</p> <p>2 record. The time is 12:38 p.m.</p> <p>3 (Recess taken from 12:38 p.m. to</p> <p>4 12:45 p.m.)</p> <p>5 THE VIDEOGRAPHER: The time is</p> <p>6 12:45 p.m. We are back on the record.</p> <p>7 EXAMINATION BY</p> <p>8 MR. KUSHNER:</p> <p>9 Q. Good afternoon, Mr. Feuer. My</p> <p>10 name is Amiad Kushner. I'm an attorney for</p> <p>11 SHIP specifically with respect to SHIP's</p> <p>12 claims against Lincoln International LLC</p> <p>13 and Lincoln Partners Advisors LLC.</p> <p>14 When I use the term "Lincoln,"</p> <p>15 I'm referring to Lincoln International LLC</p> <p>16 and Lincoln Partners Advisors LLC,</p> <p>17 collectively. Is that clear?</p> <p>18 A. It's clear.</p> <p>19 Q. You testified this morning that</p> <p>20 Mr. Wegner spent a lot of time with you and</p> <p>21 your team in New York and that you and your</p> <p>22 team also spent a lot of time with</p> <p>23 Mr. Wegner at his office in Indiana.</p> <p>24 Do you recall that testimony?</p> <p>25 A. I do.</p>

<p style="text-align: right;">Page 254</p> <p>1 M. Feuer</p> <p>2 Q. Other than Mr. Wegner, do you</p> <p>3 recall whether anyone from SHIP was at</p> <p>4 those meetings?</p> <p>5 A. So I can't distinguish SHIP and</p> <p>6 Fuzion. So to me, it was one company. So</p> <p>7 if you're asking me to bifurcate the two, I</p> <p>8 wouldn't be able to help you.</p> <p>9 Q. Okay.</p> <p>10 SHIP or Fuzion.</p> <p>11 A. So Brian Wegner, aside from a</p> <p>12 number of meetings, they would come off</p> <p>13 quarter, he and a team of 15 or so, and I</p> <p>14 won't exaggerate, but a half a conference</p> <p>15 room worth of people, would come to our</p> <p>16 offices quarterly to do what we called a</p> <p>17 quarterly review of, you know, the various</p> <p>18 things that they were involved with with</p> <p>19 regard to our company.</p> <p>20 During those meetings, he would,</p> <p>21 in addition, utilize that time, you know,</p> <p>22 we'd take care of that part of the business</p> <p>23 and then we'd take care of all sorts of</p> <p>24 other things.</p> <p>25 Q. I'd like to direct your attention</p>	<p style="text-align: right;">Page 256</p> <p>1 M. Feuer</p> <p>2 valuation firm would be valuing SHIP's</p> <p>3 investments pursuant to the IMA?</p> <p>4 A. I can tell you with confidence,</p> <p>5 but I can't tell you specifically. You</p> <p>6 understand what I'm saying? In other</p> <p>7 words, I can tell you with confidence that</p> <p>8 yes, I know I was in conversations with</p> <p>9 Brian, I can't tell you which one, which</p> <p>10 particular day.</p> <p>11 We walked through the entire CNO</p> <p>12 transaction, for example, on how we were</p> <p>13 handling everything from soup to nuts, as</p> <p>14 far as investments, as for as</p> <p>15 administration. And SHIP coming in and</p> <p>16 asking us to invest their assets was going</p> <p>17 to be handled in a very similar fashion.</p> <p>18 But I'm sure they were even more</p> <p>19 specific, although I can't testify to that</p> <p>20 with confidence of it coming out of my</p> <p>21 mouth between my people and Paul Lorentz</p> <p>22 and others in his shop in that regard as</p> <p>23 well.</p> <p>24 Q. Did you ever communicate with</p> <p>25 Lincoln regarding SHIP?</p>
<p style="text-align: right;">Page 255</p> <p>1 M. Feuer</p> <p>2 to the time period prior to the signing of</p> <p>3 the first Investment Management Agreement</p> <p>4 between Beechwood and SHIP.</p> <p>5 During that time, do you recall</p> <p>6 Lincoln ever coming up in your meetings</p> <p>7 with SHIP?</p> <p>8 A. What I do recall is that, as it</p> <p>9 is in every one of our reinsurance</p> <p>10 contracts, right, or any contract that we</p> <p>11 would, is that for the privates, as it was</p> <p>12 referred to this morning, or leveraged</p> <p>13 loans, all of those are independently</p> <p>14 valued by outside valuation companies, like</p> <p>15 Lincoln, Duff & Phelps, KPMG, as well as</p> <p>16 rated by companies like Egan Jones.</p> <p>17 As part of our relationship and</p> <p>18 as part of our -- it was referred to this</p> <p>19 morning as an IMA -- but certainly those</p> <p>20 valuations would be forthcoming and made</p> <p>21 available to SHIP any which time they want</p> <p>22 to see it, et cetera, et cetera.</p> <p>23 Q. And again focusing on the period</p> <p>24 of time, prior to the first IMA, did</p> <p>25 Beechwood tell SHIP that an independent</p>	<p style="text-align: right;">Page 257</p> <p>1 M. Feuer</p> <p>2 MR. HARRIS: Objection. Do you</p> <p>3 want to put a timeframe on this?</p> <p>4 BY MR. KUSHNER:</p> <p>5 Q. Ever?</p> <p>6 MR. HARRIS: Ever with anybody at</p> <p>7 Lincoln regarding anything at SHIP?</p> <p>8 A. I don't recall ever communicating</p> <p>9 with Lincoln ever. So I think it's an easy</p> <p>10 answer. Probably not. To the best of my</p> <p>11 recollection, I don't recall ever</p> <p>12 personally talking to Lincoln.</p> <p>13 Q. Was it your understanding that</p> <p>14 Lincoln knew that its valuations were being</p> <p>15 provided to SHIP?</p> <p>16 A. It is my understanding that --</p> <p>17 MS. SIELING: Objection.</p> <p>18 MR. HARRIS: You can answer.</p> <p>19 A. So it's my understanding that our</p> <p>20 valuation processes were shared and what</p> <p>21 they were going to ultimately be used for</p> <p>22 were shared both with the clients as well</p> <p>23 as our valuation partners.</p> <p>24 I can't tell you specifically</p> <p>25 what was told to Lincoln, because, as I</p>

<p style="text-align: right;">Page 258</p> <p>1 M. Feuer</p> <p>2 said, I don't recall ever having a</p> <p>3 conversation with Lincoln.</p> <p>4 Q. Okay. I'd like to show you an</p> <p>5 exhibit.</p> <p>6 A. Sure.</p> <p>7 (Exhibit 518, E-mail dated</p> <p>8 7/3/14, marked for identification, as</p> <p>9 of this date.)</p> <p>10 MR. HARRIS: Do you have a second</p> <p>11 copy for counsel? Thank you.</p> <p>12 BY MR. KUSHNER:</p> <p>13 Q. I'm showing you what's been</p> <p>14 marked as Exhibit 518. It's an e-mail</p> <p>15 dated July 3, 2014 from Naftali Manela to</p> <p>16 Scott Taylor, copying you, and it's</p> <p>17 forwarding another e-mail from Wesley</p> <p>18 Trowbridge at Lincoln International to</p> <p>19 various parties at Beechwood.</p> <p>20 In the e-mail from Naftali --</p> <p>21 I'll just read, I'll read Naftali's e-mail</p> <p>22 at the top. He says, "Guys, near final</p> <p>23 draft of the Q2 valuation reports for CNO</p> <p>24 and ULICO, do you think we need to prepare</p> <p>25 one for SHIP as well? I'm working under</p>	<p style="text-align: right;">Page 260</p> <p>1 M. Feuer</p> <p>2 morning.</p> <p>3 Do you have an understanding as</p> <p>4 to how Beechwood was compensated with</p> <p>5 respect to its investment management</p> <p>6 relationship with SHIP?</p> <p>7 A. I don't know specifically. I can</p> <p>8 give you some general, what I knew</p> <p>9 generally.</p> <p>10 Q. Please go ahead.</p> <p>11 A. The investment management</p> <p>12 account, if that's what we're calling it,</p> <p>13 was an account that would earn money or not</p> <p>14 and should it earn more money than it was</p> <p>15 required to have in it to fulfill its</p> <p>16 responsibilities, that monies, after</p> <p>17 reconciliation and after other</p> <p>18 communications with SHIP, would be released</p> <p>19 back to Beechwood.</p> <p>20 To the extent that it was short</p> <p>21 in that regard, Beechwood would have to,</p> <p>22 you know, fill that account with what was</p> <p>23 appropriate.</p> <p>24 Q. Now, in determining whether or</p> <p>25 not an account earned money, did Beechwood</p>
<p style="text-align: right;">Page 259</p> <p>1 M. Feuer</p> <p>2 the assumption that no need, unless they</p> <p>3 specifically ask for it, especially given</p> <p>4 the fact that we sent them a recent</p> <p>5 write-up of the two investments they have.</p> <p>6 Let me know if you think otherwise."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. Do you recall receiving this</p> <p>10 e-mail?</p> <p>11 A. I do not.</p> <p>12 Q. Do you recall responding to this</p> <p>13 inquiry in some fashion?</p> <p>14 A. I did not. To the best of my</p> <p>15 recollection, I did not. It wouldn't have</p> <p>16 been my custom.</p> <p>17 Q. Sitting here today, do you have</p> <p>18 any recollection of there ever being an</p> <p>19 issue at Beechwood with regard to whether</p> <p>20 or not SHIP should be given valuation</p> <p>21 information?</p> <p>22 A. I do not.</p> <p>23 Q. I'd like to move on to the topic</p> <p>24 of performance fees, which was briefly</p> <p>25 touched on in your prior testimony this</p>	<p style="text-align: right;">Page 261</p> <p>1 M. Feuer</p> <p>2 consider the current market value of SHIP's</p> <p>3 investments?</p> <p>4 A. I can't tell you what was used to</p> <p>5 determine the value of accounts other than,</p> <p>6 once again, in general, as my understanding</p> <p>7 of how our company worked and operated.</p> <p>8 We relied to the extent SHIP had</p> <p>9 any assets that were publicly traded and</p> <p>10 the values of it were known and made</p> <p>11 available, I'm sure those values were done</p> <p>12 on a quarterly or a monthly basis, whatever</p> <p>13 the IMA provided for.</p> <p>14 To the extent that they were</p> <p>15 private, we would have relied on outside</p> <p>16 valuation to determine what their value</p> <p>17 was.</p> <p>18 I'm pretty sure, although I'm</p> <p>19 speaking generally again, to the best of my</p> <p>20 recollection, that the valuations that we</p> <p>21 did were done on a quarterly basis, but</p> <p>22 were updated monthly. In other words, to</p> <p>23 the extent that there was anything</p> <p>24 meaningful that occurred during the course</p> <p>25 of a month, that would have modified this</p>

<p style="text-align: right;">Page 262</p> <p>1 M. Feuer</p> <p>2 process.</p> <p>3 Q. And when you say you relied on</p> <p>4 outside valuation to determine values,</p> <p>5 would that have included reliance on</p> <p>6 Lincoln?</p> <p>7 A. Well, let me clarify that</p> <p>8 statement.</p> <p>9 I am sure that my internal</p> <p>10 investment team had a view on what assets</p> <p>11 were worth and how they should be valued.</p> <p>12 But in addition to that internal knowledge,</p> <p>13 we went to outside valuation firms to make</p> <p>14 sure that how we were thinking about those</p> <p>15 investments were appropriate and correct.</p> <p>16 Q. And one of those outside</p> <p>17 valuation firms was Lincoln, right?</p> <p>18 A. For a period of time. I know</p> <p>19 that. I don't know when Lincoln were doing</p> <p>20 valuations for Beechwood and when they no</p> <p>21 longer did, and we went on to use a company</p> <p>22 called Duff & Phelps. But there was a</p> <p>23 period in which they were providing</p> <p>24 valuations, yes.</p> <p>25 Q. Now, I'd like to ask a couple of</p>	<p style="text-align: right;">Page 264</p> <p>1 M. Feuer</p> <p>2 either Wilmington or SHIP in that regard.</p> <p>3 MR. KUSHNER: I'm done with my</p> <p>4 questions, but I'd like to reserve</p> <p>5 SHIP's remaining time in case DLA has</p> <p>6 further questions later.</p> <p>7 MR. HARRIS: It's up to how you</p> <p>8 work it out with all the other</p> <p>9 parties.</p> <p>10 THE VIDEOGRAPHER: Going off the</p> <p>11 record. The time is 12:56 p.m.</p> <p>12 (Luncheon Recess taken at 12:56</p> <p>13 p.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 263</p> <p>1 M. Feuer</p> <p>2 questions about Wilmington Trust.</p> <p>3 A. Sure.</p> <p>4 Q. What was Wilmington Trust's role</p> <p>5 with respect to assets that Beechwood</p> <p>6 managed for SHIP?</p> <p>7 A. So I'm going to do the best that</p> <p>8 I can at the level that I sat. There are</p> <p>9 people in my company that interface with</p> <p>10 Wilmington Trust on a daily basis and would</p> <p>11 have a much better view of how things</p> <p>12 worked on a day-in-and-day-out world.</p> <p>13 The way I understood it is we put</p> <p>14 all of our assets in a trust company,</p> <p>15 Wilmington Trust, and they administered</p> <p>16 those assets on behalf of us and on behalf</p> <p>17 of our clients.</p> <p>18 Q. Was Wilmington provided with</p> <p>19 up-to-date valuations of the assets that</p> <p>20 Beechwood managed for SHIP?</p> <p>21 A. I wouldn't know that. I don't</p> <p>22 know if that was something that was -- if</p> <p>23 it was required by either SHIP or by</p> <p>24 Wilmington, for sure. I don't know if that</p> <p>25 was ever something that was required of</p>	<p style="text-align: right;">Page 265</p> <p>1 M. Feuer</p> <p>2 A F T E R N O O N S E S S I O N</p> <p>3 (Time noted: 1:32 p.m.)</p> <p>4</p> <p>5 THE VIDEOGRAPHER: The time is</p> <p>6 1:32 p.m. We are back on the record.</p> <p>7 EXAMINATION BY</p> <p>8 MR. WEINICK:</p> <p>9 Q. Good afternoon, Mr. Feuer. I</p> <p>10 think we've met previously. My name is</p> <p>11 Eric Weinick, along with Gabriela Leon. We</p> <p>12 represent Melanie L. Cyganowski, as the</p> <p>13 receiver for the various PPCO entities.</p> <p>14 You understand what I mean when I</p> <p>15 say "PPCO"?</p> <p>16 A. It's the fund, the credit fund of</p> <p>17 Platinum.</p> <p>18 Q. As distinguished from the PPVA</p> <p>19 fund?</p> <p>20 A. I do, yes.</p> <p>21 Q. Okay.</p> <p>22 In preparation for your</p> <p>23 deposition, have you had occasion to speak</p> <p>24 to anyone other than your counsel in any</p> <p>25 manner that helped prepare you for today's</p>

Page 266

1 M. Feuer

2 deposition?

3 A. No.

4 Q. Have you or Beechwood entered

5 into any agreements that require you to

6 provide testimony or information to any

7 party to this litigation?

8 A. To the best of my knowledge, no.

9 Q. I want to understand a little bit

10 we are your role at Beechwood. You were

11 the CEO?

12 A. That's correct.

13 Q. What were your responsibilities

14 as CEO of Beechwood?

15 A. First and foremost, strategy; and

16 second, gathering a team around me that I

17 could trust to run the business.

18 Q. What steps did you take to assure

19 yourself that the team you had gathered was

20 one you could trust to run the business?

21 A. I hired the best people that I

22 could, people that I felt had confidence in

23 and that would be able to do the jobs that

24 they were being asked to do.

25 Q. Other than Mr. Taylor, were any

Page 267

1 M. Feuer

2 of the individuals that you hired to work

3 at Beechwood individuals that you had known

4 for any extended period of time?

5 A. There was one other individual,

6 yes.

7 Q. Who was that?

8 A. David Lessing.

9 Q. And did Mr. Lessing come to have

10 a role at Beechwood?

11 A. He did.

12 Q. And what was that role?

13 A. He ran our retail business out of

14 Bermuda.

15 Q. When you refer to the retail

16 business out of Bermuda, what are you

17 referring to?

18 A. We were a direct annuity writer

19 for a period of time.

20 Q. And for how long did you know

21 Mr. Lessing prior to Beechwood?

22 A. He worked for me many years ago

23 at Merrill Lynch and came with me to Marsh

24 as well.

25 Q. In your role as CEO of Beechwood,

Page 268

1 M. Feuer

2 did you report to anyone?

3 A. I did not.

4 Q. What was the decision-making

5 structure at Beechwood?

6 A. Can you be a little bit more

7 specific?

8 Q. Sure.

9 Did Beechwood have any processes

10 or procedures by which certain business

11 decisions were made?

12 A. Again, I don't mean to ask you to

13 be more specific. I imagine different

14 decisions were made different ways.

15 Ultimately, I was the ultimate

16 decision-maker, but clearly I empowered my

17 people beneath me to make decisions in

18 areas that they had expertise.

19 Q. Did you have an understanding

20 with your subordinates as to what types of

21 decisions you expected them to come to you

22 with and as opposed to decisions that you

23 expected or empowered them to make on their

24 own?

25 A. I think we probably got into that

Page 269

1 M. Feuer

2 cadence as we worked together in that

3 regard. With Scott, I obviously have that

4 cadence for many, many years.

5 Q. And who at Beechwood reported

6 directly to you?

7 A. Scott, David Levy at the

8 beginning, Rick Hodgdon. Those were my

9 primary direct reports, although I

10 interacted frequently with other employees

11 within the company.

12 Q. At its height, how many employees

13 did Beechwood have?

14 A. I think at our height we had 35.

15 Q. And did they all work in one

16 office location?

17 A. We had I think one or two

18 employees working out of Bermuda, if I

19 recall. We had an office in Bermuda as

20 well. I'm not sure how many employees we

21 had there at its height. But Beechwood's

22 offices at its height was between 30 and 35

23 people.

24 Q. Okay.

25 Mr. Feuer, I'm handing you what's

<p style="text-align: right;">Page 282</p> <p>1 M. Feuer</p> <p>2 really say what advice he gave at the time</p> <p>3 and whether it was followed or not.</p> <p>4 Q. When you say on investments, no,</p> <p>5 does that mean you don't recall investments</p> <p>6 recommended by Mr. Nordlicht that you</p> <p>7 accepted, or that you never accepted his</p> <p>8 advice on investments?</p> <p>9 A. I wasn't really involved with the</p> <p>10 investment process, so I don't recall when</p> <p>11 his advice was consistent with what</p> <p>12 Beechwood ultimately did in that regard.</p> <p>13 Q. During the time you were CEO of</p> <p>14 Platinum, what was your understanding of</p> <p>15 Mr. Nordlicht's role at Platinum -- I'm</p> <p>16 sorry, I misspoke, I meant -- withdrawn.</p> <p>17 During your time as CEO of</p> <p>18 Beechwood what was your understanding of</p> <p>19 Mr. Nordlicht's role at Platinum?</p> <p>20 A. I understood him to be the CIO of</p> <p>21 PPVA.</p> <p>22 Q. And what were your understandings</p> <p>23 of his responsibilities as CIO of PPVA?</p> <p>24 A. I assumed he was a guy that was</p> <p>25 making decisions in that regard. I never</p>	<p style="text-align: right;">Page 284</p> <p>1 M. Feuer</p> <p>2 conduct of the business, of business at</p> <p>3 Beechwood, did you come to any</p> <p>4 understanding of Mr. Nordlicht's role in</p> <p>5 Platinum's investments?</p> <p>6 A. Beyond being a senior guy there,</p> <p>7 I did not.</p> <p>8 Q. Did you have an understanding of</p> <p>9 who else -- strike that.</p> <p>10 Did you have an understanding</p> <p>11 while you were CEO of Beechwood as to whom,</p> <p>12 if anyone, at Platinum had more authority</p> <p>13 than Mr. Nordlicht?</p> <p>14 A. I wouldn't know who had more or</p> <p>15 less authority than him. He was a senior</p> <p>16 guy in my mind.</p> <p>17 Q. And what was that understanding</p> <p>18 informed by?</p> <p>19 MR. HARRIS: Eric, you mean the</p> <p>20 understanding that he was a senior</p> <p>21 guy?</p> <p>22 MR. WEINICK: Yes. Thank you.</p> <p>23 A. He sat in the corner office.</p> <p>24 People reported to him. He was the CIO of</p> <p>25 a fund. He seemed to be the guy.</p>
<p style="text-align: right;">Page 283</p> <p>1 M. Feuer</p> <p>2 ran a hedge fund, so I don't know what it</p> <p>3 entails to run a hedge fund.</p> <p>4 Q. When you say "in that regard,"</p> <p>5 you mean with respect to investments?</p> <p>6 A. Yeah, I don't know what a CIO of</p> <p>7 a fund does or does not do. I don't have</p> <p>8 experience in that regard.</p> <p>9 Q. Did you have occasion to observe,</p> <p>10 irrespective of your general understanding</p> <p>11 of what a CIO at a hedge fund may or may</p> <p>12 not do, did you have occasion to gain an</p> <p>13 understanding as to what Mr. Nordlicht was</p> <p>14 doing at Platinum?</p> <p>15 A. I didn't spend much time with him</p> <p>16 on what he was doing at Platinum.</p> <p>17 Q. I wasn't quite asking about time</p> <p>18 that you spent with him --</p> <p>19 A. I didn't --</p> <p>20 Q. Let me finish my question,</p> <p>21 please.</p> <p>22 A. I'm sorry.</p> <p>23 Q. Not focusing on time that you</p> <p>24 were with Mr. Nordlicht or interactions</p> <p>25 directly with him, just in your day-to-day</p>	<p style="text-align: right;">Page 285</p> <p>1 M. Feuer</p> <p>2 Q. During the questioning by SHIP's</p> <p>3 counsel this morning, I believe you</p> <p>4 mentioned multiple meetings with Mr. Wegner</p> <p>5 and perhaps others from SHIP Fuzion.</p> <p>6 By the way, let's detour. When I</p> <p>7 say "SHIP," in your mind that's SHIP</p> <p>8 Fuzion?</p> <p>9 A. That's correct.</p> <p>10 Q. Okay.</p> <p>11 You mentioned multiple meetings,</p> <p>12 in-person meetings, with Wegner and others</p> <p>13 from SHIP, correct?</p> <p>14 A. Correct, yes.</p> <p>15 Q. And you said those took place</p> <p>16 both in New York and in Indiana, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay.</p> <p>19 Did any of the New York meetings</p> <p>20 take place at Platinum's office?</p> <p>21 A. I don't recall on that one. I</p> <p>22 don't recall if we ever had Mr. Wegner into</p> <p>23 one of the Platinum conference rooms before</p> <p>24 we took our space at 1370. I just don't</p> <p>25 recall. It's possible. I don't recall.</p>

<p style="text-align: right;">Page 286</p> <p>1 M. Feuer</p> <p>2 Q. Do you recall any meetings with</p> <p>3 Mr. Wegner anywhere in New York before</p> <p>4 Beechwood took the space at 1370?</p> <p>5 A. I don't recall. It's highly</p> <p>6 likely, yes, but I can't pinpoint or give</p> <p>7 you a specific time that that occurred.</p> <p>8 Q. From 2013 through the end of</p> <p>9 2016, how often would you communicate with</p> <p>10 Mr. Wegner?</p> <p>11 A. Give me the timeframe again?</p> <p>12 Q. Sure. January 1, 2013 through</p> <p>13 December 31, 2016.</p> <p>14 A. That's a long time period. It</p> <p>15 all depended on the need of what was going</p> <p>16 on at the time. So in the beginning of</p> <p>17 2013 or wherever we started and met him, we</p> <p>18 were talking about the team and the</p> <p>19 requirements to do the transaction with</p> <p>20 CNO.</p> <p>21 As our relationship evolved, like</p> <p>22 I said, communication happened frequently</p> <p>23 or less frequently depending on what was</p> <p>24 going on.</p> <p>25 Q. And in general, what form did</p>	<p style="text-align: right;">Page 288</p> <p>1 M. Feuer</p> <p>2 Q. Did you communicate with</p> <p>3 Mr. Wegner by phone during that time</p> <p>4 period?</p> <p>5 A. Yes.</p> <p>6 Q. Do you think you communicated</p> <p>7 with Mr. Wegner more by phone than by</p> <p>8 e-mail during that same time period?</p> <p>9 A. I would say I would assume so.</p> <p>10 But like I said, I can't -- I would assume</p> <p>11 so.</p> <p>12 Q. Where -- when you or members of</p> <p>13 your team would fly out for meetings in</p> <p>14 Indiana with SHIP, where would those</p> <p>15 meetings take place?</p> <p>16 A. In SHIP's headquarters.</p> <p>17 Q. And where were SHIP's</p> <p>18 headquarters?</p> <p>19 A. They moved. I don't remember the</p> <p>20 exact addresses -- I can find it for you if</p> <p>21 you'd like -- but they initially were on</p> <p>22 the same campus as CNO and then they moved</p> <p>23 sometime in our relationship to another</p> <p>24 building, you know, close by.</p> <p>25 Q. Did you participate in any</p>
<p style="text-align: right;">Page 287</p> <p>1 M. Feuer</p> <p>2 your communication with Mr. Wegner take</p> <p>3 during that same time period?</p> <p>4 A. As I mentioned earlier, we had</p> <p>5 definitely -- after we did the CNO</p> <p>6 transaction, so this is after February of</p> <p>7 2014, we were definitely meeting formally</p> <p>8 quarterly as at least -- that's on the</p> <p>9 calendar, that's known. He would fly in,</p> <p>10 like you said, most of his time or many of</p> <p>11 the executives on his team to meet with us</p> <p>12 at 1370.</p> <p>13 I can't speculate on how many</p> <p>14 times he was meeting with the people that</p> <p>15 work for me.</p> <p>16 With regard to I, I would imagine</p> <p>17 as our relationship evolved and we did more</p> <p>18 together, we were speaking more frequently,</p> <p>19 but I can't give you a specific answer to</p> <p>20 how many times over that course I was</p> <p>21 actually speaking to him.</p> <p>22 Q. Sure.</p> <p>23 Did you communicate with</p> <p>24 Mr. Wegner by e-mail, same time period?</p> <p>25 A. I imagine, yes.</p>	<p style="text-align: right;">Page 289</p> <p>1 M. Feuer</p> <p>2 meetings in Indiana with SHIP where anyone</p> <p>3 from CNO attended either in person or by</p> <p>4 phone?</p> <p>5 A. It's possible, but I can't speak</p> <p>6 to you specifics in that regard. I don't</p> <p>7 remember specifically being in a meeting</p> <p>8 with SHIP, in SHIP's building, and someone</p> <p>9 from CNO being there -- but it's possible.</p> <p>10 Q. Were there any occasions where</p> <p>11 you went to Indiana to meet with both SHIP</p> <p>12 and CNO within the same -- understanding</p> <p>13 not in the same meeting, but during the</p> <p>14 same trip?</p> <p>15 A. Definitely.</p> <p>16 Q. Were those coordinated? In other</p> <p>17 words, did -- withdrawn.</p> <p>18 Did CNO or SHIP know during those</p> <p>19 trips you were also meeting with the other?</p> <p>20 A. I certainly would have said I</p> <p>21 just -- if, for example, I met with SHIP in</p> <p>22 the afternoon and I met with CNO in the</p> <p>23 morning, I definitely would have mentioned</p> <p>24 in the course of our friendly conversation</p> <p>25 "I'm seeing Brian later."</p>

<p style="text-align: right;">Page 290</p> <p>1 M. Feuer</p> <p>2 And if I saw Brian in the</p> <p>3 morning, I would mention to Brian "I'm</p> <p>4 seeing Fred later."</p> <p>5 So everyone was well aware of the</p> <p>6 relationships that we all had with one</p> <p>7 another.</p> <p>8 Q. During any of your trips to</p> <p>9 Indiana, did you have occasion to go for a</p> <p>10 meal with any of the individuals from SHIP</p> <p>11 or CNO?</p> <p>12 A. Yes.</p> <p>13 Q. Did any of those meals combine,</p> <p>14 have attendance by both SHIP and CNO</p> <p>15 personnel?</p> <p>16 A. To the best of my recollection, I</p> <p>17 don't remember, but I can't rule it out.</p> <p>18 It's possible.</p> <p>19 Q. Do you recall the location of any</p> <p>20 of those meals?</p> <p>21 A. I remember -- I eat kosher, so I</p> <p>22 wouldn't be going to a restaurant that I</p> <p>23 wouldn't be able to eat in -- but I</p> <p>24 remember certainly restaurant meetings with</p> <p>25 the management team of CNO. I don't know</p>	<p style="text-align: right;">Page 292</p> <p>1 M. Feuer</p> <p>2 13, 2013?</p> <p>3 A. I do not.</p> <p>4 Q. Do you have any reason to believe</p> <p>5 that you did not receive the e-mail on or</p> <p>6 about the dates indicated?</p> <p>7 A. I do not.</p> <p>8 Q. Okay.</p> <p>9 About halfway down, which is the</p> <p>10 second e-mail from the top, it appears to</p> <p>11 be you writing to Mr. Taylor, Mr. Wegner</p> <p>12 and Mr. Hodgdon.</p> <p>13 Do you agree with that?</p> <p>14 A. Yes.</p> <p>15 Q. First of all, I think you spoke</p> <p>16 with Mr. -- with counsel for SHIP earlier</p> <p>17 today about Mr. Hodgdon's employment</p> <p>18 status.</p> <p>19 He was -- was he a Platinum</p> <p>20 employee or a Beechwood employee?</p> <p>21 A. There was a technical reason why</p> <p>22 Mr. Hodgdon had to be an employee of</p> <p>23 Platinum. I don't know if at this moment</p> <p>24 he had come over to the Beechwood side as</p> <p>25 our technical reason had been resolved, or</p>
<p style="text-align: right;">Page 291</p> <p>1 M. Feuer</p> <p>2 if Brian joined us for those meetings or</p> <p>3 not, and I don't remember -- we may have</p> <p>4 gone out to lunch or to a dinner with Brian</p> <p>5 and his management team and I don't recall</p> <p>6 if someone from CNO would have joined that</p> <p>7 meeting. I don't know.</p> <p>8 Q. Mr. Feuer, I've handed you what's</p> <p>9 previously been marked as Defendant's</p> <p>10 Exhibit 54. It's being circulated around</p> <p>11 the room. It bears the Bates stamp SHIP</p> <p>12 0025929. It's an e-mail chain, the top of</p> <p>13 which appears to be from Brian Wegner to</p> <p>14 you, Scott Taylor, Rick Hodgdon, dated</p> <p>15 Thursday, February 13, 2014.</p> <p>16 Please let me know when you've</p> <p>17 had ample opportunity to review the e-mail.</p> <p>18 A. Do you want me to read the whole</p> <p>19 thing?</p> <p>20 Q. The entirety, please.</p> <p>21 A. Just give me a moment.</p> <p>22 Q. Of course.</p> <p>23 A. Okay.</p> <p>24 Q. Mr. Feuer, do you recall</p> <p>25 receiving this e-mail on or about February</p>	<p style="text-align: right;">Page 293</p> <p>1 M. Feuer</p> <p>2 he was still on Platinum books and</p> <p>3 Beechwood was reimbursing Platinum for his</p> <p>4 expenses.</p> <p>5 Q. You anticipated my question about</p> <p>6 Mr. Hodgdon.</p> <p>7 Do you recall what that technical</p> <p>8 reason was, why he was employed at Platinum</p> <p>9 as opposed to --</p> <p>10 A. Yes.</p> <p>11 Q. And what was that?</p> <p>12 A. He was a foreign -- he was born</p> <p>13 in Canada. And as such, you needed to be</p> <p>14 part of a firm to get his -- I forget, the</p> <p>15 paperwork done for him to become</p> <p>16 nationalized --</p> <p>17 Q. His visa?</p> <p>18 A. No. To become a citizen -- visa</p> <p>19 or something, right -- and as such he needs</p> <p>20 to be part of a firm that had records and</p> <p>21 financials and all the things that go into</p> <p>22 doing that.</p> <p>23 Q. As part of that, did Platinum</p> <p>24 provide Mr. Hodgdon compensation?</p> <p>25 A. To the best of my recollection,</p>

Page 294

1 M. Feuer

2 Beechwood reimbursed Platinum for any

3 compensation or expenses that they were

4 encumbered with as a result of that.

5 Q. Did there come a point in time

6 when Mr. Hodgdon was ported over to

7 Beechwood and became an employee of

8 Beechwood as opposed to Platinum?

9 A. Yes.

10 Q. And you don't remember if that

11 was before or after this date?

12 A. I'm sorry, I don't. But that was

13 the intent from day one.

14 Q. So I hate to use this term, is it

15 fair to say that Mr. Hodgdon was never

16 truly a Platinum employee?

17 A. It is fair to say.

18 Q. In substance?

19 A. It is fair to say that.

20 Q. Getting back to the e-mail, you

21 are responding to an e-mail from Mr. Wegner

22 and you say, "Brian, I could not agree with

23 Scott more. We could not have done this

24 without you. Please watch our backs,

25 Mark."

Page 295

1 M. Feuer

2 What did you mean when you asked

3 Brian Wegner to please watch your backs?

4 A. I guess I don't recall writing

5 these exact words. If you'd like me to

6 give you some context on what I might have

7 meant, I'm happy to do so.

8 Q. Please, whatever recollection

9 this stirs for you.

10 A. So Brian became a very important

11 member of our deal team in closing the

12 transaction. And I very much looked to him

13 and SHIP. You know, we took on a \$550

14 million block and him doing his job great

15 would enable us to be successful.

16 Likewise, SHIP -- I mean CNO

17 watching our back on the investment side

18 would enable us to do our job great as

19 well.

20 Q. At this point in time, February

21 2014, was Beechwood relying on SHIP for any

22 purpose?

23 A. Yes.

24 Q. What was that purpose?

25 A. SHIP was, like I said, the claim

Page 296

1 M. Feuer

2 manager on top of our TPA with regard to

3 the claims that we were administering and

4 managing for the overall long-term care

5 block that we had just bought and prior to

6 that -- I'll wait for a question.

7 Q. Please go on.

8 A. Prior to that, he was part of the

9 team to do the transaction.

10 (Exhibit 520, E-mail chain, Bates

11 stamped FA 0016583 and SHIP 0119003,

12 marked for identification, as of this

13 date.)

14 BY MR. WEINICK:

15 Q. Mr. Feuer, I'm handing you

16 Exhibit 520. It's making its way around

17 the room.

18 It bears two Bates stamps FA

19 0016583 and SHIP 0119003.

20 Take a moment to review.

21 I'll state for the record this is

22 a short e-mail chain. The original from

23 Brian Wegner to Mark Feuer and Scott

24 Taylor, dated 9/24/14 and a response on

25 September 28, 2014.

Page 297

1 M. Feuer

2 A. I apologize. I can't read --

3 maybe yours is clearer. If you could read

4 the Brian note to me, I'd appreciate it.

5 Q. Certainly. That was going to be

6 the prelude to my question anyway.

7 First of all, putting aside that

8 you may not be able to read the original

9 part of the e-mail, do you recall receiving

10 this e-mail?

11 A. I'm sorry, I don't.

12 Q. Any reason to believe you didn't?

13 A. No.

14 Q. Okay.

15 Mr. Wegner writes, "You're likely

16 aware that the Beechwood Kala investment

17 closed today. I genuinely appreciate your

18 support and promise you will see

19 significant returns from your investment.

20 I hope you both enjoy a great Rosh

21 Hashanah. Take care, Brian."

22 Your counsel will correct me if

23 I've misread that, because I know you said

24 you can't see it.

25 A. Sure.

<p style="text-align: right;">Page 306</p> <p>1 M. Feuer</p> <p>2 But like I said, I'm just</p> <p>3 hypothesizing.</p> <p>4 Q. Mr. Feuer, you should have in the</p> <p>5 pile in front of you from earlier today</p> <p>6 Exhibit 57. It's a thicker document, if</p> <p>7 that helps.</p> <p>8 A. I have it. Thank you.</p> <p>9 Q. I believe you told counsel for</p> <p>10 SHIP earlier today that you didn't</p> <p>11 recognize this particular attachment but</p> <p>12 you did recall documents similar to it, is</p> <p>13 that correct?</p> <p>14 A. Correct.</p> <p>15 Q. And so I just want to be clear</p> <p>16 that your testimony is SHIP received from</p> <p>17 Beechwood documents at least similar in</p> <p>18 form to Exhibit 57, correct?</p> <p>19 MR. MATHIAS: Objection to form.</p> <p>20 BY MR. WEINICK:</p> <p>21 Q. You can answer.</p> <p>22 A. I don't know what SHIP received.</p> <p>23 Apparently SHIP received this as an</p> <p>24 attachment. So I'm assuming SHIP got this</p> <p>25 document with this e-mail.</p>	<p style="text-align: right;">Page 308</p> <p>1 M. Feuer</p> <p>2 SHIP 0047549.</p> <p>3 And rather than take the time to</p> <p>4 read the entirety of the document into the</p> <p>5 record, I would first focus your attention</p> <p>6 on the bottom e-mail, in other words, the</p> <p>7 first e-mail in the chain that appears on</p> <p>8 page 2.</p> <p>9 A. Page 2. The back?</p> <p>10 Q. Yeah.</p> <p>11 I'm hopeful that you can at least</p> <p>12 make out that this portion of the e-mail</p> <p>13 dated April 10, 2014 is from Mr. Taylor to</p> <p>14 Mr. Wegner with a cc to David Levy,</p> <p>15 yourself and Rich Hodgdon. The subject</p> <p>16 line is "As promised." Right?</p> <p>17 A. I do see that.</p> <p>18 Q. Okay.</p> <p>19 Now, I will represent to you that</p> <p>20 there is a discussion in this e-mail chain</p> <p>21 between representatives of SHIP regarding</p> <p>22 due diligence as it relates to Beechwood</p> <p>23 materials.</p> <p>24 Do you recall any discussions</p> <p>25 with SHIP about due diligence it was</p>
<p style="text-align: right;">Page 307</p> <p>1 M. Feuer</p> <p>2 Q. Okay.</p> <p>3 Do you recall --</p> <p>4 A. Is that what you're asking me?</p> <p>5 Q. Yes.</p> <p>6 A. Okay.</p> <p>7 Q. Do you recall participating in</p> <p>8 any discussions with anyone from SHIP about</p> <p>9 presentations similar to Exhibit 57?</p> <p>10 A. I don't recall specifically</p> <p>11 conversations on or about this document.</p> <p>12 Q. Okay.</p> <p>13 Did you ever participate in any</p> <p>14 communications with Mr. Wegner where you</p> <p>15 failed to answer any questions he asked</p> <p>16 about Beechwood?</p> <p>17 A. To the best of my knowledge, no.</p> <p>18 Q. And do you recall any</p> <p>19 communications between anyone at Beechwood</p> <p>20 and anyone at SHIP where Beechwood failed</p> <p>21 to answer a question asked by SHIP?</p> <p>22 A. To the best of my knowledge, no.</p> <p>23 Q. You've been handed what's been</p> <p>24 marked Exhibit 58. For the record, it</p> <p>25 bears, the first page bears the Bates stamp</p>	<p style="text-align: right;">Page 309</p> <p>1 M. Feuer</p> <p>2 performing on Beechwood?</p> <p>3 A. The only recollection I have</p> <p>4 about due diligence vis-a-vis SHIP where I</p> <p>5 was personally involved was a conversation</p> <p>6 I had with Mr. Wegner about the second</p> <p>7 Agera transaction and in which we</p> <p>8 instructed him that he would have to have</p> <p>9 his own diligence team and legal team to</p> <p>10 effectuate whatever investment he wanted to</p> <p>11 ultimately make as part of that</p> <p>12 transaction.</p> <p>13 Q. When you refer to the second</p> <p>14 Agera transaction, are you referring to the</p> <p>15 June 2016 transaction?</p> <p>16 A. When we bought the Agera company.</p> <p>17 Q. And other than that conversation,</p> <p>18 you don't recall any conversations between</p> <p>19 anyone at Beechwood and anyone at SHIP</p> <p>20 regarding due diligence being performed by</p> <p>21 SHIP as to Beechwood, am I correct?</p> <p>22 A. I can't speak to anyone else at</p> <p>23 Beechwood. I can speak to myself. I don't</p> <p>24 recall Brian asking me something that --</p> <p>25 oh, actually, there is one thing he did ask</p>

<p style="text-align: right;">Page 314</p> <p>1 M. Feuer</p> <p>2 6/30/14 and attachment, Bates stamped</p> <p>3 SHIP 0082741 to SHIP 0082745, marked</p> <p>4 for identification, as of this date.)</p> <p>5 BY MR. WEINICK:</p> <p>6 Q. Mr. Feuer, you've been handed</p> <p>7 what's now Exhibit 522. It begins with the</p> <p>8 Bates stamp SHIP 0082741 and concludes at</p> <p>9 82745.</p> <p>10 It's an e-mail and attachment</p> <p>11 dated June 30, 2014 from Mr. Wegner to you,</p> <p>12 Mr. Taylor, with cc's to Mr. Hodgdon,</p> <p>13 Ms. Darrough and Ms. Nolan.</p> <p>14 Please let me know when you've</p> <p>15 had an opportunity to review.</p> <p>16 A. Okay.</p> <p>17 Q. All right.</p> <p>18 First of all, Mr. Feuer, do you</p> <p>19 recall receiving Exhibit 522 on or about</p> <p>20 June 30, 2014?</p> <p>21 A. I don't.</p> <p>22 Q. Any reason to believe you did</p> <p>23 not?</p> <p>24 A. No.</p> <p>25 Q. Do you recall any communications</p>	<p style="text-align: right;">Page 316</p> <p>1 M. Feuer</p> <p>2 SHIP's agenda to us. But like I said, our</p> <p>3 relationship with SHIP was as such, that</p> <p>4 the agenda would get much broader and we'd</p> <p>5 talk about, you know, anything else that</p> <p>6 was going on or any other opportunities</p> <p>7 that were going on that they may be part of</p> <p>8 or take part in.</p> <p>9 Q. Do you recall any discussions</p> <p>10 during any of those quarterly meetings with</p> <p>11 respect to specific investments that</p> <p>12 Beechwood had made on behalf of SHIP?</p> <p>13 A. I recall in some of those</p> <p>14 meetings that after we finished the CNO</p> <p>15 agenda, that we definitely talked about</p> <p>16 SHIP agenda items.</p> <p>17 Q. And do you recall any specific</p> <p>18 investments that were discussed during</p> <p>19 those quarterly meetings?</p> <p>20 A. I would have called in my</p> <p>21 investment team and they would have</p> <p>22 presented or reviewed their performance or</p> <p>23 what they were doing to Brian and Paul and</p> <p>24 his team in that regard.</p> <p>25 Q. Would you have participated in</p>
<p style="text-align: right;">Page 315</p> <p>1 M. Feuer</p> <p>2 or discussions around June 30, 2014</p> <p>3 concerning a slide presentation labeled Bre</p> <p>4 New York slides?</p> <p>5 A. As I mentioned earlier, they were</p> <p>6 coming in for quarterly reviews. I don't</p> <p>7 know if this coincided with one of their</p> <p>8 quarterly reviews and they were</p> <p>9 highlighting some of these slides with</p> <p>10 regard to our block.</p> <p>11 Q. Let's talk about the quarterly</p> <p>12 reviews for a moment.</p> <p>13 A. Sure.</p> <p>14 Q. What was the general agenda for</p> <p>15 those meetings?</p> <p>16 A. The general agenda was for SHIP</p> <p>17 to give us a review on how our block fared</p> <p>18 the prior quarter.</p> <p>19 Q. Okay.</p> <p>20 So these were opportunities for</p> <p>21 SHIP to impart information to Beechwood?</p> <p>22 A. Yes.</p> <p>23 Q. Did Beechwood impart information</p> <p>24 to SHIP during those meetings?</p> <p>25 A. It was largely -- it was largely</p>	<p style="text-align: right;">Page 317</p> <p>1 M. Feuer</p> <p>2 those portions of the meetings even if you</p> <p>3 didn't lead them?</p> <p>4 A. It's highly probable that I would</p> <p>5 have stepped out, simply because I would</p> <p>6 have already been locked up for several</p> <p>7 hours in the morning and I would have gone</p> <p>8 on to doing things that I could add value</p> <p>9 to.</p> <p>10 Q. Do you recall --</p> <p>11 A. To answer your question directly,</p> <p>12 I don't recall specifically going over or</p> <p>13 being in the room while their investments</p> <p>14 were going over.</p> <p>15 Q. Do you recall any discussions</p> <p>16 during the quarterly meetings with respect</p> <p>17 to Platinum?</p> <p>18 A. As I mentioned earlier, I don't</p> <p>19 recall specifics to any of the investment</p> <p>20 conversations we had, but I do remember</p> <p>21 there being investment conversations</p> <p>22 specifically with regard to SHIP during the</p> <p>23 course of the days that they were there.</p> <p>24 Q. Turning back to the e-mail, one</p> <p>25 of the recipients is Ginger Darrough with a</p>

<p style="text-align: right;">Page 338</p> <p>1 M. Feuer</p> <p>2 leave the office sometime either late</p> <p>3 December or early January of 20 -- December</p> <p>4 of 2015, early part of 2016.</p> <p>5 Q. Why did you ask Mr. Huberfeld to</p> <p>6 leave the office at that point?</p> <p>7 A. You know, when Mr. Huberfeld</p> <p>8 initially came to the office, I put very</p> <p>9 strict conditions on his being able to</p> <p>10 occupy our visiting office while he was</p> <p>11 seeking office space on his own for his</p> <p>12 family office.</p> <p>13 Q. What conditions did you impose on</p> <p>14 Mr. Huberfeld's use of your visiting</p> <p>15 office?</p> <p>16 A. Professionalism in the office,</p> <p>17 you know, keeping his door closed when he</p> <p>18 was on the phone, not barking out to</p> <p>19 assistants, things of the like.</p> <p>20 Q. Other than not keeping his door</p> <p>21 closed while on the phone and barking at</p> <p>22 his assistants, did Mr. Huberfeld exhibit</p> <p>23 any other unprofessional behavior that</p> <p>24 caused you to ask him to leave?</p> <p>25 A. Those were the primary reasons</p>	<p style="text-align: right;">Page 340</p> <p>1 M. Feuer</p> <p>2 Q. What steps did you take to do so?</p> <p>3 A. We hired Dhruv Narain as our CIO,</p> <p>4 and one of his most important roles was to</p> <p>5 effectuate that.</p> <p>6 Q. When you say that, to divest</p> <p>7 Beechwood --</p> <p>8 A. To start restructuring and</p> <p>9 divesting ourselves in our relationship</p> <p>10 with Platinum, yes -- relationship</p> <p>11 vis-a-vis some of loans and transactions</p> <p>12 that had been done in some way, shape or</p> <p>13 fashion related to Platinum people.</p> <p>14 Q. Do you recall a transaction in</p> <p>15 December of 2015 with Platinum?</p> <p>16 A. Pardon, in December of --</p> <p>17 Q. December of 2015 involving the</p> <p>18 transfer of assets and a loan to Platinum?</p> <p>19 A. I don't recall.</p> <p>20 Q. Okay.</p> <p>21 A. But whatever transaction we would</p> <p>22 have done at that point would have been</p> <p>23 consistent with our vision to diversify or</p> <p>24 reconstitute in a fashion that was more</p> <p>25 appropriate any of the things that had been</p>
<p style="text-align: right;">Page 339</p> <p>1 M. Feuer</p> <p>2 why I said enough was enough.</p> <p>3 Q. Did your request to Mr. Huberfeld</p> <p>4 to vacate the office cause you to rethink</p> <p>5 or reanalyze any of your relationships with</p> <p>6 either Mr. Huberfeld, Mr. Nordlicht or</p> <p>7 anyone else at Platinum at that point?</p> <p>8 A. I think our relationships at that</p> <p>9 point across the board were beginning to</p> <p>10 erode.</p> <p>11 Q. Why?</p> <p>12 A. I just didn't enjoy working with</p> <p>13 them. I didn't enjoy having to reach out</p> <p>14 to get interest payments paid on time. I</p> <p>15 didn't enjoy what I considered to be the</p> <p>16 lack of professionalism that was being</p> <p>17 exhibited. It just was something that I</p> <p>18 just said enough is enough.</p> <p>19 Q. But you did continue to do</p> <p>20 business with Platinum after that point,</p> <p>21 correct?</p> <p>22 A. We continued to, like I said,</p> <p>23 restructure and diversify ourselves away</p> <p>24 from, to the best of our ability, from the</p> <p>25 holdings that we had in that regard.</p>	<p style="text-align: right;">Page 341</p> <p>1 M. Feuer</p> <p>2 done prior.</p> <p>3 Q. And other than your</p> <p>4 dissatisfaction with Mr. Huberfeld's</p> <p>5 professionalism in the Beechwood office,</p> <p>6 was anything else an impetus for</p> <p>7 Beechwood's decision at that time to</p> <p>8 diversify with respect to Platinum?</p> <p>9 A. That decision was made early in</p> <p>10 2015, as I indicated in my prior testimony.</p> <p>11 After meeting with CNO, we wanted to</p> <p>12 further diversify certainly their</p> <p>13 portfolio. While we didn't think anything</p> <p>14 was inappropriate with regard to those</p> <p>15 investments, it was too much to one fund --</p> <p>16 but as the year had gone on, I just can't</p> <p>17 pinpoint it for you, I just -- I was -- I</p> <p>18 was -- you know, continuing that in the</p> <p>19 most aggressive way that I could.</p> <p>20 Q. Did any aspect of Beechwood's</p> <p>21 relationship with SHIP influence its</p> <p>22 decision to diversify from Platinum in</p> <p>23 December of 2015?</p> <p>24 A. To the best of my recollection,</p> <p>25 no.</p>

<p style="text-align: right;">Page 342</p> <p>1 M. Feuer</p> <p>2 Q. Do you recall any communications</p> <p>3 with Mr. Wegner about diversifying from</p> <p>4 Platinum assets?</p> <p>5 A. The only communication I recall</p> <p>6 with Mr. Wegner vis-a-vis Platinum assets</p> <p>7 was in the conversation I had with him</p> <p>8 about the Agera transaction -- that I</p> <p>9 remember specifically. It is possible that</p> <p>10 I had other -- very possible, but I can't</p> <p>11 recall specifically.</p> <p>12 Q. Are you aware of any other</p> <p>13 communications between anyone at SHIP and</p> <p>14 anyone at Beechwood regarding</p> <p>15 diversification away from Platinum assets</p> <p>16 with respect to SHIP?</p> <p>17 A. To the best of my recollection,</p> <p>18 no.</p> <p>19 Q. To the best of your recollection,</p> <p>20 you don't recall, or to the best of your</p> <p>21 recollection, no such communications</p> <p>22 happened?</p> <p>23 A. No one brought to my attention</p> <p>24 that SHIP was requesting in any shape or</p> <p>25 fashion diversification out of the assets</p>	<p style="text-align: right;">Page 344</p> <p>1 M. Feuer</p> <p>2 MR. MATHIAS: Objection to form.</p> <p>3 A. Like I said, I'm speculating and</p> <p>4 I know you don't want me to do that, but</p> <p>5 Mr. Wegner was a very close colleague of</p> <p>6 ours, you know. He certainly would have</p> <p>7 been aware of CNO's -- I definitely would</p> <p>8 have made Mr. Wegner aware of CNO's concern</p> <p>9 with regard to diversification of their</p> <p>10 portfolio.</p> <p>11 Q. Okay.</p> <p>12 A. Unquestionably. In a</p> <p>13 conversation, I can't pinpoint that</p> <p>14 conversation, but Mr. Wegner would have</p> <p>15 gotten a debrief from me with regards to</p> <p>16 the results that have audit, if not from</p> <p>17 CNO directly himself.</p> <p>18 Q. Okay.</p> <p>19 Do you have an understanding</p> <p>20 after this morning's testimony about what I</p> <p>21 mean, when I say the SHIP's surplus note,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. What is your understanding of</p> <p>25 that transaction?</p>
<p style="text-align: right;">Page 343</p> <p>1 M. Feuer</p> <p>2 that were purchased with regard to our</p> <p>3 relationship.</p> <p>4 Q. Did anyone from SHIP infer to</p> <p>5 anyone at Beechwood that such</p> <p>6 diversification should take place?</p> <p>7 MR. MATHIAS: Objection to form.</p> <p>8 A. I can only speak to what I know.</p> <p>9 I can't speak to -- you can speak to the</p> <p>10 other people that work for me and get their</p> <p>11 best recollection -- but to me, the best</p> <p>12 recollection I have is the only time I</p> <p>13 recall having a very direct conversation</p> <p>14 about Platinum and its assets was at the</p> <p>15 conversation I had with Mr. Wegner about</p> <p>16 the proposed Agera transaction.</p> <p>17 Q. What about indirect</p> <p>18 conversations?</p> <p>19 A. What do you mean, what is an</p> <p>20 "indirect conversation"?</p> <p>21 Q. Sure.</p> <p>22 Did you have any indirect or</p> <p>23 unspecific discussions with Mr. Wegner</p> <p>24 about diversification away from Platinum?</p> <p>25 A. I may have shared --</p>	<p style="text-align: right;">Page 345</p> <p>1 M. Feuer</p> <p>2 A. To the best of my recollection,</p> <p>3 Mr. Wegner and Mr. Lorentz and their board</p> <p>4 structured a transaction whereby somehow we</p> <p>5 were utilizing -- I'm not sure whether it</p> <p>6 was IMA funds, as I was asked this morning,</p> <p>7 or some other pool of funds that they sent</p> <p>8 us to structure it in a way of a loan so</p> <p>9 that they could take advantage of some</p> <p>10 statutory and accounting rules vis-a-vis</p> <p>11 those types of rules.</p> <p>12 Q. Do you have an understanding of</p> <p>13 what each party to that transaction</p> <p>14 received as a result of the transaction?</p> <p>15 A. Not definitively.</p> <p>16 Q. Generally, do you have an</p> <p>17 understanding of what each party received</p> <p>18 as a result?</p> <p>19 A. From my perspective, I was -- I</p> <p>20 had a colleague that came to me with a</p> <p>21 challenge that I was told that we could</p> <p>22 help him with. So what I got out of that</p> <p>23 was helping a colleague with a challenge</p> <p>24 that he had.</p> <p>25 What they got out of it, I</p>

<p style="text-align: right;">Page 358</p> <p>1 M. Feuer</p> <p>2 that Platinum was sloppy?</p> <p>3 A. You know, you're seeing a litany</p> <p>4 of e-mails and you're seeing how much time</p> <p>5 I have to reach out, and to me that formed</p> <p>6 an opinion.</p> <p>7 Q. What, if anything, did you do to</p> <p>8 address that sloppiness with Platinum?</p> <p>9 A. What I wanted to do, which is</p> <p>10 what Dhruv's key role was to be, was to</p> <p>11 restructure our relationship -- restructure</p> <p>12 the loans that we had by and between them</p> <p>13 to obviate this problem.</p> <p>14 Q. Okay.</p> <p>15 Are you aware if Desert Hawk was</p> <p>16 part of any of that restructuring?</p> <p>17 A. I don't recall. I don't know if</p> <p>18 it was paid off yet. I don't know.</p> <p>19 Q. Do you have any awareness of</p> <p>20 Desert Hawk being part of SHIP's</p> <p>21 investments made by Beechwood?</p> <p>22 A. I wouldn't be aware, no.</p> <p>23 Q. Are you aware of whether or</p> <p>24 not -- presuming that Desert Hawk -- strike</p> <p>25 that.</p>	<p style="text-align: right;">Page 360</p> <p>1 M. Feuer</p> <p>2 A. I don't recall knowing that</p> <p>3 individual.</p> <p>4 Q. What about an entity called</p> <p>5 TriPlus?</p> <p>6 A. I don't recall knowing that</p> <p>7 entity.</p> <p>8 (Exhibit 528, E-mail, Bates</p> <p>9 stamped BW SHIP 00134667 through BW</p> <p>10 SHIP 00134669, marked for</p> <p>11 identification, as of this date.)</p> <p>12 BY MR. WEINICK:</p> <p>13 Q. Mr. Feuer, I've handed you</p> <p>14 Exhibit 527.</p> <p>15 MR. HARRIS: 528.</p> <p>16 MR. WEINICK: Thank you.</p> <p>17 BY MR. WEINICK:</p> <p>18 Q. I've handed you Exhibit 528. It</p> <p>19 bears the Bates stamp BW SHIP 00134667</p> <p>20 through 669.</p> <p>21 Please take as much time as you</p> <p>22 need to review the e-mail before I ask you</p> <p>23 some questions.</p> <p>24 While you do, I'll represent that</p> <p>25 this is an e-mail chain, the topmost of</p>
<p style="text-align: right;">Page 359</p> <p>1 M. Feuer</p> <p>2 How would -- strike that.</p> <p>3 Would SHIP know what specific</p> <p>4 assets had been invested in on its behalf?</p> <p>5 MR. MATHIAS: Objection to form.</p> <p>6 A. Absolutely.</p> <p>7 Q. And how would SHIP have that</p> <p>8 knowledge?</p> <p>9 A. Because they had access to the</p> <p>10 same data that CNO had, every one of our</p> <p>11 clients had, which is full disclosure of</p> <p>12 all documents, all loan documents, anything</p> <p>13 the file had, they had access to.</p> <p>14 Q. So if SHIP was invested through</p> <p>15 Beechwood into Desert Hawk, for example,</p> <p>16 SHIP would have access to that information?</p> <p>17 A. Absolutely.</p> <p>18 Q. Have you ever heard of an entity</p> <p>19 called LC Energy?</p> <p>20 A. I don't recall the name. That's</p> <p>21 not to say that we didn't do something with</p> <p>22 them. We did business with a lot of</p> <p>23 people.</p> <p>24 Q. Mr. Feuer, do you know who Dan</p> <p>25 Cathcart is, C-A-T-H-C-A-R-T?</p>	<p style="text-align: right;">Page 361</p> <p>1 M. Feuer</p> <p>2 which appears to be from Rick Hodgdon,</p> <p>3 dated 11/6/2015, to Mr. Taylor, yourself,</p> <p>4 Mr. Kaplon -- with an O -- Ben Keslowitz,</p> <p>5 subject, "Next steps."</p> <p>6 Mr. Feuer, have you had a chance</p> <p>7 to review 528?</p> <p>8 A. 527, I think it's called.</p> <p>9 MR. HARRIS: No, this is 528.</p> <p>10 These are both marked the same, Eric.</p> <p>11 THE WITNESS: I think it's got to</p> <p>12 be changed to 528.</p> <p>13 MR. WEINICK: Yeah, we'll change</p> <p>14 that. Thank you.</p> <p>15 BY MR. WEINICK:</p> <p>16 Q. Mr. Feuer, have you had a chance</p> <p>17 to review 528?</p> <p>18 A. I have.</p> <p>19 Q. Okay.</p> <p>20 Do you recall receiving 528 on or</p> <p>21 about November 6, 2015?</p> <p>22 A. I do not.</p> <p>23 Q. Any reason to doubt that you did?</p> <p>24 A. No.</p> <p>25 Q. Let's start by identifying some</p>

<p style="text-align: right;">Page 362</p> <p>1 M. Feuer</p> <p>2 of the names on here that we haven't seen</p> <p>3 before. David Kaplon, who is he?</p> <p>4 A. He was brought on, as I mentioned</p> <p>5 earlier in testimony, when we were looking</p> <p>6 to raise capital, we brought him on to</p> <p>7 essentially run with our project.</p> <p>8 Q. When you say "raise capital,"</p> <p>9 what do you mean?</p> <p>10 A. As I mentioned -- at some point</p> <p>11 when we were getting close to closing on a</p> <p>12 very large deal with a company called</p> <p>13 Lincoln Financial, we needed to raise</p> <p>14 capital to support that deal and we brought</p> <p>15 on a private equity CFO type individual who</p> <p>16 had experience in that regard to help us</p> <p>17 navigate that area.</p> <p>18 Q. And who is Mr. Keslowitz?</p> <p>19 A. Mr. Keslowitz was my chief</p> <p>20 actuary.</p> <p>21 Q. Just for the record, what is the</p> <p>22 function of a chief actuary?</p> <p>23 A. So he sits over all of our</p> <p>24 underwriting from an actuarial perspective</p> <p>25 as well as all of our books of business</p>	<p style="text-align: right;">Page 364</p> <p>1 M. Feuer</p> <p>2 Q. So Vanbridge is a consultant that</p> <p>3 was retained by SHIP?</p> <p>4 A. Yes.</p> <p>5 Q. Mr. Cathcart writes in the middle</p> <p>6 of the first paragraph, "Therefore, between</p> <p>7 Rick, myself and your team, having complete</p> <p>8 focus on the timeline, I believe you can at</p> <p>9 least provide PA with a solid story, plan</p> <p>10 and financial income and balance sheet</p> <p>11 representations by year-end and then</p> <p>12 execute before the year-end financials are</p> <p>13 due by end of February."</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Do you know what the reference to</p> <p>17 PA is there?</p> <p>18 A. I don't.</p> <p>19 Q. Is it to the Pennsylvania</p> <p>20 regulators?</p> <p>21 A. It would appear to be so, yes.</p> <p>22 Q. And do you know what was meant by</p> <p>23 a solid story plan and financial income and</p> <p>24 balance sheet representations?</p> <p>25 A. Like I said, I know that</p>
<p style="text-align: right;">Page 363</p> <p>1 M. Feuer</p> <p>2 from a performance perspective and sets the</p> <p>3 appropriate reserving and all the things</p> <p>4 that actuaries do within a reinsurance</p> <p>5 company.</p> <p>6 Q. Can you flip to the next page,</p> <p>7 please?</p> <p>8 A. Sure.</p> <p>9 Q. There is an e-mail there from the</p> <p>10 individual I asked you about a moment ago,</p> <p>11 Dan Cathcart to Brian Wegner, cc to Rick</p> <p>12 Hodgdon.</p> <p>13 Does this refresh your memory as</p> <p>14 to who Mr. Cathcart is?</p> <p>15 A. It doesn't.</p> <p>16 Q. It's also addressed to a</p> <p>17 kpierce@vanbridge.com.</p> <p>18 Do you recognize that e-mail</p> <p>19 address?</p> <p>20 A. I do.</p> <p>21 Q. And whose e-mail address is that?</p> <p>22 A. Those are some consultants that</p> <p>23 Mr. Wegner brought on to help him structure</p> <p>24 his balance sheet and deals around his</p> <p>25 balance sheet.</p>	<p style="text-align: right;">Page 365</p> <p>1 M. Feuer</p> <p>2 Vanbridge was advising Brian and his</p> <p>3 management team on various structures to</p> <p>4 help him with his balance sheet and I</p> <p>5 assumed they're referring to something</p> <p>6 along those lines.</p> <p>7 Q. Do you know why Mr. Wegner was</p> <p>8 engaged in that process in November of</p> <p>9 2015?</p> <p>10 A. Mr. Wegner, when he approached</p> <p>11 me, talked about always thinking out into</p> <p>12 the future as he had a long tail block.</p> <p>13 And as such, when you have a long tail</p> <p>14 block with, you know, \$23 billion -- not</p> <p>15 23 -- think it was \$13 billion -- a large</p> <p>16 sum of assets, you need to make moves today</p> <p>17 that will have impact on that block years</p> <p>18 and years from now.</p> <p>19 So in his role, I imagine he was</p> <p>20 constantly thinking about what moves he had</p> <p>21 to make today that would help him navigate</p> <p>22 the block over the course of the coming</p> <p>23 years.</p> <p>24 Q. Do you know if Mr. Wegner was</p> <p>25 under any kind of pressure from the</p>

<p style="text-align: right;">Page 382</p> <p>1 M. Feuer</p> <p>2 about and contemplating.</p> <p>3 Q. And this would be a loan by</p> <p>4 Beechwood to PPCO, is that's what is</p> <p>5 contemplated in this e-mail?</p> <p>6 A. To the best of my recollection,</p> <p>7 Beechwood did it on behalf of its clients</p> <p>8 or on behalf of its trusts.</p> <p>9 Q. Was it your understanding that</p> <p>10 Beechwood was serving as an agent to its</p> <p>11 clients in connection with the loan</p> <p>12 contemplated herein?</p> <p>13 A. To different clients, different</p> <p>14 things -- but yes, in some capacity.</p> <p>15 Q. In some capacity, Beechwood was</p> <p>16 acting on behalf of its clients?</p> <p>17 A. Yes.</p> <p>18 Q. With respect to this proposed</p> <p>19 loan?</p> <p>20 A. Well, Beechwood was acting on</p> <p>21 behalf of itself. Beechwood bought blocks</p> <p>22 of business. It had rules and regulations</p> <p>23 on how to manage those blocks in business,</p> <p>24 but we were acting on behalf of ourselves,</p> <p>25 except as it pertained to SHIP.</p>	<p style="text-align: right;">Page 384</p> <p>1 M. Feuer</p> <p>2 introduction to the concept of the IMAs,</p> <p>3 what was your understanding of the capacity</p> <p>4 by which Beechwood invested on behalf of</p> <p>5 SHIP?</p> <p>6 A. To the best of my recollection,</p> <p>7 it was in the form of a loan. I think the</p> <p>8 way the transaction was structured -- or I</p> <p>9 thought the transaction was structured in</p> <p>10 the form of some sort of a loan, with a</p> <p>11 guaranteed rate of return.</p> <p>12 Q. A loan from whom to whom?</p> <p>13 A. A loan from SHIP to Beechwood,</p> <p>14 with a guaranteed rate of return to SHIP.</p> <p>15 Q. And so then Beechwood -- it would</p> <p>16 be incumbent upon Beechwood to make</p> <p>17 investments with a sufficient rate of</p> <p>18 return to service that loan at a return of</p> <p>19 5.8 percent or greater?</p> <p>20 MR. MATHIAS: Objection to form.</p> <p>21 A. That is correct.</p> <p>22 Q. Now, in the second sentence of</p> <p>23 Mr. Taylor's e-mail, there is a reference</p> <p>24 to Egan Jones.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 383</p> <p>1 M. Feuer</p> <p>2 Q. So can you distinguish for me in</p> <p>3 what instances was Beechwood acting on its</p> <p>4 own behalf versus in what instances was it</p> <p>5 acting on behalf of SHIP?</p> <p>6 MR. MATHIAS: Objection to form.</p> <p>7 A. I don't recall all the technical</p> <p>8 issues. But like I said, if you use the</p> <p>9 CNO block as an example, we bought a block</p> <p>10 of business from CNO. We were subject to</p> <p>11 certain regulations and rules and</p> <p>12 guidelines on how to invest that block.</p> <p>13 But we were investing it as part of</p> <p>14 ourselves with oversight and regulatory</p> <p>15 approval with regard to the block.</p> <p>16 Q. And this was pursuant to</p> <p>17 reinsurance agreements with CNO, right?</p> <p>18 A. That's correct.</p> <p>19 Q. You didn't have reinsurance</p> <p>20 agreements with SHIP, correct?</p> <p>21 A. That's why I'm distinguishing</p> <p>22 perhaps our role and responsibility with</p> <p>23 regard to SHIP versus some of our</p> <p>24 reinsurance contracts.</p> <p>25 Q. Prior to today, in your</p>	<p style="text-align: right;">Page 385</p> <p>1 M. Feuer</p> <p>2 Q. Is that the firm you referred to</p> <p>3 earlier?</p> <p>4 A. Yes, that's the rating agency.</p> <p>5 Q. And they were a rating agency</p> <p>6 engaged by whom?</p> <p>7 A. By Beechwood.</p> <p>8 Q. By Beechwood.</p> <p>9 And what were they --</p> <p>10 A. Or BAM. One of our entities. I</p> <p>11 don't want to be -- give you the wrong</p> <p>12 entity.</p> <p>13 Q. Sure.</p> <p>14 And what assets were they tasked</p> <p>15 with rating?</p> <p>16 A. Our structured notes or our</p> <p>17 privates as it was referred to earlier.</p> <p>18 Q. Okay.</p> <p>19 And Mr. Taylor goes on to write</p> <p>20 that "They" -- meaning Egan Jones -- "have</p> <p>21 indicated that they will likely look</p> <p>22 favorably on the loan particularly as we</p> <p>23 strengthen the security of the loan (we can</p> <p>24 discuss that later.)"</p> <p>25 Do you have an understanding of</p>

<p style="text-align: right;">Page 386</p> <p>1 M. Feuer</p> <p>2 what Mr. Taylor was referring to when he</p> <p>3 says "strengthen the security of the loan"?</p> <p>4 A. I don't recall specifically.</p> <p>5 Q. Do you recall generally?</p> <p>6 A. We were trying to structure a</p> <p>7 transaction. As I mentioned earlier,</p> <p>8 Mr. Nordlicht had reached out to us during</p> <p>9 this time period that, as I said this</p> <p>10 morning, that he wanted us to enter into a</p> <p>11 restructuring with regard to the underlying</p> <p>12 loans and things that we had done in</p> <p>13 connection with his firm. And this was a</p> <p>14 structure that we were trying to create</p> <p>15 that would enable that process to occur.</p> <p>16 Q. Are you aware of any</p> <p>17 communications between Platinum and SHIP</p> <p>18 between 2013 and 2016?</p> <p>19 A. To the best of my recollection,</p> <p>20 no.</p> <p>21 Q. Mr. Taylor, going back to the</p> <p>22 e-mail, Mr. Taylor says "We can discuss</p> <p>23 that later."</p> <p>24 Do you recall any discussions</p> <p>25 about the security of the loan?</p>	<p style="text-align: right;">Page 388</p> <p>1 M. Feuer</p> <p>2 A. I don't know if this exact one,</p> <p>3 but there was definitely a restructuring</p> <p>4 that took place that included some sort of</p> <p>5 a loan to PPCO.</p> <p>6 Q. And what is your understanding of</p> <p>7 when that took place?</p> <p>8 A. Like I said, sometime after -- in</p> <p>9 this period, sometime late 2015 to early</p> <p>10 2016.</p> <p>11 Q. Do you have an understanding of</p> <p>12 whether it took place in segments?</p> <p>13 A. I'm sorry, I don't.</p> <p>14 Q. Okay.</p> <p>15 A. The restructuring took place --</p> <p>16 it wasn't one big bang. I don't know how</p> <p>17 this particular PPCO transaction</p> <p>18 manifested.</p> <p>19 Q. Do you have an understanding if</p> <p>20 part of it took place in December of 2015</p> <p>21 and then part of it in March 2016?</p> <p>22 A. I'm sorry, I don't.</p> <p>23 Q. Are you aware of any transactions</p> <p>24 between SHIP and Beechwood just prior to</p> <p>25 December '15 where SHIP assets were</p>
<p style="text-align: right;">Page 387</p> <p>1 M. Feuer</p> <p>2 A. I don't recall, no.</p> <p>3 Q. Okay.</p> <p>4 Mr. Taylor goes on, "As a team,</p> <p>5 we felt like these were fair and equitable</p> <p>6 terms that simultaneously may strengthen</p> <p>7 Beechwood's counterparty credit exposure on</p> <p>8 certain loans to be retired, while</p> <p>9 significantly lowering Platinum's current</p> <p>10 cash interest payments."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. All right.</p> <p>14 First of all, do you know who the</p> <p>15 team that Mr. Taylor is referencing is?</p> <p>16 A. I recall David Steinberg being</p> <p>17 the lead on the restructuring and the</p> <p>18 person that was the counterparty to Dhruv</p> <p>19 in that regard. There may have been some</p> <p>20 others, but the one that I had visibility</p> <p>21 to was David Steinberg.</p> <p>22 Q. Do you have any understanding as</p> <p>23 to whether the restructuring contemplated</p> <p>24 by e-mail, 529, was eventually executed and</p> <p>25 implemented?</p>	<p style="text-align: right;">Page 389</p> <p>1 M. Feuer</p> <p>2 transferred to Beechwood?</p> <p>3 A. I don't recall. I'm sorry.</p> <p>4 Q. Okay.</p> <p>5 So you wouldn't recall if those</p> <p>6 took place, if they were part of this same</p> <p>7 restructuring transaction?</p> <p>8 A. I don't recall.</p> <p>9 Q. All right.</p> <p>10 Going back to the e-mail, we felt</p> <p>11 like these were fair and equitable terms.</p> <p>12 To whom did the team feel the</p> <p>13 terms were fair and equitable?</p> <p>14 A. Well, my team, I imagine, were</p> <p>15 concerned about fair and equitable terms to</p> <p>16 us, and I'm sure they were getting feedback</p> <p>17 from the other side as to how it was</p> <p>18 pairing on fair and equitable to them.</p> <p>19 Q. Do you know or are you just</p> <p>20 presuming that the other side found it fair</p> <p>21 and equitable?</p> <p>22 A. I'm presuming. I know they felt</p> <p>23 very good about getting lower interest</p> <p>24 rates and us freeing up some of the</p> <p>25 collateral requirements on their particular</p>

<p style="text-align: right;">Page 390</p> <p>1 M. Feuer</p> <p>2 funds -- that I do recall, because I know</p> <p>3 Mr. Nordlicht had those as very big</p> <p>4 concerns.</p> <p>5 Q. Okay.</p> <p>6 The next sentence reads,</p> <p>7 "Consequently, we also felt this is a</p> <p>8 defensible loan to any of our own clients</p> <p>9 as we need to act as fiduciaries."</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. Okay.</p> <p>13 Do you know what Mr. Taylor meant</p> <p>14 by "defensible"?</p> <p>15 A. I don't know what he was saying</p> <p>16 in that e-mail. You can ask him.</p> <p>17 Q. Were you aware of any occasion</p> <p>18 where Beechwood had to defend its actions</p> <p>19 to its clients?</p> <p>20 A. I don't recall us having to do</p> <p>21 so, no.</p> <p>22 Q. Is that because Beechwood was</p> <p>23 keeping its clients apprised as to what was</p> <p>24 going on with their investments?</p> <p>25 A. That is correct.</p>	<p style="text-align: right;">Page 392</p> <p>1 M. Feuer</p> <p>2 collateral was?</p> <p>3 A. I don't recall, but I do recall</p> <p>4 Mr. Nordlicht raising two significant</p> <p>5 issues to me that he was trying to solve</p> <p>6 for, one is that some of the collateral</p> <p>7 related to some of the underlying loans was</p> <p>8 against the entire fund and he felt -- he</p> <p>9 told me that that was placing a</p> <p>10 stranglehold on his ability to run those</p> <p>11 funds effectively and raise capital in that</p> <p>12 regard, as well as the high interest rates</p> <p>13 that were against some of those loans, that</p> <p>14 was very difficult for them to sustain.</p> <p>15 Q. Okay.</p> <p>16 A. So we were trying to solve for</p> <p>17 some of their issues, while strengthening</p> <p>18 our position at the same time.</p> <p>19 Q. The first issue that</p> <p>20 Mr. Nordlicht raised, the stranglehold</p> <p>21 on -- the collateral versus the entire fund</p> <p>22 and the stranglehold, to use your words</p> <p>23 that created, was that something that was</p> <p>24 existing at the time that this transaction</p> <p>25 was being contemplated or is that something</p>
<p style="text-align: right;">Page 391</p> <p>1 M. Feuer</p> <p>2 Q. The last paragraph says, "I</p> <p>3 believe Mark Feuer will call you tomorrow</p> <p>4 to discuss."</p> <p>5 Again, do you have any</p> <p>6 recollection of calling Mark or Murray</p> <p>7 after this e-mail to discuss?</p> <p>8 A. I do not.</p> <p>9 Q. There's a reference there to --</p> <p>10 going back to the first sentence of the</p> <p>11 second paragraph -- "strengthen Beechwood's</p> <p>12 counterparty credit exposure on certain</p> <p>13 loans to be retired."</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Do you know what the reference to</p> <p>17 Beechwood's counterparty credit exposure</p> <p>18 was?</p> <p>19 A. I could try, if you'd like.</p> <p>20 Q. Please.</p> <p>21 A. I would imagine we were</p> <p>22 strengthening some of the underlying</p> <p>23 collateral that we had against some of our</p> <p>24 loans.</p> <p>25 Q. Do you know what that underlying</p>	<p style="text-align: right;">Page 393</p> <p>1 M. Feuer</p> <p>2 that was contemplated by the deal terms</p> <p>3 that were on the table?</p> <p>4 A. That's what he was trying to move</p> <p>5 away from.</p> <p>6 Q. So that's what existed on</p> <p>7 December 19, 2015, is that there was --</p> <p>8 that his entire fund was collateral for the</p> <p>9 loans?</p> <p>10 A. For some of loans. I don't know</p> <p>11 the particulars, but those were the terms</p> <p>12 that he was utilizing with me.</p> <p>13 Q. Okay.</p> <p>14 So you understood that having all</p> <p>15 of Platinum's assets serve as collateral</p> <p>16 for the loans was detrimental al to</p> <p>17 Platinum at that time?</p> <p>18 A. That's what he was expressing to</p> <p>19 me.</p> <p>20 Q. Okay.</p> <p>21 And high interest rates, what was</p> <p>22 that a reference to?</p> <p>23 A. Some of the loans had high</p> <p>24 interest rates, 12, 14 percent. And he</p> <p>25 indicated to me that those were very</p>

<p style="text-align: right;">Page 394</p> <p>1 M. Feuer</p> <p>2 difficult interest rates to sustain on a</p> <p>3 go-forward basis.</p> <p>4 Q. And just to clarify, how would</p> <p>5 the transactions contemplated by e-mail 529</p> <p>6 accomplish the reduction of Beechwood's</p> <p>7 counterparty credit exposure?</p> <p>8 A. It was a very complex</p> <p>9 transaction. I apologize. I would not</p> <p>10 have gotten or known the details back then.</p> <p>11 You can ask a number of people on my staff</p> <p>12 to give you those details. Scott Taylor</p> <p>13 would be able to give you way more detail</p> <p>14 or I am sure Mr. Narain would be able to as</p> <p>15 well.</p> <p>16 Q. Would you know generally?</p> <p>17 A. Generally is what I said to you.</p> <p>18 What I was asked to try to help out with</p> <p>19 from the other side was, you know, I used</p> <p>20 the word stranglehold as that is what was</p> <p>21 used to me with regard to their ability to</p> <p>22 manage their funds with the collateral</p> <p>23 requirements that our existing portfolio</p> <p>24 had on their funds and the high interest</p> <p>25 rates that they referred to.</p>	<p style="text-align: right;">Page 396</p> <p>1 M. Feuer</p> <p>2 Platinum guaranteeing, was acting as a</p> <p>3 guarantor for some of the loans we did</p> <p>4 relate to parties that they either had</p> <p>5 equity interest in or other types of</p> <p>6 interest in -- I'm not even aware -- and</p> <p>7 through this restructuring they were asking</p> <p>8 us to eliminate some of those broad</p> <p>9 underlying collateral requirements.</p> <p>10 Q. And are you aware if those broad</p> <p>11 collateral requirements were, in fact,</p> <p>12 eliminated?</p> <p>13 A. It's my understanding that they</p> <p>14 were, because Platinum was very happy with</p> <p>15 the ultimate deal that we cut with them --</p> <p>16 "very happy" might be a strong word, but I</p> <p>17 think we had a meeting of the minds --</p> <p>18 companies had a meeting of the minds on how</p> <p>19 we were going to move forward and they got</p> <p>20 essentially what they wanted and I think we</p> <p>21 got what we wanted.</p> <p>22 Q. Would it surprise you to learn if</p> <p>23 I were to represent to you that the</p> <p>24 opposite, in fact, happened, that Platinum</p> <p>25 wound up with liens on all of its assets as</p>
<p style="text-align: right;">Page 395</p> <p>1 M. Feuer</p> <p>2 So through this restructure, it</p> <p>3 was anticipated to obviate some of that.</p> <p>4 And, in fact, my recollection, if my</p> <p>5 recollection serves me, we did lower the</p> <p>6 interest rates significantly across the</p> <p>7 board against the loans that we had in</p> <p>8 connection with them, to much lower</p> <p>9 interest rates.</p> <p>10 Q. Much lower interest rates for</p> <p>11 whom?</p> <p>12 A. For Platinum and the</p> <p>13 Platinum-related assets. Often times more</p> <p>14 than half -- as well as, like I said, I was</p> <p>15 under the impression that we had taken off</p> <p>16 this notion of stranglehold of collateral</p> <p>17 that we had against, you know, 100, 200</p> <p>18 plus million dollars that we had lent them.</p> <p>19 Q. Are you aware if at any point in</p> <p>20 December 2015 or after as a result of</p> <p>21 transactions between Platinum and Beechwood</p> <p>22 there came to be an all-asset lien in favor</p> <p>23 of Beechwood on all of Platinum's assets?</p> <p>24 A. My recollection is that some of</p> <p>25 the earlier loans had this notion of</p>	<p style="text-align: right;">Page 397</p> <p>1 M. Feuer</p> <p>2 a result of transactions with Beechwood in</p> <p>3 December of 2015 and March of 2016?</p> <p>4 A. As I said, nothing would surprise</p> <p>5 me at this point. I don't know how the</p> <p>6 ultimate transaction took place. I know</p> <p>7 that Mr. Nordlicht had come to me with</p> <p>8 those two primary concerns and he seemed to</p> <p>9 indicate to me that through this</p> <p>10 restructuring that we obviated the things</p> <p>11 that he was most concerned about.</p> <p>12 Q. But if, in fact, that had not</p> <p>13 occurred, Beechwood would have been aware</p> <p>14 of the stranglehold such liens would</p> <p>15 represent as to Platinum, correct?</p> <p>16 A. I don't know what Beechwood would</p> <p>17 be aware of the impact its loans had on</p> <p>18 Platinum other than what Platinum was</p> <p>19 representing to it.</p> <p>20 So like I said, I'm not an expert</p> <p>21 in hedge funds or in collateral of hedge</p> <p>22 funds. Mark Nordlicht came to us with his</p> <p>23 people with regard to some of the</p> <p>24 challenges that they were having and this</p> <p>25 restructuring was supposed to obviate some</p>

<p style="text-align: right;">Page 402</p> <p>1 M. Feuer</p> <p>2 A. I don't recall this set of</p> <p>3 e-mails.</p> <p>4 Q. Any reason to believe you did not</p> <p>5 send and receive these e-mails?</p> <p>6 A. No.</p> <p>7 Q. Okay.</p> <p>8 Let's start at the bottom, March</p> <p>9 12, 2015. You wrote to Mr. Nordlicht, "Any</p> <p>10 update on interest payments due Beechwood?"</p> <p>11 Do you know what that refers to?</p> <p>12 A. I assume he was tardy, or some</p> <p>13 Platinum-related loans were tardy in their</p> <p>14 payments to Beechwood, as I mentioned</p> <p>15 before.</p> <p>16 Q. Mr. Nordlicht writes "Coming" --</p> <p>17 ellipsis -- "be patient" -- ellipsis --</p> <p>18 "SHD BOK Monday" -- I presume he means</p> <p>19 should be okay Monday?</p> <p>20 A. I presume that's what he meant.</p> <p>21 Q. Did your receipt of that e-mail</p> <p>22 cause you any concerns?</p> <p>23 A. No, because, like I said, this</p> <p>24 was par for the course.</p> <p>25 Q. Then, at the top, Mr. Nordlicht</p>	<p style="text-align: right;">Page 404</p> <p>1 M. Feuer</p> <p>2 improve after this e-mail or did they stay</p> <p>3 the same, did they get worse?</p> <p>4 A. I think, to the best of my</p> <p>5 recollection, throughout 2015, this became</p> <p>6 part of the course where I'd have to</p> <p>7 literally nudge him on various loans to get</p> <p>8 us the monthly interest that he owed us.</p> <p>9 It became part of how -- it</p> <p>10 became part of how we were doing business,</p> <p>11 which is what really disturbed me and</p> <p>12 caused me to take some of the actions that</p> <p>13 I did towards the end of the year.</p> <p>14 (Exhibit 531, E-mail dated</p> <p>15 5/11/15, Bates stamped 6812852, marked</p> <p>16 for identification, as of this date.)</p> <p>17 BY MR. WEINICK:</p> <p>18 Q. Mr. Feuer, this is 531, about two</p> <p>19 months later. It bears the control number,</p> <p>20 for the table, of 6812852. It appears to</p> <p>21 be an e-mail from you to Mr. Nordlicht,</p> <p>22 Monday, 5/11/2015.</p> <p>23 Do you recall sending this</p> <p>24 e-mail?</p> <p>25 A. I do not.</p>
<p style="text-align: right;">Page 403</p> <p>1 M. Feuer</p> <p>2 appears to write, "Gentle reminder, I'm not</p> <p>3 trying to be nudge, trust me I'm just</p> <p>4 trying to balance the issues we are having</p> <p>5 and do not want to have to respond to this</p> <p>6 as well. TY for your understanding."</p> <p>7 MR. HARRIS: I think it's an</p> <p>8 e-mail from Mr. Feuer.</p> <p>9 MR. WEINICK: Yes, I'm sorry,</p> <p>10 from Mr. Feuer to Mr. Nordlicht.</p> <p>11 A. I was giving him another reminder</p> <p>12 that I still haven't gotten the interest</p> <p>13 payment.</p> <p>14 Q. When you say "balance the issues</p> <p>15 we are having," what did you mean?</p> <p>16 A. I don't recall.</p> <p>17 Q. And when you say "I don't want to</p> <p>18 have to respond to this as well," what else</p> <p>19 did you have to respond to?</p> <p>20 A. I don't recall.</p> <p>21 Q. And do you recall to whom you</p> <p>22 would have to respond?</p> <p>23 A. I do not.</p> <p>24 Q. Okay.</p> <p>25 Did Platinum's difficulties</p>	<p style="text-align: right;">Page 405</p> <p>1 M. Feuer</p> <p>2 Q. Any reason to believe you didn't?</p> <p>3 A. Nope.</p> <p>4 Q. Okay.</p> <p>5 You write there, "Flying out to</p> <p>6 see CNO this Thursday."</p> <p>7 Do you recall flying out to see</p> <p>8 CNO on or about 5/11/2015?</p> <p>9 A. I do not.</p> <p>10 Q. Would you recall if you would</p> <p>11 have seen SHIP on that same trip?</p> <p>12 A. If I would have flown out to see</p> <p>13 CNO on that date, there's a high likelihood</p> <p>14 that I would have gone to see SHIP as well.</p> <p>15 Q. You write at the end there, "And</p> <p>16 as such, if this can be taken care of</p> <p>17 prior, that would be greatly appreciated."</p> <p>18 Any understanding as to why you</p> <p>19 wrote that?</p> <p>20 A. Yeah. Like I said, this became</p> <p>21 par of the course.</p> <p>22 An interest payment apparently</p> <p>23 was due on May 1st. It's now May 11th and</p> <p>24 it still hasn't been paid. That disturbed</p> <p>25 me and disturbed my people. So we would</p>

<p style="text-align: right;">Page 406</p> <p>1 M. Feuer</p> <p>2 have to reach out to Mr. Nordlicht and</p> <p>3 nudge him and it always got paid.</p> <p>4 MS. DOHERTY: I'm sorry, Eric.</p> <p>5 Can you just repeat that control</p> <p>6 number?</p> <p>7 MR. WEINICK: Sure, 6812852.</p> <p>8 BY MR. WEINICK:</p> <p>9 Q. Do you recall any discusses with</p> <p>10 CNO at that time about late payments by</p> <p>11 Platinum?</p> <p>12 A. I don't recall having -- I</p> <p>13 personally did not have any such</p> <p>14 conversations, no.</p> <p>15 Q. Do you recall any discussions</p> <p>16 with SHIP in May 2015 about late payments</p> <p>17 by Platinum?</p> <p>18 A. I don't recall having any</p> <p>19 conversations with them in that regard, no.</p> <p>20 Q. Do you recall conversations with</p> <p>21 SHIP at any time about late payments by</p> <p>22 Platinum?</p> <p>23 A. I don't recall specifics, but</p> <p>24 with my relation with Brian, I would not</p> <p>25 put it past me to have mentioned this is</p>	<p style="text-align: right;">Page 408</p> <p>1 M. Feuer</p> <p>2 on?</p> <p>3 A. Some of our dealings with CNO and</p> <p>4 some of the people there. He had been in</p> <p>5 the past an employee there and knew</p> <p>6 everybody.</p> <p>7 Q. Did you ever seek Mr. Wegner's</p> <p>8 advice on anything relating to Platinum?</p> <p>9 A. The only definitive conversation</p> <p>10 that I remember talking to Mr. Wegner</p> <p>11 about, trying to solve for some of these</p> <p>12 Platinum issues concretely was with the</p> <p>13 Agera transaction that I mentioned to you</p> <p>14 earlier.</p> <p>15 Q. But it's possible you had</p> <p>16 discussions before then, correct?</p> <p>17 MR. MATHIAS: Objection.</p> <p>18 A. It's very possible, but like I</p> <p>19 said, I can't remind -- tell you</p> <p>20 specifically, as I know you're asking me.</p> <p>21 Q. Okay.</p> <p>22 (Exhibit 532, E-mail dated</p> <p>23 4/15/15, Bates stamped CONTROL</p> <p>24 6695588, marked for identification, as</p> <p>25 of this date.)</p>
<p style="text-align: right;">Page 407</p> <p>1 M. Feuer</p> <p>2 just, you know, par for the course and it's</p> <p>3 tiring.</p> <p>4 Q. Do you recall in what timeframe</p> <p>5 you may have mentioned to Mr. Wegner that</p> <p>6 you're tired of par for the course with</p> <p>7 Platinum?</p> <p>8 MR. MATHIAS: Objection to form.</p> <p>9 A. You know, we had a fluid</p> <p>10 relationship. It's really, you're asking</p> <p>11 me to pin down specific times that I had.</p> <p>12 I had multiple conversations with</p> <p>13 Mr. Wegner throughout our relationship. He</p> <p>14 was a trusted colleague of mine that we</p> <p>15 shared the -- we shared what was going on</p> <p>16 in our businesses. So it would be natural</p> <p>17 for me to have shared some of these</p> <p>18 challenges.</p> <p>19 Q. Did you ever seek Mr. Wegner's</p> <p>20 advice regarding Mr. Nordlicht?</p> <p>21 A. Not with regard to Mr. Nordlicht,</p> <p>22 but I did seek his advice on many other</p> <p>23 items.</p> <p>24 Q. What were some of those other</p> <p>25 items that you did seek Mr. Wegner's advice</p>	<p style="text-align: right;">Page 409</p> <p>1 M. Feuer</p> <p>2 BY MR. WEINICK:</p> <p>3 Q. This is Exhibit 532.</p> <p>4 For the table, it's CONTROL</p> <p>5 6695588.</p> <p>6 This is another e-mail from</p> <p>7 Mr. Feuer to Mr. Nordlicht dated 4/15/2015.</p> <p>8 Mr. Feuer, do you recognize this</p> <p>9 e-mail?</p> <p>10 A. I do not recognize this e-mail.</p> <p>11 Q. Any reason to believe you didn't</p> <p>12 send it?</p> <p>13 A. No.</p> <p>14 Q. You write, "M, trying to get on</p> <p>15 your calendar" -- ellipsis -- "any update</p> <p>16 on North Star?"</p> <p>17 Do you know what you meant by</p> <p>18 trying to get on Mr. Nordlicht's calendar?</p> <p>19 A. I was trying to get this North</p> <p>20 Star issue -- I imagine this was another</p> <p>21 interest payment that he was late on that</p> <p>22 we were trying to get resolved.</p> <p>23 Q. You write, "Eric Johannson called</p> <p>24 me this morning and I said I'd look into</p> <p>25 it."</p>

Page 430

1 M. Feuer

2 (Exhibit 535, Chart, marked for

3 identification, as of this date.)

4 BY MR. WEINICK:

5 Q. Mr. Feuer, I've handed you a

6 spreadsheet that's been marked as Exhibit

7 535. I will represent to you that this was

8 produced to my firm by the Lipsius firm

9 during the course of this litigation.

10 My question to you, to begin

11 with, after you've had a chance to review,

12 is whether you've seen this chart before?

13 A. I don't recall having seen this

14 chart before.

15 Q. Do you recall having seen a chart

16 similar to this before?

17 A. I don't recall having seen charts

18 like this before, no.

19 Q. Are you aware, irrespective of

20 whether you've seen it before or a chart

21 similar to this, whether this is the type

22 of chart Beechwood would have maintained in

23 the ordinary course of its business?

24 MR. MATHIAS: Objection to form.

25 A. I don't know.

Page 431

1 M. Feuer

2 Q. Okay.

3 So would you know who would know

4 about -- who from Beechwood would know

5 anything about a chart like Exhibit 535?

6 A. Some of my financial guys, maybe

7 Mr. Adelstein or Mr. Taylor.

8 MR. WEINICK: Mark, I've got

9 about 40, 45 minutes total. I know

10 he's got a 5:00 hard stop. My

11 preference would be to do it in a

12 straight shot in the morning.

13 THE WITNESS: If everyone's okay

14 with it, that would be great for me.

15 MR. HARRIS: That's fine with us.

16 MR. GLUCK: That won't affect the

17 total record time, correct?

18 MR. HARRIS: Correct. We'll tack

19 on 15 minutes to tomorrow.

20 THE WITNESS: So start at 9:00

21 tomorrow?

22 MR. HARRIS: We're starting at 9

23 tomorrow?

24 MR. WEINICK: Yes.

25 MR. HARRIS: Okay.

Page 432

1 M. Feuer

2 THE VIDEOGRAPHER: Going off the

3 record. The time is 4:45 p.m.

4 (Time noted: 4:45 p.m.)

5

6

7

8 _____

9 MARK FEUER

10

11 Subscribed and affirmed to before me

12 this ___ day of _____, 2019.

13

14 _____

15

16

17

18

19

20

21

22

23

24

25

Page 433

1

2 C E R T I F I C A T E

3 STATE OF NEW YORK)

4 : ss.

5 COUNTY OF NEW YORK)

6

7 I, Joan Ferrara, a Notary Public

8 within and for the State of New York,

9 do hereby certify:

10 That MARK FEUER, the witness

11 whose deposition is hereinbefore set

12 forth, was duly affirmed by me and that

13 such deposition is a true record of the

14 testimony given by the witness.

15 I further certify that I am not

16 related to any of the parties to this

17 action by blood or marriage, and that I

18 am in no way interested in the outcome


19 of this matter.

20 IN WITNESS WHEREOF, I have

21 hereunto set my hand this 26th day of

22 November, 2019.

23

24 

25 Joan Ferrara

1
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES DISTRICT COURT
4 CASE NO. 18-CV-6658 (JSR)
5 CASE NO. 18-CV-10936 (JSR)

6 IN RE: PLATINUM-BEECHWOOD LITIGATION

7 MARTIN TROTT and CHRISTOPHER SMITH,
8 as Joint Official Liquidators and
9 Foreign Representatives of PLATINUM
10 PARTNERS VALUE ARBITRAGE FUND L.P.
11 (in Official Liquidation), and
12 PLATINUM PARTNERS VALUE ARBITRAGE
13 FUND L.P. (in Official Liquidation),

14 Plaintiffs,

15 vs.

16 PLATINUM MANAGEMENT (NY) LLC, et al.,
17 Defendants.

18 VOLUME II

19 CONTINUED VIDEOTAPED DEPOSITION OF

20 MARK FEUER

21 Thursday, November 21, 2019

22 9:00 a.m.

23
24 Reported by:
25 Joan Ferrara, RMR, FCRR
Job No. 291951

Page 442

1
2
3 November 21, 2019
4 9:00 a.m.
5 New York, New York
6
7
8
9 Continued Videotaped Deposition
10 of MARK FEUER, held at the offices of US
11 Legal Support, 90 Broad Street, New York,
12 New York, Pursuant to Subpoena, before Joan
13 Ferrara, a Registered Merit Reporter,
14 Federal Certified Realtime Reporter and
15 Notary Public of the State of New York.
16
17
18
19
20
21
22
23
24
25

Page 443

1
2 A P P E A R A N C E S:
3
4 DLA PIPER, LLP (US)
5 Attorneys for Plaintiff SHIP
6 The Marbury Building
7 6225 Smith Avenue
8 Baltimore, Maryland 21209
9 BY: JAMES MATHIAS, ESQ.
10 A. NEILL THUPARI, ESQ.
11
12 HOLLAND & KNIGHT LLP
13 Attorneys for Plaintiff Martin Trott
14 31 West 52nd Street
15 New York, New York 10019
16 BY: ELLIOT A. MAGRUDER, ESQ.
17 WARREN E. GLUCK, ESQ.
18
19 CURTIS MALLET-PREVOST COLT & MOSLE LLP
20 Attorneys for Defendant David Bodner
21 101 Park Avenue
22 New York, New York 10178
23 BY: ABIGAIL JOHNSTON, ESQ.
24
25 (Continued)

Page 444

1
2 A P P E A R A N C E S: (Continued)
3
4 MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
5 Attorneys for Defendants Kevin Cassidy and
6 Michael Nordlicht
7 The Chrysler Center
8 666 Third Avenue
9 New York, New York 10017
10 BY: THERESE M. DOHERTY, ESQ.
11
12 CONDON TOBIN SLADEK THORNTON
13 Attorneys for PB Investments
14 8080 Park Lane, Suite 700
15 Dallas, Texas 75231
16 BY: MICHAEL MERRICK, ESQ.
17
18 ALSTON & BIRD LLP
19 Attorneys for Washington National Insurance
20 Company Bankers Conseco
21 90 Park Avenue, 15th Floor
22 New York, New York 10016-1387
23 BY: JOHN M. AERNI, ESQ.
24
25 (Continued)

Page 445

1
2 A P P E A R A N C E S: (Continued)
3
4 PROSKAUER ROSE, LLP
5 Attorneys for Beechwood
6 Eleven Times Square
7 New York, New York 10036-8299
8 BY: MARK D. HARRIS, ESQ.
9 EDWARD CANTER, ESQ.
10
11
12 OTTERBOURG
13 Attorneys for Melanie L. Cyganowski,
14 As Receiver
15 230 Park Avenue
16 New York, New York 10169
17 BY: ERIC WEINICK, ESQ.
18 WILLIAM MORAN, ESQ.
19
20
21
22
23
24
25 (Continued)

Page 446

1

2 A P P E A R A N C E S: (Continued)

3

4 QUINN EMANUEL URQUHART & SULLIVAN, LLP

5 Attorneys for Mark Nordlicht

6 51 Madison Avenue

7 New York, New York 10010

8 BY: DANIEL KOFFMAN, ESQ.

9

10

11 SEIDEN LAW GROUP, LLP

12 Attorneys for SHIP in the Lawrence Partners

13 Litigation

14 469 Seventh Avenue, 5th Floor

15 New York, New York 10018

16 BY: AMIAD KUSHNER, ESQ.

17 MICHAEL D. CILENTO, ESQ.

18

19

20

21

22

23

24

25 (Continued)

Page 447

1

2 A P P E A R A N C E S: (Continued)

3

4 (Via Telephone):

5 SKADDEN ARPS

6 Attorneys for Lincoln Partner

7 155 North Wacker Drive

8 Chicago, Illinois 60606-1720

9 BY: LINDSEY SIELING, ESQ.

10

11

12 ALSO PRESENT:

13 Darrak Lighty, Videographer

14

15

16

17

18

19

20

21

22

23

24

25

Page 448

1

2 THE VIDEOGRAPHER: This is the

3 continued video deposition of Mark

4 Feuer in the matter of

5 Platinum-Beechwood litigation.

6 This deposition is being held at

7 the offices of U.S. Legal Support, 90

8 Broad Street, New York, New York, on

9 November 21, 2019.

10 My name is Darrak Lighty from

11 U.S. Legal Support, and I am the video

12 specialist.

13 The court reporter today is Joan

14 Joan Ferrara, also associated with

15 U.S. Legal Support.

16 We are going on the record at

17 9:02 a.m.

18 All appearances have been noted

19 on the record. The witness has been

20 previously affirmed.

21 M A R K F E U E R,

22 called as a witness, having been

23 previously affirmed by a Notary Public,

24 was examined and testified further as

25 follows:

Page 449

1 M. Feuer

2 EXAMINATION BY

3 MR. WEINICK:

4 Q. Good morning, Mr. Feuer.

5 You recall that you're still

6 under the affirmation that you made

7 yesterday to tell the truth?

8 A. I do.

9 Q. Okay, great.

10 Did you have occasion between the

11 close of yesterday's testimony and this

12 morning to speak about your deposition to

13 anyone other than counsel?

14 A. No.

15 Q. Okay.

16 I want to go back. Yesterday you

17 described for me your role as CEO at

18 Beechwood. I just want to understand

19 definitively the role of some other

20 individuals.

21 Can you please tell me what

22 Mr. Taylor's role over time was at

23 Beechwood?

24 A. He was president of the company.

25 He was essentially my right arm. He

<p style="text-align: right;">Page 462</p> <p>1 M. Feuer</p> <p>2 reading of these paragraphs, did you have</p> <p>3 any understanding of the December 2015</p> <p>4 transaction?</p> <p>5 A. I did not.</p> <p>6 Q. Did you have any involvement in</p> <p>7 the December 2015 transaction?</p> <p>8 A. Perhaps on the periphery.</p> <p>9 Q. Can you provide a more specific</p> <p>10 answer? What do you mean by "periphery"?</p> <p>11 A. On articulating to my</p> <p>12 organization that I wanted the transaction</p> <p>13 to be effectuated. I wanted restructuring</p> <p>14 to be effectuated.</p> <p>15 Q. So was the idea of a</p> <p>16 restructuring in December 2015 your idea?</p> <p>17 A. No. As I mentioned to you,</p> <p>18 Mr. Nordlicht approached us or someone at</p> <p>19 Platinum approached us first suggesting</p> <p>20 that they had unsustainable, I think like I</p> <p>21 used the words yesterday, Mark mentioned</p> <p>22 the word stranglehold as well as untenable</p> <p>23 interest.</p> <p>24 Q. Are you aware of any involvement</p> <p>25 by SHIP with the December transaction?</p>	<p style="text-align: right;">Page 464</p> <p>1 M. Feuer</p> <p>2 we were required to make them aware of it,</p> <p>3 of course they could have had input. If we</p> <p>4 weren't required or we didn't make them</p> <p>5 aware of it, then how could they have had</p> <p>6 input?</p> <p>7 Q. Sitting here today, can you</p> <p>8 definitively state that SHIP did not have</p> <p>9 knowledge of the December 2015 transaction</p> <p>10 before it was consummated?</p> <p>11 A. I can't say that. I don't know.</p> <p>12 Q. Okay.</p> <p>13 Are you aware of in what waves</p> <p>14 the December 2015 transaction, if any,</p> <p>15 benefited Beechwood?</p> <p>16 A. All I know is that we tried to</p> <p>17 effectuate transactions with the Platinum</p> <p>18 organization to try to help them with some</p> <p>19 of their challenges and to continue making</p> <p>20 sure that the loans that we had given the</p> <p>21 Platinum funds were as securitized as</p> <p>22 possible.</p> <p>23 Q. Are you aware of what benefits</p> <p>24 SHIP received, if any, as a result of the</p> <p>25 December 2015 transaction?</p>
<p style="text-align: right;">Page 463</p> <p>1 M. Feuer</p> <p>2 A. I can't imagine SHIP would have</p> <p>3 been involved with the negotiation of the</p> <p>4 transaction. It would have been done by my</p> <p>5 people and Platinum's people.</p> <p>6 Q. Are you aware if SHIP had any</p> <p>7 knowledge of the December transaction at</p> <p>8 the time it was consummated?</p> <p>9 A. I think when it was effectuated,</p> <p>10 they would have had the ability if they</p> <p>11 didn't -- to see anything as I mentioned</p> <p>12 earlier, anything they see on any</p> <p>13 transaction we would have done.</p> <p>14 Q. If SHIP had wanted to have input</p> <p>15 on the December transaction, could it have</p> <p>16 had such input?</p> <p>17 MR. MATHIAS: Objection to form.</p> <p>18 A. All of our clients, to the extent</p> <p>19 they had knowledge before we did a</p> <p>20 transaction -- I don't know what our</p> <p>21 requirements were, vis-a-vis letting SHIP</p> <p>22 know or any of our clients before we did a</p> <p>23 transaction, so I can't answer that</p> <p>24 question.</p> <p>25 If we made them aware of it, if</p>	<p style="text-align: right;">Page 465</p> <p>1 M. Feuer</p> <p>2 A. I would imagine the same benefits</p> <p>3 that Beechwood was trying to achieve is</p> <p>4 what SHIP would have received.</p> <p>5 Q. Are you aware of any benefits to</p> <p>6 Platinum as a result of the December 2015</p> <p>7 transaction?</p> <p>8 A. As I said, I don't -- I can't</p> <p>9 speak specifically to this transaction. I</p> <p>10 think it was merely a piece of an overall</p> <p>11 restructuring plan. But the benefits that</p> <p>12 Platinum was seeking to get from Beechwood</p> <p>13 through this restructuring process was at</p> <p>14 least two; one, I mentioned, was the way it</p> <p>15 was structured prior, Mr. Nordlicht</p> <p>16 appeared to say that was too difficult for</p> <p>17 him with regard to what he needed to do for</p> <p>18 his fund.</p> <p>19 In addition, he felt that the</p> <p>20 interest payments were too high. And I'm</p> <p>21 sure there were other benefits -- I don't</p> <p>22 know what other benefits he may have had as</p> <p>23 a result of it, but it was something that</p> <p>24 he was very anxious to do.</p> <p>25 Q. Are you able to testify as to</p>

<p style="text-align: right;">Page 646</p> <p>1 M. Feuer</p> <p>2 Q. June.</p> <p>3 A. June. April, May, June.</p> <p>4 MS. DOHERTY: Object to the form.</p> <p>5 A. It was several months before it</p> <p>6 was done. I can't give you -- like I said,</p> <p>7 I'm sure that's something you can find in</p> <p>8 the documents.</p> <p>9 Q. And the CNO meeting, to the best</p> <p>10 of your recollection, I realize you weren't</p> <p>11 there, but you may have known that</p> <p>12 Mr. Taylor and Mr. Narain --</p> <p>13 MR. AERNI: Objection to the lack</p> <p>14 of competency.</p> <p>15 Q. When was that?</p> <p>16 A. I would imagine also sometime in</p> <p>17 the beginning of our thinking of this.</p> <p>18 Q. In the beginning.</p> <p>19 Do you see where Mr. Steinberg</p> <p>20 says -- I'm just asking if you see it?</p> <p>21 A. Yes, I see it.</p> <p>22 Q. I feel like I'm totally being</p> <p>23 taken advantage of. This is not in good</p> <p>24 faith.</p> <p>25 A. I see that, yes.</p>	<p style="text-align: right;">Page 648</p> <p>1 M. Feuer</p> <p>2 MS. DOHERTY: Object to the form.</p> <p>3 A. I don't know the details that</p> <p>4 you're speaking of, but this was a</p> <p>5 highly -- I did hear throughout the process</p> <p>6 that there was very tough negotiation going</p> <p>7 on with regard to price, with regard to how</p> <p>8 it was going to be paid, with regard to all</p> <p>9 the terms around it, that there was strong</p> <p>10 debate going on between Dhruv on my side</p> <p>11 and David Steinberg on the other side. And</p> <p>12 eventually I know they had an agreement and</p> <p>13 a meeting of the minds on it.</p> <p>14 Q. Uh-huh.</p> <p>15 And do you see where it says,</p> <p>16 "These are sensitive issues and I cannot</p> <p>17 accept demands which we believe will hurt</p> <p>18 Platinum's business interests" -- excuse</p> <p>19 me, "hurt Platinum's business."</p> <p>20 A. I see that, yes.</p> <p>21 Q. Do you have any knowledge one way</p> <p>22 or another about whether the non-cash --</p> <p>23 that the sale of the Agera asset for</p> <p>24 non-cash considerations selected solely in</p> <p>25 the purchaser's discretion hurt Platinum's</p>
<p style="text-align: right;">Page 647</p> <p>1 M. Feuer</p> <p>2 Q. Now I'm going to draw your</p> <p>3 attention to bullet 3.</p> <p>4 A. Okay.</p> <p>5 Q. The \$80 million, do you recall we</p> <p>6 discussed part, you know, about \$80 million</p> <p>7 cash, \$80 million in non-cash</p> <p>8 consideration.</p> <p>9 A. Yes.</p> <p>10 Q. Do you see here where it says,</p> <p>11 "We allocated in a TBD nature satisfactory</p> <p>12 to both parties and not as selected by such</p> <p>13 purchasers in their sole discretion."</p> <p>14 Do you see that?</p> <p>15 A. I see that, yes.</p> <p>16 Q. Okay.</p> <p>17 So if you had been contemplating</p> <p>18 a transaction where very generally, due to</p> <p>19 any concentration, Platinum assets would be</p> <p>20 transferred for the non-cash part, what</p> <p>21 would it mean to you that you got to select</p> <p>22 which Platinum assets would be transferred</p> <p>23 as opposed to a mutually agreed set of</p> <p>24 Platinum assets?</p> <p>25 MR. HARRIS: Objection.</p>	<p style="text-align: right;">Page 649</p> <p>1 M. Feuer</p> <p>2 business?</p> <p>3 MS. DOHERTY: Object to form.</p> <p>4 A. I have no idea. I imagine this</p> <p>5 was a good deal for Platinum or they</p> <p>6 wouldn't have done it.</p> <p>7 Q. Do you know whether Platinum was</p> <p>8 under a stranglehold that Mr. Weinick</p> <p>9 referred to earlier?</p> <p>10 A. I referred to the two statements</p> <p>11 that Mr. Nordlicht would tell me. And it's</p> <p>12 my impression that he was very happy -- or</p> <p>13 I don't know if very happy might be a</p> <p>14 strong term, but at least after everything</p> <p>15 went down, he seemed to say that his fund</p> <p>16 was better offered and we at Beechwood felt</p> <p>17 that we would better offer it.</p> <p>18 Q. In 2016, it was Beechwood that</p> <p>19 had the stranglehold over Platinum, PPCO</p> <p>20 and PPVA, right?</p> <p>21 A. Once again, we had loaned PPCO</p> <p>22 and PPVA a lot of money. Apparently we</p> <p>23 didn't take enough collateral because we</p> <p>24 weren't paid back most of that money.</p> <p>25 So Mr. Nordlicht approached me</p>

<p style="text-align: right;">Page 650</p> <p>1 M. Feuer</p> <p>2 and said that he wanted to restructure</p> <p>3 those loans because they were difficult for</p> <p>4 him. And the two ways that he said to me</p> <p>5 there may have been many more that I'm not</p> <p>6 aware of that our people worked out that he</p> <p>7 used the word stranglehold over his ability</p> <p>8 to do things in the fund, with the</p> <p>9 collateral that we had, as well as with</p> <p>10 regard to the interest rates.</p> <p>11 From what I understand, after the</p> <p>12 transaction, which both of our people and</p> <p>13 organizations worked on, he was better off</p> <p>14 for it. That came from him, not from me.</p> <p>15 Q. Did Beechwood have counsel in</p> <p>16 connection with the Agera transaction that</p> <p>17 you've just described?</p> <p>18 A. Oh, yes.</p> <p>19 Q. Do you know whether Platinum did?</p> <p>20 A. I couldn't tell you what Platinum</p> <p>21 did or did not do.</p> <p>22 Q. And it was about \$170 million</p> <p>23 deal at the end, right?</p> <p>24 A. I don't know what Platinum does</p> <p>25 or does not do. I know what I do.</p>	<p style="text-align: right;">Page 652</p> <p>1 M. Feuer</p> <p>2 Q. You had counsel?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall when the Agera</p> <p>5 transaction closed?</p> <p>6 A. I don't recall the specific date,</p> <p>7 but I know it was negotiated for several</p> <p>8 months and it closed.</p> <p>9 Q. Okay.</p> <p>10 Now, whether it was Mr. Weinick</p> <p>11 or SHIP's lawyer, I can't remember, but do</p> <p>12 you recall discussing yesterday the FBI's</p> <p>13 presence in Beechwood's offices?</p> <p>14 A. I recall a conversation I had</p> <p>15 yesterday with one of the lawyers about</p> <p>16 that situation.</p> <p>17 Q. Okay.</p> <p>18 That would not be a typical</p> <p>19 occurrence for Beechwood, correct?</p> <p>20 A. No, it would not be.</p> <p>21 Q. Okay.</p> <p>22 How do you recall first hearing</p> <p>23 that the FBI was in Beechwood's office?</p> <p>24 A. As I stated yesterday, I got a</p> <p>25 phone call some early morning. I don't</p>
<p style="text-align: right;">Page 651</p> <p>1 M. Feuer</p> <p>2 Q. No. I asked, it was a \$170</p> <p>3 million deal at the end, right?</p> <p>4 A. I don't know how large of a deal</p> <p>5 it was. It was a meaningful deal, for</p> <p>6 sure.</p> <p>7 Q. Okay.</p> <p>8 Do you find it -- would you find</p> <p>9 it odd if Platinum didn't have any lawyers</p> <p>10 representing it?</p> <p>11 MS. DOHERTY: Object to the form.</p> <p>12 MR. HARRIS: Objection.</p> <p>13 A. I can't tell you what Platinum's</p> <p>14 capabilities in-house or out of house was.</p> <p>15 I know Beechwood did not have the in-house</p> <p>16 abilities to handle this transaction.</p> <p>17 Q. It would be very odd if anyone</p> <p>18 handled this transaction without outside</p> <p>19 counsel, right?</p> <p>20 MR. HARRIS: Objection.</p> <p>21 MS. DOHERTY: Object to the form.</p> <p>22 A. I can't tell you what anyone will</p> <p>23 do. I can tell what you we did.</p> <p>24 Q. Okay.</p> <p>25 A. I had counsel.</p>	<p style="text-align: right;">Page 653</p> <p>1 M. Feuer</p> <p>2 remember the exact day, from my assistant,</p> <p>3 who was informed by the building that there</p> <p>4 were a number of FBI agents trying to gain</p> <p>5 access to our space.</p> <p>6 Q. Okay.</p> <p>7 And were they looking for</p> <p>8 Mr. Huberfeld?</p> <p>9 A. At the time, didn't know who they</p> <p>10 were looking for. I just heard that they</p> <p>11 were trying to gain access to our space.</p> <p>12 Q. Did you subsequently learn that</p> <p>13 they were looking for Mr. Huberfeld?</p> <p>14 A. So I learned from my partner</p> <p>15 Scott that they were only seeking to get</p> <p>16 access to Mr. Huberfeld's space, and</p> <p>17 unfortunately he did not have space in our</p> <p>18 office at that time and hadn't had for many</p> <p>19 months. So they were wondering what to do.</p> <p>20 Q. Okay.</p> <p>21 And are you aware that</p> <p>22 Mr. Huberfeld was arrested that same day?</p> <p>23 A. I learned that, yeah, somewhere</p> <p>24 around that time Mr. Taylor informed me of</p> <p>25 that.</p>

Page 658

1 M. Feuer

2 see the documents.

3 Q. Would it be fair to say that the

4 majority of the non-cash consideration

5 being provided was Platinum assets?

6 MS. DOHERTY: Object to the form.

7 A. I don't know if that's a

8 consideration. They owed us a lot of

9 money.

10 Q. No, but here's the question.

11 A. Okay.

12 Q. In connection with the

13 transaction, these assets were transferred,

14 assigned to Platinum, right?

15 A. You're paying back a lot of debt

16 that you had to us, if I recall, through

17 this transaction.

18 Q. You don't recall one way or

19 another, it wasn't paying back debt, the

20 debt was assigned, correct?

21 A. It was debt -- your debt.

22 MS. DOHERTY: Object to the form.

23 BY MR. GLUCK:

24 Q. Debt owed by PPCO?

25 A. Debt owed by Platinum-related

Page 659

1 M. Feuer

2 stuff.

3 Q. And Platinum-related entities,

4 right?

5 A. Yeah.

6 Q. And one of the partners had just

7 been arrested, right?

8 A. From what I understand, he was

9 not a partner of Platinum at that time and

10 hadn't been for many years.

11 Q. But Mr. Huberfeld is a founder of

12 Platinum, he was arrested in connection

13 with his Platinum activities, correct?

14 A. Like I said, I didn't -- at that

15 time I didn't think Mr. Huberfeld was

16 connected to Platinum or the management in

17 any ability. That's why when he moved into

18 my office he stated that he had left

19 Platinum completely and was looking for

20 office space.

21 Q. You testified yesterday in

22 connection with those interest payment

23 discussions that, of course, if somebody

24 missed an interest payment there could be

25 valuation issues, right?

Page 660

1 M. Feuer

2 A. Well, in addition to other

3 things. In other words, going into a

4 valuation of loan, interest payments being

5 late, I imagine, might be some of it, the

6 value of the underlying collateral might be

7 another thing -- I'm not an underwriter,

8 but there probably is a lot of things that

9 go into the valuation --

10 Q. But yesterday you testified that

11 that was the issue, when Mr. Weinick asked

12 you why would a North Star payment create

13 valuation issues, the interest payments not

14 being made create valuation issues -- you

15 said because, of course, if an interest --

16 if somebody's not servicing their loan, the

17 value of that debt goes down, right?

18 MS. DOHERTY: Objection to the

19 form.

20 MR. HARRIS: Is there a question?

21 MR. GLICK: I'm asking him if

22 that's what he testified yesterday.

23 A. What I testified yesterday, it

24 was not in my habit or it wasn't

25 appropriate, I think, that any interest

Page 661

1 M. Feuer

2 that was due was not being paid on time.

3 Q. Because it could create valuation

4 issues?

5 A. It could create all sorts of

6 issues. I mean, it creates an issue with

7 me having to reach out and actually try to

8 get it. That's my biggest pain.

9 Q. So what's the effect of the

10 former founder and partner of Platinum

11 being arrested in connection with the debt

12 owed by Platinum on the value of that

13 asset?

14 MR. HARRIS: Objection.

15 MS. DOHERTY: Object to the form.

16 A. I can't even speculate to that,

17 sir.

18 Q. You have no idea?

19 A. I have no idea.

20 Q. One way or another?

21 Did you speak with Mr. Narain at

22 any time concerning urgency for the

23 transaction to close after the arrest?

24 A. I don't recall those

25 conversations.

<p style="text-align: right;">Page 678</p> <p>1 M. Feuer</p> <p>2 were specifically.</p> <p>3 Q. You said that you had loaned</p> <p>4 Platinum a lot of money and you thought you</p> <p>5 were giving back that debt, right?</p> <p>6 A. It's a general statement. I</p> <p>7 looked at all the Platinum-related stuff as</p> <p>8 stuff that we loaned ultimately to</p> <p>9 Platinum, which we still have not been paid</p> <p>10 back for.</p> <p>11 Q. Is China Horizon another name</p> <p>12 that's familiar to you?</p> <p>13 A. I recall hearing a China Horizon</p> <p>14 type of a transaction, yes.</p> <p>15 Q. Golden Gate?</p> <p>16 A. I do recall Golden Gate.</p> <p>17 Q. Bidevco?</p> <p>18 A. Yeah, I recall Bidevco. I don't</p> <p>19 know if all of these were in that</p> <p>20 transaction. I recall these names.</p> <p>21 (Exhibit 562, E-mail, marked for</p> <p>22 identification, as of this date.)</p> <p>23 BY MR. GLUCK:</p> <p>24 Q. I've marked Exhibit 562, an</p> <p>25 e-mail from David Levy to you and others</p>	<p style="text-align: right;">Page 680</p> <p>1 M. Feuer</p> <p>2 officer. And as I said several times over</p> <p>3 the course of the last two days, every</p> <p>4 investment that we made or sold, you know,</p> <p>5 our clients were given whatever they asked</p> <p>6 and sometimes where the contracts or</p> <p>7 agreements provided for more, they got it</p> <p>8 proactively.</p> <p>9 Q. Tell me about the interactions</p> <p>10 between the New York regulatory authority</p> <p>11 CNO in 2016.</p> <p>12 MR. HARRIS: Do you have a</p> <p>13 specific question?</p> <p>14 BY MR. GLUCK:</p> <p>15 Q. Excuse me, 2015 to 2016?</p> <p>16 MR. HARRIS: Do you have a</p> <p>17 specific question?</p> <p>18 BY MR. GLUCK:</p> <p>19 Q. You discussed them yesterday.</p> <p>20 You discussed a rejection of reinsurance</p> <p>21 credit.</p> <p>22 Do you recall that?</p> <p>23 A. I do.</p> <p>24 Q. Okay.</p> <p>25 So I just wanted to put the</p>
<p style="text-align: right;">Page 679</p> <p>1 M. Feuer</p> <p>2 with bccs to you.</p> <p>3 Let me know when you're taking a</p> <p>4 look at the e-mail.</p> <p>5 A. Yes, I'm here. I've seen it.</p> <p>6 Q. Do you recall having discussions</p> <p>7 concerning Black Elk and Golden Gate with</p> <p>8 CNO?</p> <p>9 A. No, I do not.</p> <p>10 Q. Do you have any reason to believe</p> <p>11 to think you didn't?</p> <p>12 A. I generally would not have been</p> <p>13 involved in the investment conversation, so</p> <p>14 it's very possible that I did not.</p> <p>15 Q. Do you have any reason to think</p> <p>16 that Mr. Levy would not have had</p> <p>17 discussions concerning the investments he</p> <p>18 made with CNO?</p> <p>19 A. I have no reason to believe he</p> <p>20 did not, no.</p> <p>21 Q. Do you have a reason to believe</p> <p>22 that he did?</p> <p>23 A. I do.</p> <p>24 Q. And what is that reason?</p> <p>25 A. He was the chief investment</p>	<p style="text-align: right;">Page 681</p> <p>1 M. Feuer</p> <p>2 witness' mind in the right place.</p> <p>3 You recall that there came a time</p> <p>4 when approximately \$50 million of the CNO</p> <p>5 blocks were rejected for reinsurance</p> <p>6 credit?</p> <p>7 A. I do.</p> <p>8 Q. Were those Platinum-related</p> <p>9 investments?</p> <p>10 A. I don't recall if they were only</p> <p>11 Platinum-related investments. In general,</p> <p>12 the New York DFS did not want to have</p> <p>13 leveraged loans in their portfolio.</p> <p>14 Q. And were most of the Platinum</p> <p>15 investments leveraged loans?</p> <p>16 A. From my understanding, yes. But</p> <p>17 they just didn't want the entire category.</p> <p>18 (Exhibit 563, E-mail, marked for</p> <p>19 identification, as of this date.)</p> <p>20 BY MR. GLUCK:</p> <p>21 Q. Marked as Exhibit 563, an e-mail</p> <p>22 you're copied on. And if you just take a</p> <p>23 look at the top e-mail from --</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 774</p> <p>1 M. Feuer</p> <p>2 MR. WEINICK: Objection.</p> <p>3 MR. MATHIAS: Objection.</p> <p>4 A. To the best of my understanding,</p> <p>5 no.</p> <p>6 MR. KOFFMANN: No further</p> <p>7 questions.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 MR. HARRIS: Before we go on, I</p> <p>10 just want to take a brief break.</p> <p>11 THE VIDEOGRAPHER: Going off the</p> <p>12 record. The time is 3:24 p.m.</p> <p>13 (Recess taken from 3:24 p.m. to</p> <p>14 3:29 p.m.)</p> <p>15 THE VIDEOGRAPHER: The time is</p> <p>16 3:29 p.m. We are back on the record.</p> <p>17 MR. HARRIS: So before we</p> <p>18 proceed, I understand that</p> <p>19 Mr. Koffmann has left, but Mr. Feuer</p> <p>20 wanted to clarify his answers to a few</p> <p>21 of Mr. Koffmann's questions concerning</p> <p>22 whether he discussed certain topics</p> <p>23 such as policies or investments with</p> <p>24 Mr. Nordlicht.</p> <p>25 THE WITNESS: So as I said</p>	<p style="text-align: right;">Page 776</p> <p>1 M. Feuer</p> <p>2 Q. Mr. Feuer, my name is Michael</p> <p>3 Merrick and I represent PB Investment</p> <p>4 Holdings Limited, Successor in Interest to</p> <p>5 Beechwood Bermuda Investment Holdings</p> <p>6 Limited.</p> <p>7 I'm going to refer to Beechwood</p> <p>8 Bermuda Investment Holdings Limited during</p> <p>9 the course of my questioning as "BBIHL."</p> <p>10 A. Okay. I don't even know who they</p> <p>11 are, but okay.</p> <p>12 Q. I like that answer. Thank you.</p> <p>13 Which led me to my second question, are you</p> <p>14 familiar with BBIHL?</p> <p>15 A. I'm familiar with BBIL. Is that</p> <p>16 a company that --</p> <p>17 Q. Well, how about I ask you this:</p> <p>18 Do you know how BBIHL fits into Beechwood?</p> <p>19 A. I'm sorry, no.</p> <p>20 Q. Okay.</p> <p>21 I'll represent to you, and since</p> <p>22 you're not familiar with it, that BBIHL was</p> <p>23 formed to provide wealth management and</p> <p>24 sell investment products for high net worth</p> <p>25 individuals.</p>
<p style="text-align: right;">Page 775</p> <p>1 M. Feuer</p> <p>2 several times over the course of the</p> <p>3 last two days, I thought what</p> <p>4 Mr. Koffmann was asking me was did</p> <p>5 Mr. Nordlicht instruct me to make the</p> <p>6 investments or instruct me on the</p> <p>7 policies that we had, and to that the</p> <p>8 answer was unequivocally no.</p> <p>9 I certainly did discuss, as I've</p> <p>10 said now, dozens of times over the</p> <p>11 last several days, we definitely</p> <p>12 discussed investments and through, by</p> <p>13 him, you know, questions and sought</p> <p>14 his advice many times over the course</p> <p>15 of formation throughout the first</p> <p>16 year.</p> <p>17 But at no point did he instruct</p> <p>18 me, or if he had, I would not have</p> <p>19 made a decision based on his</p> <p>20 instruction in either any policies or</p> <p>21 any of the investments that we made at</p> <p>22 Beechwood.</p> <p>23 MR. HARRIS: Thank you.</p> <p>24 EXAMINATION BY</p> <p>25 MR. MERRICK:</p>	<p style="text-align: right;">Page 777</p> <p>1 M. Feuer</p> <p>2 A. Okay.</p> <p>3 Q. It's a retail business.</p> <p>4 A. To me, that was part of BBIL.</p> <p>5 Okay, I understand.</p> <p>6 Q. And it's my understanding that</p> <p>7 BBIL handled the institutional business.</p> <p>8 A. Okay.</p> <p>9 Q. Would you agree?</p> <p>10 A. I know BBIL was our Bermudian</p> <p>11 business. I'm not sure what sub companies</p> <p>12 or companies were formed and how we</p> <p>13 bifurcated our retail business from our</p> <p>14 institutional business. But I'm sure the</p> <p>15 documents show it to be so.</p> <p>16 Q. As you said earlier, you're not</p> <p>17 even familiar with BBIHL. Is it fair to</p> <p>18 say you don't know when BBIHL was</p> <p>19 incorporated?</p> <p>20 A. That is fair to say.</p> <p>21 (Exhibit 570, Provisional</p> <p>22 Director Written Resolutions for</p> <p>23 BBIHL, marked for identification, as</p> <p>24 of this date.)</p> <p>25 BY MR. MERRICK:</p>

Page 778	Page 780
<p>1 M. Feuer</p> <p>2 Q. I hand you what has been marked</p> <p>3 as Exhibit 570. Would you review that</p> <p>4 document, please?</p> <p>5 A. Okay.</p> <p>6 MR. WEINICK: Can we have a copy?</p> <p>7 MR. MERRICK: Oh, I'm sorry.</p> <p>8 BY MR. MERRICK:</p> <p>9 Q. Exhibit 571 --</p> <p>10 A. It's 570, right.</p> <p>11 Q. Oh, I'm sorry, 570, yes.</p> <p>12 Exhibit 570 is the Provisional</p> <p>13 Director Written Resolutions for BBIHL,</p> <p>14 correct?</p> <p>15 A. It appears to be so, yes.</p> <p>16 Q. All right.</p> <p>17 If you look at numbered paragraph</p> <p>18 1, titled "Incorporation Date."</p> <p>19 A. Yes.</p> <p>20 Q. It states that it is noted that</p> <p>21 the company, BBIHL in this instance, was</p> <p>22 incorporated on 28th November 2014.</p> <p>23 Did I read that correctly?</p> <p>24 A. You did.</p> <p>25 Q. Would you have any reason to</p>	<p>1 M. Feuer</p> <p>2 Q. Is that what it appears to be?</p> <p>3 A. Yes.</p> <p>4 Q. Underneath the signature line for</p> <p>5 directors, there is a line for --</p> <p>6 A. Myself.</p> <p>7 Q. Yourself, Scott Andrew Taylor and</p> <p>8 David Lessing, correct?</p> <p>9 A. That is correct.</p> <p>10 Q. Is that your signature?</p> <p>11 A. That it is.</p> <p>12 Q. And Exhibit 572 -- or I'm sorry,</p> <p>13 571, are the unanimous written resolutions</p> <p>14 for BBIHL's Board of Directors. Is that</p> <p>15 what it appears to be?</p> <p>16 A. It does appear to be that, yes.</p> <p>17 Q. Okay.</p> <p>18 Do you recall being a director of</p> <p>19 BBIHL when it was formed?</p> <p>20 A. I don't recall specifically.</p> <p>21 Q. Okay.</p> <p>22 Do you know who oversaw BBIHL's</p> <p>23 day-to-day operations?</p> <p>24 A. Yes. To the extent that you</p> <p>25 stipulated that that was our retail</p>
Page 779	Page 781
<p>1 M. Feuer</p> <p>2 disagree that BBIHL was incorporated on</p> <p>3 November 28, 2014?</p> <p>4 A. I would have no reason to</p> <p>5 disagree with that.</p> <p>6 Q. Do you know how BBIHL was</p> <p>7 capitalized?</p> <p>8 A. I'm sorry, I don't.</p> <p>9 Q. Do you know whether BBIHL was</p> <p>10 capitalized?</p> <p>11 A. I don't know how it fit into the</p> <p>12 overall umbrella of the Beechwood</p> <p>13 companies. So I can't answer that</p> <p>14 question.</p> <p>15 Q. I appreciate that.</p> <p>16 (Exhibit 571, Document, marked</p> <p>17 for identification, as of this date.)</p> <p>18 BY MR. MERRICK:</p> <p>19 Q. I'm going to hand you what's been</p> <p>20 marked as Exhibit 571. Would you please</p> <p>21 review that and then let me know when</p> <p>22 you're finished.</p> <p>23 I'd like you to turn to the last</p> <p>24 page. That's the signature page.</p> <p>25 A. Yes.</p>	<p>1 M. Feuer</p> <p>2 business, it would have been David Lessing.</p> <p>3 Q. It would have been David Lessing,</p> <p>4 okay.</p> <p>5 Anybody else have authority to</p> <p>6 act for or on behalf of BBIHL's day-to-day</p> <p>7 operations?</p> <p>8 A. He would have been the most</p> <p>9 senior executive.</p> <p>10 Q. Was Mark Nordlicht a director at</p> <p>11 any point?</p> <p>12 A. He was not.</p> <p>13 Q. Officer?</p> <p>14 A. No.</p> <p>15 Q. Employee?</p> <p>16 A. No.</p> <p>17 Q. Agent?</p> <p>18 A. No.</p> <p>19 Q. Investor?</p> <p>20 A. Investor?</p> <p>21 Q. In BBIHL.</p> <p>22 A. Not to my knowledge.</p> <p>23 Q. Do you recall Nordlicht ever</p> <p>24 directing BBIHL to make an investment or</p> <p>25 enter a transaction?</p>

Page 782

1 M. Feuer

2 A. To the best of my recollection,

3 no.

4 Q. I recall you testified yesterday

5 that Beechwood may have availed itself of

6 Nordlicht's investment acumen in its early

7 days, but eventually Beechwood sought to

8 stand on its own.

9 Is that a fair summary of your

10 testimony in that regard?

11 A. That's fair.

12 Q. Okay.

13 By the time that BBIHL was formed

14 in November of 2014, is it fair to say that

15 Beechwood was standing on its own?

16 MR. MATHIAS: Objection to form.

17 A. November 14th, we certainly were

18 more, we definitely had many more employees

19 and professionals in our organization than

20 we had prior in the early part of 2014.

21 Q. You're relying less and less on

22 Nordlicht's --

23 A. I don't want to say ever relied.

24 I was probably seeking his advice less.

25 When I say "I," I mean I and my companies.

Page 783

1 M. Feuer

2 Q. Earlier today you were asked

3 about a restructuring that took place in

4 December 2015 and March 2016.

5 Do you recall that?

6 A. Yes.

7 Q. I'd like to ask you specifically

8 about the March 2016 transaction, the

9 restructuring. I believe it was referred

10 to earlier as the March 2016 transaction.

11 Okay?

12 You testified that you were

13 involved at a high level only, you weren't

14 involved in structuring that transaction,

15 correct?

16 A. That's correct.

17 Q. Who would be the best people at

18 Beechwood to ask about the specifics of

19 that transaction?

20 A. Dhruv Narain.

21 Q. Dhruv Narain.

22 Would he be the same person that

23 would have been involved in the

24 negotiations and structuring -- strike

25 that.

Page 784

1 M. Feuer

2 Anybody else involved in the

3 negotiations and structuring of that

4 transaction?

5 A. I imagine Scott Taylor would have

6 been involved. I don't want to use the

7 word "I imagine."

8 I would think that Scott Taylor

9 would have been involved as well.

10 Q. Anybody else you can think of?

11 A. Dhruv Narain had several people

12 on his staff that would have been involved

13 as well, to the best of my knowledge.

14 Q. So Dhruv Narain and his team?

15 A. Fair to say, yes.

16 Q. Do you know whether BBIHL was

17 involved in this transaction?

18 A. I don't, I'm sorry.

19 Q. Would Dhruv Narain know?

20 A. I would assume so.

21 Q. Do you know whether anybody was

22 acting on behalf of BBIHL during that

23 transaction?

24 A. Our people acted on behalf of all

25 the entities that we were part of. So

Page 785

1 M. Feuer

2 absolutely they were being -- they looked

3 at our overall company and were taking care

4 of our whole company.

5 Q. Okay.

6 Do you know whether BBIHL

7 received any funds flowing from the March

8 2016 transaction?

9 A. I don't.

10 Q. Do you know whether BBIHL

11 received any benefit from the March 2016

12 transaction?

13 A. I don't.

14 Q. At the time of the restructuring

15 in March 2016, were you aware of any

16 information that the loan to North Star was

17 nonperforming?

18 A. I knew there were some assets

19 that were late and their were interest

20 payments and otherwise, but I don't

21 remember specifically whether I knew that

22 North Star was considered to be a

23 nonperforming loan.

24 Q. Okay.

25 Did I hear you correctly --

EXHIBIT 22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
PAUL LORENTZ

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Wednesday, November 13, 2019,
commencing at 9:06 a.m.

Page 2	Page 4
1	1
2 (Caption continued)	2
3 UNITED STATES DISTRICT COURT	3 HOLLAND & KNIGHT LLP
4 SOUTHERN DISTRICT OF NEW YORK	4 BY: WARREN ERNEST GLUCK, ESQ.
5 CASE NO. 18-CV-6658(JSR)	5 SHEILA SHEN, ESQ.
6 CASE NO. 1-19-CV-07137(JSR)	6 31 West 52nd Street
7 -----	7 New York, New York 10019
8 SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA,	8 Attorneys for the Plaintiffs,
9	9 Martin Trott
10	10
11 Plaintiff,	11
12	12
13 vs.	13
14	14
15	15
16 LINCOLN INTERNATIONAL LLC and LINCOLN	16 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
17 PARTNERS ADVISORS LLC,	17 BY: ABIGAIL JOHNSTON, ESQ.
18	18 101 Park Avenue
19 Defendants.	19 New York, New York 10178
20	20 Attorneys for the Defendant,
21	21 David Bodner
22	22
23	23
24	24
25	25
Page 3	Page 5
1	1
2 A P P E A R A N C E S:	2
3	3 MINTZ, LEVIN, COHN, FERRIS,
4	4 GLOVSKY and POPEO, P.C.
5	5 BY: THERESE M. DOHERTY, ESQ.
6	6 LISAMARIE COLLINS, ESQ.
7 DLA PIPER, LLP (US)	7 The Chrysler Center
8 BY: EMILY MARIA STEINER, ESQ.	8 666 Third Avenue
9 KATHLEEN BIRRANE, ESQ.	9 New York, New York 10017
10 6225 Smith Avenue	10 Attorneys for Defendants
11 Baltimore, Maryland 21209-3600	11 Kevin Cassidy and Michael Nordlicht
12	12
13	13
14 Attorneys for Plaintiff, SHIP	14
15	15
16	16 MORRISON COHEN LLP
17	17 BY: DANIEL C. ISAACS, ESQ.
18	18 909 Third Avenue
19	19 New York, New York 10022-4784
20	20 Attorneys for the
21	21 Huberfeld Family Foundation, Inc.
22	22
23	23
24	24 Present telephonically
25	25

<p style="text-align: right;">Page 6</p> <p>1</p> <p>2</p> <p>3 PROSKAUER ROSE LLP</p> <p>4 BY: STACEY EILBAUM, ESQ.</p> <p>5 Eleven Times Square</p> <p>6 New York, New York 10036-8299</p> <p>7 Attorneys for Beechwood</p> <p>8</p> <p>9</p> <p>10</p> <p>11 OTTERBOURG, P.C.</p> <p>12 BY: WILLIAM M. MORAN, ESQ.</p> <p>13 GABRIELA S. LEON, ESQ.</p> <p>14 ERIK WEINICK, ESQ.</p> <p>15 230 Park Avenue</p> <p>16 New York, New York 10169</p> <p>17 Attorneys for Plaintiff Receiver</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>1</p> <p>2</p> <p>3 SERPE RYAN LLP</p> <p>4 BY: PAUL W. RYAN, ESQ.</p> <p>5 SILVIA L. SERPE, ESQ.</p> <p>6 16 Madison Square West</p> <p>7 New York, New York 10010</p> <p>8 Attorneys for Paul Lorentz</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 ALSO PRESENT:</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Darrak Lighty, Videographer</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 7</p> <p>1</p> <p>2 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP</p> <p>3 BY: MARIANNE H. COMBS, ESQ.</p> <p>4 LINDSEY SIELING, ESQ.</p> <p>5 155 North Wacker Drive</p> <p>6 Chicago, Illinois 60606-1720</p> <p>7 Attorneys for Lincoln Partners,</p> <p>8 Third-Party Defendants</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 SEIDEN LAW GROUP LLP</p> <p>14 BY: AMIAD KUSHNER, ESQ.</p> <p>15 DOV B. GOLD, ESQ.</p> <p>16 469 Seventh Avenue</p> <p>17 5th Floor</p> <p>18 New York, New York 10018</p> <p>19 Attorneys for SHIP in the</p> <p>20 Lawrence Partners Litigation</p> <p>21</p> <p>22</p> <p>23</p> <p>24 Mr. Kushner arrived after lunch break.</p> <p>25</p>	<p style="text-align: right;">Page 9</p> <p>1 Paul Lorentz</p> <p>2 P R O C E E D I N G S</p> <p>3 THE VIDEOGRAPHER: This is the</p> <p>4 video deposition of Paul Lorentz in the</p> <p>5 matter of Platinum-Beechwood litigation.</p> <p>6 This deposition is being held at the</p> <p>7 offices of US Legal Support on 90 Broad</p> <p>8 Street, New York, New York, on November 13,</p> <p>9 2019.</p> <p>10 My name is Darrak Lighty, from US</p> <p>11 Legal Support; and I am the video</p> <p>12 specialist. The court reporter today is</p> <p>13 Tab Prewett, also associated with US Legal</p> <p>14 Support. We are going on the record at</p> <p>15 9:06 a.m. All appearances have been noted</p> <p>16 on the record.</p> <p>17 Will the court reporter please</p> <p>18 swear in the witness.</p> <p>19 (There was a discussion off the</p> <p>20 record.)</p> <p>21 P A U L L O R E N T Z,</p> <p>22 residing at 214 Wellington Parkway,</p> <p>23 Noblesville, Indiana,</p> <p>24 having been sworn by the notary public to testify</p> <p>25 to the truth, testified as follows:</p>

Page 14

1 Paul Lorentz

2 Q And when did you get appointed to

3 the board?

4 A I believe that was also in 2009,

5 when there was a seat vacated by Dean Sarantos.

6 Q And at the same time that you left

7 the employment of SHIP, did you also leave the

8 employment of Fuzion?

9 A Yes.

10 MS. SERPE: Form objection.

11 Q And what were your most recent

12 titles with Fuzion?

13 A They were the same as they were for

14 SHIP.

15 Q CFO, treasurer, board?

16 A I was not a member of the board of

17 directors for Fuzion.

18 Q Were you executive -- executive VP?

19 A Well, I was -- I don't recall

20 exactly what my title was at the time Fuzion was

21 founded; but, essentially, my titles were

22 concurrent -- ran concurrently for both

23 organizations.

24 Q Okay. Can you describe the

25 circumstances of your departure from SHIP and

Page 15

1 Paul Lorentz

2 Fuzion?

3 A I resigned.

4 Q Is that voluntarily?

5 A Yes.

6 Q And why did you resign?

7 A I was told that the Pennsylvania

8 Insurance Department was not going to be happy

9 with my continued employment there.

10 Q Did you have an understanding as to

11 why?

12 A I understood it to be because of

13 the events of the previous year or so, related to

14 Beechwood findings.

15 Q And so were you asked to leave?

16 A I was given an opportunity to

17 resign. My understanding was that, if I did not

18 resign, my employment would be terminated

19 nonetheless.

20 Q And who told you that?

21 A Barry Staldine.

22 Q And who is Barry Staldine?

23 A He was CEO for SHIP and Fuzion.

24 Q Okay. At this time, I'm going to

25 hand you what he have marked as Exhibit 339 --

Page 16

1 Paul Lorentz

2 389. I'm sorry.

3 MS. EILBAUM: There is an issue

4 with the real time.

5 (There was a discussion off the

6 record.)

7 (Exhibit No. 389, Paul Lorentz's

8 Separation Agreement With Fuzion and SHIP,

9 Document is marked by the reporter for

10 identification.)

11 Q Do you have Exhibit 389 in front of

12 you?

13 A I do.

14 Q And have you seen that before?

15 MS. SERPE: Objection. Other than

16 with counsel.

17 Q You can answer.

18 A Yes, I believe I have.

19 Q And that -- what is that?

20 A It is my separation agreement.

21 Q Is that signed by you at the last

22 page?

23 A Yes, it is.

24 Q And it's signed -- the counterparty

25 is Fuzion Analytics, correct?

Page 17

1 Paul Lorentz

2 A Yes.

3 Q At this time, were you separated

4 from only Fuzion and not SHIP?

5 A No. I was separated from both. So

6 the payroll, all of the employees were under

7 Fuzion, and Fuzion had a management services

8 agreement with SHIP.

9 Q Now, how much did they pay you as

10 part of this agreement?

11 A As I recall, it was six months

12 salary as a severance payment.

13 Q And is that \$133,875.17?

14 A Yes, it would appear that's the

15 case.

16 Q Now I'm going to refer your

17 attention to page four of this exhibit, at

18 paragraph six.

19 A Okay.

20 Q It says "ongoing cooperation." Do

21 you see that?

22 A Yes.

23 Q Are you familiar with that passage?

24 A I recall this passage.

25 Q So as part of this agreement, you

Page 18

1 Paul Lorentz
2 agreed to cooperate in any ongoing litigation,
3 correct?
4 A That's correct.
5 Q And would that include this
6 litigation that we're sitting here today?
7 A I would have to reread the
8 paragraph. I don't know that this exactly was
9 contemplated by me at the time I signed this.
10 There was an SEC inquiry that was underway.
11 Q How did you come to be here today?
12 A Well, I was informed that my
13 deposition would be required in the litigation
14 that SHIP was bringing against Beechwood.
15 Q Who informed you of that?
16 A I don't remember.
17 Q Well, you received a call from
18 somebody? A letter? What happened?
19 MS. SERPE: Form objection.
20 A I don't remember, honestly.
21 Q Did you speak with anyone from --
22 that you used to work with at SHIP?
23 MS. SERPE: Form objection.
24 A I don't remember.
25 Q Well, this was only a few months

Page 19

1 Paul Lorentz
2 ago, right?
3 A Its over two-and-a-half years ago.
4 Q Well, no. I'm asking you, how did
5 you know to be here today?
6 A I was informed by my counsel.
7 Q Okay. How did you know that your
8 testimony was going to be needed for this
9 litigation?
10 MS. SERPE: Form objection. Asked
11 and answered.
12 Q You can answer.
13 A Can you ask the question again?
14 I'm sorry.
15 Q Yes. How did you know that your
16 testimony was going to be needed in this
17 litigation?
18 MS. SERPE: Same objection.
19 A I was told by my attorney.
20 Q Did you have an attorney engaged
21 prior to knowing that you needed to testify here
22 today?
23 A Yes.
24 Q And it was your attorney that
25 called you and said you needed to be here?

Page 20

1 Paul Lorentz
2 A I believe it was. Yes.
3 Q Did you hear -- withdrawn.
4 Did anyone from DLA Piper call you
5 to ask you to testify?
6 A I don't recall any direct
7 conversations with DLA Piper.
8 Q Now, your understanding is that you
9 need to cooperate -- withdrawn.
10 You agreed in this termination
11 agreement to cooperate in the litigation. Is it
12 your understanding that you are abiding by that
13 provision by testifying here today?
14 MS. SERPE: Form objection. Asked
15 and answered. Also calls for a legal
16 conclusion.
17 MS. BIRREANE: Objection on the same
18 basis.
19 Q Go ahead. You can answer.
20 MR. MORAN: Let the record reflect
21 the witness is reading the provision in the
22 agreement.
23 A I agreed to cooperate with any and
24 all investigations, subpoenas, litigation, and
25 other matters in connection with such actions,

Page 21

1 Paul Lorentz
2 investigations, subpoenas, and litigation. I
3 agreed to cooperate.
4 Q Okay. And did -- withdrawn.
5 In connection with your testimony
6 here today, did anyone invoke that provision from
7 that agreement to you?
8 MS. SERPE: Form objection.
9 A I'm not sure I understand.
10 Q Did anyone say you need to testify
11 here today because you agreed to it in this
12 agreement?
13 MS. SERPE: Form objection.
14 Also, I direct you not to discuss
15 any privileged communication with your
16 counsel. Do not disclose that. You can
17 answer other than as to counsel.
18 A I'm sorry. I'm not following the
19 questioning.
20 Q Did anyone say to you, you need to
21 testify here today because that's what you agreed
22 to?
23 MS. SERPE: Privilege objection.
24 Other than with counsel. So if no one
25 other than your lawyers, you may answer.

Page 22

1 Paul Lorentz
2 Don't disclose any communications with
3 lawyers.
4 Q With your lawyers.
5 MS. SERPE: Correct.
6 A I don't recall the specifics of who
7 and when and how I was informed that my
8 deposition would be required.
9 Q Should your testimony at trial be
10 required, will you testify?
11 MS. SERPE: Form objection. Calls
12 for a hypothetical.
13 A If I'm required to.
14 Q When you were chief investment
15 officer for SHIP, what were your duties and
16 responsibilities?
17 A I was not --
18 MS. BIRRANE: Objection.
19 Q I'm sorry. Withdrawn.
20 When you were the chief financial
21 officer for SHIP, what were your duties and
22 responsibilities?
23 A Oversee the accounting and
24 financial operations of the company.
25 Q And did that include anything as it

Page 23

1 Paul Lorentz
2 relates to regulatory issues?
3 A Certainly regulatory matters were
4 part of my responsibility.
5 Q And what did you do as part of that
6 responsibility?
7 A Filed required financial
8 statements, various other financial materials
9 required by regulation.
10 Q When you say "filed," filed with
11 whom?
12 A Typically, the Pennsylvania
13 Insurance Department and the National Association
14 of Insurance Commissioners.
15 Q Did these regulators have
16 guidelines that you needed to understand?
17 MS. SERPE: Form objection.
18 A They did.
19 Q Was part of your duties and
20 responsibilities to ensure that your investments
21 at SHIP were in compliance with those guidelines?
22 MS. SERPE: Form objection.
23 A Yes, that would be a part of my
24 responsibilities.
25 Q And is it fair to say that, in

Page 24

1 Paul Lorentz
2 order to do that, you would need to know and
3 understand the underlying investments themselves?
4 MS. BIRRANE: Objection.
5 A No, not necessarily.
6 Q How is it that -- well, withdrawn.
7 What kind of reports would you file
8 with the Department?
9 A We would file a statutory annual
10 statement and quarterly statement.
11 Q And in these statements, did they
12 involve the actual investments of SHIP?
13 A They did.
14 MS. SERPE: Form objection.
15 A They did.
16 Q And each of these investments were
17 listed in these reports that you filed, right?
18 A That's right.
19 Q Now, the files were prepared by
20 you, or did you have a staff?
21 A Staff.
22 Q So is it fair to say that your
23 staff would need to know and understand the
24 underlying investments?
25 A No.

Page 25

1 Paul Lorentz
2 MS. BIRRANE: Objection.
3 Q And these statements to the
4 Department where you were listing the individual
5 investments, what information did you need to
6 know?
7 A Information that was required by
8 the form of the filing.
9 Q Such as what?
10 A CUSIP, description, rate of
11 interest, cost, amortized value, and so forth.
12 Q And from where was this information
13 gleaned?
14 A From various sources.
15 Q Can you tell us what they were?
16 A Conning Asset Management Company,
17 Beechwood, and 4086 Advisors.
18 Q Now these are your investment
19 advisors during your term as the chief financial
20 officer?
21 A That is correct.
22 Q Any others?
23 A Not that I recall.
24 Q And each of these investment
25 advisors would provide you with the information

Page 34

1 Paul Lorentz
2 Darrough was head of analytics. Patrick Bogan
3 was head of IT. Annette Gobrogge, head of human
4 resources. I can't recall who was over claims at
5 that time.
6 Q And during this time, Fuzion was --
7 well, withdrawn.
8 What would Fuzion do with CNO's --
9 withdrawn.
10 What did CNO do as third-party
11 administrator for CNO?
12 MS. SERPE: Form objection.
13 MS. BIRRANE: Objection.
14 A Are you asking --
15 Q I'm sorry. Withdrawn again.
16 What did Fuzion do as a third-party
17 administrator for CNO?
18 MS. BIRRANE: Objection.
19 A It -- at the time that SHIP was
20 separated from CNO Financial, the employees that
21 were responsible for managing certain long-term
22 care blocks of business moved over with SHIP. In
23 other words, CNO was left without the
24 administrative capabilities that it needed to
25 manage its blocks of runoff long-term care

Page 35

1 Paul Lorentz
2 insurance.
3 Q So that SHIP, as third-party --
4 withdrawn.
5 So Fuzion, as third-party
6 administrator, would have to oversee that block
7 of business, correct?
8 MS. BIRRANE: Objection.
9 A It performed various operational
10 and management services in the administration of
11 that book.
12 Q And in doing so, it had to be in
13 communication with CNO, correct?
14 A Yes.
15 Q Who at CNO was it that needed to be
16 in communication with Fuzion people?
17 A I don't remember.
18 MS. SERPE: Form objection.
19 MS. BIRRANE: Objection.
20 A I don't remember.
21 Q You don't remember anyone?
22 A I really was not involved very much
23 in that aspect of the business.
24 Q And that aspect of the business
25 took place in Carmel, Indiana; is that right?

Page 36

1 Paul Lorentz
2 A Yes.
3 Q And CNO's offices were in the same
4 vicinity as Fuzion's offices?
5 A Yes.
6 MS. SERPE: Form objection.
7 Q And, in fact, some of these people
8 even worked together, correct?
9 MS. BIRRANE: Objection.
10 MS. SERPE: Form objection.
11 A What do you mean, worked together?
12 Q When they were together at CNO
13 before the split?
14 A I don't know. I wasn't there then.
15 Q Now, who did you report to at
16 Fuzion?
17 A Brian Wegner.
18 Q Anyone else?
19 A Prior to his departure, I reported
20 to Dean Sarantos.
21 Q And who did you report to at SHIP?
22 A The same.
23 Q And did you have any
24 responsibilities to report to the board?
25 MS. SERPE: Form objection. When?

Page 37

1 Paul Lorentz
2 A I reported financial results
3 routinely to the board.
4 Q And when you say "routinely," what
5 does that mean?
6 A Quarterly board meetings.
7 Q And when you say "financial
8 results," what does that mean?
9 A Profit-and-loss balance sheet
10 information.
11 Q Well, you did more than that too,
12 though. You also reported ideas for making the
13 business better; didn't you?
14 MS. BIRRANE: Form objection.
15 A There were hundreds, thousands of
16 conversations between management members and
17 board members over the course of my tenure from.
18 Q Outside the quarterly meetings?
19 MS. SERPE: Form objection.
20 A It was very rare that I had direct
21 communication with trustees. They were mostly in
22 the context of quarterly board or committee
23 meetings.
24 Q Now, when SHIP -- withdrawn.
25 When you began with SHIP, SHIP was

Page 30

1 Paul Lorentz
2 companies?
3 A That would be a fair
4 characterization.
5 Q And there came a time when Fuzion
6 was the third-party administrator for CNO,
7 correct?
8 MS. BIRRANE: Objection.
9 A Yes.
10 Q And when was that?
11 A That agreement originated in 2008,
12 as I recall.
13 Q And how long did it last?
14 A It lasted until CNO reinsured the
15 business that was being administered to
16 Beechwood Re.
17 Q Which was when?
18 A I believe that was 2014.
19 Q And during that time, what was your
20 duties and responsibilities in connection with
21 that work?
22 A In connection with what work?
23 Q The third-party administrator work
24 for CNO.
25 A I had very little to do with that.

Page 31

1 Paul Lorentz
2 It was operations and claims intensive.
3 Q You were the chief financial
4 officer of Fuzion?
5 MS. SERPE: Form objection.
6 A I was employed by Fuzion. I don't
7 recall exactly what my title was.
8 Q I asked you before -- I'm sorry.
9 Did you finish your question --
10 your answer?
11 A I'm sorry. Can you restate the
12 question?
13 Q I asked you previously what your
14 titles were, and you said they were the same as
15 with SHIP.
16 A Oh, yes.
17 MS. BIRRANE: Objection.
18 Q With -- now, let's go take a step
19 back.
20 For Fuzion, were you the CFO?
21 A I was CFO for Fuzion at the same
22 time I became CFO for SHIP.
23 Q Okay. Well, what were your duties
24 and responsibilities as CFO for Fuzion during the
25 time that you were the CNO third-party

Page 32

1 Paul Lorentz
2 administrator?
3 A Overseeing financial --
4 MS. BIRRANE: Objection.
5 MS. SERPE: Form objection.
6 Q You can answer.
7 A Oversee financial activities of the
8 company.
9 Q How would you do that?
10 A Well, it was -- there were a host
11 of responsibilities, produce financial
12 statements, produce reports to the board,
13 interact with the staff, interact with senior
14 management.
15 Q And when you "say interact with the
16 staff," what staff?
17 A The accounting and financial
18 reporting staff.
19 Q The staff of Fuzion?
20 A When -- shortly after Fuzion was
21 founded, the employees of SHIP were transferred
22 to Fuzion, and there was an agreement between
23 Fuzion and SHIP executed such that Fuzion
24 employees served SHIP much in the same way they
25 had served SHIP prior to that transfer.

Page 33

1 Paul Lorentz
2 Q So when you said "interact with the
3 staff," you're talking about the staff of Fuzion,
4 correct?
5 MS. SERPE: Form objection.
6 A Yes.
7 Q And when you said before, "interact
8 with management," what did you mean?
9 A The management of SHIP and Fuzion.
10 Q Aren't you the management of
11 Fuzion?
12 A There's a -- there's a commonality
13 of the two entities: One workforce, one
14 management team.
15 Q Who else was on management for
16 Fuzion?
17 A Well, Brian Wegner.
18 Q What was he?
19 A He was the president and CEO.
20 And are you asking at the time --
21 about the time that --
22 Q Of the CNO third-party
23 administration.
24 MS. BIRRANE: Form objection.
25 A Well, Brian Wegner was CEO. Ginger

Page 50

1 Paul Lorentz
 2 MS. SERPE: Form objection.
 3 Assumes facts.
 4 A I don't recall being involved in
 5 any additional discussions, but I certainly was
 6 familiar with it as we went through the IMA.
 7 Q Now, you said before that Beechwood
 8 suggested it.
 9 Why do you say that?
 10 MS. BIRRANE: Objection.
 11 MS. SERPE: Form objection.
 12 A I say that because that's what I
 13 remember Mark Feuer having offered.
 14 Q Describe that conversation.
 15 MS. SERPE: Form objection.
 16 MS. BIRRANE: Objection.
 17 A It wasn't a conversation that I had
 18 with him personally.
 19 Q How did you under -- come to
 20 understand that?
 21 A Through Brian Wegner.
 22 Q What did Brian Wegner tell you?
 23 A That Beechwood would offer a
 24 guarantee, a guaranteed return.
 25 Q Was SHIP seeking a high guaranteed

Page 51

1 Paul Lorentz
 2 rate of return --
 3 MS. SERPE: Form objection.
 4 Q -- in connection with the IMAs?
 5 MS. SERPE: Form objection.
 6 A I'm not sure. Were we actively
 7 seeking that?
 8 Q Well, there's a reason that you
 9 entered into these IMAs with Beechwood, right?
 10 A Yes.
 11 Q What was that reason?
 12 A We believed it to be in the best
 13 interests of SHIP.
 14 Q Because it would bring high
 15 returns, right?
 16 A Among other reasons, yes.
 17 Q Well, wasn't that the primary
 18 reason, you guys needed to make more money?
 19 A Sure.
 20 Q And who approached Beechwood, you
 21 or Brian Wegner?
 22 MS. SERPE: Form objection.
 23 MS. BIRRANE: Objection.
 24 A Who approached Beechwood about
 25 what?

Page 52

1 Paul Lorentz
 2 Q About the IMAs.
 3 MS. BIRRANE: Objection.
 4 Q Well, let me withdraw the question.
 5 When the conversation about the
 6 IMAs began, in view of the fact that SHIP was
 7 looking for higher returns, is it fair to say
 8 SHIP asked for higher returns from Beechwood?
 9 MS. BIRRANE: Objection.
 10 MS. SERPE: Form objection.
 11 A It was a proposal made by Beechwood
 12 to SHIP. SHIP was not actively, at that time,
 13 out searching for higher yield. In other words,
 14 we hadn't engaged in any initiative to pursue
 15 that.
 16 Q Would it surprise you to know that
 17 Brian Wegner said the opposite?
 18 MS. BIRRANE: Objection.
 19 MS. SERPE: Form objection.
 20 A Well, so the timing becomes
 21 important here. Subsequent to or around that
 22 time, we began to consider the asset side of the
 23 balance sheet.
 24 So the short history of the company
 25 was that, in the early years of SHIP, a lot of

Page 53

1 Paul Lorentz
 2 attention was given to the liability side of the
 3 balance sheet.
 4 When those initiatives were not
 5 fully exhausted, but certainly had -- had
 6 received a lot of attention, we recognized that
 7 perhaps there was some opportunity to be found on
 8 the asset side of the business.
 9 MS. SERPE: Can we take a break
 10 when you hit a good stopping point? These
 11 screens seem to be frozen. I don't know
 12 about your screens, but ours are.
 13 MR. MORAN: I'm just going to clear
 14 from this area, then we'll --
 15 MS. SERPE: Sure.
 16 MR. MORAN: -- talk about a break.
 17 Q After you entered into the first
 18 two IMAs, there came a time that you contemplated
 19 a third, correct?
 20 MS. SERPE: Form objection. You
 21 mean SHIP?
 22 Q You understand my question?
 23 A I think I do.
 24 Yes, there was a time when SHIP
 25 considered a third IMA.

Page 102	<p>1 Paul Lorentz</p> <p>2 A I think so, yes.</p> <p>3 Q And this one, Beechwood Bermuda</p> <p>4 International Limited is the secured party in</p> <p>5 connection with the \$50 million loan, right?</p> <p>6 MS. BIRRANE: Objection.</p> <p>7 MS. SERPE: Form objection.</p> <p>8 A I believe so.</p> <p>9 Q And the document also sets forth,</p> <p>10 in Exhibit Schedule A, collateral securing that</p> <p>11 loan, right?</p> <p>12 MS. SERPE: Form objection.</p> <p>13 A Yes.</p> <p>14 Q And if you look through the</p> <p>15 collateral, there are numerous references to</p> <p>16 Platinum?</p> <p>17 MS. SERPE: Form -- form objection.</p> <p>18 Q Have you seen that before?</p> <p>19 A I believe that I have.</p> <p>20 Q So by this instrument, Beechwood Re</p> <p>21 Investments is pledging its interests in numerous</p> <p>22 assets as collateral for the previous note,</p> <p>23 right?</p> <p>24 MS. BIRRANE: Objection.</p> <p>25 A I believe so.</p>	Page 104	<p>1 Paul Lorentz</p> <p>2 Q Now, this Wilmington Trust</p> <p>3 statement is for the accounts as custodian under</p> <p>4 custody agreement dated 5/7/24 -- I'm sorry,</p> <p>5 5/27/14, with Beechwood Bermuda International</p> <p>6 Limited.</p> <p>7 Do you see that?</p> <p>8 A I do.</p> <p>9 Q That's the investment manager for</p> <p>10 one of your IMAs, right?</p> <p>11 A Right.</p> <p>12 Q I'm going to ask you to turn to the</p> <p>13 page with the production number ending in 4391.</p> <p>14 A Okay.</p> <p>15 Q Okay. This activity detail sets</p> <p>16 forth activities that occurred in that account,</p> <p>17 correct?</p> <p>18 MS. SERPE: Form objection.</p> <p>19 A I believe so.</p> <p>20 Q And you would have looked at this</p> <p>21 document in connection with your duties and</p> <p>22 responsibilities as CFO, right?</p> <p>23 MS. SERPE: Form objection. Asked</p> <p>24 and answered.</p> <p>25 MS. BIRRANE: Objection.</p>
Page 103	<p>1 Paul Lorentz</p> <p>2 Q Do you understand what's happening</p> <p>3 here by these instruments?</p> <p>4 MS. SERPE: Form objection.</p> <p>5 MS. BIRRANE: Objection.</p> <p>6 A Can you be more specific in your</p> <p>7 question.</p> <p>8 Q The surplus note -- withdrawn.</p> <p>9 Let's go to the next tab, 12?</p> <p>10 I'm handing you what we have marked</p> <p>11 as Exhibit 393.</p> <p>12 (Exhibit No. 393, Wilmington Trust</p> <p>13 Account Statement, Bates Nos. SHIP 0104385</p> <p>14 through 0104392 is marked by the reporter</p> <p>15 for identification.)</p> <p>16 Q I'll represent it's from SHIP</p> <p>17 production 0104385 through 4392, and it's a</p> <p>18 Wilmington Trust account statement.</p> <p>19 Do you have that in front of you?</p> <p>20 A I do.</p> <p>21 Q Have you seen that before?</p> <p>22 A I've seen Wilmington Trust</p> <p>23 statements before.</p> <p>24 Q Have you seen this one before?</p> <p>25 A I don't know.</p>	Page 105	<p>1 Paul Lorentz</p> <p>2 A Not necessarily.</p> <p>3 Q Do you remember looking at this?</p> <p>4 MS. SERPE: Form objection. Asked</p> <p>5 and answered.</p> <p>6 MS. BIRRANE: Objection.</p> <p>7 A I do not.</p> <p>8 Q Do you know if your staff looked at</p> <p>9 this?</p> <p>10 A I do not.</p> <p>11 Q Well, I'm going to direct your</p> <p>12 attention to the activity dated February --</p> <p>13 withdrawn -- February 18, 2015, transfer</p> <p>14 addition.</p> <p>15 Do you see that?</p> <p>16 A I do.</p> <p>17 Q It says:</p> <p>18 "Cash received, wire received.</p> <p>19 Cash received, wire from Senior Health Insurance</p> <p>20 Company of Pennsylvania, \$60 million."</p> <p>21 Do you see that?</p> <p>22 A I do.</p> <p>23 Q That was pursuant to your surplus</p> <p>24 strengthening plan, right, the \$60 million we</p> <p>25 talked about before?</p>

<p style="text-align: right;">Page 106</p> <p>1 Paul Lorentz</p> <p>2 MS. BIRRANE: Objection.</p> <p>3 MS. SERPE: Form objection.</p> <p>4 A It may have been, yes.</p> <p>5 Q Okay. Money coming from SHIP into</p> <p>6 this account, right? That's what it sets forth</p> <p>7 in activity detail?</p> <p>8 MS. SERPE: Form objection.</p> <p>9 A I would agree that that appears to</p> <p>10 be.</p> <p>11 Q Okay. Let's look at the next</p> <p>12 activity detail: "February 19, 2015, other</p> <p>13 disbursements."</p> <p>14 Do you see that?</p> <p>15 A Um-hum.</p> <p>16 Q "Cash disbursement miscellaneous.</p> <p>17 Wire paid to Beechwood Re Investments LLC,</p> <p>18 Beechwood Re Investments LLC Capital One, NA."</p> <p>19 Do you see that?</p> <p>20 A I do.</p> <p>21 Q How much money came out of the</p> <p>22 account?</p> <p>23 A \$50 million.</p> <p>24 Q Do you recall anyone bringing this</p> <p>25 to your attention back then?</p>	<p style="text-align: right;">Page 108</p> <p>1 Paul Lorentz</p> <p>2 SHIP wires \$60 million into this</p> <p>3 account on the 18th, correct?</p> <p>4 MS. SERPE: Form objection.</p> <p>5 A I believe that's the case.</p> <p>6 Q And then the next day, \$50 million</p> <p>7 is taken out of this account and paid to the</p> <p>8 entity that loaned you the \$50 million under the</p> <p>9 surplus note?</p> <p>10 MS. BIRRANE: Objection.</p> <p>11 MS. SERPE: Form objection.</p> <p>12 A Yes.</p> <p>13 Q And this was all part of the plan</p> <p>14 for the surplus note?</p> <p>15 A Yes. Yes.</p> <p>16 Q So money is coming from SHIP into</p> <p>17 SHIP's own accounts, being sent to the entity</p> <p>18 that then loaned back to SHIP. Is that what</p> <p>19 we're talking about?</p> <p>20 A That was not --</p> <p>21 MS. BIRRANE: Objection.</p> <p>22 MS. SERPE: Form objection.</p> <p>23 A That was not part of the original</p> <p>24 plan. But when we learned that Beechwood was</p> <p>25 proposing this structure, we reviewed it for</p>
<p style="text-align: right;">Page 107</p> <p>1 Paul Lorentz</p> <p>2 MS. SERPE: Form objection.</p> <p>3 MS. BIRRANE: Objection.</p> <p>4 A Bringing what to my attention?</p> <p>5 Q The disbursement of \$50 million</p> <p>6 coming out of this account?</p> <p>7 A Sure.</p> <p>8 Q Tell me about that.</p> <p>9 A Well, it was part of the</p> <p>10 transactions that described in a -- clearly, in a</p> <p>11 letter to the Pennsylvania Insurance Department.</p> <p>12 Q And when you say -- when you say</p> <p>13 it's "part of the transactions," what transaction</p> <p>14 are you talking about?</p> <p>15 A Well, the additional -- the</p> <p>16 creation of an additional IMA for \$110 million,</p> <p>17 the issuance of the surplus note, and potentially</p> <p>18 the conversion of the -- or sorry, the extension</p> <p>19 of the -- one of the existing IMAs of</p> <p>20 \$60 million, and then the potential subsequent</p> <p>21 conversion of those to loans.</p> <p>22 Q So \$60 million goes into this</p> <p>23 account from SHIP's money, right?</p> <p>24 MS. SERPE: Form objection.</p> <p>25 Q Withdrawn.</p>	<p style="text-align: right;">Page 109</p> <p>1 Paul Lorentz</p> <p>2 circularity and became satisfied that it wouldn't</p> <p>3 constitute a circular transaction, and,</p> <p>4 therefore, would be admissible as surplus and not</p> <p>5 inadmissible as surplus.</p> <p>6 Q You reviewed it for "circularity."</p> <p>7 What does that mean?</p> <p>8 A Well, so an insurance company</p> <p>9 essentially cannot invest in itself. So if we</p> <p>10 had -- had this transaction and there wasn't</p> <p>11 capacity for that -- for the investment in the</p> <p>12 IMA to be repaid without being contingent on the</p> <p>13 payment of the surplus note, then that would have</p> <p>14 been a circular transaction; and it would have</p> <p>15 been permissible, I presume, under Pennsylvania</p> <p>16 insurance statute -- though you couldn't count it</p> <p>17 as equity; you'd have to count it as debt.</p> <p>18 Q Who undertook this review?</p> <p>19 A I believe I did.</p> <p>20 Q Anybody else?</p> <p>21 A Perhaps some assistance from those</p> <p>22 on my staff.</p> <p>23 Q Like who?</p> <p>24 A Jana Broyles perhaps may have</p> <p>25 discussed it with Dan Crane at Drinker Biddle.</p>

<p style="text-align: right;">Page 110</p> <p>1 Paul Lorentz</p> <p>2 Q May have? Do you know whether this</p> <p>3 person was actually engaging someone from</p> <p>4 Drinker Biddle to look at this?</p> <p>5 MS. BIRRANE: Objection, Counsel.</p> <p>6 Drinker Biddle is their counsel.</p> <p>7 MR. MORAN: Thank you, Counsel.</p> <p>8 But I prefer you not have speaking</p> <p>9 objections, and I prefer to have this</p> <p>10 witness be controlled by his own lawyer.</p> <p>11 MS. BIRRANE: Well, I think as</p> <p>12 SHIP's -- I think, as SHIP's counsel, I'm</p> <p>13 entitled to protect SHIP. Attorney/client</p> <p>14 privilege.</p> <p>15 MR. MORAN: You are entitled to</p> <p>16 make an objection, not speaking objections.</p> <p>17 MS. SERPE: Of course not. There's</p> <p>18 a direction not to respond based on</p> <p>19 privilege.</p> <p>20 MS. BIRRANE: You asked about a</p> <p>21 communication.</p> <p>22 MR. MORAN: I didn't ask him -- I</p> <p>23 didn't ask a question for -- for</p> <p>24 communication -- I did not ask for a</p> <p>25 communication. I asked if any -- if he</p>	<p style="text-align: right;">Page 112</p> <p>1 Paul Lorentz</p> <p>2 Q Now, did you have this "review</p> <p>3 about circularity" conversation with the board in</p> <p>4 any fashion?</p> <p>5 A I don't remember.</p> <p>6 Q If you had, would there have been</p> <p>7 some sort of memo?</p> <p>8 A Well, we provided --</p> <p>9 MS. SERPE: Objection.</p> <p>10 A We provided a complete explanation</p> <p>11 of the series of transactions to the Pennsylvania</p> <p>12 Insurance Department. I don't recall whether we</p> <p>13 provided that --</p> <p>14 Q Complete? I'm sorry. Were you</p> <p>15 finished with your answer? I'm sorry.</p> <p>16 A I don't know if that would have</p> <p>17 been provided to the trustees as well or not. I</p> <p>18 simply don't remember.</p> <p>19 Q You said you provided a "complete"</p> <p>20 explanation of the transaction to the</p> <p>21 Pennsylvania Insurance Department?</p> <p>22 A Yes.</p> <p>23 Q Did you -- well, withdrawn.</p> <p>24 Tab 13.</p> <p>25 I'm handing you what we've marked</p>
<p style="text-align: right;">Page 111</p> <p>1 Paul Lorentz</p> <p>2 knows if anybody engaged Drinker Biddle.</p> <p>3 That's not asking for a communication</p> <p>4 that's a privilege. And we're going to</p> <p>5 move on.</p> <p>6 Q My question is:</p> <p>7 Do you know whether anyone from</p> <p>8 your staff engaged anyone at Drinker Biddle to</p> <p>9 undertake this review?</p> <p>10 MS. BIRRANE: Objection.</p> <p>11 Q As you sit here today?</p> <p>12 MS. SERPE: Same objection.</p> <p>13 A I don't remember.</p> <p>14 Q And if you did, I suppose there</p> <p>15 might be some documentation as to that?</p> <p>16 MS. BIRRANE: Objection.</p> <p>17 MS. SERPE: Form objection.</p> <p>18 A Perhaps. There may have been</p> <p>19 simply a phone call.</p> <p>20 MR. MORAN: To the extent there's</p> <p>21 any documentation as to this circularity</p> <p>22 review with counsel, I call for its</p> <p>23 production.</p> <p>24 (Document, Circularity Review of</p> <p>25 SHIP investment, requested.)</p>	<p style="text-align: right;">Page 113</p> <p>1 Paul Lorentz</p> <p>2 as Exhibit 394. I'll represent it's a series of</p> <p>3 documents provided under SHIP production numbers</p> <p>4 0019579 through 9638 -- I'm sorry, 9639.</p> <p>5 (Exhibit No. 394, June 9, 2015</p> <p>6 Series of E-Mail Chains, Bates Nos.</p> <p>7 SHIP 0019579 through 0019639 is marked by</p> <p>8 the reporter for identification.)</p> <p>9 Q And I'll represent it's a series of</p> <p>10 E-Mail threads.</p> <p>11 Do you see that?</p> <p>12 A I do.</p> <p>13 Q Have you seen this before?</p> <p>14 A I believe I have.</p> <p>15 Q Okay. The first -- at the very</p> <p>16 top, E-Mail that's dated June 9th is from you to</p> <p>17 Kimberly Rankin.</p> <p>18 Who is Kimberly Rankin?</p> <p>19 A She was a member of the</p> <p>20 Pennsylvania Insurance Department financial</p> <p>21 staff.</p> <p>22 Q Okay. And it says:</p> <p>23 "Thank you, Kim. Here are the</p> <p>24 agreements for the new IMAs."</p> <p>25 Do you see that?</p>

<p style="text-align: right;">Page 114</p> <p>1 Paul Lorentz</p> <p>2 A I do.</p> <p>3 Q All right. Now, the -- this page,</p> <p>4 which you will see at the bottom right-hand</p> <p>5 corner, has a production number.</p> <p>6 Do you see that SHIP production</p> <p>7 number --</p> <p>8 A Yes. Um-hum.</p> <p>9 Q -- ending in 19579?</p> <p>10 Do you see that?</p> <p>11 A Yes.</p> <p>12 Q All right. So this -- continuing</p> <p>13 on to 19584 constitutes the E-Mail thread, right?</p> <p>14 A Okay. I'm with you.</p> <p>15 Q Followed sequentially by documents</p> <p>16 from 19585, ending in 19639.</p> <p>17 Do you see that?</p> <p>18 A Yes, I do.</p> <p>19 Q Now, these constitute the</p> <p>20 agreements that were sent with the E-Mail.</p> <p>21 Would you agree with me?</p> <p>22 MS. SERPE: Form objection.</p> <p>23 MS. BIRRANE: Objection.</p> <p>24 Q Why don't you take a look.</p> <p>25 MS. SERPE: Are you saying the</p>	<p style="text-align: right;">Page 116</p> <p>1 Paul Lorentz</p> <p>2 your attention again back to the first page.</p> <p>3 A Okay.</p> <p>4 Q And specifically to the E-Mail from</p> <p>5 you to Ms. Rankin on June 8, 2015, do you see</p> <p>6 that?</p> <p>7 MS. SERPE: Bottom of the first?</p> <p>8 MR. MORAN: Right.</p> <p>9 A The one from Kim to me on the 9th?</p> <p>10 Q No. The one from Paul Lorentz sent</p> <p>11 Monday, June 8th, to Kimberly Rankin.</p> <p>12 A Okay. Got it.</p> <p>13 Q Now, by June 8th, had SHIP received</p> <p>14 approval on the surplus strengthening plan?</p> <p>15 MS. SERPE: Form objection.</p> <p>16 MS. BIRRANE: Objection.</p> <p>17 Q Do you know?</p> <p>18 A I don't recall they were seeking</p> <p>19 approval of the plan.</p> <p>20 Q Did you receive approval for the</p> <p>21 surplus note by this point?</p> <p>22 MS. SERPE: Form objection.</p> <p>23 A We did.</p> <p>24 Q All right. I'm going to read the</p> <p>25 E-Mail.</p>
<p style="text-align: right;">Page 115</p> <p>1 Paul Lorentz</p> <p>2 attach -- are you representing that these</p> <p>3 are the attachments to the E-Mail?</p> <p>4 MR. MORAN: I am.</p> <p>5 MS. SERPE: Okay. So what's the</p> <p>6 question?</p> <p>7 Q I'm asking if he agrees with me</p> <p>8 that that's what happened here.</p> <p>9 MS. SERPE: Well, the document</p> <p>10 speaks for itself. I'm not sure what</p> <p>11 you're asking him. Are you asking him to</p> <p>12 verify whether these are, in fact, the</p> <p>13 attachments that were sent back in June of</p> <p>14 2015?</p> <p>15 MR. MORAN: I couldn't say it</p> <p>16 better. Yes.</p> <p>17 MS. SERPE: Form objection.</p> <p>18 A I have no reason to dispute that.</p> <p>19 Q Okay. And this E-Mail now, going</p> <p>20 back to the first page.</p> <p>21 A Okay.</p> <p>22 Q The thread begins with your E-Mail</p> <p>23 on February 24, 2015, right?</p> <p>24 A Yes, I see that.</p> <p>25 Q Okay. And then I'm going to focus</p>	<p style="text-align: right;">Page 117</p> <p>1 Paul Lorentz</p> <p>2 "Hi, Kim. In follow-up to our call</p> <p>3 of last Thursday, here's an explanation of what's</p> <p>4 transpired since our February discussions. On</p> <p>5 January 15th, we executed a new IMA with B Asset</p> <p>6 Manager LP, with a target investment allocation</p> <p>7 of \$110 million. A custody account with</p> <p>8 Wilmington Trust compliant with NAIC requirements</p> <p>9 was established; and the account was funded in</p> <p>10 the amount of \$50 million on January 16th and 60</p> <p>11 million on March 12th. Because we believe this</p> <p>12 did not require approval or/and special</p> <p>13 regulatory interpretation, we did not provide</p> <p>14 prior notice of this agreement."</p> <p>15 Do you see that?</p> <p>16 A I do.</p> <p>17 Q Why did you believe you did not</p> <p>18 require approval?</p> <p>19 A That was our understanding of the</p> <p>20 regulatory requirements.</p> <p>21 Q What do you mean?</p> <p>22 MS. BIRRANE: Objection.</p> <p>23 A Well, invest -- investments aren't</p> <p>24 required to be passed on by an insurance</p> <p>25 department.</p>

<p style="text-align: right;">Page 118</p> <p>1 Paul Lorentz</p> <p>2 Q Going on to the next paragraph, it</p> <p>3 reads:</p> <p>4 "On January 30th, we sent a letter</p> <p>5 providing a comprehensive explanation of the</p> <p>6 various transactions being undertaken, including</p> <p>7 an explanation of the new IMA, for full context</p> <p>8 and disclosure. The transactions specifically</p> <p>9 addressed included:"</p> <p>10 Bullet: "The new IMA."</p> <p>11 Bullet: "The retroactive amendment</p> <p>12 and restatement of the existing IMA with BRE."</p> <p>13 Bullet: "The retroactive amendment</p> <p>14 and restatement of the existing IMA with BBIL,</p> <p>15 with an additional \$16 million investment in this</p> <p>16 account."</p> <p>17 Do you see that?</p> <p>18 A I do.</p> <p>19 Q Now, that is referencing the letter</p> <p>20 we just looked at, right?</p> <p>21 MS. BIRRANE: Objection.</p> <p>22 MS. SERPE: Form objection. I</p> <p>23 think -- are you talking about an</p> <p>24 attachment?</p> <p>25 MR. MORAN: I'm talking about --</p>	<p style="text-align: right;">Page 120</p> <p>1 Paul Lorentz</p> <p>2 Q Which is also sent on the same date</p> <p>3 as this January 30th, 2015 letter to Steve</p> <p>4 Johnson?</p> <p>5 A I believe so.</p> <p>6 MR. MORAN: Okay. Well, I call for</p> <p>7 that production.</p> <p>8 MS. BIRRANE: We produced it.</p> <p>9 (Document, a January 30, 2015</p> <p>10 letter outlining all of the proposed</p> <p>11 transactions, from Brian Wegner to</p> <p>12 Steve Johnson, requested.)</p> <p>13 Q And moving on to Exhibit C, it</p> <p>14 reads:</p> <p>15 "Between February 5th and</p> <p>16 February 23rd, we had several calls and E-Mail</p> <p>17 exchanges related to the proposed amendment and</p> <p>18 restatement of the IMAs into notes, addressing</p> <p>19 concerns about the proposed or retroactive</p> <p>20 approach and the form of the termination of the</p> <p>21 original IMAs."</p> <p>22 A I'm sorry. Where are we reading?</p> <p>23 Q I'm sorry. Let me slow down. Take</p> <p>24 a back -- back step. It's the next paragraph.</p> <p>25 A Okay.</p>
<p style="text-align: right;">Page 119</p> <p>1 Paul Lorentz</p> <p>2 MS. SERPE: Your question is very</p> <p>3 unclear.</p> <p>4 MR. MORAN: -- the exhibit with --</p> <p>5 withdrawn.</p> <p>6 VOICE: 391.</p> <p>7 MR. MORAN: Thank you.</p> <p>8 MS. SERPE: You're talking about a</p> <p>9 prior --</p> <p>10 MR. MORAN: The prior exhibit we</p> <p>11 just handed him, yes, 391, dated</p> <p>12 January 30th, 2015.</p> <p>13 MS. SERPE: Can you repeat the</p> <p>14 question, please?</p> <p>15 Q That paragraph refers to the</p> <p>16 January 30, 2015 letter that we looked at that's</p> <p>17 marked as Exhibit 391, right?</p> <p>18 MS. SERPE: Form objection.</p> <p>19 A I don't believe this is what this</p> <p>20 is referring to.</p> <p>21 Q What do you believe it's referring</p> <p>22 to?</p> <p>23 A A letter that was an outline of all</p> <p>24 of the proposed transactions. It's from Brian</p> <p>25 Wegner to Steve Johnson.</p>	<p style="text-align: right;">Page 121</p> <p>1 Paul Lorentz</p> <p>2 Q "Between February." Do you see</p> <p>3 that?</p> <p>4 A Yes. Okay.</p> <p>5 Q It reads:</p> <p>6 "Between February 5 and</p> <p>7 February 23, we had several calls and E-Mail</p> <p>8 exchanges related to the proposed amendment and</p> <p>9 restatement of the IMAs into notes, addressing</p> <p>10 concerns about the proposed retroactive approach</p> <p>11 and the form of the termination of the original</p> <p>12 IMAs.</p> <p>13 "On February 18th, we funded the</p> <p>14 planned additional 60 million to the BBIL IMA</p> <p>15 believing that, as a 2015 transaction, the</p> <p>16 holding of this asset would naturally follow the</p> <p>17 conclusions reached in regard to the original</p> <p>18 agreement."</p> <p>19 Do you see that?</p> <p>20 A I do.</p> <p>21 Q Now, that was the \$60 million entry</p> <p>22 we saw as a wire received from SHIP, right?</p> <p>23 MS. BIRRANE: Objection.</p> <p>24 MS. SERPE: Form objection.</p> <p>25 A As far as I know.</p>

<p style="text-align: right;">Page 122</p> <p>1 Paul Lorentz</p> <p>2 Q All right.</p> <p>3 A Yep.</p> <p>4 Q And then just skipping down to the</p> <p>5 bottom, there are no -- well, second-to-the-last</p> <p>6 paragraph:</p> <p>7 "There are no agreements or</p> <p>8 transactions, actual or planned, other than those</p> <p>9 described above."</p> <p>10 Do you see that?</p> <p>11 A I do.</p> <p>12 Q Now, did you mention -- withdrawn.</p> <p>13 You did not mention in this E-Mail</p> <p>14 to Kimberly Rankin the \$50 million wire coming</p> <p>15 out of the BBIL account to Beechwood Re</p> <p>16 Investments; did you?</p> <p>17 MS. SERPE: Form objection.</p> <p>18 A I don't know that I did.</p> <p>19 Q And the documents you attach here</p> <p>20 do not include the notes we just looked at, other</p> <p>21 than the surplus note, right?</p> <p>22 MS. SERPE: Form objection.</p> <p>23 MS. BIRRANE: Objection.</p> <p>24 Q Feel free to take a look through</p> <p>25 that.</p>	<p style="text-align: right;">Page 124</p> <p>1 Paul Lorentz</p> <p>2 this E-Mail; did you?</p> <p>3 A We said it in a letter to</p> <p>4 Steve Johnson.</p> <p>5 Q You didn't say it in the letter</p> <p>6 that we have here as Exhibit 391?</p> <p>7 MS. BIRRANE: Objection.</p> <p>8 Q Did you?</p> <p>9 MS. SERPE: No. He's referring to</p> <p>10 a different exhibit now. Form objection.</p> <p>11 A No. This 391 was about the surplus</p> <p>12 note. There was a second letter to Steve Johnson</p> <p>13 describing a whole outline of the proposed</p> <p>14 transaction.</p> <p>15 Q Why was -- why was that not</p> <p>16 included in the same -- withdrawn.</p> <p>17 Why are you sending two different</p> <p>18 letters on the same day?</p> <p>19 MS. BIRRANE: Objection.</p> <p>20 MS. SERPE: Form objection.</p> <p>21 A Well, this one was for -- this, the</p> <p>22 one for the surplus note, was seeking approval of</p> <p>23 the transaction, which the Department</p> <p>24 subsequently approved. The other was general</p> <p>25 information and background on some of the actions</p>
<p style="text-align: right;">Page 123</p> <p>1 Paul Lorentz</p> <p>2 A If you're suggesting there's no</p> <p>3 mention of that, I'll accept that without --</p> <p>4 Q So you didn't provide them with the</p> <p>5 \$50 million secured promissory note dated</p> <p>6 February 19th between Beechwood Re Investments</p> <p>7 and Beechwood Bermuda International Limited; did</p> <p>8 you?</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 MS. SERPE: Form objection.</p> <p>11 A We didn't provide them with any</p> <p>12 information with respect to the investments that</p> <p>13 were being made under the Investment Management</p> <p>14 Agreements.</p> <p>15 Q But this is money that went from</p> <p>16 the investment manager to the entity loaning you</p> <p>17 the surplus money?</p> <p>18 A Um-hum.</p> <p>19 MS. SERPE: Form objection.</p> <p>20 Q Didn't you think it was important</p> <p>21 for the Department of Insurance to understand</p> <p>22 that this money was coming from SHIP itself?</p> <p>23 A We did.</p> <p>24 MS. BIRRANE: Objection.</p> <p>25 Q You didn't say anything about it in</p>	<p style="text-align: right;">Page 125</p> <p>1 Paul Lorentz</p> <p>2 that SHIP was proposing to undertake, unrelated.</p> <p>3 I mean --</p> <p>4 Q The money -- are you finished?</p> <p>5 A Yes.</p> <p>6 Q The money for your -- for the</p> <p>7 surplus note came from SHIP into the BBIL</p> <p>8 account, right?</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 A Yes.</p> <p>11 Q And then it went from the BBIL</p> <p>12 account into the entity that loaned the money,</p> <p>13 the \$50 million, for the surplus note?</p> <p>14 MS. SERPE: Form objection.</p> <p>15 A Yes.</p> <p>16 Q Don't you think that would have</p> <p>17 been something that would have been -- should</p> <p>18 have been in the letter to the Department of</p> <p>19 Insurance for seeking approval for the surplus</p> <p>20 note?</p> <p>21 MS. BIRRANE: Objection.</p> <p>22 MS. SERPE: Form objection.</p> <p>23 A No. It was in a separate letter.</p> <p>24 Q Why wasn't it in the first letter?</p> <p>25 MS. BIRRANE: Objection.</p>

<p style="text-align: right;">Page 126</p> <p>1 Paul Lorentz</p> <p>2 A Because this letter had to do with</p> <p>3 seeking approval of the surplus note. The other</p> <p>4 letter was comprehensive, including not only the</p> <p>5 surplus note, but the other transactions.</p> <p>6 Q And the other transactions we're</p> <p>7 referring to is the round trip \$50 million from</p> <p>8 SHIP?</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 MS. SERPE: Form objection.</p> <p>11 A No. It was -- it was the new IMA,</p> <p>12 the extension of the \$60 million in the existing</p> <p>13 IMA, the surplus note. At least those were</p> <p>14 included in the letters to Steve Johnson.</p> <p>15 Q Did they -- did -- are you</p> <p>16 representing that SHIP informed the Department of</p> <p>17 Insurance that the money for the surplus note</p> <p>18 came from SHIP's money -- withdrawn.</p> <p>19 Are you representing that you</p> <p>20 informed the Department of Insurance that the</p> <p>21 money for the surplus note came from SHIP through</p> <p>22 BBIL, through Beechwood reinsurance investments,</p> <p>23 back to SHIP?</p> <p>24 A We disclosed --</p> <p>25 MS. BIRRANE: Objection.</p>	<p style="text-align: right;">Page 128</p> <p>1 Paul Lorentz</p> <p>2 Q Yes.</p> <p>3 A I don't remember.</p> <p>4 Q Do you remember -- withdrawn.</p> <p>5 Were you involved with the</p> <p>6 communication of the idea to Beechwood?</p> <p>7 MS. BIRRANE: Objection to form.</p> <p>8 A I don't remember.</p> <p>9 Q Do you remember being at a meeting</p> <p>10 where Beechwood members said to Brian Wegner:</p> <p>11 "Brian, we love you, but we don't</p> <p>12 have \$50 million to loan you"?</p> <p>13 MS. SERPE: Form objection.</p> <p>14 MS. BIRRANE: Objection.</p> <p>15 A That sounds familiar.</p> <p>16 Q And Brian Wegner said, "I can get</p> <p>17 you the money"?</p> <p>18 MS. SERPE: Form objection.</p> <p>19 MS. BIRRANE: Objection.</p> <p>20 A I don't remember that.</p> <p>21 Q I'm handling you what we've marked</p> <p>22 as Exhibit 395.</p> <p>23 (Exhibit No. 395, E-Mail Chain, top</p> <p>24 E-Mail from Paul Lorentz to Kimberly Rankin</p> <p>25 dated July 2, 2015, Subject: "SHIP</p>
<p style="text-align: right;">Page 127</p> <p>1 Paul Lorentz</p> <p>2 MS. SERPE: Objection.</p> <p>3 A We disclosed the nature of that in</p> <p>4 the letter to Steve Johnson.</p> <p>5 Q Did you ever hear of the Department</p> <p>6 of Insurance approving a loan to oneself to</p> <p>7 improve one's RBC before?</p> <p>8 A I can't say that I have.</p> <p>9 Q And this -- the idea for the</p> <p>10 surplus note, whose idea was this?</p> <p>11 MS. SERPE: Form objection.</p> <p>12 A We had many management</p> <p>13 conversations. I know the surplus note idea</p> <p>14 occurred at least to me.</p> <p>15 Q "I know the surplus note idea</p> <p>16 occurred at least to me"?</p> <p>17 Does that mean it was your idea?</p> <p>18 MS. SERPE: Form objection.</p> <p>19 MS. BIRRANE: Objection.</p> <p>20 A It means I had that idea. I don't</p> <p>21 know if it was mine exclusively.</p> <p>22 Q And who brought the idea to</p> <p>23 Beechwood?</p> <p>24 MS. BIRRANE: Objection.</p> <p>25 A Who in SHIP specifically?</p>	<p style="text-align: right;">Page 129</p> <p>1 Paul Lorentz</p> <p>2 investments," Bates No. SHIP 0119007 is</p> <p>3 marked by the reporter for identification.)</p> <p>4 Q And I'll represent it's an E-Mail</p> <p>5 thread on SHIP production number beginning</p> <p>6 0119007.</p> <p>7 Do you recognize this?</p> <p>8 A It looks familiar.</p> <p>9 Q Okay. And at the top, it's an</p> <p>10 E-Mail from you to Kimberly Rankin dated</p> <p>11 July 2nd. The subject is "SHIP investments," and</p> <p>12 it reads:</p> <p>13 "Kim, we have been in discussion</p> <p>14 with Beechwood's general counsel yesterday and</p> <p>15 today on both the BBIL and the BRE agreements."</p> <p>16 Do you see that?</p> <p>17 A I do.</p> <p>18 Q And then next paragraph:</p> <p>19 "As for the BRE agreements, it is</p> <p>20 appearing increasing likely that we will need to</p> <p>21 abandon the plan to convert to a note and to</p> <p>22 instead to continue to hold the assets directly."</p> <p>23 Why was it abandoned?</p> <p>24 A I don't -- I don't remember.</p> <p>25 Q Now, this says it was "abandoned as</p>

<p style="text-align: right;">Page 130</p> <p>1 Paul Lorentz</p> <p>2 to the BRE agreement."</p> <p>3 What about the BBIL agreement? Do</p> <p>4 you know if that was "abandoned" too?</p> <p>5 A Ultimate -- ultimate -- ultimately,</p> <p>6 it was.</p> <p>7 Q Why?</p> <p>8 A Well, there were issues with</p> <p>9 foreign investment limitations. So the</p> <p>10 Pennsylvania investment statute limits the amount</p> <p>11 of investments in certain types of assets. Among</p> <p>12 those limitations would be investments in foreign</p> <p>13 entities.</p> <p>14 And we already had investments in</p> <p>15 foreign entities, and so I -- as I believe, this</p> <p>16 may be where we were bumping up against that</p> <p>17 limitation.</p> <p>18 Q All right. So the -- the surplus</p> <p>19 strengthening plan, which included the conversion</p> <p>20 of those two IMAs, that part had been abandoned,</p> <p>21 right?</p> <p>22 MS. BIRRANE: Objection.</p> <p>23 MS. SERPE: Form objection.</p> <p>24 A Well, they -- so those did nothing</p> <p>25 to strengthen surplus. They were sort of</p>	<p style="text-align: right;">Page 132</p> <p>1 Paul Lorentz</p> <p>2 A Less than 10 percent of the</p> <p>3 portfolio.</p> <p>4 Q They were invested with Beechwood</p> <p>5 up to about \$270 million in 2015, right?</p> <p>6 A That would be right.</p> <p>7 Q And Beechwood was the only asset</p> <p>8 manager that was trying to produce yield for you,</p> <p>9 correct?</p> <p>10 MS. BIRRANE: Objection.</p> <p>11 MS. SERPE: Form objection.</p> <p>12 A I'm not sure I understand what you</p> <p>13 mean.</p> <p>14 Q High risk, high reward?</p> <p>15 MS. BIRRANE: Objection.</p> <p>16 A That's your characterization, not</p> <p>17 necessarily mine.</p> <p>18 Q What's your characterization for</p> <p>19 why you went to Beechwood as opposed to Conning?</p> <p>20 MS. BIRRANE: Objection.</p> <p>21 MS. SERPE: Form objection.</p> <p>22 A For enhanced yield.</p> <p>23 Q Okay. Tell me about your efforts</p> <p>24 to try to get reinsurance.</p> <p>25 MS. SERPE: Form objection.</p>
<p style="text-align: right;">Page 131</p> <p>1 Paul Lorentz</p> <p>2 incidental or, frankly, unrelated to the other --</p> <p>3 the other initiatives and, from SHIP's</p> <p>4 perspective, were intended to simplify the</p> <p>5 accounting and reporting.</p> <p>6 Q Well, you say they're now</p> <p>7 "unrelated." But in your strengthening plan that</p> <p>8 you proposed to the board, it was set forth as</p> <p>9 part of the plan, right?</p> <p>10 MS. BIRRANE: Objection.</p> <p>11 MS. SERPE: Form objection.</p> <p>12 A Yes.</p> <p>13 Q And did any conversion take place,</p> <p>14 of those IMAs?</p> <p>15 A No.</p> <p>16 Q By 2015, SHIP was very heavily</p> <p>17 invested with Beechwood, right?</p> <p>18 MS. BIRRANE: Objection.</p> <p>19 MS. SERPE: Form objection.</p> <p>20 A What do you mean by "heavily</p> <p>21 invested"?</p> <p>22 Q \$270 million? That's pretty heavy;</p> <p>23 isn't it?</p> <p>24 MS. BIRRANE: Objection.</p> <p>25 MS. SERPE: Form objection.</p>	<p style="text-align: right;">Page 133</p> <p>1 Paul Lorentz</p> <p>2 MS. BIRRANE: Objection.</p> <p>3 Q Withdrawn.</p> <p>4 Did there come a time that you</p> <p>5 sought reinsurance?</p> <p>6 MS. BIRRANE: Objection.</p> <p>7 A Yes.</p> <p>8 Q And you sought reinsurance from</p> <p>9 Beechwood?</p> <p>10 A Yes.</p> <p>11 Q And that wasn't working out; was</p> <p>12 it?</p> <p>13 MS. BIRRANE: Objection.</p> <p>14 A No. We ultimately didn't do a</p> <p>15 reinsurance agreement with Beechwood.</p> <p>16 Q Reinsurance would have solved a lot</p> <p>17 of SHIP's problems, right?</p> <p>18 MS. BIRRANE: Objection.</p> <p>19 A No, it wouldn't. It wouldn't. In</p> <p>20 fact, the -- as we looked at it, it would have</p> <p>21 had a very modest impact. They were only willing</p> <p>22 to reinsure a modest portion, and it just would</p> <p>23 not have been impactful from an RBC standpoint.</p> <p>24 Q Then why were you also looking for</p> <p>25 reinsurance from Vanguard?</p>

<p style="text-align: right;">Page 134</p> <p>1 Paul Lorentz</p> <p>2 A Vanbridge.</p> <p>3 MS. BIRRANE: Objection.</p> <p>4 Q Vanbridge. Thank you.</p> <p>5 A So, well, this sort of triggered a</p> <p>6 discussion at the management board level as to</p> <p>7 whether SHIP might be able to seek a reinsurance</p> <p>8 transaction when, in fact, it was the board that,</p> <p>9 as I recall, proposed bringing in a third-party</p> <p>10 intermediary to sort of structure a search for</p> <p>11 potential reinsurers.</p> <p>12 Q And that's what Vanbridge was</p> <p>13 doing?</p> <p>14 A Yes.</p> <p>15 Q 16.</p> <p>16 A That's what -- that's what</p> <p>17 Vanbridge was brought on to do initially.</p> <p>18 Q All right. I'm going to show you</p> <p>19 what we are marking as Exhibit 396.</p> <p>20 (Exhibit No. 396, Document, E-Mail</p> <p>21 thread, including two-page document of a</p> <p>22 table entitled "SHIP Due Diligence Request</p> <p>23 List For Beechwood," Bates Nos. SHIP</p> <p>24 0071287 and SHIP 0071289 is marked by the</p> <p>25 reporter for identification.)</p>	<p style="text-align: right;">Page 136</p> <p>1 Paul Lorentz</p> <p>2 A She was with Vanbridge.</p> <p>3 Q And I'm going to read it. It says</p> <p>4 "Scott" -- and it's the Scott Taylor at</p> <p>5 Beechwood, correct?</p> <p>6 A Yes.</p> <p>7 Q "Scott, please find attached the</p> <p>8 list of due diligence request items for</p> <p>9 Beechwood Re on behalf of SHIP."</p> <p>10 Do you see that?</p> <p>11 A Yes.</p> <p>12 Q Okay. And then it's followed by</p> <p>13 what I'll represent to you is the due diligence</p> <p>14 request.</p> <p>15 Do you see that?</p> <p>16 A I do.</p> <p>17 Q Do you remember seeing -- looking</p> <p>18 through the due diligence request back then?</p> <p>19 A I don't remember, but --</p> <p>20 Q But you don't dispute it, right?</p> <p>21 MS. BIRRANE: Objection.</p> <p>22 A No.</p> <p>23 Q And these are requests that</p> <p>24 Vanbridge was making to find out about Beechwood,</p> <p>25 right?</p>
<p style="text-align: right;">Page 135</p> <p>1 Paul Lorentz</p> <p>2 Q I will represent these are</p> <p>3 documents from SHIP's production, the first one</p> <p>4 being SHIP 0071287, followed by SHIP 0071289,</p> <p>5 followed by -- which was produced in native</p> <p>6 format, followed by a document -- a two-page</p> <p>7 document of a table entitled "SHIP Due Diligence</p> <p>8 Request List For Beechwood."</p> <p>9 Are you with me?</p> <p>10 MS. SERPE: Form objection.</p> <p>11 A Yes.</p> <p>12 Q Have you seen the E-Mail thread</p> <p>13 before?</p> <p>14 A It looks --</p> <p>15 Q Well, I'll direct your attention to</p> <p>16 the second E-Mail at the bottom, from Monica</p> <p>17 Rodriguez Greene, which has a cc to P. Lorentz,</p> <p>18 SHIP LTC?</p> <p>19 A Yes. Okay.</p> <p>20 Q Do you see that?</p> <p>21 Okay. So you received that.</p> <p>22 You're on that E-Mail thread there, right?</p> <p>23 A Yes, it appears I am.</p> <p>24 Q Okay. Who is Monica Rodriguez</p> <p>25 Greene?</p>	<p style="text-align: right;">Page 137</p> <p>1 Paul Lorentz</p> <p>2 A Right.</p> <p>3 Q You say you don't recall these --</p> <p>4 this table. I'm not going to ask you to take a</p> <p>5 look at the table, but the actual requests.</p> <p>6 Have you had familiarity with</p> <p>7 Vanbridge before this?</p> <p>8 A No.</p> <p>9 Q Okay. Have you had familiarity</p> <p>10 with due diligence requests before this?</p> <p>11 MS. BIRRANE: Objection.</p> <p>12 A I have never been close to a due</p> <p>13 diligence process. It was a company that I</p> <p>14 worked for that was acquired, and that company</p> <p>15 conducted due diligence on the company I was</p> <p>16 working for. I was not heavily involved in that.</p> <p>17 Q Okay. But looking at this table,</p> <p>18 you see it's got numbers and topics and due</p> <p>19 diligence requests, the first one being:</p> <p>20 "Please give a brief history of the</p> <p>21 company."</p> <p>22 Do you see that?</p> <p>23 A Um-hum. Yes, I do.</p> <p>24 Q Would you agree with me that this</p> <p>25 looks like a boilerplate type of due diligence</p>

<p style="text-align: right;">Page 138</p> <p>1 Paul Lorentz</p> <p>2 request?</p> <p>3 MS. BIRRANE: Objection.</p> <p>4 MS. SERPE: Form objection.</p> <p>5 A I don't. I can't say.</p> <p>6 Q All right. Moving back to the</p> <p>7 first page again, of that exhibit, it's an E-Mail</p> <p>8 thread forwarding this from -- an E-Mail from</p> <p>9 Monica Greene, from Brian Wegner to Scott Taylor.</p> <p>10 Do you see that?</p> <p>11 A Yes.</p> <p>12 Q Now, you're not copied on that.</p> <p>13 But have you seen this before?</p> <p>14 MS. SERPE: Form objection. Other</p> <p>15 than with counsel.</p> <p>16 A I don't remember seeing it.</p> <p>17 Q Do you recall having any</p> <p>18 communications with Brian Wegner at -- at or</p> <p>19 around this time about due diligence and to</p> <p>20 Beechwood, requested by Vanbridge?</p> <p>21 A I don't remember.</p> <p>22 Q Now, it says:</p> <p>23 "Scott, this list came from</p> <p>24 Vanbridge. If there's anything overbearing or</p> <p>25 difficult, please let me know and we will</p>	<p style="text-align: right;">Page 140</p> <p>1 Paul Lorentz</p> <p>2 "This list came from Vanbridge."</p> <p>3 And my question is:</p> <p>4 Isn't it self-evident it came from</p> <p>5 Vanbridge?</p> <p>6 MS. BIRRANE: Objection.</p> <p>7 MS. SERPE: Form objection. The</p> <p>8 document speaks for itself.</p> <p>9 A Yeah, I wouldn't dispute that.</p> <p>10 Q And, I mean, Taylor was a recipient</p> <p>11 of the E-Mail from Vanbridge, right?</p> <p>12 A Right.</p> <p>13 MS. SERPE: Form objection.</p> <p>14 Q So by saying this list came from</p> <p>15 Vanbridge, would you agree that he is suggesting</p> <p>16 that it's not really from SHIP?</p> <p>17 MS. SERPE: Form objection.</p> <p>18 MS. BIRRANE: Objection.</p> <p>19 Q I mean, you know Wegner. Would you</p> <p>20 read it any other way?</p> <p>21 MS. SERPE: Form objection.</p> <p>22 MS. BIRRANE: Objection.</p> <p>23 A No.</p> <p>24 Q It goes on to say:</p> <p>25 "If there's anything overbearing or</p>
<p style="text-align: right;">Page 139</p> <p>1 Paul Lorentz</p> <p>2 adjust."</p> <p>3 Do you see that?</p> <p>4 A Yes.</p> <p>5 Q Now, isn't it -- withdrawn.</p> <p>6 Would you agree with me that it's</p> <p>7 pretty self-evident that this is from Vanbridge?</p> <p>8 MS. BIRRANE: Objection.</p> <p>9 MS. SERPE: Form objection. I did</p> <p>10 not understand that.</p> <p>11 Q Do you understand my question?</p> <p>12 A Is the E-Mail from --</p> <p>13 Q The E-Mail below -- I'll withdraw.</p> <p>14 The E-Mail from Monica Greene to</p> <p>15 Scott Taylor.</p> <p>16 Do you see that?</p> <p>17 A Yes.</p> <p>18 Q Monica Greene is from Vanbridge,</p> <p>19 right?</p> <p>20 A Right.</p> <p>21 Q And she's sending it to Scott</p> <p>22 Taylor?</p> <p>23 A Right.</p> <p>24 Q Brian Wegner forwards it to Scott</p> <p>25 Taylor and says:</p>	<p style="text-align: right;">Page 141</p> <p>1 Paul Lorentz</p> <p>2 difficult."</p> <p>3 Would you have any idea why</p> <p>4 Brian Wegner would be concerned that Beechwood</p> <p>5 would think these requests for due diligence</p> <p>6 would be "overbearing" or "difficult"?</p> <p>7 MS. BIRRANE: Objection.</p> <p>8 A I don't.</p> <p>9 Q Did you have any discussions with</p> <p>10 Wegner about going easy on Beechwood when it</p> <p>11 comes to due diligence?</p> <p>12 MS. BIRRANE: Objection.</p> <p>13 A No.</p> <p>14 MR. MORAN: Why don't we take a</p> <p>15 break.</p> <p>16 THE VIDEOGRAPHER: Going off the</p> <p>17 record. The time is 11:32 a.m.</p> <p>18 (A break is taken.)</p> <p>19 THE VIDEOGRAPHER: This begins</p> <p>20 media unit number two. The time is</p> <p>21 11:42 a.m. We are back on the record.</p> <p>22 CONTINUED DIRECT EXAMINATION</p> <p>23 BY MR. MORAN:</p> <p>24 Q Mr. Lorentz, I'm going to hand you</p> <p>25 what we've marked as Exhibit 65, which I'll</p>

Page 150	<p>1 Paul Lorentz</p> <p>2 A I don't recall that I did.</p> <p>3 Q Do you recall discussing with DLA</p> <p>4 the issue of the side letter?</p> <p>5 MS. SERPE: Form objection.</p> <p>6 MS. BIRrane: Objection.</p> <p>7 A I don't recall that we did.</p> <p>8 Q Do you recall discussing with DLA</p> <p>9 the issue of the surplus note?</p> <p>10 MS. SERPE: Yeah, I'm going to</p> <p>11 direct him not to respond to questions with</p> <p>12 respect to what he discussed during prep.</p> <p>13 Those are privileged discussions. I'm</p> <p>14 going to shut that down.</p> <p>15 Q Well, let me ask you this.</p> <p>16 Did you sign any joint defense</p> <p>17 agreement with DLA?</p> <p>18 MS. SERPE: Form objection.</p> <p>19 A I'm not sure.</p> <p>20 Q Did you sign any agreement with DLA</p> <p>21 that would allow you to extend the privilege to</p> <p>22 DLA, the attorney/client privilege?</p> <p>23 MS. SERPE: Form objection.</p> <p>24 A Not that I recall.</p> <p>25 Q Okay.</p>	Page 152	<p>1 Paul Lorentz</p> <p>2 section of the transcript, please.</p> <p>3 MR. MORAN: Yeah, please. Thanks.</p> <p>4 I'll take it to the judge.</p> <p>5 (Section of transcript regarding</p> <p>6 instructions not to answer marked for</p> <p>7 review.)</p> <p>8 Exhibit -- Tab 20, please.</p> <p>9 Q All right. I'm going to show you</p> <p>10 what we've marked as Exhibit 231.</p> <p>11 (Previously Marked Exhibit No. 231,</p> <p>12 June 24, 2015 Duff & Phelps Report is</p> <p>13 introduced into the proceedings.)</p> <p>14 Q That's a Duff & Phelps report dated</p> <p>15 June 24, 2015.</p> <p>16 Have you seen this document before?</p> <p>17 A I believe that I have.</p> <p>18 Q And you saw this document in the</p> <p>19 course of your duties and responsibilities as the</p> <p>20 chief financial officer, right?</p> <p>21 MS. SERPE: Form objection.</p> <p>22 A I don't have any specific</p> <p>23 recollection of that.</p> <p>24 Q Well, you saw this document before,</p> <p>25 right?</p>
Page 151	<p>1 Paul Lorentz</p> <p>2 MR. MORAN: Then any conversations</p> <p>3 he had with DLA, with you in the room, you</p> <p>4 waived any objection.</p> <p>5 Q So I'm going to ask you again.</p> <p>6 MS. SERPE: Not correct.</p> <p>7 Q Did you have any conversations with</p> <p>8 DLA concerning the surplus note?</p> <p>9 MS. SERPE: We can take this up</p> <p>10 with the Court if you want. If you want to</p> <p>11 move on, you and I can talk about it at</p> <p>12 lunch, because you're going to waste time.</p> <p>13 But you are not going to go into privileged</p> <p>14 discussions. You do not need a written</p> <p>15 agreement --</p> <p>16 MR. MORAN: Are you representing</p> <p>17 that you have a joint defense agreement?</p> <p>18 MS. SERPE: I don't need to</p> <p>19 represent anything to you.</p> <p>20 MR. MORAN: He just said he doesn't</p> <p>21 remember signing it. I'm asking you --</p> <p>22 MS. SERPE: You're asking him a</p> <p>23 question. We can take this up at a break.</p> <p>24 Move on.</p> <p>25 MR. WEINICK: Reporter, mark that</p>	Page 153	<p>1 Paul Lorentz</p> <p>2 MS. SERPE: Form objection. Asked</p> <p>3 and answered.</p> <p>4 Q Well, withdrawn.</p> <p>5 Did you see this document in or</p> <p>6 around 2015?</p> <p>7 A I can't remember.</p> <p>8 Q All right. Well, let's take a look</p> <p>9 at it.</p> <p>10 Turn to page 21 of this report,</p> <p>11 page 21 of the report.</p> <p>12 A Okay. I'm there.</p> <p>13 Q This is an analysis by</p> <p>14 Duff & Phelps of the holdings within the B Asset</p> <p>15 Manager account, right?</p> <p>16 MS. SERPE: Form objection.</p> <p>17 A Okay.</p> <p>18 Q And the page -- the page 21</p> <p>19 contains its analysis of ALS Capital Ventures</p> <p>20 LLC, right?</p> <p>21 MS. SERPE: Form objection.</p> <p>22 A It would appear that that appears</p> <p>23 to be the case.</p> <p>24 Q All right. Referring your</p> <p>25 attention under "Company Overview," to the last</p>

Page 154	<p>1 Paul Lorentz</p> <p>2 sentence in that section, it reads:</p> <p>3 "Credit Strategies LLC, owned by</p> <p>4 Platinum Partners Credit Opportunities Master</p> <p>5 Fund LP, is a majority owner of the company."</p> <p>6 Do you see that?</p> <p>7 A Yes, I see it.</p> <p>8 Q Did you see that in 2015?</p> <p>9 A I don't remember.</p> <p>10 Q Did you have any conversation with</p> <p>11 Wegner about Platinum Partners being involved</p> <p>12 with ALS?</p> <p>13 A No.</p> <p>14 Q Did you have any conversations with</p> <p>15 anybody else about that?</p> <p>16 A No.</p> <p>17 MS. BIRRANE: Objection.</p> <p>18 Q Let's turn to page 21.</p> <p>19 I'm sorry. Turn to page 42.</p> <p>20 Do you see that?</p> <p>21 A I do.</p> <p>22 Q Okay. This is Desert Hawk. Are</p> <p>23 you familiar with Desert Hawk?</p> <p>24 A No.</p> <p>25 Q Under "Transaction Overview and Key</p>	Page 156	<p>1 Paul Lorentz</p> <p>2 outstanding principal of 21.8 million and accrued</p> <p>3 interest of 6.6 million from Platinum Partners</p> <p>4 Value Arbitrage Fund."</p> <p>5 Do you see that?</p> <p>6 A I do.</p> <p>7 Q Did this point you to do anything</p> <p>8 upon receiving this Duff & Phelps report?</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 MS. SERPE: Form objection.</p> <p>11 A I don't remember receiving it, and</p> <p>12 I don't remember --</p> <p>13 Q Do you remember reading that?</p> <p>14 MS. BIRRANE: Objection.</p> <p>15 A No, I do not.</p> <p>16 Q Did there come a time when you</p> <p>17 learned that Golden Gate was also affiliated in</p> <p>18 some manner with Platinum?</p> <p>19 A Not to my recollection.</p> <p>20 Q Wouldn't it have been your job to</p> <p>21 review this?</p> <p>22 A No.</p> <p>23 MS. BIRRANE: Objection.</p> <p>24 Q No?</p> <p>25 A No.</p>
Page 155	<p>1 Paul Lorentz</p> <p>2 Terms, Transaction Description," do you see that?</p> <p>3 A Yes, I do.</p> <p>4 Q "On May 22nd, 2015, the origination</p> <p>5 date, Desert Hawk issued \$10 million worth of</p> <p>6 senior secured notes, senior secured notes, from</p> <p>7 DMRJ Group, a wholly owned subsidiary of Platinum</p> <p>8 Partners Value Arbitrage Fund."</p> <p>9 Do you see that?</p> <p>10 A I do.</p> <p>11 Q Do you recall reading this in 2015?</p> <p>12 A No, I don't.</p> <p>13 Q Did you have any conversations with</p> <p>14 anyone after receiving this report about the fact</p> <p>15 that Platinum Partners is associated with</p> <p>16 Desert Hawk?</p> <p>17 MS. BIRRANE: Objection.</p> <p>18 MS. SERPE: Form objection.</p> <p>19 A No, I did not.</p> <p>20 Q Page 46. Golden Gate Oil, right.</p> <p>21 A Right.</p> <p>22 Q Under "Transaction Description":</p> <p>23 "On February 26th, a second</p> <p>24 amendment was executed that allowed BAM to</p> <p>25 acquire GGO's senior secured promissory note</p>	Page 157	<p>1 Paul Lorentz</p> <p>2 Q You acknowledge receiving it, but</p> <p>3 you don't acknowledge having responsibility as</p> <p>4 the chief financial officer to understand the</p> <p>5 analysis by Duff & Phelps of the holdings in your</p> <p>6 account?</p> <p>7 A As SHIP --</p> <p>8 MS. SERPE: Form objection.</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 A As SHIP's financial officer, I</p> <p>11 had -- there was, I believe, thousands of</p> <p>12 individual investments in the SHIP total</p> <p>13 portfolio; and it was not the nature of my</p> <p>14 qualifications or my responsibility to review</p> <p>15 every one of those.</p> <p>16 Q Would it have been the</p> <p>17 responsibility of your staff?</p> <p>18 A No.</p> <p>19 Q So this report comes to SHIP, and</p> <p>20 you have no responsibility or duty to even look</p> <p>21 at it?</p> <p>22 MS. BIRRANE: Objection.</p> <p>23 A That's why we hire asset managers.</p> <p>24 Q Let's turn to page 54.</p> <p>25 MS. SERPE: What page?</p>

<p style="text-align: right;">Page 158</p> <p>1 Paul Lorentz</p> <p>2 MR. MORAN: 54.</p> <p>3 Q Implant Sciences Corp., are you</p> <p>4 with me?</p> <p>5 A Yes.</p> <p>6 Q "Transactions description":</p> <p>7 "On March 19th, 2014, BAM acquired</p> <p>8 20 million senior secured loan issued by Implant</p> <p>9 from Platinum Partners Value Arbitrage Fund."</p> <p>10 Do you see that?</p> <p>11 A I do.</p> <p>12 Q Let's turn to page 66.</p> <p>13 "Kennedy RH Holdings."</p> <p>14 Do you see that?</p> <p>15 A I do.</p> <p>16 Q Company Overview:</p> <p>17 "Kennedy RH Holdings is a special</p> <p>18 LLC formed for the purpose of making a loan to</p> <p>19 Bernard Fuchs, an ultra high net worth</p> <p>20 individual."</p> <p>21 Do you see that?</p> <p>22 A I do.</p> <p>23 Q Did you know that Bernard Fuchs is</p> <p>24 affiliated with Platinum?</p> <p>25 MS. SERPE: Form objection.</p>	<p style="text-align: right;">Page 160</p> <p>1 Paul Lorentz</p> <p>2 benefit of 328 million owned by ALS Capital</p> <p>3 Ventures."</p> <p>4 Do you see that?</p> <p>5 A I do.</p> <p>6 Q And then the last sentence of that</p> <p>7 paragraph:</p> <p>8 "Credit Strategies LLC, owned by</p> <p>9 Platinum Partners Credit Opportunity Master Fund,</p> <p>10 is a majority owner of ALS."</p> <p>11 Do you see that?</p> <p>12 A I do.</p> <p>13 Q Do you recall any conversations</p> <p>14 about this entity also being affiliated with --</p> <p>15 with Platinum?</p> <p>16 MS. SERPE: Form objection.</p> <p>17 A No, I do not.</p> <p>18 Q Page 92.</p> <p>19 Actually, page 91. Northstar GOM</p> <p>20 Holdings, do you see that?</p> <p>21 A I do.</p> <p>22 Q Okay. Then back to 92, right in</p> <p>23 the middle of the page:</p> <p>24 "Finally, Principal Growth</p> <p>25 Strategies LLC, Platinum" Partners -- "Partners</p>
<p style="text-align: right;">Page 159</p> <p>1 Paul Lorentz</p> <p>2 A I did not.</p> <p>3 Q Page 84, Montsant Partners, do you</p> <p>4 see that?</p> <p>5 A I do.</p> <p>6 Q Company Overview:</p> <p>7 "Montsant Partners is a special</p> <p>8 purpose entity set up by Platinum Partners Value</p> <p>9 Arbitrage Fund."</p> <p>10 Do you see that?</p> <p>11 A I do.</p> <p>12 Q Do you recall reading that back in</p> <p>13 2015?</p> <p>14 A I do not.</p> <p>15 MS. BIRRANE: Objection.</p> <p>16 Q Page 87. NYSYRL Capital LLC. Are</p> <p>17 you with me?</p> <p>18 (There was a discussion off the</p> <p>19 record.)</p> <p>20 Q Are you with me?</p> <p>21 A I am.</p> <p>22 Q That company is "an owner of the</p> <p>23 right to receive 5.50 percent of the first 100</p> <p>24 million of death benefits on a portfolio of 46</p> <p>25 life insurance policies with an aggregate death</p>	<p style="text-align: right;">Page 161</p> <p>1 Paul Lorentz</p> <p>2 Credit Opportunities Master Fund, and Agera</p> <p>3 Holdings have further pledged the following</p> <p>4 equity interest as additional collateral for</p> <p>5 BAM's interest in the second priority senior</p> <p>6 secured note."</p> <p>7 Do you see that?</p> <p>8 A I do.</p> <p>9 Q Do you recall having any</p> <p>10 conversations with anyone back in 2015 about</p> <p>11 Northstar also being affiliated in some manner</p> <p>12 with Platinum?</p> <p>13 MS. BIRRANE: Objection.</p> <p>14 A No, I do not.</p> <p>15 Q So these -- this report comes in</p> <p>16 with all of this information. You've</p> <p>17 acknowledged that SHIP has this report from 2015,</p> <p>18 right?</p> <p>19 A I presume that SHIP received this,</p> <p>20 yes.</p> <p>21 Q After June of 2015, after this</p> <p>22 report was generated, demonstrating all of the</p> <p>23 Platinum connections, were there any -- were</p> <p>24 there any discussions that you can recall at SHIP</p> <p>25 about divesting Platinum assets?</p>

<p style="text-align: right;">Page 162</p> <p>1 Paul Lorentz</p> <p>2 MS. BIRRANE: Objection.</p> <p>3 A In 2015, no.</p> <p>4 Q Was there any discussion about --</p> <p>5 in 2015, about unwinding the Platinum-related</p> <p>6 assets?</p> <p>7 A No.</p> <p>8 Q Were there any discussions in 2015</p> <p>9 about reversing Platinum-related assets?</p> <p>10 A No.</p> <p>11 Q How about discussions about dumping</p> <p>12 them on PPCO?</p> <p>13 MS. BIRRANE: Objection.</p> <p>14 MS. SERPE: Form objection.</p> <p>15 A No.</p> <p>16 Q Let's go back to that Desert Hawk</p> <p>17 entry on page 42.</p> <p>18 A Okay.</p> <p>19 Q Now, this, in the middle of the</p> <p>20 page at that table, sets forth the origination</p> <p>21 date for this security as May 22nd, 2015.</p> <p>22 Do you see that?</p> <p>23 A I do.</p> <p>24 Q And under "Transaction</p> <p>25 Description," again, it reads:</p>	<p style="text-align: right;">Page 164</p> <p>1 Paul Lorentz</p> <p>2 Q All right. Now, let's go down to</p> <p>3 the bottom under "Financial Performance and</p> <p>4 Ratios."</p> <p>5 Do you see that?</p> <p>6 A I do.</p> <p>7 Q And the second-to-the-last sentence</p> <p>8 there, it says:</p> <p>9 "For the year ended 2014, the</p> <p>10 company had an operating loss of \$865,890 and a</p> <p>11 net loss of \$3,372,202."</p> <p>12 Do you see that?</p> <p>13 A I do.</p> <p>14 Q Now, you're familiar with -- you're</p> <p>15 the former chief financial officer. You're</p> <p>16 familiar with investments, correct?</p> <p>17 MS. SERPE: Form objection.</p> <p>18 MS. BIRRANE: Objection.</p> <p>19 A I wouldn't consider myself an</p> <p>20 investment professional, no.</p> <p>21 Q Well, would you agree with me that</p> <p>22 a net loss of over \$3 million is not a promising</p> <p>23 picture for a company?</p> <p>24 MS. SERPE: Form objection.</p> <p>25 MS. BIRRANE: Objection.</p>
<p style="text-align: right;">Page 163</p> <p>1 Paul Lorentz</p> <p>2 "On May 22nd, 2015, Desert Hawk</p> <p>3 issued \$10 million worth of senior secured notes</p> <p>4 from DMRJ Group, a wholly owned subsidiary of</p> <p>5 Platinum Partners Value Arbitrage Fund. The</p> <p>6 senior secured notes hold 15.0 percent interest</p> <p>7 payable monthly and maturity date of October 31,</p> <p>8 2016. The senior secured notes include a put</p> <p>9 option in which BAM can put the note back to PPVA</p> <p>10 at any time after 90 days with a principal amount</p> <p>11 of \$10 million plus any accrued interest. The</p> <p>12 senior secured notes are guaranteed by</p> <p>13 Mark Nordlicht, a manager member -- "a managing</p> <p>14 member of PPVA's general manager, and are</p> <p>15 collateralized by all assets of general partner,</p> <p>16 including its approximately 52,000 ounces of gold</p> <p>17 reserves."</p> <p>18 Do you see that?</p> <p>19 A I do.</p> <p>20 MS. SERPE: Objection.</p> <p>21 MS. BIRRANE: Objection.</p> <p>22 Q So this is describing the purchase</p> <p>23 of the securities from PPVA, right?</p> <p>24 MS. BIRRANE: Objection.</p> <p>25 A Okay.</p>	<p style="text-align: right;">Page 165</p> <p>1 Paul Lorentz</p> <p>2 A Not necessarily at all.</p> <p>3 Q Okay. In December of 2015,</p> <p>4 Desert Hawk was sold out of the B Asset Manager</p> <p>5 account.</p> <p>6 Do you know why?</p> <p>7 A I have no idea.</p> <p>8 Q Did you know that B Asset Manager</p> <p>9 loaned \$15.5 million out of SHIP's IMA account to</p> <p>10 PPCO on December 23rd, 2015?</p> <p>11 MS. SERPE: Form objection.</p> <p>12 Q Did you know that?</p> <p>13 A No, I didn't.</p> <p>14 Q Did you know that was evidenced by</p> <p>15 a delayed demand draw note?</p> <p>16 A No.</p> <p>17 MS. BIRRANE: Objection.</p> <p>18 MS. SERPE: Form objection.</p> <p>19 Q Did you know that PPCO secured that</p> <p>20 loan by pledging security interest in all of its</p> <p>21 assets and subsidiaries?</p> <p>22 MS. SERPE: Form objection.</p> <p>23 A No.</p> <p>24 Q Did you know that PPCO further</p> <p>25 provided guarantees for the loan from all of its</p>

Page 166	<p>1 Paul Lorentz</p> <p>2 subsidiaries?</p> <p>3 MS. SERPE: Form objection.</p> <p>4 A No.</p> <p>5 Q And did you know that the funds</p> <p>6 from that loan of SHIP money were then used by</p> <p>7 Platinum to buy the Desert Hawk positions for</p> <p>8 PPCO?</p> <p>9 MS. SERPE: Form objection.</p> <p>10 MS. BIRRANE: Objection.</p> <p>11 A No.</p> <p>12 Q Do you know what a "put option" is?</p> <p>13 A I couldn't give you a good</p> <p>14 definition.</p> <p>15 Q What's your understanding of it?</p> <p>16 A So a put option would be a right to</p> <p>17 return a security at a prescribed -- prescribed</p> <p>18 terms.</p> <p>19 Q Okay. Well, going back to this</p> <p>20 page, under Capitalization.</p> <p>21 Are you with me?</p> <p>22 A Page 42?</p> <p>23 Q Yes.</p> <p>24 A Yes. Cap -- okay.</p> <p>25 Q Okay. The second sentence there:</p>	Page 168	<p>1 Paul Lorentz</p> <p>2 MS. SERPE: Form objection.</p> <p>3 MS. BIRRANE: Objection.</p> <p>4 A I simply have no recollection.</p> <p>5 Q All right. Well, I'm going to show</p> <p>6 you what we marked as Exhibit 229.</p> <p>7 (Previously Marked Exhibit No. 229,</p> <p>8 April 13, 2014 Letter to Paul Lorentz from</p> <p>9 Duff & Phelps, Letter is introduced into</p> <p>10 the proceedings.)</p> <p>11 Q This is a letter on Duff & Phelps</p> <p>12 letterhead dated April 13, 2014, addressed to</p> <p>13 you, Paul Lorentz.</p> <p>14 Do you see that?</p> <p>15 A I do.</p> <p>16 Q And if you'll see, there's an</p> <p>17 acknowledgment signature on the back.</p> <p>18 Do you recognize that?</p> <p>19 A I do.</p> <p>20 Q Is that your signature?</p> <p>21 A Yes, it is.</p> <p>22 Q And this document is asking you to</p> <p>23 acknowledge that you're receiving the April 2015</p> <p>24 report from Duff & Phelps, right?</p> <p>25 A Right.</p>
Page 167	<p>1 Paul Lorentz</p> <p>2 "BAM holds a put option and can put</p> <p>3 the notes back to PPVA if Desert Hawk does not</p> <p>4 meet expected projection levels."</p> <p>5 Do you see that?</p> <p>6 A I do.</p> <p>7 Q Do you understand that that did not</p> <p>8 happen, that the securities went to PPCO?</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 MS. SERPE: Form objection.</p> <p>11 Q I'm asking if you know.</p> <p>12 MS. SERPE: Form objection.</p> <p>13 Assumes a fact.</p> <p>14 A I do not. I have no idea.</p> <p>15 Q All right. I'm going to show you</p> <p>16 what we've marked as Exhibit 230, a Duff & Phelps</p> <p>17 report dated April 9th, 2015.</p> <p>18 A Okay.</p> <p>19 (Previously Marked Exhibit No. 230,</p> <p>20 April 9, 2015 Duff & Phelps Report is</p> <p>21 introduced into the proceedings.)</p> <p>22 Q Have you seen that one before?</p> <p>23 A I don't remember.</p> <p>24 Q Do you dispute receiving it at</p> <p>25 SHIP?</p>	Page 169	<p>1 Paul Lorentz</p> <p>2 Q All right. So then let's go to</p> <p>3 Exhibit 230.</p> <p>4 A Okay.</p> <p>5 Q Do you have any reason to dispute</p> <p>6 that you did not receive that?</p> <p>7 A No reason.</p> <p>8 Q I'm going to ask you to look at</p> <p>9 page two -- I'm sorry, page 20.</p> <p>10 A Okay.</p> <p>11 Q Starts:</p> <p>12 "The analysis of Northstar."</p> <p>13 Right?</p> <p>14 A Right.</p> <p>15 Q All right. So if you can just now</p> <p>16 turn to page 24.</p> <p>17 A Okay.</p> <p>18 Q It reads:</p> <p>19 "Based on the income" -- I'm</p> <p>20 sorry -- on the "Coverage Analysis Conclusion."</p> <p>21 Do you see that?</p> <p>22 A I see that.</p> <p>23 Q "Based on the income approach and</p> <p>24 market approach, there appears to be sufficient</p> <p>25 collateral coverage. However, given the recent</p>

<p style="text-align: right;">Page 170</p> <p>1 Paul Lorentz</p> <p>2 oil price environment, we note that delays in the</p> <p>3 development of reserves or increases in cost to</p> <p>4 drill and develop such reserves will reduce the</p> <p>5 PV10 of Northstar's estimated improved</p> <p>6 undeveloped reserves and future net revenues</p> <p>7 estimated for some reserves, and may result in</p> <p>8 some projects becoming uneconomic."</p> <p>9 Do you see that?</p> <p>10 A I do.</p> <p>11 Q Do you recall reading that?</p> <p>12 A I do not.</p> <p>13 Q Do you recall knowing in 2015 that</p> <p>14 the Northstar investment was becoming</p> <p>15 "uneconomic"?</p> <p>16 A I do not.</p> <p>17 MS. SERPE: Form objection.</p> <p>18 Q Okay. I'm going to hand you what</p> <p>19 we've marked as -- previously as Exhibit 232,</p> <p>20 Duff & Phelps report dated January 19, 2016.</p> <p>21 (Previously Marked Exhibit No. 232,</p> <p>22 January 19, 2016 Duff & Phelps Report is</p> <p>23 introduced into the proceedings.)</p> <p>24 A Okay.</p> <p>25 Q And I also note that SHIP -- it's</p>	<p style="text-align: right;">Page 172</p> <p>1 Paul Lorentz</p> <p>2 analysis, income approach."</p> <p>3 Do you see that?</p> <p>4 A Got it.</p> <p>5 Q And then it continues onto the next</p> <p>6 page.</p> <p>7 A Yes.</p> <p>8 Q And then the last paragraph there,</p> <p>9 the second-to-last sentence, it reads:</p> <p>10 "Lastly, Platinum, the company's</p> <p>11 private equity sponsor, is continuing to fund the</p> <p>12 company's obligations, interests, and CapEx."</p> <p>13 Did you see that?</p> <p>14 A I see that.</p> <p>15 Q Did you know that Platinum was</p> <p>16 paying the interest on the Northstar loan?</p> <p>17 A I did not.</p> <p>18 Q Would that have concerned you?</p> <p>19 MS. SERPE: Form objection.</p> <p>20 A Probably not.</p> <p>21 Q Why not? It wouldn't have</p> <p>22 concerned you if one of your investments, the</p> <p>23 loan was being -- the interest on the loan was</p> <p>24 being paid by Platinum Investments?</p> <p>25 A I didn't have intimate knowledge of</p>
<p style="text-align: right;">Page 171</p> <p>1 Paul Lorentz</p> <p>2 from SHIP's production, on the bottom.</p> <p>3 Do you see that?</p> <p>4 A Okay.</p> <p>5 Q Did you receive that document?</p> <p>6 A I don't remember.</p> <p>7 Q Do you have any reason to dispute</p> <p>8 that you -- that SHIP did not receive that</p> <p>9 document?</p> <p>10 MS. SERPE: Form objection.</p> <p>11 MS. BIRRANE: Objection.</p> <p>12 A No.</p> <p>13 Q I'm going to ask you to look at</p> <p>14 page 51.</p> <p>15 A Okay.</p> <p>16 Q And that begins:</p> <p>17 "The analysis of Northstar."</p> <p>18 Right? Once again?</p> <p>19 MS. SERPE: Form objection.</p> <p>20 A Yes.</p> <p>21 Q Okay. Let's turn again to page 54.</p> <p>22 Are you with me?</p> <p>23 A I am.</p> <p>24 Q Okay. Actually, on 53, there's:</p> <p>25 "Collateral coverage, coverage</p>	<p style="text-align: right;">Page 173</p> <p>1 Paul Lorentz</p> <p>2 any of the investments. It's not my role.</p> <p>3 That's what we engaged Beechwood to do.</p> <p>4 Q My question was:</p> <p>5 Would that have concerned you if</p> <p>6 you knew that Platinum was paying the interest on</p> <p>7 the loan?</p> <p>8 MS. SERPE: Form objection.</p> <p>9 A I have no basis for answering that.</p> <p>10 Q Doesn't the fact that another</p> <p>11 entity is paying the interest on the loan mean</p> <p>12 that the loan isn't doing too well?</p> <p>13 MS. BIRRANE: Objection.</p> <p>14 MS. SERPE: Form objection.</p> <p>15 A I don't know. I don't know.</p> <p>16 Q By the fourth quarter of 2015, you</p> <p>17 reviewed the reports from Duff & Phelps, right?</p> <p>18 MS. SERPE: Form objection.</p> <p>19 A I don't remember.</p> <p>20 Q Well, you do agree with me that</p> <p>21 these reports demonstrate a connection between</p> <p>22 Platinum and the investments being held in the</p> <p>23 SHIP accounts; right?</p> <p>24 MS. SERPE: Form objection.</p> <p>25 MS. BIRRANE: Objection.</p>

<p style="text-align: right;">Page 202</p> <p>1 Paul Lorentz</p> <p>2 Q Okay.</p> <p>3 A It was certainly not as a matter of</p> <p>4 routine, because we didn't pass on investments.</p> <p>5 Q I'm sorry. What do you mean,</p> <p>6 "Because we didn't pass on investments"?</p> <p>7 A Well, we didn't -- the relationship</p> <p>8 was as it was with Conning. They were free to</p> <p>9 invest in accordance with the terms of the</p> <p>10 investment policy guidelines statement.</p> <p>11 Q You presented SHIP's investments to</p> <p>12 the board of trustees at its quarterly meetings,</p> <p>13 right?</p> <p>14 A That's correct.</p> <p>15 Q Right. And that included Beechwood</p> <p>16 investments, right?</p> <p>17 A May I amend?</p> <p>18 Q Yes.</p> <p>19 A It was a report of acquisitions and</p> <p>20 disposals.</p> <p>21 Q So you reported on the purchases</p> <p>22 that had been made in the prior quarter, right?</p> <p>23 A That is correct.</p> <p>24 Q Okay. And the sales that had been</p> <p>25 made in the prior quarter?</p>	<p style="text-align: right;">Page 204</p> <p>1 Paul Lorentz</p> <p>2 "Duff & Phelps reports final"?</p> <p>3 A Yes.</p> <p>4 Q Okay. Do you recall receiving this</p> <p>5 E-Mail?</p> <p>6 A I don't.</p> <p>7 Q No reason to doubt that you</p> <p>8 received it, though, right?</p> <p>9 A No. No.</p> <p>10 Q Okay. And, now, if you turn to the</p> <p>11 attachment to this E-Mail --</p> <p>12 A Yes.</p> <p>13 Q -- or the next -- the next page,</p> <p>14 which I will represent is the attachment --</p> <p>15 A Yes.</p> <p>16 Q -- you see that this says:</p> <p>17 "B Asset Manager LP estimation of a</p> <p>18 fair value range for certain debt investments as</p> <p>19 of March 31st, 2015"?</p> <p>20 A Yes.</p> <p>21 Q Do you see that?</p> <p>22 A Yes.</p> <p>23 Q Do you recall reviewing this</p> <p>24 document earlier today?</p> <p>25 MS. SERPE: Form objection.</p>
<p style="text-align: right;">Page 203</p> <p>1 Paul Lorentz</p> <p>2 A That's correct.</p> <p>3 Q And these included the Beechwood</p> <p>4 purchases and sales, right?</p> <p>5 A That is correct.</p> <p>6 Q At each of these quarterly</p> <p>7 meetings, the board would then vote to approve</p> <p>8 the purchases and sales that had been made in the</p> <p>9 prior quarter, right?</p> <p>10 A That's correct.</p> <p>11 Q Okay. Let me show you the next</p> <p>12 exhibit, which has been previously marked as</p> <p>13 Exhibit 251 in this case.</p> <p>14 (Previously Marked Exhibit No. 251,</p> <p>15 April 20, 2015 E-Mail From Elliot Feit to</p> <p>16 Paul Lorentz, Attaching SHIP Final Report</p> <p>17 With Signature 3/31/15 PDF is introduced</p> <p>18 into the proceedings.)</p> <p>19 Q Let me know when you're ready.</p> <p>20 A Okay.</p> <p>21 Q So do you see that this is an</p> <p>22 E-Mail from Elliot Feit to you, and it's dated</p> <p>23 April 20, 2015, right?</p> <p>24 A Right.</p> <p>25 Q And the subject is:</p>	<p style="text-align: right;">Page 205</p> <p>1 Paul Lorentz</p> <p>2 A I recall reviewing one, if not</p> <p>3 exactly this. In appearance, it was --</p> <p>4 Q Okay.</p> <p>5 A -- like this.</p> <p>6 Q Okay. Now, if you can turn to the</p> <p>7 document Bates stamped SHIP 0019690, it's the</p> <p>8 first page of the attachment.</p> <p>9 A I'm sorry. Okay.</p> <p>10 Yes. Okay.</p> <p>11 Q Okay. Do you see that this is</p> <p>12 addressed to Daniel Saks?</p> <p>13 A Yes.</p> <p>14 Q Do you understand -- what is your</p> <p>15 understanding of who Daniel Saks was?</p> <p>16 A I don't recall.</p> <p>17 Q At the time, did you have an</p> <p>18 understanding of who Daniel Saks was?</p> <p>19 A You know, I don't remember --</p> <p>20 MS. BIRrane: Objection.</p> <p>21 A I don't remember if I did or not.</p> <p>22 Q Okay. So this E-Mail is sent to</p> <p>23 you in April of 2015. Did you have an</p> <p>24 understanding of whether David Levy was still at</p> <p>25 Beechwood at the time?</p>

<p style="text-align: right;">Page 218</p> <p>1 Paul Lorentz</p> <p>2 Are you familiar with this</p> <p>3 document?</p> <p>4 MS. SERPE: Form objection.</p> <p>5 A I don't believe I am. I don't have</p> <p>6 any recollection.</p> <p>7 Q Okay. No recollection of reviewing</p> <p>8 this document in 2015?</p> <p>9 A No.</p> <p>10 Q Okay. Let me focus your attention</p> <p>11 on the signature page for this purchase</p> <p>12 agreement, which is SHIP 0016280.</p> <p>13 A I see that.</p> <p>14 Q Okay. Do you see that at the very</p> <p>15 bottom, the left-hand side, there's a signature</p> <p>16 for -- it says "Principal Growth Strategies LLC"?</p> <p>17 A I see that.</p> <p>18 Q Okay. And you see the name</p> <p>19 Mark Nordlicht, authorized signatory?</p> <p>20 A Yes.</p> <p>21 Q You don't recall at any time in</p> <p>22 2015 anyone at SHIP asking why Mark Nordlicht had</p> <p>23 signed this purchase agreement; do you?</p> <p>24 MS. SERPE: Form objection.</p> <p>25 MS. BIRRANE: Objection.</p>	<p style="text-align: right;">Page 220</p> <p>1 Paul Lorentz</p> <p>2 another investor statement, for the month ending</p> <p>3 May 31st, 2015, right?</p> <p>4 A Right.</p> <p>5 Q And this is for Platinum Partners</p> <p>6 Credit Opportunity Fund LLC, right?</p> <p>7 A Right.</p> <p>8 Q Okay. And that the ending net</p> <p>9 asset value is 30,722,783.62, right?</p> <p>10 A Right.</p> <p>11 Q Okay. So, together, for the</p> <p>12 month-ended May 31st, 2016, these documents are</p> <p>13 showing an investment of over 40 million in</p> <p>14 Platinum funds, correct?</p> <p>15 MS. SERPE: Form objection.</p> <p>16 MS. BIRRANE: Objection.</p> <p>17 MR. GLUCK: Objection.</p> <p>18 MS. EILBAUM: Sorry. Did I say</p> <p>19 2014.</p> <p>20 MR. GLUCK: '16.</p> <p>21 MS. EILBAUM: Oh, apologies.</p> <p>22 Thanks for that. Let me just re-ask that.</p> <p>23 Q For the month-ended May 31st, 2015,</p> <p>24 these documents are showing an investment of over</p> <p>25 41 -- I'm sorry, of over 40 million in Platinum</p>
<p style="text-align: right;">Page 219</p> <p>1 Paul Lorentz</p> <p>2 A No, I do not have any recollection</p> <p>3 of any such inquiry.</p> <p>4 Q Okay. I would like to turn your</p> <p>5 attention, in the same document, but to the page</p> <p>6 stamped SHIP 0016296.</p> <p>7 Let me know when you're there.</p> <p>8 A Okay.</p> <p>9 Q So here you have an investor</p> <p>10 statement for the month-ended May 31st, 2015.</p> <p>11 You see that, right?</p> <p>12 A I do.</p> <p>13 Q Okay. And you see that this is an</p> <p>14 investor statement from Platinum Partners Value</p> <p>15 Arbitrage Fund LP in the upper right corner,</p> <p>16 right?</p> <p>17 A Right.</p> <p>18 Q Okay. And if you look at this</p> <p>19 document, you see that ending net asset value is</p> <p>20 9,715,295.5?</p> <p>21 (There was a discussion off the</p> <p>22 record.)</p> <p>23 A I see that.</p> <p>24 Q Okay. And if you turn to the next</p> <p>25 page, which is SHIP 006297, you see we have</p>	<p style="text-align: right;">Page 221</p> <p>1 Paul Lorentz</p> <p>2 funds; is that correct?</p> <p>3 MS. BIRRANE: Objection.</p> <p>4 MS. SERPE: Form objection.</p> <p>5 A I would agree.</p> <p>6 Q And do you recall anyone at SHIP</p> <p>7 asking any questions about SHIP investments in</p> <p>8 Platinum funds in 2015?</p> <p>9 MS. SERPE: Form objection.</p> <p>10 A No, no, I don't.</p> <p>11 Q Do you recall anyone expressing any</p> <p>12 concern about SHIP's investments in Platinum</p> <p>13 funds in 2015?</p> <p>14 A No.</p> <p>15 Q SHIP is an entity in runoff, right?</p> <p>16 MS. BIRRANE: Objection.</p> <p>17 MS. SERPE: Form objection.</p> <p>18 A That is correct.</p> <p>19 Q And SHIP's block was originally</p> <p>20 priced at a 6 percent rate for the runoff, right?</p> <p>21 MS. BIRRANE: Objection.</p> <p>22 A I don't know that.</p> <p>23 Q You don't know that. Okay.</p> <p>24 We discussed a little earlier</p> <p>25 today, with Mr. Moran, that around 2014, 2015,</p>

<p style="text-align: right;">Page 222</p> <p>1 Paul Lorentz</p> <p>2 SHIP was considering a strategy shift away from</p> <p>3 the liability side and towards the asset side of</p> <p>4 its portfolio; is that right?</p> <p>5 MS. SERPE: Form objection.</p> <p>6 A Yes, I would say that's true.</p> <p>7 Q Okay. And this is, in part, due to</p> <p>8 an increased severity in the number of claims,</p> <p>9 right?</p> <p>10 MS. BIRRANE: Objection.</p> <p>11 A The projection -- the projections</p> <p>12 of morbidity were turning out to be greater than</p> <p>13 had been expected in the original lifetime</p> <p>14 projection at the time the company was separated</p> <p>15 from CNO Financial.</p> <p>16 Q At the time, SHIP was looking for a</p> <p>17 higher yield on its investment portfolio, right?</p> <p>18 MS. BIRRANE: Objection.</p> <p>19 MS. SERPE: Form objection.</p> <p>20 A Well, we always were interested in</p> <p>21 the best yield we could get within the parameters</p> <p>22 of the investment policy and guidelines.</p> <p>23 Q But this was a particular strategy</p> <p>24 approach undertaken in 2014, 2015, right?</p> <p>25 MS. BIRRANE: Objection.</p>	<p style="text-align: right;">Page 224</p> <p>1 Paul Lorentz</p> <p>2 5.85 percent return, that it was in the interests</p> <p>3 of Beechwood to earn a rate of return higher than</p> <p>4 5.85 percent, right?</p> <p>5 A We understood that.</p> <p>6 Q Okay. And you understood that,</p> <p>7 generally, the higher the rate of return, the</p> <p>8 riskier the investment, right?</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 A As a matter of principle, yes.</p> <p>11 Q And now under Pennsylvania law and</p> <p>12 SHIP investment guidelines, there was a basket</p> <p>13 provision that allowed for higher risk</p> <p>14 investments, right?</p> <p>15 MS. BIRRANE: Objection.</p> <p>16 A There was a -- well, there was a</p> <p>17 basket provision.</p> <p>18 Q Okay. And the basket provision</p> <p>19 allowed for investments that may have been too</p> <p>20 risky even with the other provisions, right?</p> <p>21 A No.</p> <p>22 MS. BIRRANE: Objection.</p> <p>23 MS. SERPE: Form objection.</p> <p>24 A No. They were -- it was simply for</p> <p>25 investments that other -- were otherwise</p>
<p style="text-align: right;">Page 223</p> <p>1 Paul Lorentz</p> <p>2 MS. SERPE: Form objection.</p> <p>3 A It was an opportunity that</p> <p>4 presented itself; and we considered that</p> <p>5 opportunity and believed entering into those IMAs</p> <p>6 were in the best interest of SHIP.</p> <p>7 Q At the time that you entered into</p> <p>8 the IMAs with SHIP, do you recall what the</p> <p>9 prevailing interest rates were?</p> <p>10 A I don't.</p> <p>11 Q Were they less than 5.85 percent?</p> <p>12 A Well, I mean, you have a whole</p> <p>13 range of rates based on quality. So I can't</p> <p>14 quote what the prevailing rates were at that</p> <p>15 time.</p> <p>16 Q So you don't recall where they were</p> <p>17 at all, just that -- just that the 5.85 percent</p> <p>18 is -- is what was granted under the IMAs?</p> <p>19 MS. SERPE: Form objection.</p> <p>20 MS. BIRRANE: Objection.</p> <p>21 A Our financial statements would have</p> <p>22 reflected what that yield was. But, I don't</p> <p>23 remember what that was at the moment.</p> <p>24 Q You understood that, in executing</p> <p>25 IMAs with -- with Beechwood that guaranteed a</p>	<p style="text-align: right;">Page 225</p> <p>1 Paul Lorentz</p> <p>2 nonconforming under the statute.</p> <p>3 Q Okay. And can you give me an</p> <p>4 example of a nonconforming investment?</p> <p>5 A I don't recall if precious jewels,</p> <p>6 for instance, were --</p> <p>7 (Reporter clarification.)</p> <p>8 A Precious jewels, for instance, were</p> <p>9 a class of investments that were identified in</p> <p>10 the -- in the statute.</p> <p>11 But if they were not, that would be</p> <p>12 an example of investment that could be held in</p> <p>13 the basket.</p> <p>14 Q What about a below-grade</p> <p>15 investment?</p> <p>16 MS. BIRRANE: Objection.</p> <p>17 Q Low investment grade?</p> <p>18 MS. SERPE: Same objection.</p> <p>19 A Sure. SHIP had below investment</p> <p>20 grade --</p> <p>21 (Reporter clarification.)</p> <p>22 A SHIP had below investment grade</p> <p>23 investments all along.</p> <p>24 Q That's something that would be made</p> <p>25 in the basket provision?</p>

<p style="text-align: right;">Page 298</p> <p>1 Paul Lorentz</p> <p>2 A I've since come to learn that --</p> <p>3 some of the players, but I can't recall their</p> <p>4 names at the moment.</p> <p>5 Q When you invested money with</p> <p>6 Beechwood, did you believe that they were a</p> <p>7 fiduciary to you?</p> <p>8 MS. EILBAUM: Objection.</p> <p>9 MS. SERPE: Form objection.</p> <p>10 A I don't think I had an opinion on</p> <p>11 that at that time.</p> <p>12 Q Do you have one now?</p> <p>13 MS. SERPE: Form objection. He's</p> <p>14 here as a fact witness, not as an expert.</p> <p>15 A I don't know.</p> <p>16 Q Was Beechwood a steward of SHIP's</p> <p>17 money?</p> <p>18 MS. SERPE: Same objection.</p> <p>19 MS. EILBAUM: Object to the form.</p> <p>20 A I believe SHIP to be a responsible</p> <p>21 and trustworthy asset manager acting in the</p> <p>22 interest of SHIP.</p> <p>23 Q Are asset managers typically</p> <p>24 stewards or fiduciaries to their investors and</p> <p>25 creditors?</p>	<p style="text-align: right;">Page 300</p> <p>1 Paul Lorentz</p> <p>2 A Yes, I see that.</p> <p>3 Q Is this -- once you've had an</p> <p>4 opportunity to review it, just let me know.</p> <p>5 A All right. Okay.</p> <p>6 Q Is this an E-Mail chain -- does it</p> <p>7 appear to be an E-Mail chain concerning the Agera</p> <p>8 transaction which we previously described today?</p> <p>9 MS. BIRRANE: Objection.</p> <p>10 MS. SERPE: Form objection.</p> <p>11 A Yes. I believe so.</p> <p>12 Q This is the transaction where SHIP</p> <p>13 invested outside the IMAs into AGH Parent?</p> <p>14 A Yes.</p> <p>15 Q If you look at the third line</p> <p>16 down --</p> <p>17 A Um-hum.</p> <p>18 Q -- it says:</p> <p>19 "As you aware" -- "As you are</p> <p>20 aware, we have a motivated seller who very much,</p> <p>21 much needs the money."</p> <p>22 Who did you understand the seller</p> <p>23 to be in the context of this E-Mail?</p> <p>24 A Platinum.</p> <p>25 Q What was your understanding of</p>
<p style="text-align: right;">Page 299</p> <p>1 Paul Lorentz</p> <p>2 A I can't speak to that.</p> <p>3 Q Do you know way or another whether</p> <p>4 the members of Platinum Partners had fiduciary</p> <p>5 duties to their constituencies?</p> <p>6 MS. SERPE: Form objection.</p> <p>7 A I don't know.</p> <p>8 Q Did you ever ask?</p> <p>9 A I don't recall having asked, no.</p> <p>10 Q Marked as Exhibit 411 is an E-Mail</p> <p>11 chain. I believe you've seen part of this E-Mail</p> <p>12 chain this afternoon.</p> <p>13 (Exhibit No. 411, E-Mail Chain,</p> <p>14 with E-Mail from Dhruv Narain to Paul</p> <p>15 Lorentz and others, Bates No. CNO CSL</p> <p>16 1150991 is marked by the reporter for</p> <p>17 identification.)</p> <p>18 Q Just let me know when you've had</p> <p>19 the opportunity to review the chain. I'm going</p> <p>20 to specifically direct you to the second page,</p> <p>21 which is CNO CSL 1150991.</p> <p>22 A Okay.</p> <p>23 Q The -- the second E-Mail on the</p> <p>24 page, which is from Dhruv Narain to you and</p> <p>25 others.</p>	<p style="text-align: right;">Page 301</p> <p>1 Paul Lorentz</p> <p>2 their motivation?</p> <p>3 A Mark Feuer described it as the fund</p> <p>4 having substantial investments in oil interests.</p> <p>5 The price of oil had dropped. They had</p> <p>6 redemption provisions that were fairly generous,</p> <p>7 and they were having some trouble meeting the</p> <p>8 redemption obligations.</p> <p>9 Q SHIP was an investor in Platinum at</p> <p>10 the time, correct?</p> <p>11 MS. SERPE: Form objection.</p> <p>12 A Yes.</p> <p>13 Q SHIP had held limited partnership</p> <p>14 interests?</p> <p>15 MS. SERPE: Same objection.</p> <p>16 A I believe so, yes.</p> <p>17 Q Had SHIP made a redemption request?</p> <p>18 MS. BIRRANE: Objection.</p> <p>19 A No -- well, SHIP neither invested</p> <p>20 directly or would have made a redemption request.</p> <p>21 That would have been done through Beechwood.</p> <p>22 Q I think, when we looked at the very</p> <p>23 first exhibit in this examination, SHIP was also</p> <p>24 invested in Agera at this time?</p> <p>25 MS. BIRRANE: Objection.</p>

<p style="text-align: right;">Page 382</p> <p>1</p> <p>2</p> <p>3 Exhibit No. 403, April 2, 2015 E-Mail From Elliot Feit to Paul Lorentz Attaching a March 31, 2015 Wilmington Trust Statement For the Three SHIP Accounts, Bates No. SHIP 0055249 267</p> <p>4</p> <p>5</p> <p>6 Exhibit No. 404, April 6, 2015 E-Mail From Paul Lorentz to Elliot Feit, Attaching a Signed Withdrawal Notice, Bates No. SHIP 0016019 269</p> <p>7</p> <p>8</p> <p>9 Previously Marked Exhibit No. 245, October 2, 2014 E-Mail From Elliot Feit to Paul Lorentz, Attaching A Withdrawal Notice For \$1 Million From the BRE SHIP Account For the Period Ending September 30, 2014 271</p> <p>10</p> <p>11</p> <p>12 Exhibit No. 405, E-Mail Attaching Wilmington Trust Statements as of October 1, 2014, Bates No. SHIP 0034159 272</p> <p>13</p> <p>14 Exhibit No. 406, July 3, 2014 E-Mail From Paul Lorentz to Ami Modi 277</p> <p>15</p> <p>16 Exhibit No. 407, E-Mail from Dhruv Narain to Mark Feuer and Scott Taylor 282</p> <p>17</p> <p>18 Exhibit No. 408, E-Mail chain, with 4/21/16 E-Mail From Elliot Feit to Mr. Paul Lorentz, Bates No. SHIP 34246 285</p> <p>19</p> <p>20 Exhibit No. 409, E-Mail regarding receiving financials from PPCO around April 22 of 2016, Document 293</p> <p>21</p> <p>22 Exhibit No. 410, E-Mail suggesting that Paul Lorentz was going to be at Beechwood's offices after visiting Agera, E-Mail From Paul Lorentz to Christian Thomas 294</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 384</p> <p>1</p> <p>2</p> <p>3 Exhibit No. 421, E-Mail to Paul Lorentz and others, regarding Agera, from Dhruv Narain 353</p> <p>4</p> <p>5 Exhibit No. 422, June 2016 Assignment Agreement Executed in Connection With the Agera Transaction 357</p> <p>6</p> <p>7 Exhibit No. 423, Amended and Restated Operating Agreement of AGH Parent, Bates No. CTRL 8126762 360</p> <p>8</p> <p>9 Exhibit No. 424, E-Mail From Dhruv Narain to Paul Lorentz 364</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 383</p> <p>1</p> <p>2</p> <p>3 Exhibit No. 411, E-Mail Chain, with E-Mail from Dhruv Narain to Paul Lorentz and others, Bates No. CNO CSL 1150991 299</p> <p>4</p> <p>5</p> <p>6 Exhibit No. 412, E-Mail From Paul Lorentz to Janna Zaichek 311</p> <p>7</p> <p>8 Exhibit No. 413, E-Mail from Dhruv Narain to Ms. Sweetin, cc Mr. Lorentz and others, E-Mail Chain 318</p> <p>9</p> <p>10 Exhibit No. 414, Duff & Phelps Report on Agera, Bates No. BW-SHIP-0076916 321</p> <p>11</p> <p>12 Exhibit No. 415, E-Mail chain regarding questions about Agera, with June 8th E-Mail at 7:00 p.m. from Paul Lorentz to Tom Hampton, Document 324</p> <p>13</p> <p>14 Exhibit No. 416, E-Mail from Paul Lorentz to Brian Wegner, E-Mail Chain 334</p> <p>15</p> <p>16 Exhibit No. 417, E-Mail -Mail from Mr. Lorentz to Mr. Thomas, with attached equity side letter, E-Mail Chain 336</p> <p>17</p> <p>18 Exhibit No. 418, June 9, 2016 E-Mail regarding Agera transaction, from Dhruv Narain 344</p> <p>19</p> <p>20 Exhibit No. 419, June 8, 2016 E-Mail involving Paul Lorentz, E-Mail from Christian Thomas 348</p> <p>21</p> <p>22 Exhibit No. 420, E-Mail regarding Wall Street Journal article, E-Mail from Brian Wegner to Mark Feuer and Scott Taylor 351</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 385</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

EXHIBIT 23

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
SAMUEL ADLER

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Monday, December 16, 2019,
commencing at 9:11 a.m.

Page 2

1

2 A P P E A R A N C E S:

3

4 DLA PIPER, LLP (US)

5 BY: EMILY STEINER, ESQ.

6 ELLEN E. DEW, ESQ.

7 The Marbury Building

8 6225 Smith Avenue

9 Baltimore, Maryland 21209-3600

10 Attorneys for Plaintiff, SHIP

11

12

13

14

15 HOLLAND & KNIGHT LLP

16 BY: WARREN E. GLUCK, ESQ.

17 MANUEL AYARRA, ESQ.

18 31 West 52nd Street

19 New York, New York 10019

20 Attorneys for the Plaintiffs,

21 Martin Trott

22

23

24

25

Page 3

1

2

3 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP

4 BY: ABIGAIL JOHNSTON, ESQ.

5 101 Park Avenue

6 New York, New York 10178

7 Attorneys for the Defendant,

8 David Bodner

9

10

11

12 MORRISON COHEN LLP

13 BY: DANIEL C. ISAACS, ESQ.

14 909 Third Avenue

15 New York, New York 10022-4784

16 Attorneys for the

17 Huberfeld Family Foundation, Inc.

18

19

20

21

22

23

24

25

Page 4

1

2 LIPSIUS-BENHAIM LAW LLP

3 BY: DAVID BENHAIM, ESQ.

4 80-02 Kew Gardens Road, Suite 1030

5 Kew Gardens, New York 11415

6 Attorneys for Samuel Adler and the

7 Beechwood Defendants

8

9

10

11 ALSO PRESENT:

12

13

14

15 Darrak Lighty, Videographer

16

17

18

19

20

21

22

23

24

25

Page 5

1 Samuel Adler

2 P R O C E E D I N G S

3 THE VIDEOGRAPHER: This is the

4 video deposition of Sam Adler in the matter

5 of Platinum-Beechwood litigation. This

6 deposition is being held at the offices of

7 US Legal Support, 90 Broad Street, New

8 York, New York on December 16, 2019.

9 My name is Darrak Lighty, from US

10 Legal Support; and I am the video

11 specialist. The court reporter today is

12 Tab Prewett, also associated with US Legal

13 Support. We are going on the record at

14 9:11 a.m. All appearances have been noted

15 on the record.

16 Will the court reporter please

17 swear in the witness.

18 (There was a discussion off the

19 record.)

20 S A M U E L A D L E R,

21 doing business at Vascular Management

22 Consultants,

23 6851 Jericho Turnpike,

24 Syosset, New York 11781,

25 having been sworn by the notary public to testify

Page 38

1 Samuel Adler

2 A In my opinion or by a definition of

3 affiliate?

4 Q In your opinion.

5 A Did they transact business

6 together? Were they affiliated? The question is

7 unclear to me.

8 Q I'm asking you, sitting here today

9 as the corporate representative for a number of

10 Beechwood entities, including Beechwood Asset

11 Manager, whether you understand Beechwood Asset

12 Manager is an affiliate of Beechwood.

13 MR. BENHAIM: I'm just going to

14 object to the extent that we designated a

15 different 30(b)(6) witness to talk to the

16 corporate structure and affiliation of the

17 company. But he could answer to the

18 best --

19 MR. GLUCK: I'm asking him based on

20 his designation on behalf of the Beechwood

21 defendants, including Beechwood Asset

22 Manager.

23 A I'm so sorry. I'm not familiar

24 with the entity Beechwood Asset Manager.

25 Q B Asset Manager?

Page 39

1 Samuel Adler

2 A Okay. B Asset Manager LP?

3 Q Yes.

4 Do you need me to repeat the

5 question?

6 A Please.

7 Q Do you understand that B Asset

8 Manager is a Beechwood company?

9 A As defined here or in general?

10 Q In general.

11 A Again, I'm not -- I'm not sure what

12 you mean by a Beechwood company.

13 Q You don't understand what I mean by

14 that?

15 A No, I don't.

16 Q Have you reviewed Mr. Feuer's

17 testimony in connection with this case?

18 A I have not.

19 Q Have you reviewed Mr. Taylor's?

20 A I have not.

21 Q Have you reviewed Mr. Narain's?

22 A I have not.

23 Q So sitting here today, are you a

24 representative of B Asset Manager?

25 A I believe I've been designated as a

Page 40

1 Samuel Adler

2 corporate representative for a number of

3 entities, including, yes, B Asset Manager LP.

4 Q And Beechwood Re?

5 A Beechwood Re Limited?

6 Q Any Beechwood Re.

7 A I'm sorry. Any Beechwood Re?

8 Q Entity.

9 A There is only one entity I'm

10 familiar with.

11 Q Okay.

12 A It's Beechwood Re Limited. And

13 then a separate entity, B Asset Manager LP. And

14 both of those, it's my understanding I'm here as

15 the corporate representative for.

16 Q What other entities are you a

17 corporate representative for?

18 A I don't recall the exhaustive list.

19 But if you name an entity, I can give a yes or

20 no.

21 Q Do you have an understanding of

22 what defendant's Beechwood entities were named in

23 this lawsuit?

24 A I don't have the entire list. I

25 don't recall the entire list.

Page 41

1 Samuel Adler

2 Q When did you join B Asset Manager?

3 A What was the first day of my

4 employment?

5 Q Correct.

6 A I believe it was January 1st, 2014.

7 Q How did you learn about the job?

8 A I don't recall exactly.

9 Q How about generally?

10 A I don't recall generally how I

11 heard about the job. I have no recollection

12 about hearing about a job.

13 Q Well, how did you know -- did you

14 interview for the job?

15 A I don't recall.

16 Q You don't recall?

17 A That's correct.

18 Q Did you meet with anyone at

19 Beechwood concerning your employment prior to

20 taking your employment?

21 A I don't recall who I met with.

22 Q Did you meet with Mr. Huberfeld?

23 A In general or about the position?

24 Q Prior to taking your position.

25 A I believe I had met Mr. Huberfeld

Page 46

1 Samuel Adler
 2 for Platinum.
 3 Q When do you understand your -- the
 4 commencement of your employment at B Asset
 5 Manager began?
 6 A I believe it was sometime late
 7 2013.
 8 Q You were attending NYU, getting
 9 your MBA, at this time?
 10 A Correct.
 11 Q Where -- from what location was
 12 Beechwood operated when you began your employment
 13 there?
 14 A It was operating out of the fourth
 15 floor on -- in Platinum's office.
 16 Q So your first day of work, you
 17 reported to Platinum --
 18 MR. BENHAIM: Objection.
 19 Q -- offices?
 20 MR. BENHAIM: Objection to the
 21 form.
 22 MR. GLUCK: What's the objection?
 23 MR. BENHAIM: Well, it's
 24 mischaracterizing his testimony. He
 25 said -- all right. I'm not going to

Page 47

1 Samuel Adler
 2 testify.
 3 Q At the commencement of your
 4 employment at B Asset Manager, did you go into
 5 offices?
 6 A Did I go into an office?
 7 Q Did you report to an office? Yes.
 8 A Yes.
 9 Q And that was Platinum Partners'
 10 office; is that correct?
 11 A It was space that was utilized by
 12 Platinum. I'm not familiar with exactly who was
 13 on the lease, whose office it was.
 14 Q Was Platinum Partners --
 15 A Again, I don't know --
 16 Q -- operating from the office?
 17 A I believe one of the Platinum
 18 entities was operating from that office as well.
 19 Q PPVA, correct?
 20 A I don't know the particulars of
 21 which entity was operating out of that office.
 22 Q What was your role or title when
 23 you commenced your employment at B Asset Manager?
 24 A My recollection is that I didn't so
 25 much have a title. It was generally operations.

Page 48

1 Samuel Adler
 2 Q What do you understand operations
 3 to consist of?
 4 A What's my understanding or -- my
 5 understanding is operations involves everything
 6 needed or required to make a business run
 7 efficiently and effectively.
 8 Q What did you do day-to-day when you
 9 first began at B Asset Manager?
 10 A What did I do day-to-day in 2014?
 11 Q Yes.
 12 A I don't recall.
 13 Q What about 2013?
 14 A I don't recall what I did every
 15 day.
 16 Q You have no recollection?
 17 A I don't recall exactly what I did
 18 day-to-day. The recollection I have, it was
 19 generally account-opening documents, account
 20 setup, HR setup. That's my recollection.
 21 Q Did you interview with anyone in
 22 connection with the commencement of your
 23 employment at Beechwood?
 24 A I don't recall any interview.
 25 Q How were you told that there was a

Page 49

1 Samuel Adler
 2 job opening?
 3 A I don't remember.
 4 Q You just showed up at the office?
 5 A I -- I think you're characterizing
 6 what I'm saying. I didn't say I just showed up
 7 at the office. I said I can't recall -- I can't
 8 recall exactly what the mechanics and logistics
 9 were.
 10 Q Did you speak with your uncle about
 11 your employment at Beechwood?
 12 A Did I speak with Mr. Bodner in
 13 2013?
 14 Q Yes.
 15 A I don't know.
 16 Q You don't remember one way or
 17 another?
 18 A You're asking me if I recall
 19 definitively having a conversation with
 20 Mr. Bodner in 2013?
 21 Q I'm asking you generally.
 22 A Are you asking me if I generally
 23 recall having a conversation with Mr. Bodner in
 24 2013 about employment at B Asset Manager LP?
 25 Q Yes.

Page 58

1 Samuel Adler
2 (A break is taken.)
3 THE VIDEOGRAPHER: The time is
4 10:19 a.m. We are back on the record.
5 (Exhibit No. 828, E-Mail and
6 Attachments From Mr. Ezra Beren to Mr. Alex
7 Wang is marked by the reporter for
8 identification.)
9 CONTINUED DIRECT EXAMINATION
10 BY MR. GLUCK:
11 Q I have marked as Exhibit 828 an
12 E-Mail and various attachments from Mr. Ezra
13 Beren to Mr. Alex Wang. I'd just like you to
14 take a look at the E-Mail.
15 MR. BENHAIM: Thank you.
16 Q Let me know when you've taken a
17 look at the E-Mail.
18 A You'd like me to read the E-Mail?
19 Q Um-hum.
20 A Okay. I've read the E-Mail.
21 Q Okay. Thank you.
22 A Would you like me to -- just the
23 E-Mail or the discussion documents as well?
24 Q Have you seen this PowerPoint
25 presentation before, that is attached?

Page 59

1 Samuel Adler
2 A I don't know.
3 Q I'd like to refer you to the E-Mail
4 first.
5 A Okay.
6 Q Do you have an understanding that
7 David Steinberg is a portfolio manager for
8 Platinum?
9 A I -- I don't know what David
10 Steinberg's position is or was.
11 Q Okay. And I'm asking you, as
12 Beechwood's 30(b) witness in relation to topic
13 10, "Platinum Management and employees," do you
14 understand that David Steinberg was a portfolio
15 manager?
16 A I don't know what David Steinberg
17 was or is.
18 Q Same question, Ezra Beren?
19 A I'm not familiar with Ezra Beren's
20 position currently or in the past at Platinum.
21 Q So you don't know one way or
22 another whether the third paragraph, beginning
23 "David Steinberg and Ezra Beren are portfolio
24 managers," in this exhibit is correct?
25 A Do I know if that -- if that

Page 60

1 Samuel Adler
2 sentence is accurate?
3 Q Correct.
4 A I don't know if that sentence is
5 accurate.
6 Q Do you see that -- the next
7 paragraph, where it says:
8 "Some of the principals of PMNY are
9 also shareholders of the second investment
10 company, named B Asset Manager Beechwood Re"?
11 Do you know whether that is
12 correct?
13 A No.
14 Q And I'm specifically asking you as
15 a 30(b) witness in connection with your testimony
16 on topic 9 concerning compensation paid directly
17 or indirectly to Beechwood management and
18 principals.
19 A I'm sorry. You're asking me if
20 I -- if I know if that sentence is accurate?
21 Q Yes.
22 A I don't know whether or not that
23 sentence is accurate.
24 Q Is it true that the principals of
25 PMNY are also shares -- shareholders of the

Page 61

1 Samuel Adler
2 second investment company, called B Asset Manager
3 Beechwood Re?
4 A I don't know.
5 Q Okay. Let's go to the next
6 paragraph. This is directly about compensation.
7 Do you see where it says:
8 "The compensation terms for PMs are
9 the same for investments taken by PPVA, PPCO and
10 Beechwood"?
11 Do you see that sentence?
12 A I see the sentence that says:
13 "The compensation terms for PMs are
14 the same for investments taken by PPVA, PPCO and
15 Beechwood."
16 Q Okay. So I'm asking you as the
17 B -- 30(b) representative for topic 9 or topic
18 10, concerning compensation for Beechwood and
19 Platinum, is that a true statement?
20 A I don't know.
21 Q Next sentence:
22 "So in essence, Steinberg and Beren
23 are PMs for PPVA, PPCO and Beechwood."
24 Is that an accurate sentence?
25 A I don't know whether or not that's

Page 102

1 Samuel Adler
 2 Beechwood's 30(b) witness?
 3 A It is.
 4 Q Same question, Dahlia?
 5 A I don't remember why I was -- we
 6 were discussing 233,333.33.
 7 Q Who is Dahlia?
 8 A What did I mean when I wrote
 9 "Dahlia"?
 10 Q Who is Dahlia?
 11 A I believe Dahlia is Dahlia Kalter.
 12 Q Who is that?
 13 A I believe Dahlia is
 14 Mark Nordlicht's wife.
 15 Q Why is Beechwood sending 233,000 to
 16 Mark Nordlicht's wife?
 17 A I don't know.
 18 Q And that's your answer as
 19 Beechwood's 30(b) witness on direct and indirect
 20 compensation?
 21 A It is.
 22 Q If you go up the chain, do you see
 23 the top two E-Mails, one from Feuer to
 24 Mr. Huberfeld and then a response from
 25 Mr. Huberfeld?

Page 103

1 Samuel Adler
 2 A I see an E-Mail from Mark Feuer to
 3 Murray Huberfeld, and I see a response from
 4 Murray Huberfeld to Mark Feuer.
 5 Q Why is Mr. Feuer sending this
 6 E-Mail to Mr. Huberfeld?
 7 A I don't know.
 8 Q And that is your response as
 9 Beechwood's 30(b) witness on direct and indirect
 10 compensation?
 11 A Yes.
 12 Q Same question. Why is
 13 Mr. Huberfeld thanking Mr. Feuer?
 14 A I don't know.
 15 Q Same question:
 16 Is that your response as
 17 Beechwood's 30(b) witness on direct and indirect
 18 compensation?
 19 A It is.
 20 (Exhibit No. 834, E-Mail Chain
 21 involving Cross River Bank, Mark Feuer, and
 22 Murray Huberfeld, Document is marked by the
 23 reporter for identification.)
 24 Q I have marked as Exhibit 834 an
 25 E-Mail chain involving Cross River Bank, Mark

Page 104

1 Samuel Adler
 2 Feuer, and Murray Huberfeld.
 3 Take a look at it.
 4 A Thank you.
 5 Q And just let me know when you've
 6 taken a look at it.
 7 A Okay.
 8 Q Why is Mr. Feuer sending Monsey
 9 Equities \$100,000?
 10 A I don't know.
 11 Q That's your answer as Beechwood's
 12 30(b) witness on direct and indirect
 13 compensation?
 14 A It is.
 15 Q Top E-Mail, what do you understand
 16 "Duvid wire" to mean?
 17 A I don't know what Mr. Feuer was
 18 writing.
 19 Q Your uncle is David Bodner,
 20 correct?
 21 A My uncle is David Bodner.
 22 Q Does he go by "Duvid" sometimes?
 23 A I don't know what names he goes by.
 24 Q You don't know?
 25 A I know he's David.

Page 105

1 Samuel Adler
 2 Q Does he go by "Duvid" sometimes?
 3 A I've never heard anyone call him
 4 Duvid.
 5 Q In all of your time?
 6 A In all of my time forever and ever?
 7 Q In all of your time as his nephew
 8 and working in any capacity for Beechwood, you've
 9 never heard him referred to as Duvid?
 10 A That's correct.
 11 Q Would it surprise you that every
 12 other Beechwood witness has said that the case is
 13 yes?
 14 A They've heard him called Duvid?
 15 Q Yes.
 16 A Okay.
 17 Q So are you the best person to be
 18 testifying about direct and indirect compensation
 19 to Beechwood ownership and management?
 20 A I don't know if I'm the best
 21 person.
 22 Q What is the relationship between
 23 Mr. Bodner and Monsey Equities?
 24 MS. JOHNSTON: Objection.
 25 A I don't know.

Page 126

1 Samuel Adler
 2 Q Do you know anything about this?
 3 A Do I know anything about the
 4 \$11,000?
 5 Q No, why -- why it's 22 -- why
 6 you're telling Mark that 22 checks should be
 7 written to these trusts.
 8 A Do I know why I told him that?
 9 Q Yes.
 10 A I don't recall telling him that.
 11 Q So you have no recollection one way
 12 or another?
 13 A I have a vague recollection that it
 14 might be related to a tax matter, but I -- I
 15 don't know with certainty that it was related to
 16 that.
 17 Q Okay. Then what -- you see the top
 18 E-Mail, Mark Feuer?
 19 A I see an E-Mail from Mark Feuer at
 20 the top.
 21 Q To Murray Huberfeld?
 22 A To Murray Huberfeld.
 23 Q Why is Mark Feuer writing to
 24 Murray Huberfeld about Lawrence Monsey
 25 Management?

Page 127

1 Samuel Adler
 2 A I don't know.
 3 Q He says:
 4 "I'll talk to you about this
 5 later."
 6 Do you see that?
 7 A I see it says:
 8 "I'll talk to you about this
 9 later."
 10 Q Who is Brad Shalit?
 11 A Brad Shalit, I believe, is a trust
 12 attorney that we used.
 13 (Exhibit No. 840, E-Mail With
 14 Attachment, E-Mail From Scott Taylor to
 15 Motti Edelstein is marked by the reporter
 16 for identification.)
 17 Q Marked as Exhibit 840 is an E-Mail
 18 with attachment, from Mr. Taylor to Mr. Motti
 19 Edelstein. And I'm going to ask you if you've
 20 seen this before.
 21 Have you seen this before?
 22 A I don't know.
 23 Q If you flip to the table in the
 24 second page, there's a list of names in the top
 25 table; and then there's a list of families on the

Page 128

1 Samuel Adler
 2 second table.
 3 Do you see that?
 4 A I see the two tables.
 5 Q Do the names on the top table have
 6 meaning to you?
 7 A What does that mean? Do they have
 8 meaning to me?
 9 Q Do you understand what this table
 10 is?
 11 A It's a list of names.
 12 Q Okay. Now, you -- you are here
 13 testifying on behalf of B Asset Manager LP,
 14 correct?
 15 A I believe so.
 16 Q And you're testifying here on
 17 behalf of B Asset Manager LP II? As -- as listed
 18 on this table?
 19 A Am I here on behalf of B Asset
 20 Manager II?
 21 MR. BENHAIM: May I direct him?
 22 MR. GLUCK: Sure.
 23 A Yes. Yes.
 24 Q And Beechwood Re Holdings LLC,
 25 Inc.?

Page 129

1 Samuel Adler
 2 A I believe so.
 3 Q Do you understand who the
 4 beneficiaries of those three entities are?
 5 A Are you asking me if I -- if I see
 6 what's dictated on this table or I know who the
 7 beneficiaries of those entities are in general?
 8 Q Well, let's start with the table.
 9 A I don't know if I've seen this, and
 10 I'm not sure if this is accurate. I -- I think
 11 the document speaks for itself.
 12 Q Um-hum.
 13 Now, do you know who the owners of
 14 those three entities were?
 15 A Do I know who the owners of B Asset
 16 Manager LP, B Asset Manager LP II -- II LP,
 17 Beechwood Re Holdings, Inc. -- do I know who the
 18 owners of those entities are today?
 19 Q Or were at any time?
 20 A I knew at some point. I don't
 21 recall today.
 22 Q Okay. And in your capacity as a
 23 representative of Beechwood on direct and
 24 indirect compensation to management and owners of
 25 Beechwood, do you have an understanding about

Page 130

1 Samuel Adler

2 what this table means?

3 A I think the document speaks for

4 itself.

5 Q Is there anything inaccurate about

6 this table?

7 A I don't know.

8 Q That's your answer as a 30(b)

9 representative?

10 A Yes.

11 Q What about where it says

12 "families"? Are those the families that own the

13 three entities?

14 A It's unclear to me. Some

15 individuals are listed there, as well as some

16 last names.

17 Q Does Scott Taylor's family own

18 Beechwood?

19 A I don't recall what the ownership

20 was or is.

21 Q Mark Feuer?

22 A I don't recall whether his

23 family --

24 Q David Levy?

25 A The same.

Page 131

1 Samuel Adler

2 Q Mark Nordlicht?

3 A The same.

4 Q Bodner?

5 A The same.

6 Q Huberfeld?

7 A The same.

8 Q Propper?

9 A The same.

10 Q Do you know what compensation was

11 paid to Scott Taylor?

12 A I don't know all of the

13 compensation that was paid to Scott Taylor.

14 Q And just to repeat the question, do

15 you know, directly or indirectly, what

16 compensation was paid to Scott Taylor?

17 A What, you mean in terms of dollar

18 amount?

19 Q Yes.

20 A No.

21 Q How about how he was paid?

22 A How did Scott Taylor -- I believe

23 Scott Taylor was on payroll at some point.

24 Q Did he also receive dividends?

25 A I don't know.

Page 132

1 Samuel Adler

2 Q Did he receive any money in

3 connection with his ownership interests?

4 A I don't know.

5 Q Same question, Mark Feuer?

6 A Same answer.

7 Q Same question, David Levy?

8 A I don't know if David Levy received

9 any compensation.

10 Q Same question, Nordlicht?

11 A Mark Nordlicht?

12 Q Directly or indirectly, Nordlicht,

13 as that phrase is used on family?

14 A I don't know if any compensation

15 was received.

16 Q And Bodner?

17 A The same.

18 Q And just to be clear, that -- that

19 answer, you don't know whether they received any

20 compensation, that -- that remains true

21 notwithstanding all the wire transfers we've seen

22 to Dahlia Kalter today?

23 A Correct. I don't -- I don't know

24 what those wires were.

25 Q Bodner?

Page 133

1 Samuel Adler

2 A The same.

3 Q Huberfeld?

4 A The same.

5 Q Propper?

6 A The same.

7 Q Do you know whether the interests

8 held by the owners of Beechwood, any of these

9 entities, were sold at any time from their

10 formation?

11 A I don't know.

12 Q You don't know one way or another?

13 A Correct.

14 Q Were you involved in any way in the

15 repurchase of the interests of the Beechwood

16 companies and B Asset Managers by affiliates of

17 Scott Taylor and Mark Feuer at or around two

18 thousand -- August of 2016?

19 A I don't recall what I was involved

20 with in August of 2016.

21 Q Do you know whether the owners of

22 the Beechwood companies and B Asset Managers

23 received compensation from anyone in connection

24 with the sale of their interests around August of

25 2016?

<p style="text-align: right;">Page 158</p> <p>1 Samuel Adler</p> <p>2 transaction.</p> <p>3 Q You don't recall? Do you have any</p> <p>4 doubt that there were?</p> <p>5 A Hold on. I don't recall any other</p> <p>6 transaction related to sporting events. I recall</p> <p>7 other transactions that Beechwood did in general,</p> <p>8 but nothing related to sporting events and these</p> <p>9 people.</p> <p>10 Q I don't mean general Beechwood</p> <p>11 transactions.</p> <p>12 Are you referring to transactions</p> <p>13 for Beechwood in general involved with Jonah</p> <p>14 Rechnitz or transactions involving sporting</p> <p>15 events in your answer?</p> <p>16 A Other than -- I'm going to try and</p> <p>17 answer your question.</p> <p>18 Other than this, I'm not familiar</p> <p>19 with any other Beechwood transactions related to</p> <p>20 Mr. Rechnitz. And I'm also not aware -- I don't</p> <p>21 recall any other transactions relating to</p> <p>22 sporting event tickets.</p> <p>23 Q Okay. I've have marked this as</p> <p>24 Exhibit 844.</p> <p>25 (Exhibit No. 844, July 30, 2015</p>	<p style="text-align: right;">Page 160</p> <p>1 Samuel Adler</p> <p>2 office?</p> <p>3 Q Yes.</p> <p>4 A I believe he was. I did see him in</p> <p>5 the office.</p> <p>6 Q Okay. And he had a secretary at</p> <p>7 Beechwood; didn't he?</p> <p>8 A Did Mr. Bodner have a secretary at</p> <p>9 Beechwood?</p> <p>10 Q Yes.</p> <p>11 A Not to -- not that I'm aware of.</p> <p>12 Q Well, where did Angela Albanese</p> <p>13 work?</p> <p>14 A On the 54th floor at Platinum.</p> <p>15 Q Okay. Well, what about once</p> <p>16 Beechwood had its own offices?</p> <p>17 A What about it?</p> <p>18 Q When Beechwood had its own offices,</p> <p>19 who served as Mr. Bodner's secretary?</p> <p>20 A I believe -- I mean, I don't have</p> <p>21 the timing certain, but I believe Angela was</p> <p>22 Mr. Bodner's assistant.</p> <p>23 Q Okay. So I'm asking you now:</p> <p>24 As Beechwood's 30(b) representative</p> <p>25 concerning compensation to Beechwood and</p>
<p style="text-align: right;">Page 159</p> <p>1 Samuel Adler</p> <p>2 E-Mail is marked by the reporter for</p> <p>3 identification.)</p> <p>4 A Thank you.</p> <p>5 Q It is an E-Mail dated 7/30/2015.</p> <p>6 I'll ask you if you've seen it before.</p> <p>7 A I don't recall seeing this E-Mail.</p> <p>8 Q Do you -- are you familiar with</p> <p>9 Angela Albanese?</p> <p>10 A I believe I've met her.</p> <p>11 Q And who is she?</p> <p>12 A I believe she was Mr. Bodner's</p> <p>13 executive assistant.</p> <p>14 Q Okay. Mr. Bodner, do you know</p> <p>15 whether he had an office at Platinum?</p> <p>16 A Again, I'm not -- I'm not sure</p> <p>17 whose offices they were, but I know -- I believe</p> <p>18 Platinum operated out of the 54th floor; and I</p> <p>19 believe he had an office there.</p> <p>20 Q Okay. What about Beechwood?</p> <p>21 A I don't believe he had an office</p> <p>22 there.</p> <p>23 Q Would he -- was he at the office</p> <p>24 when you were working at Beechwood?</p> <p>25 A Did he ever -- was he ever in the</p>	<p style="text-align: right;">Page 161</p> <p>1 Samuel Adler</p> <p>2 Platinum, have you discussed this E-mail with</p> <p>3 anyone in connection with your preparation today,</p> <p>4 other than your counsel?</p> <p>5 A I don't believe so.</p> <p>6 Q Do you understand that Ed Bonach --</p> <p>7 do you know who Ed Bonach is?</p> <p>8 A I don't know definitively who Ed</p> <p>9 is.</p> <p>10 Q What about generally?</p> <p>11 A I believe he has some relationship</p> <p>12 to CNO.</p> <p>13 Q And who is CNO in relation to</p> <p>14 Beechwood?</p> <p>15 A CN -- Beechwood had done a</p> <p>16 transaction with CNO Financial.</p> <p>17 Q A reinsurance transaction?</p> <p>18 A Correct. Well, that's my</p> <p>19 understanding.</p> <p>20 Q So here it says:</p> <p>21 "I'm concerned, if Ed Bonach from</p> <p>22 CNO Financial Group finds out we invested</p> <p>23 Beechwood's money into Platinum with its illiquid</p> <p>24 investments, he won't trust us."</p> <p>25 Do you see that?</p>

Page 162	<p>1 Samuel Adler</p> <p>2 A I see the E-Mail.</p> <p>3 Q Okay. No. But I'm saying:</p> <p>4 Do you see that text?</p> <p>5 A I see the text that -- I see the</p> <p>6 text that says:</p> <p>7 "I'm really concerned that, if</p> <p>8 Ed Bonach from CNO Financial Group finds out we</p> <p>9 invested Beechwood's money into Platinum with</p> <p>10 Ed's illiquid investments," parentheses, "since</p> <p>11 it didn't exactly fit their investment</p> <p>12 objectives," end parentheses, "he won't trust us,</p> <p>13 and he will take all of the approx. 500 mill he</p> <p>14 has invested in Beechwood out."</p> <p>15 Q Thank you.</p> <p>16 Now, we looked at an E-Mail -- at a</p> <p>17 document earlier with some handwriting on the</p> <p>18 back of it and then some text on the front.</p> <p>19 Do you recall that?</p> <p>20 A Yes.</p> <p>21 Q Okay. Now, that's a true</p> <p>22 statement, right? Beechwood put its money into</p> <p>23 Platinum, right?</p> <p>24 A I don't know.</p> <p>25 Q You don't know one way or another?</p>	Page 164	<p>1 Samuel Adler</p> <p>2 A I don't know specifically.</p> <p>3 Q And that's the same -- same answer</p> <p>4 in your capacity as Beechwood's 30(b) witness on</p> <p>5 compensation?</p> <p>6 A Yes.</p> <p>7 Q In addition to compensation, did</p> <p>8 you perform what we'll call "back office"</p> <p>9 functions for Beechwood?</p> <p>10 A I'm not sure what you define as</p> <p>11 "back office."</p> <p>12 Q Did you handle the banking</p> <p>13 transactions, wires in and out of various</p> <p>14 Beechwood entity accounts?</p> <p>15 A I did.</p> <p>16 Q Okay.</p> <p>17 (Exhibit No. 845, Beechwood Re</p> <p>18 Investments LLC Bank Records from Capital</p> <p>19 One Bank is marked by the reporter for</p> <p>20 identification.)</p> <p>21 Q Marked as Exhibit 845 is a document</p> <p>22 which appears to be bank records. I'll ask you</p> <p>23 if you've taken a look at this before.</p> <p>24 A Have I seen this document before?</p> <p>25 Q Correct.</p>
Page 163	<p>1 Samuel Adler</p> <p>2 A I don't know if it's a true</p> <p>3 statement.</p> <p>4 Q What about from a compensation</p> <p>5 perspective? Do you know whether anyone at</p> <p>6 Beechwood received compensation in connection</p> <p>7 with the investment of Beechwood's money into</p> <p>8 Platinum -- Platinum or Platinum assets?</p> <p>9 A Do I know if anyone at Beechwood</p> <p>10 received compensation in exchange for Beechwood</p> <p>11 investing money into Platinum or Platinum assets?</p> <p>12 Q Correct.</p> <p>13 A I don't recall.</p> <p>14 Q People at Beechwood were</p> <p>15 compensated for their investing activity, though;</p> <p>16 is that correct?</p> <p>17 A Portfolio managers at B Asset</p> <p>18 Manager LP were sometimes compensated on invest</p> <p>19 -- or upon -- based on investments or some sort</p> <p>20 of structure related to investments they had</p> <p>21 made.</p> <p>22 Q Okay. So my question to you is:</p> <p>23 How were Beechwood managers</p> <p>24 compensated in connection with their investments</p> <p>25 into Platinum or Platinum-related assets?</p>	Page 165	<p>1 Samuel Adler</p> <p>2 A I don't recall seeing this</p> <p>3 document.</p> <p>4 Q As -- you just testified that you</p> <p>5 were in charge of wire transfers in and out of</p> <p>6 the various Beechwood entities; is that correct?</p> <p>7 A I don't believe I testified that I</p> <p>8 was in charge.</p> <p>9 Q You handled them?</p> <p>10 A Routinely, yes.</p> <p>11 Q Routinely. And we looked at a</p> <p>12 bunch of E-Mails today where you were discussing</p> <p>13 wire transfers in and out of Beechwood entities</p> <p>14 with Mr. Feuer, correct?</p> <p>15 A We looked at some E-Mails where we</p> <p>16 were discussing wire transfers, yes.</p> <p>17 Q What about checks? Did you handle</p> <p>18 checks?</p> <p>19 A I processed checks from some of the</p> <p>20 entities.</p> <p>21 Q So looking at this today, do you --</p> <p>22 if you look to the top page, the front page --</p> <p>23 A Okay.</p> <p>24 Q -- do you see it says:</p> <p>25 "Beechwood Re Investments LLC"?</p>

Page 226	Page 228
1	1 Errata Sheet
2	2
3 Exhibit No. 842, Document 140	3 NAME OF CASE: IN RE: PLATINUM-BEECHWOOD LITIGATION
4 Exhibit No. 843, E-Mail Chain Between 146 Sam Adler to Mark Feuer	4 DATE OF DEPOSITION: 12/16/2019
5	5 NAME OF WITNESS: Samuel Adler
6 Exhibit No. 844, July 30, 2015 E-Mail 158	6 Reason Codes:
7 Exhibit No. 845, Beechwood Re 164 Investments LLC Bank Records from Capital One Bank	7 1. To clarify the record.
8	8 2. To conform to the facts.
9 Exhibit No. 846, E-Mail related to 180 Investment Committee, Document	9 3. To correct transcription errors.
10 Exhibit No. 847, E-Mail Chain Between 186 Sam Adler and Ari Hurt	10 Page ____ Line ____ Reason ____
11	11 From _____ to _____
12 Exhibit No. 848, November 5, 2013 191 E-Mail from Mark Feuer to Mark Nordlicht stating that CNO is going to	12 Page ____ Line ____ Reason ____
13 be coming in for a visit	13 From _____ to _____
14 Exhibit No. 849, 4/6/14 E-Mail 194 Concerning Puerto Rico Limits	14 Page ____ Line ____ Reason ____
15	15 From _____ to _____
16 Exhibit No. 850, E-Mail From 204 Maggie Muller	16 Page ____ Line ____ Reason ____
17 Exhibit No. 851, E-Mail Between Murray 206 Huberfeld and Mark Nordlicht	17 From _____ to _____
18	18 Page ____ Line ____ Reason ____
19 Exhibit No. 852, E-Mail 211	19 From _____ to _____
20	20 Page ____ Line ____ Reason ____
21	21 From _____ to _____
22	22 Page ____ Line ____ Reason ____
23	23 From _____ to _____
24	24
25	25 _____

1

2 CERTIFICATE

3

4 I, TAB PREWETT, A Registered

5 Professional Reporter, Notary Public, Certified

6 LiveNote Reporter, and Certified Shorthand

7 Reporter, do hereby certify that prior to the

8 commencement of the examination SAMUEL ADLER was

9 sworn by the notary public to testify to the

10 truth, the whole truth and nothing but the truth.

11

12 I DO FURTHER CERTIFY that the

13 foregoing is a true and accurate transcript of

14 the testimony as taken stenographically by and

15 before me at the time, place and on the date

16 hereinbefore set forth.

17

18 I DO FURTHER CERTIFY that I am

19 neither a relative nor employee nor attorney nor

20 counsel of any of the parties to this action, and

21 that I am neither a relative nor employee of such

22 attorney or counsel, and that I am not

23 financially interested in the action.

24

25 TAB Prewett

TAB PREWETT

Notary Public

My Commission expires February 9, 2024

Dated: December 31, 2019

EXHIBIT 24

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 In Re PLATINUM-BEECHWOOD LITIGATION

Civil Action
No.
1:18-cv-06658

5 -----x
6 MELANIE L. CYGANOWSKI, as Receiver by
7 and for PLATINUM PARTNERS CREDIT
8 OPPORTUNITIES MASTER FUND LP, PLATINUM
9 PARTNERS CREDIT OPPORTUNITIES FUND
10 (TE) LLC, PLATINUM PARTNERS CREDIT
11 OPPORTUNITIES FUND LLC, PLATINUM
12 PARTNERS CREDIT OPPORTUNITIES FUND
13 INTERNATIONAL LTD., PLATINUM PARTNERS
14 CREDIT OPPORTUNITIES FUND INTERNATIONAL
15 (A) LTD. and PLATINUM PARTNERS CREDIT
16 OPPORTUNITIES FUND (BL) LLC,

Civil Action
No.
1:18-cv-12018

17 Plaintiffs,

18 -against-

19 BEECHWOOD RE LTD., BEECHWOOD RE
20 INVESTMENTS, LLC, B ASSET MANAGER LP,
21 B ASSET MANAGER II LP, BEECHWOOD RE
22 HOLDINGS, INC., BEECHWOOD BERMUDA
23 INTERNATIONAL, LTD., BEECHWOOD BERMUDA
24 INVESTMENT HOLDINGS, LTD., BEECHWOOD
25 BERMUDA LTD., BAM ADMINISTRATIVE
SERVICES LLC, BRE BCLIC PRIMARY, BRE
BCLIC SUB, BRE WNIC 2013 LTC PRIMARY,
BRE WNIC 2013 LTC SUB, MOSHE M. FEUER
a/k/a MARK FEUER, SCOTT A. TAYLOR,
SENIOR HEALTH INSURANCE COMPANY OF
PENNSYLVANIA, FUZION ANALYTICS, INC.,
BANKERS CONSECO LIFE INSURANCE
COMPANY, WASHINGTON NATIONAL INSURANCE
COMPANY, CNO FINANCIAL GROUP, INC.,
40/86 ADVISORS, INC., and JOHN DOES
1-100,

Defendants.

-----x
December 31, 2019

30(b)(6) Deposition of PB INVESTMENT HOLDINGS, LTD.

by SCOTT BOUG

Page 2

1
2 December 31, 2019
3 10:03 a.m.
4
5
6 30(b)(6) Deposition of PB Investment Holdings,
7 Ltd. by SCOTT BOUG, taken by Plaintiffs, pursuant
8 to Notice, held at 90 Broad Street, New York, New
9 York, before Joseph R. Danyo, a Shorthand Reporter
10 and Notary Public within and for the State of New
11 York.
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 3

1 A P P E A R A N C E S :
2
3 OTTERBOURG P.C.
4 Attorneys for the Receiver
5 230 Park Avenue
6 New York, New York 10169
7
8 By: ANDREW S. HALPERN, ESQ.
9
10 DLA PIPER LLP (US)
11 Attorneys for SHIP
12 1251 Avenue of the Americas
13 New York, New York 10020-1104
14 By: STEVEN M. ROSATO, ESQ.
15
16 HOLLAND & KNIGHT LLP
17 Attorneys for PPVA Plaintiffs
18 31 West 52nd Street
19 12th Floor
20 New York, New York 10019
21 By: SHEILA SHEN, ESQ. (Via Teleconference)
22
23 CONDON TOBIN SLADEK THORNTON PLLC
24 Attorneys for PB Investment Holdings, Ltd.
25 8080 Park Avenue
Suite 700
Dallas, Texas 75231
By: KENDAL B. REED, ESQ. (Via Videoconference)
-oOo-

Page 4

1 S C O T T B O U G, testifying via videoconference,
2 sworn by me and deemed sworn by all counsel present
3 and counsel for the Witness, was examined and
4 testified as follows:
5 EXAMINATION BY MR. HALPERN:
6 Q. Sir, my name is Andrew Halpern of
7 Otterbourg, P.C., the attorneys for Melanie L.
8 Cyganowski, who is the receiver for various of the
9 PPCO funds. Can you tell us your home address?
10 A. 3 Windy Ridge Road in Warwick, Bermuda,
11 PG 01.
12 Q. And what is your business address?
13 A. We are now at Waterfront on the second
14 floor, which is Pitts Bay Road in Bermuda in
15 Pembroke.
16 MR. HALPERN: Can all counsel who are
17 here identify themselves or who are on the
18 phone.
19 MR. ROSATO: Steven Rosato, DLA Piper,
20 for Senior Health Insurance Company in
21 Pennsylvania.
22 MR. REED: Kendal Reed here with the
23 witness.
24 MR. HALPERN: Okay.
25 MS. SHEN: Sheila Shen of Holland &

Page 5

1 Knight for the PPVA plaintiffs.
2 BY MR. HALPERN:
3 Q. Mr. Boug, have you ever had your
4 deposition taken before?
5 A. No.
6 Q. Have you ever testified in court?
7 A. No.
8 Q. Have you ever testified in an
9 arbitration?
10 A. Not testified, but I have attended
11 arbitration.
12 Q. What arbitration was that?
13 A. That was Genworth and Swiss Re over a
14 long term care claim.
15 Q. Okay. I am going to be asking you a
16 series of questions, and you should respond
17 truthfully and accurately. If I ask a question, I
18 am going to assume that you understood the question.
19 Is that okay with you?
20 A. That's okay.
21 Q. Also I am going to be taking your
22 deposition as a 30(b)(6) representative of PB
23 Investment Holdings, Ltd., which we will refer to as
24 PBIHL or PB Investments, and the deposition will be
25 pursuant to the topics referred to on the notice of

Page 34

1 identification, as of this date.)
2 MR. REED: I have marked it here.
3 Q. Am I correct that Mark Feuer, David
4 Lessing and Scott Taylor began to be directors of
5 BBIHL on December 17, 2014?
6 A. Yes.
7 Q. Do you know when they ceased to be
8 directors of BBIHL?
9 A. I believe that was June 30, 2017.
10 Q. I am just going to mark also a document
11 as Exhibit 6, which should be tab 6 in your binder,
12 the bylaws of Beechwood Bermuda Investment Holdings
13 Ltd. It has production numbers BW-SHIP 01344950
14 through 985.
15 (Exhibit PB 6, Bylaws of Beechwood
16 Bermuda Investment Holdings Ltd. bearing
17 Bates numbers BW-SHIP 01344950 through 985,
18 was so marked for identification, as of this
19 date.)
20 Q. Are these the bylaws of BBIHL?
21 A. Yes.
22 Q. Were these ever changed?
23 A. We use the same firm Appleby, and I
24 don't know if they actually changed the bylaws. I
25 don't think they did, because we didn't really go

Page 35

1 forward with this entity. We were just running it
2 off.
3 Q. Did you go forward using Appleby or not?
4 A. I think we did. I'm not sure if they
5 were changed or not. I don't think they would have
6 changed a lot, but I don't know for sure.
7 Q. Okay. I am going to mark as Exhibit 7 a
8 document entitled Corporate Administrative Services
9 Agreement as PB 7. Can you tell me what this is.
10 (Exhibit PB 7, Document entitled
11 Corporate Administrative Services Agreement,
12 was so marked for identification, as of this
13 date.)
14 A. Yes. It looks like the corporate
15 services agreement. It starts at 1.1, but yeah. So
16 it is an Appleby corporate services agreement.
17 Q. Can you look at the page with Bates
18 number BW-SHIP 01345011 and look, just I am
19 directing you to the bottom of the page. Do you
20 know was Daniel Lessing an executive vice president
21 of Beechwood Bermuda Holdings -- Beechwood Bermuda
22 Investment Holdings Ltd.?
23 A. It's David Lessing.
24 Q. David Lessing. Okay. Do you believe he
25 was an EVP there?

Page 36

1 A. Yes.
2 Q. Do you know who the officers were of
3 BBIHL in 2014?
4 A. In 2014, I do not, but looking at this,
5 I can see there is Scott Taylor's name is on here
6 again, so I assume he was along with David Lessing.
7 Q. Do you have any information as to what
8 the functions of the directors were between 2014 and
9 June 30, 2017? I am referring to the directors of
10 BBIHL.
11 A. I do not.
12 Q. You don't have any idea whether they
13 signed contracts?
14 A. I don't know that, but I assume they
15 did. Actually I have seen their names on some of
16 the contracts that were in existence.
17 Q. Do you know any other functions they had
18 during that period?
19 A. Not in detail, but they seemed to be the
20 ones running the Bermuda platform.
21 Q. When you say the Bermuda platform, do
22 you mean BBIHL?
23 A. Yes. I would include that, but they
24 also had other entities in Bermuda, and David
25 Lessing is the one that we dealt with the most in

Page 37

1 the acquisition. Almost exclusively.
2 Q. What other entities did they have in
3 Bermuda?
4 A. Well, they had the Omnia, Beechwood
5 Omnia entity that I mentioned, and then they had an
6 entity Beechwood Bermuda International Ltd., I
7 believe, the reinsurer, and then their org chart had
8 other entities in it, but we didn't concern
9 ourselves with those, and I'm not even sure which
10 were in Bermuda or not. Of the other entities, that
11 is.
12 Q. Okay. Were you under the impression
13 that all those entities were run by the same people?
14 A. Yes.
15 Q. How did you get that impression?
16 A. Those are the only people we dealt with,
17 particularly David Lessing, for whichever entity it
18 was.
19 Q. Okay, and the same individuals ran
20 Beechwood Bermuda International Ltd. as ran BBIHL?
21 A. As far as I know.
22 Q. Did Beechwood Bermuda International Ltd.
23 own all of the stock, I'm sorry, all of the shares
24 of BBIHL?
25 A. I believe that's correct.

Page 114

1 ordering the transcript?

2 MS. SHEN: Yes. Regular turnaround is

3 fine.

4 (Time noted: 1:52 p.m.)

5 _____

6

7 Subscribed and sworn to

8 before me this ____ day of _____, 2020.

9 _____

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Page 115

1 C E R T I F I C A T I O N

2

3 I, JOSEPH R. DANYO, a Shorthand Reporter

4 and Notary Public, within and for the State of New

5 York, do hereby certify:

6 That I reported the proceedings in the

7 within entitled matter, and that the within transcript

8 is a true record of such proceedings.

9 I further certify that I am not related, by

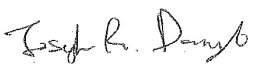
10 blood or marriage, to any of the parties in this

11 matter and that I am in no way interested in the

12 outcome of this matter.

13 IN WITNESS WHEREOF, I have hereunto set

14 my hand this 14th day of January, 2020.

15 

16 _____

17 JOSEPH R. DANYO

18

19

20

21

22

23

24

25

Page 116

1 I N D E X

2 Witness Page

3 SCOTT BOUG 4

4

5

6 E X H I B I T S

7

8 No. Page

9 Exhibit PB 1 Amended 30(b)(6) notice of 6

10 deposition

11 Exhibit PB 2 First amended complaint 12

12 Exhibit PB 3 Answer of PB Investment 13

13 Holdings, Ltd. to receiver's

14 first amended complaint

15 Exhibit PB 4 Certificate of incorporation 33

16 bearing Bates number

17 BW-SHIP-01344998

18 Exhibit PB 5 Shareholder written resolutions 33

19 bearing Bates number

20 BW-SHIP-01344995

21 Exhibit PB 6 Bylaws of Beechwood Bermuda 34

22 Investment Holdings Ltd.

23 bearing Bates numbers BW-SHIP

24 01344950 through 985

25 Exhibit PB 7 Document entitled Corporate 35

Administrative Services

Agreement

Exhibit PB 8 Document bearing Bates number 38

BW-SHIP 01345014

Exhibit PB 9 Document 39

Exhibit PB 10 Company authorization summary 40

Exhibit PB 11 Register of directors and 43

officers for Beechwood Bermuda

Investment Holdings Ltd.

Page 117

1 Exhibit PB 12 First board of directors 46

2 unanimous written resolutions

3 bearing Bates numbers BW-SHIP

4 01344992 through BW-SHIP

5 01344993

6 Exhibit PB 13 Minutes of BBIHL board meeting 47

7 of January 26, 2016 bearing

8 Bates numbers BW-SHIP-01134658

9 through 659

10 Exhibit PB 14 Acceptance letters bearing 48

11 Bates numbers BW-SHIP 01503704

12 through BW-SHIP 01503708

13 Exhibit PB 15 Minutes of meeting of board of 50

14 directors of Beechwood Bermuda

15 Investment Holdings Ltd. of

16 April 28, 2016 bearing Bates

17 numbers BW-SHIP-01136835

18 through 840

19 Exhibit PB 16 Resignation of Mark Feuer as 58

20 director

21 Exhibit PB 17 Certificate of registration for 58

22 BBIHL

23 Exhibit PB 18 Document entitled Custody 60

24 Account Agreement Wilmington

25 Trust bearing Bates numbers

BW-SHIP-01134681 through 87

Exhibit PB 19 Statement of account for 63

account number 111955

Exhibit PB 20 e-mail from Moti Edelstein to 66

Stewart Kim and attachment

Exhibit PB 21 Document entitled Participation 68

Agreement

Exhibit PB 22 Statement of account bearing 71

Bates numbers BW-SHIP 00906499

through 507

Exhibit PB 23 Document bearing Bates numbers 74

SHIP 00163330 through SHIP

0016341

EXHIBIT 25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

(Caption continued)

VOLUME I

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF

SCOTT TAYLOR

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Wednesday, November 6, 2019,
commencing at 9:35 a.m.

Page 2

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658(JSR)
5 CASE NO. 1-19-CV-07137(JSR)
6 -----
7 SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA,
8
9
10 Plaintiff,
11
12 vs.
13
14
15 LINCOLN INTERNATIONAL LLC and LINCOLN
16 PARTNERS ADVISORS LLC,
17
18 Defendants.
19 -----
20
21
22
23
24
25

Page 4

1
2 HOLLAND & KNIGHT LLP
3 BY: RICHARD A. BIXTER, JR., ESQ.
4 150 North Riverside Plaza
5 Chicago, Illinois 60606
6 Attorneys for the Plaintiffs,
7 Martin Trott
8
9
10
11
12 HOLLAND & KNIGHT LLP
13 BY: WARREN ERNEST GLUCK, ESQ.
14 ELLIOT MAGRUDER, ESQ.
15 31 West 52nd Street
16 New York, New York 10019
17 Attorneys for the Plaintiffs,
18 Martin Trott
19
20
21
22
23
24
25

Page 3

1
2 A P P E A R A N C E S:
3
4
5
6
7 DLA PIPER, LLP (US)
8 BY: JAMES D. MATHIAS, ESQ.
9 A. NEILL THUPARI, ESQ.
10 6225 Smith Avenue
11 Baltimore, Maryland 21209-3600
12
13 Attorneys for Plaintiff, SHIP
14
15
16
17
18
19
20
21
22
23
24
25

Page 5

1
2 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
3 BY: ABIGAIL JOHNSTON, ESQ.
4 101 Park Avenue
5 New York, New York 10178
6 Attorneys for the Defendant,
7 David Bodner
8
9
10
11
12 MINTZ, LEVIN, COHN, FERRIS,
13 GLOVSKY and POPEO, P.C.
14 BY: THERESE M. DOHERTY, ESQ.
15 The Chrysler Center
16 666 Third Avenue
17 New York, New York 10017
18 Attorneys for Defendants
19 Kevin Cassidy and Michael Nordlicht
20
21
22
23
24
25

Page 6

1

2

3

4 MORRISON COHEN LLP

5 BY: DANIEL C. ISAACS, ESQ.

6 909 Third Avenue

7 New York, New York 10022-4784

8 Attorneys for Lawrence Partners and the

9 Huberfeld Family Foundation, Inc.

10

11

12

13

14

15 CONDON TOBIN SLADEK THORNTON

16 BY: KENDAL B. REED, ESQ.

17 8080 Park Lane, Suite 700

18 Dallas, Texas 75231

19 Attorneys for PB Investments

20

21

22

23

24

25

Page 8

1

2 OTTERBOURG, P.C.

3 BY: WILLIAM M. MORAN, ESQ.

4 ERIK WEINICK, ESQ.

5 230 Park Avenue

6 New York, New York 10169

7 Attorneys for Plaintiff Receiver

8

9

10

11

12

13 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

14 BY: MARIANNE H. COMBS, ESQ.

15 155 North Wacker Drive

16 Chicago, Illinois 60606-1720

17 Attorneys for Lincoln Partners,

18 Third-Party Defendants

19

20

21 Present telephonically

22

23 ALSO PRESENT:

24 Darrak Lighty, Videographer

25 US Legal Support

Page 7

1

2 ALSTON & BIRD LLP

3 BY: ADAM J. KAISER, ESQ.

4 90 Park Avenue

5 15th Floor

6 New York, New York 10016-1387

7 Attorneys for

8 Washington National Insurance Company

9 Bankers Conseco

10

11

12

13

14

15 PROSKAUER ROSE LLP

16 BY: MARK D. HARRIS, ESQ.

17 EDWARD J. CANTER, ESQ.

18 Eleven Times Square

19 New York, New York 10036-8299

20 Attorneys for Beechwood

21

22

23

24

25

Page 9

1 Scott Taylor

2 P R O C E E D I N G S

3 THE VIDEOGRAPHER: This is the

4 video deposition of Scott Taylor in the

5 matter of the Platinum-Beechwood

6 litigation. This deposition is being held

7 at the offices of US Legal Support, 90

8 Broad Street, New York, New York, on

9 November 6, 2019.

10 My name is Darrak Lighty, from US

11 Legal Support; and I am the video

12 specialist. The court reporter today is

13 Tab Prewett, also associated with US Legal

14 Support. We are going on the record at

15 9:35 a.m. All appearances have been noted

16 on the record.

17 Will the court reporter please

18 swear in the witness.

19 (There was a discussion off the

20 record. Ms. Combs appearing

21 telephonically.)

22 S C O T T T A Y L O R,

23 doing business at Synergy HCA,

24 CEO of affiliate SRX,

25 Valley Stream, New York,

Page 10

1 Scott Taylor

2 having been sworn to tell the truth by the notary

3 public, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MATHIAS:

6 Q Mr. Taylor, good morning. My name

7 is Jim Mathias. I represent Senior Health

8 Insurance Company of Pennsylvania, or SHIP.

9 A Okay.

10 Q And I'll be using "SHIP" and

11 "Fuzion" today interchangeably. If there's a

12 reason to distinguish in your mind, please make

13 that clear in your answers.

14 Okay?

15 A Okay.

16 Q How did the idea for what became

17 Beechwood originally arise?

18 A I was involved in a

19 property-and-casualty-based reinsurance operation

20 and through research and conferences, et cetera,

21 was always looking for ideas for a better

22 business model and a more efficient use of

23 capital.

24 Q Okay. So was Beechwood your idea?

25 A I'm not sure that I would

Page 11

1 Scott Taylor

2 characterize it that way. But one of the

3 contributing factors was what I described.

4 Q Okay. When did Beechwood start?

5 A When you refer to "Beechwood," I

6 assume you're speaking about --

7 Q Well, the idea that became

8 Beechwood.

9 First of all, let's take a step

10 back.

11 Where did the name Beechwood come

12 from?

13 A It came from Mark Feuer.

14 Q Okay. And how did you know Mark?

15 A I met Mark many years ago at

16 Merrill Lynch.

17 Q And the idea you just described for

18 looking for a new opportunity -- first of all,

19 you were working in the P&C reinsurance

20 operation. Was that at Marsh?

21 A No.

22 Q Where was it?

23 A It was at a -- it was at a entity

24 after I had left Marsh related to Mark Feuer's

25 families.

Page 12

1 Scott Taylor

2 Q Okay. Did the entity have a name?

3 A The reinsurance business?

4 Q The entity you worked for.

5 A The entity I worked for was a group

6 called Prism Insurance Group.

7 Q And you said that Prism -- Prism

8 Insurance Group was related to Mark Feuer's

9 family?

10 A Yes.

11 Q In what way?

12 A I don't remember the details, but I

13 believe his sister owns at least part of the

14 company.

15 Q And what did the company do?

16 A The reinsurance business?

17 Q The company you're describing that

18 was involved with Mr. Feuer's business.

19 A I'm sorry. I'm trying to answer

20 your question. There are just multiple parts of

21 that business, reinsurance and other pieces of

22 the business.

23 It was generally involved in the

24 brokerage of workers' compensation lines of

25 insurance and risk, and the reinsurer reinsured

Page 13

1 Scott Taylor

2 those risks.

3 Q And were you actually working with

4 Mr. Feuer in that business?

5 A I believe he had a role there, but

6 I don't recall exactly what he did.

7 Q Did you work for him?

8 A In that business?

9 Q Yes.

10 A No.

11 Q Okay. And was the idea for what

12 became Beechwood, was that a joint idea between

13 you and Mr. Feuer?

14 A I think that would be fair to say.

15 Q Okay. Was there anybody else

16 involved other than the two of you in coming up

17 with the idea?

18 A There were others that we spoke to.

19 Q Were -- were they -- I'm not

20 talking about people you just consulted, at least

21 right now. I'm talking about who was involved

22 in -- in starting up the business that became

23 Beechwood.

24 Other than you and Mr. Feuer, was

25 there anyone else?

Page 14

1 Scott Taylor

2 A You're asking me who was involved

3 in starting the business?

4 Q Yes.

5 A I would say David Levy was

6 involved.

7 Q And how did you --

8 A And.

9 Q Go ahead.

10 A And there were -- there were

11 several others related to some of our capital

12 providers.

13 Q What was the first Beechwood entity

14 that was created?

15 A I assume you're asking about the

16 Beechwood entities related to the annuity and

17 life reinsurer business.

18 Q I -- I wasn't trying to be that

19 specific. I was just asking what the first

20 Beechwood business was, the first Beechwood

21 entity that was created, for any purpose.

22 A I'm not sure that I can answer

23 that.

24 Q Okay. Do you know when?

25 A I'm not sure I could answer that.

Page 15

1 Scott Taylor

2 Q Okay. What was the business

3 opportunity that you and Mr. Feuer were pursuing

4 through Beechwood?

5 A What -- I'm sorry. What Beechwood

6 entities are we talking about now?

7 Q Well, you just told me you aren't

8 sure which Beechwood entity started. Why don't

9 you give me the whole thing.

10 What was the business opportunity

11 you and Mr. Feuer were pursuing through

12 Beechwood? If there's more than one, tell me all

13 of them.

14 A Speaking specifically about the

15 business of the life and annuity reinsurance in

16 2013, I don't recall specifically. But it would

17 have been either Beechwood Re or one of the

18 entities specifically related to it.

19 Q You mentioned Mr. Levy. Did you

20 know Mr. Levy?

21 A When?

22 Q Back when you were first

23 considering this Beechwood business opportunity

24 with Mr. Feuer. You mentioned Mr. Levy was

25 involved.

Page 16

1 Scott Taylor

2 Prior to that, did you know him?

3 A I did not.

4 Q Okay. You mentioned other --

5 several others related to capital providers.

6 Who were those people?

7 A So I assume we're talking about --

8 we're talking about the -- the period of time as

9 the businesses were forming, rather than in

10 operation, correct?

11 Q Well, I'm actually following up on

12 your answer, where you said that, in the outset

13 of Beechwood, Mr. Levy was involved and so were

14 several others related to capital providers.

15 So I want to know who those capital

16 providers were.

17 A So in the creation of -- in the

18 creation of Beechwood Re, in that -- that

19 licensing process and getting the company open, I

20 remember -- I remember Mark Nordlicht being

21 helpful from time to time.

22 Q And who was Mark Nordlicht at the

23 time?

24 Was he someone you knew prior to

25 that?

Page 17

1 Scott Taylor

2 A He was not.

3 Q And what was your understanding --

4 when you met Mr. Nordlicht -- what was your

5 understanding of who he was?

6 A I understood that Mark Nordlicht

7 was -- was involved in -- in Platinum Partners, a

8 hedge fund, and he was -- family members of his

9 were -- were going to be some of our -- our

10 original capital investors.

11 Q What family members, if you know?

12 A I don't know. I don't know

13 specifics. I believe there were entities --

14 entities and trusts related to his children that

15 held capital that -- that eventually were

16 invested in or were part of our -- our

17 capitalization.

18 Q Was David Bodner involved in

19 providing capital?

20 A A similar -- a similar answer,

21 right? Family members of -- of David Bodner or

22 entities related in some way.

23 Q Well, let's go back a step.

24 When you say "family members," did

25 you understand that Mr. Nordlicht would be

Page 70

1 Scott Taylor
2 agree it appears that you made these changes?
3 MR. HARRIS: Objection.
4 A I can't say one way or another.
5 (Exhibit No. 286, September 9, 2013
6 E-Mail From Scott Taylor to David Levy is
7 marked by the reporter for identification.)
8 Q I show you Exhibit 286.
9 A Okay.
10 Q This is a Scott Taylor E-Mail to
11 David Levy, on September 9, 2013, about
12 18 minutes after Exhibit 285.
13 Do you recognize Exhibit 286?
14 A I don't.
15 Q Any doubt that you sent it?
16 A No reason to believe I didn't.
17 Q Okay. And do you see at the bottom
18 now, rather than the names it just says
19 "Investment Fund A" and "Investment Fund B" and
20 then "XXX million"?
21 A I see that.
22 Q Okay. Sitting here today, can you
23 explain to me why both the names of the funds
24 and -- and the amount in the audited financials
25 of those funds were eliminated from this E-Mail?

Page 71

1 Scott Taylor
2 A I can't. I don't have an
3 independent recollection. No.
4 Q At the top of the letter, there's a
5 reference to a -- yesterday's conversation with
6 Keith Cooksey. Do you know who Keith Cooksey is?
7 A Where -- where are we?
8 Q At the very top of the E-Mail?
9 A Which E-Mail?
10 Q 286.
11 A Oh. Okay. What's -- sorry.
12 Q Keith Cooksey?
13 A What's the question?
14 Q Do you know who Keith Cooksey is?
15 A I don't -- I don't recognize that
16 name.
17 (Exhibit No. 287, E-Mail chain,
18 Document, September 9, 2013 E-Mail From
19 Scott Taylor to David Levy is marked by the
20 reporter for identification.)
21 Q I show you what's been marked as
22 Exhibit 287, again a September 9, 2013 Scott
23 Taylor E-Mail to David Levy. I ask you if you
24 recognize this.
25 A I don't.

Page 72

1 Scott Taylor
2 Q Have you any reason to believe you
3 didn't receive it?
4 A Receive it or send?
5 Q Well, I'm sorry. Send. Fair
6 enough.
7 A I have no reason to believe I
8 didn't.
9 Q At the very bottom, there's a David
10 Levy E-Mail to Will Slota and Joseph SanFilippo.
11 Who -- who -- back in 2013, who is
12 Will Slota?
13 A Will Slota was an individual who I
14 understood did various operations and
15 administration stuff for -- for Platinum.
16 Q For Platinum.
17 And there's a -- Levy is asking
18 about a company called Sterling Valuation. Who
19 were they?
20 A My understanding was that
21 Sterling Valuation is a third-party valuation
22 firm that -- that Platinum used.
23 Q Okay.
24 A Or David Levy had experience,
25 right, at Platinum.

Page 73

1 Scott Taylor
2 Q Okay. And then it looks like Slota
3 sent some links about Sterling Valuation, and
4 Levy sends them to you with just a question mark,
5 and you say:
6 "They can do a one-page summary of
7 the website so we can share something that
8 doesn't say" -- and then in capital letters --
9 "HEDGE FUNDS and DERIVATIVES everywhere we look.
10 That would be best."
11 What did you mean by that?
12 MR. HARRIS: If you remember.
13 A I don't have an independent
14 recollection, other than reading the E-Mail.
15 Q Given the context, did -- do you
16 have an understanding as to why you would not
17 have wanted the document to say anything about
18 hedge funds and derivatives?
19 A Given the context, we were a
20 reinsurance company, not a hedge fund; so if they
21 were going to do valuation services for us, hedge
22 fund valuation services weren't relevant.
23 (Exhibit No. 288, Document,
24 September 9, 2013 E-Mail From
25 Mark Nordlicht to Mark Feuer, Scott Taylor,

Page 74

1 Scott Taylor
2 and David Levy is marked by the reporter
3 for identification.)
4 Q Exhibit 288 is again that same day,
5 September 9, 2013, an E-Mail from Mark Nordlicht
6 to Mark Feuer, Scott Taylor, and David Levy. It
7 says:
8 "Good luck tomorrow," with two
9 exclamation points. "Close it up," with three
10 exclamation points. "I can be ready November 1
11 if need be," with three exclamation points.
12 Do you recognize this E-Mail?
13 A I don't.
14 Q Okay. Do you have any reason -- do
15 you believe you received it?
16 A I have no reason to believe I
17 didn't.
18 Q Okay. From the context, do you
19 know what Mr. Nordlicht is so excited about?
20 A I actually don't. I don't have
21 a -- I don't recall what he was so excited about.
22 Q In context, where he says "I can be
23 ready November 1 if need be," what does that --
24 what did that mean to you?
25 A I don't know what he was referring

Page 75

1 Scott Taylor
2 to.
3 Q What was the first deal that --
4 for -- first reinsurance deal that Beechwood
5 closed? Was it -- I believe you said it was the
6 CNO, BCLIC, and WNIC.
7 Is that correct?
8 A That's correct.
9 Q Do you remember the timing of that?
10 A It was in late February 2014.
11 (Exhibit No. 289, Document, E-Mail
12 chain with September 22, 2013 E-Mail From
13 Mark Nordlicht to Scott Taylor and David
14 Levy Regarding Investment Policies For
15 Individual Companies is marked by the
16 reporter for identification.)
17 Q Exhibit 289 is a September 22, 2013
18 Mark Nordlicht E-Mail to Scott Taylor and David
19 Levy regarding investment policies for individual
20 companies.
21 Do you recognize this E-Mail
22 string?
23 A I don't.
24 Q Do you have any reason to doubt
25 that you received it?

Page 76

1 Scott Taylor
2 A I have no reason to believe I
3 didn't.
4 Q So at the bottom of -- well, strike
5 that.
6 If you look on the second page,
7 there is an E-Mail at the bottom from Tim Bischof
8 to Michael Kaster and Rick Hodgdon.
9 Who is Tim Bischof?
10 A My memory is that Tim Bischof at
11 the time was the chief actuary for the CNO
12 companies. I might be wrong on the title.
13 Q Okay. All right. And then in the
14 middle of the page, you can see Rick says that he
15 had requested CNO investment guidelines.
16 Then if you turn over to the next
17 page, there's an E-Mail from you to -- it says
18 Beechwood. But if you look above, I believe
19 Beechwood was David Levy's E-Mail address, so
20 David Levy and Mark Nordlicht.
21 And you say:
22 "Mark, David, can you please review
23 the attached documents and see what changes you
24 need to invest freely in the strategies that you
25 like. It looks like it has a lot of flexibility

Page 77

1 Scott Taylor
2 in the ambiguity in it," paren, "which is good,"
3 closed paren.
4 Do you see that?
5 A I do.
6 Q Do you recall saying that -- or
7 writing that?
8 A Not independent of this E-Mail.
9 Q And based on your involvement on
10 the context, do you have an understanding as to
11 why you were sending this to Mr. Nordlicht as
12 well as Mr. Levy?
13 A As I -- as I mentioned earlier, one
14 of the ways in which Mark Nordlicht assisted us
15 in getting the business up and running was in
16 assisting with -- with investment guidelines, and
17 that seems to fit in this -- this context.
18 Q By September of 2013, did you have
19 an expectation that Mark -- Mark Nordlicht would
20 be involved in the investment decisions for
21 Beechwood's clients?
22 A That was not my understanding.
23 Q Okay. Then if you look at the top,
24 it's Mark Nordlicht responding to an E-Mail from
25 you. And in the second line, he says:

<p style="text-align: right;">Page 170</p> <p>1 Scott Taylor</p> <p>2 Q Okay. On the third IMA -- well,</p> <p>3 there were three IMAs. The first one was with</p> <p>4 BBIL. The second one was with Beechwood Re.</p> <p>5 Those were both done in 2014.</p> <p>6 A Okay.</p> <p>7 Q The third one was done with BAM in</p> <p>8 January of 2015.</p> <p>9 A Okay.</p> <p>10 Q The first question to you is:</p> <p>11 Do you have an understanding of why</p> <p>12 there were three different counterparties for</p> <p>13 those three IMAs?</p> <p>14 A No, I don't. I don't recall having</p> <p>15 understood the reason why.</p> <p>16 Q Did you have an understanding that</p> <p>17 the surplus note and the third IMA were connected</p> <p>18 to one another in any way?</p> <p>19 A When?</p> <p>20 Q At the time that they were being</p> <p>21 entered into.</p> <p>22 I can tell you that the third IMA</p> <p>23 was -- go ahead.</p> <p>24 A I have a recollection of a</p> <p>25 conversation that -- that would have given me</p>	<p style="text-align: right;">Page 172</p> <p>1 Scott Taylor</p> <p>2 they had designed a structure where they would</p> <p>3 give us the money to give to them, and it was</p> <p>4 designed by SHIP and approved by their board.</p> <p>5 Q And so the \$50 million that went to</p> <p>6 SHIP in exchange for the surplus note, did</p> <p>7 that --</p> <p>8 A 50?</p> <p>9 Q Yeah.</p> <p>10 A Oh, okay.</p> <p>11 Q That went to SHIP in exchange for</p> <p>12 the surplus note, did that -- did the funds, that</p> <p>13 \$50 million, come from the assets that SHIP had</p> <p>14 invested in the IMAs?</p> <p>15 A I don't know the -- the specifics</p> <p>16 and exactly -- right. But that is my broad</p> <p>17 understanding.</p> <p>18 Q Okay. And did you have an</p> <p>19 understanding that that surplus note transaction</p> <p>20 was presented to the Pennsylvania Insurance</p> <p>21 Department?</p> <p>22 A Sitting here today, I recall</p> <p>23 knowing that. I don't know -- given that I</p> <p>24 wasn't involved in the transaction, I don't know</p> <p>25 if I knew it contemporaneously or at some point</p>
<p style="text-align: right;">Page 171</p> <p>1 Scott Taylor</p> <p>2 that impression.</p> <p>3 Q Okay. And do you have any</p> <p>4 recollection, sitting here today, of what that</p> <p>5 connection was between the surplus note and the</p> <p>6 third IMA, in what way were they connected?</p> <p>7 A I want to be specific in my</p> <p>8 answers. I -- I remember having a conversation</p> <p>9 with Mark Feuer following a conversation that he</p> <p>10 had with SHIP.</p> <p>11 Q That's it?</p> <p>12 A Would you like to hear the</p> <p>13 recollection of my conversation?</p> <p>14 Q I'm waiting, yeah.</p> <p>15 A My recollection is that SHIP asked</p> <p>16 Beechwood to invest -- I want to say the number</p> <p>17 was \$50 million -- into SHIP. The conversation</p> <p>18 as it was recounted to me was that SHIP had</p> <p>19 requested \$50 million.</p> <p>20 Mark Feuer told SHIP -- I don't</p> <p>21 know exactly who was on the other side, whether</p> <p>22 it was Brian or Paul or who it was.</p> <p>23 Mark told SHIP that we loved them</p> <p>24 as business partners, but we didn't have</p> <p>25 \$50 million to give them. And SHIP told us that</p>	<p style="text-align: right;">Page 173</p> <p>1 Scott Taylor</p> <p>2 thereafter.</p> <p>3 Q Okay. So the third IMA was</p> <p>4 executed on -- I believe it was January 15th</p> <p>5 of -- of 2015. Within about two weeks, a loan</p> <p>6 was made from the assets in that third IMA to an</p> <p>7 entity called Montsant.</p> <p>8 Do you know what Montsant was?</p> <p>9 A I don't.</p> <p>10 Q Are you familiar with the Montsant</p> <p>11 loan?</p> <p>12 A I'm familiar with the name. I'm</p> <p>13 not familiar with the loan.</p> <p>14 Q Did you have a good enough</p> <p>15 understanding of the guidelines for the SHIP IMAs</p> <p>16 to have an opinion on whether an unsecured loan</p> <p>17 to Montsant was appropriate with SHIP's assets?</p> <p>18 A I don't --</p> <p>19 Q You don't know?</p> <p>20 A I don't know.</p> <p>21 Q Are you aware that Mark Nordlicht</p> <p>22 and Dahlia Kalter signed as guarantors on the</p> <p>23 Montsant loan?</p> <p>24 A Not specifically. I don't recall</p> <p>25 knowing that specifically.</p>

1
2 CERTIFICATE
3
4 I, TAB PREWETT, A Registered
5 Professional Reporter, Notary Public, Certified
6 LiveNote Reporter, and Certified Shorthand
7 Reporter, do hereby certify that prior to the
8 commencement of the examination SCOTT TAYLOR was
9 sworn by the notary public to testify the truth,
10 the whole truth and nothing but the truth.
11
12 I DO FURTHER CERTIFY that the
13 foregoing is a true and accurate transcript of
14 the testimony as taken stenographically by and
15 before me at the time, place and on the date
16 hereinbefore set forth.
17
18 I DO FURTHER CERTIFY that I am
19 neither a relative nor employee nor attorney nor
20 counsel of any of the parties to this action, and
21 that I am neither a relative nor employee of such
22 attorney or counsel, and that I am not
23 financially interested in the action.
24
25 TAB Prewett
TAB PREWETT
Notary Public
My Commission expires February 9, 2024
Dated: November 8, 2019

1 Errata Sheet
2
3 NAME OF CASE: MARTIN TROTT and CHRISTOPHER SMITH vs PLATINUM MANAGEMENT (NY) LLC
4 DATE OF DEPOSITION: 11/06/2019
5 NAME OF WITNESS: Scott Taylor
6 Reason Codes:
7 1. To clarify the record.
8 2. To conform to the facts.
9 3. To correct transcription errors.
10 Page ____ Line ____ Reason ____
11 From _____ to _____
12 Page ____ Line ____ Reason ____
13 From _____ to _____
14 Page ____ Line ____ Reason ____
15 From _____ to _____
16 Page ____ Line ____ Reason ____
17 From _____ to _____
18 Page ____ Line ____ Reason ____
19 From _____ to _____
20 Page ____ Line ____ Reason ____
21 From _____ to _____
22 Page ____ Line ____ Reason ____
23 From _____ to _____
24
25 _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

(Caption continued)

VOLUME II

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
SCOTT TAYLOR

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Thursday, November 7, 2019,
commencing at 9:32 a.m.

Page 357

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658(JSR)
5 CASE NO. 1-19-CV-07137(JSR)
6 -----
7 SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA,
8
9
10 Plaintiff,
11
12 vs.
13
14
15 LINCOLN INTERNATIONAL LLC and LINCOLN
16 PARTNERS ADVISORS LLC,
17
18 Defendants.
19 -----
20
21
22
23
24
25

Page 359

1
2
3 HOLLAND & KNIGHT LLP
4 BY: WARREN ERNEST GLUCK, ESQ.
5 ELLIOT MAGRUDER, ESQ.
6 31 West 52nd Street
7 New York, New York 10019
8 Attorneys for the Plaintiffs,
9 Martin Trott
10
11
12
13
14
15 CURTIS, MALLET-PREVOST, COLT & MOSLE LLP
16 BY: ABIGAIL JOHNSTON, ESQ.
17 101 Park Avenue
18 New York, New York 10178
19 Attorneys for the Defendant,
20 David Bodner
21
22
23
24
25

Page 358

1
2 A P P E A R A N C E S :
3
4
5
6
7
8 DLA PIPER, LLP (US)
9 BY: JAMES D. MATHIAS, ESQ.
10 A. NEILL THUPARI, ESQ.
11 6225 Smith Avenue
12 Baltimore, Maryland 21209-3600
13
14
15 Attorneys for Plaintiff, SHIP
16
17
18
19
20
21
22
23
24
25

Page 360

1
2
3 MINTZ, LEVIN, COHN, FERRIS,
4 GLOVSKY and POPEO, P.C.
5 BY: THERESE M. DOHERTY, ESQ.
6 The Chrysler Center
7 666 Third Avenue
8 New York, New York 10017
9 Attorneys for Defendants
10 Kevin Cassidy and Michael Nordlicht
11
12
13
14
15
16 MORRISON COHEN LLP
17 BY: DANIEL C. ISAACS, ESQ.
18 909 Third Avenue
19 New York, New York 10022-4784
20 Attorneys for the
21 Huberfeld Family Foundation, Inc.
22
23
24
25

Page 361

1
2
3
4 CONDON TOBIN SLADEK THORNTON
5 BY: KENDAL B. REED, ESQ.
6 8080 Park Lane, Suite 700
7 Dallas, Texas 75231
8 Attorneys for PB Investments
9
10
11
12
13 ALSTON & BIRD LLP
14 BY: ADAM KAISER, ESQ.
15 90 Park Avenue
16 15th Floor
17 New York, New York 10016-1387
18 Attorneys for
19 Washington National Insurance Company
20 Bankers Consec
21
22
23
24
25

Page 362

1
2
3 PROSKAUER ROSE LLP
4 BY: MARK D. HARRIS, ESQ.
5 EDWARD J. CANTER, ESQ.
6 Eleven Times Square
7 New York, New York 10036-8299
8 Attorneys for Beechwood
9
10
11
12
13
14 OTTERBOURG
15 BY: WILLIAM M. MORAN, ESQ.
16 ERIK WEINICK, ESQ.
17 GABRIELLA LEON, ESQ.
18 230 Park Avenue
19 New York, New York 10169
20 Attorneys for Plaintiff Receiver
21
22
23
24
25

Page 363

1
2
3 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
4 BY: MARIANNE H. COMBS, ESQ.
5 155 North Wacker Drive
6 Chicago, Illinois 60606-1720
7 Attorneys for Lincoln Partners,
8 Third-Party Defendants
9
10
11
12 SEIDEN LAW GROUP LLP
13 BY: DOV B. GOLD, ESQ.
14 AMIAD KUSHNER, ESQ.
15 469 Seventh Avenue
16 5th Floor
17 New York, New York 10018
18 Attorneys for SHIP in the
19 Lawrence Partners Litigation
20
21
22
23
24 ALSO PRESENT:
25 Darrak Lighty, Videographer

Page 364

1 Scott Taylor
2 P R O C E E D I N G S
3 THE VIDEOGRAPHER: This is the
4 continued video deposition of Scott Taylor
5 in the matter of Platinum-Beechwood
6 litigation. This deposition is being held
7 at the offices of US Legal Support, 90
8 Broad Street, New York, New York, on
9 November 7, 2019.
10 My name is Darrak Lighty, from US
11 Legal Support; I am the video specialist.
12 The court reporter today is Tab Prewett,
13 also associated with US Legal Support. We
14 are going on the record at 9:32 a.m.
15 All appearances have been noted on
16 the record. The witness has been
17 previously and duly sworn. We may proceed.
18 S C O T T T A Y L O R,
19 having been previously sworn to tell the truth,
20 testified as follows:
21 CONTINUED DIRECT EXAMINATION
22 BY MR. GLUCK:
23 Q Good morning, Mr. Taylor.
24 (There was a discussion off the
25 record.)

<p style="text-align: right;">Page 553</p> <p>1 Scott Taylor</p> <p>2 Q Okay. Are you aware of why certain</p> <p>3 of SHIP's investments were directly into Platinum</p> <p>4 portfolio companies as opposed to through</p> <p>5 Beechwood?</p> <p>6 MR. MATHIAS: Objection to the</p> <p>7 form.</p> <p>8 A I'm not familiar with what you're</p> <p>9 speaking about. So I guess I would answer that</p> <p>10 I -- I don't recall one way or another.</p> <p>11 Q Okay. In the fall of 2015, do you</p> <p>12 know if SHIP knew it was holding nonperforming</p> <p>13 loans to Platinum portfolio companies?</p> <p>14 MR. MATHIAS: Objection to the</p> <p>15 form.</p> <p>16 A I don't -- I don't recall that --</p> <p>17 that being the case -- and don't, don't -- I</p> <p>18 don't recall that being the case.</p> <p>19 Q Do you know why Beechwood entered</p> <p>20 into reinsurance agreements with CNO, but not</p> <p>21 with SHIP?</p> <p>22 A My -- my -- I have a -- I have a</p> <p>23 vague sense of why it was, but I'm not sure that</p> <p>24 I -- that I am necessarily correct.</p> <p>25 Q Well, what is your "vague sense" of</p>	<p style="text-align: right;">Page 555</p> <p>1 Scott Taylor</p> <p>2 A I remember those names but --</p> <p>3 Q Okay. Do you recall discussions</p> <p>4 about those companies' inabilities to meet their</p> <p>5 debt obligations?</p> <p>6 A Not specifically, but -- not</p> <p>7 specifically.</p> <p>8 Q Are you aware of any direction by</p> <p>9 SHIP or Fuzion on behalf of SHIP to Beechwood to</p> <p>10 transfer the Desert Hawk and North Shore --</p> <p>11 Northshore Offshore assets to PPCO?</p> <p>12 A I'm not aware one way or another.</p> <p>13 Q Did Beechwood provide SHIP with</p> <p>14 monthly or quarterly holdings reports?</p> <p>15 A I'm not sure exactly what reports</p> <p>16 were furnished to SHIP, but I know that there</p> <p>17 were regular reports that went to SHIP.</p> <p>18 Q Are you aware of whether those</p> <p>19 reports would have reflected investments in</p> <p>20 Platinum?</p> <p>21 MR. MATHIAS: Objection to the</p> <p>22 form.</p> <p>23 A Again, I don't -- I don't</p> <p>24 specifically remember those reports. Reports of</p> <p>25 that type would have shown all of the assets that</p>
<p style="text-align: right;">Page 554</p> <p>1 Scott Taylor</p> <p>2 why that was?</p> <p>3 A My sense of why that was is that,</p> <p>4 as a reinsurer, Beechwood, in executing a</p> <p>5 reinsurance agreement, would need to structure a</p> <p>6 transaction where an adequate level of assets</p> <p>7 were reserves, accompanied a corresponding set of</p> <p>8 liabilities.</p> <p>9 And -- and for some reason, the</p> <p>10 same ingredients that allowed us to structure a</p> <p>11 long term care reinsurance transaction with CNO</p> <p>12 were not present with SHIP.</p> <p>13 Q Is that because SHIP's financial</p> <p>14 position was more distressed than that of CNO?</p> <p>15 A I'm not in a position -- I am not</p> <p>16 in a position to say that. I don't -- I don't</p> <p>17 exactly remember the reason. It may have been</p> <p>18 that our actuary's view of SHIP's reserves and</p> <p>19 liabilities were materially different than that</p> <p>20 which we took in our CNO transaction.</p> <p>21 But, again, I don't remember the</p> <p>22 specifics of why it was.</p> <p>23 Q Do you recall some testimony either</p> <p>24 earlier today or yesterday about Desert Hawk and</p> <p>25 North Shore -- Northstar Offshore?</p>	<p style="text-align: right;">Page 556</p> <p>1 Scott Taylor</p> <p>2 were held in the accounts.</p> <p>3 MR. KAISER: Erik, we have been</p> <p>4 going about an hour. Is it a good time to</p> <p>5 take a break?</p> <p>6 MR. WEINICK: Yes, it's a good</p> <p>7 time, as long as my time stops and</p> <p>8 restarts.</p> <p>9 MR. KAISER: We've been going a</p> <p>10 little over an hour.</p> <p>11 MR. WEINICK: That's fine.</p> <p>12 THE VIDEOGRAPHER: Going off the</p> <p>13 record. The time is 2:35 p.m.</p> <p>14 (A break is taken.)</p> <p>15 THE VIDEOGRAPHER: The time is</p> <p>16 2:44 p.m. We are back on record.</p> <p>17 Q Okay. Mr. Taylor, you have been</p> <p>18 handed what has been previously marked as</p> <p>19 Exhibit 75. You can take as much time as you</p> <p>20 need to look it over.</p> <p>21 (Previously Marked Exhibit No. 75,</p> <p>22 E-Mail chain, top E-Mail dated 8/20/13 from</p> <p>23 Brian Wegner to Timothy Bischof; Subject:</p> <p>24 Beechwood Fuzion Partnership, Bates Nos.</p> <p>25 SHIP 25313 to 14, Document is introduced</p>

<p style="text-align: right;">Page 593</p> <p>1 Scott Taylor</p> <p>2 Platinum do something, in other words, to make</p> <p>3 Platinum do something?</p> <p>4 A I don't believe Beechwood was in a</p> <p>5 position to make Platinum do anything.</p> <p>6 Q Was Mr. Nordlicht in a position to</p> <p>7 make Platinum do anything?</p> <p>8 A I don't know. You would have to</p> <p>9 ask Mr. Nordlicht. I don't know what powers he</p> <p>10 had within -- within Platinum.</p> <p>11 Q Based on your observations and</p> <p>12 interactions with Platinum and Mr. Nordlicht, was</p> <p>13 it your understanding that Mr. Nordlicht would</p> <p>14 have the authority to have Platinum take back the</p> <p>15 LC Energy loan?</p> <p>16 A If he wanted to do that, in my</p> <p>17 experience, he might have had the authority to --</p> <p>18 right do that. It seemed like he had pretty</p> <p>19 broad authorities, at least based on my</p> <p>20 understanding.</p> <p>21 Q Just so I understand, Mister -- it</p> <p>22 was your understanding that Mr. Nordlicht had</p> <p>23 pretty broad authority at Platinum?</p> <p>24 A Correct.</p> <p>25 Q And that applies to both PPVA and</p>	<p style="text-align: right;">Page 595</p> <p>1 Scott Taylor</p> <p>2 that Mr. Nordlicht offered assistance in various</p> <p>3 ways to Beechwood in Beechwood getting up and</p> <p>4 running and carrying out its business; is that</p> <p>5 correct?</p> <p>6 A I think I testified that he</p> <p>7 assisted in a variety of ways helping the</p> <p>8 business get up and running and -- and start its</p> <p>9 conceptual journey.</p> <p>10 Q Did there ever come a point where</p> <p>11 Mr. Nordlicht stopped providing assistance to</p> <p>12 Beechwood?</p> <p>13 A I think it would be fair to say</p> <p>14 that the -- that the regularity of us seeking</p> <p>15 advice or taking advice from him diminished</p> <p>16 considerably as the business kind of really got</p> <p>17 going in -- in mid to late 2014. It's not to say</p> <p>18 that it never happens thereafter, but it was</p> <p>19 considerably less.</p> <p>20 MR. HARRIS: Two hours.</p> <p>21 MR. WEINICK: Okay. Just a little</p> <p>22 indulgence.</p> <p>23 Q The -- did Mr. Nordlicht's</p> <p>24 assistance continue at least through March of</p> <p>25 2016?</p>
<p style="text-align: right;">Page 594</p> <p>1 Scott Taylor</p> <p>2 PPCO?</p> <p>3 A I think -- I personally assumed so.</p> <p>4 I'm not sure that I -- I knew distinctions.</p> <p>5 Q And would it have been your</p> <p>6 understanding that Mr. Nordlicht would have had</p> <p>7 the authority to direct Platinum to take back</p> <p>8 both Desert Hawk and Northstar?</p> <p>9 A Could you reread the question.</p> <p>10 Q Certainly.</p> <p>11 Would it have been your</p> <p>12 understanding that Mr. Nordlicht would have had</p> <p>13 the authority to direct Platinum to take back</p> <p>14 from Beechwood or SHIP or CNO the Desert Hawk or</p> <p>15 Northstar assets?</p> <p>16 A I think it's fair to say that my</p> <p>17 impression was that Mr. Nordlicht had pretty</p> <p>18 broad authorities within the Platinum entities to</p> <p>19 have them act in a variety of ways.</p> <p>20 Q Did Beechwood -- did Beechwood rely</p> <p>21 on any advice that Mr. Nordlicht gave to it with</p> <p>22 respect to how to run the business?</p> <p>23 A Are you speaking of any particular</p> <p>24 time frame?</p> <p>25 Q In general, you testified generally</p>	<p style="text-align: right;">Page 596</p> <p>1 Scott Taylor</p> <p>2 A I wouldn't -- not the way I'm</p> <p>3 considering it, I wouldn't say that.</p> <p>4 Q In any manner?</p> <p>5 A Not -- not in the way that I'm --</p> <p>6 I'm considering it. I believe -- not in the way</p> <p>7 I'm considering it.</p> <p>8 Q Did Mr. Nordlicht have any</p> <p>9 influence on Beechwood as of March of 2016?</p> <p>10 A Other than as the head of</p> <p>11 counterparties, right, to a series of</p> <p>12 investments.</p> <p>13 Q In any manner?</p> <p>14 A Well, Mr. Nordlicht, as I</p> <p>15 understand it, was -- was the CIO or had broad</p> <p>16 authorities for Platinum and a variety of</p> <p>17 Platinum-related entities, which may have been</p> <p>18 counterparties to various investments that</p> <p>19 Beechwood held. So in that capacity, there was</p> <p>20 interaction. I imagine there was interaction.</p> <p>21 Q Did Mr. Nordlicht influence any</p> <p>22 decisions that Beechwood made in March of 2016?</p> <p>23 A Other than in the capacity of being</p> <p>24 a counterparty and acting in the role of the</p> <p>25 counterparty in negotiations around investments.</p>

<p style="text-align: right;">Page 657</p> <p>1 Scott Taylor</p> <p>2 A I don't -- I don't remember. I</p> <p>3 don't remember if capital was required and, if</p> <p>4 so, how much, and then how specifically it was</p> <p>5 capitalized.</p> <p>6 Q And so you have no knowledge</p> <p>7 whatsoever -- you don't know anyone --</p> <p>8 A I don't recall. It's possible that</p> <p>9 I knew it at some point. My recollection is that</p> <p>10 it didn't -- it didn't require a large amount of</p> <p>11 capital; but, again, I -- I don't recall.</p> <p>12 Q And it wouldn't require a large</p> <p>13 amount of capital because all it was doing was</p> <p>14 selling these investment products, correct?</p> <p>15 A My recollection is that it didn't</p> <p>16 require a lot of capital in its formation because</p> <p>17 it didn't have any business; but, again, I have a</p> <p>18 vague memory of this. I didn't get the</p> <p>19 incorporation date right.</p> <p>20 Q Well, you weren't too far off</p> <p>21 there.</p> <p>22 As far as -- you mentioned David</p> <p>23 Lessing. Who is David Lessing?</p> <p>24 A David Lessing was a senior</p> <p>25 executive within the Beechwood companies and --</p>	<p style="text-align: right;">Page 659</p> <p>1 Scott Taylor</p> <p>2 David Lessing dated April 30, 2015, to you,</p> <p>3 correct?</p> <p>4 A That's what it appears like.</p> <p>5 Q With the subject line of "draft"</p> <p>6 and then there doesn't seem to be any -- any text</p> <p>7 there, correct?</p> <p>8 A That's correct.</p> <p>9 Q Okay. And going down there, below</p> <p>10 that we have -- let me stop there:</p> <p>11 Do you recall receiving this</p> <p>12 E-Mail?</p> <p>13 A Not particularly.</p> <p>14 Q Do you recall any of the events</p> <p>15 that are transpiring around this time where you</p> <p>16 would have received this E-Mail from Mr. Lessing?</p> <p>17 A I vaguely remember a variety of</p> <p>18 activities around this time.</p> <p>19 Q So then going down below that,</p> <p>20 there is an E-Mail for -- from Navid to David</p> <p>21 cc'ing you regarding "Beechwood Bermuda</p> <p>22 International ME application"?</p> <p>23 A I see that.</p> <p>24 Q What was that "application"?</p> <p>25 A I believe that this was related to</p>
<p style="text-align: right;">Page 658</p> <p>1 Scott Taylor</p> <p>2 and nominally -- nominally headed -- headed</p> <p>3 the -- the investments business.</p> <p>4 Q Including BBIHL?</p> <p>5 A Sorry. Let me be very specific.</p> <p>6 Q Okay.</p> <p>7 A He nominally headed the business of</p> <p>8 selling investment products.</p> <p>9 Q So that would include BBIHL?</p> <p>10 A That would include BBIHL.</p> <p>11 Q Okay.</p> <p>12 (Exhibit No. 372, E-Mail chain with</p> <p>13 top E-Mail from David Lessing dated</p> <p>14 April 30, 2015, to Mr. Taylor, Document is</p> <p>15 marked by the reporter for identification.)</p> <p>16 Q I hand you what has been marked as</p> <p>17 Exhibit 372. You will see that it starts off</p> <p>18 there at the top. I'll give you time to look at</p> <p>19 it. I will ask you some questions here real</p> <p>20 quick. I am really going to focus on the first</p> <p>21 two pages when you get a chance.</p> <p>22 A Okay. I have quickly reviewed</p> <p>23 this.</p> <p>24 Q All right. If you'll notice, it</p> <p>25 starts at the very top here with an E-Mail from</p>	<p style="text-align: right;">Page 660</p> <p>1 Scott Taylor</p> <p>2 the idea -- I think it became reality, but I</p> <p>3 can't be sure -- the idea of BBIHL's business</p> <p>4 creating an entity, because I think it was</p> <p>5 required in the Middle East, and have that entity</p> <p>6 sell products in that -- that region over time.</p> <p>7 Q So this is still in the early days</p> <p>8 of BBIHL, correct?</p> <p>9 A I believe -- I believe that's the</p> <p>10 case, yes.</p> <p>11 Q And if you will turn the page to</p> <p>12 the second page of this E-Mail, paragraph --</p> <p>13 there is a seven there. In that we have Navid</p> <p>14 stating:</p> <p>15 "BBIHL was only formed within the</p> <p>16 past several months. It has not yet conducted</p> <p>17 activity."</p> <p>18 Are you with me?</p> <p>19 A I am with you.</p> <p>20 Q All right. Is that consistent with</p> <p>21 your recollection that, during the time of April</p> <p>22 2015, that BBIHL really wasn't conducting</p> <p>23 activity yet?</p> <p>24 A That wouldn't be inconsistent with</p> <p>25 my recollection.</p>

<p style="text-align: right;">Page 661</p> <p>1 Scott Taylor</p> <p>2 Q Are you familiar with the concept</p> <p>3 of a "segregated" account?</p> <p>4 A Broadly speaking, yes.</p> <p>5 Q And, broadly speaking, what is the</p> <p>6 purpose of a segregated account?</p> <p>7 A A segregated account -- well,</p> <p>8 first, given the caveat that I am -- I am not a</p> <p>9 lawyer and I am going to be speaking generally as</p> <p>10 a layperson, a segregated account in given</p> <p>11 jurisdictions means different things.</p> <p>12 Are you referring to a segregated</p> <p>13 account in Bermuda?</p> <p>14 Q Let's focus there. Yes.</p> <p>15 A A segregated account in Bermuda is</p> <p>16 a -- nominally a subsidiary of -- of a company.</p> <p>17 However, it maintains a distinct legal identity</p> <p>18 from its -- its parent, and, therefore, is</p> <p>19 segregated in both assets and liabilities,</p> <p>20 generically speaking.</p> <p>21 I believe there are a lot of</p> <p>22 specifics around how they are set up, but that is</p> <p>23 the general idea based on my understanding.</p> <p>24 Q And that's from your experience</p> <p>25 dealing with different reinsurance type</p>	<p style="text-align: right;">Page 663</p> <p>1 Scott Taylor</p> <p>2 segregated account?</p> <p>3 A I imagine that either the Kane</p> <p>4 Group, who is our third-party administrator, and</p> <p>5 the administrator for the investment products,</p> <p>6 and -- and/or our law firm in -- in Bermuda would</p> <p>7 have been setting up segregated accounts.</p> <p>8 Q Separate from a segregated account,</p> <p>9 BBIHL would have had a general account for its</p> <p>10 assets, right?</p> <p>11 A I believe that would be the case,</p> <p>12 although I don't know details about it; but I</p> <p>13 believe that would be the case.</p> <p>14 Q You were -- if you go to</p> <p>15 Exhibit 359 for me.</p> <p>16 A Okay.</p> <p>17 Q Previous counsel had asked you some</p> <p>18 questions about this Wilmington Trust segregated</p> <p>19 account. Now, you recall those, being asked</p> <p>20 about a wire transfer into that account?</p> <p>21 A I remember -- yes, I remember that.</p> <p>22 Q Specifically on March 28th, this</p> <p>23 wire of just over \$2 million -- it's on, I guess,</p> <p>24 the last page there.</p> <p>25 A It's on page seven of eight.</p>
<p style="text-align: right;">Page 662</p> <p>1 Scott Taylor</p> <p>2 arrangements?</p> <p>3 A It's from my experience -- yeah,</p> <p>4 it's from -- from my experience over my career</p> <p>5 understanding different corporate structures,</p> <p>6 segregated portfolio companies, segregated</p> <p>7 account companies, and in different</p> <p>8 jurisdictions.</p> <p>9 Q And from that experience, why would</p> <p>10 a company such as Beechwood Bermuda Investment</p> <p>11 Holdings have a segregated account?</p> <p>12 A I have a -- I have a recollection</p> <p>13 that -- speaking in the broadest terms, I have --</p> <p>14 I have a recollection that either different</p> <p>15 products wanted to be segregated from one</p> <p>16 another, right, mixing their assets and</p> <p>17 liabilities; or potentially each individual</p> <p>18 client for a variety of reasons would have their</p> <p>19 own segregated account and hold their investment</p> <p>20 products in it.</p> <p>21 It may have been both or one or the</p> <p>22 other. I don't exactly remember the specific</p> <p>23 circumstance for that business.</p> <p>24 Q During the time period 2015 and</p> <p>25 2016, who at BBIHL was in charge of setting up a</p>	<p style="text-align: right;">Page 664</p> <p>1 Scott Taylor</p> <p>2 Q Yes.</p> <p>3 A The same one that was pointed out</p> <p>4 by previous counsel.</p> <p>5 Q Right, right. All right. You are</p> <p>6 with me?</p> <p>7 A I see that.</p> <p>8 Q Okay. Do you have any knowledge as</p> <p>9 to the reason that that -- that wire transfer was</p> <p>10 made?</p> <p>11 A I have -- I have no recollection.</p> <p>12 I have -- I have -- I have no recollection about</p> <p>13 that wire.</p> <p>14 Q You weren't responsible for</p> <p>15 monitoring this account and for that -- for that</p> <p>16 specific wire at all; were you?</p> <p>17 A I don't recall being responsible</p> <p>18 for it. No.</p> <p>19 Q Okay. And so you don't know why it</p> <p>20 came in, and you don't know if it went out or</p> <p>21 when it went out, if it did?</p> <p>22 MR. WEINICK: Objection to the</p> <p>23 form.</p> <p>24 A Again, I have no recollection</p> <p>25 about -- about this wire.</p>

<p style="text-align: right;">Page 677</p> <p>1 Scott Taylor</p> <p>2 Q Okay. And I will represent to you</p> <p>3 that it's been alleged in this case that</p> <p>4 disbursements were made on -- to BAM as agent for</p> <p>5 a couple of entities including BBIHL?</p> <p>6 A Disbursements were made? By BAM?</p> <p>7 Q Were made to BAM.</p> <p>8 A Oh, to BAM, on behalf of or as</p> <p>9 agent for a bunch of entities including BBIHL.</p> <p>10 Q Right, that's -- that's been the</p> <p>11 allegation as a result of this deal in March of</p> <p>12 2016.</p> <p>13 A Okay.</p> <p>14 Q What I'm trying to figure out is</p> <p>15 what funds that you know of actually went to</p> <p>16 BBIHL.</p> <p>17 A I will answer any question that you</p> <p>18 ask me, but I am really not the guy to answer</p> <p>19 that question.</p> <p>20 Q Do you know who would be?</p> <p>21 A It would be someone from our</p> <p>22 finance team. I would imagine -- if they could</p> <p>23 put together, right, this -- this history --</p> <p>24 would be the right person. I will read whatever</p> <p>25 you want me to read. This is --</p>	<p style="text-align: right;">Page 679</p> <p>1 Scott Taylor</p> <p>2 independent board. And if that's the case, I</p> <p>3 would imagine that it was materially similar to</p> <p>4 BBIL's board.</p> <p>5 MR. HARRIS: I think you don't</p> <p>6 know. I'll sum that up.</p> <p>7 Q That's fine if he doesn't know. I</p> <p>8 am just trying to get at what you do know here.</p> <p>9 MR. REED: I think that's all I</p> <p>10 will do for today.</p> <p>11 THE VIDEOGRAPHER: Going off the</p> <p>12 record. The time is 5:56 p.m.</p> <p>13 (There was a discussion off the</p> <p>14 record.)</p> <p>15 THE VIDEOGRAPHER: The time is</p> <p>16 5:58 p.m.; we are back on record.</p> <p>17 DIRECT EXAMINATION</p> <p>18 BY MR. KUSHNER:</p> <p>19 Q Good evening, Mr. Taylor.</p> <p>20 A Good evening.</p> <p>21 Q My name is Amiad Kushner. I am an</p> <p>22 attorney for SHIP in a lawsuit that it has</p> <p>23 brought against Lincoln International LLC and</p> <p>24 Lincoln Partners Advisors LLC. And when I use</p> <p>25 the term "Lincoln," I am referring to Lincoln</p>
<p style="text-align: right;">Page 678</p> <p>1 Scott Taylor</p> <p>2 Q I am with you. But you were a</p> <p>3 director at BBIHL at one point, correct?</p> <p>4 A It's entirely possible. I don't</p> <p>5 know the details, but I wouldn't -- if you are</p> <p>6 representing that to me, I wouldn't argue with</p> <p>7 you.</p> <p>8 Q You don't know as you sit here</p> <p>9 today whether you were or were not?</p> <p>10 A It would make sense if I was.</p> <p>11 Q Do you know who any of the other</p> <p>12 directors at BBIHL were?</p> <p>13 A BBIHL was a subsidiary of BBIL,</p> <p>14 correct.</p> <p>15 Q I mean, do you know?</p> <p>16 A Well, as I -- as I mentioned with</p> <p>17 previous counsel, I agree that it is either a</p> <p>18 subsidiary of BBIL or was off to the side.</p> <p>19 I believe you showed me a document</p> <p>20 before which strongly suggests to me that it</p> <p>21 is -- it is a subsidiary of BBIL.</p> <p>22 If that's the case, I'm not sure</p> <p>23 that the company would itself have an independent</p> <p>24 board. But if you are telling me that that's the</p> <p>25 case, then I'll accept that there was an</p>	<p style="text-align: right;">Page 680</p> <p>1 Scott Taylor</p> <p>2 International LLC and Lincoln Partners Advisors</p> <p>3 LLC collectively.</p> <p>4 Is that clear?</p> <p>5 A Okay.</p> <p>6 Q Let me start by marking an exhibit.</p> <p>7 And I have only got 15 minutes, so I will try to</p> <p>8 be brief with some of these.</p> <p>9 (Exhibit No. 375, E-Mail dated</p> <p>10 April 10, 2014, from Mr. Taylor to Brian</p> <p>11 Wegner, with copies to David Levy, Mark</p> <p>12 Feuer, and Rick Hodgdon, previously marked</p> <p>13 as Exhibit 57 and Exhibit 309, Document is</p> <p>14 marked by the reporter for identification.)</p> <p>15 Q I am handing you what has been</p> <p>16 marked as Exhibit 375. It's an E-Mail dated</p> <p>17 April 10, 2014, from you to Brian Wegner, with</p> <p>18 copies to David Levy, Mark Feuer, and Rick</p> <p>19 Hodgdon.</p> <p>20 Do you see that?</p> <p>21 MS. COMBS: I'm sorry. I think</p> <p>22 this was previously marked as 57 and</p> <p>23 Defendant's 309 as well.</p> <p>24 Q Do you recognize this document?</p> <p>25 A I believe I do. I have seen it a</p>

1
2 CERTIFICATE
3
4 I, TAB PREWETT, A Registered
5 Professional Reporter, Notary Public, Certified
6 LiveNote Reporter, and Certified Shorthand
7 Reporter, do hereby certify that prior to the
8 commencement of the examination SCOTT TAYLOR was
9 sworn by the notary public to testify the truth,
10 the whole truth and nothing but the truth.
11
12 I DO FURTHER CERTIFY that the
13 foregoing is a true and accurate transcript of
14 the testimony as taken stenographically by and
15 before me at the time, place and on the date
16 hereinbefore set forth.
17
18 I DO FURTHER CERTIFY that I am
19 neither a relative nor employee nor attorney nor
20 counsel of any of the parties to this action, and
21 that I am neither a relative nor employee of such
22 attorney or counsel, and that I am not
23 financially interested in the action.
24
25 TAB Prewett
TAB PREWETT
Notary Public
My Commission expires February 9, 2024
Dated: November 11, 2019

1 Errata Sheet
2
3 NAME OF CASE: MARTIN TROTT and CHRISTOPHER SMITH vs PLATINUM MANAGEMENT (NY) LLC
4 DATE OF DEPOSITION: 11/07/2019
5 NAME OF WITNESS: Scott Taylor
6 Reason Codes:
7 1. To clarify the record.
8 2. To conform to the facts.
9 3. To correct transcription errors.
10 Page ____ Line ____ Reason ____
11 From _____ to _____
12 Page ____ Line ____ Reason ____
13 From _____ to _____
14 Page ____ Line ____ Reason ____
15 From _____ to _____
16 Page ____ Line ____ Reason ____
17 From _____ to _____
18 Page ____ Line ____ Reason ____
19 From _____ to _____
20 Page ____ Line ____ Reason ____
21 From _____ to _____
22 Page ____ Line ____ Reason ____
23 From _____ to _____
24
25 _____

EXHIBIT 26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658(JSR)
CASE NO. 18-CV-10936(JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

(Caption continued on page 2)

TRANSCRIPT OF DEPOSITION OF
TIMOTHY H. HART

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Thursday, December 12, 2019,
commencing at 9:30 a.m. (Caption continued)

Page 2

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658(JSR)
5 CASE NO. 1-19-CV-07137(JSR)
6 -----
7 SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA,
8
9 Plaintiff,
10 vs.
11
12 LINCOLN INTERNATIONAL LLC and LINCOLN
13 PARTNERS ADVISORS LLC,
14 Defendants.
15 -----
16
17
18
19
20
21
22
23
24
25

Page 4

1
2
3 LIPSIOUS-BENHAIM LAW LLP
4 BY: IRA S. LIPSIOUS, ESQ.
5 DAVID BENHAIM, ESQ.
6 80-02 Kew Gardens Road, Suite 1030
7 Kew Gardens, New York 11415
8 Attorneys for the Beechwood Defendants
9
10
11
12 Mr. Lipsius and Mr. Benhaim
13 were present as noted in the transcript.
14
15
16
17
18 BRENT WEISENBERG, ESQ.
19 Platinum Partners
20 230 Park Avenue, Suite 135
21 New York, New York 10169
22 Attorneys for the
23 Receivership Entities
24
25

Page 3

1
2 A P P E A R A N C E S :
3
4
5
6
7
8 DLA PIPER, LLP (US)
9 BY: JAMES D. MATHIAS, ESQ.
10 DARRYL L. TARVER, ESQ.
11 6225 Smith Avenue
12 Baltimore, Maryland 21209-3600
13 Attorneys for Plaintiff, SHIP
14
15
16
17
18
19
20
21
22
23
24
25

Page 5

1
2
3
4 OTTERBOURG
5 BY: ERIK WEINICK, ESQ.
6 230 Park Avenue
7 New York, New York 10169
8 Attorneys for Plaintiff Receiver
9
10
11
12
13
14
15
16 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
17 BY: CHARLES F. SMITH, ESQ.
18 155 North Wacker Drive
19 Chicago, Illinois 60606-1720
20 Attorneys for Lincoln Partners,
21 Third-Party Defendants
22
23
24
25

Page 6

1
2
3
4 SEIDEN LAW GROUP LLP
5 BY: MICHAEL D. CILENTO, ESQ.
6 469 Seventh Avenue
7 5th Floor
8 New York, New York 10018
9 Attorneys for SHIP in the
10 Lawrence Partners Litigation
11
12
13
14 ALSO PRESENT:
15
16 David W. Prager, CFA
17 Goldin Associates LLC
18 350 Fifth Avenue
19 New York, New York 10118
20
21
22 Expert Witness for the PPCO Receiver
23
24
25

Page 7

1 Timothy H. Hart
2 P R O C E E D I N G S
3 T I M O T H Y H. H A R T,
4 doing business at Credibility International,
5 1701 Pennsylvania Avenue, NW,
6 Suite 200,
7 Washington, DC 20006,
8 having been sworn by the notary public to testify
9 to the truth, testified as follows:
10 DIRECT EXAMINATION
11 BY MR. WEINICK:
12 Q Good morning, Mr. Hart.
13 A Good morning.
14 Q My name is Erik Weinick. We met
15 just before. I'm with Otterbourg, PC. We
16 represent Melanie Cyganowski, who is the receiver
17 of various of the PPCO entities. With me is
18 David Prager, who is the receiver's expert. And
19 I suspect we'll be joined by Brent Weisenberg,
20 who is general counsel for Platinum.
21 Mr. Hart, have you been deposed
22 previously, other than in connection with any of
23 the cases listed on your CV?
24 A Not that I can think of, no.
25 Q And, similarly, have you testified

Page 8

1 Timothy H. Hart
2 in court, other than in connection with the
3 matters listed on your CV?
4 A No.
5 Q I presume, though, you have
6 testified or given testimony in a deposition or
7 in court in connection with the items listed on
8 your CV?
9 A Yes.
10 Q Okay. So you understand the way
11 that the deposition works?
12 A I do.
13 Q Okay. If you need a break at any
14 time, let me know. As long as there is not a
15 question pending, we'll take care of that.
16 If you don't understand one of my
17 questions, let me know. If you go ahead and
18 answer, we'll presume that you understood the
19 question. Okay?
20 A Yes.
21 Q Okay. Is there any reason that you
22 can't testify completely and truthfully here
23 today?
24 A No.
25 Q No illness? No medications?

Page 9

1 Timothy H. Hart
2 A No.
3 Q Other than meeting with counsel
4 from DLA, did you do anything to prepare for
5 today's deposition?
6 A I reviewed my reports.
7 Q Okay. And when you say you
8 reviewed your reports, are you referring to what
9 has been marked as Hart 1 and Hart 2 that have
10 been placed before you?
11 A Yes.
12 Q Okay. And for the record, Hart --
13 can you describe what Hart 1 is?
14 A Hart 1 is my report dated
15 November 14th, 2019.
16 (Exhibit No. Hart 1, Tim Hart's
17 November 14, 2019 Expert Report is marked
18 by the reporter for identification.)
19 A And Hart 2 is my report dated
20 December 5th, 2019.
21 (Exhibit No. Hart 2, Tim Hart's
22 December 5, 2019 Expert Report is marked by
23 the reporter for identification.)
24 Q And you -- when I say "the
25 reports," I'm referring to Hart 1 and Hart 2

Page 30

1 Timothy H. Hart
2 conclude?
3 A Well, I presented what their
4 policies -- what their policies were and, again,
5 showed that the Beechwood people agreed to follow
6 those investment policies.
7 Q And you believed that the
8 investment policies that SHIP had with respect to
9 Beechwood were appropriate for an insurance
10 company of SHIP's -- similar to SHIP and with a
11 similar financial condition as SHIP?
12 A Yes. SHIP, with a closed-end
13 runoff, has to achieve a certain rate of return
14 to match their actual projected liabilities. So
15 it's -- it's actually a simpler process to look
16 at than it is with an open-book and open-ended
17 and new-sales business.
18 Q And it was your conclusion -- the
19 conclusion from your analysis that -- was that
20 the returns that SHIP expected would be
21 sufficient to meet its closed-end obligations?
22 A Yes, they already had Conning doing
23 their asset management beforehand, achieving in
24 the range of a 6 percent rate of return, and the
25 IMA was in that same range.

Page 31

1 Timothy H. Hart
2 Q If Conning was already achieving a
3 6 percent rate of return, why switch to Beechwood
4 and a 5.85 percent rate of return?
5 A Well, if you're offered a guarantee
6 of a 5.85 return versus whatever Conning
7 delivers, which had been historically slightly
8 below that, a guarantee of 5.85 would be
9 attractive.
10 Q How long had SHIP been investing
11 through Conning before it went to Beechwood?
12 A I don't recall the period of time.
13 Q Can you estimate?
14 A I don't recall.
15 Q More than a year?
16 A It was more than a year.
17 Q And do you have -- do you know how
18 long Conning had been in business up until the
19 point in time when SHIP went into the IMAs?
20 A I don't know their duration, no.
21 Q Was it in business longer than
22 Beechwood had been in business?
23 A Yes.
24 Q Significantly longer?
25 A Well, I don't know how much longer,

Page 32

1 Timothy H. Hart
2 how long they were in business. I can't say.
3 Q Would you disagree with me if I
4 were to categorize Conning at the point in time
5 that the IMAs were first established as an
6 "established business" and Beechwood as a
7 "startup business"?
8 A I would not.
9 Q And your testimony was that SHIP
10 was in sound financial condition at the point
11 when it entered into the IMAs, correct?
12 A They had a plan in place to be able
13 to take care of their long-term care obligations
14 that appeared sound.
15 Q And so why would it be sound for
16 SHIP to begin investing with a startup for only
17 slightly more return than it was getting with
18 Conning, an established investment company?
19 A Due to the guarantee that there's
20 a -- there was a guarantee offered, rather than
21 the variable rate that Conning had delivered
22 previously.
23 Q Did your engagement include an
24 analysis as to the appropriateness of the
25 guarantee provided by Beechwood?

Page 33

1 Timothy H. Hart
2 A No.
3 Q Why not?
4 A I was not asked to look at that.
5 Q Would you agree that, if the
6 guarantee was the basis for entering into the
7 IMAs, that would be an important aspect to
8 analyze?
9 MR. MATHIAS: Objection to form.
10 A Not necessarily. I mean, it's a
11 reason. Also, having a variety of investment
12 advisors is also a beneficial feature, rather
13 than all of the money being managed by a single
14 manager.
15 Q Other than the guarantee and the
16 diversity of investment managers, did SHIP have
17 any other reasons to begin investing with
18 Beechwood?
19 A Those are the reasons that I
20 recall.
21 Q Did your engagement reveal any due
22 diligence that SHIP performed prior to the IMAs
23 in order to assure itself of the value of the
24 guarantees under the IMAs?
25 A I don't recall that.

Page 66

1 Timothy H. Hart
2 MR. WEINICK: Well, that's what
3 he's here to do.
4 A I'm not here to speculate.
5 Q You are here to draw on your
6 experience. I'm giving you a hypothetical as an
7 expert witness.
8 Would it be unusual, in your
9 experience in examining frauds, working with
10 insurance companies, for an investor to give an
11 instruction to its investment manager without
12 that instruction being in writing?
13 MR. MATHIAS: Objection. Calls for
14 speculation because the hypothetical is
15 completely unclear.
16 If you can answer, go ahead.
17 A It happens regularly that there are
18 phone calls about investments that do not get
19 memorialized, particularly in situations where it
20 is a -- where the investment manager has
21 discretion over the account.
22 If it's an investor-directed
23 account, then they typically always require that
24 to be in writing. But with an investment manager
25 having discretion, that can be done via phone

Page 67

1 Timothy H. Hart
2 call.
3 Q In your experience in investigating
4 frauds, have you found that instances of oral
5 instructions are higher in the context of a fraud
6 than in a legitimate transaction?
7 A It can be, particularly if the
8 alleged fraudster prefers to do business orally.
9 The victim of the fraud may not find that to be
10 unusual if they trust the fiduciary.
11 Q Have you seen instances where an
12 executive at one company who is engaged in
13 self-dealing is more apt to provide oral
14 instructions to his counterparty?
15 A I didn't hear the beginning of the
16 question.
17 Q Sure. Have you seen instances
18 where an executive at one company who's engaged
19 in self-dealing is more apt to provide oral
20 instructions to his counterparty, as opposed to
21 putting those in writings?
22 A I've seen instances of that, as
23 I -- as consistent with my prior answer.
24 MR. WEINICK: Counsel, it's just
25 about 90. Would you like to take a break.

Page 68

1 Timothy H. Hart
2 MR. MATHIAS: Sure. Let's go.
3 (A break is taken.)
4 CONTINUED DIRECT EXAMINATION
5 BY MR. WEINICK:
6 Q Okay. Mr. Hart, welcome back. If
7 you could turn to page 51 of your report, please.
8 (There was a discussion off the
9 record.)
10 Q Am I correct, sir, that from about
11 51 through page 129 or so of your report, you
12 undertake a discussion of what you call "red
13 flags of fraud," correct, and apply those to some
14 of the transactions?
15 A Yes.
16 Q Okay. And we've been using the
17 term "red flags of fraud" previously today
18 without a real definition, right?
19 A Yes.
20 Q Okay. Can you give us your
21 thumbnail definition of a "red flag of fraud"?
22 A The "red flag of fraud" is activity
23 that indicates an increased risk of the
24 commission of fraud.
25 Q And what is the significance of red

Page 69

1 Timothy H. Hart
2 flags of fraud?
3 A A particular red flag, when
4 identified, can lead to an investigation of
5 activity to see if there's any inappropriate
6 activity. If there's a high volume of red flags
7 of fraud, the entity or the organization becomes
8 classified as a higher-risk-of-fraud organization
9 by either regulators, auditors, or the investing
10 public when they become aware of those sorts of
11 red flags.
12 (Mr. Benhaim exited the proceedings
13 and Mr. Lipsius has joined the
14 proceedings.)
15 Q At page 15 of your report, you have
16 a very colorful and appropriately colored table,
17 correct, Table 1?
18 A Yes. This is Table 1.
19 Q And this lists a number of what you
20 call "red flags of fraud," right?
21 A Yes.
22 Q And just for the record, that
23 includes:
24 "Nonrepayment of principal and/or
25 interest."

<p style="text-align: right;">Page 114</p> <p>1 Timothy H. Hart</p> <p>2 in the IMA accounts that -- I'm sorry -- that</p> <p>3 SHIP paid cash for, held over a period of time in</p> <p>4 the IMA account, and then transferred at the</p> <p>5 value as reported by Beechwood and then</p> <p>6 independently valued.</p> <p>7 So I don't see that there was an</p> <p>8 indication of fraud, other than it is related to</p> <p>9 and tied with the Beechwood and Platinum people</p> <p>10 and that there were debts between their</p> <p>11 controlled companies and Northstar. But I don't</p> <p>12 have the documents to know whether there's</p> <p>13 substance there or not.</p> <p>14 But at the date of the transaction</p> <p>15 in March 2016, it was a -- from SHIP's</p> <p>16 perspective, an asset they paid for and was</p> <p>17 transferred at the value that it was reported to</p> <p>18 them.</p> <p>19 Q Okay. Let's talk about Desert Hawk</p> <p>20 for a moment. You're trying to excise it from</p> <p>21 the December transaction.</p> <p>22 SHIP gave that back to Beechwood</p> <p>23 the month before December, right? In November,</p> <p>24 it gave it back to Beechwood?</p> <p>25 A SHIP didn't give anything -- I</p>	<p style="text-align: right;">Page 116</p> <p>1 Timothy H. Hart</p> <p>2 making the payments on Desert Hawk's loan, that</p> <p>3 could be a red flag of fraud, correct, as opposed</p> <p>4 to Desert Hawk paying its own loan?</p> <p>5 A That could be.</p> <p>6 Q With respect to the surplus note</p> <p>7 transaction, you said that those are common in</p> <p>8 the industry, correct?</p> <p>9 A Yes.</p> <p>10 Q Is it common for them to be</p> <p>11 self-funded by the insurance company?</p> <p>12 A It can all depend because you have</p> <p>13 a counterparty who is going to give cash and, in</p> <p>14 turn, take back a note that is subject to</p> <p>15 regulatory approval in the -- first, the making</p> <p>16 of the note.</p> <p>17 So the Pennsylvania Insurance</p> <p>18 Department reviewed the surplus note transaction</p> <p>19 to start with, but there are restrictions in the</p> <p>20 repayment of the note -- so in this instance,</p> <p>21 where the note holder has to wait for the</p> <p>22 Pennsylvania Department to say whether or not</p> <p>23 SHIP can pay them back. So they gave them cash</p> <p>24 on day one and took the surplus note back.</p> <p>25 Q Cash originated with SHIP, correct,</p>
<p style="text-align: right;">Page 115</p> <p>1 Timothy H. Hart</p> <p>2 mean, Beechwood moved it out of SHIP's account</p> <p>3 the month before, and SHIP had -- I've seen no</p> <p>4 knowledge of that transaction or the</p> <p>5 December 2015 transaction. So the</p> <p>6 characterization of "SHIP moved it" is a</p> <p>7 mischaracterization.</p> <p>8 Q Okay. We'll put that aside.</p> <p>9 Was Desert Hawk a performing asset</p> <p>10 at that time?</p> <p>11 A With regard to many of these</p> <p>12 assets, you can't tell if they are performing</p> <p>13 because they were designed in a manner that they</p> <p>14 were not a "current" paying; they were to be paid</p> <p>15 back their term note later.</p> <p>16 They'd be paid with the principal</p> <p>17 and the then accrued interest. So you can't tell</p> <p>18 at a point in time if it's performing or not.</p> <p>19 Q Isn't that a red flag of fraud?</p> <p>20 A If, in fact, that was reported back</p> <p>21 through from Beechwood to someone outside, it</p> <p>22 would be. But to Beechwood, if it was</p> <p>23 nonperforming, that would be a red flag of fraud</p> <p>24 in investment.</p> <p>25 Q So if Platinum was paying -- was</p>	<p style="text-align: right;">Page 117</p> <p>1 Timothy H. Hart</p> <p>2 in that transaction?</p> <p>3 A I don't think you can make that</p> <p>4 conclusion, no.</p> <p>5 Q Why not? Did it come from</p> <p>6 Beechwood?</p> <p>7 A Well, within Beechwood, cash is</p> <p>8 fungible. So you -- you can't say whose cash it</p> <p>9 came from.</p> <p>10 Q It came from SHIP's account at</p> <p>11 Beechwood, right?</p> <p>12 A From SHIP's perspective, they</p> <p>13 wouldn't know that.</p> <p>14 Q Did SHIP disclose to the</p> <p>15 Pennsylvania regulators that it was, in fact, a</p> <p>16 round-trip transaction?</p> <p>17 MR. MATHIAS: Objection. Assumes</p> <p>18 facts not in evidence.</p> <p>19 You can answer.</p> <p>20 A I have not seen that, and I don't</p> <p>21 know that characterization of being "round trip."</p> <p>22 I have not seen that.</p> <p>23 (There was a discussion off the</p> <p>24 record.)</p> <p>25 Q It's your conclusion in the</p>

Page 206

1
2 E X H I B I T S
3 DOCUMENT REQUESTS
4 INSTRUCTIONS NOT TO ANSWER
5
6 NUMBER DOCUMENT PAGE
7
8 Exhibit No. Hart 1, Tim Hart's 9
9 November 14, 2019 Expert Report
10
11 Exhibit No. Hart 2, Tim Hart's 9
12 December 5, 2019 Expert Report
13 Previously Marked Exhibit No. D 57, 52
14 April 10, 2014 E-Mail and Attachments
15 From Scott Taylor, Bates Nos.
16 BW-SHIP-00070261 to 00070306
17
18 Previously Marked Exhibit No. 78
19 Wegner 1, May 22, 2014 Investment
20 Management Agreement, Bates Nos. CNO
21 CSL_00887654 and B 000016394
22 Exhibit No. Hart 3, NAIC Model Laws, 96
23 Regulations, Guidelines and Other
24 Resources, April 2001
25 Exhibit No. Hart 4, Agenda and Board 128
26 Package For the February 29, 2016,
27 SHIP Board of Directors Meeting, Bates
28 Nos. SHIP 0096392 through 0096518
29
30 Exhibit No. Hart 5, 3/24/14 Westlaw 133
31 Article
32 Exhibit No. Hart 6, Coal Age Article 133
33
34
35

Page 208

1
2 CERTIFICATE
3
4 I, TAB PREWETT, A Registered
5 Professional Reporter, Notary Public, Certified
6 LiveNote Reporter, and Certified Shorthand
7 Reporter, do hereby certify that prior to the
8 commencement of the examination TIM HART was
9 sworn by the notary public to testify to the
10 truth, the whole truth and nothing but the truth.
11
12 I DO FURTHER CERTIFY that the
13 foregoing is a true and accurate transcript of
14 the testimony as taken stenographically by and
15 before me at the time, place and on the date
16 hereinbefore set forth.
17
18 I DO FURTHER CERTIFY that I am
19 neither a relative nor employee nor attorney nor
20 counsel of any of the parties to this action, and
21 that I am neither a relative nor employee of such
22 attorney or counsel, and that I am not
23 financially interested in the action.
24
25 *TAB Prewett*

26 TAB PREWETT
27 Notary Public
28
29 My Commission expires February 9, 2024
30 Dated: December 19, 2019
31
32
33
34
35

Page 207

1
2
3 Previously Marked Exhibit No. 239, 147
4 Second Amended and Restated Secured
5 Term Note
6 Exhibit No. Hart 7, SHIP's Annual 156
7 Statement For the Year-Ended
8 December 31, 2018
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 209

1 Errata Sheet
2
3 NAME OF CASE: IN RE: PLATINUM-BEECHWOOD LITIGATION
4 DATE OF DEPOSITION: 12/12/2019
5 NAME OF WITNESS: Timothy H. Hart
6 Reason Codes:
7 1. To clarify the record.
8 2. To conform to the facts.
9 3. To correct transcription errors.
10 Page ____ Line ____ Reason ____
11 From _____ to _____
12 Page ____ Line ____ Reason ____
13 From _____ to _____
14 Page ____ Line ____ Reason ____
15 From _____ to _____
16 Page ____ Line ____ Reason ____
17 From _____ to _____
18 Page ____ Line ____ Reason ____
19 From _____ to _____
20 Page ____ Line ____ Reason ____
21 From _____ to _____
22 Page ____ Line ____ Reason ____
23 From _____ to _____
24
25

EXHIBIT 27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 1:18-cv-06658

IN RE: PLATINUM-BEECHWOOD LITIGATION

Videotaped deposition of TREY ROGERS,
taken pursuant to Notice, was held at the offices of
DLA PIPER LLP, 1251 Avenue of the Americas, New
York, New York, commencing December 27, 2019, at
8:36 a.m., on the above date, before Amanda
Kaminsky, a Court Reporter and Notary Public in the
State of New York.

Page 2

1
2 A P P E A R A N C E S:
3 DLA PIPER, LLP (US)
4 1251 Avenue of the Americas
5 New York, New York 10020-1104
6 BY: STEVEN M. ROSATO, ESQ.
7 STASIA KELLY, ESQ. (D.C. Office)
8
9 Attorneys for SHIP
10
11 HOLLAND & KNIGHT LLP
12 31 West 52nd Street
13 12th Floor
14 New York, New York 10019
15 BY: JOHN BROWNLEE, ESQ.
16 ELLIOT MAGRUDER, ESQ.
17 Attorneys for PPVA and Joint Liquidators
18 (via teleconference)
19
20 OTTERBOURG, P.C.
21 230 Park Avenue
22 New York, New York 10169
23 BY: ERIK WEINICK, ESQ.
24
25 Attorneys for Plaintiff Receiver

MORRISON COHEN LLP
909 Third Avenue
New York, New York 10022-4784
BY: DANIEL C. ISAACS, ESQ.
Attorneys for Huberfeld Family Foundation, Inc.

ALSO PRESENT:
Darrak Lighty - videographer

Page 3

1 T. Rogers
2 THE VIDEOGRAPHER: This is the video
3 deposition of Trey Rogers in the matter of
4 Platinum-Beechwood litigation.
5 This deposition is being held at the
6 offices of DLA Piper, LLP, on December 27,
7 2019.
8 My name is Darrak Lighty from U.S. Legal
9 Support, and I am the video specialist. The
10 court reporter today is Amanda Kaminsky, also
11 associated with U.S. Legal Support.
12 We are going on the record at 8:36 a.m.
13 All appearances have been noted on the record.
14 Will the court reporter please swear in the
15 witness.
16 TREY ROGERS, the witness herein, after having been
17 first duly sworn by a Notary Public of the
18 State of New York, was examined and
19 testified as follows:
20 EXAMINATION BY
21 MR. ROSATO:
22 Q Good morning, Mr. Rogers. My name is
23 Steven Rosato --
24 MR. MAGRUDER: Yeah, hi. Hi, everyone.
25 Sorry, I apologize. This is Elliot Magruder

Page 4

1 T. Rogers
2 from Holland & Knight. I forgot to note my
3 appearance. I represent the JOL and PPVA. My
4 apologies.
5 MS. KELLY: Is there anybody else on the
6 line?
7 THE VIDEOGRAPHER: Hmm?
8 MS. KELLY: Is there anyone else on the
9 line?
10 THE VIDEOGRAPHER: Is there anyone else on
11 the line?
12 MR. BROWNLEE: Yes. This is John Brownlee
13 from Holland & Knight for the JOL, as well.
14 Thank you, and good morning.
15 BY MR. ROSATO:
16 Q So let me restart. My name is Steven
17 Rosato. I'm from DLA Piper, and we represent Senior
18 Health Insurance Company of Pennsylvania, which I'll
19 refer to as SHIP for purposes of this deposition.
20 Is that okay?
21 A Okay.
22 Q Have you ever been deposed before?
23 A I have.
24 Q How many times?
25 A Twice.

Page 5

1 T. Rogers
2 Q When was the most recent time?
3 A A few months ago.
4 Q In what matter, if you can disclose it?
5 A It was a litigation that the receiver
6 brought against an insurance company.
7 Q What insurance company?
8 A I think it's Lincoln Financial.
9 Q Lincoln Financial?
10 A Lincoln Life, something like that.
11 Q In a -- where is that case pending, if you
12 know?
13 A I'm not sure, actually.
14 Q You were deposed about your role in the
15 receivership?
16 A Correct. It's related to the payment of a
17 life insurance policy.
18 Q So just limited to the payment of a life
19 insurance policy?
20 A That's correct.
21 Q What about the other time you were deposed,
22 when was that?
23 MR. WEINICK: Just instruct the witness
24 that's confidential arbitration, so limit your
25 responses accordingly.

Page 34

1 T. Rogers

2 Q Uh-huh. So CohnReznick, you were an audit

3 manager; is that right?

4 A Yes.

5 Q And you were there until June of '14?

6 A That's correct.

7 Q And, again, hedge funds and PE funds were

8 your focus?

9 MR. WEINICK: Objection to form.

10 A No. When I moved to CohnReznick, they had

11 a more general audit group. So, you know, the

12 financial services group wasn't that big -- is not

13 that big at CohnReznick. So I worked on -- had

14 other experience. I worked on other types of

15 clients, so it wasn't just private equity and hedge

16 funds.

17 Q So CohnReznick eventually provided audit

18 services to the Platinum funds; is that correct?

19 MR. WEINICK: Objection to form.

20 A That's correct.

21 Q Were they a client at the time you were at

22 CohnReznick?

23 A Platinum?

24 Q Yes.

25 A They audited PPCO Master Fund, yes.

Page 35

1 T. Rogers

2 Q During your time --

3 A During my time --

4 Q -- at CohnReznick?

5 A During my time at CohnReznick, they audited

6 PPCO Master Fund and its feeder funds.

7 Q Did you participate in that audit?

8 A I did.

9 Q What services did you provide in connection

10 with that audit?

11 A I was the audit manager.

12 Q Okay. So what did that entail?

13 A I audited the financial statements for PPCO

14 Master Fund, LP, and its feeder funds.

15 Q For which years did you provide audit

16 services?

17 A Yearend 2013; December 31, 2013.

18 Q What was the conclusion of that audit?

19 A An unqualified opinion was issued in that

20 audit.

21 Q Stating?

22 A That the financial statements were free of

23 material misstatement.

24 Q Do you know how -- strike that.

25 Do you recall what the balance sheet looked

Page 36

1 T. Rogers

2 like for PPCO Master Fund at the time?

3 A Vaguely. I have a general picture in my

4 head.

5 Q About how many -- how much -- how many

6 millions of dollars in assets were on the balance

7 sheet at the time?

8 A I believe it was between 2- and

9 300 million.

10 Q Okay. And liabilities?

11 A I don't -- I don't remember the

12 liabilities, but liabilities was, at that time, just

13 whatever unpaid capital withdrawals, redemptions

14 were made that hadn't been paid as of yearend.

15 Q So demand for redemptions were made and

16 they hadn't been paid yet?

17 A Well, they had come due, they just hadn't

18 been paid. So if -- let's say the capital

19 withdrawal had an effective date of December 31,

20 2014, but it wasn't -- it could be paid within the

21 30 days, there was a liability on the books as of

22 December 31, 2014, but it had not been paid until

23 January.

24 Q So a liability that the Master Fund was

25 aware, that the auditors were aware of?

Page 37

1 T. Rogers

2 A Correct.

3 Q Nothing else? No other liabilities were

4 listed?

5 A There may have been some accrued

6 professional fees. That's all that -- that's all

7 that sticks out in my mind.

8 Q And you reviewed all the valuation analyses

9 that had been done on the investments in connection

10 with that audit, correct?

11 MR. WEINICK: Objection to form.

12 A I'm not sure I reviewed all of them, but I

13 certainly reviewed a lot of them.

14 Q And you were comfortable that the value

15 ascribed to PPCO Master Fund's investments was

16 accurate at the time, right?

17 A I didn't disagree with the opinion that was

18 reached by the firm.

19 Q Okay. Any other services that you provided

20 to PPCO during your time at CohnReznick?

21 A No.

22 Q Next you went to Platinum; is that right?

23 A That's correct.

24 Q And I guess -- so if you could explain to

25 me, who was your employer when you moved over to

Page 206

1 T. Rogers
2 partnership capital, so equity, positive equity.
3 Q Okay. Do you know whether PPCO was able to
4 pay its debts as they were coming due in
5 December 2015?
6 A As of December of 2015, I believe there
7 were some redemptions payable on the books at that
8 time. I think it had paid some, not all. I think
9 there was one redemption that had an effective date
10 of December 31, 2015, that went unpaid. There were
11 redemptions that had an effective date of March 31,
12 2016, that went unpaid. And six months after
13 December, I mean, in June of 2016, they had notified
14 the investors that they were no longer going to be
15 allowing redemptions, and so essentially they had
16 acknowledged that they couldn't meet their
17 obligations to the investors six months after
18 December.
19 Q But at the time --
20 A Well, I think those issues, those issues
21 were -- those issues were present at the time. Just
22 because they made the decision in June, it wasn't
23 just because of circumstances in June. The issues
24 also were present in December. You know, they tried
25 to have -- they tried to raise money to be able to

Page 207

1 T. Rogers
2 continue operating, but they couldn't do that, so
3 they went into liquidation. They announced to the
4 investors in June they went into liquidation.
5 Q All I'm asking is in December 2015, was
6 PPCO paying debts as they were coming due?
7 MR. WEINICK: I think he's answered that.
8 A I believe I've answered it. In some
9 instances, yes; in some instances, no.
10 Q They didn't pay redemptions that were not
11 due until March of 2016; is that right?
12 MR. WEINICK: Objection to form.
13 A There was, there was a -- there was a
14 redemption that has an effective date of
15 December 31, 2015, that is still outstanding as of
16 today. They never paid it. There is a liability as
17 of December 31, 2015, that was not paid.
18 Q Did you ever prepare a cash flow statement
19 or otherwise analyze PPCO's cash flows?
20 A Specific -- in connection with the annual
21 financial statements, yes, so 2014 and 2015.
22 Q Okay. So what did those cash flow
23 statements reflect, if you recall?
24 A I don't recall. I'd have to look at the
25 financial statements.

Page 208

1 T. Rogers
2 Q Why don't we look at them.
3 MR. ROSATO: This will be Rogers 16.
4 (BW-SHIP-00990460 through 556
5 was marked as Rogers 16 for
6 identification, as of this
7 date.)
8 A Okay.
9 Q Are these the audited financial statements
10 for December 31, 2015, for PPCO Master Fund and the
11 international funds?
12 A Well, the financial statements are for the
13 international funds. The Master Fund is included as
14 an attachment to the international funds.
15 Q So we're just going to focus on the Master
16 Fund --
17 A Okay.
18 Q -- which why don't we start at BW-SHIP and
19 it ends in 491.
20 A Okay.
21 Q And do you see the opinion?
22 A Yup.
23 Q Is that the unqualified opinion you were
24 discussing earlier?
25 A Yes.

Page 209

1 T. Rogers
2 Q Did you have any concerns as of April 30,
3 2015, that there were inaccuracies in PPCO Master
4 Fund's financial statements?
5 A As of 200 -- as of April 2015, no.
6 Q When did you start to have concerns?
7 A My concerns began towards the end of 2015
8 when, in preparation for the yearend 2015 audit, we
9 could not produce supporting documentation for
10 certain asset valuations. In other words, when I
11 was compiling information for these valuation memos
12 and we were compiling information to give to the
13 auditors, there were specific investments in which I
14 could not get supporting documentation -- nobody
15 would give me supporting documentation for the asset
16 valuations. And so at that point, I began to get
17 concerned that the assets are overvalued at that
18 point, because there's no other reason why you can't
19 give me support for those values. So my concern
20 began late 2015.
21 Q Do you recall which investments lacked
22 supporting documentation?
23 A Buffalo Lake Advanced Biofuels was one,
24 Cleveland Mining was another, Over Everything was
25 another. Those are the ones that stick out in my

Page 226

1 T. Rogers

2 which I was involved in calculating, that's -- that

3 was the extent of my involvement in all of the

4 assumptions.

5 The assumptions that it could be, you

6 know -- the assertion could be made as of that date,

7 I wasn't involved in whether or not -- I -- in any

8 of those things. It was literally just how much

9 were net capital contributions, which would be

10 defined as a rescission claim -- in other words, the

11 investors' net contributions -- as of a particular

12 date. That's the extent of my involvement in these

13 assumptions.

14 Q Okay. So would that be the third and

15 fourth bullet points, then?

16 MR. WEINICK: Objection to form.

17 A It wouldn't be third, because I don't know

18 if it could be asserted or not. That's an

19 assumption -- that's a legal -- that's a legal

20 assumption.

21 Rescission claims could be asserted by

22 non-insiders. I have no idea whether a rescission

23 claim could be asserted. That's a legal conclusion.

24 So no, I wouldn't say -- I'd say no.

25 Three is not.

Page 227

1 T. Rogers

2 Four is a date -- a date certain was given

3 to me in terms of how much would the rescission

4 claim be if a non-insider could assert it. And I

5 said what is a rescission claim. A rescission claim

6 would be net capital contributions. So I calculated

7 net capital contributions for whatever period of

8 time I was given.

9 Q Who provided you the list of non-insiders?

10 A There is an investor list, okay, and there

11 is -- I was given a parameter of what, in general,

12 the receivership is viewing as non-insiders. And I

13 used those parameters to take out the insiders and

14 use the -- and come up with a number of

15 non-insiders.

16 Q So the receiver just made a determination

17 on who's an insider and not an insider; is that

18 right?

19 A I don't think she made a final

20 determination on who's an insider and who's an

21 outsider, but there is a parameter of general

22 thought process within the receivership on who is

23 considered an insider and who is considered an

24 outsider.

25 Q Okay. So you got general parameters to

Page 228

1 T. Rogers

2 follow in identifying non-insiders?

3 A Correct.

4 Q You actually identified the names of the

5 non-insiders; is that right?

6 MR. WEINICK: Objection to form.

7 A In other words, based on the parameters,

8 yes.

9 Q Based on --

10 A If the parameter is an employee, then I

11 know who the employees were, and I took them out of

12 the list.

13 Q Were these parameters in writing?

14 A I'm not sure.

15 MR. ROSATO: To the extent there are

16 parameters in writing, we call for their

17 production.

18 MR. WEINICK: Take the request under

19 advisement.

20 Q So if you look -- so the rescission claims

21 totaled 220.4 million to 232.2 million, right?

22 A Correct.

23 Q Those are on a net basis?

24 A Correct. So that reflects -- I'll give you

25 an example is the best way to explain it.

Page 229

1 T. Rogers

2 Someone invested a million dollars on a

3 given date within the period in which we were

4 calculating claims. If they invested a million

5 dollars and they took no redemptions, then they

6 would have a rescission claim of a million dollars.

7 If they invested a million -- if that investor

8 invested a million dollars and they made redemptions

9 of 500,000, their rescission claim would be 500,000.

10 So yes, this is a net capital -- a net contribution

11 to the fund.

12 Q Okay. I wanted to turn back to the audited

13 financials. And actually, I'm going to give you a

14 different document. You may want to look at that

15 one side by side eventually. We're going to mark

16 Rogers 17.

17 (BW-SHIP-00990424 through 449

18 was marked as Rogers 17 for

19 identification, as of this

20 date.)

21 MR. WEINICK: This is 17?

22 MR. ROSATO: Yes. Should be a May 30,

23 2015, email.

24 MR. WEINICK: Yes. May 30 --

25 MR. ROSATO: Excuse me, April 30th.

Page 238

1 T. Rogers

2 Q I'll do my best.

3 MR. WEINICK: It's 8, Rogers 8.

4 A U.S. -- U.S. investors -- taxable

5 U.S. investors -- because there's a different

6 distinction within Platinum.

7 Taxable U.S. investors would invest through

8 Platinum Partners Credit Opportunities Fund, LLC.

9 So it would give its money to that entity. And that

10 entity, in turn, would give its money to the master

11 fund. So that's U.S. taxable investors.

12 International investors, foreign investors,

13 and U.S. tax-exempt investors -- so 501 -- not

14 501(c)(3)s, but just tax-exempt investors, would

15 invest through three feeder funds: two

16 Cayman-domiciled entities and a Delaware entity.

17 The Delaware entity is PPLC Fund TE, LLC, so

18 tax-exempt.

19 The international funds are

20 Cayman-domiciled. They would invest into -- they

21 would give their money to the Cayman fund.

22 Those three entities would then, in turn,

23 invest its money into Platinum Partners Credit

24 Opportunities Fund Blocker, LLC, which was a

25 corporate entity that was formed mostly for tax

Page 239

1 T. Rogers

2 purposes.

3 And then, in turn, that money would be

4 invested into PPCO Master Fund, LP.

5 Q So the money that's fed into the feeder

6 funds is not directly sent to the Master Fund; is

7 that right?

8 A So for the U.S. feeder -- for the PPCO

9 credit -- PPCO Fund, LLC, where the taxable

10 U.S. investors are invested, that money goes

11 directly into the master fund. So it goes from --

12 if I'm an LP, it comes from my pocket to the feeder

13 fund, and then the feeder fund to the master fund.

14 Q Is PPCO Fund, LLC, a receivership entity?

15 A It is. If you're an international

16 investor, then it doesn't go directly -- in other

17 words, your money goes into the feeder fund. It

18 then goes into a blocker fund. And then it goes

19 into the master fund.

20 Q An onshore LLC, is that basically what --

21 A An onshore LLC, yes, that's taxed as a

22 corporation.

23 Q Okay. So if you could turn -- let me ask

24 you this.

25 How are redemptions made by an investor?

Page 240

1 T. Rogers

2 A It would follow -- it would request the

3 redemption from the feeder fund. The feeder fund

4 would then, in turn, request the redemption from

5 either the blocker or the master -- the master fund.

6 So if you're a taxable U.S. investor and

7 you're in PPCO Fund, LLC, then PPCO Fund, LLC, will

8 make a redemption request to the master fund. And

9 so, in that -- so the investors -- the offshore

10 investors would do the same thing. They would make

11 a redemption request to the feeder fund. The feeder

12 fund would then, in turn, make a request to the

13 blocker, and the blocker would make a request from

14 the master fund.

15 Q Let me take another step back.

16 When an investor contributes their money

17 into the fund and the fund then contributes -- let's

18 just talk about onshore U.S. investors.

19 A Okay.

20 Q So we're talking about the LLC.

21 What does the fund get in return for

22 contributing the money to the master fund?

23 A Limited partnership interest.

24 Q Not a promissory note?

25 A Nope. Limited partnership interest.

Page 241

1 T. Rogers

2 Q So it's basically like equity, right?

3 A It's equity.

4 Q What about on the international side? So

5 there's that in-between step.

6 What does the LLC -- if anything, does the

7 LLC give anything to the investors -- to the master

8 fund -- excuse me, to the feeder funds?

9 A So the way the money is invested by the

10 international and tax-exempt feeder fund into the

11 blocker could be debt or equity. In some

12 instances -- I believe it's mostly debt, frankly. I

13 believe that there was a ratio that was kept --

14 there was a certain tax strategy that was being used

15 by the fund to maximize the return for the

16 international investors and to minimize its tax

17 exposure.

18 And so, if you look at -- if you have the

19 international financial statements here --

20 Q Yeah, I want to --

21 A -- you can see that --

22 Q Why don't you turn to 482 for me. That's

23 actually where I was going with this.

24 A Yeah.

25 Q Actually, is that the one? Yes.

EXHIBIT 28

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 29

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 30

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 31

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 32

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 33

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 34

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 35

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 36

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 37

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 38

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 39

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 40

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 41

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 42

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 43

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 44

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 45

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 46

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 47

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 48

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 49

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 50

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 51

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 52

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 53

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 54

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 55

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 56

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 57

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 58

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 59

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 60

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 61

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 62

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 63

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 64

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 65

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 66

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 67

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 68

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 69

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 70

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 71

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 72

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 73

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 74

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 75

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 76

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 77

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 78

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 79

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 80

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 81

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 82

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 83

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 84

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 85

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 86

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 87

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 88

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 89

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 90

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 91

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 92

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 93

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 94

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 95

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 96

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 97

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 98

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**

EXHIBIT 99

**Filed Under Seal: Contains Confidential
Information Subject to Protective
Order, ECF 79, Cons. ECF 206,
Dated March 28, 2019**