

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PLATINUM-BEECHWOOD
LITIGATION

Master Docket No. 1:18-cv-06658-JSR

MELANIE L. CYGANOWSKI, AS
EQUITY RECEIVER FOR PLATINUM
PARTNERS CREDIT OPPORTUNITIES
MASTER FUND, et al.,

Plaintiff,

v.

Case No. 1:18-cv-12018-JSR

BEECHWOOD RE LTD., et al.,

Defendants.

**DECLARATION OF R. BRIAN SEIBERT IN SUPPORT OF SENIOR HEALTH
INSURANCE COMPANY OF PENNSYLVANIA'S RESPONSE TO THE RECEIVER'S
STATEMENT OF UNDISPUTED MATERIAL FACTS PURSUANT TO LOCAL CIVIL
RULE 56.1 AND COUNTERSTATEMENT OF ADDITIONAL MATERIAL FACTS**

I, R. Brian Seibert, declare as follows:

1. I am an attorney at law, duly authorized and admitted to practice before this Court. I am an associate at the law firm DLA Piper LLP (US), counsel for Defendant Senior Health Insurance Company of Pennsylvania ("SHIP") in connection with the above-captioned litigation. I have personal knowledge of the facts set forth in this declaration based on my review of the records and representation of SHIP.

2. Attached hereto as **Exhibit A** is a true and correct copy of portions of the deposition transcript of Christian Thomas, taken on December 17, 2019, as produced and certified by the court reporter, Amanda McCredo. The document is self-authenticating.

3. Attached hereto as **Exhibit B** is a true and correct copy of portions of the deposition transcript of Paul Lorentz, taken on November 13, 2019, as produced and certified by the court reporter, Tab Prewett. The document is self-authenticating.

4. Attached hereto as **Exhibit C** is a true and correct copy of portions of the deposition transcript of John Robison, taken on October 30, 2019, as produced and certified by the court reporter, Tab Prewett. The document is self-authenticating.

5. Attached hereto as **Exhibit D** is a true and correct copy of portions of the deposition transcript of Marc Kirschner, taken on November 14, 2019, as produced and certified by the court reporter, Tab Prewett. The document is self-authenticating.

6. Attached hereto as **Exhibit E** is a true and correct copy of portions of the deposition transcript of Mark Feuer, taken on November 20 & 21, 2019, as produced and certified by the court reporter, Joan Ferrara. The document is self-authenticating.

7. Attached hereto as **Exhibit F** is a true and correct copy of portions of the deposition transcript of Dhruv Narain, taken on October 23 and December 13, 2019, as produced and certified by the court reporter, Tab Prewett. The document is self-authenticating.

8. Attached hereto as **Exhibit G** is a true and correct copy of portions of the deposition transcript of Scott Taylor, taken on November 6 and 7, 2019, as produced and certified by the court reporter, Tab Prewett. The document is self-authenticating.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the foregoing is true and correct. Executed on March 6, 2020.

Dated: New York, New York
March 6, 2020

By: 

R. Brian Seibert

172733216

Exhibit A

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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.

1 C. Thomas
2 assigned by BAM to BRe) as relates to BRe's
3 participation in \$1,789,492 of principal
4 indebtedness and \$2,210,508 of interest outstanding,
5 in each case, of Desert Hawk, as well as \$88,333.34
6 of accrued and unpaid interest guaranteed by the
7 Company thereunder."

8 Do you see that?

9 A I do.

10 Q What is BAM Administrative?

11 A BAM Administrative, in this context, is a
12 collateral agent.

13 Q And it's a Beechwood-related entity, right?

14 A That's correct.

15 Q \$4,088,333.34 of the loan proceeds was used
16 by PPCO insiders to purchase Desert Hawk debt held
17 by Beechwood Re on behalf of SHIP pursuant to that,
18 correct?

19 MR. ROSATO: Objection; mischaracterizes
20 the document.

21 A I don't know if, if -- Beechwood Re was
22 holding this on behalf of SHIP.

23 Q Who else might it be holding it on behalf
24 of?

25 A For Beechwood Re's own account.

1 C. Thomas

2 Q Doesn't it say "as agent"?

3 A Where are you looking at? BAM

4 Administrative Services was an agent.

5 Q Okay. So you're saying that Beechwood Re
6 might have been holding that on its own?

7 A Yeah, I don't know if it related to SHIP.
8 I'd have to refer to the Holdings report to see if
9 it was part of a SHIP account or not.

10 Q And as it relates to the outstanding
11 interest and the additional interest, does that
12 indicate whether or not that loan -- that debt was
13 nonperforming?

14 A Whether or not the participation was
15 nonperforming? I believe that the participation
16 that was purchased was in both a component of
17 principal and a component of interest, and that was
18 what was bought.

19 Now whether or not you're asking if the
20 Desert Hawk underlying loan that it owed to DMRJ was
21 performing or not, I don't know the answer to that.

22 Q But by the flow of the loan proceeds, that
23 debt was paid in full, correct?

24 A By the flow, that participation was
25 repurchased by Platinum.

1 C. Thomas

2 Q In full?

3 A I believe so.

4 Q Do you know whether SHIP communicated with
5 anyone at Beechwood in connection with the
6 December 2015 transactions?

7 A I don't know.

8 Q Did Beechwood negotiate actual wording in
9 these December 2015 documents?

10 A Which? I mean --

11 Q The documents that we just went through.
12 The delayed draw note, the master security
13 agreement, and the subsidiary guarantee.

14 A Right, for this transaction, I would expect
15 that the documents would have been provided to
16 the -- to someone at Platinum and likely, also,
17 their counsel. I think it was Suzanne Horowitz was
18 counsel at the time.

19 Q My question is did Beechwood negotiate
20 actual wording?

21 A Well, Beechwood -- Beechwood would have
22 provided, as lender, the original form of the
23 document to be negotiated from. That would be
24 standard practice.

25 Q Did anyone at SHIP negotiate terms within

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

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.

1 C. Thomas

2 for not only a modification of that existing SHIP
3 note, but also to provide additional syndicate
4 lenders to lend money to PPCO.

5 Q And that effectively increased the total
6 outstanding indebtedness to \$69,153,626.82, correct?

7 A I don't have the note and I don't have the
8 full scope, but I see here that the purchase price
9 referenced in this agreement was \$70 million.

10 Q Well, let's turn to Schedule 1 --

11 A Okay.

12 Q -- which is -- well, there are no Bates
13 numbers on this. But Schedule 1, I think you can
14 find it.

15 A Okay, got it.

16 Q All right. What's being set forth in
17 Schedule 1?

18 A This is a commitment for the benefit of
19 PPCO of what was being lent to PPCO, whether it had
20 already been lent or whether it reflected future
21 loans, the aggregate of all was -- of their
22 commitment to do so was 69,153,626.82.

23 Q Okay. And the first row under "purchaser"
24 says, "Senior Health Insurance Company of
25 Pennsylvania"?

1 C. Thomas

2 A Yes.

3 Q And the first row under the column "note"
4 is for \$42,963,949.04. \$123,190.55 consisting of
5 accrued interest.

6 Do you see that?

7 A I do.

8 Q What is that indicating?

9 A To me, that indicates that, at the time of
10 this restructuring, there was some outstanding
11 interest which effectively became capitalized under
12 the note.

13 Q And -- all right.

14 So pursuant to this note purchase
15 agreement, PPCO received funds, correct?

16 A Yes. They did receive funds. Although I'd
17 look at the disbursement letter to understand what
18 the magnitude of what they received was.

19 Q Okay. And it's indicating here that this
20 \$42.9 million amount was to go to SHIP?

21 A I'm sorry?

22 Q Can you describe what that first row is
23 indicating?

24 A Well, the whole schedule indicates what the
25 aggregate commitment is of each one of the lenders

1 C. Thomas

2 in here.

3 Q Okay. And then the next one down is BRE
4 BCLIC Primary for \$10 million, right?

5 A That's correct.

6 Q The next one is for BRE BCLIC Sub for
7 \$500,000?

8 A That's right.

9 Q BRE WNIC 2013 LTC Primary for
10 \$14.9 million, right?

11 A That's correct.

12 Q And then BRE WNIC 2013 LTC Sub for
13 \$700,000, right?

14 A That's right.

15 Q Who negotiated this note purchase agreement
16 on behalf of Beechwood?

17 A On behalf of Beechwood, Dhruv Narain.

18 Q And did anyone negotiate this on behalf of
19 SHIP?

20 A On the business side, I believe it was
21 David Steinberg.

22 Q For SHIP?

23 A I'm sorry, for SHIP. My apologies.

24 I'm not aware that anyone negotiated on
25 behalf of SHIP, other than Dhruv Narain through his

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.

1 C. Thomas

2 Q And who negotiated that assignment for B
3 Asset Manager?

4 A I would expect Dhruv Narain to have
5 negotiated this assignment.

6 Q And would Mr. Narain have had any
7 communications with SHIP or WNIC in relation to
8 that?

9 A I don't know if he did have communications.
10 He would not necessarily have had communications
11 with SHIP.

12 Q Because he had discretion?

13 A He had discretion under the IMA.

14 MR. HARRIS: You referred to Dhruv Narain
15 as investment manager. I don't know if you
16 meant chief investment officer.

17 THE WITNESS: Sorry, chief investment
18 officer.

19 Q For B Asset Manager?

20 A That's right. He was the president of B
21 Asset Manager.

22 Q I'm going to show you what we've previously
23 marked as Exhibit 231.

24 (Exhibit 231 was shown to the
25 witness.)

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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

1/6/20

Exhibit B

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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.

1 Paul Lorentz

2 Q Do you have any recollection of
3 Beechwood Re ownership being discussed at this
4 meeting?

5 A I don't recall any such
6 discussions.

7 Q I'd like to turn to SHIP's
8 investments.

9 SHIP monitored the investments that
10 Beechwood was making into the IMAs, right?

11 MS. SERPE: Form objection.

12 A I would not say that we monitored
13 them. We received reports of those for the
14 purpose of reporting the transactions in our
15 statutory financial statements.

16 Q So you received third-party
17 valuation reports, right?

18 MS. SERPE: Form objection.

19 A At some point we received valuation
20 reports, yes.

21 Q Okay. And you received documents
22 like deal sheets for investments too, right?

23 MS. BIRRANE: Objection.

24 MS. SERPE: Form objection.

25 A I don't remember if we did.

1 Paul Lorentz

2 Q Okay.

3 A It was certainly not as a matter of
4 routine, because we didn't pass on investments.

5 Q I'm sorry. What do you mean,
6 "Because we didn't pass on investments"?

7 A Well, we didn't -- the relationship
8 was as it was with Conning. They were free to
9 invest in accordance with the terms of the
10 investment policy guidelines statement.

11 Q You presented SHIP's investments to
12 the board of trustees at its quarterly meetings,
13 right?

14 A That's correct.

15 Q Right. And that included Beechwood
16 investments, right?

17 A May I amend?

18 Q Yes.

19 A It was a report of acquisitions and
20 disposals.

21 Q So you reported on the purchases
22 that had been made in the prior quarter, right?

23 A That is correct.

24 Q Okay. And the sales that had been
25 made in the prior quarter?

1 Paul Lorentz

2 A I think so.

3 Q And you would agree with me that on
4 the last page, Bates ending in 84106, that you
5 signed this letter on behalf of SHIP?

6 A Yes.

7 Q And if you turn back to the first
8 page, you understood that the purpose of the
9 Duff & Phelps report, the estimation of a fair
10 value range for certain debt investments as of
11 March 31, 2015, the purpose of that report was to
12 assist the company's management in its assessment
13 of fair value of certain debt investments; is
14 that correct?

15 A I would characterize it as a report
16 that we would have in our files to support or to
17 provide evidence of Beechwood's commitment to
18 have the investments in the investment management
19 arrangements valued by an independent valuation
20 professional.

21 Q But you understood that it was
22 ultimately Beechwood's responsibility to be
23 determining the fair value of its investments; is
24 that correct?

25 MS. EILBAUM: Objection to form.

1 Paul Lorentz

2 A I viewed it as Beechwood's
3 responsibility under the IMAs to have independent
4 valuations made of the assets.

5 Q Okay. And you stated that you do
6 not recall if you received valuation reports
7 prior to this date; is that correct?

8 A I don't remember.

9 MS. SERPE: Form objection.

10 A I don't remember.

11 Q Now, turning to the second page,
12 paragraph six, it states that:

13 "Duff & Phelps accepts no
14 responsibility or liability to SHIP with respect
15 to the report or any reliance that SHIP may place
16 on the report or representations made by
17 Duff & Phelps. SHIP is strongly urged to make
18 its own independent inquiries regarding the
19 company and to obtain its own independent
20 valuation."

21 Do you see that?

22 A I see that.

23 Q Did SHIP obtain its own independent
24 valuation?

25 A No, it did not.

1 Paul Lorentz

2 Q Why did it not?

3 A We didn't deem that it would be
4 necessary under the arrangement that we had with
5 Beechwood under the IMAs.

6 Q Did you think that it would be
7 helpful for SHIP to have its own independent
8 valuation of Beechwood's investments under the
9 IMAs?

10 MS. SERPE: Form objection.

11 A Well, we had valuations on other
12 assets in the portfolio not managed by Beechwood,
13 and we never undertook to have independent
14 valuations of those either. We deemed that the
15 responsibility of the asset manager.

16 Q And did you understand that
17 Duff & Phelps would not be conducting its own
18 independent valuation of the investments?

19 MS. EILBAUM: Objection to the
20 form.

21 A Can you restate that?

22 Q Let me restate.

23 You understood that Duff & Phelps
24 would be relying on information supplied by
25 Beechwood; is that correct?

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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 PAUL LORENTZ 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: November 16, 2019

Exhibit C

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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.

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.

1 John Robison

2 A I believe that's true. Yeah.

3 Q Is SHIP aware that that's because
4 it was sold to PPCO pursuant to this PPCO funds
5 flow payment schedule?

6 MS. BIRRANE: Objection.

7 Foundation. Characterization.

8 A I am not aware of how the funds
9 flow worked.

10 Q Okay. I'm going to show you what
11 we have marked at a prior deposition as 84.

12 (Previously Marked Exhibit No. 84,
13 January 20, 2016 Platinum Partners Credit
14 Opportunities Master Fund Funds Flow Letter
15 Addressed to SHIP, Care of B Asset Manager,
16 Followed By the Amended and Restated
17 Delayed Draw Demand Note is introduced into
18 the proceedings.)

19 Q And I'll represent the first page
20 is on Platinum Partners Credit Opportunities
21 Master Fund letterhead dated January 20th, 2016,
22 addressed to SHIP, care of B Asset Manager. It's
23 another fund -- PPCO funds flow letter, and it's
24 followed by the amended and restated delayed draw
25 demand note.

1 John Robison

2 Have you seen this before?

3 A No, I have not.

4 Q Are you aware that SHIP increased
5 its debt to PPCO up to 18.5 million?

6 MS. BIRRANE: Objection.

7 A Based off of this, I would assume
8 so. But we had an outside manager, Beechwood,
9 who had discretionary authority to manage the
10 assets.

11 Q I'm asking if SHIP had an
12 understanding of this particular --

13 A No.

14 (There was a discussion off the
15 record.)

16 (Exhibit No. 236, January 20, 2016
17 Reaffirmation and Ratification Agreement is
18 marked by the reporter for identification.)

19 Q I'm going to show you what I've
20 just marked as Exhibit 235.

21 (There was a discussion off the
22 record.)

23 Q Sorry, 236.

24 And I will represent it's a
25 multipage document entitled "Reaffirmation and

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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 JOHN ROBISON 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

11/7/19
Notary Public

My Commission expires February 9, 2024
Dated: November 6, 2019

Exhibit D

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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
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(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
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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
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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.

1 Marc Kirschner

2 And other than that, they had
3 complete discretion to make these investments.
4 But they had to comply with the operating
5 guidelines or investment guidelines, and I'm not
6 sure if the investment guidelines were followed
7 here, particularly when the investments were so
8 troubled.

9 Q So when in this complaint the
10 receiver states that SHIP knew or SHIP directed
11 or SHIP decided, does that mean a person who is
12 actually employed at Fuzion or SHIP; or does that
13 mean BAM acting as SHIP's agent?

14 A I've already testified I can't
15 think of the name of a person. But at this time,
16 at this time, I think SHIP knew that these
17 investments were troubled. SHIP knew and SHIP
18 took steps to demand that they be unloaded back
19 to Platinum.

20 I don't know what individual at
21 SHIP and/or Fuzion took those steps, but those
22 steps were taken and they were implemented in
23 December '15 and March of '16.

24 Q So in terms of the steps that were
25 taken to demand action, what were those steps?

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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.

TAB Prewett

TAB PREWETT

Notary Public

My Commission expires February 9, 2024

Dated: November 20, 2019

Exhibit E

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 -----
7
8 IN RE: PLATINUM-BEECHWOOD LITIGATION
9
10 -----

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

18 Plaintiffs,

19 vs.

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

21 Defendants.
22
23 -----

24 VIDEOTAPED DEPOSITION OF MARK FEUER

25 Wednesday, November 20, 2019

8:30 a.m.

Reported by:
Joan Ferrara, RMR, FCRR
Job No. 291982

1 M. Feuer

2 three letters put together WTF stand for?

3 A. I can imagine.

4 Q. All right. We don't need to put
5 that on the record.

6 A. I don't think so, but I imagine
7 what you're imagining is what I'm
8 imagining.

9 Q. Okay.

10 This time we can imagine.

11 A. Yes.

12 Q. Do you have any recollection of
13 discussing this with Mr. Saks or
14 Mr. Taylor?

15 A. I do not.

16 (Exhibit 513, E-mail dated
17 12/9/15, marked for identification, as
18 of this date.)

19 BY MR. MATHIAS:

20 Q. Exhibit 513 is a December 9, 2015
21 Mark Feuer e-mail to Mark Nordlicht and
22 Scott Taylor with a string below it.

23 I'll ask you if you recognize it.

24 A. I don't recall this exchange.

25 Q. Do you have any doubt that you

1 M. Feuer

2 sent and received it?

3 A. No, I do not.

4 Q. So at the bottom Mr. Nordlicht
5 says to you on December 9th, "When should I
6 come over to go loan by loan" -- let me
7 read that again. I read it wrong.

8 "When should I come over to go
9 over loan by loan?"

10 Do you see that?

11 A. I do.

12 Q. Do you have any understanding in
13 context of what that refers to?

14 A. I have some context, yes.

15 Q. All right.

16 Could you tell me why you and
17 Mr. Nordlicht would be thinking about going
18 over loan by loan?

19 A. Because towards the end of 2015
20 we had agreed that we were going to
21 restructure all of the loans -- all of the
22 transactions that we had done by and
23 between Platinum and Beechwood. Platinum
24 was coming to us and asking us to
25 restructure.

1 M. Feuer

2 Q. And did you have an understanding
3 as to why they were asking you to
4 restructure?

5 A. What they claimed was that -- or
6 at least at a surface level what I
7 understood it to be is that some of the
8 collateral that we had on some of the loans
9 was making their ability to run their funds
10 or raise money in that regard difficult.

11 Q. When you say "they" there, you
12 mean Platinum?

13 A. Platinum.

14 Q. Okay.

15 At the top, you respond to
16 Mr. Nordlicht and say, "I told you that I
17 am having the guys see how much PPCO
18 unrated we can hold."

19 Let's stop there for a minute.
20 PPCO and unrated, in context, is that the
21 PPCO fund?

22 A. I don't recall.

23 Q. Okay.

24 When you say, "As of yesterday we
25 could not take anymore, as CNO won't touch

1 M. Feuer

2 it" -- do you remember CNO saying they
3 wouldn't touch PPCO unrated?

4 A. I know that CNO did not want to
5 have any LP interest in their portfolios.

6 Q. And did they tell you why they
7 didn't want it?

8 A. They just said they were
9 uncomfortable having an LP interest in
10 their portfolio.

11 Q. Did you have an understanding of
12 why they were uncomfortable?

13 A. The explanation that they gave
14 me, and that's the only thing I can tell
15 you, is they told me they were not
16 comfortable having LP interest in their
17 portfolio, period, stop -- not that it was
18 inappropriate, but just that they did not
19 want LPs in their portfolio.

20 Q. Did you have any understanding
21 that it was because they were a regulate
22 insurer?

23 A. No, because they made it clear to
24 me that they had no right to ask me for
25 them not to have LP interest in their

1 M. Feuer

2 Do you see that?

3 A. I do.

4 Q. Were you part of the Beechwood
5 team that put together that term sheet?

6 A. I was probably not part -- I was
7 not part of the Beechwood team that put
8 that term sheet together.

9 Q. Were you aware of the existence
10 of the term sheet?

11 A. I was aware that we were
12 discussing, pursuant to their request, to
13 do restructuring. I was aware that we were
14 discussing this as an option.

15 Q. Pursuant to whose request?

16 A. To Mr. Nordlicht and to the
17 Platinum's people.

18 Q. And what awareness did you have
19 as to the specifics of the term sheet, if
20 any?

21 A. I remember us suggesting -- I
22 remember this, that there was a suggestion
23 that we would do a loan to PPCO that would
24 be highly rated and that would be part of
25 this restructuring that we were all talking

1 M. Feuer

2 about and contemplating.

3 Q. And this would be a loan by
4 Beechwood to PPCO, is that's what is
5 contemplated in this e-mail?

6 A. To the best of my recollection,
7 Beechwood did it on behalf of its clients
8 or on behalf of its trusts.

9 Q. Was it your understanding that
10 Beechwood was serving as an agent to its
11 clients in connection with the loan
12 contemplated herein?

13 A. To different clients, different
14 things -- but yes, in some capacity.

15 Q. In some capacity, Beechwood was
16 acting on behalf of its clients?

17 A. Yes.

18 Q. With respect to this proposed
19 loan?

20 A. Well, Beechwood was acting on
21 behalf of itself. Beechwood bought blocks
22 of business. It had rules and regulations
23 on how to manage those blocks in business,
24 but we were acting on behalf of ourselves,
25 except as it pertained to SHIP.

1 M. Feuer

2 Q. So can you distinguish for me in
3 what instances was Beechwood acting on its
4 own behalf versus in what instances was it
5 acting on behalf of SHIP?

6 MR. MATHIAS: Objection to form.

7 A. I don't recall all the technical
8 issues. But like I said, if you use the
9 CNO block as an example, we bought a block
10 of business from CNO. We were subject to
11 certain regulations and rules and
12 guidelines on how to invest that block.
13 But we were investing it as part of
14 ourselves with oversight and regulatory
15 approval with regard to the block.

16 Q. And this was pursuant to
17 reinsurance agreements with CNO, right?

18 A. That's correct.

19 Q. You didn't have reinsurance
20 agreements with SHIP, correct?

21 A. That's why I'm distinguishing
22 perhaps our role and responsibility with
23 regard to SHIP versus some of our
24 reinsurance contracts.

25 Q. Prior to today, in your

1 M. Feuer
2 introduction to the concept of the IMAs,
3 what was your understanding of the capacity
4 by which Beechwood invested on behalf of
5 SHIP?

6 A. To the best of my recollection,
7 it was in the form of a loan. I think the
8 way the transaction was structured -- or I
9 thought the transaction was structured in
10 the form of some sort of a loan, with a
11 guaranteed rate of return.

12 Q. A loan from whom to whom?

13 A. A loan from SHIP to Beechwood,
14 with a guaranteed rate of return to SHIP.

15 Q. And so then Beechwood -- it would
16 be incumbent upon Beechwood to make
17 investments with a sufficient rate of
18 return to service that loan at a return of
19 5.8 percent or greater?

20 MR. MATHIAS: Objection to form.

21 A. That is correct.

22 Q. Now, in the second sentence of
23 Mr. Taylor's e-mail, there is a reference
24 to Egan Jones.

25 A. Yes.

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

11 Plaintiffs,

12 vs.

13 PLATINUM MANAGEMENT (NY) LLC, et al.,
14 Defendants.
15

16 VOLUME II

17
18 CONTINUED VIDEOTAPED DEPOSITION OF

19 MARK FEUER

20 Thursday, November 21, 2019

21 9:00 a.m.
22
23

24 Reported by:
25 Joan Ferrara, RMR, FCRR
Job No. 291951

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 --

1 M. Feuer

2 A. I don't know if it was a
3 nonperforming loan, so I don't know if I
4 knew that to be the case.

5 Q. And I apologize for cutting you
6 off.

7 Did I hear you correctly earlier
8 that you don't know whether the March 2016
9 transaction benefited one Platinum entity
10 to the detriment of another?

11 A. I don't know the Platinum side of
12 things. I understood and my team certainly
13 understood the Beechwood side of things. I
14 can't tell you what went on in Platinum and
15 with whom.

16 Q. You also testified earlier that
17 you had discussions with Mark Nordlicht
18 concerning the Platinum loan restructuring.

19 Do you recall that testimony?

20 A. I do.

21 Q. Okay.

22 And you also testified that
23 Nordlicht had two reasons, or provided two
24 reasons for wanting to restructure, one, to
25 obviate a stranglehold on Platinum's

1 M. Feuer
2 ability to raise capital; and two, to lower
3 interest rates.

4 Is that an accurate summary?

5 A. The second one is.

6 The first one, I don't know if he
7 used it as raised capital or as general
8 ability to operate the fund.

9 Q. Okay.

10 Do you have any reason to believe
11 that the reasons that Mr. Nordlicht
12 provided were false?

13 A. I have no reason to believe that.

14 Q. Are you aware of any other reason
15 why Mr. Nordlicht or Platinum wanted to
16 restructure?

17 A. No.

18 Q. I also recall that you testified
19 earlier that Mr. Nordlicht said he wanted
20 to eliminate broad collateral requirements
21 on Platinum's fund.

22 Is that accurate?

23 A. Yes.

24 Q. Did Mr. Nordlicht or Platinum
25 ever say whether the existing loan

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, Joan Ferrara, a Notary Public
within and for the State of New York,
do hereby certify:

That MARK FEUER, the witness
whose deposition is hereinbefore set
forth, was duly affirmed by me and that
such deposition is a true record of the
testimony given by the 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 26th day of
November, 2019.


Joan Ferrara

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

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within and for the State of New York,
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That MARK FEUER, the witness
whose deposition is hereinbefore set
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such deposition is a true record of the
testimony given by the 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 27th day of
November, 2019.



Joan Ferrara

Exhibit F

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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.

1 Dhruv Narain

2 of that.

3 MR. CANTER: Take it under
4 advisement.

5 MS. BIRRANE: Thank you.

6 (Document, Mr. Narain's Employment
7 Agreement with BAM, requested.)

8 Q So when you started your employment
9 at BAM, what did you understand your
10 responsibilities as co-chief investment officer
11 were going to be?

12 A To oversee the investments that
13 were related to reinsurance agreements with
14 BCLIC, WNIC, ULICO, Motorist, Atlantic Coast, as
15 well as the segregated accounts associated with
16 Beechwood Omnia and BBIHL, and the investment
17 management agreement with SHIP.

18 Q Was SHIP the only entity for which
19 BAM at that time was managing assets under an
20 investment management agreement?

21 A I don't recall.

22 Q And at the time that you started at
23 BAM, what was the size of the -- of the portfolio
24 of all the components that you've just described,
25 the assets under management?

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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 DHRUV NARAIN 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

11/4/19
Notary Public

My Commission expires February 9, 2024
Dated: October 31, 2019

Exhibit G

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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.

1 Scott Taylor

2 A What is what we did at Beechwood?

3 Q Beechwood Re provided reinsurance;
4 is that correct?

5 A Correct.

6 Q Did Beechwood Re also provide
7 investment management services?

8 A Subject to the reinsurance
9 transactions, affiliates of -- of Beechwood did.

10 Q On the reinsurance side, that is a
11 task you performed for WNIC and BCLIC; is that
12 correct.

13 A What is? Providing reinsurance?

14 Q Correct.

15 A Among others, yes.

16 Q And the reinsurance that was
17 provided by Beechwood for WNIC and BCLIC, it was
18 set up via trusts that were based in New York; is
19 that right?

20 A Sorry. Can you repeat that?

21 Q Your reinsurance business for WNIC
22 and BCLIC, it was set up via trusts in New York,
23 right? There were trusts, New York and Delaware,
24 that WNIC and BCLIC deposited its reserves into?

25 A There was a New York trust. If

1 Scott Taylor

2 you're telling me that there was a Delaware
3 trust, I'll take you at your word.

4 Q No reason to dispute that?

5 A Okay.

6 Q When you provide reinsurance, you
7 are receiving reserves; is that correct?

8 A I don't know how technical you want
9 this discussion to be.

10 Q Make it technical.

11 A There are many forms of
12 reinsurance. In some forms of reinsurance, you
13 would receive reserves.

14 Q In the case of BCLIC and WNIC, you
15 received reserves, correct?

16 MR. HARRIS: "You" means Beechwood?

17 MR. GLUCK: "You" means Beechwood.

18 A In the case of BCLIC and WNIC, we
19 provided co-insurance, reinsurance contracts,
20 where we received assets and their associated
21 liabilities.

22 Q When an insurance company like
23 BCLIC or WNIC reserve for their liabilities, I
24 think you testified earlier -- this morning that
25 one would hope that the reserve would be more

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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 SCOTT TAYLOR 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: November 8, 2019