

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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

**RECEIVER’S NOTICE OF ENTRY OF RELEVANT ORDER BY UNITED STATES
BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK**

Melanie L. Cyganowski, as receiver (“Receiver”) of Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund L.P., Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd., and Platinum Partners Credit Opportunities Fund International (A) Ltd., hereby respectfully provides notice that on July 6, 2021, an “Order (A) Staying Adversary Proceeding Pending Ruling by the United States District Court for the Eastern District of New York on Receiver’s Request to Authorize its Prosecution or a Determination that Such Approval is Unnecessary, and (B) in the Event of Such Approval or Determination, Granting in Part and Denying in Part

Motion to Dismiss Complaint” (the “Order”) was issued by the Honorable Robert D. Drain of the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) and entered by the Bankruptcy Court in the adversary proceeding entitled *Cyganowski v. Nordlicht (In re Nordlicht)*, Adv. Pro. No. 20-07025-rdd. A copy of the Order is attached hereto as **Exhibit A**. The Order relates to recent filings before this Court, namely Dkt. Nos. 569-571, 575, and 576, which are *sub judice*.

Dated: New York, New York
July 8, 2021

Respectfully Submitted,

OTTERBOURG P.C.

By: /s/ Erik B. Weinick

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Attorneys for Melanie L. Cyganowski, as Receiver

EXHIBIT A

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

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In re: : **Chapter 7**

MARK A. NORDLICHT, : **Case No. 20-22782-rdd**

Debtor. :

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**MELANIE L. CYGANOWSKI, AS RECEIVER, BY AND
FOR PLATINUM PARTNERS CREDIT OPPORTUNITIES** : **Adv. Pro. No. 20-07025-rdd**

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 PLATINUM PARTNERS CREDIT :

OPPORTUNITIES FUND (BL) LLC, :

Plaintiffs, :

- against - :

MARK A. NORDLICHT, :

Defendant. :

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**ORDER (A) STAYING ADVERSARY PROCEEDING PENDING RULING BY THE
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW
YORK ON RECEIVER’S REQUEST TO AUTHORIZE ITS PROSECUTION OR A
DETERMINATION THAT SUCH APPROVAL IS UNNECESSARY, AND (B) IN THE
EVENT OF SUCH APPROVAL OR DETERMINATION, GRANTING IN PART AND
DENYING IN PART MOTION TO DISMISS COMPLAINT**

Upon the motion, dated March 3, 2021 [Dkt 11] (the “Motion”) of Mark A. Nordlicht (“Defendant”) for an order pursuant to Fed. R. Civ. P. 9(b), 12(b)(1) and (6), and 17, made applicable by Fed. R. Bank. P. 7009, 7012(b) and 7017, dismissing the complaint [DE-1] (the “Complaint”) in the above-captioned adversary proceeding (the “Adversary Proceeding”), which Complaint alleges a single cause of action for a declaration denying the Defendant’s discharge under 11 U.S.C. § 727(a)(4)(A); and there being due and sufficient notice of the Motion; and the Court having considered the Motion, Defendant’s March 3, 2021 Memorandum of Law [DE-11-

1], the March 3, 2021 Declaration of Scott Krinsky, Esq. [DE-11-2] and Exhibits A through P attached thereto [DE-11-3 to 11-18], the Declaration of Erik B. Weinick [DE-13] and Exhibits A through C attached thereto [DE-13-1 to 13-3], and the Plaintiff's Memorandum of Law [DE-13-4], all submitted in opposition to the Motion, and Defendant's May 10, 2021 Reply Memorandum of Law [DE-14], the May 10, 2021 Reply Declaration of Scott Krinsky, Esq. [DE-15] and Exhibits A through H attached thereto [DE-15-1 to 15-8]; and upon the record of the hearing held by the Court on the Motion on June 14, 2021 (the "Hearing"); and, after due deliberation and for the reasons stated by the Court in its bench ruling at the conclusion of the Hearing, the transcript of which is incorporated herein, the Court having determined to stay all activity in the Adversary Proceeding pending a determination by the Receivership Court (defined below) as set forth herein, and, based on such determination, to grant the Motion or, in the alternative, to deny the Motion in part and grant it in part; and upon the Court's review of the parties' proposed forms of this Order; now, therefore, it is hereby

ORDERED that the Plaintiff has general statutory standing under 11 U.S.C. § 727 to prosecute the Adversary Proceeding; and it is further

ORDERED that, insofar as the Defendant seeks dismissal of the Adversary Proceeding based upon restrictions on the Plaintiff's ability to pursue the claim asserted in the Adversary Proceeding allegedly set forth in the Second Amended Order Appointing Receiver dated October 16, 2017 (the "Receivership Order") entered in the action pending in the United States District Court for the Eastern District of New York (the "Receivership Court") entitled *SEC v. Platinum Management (NY) LLC, et. al.*, Case No. 16-CV-6848-BMC (E.D.N.Y.) (the "Receivership Action"), the Court concludes that the Receivership Court should interpret the Receivership Order as to its scope, effect and implementation, upon request by the Plaintiff; and it is further

ORDERED that the Adversary Proceeding is hereby stayed until (A) the Plaintiff obtains permission or approval of the Receivership Court in the Receivership Action for the prosecution of the Adversary Proceeding, or (B) the Plaintiff obtains a ruling from the Receivership Court that no such permission or approval is necessary or that no stay prohibiting the prosecution of the Adversary Proceeding is in place by virtue of the Receivership Order, or (C) the Receivership Court lifts any such stay in the Receivership Order in a manner that permits prosecution of the Adversary Proceeding (each a “Receivership Court Permission Ruling”), in the event of which items 1-6 below shall be the Court’s ruling as to the Motion’s other grounds for relief; and it is further

ORDERED that, if the (A) Receivership Court rules that the Receivership Order bars prosecution of the Receivership Action and (B) the Receivership Court concludes that it will not permit or approve the Plaintiff’s prosecution of the Adversary Proceeding and that it will not lift any stay under the Receivership Order in a manner that permits prosecution of the Adversary Proceeding, (i) the Adversary Proceeding shall be dismissed without prejudice to recommencement or revival thereof; provided that any such recommencement or revival is consistent with further order(s) of the Receivership Court or any applicable appellate court, and (ii) the remainder of this Order as to the Motion’s other grounds for relief shall become moot unless the Adversary Proceeding is recommenced or revived consistent with the terms of this Order; and it is further

ORDERED that, if the Receivership Court issues a Receivership Court Permission Ruling, the remainder of the Motion is granted in part and denied in part as follows:

1. The Motion's request for dismissal of the Complaint pursuant to Fed. R. Civ. P. 9(b), made applicable by Fed. R. Bankr. P. 7009, is DENIED, as the Court finds that the Complaint complies with the particularity requirements of Rule 9(b).
2. The Motion's request for dismissal of the Complaint's claim objecting to the Defendant's discharge under 11 U.S.C. § 727(a)(4)(A) premised upon the Defendant's alleged omission from his schedules of an alleged ownership interest in the condominium located at 535 West End Avenue, Number 15, New York, New York is GRANTED, and that portion of Plaintiff's claim, as presently pleaded, is dismissed without prejudice, subject to paragraph 6 below.
3. The Motion's request for dismissal of the Complaint's claim objecting to the Defendant's discharge under 11 U.S.C. § 727(a)(4)(A) premised upon the Defendant's omission from his schedules of payments by 16th Avenue Associates LLC of approximately \$1,000,000 in legal fees and expenses paid directly to the Defendant's attorneys in the thirteen months before the filing of the Defendant's Chapter 7 case is GRANTED, and that portion of the Plaintiff's claim, as presently pleaded, is dismissed without prejudice, subject to paragraph 6 below.
4. The Motion's request for dismissal of the Complaint's claim objecting to the Defendant's discharge under 11 U.S.C. § 727(a)(4)(A) premised upon the Defendant's omission from his Schedule I of the full amount of monthly income, prorated over 12 months based on a payment of \$1,400,000 from Barbara Nordlicht to Dahlia Kalter in August 2019 is DENIED.
5. The Motion's request for dismissal of the Complaint's claim objecting to the Defendant's discharge under 11 U.S.C. § 727(a)(4)(A) premised upon the

Defendant's omission from his schedules of a trust established by the Defendant's late father through his will is DENIED.

6. If the Receivership Court issues a Receivership Court Permission Ruling, the Plaintiff shall have thirty (30) days from the date of such ruling to file a motion in the Adversary Proceeding pursuant to Fed. R. Civ. P. 15(a), made applicable by Fed. R. Bankr. P. 7015, for leave to amend the Complaint, which motion shall attach a copy of the proposed Amended Complaint blacklined to show the changes from the Complaint, and the pretrial conference in the Adversary Proceeding shall be scheduled for the return date of such motion. If the Plaintiff fails to timely make such a motion, the dismissals in paragraphs 2 and 3 hereof shall be with prejudice;

and it is further

ORDERED that the Court shall retain exclusive jurisdiction to resolve all matters relating to or arising in connection with the interpretation, enforcement and/or implementation of this Order.

Dated: White Plains, New York
July 6, 2021

/s/Robert D. Drain
Hon. Robert D. Drain
United States Bankruptcy Judge