

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) and PLATINUM PARTNERS
VALUE ARBITRAGE FUND L.P. (in OFFICIAL
LIQUIDATION),

Plaintiffs,

v.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

Master Docket 1:18-cv-06658-JSR

Case 1:18-cv-10936-JSR

**SUPPLEMENTAL
DECLARATION OF IRA S.
LIPSIUS IN FURTHER
SUPPORT OF THE
BEECHWOOD PARTIES'
MOTION FOR SUMMARY
JUDGMENT**

Ira S. Lipsius declares the following under the penalty of perjury:

1. I am a partner at the law firm of Lipsius-Benham Law, LLP, and counsel for B Asset Manager LP, B Asset Manager II LP, BAM Administrative Services, LLC, Beechwood Re Investments LLC, Beechwood Re Holdings, Inc., Beechwood Bermuda International Ltd., Mark Feuer, Scott Taylor, and Dhruv Narain (the "Beechwood Parties").
2. I submit this supplemental declaration in further support of the Beechwood Parties' motion for summary judgment in this action.
3. Attached hereto as Exhibit A is a true and accurate copy of excerpts of the transcript of a hearing held before this Court on May 3, 2019 in the above-captioned actions.

4. Attached hereto as Exhibit B is a true and accurate copy of excerpts of the transcript of the March 26, 2020 deposition of Mark Nordlicht in the above-captioned actions.

5. Attached hereto as Exhibit C is a true and accurate copy of excerpts of the transcript of the October 23, 2019 deposition of Dhruv Narain in the above-captioned actions.

6. Attached hereto as Exhibit D is a true and accurate copy of a February 26, 2016 email from David Leff to Mark Nordlicht and Norlicht's reply with the subject line "Re: Hi Mark," which was produced in the above-captioned actions as control number CTRL8274044.

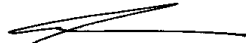
7. Attached hereto as Exhibit E is a true and accurate copy of a March 21, 2016 email exchange between Israel Wallach and Mark Nordlicht with the subject line "Re: Heads up" which was produced in the above-captioned actions as control number CTRL7754949.

8. Attached hereto as Exhibit F is a true and accurate copy of a November 6, 2014 email from Mark Nordlicht with the subject line "Re: Bearcat Teaser" which was produced in the above-captioned actions as control number CTRL5790763.

9. It was not until January 2020 that the Liquidators produced 16 Platinum Management investor calls to the Beechwood Parties as control numbers CTRL_PPCO_0000001 through CTRL_PPCO_0000016.

Dated: Kew Gardens, New York
April 3, 2020

LIPSIUS-BENHAIM LAW, LLP



Ira S. Lipsius

EXHIBIT A

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 In re:

4 PLATINUM-BEECHWOOD LITIGATION 18-CV-6658 (JSR)

5 -----x
6 DAVID LEVY,

7 Plaintiff,

8 v.

19-cv-3211 (JSR)

9 SENIOR HEALTH INSURANCE
10 COMPANY OF PENNSYLVANIA,

11 Defendant.

Argument

12 -----x
13 New York, N.Y.
14 May 3, 2019
15 3:30 p.m.

16 Before:

17 HON. JED S. RAKOFF

18 District Judge
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1 I think the case that is cited in response to us is a
2 case called *Pendergest*, which is at 681 F. Supp. 2d 816. And
3 Levy notes in that case, under those circumstances, the court
4 chose not to find the inference. But what is not limited about
5 that case is it was later vacated. It was vacated by the
6 Southern District of Texas at, the cite is 751 F. Supp. 2d 876.
7 And the reason it was vacated, the reason the court chose not
8 to give advancement, is, while it was an insurance policy case,
9 the scope of the insurance policy had an exclusion or
10 limitation for money laundering, which was applied, just based
11 upon the allegations of the complaint, exactly the same here.
12 You don't wait to apply the limitations. You apply them up
13 front. They'll have no meaning if you wait till later.

14 So I think when you look at it, rock bottom, there is
15 a number of difficulties with this claim. Putting aside that
16 it's presented as a preliminary injunction --

17 THE COURT: Just on the very last point you made, if
18 there is only civil litigation going on and someone invokes the
19 Fifth Amendment because they nevertheless have a reasonable
20 fear of future criminal liability, then, as you say, the court
21 can infer that the reason they're taking the Fifth is because
22 they actually would admit the charges they're being questioned
23 about in the civil case. But in a criminal case it would be
24 virtual malpractice for a lawyer not to advise his or her
25 client, when there's a criminal case pending, to take the Fifth

1 everywhere. There would be no question they would have a right
2 to do it. But the reason for doing it would be to preserve one
3 of the few advantages that a defendant has in a criminal case,
4 which is the right to silence.

5 So accepting that I could infer something from the
6 taking of the Fifth in this civil litigation, as a practical
7 matter, I'm not sure why I should.

8 MR. McCORMACK: I think, your Honor, two things. We
9 say you don't need to infer anything, because at the end of the
10 day --

11 THE COURT: I understand that. I don't have to reach
12 that issue. Yes.

13 MR. McCORMACK: But the bottom line is, the point to
14 your Honor is, Mr. Levy didn't just take the Fifth in the
15 criminal proceedings. He took the Fifth against basic
16 allegations of what if anything he was doing involving the
17 IMAs. Every single response to the complaint in the civil
18 case.

19 THE COURT: Yes, but that would be when he was already
20 under indictment or facing criminal liability in a real sense.
21 And the reason, as I understand it, for this sort of strange
22 development in American law -- the Constitution only talks
23 about taking the Fifth in a criminal case. The Supreme Court
24 has held that you can take it in civil cases nevertheless
25 because it may nevertheless tend to incriminate you in future

EXHIBIT B

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.

- - -

Videotaped Deposition of MARK A. NORDLICHT

Thursday, March 26, 2020 - 10:01 a.m.

Reported by:

Jennifer Billstein-Miller

Job No.: 27927

1 Video conference deposition of MARK A.
2 NORDLICHT taken pursuant to notice, commencing
3 at 10:01 a.m., on the above date, before
4 Jennifer Billstein-Miller, RPR, CCR-NJ, CRR
5 #30XI00235100 and Notary Public.

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1 MARK A. NORDLICHT

2 you. First, I did want to thank you for taking
3 the time out to do this today, but we'll jump
4 right in.

5 Have you had any business
6 dealings with Mark Feuer since the middle of
7 2016?

8 MR. KOFFMAN: Object to form.

9 BY MR. BENHAIM:

10 Q. If you want to confer with counsel, I
11 don't have a problem with that either.

12 A. Counsel, do you have any advice for
13 me?

14 MR. KOFFMAN: I have not.

15 BY MR. BENHAIM:

16 Q. Have you socialized with Mark Feuer
17 since the middle of 2016?

18 A. No, I have not.

19 Q. Does Mark Feuer exert any control
20 over you?

21 MR. KOFFMAN: Objection to form.

22 THE WITNESS: I think on the
23 advice of counsel, I have to plead the
24 Fifth.

25

1 MARK A. NORDLICHT

2 BY MR. BENHAIM:

3 Q. Have you had any business dealings
4 with Scott Taylor since the middle of 2016?

5 A. I have not.

6 Q. Have you socialized with Scott Taylor
7 since the middle of 2016?

8 A. I have not.

9 Q. Does Scott Taylor exert any control
10 over you?

11 A. On the advice of counsel, I'll plead
12 the Fifth.

13 Q. Have you had any business dealings
14 with Dhruv Narain since the middle of 2016?

15 A. I have not.

16 Q. Have you socialized with Dhruv Narain
17 since the middle of 2016?

18 A. No, I have not.

19 Q. And does Dhruv Narain exert any
20 control over you?

21 MR. KOFFMAN: Objection to the
22 form.

23 THE WITNESS: On the advice of
24 counsel, I plead the Fifth.

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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.

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 A A few months is my recollection.

3 Q And what occasioned the change in
4 his position?

5 A My recollection is that Mark Feuer
6 and Scott Taylor felt that he was serving more as
7 a chief risk officer, and so that was the change.

8 Q So he became the chief risk
9 officer?

10 A That's my recollection.

11 Q Were you part of that decision?

12 A No.

13 Q Do you know David Levy?

14 A I don't.

15 Q You never met him?

16 A No.

17 Q What about Mark Nordlicht?

18 A Never met him.

19 Q Have you ever interacted with him,
20 other than face-to-face?

21 A No.

22 Q Not by E-Mail?

23 A No.

24 Q Do you know David Bodner?

25 A No.

EXHIBIT D

To: David Leff[leffmd@gmail.com]
From: Mark Nordlicht[mnordlicht@platinumlp.com]
Sent: Thur 2/25/2016 11:14:36 PM (UTC)
Subject: Re: Hi Mark,

I had absolutely no idea. Unfortunately, have been completely shut out of beechwood. I am so sorry , i am very surprised. Thx for the kind words.

Sent from my iPhone

On Feb 26, 2016, at 1:07 AM, David Leff <leffmd@gmail.com<mailto:leffmd@gmail.com>> wrote:

As you probably know, i was let go today at Beechwood.

I would like to express gratitude to you for giving me a chance more than two years ago. It's a chaval that we never had a chance to work closely together, I respect and like you both on a personal and professional level.

Wishing you all the best, especially in ארץ ישראל...

David M Leff

EXHIBIT E

To: Israel Wallach[iswallach@gmail.com]
From: Mark Nordlicht[mnordlicht@platinumlp.com]
Sent: Mon 3/21/2016 9:41:55 PM (UTC)
Subject: Re: Heads up

Not talking about beechwood, I am unfortunately persona non grat there. I'm talking anywhere else.

Sent from my iPad

> On Mar 21, 2016, at 11:35 PM, Israel Wallach <iswallach@gmail.com> wrote:

>

> Don't think there is anything u can do.

>

> Sent from my iPhone

>

>> On Mar 21, 2016, at 5:22 PM, Mark Nordlicht <mnordlicht@platinumlp.com> wrote:

>>

>> Oye, im sorry. Let me know if there's anything i can do.

>>

>> Sent from my iPhone

>>

>>> On Mar 21, 2016, at 10:42 PM, Israel Wallach <iswallach@gmail.com> wrote:

>>>

>>> Hey just want to let u know that beechwood just laid me off. Hope things have gotten a little less stressful.

>>>

>>> Israel

>>>

>>> Sent from my iPhone

>>

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>> THIS E-MAIL IS FOR THE SOLE USE OF THE INTENDED RECIPIENT(S) AND MAY CONTAIN

>> CONFIDENTIAL AND PRIVILEGED INFORMATION.ANY UNAUTHORIZED REVIEW, USE,
DISCLOSURE

>> OR DISTRIBUTION IS PROHIBITED. IF YOU ARE NOT THE INTENDED RECIPIENT, PLEASE

>> CONTACT THE SENDER BY REPLY E-MAIL AND DESTROY ALL COPIES OF THE ORIGINAL E-
MAIL.

EXHIBIT F

To: Richard Sands[rsands@casimircapital.com]; Samuel Salfati[ssalfati@platinump.com]; Yaron Benchlouch[ybenchlouch@casimircapital.com]
From: Mark Nordlicht[mnordlicht@platinump.com]
Sent: Thur 11/6/2014 2:46:28 PM (UTC)
Subject: RE: Bearcat Teaser
[image001.png](#)

Problem is this is in Beechwood which I am not advising in any way anymore. New regime there just has genetic disposition against adding money to loan they already made. I happen to obviously take different approach but that's the lay of the land right now.

From: Richard Sands [mailto:rsands@casimircapital.com]
Sent: Thursday, November 06, 2014 9:05 AM
To: Mark Nordlicht; Samuel Salfati; Yaron Benchlouch
Subject: Fwd: Bearcat Teaser

We want to get him another few million dollars.. Here is the tear sheet we are going out with. We think we can get this company 13mm senior secured right now and refinance your 9mm loan.. Leaving them an additional..3.5mmnett development capital..

Would you consider refinancing the note yourselves? Could be quite juicy and quick. And would achieve a pretty healthy return on investment..

Let me know.. O therwise..good shabbos

Richard Sands | Chief Executive Officer, President
T: 212.798.1333<tel:212.798.1333> | F: 212.798.1399<tel:212.798.1399>

----- Original message -----

From: Charles Bueneman <cbueneman@casimircapital.com<mailto:cbueneman@casimircapital.com>>
Date:10/23/2014 4:22 PM (GMT-05:00)
To: Richard Sands <rsands@casimircapital.com<mailto:rsands@casimircapital.com>>
Subject: Bearcat Teaser

Charles Bueneman | Capital Markets
T: 212.798.1372 | C: 646.713.5758
cbueneman@casimircapital.com<mailto:cbueneman@casimircapital.com>

[Description: Untitled]
15 Valley Drive
Greenwich, CT 06831
www.casimircapital.com<http://www.casimircapital.com/>

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