

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

----- X

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. :

----- X

No. 16-CV-6848 (BMC)

**NOTICE OF RECEIVER’S MOTION FOR ENTRY OF AN ORDER
(I) ESTABLISHING A DEADLINE FOR FILING ADMINISTRATIVE CLAIMS AND
(II) APPROVING (A) A PROOF OF ADMINISTRATIVE CLAIM FORM, (B) THE
FORM AND MANNER OF NOTICE OF THE ADMINISTRATIVE CLAIM BAR DATE,
AND (C) PROCEDURES FOR FILING PROOFS OF ADMINISTRATIVE CLAIM**

PLEASE TAKE NOTICE that upon the accompanying declaration and memorandum of law in support of the motion by Melanie L. Cyganowski, as Receiver (the “**Receiver**”) for Platinum Credit Management, L.P., 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 (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. (collectively, the “**Receivership Entities**”), by and through her undersigned counsel, will move

before the Honorable Brian M. Cogan, United States District Judge for the United States District Court for the Eastern District of New York (the “*Court*”), located at the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201, for the entry of an Order (i) establishing a deadline for filing administrative claims, if any, arising on or after December 19, 2016 through and including June 30, 2022, (ii) approving (a) a proof of administrative claim form, (b) the form and manner of notice of the administrative claim bar date, and (c) procedures for filing proofs of administrative claim, and (iii) granting such other and further relief as this Court deems appropriate (the “*Motion*”).

PLEASE TAKE FURTHER NOTICE that any opposition to the Motion must be: (i) made in writing; (ii) if by a party named in the above-captioned case, electronically filed with the Court; or (iii) if by a non-party, electronically mailed to the Receiver at her email address, platinumreceiver@otterbourg.com, so as to be actually received no later than **July 26, 2022**.

PLEASE TAKE FURTHER NOTICE that in the absence of any timely filed or served written opposition, the Court may grant the relief requested in the Motion without further hearing or notice.

Dated: July 19, 2022

OTTERBOURG P.C.

By: /s/ Erik B. Weinick

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**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. :

----- X

No. 16-CV-6848 (BMC)

**DECLARATION OF MELANIE L. CYGANOWSKI AS RECEIVER IN
SUPPORT OF THE RECEIVER’S MOTION FOR ENTRY OF AN ORDER
(I) ESTABLISHING A DEADLINE FOR FILING ADMINISTRATIVE CLAIMS AND
(II) APPROVING (A) A PROOF OF ADMINISTRATIVE CLAIM FORM, (B) THE
FORM AND MANNER OF NOTICE OF THE ADMINISTRATIVE CLAIM BAR DATE,
AND (C) PROCEDURES FOR FILING PROOFS OF ADMINISTRATIVE CLAIM**

I, Melanie L. Cyganowski, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true to the best of my knowledge, information and belief:

1. I make this declaration in my capacity as the duly appointed Receiver (the “*Receiver*”) of Platinum Credit Management, L.P., 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 (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. (collectively, the “*Receivership Entities*,” and each a “*Receivership Entity*”).

2. I submit this declaration in support of my motion for entry of an Order (i) establishing a deadline for filing administrative claims, if any, arising on or after December 19, 2016 through and including June 30, 2022, (ii) approving (a) a proof of administrative claim form, (b) the form and manner of notice of the administrative claim bar date, and (c) procedures for filing proofs of administrative claim, and (iii) granting such other and further relief as this Court deems appropriate (the “*Motion*”).

I.

PRELIMINARY STATEMENT

3. Entry of an Order granting the Motion will provide me with some of the last information necessary for me to finalize and submit a plan of distribution for consideration by the Court and stakeholders. The Court’s October 16, 2017 *Second Amended Order Appointing Receiver* directed me to determine the extent of liabilities I believe to be the legal obligations of the Receivership Entities. In connection therewith, I am authorized, empowered and directed to develop a plan for the fair, reasonable, and efficient recovery and disposition of all remaining, recovered, and recoverable receivership property, which may be a plan of liquidation.

4. My team and I have made significant progress towards winding down the estates, administering claims and seeking approval of a plan of distribution. To assist in my administration of the case, the Court previously entered an Order (the “*Bar Date Order*”) establishing deadlines (as more fully defined below, the “*Bar Dates*”) for non-governmental and governmental claimants to submit proofs of claim for claims arising prior to December 19, 2016 (the “*Receivership Commencement Date*”) [Dkt. No. 453] so that the nature and scope of the

potential claims against, and liabilities of, the Receivership Entities could be determined (claims arising prior to the Receivership Commencement Date are referred to herein as the “*Pre-Receivership Claims*”). The nature and scope of the Pre-Receivership Claims have now been finalized and are no longer subject to change or adjustment except for the following which remain pending:

- (a) the Receiver’s Omnibus Motion to Confirm Receiver’s Determinations as to (1) Claims 282-301 Filed by David Levy, (2) Claims 313-322 Filed by Wilson Sonsini Goodrich & Rosati, P.C., (3) Claims 156, 329 and 330 Filed by Ford O’Brien LLP, (4) Claims 24 and 227-232 Filed by Daniel Small, and (5) Claims 37-38 and 41-42 Filed by Richard Schmidt, as Trustee of the Black Elk Energy Offshore Operations, LLC Litigation Trust [Dkt. Nos. 597, 602];
- (b) the Receiver’s Motion for an Order (I) Permanently Enjoining Any Prosecution of Claim No. 145, (II) Confirming the Receiver’s Disallowance of Claim No. 145, and (III) Confirming the Receiver’s Authority to Consent to the Release of the Indemnity Escrow Amount [Dkt. No. 624];
- (c) a settlement with the Official Joint Liquidators of Platinum Partners Value Arbitrage Fund, LP that has been agreed to and is awaiting execution, approval by the Cayman Court and then submission to this Court for approval; and
- (d) a settlement with the Chapter 7 Trustee for the bankruptcy estate of Mark A. Nordlicht that has been agreed to in principle and is awaiting documentation and execution.

5. Notably, claimants asserting claims for the provision of goods or services to the Receivership Entities or the Receiver beginning on or after the Receivership Commencement Date were not required to submit proofs of claim on or before the applicable Bar Dates set forth in the Bar Date Order. The Bar Date Order also did not require the submission of proofs of claim by me or my retained professionals.

6. As a result, and to further aid my efforts to wind down the receivership and formulate a plan of distribution that is fair and reasonable to all stakeholders, the Motion seeks to

establish a bar date for the submission of claims asserted against the Receivership Entities arising on or after December 19, 2016 through and including June 30, 2022.

7. While I am not aware of any unknown administrative liabilities, much less any outstanding administrative liabilities other than professional fees of other parties that are subject to Court approval, I believe it is in the best interests of the Receivership Entities and for the efficient administration of the case to determine and confirm whether there are, in fact, any unknown potential administrative liabilities and the extent and amount of such administrative liabilities. The Motion, if approved, will help eliminate the risk of having to address potentially unknown claims of unknown amount prior to proposing a plan of distribution. Importantly, nothing in the Motion is intended to, and should not be construed to, alter, modify or otherwise affect any Pre- Receivership Claim, any bar dates set forth in the Bar Date Order, or any other Order of the Court previously entered in this case.

8. For these reasons and those set forth more fully herein, as well as in the contemporaneously filed Memorandum of Law in Support of the Motion, this Court should enter an Order, substantially in the form annexed hereto as Exhibit A, granting the Motion (the “*Administrative Claim Bar Date Order*”).

II.

BACKGROUND

9. On December 19, 2016 (the “*Receivership Commencement Date*”) this Court entered the *Order Appointing Receiver*, amended on January 30, 2017, in the above-captioned matter. [Dkt. Nos. 6 and 59].

10. On July 6, 2017, this Court accepted the resignation of the original receiver, Bart M. Schwartz, Esq. (“*Original Receiver*”), and appointed me as Receiver effective immediately (*i.e.*, July 6, 2017). [Dkt. No. 216].

11. On October 16, 2017, this Court entered the *Second Amended Order Appointing Receiver*, Dkt. No. 276 (the “*Receivership Order*”), which, among other things, “authorized, empowered and directed [the Receiver] to develop a plan . . . for the fair, reasonable, and efficient recovery and disposition of all remaining, recovered, and recoverable Receivership Property [as defined in the Receivership Order] . . . , which may be a plan of liquidation.” Receivership Order, ¶ 45.

12. On February 11, 2019, this Court entered an *Order (I) Establishing Claims Bar Dates and (II) Approving (A) A Proof of Claim Form, (B) the Form and Manner of Notice of the Claims Bar Dates and (C) Procedures for Submitting Proofs of Claim*. [Dkt. No. 453]. The Bar Date Order set March 29, 2019 and April 12, 2019 as the Bar Dates for non-Governmental Units and Governmental Units, respectively, to file a proof of claim asserting Pre-Receivership Claims.

13. The Bar Date Order also specified categories of persons or entities that were required to timely file a Proof of Claim (as defined in the Bar Date Order) and the categories of persons or entities excluded from the requirements of the Bar Date Order. Particularly relevant to the Motion, the Bar Date Order did not require persons or entities that are holders of administrative claims, which are identified in the Bar Date Order as “claims based on the provision of goods or services to the Receivership Entities or the Receiver after [the Receivership Commencement Date],” to file Proofs of Claim. Bar Date Order, ¶ 5(ii).

III.

THE ADMINISTRATIVE CLAIMS PROCEDURES

A. Defined Terms.

14. For purposes of the Motion and the Administrative Claim Bar Date Order, the following terms are defined as follows:

- (i) “*Administrative Claim*” is defined as a Claim arising within the Administrative Claim Period.
- (ii) “*Administrative Claim Period*” is defined as the time period beginning December 19, 2016 through and including June 30, 2022.
- (iii) “*Administrative Claimant*” is defined as and includes any person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that holds an Administrative Claim. Without limiting the generality of the foregoing, the definition of Administrative Claimant includes, but is not limited to, any person or entity holding an Administrative Claim based on the provision of goods or services to the Receivership Entities or the Receiver that has not been paid in whole; money loaned to any Receivership Entity that has not been paid in whole; unpaid wages, compensation, or other employment benefits; tax liabilities, including those held by federal and state governments; primary, secondary, direct, indirect, secured, unsecured, or contingent liability; or contract, tort, indemnity, reimbursement, subrogation theories, or other legal or equitable theory.
- (iv) “*Claim*” is defined as: (1) a claim to a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, against one or more of the Receivership Entities; or (2) a claim to a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, against one or more of the Receivership Entities.
- (v) “*Governmental Unit*” is defined as and includes the United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government.

B. Administrative Claim Bar Date.

15. I request that the Court establish **5:00 p.m. (prevailing Eastern Time) on the business day that is forty-five (45) days from the date of entry of the Administrative Claim Bar Date Order** as the deadline for Administrative Claimants, which includes Governmental Units, to timely file Administrative Claims against the Receivership Entities (the “*Administrative Claim Bar Date*”).

C. Eligibility to Submit Administrative Claims.

16. Proofs of Administrative Claim (defined below) must be filed by all persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that are Administrative Claimants and believe that they are owed any money by, or have a right to distribution from, any of the Receivership Entities on account of their Administrative Claim, regardless of whether the Administrative Claim at issue has been acknowledged by me or whether the Administrative Claim at issue is held with or through any person or entity based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability.

17. I also request that holders of Claims of the following types be **excluded** from having to file Proofs of Administrative Claim on or before the Administrative Claim Bar Date:

- a. (i) the Receiver and the Receiver’s professionals retained on or after the Receivership Commencement Date by Order of the Court (or pursuant to the *Order Authorizing Approving Proposed Procedures for the Retention and Payment of Additional Limited Scope Professionals*, Dkt. No. 296), including, but not limited to: Otterbourg P.C.; Goldin Associates, LLC, a Teneo Company; Trey Rogers; Paul Poteat; and KOM Consulting LLC; and (ii) the Original Receiver, Cooley LLP and Guidepost Solutions, LLC. The claims of each of the foregoing will be addressed in accordance with Orders of the Court;
- b. any holder of a Claim that arises *after* June 30, 2022 (such Claim referred to as a “*Supplemental Administrative Claim*”). For the avoidance of

doubt, Supplemental Administrative Claims shall be subject to a bar date that will be set forth in a plan of distribution implemented by the Receiver that has been approved by the Court;

- c. any holder of an Administrative Claim or other Claim that has been resolved by means of an executed written settlement agreement with the Receiver; and
- d. any holder of an Administrative Claim that has been paid in full, or has compromised their claim with the Receiver in writing.

18. As stated above, Supplemental Administrative Claims will not be subject to the Administrative Claim Bar Date in the Administrative Claim Bar Date Order; rather, such Supplemental Administrative Claims will be subject to a bar date that will be set forth in any plan of distribution implemented by me that has been approved by the Court. I have been and will continue to process and pay valid Supplemental Administrative Claims as they are incurred and come due.

19. To further assist in the process for submitting Administrative Claims, the general instructions to the proposed Proof of Administrative Claim Form includes a checklist. If any of the following statements from the checklist is applicable to a person/entity, such person/entity **does not** need to file a Proof of Administrative Claim Form on or before the Administrative Claim Bar Date:

- “I am an investor in the Receivership Entities and my claim against the Receivership Entities is based solely on my investments in the Receivership Entity.”
- “My claim against the Receivership Entities is based solely on my request to redeem my investment in the Receivership Entities and of which I have not received any payment for.”
- “I do not have any claim to a right to payment or any claim to a right to an equitable remedy against any of the Receivership Entities that arose on or after December 19, 2016 through and including June 30, 2022.”

- “I am a holder of a claim to a right to payment or a claim to a right to an equitable remedy against any of the Receivership Entities that arose on or after December 19, 2016 through and including June 30, 2022, but that claim has been resolved by means of an executed written settlement agreement with the Receiver.”
- “I am a holder of a claim to a right to payment or any claim to a right to an equitable remedy against any of the Receivership Entities that arose on or after December 19, 2016 through and including June 30, 2022, but that claim has been paid in full or has been compromised with the Receiver in writing.”

D. Notice.

20. I believe the following procedures will ensure sufficient notice to Administrative Claimants of the Administrative Claim Bar Date and respectfully submit that no other or further notice need be given, and request that the Court find that such notice be deemed good, adequate and sufficient.

(i) Notice Parties. For purposes of the Administrative Claims Procedures, the following persons and entities shall each be referred to as a “*Notice Party*” and collectively, as “*Notice Parties*”:

- (a) all creditors at the address set forth in the Receivership Entities’ books and records or as updated pursuant to a request by a creditor or by returned mail from the post office with a forwarding address;
- (b) all parties known to the Receiver as having a potential Administrative Claim against any of the Receivership Entities;
- (c) all parties to pending litigation against the Receivership Entities (as of the date of entry of the Order on this Motion);
- (d) all applicable Governmental Units; and
- (e) such additional persons and entities deemed appropriate by the Receiver.

(ii) Notice by Electronic Mail. Where a Notice Party has provided an electronic mail address to me, I propose to serve, within five (5) business days of entry of the

Administrative Claim Bar Date Order:

- (a) notice of the Administrative Claim Bar Date and the procedures for submitting proofs of administrative claim, substantially in the form of the notice annexed hereto as Exhibit B (the “*Administrative Claim Bar Date Notice*”); and
- (b) a proof of administrative claim form, substantially in the form of the document annexed hereto as Exhibit C (the “*Proof of Administrative Claim Form*”)

on such Notice Party via the electronic mail address provided by them.

(iii) Notice by Mail. Where a Notice Party has not provided an electronic mail address to me, I propose to serve, within five (5) business days of entry of the Administrative Claim Bar Date Order, the Administrative Claim Bar Date Notice and the Proof of Administrative Claim Form upon (a) Notice Parties located within the United States by United States first class mail and (b) Notice Parties located outside the United States by any method reasonably calculated to provide notice to such Notice Parties.

(iv) Notice by Publication. The Administrative Claim Bar Date Notice and the Proof of Administrative Claim Form will also be made available, within five (5) business days of entry of the Administrative Claim Bar Date Order, on the website www.PlatinumReceivership.com.

(v) Notice Upon Inquiry. I will promptly provide the Administrative Claim Bar Date Notice and the Proof of Administrative Claim Form to any Administrative Claimant who makes a written request for such notice and form to the e-mail address platinumreceiver@otterbourg.com or to the physical address Platinum Receivership c/o Otterbourg P.C., 230 Park Avenue, New York, New York 10169-0075, Attention: Erik B. Weinick, Esq.

E. Procedure for Submitting Administrative Claims.

21. Except as otherwise ordered by this Court or provided below, each Administrative Claimant must electronically mail a completed and signed Proof of Administrative Claim Form under penalty of perjury and evidence such Administrative Claim, together with supporting documentation (a “*Proof of Administrative Claim*”), to me at the e-mail address platinumreceiver@otterbourg.com, so that it is actually received on or before the Administrative Claim Bar Date.

22. Proofs of Administrative Claim should not be filed with the Court, and any Proof of Administrative Claim so filed will not be considered properly submitted.

F. Supporting Documentation.

23. Each Administrative Claimant should attach to their Proof of Administrative Claim copies, not originals, of all documents available to the Administrative Claimant that could support such Proof of Administrative Claim. Documentation may include, but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing the amount and basis of the Administrative Claim. If such supporting documentation is not available, the Administrative Claimant must attach to the Proof of Administrative Claim an explanation of why the documentation is unavailable.

24. I reserve the right to request additional supporting documentation from Administrative Claimants and the submission of supporting documentation with a Proof of Administrative Claim shall not preclude me from evaluating the validity of and, if I deem

appropriate, objecting to such Proof of Administrative Claim on any grounds, including the lack of supporting documentation.

G. Proofs of Administrative Claim Must Identify the Receivership Entity.

25. Administrative Claimants asserting Administrative Claims against more than one Receivership Entity must, in addition to all other requirements set forth under the Administrative Claim Bar Date Order, specify on the Proof of Administrative Claim:

- (a) each Receivership Entity the Administrative Claim is being asserted against;
- (b) a detailed explanation why the Administrative Claim is being asserted against such Receivership Entity; and
- (c) the amount of the Administrative Claim that is allocated to such Receivership Entity and the basis for such allocation.

26. Administrative Claimants must make reasonable efforts to allocate the claim amongst one or more Receivership Entities and provide the basis for such allocation if it believes more than one Receivership Entity is liable. This information is necessary to determine the scope of liability, if any, for each Receivership Entity and to ensure that I have sufficient information to prepare a plan of distribution.

27. An Administrative Claimant's failure to correctly identify the Receivership Entity on their Proof of Administrative Claim may be grounds for objection to, and disallowance of, such Administrative Claimant's Administrative Claims. I reserve the right to object to any and all Administrative Claims on any grounds, including being duplicative of one another and/or a failure to properly allocate alleged liability amongst different Receivership Entities.

H. No Effect on Pre-Receivership Claims or Prior Bar Dates Established by the Court.

28. Nothing herein is intended to, and should not be construed to, alter, modify or otherwise affect any Pre-Receivership Claim, or the Bar Dates set forth in the Bar Date Order, or any other Claim bar date established by a prior Order of the Court.

I. Effect for Failing to Timely File a Proof of Administrative Claim.

29. I propose that any holder of an Administrative Claim who is required to timely file their Proof of Administrative Claim on or before the Administrative Claim Bar Date in the manner set forth in the Administrative Claim Bar Date Order and who fails to do so shall be:

- (a) forever barred, estopped, restrained and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Administrative Claim (in whole or in part) against the Receivership Entities and their respective property and estates;
- (b) prohibited from objecting to any plan of distribution proposed by me on account of such Administrative Claim;
- (c) prohibited from participating in and receiving any distribution under any plan of distribution implemented by me on account of such Administrative Claim; and
- (d) no longer entitled to receive any further notices on account of such Administrative Claim.

30. Further, the Receivership Entities and their respective property and estates will be forever discharged from any and all indebtedness or liability with respect to Administrative Claims that are not timely filed.

J. Proof of Administrative Claim Processing and Verification.

31. I request that I be authorized to employ, in addition to those specifically set forth herein, any procedures I deem necessary, in my sole and absolute discretion, for processing, reconciling, and verifying Proofs of Administrative Claim filed.

K. Reservation of Rights.

32. Nothing in this Motion and accompanying filings shall prejudice my right to dispute, or assert offsets or defenses as to the nature, amount, liability, classification, or otherwise against, any amounts asserted in any Proof of Administrative Claim. Nothing contained in the Motion and accompanying filings is intended to preclude me from objecting to any Proof of Administrative Claim on any grounds.

IV.

CONCLUSION

33. For the reasons set forth herein and in my Memorandum of Law in Support of the Motion, I respectfully request entry of an Order, substantially in the form annexed hereto as Exhibit A, (i) establishing the Administrative Claim Bar Date, (ii) approving (a) the Proof of Administrative Claim Form, (b) the form and manner of notice of the Administrative Claim Bar Date, and (c) procedures for filing Proofs of Administrative Claim, and (iii) granting such other and further relief as this Court deems appropriate.

I declare under penalty of perjury that the foregoing is true to the best of my knowledge, information and belief.

Executed this 19th day of July 2022, at New York, New York.

/s/ Melanie L. Cyganowski
Melanie L. Cyganowski

EXHIBIT A

PROPOSED ADMINISTRATIVE CLAIM BAR DATE ORDER

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

----- X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-v- :

PLATINUM MANAGEMENT (NY) LLC; :
 PLATINUM CREDIT MANAGEMENT, L.P.; :
 MARK NORDLICHT; :
 DAVID LEVY; :
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 JOSEPH MANN; :
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 JEFFREY SHULSE, :

Defendants. :

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No. 16-CV-6848 (BMC)

**[PROPOSED] ORDER (I) ESTABLISHING A DEADLINE FOR FILING
ADMINISTRATIVE CLAIMS AND (II) APPROVING (A) A PROOF OF
ADMINISTRATIVE CLAIM FORM, (B) THE FORM AND MANNER OF NOTICE OF
THE ADMINISTRATIVE CLAIM BAR DATE, AND (C) PROCEDURES FOR
FILING PROOFS OF ADMINISTRATIVE CLAIM**

Upon consideration of the motion by Melanie L. Cyganowski, the duly appointed Receiver (the “*Receiver*”) of Platinum Credit Management, L.P., 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 (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. (collectively, the “*Receivership Entities*,” and each a “*Receivership Entity*”), for entry of an Order (i) establishing a deadline for filing administrative

claims, if any, arising on or after December 19, 2016 through and including June 30, 2022, (ii) approving (a) a proof of administrative claim form, (b) the form and manner of notice of the administrative claim bar date, and (c) procedures for filing proofs of administrative claim, and (iii) granting such other and further relief as this Court deems appropriate (the “*Motion*”) [Dkt. No. ____], the declaration of the Receiver in support of the Motion (the “*Cyganowski Dec.*”)¹ and memorandum of law in support of the Motion, any responses or objections to the Motion, and any replies in support of the Motion, this Court finds that (i) notice of the Motion was good and sufficient under the particular circumstances and that no other or further notice need be given; and (ii) the relief requested in the Motion is in the best interests of the Receivership Entities and their estates; and based upon the record herein and after due deliberation and for good and sufficient cause shown it is hereby

ORDERED THAT:

1. The Motion is **GRANTED** in all respects.
2. All objections to the relief provided for herein that have not been withdrawn, waived or settled, and all reservation of rights included therein, are hereby overruled in all respects.
3. Administrative Claims Procedures. The following procedures, including the form of notice attached to the *Cyganowski Dec.* as Exhibit B (the “*Administrative Claim Bar Date Notice*”) and the proof of administrative claim form, including the general instructions thereto, attached to the *Cyganowski Dec.* as Exhibit C (the “*Proof of Administrative Claim Form*”), are

APPROVED:

- a. Defined Terms. For purposes of this Order (this “*Administrative Claim Bar Date Order*”), the following terms are defined as follows:

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Cyganowski Dec.*

- (1) “*Administrative Claim*” is defined as a Claim arising within the Administrative Claim Period.
 - (2) “*Administrative Claim Period*” is defined as the time period beginning December 19, 2016 through and including June 30, 2022.
 - (3) “*Administrative Claimant*” is defined as and includes any person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that holds an Administrative Claim. Without limiting the generality of the foregoing, the definition of Administrative Claimant includes, but is not limited to, any person or entity holding an Administrative Claim based on the provision of goods or services to the Receivership Entities or the Receiver that has not been paid in whole; money loaned to any Receivership Entity that has not been paid in whole; unpaid wages, compensation, or other employment benefits; tax liabilities, including those held by federal and state governments; primary, secondary, direct, indirect, secured, unsecured, or contingent liability; or contract, tort, indemnity, reimbursement, subrogation theories, or other legal or equitable theory.
 - (4) “*Claim*” is defined as: (1) a claim to a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, against one or more of the Receivership Entities; or (2) a claim to a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, against one or more of the Receivership Entities.
 - (5) “*Governmental Unit*” is defined as and includes the United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government.
- b. Administrative Claim Bar Date. This Court hereby establishes **5:00 p.m. (prevailing Eastern Time) on [, 2022]** as the deadline for Administrative Claimants, which includes Governmental Units, to timely file Administrative Claims against the Receivership Entities (the “*Administrative Claim Bar Date*”).

- c. Eligibility to Submit Administrative Claims. Proofs of Administrative Claim (defined below) shall be filed by all persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that are Administrative Claimants and believe that they are owed any money by, or have a right to distribution from, any of the Receivership Entities on account of their Administrative Claim, regardless of whether the Administrative Claim at issue has been acknowledged by the Receiver or whether the Administrative Claim at issue is held with or through any person or entity based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability.

Holders of Claims of the following types are **excluded** from having to file Proofs of Administrative Claim on or before the Administrative Claim Bar Date:

- (1) (i) the Receiver and the Receiver's professionals retained on or after the Receivership Commencement Date by Order of the Court (or pursuant to the *Order Authorizing Approving Proposed Procedures for the Retention and Payment of Additional Limited Scope Professionals*, Dkt. No. 296), including, but not limited to: Otterbourg P.C.; Goldin Associates, LLC, a Teneo Company; Trey Rogers; Paul Poteat; and KOM Consulting LLC; and (ii) the Original Receiver (Bart M. Schwartz, Esq.), Cooley LLP and Guidepost Solutions, LLC. The claims of each of the foregoing will be addressed in accordance with Orders of the Court;
 - (2) any holder of a Claim that arises **after** June 30, 2022 (such Claim referred to as a "***Supplemental Administrative Claim***"). For the avoidance of doubt, Supplemental Administrative Claims shall be subject to a bar date that will be set forth in a plan of distribution implemented by the Receiver that has been approved by this Court;
 - (3) any holder of an Administrative Claim or other Claim that has been resolved by means of an executed written settlement agreement with the Receiver; and
 - (4) any holder of an Administrative Claim that has been paid in full, or has compromised their claim with the Receiver in writing.
- d. Notice. For purposes of this Administrative Claim Bar Date Order, the following persons and entities shall each be referred to as a "***Notice Party***" and collectively, as "***Notice Parties***": (1) all creditors at the address set forth in the Receivership Entities' books and records or as updated pursuant to a request by a creditor or by returned mail from the post office with a forwarding address; (2) all parties known to the Receiver as having a potential Administrative Claim against any of the Receivership Entities;

(3) all parties to pending litigation against the Receivership Entities (as of the date of entry of the Order on this Motion); (4) all applicable Governmental Units; and (5) such additional persons and entities deemed appropriate by the Receiver.

(i) Notice by Electronic Mail. Where a Notice Party has provided an electronic mail address to the Receiver, the Receiver shall serve, within five (5) business days of entry of the Administrative Claim Bar Date Order:

(a) the Administrative Claim Bar Date Notice; and

(b) a Proof of Administrative Claim Form

on such Notice Party via electronic mail address provided by them.

(ii) Notice by Mail. Where a Notice Party has not provided an electronic mail address to the Receiver, the Receiver shall serve, within five (5) business days of entry of the Administrative Claim Bar Date Order, the Administrative Claim Bar Date Notice and the Proof of Administrative Claim Form upon:

(a) Notice Parties located within the United States by United States first class mail; and

(b) Notice Parties located outside the United States by any method reasonably calculated to provide notice to such Notice Parties.

(iii) Notice by Publication. The Administrative Claim Bar Date Notice and the Proof of Administrative Claim Form shall be made available, within five (5) business days of entry of the Administrative Claim Bar Date Order, on the Receiver's website www.PlatinumReceivership.com.

(iv) Notice Upon Inquiry. The Receiver shall promptly provide the Administrative Claim Bar Date Notice and Proof of Administrative Claim Form to any Administrative Claimant who makes a written request for such notice and form to the e-mail address platinumreceiver@otterbourg.com or to the physical address Platinum Receivership c/o Otterbourg P.C., 230 Park Avenue, New York, New York 10169-0075, Attention: Erik B. Weinick, Esq.

e. Procedure for Submitting Administrative Claims. Except as otherwise ordered by this Court or provided below, each Administrative Claimant must electronically mail a completed and signed Proof of Administrative Claim Form under penalty of perjury and evidence such Administrative Claim, together with supporting documentation (a "***Proof of***

Administrative Claim”), to the Receiver at her e-mail address platinumreceiver@otterbourg.com, so that it is actually received on or before the Administrative Claim Bar Date. **Proofs of Administrative Claim should not be filed with this Court, and any Proof of Administrative Claim so filed will not be considered properly submitted.**

- f. Supporting Documentation. Each Administrative Claimant should attach to their Proof of Administrative Claim copies, not originals, of all documents available to the Administrative Claimant that could support such Proof of Administrative Claim. Documentation may include, but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing the amount and basis of the Administrative Claim. If such supporting documentation is not available, the Administrative Claimant must attach to the Proof of Administrative Claim an explanation of why the documentation is unavailable.
- g. Proofs of Administrative Claim Must Identify the Receivership Entity. Administrative Claimants asserting Administrative Claims against more than one Receivership Entity must, in addition to all other requirements set forth under the Administrative Claim Bar Date Order, specify on the Proof of Administrative Claim:
- (1) each Receivership Entity the Administrative Claim is being asserted against;
 - (2) a detailed explanation why the Administrative Claim is being asserted against such Receivership Entity; and
 - (3) the amount of the Administrative Claim that is allocated to such Receivership Entity and the basis for such allocation.

An Administrative Claimant’s failure to correctly identify the Receivership Entity on their Proof of Administrative Claim may be grounds for objection to, and disallowance of, such Administrative Claimant’s Administrative Claims.

- h. No Effect on Pre-Receivership Claims or Prior Bar Dates Established by this Court. **Nothing in this Administrative Claim Bar Date Order is intended to, and should not be construed to, alter, modify or otherwise affect any Claim arising prior to December 19, 2016, or any bar dates set forth in the Order (I) Establishing Claims Bar Dates and (II) Approving (A) A Proof of Claim Form, (B) the Form and Manner of Notice of the Claims Bar Dates and (C) Procedures for Submitting Proofs of Claim [Dkt. No. 453], or any other Claim bar date**

established by a prior Order of the Court.

- i. Effect for Failing to Timely File a Proof of Administrative Claim. Any holder of an Administrative Claim who is required to timely file their Proof of Administrative Claim on or before the Administrative Claim Bar Date in the manner set forth in this Administrative Claim Bar Date Order and who fails to do so shall be:
- (1) forever barred, estopped, restrained and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Administrative Claim (in whole or in part) against the Receivership Entities and their respective property and estates;**
 - (2) prohibited from objecting to any plan of distribution proposed by the Receiver on account of such Administrative Claim;**
 - (3) prohibited from participating in and receiving any distribution under any plan of distribution implemented by the Receiver on account of such Administrative Claim; and**
 - (4) no longer entitled to receive any further notices on account of such Administrative Claim.**

Further, the Receivership Entities and their respective property and estates will be forever discharged from any and all indebtedness or liability with respect to Administrative Claims that are not timely filed.

- j. Proof of Administrative Claim Processing and Verification. The Receiver is authorized to employ, in addition to those specifically set forth herein, any procedures she deems necessary, in her sole and absolute discretion, for processing, reconciling, and verifying Proofs of Administrative Claim filed.
- k. Reservation of Rights. Nothing in this Administrative Claim Bar Date Order shall prejudice the rights of the Receiver to dispute, or assert offsets or defenses as to the nature, amount, liability, classification, or otherwise against, any amounts asserted in any Proof of Administrative Claim. Nothing contained herein is intended to preclude the Receiver from objecting to any Proof of Administrative Claim on any grounds.

4. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Administrative Claim Bar Date Order.

Dated: _____, 2022
Brooklyn, New York

THE HON. BRIAN M. COGAN
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK

EXHIBIT B

PROPOSED ADMINISTRATIVE CLAIM BAR DATE NOTICE

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

----- X

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. :

----- X

No. 16-CV-6848 (BMC)

**NOTICE OF ADMINISTRATIVE CLAIM BAR DATE AND PROCEDURES FOR
SUBMITTING PROOFS OF ADMINISTRATIVE CLAIM**

**TO: ALL ADMINISTRATIVE CLAIMANTS OF THE RECEIVERSHIP ENTITIES
IDENTIFIED BELOW**

PLEASE TAKE NOTICE OF THE FOLLOWING:

On [●], the United States District Court for the Eastern District of New York (the “*Court*”) entered an Order (the “*Administrative Claim Bar Date Order*”)¹ in the above-captioned case establishing the deadline for Administrative Claimants to file completed and signed Proof of Administrative Claim Forms under penalty of perjury and evidencing such Administrative Claimant’s Administrative Claim, together with supporting documentation (a “*Proof of Administrative Claim*”) against Platinum Credit Management, L.P., 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 (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. (collectively, the “*Receivership Entities*,” and each a “*Receivership Entity*”).

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Administrative Claim Bar Date Order.

This Notice is being sent to persons and entities that have had some relationship or have done business with the Receivership Entities. The fact that you have received this notice *does not* mean that you are an Administrative Claimant, that you have a valid Administrative Claim, or that the Court or Melanie L. Cyganowski, in her capacity as the duly appointed Receiver (the “*Receiver*”) for the Receivership Entities, believes or agrees you have an Administrative Claim against the Receivership Entities.

1. WHAT IS THE ADMINISTRATIVE CLAIM BAR DATE?

The Court has established 5:00 p.m. (prevailing Eastern Time) on [●] (the “*Administrative Claim Bar Date*”) as the deadline for Administrative Claimants to timely file Administrative Claims.

Any Proof of Administrative Claim submitted *after* the Administrative Claim Bar Date will be subject to disallowance, which means that you will not receive any distribution from the Receiver or the Receivership Entities on account of your alleged Administrative Claim.

2. WHO NEEDS TO SUBMIT A PROOF OF ADMINISTRATIVE CLAIM?

You MUST submit a Proof of Administrative Claim if you have an Administrative Claim against any of the Receivership Entities that arose within the Administrative Claim Period, which is defined as the time period beginning December 19, 2016 through and including June 30, 2022. All persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that are Administrative Claimants and believe that they are owed any money by, or have a right to distribution from, any of the Receivership Entities on account of their Administrative Claim, regardless of whether the Administrative Claim at issue has been acknowledged by the Receiver or whether the Administrative Claim at issue is held with or through any person or entity based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability.

3. WHO IS NOT REQUIRED TO SUBMIT A PROOF OF ADMINISTRATIVE CLAIM?

The holders of Administrative Claims of the following types are NOT required to file Proofs of Administrative Claim on or before the Administrative Claim Bar Date:

- (a) (i) the Receiver and the Receiver’s professionals retained on or after December 19, 2016 (the “*Receivership Commencement Date*”) by Order of the Court (or pursuant to the *Order Authorizing Approving Proposed Procedures for the Retention and Payment of Additional Limited Scope Professionals*, Dkt. No. 296), including, but not limited to: Otterbourg P.C.; Goldin Associates, LLC, a Teneo Company; Trey Rogers; Paul Poteat; and KOM Consulting LLC; and (ii) the Original Receiver (Bart M. Schwartz, Esq.), Cooley LLP and Guidepost Solutions, LLC. The claims of each of the foregoing will be addressed in accordance with Orders of the Court;

- (b) any holder of a Claim that arises *after* June 30, 2022 (such Claim referred to as a “*Supplemental Administrative Claim*”). For the avoidance of doubt, Supplemental Administrative Claims shall be subject to a bar date that will be set forth in a plan of distribution implemented by the Receiver that has been approved by the Court;
- (c) any holder of an Administrative Claim or other Claim that has been resolved by means of an executed written settlement agreement with the Receiver; and
- (d) any holder of an Administrative Claim that has been paid in full, or has compromised their claim with the Receiver in writing.

The Receiver will continue to process and pay valid Supplemental Administrative Claims as they are incurred and come due.

4. DOES THE ADMINISTRATIVE CLAIM BAR DATE ORDER ALTER, MODIFY OR OTHERWISE AFFECT CLAIMS ARISING PRIOR TO THE RECEIVERSHIP COMMENCEMENT DATE OR ANY CLAIMS BAR DATES ESTABLISHED BY A PRIOR COURT ORDER?

No. The Administrative Claim Bar Date Order is not intended to, and should not be construed to, alter, modify or otherwise affect any Claim arising prior to the Receivership Commencement Date, or any bar dates set forth in the *Order (I) Establishing Claims Bar Dates and (II) Approving (A) A Proof of Claim Form, (B) the Form and Manner of Notice of the Claims Bar Dates and (C) Procedures for Submitting Proofs of Claim* [Dkt. No. 453], or any other Claim bar date established by a prior Order of the Court.

5. WHAT ARE THE CONSEQUENCES OF NOT SUBMITTING A PROOF OF ADMINISTRATIVE CLAIM?

Any holder of an Administrative Claim who is required to timely file a Proof of Administrative Claim on or before the Administrative Claim Bar Date in the manner set forth in the Administrative Claim Bar Date Order and who fails to do so shall be:

- (a) forever barred, estopped, restrained and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Administrative Claim (in whole or in part) against the Receivership Entities and their respective property and estates;
- (b) prohibited from objecting to any plan of distribution proposed by the Receiver on account of such Administrative Claim;
- (c) prohibited from participating in and receiving any distribution under any plan of distribution implemented by the Receiver on account of

such Administrative Claim; and

- (d) no longer entitled to receive any further notices on account of such Administrative Claim.**

The Receivership Entities and their respective property and estates will be forever discharged from any and all indebtedness or liability with respect to Administrative Claims that are not timely filed.

6. HOW MAY I OBTAIN A COPY OF THE PROOF OF ADMINISTRATIVE CLAIM FORM?

For your convenience, enclosed with this Notice is a Proof of Administrative Claim Form, which has been approved by the Court. A copy of the Proof of Administrative Claim Form is also available on the Receiver's website for this case at www.PlatinumReceivership.com. The Receiver will also provide this Notice and the Proof of Administrative Claim Form to any potential Administrative Claimant who makes a written request for such documents to the e-mail address platinumreceiver@otterbourg.com or to the physical address at Platinum Receivership c/o Otterbourg P.C., 230 Park Avenue, New York, New York 10169-0075, Attention: Erik B. Weinick, Esq.

7. HOW DO I SUBMIT MY PROOF OF ADMINISTRATIVE CLAIM?

Each Administrative Claimant must electronically mail a completed and signed Proof of Administrative Claim Form under penalty of perjury and evidence such Administrative Claim, together with supporting documentation, to the Receiver at the e-mail address platinumreceiver@otterbourg.com, so that it is actually received on or before the Administrative Claim Bar Date.

Proofs of Administrative Claim should not be filed with the Court, and any Proof of Administrative Claim so filed will not be considered properly submitted.

Administrative Claimants asserting Administrative Claims against more than one Receivership Entity must, in addition to all other requirements set forth under the Administrative Claim Bar Date Order, specify on the Proof of Administrative Claim:

- a. each Receivership Entity the Administrative Claim is being asserted against;
- b. a detailed explanation why the Administrative Claim is being asserted against such Receivership Entity; and
- c. the amount of the Administrative Claim that is allocated to such Receivership Entity and the basis for such allocation.

Administrative Claimants must make reasonable efforts to allocate the claim amongst one or more Receivership Entities and provide the basis for such allocation if it believes more than one Receivership Entity is liable.

An Administrative Claimant's failure to correctly identify the Receivership Entity on their Proof of Administrative Claim may be grounds for objection to, and disallowance of, such Administrative Claimant's Administrative Claims.

The Receiver reserves the right to object to any and all Administrative Claims on any grounds, including being duplicative of one another and/or a failure to properly allocate alleged liability amongst different Receivership Entities.

8. SUPPORTING DOCUMENTS

Each Administrative Claimant should attach to their Proof of Administrative Claim copies, not originals, of all documents available to the Administrative Claimant that could support such Proof of Administrative Claim. Documentation may include, but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing the amount and basis of the Administrative Claim. If such supporting documentation is not available, the Administrative Claimant must attach to the Proof of Administrative Claim an explanation of why the documentation is unavailable.

The Receiver reserves the right to request additional supporting documentation from Administrative Claimants and the submission of supporting documentation with a Proof of Administrative Claim shall not preclude the Receiver from evaluating the validity of and, if the Receiver deems appropriate, objecting to such Proof of Administrative Claim on any grounds, including the lack of supporting documentation.

9. CONSENT TO JURISDICTION

If you submit a Proof of Administrative Claim in this case, you consent to the jurisdiction of the Court for all purposes and agree to be bound by its decisions, including, without limitation, a determination as to the validity and amount of any claims asserted against the Receivership Entities.

10. RESERVATION OF RIGHTS

The Receiver reserves the right to dispute, or assert offsets or defenses as to the nature, amount, liability, classification, or otherwise, against any amounts asserted in any Proof of Administrative Claim. Nothing contained herein is intended to preclude the Receiver from objecting to any Proof of Administrative Claim on any grounds.

Dated: _____, 2022
New York, New York

OTTERBOURG P.C.

By: _____
Erik B. Weinick
Jennifer S. Feeney
230 Park Avenue
New York, New York 10169
Tel.: (212) 661-9100
eweinick@otterbourg.com
jfeeney@otterbourg.com
*Attorneys for Melanie L. Cyganowski, as
Receiver*

EXHIBIT C

PROPOSED PROOF OF ADMINISTRATIVE CLAIM FORM

S.E.C. v. Platinum Management (NY) LLC, et al.; Case No. 16-CV-6848 (BMC)
Proof of Administrative Claim Form

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

----- X

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. :

----- X

No. 16-CV-6848 (BMC)

PROOF OF ADMINISTRATIVE CLAIM FORM

This Proof of Administrative Claim Form is only for the use of creditors asserting administrative claims arising on or after December 19, 2016 through and including June 30, 2022 against any of the following entities currently in the receivership being administered by Melanie L. Cyganowski, the duly appointed Receiver, in the case captioned *SEC v. Platinum Management (NY) LLC et al.*, Case No. 16-cv-6848 (BMC): (i) Platinum Credit Management, L.P., (ii) Platinum Partners Credit Opportunities Master Fund LP, (iii) Platinum Partners Credit Opportunities Fund (TE) LLC, (iv) Platinum Partners Credit Opportunities Fund LLC, (v) Platinum Partners Credit Opportunities Fund (BL) LLC, (vi) Platinum Liquid Opportunity Management (NY) LLC, (vii) Platinum Partners Liquid Opportunity Fund (USA) L.P., (viii) Platinum Partners Liquid Opportunity Master Fund L.P., (ix) Platinum Partners Credit Opportunities Fund International Ltd. and (x) Platinum Partners Credit Opportunities Fund International (A) Ltd. (collectively, the “*Receivership Entities*,” and each a “*Receivership Entity*”).

The use of this Proof of Administrative Claim Form is restricted solely to the assertion of claims that arise on or after December 19, 2016 through and including June 30, 2022.

This Proof of Administrative Claim Form is not intended to, and should not be construed to, alter, modify or otherwise affect any claim arising prior to December 19, 2016, or any bar dates set forth in the Order (I) Establishing Claims Bar Dates and (II) Approving (A) A Proof of Claim Form, (B) the Form and Manner of Notice of the Claims Bar Dates and (C) Procedures for Submitting Proofs of Claim [Dkt. No. 453], or any other claim bar date established by Order of the Court.

S.E.C. v. Platinum Management (NY) LLC, et al.; Case No. 16-CV-6848 (BMC)
Proof of Administrative Claim Form

Submission of this Proof of Administrative Claim Form does not mean that you are an administrative claimant, that you have a valid administrative claim, or that the Court or Melanie L. Cyganowski, in her capacity as the duly appointed Receiver for the Receivership Entities, believes or agrees you have an administrative claim against the Receivership Entities.

Please read the accompanying instructions before completing this Proof of Administrative Claim Form.

PART I

ADMINISTRATIVE CLAIMANT INFORMATION

Last Name: _____ First Name: _____

Company: _____

DBA (if applicable): _____

Address: _____

Social Security Number (if applicable): _____

Taxpayer Identification Number (if applicable): _____

Telephone Number (Work): _____ Telephone Number (Home): _____

Email Address: _____

PART II

INFORMATION ABOUT ADMINISTRATIVE CLAIM

Total Amount of Administrative Claim: _____

Receivership Entity Against Whom Administrative Claim Is Asserted Against (check entity):

___ *Platinum Credit Management, L.P.*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

S.E.C. v. Platinum Management (NY) LLC, et al.; Case No. 16-CV-6848 (BMC)
Proof of Administrative Claim Form

___ *Platinum Partners Credit Opportunities Master Fund LP*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

___ *Platinum Partners Credit Opportunities Fund (TE) LLC*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

___ *Platinum Partners Credit Opportunities Fund LLC*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

___ *Platinum Partners Credit Opportunities Fund (BL) LLC*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

S.E.C. v. Platinum Management (NY) LLC, et al.; Case No. 16-CV-6848 (BMC)
Proof of Administrative Claim Form

___ *Platinum Liquid Opportunity Management (NY) LLC*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

___ *Platinum Partners Liquid Opportunity Fund (USA) L.P.*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

___ *Platinum Partners Liquid Opportunity Master Fund L.P.*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

___ *Platinum Partners Credit Opportunities Fund International Ltd.*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

S.E.C. v. Platinum Management (NY) LLC, et al.; Case No. 16-CV-6848 (BMC)
Proof of Administrative Claim Form

___ *Platinum Partners Credit Opportunities Fund International (A) Ltd.*

Amount being asserted: _____ Date administrative claim arose: _____

Explain the basis and reason for the administrative claim being asserted: _____

PART III

DECLARATION AND SIGNATURE

Consent to Jurisdiction. By submitting this Proof of Administrative Claim Form, you consent to the jurisdiction of the United States District Court for the Eastern District of New York (the “Court”) for all purposes related to this administrative claim and agree to be bound by its decisions, including, without limitation, a determination as to the validity and amount of any claims asserted against the Receivership Entities.

Declaration. I (WE) DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE INFORMATION SUPPLIED ON AND WITH THIS PROOF OF ADMINISTRATIVE CLAIM FORM BY THE UNDERSIGNED IS TRUE AND CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE.

(Sign your name here)

(Date)

(Print your name here)

(Capacity of person(s) signing, e.g.,
Managing Member, Director, Officer,
Executor, Administrator, Attorney)

S.E.C. v. Platinum Management (NY) LLC, et al.; Case No. 16-CV-6848 (BMC)
Proof of Administrative Claim Form

GENERAL INSTRUCTIONS FOR PROOF OF ADMINISTRATIVE CLAIM FORM
(Please do not file these instructions with your form)

THE ADMINISTRATIVE CLAIM BAR DATE IS _____, 2022 AT 5:00 P.M.
(PREVAILING EASTERN TIME)

THE PROOF OF ADMINISTRATIVE CLAIM FORM IS ONLY FOR CREDITORS
ASSERTING ADMINISTRATIVE CLAIMS ARISING ON OR AFTER DECEMBER 19,
2016 THROUGH AND INCLUDING JUNE 30, 2022.

COMPLETED AND SIGNED PROOF OF ADMINISTRATIVE CLAIM FORMS UNDER
PENALTY OF PERJURY AND EVIDENCING SUCH ADMINISTRATIVE CLAIM,
TOGETHER WITH SUPPORTING DOCUMENTATION (“PROOF OF
ADMINISTRATIVE CLAIM”), MUST BE ELECTRONICALLY MAILED TO THE
RECEIVER AT THE EMAIL ADDRESS platinumreceiver@otterbourg.com, SO THAT IT
IS RECEIVED ON OR BEFORE THE ADMINISTRATIVE CLAIM BAR DATE.

PROOFS OF ADMINISTRATIVE CLAIM SHOULD NOT BE FILED WITH THE
COURT, AND ANY PROOF OF ADMINISTRATIVE CLAIM SO FILED WILL NOT BE
CONSIDERED PROPERLY SUBMITTED.

THE PROOF OF ADMINISTRATIVE CLAIM FORM IS NOT INTENDED TO, AND
SHOULD NOT BE CONSTRUED TO, ALTER, MODIFY OR OTHERWISE AFFECT
ANY CLAIM ARISING PRIOR TO DECEMBER 19, 2016 OR ANY BAR DATES SET
FORTH IN THE *ORDER (I) ESTABLISHING CLAIMS BAR DATES AND (II)
APPROVING (A) A PROOF OF CLAIM FORM, (B) THE FORM AND MANNER OF
NOTICE OF THE CLAIMS BAR DATES AND (C) PROCEDURES FOR SUBMITTING
PROOFS OF CLAIM* [DKT. NO. 453] OR SET FORTH IN ANY OTHER ORDER OF THIS
COURT PREVIOUSLY ENTERED IN THIS CASE.

If you check any of the following, then you do not need to file a Proof of Administrative Claim
Form on or before the Administrative Claim Bar Date.

- ___ I am an investor in the Receivership Entities and my claim against the Receivership Entities
is based solely on my investments in the Receivership Entity.
- ___ My claim against the Receivership Entities is based solely on my request to redeem my
investment in the Receivership Entities and of which I have not received any payment for.
- ___ I do not have any claim to a right to payment or any claim to a right to an equitable remedy
against any of the Receivership Entities that arose on or after December 19, 2016 through
and including June 30, 2022.

S.E.C. v. Platinum Management (NY) LLC, et al.; Case No. 16-CV-6848 (BMC)

Proof of Administrative Claim Form

___ I am a holder of a claim to a right to payment or a claim to a right to an equitable remedy against any of the Receivership Entities that arose on or after December 19, 2016 through and including June 30, 2022, but that claim has been resolved by means of an executed written settlement agreement with the Receiver.

___ I am a holder of a claim to a right to payment or any claim to a right to an equitable remedy against any of the Receivership Entities that arose on or after December 19, 2016 through and including June 30, 2022, but that claim has been paid in full or has been compromised with the Receiver in writing.

How to fill out the Proof of Administrative Claim Form.

- Fill in all the information for the administrative claim for the period December 19, 2016 through and including June 30, 2022.
- Please attach to your Proof of Administrative Claim Form all documents that support your administrative claim. Such documentation may include, but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing the amount and basis of the administrative claim.
- DO NOT SEND ORIGINAL DOCUMENTS. If supporting documentation is not available, please attach an explanation of why the documents are unavailable.
- You may be asked to supply the Receiver with additional supporting documentation.
- You must sign the Proof of Administrative Claim Form. Failure to sign the Proof of Administrative Claim Form may result in a delay in processing or the rejection of your administrative claim.

Verification of Administrative Claims.

- The filing of a Proof of Administrative Claim Form does not mean that you are an administrative claimant, that you have a valid administrative claim, or that the Court or the Receiver believes or agrees you have an administrative claim against the Receivership Entities. All Proof of Administrative Claim Forms filed are subject to verification by the Receiver.

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

-----X	
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)

**MEMORANDUM OF LAW IN SUPPORT OF RECEIVER’S MOTION FOR
ENTRY OF AN ORDER (I) ESTABLISHING A DEADLINE FOR FILING
ADMINISTRATIVE CLAIMS AND (II) APPROVING (A) A PROOF OF
ADMINISTRATIVE CLAIM FORM, (B) THE FORM AND MANNER OF
NOTICE OF THE ADMINISTRATIVE CLAIM BAR DATE, AND
(C) PROCEDURES FOR FILING PROOFS OF ADMINISTRATIVE CLAIM**

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Melanie L. Cyganowski, the duly appointed Receiver (the “**Receiver**”) of Platinum Credit Management, L.P., 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 (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. (collectively, the “**Receivership Entities**,” and each a “**Receivership Entity**”), through her counsel, Otterbourg P.C., respectfully submits this memorandum in support of her motion (“**Motion**”) for entry of an Order (i) establishing a deadline for filing administrative claims, if any, arising on or after December 19, 2016 through and including June 30, 2022, (ii) approving (a) a proof of administrative claim form, (b) the form and manner of notice of the administrative claim bar date, and (c) procedures for filing proofs of administrative claim, and (iii) granting such other and further relief as this Court deems appropriate. In further support of this Motion, the Receiver incorporates by reference her declaration in support (the “**Cyganowski Dec.**”)¹, filed contemporaneously herewith, and respectfully states as follows:

I. PRELIMINARY STATEMENT

Entry of an Order granting this Motion will provide the Receiver with some of the last information necessary for her to finalize and submit a plan of distribution for consideration by the Court and stakeholders. This Court’s October 16, 2017 *Second Amended Order Appointing Receiver* directed the Receiver to determine the extent of liabilities she believes to be the legal obligations of the Receivership Entities and authorizes, empowers and directs the Receiver to

¹ Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the *Cyganowski Dec.*

develop a plan for the fair, reasonable, and efficient recovery and disposition of all remaining, recovered, and recoverable receivership property, which may be a plan of liquidation.

The Receiver and her team have made significant progress towards winding down the estates, administering claims and seeking approval of a plan of distribution. To assist in her administration of the case, the Receiver obtained an Order from this Court (the “*Bar Date Order*”) establishing deadlines (as more fully defined below, the “*Bar Dates*”) for non-governmental and governmental claimants to submit proofs of claim for claims arising prior to December 19, 2016 (the “*Receivership Commencement Date*”) [Dkt. No. 453] so that the nature and scope of the potential claims against, and liabilities of, the Receivership Entities could be determined (claims arising prior to the Receivership Commencement Date are referred to herein as the “*Pre-Receivership Claims*”). The nature and scope of the Pre-Receivership Claims have now been finalized and are no longer subject to change or adjustment except for the following which remain pending: (i) the *Receiver’s Omnibus Motion to Confirm Receiver’s Determinations as to (1) Claims 282-301 Filed by David Levy, (2) Claims 313-322 Filed by Wilson Sonsini Goodrich & Rosati, P.C., (3) Claims 156, 329 and 330 Filed by Ford O’Brien LLP, (4) Claims 24 and 227-232 Filed by Daniel Small, and (5) Claims 37-38 and 41-42 Filed by Richard Schmidt, as Trustee of the Black Elk Energy Offshore Operations, LLC Litigation Trust* [Dkt. Nos. 597, 602]; (ii) the *Receiver’s Motion for an Order (I) Permanently Enjoining Any Prosecution of Claim No. 145, (II) Confirming the Receiver’s Disallowance of Claim No. 145, and (III) Confirming the Receiver’s Authority to Consent to the Release of the Indemnity Escrow Amount* [Dkt. No. 624]; (iii) the Receiver’s settlement with the Official Joint Liquidators of Platinum Partners Value Arbitrage Fund, LP that has been agreed to and is awaiting execution, approval by the Cayman Court and then submission to this Court for approval; and (iv) a

settlement with the Chapter 7 Trustee for the bankruptcy estate of Mark A. Nordlicht that has been agreed to in principle and is awaiting documentation and execution. *Cyganowski Dec.*, at 4.

Notably, claimants asserting claims for the provision of goods or services to the Receivership Entities or the Receiver beginning on or after the Receivership Commencement Date were not required to submit proofs of claim on or before the applicable Bar Dates set forth in the Bar Date Order. *Cyganowski Dec.*, at 5. The Bar Date Order also did not require the submission of proofs of claim by the Receiver or her retained professionals. *Id.* As a result, and to further aid her efforts to wind down the receivership and formulate a plan of distribution that is fair and reasonable to all stakeholders, this Motion seeks to establish a bar date for the submission of claims for the provision of goods or services to the Receivership Entities or the Receiver arising on or after December 19, 2016 through and including June 30, 2022. *Id.*, at 6.

While the Receiver is not aware of any unknown administrative liabilities, much less any outstanding administrative liabilities other than professional fees of other parties that are subject to Court approval, the Receiver believes it is in the best interests of the Receivership Entities and for the efficient administration of the case to determine and confirm whether there are, in fact, any unknown potential administrative liabilities and the extent and amount of such administrative liabilities. This Motion, if approved, will help eliminate the risk of having to address potentially unknown claims of unknown amount prior to proposing a plan of distribution. Importantly, nothing in this Motion is intended to, and should not be construed to, alter, modify or otherwise affect any Pre-Receivership Claims, any bar dates set forth in the Bar Date Order, or any other Order of the Court previously entered in this case. *Cyganowski Dec.*, at 7.

For the reasons set forth above, those set forth more fully below, and those in the *Cyganowski Dec.*, this Motion should be granted.

II. BACKGROUND

A. The Receivership.

On December 19, 2016 (the “*Receivership Commencement Date*”) this Court entered the *Order Appointing Receiver*, amended on January 30, 2017, in the above-captioned matter. *Cyganowski Dec.*, at 9.

On July 6, 2017, this Court accepted the resignation of the original receiver, Bart M. Schwartz, Esq. (the “*Original Receiver*”), and appointed Melanie L. Cyganowski as Receiver effective immediately (*i.e.*, July 6, 2017). *Cyganowski Dec.*, at 10.

B. The Receivership Order.

On October 16, 2017, this Court entered the *Second Amended Order Appointing Receiver*, Dkt. No. 276 (the “*Receivership Order*”), which, among other things, “authorized, empowered and directed [the Receiver] to develop a plan ... for the fair, reasonable, and efficient recovery and disposition of all remaining, recovered, and recoverable Receivership Property [as defined in the Receivership Order] . . . , which may be a plan of liquidation.” *Cyganowski Dec.*, at 11.

C. The Bar Date Order.

On February 11, 2019, this Court entered an *Order (I) Establishing Claims Bar Dates and (II) Approving (A) A Proof of Claim Form, (B) the Form and Manner of Notice of the Claims Bar Dates and (C) Procedures for Submitting Proofs of Claim*. [Dkt. No. 453]. The Bar Date Order set March 29, 2019 and April 12, 2019 as the Bar Dates for non-Governmental Units and Governmental Units, respectively, to file a proof of claim asserting Pre-Receivership Claims. *Cyganowski Dec.*, at 12.

The Bar Date Order specified categories of persons or entities that were required to timely file a Proof of Claim (as defined in the Bar Date Order) and the categories of persons or

entities excluded from the requirements of the Bar Date Order. Particularly relevant to this Motion, the Bar Date Order did not require persons or entities that are holders of administrative claims, which are identified in the Bar Date Order as “claims based on the provision of goods or services to the Receivership Entities or the Receiver after [the Receivership Commencement Date],” to file Proofs of Claim. *Cyganowski Dec.*, at 13.

III. RELIEF REQUESTED

By this Motion, the Receiver seeks the entry of an Order (the “*Administrative Claim Bar Date Order*”), substantially in the form annexed to the *Cyganowski Dec.* as **Exhibit A**, to establish a deadline for the submission of Administrative Claims against the Receivership Entities and proposes certain procedures (the “*Administrative Claims Procedures*”) in connection with such submissions. The proposed Administrative Claims Procedures are described below.

A. Administrative Claim Bar Date.

The Receiver proposes 5:00 p.m. (prevailing Eastern Time) on the business day that is forty-five (45) days from the date of entry of the Administrative Claim Bar Date Order as the deadline for Administrative Claimants, which includes Governmental Units, to timely file Administrative Claims against the Receivership Entities (the “*Administrative Claim Bar Date*”).

B. Eligibility to Submit Administrative Claims.

The Receiver proposes that Proofs of Administrative Claim (defined below) must be filed by all persons or entities (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that are Administrative Claimants and believe that they are owed any money by, or have a right to distribution from, any of the Receivership Entities on account of their Administrative Claim, regardless of whether the

Administrative Claim at issue has been acknowledged by the Receiver or whether the Administrative Claim at issue is held with or through any person or entity based on primary, secondary, direct, indirect, secured, unsecured, or contingent liability.

Notwithstanding the foregoing, the Receiver proposes that holders of Administrative Claims of the following types be ***excluded*** from having to file Proofs of Administrative Claim on or before the Administrative Claim Bar Date:

- a. (i) the Receiver and the Receiver's professionals retained on or after the Receivership Commencement Date by Order of the Court (or pursuant to the *Order Authorizing Approving Proposed Procedures for the Retention and Payment of Additional Limited Scope Professionals*, Dkt. No. 296), including, but not limited to: Otterbourg P.C.; Goldin Associates, LLC, a Teneo Company; Trey Rogers; Paul Poteat; and KOM Consulting LLC; and (ii) the Original Receiver, Cooley LLP and Guidepost Solutions, LLC. The claims of each of the foregoing will be addressed in accordance with Orders of the Court;
- b. any holder of a Claim that arises ***after*** June 30, 2022 (such Claim referred to as a "***Supplemental Administrative Claim***"). For the avoidance of doubt, Supplemental Administrative Claims shall be subject to a bar date that will be set forth in a plan of distribution implemented by the Receiver that has been approved by the Court;
- c. any holder of an Administrative Claim or other Claim that has been resolved by means of an executed written settlement agreement with the Receiver; and
- d. any holder of an Administrative Claim that has been paid in full, or has compromised their claim with the Receiver in writing.

To further assist in the process for submitting Administrative Claims, the general instructions to the proposed Proof of Administrative Claim Form includes a checklist. If any of the following statements from the checklist is applicable to a person/entity, such person/entity ***does not*** need to file a Proof of Administrative Claim Form on or before the Administrative Claim Bar Date:

- “I am an investor in the Receivership Entities and my claim against the Receivership Entities is based solely on my investments in the Receivership Entity.”
- “My claim against the Receivership Entities is based solely on my request to redeem my investment in the Receivership Entities and of which I have not received any payment for.”
- “I do not have any claim to a right to payment or any claim to a right to an equitable remedy against any of the Receivership Entities that arose on or after December 19, 2016 through and including June 30, 2022.”
- “I am a holder of a claim to a right to payment or a claim to a right to an equitable remedy against any of the Receivership Entities that arose on or after December 19, 2016 through and including June 30, 2022, but that claim has been resolved by means of an executed written settlement agreement with the Receiver.”
- “I am a holder of a claim to a right to payment or any claim to a right to an equitable remedy against any of the Receivership Entities that arose on or after December 19, 2016 through and including June 30, 2022, but that claim has been paid in full or has been compromised with the Receiver in writing.”

C. Notice.

The Receiver believes that the following procedures will ensure sufficient notice to Administrative Claimants of the Administrative Claim Bar Date, and respectfully submits that no other or further notice need be given, and requests that the Court find that such notice be deemed good, adequate and sufficient:

1. Notice Parties. For purposes of the Administrative Claims Procedures, the following persons and entities shall each be referred to as a “*Notice Party*” and collectively, as “*Notice Parties*”:

- a. all creditors at the address set forth in the Receivership Entities’ books and records or as updated pursuant to a request by a creditor or by returned mail from the post office with a forwarding address;

- b. all parties known to the Receiver as having a potential Administrative Claim against any of the Receivership Entities;
- c. all parties to pending litigation against the Receivership Entities (as of the date of entry of the Order on this Motion);
- d. all applicable Governmental Units; and
- e. such additional persons and entities deemed appropriate by the Receiver.

2. Notice by Electronic Mail. Where a Notice Party has provided an electronic mail address to the Receiver, the Receiver proposes to serve, within five (5) business days of entry of the Administrative Claim Bar Date Order:

- a. notice of the Administrative Claim Bar Date and the procedures for submitting proofs of administrative claim, substantially in the form of the notice attached as **Exhibit B** to the *Cyganowski Dec.* and incorporated herein by reference (the “**Administrative Claim Bar Date Notice**”); and
- b. a proof of administrative claim form, substantially in the form of the document attached as **Exhibit C** to the *Cyganowski Dec.* and incorporated herein by reference (the “**Proof of Administrative Claim Form**”)

on such Notice Party via the electronic mail address provided by them.

3. Notice by Mail. Where a Notice Party has not provided an electronic mail address to the Receiver, the Receiver proposes to serve, within five (5) business days of entry of the Administrative Claim Bar Date Order, the Administrative Claim Bar Date Notice and the Proof of Administrative Claim Form upon (a) Notice Parties located within the United States by United States first class mail and (b) Notice Parties located outside the United States by any method reasonably calculated to provide notice to such Notice Parties.

4. Notice by Publication. The Administrative Claim Bar Date Notice and the Proof of Administrative Claim Form will also be made available, within five (5) business days of entry of the Administrative Claim Bar Date Order, on the website www.PlatinumReceivership.com.

5. Notice Upon Inquiry. The Receiver will promptly provide the Administrative Claim Bar Date Notice and the Proof of Administrative Claim Form to any Administrative Claimant who makes a written request for such notice and form to the e-mail address platinumreceiver@otterbourg.com or to the physical address Platinum Receivership c/o Otterbourg P.C., 230 Park Avenue, New York, New York 10169-0075, Attention: Erik B. Weinick, Esq.

D. Procedure for Submitting Administrative Claims.

Except as otherwise ordered by this Court or provided below, the Receiver proposes that each Administrative Claimant must electronically mail a completed and signed Proof of Administrative Claim Form under penalty of perjury and evidence such Administrative Claim, together with supporting documentation (a “*Proof of Administrative Claim*”), to the Receiver at her e-mail address platinumreceiver@otterbourg.com, so that it is actually received on or before the Administrative Claim Bar Date.

Proofs of Administrative Claim should not be filed with the Court, and any Proof of Administrative Claim so filed will not be considered properly submitted.

E. Supporting Documentation.

The Receiver proposes that each Administrative Claimant should attach to their Proof of Administrative Claim copies, not originals, of all documents available to the Administrative Claimant that could support such Proof of Administrative Claim. Documentation may include,

but is not limited to: copies of all agreements, promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, evidence of perfection of lien and other documents evidencing the amount and basis of the Administrative Claim. If such supporting documentation is not available, the Administrative Claimant must attach to the Proof of Administrative Claim an explanation of why the documentation is unavailable.

The Receiver reserves the right to request additional supporting documentation from Administrative Claimants and the submission of supporting documentation with a Proof of Administrative Claim shall not preclude the Receiver from evaluating the validity of and, if the Receiver deems appropriate, objecting to such Proof of Administrative Claim on any grounds, including the lack of supporting documentation.

F. Proofs of Administrative Claim Must Identify the Receivership Entity.

The Receiver proposes that Administrative Claimants asserting Administrative Claims against more than one Receivership Entity must, in addition to all other requirements set forth under the Administrative Claim Bar Date Order, specify on the Proof of Administrative Claim:

- a. each Receivership Entity the Administrative Claim is being asserted against;
- b. a detailed explanation why the Administrative Claim is being asserted against such Receivership Entity; and
- c. the amount of the Administrative Claim that is allocated to such Receivership Entity and the basis for such allocation.

Administrative Claimants must make reasonable efforts to allocate the claim amongst one or more Receivership Entities and provide the basis for such allocation if it believes more than one Receivership Entity is liable. The foregoing information is necessary to determine the scope of liability, if any, for each Receivership Entity and to ensure that the Receiver has sufficient information to prepare a plan of distribution.

An Administrative Claimant's failure to correctly identify the Receivership Entity on their Proof of Administrative Claim may be grounds for objection to, and disallowance of, such Administrative Claimant's Administrative Claims. The Receiver reserves the right to object to any and all Administrative Claims on any grounds, including being duplicative of one another and/or a failure to properly allocate alleged liability amongst different Receivership Entities.

G. No Effect on Pre-Receivership Claims or Prior Bar Dates Established by the Court.

For the avoidance of doubt, this Motion is not intended to, and should not be construed to, alter, modify or otherwise affect any Pre-Receivership Claim, or the Bar Dates set forth in the Bar Date Order, or any other bar date established by a prior Order of the Court.

H. Effect for Failing to Timely File a Proof of Administrative Claim.

The Receiver proposes that any holder of an Administrative Claim who is required to timely file their Proof of Administrative Claim on or before the Administrative Claim Bar Date in the manner set forth in the Administrative Claim Bar Date Order and who fails to do so shall be:

- a. forever barred, estopped, restrained and enjoined to the fullest extent allowed by applicable law from asserting, in any manner, such Administrative Claim (in whole or in part) against the Receivership Entities and their respective property and estates;
- b. prohibited from objecting to any plan of distribution proposed by the Receiver on account of such Administrative Claim;

- c. prohibited from participating in and receiving any distribution under any plan of distribution implemented by the Receiver on account of such Administrative Claim; and
- d. no longer entitled to receive any further notices on account of such Administrative Claim.

Further, the Receivership Entities, the Receiver, and their respective property and estates will be forever discharged from any and all indebtedness or liability with respect to Administrative Claims that are not timely filed.

I. Proof of Administrative Claim Processing and Verification.

The Receiver seeks authorization to employ, in addition to those specifically set forth herein, any procedures she deems necessary, in her sole and absolute discretion, for processing, reconciling, and verifying Proofs of Administrative Claim filed.

J. Reservation of Rights.

Nothing in this Motion and accompanying filings shall prejudice the Receiver's right to dispute, or assert offsets or defenses as to the nature, amount, liability, classification, or otherwise against, any amounts asserted in any Proof of Administrative Claim. Nothing contained in this Motion and accompanying filings is intended to preclude the Receiver from objecting to any Proof of Administrative Claim on any grounds.

IV. APPLICABLE AUTHORITY

This Court possesses the authority to grant the requested relief. It is well-settled that courts have broad discretion to determine the appropriate actions to be taken in the administration of an equity receivership. *See S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *S.E.C. v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). This discretion is a result of the inherent powers of equity courts to fashion relief. *Elliott*, 953 F.2d at 1566; *S.E.C. v. Safety*

Finance Service, Inc., 674 F.2d 368, 372 (5th Cir. 1982). The relief sought by the Receiver falls squarely within those powers.

In receiverships, “[e]very person who has any claim or demand against the estate or property in the custody of the court through the receiver, ... must assert such claim or demand in the court in which such receiver was appointed.” Ralph E. Clark, *CLARK ON RECEIVERS* § 646, at 1132 (3d ed. 1992). Although there are many ways in which a claimant can assert a claim, one such way is for claimants to be authorized “under a general order of the appointing court [to file their] claim with the receiver.” *Id.* The receiver may agree or disagree with the claim, which claim is ultimately approved or disapproved by the court. *Id.* “The claims should be definite enough to enable the receiver to pass on their validity, fairness and legality and to place them in their proper and legal category of claims for preference, if any.” *Id.* § 651, at 1142.

Courts overseeing a receivership also routinely enter orders limiting the time within which claims must be presented. *See Clark* § 652, at 1142 (citing *Chicago Title & Trust Co. v. Fox Theatres Corp.*, 91 F.2d 907 (2d Cir. 1937); *People of New York v. Hopkins*, 18 F.2d 731 (2d Cir. 1927)); *see also S.E.C. v. Princeton Econ. Int’l Ltd*, 2008 WL 7826694 (S.D.N.Y. Sept. 30, 2008); *S.E.C. v. Cook*, 2003 WL 22272065 (N.D. Tex. Sept. 30, 2003). Orders limiting the time within which claims must be submitted have been deemed to be necessary to “lay the foundation for the court to order payments to creditors and distribution to those entitled to receive.” *Clark* § 651, at 1142. Indeed, this Court has previously entered an Order (*i.e.*, the Bar Date Order) establishing the time for non-Governmental Units and Governmental Units to file general claims arising prior to the Receivership Commencement Date. The Bar Date Order has greatly helped the Receiver to determine the nature and scope of general claims against, and liabilities of, the Receivership Entities.

In furtherance of the Receiver's ability to develop a successful distribution plan that is fair and reasonable, the Receiver submits that it is in the best interests of the Receivership Entities and for the efficient administration of the case to determine the extent and amount of administrative liabilities (with the exception of the Receiver and her retained professionals' fees) and will ensure that the available proceeds are maximized and appropriately distributed. While the Receiver, to her knowledge, is not aware of any unknown administrative liabilities, approval of the relief sought in this Motion will eliminate the risk of uncertainty as to potentially unknown and unpaid Administrative Claims since the Receivership Commencement Date through and including June 30, 2022. *Cyganowski Dec.*, at 7. As provided in the Receiver's proposed Administrative Claims Procedures, the Receiver will seek a separate bar date for claims arising after June 30, 2022 (*i.e.*, the Supplemental Administrative Claims) in any plan of distribution that she implements and approved by this Court. *Id.*, at 18.

The rationale for the entry of bar date orders for the filing of pre-receivership claims applies equally to requests for a bar date for administrative claims arising during the receivership case. Indeed, the relief requested in this Motion is consistent with bar date orders entered in other receivership cases. *See, e.g., S.E.C. v. Direct Lending Investments LLC*, No. CV-19-2188 (C.D. Cal. April 9, 2020), at Dkt. No. 251 (order setting bar date applicable to pre-receivership claims and administrative claims); *S.E.C. v. Aequitas Management, LLC*, No. 16-cv-00438 (D. Or. April 23, 2019), at Dkt. No. 683 (same).

Accordingly, it is necessary and appropriate to establish a deadline for Administrative Claimants to submit claims for Administrative Claims for processing by the Receiver.

V. CONCLUSION

For the reasons set forth herein, as well as in the *Cyganowski Dec.*, the Receiver respectfully requests entry of an Order, substantially in the form annexed to the *Cyganowski Dec.* as **Exhibit A**, (i) establishing the Administrative Claim Bar Date, (ii) approving (a) the Proof of Administrative Claim Form, (b) the form and manner of notice of the Administrative Claim Bar Date, and (c) procedures for filing Proofs of Administrative Claim, and (iii) granting such other and further relief as this Court deems appropriate.

Dated: July 19, 2022
New York, New York

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