

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

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-v- :

PLATINUM MANAGEMENT (NY) LLC; :
 PLATINUM CREDIT MANAGEMENT, L.P.; :
 MARK NORDLICHT; :
 DAVID LEVY; :
 DANIEL SMALL; :
 URI LANDESMAN; :
 JOSEPH MANN; :
 JOSEPH SANFILIPPO; and :
 JEFFREY SHULSE, :

Defendants. :

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No. 16-CV-6848 (BMC)

**NOTICE OF RECEIVER’S MOTION FOR ENTRY OF AN ORDER APPROVING
SETTLEMENT AGREEMENT WITH JOINT OFFICIAL LIQUIDATORS OF
PLATINUM PARTNERS VALUE ARBITRAGE FUND**

PLEASE TAKE NOTICE that upon the accompanying declaration and memorandum of law in support of the motion (the “*Motion*”) by Melanie L. Cyganowski, the court-appointed equity receiver (the “*Receiver*”) of the Receivership Entities¹ (defined below), 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 (a) approving a settlement agreement (the “*Settlement Agreement*”) between:

¹ The “*Receivership Entities*” are: (i) Platinum Partners Credit Opportunities Master Fund LP, (ii) Platinum Partners Credit Opportunities Fund (TE) LLC, (iii) Platinum Partners Credit Opportunities Fund LLC, (iv) Platinum Partners Credit Opportunities Fund International Ltd., (v) Platinum Partners Credit Opportunities Fund International (A) Ltd., (vi) Platinum Partners Credit Opportunities Fund (BL) LLC, (vii) Platinum Credit Management, L.P., (viii) Platinum Liquid Opportunity Management (NY) LLC, (ix) Platinum Partners Liquid Opportunity Fund (USA) L.P., and (x) Platinum Partners Liquid Opportunity Master Fund L.P.

- (i) Melanie L. Cyganowski, solely in her capacity as Receiver for the Receivership Entities and, in that capacity, as an agent and an authorized representative for all entities listed as “Receivership Parties” on **Addendum A** to the Settlement Agreement (collectively, the “**Receivership Parties**”), on one hand, and
- (ii) Martin Trott and Christopher Smith, in their capacities as the Joint Official Liquidators and Foreign Representatives (the “**JOLs**”) of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (“**PPVA**”), and, in that capacity, as an agent and authorized representatives for all entities listed as “PPVA JOL Parties” on **Addendum A** to the Settlement Agreement (collectively with the JOLs and PPVA, the “**PPVA JOL Parties**”), and Principal Growth Strategies, LLC (“**PGS**,” and together with PPVA JOL Parties, the Receiver and the Receivership Parties, collectively, the “**Parties**” and each a “**Party**”), on the other hand;

(b) authorizing the Receiver to take any such necessary steps to effectuate the terms of, and fulfill her obligations under, the Settlement Agreement, including, without limitation, the execution and delivery of all applicable instruments and documents; and (c) granting such other and further relief as the Court deems just.

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 **August 4, 2022**.

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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 28, 2022

OTTERBOURG P.C.

By: /s/ Erik B. Weinick

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Cyganowski, as Receiver*

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

----- X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-v- :

PLATINUM MANAGEMENT (NY) LLC; : No. 16-CV-6848 (BMC)

PLATINUM CREDIT MANAGEMENT, L.P.; :

MARK NORDLICHT; :

DAVID LEVY; :

DANIEL SMALL; :

URI LANDESMAN; :

JOSEPH MANN; :

JOSEPH SANFILIPPO; and :

JEFFREY SHULSE, :

Defendants. :

----- X

**DECLARATION OF MELANIE L. CYGANOWSKI AS RECEIVER IN
SUPPORT OF THE RECEIVER’S MOTION FOR ENTRY OF AN ORDER
APPROVING SETTLEMENT AGREEMENT WITH JOINT OFFICIAL
LIQUIDATORS OF PLATINUM PARTNERS VALUE ARBITRAGE FUND**

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

1. I make this declaration in my capacity as the court-appointed equity receiver (the “*Receiver*”) of the Receivership Entities¹ (defined below).

¹ The “*Receivership Entities*” are: (i) Platinum Partners Credit Opportunities Master Fund LP (“*PPCO Master Fund*,” and together with its feeder funds, “*PPCO*”), (ii) Platinum Partners Credit Opportunities Fund (TE) LLC (“*TE Feeder*”), (iii) Platinum Partners Credit Opportunities Fund LLC (“*US Feeder*”), (iv) Platinum Partners Credit Opportunities Fund International Ltd. (“*Int’l Feeder*”), (v) Platinum Partners Credit Opportunities Fund International (A) Ltd. (“*Int’l (A) Feeder*”), (vi) Platinum Partners Credit Opportunities Fund (BL) LLC (“*Blocker*”), (vii) Platinum Credit Management, L.P. (“*PPCO Portfolio Manager*”), (viii) Platinum Liquid Opportunity Management (NY) LLC, (ix) Platinum Partners Liquid Opportunity Fund (USA) L.P., and (x) Platinum Partners Liquid Opportunity Master Fund L.P. (“*PPLO Master Fund*,” and together with its feeder fund, “*PPLO*”).

2. I submit this declaration in support of my motion (the “*Motion*”) for entry of an Order (a) approving a settlement agreement (the “*Settlement Agreement*”)² between:

- (i) Myself, solely in my capacity as Receiver for the Receivership Entities and, in that capacity, as an agent and an authorized representative for all entities listed as “Receivership Parties” on **Addendum A** to the Settlement Agreement (collectively, the “*Receivership Parties*”), on one hand, and
- (ii) Martin Trott and Christopher Smith, in their capacities as the Joint Official Liquidators and Foreign Representatives (the “*JOLs*”) of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (“*PPVA*”), and, in that capacity, as an agent and authorized representatives for all entities listed as “PPVA JOL Parties” on **Addendum A** to the Settlement Agreement (collectively with the JOLs and PPVA, the “*PPVA JOL Parties*”), and Principal Growth Strategies, LLC (“*PGS*,” and together with PPVA JOL Parties, the Receiver and the Receivership Parties, collectively, the “*Parties*” and each a “*Party*”), on the other hand;

(b) authorizing me to take any such necessary steps to effectuate the terms of, and fulfill my obligations under, the Settlement Agreement, including, without limitation, the execution and delivery of all applicable instruments and documents; and (c) granting such other and further relief as this Court (the “*Receivership Court*”) deems just.

I.

PRELIMINARY STATEMENT

3. I have determined in my business judgment to enter into the Settlement Agreement because the Settlement Agreement, among other things:

- Extinguishes nearly \$40 million in purportedly secured debt allegedly owed by PPCO to PGS, an entity jointly held by PPCO and PPVA, without any payment of funds by PPCO;
- Extinguishes approximately \$70 million in inter-company and other claims asserted by PPVA against PPCO, again without payment of any funds by PPCO;
- Allows for PPCO to retain \$7 million in cash received by PPCO in a prior settlement with a third party to which PPVA had claimed an interest;

² A copy of the Settlement Agreement is attached hereto as **Exhibit A**.

- Allows for PPCO to retain and maintain an interest in the potential proceeds from a litigation being prosecuted by PPVA and PGS in the Delaware Chancery Court without the need for PPCO to contribute cash to fund the prosecution of that action;
- Allows for PPCO, at no cost, to retain and maintain a 45% interest in an asset currently jointly held with PPVA through PGS that may yield a meaningful cash recovery in the future; and
- Provides for mutual general releases between PPCO and PPVA, thereby avoiding extensive inter-estate litigation.

Because the Settlement Agreement achieves the foregoing vital goals for PPCO, I have determined in my business judgment that the Settlement Agreement is equitable, reasonable and in the best interests of the Receivership Estate (defined below).

4. Although the Settlement Agreement is consistent with and well within my authority under both the *Second Amended Order Appointing Receiver* entered on October 16, 2017 [ECF No. 276³] (the “**Receivership Order**”) and the *Order Establishing Claims and Interests Reconciliation and Verification Procedures* entered on December 1, 2020 [ECF No. 554] (the “**Claims Process Order**”), given the importance of the settlement, and for the sake of transparency to all interested parties and individuals, I am seeking this Receivership Court’s approval thereof. Significantly, on July 20, 2022, the Financial Services Division of the Grand Court of the Cayman Islands (the “**JOL Court**”) approved the JOLs’ entry into the Settlement Agreement in the liquidation proceeding of PPVA.

5. For these reasons, and those more fully set forth herein and in the contemporaneously filed memorandum of law in support of the Motion, the Motion should be granted.

³ References to “ECF No. ____” refer to docket entries in this case.

II.

FACTS

The Relevant Parties and Prior Management's Control of the Funds

6. Pursuant to the Receivership Order, I am the Receiver for two groups of hedge funds that I have labeled for purposes of the Motion and herein as the “*PPCO Funds*” and the “*PPLO Funds*.”

7. The PPCO Funds include the following Receivership Entities: PPCO Master Fund (the master fund, which made investments); four feeder funds that accepted investments from investors – US Feeder, TE Feeder, Int'l Feeder, and Int'l (A) Feeder; and Blocker (established for tax purposes). Another Receivership Entity, the PPCO Funds' portfolio manager, PPCO Portfolio Manager, managed their investments.

8. The PPLO Funds include two Receivership Entities: PPLO Master Fund and Platinum Partners Liquid Opportunity Fund (USA) L.P. Platinum Liquid Opportunity Management (NY) LLC, also a Receivership Entity, is their portfolio manager.

9. The JOLs are the joint official liquidators for another group of hedge funds defined above as PPVA.

10. Prior to the commencement of the Proceedings (defined below), management of PPCO, PPLO and PPVA was under the common control of Mark Nordlicht (“*Nordlicht*”) and certain other individuals (collectively, the “*Platinum Insiders*”).

11. Under the Platinum Insiders' management, PPCO and PPVA engaged in ongoing transactions between, among and with each other that involved the transfer of assets, cash and/or debt by and among the entities owned and/or controlled by the Parties (the “*Inter-Fund Transactions*”).

The Receivership and PPVA's Proofs of Claim

12. On December 19, 2016, this Receivership Court placed certain of the Receivership Entities in receivership (the “**Receivership**” and all assets of the Receivership, the “**Receivership Estate**”), and appointed Bart M. Schwartz as receiver for the original Receivership Entities.

13. On July 6, 2017, I was appointed by this Receivership Court to replace Mr. Schwartz as the current Receiver, with all of the rights, duties, obligations and powers of the Receiver, as more specifically set forth in the Receivership Order. ECF No. 276. This Receivership Court later added three of the Receivership Entities to the Receivership. ECF No. 297.

14. Under this Receivership Court’s *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* (the “**Bar Date Order**”) [ECF No. 453], the deadline for filing proofs of claim asserting general unsecured claims against a Receivership Entity in this action, *Securities & Exch. Comm’n v. Platinum Mgmt. (NY) LLC, et al.*, 16 Civ. 06848 (BMC) (the “**Receivership Action**”), was March 29, 2019.⁴

15. PPVA submitted proofs of claim, dated March 19, 2019, against PPCO Master Fund (the “**PPVA Proof of Claim**”) and against PPLO Master Fund. PTM Claim Nos. 39 and 40.⁵ The PPVA Proof of Claim asserted claims in three different categories as follows: (i) challenging the values received by PPVA with respect to Desert Hawk Gold Corp. (“**Desert Hawk**”), Navidea Biopharmaceuticals, Inc. (“**Navidea**”) and Urogen Pharmaceuticals, Inc.

⁴ The Bar Date Order established April 12, 2019 as the deadline for governmental units for filing proofs of claim asserting general unsecured claims against a Receivership Entity in the Receivership Action.

⁵ References to “PTM Claim No. _____” refer to the claim number assigned to such claim on the official claims register maintained in this Receivership Action.

(“*Urigen*”), three assets which had been transferred and/or assigned by PPVA to PPCO (the “*Asset Transfers*”) prior to the Proceedings (defined below);⁶ (ii) a reservation of rights with respect to Navidea; and (iii) damages relating to Black Elk.

16. *First*, with respect to Desert Hawk, Navidea and Urigen, PPVA did not assert a specific claim for damages, but did allege that the value of these allegedly improperly transferred assets was \$33,177,057, and specifically claimed that in connection with the Asset Transfers, PPCO had: (i) aided and abetted breach(es) of fiduciary duty by Platinum Management (NY) LLC (“*Platinum Management*”); (ii) aided and abetted fraud by Platinum Management; (iii) been unjustly enriched; (iv) engaged in conversion; (v) engaged in tortious interference with a business opportunity; (vi) breached the covenant of good faith and fair dealing; and (vii) not provided consideration (and also asserted a claim for rescission of the Asset Transfers).

17. *Second*, with respect to Navidea, PPVA purported to reserve the right to assert an administrative claim on behalf of Montaur against PPCO for damages in the amount of \$1,914,395.35 if Navidea was successful in arguing that the PPCO payoff letter extinguished any further payment obligation to Montaur. Montaur and Navidea extensively litigated their disputes before both state and federal trial and appellate courts, and at one point sought leave of this

⁶ The Asset Transfers were an attempt by Nordlicht to have PPVA “repay” PPCO for the outstanding indebtedness owed by PPVA to PPCO as a result of a pre-receivership line of credit extended by PPCO to PPVA at the behest of Nordlicht (the “*PPCO to PPVA Loan*”). The Asset Transfers consisted of the following specific transfers by: (i) a PPVA-related entity, DMRJ Group I, LLC (“*DMRJ*”) to PPCO of \$5,000,000 in indebtedness by Desert Hawk, which reduced the balance of the PPCO to PPVA Loan from \$33,225,612 to \$24,250,268, even though PPCO later was only able to recover \$416,667 for its interests in Desert Hawk, which by that point included not only the transfer from DMRJ, but other debt (totaling \$19,000,000) and equity interests as well; (ii) a PPVA-related entity, Platinum-Montaur Life Sciences, LLC (“*Montaur*”) of a subordinated promissory note issued by Navidea to Montaur, in the then outstanding principal amount of \$6,650,869 and accrued and outstanding interest of \$461,846, which was assigned at a purported fair value of \$7,112,715 by Montaur to PPCO (on March 3, 2017, Navidea repaid \$7,592,590 to PPCO of which PPVA claimed a portion and that it is agreeing to allow PPCO to retain under the terms of the Settlement Agreement; and (iii) per the receivership’s books and records, PPVA assigned a portion of its interest in preferred equity of Urigen to PPCO as payment under the PPCO to PPVA Loan. However, there is no assignment agreement evidencing the assignment. Furthermore, the actual shares themselves were never transferred from PPVA’s custodial account to a PPCO custodial account. PPCO has had no control over the sale of those shares and to date, neither estate has received any recoveries on the Urigen investment.

Receivership Court to join the Receiver as a party. That motion was denied, and the parties recently filed a stipulated discontinuance of the remaining litigation.

18. *Third*, with respect to Black Elk, Desert Hawk, Navidea and Urigen, PPVA did not assert a specific damage claim, but did allege that PPCO Master Fund received \$24 million as a result of the transaction, and specifically claimed that in connection with the Black Elk Transaction, PPCO Master Fund had: (i) aided and abetted breach(es) of fiduciary duty by Platinum Management; (ii) aided and abetted fraud by Platinum Management; and (iii) been unjustly enriched.

The Cayman Liquidation Proceedings

19. By orders dated August 25, 2016, October 27, 2016, December 16, 2016, September 29, 2017 and July 6, 2018 (the “*Cayman Liquidation Orders*”) of the JOL Court, in a proceeding in the JOL Court (the “*PPVA Liquidation Proceeding*,” together with the Receivership Action, collectively, the “*Proceedings*”), the JOLs are the court-appointed Joint Official Liquidators of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation), with authority pursuant to the Cayman Liquidation Orders directing the official winding up of PPVA and appointed to take the actions articulated within such orders.

20. By orders dated November 23, 2016, and February 28, 2017, the United States Bankruptcy Court for the Southern District of New York recognized the PPVA Liquidation Proceeding as a “foreign main proceeding,” and appointed the JOLs as Foreign Representatives of PPVA, under Chapter 15 of the Bankruptcy Code and authorized the JOLs to take the actions articulated within such orders.

21. PPCO Master Fund and PPLO Master Fund each filed proofs of claim within the PPVA Liquidation Proceeding. PPCO Master Fund’s proof of claim (the “*PPCO Proof of*

Claim”), asserted a claim for unpaid inter-company loans, which as of 2016 were unpaid in the amount of \$4,315,913.51 (comprised of \$4,157,259.24 in principal and \$158,654.27 in interest). I was preparing to amend such claim on behalf of PPCO to include additional bases for recovery from PPVA in amounts that my financial advisors determined to be worth close to \$70 million when the Parties began negotiating the Settlement Agreement and I determined that the Receivership’s resources were better utilized with respect to settlement than amending the claim.

22. PPLO Master Fund’s proof of claim (the “*PPLO Proof of Claim*” and together with the PPCO Proof of Claim and the PPVA Proof of Claim, and as each is further defined in **Addendum C** to the Settlement Agreement, the “*Proofs of Claim*”) asserted a claim for unpaid inter-company loans, which as of 2016 were unpaid in the amount of \$1,855,293.04 (comprised of \$1,808,859.10 in principal and \$46,433.94 in interest). As with the PPCO Proof of Claim, I was preparing to amend the PPLO Proof of Claim when settlement discussions with the PPVA JOLs began in earnest.

Efforts to Resolve Inter-Company Claims and Maximize Joint Interests

23. The JOLs and I, along with our respective professionals, have examined the Inter-Fund Transactions in an effort to reconcile any outstanding claims or obligations for which one Party may be liable to another.

24. The JOLs and I (and our respective predecessors and professionals) have worked cooperatively to maximize recoveries to both estates, to reduce expenses to both estates, and, whenever possible, to assist each other when their interests were aligned, all under the premise that innocent investors in, and creditors of, respectively, the Receivership Entities and PPVA are all victims of a wide-ranging pattern of wrongful conduct by the Platinum Insiders that, in general, should not benefit one set of investors at the expense of one another.

25. In the spirit of such cooperation, on or about August 8, 2017, the JOLs' predecessor and I entered into an e-mail agreement with respect to the Receivership Entities' prior receipt of approximately \$7.3 million in connection with the sale or disposition of the Navidea asset owned by both PPCO Master Fund and PPVA (the "*Navidea Proceeds*"), as to which I agreed that PPVA was claiming an entitlement (without accepting such claim) and which I agreed, for bookkeeping purposes only, would be treated as disputed funds (the "*Soft Escrow Agreement*"). Since the inception of the Soft Escrow Agreement, I have reported the Navidea Proceeds as part of the cash on hand in my reports to this Receivership Court.

26. The Receivership Entities and the PPVA JOL Parties each have continuing shared interests in certain mutual assets. One of the assets in which the Receivership Entities and the PPVA JOL Parties had a joint indirect interest, through PGS, is Agera Energy LLC and Agera Holdings, LLC (collectively, "*Agera*"), a group of companies in the retail energy services business. PGS is ostensibly owned 55% by PPVA and 45% by PPCO.

27. By letter agreement (the "*Agera Agreement*"), the JOLs and I agreed jointly to pursue certain claims and causes of action belonging to PPCO Master Fund, PPVA and/or PGS relating to PGS' transfer of a certain promissory note convertible into 95% of the common equity of Agera affiliate, Agera Energy LLC (the "*Agera Claims*"). Pursuant to the Agera Agreement, a complaint was filed in the Court of Chancery of the State of Delaware on June 7, 2019 against numerous defendants, including, among other defendants, AGH Parent LLC, Senior Health Insurance Company of Pennsylvania ("*SHIP*"), CNO Financial Group, Inc., Bankers Consec Life Insurance Company and Washington National Insurance Company (the "*Agera Action*").⁷

⁷ On October 4, 2019, Agera Energy LLC and certain of its affiliates, none of which are parties to the Agera Action, filed for chapter 11 bankruptcy relief in the United States Bankruptcy Court for the Southern District of New York, Case No. 19-23803.

28. Prior to the filing of the Agera Action, LL Finance, L.L.C. (“**LL Finance**”), PGS, PPVA, the JOLs and PPCO Master Fund entered into an “Addendum to Funding Agreement” as an addendum to the Funding Agreement between LL Finance, on the one hand, the JOLs and PPVA, on the other, as it relates to the funding of the Agera Action and the division of the net proceeds, if any, received on account of the Agera Claims.

29. Pursuant to a certain “Note Purchase Agreement,” dated as of March 21, 2016, executed by PPCO Master Fund, as the “Company,” BAM Administrative Services LLC (“**BAM Admin**”), as Agent for all “Purchasers from time to time a party [t]hereto,” and SHIP, BRe BCLIC Primary, BRe BCLIC Sub, BRe WNIC 2013 LTC Primary and BRe WNIC 2013 LTC Sub (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions) BAM Admin was required to maintain a register reflecting the holders of record of the PPMF Notes (as defined on **Addendum B** to the Settlement Agreement) (the “**Register**”). The most recent copy of the Register provided to the Parties is titled “PPMF Debt Registry as of 09.30.2019,” a copy of which is annexed to the Settlement Agreement as Exhibit A (the “**PPMF Debt Registry**,” which term refers to the first page thereof which is tabbed “Registry” and “rows” of which refers to the numbered rows on the electronic version of the “Registry”).

30. PGS is shown on the PPMF Debt Registry as the Lender of Record for portions of the purportedly secured PPMF Note 1 and PPMF Note 4 referred to on row 20 of the PPMF Debt Registry in the combined amount of \$30,650,512.27 in principal and \$5,951,657.98 in accrued interest as of September 30, 2019 (together with all interest and other amounts accrued and accruing thereon, collectively, the “**PGS Lender of Record Interests**”).

31. As noted above, each of the JOLs and Receiver have filed the Proofs of Claim, as further defined in **Addendum C** to the Settlement Agreement, in the estates, respectively, of the Receivership Entities and PPVA, and BAM Admin, as agent, filed the proof of claim in the Receivership Action defined as the “BAM Admin Proof of Claim” on **Addendum C** to the Settlement Agreement.

The Settlement Agreement

32. Following their respective service and/or filings of the Proofs of Claim, the JOLs and I vigorously contested the validity of the other Party’s proof of claim, and in addition, PPCO vigorously contested that PGS could enforce any of the PGS Lender of Record interests, *including not limited to* on the grounds previously set forth in *In re Platinum-Beechwood Litigation*, as well as due to legal limitations upon and defenses to PGS as holder of the beneficial interests in subject loan agreements.

33. Despite the aforementioned disagreements, the Parties engaged in years of good-faith and cooperative diligence, legal analysis and discussion, and as a result thereof, have executed the Settlement Agreement so as to settle all the claims, asserted and unasserted, by and among the Receivership Parties, on one hand, and the PPVA JOL Parties and PGS, on the other hand, and all other matters of mutual interest among the Parties in accordance with the terms fully set forth in the Settlement Agreement, as summarized herein.

34. The proposed Settlement Agreement is the culmination of years and, collectively, hundreds of hours of analysis and negotiation by the Receiver and her team. The Settlement Agreement was negotiated and entered into as a result of arm’s-length and hard-fought negotiation.

35. Below is a summary of the provisions of the agreement, which is qualified by reference to the specific terms in the Settlement Agreement. (See Exhibit A annexed hereto). Capitalized terms not defined herein have the meanings given to them in the Settlement Agreement. The Settlement Agreement includes the following terms, among others:

Issue	Terms
Mutual Releases	The Settlement Agreement provides for full and complete mutual releases between and among (i) the PPCO Parties, (ii) the PPVA JOL Parties; and (iii) PGS.
Release of PGS Lender of Record Interests	As part of the mutual releases, PGS will release the PPCO Parties the Lender of Record Interests which total a combined amount of purportedly secured debt of \$30,650,512.27 in principal and \$5,951,657.98 in accrued interest as of September 30, 2019.
Withdrawal of Proofs of Claim	As of the Effective Date, the Parties' Proofs of Claim (including PPVA's claim seeking damages in excess of \$70 million), will be deemed withdrawn with prejudice and of no force and effect.
Retention of Navidea Proceeds by PPCO	The Settlement Agreement provides for PPCO to retain the \$7 million in Navidea Proceeds, as to which PPVA withdraws with prejudice any claim.
Retention of PPCO's interest in Jointly Held Assets	The Settlement Agreement provides for PPCO's continued 45% interest in the net recoveries for any assets still jointly held with PPVA, including those held through PGS, other than the interest in the Agera Action, in which PPCO will continue to hold an interest, albeit at a reduced percentage, but without any out-of-pocket cost to PPCO.
Venue and Choice of Law	The Parties consent and submit to the exclusive jurisdiction of this Court in actions or proceedings relating to the Agreement and that New York law will govern disputes arising from the Agreement.

36. By Order, dated July 20, 2022, the JOL Court approved the JOLs' entry into the Settlement Agreement.

37. While I believe the provisions of the Receivership Order and Claims Process Order grant me the authority to enter into and implement the Settlement Agreement without this Receivership Court's approval, in the interest of transparency, in an abundance of caution, and to provide all potential stakeholders with an opportunity to be heard on an important matter that may affect their interests, I have decided to seek Court approval of the Settlement Agreement.

IV.

CONCLUSION

38. For the reasons set forth herein and in the memorandum of law in support of the Motion, I respectfully request entry of an Order, substantially in the form attached hereto as **Exhibit B**, (a) approving the Settlement Agreement; (b) authorizing me to take any such necessary steps to effectuate the terms of, and fulfill my obligations under, the Settlement Agreement; and (c) granting such other and further relief as this Receivership Court deems just.

Executed this 28th day of July 2022, at New York, New York.

/s/ Melanie L. Cyganowski

Melanie L. Cyganowski

EXHIBIT A

PROPOSED SETTLEMENT AGREEMENT (UNSIGNED)

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement (this “*Agreement*”) is hereby entered into this day of (the “*Execution Date*”), by and between (1) Melanie L. Cyganowski, solely in her capacity as the court-appointed receiver (the “*Receiver*”) for (i) Platinum Partners Credit Opportunities Master Fund LP (“*PPMF*,” and, together with its feeder funds, “*PPCO*”), (ii) Platinum Partners Credit Opportunities Fund (TE) LLC, (iii) Platinum Partners Credit Opportunities Fund LLC, (iv) Platinum Partners Credit Opportunities Fund International Ltd., (v) Platinum Partners Credit Opportunities Fund International (A) Ltd., (vi) Platinum Partners Credit Opportunities Fund (BL) LLC, (vii) Platinum Credit Management, L.P., (viii) Platinum Liquid Opportunity Management (NY) LLC, (ix) Platinum Partners Liquid Opportunity Fund (USA) L.P. and (x) Platinum Partners Liquid Opportunity Master Fund L.P. (collectively, the “*Receivership Entities*”), and, in that capacity, as an agent and an authorized representative for all entities listed as “Receivership Parties” on **Addendum A** hereto (collectively, the “*Receivership Parties*”), on one hand, and (2) Martin Trott and Christopher Smith, in their capacities as the Joint Official Liquidators and Foreign Representatives (the “*JOLs*”) of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (“*PPVA*”), and, in that capacity, as an agent and authorized representatives for all entities listed as “PPVA JOL Parties” on **Addendum A** hereto (collectively with the JOLs and PPVA, the “*PPVA JOL Parties*”), and (3) Principal Growth Strategies, LLC (“*PGS*,” and together with PPVA JOL Parties, the Receiver and the Receivership Parties, collectively, the “*Parties*” and each a “*Party*”), on the other hand.

WHEREAS, this Agreement incorporates the capitalized terms defined in **Addendum B** hereto and, thus, capitalized terms not otherwise defined in these Recitals or in the body of this Agreement shall have the meanings ascribed to them in **Addendum B**;

WHEREAS, prior to the commencement of the Proceedings (defined below), management of PPCO and PPVA was under the common control of Mark Nordlicht (“*Nordlicht*”) and certain other individuals (collectively, the “*Platinum Insiders*”);

WHEREAS, under the Platinum Insiders’ management, PPCO and PPVA engaged in ongoing transactions between, among and with each other that involved the transfer of assets, cash and/or debt by and among the entities owned and/or controlled by the Parties (the “*Inter-Fund Transactions*”);

WHEREAS, the Receiver, the JOLs and their respective professionals have examined the Inter-Fund Transactions in an effort to reconcile any outstanding claims or obligations for which one Party may be liable to another;

WHEREAS, on December 19, 2016, the Receivership Entities were placed into receivership (the “*Receivership*” and all assets of the Receivership, the “*Receivership Estate*”) by orders of the United States District Court for the Eastern District of New York (the “*Receivership Court*”) in the action captioned, *Securities & Exch. Comm’n v. Platinum Mgmt. (NY) LLC, et al.*, 16 Civ. 06848 (BMC) (the “*Receivership Action*”) and Bart M. Schwartz was appointed the initial receiver (the “*Prior Receiver*”);

WHEREAS, following the Prior Receiver’s resignation, on July 6, 2017, the Receivership Court appointed the current Receiver, with all of the rights, duties, obligations and powers of the Receiver, as more specifically set forth in the October 16, 2017 Second Amended Order Appointing Receiver, Receivership Dkt. No. 276, as thereafter amended;

WHEREAS, by orders dated August 25, 2016, October 27, 2016, December 16, 2016, September 29, 2017 and July 6, 2018 (the “*Cayman Liquidation Orders*”) of the Financial Services Division of the Grand Court of the Cayman Islands (the “*JOL Court*,” together with the Receivership Court, collectively, the “*Courts*,” and each, individually, a “*Court*”), in a proceeding in the JOL Court (the “*PPVA Liquidation Proceeding*,” together with the Receivership Action, collectively, the “*Proceedings*”), the JOLs are the Court-appointed Joint Official Liquidators of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation), with authority pursuant to the Cayman Liquidation Orders directing the official winding up of PPVA and appointed to take the actions articulated within such orders;

WHEREAS, by orders dated November 23, 2016, and February 28, 2017, the United States Bankruptcy Court for the Southern District of New York recognized the PPVA Liquidation Proceeding as a “foreign main proceeding,” and appointed the JOLs as Foreign Representatives of PPVA, under Chapter 15 of the Bankruptcy Code and authorized the JOLs to take the actions articulated within such orders;

WHEREAS, the JOLs, the Receiver and their respective predecessors and professionals have worked cooperatively to maximize recoveries to both estates, to reduce expenses to both estates, and, whenever possible, to assist each other when their interests were aligned, all under the premise that innocent investors in, and creditors of, respectively, the Receivership Entities and PPVA are all victims of a wide-ranging pattern of wrongful conduct by the Platinum Insiders that, in general, should not benefit one set of investors at the expense of one another;

WHEREAS, in the spirit of such cooperation, on or about August 8, 2017, the Receiver and the JOLs’ predecessor entered into an e-mail agreement with respect to the Receivership Entities’ prior receipt of approximately \$7.3 million in connection with the sale or disposition of

an asset owned by both PPMF and PPVA referred to as Navidea Pharmaceutical (the “*Navidea Proceeds*”), as to which the Receiver agreed that PPVA was claiming an entitlement (without accepting such claim) and which the Receiver agreed, for bookkeeping purposes only, would be treated as disputed funds (the “*Soft Escrow Agreement*”);

WHEREAS, the Receivership Entities and the PPVA JOL Parties each have continuing shared interests in certain mutual assets;

WHEREAS, one of the assets in which the Receivership Entities and the PPVA JOL Parties had a joint indirect interest is Agera Energy LLC and Agera Holdings, LLC (collectively, “*Agera*”), a group of companies in the retail energy services business. In June 2016, prior to the filing of the Receivership Action, PGS, ostensibly owned 55% by PPVA and 45% by PPCO, sold its interests in Agera to certain entities affiliated and/or associated with Beechwood Re Investments LLC;

WHEREAS, by letter agreement (the “*Agera Agreement*”), the Receiver and JOLs agreed jointly to pursue certain claims and causes of action belonging to PPMF, PPVA and/or PGS relating to PGS’ transfer of a certain promissory note convertible into 95% of the common equity of Agera affiliate, Agera Energy LLC (the “*Agera Claims*”). Pursuant to the Agera Agreement, a complaint was filed in the Court of Chancery of the State of Delaware on June 7, 2019 against numerous defendants, including, among other defendants, AGH Parent LLC, Senior Health Insurance Company of Pennsylvania (“*SHIP*”), CNO Financial Group, Inc., Bankers Conseco Life Insurance Company and Washington National Insurance Company (the “*Agera Action*”)¹;

¹ On October 4, 2019, Agera Energy LLC and certain of its affiliates, none of which are parties to the Agera Action, filed for chapter 11 bankruptcy relief in the United States Bankruptcy Court for the Southern District of New York, Case No. 19-23803.

WHEREAS, prior to the filing of the Agera Action, LL Finance, L.L.C. (“**LL Finance**”), PGS, PPVA, the JOLs and PPMF entered into an “Addendum to Funding Agreement” (the “**Funding Addendum**”) as an addendum to the Funding Agreement between LL Finance, on the one hand, the JOLs and PPVA, on the other, as it relates to the funding of the Agera Action and the division of the net proceeds, if any, received on account of the Agera Claims;

WHEREAS, pursuant to the NPA, BAM Admin is required to maintain a register reflecting the holders of record of the PPMF Notes (the “**Register**”);

WHEREAS, the most recent copy of the Register provided to the Parties is titled “PPMF Debt Registry as of 09.30.2019,” pdf and EXCEL copies of which are annexed hereto as **Exhibit A** (the “**PPMF Debt Registry**,” which term refers to the first page thereof which is tabbed “Registry” and “rows” of which refers to the numbered rows on the electronic version of the “**Registry**”);

WHEREAS, PGS is shown on the PPMF Debt Registry as the Lender of Record for portions of PPMF Note 1 and PPMF Note 4 referred to on row 20 of the PPMF Debt Registry in the combined amount of \$30,650,512.27 in principal and \$5,951,657.98 in accrued interest as of September 30, 2019 (together with all interest and other amounts accrued and accruing thereon, collectively, the “**PGS Lender of Record Interests**”);

WHEREAS, each of the JOLs and Receiver have filed the “**Proofs of Claim**,” as defined in **Addendum C** hereto, in the estates, respectively, of the Receivership Entities and PPVA, and BAM Admin, as agent, filed the proof of claim in the Receivership Action defined as the “**BAM Admin Proof of Claim**” on **Addendum C**;

WHEREAS, PPCO vigorously contests that PGS may enforce any of the PGS Lender of Record interests, including not limited to on the grounds previously set forth in *In re Platinum-*

Beechwood Litigation, as well as due to legal limitations upon and defenses to PGS as holder of the beneficial interests in subject loan agreements;

WHEREAS, the Parties, having engaged in extensive diligence and legal analysis, ascribe \$10 (ten dollars) of value to PGS' beneficial interest in PPMF Note 1 and PPMF Note 4; and

WHEREAS, and in the continued spirit of cooperation among them, the Parties desire to settle all the claims, asserted and unasserted, by and among the Receivership Parties, on one hand, and the PPVA JOL Parties and PGS, on the other hand, and all other matters of mutual interest among the Parties in accordance with the terms set forth herein.

NOW, THEREFORE, after good faith, arm's-length negotiations between and among the Parties and in consideration of the agreements, covenants and releases set forth herein, and for other good and valuable consideration, the sufficiency and adequacy of which is acknowledged by the Parties, the Parties hereto agree as follows:

1. **Recitals**. The recitals set forth above form an integral part of this Agreement and are incorporated fully herein.

2. **Withdrawal and Termination of Claims**. Upon the Effective Date (defined below):

a. Each of the JOLs, on behalf of the PPVA JOL Parties, and on behalf of PGS hereby waive, withdraw, release, terminate and/or dismiss all formal or informal proofs of claim (including, without limitation, the Proofs of Claim and the BAM Admin Proof of Claim to the extent it asserts secured or unsecured claims arising out of or related to the PGS Lender of Record Interests) or similar instruments filed by or on behalf of any of the PPVA JOL Parties or PGS in the Receivership Action, whether such claims were filed by or on behalf of any of the PPVA JOL

Parties or PGS as principal, as agent or representative on behalf of another entity or person, or by another entity or person on behalf of any of the PPVA JOL Parties or PGS.

b. The Receiver, on behalf of the Receivership Parties, hereby waives, withdraws, releases, terminates and/or dismisses all formal or informal proofs of claim (including, without limitation, the Proofs of Claim) or similar instruments filed by or on behalf of any of the Receivership Parties in the PPVA Liquidation Proceeding, whether such claims were filed by or on behalf of any of the Receivership Parties as principal, as agent or representative on behalf of another entity or person, or by another entity or person on behalf of any of the Receivership Parties.

c. Each of the JOLs, on behalf of the PPVA JOL Parties to the fullest and greatest extent of the JOLs' power to do so, and PGS hereby waive, withdraw, release, terminate and/or dismiss any claims any of the PPVA JOL Parties or PGS, respectively, may have against any of the Receivership Parties arising from or relating to any of the Inter-Fund Transactions, whether any such claims are held by the PPVA JOL Parties or PGS directly or on behalf of another entity or person, or whether any such claims are held by another entity or person on behalf of any of the PPVA JOL Parties or PGS, and such waiver shall include, but not be limited to, any claims to the Navidea Proceeds and shall further recognize the termination of the Soft Escrow Agreement.

d. The Receiver, on behalf of the Receivership Parties to the fullest and greatest extent of her power to do so, hereby waives, withdraws, releases, terminates and/or dismisses any claims any of the Receivership Parties may have against any of the PPVA JOL Parties arising from or relating to any of the Inter-Fund Transactions, whether any such claims are held by any of the Receivership Entities or on behalf of another entity, or whether any such claims are held by another entity or person on behalf of any of the Receivership Entities. Notwithstanding any other provision of this Agreement (including, without limitation, this Paragraph 2d and

Paragraph 5a of this Agreement), and for the avoidance of doubt, the Receiver does not waive, withdraw, terminate, dismiss, release, relinquish or covenant not to sue with respect to, and shall continue to own and be entitled to receive distributions from PGS in accordance with the Operating Agreement of PGS dated December 4, 2014 (as amended, the “**PGS Operating Agreement**”) except as specifically modified herein, and the PGS Operating Agreement shall continue to govern the conduct of PGS except as explicitly and expressly set forth herein. For the further avoidance of doubt, the aforementioned modifications do not include the Receivership Entities’ rights with respect to PPMF’s 45% share of PGS’ interest in Yellow River (Cayman) Limited, referred to as “**Yellow River**” The PPVA JOL Parties make no warranty or representation concerning the net value of PGS’ Yellow River interest or that distributions will be made to PGS’ members arising from any Yellow River realizations. The Parties maintain an interest in receiving a distribution of PGS’ Yellow River interests or the net proceeds of the disposition of such Yellow River interests held by PGS, *i.e.*, such proceeds net of (a) all reasonable costs incurred by PGS related to the disposition of Yellow River interests which costs shall have been agreed to in writing by the members thereof, with consent to such costs not to be unreasonably withheld and in no event to include the costs incurred in connection with such disposition by either the PPVA JOL Parties or the Receivership Parties, respectively, and (b) any of PGS’ demonstrated tax liabilities relating directly to the disposition of the Yellow River interests, (the “**Yellow River Proceeds**”). The PPVA JOL Parties, in their capacity as Manager under the PGS Operating Agreement, shall cause PGS to make such distributions or payment (including, but not limited to the Yellow River Proceeds), to the PGS members, including to the Receivership Parties, as may be required by the operative PGS Operating Agreement in regular consultation with the Receivership Parties, as soon as it is practicable to do so and the PPVA JOL Parties have obtained reasonably sufficient comfort under

the parameters of Delaware law that any such distribution shall not result in material any liability from public or private parties to the PPVA JOL Parties for making or causing such distribution, and shall use commercially reasonable efforts to arrive at such determination. In no event, however, shall the PPVA JOL Parties, in their capacity as Manager under the PGS Operating Agreement, refuse to make a distribution simply because doing so will impose a tax or other liability upon the PPVA JOL Parties which any of them would otherwise incur in the due course of an authorized distribution, but for the avoidance of doubt any and all distributions shall be net of any withholding taxes or other liabilities of PGS. Following the conclusion of the Agera Action and the disposition or distribution of the Yellow River asset, PPVA will take steps to manage PGS in accordance with Delaware law including, as appropriate, its winding down in as efficient and expeditious manner as is commercially practicable.

3. **Direction by PGS to BAM Admin.** Notwithstanding any of the terms of Paragraph 2 of this Agreement, within two (2) Business Days after the Effective Date, PGS, as title owner of the PGS Lender of Record Interests and one of the beneficiaries of the BAM Admin Proof of Claim, shall deliver to BAM Admin written instruction, in a form to be provided by the Receiver, to (a) terminate and release any lien held by BAM Admin, as agent for PGS, on assets of the Receivership Entities under the MSA and/or the A&R MSA, and (b) withdraw with prejudice the BAM Admin Proof of Claim to the extent the BAM Admin Proof of Claim purports to assert claims, as agent, for which PGS is the principal, including, but not limited to, all claims with respect to the PGS Lender of Record Interests.

4. **Agera Action.** Upon the Effective Date:

a. The Agera Agreement shall be, and hereby is, terminated and of no further force and effect, with neither party thereto having any obligation thereunder to the other.

b. PPMF hereby assigns to PPVA, which hereby accepts, all of PPMF's rights and obligations under the Funding Addendum, including any and all recoveries in connection with the Agera Action and all damages arising from any transactions involving Agera.

c. PGS, PPVA and the JOLs hereby covenant and agree that if, any amount of Recoveries from the Agera Claims (within the meaning of the Funding Addendum) remain to be distributed (the "**Net Agera Recoveries**") after (i) all payments required to be made in paragraphs 3(a) – (d) of the Funding Addendum have been made (the "**Waterfall Payments**"), and (ii) PPVA has been paid the next \$5 million of Recoveries from the Agera Claims after the Waterfall Payments have been made, then five percent (5%) of any Net Agera Recoveries shall be paid to PPMF, with the other 95% of Net Recoveries being paid to PPVA on a *pari passu* basis ("**Agera Remainder**").

d. PGS, PPVA and the JOLs hereby covenant and agree that they will not amend or modify the Funding Addendum in any manner that would affect PPMF's interest in the Agera Remainder.

5. **Releases.**

a. Upon the Effective Date, the Receiver, on behalf of each of the Receivership Parties to the fullest and greatest extent of her power to do so, hereby releases and discharges the PPVA JOL Parties and PGS, and each of their respective successors and assigns and their respective employees, attorneys, agents and representatives hired after the commencement of the PPVA Liquidation Proceeding (collectively, the "**PPVA JOL Releasees**"), from and for, and covenants not to sue any of the PPVA JOL Releasees on, any and all past, present and future causes of action, suits, debts, sums of money, accounts, covenants, contracts, controversies, losses, liabilities, responsibilities, damages, penalties, judgments, extents, executions, claims, cross-

claims, counterclaims, proofs of claim, rights of contribution or indemnification, rights of subrogation, and all other liabilities, claims or demands whatsoever, at law or equity, whether based in contract, tort or otherwise, whether secured or unsecured, known or unknown, suspected or unsuspected, discovered or undiscovered, whether asserted or unasserted, that any of the Receivership Parties now has, ever had, or hereafter can, will or may have against any of the PPVA JOL Releasees for, upon, or by reason of any matter, cause or thing, including, without limitation, any matter, cause or thing arising out of or relating to any of the Inter-Fund Transactions, the Navidea Proceeds, the Soft Escrow Agreement, the Agera Agreement, the Funding Addendum, the PGS Operating Agreement, the PPMF Notes, the NPA, the MSA, the Ratification Agreement, the A&R MSA, the Subsidiary Guaranty, the March 2016 Subsidiary Guaranty, the UCC-1s, the Proofs of Claim, the SHIP/Fuzion Proofs of Claim, any other proofs of claim filed or submitted by any person or entity against any of the Receivership Entities or PPVA or any of their estates, and the PGS Lender of Record Interests, from the beginning of the world through the Effective Date. Except as expressly permitted by Paragraph 5d of this Agreement and except with respect to the Yellow River Proceeds and Agera Remainder, after the Effective Date the Receiver shall not commence or prosecute, cause any of the Receivership Parties to commence or prosecute, or assist or encourage any person or entity (including, without limitation, the Receivership Parties) in the commencement or prosecution of, any lawsuit, arbitration, other proceeding, claim or proof of claim on behalf any of the Receivership Parties against any of the PPVA JOL Releasees asserting any past, present and future causes of action, suits, debts, sums of money, accounts, covenants, contracts, controversies, losses, liabilities, responsibilities, damages, penalties, judgments, extents, executions, claims, cross-claims, counterclaims, proofs of claim, rights of contribution or indemnification, rights of subrogation, and all other liabilities, claims or demands

whatsoever referred to in the first sentence of this Paragraph 5a. The preceding sentence shall apply regardless of whether the Receiver had or has the power to release the causes of action, suits, debts, sums of money, accounts, covenants, contracts, controversies, losses, liabilities, responsibilities, damages, penalties, judgments, extents, executions, claims, cross-claims, counterclaims, proofs of claim, rights of contribution or indemnification, rights of subrogation, and all other liabilities, claims or demands referred to in that sentence.

b. Immediately after the release in Paragraph 5a hereof takes effect, each of the JOLs, on behalf of each of the PPVA JOL Parties to the fullest and greatest extent of the JOLs' power to do so, and PGS hereby release and discharge the Receivership Parties, and each of their respective successors and assigns and their respective employees, attorneys, agents and representatives hired after the commencement of the Receivership Action (collectively, the "***Receivership Releasees***"), from and for, and covenant not to sue any of the Receivership Releasees on, any and all past, present and future causes of action, suits, debts, sums of money, accounts, covenants, contracts, controversies, losses, liabilities, responsibilities, damages, penalties, judgments, extents, executions, claims, cross-claims, counterclaims, proofs of claim, rights of contribution or indemnification, rights of subrogation, and all other liabilities, claims or demands whatsoever, at law or equity, whether based in contract, tort or otherwise, whether secured or unsecured, known or unknown, suspected or unsuspected, discovered or undiscovered, whether asserted or unasserted, that any of the PPVA JOL Parties or PGS now has, ever had, or hereafter can, will or may have against any of the Receivership Releasees for, upon, or by reason of any matter, cause or thing, including, without limitation, any matter, cause or thing arising out of or relating to any of the Inter-Fund Transactions, the Navidea Proceeds, the Soft Escrow Agreement, the Agera Agreement, the Funding Addendum, the PGS Operating Agreement, the

PPMF Notes, the NPA, the MSA, the Ratification Agreement, the A&R MSA, the Subsidiary Guaranty, the March 2016 Subsidiary Guaranty, the UCC-1s, the Proofs of Claim, the SHIP/Fuzion Proofs of Claim, any other proofs of claim filed or submitted by any person or entity against any of the Receivership Entities or PPVA or any of their estates, and the PGS Lender of Record Interests, from the beginning of the world through the Effective Date. Except as expressly permitted by Paragraph 5d of this Agreement, after the release in Paragraph 5a hereof takes effect the JOLs and PGS shall not commence or prosecute, cause any of the PPVA JOL Parties or PGS to commence or prosecute, or assist or encourage any person or entity (including, without limitation, the PPVA JOL Parties) in the commencement or prosecution of, any lawsuit, arbitration, other proceeding, claim or proof of claim on behalf any of the PPVA JOL Parties or PGS against any of the Receivership Releasees asserting any past, present and future causes of action, suits, debts, sums of money, accounts, covenants, contracts, controversies, losses, liabilities, responsibilities, damages, penalties, judgments, extents, executions, claims, cross-claims, counterclaims, proofs of claim, rights of contribution or indemnification, rights of subrogation, and all other liabilities, claims or demands whatsoever referred to in the first sentence of this Paragraph 5b. The preceding sentence shall apply regardless of whether the JOLs had or have the power to release the causes of action, suits, debts, sums of money, accounts, covenants, contracts, controversies, losses, liabilities, responsibilities, damages, penalties, judgments, extents, executions, claims, cross-claims, counterclaims, proofs of claim, rights of contribution or indemnification, rights of subrogation, and all other liabilities, claims or demands referred to in that sentence.

c. Upon the Effective Date, the mutual releases and other promises and agreements set forth herein shall constitute an accord and satisfaction of all rights, title or interest held by PGS in, to and under the PGS Lender of Record Interests.

d. Notwithstanding any provision of this Agreement to the contrary, nothing in this Agreement shall waive or release any claim or right by any Party to enforce the terms of this Agreement.

6. **Cooperation and Further Support.**

a. The Receiver and the JOLs shall continue to work cooperatively to monetize, and distribute any net proceeds (after reimbursing each Party for any direct expenses incurred by that Party in monetizing the asset) *pro rata* in accordance with the Receivership Parties' and PPVA JOL Parties' respective ownership interests, any remaining assets in which any of the Receivership Parties and any of the PPVA JOL Parties have (direct or indirect) interests, including, but not limited to, the assets known as "Yellow River," "Cokal" and "Urigen," except for the Agera Claims, which shall be monetized as set forth herein.

b. No Party shall oppose or object to any plans of distribution/wind down proposed in the Proceedings, unless any such plan is inconsistent with the terms of this Agreement, in which case such Party shall first informally communicate and seek to resolve its concerns before publicly filing an objection or opposition in the applicable Proceeding; *provided, however*, that nothing herein shall modify the rights of the Parties to enforce any judgments or orders of attachment as against former members, officers, employees or owners of Platinum Management (NY) LLC and serve process or execution upon the other Party as garnishee. If and only if the Parties reasonably believe that a disputed issue or decision in the Proceedings could have a

collateral estoppel effect upon the Parties, the Parties reserve their rights to intervene or be heard in the Proceedings.

c. The Parties agree to work cooperatively to develop a mechanism to share costs regarding any new or continued document (electronic and physical) retention and maintenance necessitated by this Agreement.

7. **No Admission of Liability.** The Parties agree that the purpose of this Agreement and the consideration hereunder is to compromise disputed claims and to avoid litigation, and that no statement made herein, payment made, or release or other consideration given shall be, or shall be construed as, an admission of liability, wrongdoing or otherwise by any of the Parties of any kind or nature. Notwithstanding the foregoing, nothing herein is intended to limit the parties hereto from utilizing this Agreement to implement and enforce its provisions.

8. **Court Approval.** To the extent that either the Receiver and/or the JOLs determine in their respective judgment(s) that approval of this Agreement by a Court is required for the Agreement to be enforceable as to that Party and the persons and entities on behalf of which the Receiver and the JOLs have entered into this Agreement, that Party shall apply within ten (10) days of the Execution Date of this Agreement, by filing such motion and/or other pleadings as may be necessary, for approval of the respective Court in the form of a final and non-appealable order (insofar as a final and non-appealable order is obtainable) of the Court in the applicable Proceedings, and shall promptly confirm in writing to the other Parties once the application for approval of this Agreement has been made.

9. **Settlement Effective Date.** Except for Paragraphs 1, 7, 8 and 11, which shall be binding immediately upon the execution of this Agreement by all Parties, the “Effective Date” of

this Agreement and all of its terms shall be the first date on which all of the following shall have occurred (the “*Effective Date*”):

- a. this Agreement has been fully executed and delivered by the Parties;
- b. fourteen (14) days after the JOL Court files an order approving the JOLs’ entry into this Agreement;
- c. if the Receiver seeks approval of this Agreement by the Receivership Court within ten (10) days after the Execution Date, (i) the Receivership Court or any court having appellate jurisdiction over the Receivership Court issues a final and non-appealable order approving the Receiver’s entry into this Agreement or (ii) a final order issued by any such Court approving the Receiver’s entry into this Agreement becomes final and non-appealable; *provided, however*, that this subparagraph 9c shall not apply if the Receiver does not seek approval of this Agreement by the Receivership Court within ten (10) days after the Execution Date.

10. **Representations and Warranties.**

- a. The JOLs represent and warrant, as of the Effective Date, that they have made due inquiry and the entities listed in Addendum A under the heading PPVA JOL Parties include, to the best of the JOLs’ knowledge, all subsidiaries of PPVA on whose behalf the JOLs have authority to act.
- b. The Receiver represents and warrants, as of the Effective Date, that she has made due inquiry and the entities listed in Addendum A under the heading Receivership Parties include, to the best of the Receiver’s knowledge, all subsidiaries of PPMF on whose behalf the Receiver has authority to act.
- c. Each Party represents and warrants, as of the Effective Date, that: (i) she, he or it has been represented by counsel in connection with the negotiation, drafting and execution

of this Agreement, and is executing this Agreement with full knowledge and understanding of its terms; (ii) the signatory for the Party has the full authority to have executed the Agreement; (iii) each Party has obtained all necessary legal approvals to enter into, and bind herself, himself or itself to, this Agreement, to the extent required; (iv) the execution and delivery of this Agreement does not violate any agreement, court order, administrative order of any governmental entity, or any law or governmental regulation; and (v) she, he or it has not sold, assigned or otherwise transferred, and, thus, owns and/or controls, the rights and claims being waived and released by that Party in Paragraph 5 of this Agreement. Further, the JOLs represent and warrant that the fullest and greatest extent of their powers as JOLs include, but are not limited to, the power to release any past, present and future causes of action, suits, debts, sums of money, accounts, covenants, contracts, controversies, losses, liabilities, responsibilities, damages, penalties, judgments, extents, executions, claims, cross-claims, counterclaims, proofs of claim, rights of contribution or indemnification, rights of subrogation, and all other liabilities, claims or demands of PPVA, Platinum Montaur Life Sciences, LLC, Platinum Montaur Life Sciences I, LLC, PGS, DMRJ Group, LLC, DMRJ Group I, LLC, DMRJ Group II, LLC, and Montant Partners LLC. All representations and warranties set forth in this Agreement shall survive its execution.

11. **Miscellaneous.**

a. **Notice.** All notices and other communications given and made pursuant to this Agreement shall be in writing and shall be deemed delivered: (a) upon personal delivery to the Party to be noticed; (b) upon delivery by electronic mail when confirmed by the recipient, if sent during normal business hours of the recipient, and if not so confirmed or not during normal business hours of the recipient, then on the next Business Day; or (c) when sent by Federal Express

or comparable overnight courier, one Business Day after delivering the letter or package to Federal Express or comparable overnight courier service:

<p>If to the JOLs, the PPVA JOL Parties and PGS:</p> <p>Martin Trott and Christopher Smith, as Joint Official Liquidators c/o R&H Restructuring (Cayman) Ltd. P.O. Box 897, Windward 1 Regatta Office Park KYI -1103 Grand Cayman, Cayman Islands mtrott@rhrefstructuring.com csmith@rhrefstructuring.com</p> <p style="text-align: center;">-and-</p> <p>Holland & Knight LLP Attn: Warren E. Gluck, Esq., Esq. 31 West 52nd Street New York, New York 10019 Warren.gluck@hklaw.com</p>	<p>If to the Receiver and the Receivership Entities:</p> <p>Melanie L. Cyganowski, Esq. c/o Otterbourg P.C. 230 Park Avenue New York, New York 10169 mcyanowski@otterbourg.com</p> <p style="text-align: center;">-and-</p> <p>Otterbourg P.C. Attn: Erik B. Weinick, Esq. 230 Park Avenue New York, New York 10169-0075 eweinick@otterbourg.com</p>
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b. **Venue and Choice of Law.** The Parties consent and submit to the exclusive jurisdiction of the Receivership Court over any actions or proceedings relating to the enforcement or interpretation of this Agreement and any Party bringing such action or proceeding shall bring such action or proceeding in the Receivership Court. This Agreement and all claims and disputes arising out of or in connection with this Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to choice of law principles. Each of the Parties hereto hereby waives any right to a trial by jury in any action, proceeding or counterclaim based upon or arising out of this Agreement or any of the transactions related hereto, and agrees that any such action, proceeding or counterclaim shall be tried before a court and not before a jury.

c. **Entire Agreement.** This Agreement constitutes the entire and only agreement of the Parties concerning the subject matter hereof. This Agreement supersedes and replaces any and all prior or contemporaneous verbal or written agreements or understandings between or among the Parties concerning the subject matter hereof, including, but not limited to, any term sheets exchanged prior to the execution of this Agreement. The Parties acknowledge that this Agreement is not being executed in reliance on any verbal or written agreement, promise or representation not contained herein.

d. **No Oral Modifications.** This Agreement may be modified or amended only by a writing signed by a duly authorized representative of each of the Parties hereto. No waiver of any breach of any term or provision of this Agreement shall be construed as a waiver of any other or subsequent breach.

e. **Construction.** This Agreement constitutes a fully negotiated agreement among commercially sophisticated parties and therefore shall not be construed or interpreted for or against any Party, and any rule or maxim of construction to such effect shall not apply to this Agreement.

f. **Headings.** The headings in this Agreement are intended only for convenience and shall not be construed to be or interpreted as a part, or limitation on the scope, of any term in this Agreement.

g. **Binding Effect; Successor and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns; *provided, however,* that no Party may assign its rights or obligations under this Agreement without the written consent of the other Parties, which consent shall not be unreasonably withheld or

delayed, and any assignment not in accordance with the terms hereof shall be null and void *ab initio*.

h. **Costs.** Each Party shall bear her, his or its own costs in connection with the negotiation and execution of this Agreement and any transactions contemplated hereunder.

i. **Severability.** If any portion or portions of this Agreement or any document executed in connection herewith are held by a court of competent jurisdiction to conflict with any federal, state or local law, and as a result such portion or portions are declared to be invalid and of no force or effect in such jurisdiction, then all remaining provisions of this Agreement or any document executed herewith shall otherwise remain in full force and effect and be construed as if such invalid portion or portions has not been included herein.

j. **Further Assurances.** The Parties each agree to execute such further and additional documents, instruments and writings as may be reasonably necessary, proper, required, desirable or convenient for the purpose of fully effectuating the terms and provisions of this Agreement.

k. **Counterparts.** This Agreement may be executed in counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Parties need not appear on the same counterpart.

l. **PDFs as Originals.** This Agreement may be executed using facsimile or PDF signatures, with the same effect as if the signatures were original. Facsimile or electronic copies of this Agreement shall be deemed for all purposes to have the same force and effect of the original thereof.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement as of the date set forth above.

**PRINCIPAL GROWTH STRATEGIES,
LLC**

By: Platinum Partners Value Arbitrage Fund
L.P., Its Managing Member

By:

**MARTIN TROTT AND CHRISTOPHER
SMITH, SOLELY IN THEIR
CAPACITIES AS THE JOINT OFFICIAL
LIQUIDATORS AND FOREIGN
REPRESENTATIVES OF PLATINUM
PARTNERS VALUE ARBITRAGE FUND
L.P.**

Dated: _____,

By: DRAFT_____

Name: Martin Trott
Title: Joint Official Liquidator of Platinum
Partners Value Arbitrage Fund L.P.

By: DRAFT_____

Name: Christopher Smith
Title: Joint Official Liquidator of Platinum
Partners Value Arbitrage Fund L.P.

**MELANIE L. CYGANOWSKI, SOLELY
IN HER CAPACITY AS RECEIVER FOR
THE RECEIVERSHIP ENTITIES AND
THE RECEIVERSHIP ESTATE AND, IN
THAT CAPACITY, ALSO AS AGENT
AND AUTHORIZED
REPRESENTATIVE ON BEHALF OF
EACH OF THE OTHER
RECEIVERSHIP PARTIES**

Dated: _____,

By: DRAFT_____

Name: Melanie L. Cyganowski
Title: Receiver of the Receivership Entities

**MARTIN TROTT AND CHRISTOPHER
SMITH, SOLELY IN THEIR
CAPACITIES AS THE JOINT OFFICIAL
LIQUIDATORS AND FOREIGN
REPRESENTATIVES OF PLATINUM
PARTNERS VALUE ARBITRAGE FUND
L.P., AND, IN THOSE CAPACITIES,
ALSO AS AGENTS AND AUTHORIZED
REPRESENTATIVES ON BEHALF OF
EACH OF THE OTHER PPVA JOL
PARTIES**

Dated: _____,

By: DRAFT_____

Name: Martin Trott
Title: Joint Official Liquidator of Platinum
Partners Value Arbitrage Fund L.P.

By: DRAFT_____

Name: Christopher Smith
Title: Joint Official Liquidator of Platinum
Partners Value Arbitrage Fund L.P.

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Addendum A

Parties

“Receivership Parties” shall mean:

Platinum Credit Management, L.P.
Platinum Partners Credit Opportunities Fund (BL) LLC
Platinum Partners Credit Opportunities Fund LLC
Platinum Partners Credit Opportunities Fund (TE) LLC
Platinum Partners Credit Opportunities Fund International Ltd.
Platinum Partners Credit Opportunities Fund International (A) Ltd.
Platinum Partners Credit Opportunities Master Fund LP
ALS Capital Ventures LLC
ALS Life Holdings LLC
Atlantic Growth Capital LLC (to the extent of Platinum Partners Credit Opportunities Master Fund, L.P.’s interest)
Alpha Credit Resources LLC
Bakken Development Opportunities I LLC
Beta Credit Services LLC
Burr Capital LLC
Cedarbridge Healthcare Management LLC (to the extent of Platinum Partners Credit Opportunities Master Fund, L.P.’s interest)
Centurion Structured Growth LLC
Credit Funding LLC
Credit International LLC
Credit Mining LLC
Credit Strategies LLC
Diamed Holdings, LLC
Energy Capital Corp.
Financial Ventures LLC
Hamilton Capital LLC
Hamilton Capital II LLC
Hamilton Capital III LLC
Hamilton Capital IV LLC
Hamilton Capital V LLC
Hamilton Capital VI LLC
Hamilton Capital VII LLC
Hamilton Capital VIII LLC
Hamilton Capital IX LLC
Hamilton Capital X LLC
Hamilton Capital XI LLC
Hamilton Capital XII LLC
Hamilton Capital XIII LLC
Hamilton Capital XIV LLC
Hamilton Capital XV LLC
Hamilton Capital XVI LLC

Hamilton Capital XVII LLC
Hamilton Capital XVIII LLC
IP Capital LLC
JARM Capital LLC
JH Funding LLC
Lakewood Group LLC
LC Energy LLC
LC Energy Operations LLC
L2 Leasing Holdings, LLC
Maximillian Investors LLC
Maximillian Resources LLC
Northrock Financial LLC
Pea & Eigh Company LLC
Photon Management LLC
Platinum Long Term Growth VIII, LLC
Platinum Partners Credit International LLC
Platinum Partners Credit International LP
Principal Growth Strategies, LLC (to the extent of Platinum Partners Credit Opportunities Master Fund, L.P.'s interest)
Pro Master Group LLC
Pro Player Funding LLC
PTLG VIII Iron Ore LLC
RE Credit LLC
Regis Capital LLC
RJ Funding LLC
Secure Holdings LLC
Titan Trade Finance LLC
Voltage Energy Holdings Co LLC
West Ventures LLC
Wintercrest Advisors LLC (to the extent of Platinum Partners Credit Opportunities Master Fund, L.P.'s interest)
All other direct and indirect subsidiaries of Platinum Partners Credit Opportunities Master Fund LP
Platinum Liquid Opportunity Management (NY) LLC
Platinum Partners Liquid Opportunity Fund (USA) L.P.
Platinum Partners Liquid Opportunity Master Fund L.P.
D Ward Capital, LLC
Empire Binary LLC
Empire Quantitative Ltd
Jacob Trading LLC

“PPVA JOL Parties” shall include:

Platinum Partners Value Arbitrage Fund L.P.
Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation)
Alston Grove Holdings LLC
Ancash Mining Ltd
AP Finance LLC
Atlantic Growth Capital LLC (to the extent of Platinum Partners Value Arbitrage Fund L.P.’s interest)
BA Note Acquisition LLC
Bouvier Street Capital Group LLC
Carnegie Hall Group LLC
Cayler Trading Group LLC
Cazador Holdings LLC
CBCT Partners LLC
CIS Energy LLC
Cobblestone Holdings LLC
DD China Cablecom LLC
DMRJ Group, LLC
DMRJ Group I, LLC
DMRJ Group II, LLC
Flashpoint Energy LLC
Flashpoint Trading LLC
Flashpoint Trading II LLC
Golden Globe Energy US LLC
Greenpoint Trading Group LLC
Hasbro Management LLC
Hazan Energy LLC
Huron Capital LLC
Kent Group LLC
Lafitte Energy LLC
Maximilian Investors Trading LLC
MBM Asia LLC
Meserole Group LLC
Montsant Partners LLC
M&P Holdings Ltd
Newco High Performance LLC
Newel Trading Group LLC
Northstar GOM Holdings Group LLC
Olympic Lake Partners Limited
Platinum Long Term Growth LLC
Platinum Long Term Growth I, LLC
Platinum Long Term Growth II, LLC
Platinum Long Term Growth III, LLC
Platinum Long Term Growth IV, LLC

Platinum Long Term Growth V, LLC
Platinum Long Term Growth VI, LLC
Platinum Long Term Growth VII, LLC
Platinum Management Offshore LLC
Platinum Long Term Growth VIII, LLC
Platinum Management (NY) LLC
Platinum Montaur Life Sciences, LLC
Platinum Montaur Life Sciences I, LLC
PPVA Black Elk (Cayman) Ltd
PPVA Black Elk (Equity) LLC
PPVA Black Elk (Investor) LLC
PPVA Infracom (Investor) Ltd
Precious Capital LLC
Principal Growth Strategies LLC (to the extent of Platinum Partners Value Arbitrage Fund, L.P.'s interest)
Resource Value Group LLC
RJ Credit LLC
RJ Resources LLC
Solar Project LLC
Spring Road Advisors LLC
Sutton Place Group Ltd
Temasek Capital LLC
Titanium Capital Partners LLC
Titanium Healthcare Management LLC
TKN Equity LLC
Trenor Partners LLC
Valentine Securities Group LLC
Value Healthcare Management LLC
Viper High Performance LLC
Voltage Energy Holdings VA LLC
Western Basin Capital LLC
Westminster Capital Holdings LLC
Wintercrest Advisors LLC (to the extent of Platinum Partners Value Arbitrage Fund, L.P.'s interest)

Addendum B

<u>Term</u>	<u>Definition</u>
A&R Delayed Draw Demand Note	“Amended and Restated Delayed Draw Demand Note” (as thereafter amended, restated, modified and/or supplemented from time to time), dated January 20, 2016, which amended and restated the Delayed Draw Demand Note in favor of SHIP
A&R MSA	Amended and Restated Master Security Agreement, dated March 21, 2016, entered into between PPMF and BAM Admin, as Agent
BAM Admin	BAM Administrative Services, LLC
Business Day	Any day that is (a) a Monday, Tuesday, Wednesday, Thursday or Friday on which banks in the State of New York are open for the transaction of a substantial part of their commercial banking business and (b) not a legal holiday in the State of New York.
Delayed Draw Demand Note	“Delayed Draw Demand Note,” dated December 23, 2015 (as thereafter amended, restated, modified and/or supplemented from time to time), issued in favor of SHIP, in the principal amount of up to \$15,500,000.00
Fuzion	Fuzion Analytics, Inc.
March 2016 Subsidiary Guaranty	Subsidiary Guaranty dated March 21, 2016, executed by the PPMF MSA Subsidiaries, Platinum Partners Credit International LP and BAM Admin, as Agent
MSA	“Master Security Agreement,” dated December 23, 2015, executed by the PPMF MSA Subsidiaries and BAM Admin, as Agent
NPA	“Note Purchase Agreement,” dated as of March 21, 2016, executed by PPMF, as the “Company,” BAM Admin, as Agent for all “Purchasers from time to time a party [t]hereto,” and SHIP, BRe BCLIC Primary, BRe BCLIC Sub, BRe WNIC 2013 LTC Primary and BRe WNIC 2013 LTC Sub (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions)

PGS Operating Agreement	the Agreement Operating Agreement of Principal Growth Strategies LLC dated as of December 4, 2014, together with any amendment, modification or restatement thereof
PPMF MSA Subsidiaries	ALS Capital Ventures LLC, Atlantic Growth Capital LLC, Alpha Credit Resources, LLC, Bakken Development Opportunities I LLC, Beta Credit Services LLC, Burr Capital LLC, Centurion Structured Growth LLC, Credit Funding LLC, Credit Mining LLC, Credit International LLC, Credit Strategies LLC, Diamed Holdings LLC, Financial Ventures LLC, Hamilton Capital LLC, JH Funding LLC, Lakewood Group LLC, L2 Leasing Holdings LLC, Maximilian Investors, LLC, Maximilian Resources LLC, Northrock Financial LLC, Pea and Eigh Company LLC, Photon Management LLC, Platinum Long Term Growth VIII LLC, Platinum Partners Credit International, LLC, Principal Growth Strategies LLC, Pro Master Group LLC, Pro Player Funding LLC, PTLG VIII Iron Ore LLC, Re Credit LLC, Regis Capital LLC, RJ Funding LLC, Secure Holdings LLC, Voltage Energy Holdings LLC, West Ventures LLC and Wintercrest Advisors LLC

PPMF Notes	<p>Collectively:</p> <ul style="list-style-type: none"> (i) the Second Amended and Restated Secured Term Note, dated March 21, 2016, in favor of SHIP in the original amount of \$42,963,949.04, which was amended and restated and was given in substitution for but not in satisfaction of the A&R Delayed Draw Demand Note (“<i>PPMF Note 1</i>”); (ii) the Secured Term Note dated March 21, 2016, in favor of BRe BCLIC Primary, in the original principal amount of \$10,000,000 (“<i>PPMF Note 2</i>”); (iii) the Secured Term Note dated March 21, 2016, in favor of BRe BCLIC Sub, in the original principal amount of \$500,000 (“<i>PPMF Note 3</i>”); (iv) the Secured Term Note dated March 21, 2016, in favor of BRe WNIC 2013 LTC Primary, in the original principal amount of \$14,989,677.78 (“<i>PPMF Note 4</i>”); and (v) the Secured Term Note dated March 21, 2016, in favor of BRe WNIC 2013 LTC Sub, in the original principal amount of \$700,000 (“<i>PPMF Note 5</i>”)
Ratification Agreement	<p>“Reaffirmation and Ratification Agreement,” dated January 20, 2016, entered into between PPMF, the PPMF MSA Subsidiaries and BAM Admin, as Agent</p>
SHIP/Fuzion Proofs of Claim	<p>Collectively, the following proofs of claim filed by SHIP and Fuzion:</p> <p>1. <u>Proofs of Claim Submitted by SHIP</u></p> <ul style="list-style-type: none"> a. “Creditor Proof of Claim Form” submitted by SHIP on March 29, 2019 against Platinum Partners Credit Opportunities Master Fund LP, which was assigned claim number PTM 256; b. “Creditor Proof of Claim Form” submitted by SHIP on March 29, 2019 against Platinum Partners Credit Opportunities Fund LLC, which was assigned claim number PTM 255; c. “Creditor Proof of Claim Form” submitted by SHIP on March 29, 2019 against Platinum Liquid Opportunity Management (NY) LLC, which was assigned claim number PTM 248; d. “Creditor Proof of Claim Form” submitted by SHIP on March 29, 2019 against Platinum Partners Liquid Opportunity Master Fund L.P., which was assigned claim number PTM 258; e. “Creditor Proof of Claim Form submitted by SHIP on March 29, 2019 against Platinum Partners Credit Opportunities Fund International (A) Ltd., which was assigned claim number PTM 253;

	<p>f. “Creditor Proof of Claim Form” submitted by SHIP on March 29, 2019 against Platinum Partners Credit Opportunities Fund (TE) LLC, which was assigned claim number PTM 249;</p> <p>g. “Creditor Proof of Claim Form” submitted by SHIP on March 29, 2019 against Platinum Partners Credit Opportunity Fund (BL) LLC, which was assigned claim number PTM 326;</p> <p>h. “Creditor Proof of Claim Form” submitted by SHIP on March 29, 2019 against Platinum Partners Liquid Opportunity Fund (USA) L.P., which was assigned claim number PTM 257;</p> <p>i. “Creditor Proof of Claim Form” submitted by SHIP on March 29, 2019 against Platinum Partners Credit Opportunities Fund International Ltd., which was assigned claim number PTM 254; and</p> <p>j. “Creditor Proof of Claim Form” submitted by SHIP on March 29, 2019 against Platinum Credit Management, L.P, which was assigned claim number PTM 247.</p> <p>2. <u>Proofs of Claim Submitted by Fuzion</u></p> <p>a. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Partners Credit Opportunities Master Fund LP, which was assigned claim number PTM 243;</p> <p>b. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Partners Credit Opportunities Fund LLC, which was assigned claim number PTM 242;</p> <p>c. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Liquid Opportunity Management (NY) LLC, which was assigned claim number PTM 238;</p> <p>d. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Partners Liquid Opportunity Master Fund L.P., which was assigned claim number PTM 246;</p> <p>e. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Partners Credit Opportunities Fund International (A) Ltd., which was assigned claim number PTM 240;</p> <p>f. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Partners Credit Opportunities Fund (TE) LLC, which was assigned claim number PTM 239;</p> <p>g. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Partners Credit</p>
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	<p>Opportunity Fund (BL) LLC, which was assigned claim number PTM 244;</p> <ul style="list-style-type: none"> h. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Partners Liquid Opportunity Fund (USA) L.P., which was assigned claim number PTM 245; i. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Partners Credit Opportunities Fund International Ltd., which was assigned claim number PTM 241; and j. “Creditor Proof of Claim Form” submitted by Fuzion on March 29, 2019 against Platinum Credit Management, L.P, which was assigned claim number PTM 237.
Subsidiary Guaranty	<p>“Subsidiary Guaranty” dated December 23, 2015, executed by the PPMF MSA Subsidiaries and BAM Admin</p>
UCC-1s	<p>UCC Financing Statements filed by BAM Admin, as Agent, prior to the commencement of the Receivership Action, with the Delaware Secretary of State, or otherwise, asserting a security interest in all, or substantially all, assets of PPMF and all or certain PPMF MSA Subsidiaries</p>

Addendum C

Proofs of Claim

“Proofs of Claim” shall mean, but not be limited to, the following:

1. “Creditor Proof of Claim Form” PTM 39 dated March 19, 2019 filed by Martin Trott as Joint Official Liquidator of Platinum Partners Value Arbitrage Fund, L.P. in the case captioned *SEC v. Platinum Management (NY) LLC et al.*, Case No. 16-cv-6848 (BMC) in the United States District Court for the Eastern District of New York.
2. “Creditor Proof of Claim Form” PTM 40 dated March 19, 2019 filed by Martin Trott as Joint Official Liquidator of Platinum Partners Value Arbitrage Fund, L.P. in the case captioned *SEC v. Platinum Management (NY) LLC et al.*, Case No. 16-cv-6848 (BMC) in the United States District Court for the Eastern District of New York.
3. “Proof of Debt” filed on form CWR 24 on or about September 23, 2016 by Platinum Partners Credit Opportunity Master Fund LP in the Platinum Partners Value Arbitrage Fund LP – Provisional Liquidation, Grand Court Cause No. 131 of 2016, in the amount of \$4,315,913.51
4. “Proof of Debt” filed on form CWR 24 on or about September 23, 2016 by Platinum Partners Liquid Opportunity Master Fund LP in the Platinum Partners Value Arbitrage Fund LP – Provisional Liquidation, Grand Court Cause No. 131 of 2016, in the amount of \$1,855,293.04
5. “Creditor Proof of Claim Form” submitted by BAM Admin, as agent against PPMF on March 28, 2019 in connection with the case captioned *SEC v. Platinum Management (NY) LLC, et al.*, Case No. 16-cv-6848 (BMC) in the United States District Court for the Eastern District of New York, which was assigned claim number PTM 145 (“BAM Admin Proof of Claim”)

Exhibit A

PPMF Debt Registry

[See attached.]

Platinum Partners Credit Opportunities Master Fund LP

9/30/2019

Note Identifier	Lender of Record (inclusive of participations) (actual name)	Account Ref	Participant (actual name)	Account Reference	Lender of Record Principal Debt Amount (inclusive of participations) (\$)	Lender of Record Accrued Interest Amount (inclusive of participations) (\$)*	Lender of Record Debt Percentage (inclusive of participations) (%)	Participant Debt Amount (\$)	Participant Accrued Income Amount (\$)*	Participant Debt Percentage (%)	Lender of Record Actual Economic Principal Debt Amount (exclusive of participations) (\$)	Lender of Record Actual Economic Accrued Income Amount (exclusive of participations) (\$)**	Lender of Record Actual Debt Percentage (exclusive of participations) (%)	Notes
PPMF Note 1	Senior Health Insurance Company of Pennsylvania	SHIP BAM	Beechwood Bermuda International Ltd.	Custody Account	15,804,397.58	3,864,646.71	19.81%				5,026,159.27	1,265,518.99	6.30%	*** Interest (G) + Accrued Interest (Q)
			PBLA ULICO 2017					2,599,215.12	677,978.95	3.26%				21.425%
								8,179,023.19	1,921,148.77	10.25%				96.017%
PPMF Note 2	Bankers Conesco Life Insurance Co.			Bre BCLIC Primary	5,788,297.58	1,457,415.11	7.25%				5,788,297.58	1,457,415.11	7.25%	* Accrued Interest (I) + Accrued Interest (Q)
PPMF Note 3	Bankers Conesco Life Insurance Co.			Bre BCLIC Sub	291,120.37	73,300.16	0.36%				291,120.37	73,300.16	0.36%	* Accrued Interest (I) + Accrued Interest (Q)
PPMF Note 4	Washington National Insurance Co.			Bre WNIC LTC Primary	1,234,860.02	310,921.09	1.55%				1,234,860.02	310,921.09	1.55%	* Accrued Interest (I) + Accrued Interest (Q)
PPMF Note 5	Washington National Insurance Co.			Bre WNIC LTC Sub	407,568.48	102,620.25	0.51%				407,568.48	102,620.25	0.51%	* Accrued Interest (I) + Accrued Interest (Q)
PPMF Note 1	Senior Health Insurance Company of Pennsylvania	Bre SHIP			10,868,454.74	2,736,530.04	13.62%				10,868,454.74	2,736,530.04	13.62%	* Accrued Interest (I) + Accrued Interest (Q)
PPMF Note 3;	Senior Health Insurance Company of Pennsylvania	BBIL SHIP			682,189.85	171,766.18	0.85%				682,189.85	171,766.18	0.85%	* Accrued Interest (I) + Accrued Interest (Q)
PPMF Note 5					5,396,293.00	1,407,568.40	6.76%				5,396,293.00	1,407,568.40	6.76%	44.480%
PPMF Note 2	Beechwood Bermuda International Ltd.	Custody Account			270,549.18	63,548.57	0.34%				270,549.18	63,548.57	0.34%	3.176%
PPMF Note 2	PBLA ULICO 2017				1,370,509.63	357,483.56	1.72%				1,370,509.63	357,483.56	1.72%	11.297%
	Beechwood Bermuda International Ltd.	Custody Account			68,712.03	16,139.58	0.09%				68,712.03	16,139.58	0.09%	0.807%
PPMF Note 4	PBLA ULICO 2017				1,530,543.58	397,883.98	1.92%				1,530,543.58	397,883.98	1.92%	
	Beechwood Bermuda International Ltd.	Custody Account			2,765,896.78	721,456.17	3.47%				2,765,896.78	721,456.17	3.47%	22.799%
	OMNIA Ltd				2,660,350.89	777,163.67	3.33%				2,660,350.89	777,163.67	3.33%	
PPMF Note 1;														Per \$26,779,775.07
PPMF Note 4	Principal Growth Strategies LLC *				30,650,512.27	5,951,657.98	38.41%				30,650,512.27	5,951,657.98	38.41%	Transferred 6/8/2016
Total					79,790,255.97	18,410,101.46	100.00%	10,778,238.31	2,599,127.72	13.51%	69,012,017.66	15,810,973.74	86.49%	
					BBIL Custody	12,131,914.52	3,164,487.08							
					PBLA ULICO 2017	8,518,284.40	2,000,836.92							

PPMF Note 1 - Secured Term Note, dated March 21, 2016, with a face amount of \$42,963,949.04, originally issued to SHIP
 PPMF Note 2 - Secured Term Note, dated March 21, 2016, with a face amount of \$10,000,000, originally issued to Bre BCLIC Primary
 PPMF Note 3 - Secured Term Note, dated March 21, 2016, with a face amount of \$500,000, originally issued to Bre BCLIC Sub
 PPMF Note 4 - Secured Term Note, dated March 21, 2016, with a face amount of \$14,989,677.78, originally issued to Bre WNIC 2013 LTC Primary
 PPMF Note 5 - Secured Term Note, dated March 21, 2016, with a face amount of \$700,000, originally issued to Bre WNIC 2013 LTC Sub

* Status of PPMF indebtedness attributed to Principal Growth Strategies LLC (PGS) above is uncertain based upon verbal representations by both initial Receiver of PPMF and counsel for PPMF liquidators that those PPMF debt amounts transferred to PGS are deemed extinguished.

EXHIBIT B

PROPOSED 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; :
 DANIEL SMALL; :
 URI LANDESMAN; :
 JOSEPH MANN; :
 JOSEPH SANFILIPPO; and :
 JEFFREY SHULSE, :

Defendants. :

----- X

No. 16-CV-6848 (BMC)

**[PROPOSED] ORDER APPROVING SETTLEMENT AGREEMENT WITH JOINT
OFFICIAL LIQUIDATORS OF PLATINUM PARTNERS VALUE ARBITRAGE FUND**

On July 28, 2022, Melanie L. Cyganowski, the court-appointed equity receiver (the “*Receiver*”)¹ of the Receivership Entities² (defined below) filed a motion [ECF Nos. ____] (the “*Motion*”) for the entry of an Order (a) approving a settlement agreement (the “*Settlement Agreement*”), a copy of which is attached as Exhibit A to the Receiver Decl., between:

- (i) Melanie L. Cyganowski, solely in her capacity as Receiver for the Receivership Entities and, in that capacity, as an agent and an authorized representative for all entities listed as “Receivership Parties” on **Addendum A** to the Settlement Agreement (collectively, the “*Receivership Parties*”), on one hand, and

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to such term in the *Declaration of Melanie L. Cyganowski as Receiver in Support of the Receiver’s Motion for Entry of an Order Approving Settlement Agreement with Joint Official Liquidators of Platinum Partners Value Arbitrage Fund*, dated July 28, 2022 [ECF No. ____] (the “*Receiver Decl.*”).

² The “*Receivership Entities*” are: (i) Platinum Partners Credit Opportunities Master Fund LP, (ii) Platinum Partners Credit Opportunities Fund (TE) LLC, (iii) Platinum Partners Credit Opportunities Fund LLC, (iv) Platinum Partners Credit Opportunities Fund International Ltd., (v) Platinum Partners Credit Opportunities Fund International (A) Ltd., (vi) Platinum Partners Credit Opportunities Fund (BL) LLC, (vii) Platinum Credit Management, L.P., (viii) Platinum Liquid Opportunity Management (NY) LLC, (ix) Platinum Partners Liquid Opportunity Fund (USA) L.P., and (x) Platinum Partners Liquid Opportunity Master Fund L.P.

- (ii) Martin Trott and Christopher Smith, in their capacities as the Joint Official Liquidators and Foreign Representatives (the “*JOLs*”) of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (“*PPVA*”), and, in that capacity, as an agent and authorized representatives for all entities listed as “*PPVA JOL Parties*” on **Addendum A** to the Settlement Agreement (collectively with the *JOLs* and *PPVA*, the “*PPVA JOL Parties*”), and Principal Growth Strategies, LLC (“*PGS*,” and together with *PPVA JOL Parties*, the Receiver and the Receivership Parties, collectively, the “*Parties*” and each a “*Party*”), on the other hand;

(b) authorizing the Receiver to take any such necessary steps to effectuate the terms of, and fulfill her obligations under, the Settlement Agreement, including, without limitation, the execution and delivery of all applicable instruments and documents; and (c) granting such other and further relief as the Court deems just; and

In support of the Motion, the Receiver filed a Notice of Motion [ECF No. ____], the Receiver Decl. [ECF No. ____], and a Memorandum of Law [ECF No. ____]; and

The Court finding that notice of the Motion was good and sufficient under the particular circumstances and that no other further notice need be given; and

The Court having jurisdiction to consider the relief requested in the Motion pursuant to, inter alia, the *Second Amended Order Appointing Receiver* entered on October 16, 2017 [ECF No. 276³] (the “*Receivership Order*”); and

The Court finding that (a) the Receiver’s entry into the Settlement Agreement is consistent with the Receiver’s authority under Receivership Order and the *Order Establishing Claims and Interests Reconciliation and Verification Procedures* entered on December 1, 2020 [ECF No. 554] and is a reasonable and proper exercise of the Receiver’s discretion; (b) approval of the Settlement Agreement is in the best interests of the Receiver, the Receivership Entities, their estates and stakeholders; and (c) based upon the record herein and after due deliberation

³ References to “ECF No. ____” refer to docket entries in this case.

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. The Settlement Agreement is hereby approved and the Receiver is authorized to take any such necessary steps to effectuate the terms of, and fulfill the Receiver's obligations under, the Settlement Agreement, including, without limitation, the execution and delivery of all applicable instruments and documents.
4. This Order shall be effective and enforceable immediately upon entry.
5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the Settlement Agreement and the implementation of this Order.

Dated: _____, 2022
Brooklyn, New York

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

**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)

**RECEIVER’S MEMORANDUM OF LAW
IN SUPPORT OF MOTION FOR ENTRY OF AN ORDER APPROVING
SETTLEMENT AGREEMENT WITH JOINT OFFICIAL LIQUIDATORS OF
PLATINUM PARTNERS VALUE ARBITRAGE FUND**

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Melanie L. Cyganowski, the court-appointed equity receiver (the “**Receiver**”) of the Receivership Entities¹ (defined below), respectfully submits this memorandum of law in support of her motion (the “**Motion**”) for an order approving a settlement agreement (the “**Settlement Agreement**”)² between:

- (i) Melanie L. Cyganowski, solely in her capacity as Receiver for the Receivership Entities and, in that capacity, as an agent and an authorized representative for all entities listed as “Receivership Parties” on **Addendum A** to the Settlement Agreement (collectively, the “**Receivership Parties**”), on one hand, and
- (ii) Martin Trott and Christopher Smith, in their capacities as the Joint Official Liquidators and Foreign Representatives (the “**JOLs**”) of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (“**PPVA**”), and, in that capacity, as an agent and authorized representatives for all entities listed as “PPVA JOL Parties” on **Addendum A** to the Settlement Agreement (collectively with the JOLs and PPVA, the “**PPVA JOL Parties**”), and Principal Growth Strategies, LLC (“**PGS**,” and together with PPVA JOL Parties, the Receiver and the Receivership Parties, collectively, the “**Parties**” and each a “**Party**”), on the other hand.

By this Motion, the Receiver also respectfully requests this Court’s authority to take any such necessary steps to effectuate the terms of, and fulfill her obligations under, the Settlement Agreement, including, without limitation, the execution and delivery of all applicable instruments and documents, and for any such other and further relief as this Court deems just.³

¹ The “**Receivership Entities**” are: (i) Platinum Partners Credit Opportunities Master Fund LP (“**PPCO Master Fund**,” and, together with its feeder funds, “**PPCO**”), (ii) Platinum Partners Credit Opportunities Fund (TE) LLC (“**TE Feeder**”), (iii) Platinum Partners Credit Opportunities Fund LLC (“**US Feeder**”), (iv) Platinum Partners Credit Opportunities Fund International Ltd. (“**Int’l Feeder**”), (v) Platinum Partners Credit Opportunities Fund International (A) Ltd. (“**Int’l (A) Feeder**”), (vi) Platinum Partners Credit Opportunities Fund (BL) LLC (“**Blocker**”), (vii) Platinum Credit Management, L.P. (“**PPCO Portfolio Manager**”), (viii) Platinum Liquid Opportunity Management (NY) LLC, (ix) Platinum Partners Liquid Opportunity Fund (USA) L.P. and (x) Platinum Partners Liquid Opportunity Master Fund L.P. (“**PPLO Master Fund**,” and together with its feeder fund, “**PPLO**”).

² A copy of the Settlement Agreement is attached as **Exhibit A** to the Declaration of Melanie L. Cyganowski, as Receiver, in support of the Motion (the “**Receiver Decl.**”). Any capitalized terms not defined herein shall have the meanings ascribed by the Receiver Decl.

³ The Receiver has conferred with the staff of the Securities and Exchange Commission (the “**SEC**”) before entering into the Settlement Agreement and the SEC indicated to the Receiver that it has no objection to the Receiver’s entry into the agreement or the relief requested in the Motion.

PRELIMINARY STATEMENT

The Receiver has determined in her business judgment to enter into the Settlement Agreement because the Settlement Agreement, among other things:

- Extinguishes nearly \$40 million in purportedly secured debt allegedly owed by PPCO to PGS, an entity jointly held by PPCO and PPVA, without any payment of funds by PPCO;
- Extinguishes approximately \$70 million in inter-company and other claims asserted by PPVA against PPCO, again without payment of any funds by PPCO;
- Allows for PPCO to retain \$7 million in cash received by PPCO in a prior settlement with a third party to which PPVA had claimed an interest;
- Allows for PPCO to retain and maintain an interest in the potential proceeds from a litigation being prosecuted by PPVA and PGS in the Delaware Chancery Court without the need for PPCO to contribute cash to fund the prosecution of that action;
- Allows for PPCO, at no cost, to retain and maintain a 45% interest in an asset currently jointly held with PPVA through PGS that may yield a meaningful cash recovery in the future; and
- Provides for mutual general releases between PPCO and PPVA, thereby avoiding extensive inter-estate litigation.

Because the Settlement Agreement achieves the foregoing vital goals for PPCO, the Receiver has determined in her business judgment that the Settlement Agreement is equitable, reasonable and in the best interests of the Receivership Estate (defined below).

Although entry into the Settlement Agreement is consistent with and well within the Receiver's authority under both the *Second Amended Order Appointing Receiver* entered on October 16, 2017 [ECF No. 276] (the "**Receivership Order**") and the *Order Establishing Claims and Interests Reconciliation and Verification Procedures* entered on December 1, 2020 [ECF No. 554] (the "**Claims Process Order**"), given the importance of the settlement, and for the sake of transparency to all interested parties and individuals, the Receiver seeks this Court's approval thereof. Significantly, on July 20, 2022, the Financial Services Division of the Grand Court of the

Cayman Islands (the “*JOL Court*”) approved the JOLs’ entry into the Settlement Agreement in the liquidation proceeding of PPVA.

For these reasons, and those more fully set forth herein and in the Receiver Decl., the Motion should be granted.

FACTS

A. The Relevant Parties and Prior Management’s Control of the Funds

Pursuant to the Receivership Order, Melanie L. Cyganowski is the Receiver for two groups of hedge funds labeled for purposes of the Motion as the “*PPCO Funds*” and the “*PPLO Funds*.” The PPCO Funds include the following Receivership Entities: PPCO (the master fund, which made investments); four feeder funds that accepted investments from investors – US Feeder, TE Feeder, Int’l Feeder, and Int’l (A) Feeder – and Blocker (established for tax purposes). Another Receivership Entity, the PPCO Funds’ portfolio manager, PPCO Portfolio Manager, managed their investments. Receiver Decl., ¶¶ 6-7.

The PPLO Funds include two Receivership Entities: Platinum Partners Liquid Opportunity Master Fund L.P. and Platinum Partners Liquid Opportunity Fund (USA) L.P. Platinum Liquid Opportunity Management (NY) LLC, also a Receivership Entity, is their portfolio manager. Receiver Decl., ¶ 8.

The JOLs are the joint official liquidators for another group of hedge funds defined above as PPVA. Receiver Decl., ¶ 9.

Prior to the commencement of the Proceedings (defined below), management of PPCO, PPLO and PPVA was under the common control of Mark Nordlicht (“*Nordlicht*”) and certain other individuals (collectively, the “*Platinum Insiders*”). Receiver Decl., ¶ 10.

Under the Platinum Insiders’ management, PPCO and PPVA engaged in ongoing transactions between, among and with each other that involved the transfer of assets, cash and/or

debt by and among the entities owned and/or controlled by the Parties (the “*Inter-Fund Transactions*”). Receiver Decl., ¶ 11.

B. The Receivership and the Proofs of Claim

On December 19, 2016, this Court (the “*Receivership Court*”) placed certain of the Receivership Entities in receivership (the “*Receivership*” and all assets of the Receivership, the “*Receivership Estate*”), and appointed Bart M. Schwartz as receiver for the original Receivership Entities. On July 6, 2017, Melanie L. Cyganowski was appointed by this Receivership Court to replace Mr. Schwartz as the current Receiver, with all of the rights, duties, obligations and powers of the Receiver, as more specifically set forth in the Receivership Order. ECF No. 276.⁴ This Receivership Court later added three of the Receivership Entities to the Receivership. ECF No. 297. Receiver Decl., ¶¶ 12-13.

Under this Receivership Court’s *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* (the “*Bar Date Order*”) [ECF No. 453], the deadline for filing proofs of claim asserting general unsecured claims against a Receivership Entity in this action, *Securities & Exch. Comm’n v. Platinum Mgmt. (NY) LLC, et al.*, 16 Civ. 06848 (BMC) (the “*Receivership Action*”), was March 29, 2019. Receiver Decl., ¶ 14.

PPVA submitted proofs of claim, dated March 19, 2019, against PPCO Master Fund (the “*PPVA Proof of Claim*”) and against PPLO Master Fund. PTM Claim Nos. 39 and 40.⁵ The PPVA Proof of Claim asserted claims in three different categories as follows: (i) challenging the values received by PPVA with respect to Desert Hawk Gold Corp. (“*Desert Hawk*”), Navidea

⁴ References to “ECF No. ____” refer to docket entries in this case.

⁵ References to “PTM Claim No. ____” refer to the claim number assigned to such claim on the official claims register maintained in this Receivership Action.

Biopharmaceuticals, Inc. (“*Navidea*”) and Urogen Pharmaceuticals, Inc. (“*Urogen*”), three assets which had been transferred and/or assigned by PPVA to PPCO (the “*Asset Transfers*”) prior to the Proceedings (defined below);⁶ (ii) a reservation of rights with respect to Navidea; and (iii) damages relating to Black Elk. Receiver Decl., ¶ 15.

First, with respect to Desert Hawk, Navidea and Urogen, PPVA did not assert a specific claim for damages, but did allege that the value of these allegedly improperly transferred assets was \$33,177,057, and specifically claimed that in connection with the Asset Transfers, PPCO had: (i) aided and abetted breach(es) of fiduciary duty by Platinum Management (NY) LLC (“*Platinum Management*”); (ii) aided and abetted fraud by Platinum Management; (iii) been unjustly enriched; (iv) engaged in conversion; (v) engaged in tortious interference with a business opportunity; (vi) breached the covenant of good faith and fair dealing; and (vii) not provided consideration (and also asserted a claim for rescission of the Asset Transfers). Receiver Decl., ¶ 16.

Second, with respect to Navidea, PPVA purported to reserve the right to assert an administrative claim on behalf of Montaur against PPCO for damages in the amount of \$1,914,395.35 if Navidea was successful in arguing that the PPCO payoff letter extinguished any

⁶ The Asset Transfers were an attempt by Nordlicht to have PPVA “repay” PPCO for the outstanding indebtedness owed by PPVA to PPCO as a result of a pre-receivership line of credit extended by PPCO to PPVA at the behest of Nordlicht (the “*PPCO to PPVA Loan*”). The Asset Transfers consisted of the following specific transfers by: (i) a PPVA-related entity, DMRJ Group I, LLC (“*DMRJ*”) to PPCO of \$5,000,000 in indebtedness by Desert Hawk, which reduced the balance of the PPCO to PPVA Loan from \$33,225,612 to \$24,250,268, even though PPCO later was only able to recover \$416,667 for its interests in Desert Hawk, which by that point included not only the transfer from DMRJ, but other debt (totaling \$19,000,000) and equity interests as well; (ii) a PPVA-related entity, Platinum-Montaur Life Sciences, LLC (“*Montaur*”) of a subordinated promissory note issued by Navidea to Montaur, in the then outstanding principal amount of \$6,650,869 and accrued and outstanding interest of \$461,846, which was assigned at a purported fair value of \$7,112,715 by Montaur to PPCO (on March 3, 2017, Navidea repaid \$7,592,590 to PPCO of which PPVA claimed a portion and that it is agreeing to allow PPCO to retain under the terms of the Settlement Agreement; and (iii) per the receivership’s books and records, PPVA assigned a portion of its interest in preferred equity of Urogen to PPCO as payment under the PPCO to PPVA Loan. However, there is no assignment agreement evidencing the assignment. Furthermore, the actual shares themselves were never transferred from PPVA’s custodial account to a PPCO custodial account. PPCO has had no control over the sale of those shares and to date, neither estate has received any recoveries on the Urogen investment.

further payment obligation to Montaur. Montaur and Navidea extensively litigated their disputes before both state and federal trial and appellate courts, and at one point sought leave of this Receivership Court to join the Receiver as a party. That motion was denied, and the parties recently filed a stipulated discontinuance of the remaining litigation. Receiver Decl., ¶ 17.

Third, with respect to Black Elk, Desert Hawk, Navidea and Urigen, PPVA did not assert a specific damage claim, but did allege that PPCO Master Fund received \$24 million as a result of the transaction, and specifically claimed that in connection with the Black Elk Transaction, PPCO Master Fund had: (i) aided and abetted breach(es) of fiduciary duty by Platinum Management; (ii) aided and abetted fraud by Platinum Management; and (iii) been unjustly enriched. Receiver Decl., ¶ 18.

C. The Cayman Liquidation Proceedings

By orders dated August 25, 2016, October 27, 2016, December 16, 2016, September 29, 2017 and July 6, 2018 (the “*Cayman Liquidation Orders*”) of the JOL Court, in a proceeding in the JOL Court (the “*PPVA Liquidation Proceeding*,” together with the Receivership Action, collectively, the “*Proceedings*”), the JOLs are the court-appointed Joint Official Liquidators of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation), with authority pursuant to the Cayman Liquidation Orders directing the official winding up of PPVA and appointed to take the actions articulated within such orders. Receiver Decl., ¶ 19.

By orders dated November 23, 2016, and February 28, 2017, the United States Bankruptcy Court for the Southern District of New York recognized the PPVA Liquidation Proceeding as a “foreign main proceeding,” and appointed the JOLs as Foreign Representatives of PPVA, under Chapter 15 of the Bankruptcy Code and authorized the JOLs to take the actions articulated within such orders. Receiver Decl., ¶ 20.

PPCO Master Fund and PPLO Master Fund each filed proofs of claim within the PPVA Liquidation Proceeding. PPCO Master Fund's proof of claim (the "*PPCO Proof of Claim*"), asserted a claim for unpaid inter-company loans, which as of 2016 were unpaid in the amount of \$4,315,913.51 (comprised of \$4,157,259.24 in principal and \$158,654.27 in interest). The Receiver was preparing to amend such claim on behalf of PPCO to include additional bases for recovery from PPVA in amounts that her financial advisors determined to be worth close to \$70 million when the Parties began negotiating the Settlement Agreement and the Receiver determined that the Receivership's resources were better utilized with respect to settlement than amending the claim. Receiver Decl., ¶ 21.

PPLO Master Fund's proof of claim (the "*PPLO Proof of Claim*" and together with the PPCO Proof of Claim and the PPVA Proof of Claim, and as each is further defined in **Addendum C** to the Settlement Agreement, the "*Proofs of Claim*") asserted a claim for unpaid inter-company loans, which as of 2016 were unpaid in the amount of \$1,855,293.04 (comprised of \$1,808,859.10 in principal and \$46,433.94 in interest). As with the PPCO Proof of Claim, the Receiver was preparing to amend the PPLO Proof of Claim when settlement discussions with the PPVA JOLs began in earnest. Receiver Decl., ¶ 22.

D. Efforts to Resolve Inter-Company Claims and Maximize Joint Interests

The Receiver, the JOLs and their respective professionals have examined the Inter-Fund Transactions in an effort to reconcile any outstanding claims or obligations for which one Party may be liable to another. Receiver Decl., ¶ 23.

The JOLs, the Receiver and their respective predecessors and professionals have worked cooperatively to maximize recoveries to both estates, to reduce expenses to both estates, and, whenever possible, to assist each other when their interests were aligned, all under the premise that innocent investors in, and creditors of, respectively, the Receivership Entities and PPVA are

all victims of a wide-ranging pattern of wrongful conduct by the Platinum Insiders that, in general, should not benefit one set of investors at the expense of one another. Receiver Decl., ¶ 24.

In the spirit of such cooperation, on or about August 8, 2017, the Receiver and the JOLs' predecessor entered into an e-mail agreement with respect to the Receivership Entities' prior receipt of approximately \$7.3 million in connection with the sale or disposition of the Navidea asset owned by both PPCO Master Fund and PPVA (the "*Navidea Proceeds*"), as to which the Receiver agreed that PPVA was claiming an entitlement (without accepting such claim) and which the Receiver agreed, for bookkeeping purposes only, would be treated as disputed funds (the "*Soft Escrow Agreement*"). Since the inception of the Soft Escrow Agreement, the Receiver has reported the Navidea Proceeds as part of the cash on hand in her reports to this Receivership Court. Receiver Decl., ¶ 25.

The Receivership Entities and the PPVA JOL Parties each have continuing shared interests in certain mutual assets. One of the assets in which the Receivership Entities and the PPVA JOL Parties had a joint indirect interest, through PGS, is Agera Energy LLC and Agera Holdings, LLC (collectively, "*Agera*"), a group of companies in the retail energy services business. PGS is ostensibly owned 55% by PPVA and 45% by PPCO. Receiver Decl., ¶ 26.

By letter agreement (the "*Agera Agreement*"), the Receiver and JOLs agreed jointly to pursue certain claims and causes of action belonging to PPMF, PPVA and/or PGS relating to PGS' transfer of a certain promissory note convertible into 95% of the common equity of Agera affiliate, Agera Energy LLC (the "*Agera Claims*"). Pursuant to the Agera Agreement, a complaint was filed in the Court of Chancery of the State of Delaware on June 7, 2019 against numerous defendants, including, among other defendants, AGH Parent LLC, Senior Health Insurance Company of Pennsylvania ("*SHIP*"), CNO Financial Group, Inc., Bankers Consec Life Insurance

Company and Washington National Insurance Company (the “*Agera Action*”).⁷ Receiver Decl., ¶ 27.

Prior to the filing of the Agera Action, LL Finance, L.L.C. (“*LL Finance*”), PGS, PPVA, the JOLs and PPCO Master Fund entered into an “Addendum to Funding Agreement” as an addendum to the Funding Agreement between LL Finance, on the one hand, the JOLs and PPVA, on the other, as it relates to the funding of the Agera Action and the division of the net proceeds, if any, received on account of the Agera Claims. Receiver Decl., ¶ 28.

Pursuant to a certain “Note Purchase Agreement,” dated as of March 21, 2016, executed by PPCO Master Fund, as the “Company,” BAM Administrative Services LLC (“*BAM Admin*”), as Agent for all “Purchasers from time to time a party [t]hereto,” and SHIP, BRe BCLIC Primary, BRe BCLIC Sub, BRe WNIC 2013 LTC Primary and BRe WNIC 2013 LTC Sub (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions) BAM Admin was required to maintain a register reflecting the holders of record of the PPMF Notes (as defined on **Addendum B** to the Settlement Agreement) (the “*Register*”). The most recent copy of the Register provided to the Parties is titled “PPMF Debt Registry as of 09.30.2019,” a copy of which is annexed to the Settlement Agreement as Exhibit A (the “*PPMF Debt Registry*,” which term refers to the first page thereof which is tabbed “Registry” and “rows” of which refers to the numbered rows on the electronic version of the “Registry”). Receiver Decl., ¶ 29.

PGS is shown on the PPMF Debt Registry as the Lender of Record for portions of the purportedly secured PPMF Note 1 and PPMF Note 4 referred to on row 20 of the PPMF Debt Registry in the combined amount of \$30,650,512.27 in principal and \$5,951,657.98 in accrued

⁷ On October 4, 2019, Agera Energy LLC and certain of its affiliates, none of which are parties to the Agera Action, filed for chapter 11 bankruptcy relief in the United States Bankruptcy Court for the Southern District of New York, Case No. 19-23803.

interest as of September 30, 2019 (together with all interest and other amounts accrued and accruing thereon, collectively, the “*PGS Lender of Record Interests*”). Receiver Decl., ¶ 30.

As noted above, each of the JOLs and Receiver have filed the Proofs of Claim, as further defined in **Addendum C** to the Settlement Agreement, in the estates, respectively, of the Receivership Entities and PPVA, and BAM Admin, as agent, filed the proof of claim in the Receivership Action defined as the “BAM Admin Proof of Claim” on **Addendum C** to the Settlement Agreement. Receiver Decl., ¶ 31.

E. The Settlement Agreement

Following their respective service and/or filings of the Proofs of Claim, both the Receiver and the JOLs vigorously contested the validity of the other Party’s proof of claim, and in addition, PPCO vigorously contested that PGS could enforce any of the PGS Lender of Record interests, *including not limited to* on the grounds previously set forth in *In re Platinum-Beechwood Litigation*, as well as due to legal limitations upon and defenses to PGS as holder of the beneficial interests in subject loan agreements. Receiver Decl., ¶ 32.

Despite the aforementioned disagreements, the Parties engaged in years of good-faith and cooperative diligence, legal analysis and discussion, and as a result thereof, have executed the Settlement Agreement so as to settle all the claims, asserted and unasserted, by and among the Receivership Parties, on one hand, and the PPVA JOL Parties and PGS, on the other hand, and all other matters of mutual interest among the Parties in accordance with the terms fully set forth in the Settlement Agreement, as summarized herein. Receiver Decl., ¶ 33.

The proposed Settlement Agreement is the culmination of years and, collectively, hundreds of hours of analysis and negotiation by the Receiver and her team. The Settlement Agreement was negotiated and entered into as a result of arm’s-length and hard-fought negotiation. Receiver Decl.

34. Notably, by Order, dated July 20, 2022, the JOL Court approved the JOLs' entry into the Settlement Agreement. Receiver Decl., ¶ 36.

Below is a summary of the provisions of the agreement, which is qualified by reference to the specific terms in the Settlement Agreement. (See Exhibit A to the Receiver Decl.). Capitalized terms not defined herein or in the Receiver Decl. have the meanings given to them in the Settlement Agreement. Receiver Decl., ¶ 35. The Settlement Agreement includes the following terms, among others:

Issue	Terms
Mutual Releases	The Settlement Agreement provides for full and complete mutual releases between and among (i) the PPCO Parties, (ii) the PPVA JOL Parties; and (iii) PGS.
Release of PGS Lender of Record Interests	As part of the mutual releases, PGS will release the PPCO Parties the Lender of Record Interests which total a combined amount of purportedly secured debt of \$30,650,512.27 in principal and \$5,951,657.98 in accrued interest as of September 30, 2019.
Withdrawal of Proofs of Claim	As of the Effective Date, the Parties' Proofs of Claim (including PPVA's claim seeking damages in excess of \$70 million), will be deemed withdrawn with prejudice and of no force and effect.
Retention of Navidea Proceeds by PPCO	The Settlement Agreement provides for PPCO to retain the \$7 million in Navidea Proceeds, as to which PPVA withdraws with prejudice any claim.
Retention of PPCO's interest in Jointly Held Assets	The Settlement Agreement provides for PPCO's continued 45% interest in the net recoveries for any assets still jointly held with PPVA, including those held through PGS, other than the interest in the Agera Action, in which PPCO will continue to hold an interest, albeit at a reduced percentage, but without any out-of-pocket cost to PPCO.
Venue and Choice of Law	The Parties consent and submit to the exclusive jurisdiction of this Court in actions or proceedings relating to the Agreement and that New York law will govern disputes arising from the Agreement.

F. The Receiver's Authority to Enter into the Settlement Agreement

The Receivership Order grants the Receiver broad authority, including the authority to compromise or adjust actions or proceedings and proofs of claim. Paragraph 34 of the Receivership Order provides:

Subject to the requirement, in Section VII above, that leave of this Court is required to resume or commence certain litigation, the Receiver is authorized, empowered and directed to investigate, prosecute, defend, intervene in or otherwise participate in, ***compromise, and/or adjust actions in any state, federal or foreign court or proceeding of any kind as may in the Receiver's discretion, be advisable or proper to recover and/or conserve Receivership Property.*** [Emphasis added.]

Because the Settlement Agreement involves the compromise and adjustment of proceedings (the estates' respective claims processes) and avoids potential actions, paragraph 34 grants the Receiver discretion to compromise the Proofs of Claims.

Further, Paragraph 28 of the Receivership Order provides:

The Receiver may, ***without further Order of this Court, transfer, compromise, or otherwise dispose of Receivership Property*** in the ordinary course of business of the Receivership Entities' orderly wind down, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate. [Emphasis added.]

The PGS Lender of Record Interests are one of the primary obstacles to the successful completion of the Receivership and formulation of a plan of liquidation. Because the Settlement Agreement is one of the final steps in the Receiver's plan to eliminate all secured and/or priority obligations of the Receivership Entities, so that funds can be available for a distribution to creditors and investors, the Settlement Agreement will further an orderly wind down of the Receivership Estate on terms most beneficial to the Receivership Estate. Consequently, paragraph 28 also gives the Receiver the right to enter into the Settlement Agreement, and compromise claims in connection therewith, "without further Order of this Court."

The Receiver is also permitted to take these actions under paragraph 6(G) of the Receivership Order, which permits her to "take such action as necessary and appropriate for the preservation of Receivership Property" If the Receiver were to be unsuccessful in "litigating" the Proofs of Claims, then all of the assets of the Receivership Estate, which are worth less than the approximately \$30 million of outstanding principal amount of the PGS Lender of Record

Interests owned by PGS, will likely be consumed by that debt, leaving nothing for unsecured creditors and investors. Consequently, the Settlement Agreement furthers the interest of “preservation of Receivership Property” and is authorized on that ground as well.⁸

In addition, the Claims Process Order provides the Receiver with broad authority to enter into the Settlement Agreement as it resolves the PPVA Proof of Claim. Specifically, paragraph III(A) of the Claims Process Order provides, in relevant part that subject to any prior agreements entered into by the Receiver and without modifying any prior orders of the Court,

. . . the Receiver may, in her sole discretion, settle and compromise any Disputed Claim or Disputed Interest on terms and for reasons that she deems, in her business judgment, to be appropriate, and the allowed Claim or Interest, and the respective allowed amount and classification, shall form the basis upon which distributions will be calculated in the Receivership, in accordance with a plan of distribution, without further Order of this Court.

The Receiver has entered into the Settlement Agreement on this basis as well.

ARGUMENT

A. The Court Should Approve the Settlement Agreement

An equity receiver’s authority to settle claims is inherent in the charge to collect assets:

Since the court has authority to authorize the receiver to collect assets of a corporation, it has the further authority to authorize the receiver to sue to collect the assets of the corporation. It naturally follows, as a necessary corollary of the foregoing, that the receiver has the power, when so authorized by the court, to compromise claims either for or against the receivership and whether in suit or not in suit.

3 Clark, Ralph Ewing, *A Treatise on the Law and Practice of Receivers*, § 770, p. 1424 (3d ed. 1992) (cited with approval in *S.E.C. v. Credit Bancorp, Ltd.*, No. 99-CIV-11395, 2002 WL

⁸ The Receiver is also authorized to “take any action which, prior to entry of this Order, could have been taken by the officers, directors, managers, managing members, and general and limited partners, and agents of the Receivership Entities.” (Receivership Order, ¶ 6(E).) For the reasons set forth above, PPCO, and therefore the officers, directors, managers, managing members, general and limited partners, and agents of PPCO and of its “Portfolio Manager,” PPCO Portfolio Manager (also in Receivership), who together control PPCO, could have caused PPCO and the Subsidiaries it majority owns to enter into the Settlement Agreement. Consequently, the Receiver is also authorized to enter into the Settlement Agreement under paragraph 6(E) of the Receivership Order.

1792053, at *4 (S.D.N.Y. Aug. 2, 2002)).

A receiver's settlement of claims furthers the purposes of an equity receivership to marshal the estate's assets for the benefit of injured creditors. *S.E.C. v. Parish*, No. 07-CV-00919, 2010 WL 8347143, at *6 (D.S.C. Feb. 10, 2010) (receiver's proposed settlement approved by the court, finding the settlement was "consistent with and furthers the purposes of the receivership"). Thus, it is settled that a settlement by a receiver in a federal equity receivership is within the receiver's broad discretion and should be approved if it is fair. *See, e.g., Gordon v. Dadante*, 336 Fed. Appx. 540, 546 (6th Cir. 2009); *Credit Bancorp, Ltd.*, 2002 WL 1792053, at *4-5; *S.E.C. v. Princeton Economic Int'l, Inc.*, No. 99-CIV-9667, 2002 WL 206990, at *1 (S.D.N.Y. Feb. 8, 2002). "[R]eceptors benefit from the general presumption that district courts favor settlement." *Sterling v. Stewart*, 158 F.3d 1199, 1202 (11th Cir. 1998). Indeed, courts long have emphasized that public policy favors settlement. *Lyondell Chem. Co. v. Occidental Chem. Corp.*, 608 F.3d 284, 297 n.43 (5th Cir. 2010).

Paragraphs 6, 28 and 34 of the Receivership Order and Paragraph III(A) of the Claims Process Order confirm the Receiver's broad discretion to enter into and implement the Settlement Agreement. While the Receiver believes that those provisions grant her the authority to enter into and implement the Settlement Agreement without this Receivership Court's approval, in the interest of transparency, in an abundance of caution, and to provide all potential stakeholders with an opportunity to be heard on an important matter that may affect their interests, the Receiver seeks Court approval of the Settlement Agreement. Receiver Decl., ¶ 37.

Taking into consideration the respective merits of the Proofs of Claims and the risks, uncertainties, and expenses associated with litigating the claims, and the potential amount that might or might not be recovered on the Receiver's claims against PPVA, as well as the potential risk associated with the PGS Lender Interests, the Receiver's decision to enter into the Settlement

Agreement is fair and reasonable and a sound exercise of the Receiver's discretion and business judgment for the Receivership Entities.

The benefits of the Settlement Agreement to the Receivership Estate and the Subsidiaries greatly outweigh the risks and costs of continuing the claims process and potential litigation.

In sum, the Settlement Agreement provides several critical benefits to the Receivership Estate, including the retention of \$7 million in cash, avoidance of tens of millions of dollars in allegedly secured debt, release of tens of millions of dollars in inter-company claims by PPVA and/or PGS, and resolution of the foregoing without extensive inter-company litigation.

CONCLUSION

For the reasons set forth above and in the Receiver Decl., the Motion should be granted.

Dated: July 28, 2022
New York, New York

OTTERBOURG P.C.

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