

**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)

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

Upon consideration of the motion by Melanie L. Cyganowski, the duly appointed Receiver (the “*Receiver*”) of Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP, Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd. and Platinum Partners Credit Opportunities Fund International (A) Ltd. (collectively, the “*Receivership Entities*,” and each a “*Receivership Entity*”), for entry of an Order (i) establishing a deadline for filing administrative

claims, if any, arising on or after December 19, 2016 through and including June 30, 2022, (ii) approving (a) a proof of administrative claim form, (b) the form and manner of notice of the administrative claim bar date, and (c) procedures for filing proofs of administrative claim, and (iii) granting such other and further relief as this Court deems appropriate (the “*Motion*”) [Dkt. No. 643], the declaration of the Receiver in support of the Motion (the “*Cyganowski Dec.*”)¹ and memorandum of law in support of the Motion, any responses or objections to the Motion, and any replies in support of the Motion, this Court finds that (i) notice of the Motion was good and sufficient under the particular circumstances and that no other or further notice need be given; and (ii) the relief requested in the Motion is in the best interests of the Receivership Entities and their estates; and based upon the record herein and after due deliberation and for good and sufficient cause shown it is hereby

ORDERED THAT:

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 All objections to the relief provided for herein that have not been withdrawn, waived or settled, and all reservation of rights included therein, are hereby overruled in all respects.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

APPROVED:

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

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

- (1) “*Administrative Claim*” is defined as a Claim arising within the Administrative Claim Period.
 - (2) “*Administrative Claim Period*” is defined as the time period beginning December 19, 2016 through and including June 30, 2022.
 - (3) “*Administrative Claimant*” is defined as and includes any person or entity (including, without limitation, individuals, partnerships, corporations, joint ventures, estates, trusts, and Governmental Units) that holds an Administrative Claim. Without limiting the generality of the foregoing, the definition of Administrative Claimant includes, but is not limited to, any person or entity holding an Administrative Claim based on the provision of goods or services to the Receivership Entities or the Receiver that has not been paid in whole; money loaned to any Receivership Entity that has not been paid in whole; unpaid wages, compensation, or other employment benefits; tax liabilities, including those held by federal and state governments; primary, secondary, direct, indirect, secured, unsecured, or contingent liability; or contract, tort, indemnity, reimbursement, subrogation theories, or other legal or equitable theory.
 - (4) “*Claim*” is defined as: (1) a claim to a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, against one or more of the Receivership Entities; or (2) a claim to a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, against one or more of the Receivership Entities.
 - (5) “*Governmental Unit*” is defined as and includes the United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government.
- b. Administrative Claim Bar Date. This Court hereby establishes **5:00 p.m. (prevailing Eastern Time) on October 21, 2022,** as the deadline for Administrative Claimants, which includes Governmental Units, to timely file Administrative Claims against the Receivership Entities (the “*Administrative Claim Bar Date*”).

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

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

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

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

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

(a) the Administrative Claim Bar Date Notice; and

(b) a Proof of Administrative Claim Form

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

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

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

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

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

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

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

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

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

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

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

established by a prior Order of the Court.

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

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

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

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

Dated: Aug. 17, 2022
Brooklyn, New York

Digitally signed by
Brian M. Cogan

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