

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re

PLATINUM-BEECHWOOD LITIGATION

Civil Action No. 18-cv-6658 (JSR)

MARTIN TROTT and CHRISTOPHER SMITH, as
Joint Official Liquidators and Foreign Representatives
of PLATINUM PARTNERS VALUE ARBITRAGE
FUND L.P. (in Official Liquidation) and PLATINUM
PARTNERS VALUE ARBITRAGE FUND L.P. (in
Official Liquidation),

Civil Action No. 18-cv-10936 (JSR)

Plaintiffs,

- against -

PLATINUM MANAGEMENT (NY) LLC, *et al.*,

Defendants.

**DECLARATION OF RICHARD A. BIXTER JR. IN OPPOSITION
TO DEFENDANT DAVID BODNER'S MOTIONS IN LIMINE**

I, Richard A. Bixter Jr., declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner in the law firm Holland & Knight LLP, counsel for Plaintiffs Martin Trott and Christopher Smith, as Joint Official Liquidators and Foreign Representatives of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (the “**Joint Official Liquidators**”) and Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (“**PPVA**,” and collectively with the Joint Official Liquidators, the “**JOLs**”). I am duly admitted in the State of Illinois and am admitted *pro hac vice* to appear in this matter.

2. I respectfully submit this Declaration in opposition to Defendant David Bodner's Motions *in Limine* filed in this case. See ECF No. 666-671, 682.¹

3. The information contained herein is based on my review of the relevant documents and is true to the best of my knowledge. I am competent to testify as to the facts stated herein.

4. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts of the November 12, 2019 deposition of David Bodner in the above-captioned case.

5. Attached hereto as **Exhibit 2** is a true and correct copy of the March 2016 Platinum Partners Value Arbitrage Fund LP Fact Sheet (Class Q), which was produced in these actions as CTRL7851752.

6. Attached hereto as **Exhibit 3** is (i) an exemplar list of certain non-insider investors in Platinum Partners Value Arbitrage Fund (USA) L.P., PPVA's onshore feeder fund, as of June 2013, based on documents produced in this case as CTRL4622143; and (ii) a summary of certain proofs of debts filed by non-insider purported creditors in PPVA's Cayman Liquidation.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: November 5, 2020
Chicago, Illinois

/s Richard A. Bixter Jr.

¹ The ECF citations herein refer to the Court's docket in the *Trott* litigation. See *Trott, et al. v. Platinum Management (NY) LLC, et al.*, No. 1:18-cv-10936 (S.D.N.Y.).

EXHIBIT 1

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658 (JSR)
CASE NO. 18-CV-10936 (JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and
Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation), and
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

(Caption continued)
NON-CONFIDENTIAL PORTION
Pages 411-421 have been designated Privileged and
Confidential and have been Bound Separately

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
DAVID BODNER
TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Tuesday, November 12, 2019,
commencing at 10:37 a.m.

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

CASE NO. 18-CV-6658 (JSR)

CASE NO. 1-19-CV-07137 (JSR)

SENIOR HEALTH INSURANCE COMPANY OF PENNSYLVANIA,

Plaintiff,

vs.

LINCOLN INTERNATIONAL LLC and LINCOLN

PARTNERS ADVISORS LLC,

Defendants.

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A P P E A R A N C E S:

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BY: ROB C. SANTORO, ESQ.

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Attorneys for Plaintiff, SHIP

11/12/2019

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OTTERBOURG, P.C.

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New York, New York 10169

Attorneys for Plaintiff Receiver

ALSO PRESENT:

Darrak Lighty, Videographer

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David Bodner

P R O C E E D I N G S

THE VIDEOGRAPHER: This is the video deposition of David Bodner in the matter of Platinum-Beechwood litigation. This deposition is being held at the offices of US Legal Support, 90 Broad Street, New York, New York, on November 12th, 2019.

My name is Darrak Lighty from US Legal Support; and I am the video specialist. The court reporter today is Tab Prewett, also associated with US Legal Support. We are going on the record at 10:37 a.m. All appearances have been noted on the record.

Will the court reporter please swear in the witness.

THE WITNESS: I don't swear.

THE REPORTER: I'll affirm you.

(There was a discussion off the record.)

D A V I D B O D N E R,
having been affirmed
By the notary public to testify to the truth,

1 David Bodner

2 A He showed us his assets. He showed
3 us what these things he feels would be worth and
4 what they're worth today in comps.

5 Q Okay. So just so I'm clear, the
6 conversation, though, was about value and about
7 comps?

8 A We had a long dinner. I told you
9 the conversation was a lot of gossip about what's
10 going on in the Jewish world. And then at some
11 point he showed his assets and I made my point.
12 It was a very small part of the dinner. It
13 wasn't a big part of the dinner.

14 Q Okay. Let me direct your attention
15 to tab 54.

16 (Exhibit No. 377 Tab 54, Exhibit 26
17 of the Second Amended Complaint, February
18 21, 2013 Valuation From Sterling Group For
19 Platinum Management is marked by the
20 reporter for identification.)

21 Q Tab 54 is Exhibit 26 of the
22 complaint, Second Amended Complaint.

23 And if you'll go to one -- so, sir,
24 this is a valuation from Sterling Group for
25 Platinum Management, dated February 21, 2013.

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1 David Bodner

2 Have you ever seen this before?

3 A No.

4 Q Okay. And nobody has ever showed
5 this to you before?

6 A No.

7 Q So as a partner in Platinum
8 Management, these types of valuations weren't
9 shown to you?

10 A No.

11 Q Okay. Well, let me ask you this.

12 As a -- as a partner in
13 Platinum Management, should you have been
14 seeing -- should you have been looking at these
15 valuations that they were having done?

16 A No. No reason to.

17 Q Okay. I want you to -- if you turn
18 to the fifth page of that document, there's a
19 little chart. Do you see, if you go about five
20 from the bottom, Golden Gate Oil?

21 A Yes.

22 Q Okay. Were you aware that the fund
23 had invested in Golden Gate Oil?

24 A I heard of the investment.

25 Q Okay. And -- and did you know --

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CERTIFICATE

I, TAB PREWETT, A Registered Professional Reporter, Notary Public, Certified LiveNote Reporter, and Certified Shorthand Reporter, do hereby certify that prior to the commencement of the examination DAVID BODNER was sworn by the notary public to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

TAB Prewett

TAB PREWETT

Notary Public

My Commission expires February 9, 2024

Dated: December 2nd, 2019

EXHIBIT 2

Platinum Partners

VALUE ARBITRAGE FUND LP

FUND OVERVIEW

Platinum Partners Value Arbitrage Fund LP ("PPVA") is a multi-strategy fund designed to achieve significant risk-adjusted returns irrespective of the direction of any broader market activity. PPVA deploys assets opportunistically across various strategies, including short term relative value, event driven, and asset based finance. The General Partner believes that consistent positive returns are a function of appropriately managing downside risk and seeks to invest in a mix of uncorrelated strategies.

FIRM OVERVIEW

Platinum Partners (the "Firm") is a New York based investment management group with more than \$1 Billion in assets under management. The Firm was founded in 2003 by Mark Nordlicht, an investor with over twenty years of experience in the asset management space. The Firm manages multiple funds, including Platinum Partners Credit Opportunities Master Fund L.P. ("PPCOMF"); Platinum Partners Value Arbitrage Fund L.P. ("PPVA"); Platinum Partners Liquid Opportunity Master Fund L.P. ("PPLO"); Marbridge Energy Finance Fund II LLC and Marbridge Energy Finance Fund International II Ltd. (collectively, "Marbridge II"). Although each of the aforementioned funds have separate investment advisors, Mr. Nordlicht is the CIO of the investment advisors of PPCOMF, PPVA, and PPLO. The CIO of the investment advisor of Marbridge II is a Portfolio Manager of the Firm.

MANAGER BIOGRAPHY

Mark Nordlicht has over 20 years of experience in the investment industry and is responsible for oversight of all trading, asset allocation and risk management on behalf of the Platinum-managed funds. Mr. Nordlicht founded Platinum Energy Resources and Platinum Diversified Mining, publicly traded oil & natural gas and mining companies, respectively. Mr. Nordlicht is also the founder and served as non-executive Chairman of Optionable, Inc., a brokerage firm for energy options, until May 1, 2007. From 1997 to 2001, Mr. Nordlicht was a founder and managing partner of West End Capital, a New York-based money management firm. In 1991, Mr. Nordlicht founded Northern Lights Trading and was its general partner until 2000. Northern Lights Trading was a proprietary options firm based in New York which employed traders in the cotton, coffee, natural gas, crude oil, gold, and silver option trading pits. Mr. Nordlicht graduated from Yeshiva University with a B.A. in Philosophy.

David Levy serves as Co-Chief Investment Officer of Platinum Partners. Mr. Levy has spent his career as an investment specialist and portfolio manager. Mr. Levy oversees over \$1 billion in total investments and has directly managed over \$250 million in capital. The focus of Mr. Levy's investments is in asset-based lending in a variety of industries, and utilizing credit based strategies to generate returns with less risk than traditional strategies. Mr. Levy co-founded Crius Energy, a publicly listed national retail energy platform currently providing power to over 500,000 RCEs in the United States. Mr. Levy's prior experience also includes time spent in the New York City Mayor's office for Mayor Bloomberg and with the Chief Counsel's office of Senator Orrin Hatch. Mr. Levy also serves as a member of the International Crisis Group's Advisory Council. Mr. Levy holds a Bachelor of Science in Finance from Yeshiva University.

FUND STATISTICS \pm

Sharpe Ratio:	2.75	Downside Deviation:	0.69%	Firm AUM:	\$1.27 Billion
Annualized Standard Deviation:	5.42%	Percentage of positive months:	84.28%	PPVA Master Fund AUM:	\$690 Million
Average Annualized Return	16.84%	Largest Monthly Loss:	3.42%	PPVA Onshore Fund AUM:	\$244 Million

PLATINUM PARTNERS VALUE ARBITRAGE (USA), LP NET MONTHLY RETURNS

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD	Cum
2003	1.39	0.63	0.45	(0.09)	(0.83)	1.89	1.06	2.54	3.21	2.10	1.66	2.00	17.17%	17.17%
2004	3.33	1.79	2.18	0.14	0.21	(0.45)	(0.34)	1.00	(0.32)	1.09	0.74	2.92	12.90%	32.28%
2005	1.62	0.96	0.29	(0.29)	0.77	1.38	1.54	2.04	1.46	3.12	0.51	2.35	16.88%	54.61%
2006	3.22	2.04	1.71	1.14	2.02	1.63	0.50	0.33	1.52	1.88	1.93	3.67	23.80%	91.41%
2007	2.49	3.83	4.34	2.90	4.32	5.42	2.22	3.38	1.56	4.91	1.93	6.10	53.00%	192.85%
2008	(2.10)	1.15	(1.53)	2.56	4.48	1.58	0.33	1.20	(3.42)	(1.07)	0.14	1.21	4.36%	205.61%
2009	3.29	0.42	2.01	1.35	2.57	1.68	1.80	1.51	1.79	0.64	0.54	1.47	20.78%	269.13%
2010	1.09	2.69	0.16	2.03	(0.20)	0.46	1.83	1.11	1.73	1.49	1.41	4.00	19.25%	340.17%
2011	2.10	4.41	2.18	1.83	1.38	2.87	0.77	0.56	0.98	1.31	(0.48)	1.43	21.05%	432.84%
2012	0.42	0.78	2.87	(0.08)	0.52	1.93	1.59	0.14	0.90	0.85	(0.24)	1.39	11.60%	494.65%
2013	1.75	0.79	1.36	0.18	0.85	1.14	0.96	1.29	0.23	(1.77)	1.41	(1.20)	7.15%	537.11%
2014	3.69*	1.53	1.00	0.21	2.14	2.63	0.54	1.01	(0.17)	(1.64)	(2.50)	1.98	10.75%	605.58%
2015**	0.11	(0.89)	(0.83)	7.83	(0.22)	1.28	(0.07)	0.02	1.05	(1.43)	0.24	1.65	\pm 8.77%	\pm 667.44%
2016**	(1.10)	2.23	\pm 1.48										\pm 2.60%	\pm 687.40%

*The January 2014 rate of return reflects a one time reversal of certain fees.

**Unaudited; \pm Estimated and subject to change. The Master Fund AUM set forth above includes approximately 60.44% of the Special Investments.

The information herein is part of a two page packet which incorporates and is qualified by disclosures on page two. Past performance is not necessarily indicative of future performance. No representation is made that the Fund will or is likely to achieve its objectives or that any investor will be able to avoid incurring losses.

PLATINUM MANAGEMENT {NY}, LLC

250 W. 55th Street, 14th Floor · New York, New York 10019 · www.platinumlp.com

CTRL7851752

INVESTMENT TERMS

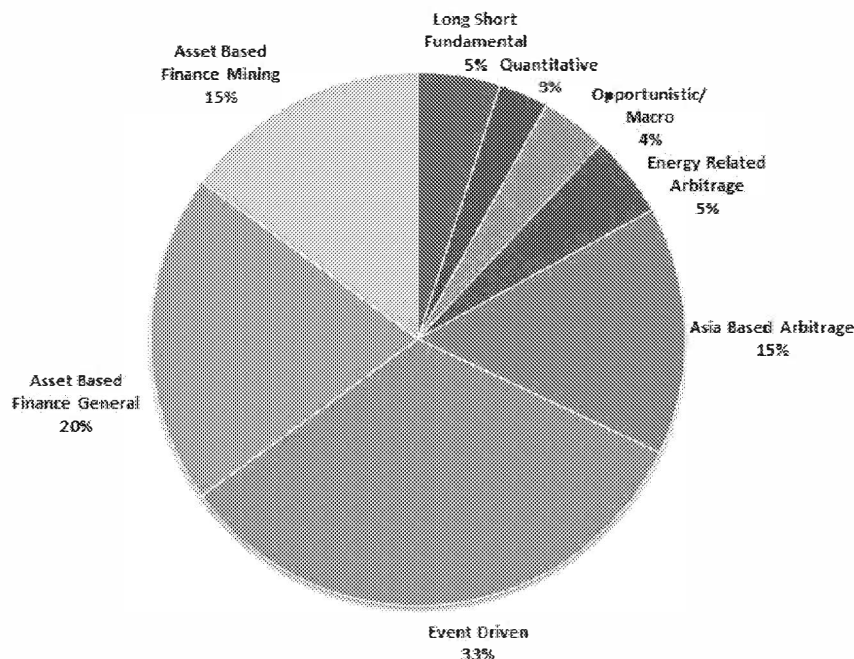
Minimum Investment:	\$ 1,000,000 (USD)
New Capital:	Monthly
Lockup:	None
Withdrawals:	Quarterly, 6 months' notice required
Management Fee:	2%
Incentive Allocation:	20%
Other Fees:	Administrative and Investment Related

SERVICE PROVIDERS

Administrator:	SS&C Technologies, Inc.
Auditor:	CohnReznick, LLP
Independent Valuation Agent:	Alvarez & Marsal Valuation Services, LLC
Legal Counsel:	Schulte Roth & Zabel LLP
Global Custodian:	BNY Mellon
Prime Broker:	Credit Suisse

STRATEGY PERFORMANCE

STRATEGY	NET RETURN	CONTRIBUTION TO FUND
Long Short Fundamental	-5.71%	-0.29%
Quantitative	-0.35%	-0.01%
Opportunistic/Macro	-0.35%	-0.01%
Energy Related Arbitrage	4.98%	0.25%
Asia Based Arbitrage	0.98%	0.15%
Event Driven	4.58%	1.51%
Asset Based Finance General	-0.35%	-0.07%
Asset Based Finance Mining	-0.35%	-0.05%
Total :		1.48%

TARGETED RISK ALLOCATION***CONTACT**

Contact - Andrew Kaplan AKaplan@platinumlp.com (212) 582-2222

Past performance is not necessarily indicative of future performance. This material is not an invitation to subscribe for shares or interests in any fund and is by way of information only. Sales of shares or interests are made on the basis of the relevant offering documents only and are not offered in any jurisdiction in which such offer or sale is not authorized. Investors will purchase limited partnership interests in Platinum Partners Value Arbitrage Fund (USA) L.P. ("Platinum USA") or preferred shares in Platinum Partners Value Arbitrage Fund (International) Limited ("Platinum International"), depending on the preference for an onshore or offshore feeder fund. Platinum USA and Platinum International will, in turn, invest all or substantially all of their assets in the Platinum Partners Value Arbitrage Fund L.P. (the "Master Fund"). Before any investment is made in either Platinum USA or Platinum International, investors should review carefully the Confidential Private Offering Memorandum for such fund (collectively, the "Memoranda"). The Memoranda describe in detail the risks associated with making an investment in either Platinum USA or Platinum International. Investors will have the right to redeem or withdraw their interests or shares, as the case may be, on a quarterly basis subject to certain restrictions described in the Memoranda. Investment in either feeder fund may not be suitable for all investors and prospective investors should consult their professional advisers as to suitability, legal, tax and economic consequences of an investment in either fund. Reference to the "Fund" means an investment in the Master Fund through the purchase of limited partnership interests in Platinum USA or preferred shares of Platinum International. 2015 and 2016 returns have not been audited. Most recent month is an estimate; Year-to-date and cumulative numbers and graphs include this estimate. Returns given are for non-restricted investors who were invested in Platinum (USA) or Platinum (International) at the beginning of the year. Returns shown for periods prior to May 2007 represent Class A returns; from June 2007 to September 2010 represent Class I returns; from October 2010 to November 2015 represent Class L; Class Q thereafter. Actual returns for a particular investor may vary due to several factors including timing of investment and class. The Strategy Performance numbers are estimates and may vary. Certain estimations and simplifying assumptions were used to arrive at the targeted risk allocation. The numbers provided may not add up to the aggregate performance of the Fund. The Strategy Performance and Target Risk Allocation numbers may include leverage or implied leverage. Targeted Risk Allocation may change from time to time and relative to the above. Targeted Risk Allocation is updated as of March 31, 2016. Please note that all allocations are approximate, are calculated based on estimated risk exposure, are not intended to be an indication of actual fund notional exposure, and are subject to change without notice.

EXHIBIT 3

REDACTED