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VIA ECF

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *SEC v. Platinum Management (NY) LLP, et al., 16-cv-6848*

Dear Judge Cogan:

We represent Daniel Small in the above-captioned matter. We write on behalf of the Claimants to respectfully request a modest amendment to the structure and sequencing of the upcoming March 13, 2024 oral argument on the Receiver's Omnibus Motion. (*See* Feb. 27, 2024 Text Only Order, the "Feb. 27 Order".) The Claimants' proposal does not alter the total time that the Court has already allocated to the argument and is intended only to be more efficient for the Court and potentially lead to a swifter resolution of the issues.

The Court's Feb. 27 Order allocated 20 minutes for Levy/Wilson claims, 15 minutes for Sanfilippo/O'Brien claims, 15 minutes for Small claims, and 15 minutes for Black Elk claims. (*See* Feb. 27 Order.) The Claimants infer that the Court's Feb. 27 Order reflects not only a time allotment, but the sequence in which the parties are to argue.

We respectfully request that the argument should proceed by first addressing the threshold issue to be decided, which is common among all Claimants: namely, can the Receiver choose to disregard the priority of the Claimants' creditor claims and treat the creditors and investors collectively, without regard to priority? As a practical matter, given the size of the claims and the limited funds available, the resolution of this threshold issue will define and narrow the remaining issues to be decided, and will potentially lead to a consensual resolution of this matter.

Thus, we propose that the argument on the Receiver's Omnibus Motion should proceed in the following manner: first, the Receiver, and then Claimants will address the Black Elk argument concerning the threshold priority issue, the only issue in dispute for Black Elk (Mr. Potts and Mr.

Levine to argue on behalf of all Claimants). After this issue is addressed, the argument would proceed with the Receiver and the Claimants addressing their individual claims in the sequence set forth in the Feb. 27 Order: Levy/Wilson, SanFilippo/O'Brien, and Small.

We note that the Receiver does not join in this letter and will submit a separate response.

We thank the Court for its consideration.

Respectfully submitted,

/s/ Seth L. Levine

Seth L. Levine

cc: All Counsel of Record (via ECF)