

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :  
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Plaintiff, :  
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-v- :  
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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)

**THE RECEIVER’S TWENTY-EIGHTH STATUS REPORT TO THE COURT**

Melanie L. Cyganowski, the duly appointed Receiver (the “Receiver”) of Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP,<sup>1</sup> 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,” the “Platinum Entities” or “Platinum”), by her undersigned counsel, hereby submits this Twenty-Eighth Status Report, covering the period from April 1, 2024 through and including June 30, 2024 (the “Reporting Period”).

<sup>1</sup> Platinum Partners Credit Opportunities Master Fund LP and its feeder funds are collectively referred to herein as “PPCO” or “PPCO Funds” and Platinum Partners Liquid Opportunity Master Fund L.P., and its feeder funds are collectively referred to as “PPLO” or “PPLO Funds”.

This quarterly status report is being filed in accordance with the requirements of the Second Amended Order Appointing Receiver (the “Receiver Order”), entered on October 16, 2017 by the District Court for the Eastern District of New York (the “Court”). [Dkt. No. 276].

## I. PRELIMINARY STATEMENT

During the Reporting Period, the Receiver and her team<sup>2</sup> (i) continued to engage in discussions with claimants to resolve the remaining unresolved claims that were the subject of the Receiver’s Claims Motion ((defined in Section VII.A below)), ultimately reaching settlements with such claimants, seeking approval of such settlements and responding to objections to such proposed settlements; (ii) prepared the appellate brief to the United States Court of Appeals for the Second Circuit (the “Second Circuit”) in support of this Court’s SHIP Escrow Order (defined in Section VII.B below)); (iii) continued to monitor the few remaining assets of the estate that have not been liquidated and that may have potential value; and (iv) continued to attend to administrative matters in the receivership case.

As previously reported, certain of the settlements that the Receiver reached during the course of the receivership case (the “Receivership”) are confidential. To preserve the confidentiality of these settlements, the Receiver advised that she would not disclose and will not be disclosing details of *any* settlements, including the identity of the settling parties, the amounts agreed to be paid by such parties, whether such amounts are to be paid in structured payouts and over what period of time, and/or the source of any litigation-related funds received in any

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<sup>2</sup> To assist her with her duties, the Receiver retained, with the approval of the Court (on July 21, 2017), Otterbourg P.C. (“Otterbourg”) as her legal counsel [Dkt. No. 231] and Teneo Company as her financial advisor [Dkt. No. 232] (“Teneo” (f/k/a Goldin Associates) and, together with Otterbourg, the “Receivership Team”). The Receivership also consented to a sub-contracting agreement between Teneo and Berkeley Research Group, LLC (“BRG”) to allow an individual formerly employed by Teneo, and now employed by BRG, to continue their regular tasks on behalf of the Receivership in a seamless manner, without the loss of “institutional knowledge” once they began their employment with BRG. This arrangement became effective as of March 8, 2024.

reporting period, unless such details are matters of public record by virtue of a motion for Court approval of such settlement or otherwise.

## **II. SUMMARY OF OPERATIONS OF THE RECEIVERSHIP**

### **A. Appointment of Receiver and Duties**

On December 19, 2016, the District Court entered an Order Appointing Receiver [Dkt. Nos. 6 and 16], which appointed Bart Schwartz as receiver (the “Prior Receiver”). At the time of his appointment, the Prior Receiver was serving as a monitor for the Platinum Entities.

On June 23, 2017, after six months, the Prior Receiver resigned and, upon the recommendation of the Securities and Exchange Commission (“SEC”), by Order dated July 6, 2017, Melanie L. Cyganowski was appointed as Receiver, effective immediately (*i.e.*, July 6, 2017), and ordered to assume all authority held by the Prior Receiver. [Dkt. No. 216].

Under the terms of the Receiver Order, the Receiver is, among other things, required to preserve the *status quo*, ascertain the extent of commingling of funds, ascertain the true financial condition of the Platinum Entities, prevent further dissipation of property and assets of those entities, prevent the encumbrance or disposal of property or assets of the Platinum Entities, preserve the books, records, and documents of the Platinum Entities, be available to respond to investors’ inquiries, protect investors’ assets, conduct an orderly wind down, including a responsible disposition of assets and an orderly and fair distribution of those assets, and determine whether one or more of the Receivership Entities should undertake bankruptcy filings.

### **B. Analysis and Disposition of Receivership Assets**

There are currently a handful of remaining assets that the Receiver continues to monitor,<sup>3</sup> including assets in which the Receiver retained a residual interest and assets that are jointly held

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<sup>3</sup> The assets that the Receiver continues to monitor are: (i) China Horizon/Yellow River; (ii) Acceleration Bay litigation (Receivership has a residual interest); (iii) Agera litigation; (iv) Decision Diagnostics equity; and (v)

with PPVA (as defined below) that have potential value, but do not require outlays of capital to maintain. While there are additional assets that remain property of the Receivership (*See* Exhibit B), the Receiver has determined that these other remaining assets have, at best, nominal value, are not being actively monitored, and are assets solely owned by PPCO that may be subject to a request to abandon in a proposed plan of distribution.

During the current Reporting Period, there were no receipts by the Receivership. The Receivership has collected approximately \$88.5 million since the date of the Receiver's appointment. Certain parties have asserted secured claims to all or part of the proceeds of such liquidated investments, most of which have been resolved pursuant to the settlement in the litigation known as Beechwood and the agreement with Heartland Bank.

#### **C. Investigation of Pre-Receivership Activities and Litigation**

The Receiver previously settled substantially all claims in the Beechwood litigation that related to pre-receivership activity. The Receiver's investigation of any other potential pre-receivership claims is described in Section V below. The only current active litigation is the pending appeal of the SHIP Escrow Order (defined in Section VII.B below).

#### **D. Administrative Matters**

The Receiver and the Receivership Team speak, as necessary and on a periodic basis, with various interested parties and groups, including the Joint Liquidators for PPVA,<sup>4</sup> Cayman counsel, the SEC, and Platinum investors and creditors. The Receiver updates the Receiver's

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Pro Player revenue sharing agreement. In addition, will continue to monitor the terms of the Nordlicht Settlement Agreement (defined below), including enforcement of the Receiver's right to additional payments pursuant to the settlement.

<sup>4</sup> "PPVA" refers to Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation). PPVA is the subject of insolvency proceedings pending in the Cayman Islands and a Chapter 15 bankruptcy proceeding in the U.S. Bankruptcy Court for the Southern District of New York. Martin Trott and Christopher Smith are the Joint Official Liquidators and Foreign Representatives of PPVA (the "Joint Liquidators").

website with key documents, answers to frequently asked questions and status reports to investors. The Receivership Team also filed a quarterly report and fee applications in this Court during the Reporting Period.

1. **Nordlicht Bankruptcy Case.** Mark Nordlicht (“Nordlicht”) filed a Chapter 7 bankruptcy petition on June 29, 2020 in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). The case was assigned Case No. 20-22782 (the “Nordlicht Bankruptcy Case”) and is currently pending before Judge David S. Jones. The Receiver has been monitoring and exercising rights as a creditor in the Nordlicht Bankruptcy Case. The Receiver previously filed a proof of claim on behalf of PPCO in the Nordlicht Bankruptcy Case, asserting a claim in the amount of not less than \$219 million (the “Receiver’s Proof of Claim”). Nordlicht previously filed a proof of claim against the Receivership Estate. That claim is now the property of Nordlicht’s bankruptcy estate and is under the control of the Chapter 7 Trustee to pursue. The Receiver continues to periodically speak with the Chapter 7 Trustee with respect to, among other things, resolution of the claims held by each against the other’s estate with the goal of reaching a consensual agreement regarding treatment of Nordlicht’s claim against the Receivership Entities.

Additionally, in the second half of 2023, the Receiver and Nordlicht entered into a settlement agreement (the “Nordlicht Settlement Agreement”) to resolve the adversary proceeding commenced by the Receiver against Nordlicht objecting to the discharge of Nordlicht.<sup>5</sup> The terms of the Nordlicht Settlement Agreement can be found in the Receiver’s motion approving the Nordlicht Settlement Agreement and the Twenty-Sixth Status Report. [Dkt. Nos. 679 and 696, respectively]. The Receiver continues to monitor the reporting

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<sup>5</sup> The First Amended Complaint was filed on November 5, 2021 and on October 26, 2023, the Receiver filed her Second Amended Complaint as required by the terms of the Settlement Agreement.

requirements of Mr. Nordlicht with respect to the Settlement Agreement approved by this court on September 26, 2023. [Dkt. No. 682]. No monies were required to be paid by Mr. Nordlicht during the Reporting Period based upon the reports that he submitted.

2. **Website and Investor Communications.** The Receiver retained Epiq to create and maintain the Receiver's website ([www.PlatinumReceivership.com](http://www.PlatinumReceivership.com)) and provide other services to the estate, including official communications with stakeholders. This website provides investors and other interested parties with, among other things, periodic status reports, access to court documents and answers to frequently asked questions. The Receiver revises the website as necessary to update the "Frequently Asked Questions" section and to add "key documents." The website allows interested parties to sign up to receive daily notices whenever there are new filings on the Receivership docket. The Receiver and the Receivership Team have attempted to respond to investor inquiries and continue to regularly respond and react to inquiries and requests for information.

3. **Criminal Trial.** Following the criminal trial of Nordlicht, David Levy ("Levy") and Joseph SanFilippo ("SanFilippo"), the jury returned a verdict convicting Nordlicht and Levy of defrauding bondholders in portfolio company Black Elk Offshore Operations LLC, but acquitting each of them on the remaining charges. SanFilippo was acquitted on all counts with which he was charged. The Court thereafter overturned the jury verdict with respect to Levy and ordered a new trial with respect to Nordlicht. The Department of Justice appealed those decisions and on November 5, 2021, the Second Circuit vacated the Court's order and remanded to the Court for further proceedings consistent with its decision. Following the decision, Nordlicht and Levy requested that the Second Circuit reconsider its decision and/or hear the appeal anew *en banc*, which requests were denied on December 29, 2021.

On March 29, 2022, Nordlicht and Levy filed a petition for a writ of certiorari with the United States Supreme Court. On October 3, 2022, the United States Supreme Court declined to hear the appeal. On October 14, 2022, Nordlicht filed a motion with the Court seeking a new trial. Levy joined in Nordlicht's request and on July 12, 2023, the Court issued a Memorandum Decision & Order [Case No. 16-00640 (BMC), Dkt. No. 1004], denying Nordlicht and Levy's motion for a new trial with respect to the securities fraud conviction, granting the motion with respect to the wire fraud conviction, and, further, vacating the wire fraud conspiracy convictions. On August 11, 2023, Nordlicht and Levy each filed a Notice of Appeal of the Court's order.

The jury trial for Daniel Small ("Small") commenced in July 2022 in the Eastern District of New York. Following a two-week trial, Small was convicted by a jury on charges of securities fraud and securities fraud conspiracy for his role in connection with Black Elk. Small filed a motion seeking to have his conviction overturned by the Court or, in the alternative, requesting a new trial. On July 6, 2023, the Court issued a Memorandum Decision & Order [Case No. 16-00640 (BMC), Dkt. No. 1003], denying Small's motion.

On July 18, 2023, in advance of the sentencing hearings of Nordlicht, Levy and Small, the Court issued its Order on Loss Calculation [Case No. 16-00640 (BMC), Dkt. No. 1005] with respect to losses that may be attributable to each of them as a result of the Defendants' conduct. Following briefing by the Defendants and the United States Government on the issue, and a hearing to consider the parties' different theories of the amount of loss, if any, attributable to the Defendants' conduct, the Court found that the amount of loss was zero.

At Small's sentencing hearing on November 15, 2023, Small was sentenced to less than 1-year probation and no fine. At Levy's sentencing hearing on January 10, 2024, Levy was sentenced to time served, a \$5,000 fine and no probation. Levy and Small are each appealing the

conviction portion of the respective judgments. The United States Government is appealing the judgments and the loss calculation. At Nordlicht's sentencing hearing on July 16, 2024, Nordlicht was sentenced to six months home confinement, two years of probation, and a \$5,000 fine.

4. **SEC Meetings.** The Receiver has periodic communications with SEC personnel to keep them apprised of ongoing matters as to which SEC input is appropriate and to keep the SEC apprised of the status of the case.

5. **PPVA.** The Receiver has periodic discussions with counsel for the Joint Liquidators of PPVA, primarily concerning jointly held assets.

6. **Document Requests.** The Receiver also received certain document requests during the Reporting Period, including a document request from the holder of one of the remaining disputed claims and a document request from another claimant that was issued in connection with an action pending in a rabbinical tribunal. The Receiver reviewed each of these requests, discussed them with the issuer of the request and provided responsive documents, objecting to certain requests when necessary.

### **III. CASH, EXPENSES AND UNENCUMBERED ASSETS**

A schedule summarizing cash receipts and disbursements, as well as cash on hand for the Reporting Period, is set forth in the Schedule of Receipts and Disbursements attached hereto as **Exhibit A.**

As of June 30, 2024, the Receivership Entities had approximately \$17 million in funds. Certain parties have claimed an interest in certain sold assets and have asserted claims to a portion of the sale proceeds of such assets (as opposed to a general claim against the Receivership Entities). Other parties have presented documentation which purportedly grant them security interests in all or certain of Platinum's assets. These secured claims were

challenged and have been substantially resolved pursuant to settlements in the Beechwood litigation and an agreement with Heartland Bank.

Cash disbursements during the Reporting Period totaled \$109,149. This amount was disbursed for payment of the fees of the Receiver and her professionals and business asset expenses (primarily consisting of payments to consultants (in lieu of the previous payroll and related expenses)).

It is estimated that, as of June 30, 2024, accrued and unpaid administrative expenses amount to approximately \$5.8 million. This amount includes the estimate of fees and expenses that have been incurred by the Receiver, Otterbourg and Teneo during the Reporting Period and that will be requested in future applications; holdbacks for prior applications of the Receiver and her professionals; and holdbacks to the Prior Receiver's counsel (Cooley) with respect to its interim fee application.

There were no cash receipts during the Reporting Period.

#### **IV. RECEIVERSHIP PROPERTY**

As of June 30, 2024, the primary assets of the estate ("Receivership Property") consisted of the following:

- (i) Cash and cash equivalents of approximately \$17 million;
- (ii) Remaining stock and royalty interests, litigation financing and other miscellaneous investments; and
- (iii) Potential litigation claims.

A list of Receivership Property – namely, each asset of the PPCO and PPLO entities – is attached hereto as **Exhibit B**.

The review of the assets in the Receivership's asset portfolio is complete. There are only a few remaining assets that the Receiver continues to monitor, including shared assets with PPVA that may have potential value to the Receivership Estate.

The Receiver is also periodically called upon to address certain follow-up issues regarding previously sold or resolved assets. During the Reporting Period, the Receivership Team followed up on a previously sold asset, referred to as Acceleration Bay, for which it retained a small residual interest. "Acceleration Bay" refers to a litigation funding loan made by Hamilton Capital XII LLC, ("Hamilton") a limited liability company of which PPCO was the managing member and majority owner, to a company holding certain patents with application to, among other things, distributed electronic gaming systems. In the fourth quarter of 2017, the Receiver sold Hamilton's interest in the Acceleration Bay loan for (i) \$10,540,000 cash at closing, representing a par recovery on Hamilton's investment, plus (ii) a retained 5% interest in all amounts received by the purchaser from any litigation proceeds as provided for in the loan agreement governing Hamilton's loan to Acceleration Bay. Acceleration Bay, at the time that the asset was sold, was pursuing claims against multiple entities that Acceleration Bay claimed were infringing on the patents owned by it.

During the Reporting Period, the Receiver learned that Acceleration Bay had obtained a jury verdict in its favor on one of its ongoing litigations. However, that verdict is subject to post-trial motions and appeals and no proceeds have yet been recovered by Acceleration Bay. The Receiver sent a letter to the purchaser of its loan interest to put it on notice of the Receivership's entitlement to proceeds on account of its retained 5% interest if, in fact, any proceeds are received, whether through a final non-appealable order or through settlement. Neither the Receiver nor the purchaser control settlement discussions or decision-making. Accordingly, it is

unknown at this juncture if the Receivership will receive any recovery on its retained 5% interest and, if so, when or in what amount. The Receiver will continue to monitor the matter and follow-up with the purchaser.

#### **V. LIQUIDATED AND UNLIQUIDATED CLAIMS HELD BY THE ESTATE/INVESTIGATION OF TRANSACTIONS**

The Receiver and the Receivership Team have analyzed pre-Receivership activities, including transfers made by PPCO and PPLO to other entities and individuals, and the professional services provided by, among others, valuation agents, fund administrators, auditors and legal advisors, to determine if any additional causes of action exist that, on a cost-benefit basis, warrant the commencement of litigation. Where mutual releases are warranted, the Receiver has sought and obtained such releases. Whether and the extent to which the Receiver may commence additional affirmative actions against, among others, insiders of Platinum, if any, will likely be addressed as part of the proposed plan of distribution and likely reservation of rights.

#### **VI. LIABILITIES OF THE RECEIVERSHIP ESTATE**

Pursuant to Paragraph 47 of the Receiver Order, below is a description of the Receivership Estate's potential liabilities. Certain liabilities described herein, particularly those pertaining to creditor claims, are uncertain, and will remain as such until the allowed amount and priority of all claims is finally determined.

**A. Creditors.** The creditor-related information presented below is based on prior management's books and records, which are as of December 19, 2016, the date Platinum entered receivership. The validity and amount of claims that may be entitled to a distribution will be based upon the Receiver's claim determinations and settlements, and are likely to differ materially from the values reported by prior management. Accordingly, the following is only

intended to be informative of prior management's books and records at the time of the commencement of the Receivership:

- PPCO lenders: PPCO owed approximately \$69.1 million in principal (not including interest) to certain lenders. As a result of the settlement in the Beechwood litigation and resolution with PPVA, almost all of this debt has been eliminated, subject to the pending appeal of the SHIP Escrow Order (described below).
- PPCO unpaid redemptions: \$28.2 million in unpaid redemption requests were made by 21 PPCO investors.
- PPLO unpaid redemptions: \$6.5 million in unpaid redemption requests were made by 3 PPLO investors.
- PPCO and PPLO outstanding payables: PPCO and PPLO had \$2.7 million of outstanding payables attributable to 23 vendors.

Additional claims were filed through the claims process, including claims of former employees of Platinum. As of the filing of this Status Report, the only outstanding claims related issues, which will determine the amount and priority of claims asserted against PPCO and PPLO, are (i) the pending settlement agreements resolving certain issues in the previously filed Claims Motion, which primarily addresses the amount and priority of SanFilippo and his counsel's claims for indemnification and the priority of the allowed claim of the Black Elk Trustee; (ii) the appeal of the SHIP Escrow Order; and (iii) the resolution of the proof of claim filed by Nordlicht.

**B. Accrued Administrative Expenses.** As of June 30, 2024, accrued and unpaid administrative expenses amounted to approximately \$5.8 million. These administrative expenses

primarily consist of accrued and unpaid professional fees and other operating expenses. The Receivership Estate has budgeted approximately \$15,000-\$20,000 per month going forward to pay the consultant agreements (the CFO and information technology consultant) and to cover other operating expenses, such as payments to Epiq for maintenance of the website and periodic mailings to creditors. Pursuant to the Court's order approving the disposal of obsolete documents, the Receiver is no longer paying for the retention of obsolete documents. To the extent any third party requested that certain documents be maintained, that party is paying the expense of such retention.

**C. Disbursements to Preserve the Value of Certain Investments.** No expenses were incurred by the Receivership to maintain any of the remaining portfolio investments. No significant expenses, other than consultant fees and professional fees, are expected going forward.

**D. Investors.** The Receiver currently believes that there are 286 known investors in the Platinum Entities, including investors in the offshore feeder funds. Platinum's books and records reflect that unaffiliated investor claims total at least \$337.1 million, including claims for unpaid redemptions by unaffiliated investors totaling at least \$34.5 million, and that affiliated investor claims currently total at least \$19.7 million after taking into account amounts settled in the Beechwood litigation. These amounts are in addition to the non-disputed allowed claims, and disputed claims, discussed in Section II above. After conferring with the SEC, to protect the privacy of such investors, the Receiver is not filing with this Status Report a list of the names of each investor and the amount of such investor's net cash investment. Pursuant to the approved claims reconciliation process, investors have been notified of the total investments in and distributions from the Platinum entities as reflected in Platinum's books and records.

## VII. CLAIMS ANALYSIS AND PLAN OF DISTRIBUTION

Pursuant to the previously-approved bar date procedures motion [Dkt. No. 453], the bar date to file a proof of claim asserting a claim arising before the Receivership was March 29, 2019 and the bar date for governmental units to file a proof of claim was April 12, 2019. In excess of 300 claims were filed. Parties holding investor claims and claims for unpaid redemptions were not required to file proofs of claim.

### A. Review of Claims

Pursuant to the Order approving the procedures to reconcile claims and verify interests, entered on December 1, 2020 (the “Claims Procedures and Verification Order”) [Dkt. No. 554], on March 9, 2021, the Receiver filed a Notice of Receiver’s Claims Analysis Report (the “Claims Report”), which set forth her determinations with respect to each of the filed claims. [Dkt. No. 564] Certain claims were allowed as filed or pursuant to previously reached settlements, others disallowed in total and others partially allowed.

Thirteen claimants, asserting multiple claims, objected to the Receiver’s determinations in the Claims Report. Certain of the objections were consensually resolved or the claims withdrawn. With respect to certain claim objections for which no resolution was reached, in accordance with the procedures set forth in the Claims Procedures and Verification Order, on November 12, 2021, the Receiver filed an Omnibus Motion to Confirm Receiver’s Determinations [Dkt. No. 597] (the “Claims Motion”) and subsequent briefing occurred. On March 13, 2024, the Court heard oral argument on that aspect of the Claims Motion addressing the validity and allowed amount of the asserted claims, and reserved judgment (the “Claims Hearing”).

While the Claims Motion remained *sub judice*, the Receiver continued to engage in discussion the claimants that were the subject of the Claims Motion in an effort to resolve their

claims, taking into account the uncertainty of the Court's decision, remaining open issues to be litigated, and potential appeals of any decision.

On the eve of the hearing on the Claims Motion, the Receiver reached a settlement in principal with SanFilippo and his counsel. On March 29, 2024, the Receiver filed a motion with the Court seeking the approval of an agreement reached with SanFilippo and his counsel, Ford O'Brien Landy LLP (the "SanFilippo Settlement"). [Dkt. No. 705] Pursuant to the SanFilippo Settlement, SanFilippo and his counsel agreed to reduce their indemnification claim by over 80% from an originally filed amount of \$2,686,426.31 down to \$450,000, to be paid on a priority basis. Moreover, the \$450,000 is a reduction of more than 50% of the \$929,863 that may have been allowed on a non-priority basis.

In addition, during the Reporting Period, the Receiver entered into a settlement agreement with one of the largest claimants of the Receivership, the Trustee of the Black Elk Energy Offshore Operations, LLC Litigation Trust (the "Black Elk Trustee"). The Prior Receiver had previously agreed to grant the Black Elk Trustee, on behalf of the Black Elk Litigation Trust, claims against PPCO and PPLO in the aggregate amount of approximately \$29.6 million (the "Black Elk Claim"). That settlement had previously been approved by the Court. The Black Elk Trustee, however, preserved the right to argue that the Black Elk Claim should be paid on a priority basis. The Receiver, in the Claims Motion, objected to payment of the Black Elk Claim on a priority basis. Pursuant to the settlement reached with the Black Elk Trustee (the "Black Elk Settlement"), the Black Elk Trustee agreed to greatly reduce the total claim by nearly 95% down from approximately \$29.6 million to \$1.5 million, to be paid on a priority basis, with the remaining balance dismissed with prejudice. On April 12, 2024, the Receiver filed a Motion seeking an order approving the Black Elk Settlement. [Dkt. No. 709].

The Receiver believes that other creditors and investors in the Receivership will benefit from the effect of the Black Elk Settlement. In particular, if the Black Elk Trustee were afforded priority in the magnitude originally sought in its claim, other creditors and investors would likely not receive any distribution at all in this Receivership. This is because the payment of such claim, absent the heavy discount under the settlement, would overwhelm the Receivership Estate and leave little if anything remaining for any other distribution in this Receivership.

Also, during the Reporting Period, following a series of difficult negotiations and a series of letters by claimants and the Receiver to the Court [see dkt. nos. 712-714], the Receiver reached settlements with (i) Levy and his counsel, Wilson Sonsini (the “Levy Settlement”) and (ii) Small and his counsel, Levine Lee (the “Small Settlement”). On June 10, 2024, the Receiver filed a motion seeking approval of each of the settlements. [Dkt. No. 727]. Pursuant to the Levy Settlement, Levy and his counsel agreed to substantially reduce their total claims, by approximately 83% from \$13,765,000 down to \$2,275,000, to be paid on a priority basis, with the remaining balance dismissed with prejudice. Pursuant to the Small Settlement, Small and his counsel agreed to substantially reduce their total claims, by approximately 90% from \$18,009,475.49 down to \$1,750,000, to be paid on a priority basis, with the remaining balance dismissed with prejudice. The settlements provide for the Receiver to make payments to the Levy and Small parties once the order approving the settlements becomes final, thereby ending significant litigation and avoiding the uncertainty of what could be a significant allowed claim, that could have, in whole or part, been afforded priority.

The only parties that objected to the settlements (SanFilippo, Black Elk, Small and Levy) were Richard and Marisa Stadtmauer (the “Stadtmauers”), whose claims were previously resolved pursuant to an agreement with the Receiver. The Stadtmauers objected to the

SanFilippo Settlement and the Black Elk Settlement on May 3, 2024 [dkt. no. 718] and objected to the Levy Settlement and the Small Settlement on June 25, 2024. [Dkt. Nos. 718 and 729] The Receiver responded to the objections of the Stadtmayers and filed replies in support of each of the settlements. [Dkt. Nos. 722, 725, 730 and 731].

On July 19, 2024, the Court granted the Receiver's motion for approval of the Levy Settlement and the Small Settlement. [Dkt. No. 732]. On July 22, 2024, the Stadtmayers filed a Notice of Appeal of the order granting the Levy Settlement and the Small Settlement. [Dkt. No. 733]. The motions to approve the SanFilippo Settlement and Black Elk Settlement are now fully briefed and are pending *sub judice*.

**B. SHIP Escrow Motion**

In connection with the completion of the Receiver's claim review and final determination of all claims, on March 18, 2022, the Receiver filed her Motion for an Order (I) Permanently Enjoining any Prosecution of Claim No. 145 and (II) Confirming the Receiver's Authority to Consent to the Release of the Indemnity Escrow Amount (the "SHIP Escrow Motion"). The SHIP Escrow Motion has its roots in the Court's earlier approval of the Receiver's July 1, 2020 settlement with Senior Health Insurance Company of Pennsylvania in Rehabilitation ("SHIP") and Fuzion Analytics, Inc., Dkt. No. 536-2 (the "Settlement"). The Settlement required that the Receiver make a wire transfer of \$4,530,155.68 (the "Indemnity Escrow Amount") to the "Indemnity Escrow Agent" (as defined by the Settlement), with the Indemnity Escrow Amount to serve as indemnification by SHIP of the Receiver to the extent that certain parties listed on the Debt Registry<sup>6</sup> with respect to putative ownership by (i) PBLA ULICO 2017; (ii) BBIL ULICO 2014; and (iii) OMNIA Ltd. ("Omnia") of some portion of the debt (the "Unresolved Portion"),

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<sup>6</sup> The "Debt Registry" refers to a document that is attached to the Settlement as Exhibit A. See Dkt. No. 536-1 at 20 of 33.

or their agent, BAM Administrative Services, LLC (“BAM”), acting on their behalf, sought payment on the Unresolved Portion.

To satisfy the condition precedent to the release of the Indemnity Escrow Amount, pursuant to the SHIP Escrow Motion, the Receiver requested that the Court: (i) confirm the effect of the Receiver’s disallowance by permanently enjoining any further prosecution of Claim No. 145 filed by BAM; and (ii) under certain circumstances, confirm the Receiver’s authority to release the Indemnity Escrow Amount to SHIP. On November 2, 2023, the Court entered an Order approving the SHIP Escrow Motion, which confirmed the Receiver’s disallowance of Claim No. 145 and the Receiver’s authority to consent to the release of the Indemnity Escrow Amount (the “SHIP Escrow Order”). [Dkt. No. 685] On December 1, 2023, John Johnston and Edward Willmott of Deloitte Financial Advisory Ltd. Bermuda, in their capacities as the Joint Provisional Liquidators and authorized foreign representatives of Omnia (the “Omnia JOLs”), filed a Notice of Appeal, appealing to the Second Circuit from the SHIP Escrow Order.

During the Reporting Period, the Receiver and the Receivership Team reviewed and analyzed the appellant brief filed by the Omnia JOLs and prepared the Receiver’s brief in response, which was filed with the Second Circuit on June 13, 2024. The Receiver coordinated with counsel for SHIP during the Reporting Period.

### **C. Review of Investor Interests**

The Claims Report solely relates to general unsecured claims and secured claims. In accordance with the Claims Procedures and Verification Order, investors in PPCO, including unpaid redeemers, received a letter that contains information regarding that investor’s equity interest in one or more Receivership Entities (the “PPCO Investor Statement”). The PPCO Investor Statement sets forth the amounts invested in one or more Receivership Entities and the

amounts previously received as distributions on account of the investor's equity interest, all as reflected in the books and records of the Receivership Entities. Investors had an opportunity to review the information provided and to refute the information, but solely on the basis that the books and records of the Receivership Entities are inaccurate, which was required to be supported by documentation from the investor.

During the first quarter of 2024, letters were also sent to investors in PPLO regarding such investor's interest in one or more of the PPLO entities (the "PPLO Investor Statement" and, together with the PPCO Investor Statements, the "Investor Statements").

#### **D. Plan of Distribution**

The amounts reflected in the Claims Report and the Investor Statements are not necessarily equal to or indicative of any recoveries a creditor or investor may receive from one or more Receivership Entities. The timing of distributions may be impacted by, among other things, the resolution of the pending motions to approve settlements that would resolve the remaining issues in Claims Motion and the aggregate amount of assets available for distribution. Because the outcome of the remaining claim issues may materially impact the plan, the Receivership Team has held off on filing a proposed plan of distribution. However, during the Reporting Period, the Receiver dedicated time to reviewing and updating the draft plan of distribution documents and taking into account various scenarios that could result, depending upon the outcome of the remaining open claims issues. The Receivership Team also analyzed updated distribution analyses with various scenarios, each containing different assumptions regarding the outcome of the open claim issues.

Ultimately, through a motion seeking approval of a plan of distribution, the Receiver will seek the Court's approval of, among other things, (i) the distribution methodology to apply in

calculating the distribution to be made on account of each claim and equity interest and (ii) the treatment of claims and equity interests under the plan of distribution. Investors and creditors will have the opportunity to object to the plan of distribution and any of its provisions, including the distribution methodology and treatment of claims and equity interests. The Receiver cannot at this time state what distributions will ultimately be to creditors and investors.

#### **VIII. RECOMMENDATIONS FOR CONTINUATION OR DISCONTINUATION OF RECEIVERSHIP**

The Receiver continues to believe that continuation of the receivership is in the best interests of the creditors of and investors in the Platinum Entities. For the reasons stated in the Receiver's previous Status Reports and in the Receiver's Response to Minute Order [Dkt. No. 516], the Receiver continues to believe that winding down the case, administering claims and seeking approval of a plan of distribution is in the best interest of creditors and investors.

A more detailed explanation and reasoning for why the Receiver believes that the interests of all stakeholders would be best served by continuing to administer the Receivership outside of bankruptcy is set forth in the Receiver's Response to Minute Order. On January 22, 2020, the Court issued an Order on the docket finding that compelling the Receiver to file a bankruptcy petition at that point would not be in the best interest of all parties. The Receiver believes the Court's finding is particularly applicable at this time as the Receiver is reaching the end of the claims reconciliation process and will then be prepared to file a plan of distribution.

**IX. CONCLUSION**

The Receiver continues to monitor the few remaining assets and administer the Receivership pending certain Court decisions that may impact any proposed plan of distribution.

Dated: July 22, 2024

Otterbourg P.C.

By: /s/ Erik B. Weinick

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*On Behalf of Melanie L. Cyganowski, as Receiver*

# **EXHIBIT A**

**PLATINUM PARTNERS CREDIT OPPORTUNITIES MASTER FUND LP AND AFFILIATED ENTITIES****Schedule of Receipts and Disbursements**

	Period from 4/1/2024 to 6/30/2024			Cumulative Total from 7/7/2017 to 6/30/2024		
	PPCO	PPLO	Total	PPCO	PPLO	Total
Cash (Beginning of Period)	\$ 13,662,994	\$ 3,484,524	\$ 17,147,518	\$ 7,788,872	\$ 1,617,492	\$ 9,406,363
<b>Receipts</b>						
Business Income	-	-	-	-	-	-
Cash and Securities	-	-	-	24,596	-	24,596
Interest/Dividend Income	-	-	-	150,158	91,472	241,630
Asset Sales and Third-Party Litigations Proceeds	-	-	-	85,651,836	1,829,706	87,481,542
Other Receipts	-	-	-	801,896	3,294	805,190
<b>Total Receipts</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 86,628,486</b>	<b>\$ 1,924,472</b>	<b>\$ 88,552,958</b>
<b>Disbursements</b>						
Disbursements to Investors/Claimants	-	-	-	(17,874,754)	-	(17,874,754)
Disbursements for Receivership Operations	-	-	-	-	-	-
Disbursements to Receiver or Other Professionals	(53,928)	-	(53,928)	(32,236,765)	(2,575)	(32,239,340)
Business Asset Expenses	(55,221)	-	(55,221)	(8,533,352)	(35,825)	(8,569,177)
Personal Asset Expenses	-	-	-	-	-	-
Investment Expenses	-	-	-	(19,698,926)	-	(19,698,926)
Third-Party Litigation Expenses	-	-	-	-	-	-
Tax Administrator Fees and Bonds	-	-	-	(115,814)	(19,039)	(134,854)
Federal and State Tax Payments	-	-	-	-	-	-
Disbursements for Distribution Expenses Paid by the Fund	-	-	-	(2,175,096)	-	(2,175,096)
Disbursements to Court/Other <sup>1</sup>	-	-	-	(228,806)	-	(228,806)
<b>Total Disbursements</b>	<b>\$ (109,149)</b>	<b>\$ -</b>	<b>\$ (109,149)</b>	<b>\$ (80,863,513)</b>	<b>\$ (57,440)</b>	<b>\$ (80,920,952)</b>
Cash (End of Period)	\$ 13,553,845	\$ 3,484,524	\$ 17,038,369	\$ 13,553,845	\$ 3,484,524	\$ 17,038,369

<sup>1</sup> Disbursement to PPVA for its share of proceeds from the sale of interest in Cokal Limited

# **EXHIBIT B**

## Receivership Property List

### PPCO Assets

Asset Name	Asset Type
1) Abdala Tailings Project	Royalty Stream
2) Acceleration Bay	Back-end proceeds from litigation
3) Activision TV, Inc.	Patent Portfolio
4) Agera Energy LLC	Preferred Stock
5) Carbon Credits	Participations in PPVA deals
6) Celsius Resources Ltd	Common Stock
7) China Horizon Investment Group Ltd.	Loan Receivable
8) Claus Shelling Family Trust	Life Settlements Portfolio
9) Credit Card Receivables Portfolio	Loan Receivable
10) Decision Diagnostics Corp.	Preferred Stock
11) Environmental Service Professionals, Inc.	Common Stock
12) Khorrami Pollard & Abir, LLP	Loan Receivable
13) Golden Gate Oil LLC	Notes Receivable
14) Millennium Healthcare, Inc.	Common Stock
15) MMP Resources Limited (f/k/a Sino Construction)	Common Stock
16) Montsant Partners LLC	Loan Receivable
17) Nisayon International Inc.	Loan Receivable
18) Over Everything LLC	1) Loan Receivable 2) Common Stock
19) Urogen Pharmaceuticals, Inc.	1) Note Receivable 2) Preferred Stock
20) Xcell Energy Inc.	Loan Receivable
21) Yellow River	Common Stock

## Receivership Property List

### PPLO Assets

Company Name	Asset Description
1) Alcyone Resources Limited	1) Common Stock 2) Note Receivable
2) Black Elk Energy Offshore Operations LLC	Note Receivable
3) China Cablecom Holdings Ltd.	1) Common Stock 2) Preferred Stock
4) Misung Polytech	Loan Receivable
5) Ochre Group Holdings Limited	Common Stock
6) Wexford Petroleum Corporation	Common Stock

# Receivership Property List

## Jointly Held PPCO / PPLO Assets

Company Name	Asset Description
1) Platinum Partners Value Arbitrage Fund	Loan Receivable