

**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.

PLAINTIFFS' PROPOSED VOIR DIRE QUESTIONS

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Pursuant to Rule 47 of the Federal Rules of Civil Procedure and this Court's Individual Rules of Practice 8, 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 "**JOLs**"), and Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) ("**PPVA**" and collectively with the JOLs, the "**Plaintiffs**") respectfully request this Court ask the following voir dire questions of each prospective juror, in addition to the Court's voir dire.

STATEMENT OF THE CASE

This is a civil case, not a criminal case. Although there are other defendants in this case, the defendant in this particular trial is only David Bodner ("**Bodner**"). Along with his partners Murray Huberfeld and Mark Nordlicht, Bodner provided the initial capital to fund Plaintiff PPVA, which was a New York-based investment fund. Mr. Bodner also co-founded and beneficially owned a sizable stake in PPVA.

The general partner of PPVA was Platinum Management (NY), LLC ("**PMNY**"), which is a defaulted defendant in this action. PMNY held exclusive managerial authority over PPVA and owed PPVA fiduciary duties. PPVA (through certain affiliated hedge funds) was required to pay to PMNY certain fees, known as management fees and incentive fees. PMNY calculated these fees owed by PPVA based on its monthly determination of the net asset value ("**NAV**") of PPVA. Mr. Bodner received a portion of these fees, payable in both cash and limited partnership interests in PPVA, paid by PPVA to Bodner through companies he and his family owned. Plaintiffs allege that Mr. Bodner knew that PPVA's NAV was overvalued, but nevertheless allowed PMNY to put out monthly NAV statements claiming that PPVA's NAV exceeded \$700 million. Plaintiffs allege

that, in actuality, Mr. Bodner knew that PPVA's NAV was inflated because he knew that PPVA's assets were either near-valueless or encumbered by creditors.

Based on these facts, Plaintiffs' operative Second Amended Complaint alleges claims against Mr. Bodner for breaches of his fiduciary duties to PPVA, for fraud, and for aiding and abetting PMNY's breach of its fiduciary duty to PPVA. Specifically, Plaintiffs allege that Mr. Bodner owed fiduciary duties of both care and loyalty to PPVA because Bodner was an ultimate decision maker with final authority for PMNY. Plaintiffs allege Mr. Bodner breached these fiduciary duties by, despite his knowledge of PPVA's overvaluation, failing to disclose the overvaluation while also taking unearned and fees from PPVA based on that overvaluation.

Plaintiffs further allege that Mr. Bodner aided and abetted PMNY's undisputed fiduciary duty to PPVA by using his authority at PMNY to induce the payment of unearned fees and distributions by PPVA to PMNY (and thus Bodner, as an owner) based on the inflated NAV, and actively participating in founding or capitalizing two separate entities BEOF and Beechwood, which were each used as the mechanism to perpetrate and conceal the overvaluation. Plaintiffs further allege that Bodner committed fraud by failing to disclose to PPVA the fraudulent nature of its NAV, despite both Mr. Bodner's fiduciary duty to PPVA and the special relationship between Mr. Bodner and PPVA due to his superior knowledge of the facts at issue.

Plaintiffs seek compensatory damages from Mr. Bodner, which are designed to restore Plaintiffs to position they were in if they had not been injured by Mr. Bodner. Plaintiffs also seek punitive damages against Mr. Bodner on grounds that he acted maliciously and recklessly, and thus should be forced to pay Plaintiffs in excess of the actual loss. Finally, Plaintiffs also seek damages from Mr. Bodner, who, by acting as a "faithless servant" to PPVA, breached his duty of

loyalty to PPVA, and is thus subject to disgorgement of all value he received in any capacity in connection with PPVA since the Black Elk explosion in late 2012.

KNOWLEDGE OF THE CASE

1. Do you have any personal knowledge of this case? Have any of you ever read or heard anything about this case, or are you familiar with any news stories or Internet postings regarding a case involving David Bodner?

2. Have any of you ever read or heard anything about a criminal case involving Mark Nordlicht, David Levy, Daniel Small, Joseph SanFilippo, and Naftali Manela?

3. Have any of you ever read or heard anything about a civil case involving the Securities and Exchange Commission and Mark Nordlicht, David Levy, and Daniel Small?

4. Have any of you ever read or heard anything about a criminal case involving Murray Huberfeld and the Correction Officers' Benevolent Association of New York?

5. Have any of you ever read or heard anything about any other governmental investigations of PMNY, PPVA, Bodner, Huberfeld, Nordlicht, and/or Levy?

6. Have you ever read or heard anything about any other proceeding, whether civil or criminal, involving PMNY, PPVA, and any of their affiliated entities, including an investment fund known as Platinum Partners Credit Opportunities Fund L.P., and/or a group of entities commonly referred to as "Beechwood"?

7. Have you ever read or heard anything about any other proceeding involving entities owned and controlled by David Bodner, such as Grosser Lane Management LLC and/or Monsey Equities LLC?

KNOWLEDGE OF TRIAL PARTICIPANTS

8. The plaintiffs in this case are Martin Trott and Christopher Smith, who are insolvency practitioners that have been appointed as the Joint Official Liquidators and Foreign Representatives of PPVA by courts in the Cayman Islands and New York, and PPVA, a now-defunct investment fund. Specifically, the Bankruptcy Court of the Southern District of New York has authorized Messrs. Trott and Smith to liquidate the assets of PPVA and bring litigation on its behalf, including the case we are discussing today. Mr. Trott and Mr. Smith are known as the Joint Official Liquidators of PPVA, or “JOLs.” The JOLs are represented by Warren Gluck, Martin Seidel, Richard Bixter, Qian (Sheila) Shen, Elliot Magruder, and Noah Parson of the law firm of Holland & Knight LLP. [Please ask counsel to stand.] Do any of you know Messrs. Gluck, Seidel, Bixter, Magruder, or Parson, and/or Ms. Shen? Has any juror had any dealings with the law firm of Holland & Knight LLP?

9. The defendant in this case is David Bodner. [Please ask the defendant to stand.] Do any of you know, or have you had any dealings, directly or indirectly, with Mr. Bodner, or with any relative, friend, or associate of his, including Mark Nordlicht, Murray Huberfeld, and/or Naomi Bodner? To your knowledge, do any of your relatives, friends, associates, or employers know Mr. Bodner? Have you seen or heard any news stories or internet postings about Mr. Bodner?

10. Mr. Bodner is represented by Eliot Lauer, Gabriel Hertzberg, Julia Mosse, and Nathaniel Ament-Stone of the law firm Curtis, Mallet-Prevost, Colt & Mosle LLP. Do any of you know Messrs. Lauer, Hertzberg or Ament-Stone and/or Ms. Mosse? Has any juror had any dealings with the law firm of Curtis, Mallet-Prevost, Colt & Mosle LLP?

11. Have you or any of your friends or family worked for Platinum Management (NY) LLC?

12. Do any of you know, or have any of you had any dealings, either directly or indirectly, with any of the following persons or companies who may be mentioned or who may be witnesses in this case: List of persons and companies is attached hereto as Exhibit A.

PRIOR JURY SERVICE AND LAWSUITS

13. Have you ever been a juror in a civil or criminal case or served on a grand jury, in state or federal court? If yes, what type of case was it? When was it? Did you deliberate, and did the jury reach a verdict? What was the verdict?

14. Have you ever been a plaintiff in a lawsuit, meaning have you ever sued someone? Have you ever been a defendant in a lawsuit, meaning have you ever been sued? If so, what was the nature of the allegations?

EXPERIENCE WITH THE LEGAL INDUSTRY

15. Have you or has anyone close to you ever contemplated or attended law school or been a lawyer?

16. Do you have any opinion - positive or negative - about lawyers or law school that would make it difficult for you to render a fair and impartial verdict?

EXPERIENCE WITH THE FINANCIAL SERVICES INDUSTRY

17. Have you taken any courses or training in the following areas: Accounting, Banking, Bookkeeping, Economics, Investments, Finance, Money Management, Sales or Marketing, or Real Estate? If so, please describe your experience.

18. Have you or has anyone close to you ever invested in securities such as stocks, bonds or options?

19. Have you or has anyone close to you ever invested in an investment fund, such as a hedge fund, or do you have any experience with an investment fund, such as a hedge fund?

20. Have you ever worked in the investment management industry, such as for a bank, brokerage firm, or hedge fund?

21. Have you, or anyone close to you, ever had training or worked in any of the following areas:

- a. Accounting/Bookkeeping;
- b. Banking/Finance;
- c. Auditing;
- d. Asset or Company Valuation;
- e. Business Management;
- f. Back Office Operations;
- g. Investment Banking;
- h. Real Estate;
- i. Reinsurance;
- j. Broker or Financial Advisor;
- k. Investment Fund management;
- l. Portfolio Management;
- m. Energy Company Operations;
- n. Market Research/Analysis; and/or
- o. Media/Journalism/Writer/Reporter

22. Will any of the training or work experience that you just reported affect your ability to be fair and impartial?

23. Have you read or heard about any case that included charges related to an investment fund, such as a hedge fund, or related to allegations of fraud associated with the valuation of any company?

24. Have you or has anyone close to you ever worked for an investment bank, brokerage firm, family office, investment fund (such as a hedge fund), investment advisor, private equity fund, compliance organization, or some other financial institution related to the securities market?

25. Have you ever invested directly in corporate bonds, an investment fund (such as a hedge fund), or an oil and gas company?

26. Have you ever made or lost so much money on an investment that it affected your lifestyle?

27. If yes, have you ever had such a positive or such a negative experience with an investment or financial advisor that it would affect your ability to be fair and impartial?

28. Have you ever been involved in an audit of financial records for a company you worked for or owned? (This may include an audit by a governmental agency, such as the Internal Revenue Service or the Securities and Exchange Commission, or an audit by an internal or external party.)

29. Have you, or any of your relatives or close friends ever been the victim of a fraudulent investment scheme, or an investment scheme that was later discovered to have induced or maintained through false and materially misleading representations made by the investment fund's owners, executives, or employees? [As to any prospective juror who answers affirmatively, the Court is respectfully requested to inquire into the circumstances of each scheme.]

30. This case involves a hedge fund, people who worked there and the companies and people who invested in it. Do you have any views or feelings about serving as a juror in a case involving a hedge fund, or case involving defendants who worked at a hedge fund?

EXPERIENCE AS A WITNESS, PLAINTIFF, OR DEFENDANT

31. Have you or has anyone close to you ever been a plaintiff or a witness in a civil lawsuit? Have you or anyone close to you ever asserted a claim against any person or entity that works in the financial services industry?

32. Have you or has anyone close to you ever been involved or appeared as a witness in any investigations by the SEC, FINRA, the NASD, or the New York Stock Exchange, or been

questioned in any matter by investigators for such agencies? Would anything about this experience affect your ability to be a fair and impartial juror in this case?

33. Have you ever been disciplined by the SEC, FINRA, the NASD, the New York Stock Exchange or any other regulator or civil enforcement agency? Have you ever been investigated by any regulator or civil enforcement agency?

ASSOCIATIONS WITH CHARITIES AND RELIGIOUS ORGANIZATIONS

34. The Defendant contributes to and is affiliated with a number of foundations and charities. Do any of you know, or have any of you had any dealings with or contributed to any of the following foundations:

- a. Bodner Family Foundation Inc.
- b. Bodner Children Family Foundation
- c. Huberfeld-Bodner Family Foundations

35. The Defendant contributes to and is affiliated with a number of Jewish religious organizations, including synagogues. Do any of you know, or have any of you had any dealings with or contributed to any of the following organizations:

- a. Agudah Israel of America
- b. Congregation Ahavas Tzdokah V'chesed
- c. Congregation Keren Zichron Yitzchok
- d. Bais Medrash Elyon
- e. Kahal Shaarei Tefillah
- f. Keren Moshe Lnitzrachim
- g. Shuvu Return
- h. Congregation Yeshias Israel

VIEWS ON JEWISH FAITH

36. The Defendant is Jewish. Do you have any personal views towards Jewish people that would cause you to doubt in any way your ability to be a fair and impartial juror in a financial case? (If you would like to discuss or answer this question in a private setting, please let me know.)

37. The defendant may spend time in the State of Israel. Do you have any personal views toward the State of Israel that would cause you to doubt in any way your ability to be a fair and impartial juror? (If you would like to discuss or answer this question in a private setting, please let me know.)

38. Do you have any views on Jewish people in business or related to finance - either positive or negative - that would affect your ability to be a fair and impartial juror? (If you would like to discuss or answer this question in a private setting, please let me know.)

OTHER BIASES

39. Do you have any personal beliefs regarding how much money a plaintiff should be allowed to receive from a lawsuit?

40. How many of you would have a problem awarding punitive damages to punish a defendant or deter a defendant from violating the law in the future?

41. Do you have any religious or moral beliefs that would make it difficult for you to sit in judgment of another person? If yes, please explain.

42. Is there anything about the nature of this case or about the people involved in it that makes you hesitate to be a juror here?

43. In these questions, I have tried to direct your attention to possible reasons why you might not be able to serve as a fair and impartial juror. Aside from the previous questions I have asked, does any juror have the slightest doubt in his or her own mind, for any reason whatsoever, about his or her ability to conscientiously, fairly, and impartially serve in this case and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it would be explained to you?

GENERAL QUESTIONS FOR THE PANEL

44. Does any juror have a problem with his or her hearing or vision that would prevent him or her from giving full attention to all of the evidence at this trial?

45. Is any juror taking any medication that would prevent him or her from giving full attention to all of the evidence at this trial?

46. Does any juror have any difficulty in reading or understanding English?

INDIVIDUAL QUESTIONS FOR JURORS

47. Plaintiffs respectfully requests that the Court ask each juror to state the following information:

- a. the juror's age;
- b. the juror's family status (including whether the juror has any children or grandchildren and, if so, the ages of the children);
- c. the area in which the juror resides;
- d. where the juror was born;
- e. the juror's educational background, including the highest degree obtained;
- f. whether the juror served in the military;
- g. the juror's occupation;
- h. the name and general location of the juror's employer, and the period of employment with that employer;
- i. the same information concerning other employment within the last five years;
- j. the same information with respect to the juror's spouse and any working children (only current employer);
- k. what newspapers and magazines the juror reads and how often;
- l. the websites that the juror reads regularly and/or posts comments or information on;
- m. what television programs the juror regularly watches; and
- n. the juror's hobbies and leisure-time activities.

Dated: New York, New York
November 25, 2022

HOLLAND & KNIGHT LLP
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Exhibit A - List of Names / Entities

Samuel Adler	Kelsey Gallegos	Uri Landesman	Joseph Ritterman
Agera Energy	Arthur Garza	Ryan Landry	Stephen Glynn Roberts
Julie Amato	Seth Gerszberg	Jennifer Lange	Trey Rogers
Chas Averbook	Glacial Energy	Aviva Langner	Brittany Sakowitz
Jessica Baker	Ari Glass	Jed Latkin	Samuel Salfati
B Asset Manager LP ("BAM")	Michael Goldberg	Mark Leben	Omar Sarmini
Black Elk Energy	Golden Gate Oil	Richard Lee	Ken Schott
Brett Belliston	William Gordon	David Leff	Reuvain Schepansky
Beechwood	Gregory Graves	Jay Levy	Jeffrey Schultz
Elliot Bertram	Murray Grenville	Stephen Lieberman	Amir Shaked
Sanjay Bhatia	Abraham Gulkowitz	Fredrik Ljungstrom	Robert Shearer
David Bodner	Ghada Hamid-Khan	Brian MacMillan	David Shirreffs
Tom Brough	Fabrice Harari	Daniel Mandelbaum	Jeffrey Shulse
Chuuk LP	Ari Hirt	Naftali Manela	Wendy Spaulding
Clifford Joseph Bruno	Edward Ho	Joseph Mann	Marisa Stadtmauer
Kevin Cassidy	John Hoffman	Rafael Martinez	Richard Stadtmauer
Centurion	Scott Howard	Nick Marzella	David Steinberg
Chardan Capital Markets	Murray Huberfeld	Keith McGowan	Fagey Steinberg
Lily Cheung	Keith Hubbard	Mark McMahon	Sterling Valuation
Fazle Choudhury	John Huth	Brook Middleton	Joachim Stroh
Larry Combs	Implant Sciences	Craig Minsky	Daniel Sun
Dennis Corkran	Shade Itiowe	Lonnie Murphy	Scott Taylor
John Czaplá	Amber Jordan	Dahlia Nordlicht	Tao
Amiel David	Gilad Kalter	Michael Nordlicht	Hillel Tauber
Ron Deutsch	Andrew Kaplan	Jules Nordlicht	Ellie Tinoco
Gordon Diamond	Richard Kasnett	Northstar Energy	Valeer van Mook
Gregric Diamond	Mani Katari	Northstar GOM	Jack van Oosterbosch
George Duch	Marcos Katz	Alexis Northwood	Vistagen
Erica Feiger	Michael Katz	David Ottensoser	Israel Wallach
Mark Feuer	Michelle Keyes	David Pazandak	Tammy Warner
Michael Fillingame	Stewart Kim	Penny Paul	Zachary Weiner
Stephen Flatley	Michael Kimelman	Sheldon Perl	Jason Winer
Paul Francis	Mani Katari	Marizza Piche	Harvey Werblowsky
Gaylon Freeman	Carlos Koo	Kerry Proper	Solomon Werdiger
Isaac Fruchthandler	John Kosir	Todd Pulvino	Gordon Wight

Bernard Fuchs	Joshua Kramer- Eisenbud	Eli Rakower	Dixon Yee
Morris Fuchs	Eric Kristiansen	Daniel Ramirez	Greg Zaffiro
Stephen Fuerst	Nicole Kubin	Tom Ramos	
Abe Zeines	Josh Zeitman	Avigail Rimmer	