

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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: IN RE PLATINUM-BEECHWOOD LITIGATION, : No. 18 Civ. 6658 (JSR)
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: 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 : No. 18 Civ. 10936 (JSR)
: PARTNERS VALUE ARBITRAGE FUND L.P. (in :
: OFFICIAL LIQUIDATION), :
:

Plaintiffs,

v.

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

Defendants.

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DEFENDANT DAVID BODNER'S PROPOSED PRELIMINARY INSTRUCTION

(replaces Proposed Jury Instruction No. 2)

Pursuant to Paragraph 7 of the Individual Rules of Practice of the Honorable Jed S. Rakoff, Defendant David Bodner respectfully submits the following preliminary instruction.

Before we begin to hear the evidence, I want to give you a brief overview of the claims in this case. After you have heard all the evidence and the parties have made their closing arguments, I will give you detailed instructions of law that will displace this preliminary instruction and will govern your deliberations. This is a civil lawsuit brought by the plaintiffs, Martin Trott and Christopher Smith, who manage the affairs and assets of a company called Platinum Partners Value Arbitrage Fund L.P., or “PPVA.” Messrs. Trott and Smith are also referred to as the “Joint Official Liquidators” or “JOLs.” The defendant in this case is David Bodner. Plaintiffs allege that Mr. Bodner controlled PPVA and intentionally failed to disclose what he came to learn was the fraudulent overvaluation of PPVA’s net asset value or “NAV” with respect to the following six assets: (1) Black Elk; (2) Golden Gate; (3) Northstar; (4) Pedevco; (5) Desert Hawk; and (6) the Michael Goldberg Note Receivable. Plaintiffs claim that Mr. Bodner’s failure to disclose the overvaluation caused PPVA to pay inflated management and incentive fees. Mr. Bodner denies all of Plaintiffs’ claims and argues that they are barred by a Release Agreement. You will hear there were a number of other persons and entities that plaintiffs claimed were responsible for the same damage allegedly caused by Mr. Bodner and that this lawsuit was originally brought against various additional defendants. In the event that you find Mr. Bodner liable, you will be asked to apportion liability for plaintiffs’ damages among certain of those persons. Please remember that this preliminary instruction is simply a brief overview of the claims in this case.

Dated: November 25, 2022
New York, New York

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