

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**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.

Civil Case No. 16-6848 (DLI) (VMS)

ECF CASE

[PROPOSED] SECOND AMENDED ORDER APPOINTING RECEIVER

WHEREAS this matter has come before this Court upon motion of the Plaintiff U.S. Securities and Exchange Commission (“SEC”, “Commission” or “Plaintiff”) to appoint a substitute receiver in the above-captioned action;

WHEREAS the Court finds that, based on the record in these proceedings, the appointment of a substitute receiver in this action is necessary and appropriate for the purposes of marshaling and preserving all assets of Platinum Credit Management, L.P.; Platinum Partners Credit Opportunities Master Fund LP; Platinum Partners Credit Opportunities Fund (TE) LLC; Platinum Partners Credit Opportunities Fund LLC; Platinum Partners Credit Opportunity Fund (BL) LLC; Platinum Partners Credit Opportunities Fund International Ltd; Platinum Partners

Credit Opportunities Fund International (A) Ltd; Platinum Credit Management LLC; Platinum Credit Holdings LLC; Platinum Liquid Opportunity Management (NY) LLC; Platinum Partners Liquid Opportunity Fund (USA) L.P.; Platinum Liquid Opportunity GP LLC; Platinum Partners Liquid Opportunity Fund (International) Ltd.; Platinum Partners Liquid Opportunity Intermediate Fund L.P.; Platinum Partners Liquid Opportunity Master Fund L.P.; and Platinum Management (NY) LLC (the “Receivership Entities”); to (i) preserve the status quo, (ii) ascertain the extent of commingling of funds among the Receivership Entities; (iii) ascertain the true financial condition of the Receivership Entities and the disposition of investor funds; (iv) prevent further dissipation of the property and assets of the Receivership Entities; (v) prevent the encumbrance or disposal of property or assets of the Receivership Entities; (vi) preserve the books, records and documents of the Receivership Entities; (vii) be available to respond to investor inquiries; (viii) protect investors’ assets; (ix) conduct an orderly wind down including a responsible liquidation of assets and orderly and fair distribution of those assets to investors; and (x) determine whether one or more of the Receivership Entities should undertake bankruptcy filings.

WHEREAS the Court has subject matter jurisdiction over this action and personal jurisdiction over the Receivership Entities, and venue properly lies in this district.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of the Receivership Entities (the “Receivership Assets”).
2. Until further Order of this Court, _____ is hereby appointed to serve without bond as substitute receiver (the “Receiver”) for the receivership estate of the Receivership Entities (the “Receivership Estate”).

I. General Powers and Duties of Receiver

3. The Receiver shall have all powers, authorities, rights and privileges heretofore possessed by the officers, directors, managers, managing members, and general and limited partners of the Receivership Entities under applicable state and federal law, by the governing charters, by-laws, articles and/or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed.R.Civ.P. 66.

4. All officers, directors, managing members, general and limited partners of the Receivership Entities are hereby dismissed from any and all positions of management of the Receivership Entities, and the powers of any officers, directors, managing members, general and limited partners of the Receivership Entities, are hereby subject to the authority and discretion of the Receiver. The Receiver shall assume and control the operation of the Receivership Entities and shall pursue and preserve all of the Receivership Entities' claims.

5. No person holding or claiming any position of any sort with any of the Receivership Entities shall possess any authority to act by or on behalf of any of the Receivership Entities except as may be authorized or delegated by the Receiver.

6. Subject to the specific provisions in this Order, the Receiver shall have the following general powers and duties:

A. To use reasonable efforts to determine the nature, location and value of all property interests of the Receivership Entities, including, but not limited to, monies, funds, securities, credits, effects, goods, chattels, lands, premises, leases, claims, rights and other assets, together with all rents, profits, dividends, interest or other income attributable thereto, of whatever kind, which the Receivership Entities own, possess, have

a beneficial interest in, or control directly or indirectly (“Receivership Property”);

B. To take custody, control and possession of all Receivership Property and records relevant thereto from the Receivership Entities; to sue for and collect, recover, receive and take into possession from third parties all Receivership Property and records relevant thereto;

C. To manage, control, operate and maintain the Receivership Entities and hold in the Receiver’s possession, custody and control all Receivership Property, pending further Order of this Court;

D. To use Receivership Property for the benefit of the Receivership Estate, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging the Receiver’s duties as Receiver;

E. To take any action which, prior to the entry of this Order, could have been taken by the officers, directors, managers, managing members, and general and limited partners, and agents of the Receivership Entities;

F. To engage and employ persons in the Receiver’s discretion to assist the Receiver in carrying out the Receiver’s duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, registered representatives, financial or business advisers, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers, subject to Court approval;

G. To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property;

H. To issue subpoenas for documents and testimony consistent with the Federal Rules

of Civil Procedure and Court orders;

I. To investigate transactions by and among Receivership Entities, defendants, and any other persons and entities.

J. To bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging the Receiver's duties as Receiver;

K. To pursue, resist and defend all suits, actions, claims and demands which may now be pending or which may be brought by or asserted against the Receivership Estate; and,

L. To take such other action as may be approved by this Court.

II. Access to Information

7. The Receivership Entities and the Receivership Entities' past and/or present officers, directors, managers, managing members, general and limited partners, agents, attorneys, accountants and employees, as well as those acting in their place, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Entities and/or all Receivership Property; such information shall include but not be limited to books, records, documents, accounts and all other instruments and papers.

8. The Receivership Entities and the Receivership Entities' past and/or present officers, directors, agents, managers, managing members, general and limited partners, attorneys, employees, and accountants, shall cooperate with the Receiver and produce all documents as may be required by the Receiver regarding the business of the Receivership Entities, or any other matter relevant to the operation or administration of the receivership or the collection of funds

due to the Receivership Entities.

III. Access to Books, Records and Accounts

9. The Receiver is authorized to take immediate possession of all assets, bank accounts or other financial accounts, books and records and all other documents or instruments relating to the Receivership Entities. All persons and entities having control, custody or possession of any Receivership Property are hereby directed to turn such property over to the Receiver.

10. The Receivership Entities, as well as their past and/or present officers, directors, agents, managers, managing members, general and limited partners, attorneys, employees, and accountants, any persons acting for or on behalf of the Receivership Entities, and any persons receiving notice of this Order by personal service, facsimile transmission or otherwise, having possession of the property, business, books, records, accounts or assets of the Receivership Entities are hereby directed to deliver the same to the Receiver, the Receiver's agents and/or employees.

11. All banks, brokerage firms, financial institutions, and other persons or entities which have possession, custody or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, of the Receivership Entities that receive actual notice of this Order by personal service, facsimile transmission or otherwise shall:

- A. Not liquidate, transfer, sell, convey or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Entities except upon instructions from the Receiver;
- B. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control

without the permission of this Court; and

- C. Cooperate expeditiously in providing information and transferring funds, assets and accounts to the Receiver or at the direction of the Receiver.

IV. Access to Real and Personal Property

12. The Receiver is authorized to take immediate possession of all personal property of the Receivership Entities, wherever located, including but not limited to electronically stored information, computers, laptops, hard drives, external storage drives, and any other such memory, media or electronic storage devices, books, papers, data processing records, evidence of indebtedness, bank records and accounts, savings records and accounts, brokerage records and accounts, certificates of deposit, stocks, bonds, debentures, and other securities and investments, contracts, mortgages, furniture, office supplies and equipment.

13. The Receiver is authorized to take immediate possession of all real property of the Receivership Entities, wherever located, including but not limited to all ownership and leasehold interests and fixtures. Upon receiving actual notice of this Order by personal service, facsimile transmission or otherwise, all persons other than law enforcement officials acting within the course and scope of their official duties, are (without the express written permission of the Receiver) prohibited from: (a) entering such premises; (b) removing anything from such premises; or, (c) destroying, concealing or erasing anything on such premises.

14. In order to execute the express and implied terms of this Order, the Receiver is authorized to change door locks to the premises described above. The Receiver shall have exclusive control of the keys and all other means of access to the real property. The Receivership Entities, or any other person acting or purporting to act on their behalf, are ordered not to change the locks in any manner, nor to have duplicate keys or other means of access made,

nor shall they have keys or other means of access in their possession during the term of the receivership except as authorized by the Receiver.

15. The Receiver is authorized to open all mail directed to or received by or at the offices or post office boxes of the Receivership Entities, and to inspect all mail opened prior to the entry of this Order, to determine whether items or information therein fall within the mandates of this Order.

V. Notice to Third Parties

16. The Receiver shall promptly give notice of the Receiver's appointment to all known persons and entities including past and present officers, directors, managers, managing members, general and limited partners, agents, attorneys, accountants, and employees of the Receivership Entities, as the Receiver deems necessary or advisable to effectuate the operation of the receivership.

17. All persons and entities owing any obligation, debt, or distribution with respect to an ownership interest to any Receivership Entities shall, until further ordered by this Court, pay all such obligations in accordance with the terms thereof to the Receiver and its receipt for such payments shall have the same force and effect as if the Receivership Entities had received such payment.

18. In furtherance of the Receiver's responsibilities in this matter, the Receiver is authorized to communicate with, and/or serve this Order upon, any person, entity or government office that he deems appropriate to inform them of the status of this matter and/or the financial condition of the Receivership Estate. All government offices which maintain public files of security interests in real and personal property shall, consistent with such office's applicable procedures, record this Order upon the request of the Receiver or the SEC.

19. The Receiver is authorized to instruct the United States Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the business, operations or activities of any of the Receivership Entities (the “Receiver’s Mail”), including all mail addressed to, or for the benefit of, the Receivership Entities. The Postmaster shall not comply with, and shall immediately report to the Receiver, any change of address or other instruction given by anyone other than the Receiver concerning the Receiver’s Mail. The Receivership Entities shall not open any of the Receiver’s Mail and shall immediately turn over such mail, regardless of when received, to the Receiver. All personal mail of any individuals, and/or any mail appearing to contain privileged information, and/or any mail not falling within the mandate of the Receiver, shall be released to the named addressee by the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private mail box, depository, business or service, or mail courier or delivery service, hired, rented or used by the Receivership Entities. The Receivership Entities shall not open a new mailbox, or take any steps or make any arrangements to receive mail in contravention of this Order, whether through the U.S. mail, a private mail depository or courier service.

20. Subject to payment for services provided, any entity furnishing water, electric, telephone, sewage, garbage, trash removal, and any other services to the Receivership Entities shall maintain such service and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver.

VI. Injunction Against Interference with Receiver

21. The Receivership Entities and all persons receiving notice of this Order by personal service, facsimile or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written

agreement of the Receiver, that would:

- A. Interfere with the Receiver's efforts to take control, possession, or management of any Receivership Property; such prohibited actions include but are not limited to, using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property;
 - B. Hinder, obstruct or otherwise interfere with the Receiver in the performance of the Receiver's duties; such prohibited actions include but are not limited to, concealing, destroying or altering records or information;
 - C. Dissipate or otherwise diminish the value of any Receivership Property; such prohibited actions include but are not limited to, releasing claims or disposing, transferring, exchanging, assigning or in any way conveying any Receivership Property, enforcing judgments, assessments or claims against any Receivership Property or any Receivership Entities, attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement or other agreement executed by any Receivership Entity or which otherwise affects any Receivership Property; or,
 - D. Interfere with or harass the Receiver, or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estate.
22. The Receiver shall promptly notify the Court and SEC counsel of any failure or apparent failure of any person or entity to comply in any way with the terms of this Order.

VII. Stay of Litigation

23. As set forth in detail below, the following proceedings, *excluding* (i) the instant proceeding, (ii) all police or regulatory actions and actions of the Commission related to the above-captioned enforcement action, and for the avoidance of doubt, (iii) Cause No: FSD 118/2016 (NAS) and Cause No: FSD 131 of 2016 (AJJ) pending before the Grand Court of the Cayman Islands, and (iv) the bankruptcy cases *In re Platinum Partners Value Arbitrage Fund L.P.*, 16-12925 (Bankr. S.D.N.Y.) and *In re Platinum Partners Value Arbitrage Fund International Ltd.*, 16-12934 (Bankr. S.D.N.Y.), are stayed until further Order of this Court:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, in the Receiver's capacity as Receiver; (b) any Receivership Property, wherever located; (c) any of the Receivership Entities; or, (d) any of the Receivership Entities' past or present officers, directors, managers, managing members, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity of any nature, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as "Ancillary Proceedings").

24. The parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding, or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance or employment of process.

25. All Ancillary Proceedings are stayed in their entirety, and all courts having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court. Further, as to a cause of action accrued or accruing in favor of one or more of the

Receivership Entities against a third person or party, any applicable statute of limitation is tolled during the period in which this injunction against commencement of legal proceedings is in effect as to that cause of action.

VIII. Managing Assets

26. The Receiver shall at all times administer Receivership Property with the care and diligence that an ordinary prudent individual would use in handling such person's own estate.¹

27. The Receiver may, without further Order of this Court, pay expenses that arise in the ordinary course of the Receivership Entities' orderly liquidation, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate.

28. As soon as is practicable, the Receiver shall provide the SEC staff and submit for Court approval a budget for the subsequent six-month period of the Receivership's liquidation, and shall continue to prepare and submit for Court approval budgets for such periods that are appropriate under the facts and circumstances of the case until the close of the case.

29. The Receiver may engage in transactions outside of the ordinary course of business of the Receivership Entities' liquidation only upon submission of such transactions for review and comment by the SEC staff and upon motion and approval of the Court. For purposes of this paragraph, a transaction outside of the ordinary course of business is any transaction that involves Receivership Property whose valuation is \$1 million or more. The Receiver shall submit for SEC staff review all transactions involving Receivership Property whose valuation is less than \$1 million and shall submit any such transaction for Court approval if so requested by the SEC staff.

30. The Receiver is authorized to take all actions to manage, maintain, and/or wind-

¹ See, e.g., *SEC v. Kirkland*, 2012 U.S. Dist. LEXIS 126739 at *6 (S.D. Fla., Aug. 1, 2012); *Fleet Nat'l Bank v. H & D Entertainment*, 926 F. Supp. 226, 240 n.51 (D. Mass. 1996), aff'd, 96 F.3d 532 (1st Cir. 1996).

down business operations of the Receivership Estate, including making legally required payments to creditors, employees, and agents of the Receivership Estate and communicating with vendors, investors, governmental and regulatory authorities, and others, as appropriate and necessary for the orderly liquidation of the Receivership Property consistent with 28 U.S.C. §959.

31. The Receiver shall take all necessary steps to enable the Receivership Funds to obtain and maintain the status of a taxable “Settlement Fund,” within the meaning of Section 468B of the Internal Revenue Code and of the regulations.

IX. Investigate and Prosecute Claims

32. Subject to the requirement, in Section VII above, that leave of this Court is required to resume or commence certain litigation, the Receiver is authorized, empowered and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, and/or adjust actions in any state, federal or foreign court or proceeding of any kind as may in the Receiver’s discretion, and in consultation with SEC counsel, be advisable or proper to recover and/or conserve Receivership Property.

33. Subject to the Receiver’s obligation to expend Receivership funds in a reasonable and cost-effective manner, the Receiver is authorized, empowered and directed to investigate the manner in which the financial and business affairs of the Receivership Entities were conducted and (after obtaining leave of this Court) to institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Estate, as the Receiver deems necessary and appropriate, the Receiver may seek, among other legal and equitable relief, the imposition of constructive trusts, disgorgement of profits and fees, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection of debts, and such other relief from

this Court as may be necessary to enforce this Order.

34. The Receiver hereby holds, and is therefore empowered to waive, all privileges, including the attorney-client privilege, held by all Receivership Entities.

X. Bankruptcy Filing

35. The Receiver may seek authorization of this Court to file voluntary petitions for relief under Title 11 of the United States Code (the “Bankruptcy Code”) for any or all of the Receivership Entities upon consultation with the SEC staff. If a Receivership Entity is placed in bankruptcy proceedings, the Receiver may become, and may be empowered to operate each of the Receivership Estate as, a debtor in possession. In such a situation, the Receiver shall have all of the powers and duties as provided a debtor in possession under the Bankruptcy Code to the exclusion of any other person or entity. Pursuant to Paragraph 3 above, the Receiver is vested with management authority for all entity Receivership Entities and may therefore file and manage a Chapter 11 petition. *See, In re Bayou Group, LLC*, 564 F.3d 541, 548-49 (2nd Cir. 2009).

36. The provisions of Section VII above bar any person or entity, other than the Receiver, from placing any of the Receivership Entities in bankruptcy proceedings.

XI. Liability of Receiver

37. The Receiver has a continuing duty to ensure that there are no conflicts of interest between the Receiver, the Receiver’s Retained Personnel (as that term is defined below), and the Receivership Estate.

38. Until further Order of this Court, the Receiver shall not be required to post bond or give an undertaking of any type in connection with the Receiver’s fiduciary obligations in this matter.

39. The Receiver and the Receiver's agents, acting within scope of such agency ("Retained Personnel") are entitled to rely on all outstanding rules of law and Orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel.

40. The Receiver and the Receiver's advisers and agents shall be indemnified by each of the Receivership Entities except for gross negligence, willful misconduct, fraud, or breach of fiduciary duty determined by a final order no longer subject to appeal, for all judgments, costs, reasonable expenses including legal fees (which shall be paid under the indemnity after court approval as they arise), arising from or related to any and all claims of whatsoever type brought against any of them in their capacities as Receiver or advisers or agents of the Receiver; provided, however, that nothing herein shall limit the immunity of the Receiver and the Receiver's advisers and agents allowed by law or deprive the Receiver or the Receiver's advisers and agents of indemnity for any act or omission for which they have immunity.

41. This Court shall retain jurisdiction over any action filed against the Receiver or Retained Personnel based upon acts or omissions committed in their representative capacities.

42. In the event the Receiver decides to resign, the Receiver shall first give written notice to the Commission's counsel of record and the Court of its intention, and the resignation shall not be effective until the Court appoints a successor. The Receiver shall then follow such instructions as the Court may provide.

XII. Recommendations and Reports

43. The Receiver is authorized, empowered and directed to develop, upon consultation with the SEC staff, either a joint or separate plan for the fair, reasonable, and efficient recovery and liquidation and distribution of all remaining, recovered, and recoverable Receivership Property (the “Liquidation Plan”).

44. Within forty-five (45) days after the entry of this Order, the Receiver shall file and serve a full report and accounting of each Receivership Estate (the “First Status Report”), reflecting (to the best of the Receiver’s knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estate.

45. The Quarterly Status Report shall contain the following:

- A. A summary of the operations of the Receiver;
- B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;
- C. A schedule of all the Receiver’s receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the receivership;
- D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;
- E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources;

approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments);

- F. A summary of the status of the Receiver's investigation of the transactions by and among the Receivership Entities;
- G. A list of all known investors and creditors and the amount of their investments and claims, as applicable, redacted to exclude personally identifiable information;
- H. The status of investor and creditor claims proceedings, after such proceedings have been commenced; and,
- I. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.
- J. Any other information that the Receiver reasonably deems appropriate to include in the First Status Report.

46. Subsequent to the filing of the First Status Report, the Receiver shall file a quarterly status report (the "Quarterly Status Report") containing the same information set forth in the First Status Report. The Quarterly Status Report shall be filed within twenty (20) days of the end of each quarter, except that, the first Quarterly Status Report shall be filed upon the passing of the first full quarter after the First Status Report is filed.

47. On the request of the Commission, the Receiver shall provide the Commission with any documentation that the Commission deems necessary to meet its reporting requirements, that is mandated by statute or Congress, or that is otherwise necessary to further the Commission's mission.

XIII. Fees, Expenses and Accountings

48. Subject to the specific provisions of this Order, the Receiver need not obtain Court approval prior to the disbursement of Receivership Funds for expenses in the ordinary course of the liquidation of the Receivership Estate.

49. Subject to the specific provisions of this Order, the Receiver is authorized to solicit persons and entities (“Retained Personnel”) to assist the Receiver in carrying out the duties and responsibilities described in this Order. The Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement. For the avoidance of doubt, the term “Retained Personnel” shall include any professionals retained to provide services to the Receivership Estate as a whole, and any counsel retained for any purpose. The term “Retained Personnel” shall not include persons retained by the Receiver for the purpose of assisting the Receiver in evaluating a specific Receivership Property whose fee is under \$50,000, subject to consultation with the SEC staff.

50. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estate as described in the “Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission” (the “Billing Instructions”) agreed to by the Receiver. Such compensation shall require the prior approval of the Court.

51. Within forty-five (45) days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply to the Court for compensation and expense reimbursement from the Receivership Estate (the “Quarterly Fee Applications”). At least thirty (30) days prior to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the SEC a complete copy of the proposed Application, together with all exhibits and relevant billing

information in a format to be provided by SEC staff.

52. All Quarterly Fee Applications will be interim and will be subject to cost benefit and final reviews at the close of the receivership. Such cost benefit review may include an evaluation of the results achieved in relation to the costs associated with any particular Receivership Asset. At the close of the receivership, the Receiver will file a final fee application, describing in detail the costs and benefits associated with all litigation and other actions pursued by the Receiver during the course of the receivership.

53. Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court in the SEC staff's discretion or such other percentage holdback as the Court may order on its own motion or on the request of the SEC. The total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership.

54. Each Quarterly Fee Application shall:

- A. Comply with the terms of the Billing Instructions agreed to by the Receiver; and
- B. Contain representations (in addition to the Certification required by the Billing Instructions) that: (i) the fees and expenses included therein were incurred in the best interests of the Receivership Estate; and, (ii) with the exception of the Billing Instructions, the Receiver has not entered into any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

55. At the close of the Receivership, the Receiver shall submit a Final Accounting, in

a format to be provided by SEC staff, as well as the Receiver's final application for compensation and expense reimbursement.

SO ORDERED.

Dated: Brooklyn, NY
 , 2017

Chief United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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WHEREAS the Court finds that, based on the record in these proceedings, the appointment of a substitute receiver in this action is necessary and appropriate for the purposes of marshaling and preserving all assets of Platinum Credit Management, L.P.; Platinum Partners Credit Opportunities Master Fund LP; Platinum Partners Credit Opportunities Fund (TE) LLC; Platinum Partners Credit Opportunities Fund LLC; Platinum Partners Credit Opportunity Fund (BL) LLC; Platinum Partners Credit Opportunities Fund International Ltd; Platinum Partners

Credit Opportunities Fund International (A) Ltd; Platinum Credit Management LLC; Platinum Credit Holdings LLC; Platinum Liquid Opportunity Management (NY) LLC; and Platinum Partners Liquid Opportunity Fund (USA) L.P. ~~“;~~ Platinum Liquid Opportunity GP LLC; Platinum Partners Liquid Opportunity Fund (International) Ltd.; Platinum Partners Liquid Opportunity Intermediate Fund L.P.; Platinum Partners Liquid Opportunity Master Fund L.P.; and Platinum Management (NY) LLC (the “Receivership Entities”); to (i) preserve the status quo, (ii) ascertain the extent of commingling of funds among the Receivership Entities; (iii) ascertain the true financial condition of the Receivership Entities and the disposition of investor funds; (iv) prevent further dissipation of the property and assets of the Receivership Entities; (v) prevent the encumbrance or disposal of property or assets of the Receivership Entities; (vi) preserve the books, records and documents of the Receivership Entities; (vii) be available to respond to investor inquiries; (viii) protect investors’ assets; (ix) conduct an orderly wind down including a responsible liquidation of assets and orderly and fair distribution of those assets to investors; and (x) determine whether one or more of the Receivership Entities should undertake bankruptcy filings.

WHEREAS the Court has subject matter jurisdiction over this action and personal jurisdiction over the Receivership Entities, and venue properly lies in this district.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Court hereby takes exclusive jurisdiction and possession of the assets, of whatever kind and wherever situated, of the Receivership Entities (the “Receivership Assets”).

2. Until further Order of this Court, ~~Bart~~ Schwartz _____ is hereby appointed to serve without bond as substitute receiver (the “Receiver”) for the receivership estate of the Receivership Entities (the

“Receivership Estate”).

I. General Powers and Duties of Receiver

3. The Receiver shall have all powers, authorities, rights and privileges heretofore possessed by the officers, directors, managers, managing members, and general and limited partners of the Receivership Entities under applicable state and federal law, by the governing charters, by-laws, articles and/or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959 and 1692, and Fed.R.Civ.P. 66.

4. All officers, directors, managing members, general and limited partners of the Receivership Entities are hereby dismissed from any and all positions of management of the Receivership Entities, and the powers of any officers, directors, managing members, general and limited partners of the Receivership Entities, are hereby subject to the authority and discretion of the Receiver. The Receiver shall assume and control the operation of the Receivership Entities and shall pursue and preserve all of the Receivership Entities' claims.

5. No person holding or claiming any position of any sort with any of the Receivership Entities shall possess any authority to act by or on behalf of any of the Receivership Entities except as may be authorized or delegated by the Receiver.

6. Subject to the specific provisions in this Order, the Receiver shall have the following general powers and duties:

A. To use reasonable efforts to determine the nature, location and value of all property interests of the Receivership Entities, including, but not limited to, monies, funds, securities, credits, effects, goods, chattels, lands, premises, leases, claims, rights and other assets, together with all rents, profits, dividends, interest or other income

attributable thereto, of whatever kind, which the Receivership Entities own, possess, have a beneficial interest in, or control directly or indirectly (“Receivership Property”);

B. To take custody, control and possession of all Receivership Property and records relevant thereto from the Receivership Entities; to sue for and collect, recover, receive and take into possession from third parties all Receivership Property and records relevant thereto;

C. To manage, control, operate and maintain the Receivership Entities and hold in the Receiver’s possession, custody and control all Receivership Property, pending further Order of this Court;

D. To use Receivership Property for the benefit of the Receivership Estate, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging the Receiver’s duties as Receiver;

E. To take any action which, prior to the entry of this Order, could have been taken by the officers, directors, managers, managing members, and general and limited partners, and agents of the Receivership Entities;

F. To engage and employ persons in the Receiver’s discretion to assist the Receiver in carrying out the Receiver’s duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, registered representatives, financial or business advisers, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers, subject to Court approval;

G. To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property;

- H. To issue subpoenas for documents and testimony consistent with the Federal Rules of Civil Procedure and Court orders;
- I. To investigate transactions by and among Receivership Entities, defendants, and any other persons and entities.
- J. To bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging the Receiver's duties as Receiver;
- K. To pursue, resist and defend all suits, actions, claims and demands which may now be pending or which may be brought by or asserted against the Receivership Estate; and,
- L. To take such other action as may be approved by this Court.

II. Access to Information

7. The Receivership Entities and the Receivership Entities' ~~and the~~ past and/or present officers, directors, managers, managing members, general and limited partners, agents, attorneys, accountants and employees ~~of the Receivership Entities~~, as well as those acting in their place, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Entities and/or all Receivership Property; such information shall include but not be limited to books, records, documents, accounts and all other instruments and papers.

~~8. Within five (5) days of the entry of this Order, the Receivership Entities shall serve upon the Receiver and the Commission a sworn statement, listing: (a) all employees (and job titles thereof), other personnel, attorneys, accountants and any other agents or contractors of the Receivership Entities; and, (c) the names, addresses and amounts of investments of all known~~

~~investors of the Receivership Entities.~~

~~9. Within five (5) days of the entry of this Order, Receivership Entities shall provide to the Receiver and the Commission copies of Receivership Entities' federal income tax returns with all relevant and necessary underlying documentation.~~

~~10.8.~~ The Receivership Entities and the Receivership Entities' past and/or present officers, directors, agents, managers, managing members, general and limited partners, attorneys, employees, and accountants, shall cooperate with the Receiver and produce all documents as may be required by the Receiver regarding the business of the Receivership Entities, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Entities.

III. Access to Books, Records and Accounts

~~11.9.~~ The Receiver is authorized to take immediate possession of all assets, bank accounts or other financial accounts, books and records and all other documents or instruments relating to the Receivership Entities. All persons and entities having control, custody or possession of any Receivership Property are hereby directed to turn such property over to the Receiver.

~~12.10.~~ The Receivership Entities, as well as their past and/or present officers, directors, agents, managers, managing members, general and limited partners, attorneys, employees, and accountants, any persons acting for or on behalf of the Receivership Entities, and any persons receiving notice of this Order by personal service, facsimile transmission or otherwise, having possession of the property, business, books, records, accounts or assets of the Receivership Entities are hereby directed to deliver the same to the Receiver, the Receiver's agents and/or employees.

~~13.11.~~ All banks, brokerage firms, financial institutions, and other persons or entities which have possession, custody or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, of the Receivership Entities that receive actual notice of this Order by personal service, facsimile transmission or otherwise shall:

- A. Not liquidate, transfer, sell, convey or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Entities except upon instructions from the Receiver;
- B. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court; and
- C. Cooperate expeditiously in providing information and transferring funds, assets and accounts to the Receiver or at the direction of the Receiver.

IV. Access to Real and Personal Property

~~14.12.~~ The Receiver is authorized to take immediate possession of all personal property of the Receivership Entities, wherever located, including but not limited to electronically stored information, computers, laptops, hard drives, external storage drives, and any other such memory, media or electronic storage devices, books, papers, data processing records, evidence of indebtedness, bank records and accounts, savings records and accounts, brokerage records and accounts, certificates of deposit, stocks, bonds, debentures, and other securities and investments, contracts, mortgages, furniture, office supplies and equipment.

~~15.13.~~ The Receiver is authorized to take immediate possession of all real property of the Receivership Entities, wherever located, including but not limited to all ownership and leasehold interests and fixtures. Upon receiving actual notice of this Order by personal service, facsimile

transmission or otherwise, all persons other than law enforcement officials acting within the course and scope of their official duties, are (without the express written permission of the Receiver) prohibited from: (a) entering such premises; (b) removing anything from such premises; or, (c) destroying, concealing or erasing anything on such premises.

~~16.14.~~ In order to execute the express and implied terms of this Order, the Receiver is authorized to change door locks to the premises described above. The Receiver shall have exclusive control of the keys and all other means of access to the real property. The Receivership Entities, or any other person acting or purporting to act on their behalf, are ordered not to change the locks in any manner, nor to have duplicate keys or other means of access made, nor shall they have keys or other means of access in their possession during the term of the receivership except as authorized by the Receiver.

~~17.15.~~ The Receiver is authorized to open all mail directed to or received by or at the offices or post office boxes of the Receivership Entities, and to inspect all mail opened prior to the entry of this Order, to determine whether items or information therein fall within the mandates of this Order.

V. Notice to Third Parties

~~18.16.~~ The Receiver shall promptly give notice of the Receiver's appointment to all known persons and entities including past and present officers, directors, managers, managing members, general and limited partners, agents, attorneys, accountants, and employees of the Receivership Entities, as the Receiver deems necessary or advisable to effectuate the operation of the receivership.

~~19.17.~~ All persons and entities owing any obligation, debt, or distribution with respect to an ownership interest to any Receivership Entities shall, until further ordered by this Court, pay

all such obligations in accordance with the terms thereof to the Receiver and its receipt for such payments shall have the same force and effect as if the Receivership Entities had received such payment.

20.18. In furtherance of the Receiver's responsibilities in this matter, the Receiver is authorized to communicate with, and/or serve this Order upon, any person, entity or government office that he deems appropriate to inform them of the status of this matter and/or the financial condition of the Receivership Estate. All government offices which maintain public files of security interests in real and personal property shall, consistent with such office's applicable procedures, record this Order upon the request of the Receiver or the SEC.

21.19. The Receiver is authorized to instruct the United States Postmaster to hold and/or reroute mail which is related, directly or indirectly, to the business, operations or activities of any of the Receivership Entities (the "Receiver's Mail"), including all mail addressed to, or for the benefit of, the Receivership Entities. The Postmaster shall not comply with, and shall immediately report to the Receiver, any change of address or other instruction given by anyone other than the Receiver concerning the Receiver's Mail. The Receivership Entities shall not open any of the Receiver's Mail and shall immediately turn over such mail, regardless of when received, to the Receiver. All personal mail of any individuals, and/or any mail appearing to contain privileged information, and/or any mail not falling within the mandate of the Receiver, shall be released to the named addressee by the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private mail box, depository, business or service, or mail courier or delivery service, hired, rented or used by the Receivership Entities. The Receivership Entities shall not open a new mailbox, or take any steps or make any arrangements to receive mail in contravention of this Order, whether through the U.S. mail, a

private mail depository or courier service.

~~22.20.~~ Subject to payment for services provided, any entity furnishing water, electric, telephone, sewage, garbage, trash removal, and any other services to the Receivership Entities shall maintain such service and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver.

VI. Injunction Against Interference with Receiver

~~23.21.~~ The Receivership Entities and all persons receiving notice of this Order by personal service, facsimile or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, ~~whieh~~that would:

- A. Interfere with the Receiver's efforts to take control, possession, or management of any Receivership Property; such prohibited actions include but are not limited to, using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property;
- B. Hinder, obstruct or otherwise interfere with the Receiver in the performance of the Receiver's duties; such prohibited actions include but are not limited to, concealing, destroying or ~~—~~altering records or information;
- C. Dissipate or otherwise diminish the value of any Receivership Property; such prohibited actions include but are not limited to, releasing claims or disposing, transferring, exchanging, assigning or in any way conveying any Receivership

Property, enforcing judgments, assessments or claims against any Receivership Property or any Receivership Entities, attempting to modify, cancel, terminate, call, extinguish, revoke or accelerate (the due date), of any lease, loan, mortgage, indebtedness, security agreement or other agreement executed by any Receivership Entity or which otherwise affects any Receivership Property; or,

D. Interfere with or harass the Receiver, or interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estate.

~~24.22.~~ The Receiver shall promptly notify the Court and SEC counsel of any failure or apparent failure of any person or entity to comply in any way with the terms of this Order.

VII. Stay of Litigation

~~25.23.~~ As set forth in detail below, the following proceedings, *excluding* (i) the instant proceeding, (ii) all police or regulatory actions and actions of the Commission related to the above-captioned enforcement action, and for the avoidance of doubt, (iii) Cause No: FSD 118/2016 (NAS) and Cause No: FSD 131 of 2016 (AJJ) pending before the Grand Court of the Cayman Islands, and (iv) the bankruptcy cases *In re Platinum Partners Value Arbitrage Fund L.P.*, 16-12925 (Bankr. S.D.N.Y.) and *In re Platinum Partners Value Arbitrage Fund International Ltd.*, 16-12934 (Bankr. S.D.N.Y.), are stayed until further Order of this Court:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, in the Receiver's capacity as Receiver; (b) any Receivership Property, wherever located; (c) any of the Receivership Entities; or, (d) any of the Receivership Entities' past or present officers, directors, managers,

managing members, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity of any nature, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as “Ancillary Proceedings”).

~~26.24.~~ The parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding, or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance or employment of process.

~~27.25.~~ All Ancillary Proceedings are stayed in their entirety, and all courts having any jurisdiction thereof are enjoined from taking or permitting any action until further Order of this Court. Further, as to a cause of action accrued or accruing in favor of one or more of the Receivership Entities against a third person or party, any applicable statute of limitation is tolled during the period in which this injunction against commencement of legal proceedings is in effect as to that cause of action.

VIII. Managing Assets

~~26.~~ The Receiver shall at all times administer Receivership Property with the care and diligence that an ordinary prudent individual would use in handling such person’s own estate.¹

~~28.27.~~ The Receiver may, without further Order of this Court, ~~transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, pay expenses that arise in~~ the ordinary course of ~~business~~ the Receivership Entities’ orderly liquidation, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, ~~and with due regard to the realization of the true and proper value of such Receivership Property.~~

~~29.~~ ~~Subject to the specific provisions of this order, the Receiver is authorized to~~

¹ See, e.g., *SEC v. Kirkland*, 2012 U.S. Dist. LEXIS 126739 at *6 (S.D. Fla., Aug. 1, 2012); *Fleet Nat’l Bank v. H & D Entertainment*, 926 F. Supp. 226, 240 n.51 (D. Mass. 1996), aff’d, 96 F.3d 532 (1st Cir. 1996).

~~locate, list for sale or lease, engage a broker for sale or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the Receivership Estate, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such real property.~~

~~30. — Upon further Order of this Court, pursuant to such procedures as may be required by this Court and additional authority such as 28 U.S.C. §§ 2001 and 2004, the Receiver will be authorized to sell, and transfer clear title to, all real property in the Receivership Estate.~~

28. As soon as is practicable, the Receiver shall provide the SEC staff and submit for Court approval a budget for the subsequent six-month period of the Receivership's liquidation, and shall continue to prepare and submit for Court approval budgets for such periods that are appropriate under the facts and circumstances of the case until the close of the case.

29. The Receiver may engage in transactions outside of the ordinary course of business of the Receivership Entities' liquidation only upon submission of such transactions for review and comment by the SEC staff and upon motion and approval of the Court. For purposes of this paragraph, a transaction outside of the ordinary course of business is any transaction that involves Receivership Property whose valuation is \$1 million or more. The Receiver shall submit for SEC staff review all transactions involving Receivership Property whose valuation is less than \$1 million and shall submit any such transaction for Court approval if so requested by the SEC staff.

~~31.~~30. The Receiver is authorized to take all actions to manage, maintain, and/or wind-down business operations of the Receivership Estate, including making legally required payments to creditors, employees, and agents of the Receivership Estate and communicating

with vendors, investors, governmental and regulatory authorities, and others, as appropriate and necessary for the orderly liquidation of the Receivership Property consistent with 28 U.S.C. §959.

~~32.~~31. The Receiver shall take all necessary steps to enable the Receivership Funds to obtain and maintain the status of a taxable “Settlement Fund,” within the meaning of Section 468B of the Internal Revenue Code and of the regulations.

IX. Investigate and Prosecute Claims

~~33.~~32. Subject to the requirement, in Section VII above, that leave of this Court is required to resume or commence certain litigation, the Receiver is authorized, empowered and directed to investigate, prosecute, defend, intervene in or otherwise participate in, compromise, and/or adjust actions in any state, federal or foreign court or proceeding of any kind as may in the Receiver’s discretion, and in consultation with SEC counsel, be advisable or proper to recover and/or conserve Receivership Property.

~~34.~~33. Subject to the Receiver’s obligation to expend ~~receivership~~Receivership funds in a reasonable and cost-effective manner, the Receiver is authorized, empowered and directed to investigate the manner in which the financial and business affairs of the Receivership Entities were conducted and (after obtaining leave of this Court) to institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Estate, as the Receiver deems necessary and appropriate, the Receiver may seek, among other legal and equitable relief, the imposition of constructive trusts, disgorgement of profits and fees, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection of debts, and such other relief from this Court as may be necessary to enforce this Order.

~~35.~~34. The Receiver hereby holds, and is therefore empowered to waive, all privileges,

including the attorney-client privilege, held by all Receivership Entities.

X. Bankruptcy Filing

~~36.~~35. The Receiver may seek authorization of this Court to file voluntary petitions for relief under Title 11 of the United States Code (the “Bankruptcy Code”) for any or all of the Receivership Entities. upon consultation with the SEC staff. If a Receivership Entity is placed in bankruptcy proceedings, the Receiver may become, and may be empowered to operate each of the Receivership Estate as, a debtor in possession. In such a situation, the Receiver shall have all of the powers and duties as provided a debtor in possession under the Bankruptcy Code to the exclusion of any other person or entity. Pursuant to Paragraph 3 above, the Receiver is vested with management authority for all entity Receivership Entities and may therefore file and manage a Chapter 11 petition. *See, In re Bayou Group, LLC*, 564 F.3d 541, 548-49 (2nd Cir. 2009).

~~37.~~36. The provisions of Section VII above bar any person or entity, other than the Receiver, from placing any of the Receivership Entities in bankruptcy proceedings.

XI. Liability of Receiver

~~38.~~37. The ~~receiver~~Receiver has a continuing duty to ensure that there are no conflicts of interest between the Receiver, the Receiver’s Retained Personnel (as that term is defined below), and the Receivership Estate.

~~39.~~38. Until further Order of this Court, the Receiver shall not be required to post bond or give an undertaking of any type in connection with the Receiver’s fiduciary obligations in this matter.

~~40.~~39. The Receiver and the Receiver’s agents, acting within scope of such agency (“Retained Personnel”) are entitled to rely on all outstanding rules of law and Orders of this

Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel.

~~41.40.~~ The Receiver and the Receiver's advisers and agents shall be indemnified by each of the Receivership Entities except for gross negligence, willful misconduct, fraud, or breach of fiduciary duty determined by a final order no longer subject to appeal, for all judgments, costs, reasonable expenses including legal fees (which shall be paid under the indemnity after court approval as they arise), arising from or related to any and all claims of whatsoever type brought against any of them in their capacities as Receiver or advisers or agents of the Receiver; provided, however, that nothing herein shall limit the immunity of the Receiver and the Receiver's advisers and agents allowed by law or deprive the Receiver or the Receiver's advisers and agents of indemnity for any act or omission for which they have immunity.

~~42.41.~~ This Court shall retain jurisdiction over any action filed against the Receiver or Retained Personnel based upon acts or omissions committed in their representative capacities.

~~43.42.~~ In the event the Receiver decides to resign, the Receiver shall first give written notice to the Commission's counsel of record and the Court of its intention, and the resignation shall not be effective until the Court appoints a successor. The Receiver shall then follow such instructions as the Court may provide.

XII. Recommendations and Reports

~~44.43.~~ The Receiver is authorized, empowered and directed to develop, upon

consultation with the SEC staff, either a joint or separate plan for the fair, reasonable, and efficient recovery and liquidation and distribution of all remaining, recovered, and recoverable Receivership Property (the “Liquidation Plan”).

~~45.44.~~ Within ~~thirty (30)~~forty-five (45) days after the ~~endentry~~ of ~~each calendar quarter~~this Order, the Receiver shall file and serve a full report and accounting of each Receivership Estate (the “~~Quarterly~~First Status Report”), reflecting (to the best of the Receiver’s knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estate.

~~46.45.~~ The Quarterly Status Report shall contain the following:

- A. A summary of the operations of the Receiver;
- B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;
- C. A schedule of all the Receiver’s receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the receivership;
- D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;
- E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims

to judgment; and, (ii) collecting such judgments);

- F. A summary of the status of the Receiver's investigation of the transactions by and among the Receivership Entities;
- G. A list of all known investors and creditors and the amount of their investments and claims, as applicable, redacted to exclude personally identifiable information;
- H. The status of investor and creditor claims proceedings, after such proceedings have been commenced; and,
- I. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.

J. Any other information that the Receiver reasonably deems appropriate to include in the First Status Report.

46. Subsequent to the filing of the First Status Report, the Receiver shall file a quarterly status report (the "Quarterly Status Report") containing the same information set forth in the First Status Report. The Quarterly Status Report shall be filed within twenty (20) days of the end of each quarter, except that, the first Quarterly Status Report shall be filed upon the passing of the first full quarter after the First Status Report is filed.

47. On the request of the Commission, the Receiver shall provide the Commission with any documentation that the Commission deems necessary to meet its reporting requirements, that is mandated by statute or Congress, or that is otherwise necessary to further the Commission's mission.

XIII. Fees, Expenses and Accountings

48. Subject to the specific provisions of this Order, the Receiver need not obtain

Court approval prior to the disbursement of Receivership Funds for expenses in the ordinary course of the ~~administration and operation of the receivership. Further, prior Court approval is not required for payments of applicable federal, state or local taxes.~~ liquidation of the Receivership Estate.

49. Subject to the specific provisions of this Order, the Receiver is authorized to solicit persons and entities (“Retained Personnel”) to assist the Receiver in carrying out the duties and responsibilities described in this Order. The Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement. For the avoidance of doubt, the term “Retained Personnel” shall include any professionals retained to provide services to the Receivership Estate as a whole, and any counsel retained for any purpose. The term “Retained Personnel” shall not include persons retained by the Receiver for the purpose of assisting the Receiver in evaluating a specific Receivership Property whose fee is under \$50,000, subject to consultation with the SEC staff.

50. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estate as described in the “Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission” (the “Billing Instructions”) agreed to by the Receiver. Such compensation shall require the prior approval of the Court.

51. Within forty-five (45) days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply to the Court for compensation and expense reimbursement from the Receivership Estate (the “Quarterly Fee Applications”). At least thirty (30) days prior to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the SEC a complete copy of the proposed Application, together with all exhibits and relevant billing

information in a format to be provided by SEC staff.

52. All Quarterly Fee Applications will be interim and will be subject to cost benefit and final reviews at the close of the receivership. Such cost benefit review may include an evaluation of the results achieved in relation to the costs associated with any particular Receivership Asset. At the close of the receivership, the Receiver will file a final fee application, describing in detail the costs and benefits associated with all litigation and other actions pursued by the Receiver during the course of the receivership.

53. Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court in the SEC staff's discretion or such other percentage holdback as the Court may order. on its own motion or on the request of the SEC. The total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership.

54. Each Quarterly Fee Application shall:

- A. Comply with the terms of the Billing Instructions agreed to by the Receiver; and
- B. Contain representations (in addition to the Certification required by the Billing Instructions) that: (i) the fees and expenses included therein were incurred in the best interests of the Receivership Estate; and, (ii) with the exception of the Billing Instructions, the Receiver has not entered into any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

55. At the close of the Receivership, the Receiver shall submit a Final Accounting, in

a format to be provided by SEC staff, as well as the Receiver's final application for compensation and expense reimbursement.

SO ORDERED.

Dated: Brooklyn, NY
January _____, 2017

Chief United States District Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X	
SECURITIES AND EXCHANGE	:
COMMISSION,	:
	:
Plaintiff,	:
	:
-v-	:
	:
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.	:
-----X	

No. 16-cv-6848 (DLI)(VMS)

DECLARATION OF MELANIE L. CYGANOWSKI

I, Melanie L. Cyganowski, pursuant to 28 U.S.C. § 1746, hereby declare that the following is true to the best of my knowledge, information and belief:

1. I am a member of the law firm of Otterbourg P.C. (“Otterbourg”). Between March 1, 1993 and February 28, 2007, I served as a United States Bankruptcy Judge in the Eastern District of New York, and as Chief Judge between November 25, 2005 and February 28, 2007, at which time I retired from the Court at the end of my full term. My Curriculum Vitae is attached hereto as **Exhibit A**.

2. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein.

3. I make this declaration in support of the Application by the U.S. Securities & Exchange Commission (“SEC”) to Appoint me as the substitute Receiver.

4. Subject to the Court's approval, I will seek payment from the Receivership Estates for my services as Receiver based upon my customary hourly rate less a public service discount of twenty percent (20%) on the aggregate fees billed, and for reimbursement of all costs and expenses incurred in connection with this action, all subject to the "Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission" (the "SEC Receivership Billing Instructions").

5. As of January 1, 2017, my customary hourly billing rate is \$995. In the normal course of its business, Otterbourg revises its billing rates on an annual basis, typically in October of each year, and my hourly rate may change. Nonetheless, the twenty percent public service discount will always be applied to my fees in this case.

6. In addition to the hourly rates set forth above, there may be charges for costs and expenses that I, as Receiver, may reasonably incur, including non-local telephone calls, facsimile and other telecommunication charges, transportation, photocopying, delivery and messenger services, secretarial overtime charges and other disbursements. Any such charges would be billed in the same manner as Otterbourg bills our other clients for the same costs and expenses, subject to the SEC Receivership Billing Instructions.

7. In connection with my proposed appointment as Receiver, my firm and I have performed a computerized search of our records for the Defendants, their professionals, and other parties in interest based upon a review of the docket and information provided by the SEC to determine if any conflicts of interest would result from our appointment. Based upon this review, I respectfully represent that to the best of my knowledge, Otterbourg does not have any conflict of interest with any interested party in these cases, except that Otterbourg has the following connections:

(a) In 2014, I was retained by the Joint Official Liquidators (“JOLs”) of Platinum Partners Value Arbitrage Fund L.P. to serve as an expert in *In re ICP Strategic Credit Income Fund Ltd and In re ICP Strategic Credit Income Master Fund Ltd.*, (Grand Court of the Cayman Islands, Financial Services Division) (Cause Nos. FSD 82 & 269 of 2010 (AJJ)), in which the JOLs were then seeking authority from the Court to pursue a claim for fraudulent trading against DLA Piper LLP (US), counsel to a party in interest.

(b) I was appointed as the arbitrator of e-discovery disputes in *Picard v. Merkin*, Adv. Pro. No. 09-1182 (Bankr. SDNY) (the “Merkin Adversary Proceeding”) from 2012-2015. During the pendency of the Merkin Adversary Proceeding, Bart M. Schwartz (the original Receiver in this case) was appointed as the Receiver of Ariel Fund Ltd. and Gabriel Capital LP, both of which were defendants in the Merkin Adversary Proceeding.

(c) In addition, from time to time, Otterbourg and I work with other professionals that may be involved in these cases in unrelated matters. The other professionals in these unrelated matters may be co-counsel, counsel to or professionals engaged by adversaries, or counsel to or professionals engaged by other interested parties in a particular matter.

8. Otterbourg and I also provide the following information:

(a) Neither Otterbourg nor I are, or have been during the pendency of these Receivership cases, a creditor, equity security holder or insider of the Defendants.

(b) Neither Otterbourg nor I are, or have been, a director, officer or employee of the Defendants and will not be during the pendency of these Receivership cases.

(c) Neither Otterbourg nor I are have an interest materially adverse to the interests of these Receivership Estates or any class of creditors or equity security holders by

reason of any direct or indirect relationship to, connection with or interest in the Defendants, or for any other reason.

(d) I am not a relative of any Judge of the United States District Court for the Eastern District of New York, the U.S. Securities & Exchange Commission (the “SEC”) or any person employed by the SEC or U.S. Attorney’s Office (EDNY). An associate in Otterbourg’s Litigation Department (John Bougiamas, Esq.) is married to Panayiota (“Toula”) Bougiamas, Esq., who is Assistant Regional Director, SEC Division of Enforcement, Asset Management Unit of the New York Regional Office. Mr. Bougiamas will not work with me or be assigned by Otterbourg to work on any aspect of this case, and Otterbourg will apply a confidentiality screen to assure that there is an ethical wall preventing access by Mr. Bougiamas.

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

Executed this 26th day of June, 2017, at New York, NY.

/s/ Melanie L. Cyganowski
Melanie L. Cyganowski

EXHIBIT A

MELANIE L. CYGANOWSKI
Member of the Firm
Otterbourg P.C.

Direct No. 212.905.3677
Cell No. 917.496.3670

Fax No. 212.682.6104
MCyganowski@Otterbourg.com

Otterbourg P.C., 230 Park Avenue, New York, NY 10169-0075. Member of the Firm. June 16, 2008 to present. Chair of Bankruptcy & Restructuring practice area. Bankruptcy law and Bankruptcy litigation; counsel to Official Committees of Unsecured Creditors; fiduciary appointments; mediation; arbitration; general commercial, federal court and complex litigation; expert witness; legal ethics.

Interfaith Medical Center, 1545 Atlantic Avenue, Brooklyn, NY 112113. *Chief Restructuring Officer* (April 11, 2014 to June 19, 2014); *Temporary Operator* (June 19, 2014 to June 14, 2015). Statutory appointment as chief fiduciary officer of hospital and its clinics.

Greenberg Traurig, LLP, The MetLife Building, 200 Park Avenue, New York, NY 10166. Shareholder and Chair of the New York Office Bankruptcy Litigation Practice. March 1, 2007 to June 2, 2008. Bankruptcy law and Bankruptcy litigation; mediation; legal ethics.

United States Bankruptcy Judge, Eastern District of New York, United States Bankruptcy Court, The Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, NY 11722. Appointed on March 1, 1993 through February 28, 2007. Appointed as Chief Judge of the Bankruptcy Court on November 29, 2005. Presided over thousands of commercial and individual bankruptcy cases and published numerous opinions; mediations.

St. John's University, School of Law, 8000 Utopia Parkway, Jamaica, NY 11439. Adjunct Professor (part-time), LL.M. Program in Bankruptcy. January 2001 to present. Bankruptcy Ethics, Fraud & Malpractice; Chapter 11 Corporate Reorganization; Interrelationship of Domestic Relations & Bankruptcy.

Milbank, Tweed, Hadley & McCloy, 1 Chase Manhattan Plaza, New York, NY 10005. Senior Attorney, Litigation. May, 1989 to February, 1993. General commercial law; contract, partnership and business law disputes; federal court and complex litigation; Bankruptcy law and lender liability litigation.

Sullivan & Cromwell, 125 Broad, New York, NY 10004. Litigation Associate. 1982 to May, 1989. Federal court and complex litigation; general commercial, insurance and contract law disputes; mergers & acquisition litigation; securities regulatory compliance and securities litigation.

United States District Court, Southern District of New York, Foley Square, New York, NY 10007. Law Clerk, Honorable Charles L. Brieant; 1981 to 1982.

Hodgson, Russ, Andrews, Wood & Goodyear, Buffalo, NY. Summer Associate, 1980.

Broadway-Fillmore Area Council, Inc., Buffalo, NY. Director, Individual Referral Program funded by CETA Title I; 1978 to 1979. Procured and administered grants exceeding \$800,000 annually.

City of Buffalo, Departments of Community Development and Human Resources, Buffalo, NY. Program Planning Coordinator, Planner & Consultant, 1974 to 1978. Supervised planning unit and divisional personnel which administered the Block Grant programs; coordinated East Buffalo's comprehensive development plan, including its designation as the first nationally recognized SBA loan program area and the implementation of \$1 million EDA commercial beautification program.

EDUCATION

Faculty of Law & Jurisprudence, State University of New York at Buffalo. J.D., *magna cum laude*, May, 1981. Sea Grant Fellow, 1979. Award of Distinction in Law and Public Education, 1981. **Buffalo Law Review:** Senior Editor, 1980-81; Associate, 1979-80. Co-author, *Survey: The Buffalo Polish-American Legal Experience*, **Buffalo Law Review**, Vol. 30, No. 1 (1981). **Buffalo Law Journal**, Abstract Writer, 1979-80.

Cornell University, Department of Anthropology, Ithaca, NY Graduate studies in Ph.D. program in urban development, 1975.

Grinnell College, Grinnell, Iowa. A.B., with Honors in Anthropology, May 1974. Grinnell Honor Scholar.

AWARDS/HONORS

National Law Journal: Top 75 Outstanding Women Lawyers in US (2015)

New York Institute of Credit, Future Leaders Division: The Honorable Burton R. Lifland Mentor of the Year Award, 2016 Recipient (2016)

Super Lawyers: Top 50 Women Attorneys in New York Metro Area (2012--)

Super Lawyers: Top 100 Attorneys in New York Metro Area (2016--)

Super Lawyers, Bankruptcy (2007--)

The Best Lawyers in America in Business Reorganization and Commercial Litigation (2012--)

Fellow, American College of Bankruptcy (2014--)

Fellow, Litigation Counsel of America (2016--)

Fellow, American Bar Foundation (2004--)

Fellow, New York State Bar Foundation (2004--)

Turnaround Award Healthcare: Interfaith Medical Center (2015)

United States Marshal Special Recognition Award, Crest Hollow Country Club, Westbury, NY (2007)

New York Institute of Credit, Trustee's Award, Hilton Hotel, New York, NY (2007)

New York State Bar Association, Commercial & Federal Litigation Section, "Hail to the Chiefs" Award, Lincoln Center, New York, NY (2006)

Turnaround Management Association Award, Melville, NY (2006)

Alumni Wall of Fame, East Leyden High School, Franklin Park, IL (1998)

Citizen of the Year Award in Law, Am-Pol Eagle, Buffalo, NY (1994)

ADMISSIONS & ASSOCIATIONS

Admitted to Practice: Supreme Court of the United States; United States Court of Appeals for the Second Circuit and Third Circuit; United States District Courts for the Eastern, Southern and Western Districts of New York; United States District Court for the District of Columbia; United States District Court for the District of Connecticut; United States District Court for the District of New Jersey; United States Court of Federal Claims; Courts of the State of New York

Appointed to the Mediation Registers of the United States Bankruptcy Courts for the Southern District of New York, New Jersey and Delaware

Appointed by the Chief Judge of the Southern District of New York as Member of the Grievance Committee, Chaired by Hon. P. Kevin Castel, USDJ, SDNY (2016--)

American Bankruptcy Institute

American Bar Association

Bar Association of the City of New York: Alternative Dispute Committee (2011-2015) and Secretary (2012-2015); Judiciary Committee (2008-2010); Bankruptcy Committee (2009-2010) (2016--)

Federal Bar Council: Board of Trustees (2015--)

National Conference of Bankruptcy Judges: member (1993--)

New York Institute of Credit: Member and Secretary of Executive Committee of the Board of Directors (2015--); Board of Directors (2007--), Vice President, NYIC Women's Division (2007--)

New York State-Federal Judicial Council: Member (2016--)

New York State Bar Association: Commercial & Federal Litigation Section of the: Chair, Nomination Committee (1993--); Treasurer (1992-1993); Chair, Committee on Federal Judiciary (1990-1992); Member of the Executive Committee (1989--); Member of the ADR Committee (2013--); Member of the Committee on Federal Legislative Priorities (2012-2016)

Norton Journal of Bankruptcy Law & Practice, Member, Editorial Advisory Board (Thomson Reuters) (2015--)

Second Circuit Federal-State Advisory Council: member (2016--)

Tina's Wish Women's Committee Member (2014--) (Foundation for ovarian cancer research)

Turnaround Management Association

ARTICLES & CONFERENCE PRESENTATIONS

"Just Who Foots the Bill: Section 506(c) and the Secured Lender Surcharge," co-authored with Lloyd M. Green, *Norton Journal of Bankruptcy Law & Practice*, vol. 26, no. 4 (2017).

“The Involuntary Petition: Is It a Sword or a Shield? Should It be Utilized or Avoided?,” panelist together with Scott L. Hazan, Peter Knox (Nestle USA) and Curtis Marshall (Coca Cola), CRF Conference, New Orleans, LA (March 2017).

“Bankruptcy Litigation panel – updates and discussions regarding fraudulent transfers, the split over § 546(e) safe harbors (*Physiotherapy, Tribune, Madoff, Meritt Management*), 10-year reach-back periods (*Kipnis*), the reinstatement of unsecured creditors’ intentional fraudulent conveyance claims and the ruling that the intent of the CEO can be imputed to the company (*Lyondell*), the finding that substantive consolidation does not augment the trustee’s § 544(b) avoiding powers by allowing the trustee to rely on predicate creditors from another estate (*Pettters*), and the ruling that access to a credit line rebuts unreasonably small capital claims (*SemCrude*),” panelist together with Chief Judge Carla E. Craig, Philip Bentley (Kramer Levin) and Mark P. Kronfeld (Tennenbaum Capital Partners), ABI Bankruptcy Conference, New York City (May 2017).

“Collision at the Courthouse: Discussion of parallel/overlapping civil and/or criminal enforcement actions (Ethics),” panelist together with Alistaire Bambach (SEC) and Alex Lipman (Brown Rudnick), Brooklyn, NY (April 2017).

“Views from the Bench: When A Judge Suggests Mediation: Case and Mediator Selection,” faculty and keynote luncheon speaker at The ABI/St. John’s Bankruptcy Mediation Training Program, which is a collaboration among the American Bankruptcy Institute, St. John’s Center for Bankruptcy Studies, and St. John’s Hugh L. Carey Center for Dispute Resolution, New York City (December 2016).

“Fluctuating Valuation in Chapter 11: Managing Expectations and Outcomes Amidst Changing Fulcrum Points,” panelist together with Jack Butler (Birch Lake Holdings, LP), William Q. Derrough (Moelis & Co.), Randall S. Eisenberg (AlixPartners, LLP) and James P. Seery, Jr. (River Birch Capital, LLC), Beard Group Twenty-Third Annual Distressed Investing 2016 (November 2016).

“Mediation in the Federal Courts,” panelist together with John Lundin (Schlam Stone), Rebecca Price (SDNY Mediation), Gary Shaffer (Shaffer Mediation) and Robyn Weinstein (EDNY Mediation), The Bar of the City of New York (June 2016).

“Bankruptcy Litigation Panel, with focus on e-discovery limitations, litigating with common interests and settlements,” panelist together with Michael Luskin (Luskin Stern), Dion Hayes (McGuireWoods), David Hillman (Schulte Roth) and Judge Sean H. Lane (USBJ, SDNY), ABI New York City (May 2016).

“Beware the Traps: Ethical and Fiduciary Issues for Committee Members and Professionals,” panelist together with Judge Mary Walrath (USBJ, Del), Jeffrey Pomerantz (Pachulski Stang), Brent Weisenberg (Ballard Spahr) and Mark Felger (Cozen), ABI Spring 2016, Washington, DC (April 2016).

“Is Bankruptcy A Game-Changer for Embattled Providers?,” panelist together with Judge Nancy H. Lord (USBJ, EDNY), Samuel R. Maizel (Dentons), Karen Cordry (National Ass’n Attorneys General) and Judy W. Strobos (Health & Human Services), Medicare & Medicaid Payment Conference sponsored by the American Health Lawyers Ass’n, Baltimore, MD (April 2016).

“The Demise of Equitable Disallowance of Claims,” co-authored with Lloyd M. Green, Norton Journal of Bankruptcy Law & Practice, vol. 24, no. 6, page 571 (2015)

“Judicial Voices on Transition: From the Bench to the Bar and Beyond,” Moderated judicial panel of thirteen Bankruptcy Judges, New York Institute of Credit Women’s Division, Union League Club, New York City (November 2015)

“From the Bench to the Bar and Back,” panelist together with Judges Arthur Gonzalez (Ret.), James Peck (Ret.), Allan Gropper (Ret.), James Garrity and Robert Gerber, American College of Bankruptcy, New York City (October 2015)

“Selected Issues in Healthcare and Non-Profit Cases,” Moderated judicial panel of Judges Carla E. Craig (USBJ, EDNY), Nancy Lord (USBJ, EDNY), Sean Lane (USBJ, SDNY) and Robert Mayer (USBJ, VA), and facilitator Irving Walker (Cole Schotz), and presented article at ABI Views From the Bench, Washington, DC (October 2015)

“Selected Issues in Healthcare Bankruptcy Cases: Medicare Provider Agreements, Executory Contracts, Regulatory Issues, Interfaith Medical Center Case Study,” panelist together with Hal Morris (Office of Texas Attorney General) and Scott Davis (Grant Thornton), and presented article at Annual Meeting of National Association of Attorney Generals, Seattle, WA (October 2015)

“To Mediate or Not, That is the Quest?,” panelist together with Mark E. Felger, Dion W. Hayes, Ray T. Lyons and Claudia Z. Springer, and presented article at ABI Mid-Atlantic Bankruptcy Workshop, Hershey, PA (August 2015)

“Ethics and Social Media,” Moderated judicial panel of Judge Rosemary Gambardella (USBJ, NJ), Judge Thomas J. Catliota (USBJ, MD), and Judge Martin Teel (USBJ, DC), and presented article at Bankruptcy: Views from the Bench, ABI/Georgetown University Law Center (October 2014)

“Business Reorganization/Secured Credit/Ethics & Professional Compensation,” panelist together with Derek C. Abbott, Andrew M. Parlen and Stephen Spencer, ABI Spring Meeting, Washington, DC (April 2014)

“Interests Under Section 363: Tangible or Intangible,” Norton Journal Bankruptcy Law Publication, Vol. 22, Issue 4; 22 J. Bankr. L. & Prac. 6 Art. 1 (December 2013)

“A Judges’ Chat Across the Rivers,” New York Institute of Credit, moderated panel of Chief Judge Gloria M. Burns (USBJ, NJ), Chief Judge Carla E. Craig (USBJ, EDNY), Chief Judge Cecelia G. Morris (USBJ, SDNY), Judges Kathryn Ferguson, Rosemary Gambardella, Christine Gravelle, Novalyn Winfield, Judith Wizmur, Julie Manning (USBJ, NJ), Dorothy T. Eisenberg, Nancy Hershey Lord, Elizabeth S. Stong (USBJ, EDNY) and Shelley Chapman (USBJ, SDNY), Union League Club (November 2013)

“The Examiner’s Report,” *Examiners in Bankruptcy Cases: A Guide For Examiners, Courts and Practitioners*, Association of the Bar of the City of New York (September 2013)

“Law Firm Bankruptcies and Issues of Unfinished Business,” Moderated judicial panel and article presented at Bankruptcy: Views from the Bench, ABI/Georgetown University Law Center, September 2013)

“The Evolving Application of the Public Policy Exception in Cross-Border Insolvencies”, Insol World – First Quarter 2013

“The Limits of Comity in Cross-Border Insolvency”, Corporate LiveWire (April 2013)

“Chapter 11 Track: International Program – Chapter 15 and the Public Policy Exception,” presented at the ABI Spring Meeting, National Harbor, MD (April 2013)

“A Chat Among the Chiefs of the Federal Courts,” New York Institute of Credit, moderated panel of Chief Judge Loretta Preska (USDJ, SDNY), Chief Judge Carol Amon (USDJ, EDNY), Chief Judge Cecelia G. Morris (USBJ, SDNY), and Chief Judge Carla E. Craig (USBJ, EDNY), Union League Club (November 2012)

“A Compilation of Decisions in the Aftermath of *Stern v. Marshall*”, ABI Views from the Bench, Washington, DC (October 2012)

“Another Set of Eyes, The Expert as Evaluator”, Expert Guide, Bankruptcy & Restructuring (March 2012)

“The Public Policy Exception in Cross-Border Recognition by American Bankruptcy Courts”, Financier Worldwide (January 2012)

Panelist, *Women as Judges and Partners*, presented at *Portrait of a Judge: The Honorable Judith S. Kaye – A Look at Her Continuing Legacy of Writings, Initiatives and Landmarks for Women in the Law*, Court of Appeals Hall (October 2011)

“Appointment of Receivers Under State Law,” “Alter Ego and Piercing the Corporate Veil,” and “Bringing Third Parties In,” presented at the National Attorneys General Training & Research Institute, National Association of Attorneys General, States’ Association of Bankruptcy Attorneys, Austin, Texas (October 2011)

“Expert Testimony and Reports,” presented at the Anti-Fraud/Anti-Money Laundering Conference, NYC Marriott Marquis (June 2010)

“Stub Rent: Is Payment of the First Month Rent Truly an Obligation of the Past?”, presented at the Capital Region Bankruptcy Bar Association, Saratoga Springs, NY (November 2009)

“Liquidating Chapter 11 Cases & Asset Disposition: The Bankruptcy Sale Process,” presented at the Capital Region Bankruptcy Bar Association, Saratoga Springs, NY (November 2009)

Report, Co-Chair of the New York State Bar Association’s Task Force on the State of our Courthouses, together with Sharon Porcellio, Esq. and Gregory K. Arenson, Esq. (June 2009)

“The Intersection of Advanced Bankruptcy and Matrimonial Practice,” presented at the American Academy of Matrimonial Lawyers, New York Chapter (May 2009)

“Chapter 11 Liquidation Cases: Selected Issues When Chapter 11 is the Beginning of the End,” ABI Views from the Bench, Washington, DC (October 2008)

“The Intersection of Domestic Relations & Bankruptcy Laws: The Top Ten Myths,” presented at the Federal and State Judiciary Program, New York (May 2008)

“Subprime Paradigm: Lessons on Maximizing Value from the Subprime, 1031 and Servicer Cases,” presented at the ABI Annual Winter Leadership Conference, Rancho Mirage, CA (December 2007)

"Sales & Executory Contracts: Bidding Procedures; Use of Findings (aka "how the 'whereas' clauses define the deal"); carve-outs; sales free and clear of successor liability claims," presented at the ABI Views from the Bench, Washington, DC (October 2007)

"Information a Committee is Required to Disclose to its Constituents and Deepening Insolvency as a Cause of Action," presented at the ABI Northeast Bankruptcy Conference, Newport, RI (July 2007)

"The Impact of a Bankruptcy Filing on State Court Proceedings and the Substantive Rights of Judgment Creditors in Bankruptcy," presented at the NYS Judicial Institute, White Plains, NY (March 2007)

"Should Lawyers Be Jurors?", Chair of Report by the New York State Bar Association Commercial & Federal Litigation Section, Committee on Lawyers as Jurors (1990)

Frequent commentator on *Fox Business News* concerning bankruptcy and reorganization issues

Speaker at numerous CLE programs sponsored by, *inter alia*, the American Bankruptcy Institute, the New York State Bar Association, The Turnaround Management Association, Women's Bar Associations, County Bar Associations, St. John's University Law School, Fordham Law School, Touro Law School, Georgetown University School of Law and NYIC, concerning bankruptcy law, cross-border and alternative dispute resolution issues (1993--).

Speaker, National Neighborhood Revitalization Conference in The White House. One of twelve speakers invited by President Ford. Topic: Revitalization in Buffalo's East Side Neighborhoods (1976).

WRITTEN OPINIONS & SIGNIFICANT CASES

During the period in which I served as United States Bankruptcy Judge for the Eastern District of New York, I presided over thousands of bankruptcy cases, including the following:

- *In re Telcar Group, Inc.*, 365 B.R. 345 (Bankr. E.D.N.Y. Feb. 13, 2007)
- *In re R.F. Cunningham & Co., Inc.*, 47 Bankr. Ct. Dec. 158, 61 U.C.C. Rep. Serv. 2d (Callaghan) 642 (Bankr. E.D.N.Y., Dec. 21, 2006)
- *In re R.F. Cunningham & Co., Inc.*, 355 B.R. 408 (Bankr. E.D.N.Y. 2006)
- *In re DiGeronimo*, 354 B.R. 625 (Bankr. E.D.N.Y. 2006)
- *In re Total Time Solutions LLC*, 806-71631 (Bankr. E.D.N.Y. 2005)
- *In re Brunswick Hospital Center, Inc.*, 805-88168 (Bankr. E.D.N.Y. 2005)
- *In re The Motorcycle Excellence Group, Inc.*, 805-70089 (Bankr. E.D.N.Y. 2005)
- *In re New Times Securities Services, Inc.*, 318 B.R. 753 (Bankr. E.D.N.Y. 2004)
- *In re Acclaim Entertainment, Inc.*, 804-85595 (Bankr. E.D.N.Y. 2004)
- *In re David Blatt a/k/a Jay Black*, 805-94851 (Bankr. E.D.N.Y. 2005)
- *In re Developmental Disabilities Institute, Inc.*, 801-80920 (Bankr. E.D.N.Y. 2001)
- *In re Bay Harbour Associates LP*, 899-85379 (Bankr. E.D.N.Y. 1999)
- *In re QC Piping Installations, Inc.*, 225 B.R. 553 (Bankr. E.D.N.Y. 1998)
- *In re Sanders-Langsam Tobacco Co.*, 224 B.R. 1 (Bankr. E.D.N.Y. 1998)
- *In re Corporate Food Management, Inc.*, 223 B.R. 635 (Bankr. E.D.N.Y. 1998)
- *In re PG Realty Co.*, 220 B.R. 773 (Bankr. E.D.N.Y. 1998)
- *In re Gurney's Inn Corp. Liquidating Trust*, 215 B.R. 659 (Bankr. E.D.N.Y. 1997)
- *In re Koula Enterprises, Ltd.*, 197 B.R. 753 (Bankr. E.D.N.Y. 1996)
- *In re Braniff International Airlines, Inc.*, 164 B.R. 820 (Bankr. E.D.N.Y. 1994)

- *In re IBI Security Service, Inc.*, 158 B.R. 1 (Bankr. E.D.N.Y. 1993)

FIDUCIARY APPOINTMENTS

- *Neogenix Oncology, Inc. v. Peter Gordon, et al.*, Case No. 14-CV-04427 (EDNY) (Special Master Discovery)
- *In re 21st Century Oncology Holdings, Inc.*, Case No. 17-22770 (Bankr. SDNY) (Patient Care Ombudsman)
- *Interfaith Medical Center*, CRO and Temporary Operator (NYS Commissioner of Health Appointment)
- *California Proton Treatment Center, LLC*, Case No. 17-10477 (Bankr. DE) (Patient Care Ombudsman)
- *In re Vivendi*, Case No. 5571 (SDNY) (Special Master) (Securities class action)
- *Picard v. Merkin*, Adv. Pro. No. 09-1182 (Bankr. SDNY) (Arbitrator of e-discovery disputes)
- *Biolitec, Inc.*, Case No. 13-11157 (DHS) (Chapter 11 & 7 Trustee)
- *Mill River Foundation, Inc.*, Case No. 12-50306 (Bankr. D. CT) (Chapters 11/7 Trustee)
- *Batavia Nursing Home, LLC*, Case No. 11-13223 (Bankr. WDNY) (Chapter 11 Trustee)
- *Geriatric Realty Corp.*, Case No. 11-13225 (Bankr. WDNY) (Chapter 11 Trustee)
- *U.S. Trustee v. Capital One*, Adv. Pro. No. 08-012720 (Bankr. D. Mass) (Auditor)
- *Ross v. Thomas*, Case No. 09-cv-05631 (SDNY) (Receiver)
- *JPMorgan Chase Bank, N.A. v. Global Capital Services LLC*, 11-cv-01648 (SDNY) (Receiver)
- *Bank of America, N.A., as Trustee, et al., v. PCV St Owner LP, et al.*, 10 Civ. 1178 (SDNY) (Referee) (aka Stuyvesant/Peter Cooper Village foreclosure)

SIGNIFICANT MEDIATIONS

- *In re General Motors Corp.* (Member of Panel Mediators), Case No. 09-50026 (REG) (Bankr. SDNY)
- *In re Lehman Brothers Holding Inc. et al.* (Member of Panel Mediators), Case No. 08-13555 (Bankr. SDNY)
- *In re Intrep National Radio Sales Inc., et al.* (Member of Panel Mediators), Case No. 08-11079 (RDD) (Bankr. SDNY)
- *In re Madoff/BMLIS* (Member of Panel Mediators), Case No. 08-01789 (BRL) (Bankr. SDNY)
- *In re Metaldyne* (Member of Panel Mediators), Case No. 11-02000 (MG) (Bankr. SDNY)
- *In re Quebecor World Litigation Trust* (Member of Panel Mediators) (Bankr. SDNY)
- *In re ADOC Holdings, Inc., et al. (f/k/a Coda Holdings, Inc.)*, Case No. 13-11153 (CSS) (Bankr. Del.), *Tony Bulchak, et al., v. ADOC Holdings, Inc., et al.*, Adv. Pro. No. 13-51031 (CSS) (Bankr. Del.)
- *Alliance Bancorp Mediations, including First Collateral Services Inc.*, Adv. Pro. No. 09-51408 (Bankr. D. Del.)
- *Charter Communications/Law Debenture Trust Co.*, Adv. Pro. No. 11-01267 (JMP) (Bankr. SDNY)
- *Collavino Construction Company, et al., ads Port Authority of NY/NJ*, Case Nos. 14-12908 and 15-10344 (SCC) (Bankr. SDNY)
- *DTZ Rockwood Mediations*, Adv. Pro. No. 09-1263 (SMB) (Bankr. SDNY)
- *Genergy v. Port Authority of NY/NJ*, Case No. 10-05271 (REG) (Bankr. SDNY)
- *GII Industries, Inc. v. City of New York*, Adv. Pro. No. 08-01045 (Bankr. EDNY)
- *Grace/State of New York Mediations* (Bankr. EDNY)
- *In re FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.): Sven Etzelberger v. Fisker Automotive Holdings, Inc. and Fisker Automotive, Inc.*, Adv. Pro. No. 13-52517 (KG) (Bankr. DE)
- *Lindenwood Associates LLC, as Liquidating Trustee of Lighthouse Global Partners LLC & Lighthouse Financial Group LLC v. Halpern & Associates LLC*, Adv. Pro. 11-02781(SMB) (Bankr. SDNY)
- *In re 2607 Jerome N, LLC, et al.*, Case No. 13-10034 (REG) (Bankr. SDNY)

- *In re 261 E. 78 Realty Corp.*, Case No. 11-15624 (REG), *261 E. 78 Realty Corp. v. MB Financial Corp.*, Adv. Proc. 12-01118, 13-01000 (REG) (Bankr. SDNY)
- *In re 192 N. Main, LLC*, Case No. 806-70368-REG) (Bankr. EDNY)
- *McCord v. Countrywide Financial Corp.*, Adv. Pro. No. 08-01215 (Bankr. EDNY)
- *In re Malese 18 Corp.*, Case No. 02-80586 (DTE) (Bankr. EDNY)
- *In re Metro Fuel Corp., et al.*, Case Nos. 12-46913, et al., (ESS) (Bankr. EDNY)
- *Peter Mochnal v. EOS Airlines, Inc.*, Adv. Pro. No. 08-08279 (Bankr. SDNY)
- *In re Newbury Common Associates, LLC*, Case No. 15-12507 (LSS) (Bankr. DE)
- *In re Quad-C Funding LLC.*, Case No. 13-11725 (ALG) (Bankr. SDNY)
- *In re SageCrest II LLC*, Case No. 08-50754 (Bankr. D. CT)
- *Sheldrake Estates Condominiums & Sheldrake Lofts LLC v. Village of Mamaroneck*, Adv. Pro. No. 10-08424 (Bankr. SDNY)
- *Sonix Medical Resources, Inc., et al.*, Case No. 09-77781 (DTE), *Joshua Rizack, as the Plan Administrator, et al., v. Soni, et al.*, Adv. Pro. No. 11-09440 (AST)
- *Southside Mediations*, 09-43575 (ESS) (Bankr. EDNY)
- *Sven Etzelsberger v. Fisker Automotive Holdings, Inc. (In re FAH Liquidating Corp.) (f/k/a Fisker Automotive Holdings, Inc.)*, Adv. Pro. No. 13-52517 (Bankr. Del)
- *Wells Fargo Century, Inc. v. Safdeye*, Adv. Pro. No. 05-01417 (Bankr. EDNY)

SIGNIFICANT CLIENT REPRESENTATIONS

- *In re: General Motors LLC Ignition Switch Litigation – MDL*, Case No. 1:14-md-0253-JMF (SDNY) (Member of Executive Committee of MDL)
- *In re Quirky, Inc., et al.*, No. 15-12596 (MG) (Bankr. SDNY) (Committee of Unsecured Creditors)
- *In re Simon Posen*, No. 15-12859 (MEW) (Bankr. SDNY) (Debtor's counsel)
- *In re Sammy Eljamal*, No. 15-22872 (RDD) (Bankr. SDNY) (Committee of Unsecured Creditors)
- *In re Downey Financial Corp.*, No. 08-13041 (Bankr. D. Del.) (FDIC)
- *In re DPH Holdings Corp.*, No.10-4170-bk (2d Cir.) (State of Michigan Workers' Compensation Insurance Agency and State of Michigan Funds Administration)
- *In re Escada (USA) Inc.*, Case No. 09-15008 (Bkcty SDNY) (Committee of Unsecured Creditors)
- *In re General Motors Corp.*, Case No. 09-50026 (REG) (Bkcty SDNY) (Ally Financial Corp.)
- *In re Greatwide Logistic Services*, Case No. 08-12430 (Bkcty D. Del.) (Committee of Unsecured Creditors)
- *Guaranty Financial Group Inc. v. FDIC*, 10-cv-00980 (ND Tex.) (FDIC)
- *Claybrook v. United States*, 10-cv-00734 (Court of Federal Claims) (FDIC)

EXPERT TESTIMONY

- *The Federal Mogul Asbestos Personal Injury Trust v. The Federal Mogul Limited (formerly named T&N PLC, et al.*, Claim No. 2012 Folio 1093 (High Court of Justice, Queen's Bench Division, Commercial Division) (United Kingdom)
- *Fairfield Sentry Limited (In Liquidation)*, Claim No: BVIHC (COM) 133/2011 (High Court of Justice, British Virgin Islands, Commercial Division)
- *In re ICP Strategic Credit Income Fund Ltd and In re ICP Strategic Credit Income Master Fund Ltd.*, Cause Nos. FSD 82 & FSD 269of 2010 (Grand Court of the Cayman Islands, Financial Services Division)

- *In re Insigma Technology Co., Ltd and In re Section 216 of the Companies Ordinance, Cap. 32 of the Laws of Hong Kong Special Administrative Region*, No. 224 of 2013 (High Court of the Hong Kong Special Administrative Region, Court of First Instance, Companies Winding-Up (Hong Kong))
- *In re SphinX Group of Companies*, Cause No. 258 of 2006 (Grand Court of the Cayman Islands, Financial Services Division)
- *In re Vitro, S.A.B. de C.V.*, (Federal District Court for Civil and Labor Matters for the State of Nuevo León, the United Mexican States)
- *Vornado v. Stop 'n Shop*, Index No. 105819/03 (Supreme Court of the State of New York, New York County)
- *Miller v. Kluger, Kaplan, Silverman, Katzen & Levine, et al.*, Case No. 32-194-Y-00500-11 (American Arbitration Association, Miami, FL)
- *Aris Mardirossian and ARL LLC, et al., v. Miller Miller & Canby* (American Arbitration Association, MD)
- *Standard Chartered Bank of New York re Lehman Brothers Holdings, Inc.* (Philippines)
- *US Bank, NA, et al., v. 2150 Joshua's Path PLLC, et al.*, Case No. 13-1598 (GRB) (EDNY)