

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-v- :

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

PLATINUM MANAGEMENT (NY) LLC; :
PLATINUM CREDIT MANAGEMENT, L.P.; :
MARK NORDLICHT; :
DAVID LEVY; :
DANIEL SMALL; :
URI LANDESMAN; :
JOSEPH MANN; :
JOSEPH SANFILIPPO; and :
JEFFREY SHULSE, :

Defendants. :
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**[PROPOSED] ORDER APPROVING THE RECEIVER'S FEES
AND THE RETENTION OF GOLDIN ASSOCIATES LLC**

Upon the Application (the "Application")¹ of Melanie L. Cyganowski, Court-appointed receiver (the "Receiver"), for entry of an order, approving the retention of Goldin Associates LLC ("Goldin") as financial advisor to the Receiver, and upon consideration of the Application, the Declaration of Marc S. Kirschner in Support of the Application (the "Declaration"), and it appearing that, based on the Application and the Declaration, Goldin is qualified to provide services to the Receiver in this action; the relief requested in the Application is warranted; the relief requested is authorized by applicable law; and notice of the Application, given as described therein, was good and sufficient notice thereof.

NOW, THEREFORE, based upon the Application and all of the proceedings before this Court, and after due deliberation and sufficient cause appearing therefor, and no objection to the Application having been raised, it is hereby:

¹ Capitalized terms not defined herein have the meanings set forth in the Application.

ORDERED that the Application is granted, and, pursuant to the Application, the Receiver is authorized to employ Goldin, *nunc pro tunc* to July 6, 2017, the date on which the Receiver was appointed; and it is further

ORDERED that Goldin shall be compensated for such services, and the reasonable expenses and costs it incurs in providing such services shall be reimbursed, in accordance with the Receiver Order, as it may be amended, any other applicable Orders of the Court, and the SEC Receivership Billing Instructions; and it is further

ORDERED that the Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

SO ORDERED, this ___ day of _____, 2017.

United States District Court Judge

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EASTERN DISTRICT OF NEW YORK

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**DECLARATION OF MARC S. KIRSCHNER IN SUPPORT OF THE APPLICATION
OF THE RECEIVER FOR AN ORDER APPROVING THE RETENTION OF
GOLDIN ASSOCIATES, LLC, NUNC PRO TUNC, TO THE APPOINTMENT DATE**

Pursuant to 28 U.S.C. § 1746, I Marc S. Kirschner declare as follows:

1. I am a Senior Managing Director of Goldin Associates LLC (“Goldin”) located at 350 Fifth Avenue, New York, New York.

2. This declaration is based upon my personal knowledge and information provided to me by other Goldin professionals. I am in all respects competent to make this Declaration.

3. On June 23, 2017, the original receiver in the above-captioned matter (“Receivership Case”), Bart Schwartz, requested that the Court approve his resignation as Receiver of the Receivership Entities, effective upon the Court’s appointment of a successor. [Docket No. 170]. On July 6, 2017, the Court accepted the resignation of the original receiver,

Mr. Schwartz, and appointed Melanie L. Cyganowski as Receiver (the “Receiver”) effective immediately (*i.e.*, July 6, 2017 (the “Appointment Date”)). [Docket No. 216].

4. Goldin is a financial advisor and consultant specializing in underperforming businesses and distressed situations, as well as asset dispositions of companies and investment funds. The professionals employed by Goldin include certified public accountants, certified insolvency and restructuring advisors, a certified fraud examiner, and forensic financial and valuation consultants and analysts. These professionals have extensive experience and expertise in (i) the analysis, operation, restructuring and liquidation of businesses, (ii) forensic and fraud investigation, (iii) asset tracing, (iv) valuation, and (v) investment banking. I have over 40 years of experience as a bankruptcy, corporate reorganization lawyer, officer of SEC registered management companies specializing in investments of financially distressed entities (investor, general counsel and chief operating officer), and court-appointed liquidation or litigation trustee in large and complex Chapter 11 cases (*e.g.*, Refco Capital Markets, Tribune, Le-Natures, and Millennium Health).

5. Goldin’s extensive experience advising or assisting in the wind-down of the affairs during the bankruptcies or restructurings of investment funds and financial services companies, includes Fletcher International, Copperfield Investments, District 65 Retirement Trust, First Interregional Advisors, Granite Funds, Interbank Funding, Lehman Brothers, Mezonnen Fund, Pharmacy Fund, Refco Capital Markets, Syncora, FGIC, Student Finance Corp. and Thornburg Mortgage.

6. The Receiver asked, with the approval of the U.S. Securities and Exchange Commission (the “SEC”), that Goldin act as her financial advisor in connection with the

Receivership Case. Subject to Court approval, Goldin will provide financial advisory services consistent with the needs of the Substitute Receiver and her counsel and pursuant to their direction.

7. Goldin plans to charge its usual and customary rates, subject to a 10% public service discount requested by the Receiver and pursuant to the “Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission (the “SEC Receivership Billing Instructions”). Those rates are currently as set forth below. In the normal course of its business, Goldin revises its billing rates on an annual basis, typically towards the beginning of each calendar year.

Professional Experience Level	Hourly Rate	Hourly Rate Subject to 10% Discount
Senior Managing Director/Senior Special Advisor	\$900 to \$950	\$810-\$855
Managing Director/Senior Advisor	\$700 to \$900	\$630-\$810
Director	\$600 to \$700	\$540-\$630
Vice President	\$500 to \$600	\$450-\$540
Associate	\$350 to \$500	\$315-\$450
Analyst	\$300 to \$350	\$225-\$315

8. I will lead this assignment, along with Managing Director William Edwards, on behalf of Goldin. My rate is \$950 (\$855 inclusive of the public service discount) and that of Mr. Edwards is \$850 (\$765 inclusive of the public service discount). A wide range of qualified Goldin professionals are available to provide services supporting me and Mr. Edwards in an efficient manner consistent with the needs of the Receiver, which will ultimately dictate staffing determinations.

9. Goldin has advised the Receiver that Goldin will apply to the Court for allowance of compensation for professional services rendered and for reimbursement of reasonable costs and expenses incurred in connection with this matter in accordance with the Order Appointing Receiver, as may be amended from time to time, and any other applicable Orders of the Court. Goldin has further confirmed to the Receiver that, in applying to the Court for compensation, Goldin will comply with the SEC Receivership Billing Instructions.

10. In addition to the hourly rates set forth above, Goldin customarily charges its clients for all costs and expenses reasonably incurred, including computerized research, non-local telephone calls, facsimile and other telecommunication charges, transportation, photocopying, delivery and messenger services, secretarial overtime charges, if required, filing fees, and other disbursements, in accordance with our then current policies. Goldin proposes to charge the Receiver for these costs and expenses in the same manner as Goldin charges its other clients for the same costs and expenses, subject to the SEC Receivership Billing Instructions.

11. In connection with Goldin's proposed retention as financial advisor to the 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 for potential conflicts and connections. Based on the assessment conducted to date by Goldin, to the best of my knowledge, neither Goldin, nor any professional thereof, including myself, insofar as I have been able to ascertain, has any conflict or connection, except to the extent disclosed herein.

12. Goldin is providing valuation-related litigation support services to Otterbourg P.C. on behalf of a common client in an unrelated matter in New York State Surrogate's Court.

13. Former New York State Department of Financial Services official Dan Burstein (currently with Guidepost Solutions, LLC (“Guidepost”)) oversaw Goldin’s work on the now-concluded monitorship of Ocwen Financial. Mr. Burstein and William Edwards, who helped lead Goldin’s Ocwen team have remained in contact. Prior to Goldin being approached about the instant role in the Receivership Case, Mr. Burstein had apprised Mr. Edwards that Guidepost was experiencing disagreements with the SEC in connection with the Receivership Case.

14. Goldin serves as a valuation expert for Quinn Emanuel Urquhart & Sullivan LLP (“Quinn”) on behalf of a common client in two unrelated matters. In addition, Quinn represents parties in many bankruptcy matters where Goldin may represent parties that are aligned with, or adverse to, clients of Quinn.

15. A former Platinum employee, Ben-Zion Radinsky, is a personal acquaintance of a Goldin Managing Director.

16. Goldin is adverse to Duff & Phelps on behalf of an unrelated client in an unrelated matter. In addition, a Duff & Phelps employee is a trustee in an unrelated matter and has retained Goldin as financial advisor in that matter. Moreover, Duff & Phelps is involved representing parties in many bankruptcy matters where Goldin may represent parties that are aligned with, or adverse to, clients of Duff & Phelps. Finally, Duff & Phelps provided an opinion letter to a client of Goldin’s General Counsel in connection with an unrelated matter when he was a law-firm lawyer over seven (7) years ago.

17. In May 2017, Goldin discussed a possible advisory role for certain clients of a law firm (the “Firm”) who are parties in interest with respect to one or more Platinum Partners Value Arbitrage Fund L.P. and related funds. Subsequently, Goldin entered into a non-disclosure

agreement with the Firm (“NDA”) and certain Goldin professionals reviewed confidential materials provided by the Firm and presented a “pitch” to the Firm and some of its clients (the “Pitch”). Goldin was never retained and never received any compensation, and the NDA expired by its terms on June 22, 2017. The Goldin professionals who reviewed the confidential materials supplied by the Firm and who presented the Pitch have an obligation under the NDA to maintain the confidentiality of any such confidential materials pursuant to the terms of the NDA and will do so. Nevertheless, out of an abundance of caution, Goldin (i) has established an ethical wall to screen such professionals from playing any role in the Receivership Case; and (ii) those professionals will not take part in any action the Receiver brings against clients of the Firm who were involved in the Pitch.

18. Goldin and I also provide the following information:

(a) Neither Goldin nor I are, or have been during the pendency of this Receivership Case, a creditor, equity security holder or insider of the Defendants.

(b) Neither Goldin nor I are, or have been, a director, officer or employee of the Defendants.

(c) Neither Goldin nor I are have an interest materially adverse to the interests of this Receivership Case 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.

19. I am not a relative of any Judge of the United States District Court for the Eastern District of New York, the SEC or any person employed by the SEC or U.S. Attorney’s Office (EDNY).

20. Goldin is involved in many insolvency matters involving financial institutions, and these institutions may have some connection with the Defendants or other parties with an interest in the Receivership Case. Goldin's pertinent involvements include:

(a) Bank of New York Mellon may have interests aligned with or adverse to those of Goldin's clients in unrelated bankruptcy matters.

(b) Citibank provides banking services, including credit, to Goldin. Goldin has worked on behalf of Citibank and been adverse to Citi in unrelated matters.

(c) Goldin formerly represented Credit Suisse in an unrelated litigation matter. Goldin represented a client adverse to Credit Suisse in a concluded, unrelated matter.

(d) Goldin has been retained by and been adverse to JPMorgan Chase & Co. in unrelated matters.

(e) Goldin represented clients adverse to Pershing in an unrelated matter.

(f) A client for which Goldin is providing Chief Restructuring Officer services is a client of Sterling National Bank.

I hereby declare under penalty of perjury under the laws of the United States of America that, to the best of my knowledge and after reasonable inquiry, the foregoing is true and correct.

Executed this 10th day of July 2017
at New York, New York



Marc S. Kirschner