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VIA ECF

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *SEC v. Platinum Management (NY) LLP, et al., 16-cv-6848*

Dear Judge Cogan:

We represent claimant Daniel Small in the above-captioned matter. We respectfully submit this letter concerning the proposed settlement agreements (the “Settlements”) between the Receiver and (1) Ford O’Brien Landy LLP (“Ford O’Brien”) (ECF 705) and (2) the Black Elk Trustee (ECF 709). For the reasons set forth in Wilson Sonsini’s letters (ECF 712, 714, 715), we do not object to the Settlements. Moreover, we agree with Wilson Sonsini that all four claimants, including Mr. Small, should receive an appropriate and reasonable distribution.

We also join in Wilson Sonsini’s arguments concerning the Receiver’s non-allocation of claims, and the priority of payment to unsecured creditors ahead of investors. (ECF 712 at 3-5, 714.) For the reasons set forth in Wilson Sonsini’s letters, Mr. Small’s claims—including his claims for \$8.1 million in legal fees and costs, the \$9.6 million arbitral award, and an additional \$130,000 in unpaid compensation—should be allowed in full. Further, in agreeing to the Settlements with Ford O’Brien and the Black Elk Trustee, the Receiver recognizes what Mr. Small has argued for years: that unsecured creditor claims have priority over investor claims. Mr. Small thus has no objection to the Settlements, but the Receiver should pay the claims of the other unsecured creditors, including Mr. Small, ahead of investors. To do otherwise would be unprincipled and contrary to the Fund documents.

The Receiver has agreed that Mr. Small’s position in not objecting to the Settlements is without prejudice to any of his priority of payment positions, and Mr. Small reserves all rights relating to any other issues relating to priority of claims.

We thank the Court for its consideration.

Respectfully submitted,

/s/ Seth L. Levine _____

Seth L. Levine

cc: All Counsel of Record (via ECF)