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**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

**DECLARATION OF NEAL JACOBSON PURSUANT TO LOCAL RULE 6.1(d) in
SUPPORT OF JOINT EMERGENCY MOTION FOR (I) MODIFICATION OF THE
PLATINUM TRO AND RECEIVER ORDER, (II) ORDER TO SHOW CAUSE, and (III)
TEMPORARY RESTRAINING ORDER**

I, NEAL JACOBSON, pursuant to 28 U.S.C. § 1746 declare as follows:

1. I am a Senior Trial Attorney employed by the New York Regional office of the Securities and Exchange Commission (“SEC”). I am over 18 years old and am a member of the bar of this Court. This declaration is based upon personal knowledge, knowledge of other members of the Commission staff, the January 9, 2017 declaration of Bart M. Schwartz (“Schwartz Declaration.”)¹, the Receiver appointed in this case, and public records.

2. I make this declaration pursuant to Local Civil Rule 6.1(d) to show that good and sufficient reasons exist for bringing the Commission’s and the Receiver’s motion for an (i) order modifying the Platinum TRO and Receiver Order, (ii) Order to Show Cause, and (iii) Temporary Restraining Order.

3. Ex parte emergency relief is needed because this Court’s jurisdiction over the Receivership Assets and the Receiver’s ability to manage the Receivership Assets is being hampered by one creditor of the Receivership estate, the Bankruptcy Litigation Trustee, that is attempting to leverage his position to obtain a priority in payment to the detriment of all other defrauded investors and creditors.

4. Specifically, the Litigation Trustee is attempting to use the terms of the Bankruptcy TRO to impose limits on the Receiver’s ability to use Receivership funds to fund the Receivership’s operations. (Schwarz Decl. at pp. 7-11) The Receiver requires the ability to expend Receivership funds for the benefit of the Receivership Estate in the immediate near term in order to preserve the value of the Receivership Property for the benefit of all of the Receivership Entities’ creditors and investors. (Schwartz Decl. at pp. 11-16)

¹ Capitalized terms shall have the meanings ascribed to them in the Schwartz Declaration.

5. The SEC commenced this action on December 19, 2016, and moved on the same day for the Platinum TRO and the Receivership Order. (Schwartz Decl. at pp. 2-3) At the hearing on the SEC's motion for emergency relief, the Platinum TRO Defendants' counsel represented that the Platinum TRO Defendants would consent to the interim relief sought by the SEC but requested that the litigation stay in the Platinum TRO and the Receivership Order be amended to exclude bankruptcy cases in which the Receivership Entities were involved. Counsel to the TRO Defendants represented to me that certain of the Receivership Entities might have interests in entities in bankruptcy and the purpose of the exclusion was to protect the Receivership Entities ability to protect those interests.

6. Neither I nor, as represented to me, counsel to the Platinum TRO Defendants was aware that this modification would hamper the Receiver's ability to manage the Receivership Assets or interfere with the Court's jurisdiction over the Receivership Entities. Counsel to the TRO Defendants confirmed this understanding with me by email and also consented on behalf of the TRO Defendants to the relief requested herein by the SEC and the Receiver. Attached as Exhibit A to this declaration is a true and correct copy of email correspondence between myself and counsel to the TRO Defendants.

7. Today, prior to leaving for Court, I provided telephonic and email notice to counsel to the Bankruptcy Litigation Trustee, Craig Smyser, Smyser Kaplan & Leselka, L.L.P., 700 Louisiana, Suite 2300, Houston, Texas 77002, tel. (713) 221-2300, email csmysr@skv.com, that the SEC and the Receiver would be seeking the emergency relief set forth in the accompanying papers.

8. No previous request has been made for the relief sought in the Application.

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

Dated: New York, NY
January 9, 2017

/s/Neal Jacobson
Neal Jacobson

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