



Opportunities Master Fund, LP (“PPLO”)<sup>1</sup> in Adversary Proceeding 16-03237; *Richard Schmidt, Litigation Trustee for Black Elk Energy Offshore Operations, LLC v. Platinum Partners Value Arbitrage Fund, LP, et al.*; In the United State Bankruptcy Court, Southern District of Texas (the “Fraudulent Transfer Action”).

4. Over the past 15 years, my legal practice has been over 90% litigation. I have significant experience and knowledge related to discovery in large cases such as the Fraudulent Transfer Action, including representing a different bankruptcy trustee in a fraudulent transfer claim that was twice tried to a jury: Civil Action No. 4:11-cv-03700, *Rodney Tow, Trustee vs. John H. Speer, Amegy Bank, N.A., et al.*; In the United States District Court For The Southern District of Texas.

5. Based on my experience, and knowledge of what has transpired in the Fraudulent Transfer action to date, it is clear that the Fraudulent Transfer Action will require extensive electronic discovery and require a significant amount of attorney time to review documents. The initial search for emails that might be responsive to the Black Elk Litigation Trustee’s Requests for Production related to its Application for Preliminary Injunction resulted in over 20,000 “hits” for emails.

6. The search terms were chosen by me based on the Requests for Production sent by the Black Elk Trustee. It is likely that the Black Elk Trustee will request additional search terms. To date, Cooper & Scully, P.C. has not been provided copies of the emails because it is still unclear whether the Receivership Entities had ownership of the server on which the emails are housed.

7. When that issue is resolved, all of these emails will need to be reviewed by attorneys with Cooper & Scully, P.C. and also reviewed internally by someone working for the

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<sup>1</sup> I have recently learned that “Platinum Partners Liquid Opportunities Master Fund, LP” does not exist.

Receivership Entities to determine which documents are related to the claims in the Black Elk Litigation, which are protected by privilege, and which need to be marked as “confidential” or “attorney’s eyes only” under a Protective Order entered in the Fraudulent Transfer Action.

8. In addition to the emails, someone with the Receivership Entities will need to search all of the “paper” records and digitally stored records to locate documents responsive to future discovery requests.

9. Based on my experience, the above tasks will take hundreds of hours given the voluminous amount of documents and records.

10. Based on my review of the documents produced to date by the Plaintiff in the Fraudulent Transfer Action, I have identified over 20 persons whose depositions would need to be taken as fact witnesses. This number may increase as the Fraudulent Transfer Action proceeds, and does not include any fact witnesses not working for a Receivership Entity that the Black Elk Trustee wants to depose.

11. I anticipate that the Black Elk Trustee will seek the depositions of 2-3 employees of the Receivership Entities. Preparing for and attending the depositions will take these employees away from their duties at with the Receivership Entities.

12. In addition to fact witnesses, I anticipate the parties will likely designate 2-3 expert witnesses. Employees of the Receivership Entities will be needed to assist with providing information to experts and answering any inquiries the experts have.

13. Based on my experience, the fees for experts for PPCO and PPLO would likely total over \$500,000. Other expenses, including photocopies, long distance telephone charges, postage, depositions fees, subpoenas, travel, etc., would likely total over \$100,000.


14. In total, I estimate that over 2500 hours of attorney time will be spent on the Fraudulent Transfer Action from now through trial. In order to properly defend the case, the

Receiver and employees of the Receivership entities will need to work hand-in-hand with Cooper & Scully, P.C. on strategy, planning and responding to motions from the Black Elk Trustee.

15. If the Fraudulent Transfer Action is permitted to continue, there will be discovery requests and other matters that will continue to be a drain on my time, and the time of my staff and that will force the Receivership Entities to incur legal fees that could be better used to pay the claims of creditors and investors.

16. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 24, 2017  
Houston, Texas

  
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Christopher D. Lindstrom