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April 4, 2017

VIA CM/ECF

The Honorable Dora L. Irizarry
Chief Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: *Securities and Exchange Commission v. Platinum Management (NY) LLC, et al.*,
No. 1:16-cv-06848-DLI-VMS**

Dear Chief Judge Irizarry,

We represent defendant David Levy in connection with the above-referenced matter.

As Your Honor knows, on March 23, 2017 the Receiver, Bart Schwartz, requested that this Court enter an order permitting the expansion of the scope of the Receivership to include nine additional Platinum-related entities. Dkt. No. 112. We filed a limited objection to that request on March 29, 2017, Dkt. No. 119.

In the response to our objection, the Receiver filed another letter, but it fails to offer any reason why he currently requires power over the attorney-client privilege held by PMNY in order to fulfil his obligations, and barely any justification for his need to include PMNY in the Receivership at all. As Your Honor is aware, PMNY was the management company for the Platinum Partners Value Arbitrage (“PPVA”) entities within the Platinum Partners structure. As noted in Exhibit 1 to the Receiver’s March 23, 2017 application, the Receivership currently covers certain Platinum Partners Credit Opportunities (“PPCO”) entities as well as certain Platinum Partners Liquid Opportunity (“PPLO”) entities. It specifically does ***not include*** PPVA entities. The PPVA entities are instead subject to liquidation in the Cayman Islands under court-appointed liquidators. The Receiver thus has no power or responsibility regarding the PPVA entities.

In support of his application, the Receiver merely notes that current litigation including PMNY, which could be stayed if PMNY was added to the Receivership, is a “needless distraction” to the Receiver and his staff, and there is some overlap in creditors with respect to PMNY and the current Receivership entities. *See* Dkt. No. 123 at 1, Receiver’s Response dated March 31, 2017. The Receiver thus provides no valid justification for the addition of the dormant management company for the PPVA entities, which are being wound down in an entirely separate process in the Cayman Islands, to a Receivership focused on the PPCO and PPLO entities.



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The Receiver similarly offers no explanation as to why he currently requires authority over the attorney-client privilege held by PMNY or any other of the newly requested entities. The Receiver's supposed justification for control over the privilege is purely speculative, stating that "it may be that protecting the interests of the Receivership Entities will require waiving the privilege[.]" Dkt. No. 123 at 2. In other words, the Receiver has articulated no need at all to try to usurp the attorney-client privilege of PMNY. In response to defendants' concerns regarding the privilege, the Receiver merely notes that he: (1) has not yet been asked by the government to waive any privilege, (2) has no current plans to waive any privilege, and (3) would not waive any privilege without providing the defendants with notice and the opportunity to be heard. *Id.* Given the importance of the attorney-client privilege, however, and the Receiver's lack of any cogent explanation as to why the Receiver requires control over the privilege, there exists no reason for the Receiver to now take control of that privilege – an offer to provide notice should he intend to waive the privilege is hardly a comfort.

Based on the foregoing, we respectfully renew our objection to the addition of PMNY to the Receivership. If the Court concludes that there is a valid basis for including PMNY in the list of entities over which the Receiver is granted authority, we respectfully request that the Court, as a condition of that appointment, ensure that control over the attorney-client privilege held by entities such as PMNY and Platinum Credit Management LLC is exempted from the authority granted the Receiver.

Thank you for your consideration.

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

s/ Morris J. Fodeman
Morris J. Fodeman
Michael S. Sommer

Cc: All Counsel of Record (via CM/ECF)