

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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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. :

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No. 16-CV-6848 (BMC)

**THE RECEIVER’S NINETEENTH STATUS REPORT TO THE COURT**

Melanie L. Cyganowski, the duly appointed Receiver (the “Receiver”) of Platinum Credit Management, L.P., Platinum Partners Credit Opportunities Master Fund LP,<sup>1</sup> Platinum Partners Credit Opportunities Fund (TE) LLC, Platinum Partners Credit Opportunities Fund LLC, Platinum Partners Credit Opportunities Fund (BL) LLC, Platinum Liquid Opportunity Management (NY) LLC, Platinum Partners Liquid Opportunity Fund (USA) L.P., Platinum Partners Liquid Opportunity Master Fund L.P., Platinum Partners Credit Opportunities Fund International Ltd. and Platinum Partners Credit Opportunities Fund International (A) Ltd. (collectively, the “Receivership Entities,” the “Platinum Entities” or “Platinum”), by her undersigned counsel, hereby submits this Nineteenth Status Report, covering the period from January 1, 2022 through and including March 31, 2022 (the “Reporting Period”).

<sup>1</sup> Platinum Partners Credit Opportunities Master Fund LP and its feeder funds are collectively referred to herein as “PPCO” or “PPCO Funds” and Platinum Partners Liquid Opportunity Master Fund L.P., and its feeder funds are collectively referred to as “PPLO” or “PPLO Funds”.

This quarterly status report is being filed in accordance with the requirements of the Second Amended Order Appointing Receiver (the “Receiver Order”), entered on October 16, 2017 by the District Court for the Eastern District of New York (the “Court”). [Dkt. No. 276].

## **I. PRELIMINARY STATEMENT**

During the Reporting Period, the Receiver and her team<sup>2</sup> (i) filed supplemental pleadings in support of the Receiver’s omnibus objection to certain claims (primarily those seeking indemnification) filed in the receivership case (the “Receivership”) and addressed additional open issues necessary to finalize the Receiver’s claims determinations; (ii) monitored and exercised rights as a creditor in the personal bankruptcy case of Mark Nordlicht (“Nordlicht”), including the pursuit of the adversary proceeding commenced by the Receiver objecting to discharge; (iii) sought to finalize inter-estate issues between the Receivership Entities and the Joint Liquidators for Platinum Partners Value Arbitrage Fund L.P. (together with its feeder funds, “PPVA” or “PPVA Funds”) regarding common assets and the resolution of inter-estate claims; (iv) continued to monitor the few remaining assets of the estate that have not been liquidated and that may have potential value; and (v) took steps to prepare for the filing of a plan of distribution and eventual wind-down of the estate.

As previously reported, certain of the settlements that the Receiver reached during the course of the Receivership are confidential. To preserve the confidentiality of these settlements, the Receiver advised that she would not disclose and will not be disclosing details of *any* settlements, including the identity of the settling parties, the amounts agreed to be paid by such parties, whether such amounts are to be paid in structured payouts and over what period of time, and/or the source of any litigation-related funds received in any reporting period, unless such

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<sup>2</sup> To assist her with her duties, the Receiver retained, with the approval of the Court (on July 21, 2017), Otterbourg P.C. (“Otterbourg”) as her legal counsel [Dkt. No. 231] and Teneo Company as her financial advisor [Dkt. No. 232] (“Teneo” (f/k/a Goldin) and, together with Otterbourg, the “Receivership Team”).

details are matters of public record by virtue of a motion for Court approval of such settlement or otherwise.

## **II. SUMMARY OF OPERATIONS OF THE RECEIVERSHIP**

### **A. Appointment of Receiver and Duties**

On December 19, 2016, the District Court entered an Order Appointing Receiver [Dkt. Nos. 6 and 16], which appointed Bart Schwartz as receiver (the “Prior Receiver”). At the time of his appointment, the Prior Receiver was serving as a monitor for the Platinum Entities.

On June 23, 2017, after six months, the Prior Receiver resigned and, upon the recommendation of the Securities and Exchange Commission (“SEC”), by Order dated July 6, 2017, Melanie L. Cyganowski was appointed as Receiver, effective immediately (*i.e.*, July 6, 2017), and ordered to assume all authority held by the Prior Receiver. [Dkt. No. 216].

Under the terms of the Receiver Order, the Receiver is, among other things, required to preserve the *status quo*, ascertain the extent of commingling of funds, ascertain the true financial condition of the Platinum Entities, prevent further dissipation of property and assets of those entities, prevent the encumbrance or disposal of property or assets of the Platinum Entities, preserve the books, records, and documents of the Platinum Entities, be available to respond to investors’ inquiries, protect investors’ assets, conduct an orderly wind down, including a responsible disposition of assets and an orderly and fair distribution of those assets, and determine whether one or more of the Receivership Entities should undertake bankruptcy filings.

## **B. Analysis and Disposition of Receivership Assets**

There are currently five remaining assets that the Receiver continues to monitor,<sup>3</sup> including assets in which the Receiver retained a residual interest and assets that are jointly held with PPVA that have potential value, but do not require outlays of capital to maintain. While there are additional assets that remain as property of the estate (*See* Exhibit B), the Receiver has determined that these other remaining assets do not have any value, are not being actively monitored, and will most likely be subject to a request to abandon in a proposed plan of distribution. In addition, the Receiver periodically is called upon to address certain post-closing matters with respect to certain assets that were previously sold as well as to respond to various requests for documents and/or information.

During the current Reporting Period, the Receivership received \$17,118. This is in addition to the approximately \$87 million received by the Receivership since the date of the Receiver's appointment. Certain parties have asserted secured claims to all or part of the proceeds of such liquidated investments, most of which have been resolved pursuant to the settlement in the litigation with Beechwood and the agreement with Heartland Bank.

## **C. Investigation of Pre-Receivership Activities and Litigation**

The Receiver previously settled substantially all claims in the Beechwood litigation. During the Reporting Period, the Receivership Team monitored, as necessary, the litigation that PPVA is pursuing against many of the same defendants. The litigation by PPCO itself, however, has ended. The Receiver's investigation of any other potential pre-receivership claims is described in Section V below.

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<sup>3</sup> The assets that the Receiver continues to monitor are as follows: (i) China Horizon/Yellow River; (ii) Acceleration Bay litigation (Receivership has a back-end interest); (iii) Agera litigation; (iv) Decision Diagnostics equity; and (v) Pro Player revenue sharing agreement.

**D. Administrative Matters**

During the Reporting Period, the Receiver and the Receivership Team continued to speak with various interested parties and groups, including the Joint Liquidators for PPVA,<sup>4</sup> the SEC and Platinum investors and creditors. The Receiver also responded to certain document requests made by third parties. The Receiver updates the Receiver's website with key documents, answers to frequently asked questions and status reports to investors. The Receivership Team also filed and responded to other applications made before the Court and in other court proceedings involving Platinum, including with respect to the Nordlicht Bankruptcy Case (defined below) both in the Court and in the Bankruptcy Court in which the Nordlicht Bankruptcy Case is pending.

**1. PPVA.** Since the Receiver's appointment, she and the Receivership Team have kept in frequent communication with the Joint Liquidators for the PPVA Master Fund and the PPVA Feeder Fund and/or their staff to discuss issues of mutual interest. PPVA and PPCO have each analyzed and discussed potential claims against the estate of the other stemming from pre-Receivership transactions. Upon the Receiver's appointment, the Receiver and the Joint Liquidators agreed to hold the resolution of any such purported claims in abeyance during the cases. The Receiver has been engaged in discussions with the Joint Liquidators of PPVA regarding a resolution of purported claims and remaining assets of mutual interests, including their joint interest in Agera Energy LLC and Agera Holdings, LLC (collectively, "Agera").<sup>5</sup> A

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<sup>4</sup> PPVA is the subject of insolvency proceedings pending in the Cayman Islands and a Chapter 15 bankruptcy proceeding in the U.S. Bankruptcy Court for the Southern District of New York.

<sup>5</sup> Agera is a retail energy service company. In June 2016, prior to the receivership, Principal Growth Strategy, LLC ("PGS"), which is owned 55% by PPVA and 45% by PPCO, sold a portion of its interests in Agera to certain entities affiliated and/or associated with Beechwood Re Investments LLC. Pursuant to their respective interests in PGS, both PPVA and PPCO agreed that PGS would pursue certain claims and causes of action relating to its ownership of a certain promissory note convertible into 95% of the common equity of Agera's subsidiary, energy reseller Agera Energy. In connection with such agreement, a complaint was filed in the Court of Chancery

resolution between the two estates is understandably complex, and the parties have taken time to consider a variety of issues. However, during the Reporting Period, the parties agreed to finalize the terms of a settlement and expect to execute the settlement agreement in the near term and then have the agreement approved by each estate's supervising court. The Receiver also continues to monitor the status and progress of the Agera Litigation and the China Horizon/Yellow River asset discussed above, both of which are held jointly with PPVA through PGS.

**2. Nordlicht Bankruptcy Case.** Nordlicht filed a Chapter 7 bankruptcy petition on June 29, 2020 in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"). The case was assigned to Judge Robert D. Drain and assigned Case No. 20-22782-rdd (the "Nordlicht Bankruptcy Case"). The case has since been transferred to Judge David S. Jones as a result of Judge Drain's upcoming retirement from the bench. The Receiver has been monitoring and exercising rights as a creditor in the Nordlicht Bankruptcy Case. The Receiver previously filed a proof of claim on behalf of PPCO in the Nordlicht Bankruptcy Case, asserting a claim in the amount of not less than \$219 million. The claim is subject to review and objection by the Chapter 7 Trustee. It is uncertain, even if allowed in whole or in part, what recovery, if any, may be available from the Nordlicht Bankruptcy Case, which currently has extensive claims filed against it and has limited disclosed assets with which to satisfy those claims. Nordlicht previously filed a proof of claim against the Receivership Estate. That claim is now the property of Nordlicht's bankruptcy estate and is under the control of the Chapter 7 Trustee to pursue. Pursuit of the Receiver's objection to the Nordlicht proof of claim has been stayed during the Nordlicht Bankruptcy. The Receiver, however, continues to regularly engage

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of the State of Delaware on June 7, 2019 against numerous defendants, including AGH Parent LLC, SHIP and CNO (the "Agera Litigation").

in discussions with the Chapter 7 Trustee with respect to, among other things, resolution of the claims held by each against the other's estate with the goal of reaching a consensual agreement regarding treatment of Nordlicht's claim against the Receivership Estate.

Additionally, following Nordlicht's refusal to continue to toll the Receiver's time to do so, to protect and preserve estate assets and causes of action that can be asserted by creditors against Nordlicht, the Receiver filed a complaint objecting to the discharge of Nordlicht (the "Discharge Complaint"). The Discharge Complaint, alleges, among other things, that Nordlicht knowingly and fraudulently made a false oath in the Nordlicht Bankruptcy Case by failing to list significant assets and financial transactions in his bankruptcy schedules, and concealed his property with the intent to hinder, delay, or defraud his creditors.

Following motion practice and decisions of the Bankruptcy Court and this Court, the Receiver prepared and filed a Motion for Leave to Amend the Discharge Complaint (the "Motion to Amend") and drafted a proposed Amended Complaint (the "Amended Complaint"). The Motion to Amend was filed with the Bankruptcy Court on August 24, 2021. Although the Amended Complaint tracked the advice of the Bankruptcy Court regarding how to amend the complaint to address any initial infirmities, Nordlicht nonetheless filed an Objection to the Motion to Amend on September 30, 2021 and the Receiver filed a Reply Memorandum in support of the Motion to Amend. The Motion to Amend was heard on October 27, 2021 and the Bankruptcy Court granted the Receiver leave to file her proposed Amended Complaint with a minor modification. Nordlicht then answered the Amended Complaint and asserted a counterclaim essentially seeking dismissal of the Receiver's Proof of Claim filed against Nordlicht's estate. The parties exchanged discovery requests and during the Reporting Period, the Receiver responded to the discovery requests by producing documents, objecting to certain

requests and engaging in meet and confer sessions. The document production to date has been extensive. While continuing to pursue the litigation, the Receiver also continues to explore potential resolutions.

If the Receiver is successful in the Discharge Complaint, the Receiver, and other creditors of Nordlicht, will be able to continue to assert claims against Nordlicht, and his assets, post-bankruptcy and will not be limited to a recovery from the assets of his bankruptcy estate. Further, as to claims asserted against the Receivership Estate for which Nordlicht and a Receivership Entity have alleged co-liability, a creditor's ability to continue to recover against Nordlicht, if successful, may reduce the claims such creditor has asserted against the Receivership.

**3. Obsolete Document Disposal.** The Court entered an order on October 22, 2021 approving the Receiver's request to dispose of approximately 460 boxes of pre-Receivership hardcopy documents and permanently delete and/or destroy certain electronic data and related media (collectively, the "Obsolete Materials"). The Obsolete Materials are either no longer necessary for the administration of the Receivership Estate and/or is duplicative of other information that will continue to be maintained on behalf of the Receivership Estate. [Dkt. No. 593] As previously reported, disposal of the Obsolete Materials will reduce the administrative costs associated with the continued preservation and maintenance of the Obsolete Materials. Following entry of the order, Otterbourg responded to numerous inquiries and requests regarding the Obsolete Materials, and as of the date of this Report, the Receiver is only continuing to maintain Obsolete Materials if a party has agreed to reimburse the Receiver for any associated expense.



4. **Website and Investor Communications.** The Receiver retained Epiq to create and maintain the Receiver's website ([www.PlatinumReceivership.com](http://www.PlatinumReceivership.com)) and provide other services to the estate, including official communications with stakeholders. This website provides investors and other interested parties with, among other things, periodic status reports, access to court documents and answers to frequently asked questions. The Receiver revises the website as necessary to update the "Frequently Asked Questions" section and to add "key documents." The website allows interested parties to sign up to receive daily notices whenever there are new filings on the Receivership docket. The Receiver and the Receivership Team have attempted to respond to investor inquiries and continue to regularly respond and react to inquiries and requests for information.

5. **Criminal Trial.** Following the criminal trial of Nordlicht, David Levy and Joseph SanFilippo, the jury returned a verdict convicting Nordlicht and Levy of defrauding bondholders in Black Elk Offshore Operations LLC, but acquitting each of them on the remaining charges. SanFilippo was acquitted on all counts with which he was charged. The Court thereafter set aside the jury verdict with respect to Levy and ordered a new trial with respect to Nordlicht. The Department of Justice appealed those decisions and on November 5, 2021, the Court of Appeals for the Second Circuit vacated the Court's order and remanded to the Court for further proceedings consistent with its decision. Following the decision, Nordlicht and Levy requested that the Second Circuit reconsider its decision and/or hear the appeal anew *en banc*, which requests were denied on December 29, 2021. Thereafter, on March 29, 2022, Nordlicht and Levy filed a petition for a writ of certiorari with the United States Supreme Court. As of the date hereof, the trial of Daniel Small is scheduled to commence in July 2022. The Receiver continues to monitor the criminal proceedings of the Defendants.

6. **SEC Meetings.** The Receiver has frequent communications with SEC staff to keep them apprised of ongoing matters as to which SEC input is appropriate, to alert them to certain filings by the Receiver and to keep the SEC apprised of the status of the claims process and wind down of the estate. The Receiver and the Receivership Team also have periodic communications with SEC personnel about pending matters before the Court and in the Nordlicht Bankruptcy Case for which SEC input was appropriate.

7. **Receivership Estate Oversight.** The Receiver and the Receivership Team also devoted time during the Reporting Period to the general oversight of the Platinum Entities and the estate. Conferences with the Receiver and members of the Receivership Team, via conference call or videoconference, occurred on a regular basis to facilitate the exchange of relevant information, including the status of certain assets being monitored, the claims process, the plan of distribution and other administrative matters. The Receiver maintained direct oversight over all legal and financial-related work being done by her Receivership Team. Otterbourg attorneys assisted the Receiver, along with assistance from Platinum's CFO and Teneo, in analyzing budget, cash management and other administrative issues of the Receivership estate. Otterbourg attorneys also responded to requests for documents during the Reporting Period.

### **III. CASH, EXPENSES AND UNENCUMBERED ASSETS**

A schedule summarizing cash receipts and disbursements, as well as cash on hand for the Reporting Period, is set forth in the Schedule of Receipts and Disbursements attached hereto as **Exhibit A.**

As of March 31, 2022, the Receivership Entities had approximately \$19.1 million in funds. Certain parties have claimed an interest in certain sold assets and have asserted claims to a portion of the sale proceeds of such assets (as opposed to a general claim against the

Receivership Entities). Other parties have presented documentation which purportedly grant them security interests in all or certain of Platinum's assets. These secured claims were challenged and have been substantially resolved pursuant to settlements in the Beechwood litigation and an agreement with Heartland Bank.

Cash disbursements during the Reporting Period totaled \$355,592. This amount consisted of (i) \$222,383 in professional expenses, including Platinum's accountants and the directors of the Cayman entities; and (ii) \$133,209 in business asset expenses (primarily consisting of payroll and related expenses paid to Platinum employees, office rent, and payments to Epiq).

It is estimated that, as of March 31, 2022, accrued and unpaid administrative expenses amount to approximately \$5.88 million. This amount includes the estimate of fees and expenses that have been incurred by the Receiver, Otterbourg and Teneo during the Reporting Period and that will be requested in future applications, holdbacks for prior applications of the Receiver, Otterbourg and Teneo and holdbacks to the Prior Receiver's counsel (Cooley) with respect to its interim fee application. In addition to these unpaid administrative expenses, the Receiver paid remaining in-house Platinum staff and other operating expenses during the Reporting Period.

Cash receipts during the Reporting Period totaled \$17,118, consisting of interest and a payment by the Schafer and Weiner law firm in connection with a previously approved settlement agreement.

#### **IV. RECEIVERSHIP PROPERTY**

As of March 31, 2022, the primary assets of the estate ("Receivership Property") consisted of the following:

- (i) Cash and cash equivalents of approximately \$19.1 million;

(ii) Remaining stock and royalty interests, litigation financing and other miscellaneous investments; and

(iii) Potential litigation claims.

A list of Receivership Property – namely, each asset of the PPCO and PPLO entities – is attached hereto as **Exhibit B**.<sup>6</sup>

The review of the assets in the Receivership’s asset portfolio is complete. There are only a few remaining assets that the Receiver continues to monitor, including shared assets with PPVA that may have potential value to the Receivership Estate.

Below is an overview of certain assets in which the Receiver and the Receivership Team have focused on during the Reporting Period.

**1. Decision Diagnostics** – refers to Decision Diagnostics Corp. (“Decision Diagnostics”), a company that describes itself on its website as “a leading manufacturer of low cost home testing devices and test strips for use with legacy meters.” Despite that description, Decision Diagnostics announced in March 2020 that it had developed a COVID-19 test, causing its publicly-traded stock to jump in price and the SEC to institute a suspension in trading. On December 17, 2020, the United States Government unsealed an indictment of Decision Diagnostics’s CEO, Keith Berman, for securities and other fraud in connection with Decision Diagnostics’s purported COVID-19 testing capabilities. That same day, the SEC commenced a civil enforcement action against Decision Diagnostics and Berman related to the same conduct.

Alpha Credit Resources LLC (“Alpha Credit”), a wholly-owned subsidiary of PPCO, holds certain common and preferred shares, convertible into common shares, in Decision Diagnostics. According to certain of its financial statements, Decision Diagnostics purported to

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<sup>6</sup> The Receivership Property List has been updated to reflect realizations in the current quarter, as well as, corporate actions or events that resulted in a divestment or cancellation of the Funds’ interest in an investment.

cancel certain of Alpha Credit's shares in Decision Diagnostics (although Decision Diagnostics has provided any evidence that it actually cancelled those shares). Decision Diagnostics also took active steps to prevent the Receiver from liquidating Alpha Credit's shares, by, among other things, refusing to remove a restrictive legend from Alpha Credit's shares in Decision Diagnostics and refusing to convert Alpha Credit's preferred shares in Decision Diagnostics into common shares. Following the company's refusal, for years, of the Receiver's repeated demands to restore, recognize and convert, as applicable, Alpha Credit's shares, on February 19, 2021, the Receiver initiated an action in the United States District Court for the Eastern District of New York to enforce her rights with respect to the Receivership's holdings in Decision Diagnostics. *See Melanie L. Cyganowski, as Receiver and Agent v. Decision Diagnostics, Inc.*, 2:21-cv-00888. The case was transferred to Judge Cogan.

Parallel with the litigation, the Receiver also engaged in settlement discussions with Decision Diagnostics and reached a settlement in principle, subject to definitive documentation. At the end of 2021, the Receiver completed and finalized the Settlement Agreement with Decision Diagnostics and in the beginning of the Reporting Period, undertook to implement the settlement agreement, including the transfer of certain stock. The litigation is now concluded and the Receiver monitors the stock value for an opportune time to sell the stock pursuant to the terms of the settlement agreement.

2. **China Horizon/Yellow River** – refers to an asset that is jointly held with PPVA through a company called PGS. PGS owns equity and debt interests in China Horizon and Yellow River—two companies created to build a chain of franchised convenience stores in rural China. The promissory note from China Horizon held by PGS has a face value of approximately \$9.0 million and PGS also holds approximately 6.5 million shares of common stock in Yellow

River. During the course of the Receivership, the Receiver and the Joint Liquidators of PPVA periodically received inquiries regarding the sale of PGS's and PPVA's collective interests in the China Horizon notes and the Yellow River equity position. These inquiries, although diligently pursued, never resulted in a firm offer. During the Reporting Period, the Receiver and the Receivership Team continued to actively monitor this asset, including engaging in conversations with Yellow River and other of its advisors, and continue to explore, along with the Joint Liquidators of PPVA, options for monetizing the asset, if possible. This asset may ultimately add value to the Receivership Estate, although it is still speculative and any amount that may be realized and the timing of such monetization is still in flux and indeterminate.

#### **V. LIQUIDATED AND UNLIQUIDATED CLAIMS HELD BY THE ESTATE/INVESTIGATION OF TRANSACTIONS**

The Receiver and the Receivership Team have analyzed other pre-Receivership activities, including transfers made by PPCO and PPLO to other entities and individuals, and the professional services provided by, among others, valuation agents, fund administrators, auditors and legal advisors, to determine if any additional causes of action exist that, on a cost-benefit basis, warrant the commencement of litigation. Where mutual releases are warranted, the Receiver has sought and obtained such releases. Whether and the extent to which the Receiver may commence additional affirmative actions against, among others, insiders of Platinum, if any, will likely be addressed as part of the proposed plan of distribution and likely reservation of rights.

#### **VI. LIABILITIES OF THE RECEIVERSHIP ESTATE**

Pursuant to Paragraph 47 of the Receiver Order, below please find a description of the Receivership Estate's potential liabilities. Certain liabilities described herein, particularly those

pertaining to creditor claims, are uncertain, and will remain as such until the Receivership Team concludes the claims reconciliation process.

**A. Creditors.** The creditor-related information presented below is based on prior management's books and records, which are as of December 19, 2016, the date Platinum entered receivership. The validity and amount of claims that may be entitled to a distribution will be based upon the Receiver's claim determinations, settlements and the outcome of the Receiver's objections to certain claims, and are likely to differ materially from the values reported by prior management. Accordingly, the following is only intended to be informative of prior management's books and records at the time of the commencement of the Receivership:

- PPCO lenders: PPCO owed approximately \$69.1 million in principal (not including interest) to certain lenders. As a result of the settlement in the Beechwood litigation and an expected resolution with PPVA, almost all of this debt has been, or will be, eliminated.
- PPCO unpaid redemptions: \$28.2 million in unpaid redemption requests were made by 21 PPCO investors.
- PPLO unpaid redemptions: \$6.5 million in unpaid redemption requests were made by 3 PPLO investors.
- PPCO and PPLO outstanding payables: PPCO and PPLO had \$2.7 million of outstanding payables attributable to 23 vendors.<sup>7</sup>

Additional claims were filed through the claims process, including claims of former employees of Platinum. The Receiver has now substantially completed the claims reconciliation process. The only outstanding claims related issues, which will determine the amount and

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<sup>7</sup> This amount reflects PPCO's books and records, but may be revised based upon the review of the filed pre-Receivership general unsecured claims.

priority of claims asserted against PPCO and PPLO are (i) the Court's ruling on the Claims Motion (described further below, but which primarily objects to priority claims for indemnification asserted by certain insiders); (ii) the execution of the settlement agreement with PPVA; (ii) the Court's ruling on the pending SHIP Escrow Motion (defined below); and (iv) the resolution of the proof of claim filed by Nordlicht.

**B. Accrued Administrative Expenses.** As of March 31, 2022, accrued and unpaid administrative expenses amounted to approximately \$5.88 million. These administrative expenses primarily consist of accrued and unpaid professional fees. In addition to these unpaid administrative expenses, the Receivership Estate has budgeted \$45,000-\$50,000 per month to pay the remaining in-house Platinum staff (the CFO and information technology consultant) and to cover other operating expenses, such as office rent. This budgeted expense amount reflects a reduction from prior months as a result of the disposal of obsolete documents maintained with certain third-party vendors pursuant to the Obsolete Document Disposal Motion.

During the Reporting Period, the Receiver started to draft a motion seeking the approval of an administrative bar date. While the Receiver has been paying administrative claims throughout the case as they come due in the ordinary course of business, the purpose of the administrative claims bar date motion is to ascertain whether there are any potential additional administrative claims, apart from the accrued professional fee claims. This will assist the Receiver in connection with a proposed plan of distribution by enabling the Receiver to ascertain, now, whether any unknown administrative claims may be asserted or, alternatively, that there are no additional administrative claims.

**C. Disbursements to Preserve the Value of Certain Investments.** No significant expenses were incurred by the Platinum Entities to maintain any of the remaining portfolio



investments. No significant expenses, other than overhead expenses and the professional fees of the Receivership Team, are expected going forward.

**D. Investors.** The Receiver currently believes that there are 286 known investors in the Platinum Entities. Platinum's books and records reflect that unaffiliated investor claims total at least \$337.1 million, including claims for unpaid redemptions by unaffiliated investors totaling at least \$34.5 million, and that affiliated investor claims currently total at least \$19.7 million after taking into account amounts settled in the Beechwood litigation. After conferring with the SEC, at this time, to protect the privacy of such investors, the Receiver is not filing with this Status Report a list of the names of each investor and the amount of such investor's net cash investment. Pursuant to the approved claims reconciliation process, and as described further in the next section, certain investors have been notified of the total investments in and distributions from the Platinum entities as reflected in Platinum's books and records.

## **VII. CLAIMS ANALYSIS AND PLAN OF DISTRIBUTION**

Pursuant to the previously-approved bar date procedures motion [Dkt. No. 453], the bar date to file a proof of claim asserting a claim arising before the Receivership was March 29, 2019 and the bar date for governmental units to file a proof of claim was April 12, 2019. In excess of 300 claims were filed. Parties holding investor claims, claims for unpaid redemptions and unpaid administrative claims were not required to file proofs of claim.

### **A. Review of Claims**

In accordance with the Order approving the procedures to reconcile claims and verify interests, entered on December 1, 2020 (the "Claims Procedures and Verification Order") [Dkt. No. 554], Platinum's CFO and the Receivership Team engaged in an extensive review of each of the filed claims, analyzed the documents provided in support of each claim, compared the claims to Platinum's books and researched legal issues when necessary. Following this review, on

March 9, 2021, the Receiver filed a Notice of Receiver's Claims Analysis Report (the "Claims Report"), which set forth her determinations with respect to each of the claims. [Dkt. No. 564] Certain claims were allowed as filed or pursuant to previously reached settlements, others disallowed in total, and others partially allowed. The Claims Report provides the basis for the disallowance or partial disallowance for each of the claims, as applicable.

Claimants had until April 23, 2021 (unless an extension was mutually agreed upon in writing) to object to the Receiver's determinations in the Claims Report. Thirteen claimants, asserting multiple claims, objected to the Receiver's determinations in the Claims Report. The Receivership Team reached out to each of the claimants that objected to the claim determinations and engaged in discussions to reconcile the claims. Certain of these discussions resulted in consensual resolutions or the withdrawal of claims, including one resolution reached following a formal mediation.

With respect to certain claim objections for which no resolution was reached, in accordance with the procedures set forth in the Claims Procedures and Verification Order, on November 12, 2021, the Receiver filed an Omnibus Motion to Confirm Receiver's Determinations [Dkt. Nos. 597] (the "Claims Motion"). On November 13, 2021, Applicants filed declarations in support of the Claims Motion [Dkt. Nos. 598-599]. An amended memorandum of law in support of the Claims Motion was filed on November 23, 2021. [Dkt. Nos. 602-603]. Opposition to the Claims Motion was filed on December 13, 2021 [Dkt Nos. 609-614]; the Receiver filed her Reply in support of the Claims Motion on December 28, 2021 [Dkt. No. 617]; Levy and his counsel filed a sur-reply on January 14, 2022 [Dkt. Nos. 619-620]; and the Receiver filed a Reply in Support of the Claims Motion on January 28, 2022 [Dkt. No. 622]. The Claims Motion is currently under consideration by the Court.

There are certain claims issues, such as the assertion of priority, which could significantly impact the distribution, if any, to be made to creditors and investors. Accordingly, the Receiver determined that it was important for certain claims issues to be resolved prior to presenting a plan of distribution to the Court.

#### **B. Release of Escrow Motion**

In connection with the completion of the Receiver's claim review and final determination of all claims, On March 18, 2022, the Receiver filed her Motion for an Order (I) Permanently Enjoining any Prosecution of Claim No. 145 and (II) Confirming the Receiver's Authority to Consent to the Release of the Indemnity Escrow Amount (the "SHIP Escrow Motion"). The SHIP Escrow Motion has its roots in the Court's earlier approval of the Receiver's July 1, 2020 settlement with Senior Health Insurance Company of Pennsylvania in Rehabilitation ("SHIP") and Fuzion Analytics, Inc. ("Fuzion"), Dkt. No. 536-2 (the "Settlement"). The Settlement and a separate settlement with certain other parties, which collectively resolved, in substantial part, a contentious litigation commenced by the Receiver against SHIP, Fuzion and certain other parties, in which the Receiver, *inter alia*, (i) challenged, as fraudulent conveyances under the New York Debtor and Creditor Law certain transactions in which the chief investment officer of PPCO Portfolio Manager caused PPCO Master Fund to issue nearly \$70 million of purported secured debt in order to finance its purchase or discharge of certain worthless or grossly overvalued loans to three distressed companies, and (ii) asserted certain other claims for damages. *See* Receiver's First Amended Complaint in *Cyganowski v. Beechwood Re Ltd.*, 18-12018 (S.D.N.Y.), Dkt. No. 83, ¶¶ 221-258, 341-426. The Settlement resolved the Receiver's claims regarding a substantial portion of purportedly secured debt, but did not address two matters. The first matter relates to a portion of the debt held by PGS, which is jointly owned by PPCO and PPVA. The SHIP Escrow

Motion does not address that portion of the purported debt, which the Receiver has now resolved with PPVA (the written settlement with PPVA will be executed shortly and will be the subject of a separate motion seeking the Court's approval). The second matter, which is the focus of the SHIP Escrow Motion, deals with the Settlement's requirement that, within two (2) business days of the Effective Date (as defined by the Settlement), the Receiver make a wire transfer of \$4,530,155.68 (the "Indemnity Escrow Amount") to the "Indemnity Escrow Agent" (as defined by the Settlement), with the Indemnity Escrow Amount to serve as indemnification by SHIP of the Receiver to the extent that certain parties listed on the Debt Registry<sup>8</sup> with respect to putative ownership by (i) PBLA ULICO 2017; (ii) BBIL ULICO 2014; and (iii) OMNIA Ltd. (the "Putative Lenders") of some portion of the debt (the "Unresolved Portion"), or their agent, BAM Administrative Services, LLC ("BAM"), acting on their behalf, sought payment on the Unresolved Portion.

The Indemnity Escrow Amount is governed by a separate escrow agreement dated July 31, 2020 (the "Escrow," Cyganowski Decl., Ex. B) by and among Melanie L. Cyganowski, in her capacity as the Receiver, Patrick H. Cantilo, in his capacity as Special Deputy Rehabilitator for SHIP, and by Wilmington Trust, National Association, as Escrow Agent. *Id.*

The Escrow acknowledged, by reference to the Settlement, SHIP's agreement to indemnify and hold harmless the Receivership Entities and certain other entities (collectively, the "PPCO Parties") "from all suits . . . claims, proofs of claim . . . and liabilities, including, without limitation, reasonable attorneys' fees and expenses, arising from the PBLA ULICO 2017 Lender of Record Interests, the BBIL ULICO 2014 Lender of Record Interest and/or the OMNIA Lender of Record Interest, up to a maximum of the Indemnity Escrow Amount." Escrow, 1.

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<sup>8</sup> The "Debt Registry" refers to a document that is attached to the Settlement as Exhibit A. See Dkt. No. 536-1 at 20 of 33.

In a separate letter agreement between the Receiver and SHIP that governed distributions by the Escrow Agent (the “Indemnity Escrow Procedures Letter,” Cyganowski Decl., Ex. C), the Receiver and SHIP were required to jointly direct the Escrow Agent to release the Indemnity Escrow Amount upon the entry of final, non-appealable order that a claim (the “BAM Claim”) asserted by BAM in the Receivership is invalid as to the Unresolved Portion. Now that the Receiver has disallowed the BAM Claim and no party has objected to her determination, the BAM Claim is permanently disallowed. SHIP has now demanded that the Receiver release the Indemnity Escrow to it based on its position that the Settlement and the Indemnity Escrow Procedures Letter require its release. To satisfy the condition precedent to the release of the Indemnity Escrow Amount, pursuant to the SHIP Escrow Motion, the Receiver requested that the Court confirm her determination and permanently enjoin any further prosecution of the BAM Claim, with the exception of any portion of the BAM Claim representing a portion owned by PGS.

In sum, because no party has come forth within the time established by the Claims Procedures and Verification Order to challenge or otherwise object to the Receiver’s determination to disallow the BAM Claim, the Receiver, by the SHIP Escrow Motion, requested that the Court: (i) confirm the effect of the Receiver’s Disallowance by permanently enjoining any further prosecution of the BAM Claim; and (ii) confirm the Receiver’s authority to release the \$4,530,155.68 Indemnity Escrow Amount to SHIP. Objections to the SHIP Escrow Motion are due by May 9, 2022.

### **C. Review of Investor Interests**

The Claims Report solely relates to general unsecured claims and secured claims. In accordance with the Claims Procedures and Verification Order, investors in PPCO, including

unpaid redeemers, received a letter that contains information regarding that investor's equity interest in one or more Receivership Entities (the "PPCO Investor Statement"). The PPCO Investor Statement sets forth the amounts invested in one or more Receivership Entities and the amounts previously received as distributions on account of the investor's equity interest, all as reflected in the books and records of the Receivership Entities. Investors had an opportunity to review the information provided and to refute the information, but solely on the basis that the books and records of the Receivership Entities are inaccurate, which was required to be supported by documentation from the investor. During the Reporting Period, the Receivership Team continued to communicate with certain investors to resolve any issues regarding discrepancies in the amount of an investor's equity interests, which disputes have now been resolved.

#### **D. Plan of Distribution**

The amounts reflected in the Claims Report and the PPCO Investor Statement are not necessarily equal to or indicative of any recoveries a creditor or investor may receive from one or more Receivership Entities. As previously reported, the timing of distributions may be impacted by, among other things, the resolution of certain of the larger disputed claims (for which the establishment of reserves may be required if not resolved prior to the approval of a plan of distribution) and the assets available for distribution. The filing of the plan of distribution was put on hold as the Receiver sought to finalize the claims reconciliation process and priority of distribution asserted by certain creditors.

Although the filing of the plan of distribution has been temporarily put on hold, during the Reporting Period, the Receivership Team continued to review the Plan and make revisions to the plan so that it can be filed following the resolution of certain overarching issues (*e.g.*, the

Claims Motion). Ultimately, through a motion seeking approval of a plan of distribution, the Receiver will seek the Court's approval of, among other things, (i) the distribution methodology to apply in calculating the distribution to be made on account of each claim and equity interest and (ii) the treatment of claims and equity interests under the plan of distribution.

Investors and creditors will have the opportunity to object to the plan of distribution and any of its provisions, including the distribution methodology and treatment of claims and equity interests. The Receiver cannot at this time state what distributions will ultimately be to creditors and investors.

#### **VIII. RECOMMENDATIONS FOR CONTINUATION OR DISCONTINUATION OF RECEIVERSHIP**

As during prior Reporting Periods, the Receiver believes that continuation of the receivership is in the best interests of the creditors of and investors in the Platinum Entities. For the reasons stated in the Receiver's previous Status Reports and in the Receiver's Response to Minute Order [Dkt. No. 516], the Receiver continues to believe that winding down the case, administering claims and seeking approval of a plan of distribution is in the best interest of creditors and investors.

A more detailed explanation and reasoning for why the Receiver believes that, at this time, the interests of all stakeholders would be best served by continuing to administer the Receivership outside of bankruptcy is set forth in the Receiver's Response to Minute Order. On January 22, 2020, the Court issued an Order on the docket finding that compelling the Receiver to file a bankruptcy petition at that point would not be in the best interest of all parties. The Receiver believes the Court's finding is particularly applicable at this time as the Receiver reaching the end of the claims reconciliation process.

**IX. CONCLUSION**

The Receiver continues to monitor the few remaining assets, including the shared assets with PPVA. The Receivership currently is primarily focused on finalizing the claims reconciliation process and then proceeding to file a plan of distribution.

Dated: April 20, 2022

Otterbourg P.C.

By: /s/ Erik B. Weinick

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*On Behalf of Melanie L. Cyganowski, as Receiver*



# **EXHIBIT A**

**PLATINUM PARTNERS CREDIT OPPORTUNITIES MASTER FUND LP AND AFFILIATED ENTITIES****Schedule of Receipts and Disbursements**

	Period from 01/01/2022 to 03/31/2022			Cumulative Total from 7/7/2017 to 03/31/2021		
	PPCO	PPLO	Total	PPCO	PPLO	Total
Cash (Beginning of Period)	\$ 15,976,306	\$ 3,484,524	\$ 19,460,830	\$ 7,788,872	\$ 1,617,492	\$ 9,406,363
<b>Receipts</b>						
Business Income	-	-	-	-	-	-
Cash and Securities	-	-	-	24,596	-	24,596
Interest/Dividend Income	2,118	-	2,118	116,904	91,472	208,376
Asset Sales and Third-Party Litigations Proceeds	15,000	-	15,000	84,519,835	1,829,706	86,349,541
Other Receipts	-	-	-	801,896	3,294	805,190
<b>Total Receipts</b>	<b>\$ 17,118</b>	<b>\$ -</b>	<b>\$ 17,118</b>	<b>\$ 85,463,231</b>	<b>\$ 1,924,472</b>	<b>\$ 87,387,703</b>
<b>Disbursements</b>						
Disbursements to Investors/Claimants	-	-	-	(17,874,754)	-	(17,874,754)
Disbursements for Receivership Operations	-	-	-	-	-	-
Disbursements to Receiver or Other Professionals	(222,383)	-	(222,383)	(30,074,929)	(2,575)	(30,077,504)
Business Asset Expenses	(133,209)	-	(133,209)	(7,445,945)	(35,825)	(7,481,770)
Personal Asset Expenses	-	-	-	-	-	-
Investment Expenses	-	-	-	(19,698,926)	-	(19,698,926)
Third-Party Litigation Expenses	-	-	-	-	-	-
Tax Administrator Fees and Bonds	-	-	-	(115,814)	(19,039)	(134,854)
Federal and State Tax Payments	-	-	-	-	-	-
Disbursements for Distribution Expenses Paid by the Fund	-	-	-	(2,175,096)	-	(2,175,096)
Disbursements to Court/Other <sup>1</sup>	-	-	-	(228,806)	-	(228,806)
<b>Total Disbursements</b>	<b>\$ (355,592)</b>	<b>\$ -</b>	<b>\$ (355,592)</b>	<b>\$ (77,614,270)</b>	<b>\$ (57,440)</b>	<b>\$ (77,671,710)</b>
Cash (End of Period)	\$ 15,637,833	\$ 3,484,524	\$ 19,122,356	\$ 15,637,833	\$ 3,484,524	\$ 19,122,356

1 Disbursement to PPVA for its share of proceeds from the sale of interest in Cokal Limited

# **EXHIBIT B**

## Receivership Property List

### PPCO Assets

Asset Name	Asset Type
1) Abdala Tailings Project	Royalty Stream
2) Acceleration Bay	Back-end proceeds from litigation
3) Activision TV, Inc.	Patent Portfolio
4) Agera Energy LLC	Preferred Stock
5) Carbon Credits	Participations in PPVA deals
6) Celsius Resources Ltd	Common Stock
7) China Horizon Investment Group Ltd.	Loan Receivable
8) Claus Shelling Family Trust	Life Settlements Portfolio
9) Credit Card Receivables Portfolio	Loan Receivable
10) Decision Diagnostics Corp.	Preferred Stock
11) Environmental Service Professionals, Inc.	Common Stock
12) Khorrami Pollard & Abir, LLP	Loan Receivable
13) Golden Gate Oil LLC	Notes Receivable
14) Millennium Healthcare, Inc.	Common Stock
15) MMP Resources Limited (f/k/a Sino Construction)	Common Stock
16) Montsant Partners LLC	Loan Receivable
17) Nisayon International Inc.	Loan Receivable
18) Over Everything LLC	1) Loan Receivable 2) Common Stock
19) Urogen Pharmaceuticals, Inc.	1) Note Receivable 2) Preferred Stock
20) Xcell Energy Inc.	Loan Receivable
21) Yellow River	Common Stock

## Receivership Property List

### PPLO Assets

Company Name	Asset Description
1) Alcyone Resources Limited	1) Common Stock 2) Note Receivable
2) Black Elk Energy Offshore Operations LLC	Note Receivable
3) China Cablecom Holdings Ltd.	1) Common Stock 2) Preferred Stock
4) Misung Polytech	Loan Receivable
5) Ochre Group Holdings Limited	Common Stock
6) Wexford Petroleum Corporation	Common Stock

# Receivership Property List

## Jointly Held PCO / PPLO Assets

Company Name	Asset Description
1) Platinum Partners Value Arbitrage Fund	Loan Receivable