

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE PLATINUM-BEECHWOOD LITIGATION,	:	No. 18 Civ. 6658 (JSR)
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	:	
MARTIN TROTT and CHRISTOPHER SMITH, as Joint	:	
Official Liquidators and Foreign Representatives of	:	
PLATINUM PARTNERS VALUE ARBITRAGE FUND	:	
L.P. (in OFFICIAL LIQUIDATION) and PLATINUM	:	No. 18 Civ. 10936 (JSR)
PARTNERS VALUE ARBITRAGE FUND L.P. (in	:	
OFFICIAL LIQUIDATION),	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
PLATINUM MANAGEMENT (NY) LLC, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
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**REPLY MEMORANDUM OF LAW OF DEFENDANT
MEADOWS CAPITAL LLC IN FURTHER SUPPORT OF ITS MOTION TO
DISMISS THE FIRST AMENDED COMPLAINT FOR FAILURE TO STATE A CLAIM**

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Meadows' moving memorandum showed that the scant allegations that it was a Preferred Investor in BEOF and its principal was an "acquaintance" of Murray Huberfeld fall woefully short of pleading facts to establish the existence of each element of a claim against Meadows for aiding and abetting alleged breaches of fiduciary duty or fraud or unjust enrichment. Dkt. No. 254. The JOLs' latest opposition refers to those scant allegations relating to Meadows then simply repeats the arguments made in opposition to the motions to dismiss filed by other defendants collectively alleged to be the "Preferred Investors in the BEOF Funds." The JOLs do not (and cannot) point to any well-pleaded facts setting forth the who, what, when or how of Meadows' alleged conduct that establishes knowing and substantial participation by Meadows in any alleged scheme against PPVA. The reply memoranda filed by other defendants demonstrate that the JOLs' opposition does not overcome the pleading deficiencies that are fatal to the claims against the Preferred Investors in the BEOF Funds. Meadows joins in each of these reply memoranda. *See* Dkt. Nos. 228-31, 234-35, 273.¹

The JOLs' opposition relies upon its group pleading allegations without factual detail connecting those conclusory allegations to Meadows. Opp. 6. The JOLs refer to Meadows as an "insider" (Opp. 6), but fail to support that conclusion with any facts to show that Meadows was an insider of Platinum. This bald label does not entitle the JOLs to rely upon any relaxed group pleading standard.

In tacit recognition that the claims against Meadows are not supported by allegations of fact, the JOLs embellish the FAC's allegations. For example, the FAC alleges that Meadows' manager, Robert Cohen, "was an acquaintance of Mr. Huberfeld, and held several meetings with Huberfeld and Bodner leading up to the Renaissance Sale." FAC ¶ 164. By contrast, the

¹ The defined terms set forth in Meadows' moving memorandum of law shall have the same meaning herein.

opposition argues, without citation to the FAC, that Meadows had a “personal relationship” with Huberfeld and Mr. Cohen “was a longtime associate of Huberfeld.” Opp. 6. However, the embellishments do not remedy the deficiencies. Not a single factual detail is pleaded about the alleged acquaintance, let alone facts to establish that Meadows or its principal acquired through this acquaintance actual knowledge of alleged breaches of fiduciary duties or fraud perpetrated by the Platinum or Beechwood Defendants against PPVA.

The JOLs acknowledge the unjust enrichment claim rests on the allegation in FAC ¶ 493 which sets forth “a table listing the indirect equity investment held by Meadows Capital LLC, and the distribution it received as a result of the Renaissance Sale.” Opp. 7. The table shows a capital investment by Meadows of \$500,000 and a distribution of that capital with a gain of \$8,329. The FAC does not allege that these funds in fact were received and kept by Meadows. In the event that these funds remained invested in Platinum managed funds and were ultimately lost by Meadows (which are the *true facts*), the JOLS cannot establish that Meadows was enriched, let alone unjustly or at PPVA’s expense. The FAC does not state a viable claim for unjust enrichment against Meadows.

The claims against Meadows for aiding and abetting breach of fiduciary duty and fraud and unjust enrichment claim must be dismissed.

CONCLUSION

For all of the foregoing reasons, as well as the reasons set forth in the reply memoranda of law submitted by the defendants alleged to be “Preferred Investors in the BEOF Funds,” it is respectfully requested that the Court enter an order (a) dismissing the Ninth, Tenth and Fifteenth Counts as against Meadows Capital LLC with prejudice and without leave to replead, and (b) granting Meadows Capital LLC such further relief as the Court deems just.

Dated: New York, New York
March 15, 2019

**MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.**

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