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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PLATINUM-BEECHWOOD LITIGATION	18-cv-6658 (JSR)
Trott, *et al.*, Plaintiff(s), -v- Platinum Management (NY) LLC, *et al.*, Defendant(s).	18-cv-10936 (JSR) **DEFENDANT PLANTINUM F.I. GROUP. LLC'S JOINDER IN SECOND-ROUND MOTIONS TO DISMISS AND MEMORANDA OF LAW**

Defendant Platinum F.I. Group, LLC ("PFIG") respectfully joins in the second-round Motions to Dismiss and supporting Memoranda of Law filed in this action by defendants Michael Katz and Leon Meyers, and to the relevant extent the second-round motions and memoranda filed by any other moving defendants, which are hereby incorporated by reference. [1]

Plaintiffs lack standing to bring claims against PFIG under the settled rule announced in *Shearson Lehman Hutton, Inc. v. Wagoner*, 944 F.2d 114, 120 (2d Cir. 1991). Under the *Wagoner* rule, which is closely related to the doctrine of *in pari*

[1] Plaintiffs' aiding-and-abetting claims against PFIG were dismissed in the Court's Order resolving the first-round motions. Accordingly, notwithstanding Plaintiffs' decision to re-allege those claims "for appellate purposes" in the Second Amended Complaint, PFIG does not believe it necessary to move against those claims a second time. Should the Court determine that the dismissed and re-alleged claims are operative as against PFIG, PFIG respectfully requests leave to move against those claims at that time.

delicto,[2] a wrong-doer's successor-in-interest lacks standing to recover against outsiders for their participation in the wrong-doer's scheme. *In re ICP Strategic Income Fund, Ltd.*, 730 F. App'x 78, 81-82 (2d Cir. 2018). Here, Plaintiff's assert that the agents and managers of PPVA who are identified in the Second Amended Complaint as "Platinum Defendants," caused PPVA to transfer money to the BEOF Funds, which then distributed that money to the Preferred Investors of the BEOF Funds, including PFIG, to PPVA's detriment. (SAC ¶¶ 505-506, 950.) These allegations place the remaining claim against PFIG—and all of the claims against the Preferred Investor defendants—squarely within the *Wagoner* rule.

Plaintiffs lack standing to bring claims against third parties for their predecessor-in-interest's own wrongdoing, and their sole remaining claim against PFIG, for unjust enrichment, must therefore be dismissed. Moreover, even if Plaintiffs have standing to pursue their claim against PFIG under *Wagoner*, and even if that claim is not barred by the related doctrine of *in pari delicto*, the relationship between PPVA and PFIG alleged in the SAC is too attenuated to support a claim for unjust enrichment. The claim for unjust enrichment must therefore be dismissed. *Georgia Malone & Co., Inc. v. Rieder*, 19 N.Y.3d 511 (2012).

CONCLUSION

For these reasons, Plaintiffs' unjust enrichment claim against PFIG should be dismissed with prejudice pursuant to Fed. R. Civ. P. 12(b)(6).

[2] Because PPVA is alleged to have participated in the wrongs for which Plaintiffs, PPVA's successors-in-interest, seek to recover, the doctrine of *in pari delicto* bars Plaintiffs' claims against PFIG even if the Court determines that the *Wagoner* rule does not deprive Plaintiffs of standing herein.

Dated: New York, NY
April 22, 2019

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By: _____

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