

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PLATINUM BEECHWOOD
LITIGATION

Master Docket No.
1:18-cv-06658-JSR

MARTIN TROTT *et al.*,

plaintiffs

against

PLATINUM MANAGEMENT (NY) LLC, *et al.*,

defendants.

No. 1:18-cv-10936-JSR

LOCAL RULE 56.1 STATEMENT IN SUPPORT OF
EZRA BEREN'S MOTION FOR SUMMARY
JUDGMENT

Defendant Ezra David Beren, by and through his counsel, respectfully submits this statement of uncontested facts pursuant to Local Rule 56.1 of the United States District Court for the Southern District of New York in support of his motion for summary judgment (the "**Motion**").¹

1. Mr. Beren was hired by Platinum Management in 2011. Affirmation of Ezra David Beren ("**Beren Aff.**"), ¶ 6.

2. When Mr. Beren began working at Platinum Management, he was initially permitted to retain the title of Vice President. Beren Aff., ¶ 7.

¹ Capitalized terms not otherwise defined herein are taken from the Second Amended Complaint.

3. When he began working with David Steinberg, his title was changed to “Portfolio Manager.” Beren Aff. ¶ 7.

4. Regardless of which title he had, Mr. Beren had no management responsibilities at Platinum Management and had no authority to make deals without approval from his superiors. Beren Aff. ¶ 8.

5. Mr. Beren did not have (and still does not have) any knowledge of the specific ownership of Platinum Management or PPVA. Beren Aff. ¶ 9.

6. Mr. Beren has never had any direct or indirect ownership interest in either company. Beren Aff. ¶ 9.

7. Mr. Beren’s compensation at Platinum Management consisted of a draw of \$100,000 annually, which was supposed to be taken against a percentage of the realized profits on the specific deals in his portfolio. Beren Aff. ¶ 12.

8. The only investment that was ever in Mr. Beren’s portfolio was PEDEVCO, both while at Platinum and at Beechwood. Beren Aff. ¶ 13.

9. The PEDEVCO investment had been originated by David Steinberg, who also served as a PEDEVCO board member. Beren Aff. ¶ 13.

10. The PEDEVCO investment was passed to Mr. Beren by Mr. Steinberg. Beren Aff. ¶ 13.

11. The PEDEVCO investment never realized any profits during Mr. Beren’s tenure. Beren Aff. ¶¶ 12 – 13.

12. Mr. Beren never received any pay, bonus, incentive compensation or anything else of value related to his portfolio at Platinum. Beren Aff. ¶ 13.

13. No part of Mr. Beren's compensation depended on the net asset value of the fund as a whole. Beren Aff. ¶ 14.

14. PPVA's PEDEVCO investment was held through RJ Credit LLC, in which Mr. Beren held no ownership interest. Beren Aff. ¶ 15.

15. The members of RJ Credit LLC were David Steinberg, Mark Nordlicht, and Mr. Beren. Mark Nordlicht was the managing member. RJ Credit LLC was 100% owned by PPVA. Beren Aff. ¶ 15 and Exhibit 1 thereto.

16. Mr. Beren was removed as a member of RJ Credit LLC shortly after leaving Platinum and joining Beechwood. Beren Aff. ¶ 15.

17. Mr. Beren received no compensation for being a member of RJ Credit. Beren Aff. ¶ 15.

18. Mr. Beren was never aware of PPVA's NAV during his time at Platinum. He did not track it, he had no role in determining it and it was not relevant to any of his job duties or compensation. Beren Aff. ¶ 16.

19. At Platinum Management, Mr. Beren reported to David Steinberg, who would eventually become co-chief risk officer for Platinum Management, and who was also a board member at PEDEVCO. David Steinberg, in turn, reported to Mark Nordlicht. Beren Aff. ¶ 17 – 18.

20. Mr. Beren had no authority to enter into any transactions without approval from Mr. Nordlicht. He would bring possible deals to Mr. Steinberg, who would then take them to Mr. Nordlicht. Beren Aff. ¶ 19.

21. Mr. Beren had no authority to take any actions even with respect to PEDEVCO without approval from Mr. Steinberg and Mr. Nordlicht. Beren Aff. ¶ 20.

22. Mr. Beren had no authority to bind Platinum Management or any of its affiliated entities without approval from the chief investment officer or officers. Beren Aff. ¶ 21.

23. Mr. Beren never had any day-to-day management responsibilities with respect to Platinum Management or any other Platinum entity, including RJ Credit LLC. Beren Aff. ¶ 22.

24. Mr. Beren never had any responsibilities with respect to the Huberfeld Family Foundation. He had no knowledge of its business affairs and never personally received a loan or any other funds from it. Beren Aff. ¶ 23.

25. Mr. Beren was not a signatory to any “partnership agreement” or “operating documents” of Platinum Management. Beren Aff. ¶ 24.

26. Mr. Beren has no knowledge of the PPVA Partnership Agreement or how it may have required PPVA to calculate its NAV, recoup its expenses or compensate its partners. Beren Aff. ¶ 25.

27. Mr. Beren occasionally sent information about the fund to potential business partners. However, he had nothing to do with the preparation of any such information. Beren Aff. ¶ 26.

28. At no time did any part of Mr. Beren's compensation depend on the net asset value of PPVA, and Mr. Beren never received any pay, bonus, incentive compensation or anything else of value as a result of PPVA's NAV. Beren Aff. ¶ 27.

29. Mr. Beren was not engaged as a portfolio manager for BAM in 2014 and was never an employee of PPAV and BAM at the same time. Beren Aff. ¶ 29.

30. In 2014, because Mr. Beren was not an employee of Beechwood, David Steinberg suggested that Mr. Beren enter into an "investment management agreement" to cover any deals he might bring to Beechwood. Beren Aff. ¶¶ 30 – 32.

31. Mr. Beren never originated any deals that would have been covered by the investment management agreement and was never paid anything by BAM under it. Beren Aff. ¶ 34.

32. Mr. Beren had no job duties with respect to Beechwood until January 2016, by which time his employment with Platinum had ended. Beren Aff. ¶ 31.

33. Mr. Beren was never a member of any valuation committee and never had any responsibility for assigning values to PPVA's portfolio. Beren Aff. ¶ 36; SanFilippo Aff. ¶¶ 4 – 5; Nordlicht Aff. ¶¶ 4 – 5.

34. Mr. Beren was never "required" to be on any valuation committee and did not participate in any discussions or decisions with respect to determining the value of the PEDEVCO investment or any other investment, or PPVA as a whole. Beren Aff. ¶ 37.

35. Mr. Beren had no involvement whatsoever in making any risk determinations. Beren Aff. ¶ 38.

36. Mr. Beren's sole responsibility for reporting was with respect to PEDEVCO. Beren Aff. ¶ 39.

37. Mr. Beren's responsibility with respect to PEDEVCO was to (a) check PEDEVCO's cash balance; (b) receive various progress reports about PEDEVCO's operations; and (c) receive reports from Ryder Scott, and then to pass all this information on to other personnel with responsibility for valuing Platinum's assets and managing its investments. Beren Aff. ¶ 40.

38. Mr. Beren was not responsible for analyzing this information or offering any opinion as to its veracity or reliability. Nor was it a part of his job to decide, or even suggest, how that information should be used to determine PPVA's value. Beren Aff. ¶ 42.

39. All of the information Mr. Beren furnished to the valuation committee, or any other Platinum personnel, was an accurate account of the information

from PEDEVCO or Ryder Scott. Mr. Beren never misrepresented any of the information he received or withheld information that was material. Beren Aff. ¶ 43.

40. Mr. Beren participated in only one part of one valuation committee meeting during his tenure at PPVA: On July 24, 2014, Mr. Steinberg was unavailable and asked Mr. Beren to participate in his place. Mr. Beren's participation was limited to calling in, presenting the information he had most recently received from PEDEVCO and Ryder Scott, and hanging up. Beren Aff. ¶¶ 38 and 44 – 46; Beren Tr. 116:10 – 119:21.

41. Mr. Beren had no role in preparing or approving the minutes for that meeting. Beren Aff. ¶ 47; Beren Tr. pp. 117:24 – 118:4.

42. Mr. Beren had no role in preparing or approving the document shown to him at his deposition and listing him as a participant in both the Quarter 1 and Quarter 2 valuation committee meetings for 2014. Beren Aff. ¶ 48 and Exhibit 4 thereto; Beren Tr. 121:15-16.

43. Mr. Beren does not know why that document (incorrectly) lists him as a participant for two quarters. Beren Aff. ¶ 48 and Exhibit 4 thereto; Beren Tr. 121:23 – 122:5.

44. Mr. Beren had nothing whatsoever to do with Platinum Management “reporting” or representing the value of anything to PPVA or anyone else. He never had any idea of the NAV value of PPVA or how it was determined for reporting or any other purpose. Beren Aff. ¶ 51.

45. Mr. Beren left Platinum in mid-December of 2015 and started at Beechwood in January of 2016. At no time did he work for both companies simultaneously. Beren Aff. ¶ 56.

46. Mr. Beren performed the same duties at Beechwood that he had at Platinum. Beechwood and Platinum had co-invested in PEDEVCO, so Mr. Beren provided similar reporting to his new supervisors at Beechwood in the same way he had at Platinum. Beren Aff. ¶ 57.

47. Mr. Beren's compensation structure was the same at Beechwood as it had been at Platinum: a \$100,000 annual salary to be drawn against future realized profits. Beren Aff. ¶ 57.

48. As with Platinum, Mr. Beren did not have (and still does not have) any knowledge of the specific ownership of Beechwood or its related entities. He was generally and vaguely aware that there was some overlap between the ultimate ownership of Platinum and Beechwood, but he never knew (and does not know) the details. Beren Aff. ¶ 58.

49. Mr. Beren has never had any ownership interest in either, directly or indirectly. Beren Aff. ¶ 58.

50. Mr. Beren had no role in forming Beechwood or any Beechwood-related entity. Beren Aff. ¶ 59.

51. At Beechwood, Mr. Beren initially reported to Danny Saks. After Mr. Saks left the company, Mr. Beren reported to Dhruv Narain. Danny Saks

(and later Dhruv Narain) reported to Mark Feuer and Scott Taylor. Beren Aff. ¶ 60.

52. Mr. Beren had no management responsibilities with respect to Beechwood or any Beechwood entity. Beren Aff. ¶ 61.

53. Mr. Beren had no authority to enter into any transactions without approval from the people to whom he reported. He would bring possible deals to his superiors, who would then take them to Mr. Feuer. Beren Aff. ¶ 62.

54. Mr. Beren had no authority to take any actions even with respect to PEDEVCO without approval from Mr. Saks or Mr. Narain. Beren Aff. ¶ 63.

55. Mr. Beren had no authority to bind Beechwood or any of its affiliated entities. Beren Aff. ¶ 64.

56. At Beechwood, Mr. Beren sourced a single deal that turned out to be profitable, but he was fired before he realized any benefit from that deal. Beren Aff. ¶ 65.

57. Mr. Beren was fired by Beechwood in approximately October or November of 2016. Beren Aff. ¶ 66.

58. Mr. Beren had no role in any of the various “schemes” the SAC alleges. He had nothing to do with any of them and had no knowledge of the acts it alleges, if they in fact occurred. Beren Aff. ¶ 67.

59. Mr. Beren had absolutely nothing to do with Black Elk or the “Black Elk Scheme” as described in the SAC. He had no role at all with respect to

the investment in Black Elk. He was not aware of any of the actions alleged in the SAC with respect to Black Elk. Beren Aff ¶ 68.

60. Mr. Beren did not direct Black Elk to do anything nor was Mr. Beren aware that any of the other Platinum Defendants had done so. Beren Aff. ¶ 69.

61. Mr. Beren had no knowledge of the Renaissance Sale. He had nothing to do with the use of the proceeds of the Renaissance Sale nor was he aware of the other Platinum Defendants' alleged actions in this respect. Beren Aff. ¶ 70.

62. Mr. Beren had no knowledge of any Consent Solicitation; had nothing to do with Consent Solicitation, its preparation or its distribution; and was not aware of the other Platinum Defendants' or Beechwood Defendants' alleged actions in this respect. Beren Aff. ¶ 71.

63. Mr. Beren had no knowledge of any purchase of Senior Secured Notes, had nothing to do with such a purchase, and was not aware of the other Beechwood Defendants' alleged actions in this respect. Beren Aff. ¶ 72.

64. Mr. Beren had no knowledge of any decision to vote the interest of the Senior Secured Notes in any way, had nothing to do with such a decision, and was not aware of the other Platinum Defendants' or Beechwood Defendants' alleged actions in this respect. Beren Aff. ¶ 73.

65. Mr. Beren had no knowledge of the preparation of any reports to PPVA with respect to Black Elk (or otherwise), had nothing to do with the

preparation of such reports, and was not aware of the other Platinum Defendants' alleged actions in this respect. Beren Aff. ¶ 74.

66. Mr. Beren had no knowledge of the 2015 Monstant Loan, had nothing to do with it, and was not aware of the other Platinum Defendants' or Beechwood Defendants' alleged actions in this respect. Beren Aff. ¶ 75.

67. Mr. Beren had no knowledge of any pledging of any PPVA assets, had nothing to do with any such pledge, and was not aware of it or of the other Platinum Defendants' or Beechwood Defendants' alleged actions in this respect. Beren Aff. ¶ 76.

68. Mr. Beren had no knowledge of Northstar or of the issuance or purchase of Northstar Notes, had nothing to do with Northstar or of the issuance or purchase of Northstar Notes, and was not aware of it or of the other Platinum Defendants' or Beechwood Defendants' alleged actions in this respect. Beren Aff. ¶ 77.

69. Mr. Beren had no knowledge of the Agera Security Agreement, had nothing to do with that alleged agreement, and was not aware of it or the other Platinum Defendants' or Beechwood Defendants' alleged actions in this respect. Beren Aff. ¶ 78.

70. Mr. Beren had no knowledge of Northstar's purchasing any assets of Black Elk, had nothing to do with that alleged transaction, and was not aware of the purchase or of the other Platinum Defendants' or Beechwood Defendants' alleged actions in this respect. Beren Aff. ¶ 79.

71. Mr. Beren had no knowledge of what, if anything, other Platinum Defendants represented to others regarding PPVA's equity interests in its oil and gas investments, and he never made any such representations. Beren Aff. ¶ 80.

72. Mr. Beren never made any claims as to the value of Northstar's parent, nor did he know anything about what, if anything, other Platinum Defendants claimed in that respect. He had nothing to do with the preparation of PPVA's "4th Quarter 2014 and 1st Quarter 2015 Valuations." Beren Aff. ¶ 81.

73. Mr. Beren had nothing to do with valuing PPVA's equity interests in Northstar, nor did he know anything about it or what, if anything, other Platinum Defendants did in that respect. He had nothing to do with the preparation of the Indicative NAV Report, nor did he know anything about what, if anything, other Platinum Defendants did in that respect. Beren Aff. ¶ 82.

74. Mr. Beren had nothing to do with valuing PPVA's loans to Northstar, nor did he know anything about it or what, if anything, other Platinum Defendants did in that respect. Beren Aff. ¶ 83.

75. Mr. Beren had nothing to do with any of the alleged transactions involving Northstar or the Northstar Notes, nor did he have anything to do with valuing these transactions, nor did he have anything to do with any disclosures regarding them. He also did not know anything about them or

what, if anything, other Platinum Defendants did in these respects. Beren Aff. ¶ 84.

76. Mr. Beren had no knowledge of P Administrative Services, had nothing to do with it, and was not aware of it or the other Platinum Defendants' alleged failure to record any security interest, nor did he have anything to do with or any awareness of the other Platinum Defendants' alleged representations in these respects. Beren Aff. ¶ 85.

77. Mr. Beren was not a member of the Northstar board of directors and was never aware of Northstar's financial condition. Beren Aff. ¶ 86.

78. Mr. Beren never conspired with any other Defendants with respect to the "Remaining PPVA Assets." He had no knowledge of what PPVA held, the NAV of PPVA or the transactions other Defendants allegedly engaged in. Nor did he have any role in reporting any of these things to investors. Beren Aff. ¶ 87.

79. Mr. Beren did not and would not have had the authority to encumber any of PPVA's assets with liens to anyone. He was unaware that any other Platinum Defendants had (allegedly) done so, and he had nothing to do with how these alleged transactions were reported to others. Beren Aff. ¶ 88.

80. Mr. Beren had no knowledge of any transactions involving Monstant or liens on any Remaining PPVA Assets, and was not the beneficiary of any such transaction or lien, by way of the Monstant Collateral Account or

otherwise. Nor was he aware of the other Platinum Defendants' or Beechwood Defendants' alleged actions in this respect. Beren Aff. ¶ 89.

81. Mr. Beren did not and would not have had the authority to transfer any of PPVA's assets into (or out of) anything. He was unaware that any other Platinum Defendants had (allegedly) done so, and he had nothing to do with how these alleged transactions were reported to others. Beren Aff. ¶ 90.

82. Mr. Beren had no knowledge of the "crisis" at Beechwood in January 2016, and no knowledge of or role in the Golden Gate Oil Loan or any payments allegedly made in respect of it. Beren Aff. ¶¶ 91.

83. Mr. Beren had no knowledge of, or involvement in, the alleged restructuring of the various transactions between and among PPVA, PPCO and the Beechwood Entities described in the SAC, or with any alleged "insider" transactions, and received no benefits therefrom. Beren Aff. ¶ 92.

84. Mr. Beren had no knowledge of, or involvement in, the alleged Agera Sale. Nor did he have any knowledge of or involvement in any alleged sale or marketing of IMSC. He had no control over, had no ownership interest in (directly or indirectly) and was not a member of AGH Parent, and knew nothing about any alleged sale of an interest in the Agera Note to anybody. Beren Aff. ¶ 93.

85. Mr. Beren had no knowledge or opinion of the market value for the Agera Note at all, nor did he have any involvement or role in formulating or stating "the stated purchase price for the Agera Note." He never had any

knowledge of the Note Purchase Price, nor did he have any awareness of, or “discretion” to, redeem any alleged interests in AGH Parent. He received no “benefit” from any alleged assignment, nor was he aware of any benefit received by any other defendant, as he knew nothing at all about this transaction. Beren Aff. ¶ 94.

86. Mr. Beren never worked with Mr. Narain to “transfer ownership and control of Agera to the Beechwood Entities” and had no idea that Mr. Narain had done so. Beren Aff. ¶ 95.

87. Mr. Beren had no knowledge of, or involvement in, the alleged preparation and delivery of the AGH Redemption Notice or the PGS Assignment, nor did he have any knowledge of any other Beechwood Defendant’s involvement in these things. Beren Aff. ¶ 96.

88. Mr. Beren had no knowledge of, or involvement in, the alleged marketing and sale of AGH Parent, nor did he have any knowledge of any other Beechwood Defendant’s actions in this regard. Beren Aff. ¶ 97.

89. Mr. Beren never sold any interest in Agera to anyone; he never had any interest to sell. Beren Aff. ¶ 98.

90. Mr. Beren had no knowledge of, or involvement in, the alleged issuance of the 16% PPNE Note, nor did he have any knowledge of any other Beechwood Defendant’s actions in this regard. Beren Aff. ¶ 99.

91. Mr. Beren had no knowledge of, or involvement in, the alleged issuance of the 12% PPNE Note, nor did he have any knowledge of any other Beechwood Defendant's actions in this regard. Beren Aff. ¶ 100.

92. Mr. Beren had no knowledge of, or involvement in, any alleged "side agreements," nor did he have any knowledge of any other Beechwood Defendant's actions in this regard. Beren Aff. ¶ 101.

93. Mr. Beren had no knowledge of, or involvement in, Kismetia or its alleged "preferential treatment," and Mr. Beren had no knowledge of any other Beechwood Defendant's actions in this regard. Beren Aff. ¶ 102.

94. Mr. Beren had no knowledge of, or involvement in, the alleged issuance of the Kismetia Note, nor did he have any knowledge of any other Beechwood Defendant's actions in this regard. Beren Aff. ¶ 103.

95. Mr. Beren has no connections with the Harari family. He never had any agreement or dealings with Twosons or the Harari family at all. He never "caused" PPVA to pay Twosons (or anyone else) anything. Nor were any "amounts payable" to him. Beren Aff. ¶ 104.

96. Mr. Beren had no knowledge of, or involvement in, nor did he have any knowledge of any other Beechwood Defendant's actions with respect to any "security interests" or "liens at the subsidiary level" with respect to PPVA. Beren Aff. ¶ 105.

97. Mr. Beren had no knowledge of, or involvement in, nor did he have any knowledge of any other Beechwood Defendant's actions with respect to The

Collective, Atlantic Growth, the Collective Loan or West Loop. Beren Aff. ¶ 106.

98. Mr. Beren had no knowledge of, or involvement in, nor did he have any knowledge of any other Beechwood Defendant's actions with respect to the Forbearance and Security Agreement. Beren Aff. ¶ 107.

99. Mr. Beren had no knowledge of, or involvement in, nor did he have any knowledge of any other Platinum Defendant's actions with respect to the Forbearance and Security Agreement or any transfer of "Agera proceeds to a Gerszberg-controlled entity." Beren Aff. ¶ 108.

100. Mr. Beren had no knowledge of or involvement in any of these events or transactions, nor did he have any knowledge of any other Platinum Defendant's actions with regard to these transactions.

Dated: February 14, 2020

Respectfully submitted,



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