

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE PLATINUM-BEECHWOOD LITIGATION

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

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 PARTNERS VALUE ARBITRAGE
FUND L.P. (in Official Liquidation),

Case No. 1:18-cv-10936-JSR

Plaintiffs,

-v-

PLATINUM MANAGEMENT (NY) LLC,
et al.,

Defendants.

**REPLY DECLARATION OF DONALD H. CHASE IN FURTHER SUPPORT OF THE
HUBERFELD FAMILY FOUNDATION, INC.'S MOTION FOR
SUMMARY JUDGMENT**

I, Donald H. Chase, declare as follows:

1. I am a member of Morrison Cohen LLP, counsel for defendant Huberfeld Family Foundation, Inc. (“HFF”) in the above-captioned consolidated action. Unless otherwise specified, I have personal knowledge of the facts set forth below.

2. I submit this declaration in further support of HFF’s motion, pursuant to Fed. R. Civ. P. 56, for summary judgment dismissing the Second Amended Complaint as against HFF in the action styled *Martin Trott and Christopher Smith, as Joint Official Liquidators and Foreign Representatives of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) v. Platinum Management (NY) LLC, et al.*, Case No. 18-cv-10936 (JSR) (the “Trott Action”).

3. Attached hereto as Exhibit 1 are excerpts from the true and correct transcript of the December 10, 2019 deposition of Bernard Fuchs.

4. Attached hereto as Exhibit 2 are excerpts from the true and correct transcript of the December 5, 2019 deposition of the Huberfeld Family Foundation, Inc.

5. Attached hereto as Exhibit 3 are excerpts from the true and correct transcript of the December 19, 2019 deposition of Aaron Elbogen.

6. Attached hereto as Exhibit 4 are excerpts from the true and correct transcript of the November 25, 2019 deposition of Murray Huberfeld.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 17, 2020

/s/ Donald H. Chase
Donald H. Chase

EXHIBIT 1

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658 (JSR)
CASE NO. 18-CV-10936 (JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

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 PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

VOLUME II

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
BERNARD FUCHS

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Tuesday, December 10, 2019,
commencing at 10:07 a.m.

1 Bernard Fuchs

2 Q Is it possible that it was in 2016?

3 A Yes, it's possible.

4 Q Okay.

5 "When the announcement was made
6 that I can't get any of the money out in 2015
7 because I am a partner, there was some commitment
8 that I made to some religious organization."

9 Now, that's the Yeshiva Torah
10 Vodaath that you mentioned?

11 A Yes.

12 Q Returning to the -- to the
13 transcript:

14 "So I made to some religious
15 organization that I was going to give them a
16 certain amount of charity for that year. So they
17 were very gracious in making me sign a release
18 that I will never sue them, and then lent me
19 500,000, 250 each, so I could make these
20 commitments; and I paid back some of that money
21 to them."

22 First of all, are you sure about
23 those amounts?

24 A Pretty sure. Pretty sure.

25 Q Is it possible that it was 325,000

1 Bernard Fuchs

2 that the Huberfeld Family Foundation lent you?

3 A Possible. Yes. It could be I was
4 off with that amount.

5 Q Okay. And is it -- are you sure
6 that it was at that time that you were asked to
7 sign a release?

8 A I'm not sure exactly when I was
9 asked. I know I was asked to sign the release
10 which I signed, but I'm not sure it was exactly
11 that same time or was before or after.

12 Q Okay.

13 A That I'm not sure exactly.

14 Q Okay. Now, in terms of the --
15 let's look at the release right now.

16 MR. ISAACS: Previously marked as
17 Exhibit 150, Tab 6.

18 MR. CHASE: Okay. Previously
19 marked as Exhibit 150, Tab 6. I'm going to
20 hand the witness a copy, Counsel.

21 (Previously Marked Exhibit No. 150,
22 Tab 6, Document entitled "Execution
23 Version, Release Agreement, Platinum,
24 Bodner, Huberfeld, Fuchs, Landesman and the
25 Nordlicht Parties," dated 3/20/16, Bates

1 Bernard Fuchs

2 time now.

3 Q Okay.

4 A I really never looked at this.

5 Q But that is what is provided in
6 this agreement that you signed?

7 A Correct.

8 Q Okay. And do I understand your
9 testimony -- well, let -- let me ask you this:

10 Are you sure that the loan that was
11 provided by the Huberfeld Family Foundation to
12 the Fuchs Family Foundation was in some way
13 connected to this release agreement?

14 A No, no connection at all.

15 Q It had no connection at all?

16 A None.

17 Q Okay. So the release agreement was
18 a separate matter from the loan from the family
19 foundation to the Fuchs Foundation?

20 A Correct.

21 Q Okay. So let's -- let's talk about
22 that loan, get back to that loan.

23 You made payments on that loan for
24 a period of time, correct?

25 A Yes.

1 Bernard Fuchs

2 Q Was there a time at which
3 Mr. Huberfeld asked -- was asked by you to
4 re-jigger the amounts?

5 A Yes.

6 Q To lower the amounts because you --
7 you were paying, what, 25,000 at one point?

8 A Yes.

9 Q And it was reduced to 2,500?

10 A Yes.

11 MR. CHASE: I'm going to mark as
12 Exhibit -- what number?

13 THE REPORTER: 761.

14 MR. CHASE: 761, A document Bates
15 stamped HF -- HFF 000520.

16 (Exhibit No. 761, 3/31/16 Document,
17 Lender List, Bates No. HFF 000520 is marked
18 by the reporter for identification.)

19 MR. BROWNLEE: Just so we could put
20 on the record, we -- we have requested, on
21 behalf of the joint official liquidators,
22 all the backup information for this
23 document and we have yet to receive it.
24 We've made multiple requests for it. We
25 make another request for it. And so we put

1 Bernard Fuchs

2 that on the record. Thank you.

3 (Document, Backup for loan payments
4 from Fuchs Family Foundation to the
5 Huberfeld Family Foundation made between
6 May 2, 2016, and December 17, 2018,
7 requested.)

8 Q Okay. Now, I will represent to you
9 that this is a document that was prepared by the
10 Huberfeld Family Foundation in connection with
11 your loan. You'll see that it reflects payments
12 beginning on May 2nd, 2016, and continuing all
13 the way through December 17, 2018, a total of
14 127,500 in payments.

15 To the best of your knowledge, does
16 that accurately reflect the payments that the
17 Fuchs Family Foundation made to the Huberfeld
18 Family Foundation in connection with that loan?

19 A It looks -- it looks okay. It
20 looks like it could be the amount.

21 Q And is it your recollection that
22 the last payment you made was in December of
23 2018?

24 A I don't remember exactly, but it
25 could be that's right.

1 Bernard Fuchs

2 Q Did you stop paying after you were
3 sued in this case?

4 A Yes.

5 Q Was that why you stopped paying?

6 A Yes.

7 Q And is -- do you have any reason to
8 dispute that the amount that was loaned by the
9 Huberfeld Family Foundation to the Fuchs Family
10 Foundation was 325,000?

11 A No. That's correct.

12 Q And that the date was March 31,
13 2016, that it was loaned?

14 A It looks like it's correct.

15 Q Okay.

16 MR. NOVAK: Are you on a different
17 topic at this moment?

18 MR. CHASE: What?

19 MR. NOVAK: Are you staying on
20 this -- on this issue, right? I'll let you
21 finish, and then I want to talk to my
22 client.

23 MR. CHASE: Okay. I just -- let me
24 just check and see. All right.

25 Q Now, it was understood by you and

1 Bernard Fuchs

2 the Huberfeld Family Foundation that this money,
3 the 325,000, was loaned for the purpose of giving
4 it to Yeshiva Torah Vodaath?

5 MR. BROWNLEE: Objection.

6 Mischaracterizes the evidence.

7 MR. NOVAK: Objection, also.

8 Q Is that accurate?

9 MR. NOVAK: When we object, you --
10 if you can answer the question, try to
11 answer it, not speculating, though.
12 Counsel doesn't want you to speculate. But
13 if you can answer it -- our objection is
14 for other purposes if it goes to trial.

15 A Primarily, the money was going to
16 go to this Yeshiva. There were some other
17 schools that were also getting, so not the
18 entire --

19 Q Okay.

20 A -- 325,000 was going just to one
21 school.

22 I would say maybe 150 to 200
23 thousand was going to that one school, and the
24 rest was going to other charities that I had
25 commitments to on a monthly basis, especially

1 Bernard Fuchs

2 before the holidays.

3 Q But it's clear that the loan that
4 was made was for your charitable foundation, the
5 Fuchs Family Foundation, and for charitable
6 purposes, correct?

7 A Correct.

8 Q Okay. It wasn't a personal loan?

9 A No.

10 MR. NOVAK: Maybe this is a point
11 to take a break.

12 MR. CHASE: Yes.

13 MR. NOVAK: Just so I can talk to
14 my client outside.

15 MR. CHASE: Okay.

16 THE VIDEOGRAPHER: The time is
17 10:28 a.m., and we're going off the record.

18 (There was a discussion off the
19 record.)

20 THE VIDEOGRAPHER: The time is
21 10:30 a.m., and we are back on record.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. CHASE:

24 Q Okay. I want to refer you to other
25 testimony that you made.

1 Bernard Fuchs

2 Q -- the release.

3 But what moneys were related to the
4 release?

5 A None.

6 Q So when you sign -- so -- so tell
7 me, then, about how you signed the release.

8 A When I looked at the release, now I
9 see all the people that signed on it.

10 Q Um-hum.

11 A So it couldn't have been for the
12 loan because why would Uri Landesman have to sign
13 the release, why would -- obviously, it was
14 nothing to do with that loan.

15 Q Right.

16 A I was confused a little bit that
17 day.

18 Q So tell me about -- tell me about
19 when -- did you sign the release in the -- with a
20 lawyer present? Was a lawyer even there?

21 A I don't remember.

22 Q Was Mr. Huberfeld there?

23 A I don't remember.

24 Q Was Mr. Nordlicht there?

25 A I don't remember.

1 Bernard Fuchs

2 A Yes.

3 Q You just signed the release?

4 A Yes.

5 Q So this whole story that you told
6 under oath on October 2nd about signing the
7 release in exchange for getting the money, that
8 was untruthful?

9 A It was a mistake. Yeah. I made a
10 mistake, yes.

11 Q Well, it's not mistake.

12 A It wasn't a lie intentionally.
13 It's just I thought that that was connected to
14 that. But now I see that it wasn't.

15 Q I see. So let me keep going on.

16 A Sure.

17 Q Because I -- I want to keep reading
18 here.

19 A Okay.

20 Q So then we said -- we started
21 there. Right. So I stopped where I said:

22 "Money from Platinum, my money."

23 You actually said that on your own.

24 Are you now testifying that the money you got,
25 that these loans were not your dollars, that they

EXHIBIT 2

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658 (JSR)
5 CASE NO. 18-CV-10936 (JSR)

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7 IN RE: PLATINUM-BEECHWOOD LITIGATION
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9 MARTIN TROTT and CHRISTOPHER SMITH, as Joint
10 Official Liquidators and
11 Foreign Representatives of
12 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
13 (in Official Liquidation), and
14 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
15 (in Official Liquidation),

16 Plaintiffs,

17 vs.

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

19 Defendants.
20 -----

21 TRANSCRIPT OF DEPOSITION OF
22 HFF 30(b) (6) WITNESS MURRAY HUBERFELD

23 TRANSCRIPT of the stenographic notes of
24 the proceedings in the above-entitled matter, as
25 taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Thursday, December 5, 2019,
commencing at 9:30 a.m.

1 Murray Huberfeld 30(b)(6) HFF
2 Oratz beginning in 2013 all the way into 2017 in
3 excess of \$2 million?

4 A I remember certain loans. I don't
5 calculate them in total -- but certain loans with
6 different people.

7 And Moshe Oratz was a close friend
8 of mine, someone who had -- who I had known for a
9 long time, someone who had done a lot of good
10 things and I like him a lot. And I am happy to
11 answer any questions specifically about any loan.

12 Q Why do you think -- what was the
13 purpose of their loan?

14 How -- why did the Huberfeld Family
15 Foundation give over \$2 million in loans to
16 Oratz?

17 A Well, most of the loans that were
18 given to him were given at interest rates, okay,
19 payment of interest rates. And he paid them and
20 continues to pay them.

21 I believe there was -- in my -- in
22 my review, I found one loan that I gave to his
23 brother for \$300,000, which I believe he paid
24 back 200 of it within a month and the balance
25 over the next several months.

1 Murray Huberfeld 30(b)(6) HFF

2 And the other loans were given out,
3 I believe, all at interest -- and someone who I
4 trust implicitly and someone who approached me
5 and said that "I need money."

6 And I said:

7 "Okay. Here's what the opportunity
8 is. What's the collateral?"

9 And discussion, and I lent the
10 money.

11 Q So what is the charitable purpose
12 of giving \$2 million to Oratz?

13 A Let's try it again.

14 Q Loaning?

15 A I didn't lend -- I didn't lend him
16 \$2 million for charitable purposes. I had one
17 loan that I lent him for -- for no interest, not
18 to him, but to his brother, which was a
19 relatively small amount of money which he paid
20 back.

21 Q \$300,000 --

22 A 300,000 --

23 Q -- does that sound right?

24 A Which he paid 200 within a --
25 within two weeks --

1 Murray Huberfeld 30(b)(6) HFF

2 Q Okay.

3 A -- and the balance over the year.

4 So it was a relatively -- for the foundation, an
5 insignificant amount of money to lend out. I
6 forgot the reason that his brother approached me
7 at the time for that loan; but it was something
8 having to do with him, nothing to do with Moshe
9 Oratz.

10 And Moshe Oratz's loans were all
11 for interest, so they weren't charitable work.
12 They were making money.

13 Q So the second loan in 2014 for
14 750,000 to Moshe Oratz at 5 percent, that was --
15 you are viewing that as an investment?

16 A It was.

17 Q Okay. Was it paid back?

18 A Mostly paid back. He's been paying
19 back -- I don't think it was at 5 percent. I
20 think it was at three -- \$3,125 per month based
21 on the 750 that he paid \$40,000 principal right
22 away; so it was only 710. But the interest
23 payments stayed the same.

24 And then he paid back \$10,000 a
25 month for three years. And the interest payment

1 Murray Huberfeld 30(b)(6) HFF
2 stayed the same. So it was -- it ended up being
3 higher than 5 percent. I think it ended up -- I
4 don't know what the exact rate is, but --

5 Q All right. So tab ten, page 299.

6 A Yes, tab ten.

7 Q All right. On page 299, so it
8 says -- oh, you are still looking.

9 All right. It's -- it's the bottom
10 one there on that page. So it's A. Oratz. So
11 that would be --

12 A Right.

13 Q -- is that Abraham?

14 A Yes.

15 Q Okay. And it's for 300,000, and at
16 0 percent interest; and the maturity date was
17 less than a year?

18 A Right. It was paid back much
19 earlier.

20 Q Okay. Now, was he an investor in
21 either PPVA or PPCO, if you recall?

22 A Not that I know.

23 Q Not that you know of?

24 A I don't think so.

25 Q Okay. All right.

1 Murray Huberfeld 30(b)(6) HFF

2 How about Moshe?

3 A I don't think so either.

4 Q Okay. Let's look at the next one.

5 That is tab 11, page 346.

6 A Okay.

7 Q All right. And so this was a

8 750,000 loan at 5 percent?

9 A Correct.

10 Q It had a -- it was for less than a
11 year, from May to December of 2014. And so as of
12 end of the year, the balance was 710,000.

13 A Right, as I recall, he paid \$40,000
14 down immediately. And I also remember that the
15 foundation also was able -- bought some shares in
16 a company called Mobli at the same time at a very
17 discounted price.

18 So I think that was part of this
19 loan investment type of thing. You know, it's --
20 it's six years ago. I don't recall everything
21 exactly, but it was -- that was -- there was --
22 there was an opportunity. This loan was part of
23 an opportunity that the foundation got.

24 Q So -- so you believed then, rather
25 than paying the balance of the -- the loan back,

1 Murray Huberfeld 30(b)(6) HFF

2 the foundation got some stock?

3 A No, that's not what I said.

4 Q Okay. Tell me -- tell me --

5 A What I said was:

6 As an additional incentive besides
7 the original interest rate, I think -- I don't
8 recall exactly -- I have some recollection of the
9 foundation able to buy some shares in Mobli at a
10 discounted price, either from Moshe Oratz or
11 maybe Abe.

12 I -- I don't remember exactly. But
13 I know it was something to do with Mobli at the
14 time.

15 Q Okay. All right. Let's look at
16 15. All right. So if we look at -- I'm sorry.
17 Tab 12, page 410.

18 So at the top there, "Oratz loan,"
19 date April 15 -- April 2015 for 400,000, maturity
20 date not until April of; 20, 5 percent. And they
21 paid \$100,000 at that point.

22 A This was a -- this was a
23 self-liquidating loan. It was paying interest
24 and principal on a monthly basis.

25 Q Okay.

1 Murray Huberfeld 30(b)(6) HFF

2 A So it wasn't maturing. It was
3 maturing at the last payment of \$4,000 -- was
4 four years out. It was paying every single --
5 every single month.

6 Q Every single month?

7 A Correct.

8 Q Okay.

9 A It was like -- it was a
10 self-liquidating loan.

11 Q Okay. Any reason why -- do you
12 recall any thoughts about loaning them another
13 400,000 when they still owed you seven?

14 A I -- as I remember having a -- you
15 know, a few million shares of collateral, it
16 was -- for me, it was a no-brainer loan.

17 Q Okay.

18 A I was sitting on money earning at
19 that time probably 20 basis points. And I put
20 that money out at 5 percent or above -- above,
21 pretty much a no-risk loan. Why would I not want
22 to do that?

23 Q Okay. Okay. Aaron Elbogen --

24 A Yes.

25 Q -- this is a -- a gent who was your

1 Murray Huberfeld 30(b)(6) HFF

2 (Document, bank records from 2010
3 and 2017, requested.)

4 Q Okay. All right. Let me ask about
5 the Bodner-Huberfeld Family Foundation. Tell me
6 about that foundation and what role your
7 foundation or you play in that foundation.

8 A First of all, I am not going to
9 guess on what year it was formed --

10 Q Okay.

11 A -- because I was wrong the last --

12 Q Okay.

13 A It was formed many years ago.

14 Q Okay.

15 A It was what I will call the
16 predecessor or the parent charity things. Myself
17 and Mr. Bodner were in business together and
18 decided to make what we call the joint
19 foundation.

20 And that foundation was doing
21 similar things to what the Huberfeld Foundation
22 ended up doing later on.

23 Q Okay.

24 A And we decided at some point to
25 separate and make separate foundations. I guess

1 Murray Huberfeld 30(b)(6) HFF
2 it was 1998 based on what you showed me and
3 basically put the main foundation in -- for all
4 intents and purposes, a wind-down situation,
5 which means that it had moneys; it had
6 investments; it had loans; it had all kinds of
7 different things, this.

8 And we decided:

9 "Okay. We are now going to run
10 separate foundations, each of us. And whatever
11 is in the main foundation, we are going to keep
12 giving out charity for that."

13 Those are joint decisions, myself
14 and Mr. Bodner on all of those things. And we
15 had a -- we had a number of investments that were
16 still in there that needed time to wind down.

17 So the foundation has completely
18 wound down already. I believe it had almost very
19 little operations for the last years. I don't
20 know the exact date in which it wound down and
21 gave out whatever money it had, both individually
22 to the two foundations and to other charities.

23 Q Okay. And was it 50/50 ownership
24 of that?

25 A You don't own a foundation, but it

1 Murray Huberfeld 30(b)(6) HFF

2 was -- the two of us were the two people that
3 founded it.

4 Q You -- you were equals among that
5 foundation?

6 A Correct.

7 Q Do you remember who the president
8 was? Was it you or him?

9 A It could be it was me. I don't
10 recall.

11 Q And there was a loan -- the tax
12 returns show a loan to the Bodner -- excuse,
13 me -- Huberfeld-Bodner Family Foundation in June
14 of 2013.

15 A Who loaned who?

16 Q The Huberfeld Family Foundation
17 loaned the Huberfeld-Bodner Family Foundation
18 1.369 million --

19 A Yes.

20 Q -- in June of 2013, no maturity
21 date, no interest rate; and at the end of the
22 year, it had a balance due of about 880,000.

23 A Yes, there was a separate --

24 MR. CHASE: Objection. Objection

25 to the form. I think -- is it the

1 Murray Huberfeld 30(b)(6) HFF

2 Bodner-Huberfeld or Huberfeld-Bodner?

3 Q The tax return says

4 Huberfeld-Bodner Family Foundation.

5 A Okay. So what I recall -- I don't

6 have perfect knowledge of this -- but what I

7 recall was that the joint foundation -- just --

8 that's how we'll reference Huberfeld-Bodner if

9 that's okay.

10 Q Yes.

11 A The joint foundation had several

12 life insurance policies that it owned. There

13 were premiums that were due. We were no longer

14 donating money to the joint foundation, so the

15 foundation was in need of moneys to keep those --

16 keep those -- those premiums -- payments that

17 were needed.

18 So my foundation upstreamed the

19 money to the foundation, to the other foundation,

20 to take care of those things. And then they were

21 subsequently downstreamed to the foundation.

22 Q All right. So your recollection is

23 that your foundation made a loan to the joint

24 foundation to assist with the payment of premiums

25 for life insurance policies?

1 Murray Huberfeld 30(b)(6) HFF

2 A For investments that -- that they
3 had because ultimately the money that the joint
4 foundation had was going to charity. So here was
5 an investment that the joint foundation had made,
6 was in stress because the past -- because the
7 premiums were due.

8 There was no cash available in the
9 joint foundation at the time, so the foundation
10 made an upstream payment to them, and then
11 subsequently got that money back.

12 Q All right. So let me -- on the tax
13 return, where it says "purpose of the loan," it
14 says, "Assist loans made by related foundation."

15 Were aware if the joint foundation
16 was making loans that it needed assistance with?

17 A As I say, the moneys to the
18 insurance were characterized as loan.

19 Q I mean, was there any discussion
20 about making a loan to basically yourself from
21 your own charity to another charity that you
22 controlled?

23 A To help another charity, no. I
24 didn't see any issue with it.

25 Q Did you run it by your accountant

1 Murray Huberfeld 30(b)(6) HFF

2 as far as arm's length transaction?

3 A I am sure I did.

4 Q Do you feel -- do you remember you

5 did or --

6 A No.

7 Q -- do you think you did?

8 A But I -- would I do something --

9 first of all, he found out about it subsequently.

10 If he had a problem with it, he would have told

11 me.

12 Q Okay.

13 A And like I said, the money was

14 returned, and those -- those moneys that the

15 charity would have lost, which were

16 significant -- remember, in the life insurance

17 policy, all the money that's paid in in premiums,

18 if you miss a premium payment, get lost.

19 So if the charity, joint foundation

20 would have lost -- I don't know how much money it

21 was, but I imagine it was a significant amount of

22 money. So I felt it was the right thing to do

23 and did.

24 Q Okay. All right. Let me ask --

25 there's a couple of E-Mails out there that talk

EXHIBIT 3

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 1:18-cv-06658

IN RE: PLATINUM-BEECHWOOD LITIGATION

Videotaped deposition of AARON ELBOGEN,
taken pursuant to Notice, was held at the offices of
US LEGAL SUPPORT, 90 Broad Street, New York,
New York, commencing December 19, 2019, at
10:39 a.m., on the above date, before Amanda
Kaminsky, a Court Reporter and Notary Public in the
State of New York.

1 A. Elbogen

2 Q Was part of your comfort having Naftali on
3 the inside to kind of make sure things were going
4 okay, is that --

5 A Maybe.

6 Q All right. Let me just ask you this
7 briefly on 39. This is a loan that is being sent
8 from Naftali to you and your son. It's a \$7 million
9 loan from you to PPCO, is that right, at 3 percent
10 per month?

11 A Yes.

12 Q Do you know if this was paid back?

13 A It was.

14 Q If you look at number 41, this is a loan to
15 you. It's a \$2 million loan in November of '13 to
16 you and, I believe, your wife, from the Huberfeld
17 Family Foundation. And -- yeah.

18 It may have had Monsey Equities and other
19 entities, but do you recall getting a loan from
20 them?

21 A Yes.

22 Q Any reason why you were getting loans from
23 Mr. Huberfeld's charity?

24 A Why I was getting loans?

25 Q Yes, sir. This is a loan, I believe, to

1 A. Elbogen

2 you and your wife; am I right?

3 A Right.

4 Q It says Aaron Elbogen and Mrs. Elbogen, I
5 assume. It says borrower.

6 A Apparently I had something going on then
7 that I needed some immediate liquidity.

8 Q Do you recall what that might have been?

9 A No.

10 Q Okay. It says the rate here is 18 percent.

11 A Uh-huh.

12 Q Does that seem pretty high back in 2013?

13 A Compare -- I guess, yeah, compared to the
14 mortgage rates.

15 Q So let me ask this question.

16 I spoke -- and I will tell you what I asked
17 Mr. Huberfeld when I met with him. He shared with
18 us that you have significant resources. And so I
19 asked him, I said, "Well, why would Mr. Elbogen, who
20 could get a loan from any bank in the country,
21 borrow money from your charity at 18 percent when he
22 could walk into Bank of America and probably get the
23 same for half that?"

24 He didn't know. He said, "You'd have to
25 ask him." So I'm going to ask you.

1 A. Elbogen

2 Any idea why would that would be?

3 A Bank of America would have -- aside from
4 the fact that it would have taken much longer, there
5 was no -- there was no recorded mortgage on any
6 property or -- this was all done on pledges and
7 personal guarantees.

8 Q Okay, all right. So you were willing to
9 pay the higher rate so you didn't have to do what
10 Bank of America might require?

11 A Well, by the time they gave me the loan, I
12 probably wouldn't have needed the money anymore.

13 Q Fair enough.

14 Can you take a look at 43, sir. This is an
15 email dated November 7, 2013, and it starts at
16 10:15 a.m. from you --

17 MR. LAUER: Sorry, what tab?

18 MR. BROWNLEE: Forty-three. Just a
19 one-page document.

20 Q And the subject line says, "4 million wire
21 came in."

22 So I think you were asking that of Joel
23 Edelstein?

24 A He's asking me?

25 Q I think you were --

EXHIBIT 4

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CASE NO. 18-CV-6658 (JSR)
CASE NO. 18-CV-10936 (JSR)

IN RE: PLATINUM-BEECHWOOD LITIGATION

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 PARTNERS VALUE ARBITRAGE FUND L.P.
(in Official Liquidation),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.

VOLUME I

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF
MURRAY HUBERFELD

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Monday, November 25, 2019,
commencing at 10:06 a.m.

1 Murray Huberfeld

2 A I recognize that name.

3 Q And what is that?

4 A I believe it had something to do
5 with property that my wife had in the building
6 project in Monsey, New York.

7 Q Huberfeld Bodner Family Foundation?

8 A That was the original foundation
9 that was set up by myself and Mr. Bodner to do
10 charity work.

11 Q Huberfeld Family Foundation?

12 A That was a foundation set up by my
13 family to do the same.

14 Q Are you aware of whether there's an
15 unincorporated partnership between Ms. Laura
16 Huberfeld and Ms. Naomi Bodner?

17 A I believe there was a partnership.
18 I don't know the answer whether it was
19 incorporated. I don't know what that means
20 exactly. But I know there was an entity called
21 the Laura Huberfeld and Naomi Bodner Partnership.

22 Q And do you know the -- any
23 specifics of that partnership?

24 A What does that mean.

25 Q Do you know what they did together?