

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.

**SUPPLEMENTAL 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 supplemental 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 5, 2019 deposition of HFF (Tr. 183:23-187:24).

4. Attached hereto as Exhibit 2 are excerpts from the true and correct transcript of the deposition of Martin Trott (Tr. 769:23-776:16).

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

Dated: April 3, 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)

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IN RE: PLATINUM-BEECHWOOD LITIGATION  
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(in Official Liquidation), and  
PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.  
(in Official Liquidation ),

Plaintiffs,

vs.

PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.  
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TRANSCRIPT OF DEPOSITION OF  
HFF 30(b) (6) WITNESS 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 Thursday, December 5, 2019,  
commencing at 9:30 a.m.

1 Murray Huberfeld 30(b)(6) HFF  
2 about this loan -- the money sat in escrow by a  
3 title company.

4 Okay. So I think to myself:

5 "Okay. Great investment, money  
6 sits at a title company, can't be released for  
7 any reason. And I request make approximately 10  
8 or 12 percent on the money."

9 That's in my -- that's in my  
10 investment criteria for the foundation.

11 Q All right. And do you know how  
12 much of the 7 million has been paid back by  
13 Hutton?

14 A I think -- I'm happy -- you're  
15 using 7 million in a roundabout number.

16 Q Right.

17 A Money's going in and out. I don't  
18 have the exact balance, what they have to take.  
19 Do I have to take you through each loan that the  
20 foundation has? Happy to do that.

21 Q All right. So -- well, let me ask  
22 you this.

23 Were you aware that Mark Nordlicht  
24 got a seven and a half million dollar loan from  
25 Hutton in December of '15 in which he used two

1 Murray Huberfeld 30(b)(6) HFF

2 condos that his wife had as collateral?

3 A I believe I do.

4 Q Okay. And do you know what he did

5 with that money?

6 A I think he told me at the time that

7 he was putting it in the fund.

8 Q Right. PPVA?

9 A I don't know which fund.

10 Q Right. And that would have --

11 A He spoke generically.

12 Q And that would have been in

13 December of '15?

14 A I don't remember the time frame.

15 Q Okay. Well, let me show you -- if

16 you look at 58, this is in the smaller book.

17 (Exhibit No. 710, Tab 58, Bates No.

18 CTRL 7618795, 12/24/15 Loan Agreement,

19 W.E.A. Group and Hutton Ventures, Document

20 is marked by the reporter for

21 identification.)

22 (There was a discussion off the

23 record.)

24 MR. CHASE: Wait. Just so I know,

25 for the record, this is still

1 Murray Huberfeld 30(b)(6) HFF

2 Exhibit 710 --

3 MR. BROWNLEE: Yes.

4 MR. CHASE: And you are calling it  
5 book two.

6 Q And tab 58, so this is a loan  
7 agreement in December of '15 -- I believe it was  
8 actually signed on December 24, 2015. And the  
9 two properties that are there are owned by Dahlia  
10 Kalter.

11 Do you know who that is?

12 A I believe that's Mark's wife.

13 Q Right. And Hutton Ventures -- and  
14 Hutton loaned them -- or loaned her with these  
15 properties seven and a half million dollars.

16 Were you aware of that?

17 A I --

18 MR. CHASE: Just before we -- we --  
19 you answer that, I am just going to note, I  
20 guess, my objection to the exhibit. It  
21 doesn't look like a complete document.

22 MR. BROWNLEE: Nor it is signed.

23 MR. CHASE: Nor is it signed. I am  
24 just noting my objection.

25 MR. BROWNLEE: Okay.

1 Murray Huberfeld 30(b)(6) HFF

2 Q Were you aware of this?

3 A I don't know -- again, what this  
4 is?

5 Q Right.

6 A I know who -- I know that Hutton  
7 gave Nordlicht and Kalter a loan against his  
8 apartment in Manhattan and his apartment in  
9 Florida, which I think they did appraisals on,  
10 filed mortgages on, and I believe got repaid on.

11 Q So you're -- you -- you think that  
12 they paid that loan back to Hutton?

13 A I believe that Hutton was paid  
14 back, correct.

15 Q Okay. And why do you think that?

16 A Why do you think it's outside --  
17 that's what I think I know -- I heard -- when --  
18 when I heard it, how I heard it, I don't know.

19 Q Do you know who told you?

20 A No.

21 Q Okay. Was it Mark Nordlicht?

22 A Maybe.

23 Q Was it Dahlia Kalter?

24 A I don't have too much interaction  
25 with Dahlia Kalter.

1 Murray Huberfeld 30(b)(6) HFF

2 Q Okay. Anybody else who would have  
3 told you other than Mark Nordlicht?

4 A Maybe the people at Hutton told me  
5 that.

6 Q Okay. Why would the people at  
7 Hutton have told you about a loan that  
8 Mark Nordlicht's wife had?

9 A I think I may have introduced Ron  
10 Friedman to Mark or maybe just to go between  
11 them -- between them sometimes -- different  
12 things there.

13 But, you know, this was a one  
14 million percent up-and-up transaction in which  
15 Mark put up his apartments. I didn't know he was  
16 putting the money in the fund.

17 He told me he needed money. Ron  
18 Friedman was a lender. I put them together.  
19 They lent the money. And my foundation, I  
20 believe, did not participate in that loan.  
21 That's what I recall.

22 Q Okay.

23 A But I believe the loan was paid  
24 off.

25 Q And then -- but you don't know how

# **EXHIBIT 2**

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UNITED STATES DISTRICT COURT  
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IN RE: PLATINUM-BEECHWOOD LITIGATION  
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MARTIN TROTT and CHRISTOPHER SMITH, as Joint  
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(in Official Liquidation), and  
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PLATINUM MANAGEMENT (NY) LLC, et al.,

Defendants.  
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VOLUME III

TRANSCRIPT OF VIDEOTAPED DEPOSITION OF  
MARTIN TROTT

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, September 24, 2019,  
commencing at 9:32 a.m.

1 Martin Trott - Volume III

2 Q In -- in terms of the Foundation  
3 and when it was formed, isn't it a fact that it  
4 was formed in 1998, almost 14 years before the  
5 events at issue?

6 A If -- if that's what you are  
7 telling me, then I have no reason to disbelieve  
8 that.

9 Q Let's look at the Second Amended  
10 Complaint. We are going to go through a number  
11 of these allegations. The Second Amended  
12 Complaint is Exhibit 3. Do you need another  
13 copy? Does anybody need another copy.

14 (Previously Marked Exhibit No. D 3,  
15 Second Amended Complaint, Document is  
16 introduced into the proceedings.)

17 Q I really want to get rid of these  
18 copies, if anybody wants a copy.

19 MR. BROWNLEE: Here, I'll take one.

20 Q All right. Now, in the complaint,  
21 I am going to first call your attention to the  
22 allegations -- let's start in paragraph 151.

23 Now, in paragraph 151, there are  
24 allegations concerning Hutton Ventures LLC.

25 Do you recall that?

1 Martin Trott - Volume III

2 A I do see that, yes.

3 Q And what -- what do you recall as  
4 the basis for these allegations?

5 A That, as part of our  
6 investigations, the Hutton Ventures loans came up  
7 from the Huberfeld Family Foundation; and, as  
8 part of that same investigations, the link  
9 between Hutton Ventures and ultimately a  
10 property -- a real estate property owned by the  
11 Nordlichts was being -- was part of -- part of  
12 loans as well in connection with the same Hutton  
13 Ventures.

14 Q How did you come up with the  
15 allegation that Hutton -- Hutton Ventures LLC was  
16 a company involved in a student loan scam where  
17 indebted students were defrauded?

18 A I can't recall the -- this would  
19 have been part of our investigations, and I can't  
20 recall the precise document.

21 Q Okay. So you are charging the  
22 Foundation with working with a company that was  
23 involved in a student loan scam where indebted  
24 students were defrauded.

25 That's a serious allegation;

1 Martin Trott - Volume III

2 wouldn't you say?

3 A The whole complaint is a very  
4 serious allegation.

5 Q And so what did you do to verify  
6 that that was, in fact, true?

7 A Again, I refer to my previous  
8 answer. I can't recall off the top of my head  
9 the documents that form the basis of that  
10 allegation.

11 Q Was a Google search done and it  
12 came up with an article about a scam like that?

13 A Again, I can't recall the precise  
14 document.

15 Q Let me mark -- I'm going to mark  
16 this as Exhibit 124.

17 (Exhibit No. D 124, Three-Page  
18 Document, a State of New York Bureau of  
19 Consumer Fraud notice, a business search in  
20 California, and a Delaware Division of  
21 Corporations search, Document is marked by  
22 the reporter for identification.)

23 Q Exhibit 124 is a three-page  
24 document, and it is a -- starts with a State of  
25 New York Bureau of Consumer Fraud notice. And

1 Martin Trott - Volume III

2 then it has a business search in California. And  
3 then the third page is a Delaware Division of  
4 Corporations search.

5 I have another one for you.

6 So looking at the first page, you  
7 will see that there is a summons and complaint  
8 from the New York Bureau of Consumer Frauds.  
9 This is -- looks to be an affidavit of service.

10 It's on a company, Hutton Ventures  
11 LLC; and you see the address there, 4 Hutton  
12 Center Drive, Suite 220, Santa Ana, California.

13 Do you see that?

14 A I do.

15 Q Now, this, I will represent to you  
16 is in connection with the student loan scam.

17 If you look at the second page,  
18 again, jurisdiction California, do you see the  
19 registration date of 5/2/2016?

20 A I do, yeah.

21 Q And you see the same address in  
22 California, correct?

23 A Yes.

24 Q Now, I want to show you  
25 California -- excuse me -- a Delaware Department

1                   Martin Trott - Volume III  
2           of State Division of Corporations sheet. And it  
3           refers to a Hutton Ventures LLC, a company that  
4           was incorporated on 5/28/2015, with a residency  
5           in Delaware, a domestic Delaware corporation.

6                   Do you see that?

7           A        I do.

8           Q        These are two separate companies;  
9           aren't they?

10          A        It would -- I'm not an expert on  
11          companies in the US, but it would appear on the  
12          basis of these documents that that's the case.

13          Q        Now, the allegation here is that,  
14          in September, December of 2016, a loan was  
15          provided, correct, to the Hutton Ventures, and  
16          referring to paragraph 151 of the Second Amended  
17          Complaint?

18          A        Yes.

19          Q        So let me mark now as Exhibit 125,  
20          the 2016 tax return of the Foundation.

21                   (Exhibit No. D 125, 2106 Huberfeld  
22           Family Foundation Tax Return, Bates stamped  
23           HFF 000381 to 508, Document is marked by  
24           the reporter for identification.)

25          Q        If you could turn -- you will see

1 Martin Trott - Volume III

2 the Bates numbers on the bottom of this tax  
3 return -- it's marked -- Bates stamped HFF 000381  
4 to 508 Bates stamped HFF 000381 to 508.

5 If you could turn to -- so HFF 415,  
6 414 and 415. Let's start with 414.

7 Do you see on the top, the date of  
8 the note is 1/6/16?

9 Do you see that?

10 A I do, yep.

11 Q Now, if you go back to exhibit --  
12 to the prior exhibit, the second page, the Hutton  
13 Ventures in California was not even formed until  
14 5/2/2016; was it?

15 A The California one.

16 Q Yes. The second page.

17 A Yes, I see that.

18 Q Whereas, if you turn to the third  
19 page, the one in Delaware was formed May 28,  
20 2015?

21 A Yes.

22 Q So really, if somebody wanted to  
23 verify which corporation was involved, all you  
24 had to do was to look at when the corporations  
25 were formed, look at the public tax return, and

1 Martin Trott - Volume III

2 you would have known, correct?

3 MR. BROWNLEE: Objection. Calls  
4 for speculation.

5 Q I don't think it calls for  
6 speculation, but you can answer.

7 A Yes, if -- if these are different  
8 Hutton Ventures, and, if one was formed after the  
9 relevant time, then, yes.

10 Q And, here, the California  
11 corporation that was involved in the student loan  
12 scandal, apparently, was formed on May 2, 2016,  
13 and the loan was made to Hutton Ventures on  
14 January 6, 2016, correct?

15 A Yes. Again, if -- again, if  
16 these are -- if as you say these are -- these are  
17 different Hutton Ventures, then one has been  
18 confused with the other.

19 Q Well, the Hutton Ventures in  
20 California has been suspended and apparently is  
21 no longer doing business. Do you know whether  
22 the Hutton Ventures in Delaware has been  
23 suspended?

24 A I do not, no.

25 Q Did you make any attempt to contact

1 Martin Trott - Volume III

2 anyone at Hutton Ventures to verify whether it  
3 was the same company?

4 A No.

5 Q Did you make any attempt to contact  
6 anyone at the Foundation to ask them?

7 A No.

8 Q Did you make any attempt to contact  
9 the Foundation's accountant or anyone else to  
10 verify whether the allegation that you were  
11 making against the Foundation was true or not in  
12 terms of Hutton Ventures LLC?

13 A No contacts, no. This was based  
14 off of our investigation and review of the  
15 records.

16 Q Not a very good investigation.

17 MR. BROWNLEE: Objection. Move on.

18 Q You also state in paragraph 152:

19 "On information and belief,  
20 Huberfeld and Nordlicht used Hutton Ventures LLC  
21 as an intermediary to provide Nordlicht with a  
22 \$7.5 million in loan funds from the Huberfeld  
23 Family Foundation in exchange for a mortgage on  
24 real estate owned by Mark Nordlicht."

25 What are you basing that allegation