

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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. 18-cv-10936 (JSR)

Plaintiffs,

-against-

PLATINUM MANAGEMENT (NY) LLC et al.,

Defendants.

DECLARATION OF GREGG DONNENFELD IN SUPPORT OF MOTION TO
DISMISS THE COMPLAINT FOR FAILURE TO STATE A CLAIM FOR RELIEF

I, GREGG DONNENFELD, hereby declare, pursuant to 28 U.S.C. § 1746, that the following statements are true and correct:

1. I am a practicing attorney in New York State, the sole member of Donnenfeld Law PLLC, and a member in good standing of the New York State Bar. I submit this declaration in support of my motion under Fed. R. Civ. P. 12(b)(6) to dismiss the Complaint in this action as against me. I have personal knowledge of the facts set forth herein.

2. From March 2016 to October 2016, I was on the payroll of defendant Platinum Management (NY) LLC (“Platinum Management”), an affiliate of Platinum Partners Value Arbitrage Fund L.P. (“PPVA”). On or about September 21, 2016, Platinum Management told me that it would soon have to cease paying my salary due to a lack of available funds.

3. On or about September 21, 2016, Platinum Management (through one of its executives, defendant David Steinberg (“Steinberg”)) and I negotiated, and reached an

agreement on, a severance agreement that included comprehensive mutual releases between me and Platinum Management and its affiliates.

4. On September 22, 2016, I memorialized that severance agreement by email of that date sent to Platinum Management executives Steinberg, defendant Mark Nordlicht and defendant David Levy. (A true and correct copy of that email is annexed as Exhibit 1.)

5. Shortly after memorializing the severance agreement, I discussed the agreement with Plaintiffs' lead counsel in this action, Warren E. Gluck, as evidenced by my exchange of emails with him on October 4, 2016. (A true and correct copy of that email exchange is annexed as Exhibit 2.) In response to my specific question of whether the agreement required the approval of PPVA's liquidators, Mr. Gluck told me that it did not, as our email exchange reflects. Relying on that representation, I did not undertake to seek the PPVA liquidators' approval at that time, as I otherwise would have done, and I performed further work pursuant to the severance agreement, as I otherwise would not have done.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 9, 2019
In Roslyn, New York



GREGG DONNENFELD

Exhibit 1

From: Gregg R. Donnenfeld </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=532A097359B043F390480DD29758E0B1-GREGG_26F09>
Sent: Thursday, September 22, 2016 12:25 PM
To: Mark Nordlicht <mnordlicht@platinumlp.com>; David Steinberg <DSteinberg@platinumlp.com>; David Levy <dlevy@platinumlp.com>
Cc: Seth Gerszberg <seth@thecollective.com>
Subject: RE: Immediate Stop on All Work

Thanks – this confirms that I spoke with David Steinberg last night and we agreed as follows:

1. I will continue to be employed for an additional 4 weeks (so absent further agreed upon extension, my last day would be close of business Friday, October 21, 2016).
2. I am continuing at same salary, same benefits.
3. I will be eligible for Cobra following my last day of employment (this is per law anyway but I'm just confirming)
4. I will answering questions about legacy matters, helping locate materials, etc. after October 21, 2016 at no additional cost (I'd have done this anyway for you out of caring and friendship).
5. Mutual releases: Platinum and its affiliates release me from all possible liabilities and claims of any sort and I release Platinum and its affiliates from all possible claims of any sort (but I'm obviously still entitled to any unpaid salary for any past work since last payroll period).
6. I'm here today working; will send separate email on some logistical questions I have re: liquidator's role.

Thanks.

Gregg Donnenfeld, Esq.
Donnenfeld Law PLLC
212-634-5276

From: Mark Nordlicht [mailto:mnordlicht@platinumlp.com]
Sent: Thursday, September 22, 2016 9:34 AM
To: David Steinberg; Gregg R. Donnenfeld; David Levy
Cc: Seth Gerszberg
Subject: RE: Immediate Stop on All Work

Gregg- I missed email earlier. I think best course is to stay on month or two and have orderly transition.

From: David Steinberg
Sent: Wednesday, September 21, 2016 10:26 AM
To: Gregg R. Donnenfeld; Mark Nordlicht; David Levy
Cc: Seth Gerszberg
Subject: RE: Immediate Stop on All Work

Thanks Gregg.

I haven't had a moment to breath since we spoke last night. I hope to get back to you this afternoon.

Best, David

Exhibit 2

greggdonnenfeld@gmail.com

From: Gregg R. Donnenfeld <gdonnenfeld@platinumlp.com>
Sent: Tuesday, October 4, 2016 8:33 AM
To: gregg@thecollective.com; Gregg Donnenfeld
Subject: Fwd: Pro-Player / Jack Johnson

Sent from my iPhone

Begin forwarded message:

From: <Warren.Gluck@hklaw.com>
Date: October 4, 2016 at 8:32:27 AM EDT
To: <gdonnenfeld@platinumlp.com>
Subject: Re: Pro-Player / Jack Johnson

I would transition internally. Best of luck Greg

Sent from my iPhone

On Oct 4, 2016, at 8:21 AM, Gregg R. Donnenfeld <gdonnenfeld@platinumlp.com> wrote:

Warren, as we discussed (you advised that my severance agreement didn't require liquidator approval), my last day at Platinum is coming up later this month... When I advise Tony and Jennifer of such, should I identify you as the sole go-forward point of contact on this Jack Johnson matter or should I transition the matter to someone else internally at Platinum as well?

Thx.

Gregg Donnenfeld, Esq.
Platinum Partners
250 West 55th Street, Floor 14
New York, NY 10019
212-634-5276
Gregg@PlatinumLP.com

-----Original Message-----

From: Warren.Gluck@hklaw.com [<mailto:Warren.Gluck@hklaw.com>]
Sent: Monday, October 03, 2016 3:55 PM