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),

Plaintiffs,

v.

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

Defendants.

No. 18 Civ. 10936 (JSR)

MEMORANDUM OF LAW OF DEFENDANT TWOSONS CORPORATION IN SUPPORT OF ITS MOTION TO DISMISS THE COMPLAINT FOR FAILURE TO STATE A CLAIM

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Defendant Twosons Corporation ("Twosons") respectfully submits this memorandum of law in support of its motion (the "Motion") of even date herewith to dismiss all claims against it in the Complaint for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6).[1] Twosons incorporates herein and joins with the motions filed substantially contemporaneously herewith of the other defendants on the same or similar grounds.

I. PRELIMINARY STATEMENT

In a 765 paragraph complaint incorporating numerous exhibits and spanning over 130 pages, Plaintiffs assert 17 counts sounding in conspiracy, fraud, aiding and abetting and related causes of action against various groupings of individual and entity defendants, insider and outsider, known and unknown, to allege the defendants' collective knowledge and participation in various schemes designed to defraud the investors in, and creditors of, two funds in a related family of funds, known as "Platinum Partners." Through this definitional alchemy, Plaintiffs have obliterated the distinctions between, among other things, actual knowledge, imputed knowledge or no knowledge at all, to paint a picture of a sinister plot concocted by all the defendants, without resort to such niceties as making particularized allegations of fact against specific defendants to support this convenient narrative of collective culpability.

Thus, despite defendant Twosons being named specifically in only nine of the Complaint's 765 paragraphs, it finds itself grouped along with 23 other defendants into a collective defined as

[1] In accordance with the Court's direction at the December 19, 2018 conference, Twosons is filing its Motion primarily on group pleading grounds. In the event all causes of action against Twosons are not fully dismissed, Twosons reserves its rights to file a subsequent motion to dismiss on all other available grounds including, by way of example and not limitation, lack of personal jurisdiction, improper venue, insufficient process, insufficient service of process, and failure to state a claim upon which relief can be granted. Additionally, by filing its Motion, Twosons is respectfully not consenting to the personal jurisdiction of this Court.

the "Preferred Investors of the BEOF Funds,"[2] for the purpose of asserting three of the 17 counts set out in the Complaint: " Count Six (Aiding and Abetting Breach of Fiduciary Duties); Count Seven (Aiding and Abetting Fraud); and Count Twelve (Unjust Enrichment). Plaintiffs' wholesale resort to group pleading cannot hide the fact that the Complaint fails to state any valid claims for relief against Twosons, because there is nowhere to be found in its 765 paragraphs the requisite "who," "what," "where," when," or "why" of Twosons' allegedly culpable conduct, let alone in a manner sufficient to meet the heightened pleading requirements to allege fraud under Federal Rule of Civil Procedure 9. Distilled to their essence, Plaintiffs' vague allegations against Twosons boil down to two propositions: (i) Twosons received a redemption of its investments in a fund that was invested in a company allegedly defrauded by other defendants not part of the "Preferred Investor" grouping; and (ii) Twosons loaned a portion of its redemption proceeds back to the Black Elk Opportunity Fund on a secured basis. Neither of these propositions, independently or in combination, support the causes of action asserted against Twosons. Accordingly, as set forth in more detail below, all of the counts asserted against Twosons should be dismissed with prejudice.

II. ALLEGATIONS DIRECTED TO TWOSONS AND THE PREFERRED INVESTORS OF THE BEOF FUNDS

Plaintiffs allege that the Preferred Investors of the BEOF Funds "were aware of the actions of the Platinum and Beechwood Defendants in furtherance of the Black Elk Scheme, as well as Beechwood's representations that it was unaffiliated with Platinum Management." Compl. ¶ 56. Plaintiffs further assert that, as part of the Preferred Investors of the BEOF Funds, Twosons received $15.4 million in proceeds from the sale of Platinum Partners Value Arbitrage Fund's ("PPVA's") largest asset, Black Elk, but do not plead any of the "vital statistics" of when and how

[2] The Complaint defines "Defendants" twice: the first time excluding Twosons, and the second time referring to all defendants, including the Preferred Investors of the BEOF Funds (but not specifically listing Twosons). *Cf.* Compl. ¶¶3; 34.

these monies were disbursed (Compl. ¶ 58), and instead only aver "on information and belief" that the BEOF Funds subsequently distributed the amounts they received to the Preferred Investors of the BEOF Funds, including Twosons. Compl. ¶ 337.

Plaintiffs further allege that Twosons "had knowledge of certain First Scheme Transactions and Second Scheme Transactions, and materially assisted in the same financially." Compl. ¶ 58. Plaintiffs next assert that the Preferred Investors of the BEOF Funds "materially and knowingly aided and abetted the Platinum Defendants' breach of their fiduciary duties to PPVA." Compl. ¶ 118. Plaintiffs' allegations regarding the so-called Second Scheme Transactions concern an allegedly "intentional scheme to transfer or encumber nearly all of the Remaining PPVA Assets to or for the benefit of the Platinum Defendants, the Beechwood Defendants, PPCO and select insiders of the Platinum Defendants, and to the detriment of PPVA." Compl. ¶ 381.

Finally, Plaintiffs allege that "the Platinum Defendants, via Nordlicht, conspired with Twosons to grant Twosons a purported security interest in all of PPVA's assets, in exchange for Twosons agreeing to loan back some of the money it had received through the Black Elk Scheme to PPVA at an exorbitant interest rate, and that…Twosons conspired with the Platinum Defendants, to provide (sic) the money to PPVA as a secured loan." Compl. ¶¶ 510-513.

III. LEGAL ARGUMENT

A. Standard of Review

"On a motion to dismiss under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted, the court must accept the well-pleaded factual allegations in the complaint as true…to determine whether the complaint itself is legally sufficient." *In re Livent Inc. Noteholders Sec. Litig.*, 151 F. Supp. 2d 371, 404 (S.D.N.Y. 2001) (*citing Grandon v. Merrill Lynch & Co.*, 147 F.3d 184, 188 (2d Cir. 1998)). However, "Rule 12(b)(6) motion practice does

not demand that every allegation in the complaint must be deemed true, but only 'factual' assertions. This test would exclude pleadings expressing legal conclusions, speculation and unsubstantiated allegations 'so broad and conclusory as to be meaningless.'" *Id.* at 405 (*citing Decker v. Massey-Ferguson, Ltd.*, 681 F.2d 111, 120 (2d Cir. 1982) and *O'Brien v. National Prop. Analysts Partners*, 936 F.2d 674, 676 (2d Cir. 1991)). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim of relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009) (setting forth pleading requirements under Rule 8).

"In sum, the standard to govern the sufficiency of the complaint presumes 'well-pleaded' allegations and it is only those pleadings the courts are charged to deem true." *Id.* That is, "bald contentions, unsupported characterizations, and legal conclusions are not well-pleaded allegations, and will not suffice to defeat a motion to dismiss." *Kelly v. Classic Restaurants Corp.*, No.01 CV 09345, 2003 WL 22052845 at *2 (S.D.N.Y. Sept. 2, 2003) (*citing Leeds v. Meltz*, 85 F.3d 51, 53 (2d Cir. 1996)). Similarly, "conclusory statements [cannot] substitute for minimally sufficient factual allegations." *G-I Holdings, Inc. v. Baron & Budd*, 179 F.Supp.2d 233, 265 (S.D.N.Y. 2001) (quoting *Furlong v. Long Island College Hosp.*, 710 F.2d 922, 927 (2d Cir. 1983)). "It is not…proper to assume that the [plaintiff] can prove facts that it has not alleged ..." *Associated Gen. Contractors v. Cal. State Council of Carpenters*, 459 U.S. 519, 526 (1983).

Claims based in fraud are subject to the heightened pleading requirements of Federal Rule of Civil Procedure Rule 9(b), which provides that "[i]n all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity." Fed.R. Civ.P. 9(b)). The Rule "is designed to further three goals: (1) providing a defendant fair notice of plaintiff's claim, to enable preparation of defense; (2) protecting a defendant from harm to his reputation or

goodwill; and (3) reducing the number of strike suits." *DiVittorio v. Equidyne Extractive Indus., Inc.*, 822 F.2d 1242, 1247 (2d Cir. 1987) (citation omitted).

"Rule 9(b) is rigorously enforced in this circuit." *Henneberry v. Sumitomo Corp. of Am.*, 415 F.Supp.2d 423, 455 (S.D.N.Y. 2006). A plaintiff alleging fraud is required to plead " 'the who, what, when, where, and how [of the fraud]: the first paragraph of any newspaper story.'" *Id.* (citations and internal quotation omitted). "To pass muster under Rule 9(b) in this Circuit, a complaint must allege with some specificity the acts constituting fraud; conclusory allegations that defendant's conduct was fraudulent or deceptive are not enough." *Odyssey Re (London) Ltd. v. Stirling Cooke Brown*, 85 F.Supp.2d 282, 293 (S.D.N.Y. 2000), *aff'd* 2 Fed. Appx. 109 (2d Cir. 2001). Moreover, Rule 9(b) does not give the pleader license to evade the strictures of Rule 8, which requires sufficient factual matter, accepted as true, to state a claim that is plausible on its face. *Iqbal*, 556 U.S. at 687. "And Rule 8 does not empower respondent to plead the bare elements of his cause of action, affix the label "general allegation," and expect his complaint to survive a motion to dismiss." *Id.*

B. Plaintiffs' Impermissible Group Pleading Fails to Satisfy the Requirements of Federal Rules of Civil Procedure 8 and 9, and Plaintiffs' Aiding And Abetting Breach of Fiduciary Duty (Count Six) and Fraud (Count Seven) Claims Against Twosons Are Comprised of Nothing More Than Conclusory Statements.

Plaintiffs' claims against Twosons must allege enough facts to state a claim for relief that is plausible on its face under Federal Rule of Civil Procedure 8. For a pleading to state a claim for relief, it must include "a short and plain statement of the claim showing that the pleader is entitled to relief" and must "give ***each defendant*** fair notice of what the plaintiff's claim is and the ground upon which it rests." Fed. R. Civ. P. 8(a)(2); *Atuahene v. City of Hartford*, 10 Fed. Appx. 33, 34 (2d Cir. 2001) (emphasis added); *see also Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Conclusory or "naked assertions devoid of further factual enhancement will not satisfy Rule 8's

requirements." *Vantone Grp. LLC v. Yangpu NGT Indus. Co.*, 2015 WL 4040882 at *3 (S.D.N.Y. July 2, 2015) (*quoting Iqbal*, 556 U.S. at 678).

Where allegations are made against a group of defendants, generalizations as to the group are insufficient to satisfy the pleading standards. *See Twombly*, 550 U.S. at 565 n.10 ("[T]he complaint here furnishes no clue as to which of the four [defendants] (much less which of their employees) supposedly agreed."). Second Circuit courts have consistently held that group pleading, without more specific facts as to each defendant, does not sufficiently state a claim for relief. *See Atuahene*, 10 Fed. Appx. 33, 34 (2d Cir. 2001) (dismissing complaint under Rule 8 because plaintiff "lump[ed] all the defendants together in each claim and provid[ed] no factual basis to distinguish their conduct"); *Ochre LLC v. Rockwell Architecture Planning & Design*, P.C., 2012 WL 6082387 at *6 (S.D.N.Y. Dec. 3, 2012) (dismissing causes of action where the "key facts pled in the SAC are 'lumped' together and thus do not afford each defendant adequate notice of the factual allegations it faces. This failure to isolate the key allegations against each defendant supports dismissal under the standards set forth in *Twombly* and *Iqbal*.").

The prohibition on group pleading applies with greater force where a group of defendants is subject to allegations of fraud; Rule 9(b) requires that the complaint describe each defendant's participation with particularity. *See Mills v. Polar Molecular Corp.*, 12 F.3d 1170, 1175 (2d Cir. 1993). Because each defendant is entitled to know the nature of its alleged participation, the plaintiff must separately establish each defendant's acts or omissions as part of the fraud. *Id.* (citing *Odyssey* 85 F. Supp. 2d at 293); *see also ING Global v. UPS Oasis Comp Supply Corp.*, 2012 WL 28259 at *4 (S.D.N.Y. Jan. 4, 2012) (JSR) ("[T]he Complaint must specify the statements it claims were false or misleading, give particulars as to the respect in which plaintiff contends the statements were fraudulent, state when and where the statements were made, and

identify those responsible for the statements. . . . The complaint here largely fails to provide any of these particulars, instead simply lumping the defendants together in largely conclusory statements . . . . This will not suffice."). The allegations contained in the Complaint fall well short of these standards and accordingly, as to Twosons, the Complaint must be dismissed in its entirety.

i. The Allegations Against the Preferred Investors of the BEOF Funds and/or Twosons are Insufficiently Pleaded.

The allegations against the Preferred Investors of the BEOF Funds essentially start with Plaintiffs alleging that they "were aware of the actions of the Platinum and Beechwood Defendants in furtherance of the Black Elk Scheme, as well as Beechwood's representations that it was unaffiliated with Platinum Management." Compl. ¶ 56. As such, the allegations rest on the alleged collective knowledge of all of the Preferred Investors of the BEOF Funds, without identifying what, if anything, Twosons specifically knew (*i.e.*, any facts showing that Twosons had knowledge that any aspects of the Platinum Defendants' conduct were fraudulent), or how Twosons would have come by such knowledge. Plaintiffs then conveniently use this alleged monolithic collective knowledge to plead a series of group allegations as to knowledge of what ***all*** of the Platinum and Beechwood Defendants were doing. In so doing, Plaintiffs fail to specify what conduct, perpetrated by what entity under the umbrella term "Platinum Defendants" or "Beechwood Defendants" is at issue here. *Id.* Plaintiffs further allege that Twosons "had knowledge of ***certain*** First Scheme Transactions and Second Scheme Transactions, and materially assisted in the same financially." Compl. ¶ 58 (emphasis supplied). Which parts of which schemes did Twosons allegedly have knowledge of? What is the basis for stating Twosons, specifically, had such knowledge, and why does it matter? The Complaint makes no effort to provide any such detail. Later, Plaintiffs define "First Scheme Transactions," but there is no mention of the Preferred Investors of the BEOF Funds

generally, let alone Twosons specifically, in the allegations describing the individual "transactions" that collectively encompass the "First Scheme."

In a similarly bald assertion, Plaintiffs allege that the Preferred Investors of the BEOF Funds "materially and knowingly aided and abetted the Platinum Defendants' breach of their fiduciary duties to PPVA." Compl. ¶ 118. Plaintiffs utterly fail, however, to allege which of the Platinum Defendants Twosons (or any of the other Preferred Investors of the BEOF Funds) purportedly aided and abetted, or what Twosons might have done or how or when any such conduct might have occurred. The Complaint further does not muster a single identifiable fact to (i) tie any knowledge on the part of Twosons individually to the knowledge of the Preferred Investors of the BEOF Funds, collectively (and vice-versa); or (ii) tie the actual knowledge of the Preferred Investors of the BEOF Funds (as if such a collective knowledge could even exist) to the alleged fraud and breaches of fiduciary duty of some of the Platinum Defendants.

Plaintiffs' allegations regarding the so-called First Scheme Transactions solely involve the Beechwood Entities and Platinum Defendants. Compl. ¶ 246-379. Additionally, Plaintiffs concede that the sale of the Black Elk asset occurred at the direction of the Platinum Defendants. Compl. ¶ 306. And, Plaintiffs specifically exclude the Preferred Investors of the BEOF funds from "developing the Black Elk Scheme," implicating only the Platinum Defendants and the Beechwood Defendants. Compl. ¶ 312. Plaintiffs also conspicuously exclude the Preferred Investors of the BEOF Funds from the allegation that the "Platinum Defendants and Beechwood Defendants were aware that the Consent Solicitation [pertaining to Black Elk] contained [a] falsehood, that the vote was rigged, and the result would be a massive loss to PPVA to the benefit of the BEOF Funds and their equity interests." Compl. ¶ 329. Even viewing the allegations in the light most favorable to Plaintiffs, to the extent Twosons (as part of the defined category, Preferred

Investors of the BEOF Funds) obtained some favorable priority in terms of recouping its investment, the Complaint alleges that this was "as a result of the actions of ***the Platinum and Beechwood Defendants***," Compl. ¶¶ 337; 346 (emphasis supplied), and not Twosons. In fact, there are no allegations whatsoever that Twosons was complicit in any fraud giving rise to these alleged advantages. Moreover, there are no allegations as to how receipt of these funds and/or priorities in and of themselves generate actionable claims.

Plaintiffs' allegations regarding the so-called Second Scheme Transactions concern an allegedly "intentional scheme to transfer or encumber nearly all of the Remaining PPVA Assets to or for the benefit of the Platinum Defendants, the Beechwood Defendants, PPCO and select insiders of the Platinum Defendants, and to the detriment of PPVA." Compl. ¶ 381. Simply put, Plaintiffs' allegations do not imbue Twosons with any specific "knowledge" or identify any "assistance" it may have given with regard to these Second Scheme Transactions.[3] Rather, Plaintiffs' allegations regarding the Second Scheme Transactions collapse into the circular argument that "Defendants" conspired to commence the Second Scheme Transactions for their own benefit. Significantly, however, Twosons and the other Preferred Investors of the BEOF Funds are expressly excluded from these allegations. Finally, there are no well pleaded allegations anywhere in the Complaint alleging that Twosons or, indeed, any the Preferred Investors of the BEOF Funds, participated in any respect in the Second Scheme Transactions.

In their sole direct allegations against Twosons, Plaintiffs merely allege that "the Platinum Defendants, via Nordlicht, conspired with Twosons to grant Twosons a purported security interest

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[3] With regard to one purported aspect of the Second Scheme Transactions involving the "PPNE Notes," Plaintiffs allege that "certain" of the Preferred Investors of the BEOF Funds "were granted an interest in the PPNE Notes." Compl. ¶ 449. However, even to the extent merely being granted such an interest could impute Twosons with some illicit intent, which it cannot, Twosons is not specifically alleged to have been granted any interest in the PPNE Notes, let alone to have aided and abetted any fraud in connection therewith.

in all of PPVA's assets, in exchange for Twosons agreeing to loan back some of the money it had received through the Black Elk Scheme to PPVA at an exorbitant interest rate, and that…Twosons conspired with the Platinum Defendants, to provide (sic) the money to PPVA as a secured loan." Compl. ¶¶ 510-513. However, other than using the word "conspired," which is a pure legal conclusion, there are no actual allegations of identifiable facts as to what Twosons knew or what it did, other than receiving money from the BEOF Funds and then agreeing to loan it back on a secured basis. Conspicuously absent from any of the allegations in the Complaint are facts as to why, if Twosons knew all of these dealings were a sham, it would put money back into PPVA.

C. Plaintiffs' Aiding And Abetting Breach of Fiduciary Duty (Count Six) and Aiding and Abetting Fraud (Count Seven) Claims Against Twosons Are Nothing More Than Conclusory Statements.

The Sixth and Seventh Counts of the Complaint, for aiding and abetting breach of fiduciary duties and aiding and abetting fraud, respectively, both require, *inter alia*, that the defendant had actual knowledge of the primary alleged wrong, and provided substantial assistance in committing that wrongful act. *See Krys v. Pigott*, 749 F.3d 117, 127 (2d Cir. 2014). In pleading knowledge, allegations which give rise to an inference of actual knowledge by the aider and abettor are required; constructive knowledge is not sufficient. *See id.* Claims for aiding and abetting fraud and breach of fiduciary duty are subject to the same heightened pleading standard as fraud claims under Rule 9(b). *See id.* at 129 ("In asserting claims of fraud – including claims for aiding and abetting fraud or a breach of fiduciary duty that involves fraud – a complaint is required to plead the circumstances that allegedly constitute fraud 'with particularity.'"). Here, Plaintiffs' allegations fall well short of these well-settled pleading requirements – Plaintiffs utterly fail to plead that Twosons had ***any*** specific actual knowledge to support their aiding and abetting claims. Accordingly, these counts must be dismissed.

i. Aiding And Abetting Breach of Fiduciary Duty (Count Six)

Notwithstanding that Count Six (Aiding And Abetting Breach of Fiduciary Duty) is styled "as against the BEOF Funds and Preferred Investors of the BEOF Funds," the bulk of the allegations ostensibly supporting this count concern the actions of the Platinum Defendants. In fact, all Plaintiffs can muster in support of their claims that the Preferred Investors of the BEOF Funds aided and abetted breach of fiduciary duty is the inadequate and rote invocation that the Preferred Investors of the BEOF Funds "substantially assisted and participated in the Platinum Defendants' breaches of their fiduciary obligations in connection with the Black Elk Scheme by, *inter alia*, (i) participating in the Black Elk Scheme; and (ii) engaging in transactions to benefit the Platinum Defendants, the BEOF Funds and the Preferred Investors of the BEOF Funds to the detriment of PPVA," and that the Preferred Investors of the BEOF Funds had "actual knowledge that the Platinum Defendants were breaching their fiduciary obligations to PPVA…." Compl. ¶¶ 628-629.

Once again, Plaintiffs allege no facts regarding Twosons specifically, or even what kinds of "transactions" executed by Twosons could possibly amount to self-dealing to the detriment of PPVA. Nor do Plaintiffs describe ***what*** actual knowledge of ***what*** improper conduct amounting to breach of the Platinum Defendants' fiduciary duties (***which*** Platinum Defendants?) Twosons might have known, let alone ***when***. Finally, Plaintiffs allege that the Preferred Investors of the BEOF Funds "acted willingly, grossly, recklessly and wantonly negligent, and without regard for PPVA's rights and interests." Compl. ¶ 633. Other than this string of nasty-sounding adverbs, there are no allegations anywhere in the Complaint that any of the Preferred Investors of the BEOF Funds, let alone Twosons, owed any independent duty to PPVA. Put simply, a mere statement alleging gross

negligence does not state a claim for relief. Accordingly, Count Six of the Complaint must be dismissed.

ii. Aiding And Abetting Fraud (Count Seven)

Plaintiffs' count against Twosons for aiding and abetting fraud in Count Seven fairs no better than Count Six. The Platinum Defendants and their alleged misdeeds feature prominently, followed by a desultory recitation of additional facts that have nothing to do with Twosons or the Preferred Investors of the BEOF Funds. *See, e.g.*, Compl. ¶ 642-643. From these thinnest of reeds, Plaintiffs baldly assert the Preferred Investors of the BEOF Funds (without any specific allegations against Twosons) have secondary liability for the Platinum Defendants' alleged fraud. Compl. ¶ 645. Needless to say, these allegations fall woefully short of the particularity requirements of Fed. R. Civ. P. 9. Accordingly, Count Seven of the Complaint must be dismissed.

D. Plaintiffs Do Not Adequately Plead Unjust Enrichment (Count Twelve).

The Twelfth Count of the Complaint asserts that the Preferred Investors of the BEOF Funds were unjustly enriched at PPVA's expense. (Compl. ¶¶ 696-704). A well pleaded claim for unjust enrichment requires, *inter alia*, that Twosons participated in some wrongful conduct such that any benefit it received was to the detriment of PPVA and cannot be justly retained. *See Cohen v. BMW Invs. L.P.*, 668 Fed. App'x 373, 374 (2d Cir. 2016) (quoting *Georgia Malone & Co. v. Rieder*, 19 N.Y.3d 511, 516, 973 N.E.2d 743 (2012)). The Complaint does not adequately plead a single action by Twosons that connects it to actual involvement in either the First Scheme Transactions or the Second Scheme Transactions. Rather, the sum of the allegations involving Twosons amounts to the allegation that Twosons received a distribution of funds from a fraud. *See, e.g.*, Compl. ¶ 58. However, as explained at length above, there are no well pleaded allegations that Twosons had

any involvement in the underlying alleged fraud perpetrated by the Platinum Defendants. As such, claims for unjust enrichment against Twosons must also fail.

IV. CONCLUSION

For all the foregoing reasons, Plaintiffs' Complaint falls well short of the pleading requirements necessary to sustain causes of action against Twosons. Accordingly, Twosons respectfully requests that this Court enter the accompanying Order dismissing all claims and causes of action against Twosons, with prejudice.

Respectfully Submitted:

/s/ Marc Hirschfield

Dated: January 9, 2019

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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),	No. 18 Civ. 10936 (JSR)
Plaintiffs,	**CERTIFICATE OF SERVICE**
v.	
PLATINUM MANAGEMENT (NY) LLC, *et al*.,	
Defendants.	

I hereby certify that a true and correct copy of the foregoing Notice of Motion and Motion to Dismiss, and Memorandum in Support thereof, have been filed electronically and are available to all counsel of record for viewing and downloading from the ECF system.

Dated: January 9, 2019

/s/ Marc Hirschfield
Marc Hirschfield