



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

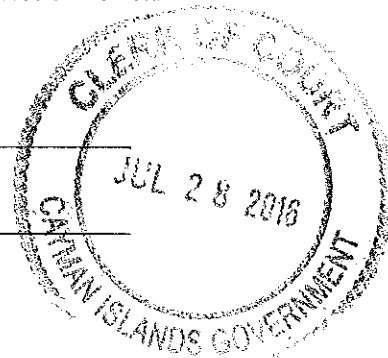
CAUSE NO: ES00118/2016

IN THE MATTER OF SECTION 92 OF THE COMPANIES LAW (2013 REVISION)

AND IN THE MATTER OF PLATINUM PARTNERS VALUE ARBITRAGE FUND  
(INTERNATIONAL) LTD.



PETITION



To: The Grand Court of the Cayman Islands

The humble petition of Parris Investments Limited, Trident Chambers, Wickhams Cay, PO Box 146, Tortola, British Virgin Islands, (the "Petitioner") shows that:

**A. BACKGROUND**

1. Platinum Partners Value Arbitrage Fund (International) Limited (the "Fund") was incorporated and registered as an exempt company in the Cayman Islands on 25 October 2002, under the Companies Law (as amended) (the "Law") with registration number 120736.
2. The Fund is a mutual fund registered with the Cayman Islands Monetary Authority ("CIMA"), pursuant to the Mutual Funds Law (as amended), with reference number 6785.
3. The Fund carries on business as an investment fund. The Fund invests all of its investable capital in Platinum Partners Value Arbitrage Intermediate Fund Limited (the "Intermediate Fund", an exempted, limited liability company incorporated in the Cayman Islands on 9 April 2010.
4. The Intermediate Fund invests all of its investable capital in Platinum Partners Value Arbitrage Fund LP (the "Master Fund"), an exempted, limited partnership formed under the laws of the Cayman Islands. The Fund, Intermediate Fund and Master Fund appear to have offices in Manhattan, New York.

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5. The registered office of the Fund is Intertrust Corporate Services (Cayman) Limited, Walkers, 190 Elgin Avenue, Georgetown, Grand Cayman, KY1-9001, Cayman Islands.
6. The authorised share capital of the Fund, as defined in its Articles of Association dated 22 February 2006 (the "Articles"), is \$50,000 divided into 5,000,000 participating, redeemable shares with a nominal or par value of \$0.01 each, with the power for the Fund, subject to the Law and the Articles, to divide the shares into any number of share classes and series.
7. The investment manager of the Fund is, and at all times has been, Platinum Management (NY) LLC, A Delaware U.S.A. limited liability company (the "Investment Manager").
8. To the best of the Petitioner's knowledge, the Fund carries out its business as an investment fund, through the Investment Manager and the Investment Manager's offices, located in New York, U.S.A.
9. The administrator of the Fund is, and at all times has been, SS&C Technologies Incorporated, a U.S.A limited liability company (the "Administrator").
10. In or about August 2015, Parris was provided with a Confidential Private Offering Memorandum dated April 2015 (the "Offering Memorandum") relating to Class L shares in the Fund.
11. In or about August 2015, Parris purchased 556.9018 L-class shares in the Fund (the "Shares") from its broker, Exante Limited, a Limited Liability Company incorporated under the laws of Malta ("Exante").
12. By a document entitled "Transaction Confirmation" and dated 10 September 2015, the Fund acknowledged the validity of the transfer of Shares from Exante to Parris in August 2015.

**B. INABILITY TO PAY ITS DEBTS**

**The Redemption Request**

13. Articles 39 to 54 of the Articles prescribe the procedure for redeeming shares:
  - 13.1 Article 39 states that the procedure for the redemption of shares is subject to the Articles and the Law;

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13.2 Article 40 states that:

*"... on receipt by the Company or its authorised agent of a Redemption Notice not less than such number of days' prior written notice as the Directors may from time to time determine... the Company shall redeem on such Redemption Date at the Redemption Price for the relevant Class and Series such number of Shares as are requested to be redeemed by the Redeeming Shareholder."*

In an email dated 26 October 2015, the Investment Manager confirmed to the Petitioner that sixty (60) days' notice was required by the Fund, in order for the Petitioner to redeem the Shares on the last day of the quarter, that being 31 December 2015.

13.3 Article 42 states that:

*"The Redemption Price for shares being redeemed on a Redemption Date shall be the Net Asset Value per Share of the relevant Class of Series (after payment of any Incentive Fee with respect to the redeemed Shares and net of any reserves or holdbacks for estimated accrued expenses, liabilities and contingencies) on the relevant Redemption Date..."*

13.4 Article 45 states that:

*"If the determination of the Net Asset Value or the Net Asset Value per Share ... is suspended beyond the day on which it would normally occur by reason of a declaration of the Directors, the right of a holder to request redemption of the Shares ... in respect of which such calculation has been suspended shall be similarly suspended... If the request is not so withdrawn, the redemption of such Shares shall be made on the Redemption date following the end of the suspension on the basis of the Net Asset Value per Share ... on the relevant Redemption Date."*

13.5 Article 47 states:

*"Payment of the amount due on redemption of Shares on any Redemption Date...shall be made 90% (computed on the basis of unaudited data) within 30 days following the Redemption Date and the balance within 30 days following the annual*

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3

*audit of the Company's books. The balance, subject to audit adjustments, shall be paid with interest from the Redemption Date at the average (calculated weekly) per annum short term (13 weeks) U.S. Treasury Bill rate."*

13.6 Article 52 states that:

*"On the relevant Redemption date the holder of Shares to be redeemed shall cease to be entitled to any rights in respect of that share ... and accordingly his name shall be removed from the Register of Members with respect thereto and the share shall be available for re-issue and, until re-issued, shall form part of the unissued share capital of the Company."*

14. The Offering Memorandum provisions mirror those in the Articles and state, inter alia:

14.1 *"A Shareholder with respect to its Class L Shares may redeem all or a portion of such Shares as of the last day of each fiscal quarter, and at such other times as the Directors will, in their sole discretion, permit (each, a "Class L Redemption Date"), upon not less than sixty (60) days' prior written notice to the Administrator and the Investment Manager (subject to the discretion of the Directors to waive such notice)... The redemption price for Shares will be based on the Net Asset Value per Share for the relevant series of Shares as of the relevant Redemption Date...";*

14.2 *"The Fund intends to pay at least ninety percent (90%) of the redemption price, and may pay more than ninety percent (90%) of the redemption price in the discretion of the Investment Manager in consultation with the Directors, within thirty (30) days after the applicable Redemption Date, with the balance thereof (subject to audit adjustments) being paid without interest within thirty (30) days after completion of the audit of the Funds' books for such fiscal year. "*

14.3 *"All redemption requests must be received by the Investment Manager and the Administrator in writing. The Investment Manager will confirm by e-mail or by telephone and in writing all redemption requests which are received in good order. Shareholders failing to receive e-mail or telephone confirmations within five (5) days should contact the Investment Manager to confirm receipt. Failure by the Shareholder*

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*to ensure the receipt of a redemption request may render such redemption request void."*

15. On 27 October 2015 the Petitioner submitted to the Fund, a written redemption request in respect of the whole of its holding of 556.9018 Shares in the Fund (the "Redemption Request"). The next redemption date, which was defined in the Articles and the Offering Memorandum as being the last day of each fiscal quarter, was 31 December 2015 (the "Redemption Date").
16. The Petitioner sent the Redemption Request to the Investment Manager some 65 days prior to the Redemption Date.
17. By an email dated 28 October 2015, the Investment Manager confirmed receipt of the Petitioner's Redemption Request and that the Redemption Request was in good order.
18. According to Article 52 of the Articles, as at the Redemption Date, Parris was no longer considered the holder of the Shares and had no rights in respect of the same.
19. On the Redemption Date, the Petitioner became a creditor of the Fund.
20. Pursuant to the Articles and the Offering Memorandum, payment of ninety percent (90%) of the redemption price was due on or around 30 January 2016.
21. By an email dated 2 February 2016, the Administrator confirmed that the Redemption Request was being processed and that payment of the redemption price could be expected by the Petitioner within 30 days of the closing of December 2015 period.
22. By an email dated 19 February 2016, the Investment Manager confirmed again that the Petitioner would receive the redemption price in the second quarter of 2016. The Investment Manager went on to say that the payment of the redemption price was dependant on the Fund selling off illiquid assets.
23. On 3 March 2016 the Administrator issued the Petitioner with an investor statement for the period ending 31 December 2015 (the "Investor Statement"). The Investor Statement showed that the Petitioner owned 556.9018 shares as at 30 November 2015 and that a full redemption for all 556.9018 shares had been made as at 31 December 2015. The Investor

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Statement shows that the net asset value per share was 1,949.1417 and that the total value of the redeemed shares as at 31 December 2015 was \$1,080,480.43 (the "Redemption Price").

24. By 6 May 2016 the Petitioner had not received any payment in respect of the Redemption Price. In an email dated 6 May 2016, the Investment Manager confirmed that the Petitioner could expect payment of the Redemption Price, less "10% audit holdback" at "the end of June or beginning of July (maybe earlier)."
25. On 24 June 2016, the Petitioner received notice of an investor call scheduled for 28 June 2016 together with an invitation to submit questions to be addressed during the call.
26. In an email dated 26 June 2016 to the Investment Manager, the Petitioner requested that the Fund answer, inter alia, the following questions:
  - 26.1 *"What is the reason for the delay in effecting the redemption payment on the Redemption Date applicable and what is the legal/contractual basis for such delay by reference to respective clauses/provisions in the Fund's Articles and the PPM?"*;
  - 26.2 *"Does the Fund presently have immediate financial recourses available to make the redemption payment in question (say, by the end of the first half of 2016)?"*; and
  - 26.3 *"Are you able to give any estimate for the timing of the redemption for the existing L shareholders who submitted their redemption requests in October 2015 or earlier?"*.
27. A telephone call was held between the Fund, the Petitioner and other investors of the Fund on 28 June 2016. The Fund did not provide any answers to the Petitioner's queries regarding payment of the Redemption Price.
28. By an email dated 26 June 2016 to the Administrator, which was copied to the Investment Manager, the Petitioner requested that the Administrator provide answers to, inter alia, the following questions:
  - 28.1 *"What is the legal/contractual basis for the delay in effecting the redemption payment on the redemption date of 31 December 2015 by reference to respective clauses/provisions in the Fund's Articles and the PPL?"*; and

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28.2 "Are you able to send a written statement of our shareholding and confirming the status of the redemption?" [sic].

To date, the Petitioner has not received a response to these questions.

29. The Petitioner has not received notice from the directors of the Fund, that any part of the Redemption Price has been held back in respect of any Incentive Fee. Nor have the Fund notified the Petitioner of any holdback of the Redemption Price for the purposes of reserves to cover estimated accrued expenses, liabilities and/or contingencies.
30. To the best of the Petitioner's knowledge, no declaration by the directors of the Fund relating to the suspension of the calculation of the net asset value, or net asset value per share, had been issued prior to the Redemption Date.
31. The Petitioner is currently unaware of the status of the annual audit and therefore cannot comment, at this stage, on whether the 10% holdback of the Redemption Price is currently due.
32. The Fund has not disputed that the Redemption Price is owed to the Petitioner and that 90% of the Redemption Price has been due and owing since 30 January 2016.
33. As at the date of this petition, 90% of the Redemption Price remains due and owing to the Petitioner.

**Other matters relevant to the ability of the Fund to pay its debts**

**The S-shares**

34. By a letter dated 23 November 2015, nearly 4 weeks after the Redemption Request had been received and acknowledged, the Investment Manager informed investors that the Fund, via its investment in the Master Fund, held substantial investments in illiquid assets. The letter explains that the Investment Manager planned to segregate certain illiquid assets (and related liabilities) from the remainder of the portfolio. Enclosed with the letter were the proposed revisions to the Articles and notice of an extraordinary general meeting at which the proposed amendments would be voted on.

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35. By an email dated 30 November 2015, the Fund informed the Petitioner that the requisite number of investors had consented to the amendment of the Articles and the creation of a new class of shares (the "S-shares").
36. The amended Articles dated November 2015 (the "Amended Articles") define the Class S Share as:
- "a Share issued by the Directors upon a determination by the Directors of their duly authorised agent, that an investment by the [Fund] or the Master Fund may be classified as Special Investment."*
37. The Amended Articles, define "Special Investment" as:
- "any investment by the [Fund] or the Master Fund that the Directors or their duly authorised agent determine is illiquid, lacks a readily assessable market value or should be held until the resolution of a special event of circumstance."*
38. Article 40 of the Amended Articles state that:
- "... no Class S Shares issued by the Company in connection with any Special Investment by the Company or the Master Fund shall be redeemable at the option of the Shareholder but shall be redeemable by the Company pursuant to the provisions of these Articles..."*
39. The Petitioner did not consent to the creation of the S-shares and has at all material times considered that it is not the holder of any S-shares, by virtue of a valid Redemption Request being accepted by the Investment Manager prior to the creation of the S-shares.
40. By an email dated 19 February 2016, the Investment Manager confirmed that the Shares would not be converted to S-shares and the Redemption Price (less any holdback after the completion of the 2015 audited financials) was anticipated to be paid during the second quarter of 2016. In addition the email states that the Fund was unable to pay its debt to Parris, until such time as it was able to realise some of its illiquid assets. This email provides confirmation that the Fund was insolvent on a cash flow basis as at 19 February 2016.
41. The creation of the S-shares was intended by the Fund to improve the Fund's liquidity issues, and its ability to pay its debts as they fell due. In the event, the Fund has not paid the

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Redemption Price due to the Petitioner. It therefore appears that the restructuring of the Fund has not had sufficient impact on the Fund's liquidity, and its ability to pay its debts as they fall due, to allow the Fund to pay the Redemption Price due to the Petitioner.

#### New Mountain

42. In addition to the Fund's own liquidity issues, the Master Fund, is also failing to pay its debts as they fall due. The Petitioner is aware that, on or about 7 March 2016, a company by the name of New Mountain Finance Corporation ("**New Mountain**") brought proceedings (index no. 651186/2016) before the Supreme Court of the State of New York against the Master Fund (the "**New Mountain Proceedings**").
43. The New Mountain Proceedings arise out of the Master Fund's sale, on or about 7 November 2014, to New Mountain of \$30 million (the "**Principal Amount**") of second priority senior secured notes (the "**Notes**"), then owned by the Master Fund. The sale of the Notes, and other matters related to the Notes, were governed by a Securities Purchase and Put Option Agreement dated 7 November 2014, which was subsequently amended on 31 March 2015 and 7 November 2015 (the "**Agreement**").
44. The Agreement provided for the mandatory re-purchase of the Notes in four instalments of US\$7.5 million. In the event of default, the Principal Amount would become due. The Master Fund failed to pay the first instalment due on 30 November 2015. As a result, New Mountain served a default notice and demanded the Principal Amount. The New Mountain Proceedings were commenced by way of a motion for summary judgment in lieu of complaint, pursuant to Section 3213 of the New York Civil Practice Law and Rules.
45. On 18 May 2016, New Mountain served a Statutory Demand for payment of US\$ 33,246,158.50 (principal debt plus interest) on the Master Fund at its registered office in the Cayman Islands. Upon the application of the Master Fund to the Supreme Court of the State of New York, on 15 June 2016, Judge Scarpulla granted an injunction restraining New Mountain from presenting a winding-up petition in the Cayman Islands on the ground that the Agreement contained a "forum selection clause", which provides that any legal action or proceeding with respect to the Agreement will be brought exclusively in the courts of the State of New York or of the United States of America for the Southern District of New York.

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46. At the hearing of New Mountain's motion for summary judgment in lieu of complaint on 7 July 2016, the Master Fund accepted that first instalment due on 30 November 2015 was not paid and raised no specific defence, despite several invitations from Judge Scarpulla to do so. The Master Fund sought only to argue that the 'section 3213 procedure' was not the appropriate procedure in the circumstances. The case was adjourned to a hearing in the last week of July or first week of August 2016.

47. The ability of the Master Fund to pay its debts as they fall due, is likely to impact upon the ability of the Fund to pay its debts, in circumstances where the Fund has invested all of its investable capital, through the Intermediate Fund, in the Master Fund.

#### C. CONCLUSION

48. The Petitioner believes that the Fund is unable to pay its debts as they fall due and ought to be compulsorily wound up.

49. The Petitioner nominates Mr Matthew Wright and Mr Christopher Kennedy of RHSW (Cayman Limited), PO Box 897, Windward 1, Regatta Office Park, Grand Cayman KY1-1103, Cayman Islands for appointment as Joint Official Liquidators of the Fund.

#### D. THE ORDERS HUMBLY SOUGHT

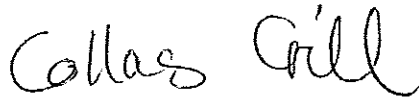
The Petitioner therefore humbly prays that:

1. The Fund be wound up in accordance with the provisions of the Companies Law.
2. Mr Matthew Wright and Mr Christopher Kennedy of RHSW (Cayman Limited), PO Box 897, Windward 1, Regatta Office Park, Grand Cayman KY1-1103, Cayman Islands be appointed as Joint Official Liquidators of the Fund, with the power to act jointly and severally ("JOLs").
3. The JOLs shall not be required to give security for their appointment.

4. In addition to the powers prescribed in Part II of the Third Schedule to the Law which are exercisable without sanction of the Grand Court, the JOLs may also without further sanction of intervention from the Grand Court exercise jointly and severally the following powers set out in Part I of the Third Schedule to the Law:
  - a. The power to carry on the business of the Fund insofar as may be necessary for its beneficial winding up;
  - b. The power to deal with all questions in any way relating to or affecting assets or the winding up of the Fund, to take any security for the discharge of any such call, debt, liability of claim and to give a complete discharge in respect of it;
  - c. The power to engage staff (whether or not as employees of the Fund) to assist the JOLs in the performance of their functions; and
  - d. The power to engage attorneys and other professionally qualified persons to assist the JOLs in the performance of their functions in the Cayman Islands, the United States of America.
5. The JOLs' remuneration and expenses be paid out of the assets of the Fund in accordance with Section 109 of the Companies Law, the Insolvency Practitioner's Regulations 2008 (as amended) and Order 20 of the Companies Winding Up Rules 2008 (as amended).
6. The JOLs be at liberty to meet all disbursements reasonably incurred during the performance of their functions.
7. The JOLs be at liberty to and do pay their agents, employees, attorneys, solicitors and whomever else they may employ or instruct, remuneration and costs, and for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Fund as expenses of the winding up.

8. No suit, action or other proceedings, including criminal proceedings, shall be proceeded or commenced against the Fund except with leave of the Grand Court pursuant to section 97 of the Companies Law.
9. No disposition of the Fund's property by or with the authority of the JOLs in the carrying out of their duties and functions and the exercise of their powers shall be avoided by virtue of section 99 of the Companies Law.
10. The costs of and incidental to this petition shall be paid out of the assets of the Fund as an expense of the liquidation, such costs to be taxed on the indemnity basis if not agreed.
11. Such further orders as the Honourable Grand Court deems fit.

DATED this <sup>22<sup>nd</sup></sup> day of July 2016.



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**Collas Crill**  
**Attorneys-at-Law for the Petitioner**

This Petition is intended to be served on:

1. The Fund
2. The Cayman Islands Monetary Authority