

1 KATHY BAZOIAN PHELPS (State Bar No. 155564)  
2 *kphelps@diamondmccarthy.com*  
3 DIAMOND MCCARTHY LLP  
4 1999 Avenue of the Stars, Suite 1100  
5 Los Angeles, California 90067-4402  
6 Telephone: (310) 651-2997

7 *Successor Receiver*

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 SECURITIES AND EXCHANGE  
12 COMMISSION,

13 Plaintiff,

14 v.

15 JOHN V. BIVONA; SADDLE RIVER  
16 ADVISORS, LLC; SRA  
17 MANAGEMENT ASSOCIATES,  
18 LLC; FRANK GREGORY  
19 MAZZOLA,

20 Defendants, and

21 SRA I LLC; SRA II LLC; SRA III  
22 LLC; FELIX INVESTMENTS, LLC;  
23 MICHELE J. MAZZOLA; ANNE  
24 BIVONA; CLEAR SAILING GROUP  
25 IV LLC; CLEAR SAILING GROUP V  
26 LLC,

27 Relief Defendants.

Case No. 3:16-cv-01386-EMC

**ADMINISTRATIVE MOTION BY  
RECEIVER KATHY BAZOIAN PHELPS  
PURSUANT TO LOCAL CIVIL RULE 7-11  
TO (1) EXCUSE DEADLINE RE TAX  
OPINION; AND (2) SHORTEN TIME FOR  
NOTICE ON MOTION TO EMPLOY  
PROFESSIONALS AND FOR  
INSTRUCTIONS**

Date: No Hearing Set  
Time: No Hearing Set  
Judge: Edward M. Chen

28 Kathy Bazoian Phelps, the successor receiver herein, hereby files her Administrative Motion Pursuant to Local Civil Rule 7-11 to Excuse Deadline re Tax Opinion and Shorten Time for Notice on Motion to Employ Professionals and for Instructions. The Receiver has conferred with counsel for the Securities and Exchange Commission, for the SRA Investor Group and for Progresso Ventures LLC and is advised that they do not oppose the Motion.

1           **I.           Basis for the Motion**

2           The Receiver proposed a Distribution Plan (“Plan”) and, at the last hearing, concerns were  
3 raised regarding the tax consequences of the Plan. The Court requested that the Receiver obtain a  
4 tax opinion that she could share with the SRA Investor Group and requested that the tax opinion  
5 be prepared by August 9, 2019, if possible. The Receiver has identified Miller Kaplan as a tax  
6 advisor to render the opinion, and the SEC and Investor Group have both agreed to the selected  
7 tax advisor. The Receiver has been in active discussions with Miller Kaplan since the hearing on  
8 the Plan on June 27, 2019, and it has become apparent that there two principal approaches to  
9 handling the tax issues: (1) Scenario 1 (the circumstances identified in the Plan) is to treat both  
10 IPO Shares and Pre-IPO Shares as part of the qualified settlement fund (“QSF”), which is the  
11 lower risk, lower cost option but could result in potentially higher taxes; or (2) Scenario 2 (as an  
12 alternative approach to try to mitigate tax liability) is to try to obtain an IRS ruling that the Pre-  
13 IPO Shares are not part of the QSF, which will be higher risk, higher cost, could result in delays  
14 and securities issues, but could potentially result in lower taxes. The Receiver has also consulted  
15 with securities counsel to seek guidance on the securities ramifications of proceeding under  
16 Scenario 1 or 2. The Receiver is finalizing terms of engagement with both Miller Kaplan and  
17 securities counsel, and she intends to file a motion seeking approval of the employment of these  
18 professionals, and to also seek instructions from the Court as to whether to pursue Scenario 1 or 2.

19           The SRA Investor Group has not yet taken a position on these issues and the Receiver  
20 believes that a noticed motion (the “Instructions Motion”) and hearing are most appropriate to  
21 allow the parties to fully consider the issues and formulate a response. The Receiver has conferred  
22 with both the SEC and the SRA Investor Group to discuss the timing of the Instructions Motion,  
23 and the parties believe that shortened time for hearing on the Instructions Motion is appropriate so  
24 that the case can move forward as quickly and efficiently as possible. This Administrative Motion  
25 requests that the Court excuse the suggested deadline of August 9, 2019 to issue a tax opinion and  
26 shorten the time for hearing on the Instructions Motion (to be filed on August 15, 2019) as set  
27 forth herein.





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IV. Conclusion**

For these reasons, the Receiver respectfully requests that the Court (1) excuse the suggested deadline of August 9, 2019 to obtain a tax opinion; and (2) approve shortened time for notice on the Instructions Motion to be filed no later than August 15, 2019, with a hearing to be set for September 12, 2019, any opposition due on August 29, 2019, and any reply due on September 5, 2019. The Receiver requests all other appropriate relief.

DATED: August 9, 2019

By: /s/ Kathy Bazoian Phelps  
Kathy Bazoian Phelps  
Receiver