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5 *Successor Receiver*

6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**

10 SECURITIES AND EXCHANGE
COMMISSION,

11 Plaintiff,

12 v.

13 JOHN V. BIVONA; SADDLE RIVER
14 ADVISORS, LLC; SRA
MANAGEMENT ASSOCIATES,
15 LLC; FRANK GREGORY
MAZZOLA,

16 Defendants, and

17 SRA I LLC; SRA II LLC; SRA III
18 LLC; FELIX INVESTMENTS, LLC;
MICHELE J. MAZZOLA; ANNE
19 BIVONA; CLEAR SAILING GROUP
IV LLC; CLEAR SAILING GROUP V
20 LLC,

21 Relief Defendants.

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

**NOTICE OF MOTION AND MOTION BY
RECEIVER KATHY BAZOIAN PHELPS
TO:**

- (1) **EMPLOY MILLER KAPLAN AS TAX
ADVISOR**
- (2) **EMPLOY SCHINNER & SHAIN LLP
AS SECURITIES COUNSEL; AND**
- (3) **FOR INSTRUCTIONS**

Hearing Date: September 12, 2019

Time: 10:30 a.m.

Location: Courtroom 5, 17th Floor
450 Golden Gate Ave.
San Francisco, CA 94102

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24 **TO ALL INTERESTED PARTIES:**

25 **PLEASE TAKE NOTICE** that on September 12, 2019, at 10:30 a.m., in Courtroom 5 of
26 the above-entitled Court located at 450 Golden Gate Ave., in San Francisco, California, a hearing
27 will be held on the Motion by Receiver Kathy Bazoian Phelps ("Receiver"), Court-appointed

1 permanent receiver for SRA Management Associates LLC, SRA I, LLC, SRA II, LLC, SRA III,
2 LLC, Clear Sailing Group IV, LLC, Clear Sailing Group V, LLC, Felix Multi-Opportunity Fund I,
3 LLC, Felix Multi-Opportunity Fund II, LLC, Felix Management Associates, LLC, NYPA Fund I,
4 LLC, NYPA Fund II, LLC, and NYPA Management Associates, LLC (collectively, the
5 "Receivership Entities"), to 1) Employ Miller Kaplan as tax advisor; 2) Employ Schinner & Shain
6 LLP as Securities Counsel; and 3) for Instructions ("Motion").

7 The Motion seeks (1) approve the employment of Miller Kaplan as the Receiver's tax
8 advisors to issue an opinion on the tax consequences under the proposed Plan of Distribution, or to
9 seek a ruling from the IRS on the appropriate tax treatment; (2) approve the employment of
10 Schinner & Shain LLP as securities counsel to advise the Receiver with respect to applicable
11 securities regulations in connection with the sale and distribution of securities under the terms of
12 the proposed Plan; and (3) instruct the Receiver whether to pursue Scenario 1 or 2 as set forth in
13 the Motion regarding the tax treatment under the Plan.

14 The Motion is based on the Memorandum of Points and Authorities below, and the
15 Declaration of Kathy Bazoian Phelps filed concurrently herewith. The Motion and supporting
16 papers are available at the Receiver's website,
17 <http://www.diamondmccarthy.com/saddleriverreceiver>, The Receiver has discussed this Motion
18 with counsel for the SEC and the SRA Investor Group and does not believe that they oppose the
19 relief requested in the Motion.

20 **Procedural Requirements:** If you oppose all or part of the relief requested in this Motion,
21 you are required to file your written opposition with the Office of the Clerk, United States District
22 Court, 450 Golden Gate Ave., San Francisco, California 94102, and serve the same on the
23 undersigned not later than August 27, 2019 pursuant to (Dkt. No. 514) *Order As Modified Granting*
24 *Administrative Motion By Receiver Kathy Bazoian Phelps Pursuant To Local Civil Rule 7-11 To*
25 *(1) Excuse Deadline Re Tax Opinion; And (2) Shorten Time For Notice On Motion To Employ*
26 *Professionals And For Instructions*, issued August 13, 2019.

27 IF YOU FAIL TO FILE AND SERVE A WRITTEN OPPOSITION by the above date, the

1 Court may grant the requested relief without further notice.

2 **Meet and Confer:** The Receiver has conferred with counsel for the Securities and
3 Exchange Commission, who as advised that the SEC does not oppose the Motion. The Receiver
4 has also conferred with counsel for the SRA Investor Group who advised that they wish to consider
5 the matter further before responding as to their position

6 WHEREFORE, the Receiver requests that the Court (1) approve the employment of Miller
7 Kaplan on the terms set forth in the Motion; (2) approve the employment of Schinner & Shain LLP
8 on the terms set forth in the Motion; and (3) instruct the Receiver whether to pursue Scenario 1 or 2
9 relating to the tax treatment of the sale and distribution of securities pursuant to the proposed Plan
10 of Distribution. The Receiver requests all other appropriate relief.

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12 DATED: August 15, 2019

13 By: /s/ Kathy Bazoian Phelps
14 Kathy Bazoian Phelps
15 Successor Receiver
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