

1 JOHN W. COTTON (SBN 54912)
Email: JCotton@gghslaw.com
2 GARTENBERG GELFAND & HAYTON LLP
15260 Ventura Blvd., Suite 1920
3 Sherman Oaks, CA 91403
(213) 542-2100
4 (818) 292-0898

5 Counsel to the Receiver
Michael A. Maily

7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**

10 SECURITIES AND EXCHANGE)
COMMISSION,)
11 Plaintiff,)
12 v.)
13 JOHN B. BIVONA; SADDLE RIVER)
14 ADVISERS, LLC; SRA)
15 MANAGEMENT ASSOCIATES, LLC;)
FRANK GREGORY MAZZOLA)
16 Defendants.)

Case No. 3:16-cv-1386

**NOTICE OF LODGING OF
RECEIVER'S QUARTERLY
REPORT TO THE COURT
FOR THE QUARTER ENDED
MARCH 31, 2017**

Date: N/A
Time: N/A
Judge: Edward M. Chen

1 The Receiver in the above matter, Sherwood Partners Inc. (“the
2 Receiver”) pursuant to this Court’s Order of October 11, 2016, has been
3 charged with the filing of quarterly reports advising the Court of the status of
4 its work during the quarter then ended, as specified by Sec. XIII of the Order.
5 Attached hereto as Exhibit A is Receiver’s Second Quarterly Report to the
6 Court, for the period January 1, 2017 to March 31, 2017, regarding specified
7 activities undertaken during the quarter.

8
9 Dated: May 16, 2017

GARTENBERG GELFAND HAYTON
LLP

10
11 By: /s/ John W. Cotton
12 John W. Cotton
13 Special Counsel to the Receiver
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A

Hon. Edward M. Chen
United States District Court
Northern District of California
Courtroom 5
United States Courthouse
450 Golden Gate Ave.
San Francisco, California 94102

In re: Securities and Exchange Commission v. John V. Bivona, et al., Case No. 16-cv-01386-EMC

Hon. Edward M. Chen:

Attached please find the Second Interim Report of the Receiver in the matter of the Securities and Exchange Commission v. John V. Bivona, et al., Case No. 16-cv-01386-EMC.

Please note that portions of this report are based upon financial and other information provided to the Receiver by the Defendants of Saddle River Advisors, LLC, SRA Management Associates, LLC, SRA I, LLC, SRA II, LLC, SRA III, LLC, Clear Sailing Group IV, LLC, Clear Sailing Group V, LLC, Felix Multi Opportunity Fund I, LLC, and, Felix Multi Opportunity Fund II, LLC, LLC).

This Second Interim Report has been prepared pursuant to the terms of the Order Appointing Receiver.

Sincerely,

Peter Hartheimer
Sherwood Partners, Inc.
Representative of the Receiver
May 15, 2017

**Securities and Exchange Commission v. John V. Bivona, et al., Civil Action No. 3:16-cv-01386
Receiver's Second Interim Report, May 15, 2017**

The Receiver in the above matter, Sherwood Partners, Inc., ("the Receiver"), hereby provides its second quarterly report to the Court on the progress of its administration of the estates of the defendants and the stipulating affiliated entities¹, for the period January 1, to March 31, 2017. As the Court is aware, the Receiver was appointed on October 11th, 2016, pursuant to this Court's Order ("the Order"), which charged it with administering the estates of Saddle River Advisors, LLC's holding companies, SRA I LLC, SRA II LLC, SRA III LLC, (The "SRA Funds") and Clear Sailing IV, and Clear Sailing V, (the "Clear Sailing Funds"), which are, collectively, the "Receivership Defendants". The stipulating, affiliated entities agreed as well to their administration by the Receiver. The Receiver began his work by familiarizing himself with background facts, relevant pleadings, and documentary information during the second and third week of October, and began his tasks in earnest in early in November. This report, which the Court requested be provided quarterly, concerns the first three months of 2017.

Pursuant to the Order, Sec. XIII, the Receiver is to provide the following information on a quarterly basis:

- A. A summary of the operations of the Receiver;
- B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;
- C. A schedule of the Receiver's receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the receivership;
- D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;
- E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments);
- F. A list of all known creditors with their addresses and the amounts of their claims;
- G. The status of Creditor Claims Proceedings, after such proceedings have been commenced; and,
- H. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.

¹ The stipulating affiliated entities include FMOF I, FMOF II, FMOF Management, NYPA I, NYPA II, and NYPA III, each as defined by this Court in its Order of October 11, 2016.

A. Summary of the Operations of the Receiver

Since the submission of the first quarterly report on February 1st, 2017, the Receiver continued to fulfill the requirements of the Order. The following is what has been completed between January 1st, 2017 and March 31st, 2017.

ASSET MANAGEMENT

At the date of Sherwood's appointment, the defendant's assets consisted of investments into twenty-one (21) companies that are or were pre-IPO and two (2) companies that had already experienced a liquidity event resulting from their IPOs.

The Receiver has requested and received assistance from former officers and employees of the defendants, including, but not limited to John V. Bivona and Susan Diamond, in order better to understand the status and quantity of investments held by the Defendant entities and stock distributions made to investors after a stock went public

The specific investments that the Receiver has spent time managing in this reporting period are as follows:

- **Square, Inc.** – Prior to the appointment of the Receiver, Square held an initial public offering and a partial distribution of the Square shares held by SRA was made to some of its investors. As a result, some investors received distributions while others did not. A balance of 97,505 shares remained in the estate for the pool of investors who received no distribution. The Receiver, in conjunction with the SEC, completed an analysis and reconciliation of the Square, Inc. shares and has concluded that there is an overall shortfall of shares. The Receiver has worked closely with the Securities and Exchange Commission (“SEC”) and American Stock Transfer, Inc., (“AST”) to reconcile the balance of the Square, Inc. shares held by the Receiver, shares distributions made prior to the Receivership, and remaining share distributions to be made to investors. The below outline and attached **Exhibit A** describes the reconciliation process.
 - The remaining balance of Square, Inc. shares when the Receiver was appointed was 97,505, as confirmed by AST
 - The total Square, Inc. shares distributed to investors prior to the Receivership totaled 295,592
 - The remaining Square, Inc. share distributions due investors totals 124,112.72
 - The gross shortfall amounts to 97,505 Square shares, less remaining distributions of 124,112.72 for a gross total Square, Inc. shares shortfall of 26,607.72
 - Of the gross Square, Inc. share shortfall, 16,808 Square shares were misdistributed through excess share distributions to Square, Inc. investors. Hence, the absolute shortfall of Square, Inc. shares equals 9,799.72.(The Receiver will be evaluating whether the cost and time of a clawback of the misdistributed shares is worth recommending to the Court.
 - In March 2017, the Receiver has sold all Square, Inc. shares held by the estate (97,505 shares) for \$17.16/share, totaling \$1,665,219.77 in net proceeds to the estate (net of the sales commission)
- **Candi Controls, Inc.** – Shortly after the appointment of the Receiver, its staff had several communications with Candi Controls, Inc., (“Candi”) a company whose shares are held by the estate. SRA had purchased both Series A and B shares offered by Candi. Candi has expressed

interest in pursuing a third (or, “C”) round of funding. However, the total amount of shares owned by SRA exceeded the regulatory limit for 506 D filing issues regarding bad actors in public companies. The Receiver has provided assistance to Candi to assure future investors that the Receiver is impartial and not subject to 506D. Furthermore, the Receiver has cooperated with Candi by waiving its right of refusal in soliciting new funds, leaving Candi free to approach new investors without the Receiver’s input or Court approval.

- **Flurry, Inc.** – Flurry was a pre-IPO investment made through the NYPA Funds I & II, and SRA I. The investment was similar to Square, Inc., in that there was a liquidity event prior to Sherwood’s appointment when Yahoo Inc. purchased Flurry in a private sale. Liquidity was created when investor’s shares were clawed back by Flurry, Inc., to execute the sale to Yahoo, Inc. The funds created by this transaction, similar to Square, were partially distributed to investors. According to the records of the Defendants, 12 of 50 investors have yet to receive a distribution. These funds are frozen in the SRA TD Bank Accounts, pending relief upon the Order appointing Sherwood.
- **Snap, Inc.** – Snap held an IPO, but is in a “lock-up” period for pre-IPO investors, restricting the receiver from recovering the value of the Snap asset by prohibiting the sales of shares for a prescribed, “lockup” period. Further details are below:
 - There are 15,586 Snap, Inc. shares in the Receiver’s portfolio
 - Per the confirmation process performed during the Monitorship, Clear Sailing Group IV does not have records of Snap ownership
 - It seems that the purchase of the Snap shares is under a forward contract
 - During the Monitorship, the Monitor sent a confirmation to the seller of the Snap shares in order to verify the holdings of the shares, but a response was never received
 - Snap, Inc. filed an IPO on March 2, 2017 and started trading on the NYSE

Plan of Liquidation - Pursuant to section XIII of the Order appointing the Receiver, Sherwood is to submit a Plan of Liquidation (the “POL”) by June 12, 2017². As Sherwood has further investigated the history of the Defendant Entities, questions have arisen regarding the most efficient and equitable manner by which the Receiver should fairly monetize and distribute SRA assets. The language in the Order implied a specific method, best described as an asset-by-asset distribution to specific SRA Fund series holders. This implied method appears problematic for a number of reasons.³ As a result, the Receiver is currently exploring an alternative POL which may be a more equitable and fair method of distribution, and without which the Receiver can't move forward with its duties. The Receiver is working on meeting the June 12th deadline with the presentation of this alternative plan. The SEC is working with the Receiver to make this a joint, consolidated plan of liquidation, allocation, and distribution.

Proof of Claims - As of the date of this application, the Receiver is in the process of determining the nature of and amounts due creditors. The Receiver will conduct a thorough proof of claims process

² The Order originally called for the production of this plan within 90 days of the Order; it has subsequently been moved by Court approved amendment of the Order to June 12, 2017.

³ Among those reasons were (i) the inherent time delay and attendant cost of waiting for unknown liquidity events; (ii) the poor state of record-keeping resulting in, among other things, shortfalls in distributable company shares; and (iii) the cost of audit.

upon the Court's approval of the Plan of Liquidation. Each creditor will have the opportunity to file a claim on or before a certain specified bar date. The Receiver wants to ensure the capture and understanding of all potential creditors. The Receiver will subsequently conduct an analysis and reconciliation of the claims, followed by a distribution process per the terms of the POL.

INVESTOR RELATIONS & CREDITORS

The Receiver continues to conduct regular communication with SRA investors. Sherwood maintains a log of these communications along with any additional information investors choose to share with the receiver. Sherwood has made every effort to provide accurate and concise information on the case status and our progress. In certain cases, Sherwood has been asked to conduct meetings with investors regarding their perceived unique circumstances surrounding investments.

- **Telesoft** – On Friday January 13th, 2017 Sherwood's representatives and counsel met with the principals of Telesoft and their counsel to discuss their investment into Palantir, an illiquid asset of the estate. It is their assertion that they are an investor of 227,000 shares of Palantir, held in a specific series (Series G) of Defendant Clear Sailing V. The principals of Telesoft have expressed to the Receiver that its investment was structured to segregate it from all other investments in Palantir, and that as such, it should not suffer any dilution in any plan of liquidation, but should get its 227,000 shares without any reduction. Sherwood has documented its review of this claim and will discuss it further with the SEC in preparing the receiver's plan of liquidation, allocation and distribution.
- **SEC v. Neal V. Goyal, et al** – This is a Receivership matter arising in Illinois⁴, in which the Court appointed Receiver there, Mr. Kevin Duff, has made a claim to 1,250 shares of the undistributed Square shares held by the estate. Goyal, the defendant in the Northern District of Illinois matter, was an investor in the SRA I defendant entity. The Receivership estate there acquired 1,250 shares of Square, Inc. in 2015, when Duff was appointed. He believes he is entitled to the full allocation of these shares due to his priority of Receivership, and should not be subject to any shortfall offset, or other equitable reduction in value. However, Sherwood, pursuant to the Order, is entitled to take four percent (4%) of all assets of the SRA estate. In addition, there is a shortfall of Square shares available for distribution, as mentioned above on page 3. Sherwood and its counsel have conducted several conversations with Duff to determine the appropriate administration of his claim. A proposed stipulated order is currently being circulated by the Receiver's counsel which will hopefully resolve the Goyal Receivership claim without any inordinate legal expense and delay caused by the dispute with that Receiver over the priority of entitlement to estate assets.

RECORD MANAGEMENT

In order to save the estate money, the Receiver relocated all records to its warehouse in Mountain View, CA. At that time, the Receiver conducted an inventory of records. However, many of the company records have been incomplete and have required considerable effort to locate or recreate. Sherwood has recovered missing tax documents, emails and computer data required to administrate the estate, and defend and pursue claims on behalf of the investors and creditors.

⁴ **SEC v. Neal V. Goyal, et al**, Case No. 1:14-cv-3900, N.D. Illinois (2015)

CASE SUPPORT AND ADMINISTRATION

The Receiver has spent time administrating the case to ensure compliance with the Order. Our work in this period includes (a) preparing the First Quarterly Report of the Receiver on January 31, 2017; and (b) preparing for and attending the first status conference on November 18, 2016, in San Francisco, CA.

SUPPORT OF AND REPORTING TO THE SECURITIES AND EXCHANGE COMMISSION

As part of the administrative obligations to the Estate, Sherwood has had regular dialog with the Securities and Exchange Commission (The "SEC"). We have conducted regular meetings with the SEC and have supported the following activities:

- (i) Coordination with the SEC's forensic IT consultants to deliver electronic data and emails in support of the continuing SEC investigations; and
- (ii) Support for the conduct of the deposition of Anne Bivona on January 27th, 2017. The Receiver provided questions relevant to the recovery of the estate. We have also participated in settlement conference preparations and administrative support of estate records to assist the SEC in its investigations.

CLAIMS AND LITIGATION FOR THE BENEFIT OF THE ESTATE

In addition to the monetization and recovery of assets, the Receiver will need to pursue remedies, consensual and legal, to recover funds. These funds are compensation due to the estate by misappropriation. Early in the Receivership, the principal of Defendant entities, John V. Bivona filed for bankruptcy in the Southern District of New York, Case 16-12961-scc. The Receiver analyzed and addressed issues concerning the impact of this personal Chapter 7 bankruptcy, as well as issues pertaining to the preservation of claims and assets of the Receiver's estate by working with local counsel. This includes, but is not limited to:

- Stipulating the extension of time to object to the discharge and dischargability of debt
- Efforts to recover funds held in Defendants' frozen banks accounts (see first report of the Receiver)
- Writing and filing proof of claim forms and supporting documentation

B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;

As of the date of this report, the Receiver hold \$1,665,219.77, which represents proceeds from the sale of 97,505 Square, Inc. shares.

As of March 31, 2017, the accrued administrative expenses of the Defendant entities are as follows:

Pre-Appointment Accrued Administrative Expenses	
Office Expenses	\$61,528.60
Salaries-SRA Management	\$64,927.31
EXPENSES - JOHN BIVONA	\$10,180.37
EXPENSES - NINA DAZZO	\$3,018.15
EXPENSES - VITO FREDELLA	\$1,555.41
EXPENSES - SUSAN DIAMOND	\$2,540.72
REGISTERED AGENT- National Corporate Research	\$2,036.00
STATE OF NJ ANNUAL REPORT	\$105.00
Delaware delinquent LLC Taxes	\$6,360.00
	<u>\$152,251.56</u>
Post-Appointment	
Temporary Administrative Labor	\$2,746.08

The Receiver has been bearing the burden of expenses associated with carrying out his duties, and the Receiver's retained professionals have incurred expenses as reflected in this Report.

C. A schedule of all the Receiver's receipts and disbursements

As of the date of this Report, the Receiver has not made any disbursements. Disbursements will be made in the future according to the terms of the Plan of Liquidation and Distribution, which is due to be filed with the Court by June 12, 2017.

D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;

All Defendant Funds subject to the Securities and Exchange Commission's Stipulated Order for Appointment of Receiver. These Funds would be those of the following Defendants and stipulated affiliated entities. They are:

- SRA I, LLC
- SRA II, LLC
- SRA III, LLC
- Saddle River Advisors LLC
- SRA Management LLC
- Clear Sailing Group IV, LLC
- Clear Sailing Group V, LLC
- Felix Multi-Opportunity Fund I, LLC
- Felix Multi-Opportunity Fund II, LLC
- Felix Management Associates LLC
- NYPA Fund I, LLC
- NYPA Fund II, LLC
- NYPA Management Associates LLC

All known investments of the Receivership Entities to the best of the Receiver's knowledge and belief. These investments, all of which but Addepar, are held with the so-called "Purchase Funds" (Clear Sailing IV, Clear Sailing V, and Equity Acquisition Corp. ("EAC")). They are:

- Addepar
- Airbnb
- Badgeville
- Bloom Energy
- Candi Controls
- Cloudera
- Dropbox
- Evernote
- Glam
- Jawbone
- Lookout
- Lyft
- Mongo DB
- Palantir
- Pinterest
- Practice Fusion
- Snapchat
- Square
- Uber
- Big Ten
- Series X

All known bank accounts of the Defendant Entities to the best of the Receiver's knowledge and belief. These accounts include:

	ACCOUNT NAME	ACCOUNT #	BALANCE
1	SRA Management Associates LLC	TD Bank-8771	\$ 147.72
2	SRA I LLC	TD Bank-8804	\$ 37,109.51
3	SRA II LLC	TD Bank-8797	\$ 174.11
4	SRA III LLC	TD Bank-8789	\$ 135.82
5	Saddle River General Account LLC	TD Bank-8846	\$ 4,029.64
6	Clear Sailing Group V LLC	TD Bank-2096	\$ -
7	Clear Sailing Group IV LLC	TD Bank-9076	\$ 38,080.53
8	NYP A Fund I LLC	TD Bank-7543	\$ 58.10
9	NYP A Fund II LLC	TD Bank-7551	\$ 75.00
			\$ 79,810.43

E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments);

To the best of its knowledge and belief, the Receiver is unaware of any liquidated or unliquidated claims held by the Receivership Estate as of the date of this report.

F. A list of all known creditors that includes investor addresses and the amounts of each claim

As of the date of this Report, the Receiver is in the process of determining the nature and amounts of due creditors. The Receiver will conduct a thorough proof of claims process upon the Court's approval of the Plan of Liquidation. Each creditor will have the opportunity to file a claim by a certain, specified bar date. The Receiver wants to ensure the capturing of all potential creditors. The Receiver will subsequently conduct an analysis and reconciliation of the proofs of claim followed by a distribution process per the terms of the Plan of Liquidation.

G. The status of Creditor Claims Proceedings, after such proceedings have commenced;

The Receiver has not engaged in a claims process as of the date of the report. Please see the paragraph above in section F for further detail.

H. The Receiver's recommendations for a continuation or discontinuation of the Receivership, and the reasons for the recommendations

The Receiver has only recently been appointed, and its work has only just begun. The Receiver's recommendation is to continue the Receivership so that it can thoroughly complete its duties. Additionally, since at this time there is no recommendation for a bankruptcy filing, or a distribution of assets to investors, there is no other course than to continue the Receivership through the initial phases of fact-gathering.

UPCOMING WORK OF THE RECEIVERSHIP

The primary upcoming task of the Receiver is to begin to the recovery process inclusive of liquidation of illiquid assets and allocation and distribution of funds. To accomplish this, the Receiver will have to sell some or all assets of the estate. Additionally, the Receiver will deliver and execute a Plan of Liquidation, to be submitted to the court on June 12th, 2017.

The Plan of Liquidation under consideration may depart from the original intended course of allocation of assets as set forth in the Order. The Order envisioned investors being returned shares or funds as per the series of their investments. However, this method may perpetuate the errors and mismanagement of the original fund and provides no compensation for lenders of the estate, whose moneys were commingled to acquire assets. Furthermore, the receiver and the SEC have found insufficient shares to complete this method of allocation. Making full distributions to all investors who have invested into each unique company may be impossible, as the Receiver will likely report in the POL filed by June 12, 2017. Furthermore, it appears that monies were used from one group of investors for the benefit of other groups of investors; shares were purchased from one fund with the monies of another fund to cover shortfalls and complete purchases, otherwise known as commingling of funds.

Given the above facts, the Receiver, in conjunction with the SEC, is planning to recommend to the Court that the best method of allocation may be to consider all creditors (investors and lenders) as equal, a so-called "consolidated" POL. The Receiver's and SEC's joint plan likely will consolidate all creditors into a single pool, allocate funds according to cash received, and distribute money to creditors on a pro-rata basis from the proceeds of recovery. However, this recommendation is still being examined and has not yet been finalized for presentment to the Court.

Exhibit A

																	Per DWAC Report from American Stock Transfer ("AST")						
																	A	B	A-B				
Welcome Letter Title/signature	Series	Gross Amount of Investment	Net Amount of Investment	Square position only	Date of purchase	Close Date	Price per Share	Shares Required	10 for 1 split price	10 for 1 split shares	MGMT Fee	Years	2% for 1 year	Monthly Mgmt. Fee	Fee Based on amount of Months	Total	Price to Calculate how many shares in fees to hold back	Final Share Distribution	Number of Shares Distributed	Date of Distribution	Remaining Shares to be Distributed	Carried Interest	
																		402,897.71	295,592.00	a		124,112.72	c
																			Total Shares distributed per above:	295,592.00	a		
																			Less:	23,832.00			Distributed by EAC
																			Total Shares distributed by SRA I-III	271,760.00			Ties to AST DWAC Report and additional AST documents per SEC
																			Balance of Square, Inc. shares as of 1/18/17	97,505.00	b		Ties to AST Statement as of 1/18/2017
																			Total Square shares population	393,097.00	a+b		
																			Known Square shares population	391,255.00			Ties to AST Statement as of 7/28/2016
																			Remaining distributions	124,112.72	c		
																			Shortfall	(26,607.72)	b-c		
																			Final Share Distribution per above		Shares Distributed per above		Difference
																			A		B		B-A
																			10,333.00		17,323.00		6,990.00
																			9,179.00		9,779.00		600.00
																			618.00		2,000.00		1,382.00
																			1,664.00		9,500.00		7,836.00
																			21,794.00		38,602.00		16,808.00