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GLOBAL GENERATION GROUP, LLC
9 and BENCHMARK CAPITAL, LLC

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13
14 SECURITIES AND EXCHANGE
COMMISSION,

15 Plaintiff,

16 v.

17 JOHN B. BIVONA; SADDLE RIVER
18 ADVISERS, LLC; SRA MANAGEMENT
ASSOCIATES, LLC; FRANK GREGORY
19 MAZZOLA,

20 Defendants,

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

24 Relief Defendants.

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

**NON-PARTIES GLOBAL GENERATION
GROUP, LLC AND BENCHMARK
CAPITAL, LLC'S COMMENTS TO
RECEIVER'S MOTION FOR APPROVAL
OF A CONSOLIDATED DISTRIBUTION
PLAN, RETENTION OF
PROFESSIONALS, DISSOLUTION OF
CERTAIN DEFENDANTS AND RELIEF
DEFENDANTS AND CONSENT BY THE
RECEIVER TO PERMANENT
INJUNCTION**

Date: September 28, 2017
Time: 1:30 p.m.
Courtroom: 5
Judge: Hon. Edward M. Chen

1 Non-parties Global Generation Group, LLC and Benchmark Capital, LLC
2 (“Global” and “Benchmark”) respond to the Joint Motion of the Plaintiff Securities and Exchange
3 Commission and the Receiver for Approval of the Proposed Joint Distribution Plan (“SEC
4 Motion”) as follows:

5 First, the Motion’s June 29, 2017 Proposed Joint Plan of Distribution (“Plan”)
6 defines “Unsecured Claims” as investor claims. (Plan at 8:12). Investor claims are defined as
7 “the principal amount invested in or through Clear Sailing or related entities in securities for
8 which there has been no distribution.” (Plan at 8:12-15). (“Unsecured Claims”) The Plan
9 further defines “Unsecured Creditor Claims” to include “principal amount owed on loans and
10 business debt, including...Benchmark Capital... [and] Global Generation.” (Plan at 8:24-25).
11 (“Unsecured Creditor Claims”)

12 The Plan is not clear as to how Global and Benchmark are proposed to be
13 categorized. On the one hand, Global and Benchmark are specifically included within the Plan’s
14 Unsecured Creditors, as described above. On the other hand, the shares owed to Global (626,666)
15 are included in the Palantir shortfall analysis presented in the SEC Motion, which would seem to
16 indicate Global and Benchmark’s claims are within the group of Unsecured Creditor Claims.

17 Accordingly, Global and Benchmark submit it is unclear whether the Plan deems
18 Global and Benchmark to be holding an Unsecured Claim, an Unsecured Creditor Claim or some
19 combination of the two. In discussions with Global and Benchmark on this point, the Receiver
20 stated no decision has been made as to whether Global and Benchmark are within the Unsecured
21 Claims group or the Unsecured Creditors group or some combination of the two – that any such
22 decision will be made after the Plan is approved, during the claims processing stage. Given the
23 current ambiguity with regard to their status within the Plan, Global and Benchmark submit this
24 Comment to reserve their rights to request placement in either or both groups at the claims stage.

25 Second, on July 27, 2017, non-party Telesoft Capital LLC (“Telesoft”) filed a brief
26 effectively asking the Court to allocate it certain Palantir shares from the receivership. Telesoft
27 argues that it invested outside of the SRA funds, that its investment can be directly traced to the
28 purchase of Palantir shares by Clear Sailing, and that therefore there is a basis to allocate Telesoft

1 a specific amount of Palantir shares. If the Court were to consider an allocation of Palantir shares
2 to individual investors, such as Telesoft, Global submits it is entitled to such an allocation.
3 Indeed, Global is prepared to present evidence that its purchase of Palantir shares is far more
4 directly traceable than Telesoft's investment.

5 Specifically, as set forth in the briefs and analyses submitted in the SEC Motion,
6 Global invested \$2.8M with Defendants in October 2011. In November 2011, Defendants used
7 Global's investment to make Defendants' first purchase of Palantir shares (3.1 million shares).
8 (SEC Motion at 6:8-10 and Declaration of M. Monica Ip, CPA ("Ip Declaration") at 11:18-12:2).
9 Defendants took possession of the Palantir shares purchased with Global's investment. At the
10 time of Global's investment, and for over a year after, Defendants had no shortage of Palantir
11 shares. Indeed, no shortfall of Palantir shares occurred until April 2013. (Yip Declaration, Ex.
12 1). Bottom-line, Global's remaining unredeemed shares can easily and directly be traced to
13 Global's investment. Accordingly, if the Court were to consider allocations of specific Palantir
14 shares to individual investors, Global requests it be allocated the net number of shares it
15 purchased or afforded the opportunity to establish its entitlement to such an allocation.

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17 Dated: August 24, 2017

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19 By: /s/ Theodore Griffinger

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