

1 JOHN W. COTTON (SBN 54912)
 2 Email: JCotton@gghslaw.com
 3 GARTENBERG, GELFAND & HAYTON LLP
 4 15260 Ventura Blvd., Suite 1920
 5 Sherman Oaks, CA 91403
 6 (213) 542-2100
 7 (818) 292-0898
 8
 9 Counsel to Receiver
 10 Sherwood Partners Inc.

11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26
 27
 28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
 COMMISSION,

Plaintiff,

v.

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

Defendants.

Case No. 3:16-cv-1386

**NOTICE OF LODGING OF
 REVISED DECLARATION
 OF GEORGIANA NERTEA
 IN SUPPORT OF MOTION
 FOR APPROVAL OF
 CONSOLIDATED
 DISTRIBUTION PLAN**

Date: August 30, 2017
 Time: 10:00 AM
 Judge: Edward M. Chen

NOTICE is hereby given that the Declaration of Georgiana Nerthea, a Senior Vice President of Sherwood Partners Inc. (“Sherwood”), has been revised to update and correct earlier statements contained therein with more current information that has come to the attention of Sherwood since the June 29, 2017 filing of the SEC and Receiver’s Joint Motion for Approval of

1 the Consolidated Distribution Plan, currently set for hearing on August 30,
2 2017 at 10:00 AM.

3 Attached to this Notice as Exhibit A is the Revised Declaration of
4 Georgiana Nertea dated August 23, 2017.

5

6 Dated: August 23, 2017

GARTENBERG GELFAND HAYTON
LLP

7

8

By: /s/ John W. Cotton

9

John W. Cotton
Special Counsel to the Receiver

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Exhibit A

1 JOHN W. COTTON (SBN 54912)
2 Email: JCotton@gghslaw.com
3 GARTENBERG GELFAND & HAYTON LLP
4 15260 Ventura Blvd., Suite 1920
5 Sherman Oaks, CA 91403
6 (213) 542-2100
7 (818) 292-0898

8 Counsel to Receiver
9 Sherwood Partners, Inc.

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 **SECURITIES AND EXCHANGE**
13 **COMMISSION,**

14 Plaintiff,

15 v.

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

20 Defendants

Case No. 3:16-cv-1386

REVISED DECLARATION
OF GEORGIANA NERTEA
IN SUPPORT OF MOTION
FOR APPROVAL OF
CONSOLIDATED
DISTRIBUTION PLAN

Date: August 30, 2017
Time: 10:00 AM
Court: 5
Judge: Edward M. Chen

21 **DECLARATION OF GEORGIANA NERTEA**

22 I, Georgiana Nertea, a Senior Vice President with Sherwood
23 Partners Inc., Receiver for Defendants John V. Bivona, SRA Management
24 Associates, LLC and Frank Gregory Mazzola, et al, in the above action, declare
25 as follows:

26 1.) I have personal knowledge of the facts set forth herein and if
27 called as a witness could testify competently thereto.

28 2.) Since on or about January 17, 2017, I have been tasked with
reconciling the Square, Inc. shares remaining in the Receivership and those
already distributed to the Square, Inc. investors of the Defendants. As part of

1 my task I have utilized the following records: the copy of the Square
2 distribution sheet, an internal document of the Defendants prepared by Susan
3 Diamond, employee of the Defendant and the records obtained from the
4 transfer agent, American Stock Transfer (“AST”) directly and indirectly from
5 the Securities and Exchange Commission’s communication with AST.

6 3.) Since the signing of my original declaration on June 23,
7 2017, I have been tasked with the review of the Square, Inc. related folders of
8 former employee Susan Diamond (“Diamond files”), at the suggestion of
9 counsel of the SRA Funds Investor Group, Jonathan Levine, Esq.

10 4.) Based on my review, it is still my conclusion that there are
11 insufficient Square, Inc. shares with which to make the commitments to
12 investors that have been made by the Defendants. The gross shortfall in
13 Square, Inc. shares comes to 22,795.46 shares. Of the 22,795.46 shares,
14 16,807.75 Square, Inc. shares were mis-distributed through excess share
15 distributions to Square, Inc. investors as set forth in my original declaration.
16 Hence, the absolute Square, Inc. shares shortfall is 5,987.71, which at the
17 current market price of \$25.48 per share, comes to \$152,566.84. At the same
18 current market price, the gross shortfall of 22,795.46 shares comes to
19 \$580,828.31.

20 5.) The reason for the revised, smaller number of shares in the
21 Square, Inc. shortfall is that when I performed my initial analysis and
22 calculation, the names of two SRA investors were not reflected on the then
23 current records of American Stock Transfer (“AST”), the Defendants’ transfer
24 agent, as having received Square, Inc. shares distributions. Upon review of the
25 Diamond files, it was discovered that these two additional SRA investors were
26 not listed in the DWAC distributions report that Sherwood had earlier
27 received from AST and upon which I based my earlier declaration. I contacted
28 AST again to verify certain alleged Square, Inc. shares distributions reflected

1 in the Diamond files. AST confirmed Square, Inc. share distributions to these
2 two additional Square, Inc. investors, previously not reflected in AST's
3 DWAC report.

4

5 I declare under penalty of perjury under the laws of the United
6 States of America that the forgoing is true and correct.

7

8

Dated: August 23, 2017

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



Georgiana Nertea
Senior Vice President, Sherwood Partners
Inc.