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8 Counsel to Receiver Sherwood  
9 Partners Inc.

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

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 v.

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

20 Defendants.

Case No. 3:16-cv-1386

**RECEIVER'S  
ADMINISTRATIVE  
APPLICATION FOR AN  
ORDER PURSUANT TO  
LOCAL RULE 7-11 FOR THE  
APPROVAL OF FEES FOR  
THE PERIOD APRIL 1, 2017  
TO JUNE 30, 2017 FOR THE  
RECEIVER AND COUNSEL**

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

21 **I. Background**

22 On October 11, 2016, this Honorable Court issued an Order of  
23 Appointment of Receiver (“the Order”) and thereby appointed Sherwood  
24 Partners Inc. (“Sherwood”) as Receiver in this matter. The Order also  
25 appointed John W. Cotton (“Cotton”) of Gartenberg, Gelfand & Hayton LLP  
26 as Counsel to the Receiver. By this Administrative Application, Sherwood  
27 through its Senior Vice President Peter Hartheimer (“Hartheimer”), requests  
28 that this Court approve Sherwood’s Second Fee Application (the  
Application”) as well as that of its Counsel, for the time period April 1, 2017

1 to and including June 30, 2017. The Application consists of the Declaration  
2 of Peter Hartheimer, the time records and work summary of Sherwood  
3 (Exhibits A and B to the Declaration of Hartheimer) the SEC's Standard  
4 Fund Accounting Record ("SFAR", Exhibit C to the Declaration of  
5 Hartheimer), and the Declaration of John W. Cotton with accompanying  
6 billing statements from his firm.<sup>1</sup> As required by LR 7-11, this Application  
7 is unopposed by the parties to this action, plaintiff SEC, and counsel for  
8 defendants John Bivona and SRA Advisers and defendant Frank Mazzola, *in*  
9 *pro per*.

## 11 II. The Fee Application of Sherwood

12 As the Declaration of Peter Hartheimer of Sherwood sets forth,  
13 the period for which it makes this Second Fee Application is April 1, to June  
14 30, 2017. Sherwood's total charge for time and disbursements in this  
15 Application is \$143,417. This represents a total of 345.10 hours, or 115  
16 hours per month. Hartheimer Decl., at ¶ 3. Sherwood has applied a 15%  
17 reduction to its standard rate and has only used personnel appropriate to the  
18 level of work being undertaken. Hartheimer Decl., at ¶ 3. Hartheimer has  
19 personally reviewed all the time spent by Sherwood personnel on  
20 receivership tasks and has attested to the accuracy and appropriateness of the  
21 time billed and has set forth the major work categories in which time was  
22 spent. Hartheimer Decl., at ¶ 4. Finally, Hartheimer has prepared the

23  
24  
25 <sup>1</sup> Exhibit B to the Declaration of Hartheimer contains unilateral fact  
26 characterizations by Sherwood to which defendants reserve their right to  
27 object. Defendants and their counsel do not object to the amounts requested  
28 for the time spent.

1 required SEC “SFAR”, or Standard Fund Accounting Report for the period  
2 covered by this Application. Hartheimer Decl., at ¶ 5.

3 **III. The Fee Application of Sherwood’s Counsel**

4 As the Declaration of John Cotton of Gartenberg Gelfand & Hayton  
5 sets forth, the period for which it makes its first fee application is April 1 to  
6 June 30, 2017. All billed time spent on Receivership legal matters was  
7 undertaken by Cotton alone. Gartenberg’s total charge for time and  
8 disbursements in this Application is \$26,807.<sup>2</sup> This represents a total of  
9 59.97 hours, or 20 hours per month. Cotton Decl., at ¶ 3. Gartenberg has  
10 applied a 15% reduction to its standard rate and has only used personnel  
11 appropriate to the level of work being undertaken. Cotton Decl., at ¶ 3.  
12 Cotton has personally reviewed all the time spent by Gartenberg personnel  
13 on receivership tasks and has attested to the accuracy and appropriateness of  
14 the time billed and has set forth the major work categories in which time was  
15 spent. Cotton Decl., at ¶ ¶4 to 6.

16 **IV. Conclusion**

17 For the forgoing reasons, the Receiver and his counsel request that the  
18 Court approve their Second Fee Application by signing the attached  
19 Proposed Order.

20 Dated: October 17, 2017

GARTENBERG GELFAND HAYTON  
LLP

21  
22 By: /s/ John W. Cotton  
23 John W. Cotton  
24 Counsel to the Receiver

25  
26 <sup>2</sup> This final amount includes a \$5,040 write-off for travel time to a court  
27 settlement conference and meeting at the SEC offices, requested by the SEC,  
28 and agreed to by the Gartenberg firm. Cotton Decl. at ¶ 4.