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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 SECURITIES AND EXCHANGE COMMISSION,

13 Plaintiff,

14 v.

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

18 Defendants, and

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

22 Relief Defendants.

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

**SUPPLEMENTAL JOINT STATUS
REPORT**

Date: November 16, 2017
Time: 9:30 a.m.
Courtroom: 5
Judge: Edward M. Chen

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1 The Commission and the Receiver will take the position in the upcoming meeting that the
2 consolidated pooling of assets can be accomplished in the traditional manner for administering
3 receiverships. All pre-IPO shares would continue to be held in the name of Clear Sailing, but
4 administered by the Receiver, and all money held or acquired by the Receiver would be held in an
5 FDIC-insured bank account(s) under the Receiver's name. No assets would be disbursed without the
6 Court's authorization and no fees will be paid without the Court's authorization. Receiverships are
7 often administered using a consolidated asset pool, so there is well-established precedent for
8 consolidating and pooling assets through a receivership. The Receiver's and the Commission's
9 Proposed Joint Distribution Plan provides for the distribution of money and assets from consolidated
10 and pooled assets.

11 The Investor Group will take the position in the upcoming meeting that the Receivership
12 should be terminated. The issue of whether assets should be consolidated and pooled depends, in
13 part, on the distribution plan that is ultimately approved by the Court. The Investor Group will be in
14 a better position to assess the benefits or detriments of asset pooling once a distribution plan has
15 received Court approval. It is the Investor Group's position, however, that the Court should only
16 order consolidation and pooling of assets if that course is in the best interest of the receivership estate
17 and the most cost-efficient method of proceeding.

18 **3. Retention of Investment Bankers to Advise the Court:**

19 At the Commission's request, two investment banking and consulting firms submitted written
20 proposals on October 30, 2017 to the Commission, the Receiver and counsel for the Investor Group
21 and for Global Generation. The two proposals are for retention by the Court to address the issues
22 raised by the Court during the September 28th hearing. The Commission is lodging those proposals
23 directly with the Court, and will not place them in the Court's docket. The Commission, the Receiver
24 and counsel for the Investor Group and for Global Generation will also lodge their comments on the
25 proposals. In light of the non-disclosure stipulation that is in place, the parties ask that any
26 substantive discussion by the Court regarding the proposals take place in chambers.

27 **4. Stipulated Protective Order:**

28 This order has been negotiated and is in place.

1 **5. Handling of Creditor Claims:**

2 There has only been a brief discussion to date on this issue. The parties will be discussing this
3 issue at their November 15 meeting and will provide an update regarding the outcome of the meeting
4 to the Court at the November 16, 2017 hearing.

5 Under the Receiver's and the Commission's Proposed Joint Distribution Plan, all creditor and
6 investor claims are treated according to the net principal amount of the claim (i.e., initial obligation or
7 investment, minus any repayments or distributions). These claims are then eligible (upon acceptance
8 by the Receiver and/or Court) for a series of pro rata distributions upon the liquidation of the
9 receivership's assets. Hence all claims and types of claims are treated equally under the Receiver's
10 and the Commission's Proposed Plan.

11 Under the Investor Group's proposed plan, creditor claims that have been accepted by the
12 Receiver and approved by the Court will be paid out of new capital contributed by certain SRA Funds
13 investors, so that none of the assets of the receivership estate (which consist of illiquid shares of pre-
14 IPO companies) will need to be sold prematurely and at a discount to pay creditor claims.

15 **6. Deriving a Total Amount for Amounts Invested and Outstanding Claims:**

16 The parties have been working together to come to an agreement on what they believe to be
17 the total amount invested that is still at risk in the seven funds covered by the receivership. The
18 Receiver provided the parties with a spreadsheet that has been discussed by the parties and is now
19 being revised. The parties hope to agree on the total amount invested that is still at risk once the
20 Receiver has circulated a revised version of the spreadsheet. The total amount of outstanding
21 investor and creditor claims will not be known until after the claims process has been completed.

22 **7. The Over-Distribution of Square Shares:**

23 The Receiver has sent a demand letter to certain investors requesting information regarding
24 the distribution and requesting compensation in the form of shares or cash. Thus far, the Receiver
25 has gotten two responses; one claiming that the supporting information provided by the Transfer
26 Agent was incorrect, and the other who will remit funds per the over distribution.

1 **8. Possible Distribution Options:**

2 The Receiver, the Commission, and counsel for the Investor Group and for Global Generation
3 have had only limited discussions regarding how a distribution should take place. The parties will be
4 discussing this issue at their November 15 meeting and will provide an update regarding the outcome
5 of the meeting to the Court at the November 16, 2017 hearing.

6 The Receiver, the Commission and Global Generation believe that a receivership is necessary
7 and should continue through the completion of a distribution. The Receiver, the Commission and
8 Global Generation recommend the prompt retention of an investment banker to discuss the options
9 for the portfolio of pre-IPO shares. The Investor Group believes that the Receivership should be
10 terminated, that creditors be paid out of new capital contributions, and that the SRA Funds be
11 allowed to continue operating (either individually or on a consolidated basis) so that the original
12 investment objectives of the Funds and the SRA Funds investors can fulfilled.

13 **Statement of the Bivonas and Saddle River**

14 The Bivonas and Saddle River have not been involved in the above discussions and therefore
15 take no position on those matters. The Bivonas and Saddle River are in a holding pattern in this
16 litigation, having reached a settlement with the SEC Staff approximately six months ago. That
17 settlement, however, remains uncompleted by the SEC with no apparent time-frame for completion.
18 The Bivonas would appreciate the Court's assistance in moving the settlement along toward
19 completion. Among other reasons, the need to continue even a minimal participation in this litigation
20 is a financial burden on the Bivonas, and Mrs. Bivona has a narrow window of time within which to
21 withdraw funds from her investment account to fund her settlement payment (the end of year) -
22 which may be missed if the completion of the settlement continues to be delayed.

23 Dated: November 9, 2017

Respectfully submitted,

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25 /s/ John S. Yun

John S. Yun

Marc Katz

Jessica W. Chan

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27 Attorneys for the Plaintiff Securities and Exchange
28 Commission

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