

1 JINA L. CHOI (N.Y. Bar No. 2699718)
JOHN S. YUN (Cal. Bar No. 112260)
2 yunj@sec.gov
MARC D. KATZ (Cal. Bar No. 189534)
3 katzma@sec.gov
JESSICA W. CHAN (Cal. Bar No. 247669)
4 chanjes@sec.gov

5 Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
6 44 Montgomery Street, Suite 2800
San Francisco, CA 94104
7 Telephone: (415) 705-2500

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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
15 v.
16 JOHN V. BIVONA; SADDLE RIVER
ADVISORS, LLC; SRA MANAGEMENT
ASSOCIATES, LLC; FRANK GREGORY
17 MAZZOLA,
18 Defendants, and
19 SRA I LLC; SRA II LLC; SRA III LLC;
FELIX INVESTMENTS, LLC; MICHELE J.
20 MAZZOLA; ANNE BIVONA; CLEAR
SAILING GROUP IV LLC; CLEAR
21 SAILING GROUP V LLC,
22 Relief Defendants.

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

**SUPPLEMENTAL JOINT STATUS
REPORT**

Date: February 8, 2018
Time: 1:30 p.m.
Courtroom: 5
Judge: Edward M. Chen

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1 **SUPPLEMENTAL JOINT STATUS REPORT**

2 Plaintiff Securities and Exchange Commission (the “Commission”) and Defendants Saddle
3 River Advisors, LLC (“Saddle River”) and SRA Management Associates, LLC (“SRA
4 Management”), and Relief Defendants SRA I LLC, SRA II LLC, SRA III LLC (together, “SRA
5 Funds”), Felix Investments, LLC, Clear Sailing Group IV LLC, and Clear Sailing Group V LLC
6 (together, “Clear Sailing”), and interested parties the SRA Funds Investor Group (“Investor Group”)
7 and Global Generation Group, LLC (“Global Generation”) jointly submit this Status Report in
8 anticipation of the Case Management Conference on February 8, 2018.

9 The parties wish to address the following issues during the upcoming Case Management
10 Conference.

11 **Consents and Proposed Final Judgments:**

12 On December 15, 2017, the Commission submitted the Consents and Proposed Final
13 Judgments for John Bivona, Anne Bivona, Frank Mazzola, Michele Mazzola and Saddle River. On
14 December 22, 2017, the Court entered the Final Judgments for the Bivonas and the Mazzolas, but did
15 not take action on the Proposed Final Judgment for Saddle River. In accordance with her Final
16 Judgment, Anne Bivona wire transferred her \$500,000 disgorgement payment to the Receiver,
17 Sherwood Partners, Inc., which is holding those funds in a separate account at Wells Fargo Bank
18 pending further orders of the Court. Subsequently, on January 16, 2018, the Commission submitted
19 the Consent and Proposed Final Judgment for receivership entities SRA Management, the SRA
20 Funds and Clear Sailing. Docket No. 298.

21 During a telephonic conference call on January 29, 2018, involving all active counsel, the
22 Investor Group stated that it does not object to entry of the remaining Proposed Final Judgments.
23 The Commission therefore asks the Court to enter the Proposed Final Judgments for Saddle River and
24 for receivership entities SRA Management, the SRA Funds and Clear Sailing. Docket Nos. 287-1
25 and 298.

26 **Receivership Issues Relating to the Solis Associates Fund**

27 Based upon information that the Receiver and Commission recently became aware of, the
28 Solis Associates Fund is a successor investment fund created in 2013 through the merger of other

1 Solis-named investment funds that Frank Mazzola created in 2010. According to corporate counsel
2 for the Solis Associates Fund, the merger documents appointed SRA Management as the Managing
3 Member of the Solis Associates Fund. The Receiver and the Commission previously believed that
4 John Bivona was managing the Solis Associates Fund.

5 According to an October 2016 spreadsheet that John Bivona provided to the Receiver, the
6 Solis Associates Fund has about fifty third-party investors in the Fund. The NYPA Fund II also has
7 three “investments” totaling about \$1.7 million in the Solis Associates Fund. The Solis Associates
8 Fund has one active pre-IPO investment in 40,000 shares of Bloom Energy.¹ Bloom Energy
9 reportedly filed a confidential registration statement with the Commission in October 2016, but there
10 have been no subsequent announcements by the company regarding a potential initial public offering.

11 According to various Bloom Energy documents, including stock certificates and spreadsheets,
12 the Solis Associates Fund holds 177,334 Bloom Energy shares in its own name, while Clear Sailing
13 holds 136,000 Bloom Energy shares in Clear Sailing’s name. A preliminary Commission review of
14 other records also indicates, however, that the Solis Associates Fund purchased 85,000 of its Bloom
15 Energy shares in 2012 and 2013 with money transferred from one or more of the receivership entities.
16 Under this preliminary analysis, the Solis Associates Fund is holding 85,000 Bloom Energy shares
17 that should be transferred to Clear Sailing.²

18 The Receiver and the Commission believe that Sherwood Partners should, with the Court’s
19 approval and on-going oversight, separately manage the Solis Associates Fund as the Receiver for
20 SRA Management. Because the Solis Associates Fund holds the Bloom Energy shares in its own

21
22 ¹ The Solis Associates Fund invested in eSolar, which Greentech Media reported in October 2017 to
23 have gone out of business. It also invested in MiaSole⁷ which was reportedly acquired by Hanergy in
24 January 2013 for \$30 million. Finally, the Solis Associates Fund invested in Silver Spring Networks,
Inc., which went public in March 2013, but was acquired by Itron, Inc. in September 2017 through a
purchase of all outstanding Silver Spring Networks shares.

25 ² The records indicate that Clear Sailing owes 147,242 Bloom Energy shares to SRA Fund and
26 NYPA Fund investors, 27,945 shares to Fortuna Fund investors and 3,524 shares to Silverback Fund
27 investors for a combined obligation of 178,711 Bloom Energy shares. Because Clear Sailing
28 currently has title to only 136,000 Bloom Energy shares, there will be a shortfall in the number of
shares needed by Clear Sailing unless the 85,000 Bloom Energy shares held by the Solis Associates
Fund are transferred to Clear Sailing.

1 name, rather than in the name of Clear Sailing, any future distribution to the Solis Associates Fund
2 investors can be undertaken by SRA Management separately from the distributions being proposed
3 for the current receivership. Fees and expenses relating to Sherwood Partner's management of the
4 Solis Associates Fund through SRA Management should be separately billed, approved and paid
5 from assets of the Solis Associates Fund. The Court should also authorize the current claims agent to
6 send a separate claims notice to the Solis Associates Fund investors.

7 During the January 29, 2018 conference call of all active counsel, the Investor Group
8 indicated that it does not object to the inclusion of the Solis Associates Fund within the Receiver's
9 duties.

10 **Notice of Claims Process:**

11 Pursuant to the Court's Order of November 17, 2017, the Receiver commenced the claims
12 process, for which the filing deadline was January 31, 2018. The Receiver retained a Court-approved
13 claims agent, JND Corporate Restructuring ("JND") of Denver Colorado, to provide mail and email
14 Notice; placed print advertisement in the Wall Street Journal (WSJ), positioned a banner
15 announcement in the WSJ online; and conducted a secondary mail campaign to remind non-
16 responsive claimants of the January 31, 2018 claims bar date. JND has provided the receiver with a
17 Certificate of Service confirming the mail service to about 430 investors. As of Friday, January 26,
18 2018, JND reported that it had recorded the receipt of 245 claims. Additionally, two published
19 notices were placed in furtherance of the Order of November 17th; on December 22, 2017, a print
20 Notice was placed in the WSJ and on January 8, 2017, a banner announcement was placed on WSJ
21 online to run for 14 days.

22 In addition to receiving claims from investors and creditors of the Defendant and Affiliated
23 Entities, Sherwood received claims concerning the activities of a former non-affiliated Saddle River
24 managed fund: Facie Libre. This was a fund that invested in the pre-IPO securities of Facebook, Inc.
25 The Receiver will provide updated information to the Court regarding all claims, including those that
26 on their face appear not to likely to be approved due to their relation to non-Receivership Entities, at
27 or before the February 8 Status Conference.

1 The Commission advises the Court that it submitted a Claim Form to the Receiver to preserve
2 the Commission's claims against defendant SRA Management and relief defendants SRA Funds and
3 Clear Sailing. Upon entry of the Proposed Final Judgment for receivership entities SRA
4 Management, the SRA Funds and Clear Sailing, the Commission will amend its Claim Form to
5 reflect the amounts and terms in that Final Judgment.

6 **Retention of Investment Banker to Advise the Court:**

7 Pursuant to the Court's order, the Receiver retained Marc Winthrop of Oxis Capital on
8 December 7, 2017 to provide an initial value analysis and recommendation to the Court. Mr.
9 Winthrop circulated a draft of his report on January 16, 2018 and a final draft on January 23, 2018.
10 The parties had a conference call with Mr. Winthrop on January 18, 2018. The parties have agreed to
11 lodge a copy of the final report directly with the Court on February 1, 2018. The parties also agreed
12 that they will lodge with the Court and exchange any written comments regarding the Mr. Winthrop's
13 final report by Monday, February 5, 2018.

14 **The Over-Distribution of Square Shares:**

15 The amount of over-distributed Square shares was less than previously reported. The over
16 distribution issue has been resolved through the return of shares or the receipt of payment for the
17 excess shares.

18 Dated: January 31, 2018

Respectfully submitted,

20 /s/ John S. Yun

John S. Yun

Marc Katz

Jessica W. Chan

Attorneys for the Plaintiff Securities and Exchange
Commission

24 /s/ Jahan Raissi

Jahan P. Raissi

Shartsis Friese LLP

One Maritime Plaza, 18th Floor

San Francisco, CA 94111

Attorneys for Defendant Saddle River Advisors LLC

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/s/ John W. Cotton
John W. Cotton
Gartenberg, Gelfand & Hayton LLP
15260 Ventura Blvd.
Suite 1920
Sherman Oaks, CA 91403
Special Counsel to the Receiver for Defendant SRA
Management LLC, and Relief Defendants SRA I LLC,
SRA II LLC, SRA III LLC, and LLC, Clear Sailing
Group IV LLC, and Clear Sailing Group V LLC

/s/ Jonathan K. Levine
Jonathan K. Levine
Pritzker Levine LLP
180 Grand Avenue, Suite 1390
Oakland, CA 94612

Attorneys for the SRA Funds Investor Group

/s/ Theodore A. Griffinger, Jr.
Theodore A. Griffinger, Jr.
Lubin Olson & Niewiadomski LLP
The Transamerica Pyramid
600 Montgomery St., 14th Floor
San Francisco, CA 94111

Attorneys for Global Generation Group, LLC