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

13 SECURITIES AND EXCHANGE COMMISSION,

14 Plaintiff,

15 v.

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

20 Defendants, and

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

26 Relief Defendants.
27
28

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

**PROGRESSO VENTURES, LLC'S CASE
MANAGEMENT CONFERENCE
STATEMENT**

Date: June 22, 2018
Time: 1:30 pm
Courtroom: 5
Judge: Edward M. Chen

1 Interested party Progresso Ventures, LLC (“Progresso”) respectfully submits this response to
2 the Joint Supplemental Status Report prepared by the Securities and Exchange Commission, which
3 was filed on June 15, 2018 before Progresso formally appeared in this action. Progresso is filing this
4 separate statement to clarify that the timely proof of claim it submitted to the receiver on January 31,
5 2018 includes an investor claim for \$4.45 million worth of Palantir stock, as well as an alternative
6 creditor claim, both of which Progresso respectfully submits are not apparent from the description of
7 its claim in the Joint Supplemental Status Report.

8 I. **The SEC’s Report on the Completion of the Claims Review Process**

9 **1. Summary Table of Investor and Creditor Claims Prepared by the SEC**

10 The SEC attached as Exhibit 1 to the Joint Supplemental Status Report a Summary Table
11 created by JND, which includes a row reflecting Progresso’s claim. The Joint Supplemental Status
12 Report states that Progresso “submitted a timely claim for \$4.45 million based primarily upon a New
13 York state court judgment. Progresso Ventures’ claim form stated, however, that it might seek a
14 portion of the gains from the receivership’s Palantir holdings.” D.E. 342. This description of the
15 claim does not accurately describe Progresso’s position regarding its investor claim and omits
16 Progresso’s alternative creditor claim.

17 The claim form submitted by Progresso included a timely and valid investor claim for \$4.45
18 million worth of Palantir shares or, in the alternative, as a creditor for \$5,529,364.25 based primarily
19 upon a New York state court judgment. While Progresso’s claim form did not identify the number of
20 shares/units purchased with Progresso’s \$4.45 million (information Progresso did not receive from
21 the defendants), Progresso made clear that it is asserting a claim as an investor and seeking “the
22 return of its funds as well as any return on investment with respect to such funds.” (Claim Form,
23 Attachment A.) Moreover, as indicated in Progresso’s claim form, the SEC agrees that Progresso’s
24 money was diverted to Clear Sailing Group IV, LLC on November 10, 2011. (*Id.*; D.E. 200 at ¶17.)
25 According to the SEC, together with funds received from Global Generation Group, LLC (“Global
26 Generation”), Progresso’s money was then used to purchase 3.1 million shares of Palantir stock on
27 November 14 and 15, 2011. (D.E. 197 at 5-6.) Thus, the SEC acknowledges that the Palantir shares
28 are traceable to Progresso’s funds (*Id.*) Based on the analysis by the SEC, Progresso believes that its

1 money was used in November 2011 to purchase “Palantir shares for \$2.10 per share, rather than the
 2 \$3.00 per share price represented [to] Global Generation.” (D.E. 197 at 5.). However, as Progresso
 3 did not receive an acknowledgement of investment from defendants and does not otherwise have
 4 knowledge of the share price, to date, Progresso is unable to attest to a specific number of shares of
 5 Palantir stock in its proof of claim.

6 Allocating shares to Progresso significantly increases the potential Palantir shortfall because
 7 the Commission’s current analysis does not include the \$4.45 million in shares claimed by Progresso.

8 **II. The Court Will Need to Resolve Several Issues Pertaining to Certain Palantir Claims**

9 Like Global Generation, Progresso submits that its claim is distinct and can be determined via
 10 briefing—no oral testimony is necessary. Progresso is willing to set a briefing schedule to determine
 11 its claims at the June 22, 2018 case management conference.

12 **III. The Court Should Set a Schedule to Rule on the Competing Distribution Plans**

13 Progresso agrees with the Investor Group that the schedule for considering the competing
 14 distribution plans should commence shortly after the Palantir-related issues have been resolved, as
 15 Progresso and other interested parties may have differing views on the competing distribution plans
 16 depending on how the Court treats their respective claims.

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 19
 20 Dated: June 20, 2018

Respectfully submitted,

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