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7 Attorneys for Interested Parties
GLOBAL GENERATION GROUP, LLC
8 and BENCHMARK CAPITAL, LLC

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12
13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 v.

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

19 Defendants,

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

23 Relief Defendants.
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Case No. 3:16-cv-01386-EMC

**INTERESTED PARTY GLOBAL
GENERATION GROUP, LLC'S
RESPONSE TO PLAINTIFF'S MOTION
FOR ORDER ESTABLISHING
SHORTFALLS**

Date: July 16, 2018
Time: 1:30 p.m.
Courtroom: 5, 17th Floor
Judge: Hon. Edward M. Chen

1 Interested Party Global Generation Group, LLC (“Global Generation”) hereby
2 responds to Plaintiff Securities and Exchange Commission’s Motion for Order Establishing
3 Shortfalls (“Commission’s Motion”). The Commission’s Motion includes a June 29, 2018
4 Supplemental Declaration of M. Monica Ip, CPA, with her most recent shortfall analysis of shares
5 in Palantir Technologies, Inc. (“Palantir”) (Court Docket No. (“CD”) 354) The Commission’s
6 Motion states Ms. Ip prepared her Supplemental Declaration “analyzing the Palantir shortfall in
7 light of additional accounting and banking information.” (CD 353, 1:23-24) Almost exactly a
8 year ago, the Commission had filed a June 29, 2017 Declaration by Ms. Ip with her earlier
9 Palantir shortfall analysis based on “the materials then available to her.” (“First Declaration”)
10 (CD 353, 1:19)

11 Ms. Ip’s First Declaration states she allocated unredeemed Palantir shares to
12 Global Generation based on Defendants’ “bank statements and general ledgers.” (CD 200, 19:8-
13 10) Although she found “a fundamental defect” with Defendants’ records concerning, “in
14 particular,” Global Generation’s Palantir position (CD 200, 5:1-5), Ms. Ip’s First Declaration
15 states: “For the purposes of the Palantir analysis, we have assumed that Global Generation had
16 redeemed 525,000 [Palantir] shares with 408,333 not yet redeemed” (CD 200, 8:3-4).

17 A year later, Ms. Ip’s Supplemental Declaration states it is based on “additional
18 accounting and banking information.” Like her First Declaration, Ms. Ip’s Supplemental
19 Declaration covers Defendants’ trading on behalf of many investors through many trades.
20 Ms. Ip’s Supplemental Declaration’s “Updated Exhibit X “ is headed “Palantir – Investments and
21 Redemptions” followed by a 20 page spreadsheet listing a total of 505 trades in Palantir.
22 Unfortunately, specifically with regard to Global Generation’s Palantir position, Ms. Ip has not
23 included any information in her Supplemental Declaration’s Exhibit 10 which is not also in the
24 earlier Exhibit 5 to Ms. Ip’s First Declaration. (*Compare* CD 354, Ex. 10, p. 19, Entries 489-491
25 and 498-505 with CD 200, Ex. 5) As a result, Ms. Ip’s Supplemental Declaration continues to
26 rely solely on Defendants’ ledger entries with regard to Global Generation’s Palantir position
27 (*Compare* CD 354, Ex. 10, p. 19, Entries 489-491 with CD 200, 7:14-17). The result is that
28 Ms. Ip continues to inaccurately allocate five payments wired by Defendants to Benchmark

1 Capital LLC to the redemption of Global Generation's Palantir position (CD 354, Ex. 10, p. 19,
2 Entries 498-500, 502-503) and to allocate three payments made by Defendants to partially redeem
3 Global Generation's Facebook position to the partial redemption of Global Generation's Palantir
4 position (CD 354, Ex. 10, p. 19, Entries 501,504 and 505).

5 Global Generation understands that the Commission and, indeed Ms. Ip, are
6 considering many claims and claimants and that arriving at a shortfall of over 400,000 shares in
7 Global Generation's Palantir position is perhaps sufficient for the Commission's overall position
8 at this stage of the proceeding. However, like others, Global Generation has already suffered at
9 the hands of these Defendants. In fact, another United States District Court made a specific
10 finding that these Defendants defrauded Global Generation in connection with these investments.
11 (Supplementary Declaration of John Syron, CD 359, Exhibit C to Exhibit 1) This case itself is
12 replete with evidence of Defendants' lack of honesty and integrity. Global Generation submits
13 that it was wrong for Ms. Ip to rely entirely on the accuracy and honesty of Defendants' financial
14 records to determine Global Generation's allocation of Palantir shares. It was wrong for her to do
15 so in her First Declaration and wrong for her to do so in her Supplemental Declaration. If an
16 effort had been made to go beyond Defendants' inaccurate ledger entries, Ms. Ip would have
17 learned that 5 of the 11 redemption payments considered by Ms. Ip, payments of approximately
18 \$350,000, which Defendants' hand-written ledgers entries state were made to Benchmark to
19 redeem a position in Palantir had to be inaccurate (CD 354, Ex. 10, p. 19, Entries 498-500, 502-
20 503), that Benchmark never owned Palantir, that Benchmark did own Facebook stock, that
21 Benchmark had elected to redeem its Facebook shares, and that Defendants had made these 5
22 payments to Benchmark to partially redeem those Facebook shares. (CD 359, 6:2- 9:5) If the
23 Declaration the Commission itself had prepared for Global Generation and Benchmark's John
24 Syron and filed on May 25, 2017, a month before Ms. Ip's First Declaration, had been reviewed,
25 it would have been learned that no payment had been to Global Generation to redeem its Palantir
26 position as of October 16, 2013, and that the three redemption payments to Global Generation
27 before that time (CD 354, Ex. 10, p. 19, Entries 501,504 and 505) had been to redeem its
28 Facebook position and not its Palantir position. (CD 359, 6:2- 9:5)

1 Global Generation appreciates that the Commission’s Motion “takes no position
2 on whether Global Generation’s claim for 625,666 Palantir shares, rather than 408,333 shares is
3 correct. (footnote omitted).” (CD 353, 6: 1-2) And, “If Global Generation convinces the Court
4 that some of those accounting records are incorrect, Ms. Ip is prepared to change her Palantir
5 shortfall calculations accordingly.” (CD 353, 6: 4-5)

6 For the reasons detailed in its Brief Regarding Certain Issues Concerning Its Claim
7 (CD 359, 6:2- 9:5), Global Generation submits Defendants’ entries in their ledgers upon which
8 Ms. Ip relied in her First Declaration and Supplementary Declaration to determine Global
9 Generation’s Palantir position are inaccurate as is the allocation she makes based on those entries.
10 Global Generation requests the Court determine that it is entitled to an allocation of 625,666
11 shares of Palantir for purposes of this proceeding.

12 Dated: July 6, 2017

LUBIN OLSON & NIEWIADOMSKI LLP

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14 By: /s/ Theodore A. Griffinger, Jr.

Theodore A. Griffinger, Jr.
Attorneys for Interested Parties
GLOBAL GENERATION GROUP, LLC
and BENCHMARK CAPITAL, LLC

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18 MAZZOLA,

19 Defendants.

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

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I, Gloria Beasley, declare:

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is The Transamerica Pyramid, 600 Montgomery Street, 14th Floor, San Francisco, California 94111. On July 6, 2018, I served a copy of the following document(s):

**INTERESTED PARTY GLOBAL GENERATION GROUP, LLC'S
RESPONSE TO PLAINTIFF'S MOTION FOR ORDER
ESTABLISHING SHORTFALLS**



(BY MAIL) by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.

Frank Gregory Mazzola
27 Dogwood Hill Drive
Upper Saddle River, NJ 07458

Michele J. Mazzola
27 Dogwood Hill Drive
Upper Saddle River, NJ 07458

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 6, 2018, at San Francisco, California.

Gloria Beasley