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

13 SECURITIES AND EXCHANGE COMMISSION,
14 Plaintiff,
15 v.
16 JOHN V. BIVONA; SADDLE RIVER
ADVISORS, LLC; SRA MANAGEMENT
17 ASSOCIATES, LLC; FRANK GREGORY
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.
23

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

**PLAINTIFF SECURITIES AND
EXCHANGE COMMISSION'S REPLY
BRIEF IN SUPPORT OF MOTION FOR
ORDER ESTABLISHING SHORTFALLS**

Date: July 16, 2018
Time: 1:30 pm
Courtroom: 5
Judge: Edward M. Chen

1 Plaintiff Securities and Exchange Commission (the “SEC” or “Commission”) submits this
2 Reply in support of its motion to establish the shortfall in shares. The SRA Investor Group (“Investor
3 Group”) incorrectly asserts that the SEC’s motion is premature. ECF 362 at 1, 12. The SEC’s
4 motion is based upon claims by Global Generation, LLC and Progresso Venture’s LLC for Palantir
5 Technologies, Inc. (“Palantir”) shares, as well as the Receiver’s current inability to possess and
6 controls shares of Palantir, Uber, Inc., Lyft, Inc., Airbnb, Inc., Pinterest, Inc. and Practice Fusion, Inc.
7 because the shares, or forward contract for such shares, are now in the name of Equity Acquisition
8 Corporation (“EAC”). Additionally, the receivership has received claims from Square, Inc. investors,
9 but has no shares in that company to distribute. Hence, the shortfalls exist, even if future court
10 rulings or negotiations could impact the shortfall numbers.

11 Because the July 16th hearing is to address shortfall and investor status issues, a later court
12 hearing can consider how the shortfalls should be addressed in the distribution plan. Under the
13 SEC’s and Receiver’s joint proposed plan, the claim of investors and judgment creditors will include
14 a *pro rata* distribution based upon the claimant’s net out-of-pocket loss. The SEC’s plan is therefore
15 capable of treating Global Generation, Progresso Ventures, other investors and any other judgment
16 creditor in a fair and equitable fashion no matter how the Court rules on July 16th. Additionally, a
17 *pro rata* distribution plan is inherently designed to deal with shortfall issues. By comparison, it is
18 unknown how the Investor Group will provide in its distribution plan to cover the claims of Global
19 Generation and Progresso Ventures as either Palantir investors or judgment creditors.

20 Dated: July 10, 2018

Respectfully submitted,

21
22 /s/ John S. Yun

John S. Yun

23 Attorneys for the Plaintiff Securities and Exchange
24 Commission
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