

**OFFICE OF THE CLERK**  
**UNITED STATES DISTRICT COURT**  
**Northern District of California**  
**CIVIL MINUTES**

**Date:** October 23, 2018      **Time:** 3:41 – 5:06 =  
1 Hour; 25 Minutes      **Judge:** EDWARD M. CHEN

**Case No.:** [16-cv-01386-EMC](#)      **Case Name:** Securities and Exchange Commission v. Bivona

**Attorneys for Plaintiff:** John Yun, Marc Katz

**Attorneys for Defendant:** John Cotton, Jonathan Levine, Patricia Schrage

**Attorneys for Interested Parties:** Daniel Goldberg, Karen Sebaski, Theodore Griffinger.

**Interested Party Also Present (via Courtcall):** Georgiana Neretea, Andrew DeCamara

**Deputy Clerk:** Angella Meuleman

**Court Reporter:** JoAnn Bryce

**PROCEEDINGS**

Motion for Approval of Fees and Motion to Approve Amended Distribution Plan held.

**SUMMARY**

After hearing from all parties, the Court notes several concerns: the complexity of outstanding issues (including that EAC is resisting exchanging shares, and is in fact asserting \$1.5 million in guarantees against Receivership entities, even though EAC never previously asserted such a claim); the substantial risk of an asset shortfall; and the management structure proposed in the SRA Investor Group's plan. The Court is accordingly inclined to adopt a plan based on the one proposed by the SEC and Receiver subject to certain modifications, and orders the parties to file an amended plan within 30 days addressing the following:

1. A structure for giving investors input into the administration of the plan;
2. A specific proposal for a pared down receivership or equivalent model with an estimate of its expected costs going forward;
3. A clarification that the early payment option can be exercised only if feasible and approved by the Court.

The Court will continue to examine the treatment of the creditor claimants and the claimants whose investments now have no value.

The Court takes the matters under submission. The parties shall submit a revised plan as stated on the record. Fee application granted.

Further Status re Distribution Plan: Dec 13, 2018 at 1:30 p.m. before Judge Edward M. Chen.