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7 *Successor Receiver*

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 SECURITIES AND EXCHANGE
12 COMMISSION,

13 Plaintiff,

14 v.

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

20 Defendants, and

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

27 Relief Defendants.

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

**RECEIVER'S NOTICE OF MOTION AND
MOTION TO DISALLOW CERTAIN
CLAIMS; MEMORANDUM OF POINTS
AND AUTHORITIES**

Date: June 27, 2019

Time: 1:30 P.M.

Location: Courtroom 5, 17th Floor
450 Golden Gate Ave.
San Francisco, CA 94102

TO ALL INTERESTED PARTIES:

PLEASE TAKE NOTICE that on June 27, 2019, at 1:30 p.m., in Courtroom 5 of the above-entitled Court located at 450 Golden Gate Ave., San Francisco, California, a hearing will be held on the Motion of Kathy Bazoian Phelps ("Receiver"), Court-appointed permanent receiver for SRA Management Associates LLC, SRA I, LLC, SRA II, LLC, SRA III, LLC, Clear Sailing Group

1 IV, LLC, Clear Sailing Group V, LLC, Felix Multi-Opportunity Fund I, LLC, Felix Multi-
2 Opportunity Fund II, LLC, Felix Management Associates, LLC, NYPA Fund I, LLC, NYPA Fund
3 II, LLC, and NYPA Management Associates, LLC(collectively, the "Receivership Entities"), to
4 disallow certain claims ("Motion").

5 The Motion seeks the disallowance of the following claims for the following reasons: (a)
6 for all claims listed in Exhibit "1" to the Declaration of Kathy Bazoian Phelps, as to which shares
7 or funds were previously disbursed, disallow those claims in their entirety; (b) for all claims listed
8 in Exhibit "2" to the Declaration of Kathy Bazoian Phelps, as to which investments on which the
9 claims are founded were made in one or more non-receivership entities, disallow those claims in
10 their entirety; (c) for all duplicate claims listed in Exhibit "3" to the Declaration of Kathy Bazoian
11 Phelps, disallow those claims in their entirety; (d) for all claims listed in Exhibit "4" to the
12 Declaration of Kathy Bazoian Phelps, as to which the investments were made in failed companies
13 for which no public offerings were made, disallow those claims in their entirety, and Practice
14 Fusion shall be deemed to be a Failed Investment and funds paid into the estate of \$15,500.09 from
15 Practice Fusion shall be become part of the general receivership funds; (e) for claims filed with the
16 Receiver or the Former Receiver as of May 14, 2019, the Receiver does not object to any of those
17 claims on the grounds of lateness even though they may have been "late-filed" claims based on the
18 original bar date set in the receivership, but reserves the right to object to those late-filed claims on
19 any other grounds at a later time; and (f) for claims filed after May 14, 2019, if any, the Receiver
20 seeks an order disallowing any such claims without further notice, hearing or order, unless the
21 claimant obtains an order of the Court after notice and an opportunity for hearing by the Receiver
22 and other interested parties explicitly allowing the claim. The Receiver further seeks an order
23 approving as sufficient the manner and adequacy of notice of this Motion based on the Receiver's
24 service of the Notice of Motion on all claimants at their last known, valid email address or by first
25 class mail if no email address is known and posting of the Motion on the Receiver's website for the
26 case.

27 The Motion is based on the Memorandum of Points and Authorities below, and the
28 Declaration of Kathy Bazoian Phelps filed concurrently herewith. The Motion and supporting

1 papers are available at the Receiver's website,
2 <http://www.diamondmccarthy.com/saddleriverreceiver>, The Receiver has discussed this Motion
3 with counsel for the SEC and the SRA Investor Group and does not believe that they oppose the
4 relief requested in the Motion.

5 **Procedural Requirements:** If you oppose all or part of the relief requested in this Motion,
6 you are required to file your written opposition with the Office of the Clerk, United States District
7 Court, 450 Golden Gate Ave., San Francisco, California 94102, and serve the same on the
8 undersigned not later than fourteen (14) calendar days after service of the Motion pursuant to Local
9 Civil Rule 7-3(a).

10 IF YOU FAIL TO FILE AND SERVE A WRITTEN OPPOSITION by the above date, the
11 Court may grant the requested relief without further notice.

12 **Meet and Confer:** The Receiver has met and conferred with counsel for the Securities and
13 Exchange Commission ("SEC"), counsel for the SRA Investor Group, and counsel for Progresso
14 Ventures LLC prior to filing this pleading and they do not object to the relief requested in the
15 Motion.

16 WHEREFORE, the Receiver requests that the Court grant the relief requested herein and
17 such other relief as may be appropriate under the circumstances.

18
19 DATED: May 23, 2019

20 By: /s/ Kathy Bazoian Phelps
21 Kathy Bazoian Phelps
22 Successor Receiver
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 The original claims bar date established by the Court was January 31, 2018. The large majority
4 of claims were filed by that date. Some claims were filed after that and prior to the Former Receiver's
5 claims report which was filed in June 2018, and additional claims have been filed since that time. The
6 Receiver sent out a new notice of bar date for the limited purposes of permitting claimants who had not
7 previously received notice of a bar date to file claims and to allow the Receiver to serve potential taxing
8 authority claimants. That second bar date ran on May 14, 2019, so it is now believed that all claims
9 have been submitted and reviewed. As a result of the Receiver's new notice of bar date, approximately
10 23 new claims were received.

11 The Receiver has reviewed the information aggregated by the Former Receiver and SEC
12 relating to claims, has obtained claims information from the Former Receiver's claims agent, and has
13 conferred with both the SEC and the Investor Group regarding claims issues. As a result, the Receiver
14 has filed this Motion seeking to define the allowed claims to facilitate evaluation of the proposed
15 distribution plan pending before the Court.

16 After carefully reviewing all claim information forms and supporting documentation submitted
17 to the Receiver by the individuals and entities that invested in the Receivership Entities, the Receiver
18 objects to certain claims on the grounds set forth below. The Receiver proposes that these claims be
19 disallowed in their entirety.

20 Objection	21 Identified Claims	22 Proposed Relief
23 Previously Disbursed Claims	24 Exhibit "1"	25 Disallow in entirety
26 Investment Not With Receivership Entity	27 Exhibit "2"	28 Disallow in entirety
29 Duplicate Claims	30 Exhibit "3"	Disallow in entirety
31 Failed Investments	32 Exhibit "4"	Disallow in entirety
33 Late-Filed Claims	34 See below	35 Allow if actually 36 submitted through 37 5/14/19

1 This Motion addresses many, but not all, of the potential claims objections issues.¹
2 Additionally, the priority of such claims vis-à-vis other claims and the source of distributions on
3 allowed claims will be addressed separately in connection with the pending filings addressing the
4 proposed Distribution Plan. This Motion is not intended to determine the relative priorities of allowed
5 claims, and the fact that a claim is allowed is not an indication that the claim will receive a full
6 distribution on account of that claim. Rather, in all likelihood, claimants will receive a percentage of
7 their allowed claims, either in the form of cash or securities. Claimants are advised to review the
8 proposed Distribution Plan closely to ascertain their position on the proposed priority of claims for
9 purposes of distributions from the receivership estate.

10 II. STATEMENT OF FACTS

11 1. The Securities and Exchange Commission (“Commission” or “SEC”) filed a complaint
12 commencing this action on or about March 22, 2016 (ECF 1). A Monitor was appointed in the
13 proceeding on March 25, 2016 (ECF 36). Pursuant to the Stipulated Order Appointing Receiver dated
14 October 11, 2016 (ECF 142), the Court appointed Sherwood Partners, Inc. (the “Former Receiver”) as
15 the Receiver to take possession and control of the assets of the following entities: SRA Management
16 Associates, LLC (“SRA Management”), SRA I LLC (“SRA I”), SRA II LLC (“SRA II”), SRA III LLC
17 (“SRA III”) (together, “SRA Funds”), Clear Sailing Group IV LLC and Clear Sailing Group V LLC
18 (together, “Clear Sailing”), and third-party affiliated entities NYPA Fund I LLC (“NYPA I”), NYPA II
19 Fund LLC (“NYPA II”) (together, “NYPA Funds”) and NYPA Management Associates LLC
20 (collectively, “NYPA Entities”) and Felix Multi-Opportunity Funds I and II, LLC (“FMOF I and II”)
21 (together, “FMOF Funds”) and FMOF Management Associates, LLC (collectively, “FMOF Entities”)
22 (collectively, the “Receivership Entities”).

23 2. The SEC and the Former Receiver, on the one hand, and Interested party SRA Investor
24 _____

25 ¹ This Motion does not necessarily include all objections. For example, the Receiver has
26 intentionally excluded consideration of claims in connection with guarantees or backend fees or
27 commissions at this time, as well as potential other miscellaneous objections. The Receiver
intends to address any unresolved claims issues by separate motion at a later time.

1 Group (“Investor Group”), on the other hand, filed competing proposed Distribution Plans, which have
2 been amended.

3 3. At a hearing on February 28, 2019, the Court heard additional arguments on the
4 competing distribution plans, and set a continued hearing for June 27, 2019.

5 4. By Order entered on February 28, 2019, the Court appointed Kathy Bazoian Phelps as the
6 successor Receiver (the “Receiver”), and requested that the Receiver file comments relating to the
7 proposed distribution plan no later than June 6, 2019.

8 5. Prior to the Receiver’s appointment, the Former Receiver served a Notice of Bar Date,
9 establishing January 31, 2018 as the claims bar date (the “Original Bar Date”).

10 6. Approximately 17 claims were submitted after the Original Bar Date, but prior to the date
11 when the Former Receiver submitted a Claims Report to the Court on June 14, 2018 [Docket No. 340]
12 (“Former Receiver’s Claims Report”).

13 7. Approximately 7 additional claims were submitted after the filing of the Former
14 Receiver’s Claims Report but prior to the appointment of the Receiver.

15 8. At the hearing on February 28, 2019 at which the Receiver was appointed, the Receiver
16 requested authority to serve a new notice of a claims bar date to provide creditors and investors who had
17 not received notice an opportunity to file claims. The date of May 14, 2019 was fixed as the new bar
18 date for these claims (the “Supplemental Bar Date”), and the Receiver served notice of that bar date
19 pursuant to the Court’s Minute Order dated February 28, 2019 [Docket No. 470].

20 9. On March 12, 2019, the Receiver served a second Notice of Bar Date on those parties
21 who the Receiver believed may not have received notice of the Original Bar Date.

22 10. Since the Receiver’s appointment on February 28, 2019, the Receiver has received 23
23 new claims that were submitted prior to the Supplemental Bar Date.

24 11. Many proofs of claim identified investments in multiple different companies. For
25 purposes of this claims Objection and for ultimate distribution purposes, individual proofs of claims for
26 investors have been divided and tracked by the intended investment so a particular claimant may see
27 multiple claims listed depending on the number of investments for that particular claimant. As such the
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1 number of entries of objectionable claims will be larger than the number of actual claimants.

2 12. Some investors have previously received disbursements on account of their claims. In
3 many instances, the proofs of claims themselves reflected prior disbursements made and, in other
4 instances, the books and records of the Receivership Entities reflect disbursements made. The claims on
5 which previous disbursements were made are identified in Exhibit “1” attached hereto, and the Receiver
6 proposes to disallow these claims so the claimants do not receive a double recovery and windfall from
7 the estate.

8 13. In other instances, investors paid their money to a non-receivership entity or invested
9 directly into their intended investment, so no money was paid to any of the Receivership Entities in
10 connection with the claims submitted. Since the Receivership Entities did not receive the funds from the
11 claimants, no claim is properly allowed against the estate. The claims which the Receiver proposes to
12 disallow on that basis are identified in Exhibit “2” attached hereto.

13 14. A few investors filed duplicate claims, so the duplicate claims are identified in Exhibit
14 “3” and are appropriate for disallowance. The original claim will be allowed, unless otherwise objected
15 to, but the duplicate claim will be disallowed.

16 15. Some of the intended investments have failed at this time, which are described more fully
17 below (the “Failed Investments”). The underlying companies have filed bankruptcy petitions, been
18 acquired or otherwise wound down their business operations. The claims for recovery in connection
19 with the presently known Failed Investments are identified in Exhibit “4” hereto. The Court has
20 previously indicated its intention to disallow any recovery to claimants in Failed Investments. In the
21 Court’s December 20, 2018 Order re Proposed Distribution Plans, Docket No. 443 at 8 – 9, the Court
22 stated that “there is no compelling equity favoring recovery by those who invested in failed companies.”
23 The Court again stated that “There will be no recovery for failed investments . . .” in the Court’s Minute
24 Order dated February 28, 2019 [Docket No. 470].

25 16. The Receiver is advised that the Former Receiver accepted late-filed claims and included
26 them in the June 14, 2018 Claims Report submitted to the Court [Docket No. 340]. The Receiver is
27 advised that those claims were previously reviewed and evaluated, so she has not done an analysis of the
28

1 claims filed through June 14, 2018. Following the June 14, 2018 Claims Report, additional claims were
2 submitted to the Former Receiver, which were included in the claims information delivered to the
3 Receiver. Following the Receiver's appointment on February 28, 2019, the Receiver sent out the
4 Supplemental Bar Date notice, and 23 additional claims were received. The Receiver has reviewed each
5 of those claims and believes that all of those late claims filed through May 14, 2019 should be accept as
6 timely filed. Those claims have separately been evaluated on the merits for validity and possible
7 objections.

8 III. ARGUMENT

9 Courts presiding over equity receiverships have extremely broad power to supervise the
10 receivership and promote an orderly and fair administration of receivership assets. *SEC v Hardy*, 803
11 F.2d 1034, 1038 (9th Cir.1986). "The power of a district court to impose a receivership or grant other
12 forms of ancillary relief does not in the first instance depend on a statutory grant of power from the
13 securities laws. Rather, the authority derives from the inherent power of a court of equity to fashion
14 effective relief." *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980). As the appointment of a receiver
15 is authorized by the broad equitable powers of the court, any distribution of assets must also be done
16 equitably and fairly. *See SEC v. Elliot*, 953 F.2d 1560, 1570 (11th Cir. 1992).

17 The Ninth Circuit explained:

18 A district court's power to supervise an equity receivership and to determine the appropriate
19 action to be taken in the administration of the receivership is extremely broad. The district court
20 has broad powers and wide discretion to determine the appropriate relief in an equity
21 receivership. The basis for this broad deference to the district court's supervisory role in equity
22 receiverships arises out of the fact that most receiverships involve multiple parties and complex
23 transactions. A district court's decision concerning the supervision of an equitable receivership is
24 reviewed for abuse of discretion.

25 *SEC v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005). (citations omitted); *see also*
26 *Commodities Futures Trading Comm'n. v. Topworth Int'l, Ltd.*, 205 F.3d 1107, 1115 (9th Cir. 1999)
27 ("This court affords 'broad deference' to the court's supervisory role, and 'we generally uphold
28 reasonable procedures instituted by the district court that serve th[e] purpose' of orderly and efficient
administration of the receivership for the benefit of creditors."). Accordingly, the Court has broad

1 discretion in calculating and determining the allowed amounts of claims.

2 ***A. Proposed Disallowance of Previously Disbursed/Liquidated Claims***

3 Attached hereto as Exhibit “1” is a spreadsheet listing the claims filed for amounts that have
4 previously been disbursed and/or liquidated. The proposed disallowance of these claims is based on the
5 review of each claim by the Former Receiver and the SEC and the reconciliation of each claim with the
6 Receivership Entities' books and records. Specifically, many of the claims for Flurry, Inc. and Square
7 Inc. have already received disbursements. Since the amounts available from those investments have
8 already been distributed to these claimants, they would receive a windfall if the claimants received any
9 additional distributions. Accordingly, the Receiver believes that disallowance of each of the claims set
10 forth on Exhibit “1” is appropriate. Exhibit “1” does not include claims for investments made by
11 claimants in Flurry and Square where the investor claimants have not received prior disbursements;
12 those claims are being separately tracked for allowance.

13 ***B. Proposed Disallowance of Claims Against Non-Receivership Entities***

14 Attached hereto as Exhibit “2” is a spreadsheet listing claims asserted against the Receivership
15 Estate that involve non-receivership entities. These claimants invested their funds through other
16 companies, or made their investments directly into the company the claimants intended to invest in. The
17 investor funds were not paid to the Receivership Entities based on such investments. Accordingly, the
18 Receiver believes that it is not appropriate to allow a claim against the estate of the Receivership
19 Entities. Rather, these claimants are free to pursue their claims against the company that they invested
20 with or invested in. The Receiver believes that disallowance of each of the claims listed on Exhibit “2”
21 is appropriate.

22 ***C. Proposed Disallowance of Duplicate Claims***

23 Attached hereto as Exhibit “3” is a spreadsheet listing duplicate claims. The Receiver seeks to
24 disallow all duplicate claims. Exhibit “3” identifies the allowed claim and also identifies the duplicate
25 claim that is proposed to be disallowed in full. The duplicate claim will be disallowed, but the original
26 claim be allowed, unless that claim is identified for objection on another basis.

1 ***D. Proposed Disallowance of Failed Investment Claims***

2 The currently known Failed Investments are identified below. The Receiver intends the defined
3 term to include any of the investments that may fail in the future. The claims filed in connection with
4 investments made in the Failed Investments are identified in Exhibit “4” attached hereto.

5 The currently known Failed Investments are the following:

- 6 1. Aliphcom d/b/a Jawbone: This company began liquidations proceedings in June 2017.
7 The startup company failed so investors will not receive any recovery from this
8 investment.
- 9 2. Badgeville, Inc.: This company was not able to successfully go public and was acquired
10 by Callidus Software on June 2016. The company failed to go public so investors will not
11 receive any recovery from this investment.
- 12 3. Candi Controls: This company was not able to successfully go public and its intellectual
13 property assets were acquired by Altair Corp. in May 2018. The company failed to go
14 public so investors will not receive any recovery from this investment.
- 15 4. Glam Media, Inc.: This company was renamed to Mode Media but was then shut down in
16 September 2016. It was then acquired by BrideClick in June 2017. The company failed to
17 go public so investors will not receive any recovery from this investment.
- 18 5. Jumio, Inc.: This company filed bankruptcy in 2016. The company failed to go public so
19 investors will not receive any recovery from this investment.
- 20 6. Odesk Corporation: This company was acquired by Upwork Global in 2013. The
21 company failed to go public so investors will not receive any recovery from this
22 investment.
- 23 7. Practice Fusion: This company was sold to Allscripts in 2018 and is continuing to operate
24 as a subsidiary. However, it will not go public and the Receiver received funds totaling
25 \$15,500.09 as the buyout of the share held by the Receivership Entities. Given the
26 relatively small amount of funds in relation to the net amounts invested claims for
27 Practice Fusion shares (\$4,065,260), the Receiver proposes to disallow all of the Practice
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1 Fusion claims as Failed Investment claims.

2 8. Virtual Instruments Corp.: The company was acquired by Loan DynamIX, Inc. in March
3 2016. The company failed to go public so investors will not receive any recovery from
4 this investment.

5 In connection with the Court's evaluation of competing distribution plans in this receivership
6 case, and as set forth above, the Court has indicated its position regarding disallowance of claims made
7 for funds invested to purchase securities in companies that have now failed and were unable to issue an
8 IPO. *See* Order re Proposed Distribution Plans entered December 20, 2018 [Doc. No. 443] at 8 – 9 and
9 Minute Order dated February 28, 2019 [Doc No. 470].

10 The Receiver has accordingly included the Failed Investment Claims in these Objections,
11 seeking disallowance in full, so that the claimants will have had notice of the Court's intention to
12 disallow their claims in their entirety as part of the distribution plan process. Accordingly, the Receiver
13 seeks by this Motion to formalize the Court's position and provide notice to claimants in connection
14 with Failed Investments that it is the Court's intention to disallow their claims. The Receiver, therefore,
15 seeks disallowance of these claims by this Motion.

16 ***E. Late-Filed Claims***

17 A number of claims were filed following the Original Bar Date of January 31, 2018 and prior to
18 the Former Receiver's June 14, 2018 Claims Report. The Receiver is advised that the SEC, the Former
19 Receiver, and the Investor Group were all aware that the June 2018 Claims Report filed by the Former
20 Receiver included claims filed after January 31, 2018, and that no one had any objection to those claims
21 on an untimely basis. Accordingly, the Receiver has not reviewed claims submitted after January 31,
22 2018 and before the Claims Report in June 2018 and believes that those claims have been accepted as
23 timely filed by the Former Receiver.

24 The Receiver is further advised that an additional 17 or so claims were filed after the June 2018
25 Claims Report but before the Receiver's appointment on February 28, 2019. The Receiver does not
26 intend to object to those claims submitted prior to her appointment in light of what appears to have been
27 an uncertain bar date that was disregarded for some claimants. Additionally, since a final distribution

1 plan has not yet been approved, the Receiver does not believe that there is any prejudice to allowing
2 those claims.

3 Upon the Receiver's appointment on February 28, 2019, the Court set the Supplemental Bar
4 Date, which ran on May 14, 2019. In the notice and proof of claim form regarding the Supplemental
5 Bar Date, the Receiver requested that each such claimant complete an Attestation under oath as to the
6 reason why a claim had not timely been filed by the Original Bar Date. In each case, the claimants
7 advised that they had not received notice of the Original Bar Date or provided a similarly acceptable
8 explanation for the timing of the submission of the claim following the Original Bar Date. The Receiver
9 has reviewed all claims filed after February 28, 2019, and does not believe that objection to any of those
10 claims is appropriate on the basis of being late-filed. Moreover, the books and records of the
11 Receivership Entities reflect these claims amounts are correct, so the underlying claims themselves
12 appear valid. Finally, the Receiver does not believe there is any prejudice to allowing the claims as
13 timely filed given the current posture of the case.

14 Accordingly, even though "Late-Filed Claims" is included as a category in this Motion, the
15 Receiver declines to object to claims on the basis of a late-filed objection that were filed after the
16 Original Bar Date but that were submitted on or before the Supplemented Bar Date. The Receiver notes,
17 however, that there may be other bases to object to those same claims and, if so, those claims have been
18 included in other sections of this Motion.

19 Although the Receiver does not intend to object to any claims on the basis of them being
20 untimely where the proof of claim was submitted on or before May 14, 2019, the absence of a present
21 objection on the basis of untimeliness is not a waiver of any rights of the Receiver to file a subsequent
22 objection on this basis for any claim submitted in writing before or after the May 14, 2019 Supplemental
23 Bar Date, whether any such claim has been submitted in writing or was submitted on an informal basis
24 before or after the Supplemental Bar Date.

25 Any claimant wishing to assert a claim against the Receivership estate after May 14, 2019 will
26 need to seek leave of Court to do so. The Receiver seeks a finding that, absent a court order allowing
27 such a claim, any claim submitted after May 14, 2019 shall be barred without need to obtain further
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1 order of the Court.

2 **IV. NOTICE BY EMAIL OF THIS MOTION SHOULD BE DEEMED**
3 **APPROPRIATE AND SUFFICIENT**

4 The Receiver has served the Notice of Motion and Motion on all claimants whose claim is at
5 issue in this Motion at their known, valid email address or by first class mail if no email address is
6 known. Additionally, the Receiver has posted the Notice of Motion and Motion on the Receiver's
7 website at www.diamondmccarthy.com/saddleriverreceiver. The Receiver believes this notice complies
8 with the provisions of Local Civil Rule 66-6. The Receiver requests that the Court approve this form of
9 notice as reasonable, appropriate, and the most cost-effective means of providing notice of the hearing
10 under the circumstances, since there are a few hundred claimants both in the United States and overseas,
11 and to the extent necessary, to approve the notice given as reasonable, limited notice appropriate under
12 the circumstances and in the interests of time and cost. This Court, as a court of equity supervising the
13 receivership estate, may make appropriate administrative orders governing the receivership, including
14 limitations on and changes in notice and other procedures. *See* F.R. Civ. P. 5(a) and (c) (authorizing the
15 court to modify service procedures when numerous defendants are involved in litigation). By analogy to
16 bankruptcy proceedings, orders limiting notice when the Bankruptcy Code or Rules would otherwise
17 require notice to all creditors are routinely granted in bankruptcy cases to promote the expeditious and
18 economical administration of bankruptcy estates. *See In re First Alliance Mortgage Co.*, 269 B.R. 428,
19 442 (C.D. Cal. 2001) (referencing in *dicta* in the court's recitation of facts the bankruptcy court's order
20 limiting notice issued in that case); 11 U.S.C. section 102(1)(A) (defining the phrase "after notice and a
21 hearing" to mean "after such notice as is appropriate in the particular circumstances, and such
22 opportunity for hearing as is appropriate in the particular circumstances").

23 The Receiver will send an email or letter to each investor with a unique identifying Investor I.D.
24 Number assigned to them so that they may identify their particular claim on Exhibits "1" to "4." The
25 Receiver believes it is appropriate to provide notice to the investors in this matter to protect their privacy
26 rather than placing their names and amounts of their claims in the public record. Accordingly, the
27 Receiver believes that each investor will have received proper notice of the Investor I.D. Number as well

1 as of this Motion.

2 **V. CONCLUSION**

3 Based on the foregoing, the Receiver requests entry of order disallowing the claims set forth
4 herein on the grounds stated. The Receiver requests all other appropriate relief.

5
6 Date: May 23, 2019

/s/Kathy Bazoian Phelps

Kathy Bazoian Phelps
Successor Receiver