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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

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

Defendants, and

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

Relief Defendants.

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

**DECLARATION OF KATHY BAZOIAN  
PHELPS RE [PROPOSED] AMENDED  
ORDER RE MOTIONS:**

- (1) FOR FINAL APPROVAL OF  
RECEIVER’S PLAN OF  
DISTRIBUTION AND FOR ORDER  
APPROVING FORM AND MANNER  
OF NOTICE [DKT NO 570];**
- (2) TO DISALLOW PURPORTED  
GUARANTEE CLAIMS [DKT NO 575];  
AND**
- (3) FOR INSTRUCTIONS RE INVESTOR  
ADVISORY COMMITTEE [DKT NO  
583]**

Date: May 13, 2020  
Time: 10:00 a.m.  
Place: Zoom webinar  
450 Golden Gate Ave.  
San Francisco, CA  
Judge: Edward M. Chen

**DECLARATION OF KATHY BAZOIAN PHELPS**

I, Kathy Bazoian Phelps, declare:

1. Pursuant to this Court’s Revised Order Appointing Receiver, entered on February 28, 2019, I was appointed as the successor receiver (“Receiver”) in this case. I am also an attorney duly licensed to practice in the State of California and am senior counsel at the firm of Diamond McCarthy LLP (“Diamond McCarthy”). I have personal knowledge of the matters set forth below and if called as a witness, I would and could testify competently to the matters stated herein.

2. This declaration is made in connection with the Proposed Amended Order lodged concurrently herewith regarding the motions of Receiver (1) For Final Approval Of Receiver’s Plan of Distribution and for Order Approving Form and Manner of Notice [Dkt No 570]; (2) To Disallow Purported Guarantee Claims [Dkt No 575]; and (3) For Instructions Re Investor Advisory Committee [Dkt No 583], which came on for hearing at the above-referenced date and time. The hearing was conducted by Zoom webinar before the Honorable Edward M. Chen, United States District Judge presiding. Appearances were as noted on the record.

3. I have met and conferred with John Yun, counsel for the SEC; Jonathan Levine, counsel for the SRA Investor Group; Esfand Nafisi, counsel for Joshua Cilano; and Avi Israeli, counsel for Progresso Venture Group, LLC. The parties have engaged in extensive discussions over the form of the Amended Order, and I am advised that all interested parties now support the form of order that has been lodged concurrently herewith.

4. This Declaration is filed with the Court to advise the Court both of the non-opposition of the parties to the form of order, but also to explain the lodging of an order as opposed to an amended Plan. At the conclusion of the hearing on May 13, 2020, I asked the Court whether I should lodge an amended order to take into account the prospective modifications to the Plan that we had discussed, and the Court concurred in that suggestion. In reviewing the transcript of the hearing and the Court’s Civil Minutes [Dkt 608], I note that the Court referred to the filing of an amended Plan, not an amended order. Based on my belief that it is premature to amend the Plan since the issues addressed at the hearing are still speculative, I prepared an amended order rather

1 than an amended plan. I have discussed this issue with the parties and all parties have agreed to the  
2 lodging of an amended order rather than an amended plan.

3 5. If the Court wishes for me to file an amended plan instead, I will defer to the Court's  
4 instructions. My concerns with filing an amended plan are two-fold. First, the two modifications to  
5 the Plan that were discussed are both based upon future events that are uncertain. For example, the  
6 amount of any tax benefit from Failed Investments is unknown and any modification to be made is  
7 subject to further consideration by the Court and the parties before a final determination will be  
8 made. Additionally, whether a Class 6 needs to even be created is unknown because of the  
9 uncertainty of whether Mr. Cilano will be allowed a creditor claim. Based on these uncertainties, I  
10 believe that an order addressing these matters and leaving the possibility of amendment to the Plan  
11 in the future is appropriate.

12 6. Second, it became clear in the meet and confer process over the form of order that the  
13 parties do not agree on exactly what any such amended plan language would be or exactly what the  
14 respective priorities of a new class would be. If I must file an amended plan, I am concerned that  
15 this will be a lengthy and costly process as the parties are not likely to agree at this point as to the  
16 language of such an amended Plan. Since the possible modifications to the Plan are speculative at  
17 this point, I believe that any actual changes to the Plan would more appropriately be done if and  
18 when they become necessary.

19 I declare under penalty of perjury that the foregoing is true and correct. Executed on this  
20 22nd day of May at Los Angeles, California.

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22 /s/ Kathy Bazoian Phelps  
23 KATHY BAZOIAN PHELPS  
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