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5 *Successor Receiver*

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

11 SECURITIES AND EXCHANGE  
COMMISSION,

12 Plaintiff,

13 v.

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

17 Defendants, and

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

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

**DECLARATION OF KATHY BAZOIAN  
PHELPS IN SUPPORT OF  
ADMINISTRATIVE MOTION BY  
RECEIVER KATHY BAZOIAN PHELPS  
PURSUANT TO LOCAL CIVIL RULE 7-11  
FOR ORDER MODIFYING THE  
DISTRIBUTION PLAN WITH RESPECT TO  
CLAIMANT THE ELIV GROUP, LLC**

Date: No Hearing Set  
Time: No Hearing Set  
Judge: Edward M. Chen

1 I, Kathy Bazoian Phelps, declare:

2 1. Pursuant to this Court’s Revised Order Appointing Receiver, entered February 28,  
3 2019, I was appointed as the successor receiver (“Receiver”) in this case. I am also an attorney  
4 duly licensed to practice in the State of California and am senior counsel at the firm of Diamond  
5 McCarthy LLP (“Diamond McCarthy”). I have personal knowledge of the matters set forth below  
6 and if called as a witness, I would and could testify competently to the matters stated herein.

7 2. This declaration is made in support of the Motion by Receiver Kathy Bazoian  
8 Phelps Pursuant to Local Civil Rule 7-11 for an Order Modifying the Distribution Plan with  
9 respect to Claimant The ELIV Group, LLC (the “Motion”).

10 3. I have consulted with counsel for the Securities and Exchange Commission, which  
11 does not oppose the Motion.

12 4. On July 13, 2020, I filed a motion for an order approving sale and distribution of  
13 publicly traded securities pursuant to the Distribution Plan [Dkt No. 617], which the Court  
14 approved on July 20, 2020 [Dkt No. 619] (the “First Interim Distribution”).

15 5. On July 8, 2020, in anticipation of the motion I was planning to file, I sent an  
16 email to all Class 4 Investor Claimants due to receive securities in the First Interim Distribution  
17 seeking account information for brokerage accounts that could accept the transfer of securities via  
18 the Depository Trust & Clearing Corporation system.

19 6. On July 13, 2020, in response to my July 8 email, Mary Langan of the United  
20 States Attorney’s Office for the Northern District of New York, on behalf of The Eliv Group,  
21 LLC (the “Claimant”), responded with certain account information, but for an account that could  
22 not accept securities.

23 7. My counsel informed Ms. Langan that the Receiver could only distribute securities  
24 to a brokerage account that could accept securities. On July 30, 2020, Ms. Langan informed me  
25 that her office could not accept securities and that it would seek further instructions from the  
26 Department of Justice.

27 8. On August 25, 2020, Ms. Langan informed me that she had consulted with the  
28 Department of Justice, and requested that I sell the shares that would otherwise be distributed to

1 Claimant, such that the proceeds could be distributed to her office and applied to the outstanding  
2 restitution obligation of Claimant. I informed Ms. Langan that I did not oppose that course of  
3 action, but that it would be a modification of the Distribution Plan with respect to Claimant and  
4 therefore require approval of the Court.

5 9. I am satisfied that, based on the representations of the Department of Justice, that  
6 the distribution of securities to Claimant is impractical. I agree with the Department of Justice  
7 that the most prudent and equitable course of action is to sell the securities that would otherwise  
8 be distributed to Claimant and to distribute the proceeds to the Department of Justice, with respect  
9 to the First Interim Distribution and any future distributions approved by this Court, including any  
10 distributions relating to Palantir Technologies Inc. or the other pre-IPO shares if and when those  
11 securities may be distributed under the terms of the Plan..

12 10. Although I will endeavor to minimize the commissions and fees with respect to the  
13 sale of securities pursuant to my proposed modification, I believe it is equitable to allocate such  
14 commissions and fees solely to Claimant, and therefore reduce the distribution by such  
15 commissions and fees.

16 11. It is possible that, based on the price of the applicable securities at the time they  
17 are sold, the estate will be subject to additional tax liability. I therefore believe it is equitable to  
18 withhold further from the distribution any additional amount that may be necessary to pay  
19 applicable taxes on account of my proposed modification, and to place such funds in the Tax  
20 Withhold Account already created pursuant to the Distribution Plan.

21 I declare under penalty of perjury that the foregoing is true and correct. Executed on this  
22 9th day of September 2020 at Los Angeles, California.

23 /s/ Kathy Bazoian Phelps  
24 Kathy Bazoian Phelps  
25 *Successor Receiver*  
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