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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.  
28

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

**DECLARATION OF MARY LANGAN 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

25 I, MARY E. LANGAN, am an Assistant U.S. Attorney, of counsel to ANTOINETTE T.  
26 BACON, Acting United States Attorney for the Northern District of New York. I hereby declare as  
27 follows:  
28

1           1.       I have personal knowledge of the facts set forth herein and I submit this Declaration  
2 in support of the Administrative Motion by Receiver, Kathy Bazoian Phelps, for Order Modifying  
3 the Distribution Plan with respect to Claimant The ELIV Group, LLC (the “Motion”).

4           2.       On or about June 3, 2014, the U.S. Securities and Exchange Commission (“SEC”)  
5 brought an action against Scott Valente and his company, The ELIV Group, LLC (“ELIV”),  
6 alleging that Valente and ELIV fraudulently raised more than \$8 million from approximately 80  
7 clients by falsely claiming they achieved consistent and outsized positive returns, among other  
8 misrepresentations. ELIV sustained consistent investment losses for three years, while Valente  
9 made substantial cash withdrawals of client funds and spent their money on home improvements  
10 and mortgage payments as well as jewelry and a vacation condominium. Valente's unsuccessful  
11 trading strategies and misappropriations severely diluted the amount of client funds at ELIV.  
12

13           3.       Valente was charged in a criminal proceeding in the Northern District of New York  
14 (*United States of America v. Scott Valente*, No. 1:15-CR-124 (GLS) (N.D.N.Y.)). The original  
15 Judgment was entered in favor of the United States of America against the Defendant on November  
16 20, 2015, and an Amended Judgment was entered on August 8, 2017, requiring the debtor to pay  
17 restitution in the amount of \$8,616,113.39.  
18

19           4.       Valente is currently serving his 20-year prison sentence at Federal Medical Center  
20 (“FMC”) Devens in Massachusetts.  
21

22           5.       In May 2016, the undersigned met with John Bivona at his office in Saddle River, New  
23 Jersey. Mr. Bivona was aware of the Judgment against Valente and his outstanding restitution obligation.  
24 Mr. Bivona advised that there were approximately \$386,000 in funds from Valente’s investments in  
25 Alibaba, Flurry, Check, and Box located in his escrow account, which was restrained due to a personal  
26 bankruptcy action. He further advised that Saddle River Advisors (“SRA”) was undergoing a SEC  
27  
28

1 investigation, and that an independent monitor in California was overseeing the disbursement of all of the  
2 SRA funds.

3 6. On or about June 19, 2018, my office, on behalf of ELIV, submitted a Proof of  
4 Claim form in connection with the instant matter (the Bivona SRA Receivership proceeding).

5 7. On or about March 22, 2019, my office submitted an Amended Proof of Claim form  
6 to correct an error with the June 19, 2018 filing. Specifically, the prior Claim Form inadvertently  
7 excluded Dropbox, Inc.

8 8. In connection with the March 22, 2019 submission, I submitted a declaration stating  
9 that any recovery by The ELIV Group, LLC from the John Bivona receivership will be used to  
10 satisfy Valente's outstanding restitution obligation in an attempt to make The ELIV Group, LLC's  
11 investors/victims whole.  
12

13 9. Pursuant to the District Court's order in the instant action dated July 20, 2020 (Dkt.  
14 No. 619), the Receiver was directed to transfer securities on account of the claim filed by my office  
15 on behalf of The ELIV Group, LLC and pursuant to the Court-approved plan (the "Plan").  
16

17 10. I have been advised by the Receiver that the Plan contemplates that the Receiver  
18 will sell shares to fund the Plan Fund and the Tax Holding Account, and that all other securities  
19 will be distributed.  
20

21 11. This Declaration is submitted in connection with the request that the Court direct the  
22 Receiver to sell the shares allocated to The ELIV Group, LLC, and distribute the proceeds from the  
23 sale of these shares to the United States.

24 12. The United States, on behalf of The ELIV Group, LLC investors/victims, will apply  
25 the cash proceeds to Valente's outstanding restitution obligation to be distributed to The ELIV  
26 Group, LLC's investors/victims.  
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28

