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Counsel to Receiver Kathy Bazoian Phelps

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiffs,

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

**TWELFTH INTERIM
ADMINISTRATIVE MOTION FOR
AN ORDER PURSUANT TO LOCAL
RULE 7-11 FOR THE APPROVAL
OF FEES AND EXPENSES FOR THE
SUCCESOR RECEIVER, RAINES
FELDMAN LLP, MILLER KAPLAN
ARASE LLP, AND SCHINNER &
SHAIN LLP FROM OCTOBER 1,
2021 THROUGH DECEMBER 31,
2021**

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

1 Kathy Bazoian Phelps, the successor receiver herein (the “Receiver”) of SRA
2 Management Associates, LLC, SRA I, LLC, SRA II, LLC, SRA III, LLC, SRA Management
3 Associates, Clear Sailing Group IV, LLC, Clear Sailing Group V, LLC, Felix Multi-
4 Opportunity Fund I, LLC, Felix Multi-Opportunity Fund II, LLC, Felix Management
5 Associates, LLC, NYPA Fund I, LLC, NYPA Fund II, LLC, NYPA Management Associates,
6 LLC and Solis Associates Fund LLC, hereby files this Administrative Motion under Local
7 Civil Rule 7-11 for Order approving fees and expenses for the Receiver, Raines Feldman LLP,
8 Miller Kaplan Arase LLP, and Schinner & Shain LLP for the period of October 1, 2021
9 through December 31, 2021 (the “Motion”).¹

10 **I. RELIEF REQUESTED**

11 The Receiver seeks approval of compensation and reimbursement of expenses for
12 herself and her professionals for the period of October 1, 2021 through December 31, 2021
13 (“Motion Period”) in the following amounts:

14 Receiver: Fees \$18,228.00.²

15 Raines Feldman LLP (“Raines Feldman”): Fees \$18,335.50; expenses \$46.42.

16 Miller Kaplan Arase LLP (“Miller Kaplan”): Fees \$1,453.20.

17 Schinner & Shain LLP (“Schinner”): Fees \$1,707.75.

18 This Motion is supported by the Declarations of the Receiver, David Castleman of
19 Raines Feldman, and Julia Damasco of Miller Kaplan, and Fred Koenen of Schinner.

20 **II. CASE STATUS**

21 The Court approved the Receiver’s Plan of Distribution (“Plan”) on May 25, 2020
22

23 ¹ The Notice of Motion, the Motion, and supporting documents will be served on all interested
24 parties pursuant to Civil Local Rule 66-6 and will be posted the papers on the Receivership
25 website at <https://www.raineslaw.com/saddle-river-receiver/>. The Receiver has conferred with
26 counsel for the Securities and Exchange Commission and the Investor Advisory Committee,
27 who each do not oppose the Motion, and with counsel for Progresso Ventures LLC who does
28 not express any comment or opposition in response. A stipulation with all parties was deemed
impractical given, among other things, the entry of judgment against the defendants and
pending bankruptcy of defendant John Bivona. L.R. 7-11(1)(a).

² The Receiver has agreed to a holdback of 20% of this amount (\$3,645.60) and therefore
requests authority to pay \$14,582.40.

1 (Dkt. No. 613). Upon the Plan's approval, the Receiver began taking the steps necessary to
2 implement the Plan, including preparing distribution schedules and communicating with
3 investors regarding their account information. The Receiver worked with Miller Kaplan to
4 address the proper manner of calculating the sale and distributions of the publicly traded
5 securities. The Receiver filed a motion seeking Court authority to sell securities to fund the
6 Plan Fund and the Tax Holding Account and to make interim distributions to investors
7 holding allowed claims in eight different publicly traded securities. The motion was approved
8 on July 20, 2020 (Dkt. No. 619), and the Receiver has completed the first interim distributions
9 of publicly traded securities. The Receiver moved the Court in August 2021 to complete the
10 distribution of securities to investors and to hold the necessary administrative reserves as cash,
11 which was approved on August 22, 2021 (Doc. 665). The Receiver and her team completed
12 that distribution in September 2021, and the estate has now either distributed or sold all of its
13 publicly traded securities.

14 The Receiver also sought authority to sell the necessary Palantir shares upon
15 notification of Palantir's direct listing, and the sales process was completed in early October
16 2020, resulting in net proceeds to the Estate of \$9,854,109.90. In November 2020, the
17 Receiver transferred the remaining \$94,419.56 in the money market account into the checking
18 account. The Receiver sought authority to make an interim distribution to Class 3 Claimants
19 in the amount of \$7,721,752.95, which was completed in January 2021.

20 The Receiver also sold or distributed the estate's remaining position in Palantir after
21 the lockup restrictions were lifted, resulting in net proceeds of \$44,042,943.99 for the estate
22 (largely to pay and reserve for taxes), and the distribution or equivalent of nearly 3,000,000
23 shares of Palantir to 240 claimants. In June 2021, the Receiver also sold or distributed the
24 estate's remaining position in Airbnb, selling 8,626 shares resulting in net proceeds of
25 \$1,275,805.29 for the estate and the distribution of the remaining 13,624 shares to claimants.

26 In the fourth quarter 2021, the Receiver made estimated tax payments to the United
27 States Treasury (\$655,000.00 in December) and to the California Franchise Tax Board
28

1 (\$170,000.00 in December). The Receiver also liquidated the estate's remaining position in
 2 Evernote Corporation ("Evernote") for \$1 per share, upon court approval, generating a
 3 substantial tax savings to the estate. In 2022, the Receiver and her team will continue to
 4 evaluate options for disposition of the remaining three pre-IPO securities.

5 **III. CASH ON HAND AND ACCRUED EXPENSES**

6 As of December 31, 2021, the receivership estate has cash on hand as follows:

7	Wells Fargo Checking	\$6,176.37
8	Anne Bivona Funds	\$534,523.21
9	Plan Fund Account	\$4,527,648.94
10	Tax Holding Account	\$4,754,636.42
11	Palantir Administrative Reserve	\$13,131,974.43
12	MongoDB Administrative Reserve	\$300,702.22
	Airbnb Administrative Reserve	\$118,172.34
	Evernote Reserve	\$96,108.00
	Total Cash on Hand	\$23,469,941.93

13 There are known accrued expenses and unpaid expenses of \$39,770.87 through
 14 December 31, 2021 for fourth quarter fees and expenses, and holdbacks of \$262,447.87.

15 Attached to the Declaration of the Receiver as Exhibit "1" is a financial summary showing the
 16 cash status of the estate as of December 31, 2021. Funds in the amount of \$65,604.30
 17 representing third quarter 2021 fees and expenses were disbursed during this period. The
 18 Standardized Fund Accounting Report required by the SEC for the fourth quarter 2021 is
 19 attached to the Receiver's Declaration as Exhibit "2."

20 **IV. PREVIOUS FEE MOTIONS AND HOLDBACKS**

21 Fees and expenses have previously been granted as set forth in Exhibit "3" to the
 22 Receiver's Declaration, filed concurrently herewith. As of December 31, 2021, there are
 23 outstanding fee holdbacks from the prior fee applications for \$262,447.87 as follows: (i)
 24 Sherwood Partners, the former receiver, in the amount of \$144,627.50; (ii) the Receiver in the
 25 amount of \$108,980.07 when she was employed by Diamond McCarthy LLP; and (iii) the
 26 Receiver in the amount of \$8,840.30 since her employment at Raines Feldman.

27 **V. THE RECEIVER'S FEE REQUEST**

28 As detailed in the Declaration of the Receiver, pursuant to the Receiver's proposal for

1 her appointment, and in recognition of the efficiencies and benefits to the estate, the Receiver
 2 has established separate billing categories for services provided. For services provided with
 3 respect to legal issues, the Receiver has discounted her hourly rate of \$675.00 to \$465.00,
 4 thereby generating significant savings to the estate. The Receiver has agreed to charge
 5 \$160.00 per hour for herself and her assistants for administrative services. The billing
 6 statements itemizing the services provided and expenses incurred are contained in Exhibit “4”
 7 attached to the Declaration of the Receiver. The Receiver performed services for each category
 8 as follows:

Category	Hours	Fees
Case Administration (B110)	18.00	\$8,370.00
Asset Analysis and Recovery (B120)	19.20	\$8,928.00
Plan Implementation (B320)	2.00	\$930.00
TOTAL	39.20	\$18,228.00

14 During the Motion Period, the Receiver moved the court for permission to sell the
 15 estate’s position in Evernote and completed that transaction. The Receiver also coordinated
 16 with the SEC and with her advisers and tax counsel in managing the estate and making all
 17 necessary tax payments, communicated with and provided information to claimants, and
 18 analyzed the disposition of the estate’s pre-IPO securities.

19 VI. RAINES FELDMAN’S FEE REQUEST

20 As detailed in the Declaration of David Castleman, Raines Feldman has established
 21 billing categories for tasks performed and has significantly discounted its billing rates with
 22 senior attorneys capping their hourly rate at \$465.00. Raines Feldman was appointed as
 23 counsel as of April 23, 2021 pursuant to Court order (Doc No. 651). The billing statements
 24 itemizing the services provided and expenses incurred are attached as Exhibit “5” to the
 25 Castleman Declaration. Raines Feldman performed services for each category are as follows:

Category	Hours	Fees
Case Administration (B110)	13.60	\$6,324.00
Asset Disposition (B130)	21.60	\$10,044.00

1	Plan Implementation (B320)	5.10	\$1,967.50
2	TOTAL	40.30	\$18,335.50
3	Expenses		\$46.42

4 During the Motion Period, Raines Feldman assisted the Receiver in responding to
5 numerous questions from claimants, in analyzing the disposition of the estate's pre-IPO
6 securities, and in implementing the sale of the estate's position in Evernote, including
7 successfully seeking court approval for such sale.

8 **VII. MILLER KAPLAN'S FEE REQUEST**

9 As detailed in the Declaration of Julia Damasco and the billing statements attached as
10 Exhibit "6" to her Declaration, Miller Kaplan has incurred \$1,453.20 in fees in connection
11 with providing tax services to the Receiver. The services performed by Miller Kaplan were
12 necessary in implementing the Plan and in assisting the Receiver to pay the correct quarterly
13 estimated tax payments.

14 **VIII. SCHINNER & SHAIN'S FEE REQUEST**

15 As detailed in the Declaration of Frederick Koenen and the billing statements attached
16 as Exhibit "7" to his Declaration, Schinner has incurred \$1,707.75 in fees in connection with
17 providing securities law advice to the Receiver. The services performed by Schinner were
18 necessary in implementing the Plan by providing the Receiver and her counsel with advice to
19 facilitate the disposition of the estate's position in Evernote.

20 **WHEREFORE**, the Receiver seeks entry of an order granting this Motion in all respects.

21 Dated: January 24, 2022

RAINES FELDMAN LLP

22 By: /s/ David Castleman

23 David Castleman

24 Counsel for Receiver Kathy Bazoian Phelps