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

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12 SECURITIES AND EXCHANGE
COMMISSION,

13 Plaintiff,

14 v.

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

18 Defendants, and

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

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

**DECLARATION OF KATHY BAZOIAN
PHELPS IN SUPPORT OF MOTION BY
RECEIVER FOR ORDER DIRECTING
ZOCDOC, INC. TO TRANSFER SHARES**

Date: December 15, 2022

Time: 1:30 pm

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 duly
4 licensed to practice in the State of California and am partner at the firm of Raines Feldman LLP
5 (“Raines Feldman”). I have personal knowledge of the matters set forth below and if called as a
6 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 Phelps
8 for Order Directing ZocDoc, Inc. (“ZocDoc”) to Transfer Shares (the “Motion”).

9 3. I have served this Motion on the Securities and Exchange Commission, members of
10 the Investor Advisory Committee, and counsel for ZocDoc, none of whom indicated opposition to
11 the Motion. [The Counterparty (defined below) did not respond to a request to state his position with
12 respect to the Motion].

13 4. In 2013, prior to the appointment of a receiver, NYPA Fund II, LLC (“NYPA”)
14 entered into a contract (the “Forward Contract”) with a confidential counterparty (the
15 “Counterparty”) to purchase the beneficial interest in 20,104 ZocDoc shares (the “Shares”). I have
16 reviewed the Forward Contract and am informed and believe that all consideration owing by NYPA
17 was paid to the Counterparty prior to the commencement of the Receivership. To protect
18 confidentiality, I have not attached the Forward Contract to the Motion but can provide a copy of the
19 Forward Contract to the Court for in camera review if requested by the Court.

20 5. The Forward Contract provides that the Counterparty would receive the purchase
21 price and remain the record owner of the Shares, which would remain in escrow while ZocDoc
22 remained a private company and certain transfer restrictions remained in effect, or when the Shares
23 could otherwise be transferred to NYPA. If ZocDoc had an initial public offering (an “IPO”),
the Shares would then be transferrable to NYPA after the expiry of any lockup period.

24 6. In exchange for receipt of the purchase price, the Counterparty agreed to assign and
25 transfer to NYPA 100% of its economic interest in the Shares. The Forward Agreement also
26 contained an escrow agreement under which the Shares would be deposited with an escrow agent
27 (the “Escrow Agent”) and remain in escrow upon receipt of the purchase price, until the Shares were
28 transferable to the NYPA. Once the restrictions imposed on the Shares were removed, including

1 ZocDoc’s right of first refusal to purchase the shares (the “ROFR”), the Counterparty would assign,
2 transfer, and deliver the Shares to NYPA (or its assignee or designee).

3 7. After payment by NYPA to the Counterparty, but before any such transfer could
4 occur, NYPA was placed into receivership in 2016, and the Receiver was appointed as successor
5 receiver in 2019. [Dkt. 469.]

6 8. The Receivership Estate thereby succeeded to NYPA’s interest in the Forward
7 Contract, including the right to receive the Shares once they became freely tradeable, most commonly
8 after a ZocDoc IPO.

9 9. As the court-approved Distribution Plan [Dkt. 570-1] (the “Plan”) similarly required
10 the sale of shares for the Plan Fund and distribution of shares to claimants only after the underlying
11 company had a liquidity event such as an IPO (Plan, at 15-16), holding the Forward Contract was
12 consistent with the Plan.

13 10. Circumstances have changed now that I have sold or distributed the vast majority of
14 the Receivership Estate’s stock holdings, with only shares in three pre-IPO companies remaining,
15 including ZocDoc.

16 11. I have continued to monitor the possibilities for liquidating the Receivership Estate’s
17 position in ZocDoc in order to efficiently wind down the estate and make a final distribution to
18 claimants.

19 12. I have been advised that it is impractical to sell the Forward Contract, and that the
20 estate must hold the Shares directly if I am to sell those Shares on the secondary market.

21 13. The Forward Contract, however, requires the Shares to be transferred only in certain
22 circumstances, generally upon an IPO and after the lockup period has expired.

23 14. ZocDoc acknowledged that the estate has paid for the Shares, and has therefore agreed
24 to transfer the Shares to the name of the Receivership Estate on the capitalization table without
25 present consideration or exercising the ROFR. ZocDoc has effectively agreed to remove the
26 restrictions imposed on the Shares to allow the Receiver to administer the estate, solely with respect
27 to the transfer between the Counterparty and the Receivership Estate. I request that the name on the
28 capitalization table be “Receiver’s Account Estate of Saddle River Management LLC, Kathy B.

1 Phelps Administrator” to match the name on my brokerage account.

2 15. Both I and my counsel have made repeated attempts to contact the Counterparty over
3 the last year, including contacting the Escrow Agent, in order to effect the transfer of the Shares to
4 the Receivership Estate.

5 16. The Counterparty responded on January 25, 2022, via email, to a letter sent by my
6 counsel, in which the Counterparty offered to assist with the transfer of the Shares to the Receivership
7 Estate and stated that the proposed plan with ZocDoc “seems logical” but that he wanted to confer
8 with counsel.

9 17. Both I and my counsel have sent repeated communications to the Counterparty to
10 confirm the Counterparty’s position on the transfer of the Shares, but all communications have gone
11 unanswered.

12 18. Currently, the Receivership Estate has 1,495 shares of ZocDoc owned directly,
13 already in the name of the Receivership Estate on the ZocDoc capitalization table.

14 19. Equity Acquisition Company Ltd. (“EAC”) transferred the right of title and beneficial
15 interest in the 1,495 ZocDoc shares to the estate pursuant to the Order approving settlement with
16 EAC entered January 15, 2020. [Dkt. 550].

17 20. Once the transfer of the Shares is complete, if the Court so orders, I will explore
18 whether to sell all 21,599 ZocDoc shares on the secondary market. If any such transaction becomes
19 available and is in the best interest of the Receivership Estate, I will file a separate motion for
20 approval of that transaction at the appropriate time.

21 I declare under penalty of perjury that the foregoing is true and correct. Executed on this 25th
22 day of October 2022 at Los Angeles, California.

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