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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

**NOTICE OF ADMINSTRATIVE
MOTION BY RECEIVER KATHY
BAZOIAN PHELPS FOR ORDER:**

**(1) APPROVING SALE AND
DISTRIBUTION OF
PUBLICLY TRADED
SECURITIES PURSUANT
TO DISTRIBUTION PLAN;
AND**

**(2) FOR MODIFICATION OF
THE DISTRIBUTION PLAN**

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

1 **TO ALL INTERESTED PARTIES:**

2 **PLEASE TAKE NOTICE THAT** Kathy Bazoian Phelps, the successor receiver
3 herein (the “Receiver”) of SRA Management Associates, LLC, SRA I, LLC, SRA II, LLC,
4 SRA III, LLC, Clear Sailing Group IV, LLC, Clear Sailing Group V, LLC, Felix Multi-
5 Opportunity Fund I, LLC, Felix Multi-Opportunity Fund II, LLC, Felix Management
6 Associates, LLC, NYPA Fund I, LLC, NYPA Fund II, LLC, NYPA Management Associates,
7 LLC and Solis Associates Fund LLC, has filed an Administrative Motion under Local Civil
8 Rule 7-11 for Order (1) Approving Sale and Distribution of Publicly Traded Securities
9 Pursuant to Distribution Plan; and (2) for Modification of the Distribution Plan (the “Motion”).

10 The Motion seeks authority to: (1) modify the Distribution Plan (the “Plan”) so that the
11 Receiver may convert the administrative stock reserve held for each of Bloom Energy Corp.;
12 Cloudera, Inc.; DropBox, Inc.; Lyft, Inc.; MongoDB, Inc.; Pinterest, Inc.; and Snap, Inc.
13 (collectively, the “Publicly Traded Securities”) into an administrative cash reserve for each
14 security (the “Publicly Traded Securities Reserves”); (2) sell any additional shares in the
15 Publicly Traded Securities as many be necessary to pay taxes associated with the distribution
16 and pay reasonable commissions; (3) distribute the remaining shares of the Publicly Traded
17 Securities and Uber, Inc. to claimants; (4) pay all taxes arising from the sale and distribution as
18 may be required by the federal or state taxing authorities; and (5) to sell any shares of a
19 Publicly Traded Security that would otherwise be distributable to a claimant and distribute
20 cash in lieu of stock if such claimant does not provide the Receiver with sufficient information
21 necessary for the Receiver to distribute securities to such claimant.

22 Further, this Motion requests that the Court clarify an important tax issue with respect
23 to individual claimants. The Receiver has been advised that the tax basis reported to investors
24 by Wells Fargo to the investors’ brokerage accounts, as part of the ordinary course of
25 transferring shares via the Depository Trust Company (“DTC”) system, is not necessarily the
26 investors’ tax basis nor is it necessarily the Qualified Settlement Fund tax basis. Because the
27 tax basis for the estate and the tax basis for the investors are different, each investor will be
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1 responsible for coordinating with their own financial institution and advisers to determine their
2 own tax basis for their shares. As such, this Motion requests that the Court instruct each
3 claimant to determine their own tax basis for the shares distributed, regardless of any
4 information provided via the DTC transfer by Wells Fargo.

5 The Receiver will hold the reserves in the Tax Holding Account, the Plan Fund and the
6 Publicly Traded Securities Reserves for the three-year audit period to expire for the Internal
7 Revenue Service (“IRS”) from the filing of the 2021 tax return to ensure that no additional tax
8 liability is assessed before making a final distribution.

9 This Motion is supported by this Notice of Motion, the accompanying Motion
10 including the memorandum of points and authorities contained therein, the Declaration of
11 Kathy Bazoian Phelps and Exhibits filed herewith, and all the papers and files in this matter.
12 In addition to service by ECF, the Receiver intends to serve this Notice, the Motion and the
13 supporting documents on all interested parties using a confidential email list, and to post this
14 Notice, the Motion and supporting documents on the Receivership website. See Civil L.R.
15 66-6.

16 **PLEASE TAKE FURTHER NOTICE THAT** any response or opposition to the
17 Motion must be filed no later than August 10, 2021.¹

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19 Dated: August 6, 2021

RAINES FELDMAN LLP

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By: /s/ David Castleman

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David Castleman
Attorney for Receiver Kathy Bazoian Phelps

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¹ This motion is filed as an administrative motion as the Court already approved a nearly identical creation of the Palantir Administrative Reserve, and none of the over 200 Palantir claimants opposed that motion. (Dkt. No. 642.) As the Plan already permits an administrative cash reserve generally and an administrative stock reserve (*see* Dkt. No. 570.1), the creation of additional administrative reserves to be held as cash is consistent with the Plan. In order to expedite the distribution of the remaining shares to claimants, the Receiver has elected to file this Motion as an administrative motion under Local Civil Rule 7-11.