

1 **RAINES FELDMAN LITTRELL LLP**
Kathy Bazoian Phelps (State Bar No. 155564)
2 *kphelps@raineslaw.com*
1900 Avenue of the Stars, Suite 1900
3 Los Angeles, California 90067
Telephone: (310) 440-4100
4 Facsimile: (310) 691-1943

5 *Successor Receiver*

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

11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 v.

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

17 Defendants. and

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

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

**MOTION BY RECEIVER KATHY
BAZOIAN PHELPS FOR ORDER
AUTHORIZING: (1) EMPLOYMENT
OF BROKER; (2) SALE PURSUANT
TO 28 U.S.C. § 2004 OF SHARES OF
ADDEPAR, INC.; AND (3)
MODIFICATION OF THE
DISTRIBUTION PLAN**

[No Hearing Set]

1 Kathy Bazoian Phelps, the successor receiver (the “Receiver”) of SRA Management
2 Associates, LLC; SRA I, LLC (“SRA I”); SRA II, LLC; SRA III, LLC; Clear Sailing Group
3 IV, LLC; Clear Sailing Group V, LLC; Felix Multi-Opportunity Fund I, LLC; Felix Multi-
4 Opportunity Fund II, LLC (“Felix II”); Felix Management Associates, LLC; NYPA Fund I,
5 LLC; NYPA Fund II, LLC; NYPA Management Associates, LLC; and Solis Associates Fund
6 LLC (collectively, the “Receivership Entities”, and their estates the “Receivership Estate”),
7 hereby files this Motion for an Order Authorizing: (1) Employment of Broker; (2) Sale
8 Pursuant to 28 U.S.C. § 2004 of Shares of Addepar, Inc. (“Addepar”); and (3) Modification of
9 the Distribution Plan (the “Motion”).¹

10 I. INTRODUCTION

11 The Receiver seeks authority to liquidate the 1,029,298 shares of Addepar, Inc. (the
12 “Addepar Shares”) registered in the name of two entities of the Receivership Estate, SRA I
13 and Felix II, 33,789 shares of which belong to Equity Acquisition Co., Ltd. pursuant to a prior
14 settlement agreement. The other 995,509 shares belong to Receivership Estate. The Receiver
15 proposes to sell the Addepar Shares pursuant to 28 U.S.C. § 2004 at a price of \$1.94 per share.
16 The Receiver has performed substantial due diligence as set forth below and in her declaration,
17 and she believes that the price obtained is fair and in the best interests of the estate.

18 The Motion seeks the following relief:

- 19 1. Authority to employ EquityZen Securities LLC (“EquityZen”) as broker and
20 approval of the EquityZen Seller Placement Agreements attached to the Declaration
21 of Kathy Bazoian Phelps as Exhibits “2” and “3”;
- 22 2. Approval to sell the Addepar Shares on the secondary market for a gross price of
23 not less than \$1.94 per share and for a commission of 4%;
- 24 3. Approval of the form of the Notice of Transfer and Addepar Stock Transfer

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26 ¹ The Notice of Motion, the Motion, and supporting documents will be served on all interested
27 parties pursuant to Civil Local Rule 66-6 and will be posted on the Receivership website. The
28 Receiver has conferred with counsel for the Securities and Exchange Commission (the “SEC”) and the Investor Advisory Committee (the “IAC”), who each do not oppose the Motion.

1 Agreement (“STA”) attached to the Phelps Declaration as Exhibits “4” and “5” and
2 authorization to sign the Notice and STA in substantially the same form relating to
3 the proposed sale.

- 4 4. Approval of the sale of 33,789 of the Addepar Shares which are to be transferred
5 to Equity Acquisition Company, Ltd. (“EAC”) pursuant to a settlement agreement
6 dated as of January 6, 2020 (Dkt. No. 547-2), approved by this Court on January
7 15, 2020 (Dkt. No. 550) (the “EAC Settlement”), and payment of the net proceeds
8 of such sale to EAC after deduction of the amount paid for commissions that are
9 attributable to such sale.
- 10 5. Approval for the Receiver to execute all documents necessary to consummate the
11 sale transaction and to pay any and all customary and reasonable fees associated
12 with that transaction.
- 13 6. Authorization to pay all tax liability associated with the sale of the Addepar Shares.
- 14 7. Approval of the modification of the Distribution Plan entered in this case by Order
15 entered on May 25, 2020 (Dkt. No. 613) only as necessary to sell the Addepar
16 Shares and to hold the net proceeds in a reserve account for the benefit of the
17 Addepar investors, subject to all other terms of the Plan.

18 **II. PROCEDURAL HISTORY**

19 1. On October 11, 2016, the Court entered a Temporary Restraining Order and
20 Order to Show Cause why Preliminary Injunction Should Not Be Granted (the “TRO”). Dkt.
21 No. 142. Pursuant to the TRO, Sherwood Partners was appointed as the temporary receiver
22 over the assets of the Receivership Entities.

23 2. The TRO provided “[u]pon further Order of this Court, pursuant to such
24 procedures as may be required by this Court and additional authority such as 28 U.S.C. §§
25 2001 and 2004, the Receiver will be authorized to sell, and transfer clear title to, all real
26 property in the Receivership Estates.” Dkt. No. 142, at 10.

27 3. Pursuant to the Revised Order Appointing Receiver entered on February 27,
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1 2019, Kathy Bazoian Phelps was appointed as the successor receiver over the Receivership
2 Entities (Dkt. No. 469). Pursuant to Minute Order entered on June 27, 2019, Solis Associates
3 Fund was substantively consolidated with the Receivership Entities.

4 4. The Court approved the Distribution Plan (Dkt. No. 570-1), with the possibility
5 for potential future adjustments including those relating to Failed Investment claims, and an
6 Amended Order was entered on May 25, 2020 (Dkt. No. 613) (“the Plan”).

7 5. On November 24, 2021, the Receiver moved the Court for authority to
8 consummate a proposed transaction by which the estate would sell 96,108 shares in Evernote
9 Corp. (“Evernote”) to EAC for \$1 per share (Dkt. No. 670) (the “Evernote Motion”). Because
10 Evernote was not yet a Successful Investment under the Plan, nor was it a Failed Investment
11 under the Plan, the proposed sale of the estate’s position in Evernote was a modification to the
12 Plan. The Receiver requested that the Court authorize the Receiver to close the contemplated
13 transaction, pay all relevant fees and commissions, hold the proceeds from the Evernote sale
14 in a separate account, and discharge the estate’s obligation with respect to Evernote under the
15 EAC Settlement. *See* Dkt. No. 550. The Evernote Motion was approved by Order entered on
16 December 10, 2021 (Dkt. No. 674).

17 6. The Receiver filed a Motion to Modify the Plan on July 27, 2023 to address the
18 open issues in the Plan, the known tax consequences, the determination of deficiency claims,
19 and the priorities of distributions (Dkt. No. 704). The Receiver requested further modification
20 to the Plan related to Evernote in the Motion to Modify the Plan, as contemplated in the
21 Evernote Motion.

22 7. On October 31, 2023, the Court granted the Receiver’s Motion to Modify the
23 Plan in its entirety (Dkt. No. 716).

24 8. The estate continues to hold shares in three pre-IPO securities (Addepar, Inc.,
25 Lookout, Inc., and ZocDoc, Inc.).

26 9. The Receiver files this Motion to monetize the Addepar securities and seeks
27 authorization to sell them and modify the Plan in a similar fashion to what the Court approved

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1 for the sale of Evernote securities.

2 **III. BACKGROUND AND PROPOSED TRANSACTION**

3 **A. The Addepar Shares**

4 Addepar has confirmed that 427,077 shares are registered in the name of SRA I and
5 602,221 shares in the name of Felix II. *See* Exhibit “1” to Phelps Decl. The total Addepar
6 Shares reflected as being owned by Receivership Entities on the Addepar capitalization table
7 are:

Entity Held by	Shares	Type	Class Designation
SRA I, LLC	427,077	Preferred	Preferred B
Felix Multi-Opportunity Fund II, LLC	602,221	Preferred	Preferred B
Total	1,029,298		

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11 The Receiver has consulted with counsel for Addepar, who has advised on Addepar’s
12 procedures for the consummation of the contemplated transaction (described in Section IV
13 below). Addepar requires a payment of transaction fees of \$3,500 per transaction, which is to
14 be paid by the Buyers.

15 The Motion seeks approval for the Receiver to execute all documents necessary to
16 consummate the contemplated transaction and to pay all reasonable fees associated with that
17 transaction, including any legal fees that Addepar may charge to finalize the transaction, which
18 the Receiver is advised should not cost more than a total of \$5,000.

19 **B. EAC’s Portion of Addepar Shares**

20 Of these Addepar Shares, 33,789 shares belong to EAC pursuant to the settlement
21 between the Receiver and EAC dated as of January 6, 2020 (Dkt. No. 547-2), approved by this
22 Court on January 15, 2020 (Dkt. No. 550). The estate is required to deliver 33,789 shares of
23 Addepar to EAC (the “EAC Shares”) upon the occurrence of a liquidity event that would also
24 permit the Receiver to distribute the shares pursuant to the Plan. The remaining 995,509 shares
25 of Addepar belong to the estate.

26 EAC has agreed that the Receiver can sell the EAC Shares in the current transaction,
27 and so the Receiver requests authority to transfer all 1,029,298 shares from SRA I and Felix II
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1 to Buyers. *See* Phelps Decl. ¶ 7. In order to satisfy the Receiver’s obligations under the EAC
2 Settlement, the Receiver seeks authority to pay EAC for the EAC Shares following the sale net
3 of any commissions that need to be paid. After deducting the commission of \$2,622.03 (4% of
4 \$65,550.66), the net amount to be paid to EAC will be \$62,928.62.

5 **C. Engagement of Broker for Sale**

6 The Receiver conferred with the top three brokers for the sale of securities on the
7 secondary market. She discussed the market value of the shares and commission structure with
8 each of the brokers. Two of the three brokers were able to identify buyers, and the commission
9 rates requested initially ranged from 3.5% to 5%. The Receiver negotiated extensively
10 regarding the sale of the 1,029,298 shares of Addepar, and ultimately reached terms with
11 EquityZen, which had identified two buyers that would purchase all of the Addepar shares for
12 \$1.94 per share (the “Buyers”). *See* Phelps Decl. ¶ 8. EquityZen agreed to a 4% commission.
13 *Id.* Attached as Exhibits “2” and “3” to the Phelps Declaration are true and correct copies of
14 the Seller Placement Agreements with EquityZen.

15 The Receiver communicated with in house counsel for Addepar to vet the different
16 brokers, and Addepar advised that it frequently does business with EquityZen and
17 recommended EquityZen as a broker for this transaction. *See* Phelps Decl. ¶ 8.

18 **D. The Buyers**

19 The Receiver is advised that the Buyers already own shares of Addepar and are already
20 on the capitalization table of Addepar. Phelps Decl. ¶ 10. The Receiver is advised that one of
21 the Buyers is a US based individual, qualified purchaser, and the other is a US based venture
22 capital firm. *Id.* The Buyers are disinterested third parties who do not have an affiliation with
23 the Receivership Estate or the Receivership Entities. *Id.* The Buyers’ names have been redacted
24 from the form Notice and STA for confidentiality purposes. *Id.*

25 **E. Tax Consequences of Sale of Addepar Shares**

26 The Receiver believes that there will be tax consequences to the sale of the Addepar
27 Shares. Oxis Capital, the valuation experts previously retained by the Receiver by Order dated
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1 March 9, 2020 (Dkt. No. 577), estimated the value of the Addepar Shares as of the date of the
2 commencement of the Receivership to be \$1.18 per share. Since the sale will be at \$1.94 per
3 share, there will be associated tax liability in connection with this gain. Phelps Decl. ¶ 20.

4 Although there may be some tax liability associated with the sale of the Addepar
5 Shares, including the EAC Shares, due to the fact that they are part of the qualified settlement
6 fund (“QSF”) established in this case, the Receiver has agreed to pay all tax liability associated
7 with the sale of the Addepar Shares, including the EAC Shares. Phelps Decl. ¶ 20. EAC has
8 advised that its investors paid the price of \$2 per share for the EAC Shares and does not believe
9 that reduction in the proceeds to be paid to it should be reduced for the estate’s tax liability. *Id.*
10 The Receiver has calculated that the amount of tax liability that might be attributed to the sale
11 of the EAC Shares approximately \$11,770 based on the cost basis amount of \$1.18 per share.
12 The Receiver’s accountants have calculated that amount as follows: the gross tax on \$25,680
13 gain (33,789 shares at \$0.76/share gain) would be approximately \$9,500 federal and \$2,270
14 for California. *Id.* Additionally, deductible fund expenses will reduce the income upon which
15 the QSF will pay tax overall. *Id.*

16 **F. Sales Price of Addepar Shares**

17 The Receiver also performed a substantial amount of due diligence concerning the
18 market price for pre-IPO shares, including consulting with multiple brokers who transact pre-
19 IPO securities on the secondary market. The Receiver conferred with three of the top brokers
20 in the industry regarding pre-IPO sales on the secondary market. Phelps Decl. ¶15. She first
21 began specific discussions about the market price for Addepar shares in November 2023 and
22 was advised that the market price was around \$1.35 per share. *Id.* She has continued to follow
23 the market and saw the price rise to a range of \$1.60 to \$1.80 per share. *Id.* The brokers have
24 shared with her their most recent sale transactions, the highest of which was \$1.95 per share.
25 *Id.* The Receiver also contacted in house counsel at Addepar to inquire about the possible direct
26 purchase of the shares by Addepar. *Id.* Addepar does not have a direct purchase program, but
27 counsel did confirm that the brokers that the Receiver was speaking with were reputable and
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1 active in Addepar stock sales. *Id.* Counsel also confirmed that recent trades of Addepar were
2 taking place in the \$1.60 to \$1.90 per share. *Id.*

3 The Receiver has engaged in numerous discussions and emails with the three brokers
4 and, as a result, two offers were obtained for the price of \$1.94 per share. Phelps Decl. ¶16.
5 The commissions that she was initially quoted were 3.5% to 5% of the gross sales price. *Id.*

6 **G. Addepar Investors**

7 The Receiver contemplates segregating the net proceeds of the sale of the Addepar
8 Shares for the benefit of the Addepar Investors, who are designated as Class 4A in the
9 Distribution Plan. Any further modification of the Plan with respect to the distribution of the
10 Addepar sale proceeds will be the subject of a separate motion, including any issues relating
11 to any Plan Fund contribution and applicability of deficiency claims.

12 **IV. SECONDARY TRANSACTION PROCESS ESTABLISHED BY ADDEPAR**

13 The Receiver has conferred with Addepar directly regarding the process to sell pre-IPO
14 shares of Addepar. As set forth in the Sperling Declaration filed concurrently herewith, the
15 process is as follows.

16 Secondary transactions at Addepar refer to the process whereby existing shareholders
17 of Addepar sell their shares to third parties. Sperling Decl. ¶ 4. This process is designed to
18 provide liquidity to shareholders while maintaining compliance with relevant laws and
19 regulations. *Id.* Shareholders wishing to engage in secondary transactions must be current
20 holders of vested shares of Addepar (*i.e.* options or unvested restricted shares are non-
21 transferrable), but there is no prior approval requirement in order to transact. *Id.* ¶ 5. Buyers
22 in secondary transactions must be accredited investors under Securities and Exchange
23 Commission guidance given that the shares are not registered for public offering. *Id.* ¶ 6.

24 The secondary transaction process begins with the shareholder submitting a notice of
25 proposed transfer to Addepar (via email to Addepar's equity team and/or the Addepar
26 secondary transfer support team at the law firm of Gunderson Dettmer Stough Villeneuve
27 Franklin & Hachigian, LLP). Sperling Decl. ¶ 7. The form of the Notice is attached to the
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1 Phelps Declaration as Exhibit “4.” The request must include the number of shares to be sold,
2 the proposed buyer, and the proposed sale price. *Id.* Addepar and/or its outside counsel review
3 the request to ensure conformity with Addepar requirements. *Id.* ¶ 8. Provided that the notice
4 appears accurate and complete, Addepar has 30 days to decide whether to exercise (directly or
5 via assignment) its Right of First Refusal over the shares or waive said right. *Id.* ¶ 9. Because
6 the estate’s interest is in Preferred Shares, Addepar does not have a Right of First Refusal.

7 Once the transaction is approved, Addepar facilitates the transfer of shares by providing
8 each party a draft Stock Transfer Agreement for review and ultimately execution (execution to
9 take place within 60 days of submission of the notice of proposed transfer). Sperling Decl. ¶
10 10. A copy of the draft form of Stock Transfer Agreement is attached to the Phelps Declaration
11 as Exhibit “5.” Payment for the shares is typically handled directly by the transacting parties,
12 with the seller confirming receipt of funds prior to Addepar recording the transaction as closed
13 on its capitalization table. *Id.* ¶ 11.

14 Following the completion of the transaction, Addepar records the transaction on its
15 capitalization table and provides an electronic certificate number and statement of ownership
16 to the buyer. Sperling Decl. ¶ 13.

17 The process outlined above will be applied to the sale of shares/assets by the Receiver
18 in her capacity as Receiver for SRA I and Felix II. Sperling Decl. ¶ 14. Addepar will work
19 closely with the Receiver to ensure that the transaction is conducted in accordance with
20 Addepar standard procedures as outlined above. *Id.*

21 **V. THE CONTEMPLATED TRANSACTION IS IN THE BEST INTERESTS OF**
22 **THE RECEIVERSHIP ESTATE**

23 Under 28 U.S.C. § 2004, a receiver has broad discretion to sell the personalty of the
24 Receivership Estate so long as the court so orders. *See SEC v. Am. Cap. Invs., Inc.*, 98 F.3d
25 1133, 1144 (9th Cir. 1996) (approving receiver’s decision to sell receivership estate property),
26 *abrogated on other grounds by Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83 (1998);
27 *SEC v. Champion-Cain*, No. 3:19-CV-1628-LAB-AHG, 2021 WL 2104962, at *2 (S.D. Cal.

1 May 25, 2021) (same); *see also SEC v. Elliot*, 953 F.2d 1560, 1566 (11th Cir. 1992)
2 (authorizing receiver’s disposal of receivership assets). The Ninth Circuit has explained that
3 the Court’s power to approve such a sale derives from its broad equitable and supervisory
4 powers: “It is generally conceded that a court of equity having custody and control of property
5 has power to order a sale of the same in its discretion. The power of sale necessarily follows
6 the power to take possession and control of and to preserve property, resting in the sovereignty
7 and exercised through courts of chancery, or courts having statutory power to make the sale.”
8 *Am. Cap. Invs.*, 98 F.3d at 1144 (quoting 2 Clark on Receivers § 482 (3d ed. 1992) (emphasis
9 omitted)); *see also Liberte Capital Group LLC v. Capwill*, 462 F.3d 543, 551 (6th Cir. 2006)
10 (district court presiding over an equity receivership exercises the traditional, common law
11 powers of equity and, therefore, has broad powers in fashioning relief).

12 The Court also has wide discretion to set the terms and procedures used to sell personal
13 property so as to maximize the proceeds from such sales. *See U.S. v. Stonehill*, 83 F.3d 1156,
14 1160 (9th Cir. 1996) (holding that district court had discretion under § 2004 to tailor
15 requirements for selling personal property). The Court may also “make rules which are
16 practicable as well as equitable.” *SEC v. Hardy*, 803 F.2d 1034, 1039 (9th Cir. 1986). In
17 determining whether to approve a sale, the Court should consider the unique facts and
18 circumstances surrounding the proposed sale, including the precarious financial condition of
19 the assets being sold. *See, e.g., Tanzer v. Huffines*, 412 F.2d 221, 222-23 (3d Cir. 1969)
20 (approving expedited sale in absence of financial appraisal and limited notice in light of
21 corporation’s deteriorating financial condition).

22 Moreover, if the Court is satisfied that a proposed sale is in the best interest of the
23 estate, it need not require that the Receiver satisfy the precise procedures set forth in 28 U.S.C.
24 § 2001, especially if those procedures are onerous in light of the circumstances. Section 2001
25 requires that for the sale of real property, (i) the property may be sold in a public auction sale;
26 or (ii) the property may be sold in a private sale, but there must be three separate appraisals
27 conducted, the terms must be published in a circulated newspaper 10 days prior to sale, and
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1 the sale price must be no less than two-thirds of the valued price. Section 2004, on the other
2 hand, permits the sale of personal property in accordance with the Section 2001 real property
3 rules, “unless the court orders otherwise.” 28 U.S.C. § 2004 (emphasis added); *see FTC v.*
4 *Consumer Defense, LLC*, No. 2:18-CV-30 JCM (PAL), 2019 WL 266287, at *4 (D. Nev. Jan.
5 18, 2019) (authorizing sale of personal property using commercially reasonable sales methods
6 pursuant to Section 2004 after considering nature of asset and desire to preserve return for
7 estate) (citing *SEC v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th Cir. 2005)); *FTC v.*
8 *Universal Premium Services, Inc.*, No. 06-0849 SJO (OPx), 2006 WL 8442136, at *4 (C.D.
9 Cal. June 8, 2006) (approving sale of certain personal property and exercising discretion
10 pursuant to § 2004 to approve alternative procedures proposed by receiver because complying
11 with § 2001 would be “burdensome, time consuming, and expensive for the receivership
12 estate”).

13 The Receiver requests that the Court approve the contemplated transaction pursuant to
14 Section 2004, without the need for compliance with Section 2001 real property rules, as in the
15 best interests of the Receivership Estate. *See* 28 U.S.C. §§ 2001, 2004. The Receiver and her
16 counsel have spent substantial time attempting to ascertain the private market for the sale of
17 the pre-IPO securities remaining in the estate, working with multiple brokers who specialize
18 in these markets. Obtaining appraisals of these securities, which would essentially require
19 appraising Addepar itself, is not a practical possibility, the cost of which would far outweigh
20 the value of the shares. The Receiver’s valuation professional valued Addepar shares at \$1.18
21 per share as of October 2016. Phelps Decl. ¶ 20. The Receiver is advised that last round of
22 funding for Addepar was in December 2021 and reflected a value of \$2.65 per share. Phelps
23 Decl. ¶ 18. Addepar raised about \$170 million at an approximate \$2.1 billion valuation. *Id.*
24 The Receiver has received valuation estimates for trades on the secondary market from three
25 brokers and from Addepar itself based on recent trading activity, and the price of \$1.94 per
26 share appears slightly higher than the price range that the shares are otherwise trading. *Id.*

27 Moreover, dispensing with the requirement that the shares be disposed of in a public
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1 auction or after a published advertisement, which might have to be done by a registered broker
 2 dealer in order to comply with the securities laws, avoids the additional expense of such an
 3 auction or the need to resolve any conflict between the requirements of Section 2004 and the
 4 application of federal securities laws and regulations.

5 The Receiver is further satisfied that the contemplated transaction complies with
 6 applicable securities laws and regulations. The Receiver has consulted with her securities
 7 counsel who has approved all of the documentation relating to the transaction. Phelps Decl. ¶
 8 25. The Receiver is advised that the sale is permissible under Section 4(a)(1) of the Securities
 9 Act of 1933. *See* 15 U.S.C. § 77d(a)(1) (exempting “transactions by any person other than an
 10 issuer, underwriter, or dealer”). The Receiver is not the issuer of Addepar shares, nor is the
 11 Receiver an underwriter within the meaning of 15 U.S.C. § 77b(a)(11) or 17 C.F.R. § 230.144
 12 (commonly known as Rule 144), nor is the Receiver a dealer within the meaning of 15 U.S.C.
 13 § 77b(a)(12). The sale is also permissible under Section 4(a)(7) of the Securities Act of 1933,
 14 as the Buyers have represented to Addepar that they are accredited investors, *see* 15 U.S.C. §
 15 77d(a)(7) (exempting certain transactions involving accredited investors).

16 Based on the Receiver’s due diligence into the potential price of Addepar and the fact
 17 that both the purchasers and the issuer are acting in good faith, the Receiver believes that
 18 approval of the contemplated transaction is in the best interest of the estate. Even after costs,
 19 there is a substantial chance that any future transaction of Addepar would not be able to realize
 20 close to \$1.94 per share in total value. Phelps Decl. ¶ 19.

21 **VI. MODIFICATION OF THE PLAN REGARDING CONTRIBUTION TO THE**
 22 **PLAN FUND**

23 The Plan contemplates a contribution of 30% of the gross investment in a security to
 24 the Plan Fund for IPO shares, as a precondition for distribution after such security becomes a
 25 Successful Investment.² For Addepar, if this were a sale of a Successful Investment defined in
 26 the Plan, that contribution would be “30% of the gross amounts invested by the Investor

27 _____
 28 ² Capitalized terms not otherwise defined in the Motion have the same meaning as in the Plan.

1 Claimants.” Dkt. No. 570-1 at 15.

2 As set forth above, the Receiver believes that the contemplated transaction is the best
3 way to maximize the value of the estate’s holdings in Addepar. Phelps Decl. ¶ 22. But that
4 does not mean that the contemplated transaction turns Addepar into a Successful Investment
5 within the meaning or the equities of the Plan. Nor does that make Addepar a Failed
6 Investment, as the estate will still realize value from the sale.

7 The investors’ investments into Addepar through the Receivership Entities were
8 purchased at a price of \$1.00 to \$2.00 per share. Phelps Decl. ¶ 23. Of the 46 investors, 32 of
9 them paid \$1.00 per share, 13 paid \$2.00 per share, and one investor paid \$0.60 per share. *Id.*
10 Each of those investors also paid an upfront cost to acquire the shares. *Id.* Given the small
11 margins for some, and the loss for others, the Receiver does not believe it is appropriate or
12 necessary to withhold \$345,205.31 (30% of their gross investment) for these investors to fund
13 the Plan Fund. *Id.* The Plan Fund appears sufficient at this time to pay the Class 3 general
14 unsecured creditors in full, and each other class of investor claims is holding a reserve for
15 unanticipated tax claims. *Id.* Therefore, the Receiver proposes segregating the full amount of
16 the net sales proceeds of \$1,854,035.96 for the benefit of the Addepar investors. *Id.*, ¶ 17.

17 **VII. CONCLUSION**

18 The Receiver respectfully requests that the Court authorize the Receiver: (1) to engage
19 EquityZen as her broker; (2) to execute all documents necessary to close the contemplated
20 transaction; (3) to pay all relevant fees and commissions; (4) to pay EAC for its shares under
21 the EAC Settlement net of commissions; (5) to discharge the estate’s obligation with respect
22 to Addepar under the EAC Settlement; and (6) to modify the Distribution Plan to allow for the
23 sale and for the Receiver to hold the proceeds from the Addepar sale in a separate account. The
24 Receiver requests all other appropriate relief.

25 Dated: October 11, 2024

RAINES FELDMAN LITRELL LLP

26
27 By: /s/ Kathy Bazoian Phelps
Kathy Bazoian Phelps
28 Successor Receiver