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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
12 COMMISSION,

13 Plaintiffs,

14 v.

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

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

**ADMINISTRATIVE MOTION FOR
ORDER PURSUANT TO LOCAL
RULE 7-11 TO SHORTEN TIME FOR
NOTICE ON MOTION FOR AN
ORDER AUTHORIZING: (1) SALE
PURSUANT TO 28 U.S.C. § 2004 OF
SHARES OF LOOKOUT, INC.; AND (2)
MODIFICATION OF THE
DISTRIBUTION PLAN**

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

1 Kathy Bazoian Phelps, the successor receiver (the “Receiver”) of SRA Management
2 Associates, LLC, SRA I, LLC, SRA II, LLC, SRA III, LLC, SRA Management Associates,
3 Clear Sailing Group IV, LLC (“CSG IV”), 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 (collectively, the “Receivership Entities” and their
7 estates, the “Receivership Estate”), hereby files this Administrative Motion (“Administration
8 Motion”) under Local Civil Rule 7-11 for Order to Shorten Time for Hearing on Motion for
9 an Order Authorizing: (1) Sale Pursuant to 28 U.S.C. § 2004 of Shares of Lookout, Inc.
10 (“Lookout”); and (2) Modification of the Distribution Plan (the “Lookout Motion”) pursuant
11 to Local Civil Rule 6-3.¹

12 **I. Introduction**

13 This Administrative Motion requests that the Court shorten the time for notice on the
14 Lookout Motion to permit the Receiver to move forward with the sale of certain shares of
15 Lookout that are held by the estate. The Receiver requests a hearing date of December 5 or
16 12, 2024, so that she is able close the sale of a transaction in 2024 to obtain a substantial tax
17 benefit for the estate. The Receiver believes that it is in the best interest of the Receivership
18 Estate to close this transaction in 2024 so that the estate can offset the losses against the gains
19 arising from the recent sale of the shares of Addepar Inc. held by the estate. The Receiver
20 also seeks to close this transaction before year end to trigger the commencement of the tax
21 review period earlier, thereby enabling distribution to investors sooner.

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25 ¹ The Administration Motion and the Lookout Motion and all supporting documents will be
26 served on all interested parties pursuant to Civil Local Rule 66-6 and will be posted on the
27 Receivership website at <https://www.raineslaw.com/saddle-river-receiver/>. The Receiver has
28 conferred with counsel for the Securities and Exchange Commission and the Investor
Advisory Committee, who each do not oppose the Lookout Motion. 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).

II. Statement of Facts

The Receiver has filed the Lookout Motion concurrently herewith, in which she seeks authority to sell the Receivership Estate's economic interest in 106,237 shares of Lookout Preferred Stock and 106,237 shares of Lookout Common Stock (the "Lookout Shares") and to modify the Distribution Plan approved by this Court (Dkt. No. 613) (the "Plan") only as necessary to sell the Lookout Shares and to hold the proceeds in a separate account for the benefit of the Lookout investors, subject to all other terms of the Plan. The Receiver proposes to sell the Lookout Shares pursuant to 28 U.S.C. § 2004 at a price of \$0.11 per share for the economic interest in the Lookout Preferred Stock and \$0.09 per share for the economic interest in the Lookout Common Stock. The Receiver is advised there will be a tax loss of approximately \$2.1 million associated with this sale, and that this tax loss will offset the tax consequences from the sale of the Addepar, Inc. shares that took place in 2024 as well, with a combined tax savings of approximately \$358,000. The Receiver proposes to allocate the amount of savings from this tax loss to the Lookout investors and seeks to modify the Plan to do so. The Receiver has performed substantial due diligence, and she believes that the price obtained is fair and in the best interests of the estate, given the tax savings.

The Receivership Estate came into the Lookout Shares through a forward contract that has significant restrictions (the "Forward Contract"). In 2014, prior to the initiation of the receivership in this case, Landon Capital Management LLC ("Landon") entered into a contract (the "Forward Contract") with a counterparty (the "Counterparty") to purchase the beneficial interest in the Lookout Shares. Under the Forward Contract, the Counterparty received the purchase price and was to remain the record owner of the Lookout Shares while certain transfer restrictions remained in effect, or upon Landon's request and with Lookout's permission, the Lookout Shares could be transferred to Landon. Also in 2014, CSG IV entered into an agreement with Chasm Capital Group LLC, the sole member of Landon, to acquire a 100% membership interest in Landon. Accordingly, CSG IV is the owner of

1 Landon and therefore the owner of the Lookout Shares. In 2016, CSG IV was placed into this
2 receivership, and the Receivership Estate succeeded to CSG IV's interest in the Forward
3 Contract.

4 The Receiver conferred with the top three brokers for the sale of securities on the
5 secondary market and has been advised that she is unable to sell the Lookout Shares on the
6 secondary market, and there is presently not a market for the Lookout Shares. The Receiver
7 has engaged in discussions over a several year period with the Counterparty about
8 repurchasing the economic interest in the Lookout Shares from the estate. The Counterparty
9 has unfortunately passed away, but his widow desires to repurchase the economic interest in
10 the Lookout Shares (the "Purchaser"). The Receiver has engaged in an arms-length
11 negotiation with the Purchaser to arrive at an agreed upon purchase price, and the parties
12 have documented their agreement in the Repurchase Agreement the Receiver seeks approval
13 of in the Lookout Motion.

14 Of the total Lookout Shares, 37,676 shares belong to Equity Acquisition Company
15 Ltd. ("EAC") pursuant to the settlement between the Receiver and EAC dated as of January
16 6, 2020 (Dkt. No. 547-2), approved by this Court on January 15, 2020 (Dkt. No. 550). The
17 estate is required to deliver 37,676 shares of Lookout to EAC (the "EAC Shares") upon the
18 occurrence of a liquidity event that would also permit the Receiver to distribute the shares
19 pursuant to the Plan. EAC has agreed that the Receiver can sell the EAC Shares in the
20 proposed transaction.

21 The Purchaser is an individual who is the executor of the Counterparty's estate. The
22 Forward Contract provided that the rights and obligations of the transaction parties will be
23 binding upon and inure to the benefit of their respective successors, assigns, heirs, executors,
24 administrators, and legal representatives. The Purchaser therefore continues to own the
25 interest in the Lookout Shares but is contractually obligated to deliver them to the Receiver if
26 and when Lookout has a public offering. Accordingly, the Lookout Shares will not actually
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1 change hands; rather, the economic interest under the Forward Contract will merely be
2 returned in exchange for the payment of \$21,247.40.

3 The Receiver contemplates segregating the net proceeds of the sale of the Lookout
4 Shares for the benefit of the Lookout investors and to allocate the benefit to the estate from
5 the tax loss to the Lookout investors, who are designated as Class 4G in the Distribution
6 Plan. Any further modification of the Plan with respect to the distribution of the Lookout sale
7 proceeds will be the subject of a separate motion, including any issues relating to any Plan
8 Fund contribution and applicability of deficiency claims.

9 **III. Basis of Shortened Time Request**

10 The Receiver has identified a possibility for monetizing the Lookout Shares the estate
11 continues to hold, and can substantially increase the value to the estate if the sale is closed in
12 2024 to gain the benefit to the estate from the tax loss that can be offset against gains
13 generated in 2024.

14 The Receiver is advised that there will be positive tax consequences to the sale of the
15 Lookout Shares. Oxis Capital, the valuation experts previously retained by the Receiver by
16 Order dated March 9, 2020 (Dkt. No. 577), estimated the value of the Lookout Shares as of
17 the date of the commencement of the Receivership to be \$10 per share. Since the sale will be
18 at \$0.11 per share for the economic interest in the Lookout Preferred Stock and \$0.09 per
19 share for the economic interest in the Lookout Common Stock, the Receiver is advised there
20 will be a tax loss of approximately \$2.1 million associated with this sale. The Receiver is
21 advised that this tax loss will offset the tax consequences from the sale of the Addepar, Inc.
22 shares that took place in 2024 as well, with a combined tax savings of approximately
23 \$358,000. As such, the Receiver proposes to allocate the amount of savings from this tax loss
24 to the Lookout investors and seeks to modify the Plan to do so.

25 The Receiver is concerned about the end of the year quickly approaching and closing
26 out the sale before year end so that the taxable transactions can be reported on the 2024
27 return in order to obtain the tax benefit. Additionally, the Receiver seeks to close this
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1 transaction before year end to trigger the commencement of the tax review period earlier,
2 thereby enabling distribution to investors sooner. The Receiver therefore requests shortened
3 notice on the Lookout Motion that she has filed concurrently.

4 In an effort to maximize returns for the investors, the Receiver believes that
5 proceeding on a shortened time basis is in the best interest of all interested parties. The
6 Receiver is not aware of any opposition to the proposed sale transaction and does not believe
7 that any interested party will suffer any prejudice from shortened time.

8 The Receiver requests a shortened notice period and suggests a hearing date of
9 December 5 or 12, 2024. The Lookout Motion was filed on November 27, 2024.

10 A proposed order on this Administrative Motion has been lodged concurrently. The
11 Receiver suggests the following schedule relating to the Lookout Motion:

- 12 1. The hearing be set for December 5 or 12, 2024.
- 13 2. Any opposition to the Lookout Motion must be filed and served no later than
14 4 days prior to the hearing date.
- 15 3. Any reply to any opposition to the Lookout Motion shall be submitted at the
16 time of hearing on the Lookout Motion.

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18 **WHEREFORE**, the Receiver respectfully seeks entry of an order granting this
19 Motion to shorten time for notice on the Lookout Motion and for all other appropriate relief.
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21 Dated: November 27, 2024

RAINES FELDMAN LITRELL LLP

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By: /s/ Kathy Bazoian Phelps
Kathy Bazoian Phelps
Successor Receiver

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