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Successor Receiver

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

ADMINISTRATIVE MOTION PURSUANT TO LOCAL RULE 7-11 FOR ORDER AUTHORIZING DISTRIBUTION TO FORTUNA FUNDS INVESTORS

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

Kathy Bazoian Phelps, the successor receiver (the "Receiver") of SRA Management Associates, LLC, SRA I, LLC, SRA II, LLC, SRA III, LLC, SRA Management Associates, Clear Sailing Group IV, LLC, Clear Sailing Group V, LLC, Felix Multi-Opportunity Fund I, LLC, Felix Multi-Opportunity Fund II, LLC, Felix Management Associates, LLC, NYPA Fund I, LLC, NYPA Fund II, LLC, NYPA Management Associates, LLC and Solis Associates Fund LLC, hereby files this Administrative Motion Pursuant to Local Civil Rule 7-11 for Order Authorizing Distribution to Fortuna Funds Investors (the "Motion").[1]

I. Introduction and Basis for Motion

On April 17, 2025, the Court entered an Order (Dkt. No. 764 (the "Distribution Order")) granting the Receiver's Motion for an Order Authorizing: (1) Final Distribution to Class 3 Unsecured Creditors; (2) Third Interim Distribution to Class 4 Investors; (3) First Interim Distribution to Class 6A and 6B Investors; (4) Allowance of Remaining Failed Investment Claims; and (5) Extension of Time to Complete Distributions (Dkt. No. 763 (the "Distribution Motion")).

The Distribution Order authorizes the Receiver to make an interim distribution to Class 4 Investors pursuant to the distribution schedules attached as Exhibits "2" through "11" to the Declaration of the Receiver in support of the Distribution Motion (the "Distribution Schedules"). Dkt. No. 763-1. One of the Class 4 Investors is Fortuna Fund I and II LLC ("Fortuna Funds"), Investor ID No. 286. Fortuna Funds is now a defunct entity so the Receiver is unable to make a distribution directly to Fortuna Funds. However, the Receiver has information regarding the identity of the investors into Fortuna Funds and the amounts of their investments.

In this Motion, the Receiver seeks authorization to make a distribution to the investors of Fortuna Funds in lieu of directly to the Fortuna Funds.

[1] The Receiver has conferred with counsel for the Securities and Exchange Commission ("SEC") who does not oppose the 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

Stephen Soler submitted an amended claim form on behalf of the Fortuna Funds on October 30, 2019 (the "Amended Claim Form"). The Receiver has tried to contact Stephen Soler on behalf of Fortuna Fund I and II LLC. The Receiver has been unable to reach Stephen Soler, and is informed that the Fortuna Funds are out of business.

The Receiver believes the best course of action is to make the distribution to the investors in the Fortuna Funds. The Receiver has worked with the SEC to determine the proper allocation based on the Amended Claim Form. The claim was for 17,092 shares (post split) in Bloom Energy and 55,571 shares of Palantir Technologies. Fortuna Funds share of the distributions pursuant to the recently approved Distribution Motion is $305,213.62, which includes $65,934.06 for Bloom Energy and $239,279.56 for Palantir Technologies.

The proposed distribution schedule to the Fortuna Funds investors is set forth in Exhibit "1" attached to the Declaration of Kathy Bazoian Phelps.

III. A Direct Distribution to the Fortuna Funds Investors is Reasonable and Appropriate

By this Motion, the Receiver asks the Court for authority to make the proposed distribution directly to the Fortuna Funds investors. As with the Distribution Motion, the Receiver also requests authority to pay any administrative or wire fees or may incur any other reasonable administrative expenses necessary to make the distribution.

The Court's power to determine appropriate procedures for administering a receivership is "extremely broad." *SEC v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986); *see also SEC v. Basic Energy*, 273 F.3d 657, 668 (6th Cir. 2001); *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992). The "primary purpose of equity receiverships is to promote orderly and efficient administration of the estate by the District Court for the benefit of creditors." *Hardy*, 803 F.2d at 1038.

In order to complete the current interim distribution to Class 4 Investors, the Receiver requests approval of the Motion.

IV. Conclusion

For the foregoing reasons, the Receiver respectfully requests that the Court authorize the distribution to Fortuna Fund investors as set forth herein. The Receiver requests all other appropriate relief.

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

Dated: November 21, 2025

RAINES FELDMAN LITTRELL LLP

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