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UNITED STATES DISTRICT COURT
Northern District of California**

CIVIL MINUTES

Date: September 28, 2017 **Time:** 1 hour 19 minutes **Judge:** EDWARD M. CHEN

Case No.: 16-cv-01386-EMC **Case Name:** SEC v. Bivona, et al.

Attorney for Plaintiff: John Yun, Marc Katz, Patricia Schrage and Jessica Chan
Attorney for Defendant: Jahan Raissi (for Bivona)
John Cotton for Receiver
Patrick Gibbs (for non-party Telesoft Capital)
Jonathan Levine (SRA Funds)
Ellen Cirangle and Theodore Griffinger (Global and Benchmark)

Deputy Clerk: Betty Lee

Court Reporter: Pam Batalo

PROCEEDINGS

- Further Hearing on Receiver's Approval of Joint Distribution Plan and Plaintiff's Joinder Motion

SUMMARY

As stated on the record, counsel for SEC, the investor group, Global Generation and Benchmark Capital, and the Receiver shall meet and confer on various issues, including (1) a fair and effective notice and claims process; (2) how pooling of the Funds would work in practice if it were to be ordered, including the management structure, alternatives to pooling into one consolidated entity, and the costs and benefits associated with each option; (3) the selection and retention of a third-party investment banker to offer analysis of different market options as discussed in Court; (4) a stipulated protective order enabling the interested parties to exchange information regarding a third-party investment banker on an attorneys' eyes only basis if necessary; (5) a fair method for dealing with possible creditors including Global Generation's claim (if Global Generation is ultimately treated as a creditor) including financing options; (6) deriving a common figure regarding the total amounts invested in the relevant Funds by investors with current claims; (7) a plan for dealing with the over-distribution of Square shares and any associated shortfall; and (8) possible distribution options in light of the Court's comments at the

hearing. The parties shall notify the Court upon developing a proposed notice and claims process and a proposal regarding a third-party investment banker and provide the Court with a written update 1 week in advance of the next status conference. At the conclusion of the notice and claims process, the Court expects to receive a master list that includes the following information: identity of each investor, the amount invested, when the investment was made, the Fund or Funds in which they invested, the companies in which each investor believed they were purchasing pre-IPO interests and what that interest was (i.e., what number of shares), and the amount of the claim that has been verified through the process. The Court urges the parties and interested non-parties to proceed on a collaborative basis to the maximum extent possible.

The Court granted the Receiver's request for payment of fees which have already been approved by the Court. The Receiver shall send a letter to recipients of over-distributed Square shares to attempt to reclaim them.

The Court held a status conference re: Docket #248 Joint Response to Court's 9/13/17 Order regarding Evidentiary Hearing Concerning Anne Bivona. The parties agreed to defer an evidentiary hearing until the appropriate time in the notice and claims process. The parties shall meet and confer and, at such time, will submit a proposed process for taking necessary testimony from Ms. Bivona. The Court emphasized the importance of witnessing the testimony that is to be presented so that it can determine credibility.

Further hearing on Receiver's Motion for Approval of Joint Distribution Plan and Plaintiff's Joinder is set for 11/16/17 at 1:30 p.m.