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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

JOHN V. BIVONA; SADDLE RIVER
ADVISORS, LLC; SRA MANAGEMENT
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

**THE SRA FUNDS INVESTOR GROUP'S
CASE MANAGEMENT CONFERENCE
STATEMENT**

Date: June 22, 2018
Time: 1:30 PM
Courtroom: 5
Judge: Hon. Edward M. Chen

1 The SRA Funds Investor Group (“Investor Group”) respectfully submits this Case
2 Management Conference Statement in connection with the June 22, 2018 Case Management
3 Conference in this matter.

4 At the outset, the Investor Group apologizes for burdening the Court with a separate filing
5 rather than joining in the Supplemental Joint Status Report prepared and filed by the Securities and
6 Exchange Commission (“SEC”). As explained below, the Investor Group is filing this separate
7 statement because the joint status report prepared by the SEC includes extensive improper and
8 unnecessary argument about matters not presently before the Court and, in the Investor Group’s view,
9 misstates the substance of the parties’ meet and confer discussions. The SEC refused to remove or
10 correct the disputed material and argument, as requested by the Investor Group. The Investor Group
11 therefore files this statement separately, to address the core items to be discussed at the Case
12 Management Conference and to respond, briefly to the SEC’s other arguments.

13 **I. The SEC’s report on the status of the claims review process**

14 The Investor Group has no issues with respect to the SEC’s report on the status of the claims
15 review process.

16 **II. The Court should receive briefing on the various Palantir-related issues**

17 The SEC claims that there is now a shortfall in Palantir shares of anywhere between 590,000
18 and 1.1 million shares. Whether there is, in fact, a Palantir shortfall, and in what amount, depends on
19 the resolution of several issues, including: (i) how the Court will treat the Global Generation claim
20 and what amount that claim will be for; (ii) whether Progresso makes a claim for Palantir shares in
21 addition to its money judgment claim, and how the Court will treat such a claim; (iii) the resolution
22 of the dispute the Receiver is having with Equity Acquisition Corp. (“EAC”) about certain Palantir
23 shares owed to the Receivership by EAC; and (iv) whether Monica Ip’s overall Palantir shortfall
24 analysis is correct or not. The SEC requests that the Court conduct an evidentiary hearing to resolve
25 some or all of these issues.

26 The Investor Group agrees that these are all issues that need to be resolved now, but does not
27 believe an evidentiary hearing is necessary. Most of these issues are not fact or evidence dependent,

1 and are for the Court to resolve as part of its equitable and jurisdictional authority over this
2 proceeding. The Investor Group recommends that a briefing schedule be established at the Case
3 Management Conference so that all interested parties have an opportunity to provide their views to
4 the Court on some or all of these Palantir-related issues.

5 **III. The Court should set a schedule to rule on the competing distribution plans**

6 The Investor Group agrees that, with the exception of two issues identified by the SEC in its
7 report, the parties have been unable to reach agreement on the terms of an overall distribution plan
8 that is acceptable to all involved. The SEC proposes that the schedule for considering the competing
9 distribution plans run concurrently with the schedule for briefing the Palantir-related issues. The
10 Investor Group proposes that the schedule for considering the competing distribution plans
11 commence shortly after the Palantir-related issues have been resolved, because the resolution of those
12 issues may impact the distribution plan proposed by the Investor Group, and other interested parties
13 (such as Global Generation and Progresso) may have differing views on the competing distribution
14 plans depending on how the Court treats their respective claims. The Investor Group proposes that a
15 briefing schedule be established at the Case Management Conference for the competing distribution
16 plans that will follow the schedule set for resolving the Palantir-related issues.

17 The Investor Group comments, briefly, on the SEC's advance criticism of the Investor
18 Group's anticipated proposed distribution plan. The SEC's discussion about the Investor Group's
19 proposed distribution plan is inappropriate and should not be considered at this time for several
20 reasons. First, the discussion is speculative, since the SEC has not even seen the proposed distribution
21 plan it purports to criticize. Second, during the meet and confer discussions about the distribution
22 plans, counsel for the Investor Group made clear that the proposed distribution plan might well
23 change depending on the resolution of the Palantir-related issues. Third, the distribution plans are
24 not yet before the Court for resolution, so it is premature for the SEC to be making arguments in an
25 attempt to sway the Court's views about either plan. It appears that the SEC has included that
26 discussion in its report to have the Court prejudge, without the benefit of the actual plans and
27 counsel's discussion, the merits of the two plans. This is not a proper use of a joint case management

1 conference statement and is a distraction from the matters that do in fact need to be discussed at the
2 Case Management Conference next week.

3 **IV. The Court should defer, for now, the appointment of an investment banker**

4 The SEC claims that the Investor Group has disregarded the Court's February 9, 2018 Minute
5 Order and refused to confer with the SEC concerning the preparation of a stipulation to retain an
6 investment banker on a going-forward basis. This is not true. During the meet and confer discussions
7 on this issue, the Investor Group explained to the SEC why it is premature to retain an investment
8 banker at this time, because whether an investment banker is needed will depend on which
9 distribution plan is ultimately adopted by the Court. As the Investor Group explained to the SEC, if
10 the Court ultimately adopts the Investor Group's distribution plan, there will be no need for an
11 investment banker. If the Court adopts the SEC's distribution plan, an investment banker may – or
12 may not – be appropriate. If the Court determines an investment banker is needed, the Investor Group
13 has advised the SEC that the Investor Group has no issue with the Commission's choice of Marc
14 Winthrop, subject to the determination that his proposal is acceptable to the Court.

15 **V. Conclusion**

16 The Investor Group is ready to move forward with the next phase of this proceeding, which
17 is to brief for the Court's resolution any issues pertaining to the Palantir shares, including whether
18 and to what extent there is a shortfall, and how the Global Generation and Progresso claims will be
19 valued and adjudicated. The Investor Group will then be prepared to propose a distribution plan that
20 it believes will best benefit investors and other creditors of the Receivership estate.

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Respectfully submitted,

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DATED: June 15, 2018

PRITZKER LEVINE LLP

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By: /s/ Jonathan K. Levine

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Bethany Caracuzzo

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Attorneys for the SRA Funds Investor Group

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