

1 LYNN M. DEAN (Cal. Bar No. 205562)  
Email: deanl@sec.gov  
2 KATHRYN WANNER (Cal. Bar No. 269310)  
Email: wannerk@sec.gov

3 Attorneys for Plaintiff  
4 Securities and Exchange Commission  
Michele Wein Layne, Regional Director  
5 Alka N. Patel, Associate Regional Director  
Amy J. Longo, Regional Trial Counsel  
6 444 S. Flower Street, Suite 900  
Los Angeles, California 90071  
7 Telephone: (323) 965-3998  
Facsimile: (213) 443-1904

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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **SOUTHERN DIVISION**

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 vs.

16 JUSTIN ROBERT KING; AND  
17 ELEVATE INVESTMENTS, LLC,

18 Defendants,

19 SHANNON LEIGH KING,

20 Relief Defendant.  
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Case No. SACV 20-02398JVS(DFMx)

**PLAINTIFF SECURITIES AND  
EXCHANGE COMMISSION'S  
REPLY MEMORANDUM IN  
SUPPORT OF MOTION FOR  
PRELIMINARY INJUNCTION AND  
APPOINTMENT OF A PERMANENT  
RECEIVER**

**Judge James V. Selna  
Hearing: January 19, 2021  
Time: 9:00 a.m.**

1 **I. INTRODUCTION**

2 The Securities and Exchange Commission (“SEC”) respectfully submits these  
3 supplemental points and authorities in support its application for a Preliminary  
4 Injunction and the appointment of a permanent Receiver in this matter. The Court  
5 should grant the Preliminary Injunction sought by the SEC and make the  
6 Receivership over Elevate Investments LLC permanent for all the reasons set forth in  
7 the SEC’s original application and for several additional reasons.

8 First, Defendants and Relief Defendant have failed to oppose to application,  
9 which is grounds for granting it. Second, since the SEC brought this emergency  
10 action to stop the ongoing investment scheme being perpetrated by Defendants Justin  
11 Robert King (“JKing”) and Elevate Investments, LLC (“Elevate”) (collectively  
12 “Defendants”), the SEC has obtained additional documents and evidence in support  
13 of its original application that establish not only that Defendants were misleading  
14 investors about returns on investment to induce them to invest, but that they  
15 generated and disseminated false quarterly account statements that misrepresented the  
16 rates of return on individual investors’ accounts. Finally, newly discovered bank  
17 records establish that Defendants were misappropriating investor funds to make Ponzi  
18 payments and to pay for their personal expenses.

19 For all the foregoing reasons, the Court should enter the Permanent Injunction  
20 and make the Receivership over Elevate permanent.

21 **II. ARGUMENT**

22 **A. Failure to Oppose the SEC’s Application is Grounds for Granting It**

23 Neither the Defendants nor the Relief Defendants have filed a response to the  
24 Order to Show Cause why a Preliminary Injunction should be issued against  
25 Defendants or why the Receiver over Elevate should not become a permanent  
26 Receiver. That alone is grounds for grant the Securities and Exchange Commission’s  
27 (“SEC”) for both the injunction and the Receiver. L.R. 7-12.

## B. Defendants Disseminated False Account Statements

As set forth in the SEC's Application for a TRO, Elevate's website boasts that JKing's trading has historically resulted in profits for his clients year after year, including a 61% return for all of his clients' accounts from June 2019 through June 2020. In fact, JKing's trading resulted in \$3.8 million in trading losses from June 2019 through June 2020.

Time Period	Elevate	King & S. King	Opulent, LLC	Z Partners	Individual J	Total
June 1, 2019 – December 31, 2019	\$(1,917,954)	\$(113,274)	\$(72,820)	\$(45,232)	\$(13,173)	\$(2,162,453)
January 1, 2020– June 30, 2020	\$(1,407,041)	\$(247,294)		\$(21,741)	\$(23,304)	\$(1,699,380)
Totals	\$(3,324,995)	\$(360,567)	\$(72,820)	\$(66,973)	\$(36,477)	\$(3,861,834)

Dkt. No. 6 (Declaration of Carol Kim) ¶ 27, Ex. 18.

Since the filing of the Complaint, SEC counsel has been in contact with Elevate investors who provided account statements that were given to them by JKing. Declarations of Nikesh Seth and Josh Sheley, filed concurrently herewith. Those account statements indicate that despite the losses in the Schwab accounts, Defendants were providing false account statements that indicated that investors' accounts were performing. Seth Decl., Exs. 4 to 6; Sheley Decl., Exs. 1 to 3. For example, in the First Quarter of 2020, the Seth quarterly account statement reflects an 8% profit of \$83,197 before fees and expenses. Seth Decl. Ex. 4. In the Second Quarter of 2020, the quarterly account statement reflects an 18% profit of \$208,729 before fees and expenses. *Id.* Ex. 5. In the Third Quarter of 2020, the Seth quarterly account statement reflects a 13% profit of \$158,041 before fees and expenses. *Id.* Ex. 6. Neither Seth nor Sheley ever received any payment from JKing or Elevate Investment of either principal or returns. Seth Decl. ¶ 8; Sheley Decl. ¶ 10. These false account statements further demonstrate that Defendants were systematically misleading investors regarding the performance of their investment in Elevate.

In addition, the newly discovered quarterly account statements indicate that JKing was paying himself 50% of the fictitious returns over the first 9%. Seth Decl.,

Exs. 4 to 6; Sheley Decl., Exs. 1 to 3. Not only is King not entitled to any management fee under the terms of Elevate’s website, which states that Elevate “does not charge any fees for AUM [assets under management]” and receives a performance fee “only ... after [the investors] have made a 10% return on [their] investment[s],” but the fees he paid himself are wildly in excess of the fees set out on the website, which describes Elevate’s fee structure as follows: if the Fund “performs 30%,” 20% will go to the investor and 10% to “management.” Dkt. No. 5-1 (Kelly Bowers Declaration, Ex. 1).

### **C. Defendants Were Misappropriating Investor Funds**

In addition to misrepresenting the performance of the investments, Defendants were misappropriating investor funds. The personal bank accounts of JKing and Relief Defendant Shannon King (“SKing”) obtained since the Complaint was filed show repeated transfers of funds from the Schwab brokerage accounts holding the Elevate investor funds. For example, in just the three month period from September 2020 to December 4, 2020, the King’s personal checking account received \$393,000 from the Schwab brokerage account. Declaration of Carol Kim, filed concurrently herewith (“Kim Decl.”), ¶ 9.a. Those funds were then used to pay personal expenses such as payments to the King’s American Express, Nordstrom, and Capitol One bills, payments to Toyota car leasing totaling \$1908.00 and to make \$94,000 in payments to investors. Kim Decl. ¶ 10. Those payments to investors cannot have been payments of returns on investment, because the Elevate brokerage accounts all suffered losses. Dkt No. 6 (Declaration of Carol Kim) ¶ 28. An additional \$198,500 was transferred to a business account of Justin King. Kim Decl. ¶¶ 10.a, 11.a. Those funds were used to pay the King’s \$7,000 monthly rent on their personal residence, \$5,600 a month to an assisted living for seniors, the \$1080.95 monthly payment on a leased Mercedes Benz driven by SKing, and to make payments on, among other things, American Express, Loanme, Capitol One, Citibank Card, Chase, and Discover accounts. Kim Decl. ¶ 12; Dean Decl. ¶¶ 3-6.

**D. Defendants Violated the Federal Securities Laws**

The evidence submitted with the application for the TRO and herewith demonstrate that Defendants have violated and unless restrained will continue to violate Securities Act Section 17(a), which makes it unlawful for any person, in the offer or sale of a security, directly or indirectly, (1) to employ any device, scheme, or artifice to defraud, (2) to obtain money or property by means of any false or misleading statement of material fact, or (3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser. The SEC has also demonstrated that Defendants have violated and unless restrained will continue to violate Exchange Act Section 10(b) and Rule 10b-5(a) makes it unlawful for any person, directly or indirectly, in connection with the purchase or sale of any security (1) to employ any device, scheme, or artifice to defraud, (2) to make any false or misleading statement of material fact, or (3) to engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person. Those who knowingly disseminate false statements can also be held liable under Exchange Act Rules 10b-5(a) and (c) and Securities Act Section 17(a)(1). *See Lorenzo v. SEC*, 139 S. Ct. 1094, 1100-1101 (2019).

In addition, Defendants have violated Advisers Act Section 206(4) and Rule 206(4)-8, which prohibit an investment adviser to a pooled investment vehicle from making any false statement of material fact or omitting to state a material fact to any investor or prospective investor in the pooled investment vehicle or engaging in any act, practice or course of business that is fraudulent, deceptive or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

JKing and Elevate have made materially false and misleading statements regarding King's trading results and Elevate's securities industry affiliations, they have provided investors with false account statements, and they have misappropriated investor funds. SKing has received investor funds and been the beneficiary of Defendants' fraud as investor funds were used to pay, at least in part, her expenses.

1           Accordingly, for the foregoing reasons and the reasons set forth in its  
2 application for the TRO and the preliminary injunction, the SEC respectfully requests  
3 that the Preliminary Injunction should issue, Defendants' assets should remain frozen,  
4 and the Receiver over Elevate should be made permanent.

5           Dated: January 14, 2021

Respectfully submitted,

6  
7           /s/ Lynn M. Dean

Lynn M. Dean

8           Kathryn Wanner

9           Attorneys for Plaintiff

Securities and Exchange Commission  
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**PROOF OF SERVICE**

I am over the age of 18 years and not a party to this action. My business address is:

U.S. SECURITIES AND EXCHANGE COMMISSION,  
444 S. Flower Street, Suite 900, Los Angeles, California 90071  
Telephone No. (323) 965-3998; Facsimile No. (213) 443-1904.

On January 14, 2021, I caused to be served the documents entitled  
**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S REPLY  
MEMORANDUM IN SUPPORT OF MOTION FOR PRELIMINARY  
INJUNCTION AND APPOINTMENT OF A PERMANENT RECEIVER** on all  
the parties to this action addressed as stated on the attached service list:

☐ **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

☐ **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

☐ **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

☐ **HAND DELIVERY:** I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

☒ **UNITED PARCEL SERVICE:** By placing in sealed envelope(s) designated by United Parcel Service ("UPS") with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

☒ **ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

☐ **E-FILING:** By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

☐ **FAX:** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct.

Date: January 14, 2021

/s/ Lynn M. Dean

Lynn M. Dean



***SEC v. Justin Robert King, et al.***  
**United States District Court—Central District of California**  
**Case No. 8:20-cv-02398-JVS-DFM**

**SERVICE LIST**

Jennifer Trowbridge  
[Jennifer.trowbridge@jackolg.com](mailto:Jennifer.trowbridge@jackolg.com)

Robert Conca  
[Robert.conca@jackolg.com](mailto:Robert.conca@jackolg.com)

Jacko Law Group, PC  
1350 Columbia Avenue  
San Diego, CA 92101

***Attorneys for Defendant Elevate Investments LLC***

Justin Robert King

[REDACTED]

***Pro Se Defendant***

Shannon Leigh King

[REDACTED]

***Pro Se Relief-Defendant***



1 LYNN M. DEAN (Cal. Bar No. 205562)  
Email: deanl@sec.gov  
2 KATHRYN WANNER (Cal. Bar No. 269310)  
Email: wannerk@sec.gov

3 Attorneys for Plaintiff  
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Michele Wein Layne, Regional Director  
5 Alka N. Patel, Associate Regional Director  
Amy J. Longo, Regional Trial Counsel  
6 444 S. Flower Street, Suite 900  
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9 **UNITED STATES DISTRICT COURT**  
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11 **SOUTHERN DIVISION**

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 vs.

16 JUSTIN ROBERT KING; AND  
17 ELEVATE INVESTMENTS LLC,

18 Defendants,

19 SHANNON LEIGH KING,

20 Relief Defendant.  
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Case No. SACV 20-02398 JVS (DFMx)

**[PROPOSED] PRELIMINARY  
INJUNCTION AND APPOINTMENT  
OF A PERMANENT RECEIVER**

1 This matter came before the Court upon the Motion of Plaintiff Securities and  
2 Exchange Commission (“SEC”) for a Preliminary Injunction Orders Freezing Assets;  
3 Appointing a Permanent Receiver.

4 On December 28, 2020, this Court granted the SEC’s application for a  
5 temporary restraining order (“TRO”) and set the matter for a hearing on the request  
6 for preliminary injunctive relief. The Court held that hearing today, and based on the  
7 arguments of counsel and the papers filed in support of the Motion the Court makes  
8 the following findings:

- 9 A. This Court has jurisdiction over the parties to, and the subject matter of,  
10 this action.
- 11 B. The SEC has made a sufficient and proper showing in support of the  
12 relief granted herein, as required by Section 20(b) of the Securities Act  
13 of 1933 (“Securities Act”) (15 U.S.C. s 77t(b)), Section 21(d) of the  
14 Securities Exchange Act of 1934 (“Exchange Act”) (15 U.S.C. §  
15 78u(b)), and Section 209(d) of the Investment Advisers Act of 1940  
16 (“Advisers Act”) (15 U.S.C. §§ 80b-9(d)), by evidence establishing a  
17 *prima facie* case and reasonable likelihood that Justin Robert King  
18 (“King”) and Elevate Investments LLC (“Elevate”) engaged in, are  
19 engaging in, are about to engage in, and will continue to engage in  
20 unless restrained transactions, acts, practices and courses of business that  
21 constitute violations of Section 17(a) of the Securities Act, 15 U.S.C.  
22 § 77q(a); Section 10(b) of the Securities Exchange Act, 15 U.S.C. §  
23 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5; and Section  
24 206(4) of the Advisers Act, 15 U.S.C. §§ 80b-6(4) and Rule 206(4)-8, 17  
25 C.F.R. § 275.206(4)-8(a).
- 26 C. Good cause exists to warrant the appointment of a permanent receiver  
27 over Elevate and its subsidiaries and affiliates.
- 28 D. Good cause exists to believe that, unless restrained and enjoined by

1 order of this Court, Defendants King and Elevate and Relief Defendant  
 2 Shannon Leigh King (“S. King”) will dissipate, conceal, or transfer  
 3 assets which could be the subject to an order directing disgorgement or  
 4 the payment of civil money penalties in this action. It is appropriate for  
 5 the Court to issue this Preliminary Injunction so that prompt service on  
 6 appropriate financial institutions can be made, thus preventing the  
 7 dissipation of assets.

8 **I.**

9 IT IS HEREBY ORDERED that the SEC’s Motion is GRANTED.

10 **II.**

11 IT IS FURTHER ORDERED that Defendants King and Elevate and their  
 12 officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and those  
 13 persons in active concert or participation with any of them, who receive actual notice  
 14 of this Order, by personal service or otherwise, and each of them, be and hereby are  
 15 preliminarily restrained and enjoined from, directly or indirectly, in the offer or sale  
 16 of any securities, by the use of any means or instruments of transportation or  
 17 communication in interstate commerce or by the use of the mails:

- 18 A. employing any device, scheme or artifice to defraud;
  - 19 B. obtaining money or property by means of any untrue statement of a  
 20 material fact or any omission to state a material fact necessary in order to  
 21 make the statements made, in light of the circumstances under which  
 22 they were made, not misleading; or
  - 23 C. engaging in any transaction, practice, or course of business which  
 24 operates or would operate as a fraud or deceit upon the purchaser;
- 25 in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

26 IT IS FURTHER ORDERED that, as provided in Federal Rule of Civil  
 27 Procedure 65(d)(2), the foregoing paragraph also binds the following who receive  
 28 actual notice of this Order by personal service or otherwise: (a) Defendants’ officers,

1 agents, servants, employees, and attorneys; and (b) other persons in active concert or  
2 participation with any of the Defendants or with anyone described in (a).

3 **III.**

4 IT IS FURTHER ORDERED that Defendants King and Elevate, and their  
5 officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and those  
6 persons in active concert or participation with any of them, who receive actual notice  
7 of this Order, by personal service or otherwise, and each of them, be and hereby are  
8 preliminarily restrained and enjoined from, directly or indirectly, in connection with  
9 the purchase or sale of any security, by the use of any means or instrumentality of  
10 interstate commerce, or of the mails, or of any facility of any national securities  
11 exchange:

12 A. employing any device, scheme or artifice to defraud;

13 B. making any untrue statement of a material fact or omitting to state a  
14 material fact necessary in order to make the statements made, in the light  
15 of the circumstances under which they were made, not misleading; or

16 C. engaging in any act, practice, or course of business which operates or  
17 would operate as a fraud or deceit upon any person;

18 in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5  
19 thereunder, 17 C.F.R. § 240.10b-5.

20 IT IS FURTHER ORDERED that, as provided in Federal Rule of Civil  
21 Procedure 65(d)(2), the foregoing paragraph also binds the following who receive  
22 actual notice of this Order by personal service or otherwise: (a) Defendants' officers,  
23 agents, servants, employees, and attorneys; and (b) other persons in active concert or  
24 participation with any of the Defendants or with anyone described in (a).

25 **IV.**

26 IT IS FURTHER ORDERED that Defendants King and Elevate, and their  
27 officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and those  
28 persons in active concert or participation with any of them, who receive actual notice

1 of this Order, by personal service or otherwise, and each of them, be and hereby are  
2 preliminarily restrained and enjoined from directly or indirectly, by the use of the  
3 mails or any means or instrumentality of interstate commerce, while acting as an  
4 investment adviser to a pooled investment vehicle:

5 A. making any untrue statement of a material fact or omitting to state a  
6 material fact necessary to make the statements made, in the light of the  
7 circumstances under which they were made, not misleading, to any  
8 investor or prospective investor in a pooled investment vehicle;

9 B. engaging in any act, practice, or course of business that is fraudulent,  
10 deceptive, or manipulative with respect to any investor or prospective  
11 investor in a pooled investment vehicle;

12 in violation of Section 206(4) of the Advisers Act, 15 U.S.C. § 80b-6(4), and  
13 Rule 206(4)-8 thereunder, 17 C.F.R. § 275.206(4)-8.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as  
15 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also  
16 binds the following who receive actual notice of this Final Judgment by personal  
17 service or otherwise: (a) Defendants' officers, agents, servants, employees, and  
18 attorneys; and (b) other persons in active concert or participation with Defendants or  
19 with anyone described in (a).

20 V.

21 IT IS FURTHER ORDERED that, except as otherwise ordered by this Court,  
22 Defendants King and Elevate and Relief Defendant S. King, and their officers,  
23 agents, servants, employees, attorneys, subsidiaries and affiliate, and those persons in  
24 active concert with them, who receive actual notice of this Order, by personal service  
25 or otherwise, and each of them, be and hereby are preliminarily restrained and  
26 enjoined from, directly or indirectly, transferring, assigning, selling, hypothecating,  
27 changing, wasting, dissipating, converting, concealing, encumbering, or otherwise  
28 disposing of, in any manner, any funds, assets, securities, claims or other real or

personal property, including any notes or deeds of trust or other interest in real property, wherever located, of any one of the Defendants or Relief Defendant, or their subsidiaries or affiliates, owned by, controlled by, managed by or in the possession or custody of any of them and from transferring, encumbering dissipating, incurring charges or cash advances on any debit or credit card of the credit arrangement of any one of the Defendants or Relief Defendant, or their subsidiaries and affiliates.

## VI.

IT IS FURTHER ORDERED that, except as otherwise ordered by this Court, a freeze shall continue on all monies and assets (with an allowance for necessary and reasonable living expenses to be granted only upon good cause shown by application to the Court with notice to and an opportunity for the SEC to be heard) in all accounts at any bank, financial institution or brokerage firm, or third-party payment processor, all certificates of deposit, and other funds or assets, held in the name of, for the benefit of, or over which account authority is held by Defendants and Relief Defendant, including but not limited to the accounts listed below:

<b>BROKERAGE/ BANK NAME</b>	<b>ACCOUNT NAME</b>	<b>ACCOUNT NO.</b>
Charles Schwab & Co.	Elevate Investments	xxxx-6211
Charles Schwab & Co.	Justin Robert King	xxxx-5708
Charles Schwab & Co.	Shannon King	xxxx-4019
JPMorgan Chase Bank	Elevate Investments LLC	xxxx8157
JPMorgan Chase Bank	Area Auto Glass LLC	xxxx8687
JPMorgan Chase Bank	Shannon King and/or Justin King	xxxx8635
JP Morgan Chase Bank	Arizona Investment Kings	xxxx3592
Comerica Bank	Justin and Shannon King	xxxx1361

Any bank, financial institution or brokerage firm, or third-party payment

1 processor holding such monies and assets described above shall hold and retain  
2 within their control and prohibit the withdrawal, removal, transfer or other disposal of  
3 any such funds or other assets except as otherwise ordered by this Court.

4 **VII.**

5 IT IS FURTHER ORDERED that any person who receives actual notice of this  
6 Order by personal service or otherwise, and who holds, possesses or controls assets  
7 exceeding \$5,000 for the account or benefit of any one of the Defendants or Relief  
8 Defendant, shall within 5 days of receiving actual notice of this Order provide  
9 counsel for the SEC with a written statement identifying all such assets, the value of  
10 such assets, or best approximation thereof, and any account numbers or account  
11 names in which the assets are held.

12 **VIII.**

13 IT IS FURTHER ORDERED that, except as otherwise ordered by this Court,  
14 each of the Defendants King and Elevate and Relief Defendant S. King, and their  
15 officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and those  
16 persons in active concert or participation with any of them, who receive actual notice  
17 of this Order, by personal service or otherwise, and each of them, be and hereby are  
18 preliminarily restrained and enjoined from, directly or indirectly: destroying,  
19 mutilating, concealing, transferring, altering, or otherwise disposing of, in any  
20 manner, any documents, which includes all books, records, computer programs,  
21 computer files, computer printouts, contracts, emails, correspondence, memoranda,  
22 brochures, or any other documents of any kind in their possession, custody or control,  
23 however created, produced, or stored (manually, mechanically, electronically, or  
24 otherwise), pertaining in any manner to Defendants King or Elevate or Relief  
25 Defendant S. King.

26 **IX.**

27 IT IS FURTHER ORDERED that Jeff Brandlin is appointed as permanent  
28 receiver of Defendant Elevate and its subsidiaries and affiliates, with full powers of



1 an equity receiver, including, but not limited to, full power over all funds, assets,  
2 collateral, premises (whether owned, leased, occupied, or otherwise controlled),  
3 choses in action, books, records, papers and other property belonging to, being  
4 managed by or in the possession of or control of Defendant Elevate, and that such  
5 receiver is immediately authorized, empowered and directed:

6 A. to have access to and to collect and take custody, control, possession,  
7 and charge of all funds, assets, collateral, premises (whether owned,  
8 leased, pledged as collateral, occupied, or otherwise controlled), choses  
9 in action, books, records, papers and other real or personal property,  
10 wherever located, of or managed by Defendant Elevate and its  
11 subsidiaries and affiliates (collectively, the “Assets”), with full power to  
12 sue, foreclose, marshal, collect, receive, and take into possession all such  
13 Assets (including access to and taking custody, control, and possession  
14 of all such Assets);

15 B. to assume full control of Defendant Elevate and its subsidiaries and  
16 affiliates by removing, as the receiver deems necessary or advisable, any  
17 director, officer, attorney, independent contractor, employee, or agent of  
18 Defendant Elevate and its subsidiaries and affiliates, and any named  
19 Defendant or Relief Defendant, from control of, management of, or  
20 participation in, the affairs of Defendant Elevate and its subsidiaries and  
21 affiliates;

22 C. to have control of, and to be added as the sole authorized signatory for,  
23 all accounts of the entities in receivership, including all accounts at any  
24 bank, title company, escrow agent, financial institution or brokerage firm  
25 (including any futures commission merchant) which has possession,  
26 custody or control of any Assets, or which maintains accounts over  
27 which Defendant Elevate and its subsidiaries and affiliates, and/or any of  
28 its employees or agents have signatory authority;

- 1 D. to conduct such investigation and discovery as may be necessary to  
2 locate and account for all of the assets of or managed by Defendant  
3 Elevate and its subsidiaries and affiliates, and to engage and employ  
4 attorneys, accountants and other persons to assist in such investigation  
5 and discovery;
- 6 E. to take such action as is necessary and appropriate to preserve and take  
7 control of and to prevent the dissipation, concealment, or disposition of  
8 any Assets;
- 9 F. to choose, engage, and employ attorneys, accountants, appraisers, and  
10 other independent contractors and technical specialists, as the receiver  
11 deems advisable or necessary in the performance of duties and  
12 responsibilities under the authority granted by this Order;
- 13 G. to make an accounting, as soon as practicable, to this Court and the SEC  
14 of the assets and financial condition of Defendant Elevate and its  
15 subsidiaries and affiliates, and to file the accounting with the Court and  
16 deliver copies thereof to all parties;
- 17 H. to make such payments and disbursements from the Assets taken into  
18 custody, control, and possession or thereafter received by him or her,  
19 and to incur, or authorize the making of, such agreements as may be  
20 necessary and advisable in discharging his or her duties as permanent  
21 receiver;
- 22 I. to investigate and, where appropriate, to institute, pursue, and prosecute  
23 all claims and causes of action of whatever kind and nature that may  
24 now or hereafter exist as a result of the activities of present or past  
25 employees or agents of Defendant Elevate and its subsidiaries and  
26 affiliates;
- 27 J. to institute, compromise, adjust, appear in, intervene in, or become party  
28 to such actions or proceedings in state, federal, or foreign courts, which

1 (i) the receiver deems necessary and advisable to preserve or recover any  
2 Assets, or (ii) the receiver deems necessary and advisable to carry out  
3 the receiver's mandate under this Order; and

4 K. to have access to and monitor all mail, electronic mail, and video phone  
5 of the entities in receivership in order to review such mail, electronic  
6 mail, and video phone which he or she deems relates to their business  
7 and the discharging of his or her duties as permanent receiver.

8 **X.**

9 IT IS FURTHER ORDERED that Defendants King and Elevate, and their  
10 subsidiaries and affiliates, including all of the other entities in receivership, and their  
11 officers, agents, servants, employees and attorneys, and any other persons who are in  
12 custody, possession or control of any assets, collateral, books, records, papers or  
13 other property of or managed by any of the entities in receivership, shall forthwith  
14 give access to and control of such property to the permanent receiver.

15 **XI.**

16 IT IS FURTHER ORDERED that no officer, agent, servant, employee or  
17 attorney of Defendants King and Elevate shall take any action or purport to take any  
18 action, in the name of or on behalf of Defendant Elevate or its subsidiaries or  
19 affiliates without the written consent of the permanent receiver or order of this Court.

20 **XII.**

21 IT IS FURTHER ORDERED that, except by leave of this Court, during the  
22 pendency of this receivership, all clients, investors, trust beneficiaries, note holders,  
23 creditors, claimants, lessors and all other persons or entities seeking relief of any  
24 kind, in law or in equity, from Defendant Elevate, or its subsidiaries or affiliates, and  
25 all persons acting on behalf of any such investor, trust beneficiary, note holder,  
26 creditor, claimant, lessor, consultant group or other person, including sheriffs,  
27 marshals, servants, agents, employees and attorneys, are hereby restrained and  
28 enjoined from, directly or indirectly, with respect to these persons and entities:

A. commencing, prosecuting, continuing or enforcing any suit or proceeding (other than the present action by the SEC or any other action by the government) against any of them;

B. using self-help or executing or issuing or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any property or property interests owned by or in the possession of Defendant Elevate; and

C. doing any act or thing whatsoever to interfere with taking control, possession or management by the permanent receiver appointed hereunder of the property and assets owned, controlled or managed by or in the possession of Defendant Elevate, or in any way to interfere with or harass the permanent receiver or his or her attorneys, accountants, employees, or agents or to interfere in any manner with the discharge of the permanent receiver's duties and responsibilities hereunder.

### XIII.

IT IS FURTHER ORDERED that Defendants King and Elevate, and their subsidiaries, affiliates, officers, agents, servants, employees and attorneys, shall cooperate with and assist the permanent receiver and shall take no action, directly or indirectly, to hinder, obstruct, or otherwise interfere with the permanent receiver or his or her attorneys, accountants, employees or agents, in the conduct of the permanent receiver's duties or to interfere in any manner, directly or indirectly, with the custody, possession, management, or control by the permanent receiver of the funds, assets, collateral, premises, and choses in action described above.

XIV.

IT IS FURTHER ORDERED that Defendants King and Elevate and their subsidiaries and affiliates, shall pay the costs, fees and expenses of the permanent

1 receiver incurred in connection with the performance of his or her duties described in  
2 this Order, including the costs and expenses of those persons who may be engaged or  
3 employed by the permanent receiver to assist him or her in carrying out his or her  
4 duties and obligations. All applications for costs, fees, and expenses for services  
5 rendered in connection with the receivership other than routine and necessary  
6 business expenses in conducting the receivership, such as salaries, rent, and any and  
7 all other reasonable operating expenses, shall be made by application setting forth in  
8 reasonable detail the nature of the services and shall be heard by the Court.

9 **XV.**

10 IT IS FURTHER ORDERED that no bond shall be required in connection with  
11 the appointment of the permanent receiver. Except for an act of gross negligence, the  
12 permanent receiver shall not be liable for any loss or damage incurred by any of the  
13 defendants, their officers, agents, servants, employees and attorneys or any other  
14 person, by reason of any act performed or omitted to be performed by the permanent  
15 receiver in connection with the discharge of his or her duties and responsibilities.

16 **XVI.**

17 IT IS FURTHER ORDERED that representatives of the SEC and any other  
18 government agency are authorized to have continuing access to inspect or copy any  
19 or all of the corporate books and records and other documents of Defendant Elevate  
20 and its subsidiaries and affiliates, and the other entities in receivership, and  
21 continuing access to inspect their funds, property, assets and collateral, wherever  
22 located.

23 **XVII.**

24 IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this  
25 action for the purpose of implementing and carrying out the terms of all orders and  
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1 decrees which may be entered herein and to entertain any suitable application or  
2 motion for additional relief within the jurisdiction of this Court.

3  
4 IT IS SO ORDERED.

5  
6 Dated: \_\_\_\_\_, 2021

7 UNITED STATES DISTRICT JUDGE  
HONORABLE JAMES V. SELNA

8  
9 Presented by:  
Lynn M. Dean  
10 Kathryn Wanner  
Attorneys for Plaintiff  
11 Securities and Exchange Commission  
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**PROOF OF SERVICE**

I am over the age of 18 years and not a party to this action. My business address is:

U.S. SECURITIES AND EXCHANGE COMMISSION,  
444 S. Flower Street, Suite 900, Los Angeles, California 90071  
Telephone No. (323) 965-3998; Facsimile No. (213) 443-1904.

On January 14, 2021, I caused to be served the documents entitled **[PROPOSED] PRELIMINARY INJUNCTION AND APPOINTMENT OF A PERMANENT RECEIVER** on all the parties to this action addressed as stated on the attached service list:

☐ **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

☐ **PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

☐ **EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

☐ **HAND DELIVERY:** I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

☒ **UNITED PARCEL SERVICE:** By placing in sealed envelope(s) designated by United Parcel Service ("UPS") with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

☒ **ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

☐ **E-FILING:** By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

☐ **FAX:** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct.

Date: January 14, 2021

/s/ Lynn M. Dean

Lynn M. Dean



***SEC v. Justin Robert King, et al.***  
**United States District Court—Central District of California**  
**Case No. 8:20-cv-02398-JVS-DFM**

**SERVICE LIST**

Jennifer Trowbridge  
[Jennifer.trowbridge@jackolg.com](mailto:Jennifer.trowbridge@jackolg.com)

Robert Conca  
[Robert.conca@jackolg.com](mailto:Robert.conca@jackolg.com)

Jacko Law Group, PC  
1350 Columbia Avenue  
San Diego, CA 92101

***Attorneys for Defendant Elevate Investments LLC***

Justin Robert King

[REDACTED]

***Pro Se Defendant***

Shannon Leigh King

[REDACTED]

***Pro Se Relief-Defendant***

1 LYNN M. DEAN (Cal. Bar No. 205562)  
Email: deanl@sec.gov  
2 KATHRYN WANNER (Cal. Bar No. 269310)  
Email: wannerk@sec.gov  
3

4 Attorneys for Plaintiff  
Securities and Exchange Commission  
Michele Wein Layne, Regional Director  
5 Alka N. Patel, Associate Regional Director  
Amy J. Longo, Regional Trial Counsel  
6 444 S. Flower Street, Suite 900  
Los Angeles, California 90071  
7 Telephone: (323) 965-3998  
Facsimile: (213) 443-1904  
8

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **SOUTHERN DIVISION**

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 vs.

16 JUSTIN ROBERT KING; AND  
17 ELEVATE INVESTMENTS LLC,

18 Defendants,

19 SHANNON LEIGH KING,

20 Relief Defendant.  
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Case No. 8:20-cv-02398-JVS-DFM

**DECLARATION OF LYNN M. DEAN  
IN SUPPORT OF APPLICATION  
FOR A PRELIMINARY  
INJUNCTION AND APPOINTMENT  
OF A PERMANENT RECEIVER**

**DECLARATION OF LYNN M. DEAN**

I, Lynn M. Dean, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney at law admitted to practice law in the State of California and before the United States District Court for the Central District of California. I am employed as an attorney in the Los Angeles Regional Office of the U.S. Securities and Exchange Commission (“SEC”), and am counsel of record for the SEC in this case. I have personal knowledge of the facts set forth in this Declaration and, if called and sworn as a witness, could and would competently testify thereto.

2. I have reviewed the bank statements and supporting documents produced to the SEC pursuant to subpoena by JP Morgan Chase. The accounts are JPMorgan Chase Account No. XXXXXXXXXXXX8635 in the name of Shannon Leigh King or Justin R King (hereinafter “King Chase x8635” account); and JPMorgan Chase Account No. XXXXXXXXXXXX8687 in the name of Area Auto Glass LLC (hereinafter “Area Auto Glass x8687”). I have also reviewed documents produced by Defendants, as well as data from third party data service providers such as Lexis Nexis.

3. Based upon my review of the available records, funds are transferred from the Schwab brokerage accounts into the King Chase x8635 account and then disbursed to several places, including the Area Auto Glass x8687 account.

4. There are monthly payments by check from the Area Auto Glass x8687 account to Alan Pekacik, in the amount of \$7,000. Based upon my review of the available records, these are payments of rent on the King’s personal residence at Paseo Infinita in San Juan Capistrano, California. There is also a single \$6,000 payment to Mr. Pekacik which contains the notation “furniture” in the memo line of the check.

5. Based on my review of the bank account records, there are also monthly expenditures of \$5,600 by check to San Clemente Villas by the Sea from the Area Auto Glass x8687 account. I googled that name and it is an assisted living

1 community for seniors in San Clemente, California.

2 6. There are monthly payments of \$1080.95 to Mercedes Benz Financial  
3 Services from the Area Auto Glass x8687. I spoke to a neighbor of Shannon and  
4 Justin King, who is also an investor in Elevate, by telephone on January 12, 2021,  
5 and he confirmed to me that Shannon King drives a Mercedes SUV.

6 I declare under penalty of perjury under the laws of the United States of  
7 America that the foregoing is true and correct.

8 Executed this 14th day of January 2021, in Los Angeles, California.

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10 /s/ Lynn M. Dean

11 Lynn M. Dean  
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**PROOF OF SERVICE**

I am over the age of 18 years and not a party to this action. My business address is:

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Telephone No. (323) 965-3998; Facsimile No. (213) 443-1904.

On January 14, 2021, I caused to be served the documents entitled  
**DECLARATION OF LYNN M. DEAN IN SUPPORT OF APPLICATION  
FOR A PRELIMINARY INJUNCTION AND APPOINTMENT OF A  
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Los Angeles, California.

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☐ **E-FILING:** By causing the document to be electronically filed via the Court's  
CM/ECF system, which effects electronic service on counsel who are registered with  
the CM/ECF system.

☐ **FAX:** By transmitting the document by facsimile transmission. The  
transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct.

Date: January 14, 2021

/s/ Lynn M. Dean

Lynn M. Dean

***SEC v. Justin Robert King, et al.***  
**United States District Court—Central District of California**  
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**SERVICE LIST**

Jennifer Trowbridge  
[Jennifer.trowbridge@jackolg.com](mailto:Jennifer.trowbridge@jackolg.com)

Robert Conca  
[Robert.conca@jackolg.com](mailto:Robert.conca@jackolg.com)

Jacko Law Group, PC  
1350 Columbia Avenue  
San Diego, CA 92101

***Attorneys for Defendant Elevate Investments LLC***

Justin Robert King

[REDACTED]

***Pro Se Defendant***

Shannon Leigh King

[REDACTED]

***Pro Se Relief-Defendant***