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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. 8:20-cv-02398-JVS-DFM

**PLAINTIFF SECURITIES AND
EXCHANGE COMMISSION'S
RESPONSES TO DEFENDANTS'
EVIDENTIARY OBJECTIONS**

Hon. James V. Selna

Plaintiff Securities and Exchange Commission (“SEC”) submits these responses to Defendant Justin King and Relief Defendant Shannon King’s objections to evidence submitted by in support of the SEC’s Ex Parte Application for Order to Show Cause Re: Civil Contempt against Defendant Justin Robert King and Relief Defendant Shannon Leigh King.

I. DECLARATION OF MICHAEL HARMON

<u>Paragraph</u>	<u>Defendants’ Objection</u>	<u>SEC Response</u>
6	Double Hearsay	<p>Statements to investors by Justin King are party admissions. FRE 801(d).</p> <p>Statements made by investors to an agent of the Court-appointed Receiver and then reported by that agent under penalty of perjury are an exception to the hearsay rule under FRE 807. The statements are consistent with each other, and are reported by a person who obtained them in the course and scope of his professional responsibilities and has an obligation to be truthful. They thus have sufficient indicia of trustworthiness and admitting them will serve the interests of justice.</p> <p><i>See also</i>, Declaration of Naomi Hazen, submitted herewith.</p>
7	Hearsay	<p>Statements to investors by Justin King are party admissions. FRE 801(d).</p> <p>Statements made by investors to an agent of the Court-appointed Receiver and then reported by that agent under penalty of perjury are an exception to the hearsay rule under FRE 807. The statements are consistent with each other, and are reported by a person who obtained them in the course and</p>

<u>Paragraph</u>	<u>Defendants' Objection</u>	<u>SEC Response</u>
		scope of his professional responsibilities and has an obligation to be truthful. They thus have sufficient indicia of trustworthiness and admitting them will serve the interests of justice.
8	Hearsay	<p>Statements to investors by Justin King are party admissions. FRE 801(d).</p> <p>Statements made by investors to an agent of the Court-appointed Receiver and then reported by that agent under penalty of perjury are an exception to the hearsay rule under FRE 807. The statements are consistent with each other, and are reported by a person who obtained them in the course and scope of his professional responsibilities and has an obligation to be truthful. They thus have sufficient indicia of trustworthiness and admitting them will serve the interests of justice.</p>
9	Hearsay	<p>Statements to investors by Justin King are party admissions. FRE 801(d).</p> <p>Statements made by investors to an agent of the Court-appointed Receiver and then reported by that agent under penalty of perjury are an exception to the hearsay rule under FRE 807. The statements are consistent with each other, and are reported by a person who obtained them in the course and scope of his professional responsibilities and has an obligation to be truthful. They thus have sufficient indicia of trustworthiness and admitting them will serve the interests of justice.</p>

<u>Paragraph</u>	<u>Defendants' Objection</u>	<u>SEC Response</u>
10	Hearsay	<p>Statements to investors by Justin King are party admissions. FRE 801(d).</p> <p>Statements made by investors to an agent of the Court-appointed Receiver and then reported by that agent under penalty of perjury are an exception to the hearsay rule under FRE 807. The statements are consistent with each other, and are reported by a person who obtained them in the course and scope of his professional responsibilities and has an obligation to be truthful. They thus have sufficient indicia of trustworthiness and admitting them will serve the interests of justice.</p>
11	Hearsay	<p>Statements to investors by Justin King are party admissions. FRE 801(d).</p> <p>Statements made by investors to an agent of the Court-appointed Receiver and then reported by that agent under penalty of perjury are an exception to the hearsay rule under FRE 807. The statements are consistent with each other, and are reported by a person who obtained them in the course and scope of his professional responsibilities and has an obligation to be truthful. They thus have sufficient indicia of trustworthiness and admitting them will serve the interests of justice.</p>

II. DECLARATION OF LYNN M. DEAN

<u>Paragraph</u>	<u>Defendants' Objection</u>	<u>SEC Response</u>
5	Triple Hearsay	The statement that Ms. Dean learned from the Receiver that two investors

1 had spoken to his employee is not
2 hearsay. It is Ms. Dean's sworn
3 testimony regarding what the Receiver
4 told her.

5 Moreover, it and the balance of the
6 statements in this paragraph are not
7 hearsay because they are not offered
8 for the truth of the matter asserted.
9 They are offered solely as foundation
10 for the actions that Ms. Dean describes
11 in paragraph six.

12 Dated: February 8, 2021

Respectfully submitted,

/s/ Lynn M. Dean

Lynn M. Dean

Kathryn Wanner

Attorneys for Plaintiff Securities
and Exchange Commission

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 February 8, 2021, I caused to be served the **PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S RESPONSES TO DEFENDANTS' EVIDENTIARY OBJECTIONS** 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: February 8, 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

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Justin Robert King (by email)


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Pro Se Defendant

Shannon Leigh King (by email)


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Pro Se Relief-Defendant

- 1 **(1) Complaint (Courtesy);**
- 2 **(2) Application for Temporary Restraining Order And Orders: (1)**
3 **Freezing Assets; (2) Requiring Accountings; (3) Prohibiting The**
4 **Destruction Of Documents; (4) Granting Expedited Discovery; And**
5 **(5) Appointing A Temporary Receiver; And Order To Show Cause**
6 **Re Preliminary Injunction And Appointment Of A Permanent**
7 **Receiver;**
- 8 **(3) Memorandum in Support of Application for Temporary Restraining**
9 **Order And Orders: (1) Freezing Assets; (2) Requiring Accountings;**
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12 **And Order To Show Cause Re Preliminary Injunction And**
13 **Appointment Of A Permanent Receiver;**
- 14 **(4) Declaration of Kelly Bowers;**
- 15 **(5) Declaration of Carol Kim;**
- 16 **(6) Temporary Restraining Order And Orders: (1) Freezing Assets; (2)**
17 **Requiring Accountings; (3) Prohibiting The Destruction Of**
18 **Documents; (4) Granting Expedited Discovery; And (5) Appointing**
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- 21 **(7) First Request for Production of Documents to Elevate Investments,**
22 **LLC;**
- 23 **(8) First Request for Production of Documents to Justin Robert King;**
- 24 **(9) First Request for Production of Documents to Shannon Leigh King;**
- 25 **(10) Notice of Deposition of Justin Robert King;**
- 26 **(11) Notice of Deposition of Shannon Leigh King;**
- 27 **(12) Document Subpoena to Comerica Bank;**
- 28 **(13) Document Subpoena to JP Morgan Chase Bank N.A.; and**

(14) Document Subpoena to Charles Schwab & Co.

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3 Attorneys for Plaintiff
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18 **Defendants,**

19 **SHANNON LEIGH KING,**

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

DECLARATION OF NAOMI HAZEN

Hon. James V. Selna

DECLARATION OF NAOMI HAZEN

I, Naomi Hazen, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I have personal knowledge of the matters set forth herein, except as otherwise noted, and, if called as a witness, I could and would competently testify under oath to the facts stated herein.

2. I am an investor in Elevate Investments, LLC, residing in San Diego County, California.

3. I was introduced to Justin King and Elevate Investments LLC by a friend who told me about Elevate and introduced me to Dale Holmes, who told me he was also an investor and was happy with the investment returns he got with Elevate.

4. Before investing, I spoke to Justin King on the telephone and I went to lunch with him in San Clemente, California. In our phone conversation, Justin King told me he was averaging between 40% and 60% rate of return annually. He told me that he was investing in options through Elevate and that he was teaching classes in option investing.

5. I personally invested \$100,000 with Elevate Investments LLC in August 2020. My understanding is that Elevate Investments was a legitimate investment fund managed by Justin King. Justin King told me he made all the investment decisions for the fund.

6. Justin King told me that the first 10% of any investment profit in Elevate was allocated to investors. After that, profits would be split 50/50 between the investors and Justin King.


7. On January 17, 2021, I exchanged text messages with Justin King asking when I could expect to get my Fourth Quarter 2021 account statement. He told me he had been ill, but it would be coming soon.

8. On January 21, 2021, I received an email from the Receiver in this case. That email was the first indication I had that Justin King had been sued. In the January 21, 2021 email, the Receiver stated that he had taken possession of \$1.5

1 million from the Elevate trading account. After I received the email, I was
2 concerned about my investment and I called Justin King on January 21, 2021. I
3 asked him about the Receiver's statement in his email that there was only \$1.575
4 million in Elevate's account and asked him whether there was enough money to pay
5 everyone back. Mr. King responded that the lawsuit was a misunderstanding. He
6 told me that he had moved some money out of the Elevate account into his personal
7 account in order to pay some investors because the brokerage would not allow him to
8 pay investors from the Elevate account. He said that had caused the brokerage firm
9 to alert the SEC. He acknowledged that this was not professional, but that the
10 investments were generating positive returns and that there was enough money to pay
11 all of the investors. He said that the money was "all there."

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

14 Executed this 8th day of February 2021 in San Diego County, California.

15  8 Feb. 2021

16 _____
17 Naomi Hazen
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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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On February 8, 2021, I caused to be served the **DECLARATION OF NAOMI HAZEN** on all the parties to this action addressed as stated on the attached service list:

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Lynn M. Dean

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SERVICE LIST

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Counsel for Receiver for Defendant Elevate Investments LLC

Justin Robert King (by email)


[@gmail.com](#)

Pro Se Defendant

Shannon Leigh King (by email)


[@gmail.com](#)

Pro Se Relief-Defendant

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