

1 Justin King  
2 Shannon King  
3 10639 W. Chestnut Street  
4 Marana, AZ 85653

5 *Pro se defendants*

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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 SOUTHERN DIVISION

11 SECURITIES AND EXCHANGE  
12 COMMISSION,

13 Plaintiff,

14 vs.

15 JUSTIN ROBERT KING; and  
16 ELEVATE INVESTMENTS LLC,

17 Defendants,

18 SHANNON LEIGH KING,

19 Relief Defendant.  
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Case No. SACV 20-02398-JVS-DFM

**DEFENDANTS' OBJECTIONS  
TO PLAINTIFF'S NEW  
EVIDENCE SUBMITTED ON  
REPLY**

1 Defendant Justin King and Relief Defendant Shannon King respectfully  
2 submit these objections to new evidence submitted by Plaintiff Securities and  
3 Exchange Commission's in further support of its *Ex Parte* Application for Order to  
4 Show Cause Re: Civil Contempt Against Defendant Justin Robert King and Relief  
5 Defendant Shannon Leigh King.

6 **I. Plaintiff Should Not Be Permitted to Submit New Evidence with its**  
7 **Response**

8 The SEC filed its *ex parte* application on February 4, 2021, to which Defendant  
9 Justin King and Relief Defendant Shannon King filed an opposition and evidentiary  
10 objections on February 5, 2021. (Dkt. Nos. 37-39.) The SEC filed a response to the  
11 opposition on February 8, 2021, which included responses to Justin and Shannon  
12 King's evidentiary objections as well as a declaration from an Elevate investor,  
13 Naomi Hazen. (Dkt. No. 40.) Notably, the facts offered by Ms. Hazen in her  
14 declaration already were purportedly provided in the hearsay declaration of Michael  
15 Harmon, submitted with the SEC's *ex parte* application. But now, in the face of  
16 evidentiary objections based on the double hearsay in the Harmon declaration, the  
17 SEC has improperly submitted the declaration from Ms. Hazen in an effort to  
18 circumvent those legitimate objections and provide new potentially admissible  
19 evidence in support of its application. However, as explained in further detail below,  
20 Ms. Hazen's and Mr. Harmon's declarations deviate in several material respects, and  
21 thus, Ms. Hazen's declaration constitutes entirely new evidence improperly filed on  
22 reply. Indeed, neither the SEC nor Ms. Hazen provided any reason why her  
23 declaration could not have been submitted with the SEC's initial application. Given  
24 that Justin and Shannon King have already filed their opposition and will not have  
25 an opportunity to substantively respond to this new evidence in support of an  
26 application seeking their *incarceration*, its consideration by the Court would be  
27 highly prejudicial and the declaration should be struck.

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1 **II. The Court Should Not Rely on the Hearsay Statements in the Harmon**  
2 **Declaration**

3 Far from reinforcing the truthfulness of the facts offered in support of the  
4 SEC's *ex parte* application as intended, the declaration submitted by Ms. Hazen  
5 makes clear that those facts should not be relied upon. With respect to Ms. Hazen's  
6 investment in Elevate and her recent conversations with Justin King, Mr. Harmon's  
7 declaration states the following:

8 On January 29, 2021, I spoke with Dan Garcia, the assistant  
9 to Naomi Hazen, one of Elevate's investors. He confirmed  
10 that Ms. Hazen has heard from Justin King and that Mr.  
11 King indicated that Mr. Brandlin was unaware of the  
12 account balance in two other accounts and that these  
13 account balances were sufficient to cover all of the  
14 investor's investments. Mr. King admitted to her that he  
15 was new at this and may have made mistakes co-mingling  
16 funds, but told her that he did not do anything wrong and  
17 would pay her back soon if that is what she wanted. Mr.  
18 Garcia then indicated that Ms. Hazen was considering  
19 investing more money into Elevate.

20 Harmon Decl. ¶ 6. But Ms. Hazen's declaration does not state that Justin King said  
21 anything to the effect that the receiver "was unaware of the account balance in two  
22 other accounts," that "he would pay her back soon if that is what she wanted," or that  
23 she "was considering investing more money into Elevate." *See* Hazen Decl. ¶ 8.

24 These alleged facts in the Harmon declaration were integral to the SEC's  
25 application and were cited numerous times in support of the SEC's request that Justin  
26 and Shannon King be found in contempt and even potentially incarcerated for their  
27 supposed violations of the TRO, preliminary injunction and securities law  
28 injunctions. *See* SEC Memo. at pp. 3, 7-9. But, as Ms. Hazen's declaration makes  
clear, these facts relied upon by the SEC were not accurate and do not support the  
extreme relief sought in the application.

1 The clear disconnect between the double hearsay in the Harmon declaration  
2 and the facts relayed by Ms. Hazen demonstrate that these and the other hearsay  
3 statements in Mr. Harmon's declaration should *not* be relied upon because they do  
4 not have sufficient indicia of trustworthiness and admitting them will not serve the  
5 interests of justice. Justin and Shannon King's objections to those statements should  
6 be sustained.

7 **VII. Conclusion**

8 Defendant Justin King and Relief Defendant Shannon King respectfully  
9 submit these objections to the evidence submitted by the SEC in further support of  
10 its *ex parte* application.

11 Dated: February 12, 2021  
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13 By: /s/ Justin King

14 Justin King  
15 Shannon King

16 *Pro se defendants*  
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