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Receiver

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JUSTIN ROBERT KING AND
ELEVATE INVESTMENTS, LLC,

Defendants.

Case No.: SACV20-02398-
JVS(DFMx)

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF MOTION OF
RECEIVER TO ALLOW
CLAIMS AND TO MAKE AN
INTERIM DISTRIBUTION;
DECLARATION OF JEFFREY E.
BRANDLIN IN SUPPORT
THEREOF**

Date: September 23, 2024
Time: 1:30 p.m.
Dept: 10C, 411 W. Fourth St.
Santa Ana, CA 92701

**TO THE HONORABLE JAMES V. SELNA, UNITED STATES DISTRICT
JUDGE, AND ALL INVESTORS AND CREDITORS:**

Jeffrey E. Brandlin, Court-appointed receiver (“Receiver”) for Elevate Investments, LLC (“Elevate”), submits the following memorandum of points and authorities in support of his *Motion of Receiver to Allow Claims and to Make an Interim Distribution* (the “Motion”), together with the declaration of the Receiver and any other evidence submitted prior to or at any hearing on the Motion.

1
2 **I. INTRODUCTION**

3 The claims bar date in this case was April 11, 2023. The Receiver
4 received a total of 46 claims from investors. It was determined that 4 of the 46
5 investors' claims were the same person or related entity resulting in 42 net
6 claims. The Receiver recommends allowance of claims totaling \$8,263,787 after
7 reviewing and resolving claim discrepancies. As of July 31, 2024, the Receiver
8 is holding cash of \$1,749,892.58 in the Receivership Estate. The cash balance is
9 comprised of funds recovered from bank account recoveries, brokerage account
10 liquidations and net recoveries from clawback litigation. Once the remaining
11 clawback matters are resolved, the Receiver will file final tax returns and
12 potentially make a second and final distribution. For now, the Receiver proposes
13 to distribute \$1,400,000 using the rising tide methodology, which takes into
14 account distributions received pre-receivership so that all investors receive the
15 same recovery. Using this method, investors will each receive at least 19.01% of
16 their investment back. The Receiver is hopeful that he will be able to make a
17 second distribution, although that will be dependent on the outcome of the
18 remaining clawback matters.

19 The Receiver is informed that the SEC has no objection to the relief sought
20 in the Motion.

21
22 **II. FACTUAL BACKGROUND**

23 The Court appointed the Receiver on December 28, 2020. The Receiver
24 took physical possession of Elevate's office, documents, computer equipment
25 and other physical items located therein. The Receiver obtained a preliminary
26 list of potential investors based on documentation recovered from Elevate's
27 office and computer records. The Receiver notified the potential investors of his
28

1 appointment and directed them to the website that the Receiver established to
2 communicate with investors.¹

3 A number of accounts in the name of Elevate and its affiliates were
4 identified at the time of entry of the temporary restraining order and the
5 appointment of the Receiver. The accounts were held at three different financial
6 institutions. Concurrent with gaining control of the office, the Receiver's counsel
7 notified the financial institutions of his appointment and the order freezing of
8 accounts. The Receiver requested all documents for these accounts to enable a
9 forensic accounting of the account activity. The forensic accounting included
10 preparing a sources and uses of investors' monies and other financial analyses.
11 One of the Receiver's top priorities was to evaluate and manage Elevate's Charles
12 Schwab brokerage account. The Charles Schwab brokerage account held
13 derivative options that were subject to volatile market valuation changes. The
14 Receiver contacted Charles Schwab to understand the nature of the investments
15 and to determine the best approach to minimize any further loss to the
16 receivership estate. The Receiver instructed Charles Schwab to sell the
17 remaining positions which resulted in net proceeds to the receivership estate
18 totaling \$1,581,932. The Receiver also successfully expanded the scope of the
19 receivership estate to include additional accounts held by Shannon King that
20 increased the amount of the recovery by \$97,612.02.

21 **A. Results of the Forensic Accounting**

22 The Receiver has completed his forensic accounting by reconstructing
23 Elevate's books and records from bank records that he obtained during the
24 engagement since accounting records did not exist.

25 Between May 2019 and December 2020, Elevate raised \$8,986,084 from
26 investors. It distributed \$439,525 to investors, leaving net investments of

27
28 ¹ That website is at <https://www.donlinrecano.com/Clients/ei/Index>.

1 \$8,546,559.² Elevate earned market gains and investment losses of \$348,430 and
2 \$5,883,007, respectively. Elevate spent a total of \$2,312,678 on items that, with
3 few exceptions, appear to be either personal expenses of the principals or
4 payments that otherwise did not benefit Elevate or its investors. These expenses
5 included the following: (1) \$82,340 on mortgage payments and expenses for a
6 family member residing in an elder care facility;³ (2) \$41,068 in auto payments
7 for the cars driven by the Kings; (3) \$683,069 in credit card payments for
8 charges that appear to be mostly personal expenses; (4) \$625,511 in payments to
9 the principals; (5) \$368,865 in payments to non-investor individuals; (6)
10 \$118,000 in rent payments for the house in which the principals resided; and (7)
11 \$220,485 in miscellaneous expenses.

12 The U.S. Attorneys' Office filed criminal charges against Justin King and,
13 in January 2023, he pled guilty and was ordered to serve sixty months in federal
14 prison and to pay restitution in the total amount of \$7,591,241.19 to his victims.
15 In this civil enforcement action, Justin stipulated to a permanent injunction
16 prohibiting him from violating securities laws and Shannon King stipulated to a
17 disgorgement judgment of \$398,000, plus interest.

18 **B. Pursuit of Clawback Claims**

19 In February 2023, the Receiver retained special litigation counsel to pursue
20 actions against third parties that received distributions from Elevate but provided
21 no value in exchange for those payments. As of June 30, 2024, they had
22 obtained recoveries of \$125,704, plus a settlement of \$42,000 that is in the
23 process of being documented and for which Court approval will be required.

24 _____
25 ² Previously, the Receiver reported that Elevate had raised \$8,298,985 from
26 investors and distributed \$409,525. The difference in the numbers is as a result
27 of the claim process, which helped the Receiver identify approximately \$687,099
28 in inflows that were previously identified as coming from unknown sources as
instead coming from investors. It also identified an additional \$30,000 payout to
an investor that was previously marked as coming from an unknown source.

³ Only \$2,075 of this is for the executive suite used by Elevate.

1 There are \$157,757 in claims still pending. Special litigation counsel's fees,
2 which are subject to allowance by the Court, totaled \$147,491.10 with costs of
3 \$3,835.07 as of June 30, 2024.

4 **C. The Claims Process**

5 Pursuant to the procedure approved by the Court, creditors and investors
6 of Elevate had sixty days from the date the Receiver gave notice of the deadline
7 to submit their claims with the Receiver's office. The Receiver gave notice by
8 mail on February 10, 2023, that creditors and investors needed to submit their
9 claims to his office on or before April 11, 2023 (the "Claims Bar Date") and
10 provided them with the claim form. A copy of the notice is attached as Exhibit
11 "1." The Receiver also published the notice in the *Orange County Register* on
12 March 28, 2023, and April 4, 2023, respectively. A copy of the proof of
13 publication is attached as Exhibit "2." In addition, the Receiver posted notice of
14 the deadline on the Receivership website.

15 The Receiver received 46 claims, with four of those recommended for
16 consolidation with another claim as set forth below. The Receiver's office
17 reviewed each claim to verify that it was supported by appropriate
18 documentation or was otherwise consistent with the forensic accounting. Where
19 there were differences, the Receiver's office contacted the claimants to obtain
20 additional information to resolve the issues and, in one case, subpoenaed
21 documents from the bank to verify the claim. The Receiver believes that all
22 discrepancies have been consensually resolved.

23 The Receiver's proposed treatment of the claims is set forth on the
24 spreadsheet attached as Exhibit "3." The claimants are identified by number, not
25 name, to protect their privacy. The claimants' claim number is included on the
26 envelope in which the Motion and this Memorandum are being served and they
27
28

1 have also been directed to contact the Receiver's office if they need additional
2 assistance.

3 **D. Current Status of the Case**

4 As of July 31, 2024, the Receiver is holding cash totaling \$1,749,892.58 in
5 the receivership estate. From November 1, 2021, through June 30, 2024, and
6 subject to their allowance by the Court, the Receiver has incurred fees of
7 \$99,561.19 and costs of \$3,036.52, for a total of \$102,597.71. The Receiver's
8 counsel has incurred fees of \$36,014.60 and costs of \$2,204.87 during this same
9 period.⁴ Both the Receiver and his counsel expect to file their second fee
10 applications in August 2024. In addition, the Receiver's special litigation
11 counsel has incurred fees of \$147,491.10 and costs of \$3,835.07 as of June 30,
12 2024.

13 The fees and costs allowed by the Court to be paid will need to come out
14 of the funds on hand. In addition, the Court previously allowed the Receiver and
15 Smiley Wang-Ekvall, LLP, fees but, as is standard in receivership cases, held
16 back 20% of the fees allowed. For the Receiver, the 20% holdback was
17 \$14,167.50 and for counsel, it was \$9,035.80. The Receiver will seek payment
18 of these holdbacks at the conclusion of the case and is reserving these amounts
19 from the funds on hand.

20 From July 1, 2024, through the conclusion of this receivership, the
21 Receiver expects to incur additional fees of \$35,000 and estimated costs not to
22 exceed \$5,000. This includes the time to attend any hearing on this Motion, to
23 resolve the remaining clawback actions, distribute funds, and resolve
24 miscellaneous open issues related to the receivership estate and its eventual
25

26 ⁴ Through January 15, 2024, Smiley Wang-Ekvall incurred fees of \$28,755 and
27 costs of \$1,687.92. Smiley Wang-Ekvall ceased operations on January 16, 2024,
28 and counsel for the Receiver moved to Raines Feldman Littrell, LLP. From
January 16, 2024, through June 30, 2024, successor counsel, Raines Feldman
Littrell, incurred fees of \$7,259.60 and costs of \$516.95.

1 closure. The Receiver's counsel expects to incur fees of up to \$25,000 in
2 connection with the hearing on this Motion, responding to any inquiries of the
3 Receiver in connection with the distributions, and closing out the receivership
4 estate. The Receiver's special litigation counsel will also continue to incur fees
5 and costs in connection with the four remaining matters, with estimated fees to
6 be incurred of \$50,000.

7 8 **III. LEGAL ARGUMENT**

9 As a preliminary matter, it is well-settled that district courts supervising
10 federal equity receiverships have broad discretion to adopt appropriate
11 procedures to administer the assets of and claims against a receivership estate.
12 *See Sec. & Exch. Comm'n v. Capital Consultants, LLC*, 397 F.3d 733, 738 (9th
13 Cir, 2005); *Sec. & Exch. Comm'n v. Hardy*, 803 F.2d 1034 (9th Cir. 1986).

14
15 A district court's power to supervise an equity
16 receivership and to determine the appropriate action to
17 be taken in the administration of the receivership is
18 extremely broad. The district court has broad powers
19 and wide discretion to determine the appropriate relief
20 in an equity receivership. The basis for this broad
21 deference to the district court's supervisory role in
22 equity receiverships arises out of the fact that most
23 receiverships involve multiple parties and complex
24 transactions.

25 *Capital Consultants*, 397 F.3d at 738 (citations omitted).

26 **A. As a Measure of Caution, It is Appropriate to Subordinate** 27 **Unsecured Creditor Claims Against the Receivership Entity to** 28 **Investor Claims Against the Receivership Entity**

SEC receiverships are equitable proceedings intended to redistribute the
proceeds of a fraud to the victims of the underlying entity. Unlike a bankruptcy
case, there is no statutory mandate for how assets in a receivership should be
distributed. It is therefore within a receiver's discretion to propose a plan of

1 distribution that classifies claims into different classes for different treatment
2 based on equitable notions. *See SEC v. Credit Bancorp, Ltd.*, 290 F.3d 80, 91
3 (2d Cir. 2022); *see generally Hardy*, 803 F.2d 1037-39. Applying these broad
4 discretionary powers, courts tasked with supervising the administration of a
5 receivership in an investment fraud may authorize any distribution protocol for
6 receivership assets on account of allowed claims that is fair and reasonable. *See*
7 *SEC v. Wealth Mgmt. LLC*, 628 F.3d 323, 332-33 (7th Cir. 2010). One option is
8 to prioritize distributions to investors over distributions to creditors using a
9 constructive trust theory.

10 California has two statutes that address the circumstances under which a
11 constructive trust can be imposed. California Civil Code § 2223 provides that
12 "One who wrongfully detains a thing is an involuntary trustee . . . for the benefit
13 of the owner." California Civil Code § 2224 provides that "One who gains a
14 thing by fraud, accident, mistake, undue influence, the violation of a trust, or
15 other wrongful act, is . . . an involuntary trustee of the things gained, for the
16 benefit of the person who would otherwise have had it." Thus, under California
17 law, a court may conclude that assets are held in a constructive trust if it finds
18 that "the acquisition of property was wrongful and the keeping of the property by
19 the defendant would constitute unjust enrichment." *See FTC v. Crittenden*, 823
20 F.Supp. 699, 703 (C.D. Cal. 1993).

21 Elevate's sole source of income was funds traceable to investors. Under
22 these circumstances, the Receiver believes it is fair, reasonable, and appropriate
23 to prioritize investor claims to any claims of unsecured creditors by imposing a
24 constructive trust against the Receivership Estate's assets for the benefit of
25 investors, and subordinating all unsecured creditor claims against the
26 Receivership Estate to all investor claims against the Receivership Estate. Even
27 though no alleged creditors submitted claims, because of the hypothetical
28

1 possibility of an alleged creditor asserting a claim in the future, out of an
2 abundance of caution, the Receiver believes it is appropriate to impose a
3 constructive trust. (*See* Brandlin Decl. at ¶ 12.) All potential creditors, including
4 taxing authorities, are being served with the Motion.

5 Accordingly, the Receiver respectfully requests that the Court impose a
6 constructive trust against the Receivership Estate's assets for the benefit of
7 investors, and subordinate any unsecured creditor claims against the
8 Receivership Estate to all investor claims against the Receivership Estate.

9 **B. The Receiver Proposes to Treat Related Parties as One Investor**

10 There are three investors who invested individually and through either a
11 revocable trust or a corporation and who received at least one distribution, and
12 the Receiver is proposing to treat the investments and distributions as being
13 made by or two the same investor. The first set of these are reflected in Exhibit
14 “3” as Claim 8 and is an individual investor who also invested through his
15 wholly-owned company. The individual investor invested \$150,000 and his
16 company invested \$325,000, and the individual received \$23,954 as a referral
17 fee. Payments, including referral fees and sales commissions, that are made in
18 furtherance of a fraudulent scheme are subject to avoidance. *See, e.g. Warfield v.*
19 *Byron*, 436 F.3d 551, 560 (5th Cir. 2006). Rather than pursuing the investor for
20 recovery of the referral fee and withholding his distribution pending resolution of
21 that issue, the Receiver has characterized the referral fee as a distribution.

22 Accordingly, the Receiver proposes to treat these claims as being made by and to
23 one investor to reflect a total investment of \$475,000 with distributions totaling
24 \$23,954, for a total net investment of \$451,046.

25 The second set of these is Claim 18 and is an investor who invested
26 \$400,000 through her revocable trust and individually received a distribution of
27 \$80,000. She filed a claim in her individual name for \$320,000. The Receiver
28

1 agrees with the net amount of her claim, but intends to treat the individual and
2 the revocable trust as one party so that in calculating the distribution, the fact that
3 \$80,000 was distributed pre-receivership is taken into account. Otherwise, the
4 Receiver would need to sue the individual to recover the distribution of \$80,000
5 and allow the revocable trust a claim of \$400,000, which is a result that does not
6 make practical sense, particularly given that the trust is revocable such that the
7 trustee retains a beneficial interest in it. It would also not be equitable to other
8 investors.

9 The third set is Claim 11 and the claimants are a couple who invested
10 \$50,000 through their wholly-owned company and \$20,000 individually and who
11 the Receiver alleges received distributions totaling \$23,829 that were made out to
12 them individually. The alternative would be that the Receiver would need to sue
13 the individuals to recover the excess that they received and the claim filed by the
14 company would be allowed as \$50,000 and receive a distribution, which is not an
15 equitable result.

16 Consolidation under these circumstances ensures that each investor has
17 one account that accurately represents the amount that they invested and the
18 amount that was distributed to them. Only 3 groups of investors are affected by
19 this consolidation. *See, e.g., Aequitas Mgmt., LLC*, 2020 WL 1528249 at *8
20 (approving the receiver's proposed consolidation of multiple accounts of single
21 investors as an equitable outcome); *Equity Fin. Group, LLC*, 2005 WL 2143975
22 at *26 (approving the receiver's consolidation of multiple accounts, even where
23 an investor used different investment vehicles to make the investment and held
24 one account as an IRA and another individually, because "to disregard
25 consolidation would permit this investor to receive a disproportionately larger
26 distribution to those investors who maintained single accounts."). Accordingly,
27 the Receiver requests that the Court authorize the consolidated treatment of
28

1 individuals with either a corporate entity owned by the individuals or with a
2 revocable trust where the trustor was the individual.

3 C. **It is Appropriate to Make an Interim Distribution of the**
4 **Constructive Trust Res to Investors Who Filed Claims, Utilizing**
5 **the Rising Tide Method to Calculate Distributions**

6 The two most common methods of making distributions in federal equity
7 receiverships are the net investment method and the rising tide method. Under
8 the net investment method, each investor would receive a pro rata distribution
9 based on the investor's net loss at the end of the scheme. This approach does not
10 even the playing field between investors who received distributions during the
11 scheme and investors who did not. Instead, because it does not account for
12 withdrawals or payments received during the scheme, the net investment method
13 increases the rate of return for investors who received money during the scheme
14 at the expense of the investors who did not. The rising tide method seeks to
15 solve this dilemma. It enables the Receiver to include an investor's prior
16 withdrawals as part of that investor's pro rata distribution, until that investor has
17 received the same percentage as the other investors. The result is that it prevents
18 an investor who previously received withdrawals from benefitting at the expense
19 of investors who did not. *See Commodity Futures Trading Comm'n v. Lake*
20 *Shore Asset Mgmt.*, 2010 WL 960362, at *9-10 (N.D. Ill. 2010); *Commodity*
21 *Futures Trading Comm'n v. Equity Fin. Grp., LLC*, 2005 WL 2143975, at *24
22 (D.N.J. 2005).

23 The Receiver believes the distributions should be made in accordance with
24 the rising tide method. If the Receiver were to use the net investment method,
25 then the Receiver would make a pro rata distribution to all of the investors
26 holding allowed claims that would result in all of them receiving an amount
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1 equal to 16.9% of their claims.⁵ Investors who received withdrawals during the
2 scheme would fare better than investors who did not, because they would be able
3 to keep the funds that they received and receive another 16.9% of their net
4 investment from the Receiver. Using the rising tide methodology eliminates this
5 disparity. Under this methodology, each investor who has not yet received a
6 distribution on account of their investment will receive a return of 19.01% of the
7 amount that they invested. Investors who previously received a partial return
8 prior to the commencement of the receivership that was less than 19.01% of the
9 amount they invested will receive an amount that will bring their total
10 distribution to 19.01%. Investors who have already received 19.01% of their
11 amount invested will not participate in this distribution. Thus, through the rising
12 tide method, the Receiver's goal is to equalize the distributions between investors
13 to the greatest extent possible.

14 As stated above, the Receiver seeks to make an interim distribution of
15 \$1,400,000 of the *res* of the constructive trust to non-insider investors who
16 timely filed claims and who have not already received back 19.01% of their
17 amounts invested. The claim submission process is complete and the funds that
18 the Receiver proposes to distribute are traceable to investors, which are required
19 to be used for distributions to investors and the costs of administration of the
20 Receivership Estate. Attached as Exhibit "3" is a spreadsheet with the timely-
21 filed claims, the allowed amount of each claim, any withdrawals received during
22 the scheme, and the proposed amount to be distributed in this distribution. The
23 investor names and addresses are not included in order to protect their privacy.
24 Instead, the only identifying information is their account number and the claim
25 number. Investor claim numbers are on the mailing label affixed to the
26

27 ⁵ This is calculated as the amount proposed to be distributed to non-insider
28 investors divided by their estimated net investment, or \$1,400,000 divided by
\$8,263,787.

1 envelopes with the pleadings being served on investors. Investors with questions
2 about their proposed distribution can call or email the Receiver's office for
3 assistance.

4 The Receiver hopes to make a distribution of any remainder of the funds
5 on hand after resolution of all of the clawback actions.

6
7 **IV. CONCLUSION**

8 Based on the foregoing, the Receiver requests entry of an order:

9 (1) Allowing the claims identified on Exhibit "3" as claims against the
10 Receivership Estate in the amounts set forth on Exhibit "3";

11 (2) Imposing a constructive trust against the assets of the Receivership
12 Estate for the sole benefit of investors, with any creditor claims subordinated to
13 the investor claims identified on Exhibit "3";

14 (3) For purposes of calculating the allowed amount of claims,
15 authorizing the consolidated treatment of (i) investments and distributions made
16 by or to two individuals and companies owned by those individuals and (ii) an
17 individual and her revocable trust;

18 (4) Authorizing the Receiver to make a distribution of \$1.4 million to
19 the investor claimants identified on Exhibit "3" utilizing the rising tide
20 methodology; and

21 (5) Granting such other and further relief as the Court may deem just
22 and proper.

23 Respectfully submitted,

24 Dated: August 20, 2024

RAINES FELDMAN LITRELL LLP

25
26 By: /s/ Kyra E. Andrassy

27 Kyra E. Andrassy
28 Attorneys for Jeffrey E. Brandlin,
Receiver

DECLARATION OF JEFFREY E. BRANDLIN

I, JEFFREY E. BRANDLIN, declare as follows:

1. I am the duly appointed receiver for Elevate Investments, LLC (“Elevate”) in the above-entitled action. I make this declaration in support of my motion to make an interim distribution to investors. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

2. The Court appointed me on December 28, 2020. I immediately took possession of the office occupied by Elevate and documents and computer equipment located there. From those records, I obtained a preliminary list of potential investors and gave them notice of my appointment and directed them to the website that I established in order to communicate with investors.

3. The temporary restraining order that the Court issued simultaneously with my appointment identified four different accounts in the name of Elevate and its affiliates that were located at two different financial institutions. Concurrent with gaining control of the office, we gave notice to the financial institutions of my appointment and the order freezing of the accounts. I also requested all documents for those accounts in order to prepare a forensic accounting to determine what money came into Elevate and where it went. My priority was with Elevate's account at Charles Schwab, because the account held some options in derivate investments. I had a phone call with representatives from Charles Schwab in order to understand the investments and to determine the best way to minimize any further loss to the receivership estate. I instructed Charles Schwab to sell and liquidate the positions that remained and obtained \$1,581,932 from Elevate's account at Charles Schwab. I also successfully

1 expanded the scope of the receivership estate to include additional accounts held
2 by Shannon King that increased the amount of the recovery by \$97,612.02.

3 4. I have completed the forensic accounting of what money came into
4 Elevate and where it went. Elevate did not maintain accounting records, so we
5 reconstructed Elevate's books and records from bank records that we obtained.

6 5. From May 2019 through December 2020 when I was appointed,
7 Elevate raised \$8,986,084 from investors. It distributed \$439,525 to investors,
8 leaving net investments of \$8,546,559. I previously reported lower numbers.
9 The reason for the increase in the amount invested and disbursed is because the
10 claim process and further forensic accounting allowed me to identify investments
11 previously classified as coming from unknown sources and to identify an
12 additional investor disbursement that was made.

13 6. Elevate earned \$348,430 in market gains, but lost \$5,883,007.
14 Elevate spent approximately \$2,312,678 on items that, with very few exceptions,
15 appear to be personal expenses of the principals or payments that otherwise did
16 not benefit Elevate or its investors. These include the following: (1) \$82,340 on
17 mortgage payments and expenses for a family member residing in an elder care
18 facility; (2) \$41,068 in auto payments for the cars driven by the Kings; (3)
19 \$683,069 in credit card payments for charges that appear to be mostly personal
20 expenses; (4) \$625,511 in payments to the principals; (5) \$368,865 in payments
21 to non-investor individuals; (6) \$118,000 in rent payments for the house in which
22 the principals resided; and (7) \$220,485 in miscellaneous expenses.

23 7. In February 2023, I retained special litigation counsel to pursue
24 actions against third parties that received distributions from Elevate but provided
25 no value in exchange for those payments. As of June 30, 2024, they had
26 obtained recoveries of \$125,704, plus a pending settlement of \$42,000, with
27 \$157,757 in claims still pending. Special litigation counsel's fees, which are
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1 subject to allowance by the Court, totaled \$147,491.10, plus \$3,835.07 in costs,
2 as of June 30, 2024.

3 8. Pursuant to the procedure approved by the Court, creditors and
4 investors of Elevate had sixty days from the date I gave notice of the deadline to
5 submit claims to file their claims with my office. We gave notice by mail on
6 February 10, 2023, that creditors and investors needed to submit their claims to
7 my office on or before April 11, 2023 (the “Claims Bar Date”) and provided
8 them with the claim form. A true and correct copy of the notice is attached as
9 Exhibit “1.” We also published the notice in the *Orange County Register* on
10 March 28, 2023, and April 4, 2023. A true and correct copy of the proof of
11 publication is attached as Exhibit “2.” Last, we posted notice of the deadline on
12 the website I set up to provide information about the receivership.

13 9. I received 46 claims. We reviewed each claim to verify that it was
14 supported by appropriate documentation or was otherwise consistent with the
15 forensic accounting. Where there were differences, I reached out to claimants to
16 obtain additional information and provide documentation to resolve the issue. In
17 one case, I subpoenaed documents from a bank to verify the claim. My proposed
18 treatment of the claims is set forth on the spreadsheet attached as Exhibit “3.”
19 The claimants are identified by number, not name, to protect their privacy. The
20 claimants’ claim number is included on the envelope in which the Motion and
21 this Memorandum are being served and they have also been directed to contact
22 my office if they need additional assistance.

23 10. As of July 31, 2024, I was holding \$1,749,892.58. From November
24 1, 2021, through June 30, 2024, my firm incurred fees of \$99,561.19 and costs of
25 \$3,036.52 related to the website to communicate with investors. My counsel,
26 Smiley Wang-Ekvall, LLP, and then Raines Feldman Littrell LLP, incurred fees
27 of \$36,014.60 and costs of \$2,204.87 during this same period. We will shortly
28

1 file fee applications. The fees and costs allowed by the Court to be paid will
2 need to come out of the funds on hand. In addition, the Court previously allowed
3 my firm and my counsel fees on an interim basis, but held back 20% of the fees
4 allowed. For my firm, the 20% holdback was \$14,167.50 and for counsel, it was
5 \$9,035.80. We intend to seek payment of these holdbacks at the conclusion of
6 the case and I am reserving these amounts from the funds on hand.

7 11. From July 1, 2024, through the conclusion of this receivership, I
8 expect to incur additional fees of \$35,000.00 and estimated costs not to exceed
9 \$5,000. This includes the time to attend any hearing on this Motion, to resolve
10 the remaining clawback actions, distribute funds, and resolve miscellaneous open
11 issues related to the Receivership Estate and its eventual closure. I estimate that
12 I will incur fees of approximately \$8,000.00 related to the preparation of the
13 remaining tax returns for Elevate. My counsel informs me that it expects to incur
14 fees of up to \$25,000 in connection with the hearing on this Motion, responding
15 to any inquiries from investors or me in connection with the distributions, and
16 closing out the receivership. My special litigation counsel will continue to incur
17 fees in connection with the three remaining clawback claims that I estimate will
18 total up to another \$50,000. Its fees are also subject to allowance by the Court.

19 12. Based on the forensic accounting we conducted, Elevate's sole
20 source of income was funds traceable to investors. Under these circumstances, I
21 believe it is fair, reasonable, and appropriate to prioritize investor claims to any
22 claims of unsecured creditors by imposing a constructive trust against the
23 Receivership Estate's assets for the benefit of investors, and subordinating all
24 unsecured creditor claims against the Receivership Estate to all investor claims
25 against the Receivership Estate. Even though no alleged creditors submitted
26 claims, because of the hypothetical possibility of an alleged creditor asserting a
27 claim in the future, out of an abundance of caution, I believe it is appropriate to
28

1 impose a constructive trust. All potential creditors, including taxing authorities,
2 are being served with the Motion.

3 14. There are three investors who invested one way and received a
4 distribution through an entity or trust, and I am proposing to treat those
5 distributions as having been made to the investors. The first set of these are
6 reflected in Exhibit "3" as Claim 8 and is an individual investor who also
7 invested through his company. The individual investor invested \$150,000 and
8 his company invested \$325,000, and the individual received \$23,954 as a referral
9 fee. Rather than pursue the investor for recovery of the referral fee and
10 withholding his distribution pending resolution of that issue, I propose to
11 characterize the referral fee as a distribution. Accordingly, I propose to treat
12 these claims as being made by and to one investor to reflect a total investment of
13 \$475,000 with distributions totaling \$23,954, for a total net investment of
14 \$451,046.

15 15. The second set of these is Claim 18 and is an investor who invested
16 \$400,000 through her revocable trust and individually received a distribution of
17 \$80,000. I propose to treat the investment and distribution as being made to the
18 same party to reflect a net investment of \$320,000. Otherwise, I would need to
19 sue the individual to recover the distribution of \$80,000 and allow the revocable
20 trust a claim of \$400,000, which is a result that does not make practical sense,
21 particularly given that the trust is revocable such that the trustee retains a
22 beneficial interest in it. I also do not believe it would be equitable to other
23 investors.

24 16. The third set is Claim 11 and the claimants are a couple who
25 invested \$70,000 through their company and who received payments totaling
26 \$23,829 that were made out to them individually. I have provided copies of
27 these checks to the claimants. The alternative would be that I would need to
28

1 pursue the individuals to recover the profit that they received on the \$20,000
2 investment and the claim filed by the company would be allowed as \$50,000 and
3 receive a distribution, which I do not believe is an equitable result.

4 17. I believe the distributions should be made in accordance with the
5 rising tide method. If I were to use the net investment method, which entails
6 distributing the funds pro rata to each investor based on their net investment (i.e.,
7 the allowed amount of their claim), then that would result in all of them receiving
8 an amount equal to 16.9% of their claims.⁶ Investors who received withdrawals
9 during the scheme would fare better than investors who did not, because they
10 would be able to keep the funds that they received and receive another 16.9% of
11 their net investment. Using the rising tide methodology eliminates this disparity.
12 Under this methodology, each investor who has not yet received a distribution on
13 account of their investment will receive a return of 19.01% of the amount that
14 they invested. Investors who previously received a partial return prior to the
15 commencement of the receivership that was less than 19.01% of the amount they
16 invested will receive an amount that will bring their total distribution to 19.01%.
17 Investors who have already received 19.01% of their amount invested will not
18 participate in this distribution. Thus, through the rising tide method, the goal is
19 to equalize the distributions between investors to the greatest extent possible.

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

22 Executed on August 19, 2024, at Los Angeles, California.

23 

24 2EB145043EDA4E5
JEFFREY E. BRANDLIN

25
26
27 ⁶ This is calculated as the amount proposed to be distributed to non-insider
28 investors divided by their estimated net investment, or \$1,400,000 divided by
\$8,263,787.

EXHIBIT "1"

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**JUSTIN ROBERT KING; AND ELEVATE
INVESTMENTS, LLC,**

Defendants.

and

SHANNON LEIGH KING,

Relief Defendant.

) Case No: SACV 20-cv-02398 JVS(DFMx)

)

) Assigned for all purposes to the

) Honorable James V. Selna

)

) **NOTICE OF CLAIMS BAR DATE FOR**

) **INVESTORS, INSTRUCTIONS, AND CLAIM**

) **FORM FOR ALL INVESTORS SEEKING**

) **RECOVERY FROM ELEVATE**

) **INVESTMENTS, LLC**

)

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On December 28, 2020, the United States District Court for the Central District of California (the "District Court") appointed Jeffrey E. Brandlin as the temporary receiver (the "Receiver") over Elevate Investments, LLC ("Elevate") and its subsidiaries and affiliates. Subsequently, the District Court appointed the Receiver as the permanent receiver over Elevate and its subsidiaries and affiliates (collectively, the "Receivership Entity").

The Receiver has determined that there will be assets available for distribution to investors. The amount of funds available has not yet been finally determined. However, in order to make a distribution, the Receiver must establish a database of all claims entitled to a distribution. Therefore, all investors are required to submit their claims in accordance with the procedure below, which was approved by the District Court by an order entered on September 12, 2022.

INVESTOR CLAIM FORM INSTRUCTIONS

1. **WHO MUST SUBMIT AN INVESTOR CLAIM FORM?** You must return the enclosed claim form ("Investor Claim Form") if you believe you are owed any money by the Receivership Entity. A failure to timely submit an original signed Investor Claim Form and any necessary supporting documentation may result in the denial of your claim. You must submit the signed Investor Claim Form even if you have already informally provided evidence of a claim to the Receiver.

2. **CONSENT TO JURISDICTION OF THE COURT:** If you submit an Investor Claim Form in this case,

you are consenting to the jurisdiction of the District Court for all purposes and agree to be bound by its decisions, including, among other things, a determination as to the validity and amount of your claim against the Receivership Entity after notice and a hearing.

3. WHERE DO YOU RETURN THE INVESTOR CLAIM FORM? The original signed, completed Investor Claim Form and any supporting documentation must be mailed to: Jeffrey E. Brandlin, Receiver, 545 South Figueroa St., Suite 1134, Los Angeles, CA, 90071. Do not file the Investor Claim Form with the District Court.

4. WHEN IS THE DEADLINE TO RETURN THE INVESTOR CLAIM FORM? **The Investor Claim Form must be received by the Receiver on or before April 11, 2023 (the "Claims Bar Date").**

5. WHAT HAPPENS IF YOU DO NOT TIMELY RETURN THE SIGNED INVESTOR CLAIM FORM? If your Investor Claim Form is not received on or before the above Claims Bar Date, you (a) will be barred to the fullest extent allowed by applicable law from asserting, in any manner, a claim against the Receivership Entity and its property or estate, (b) will not be permitted to object to any distribution plan proposed by the Receiver on account of such claim, (c) will be denied distributions, and (d) will not receive any further notices on account of such claim. In addition, the Receivership Entity and its property or estate will be discharged from any and all indebtedness or liability with respect to such claim.

6. WHAT DO YOU NEED TO DO IF YOU AGREE WITH THE AMOUNTS ON THE INVESTOR CLAIM FORM?

Investors who do not dispute the claim information provided by the Receiver only need to timely sign on the last page of the Investor Claim Form and return the Investor Claim Form and do not need to attach documentation to the Investor Claim Form. If the Receiver learns new information that affects the amount of your claim, he reserves the right to send you a notice of proposed adjustment to the claim, and you will have ninety (90) days from the date of service of that notice to contest the proposed adjustment by submitting an amended Investor Claim Form.

7. WHAT DO YOU NEED TO DO IF YOU DISAGREE WITH THE AMOUNTS ON THE INVESTOR CLAIM FORM? Investors who dispute the claim information provided by the Receiver must attach to the Investor Claim Form copies of all documents that establish that the Receivership Entity owe the debts or amounts that you claimed. Failure to provide such documents may result in the denial of your claim. The District Court will resolve any disputes about the allowance or amount of a particular claim.

8. CHANGE OF CONTACT INFORMATION. If the contact information provided on the Investor Claim Form changes, you must direct the Receiver to update your contact information by sending a letter to Jeffrey E. Brandlin, Receiver, 545 South Figueroa St., Suite 1134, Los Angeles, CA, 90071.

9. TAX OR LEGAL ADVICE. The Receiver cannot provide tax or legal advice. You are encouraged to seek independent advice in regard to filing your Investor Claim Form or the tax implications of it.

10. RESERVATION OF RIGHTS BY THE RECEIVER. The Receiver has the right to verify and dispute any information you have provided in order to determine the proper distribution amount, if any, to which you may be entitled. Nothing in this notice and instructions or the Investor Claim Form precludes the Receiver from objecting to any Investor Claim Form on any grounds.

INVESTOR CLAIM FORM

United States District Court
Central District of California
Case No. SACV 20-02398 JVS (DFMx)

Securities & Exchange Commission,

v.

Justin Robert King; and Elevate Investments LLC, et al.

GENERAL CONTACT INFORMATION

1	Name of Investor:	
2	Street Address/P.O. Box:	
3	City, State, Zip Code:	
4	Telephone Number(s):	
5	Email Address(es):	

GENERAL CLAIM INFORMATION

6	Account Number:	
7	Total amount that the Receiver believes you invested, not including interest. If you disagree with this number, please state what you assert is the correct amount and, in Section 10 below, provide the detailed information requested.	US \$
8	Total amount the Receiver believes you have received from Elevate Investments, LLC, including payments of interest, principal, payment of bills, donations made on your behalf, or investment distributions from the Receivership Entity. If you disagree with this number, please state what you assert is the correct amount and provide the details below in Section 11.	US \$
9	Total amount the Receiver believes you are owed (Line 7 – Line 8), not including any interest on your investment. If you disagree with this number, please state what you assert is the correct amount.	US \$

IF YOU DISAGREE WITH THE AMOUNT IN BOX 7 ABOVE, PLEASE PROVIDE THE FOLLOWING INFORMATION ABOUT YOUR INVESTMENT

	Amounts Invested	Date of Investment (mm/dd/yy)	Was your investment made by check, cash, wire transfer, or other (please explain).
10	a. \$	____/____/____	
	b. \$	____/____/____	
	c. \$	____/____/____	
	d. \$	____/____/____	
	e. \$	____/____/____	

IF YOU DISAGREE WITH THE AMOUNT IN BOX 8 ABOVE, PROVIDE THE FOLLOWING INFORMATION ABOUT MONEY THAT YOU HAVE RECEIVED

	Date of payment (mm/dd/yy)	Amount of money received or expended on your behalf	Type of payment (i.e., principal, interest, donations, payment of bills etc.)	If the payment was not directed to you, state the name of the entity to which the payment was made
11	a. ____/____/____	\$		
	b. ____/____/____	\$		
	c. ____/____/____	\$		
	d. ____/____/____	\$		
	e. ____/____/____	\$		
	f. ____/____/____	\$		
	g. ____/____/____	\$		

If you need additional space to complete an answer, please attach a separate sheet of paper using the same format as on this Investor Claim Form and indicate the number of the question for which

you are providing the additional information.

Any other comments you wish to make to the Receiver: _____

IMPORTANT: ANY PERSON OR ENTITY SUBMITTING THIS INVESTOR CLAIM FORM SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR ALL PURPOSES, INCLUDING, WITHOUT LIMITATION, AS TO RESOLUTION OF ANY CLAIMS, OBJECTIONS, DEFENSES, OR COUNTERCLAIMS BY THE RECEIVER AGAINST SUCH CLAIMANT IN CONNECTION WITH THIS RECEIVERSHIP, INCLUDING THOSE ARISING OUT OF (1) ANY DEALING OR BUSINESS TRANSACTED BY OR WITH THE RECEIVERSHIP ENTITY OR (2) ANY DEALING OR BUSINESS TRANSACTED THAT RELATES IN ANYWAY TO ANY RECEIVERSHIP PROPERTY. FURTHER, CLAIMANTS WAIVE ANY RIGHT TO A JURY TRIAL WITH RESPECT TO SUCH CLAIMS, OBJECTIONS, DEFENSES, AND COUNTERCLAIMS AND AGREE TO BE BOUND BY THE DECISIONS OF THE DISTRICT COURT EVEN IF IT MEANS YOUR CLAIM IS LIMITED OR DENIED.

CERTIFICATION AND SIGNATURE (REQUIRED OF ALL CLAIMANTS)

By signing below, I declare under penalty of perjury that the information in this Investor Claim Form is true and correct, and, if I am not the claimant, that I have been authorized to file this Investor Claim Form on behalf of the claimant

Signature: X

Print Name: _____

Title: _____

Date: _____

Return to:

Jeffrey E. Brandlin, Receiver
545 South Figueroa St., Suite 1134
Los Angeles, CA, 90071

EXHIBIT "2"

The Orange County Register

1920 Main St., Suite 225
Irvine, Ca 92614
714-796-7000

5236654

SMILEY WANG-EKVALL, LLP
3200 PARK CENTER DRIVE, SUITE 250
COSTA MESA, CA 92626

AFFIDAVIT OF PUBLICATION

STATE OF CALIFORNIA, }

SS.

County of Orange

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of The Orange County Register, a newspaper of general circulation, published in the city of Santa Ana, County of Orange, and which newspaper has been adjudged to be a newspaper of general circulation by the Superior Court of the County of Orange, State of California, under the date of November 19, 1905, Case No. A-21046, that the notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

03/28/2023, 04/04/2023

I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Executed at Anaheim, Orange County, California, on
Date: April 04, 2023.



Signature

PROOF OF PUBLICATIONLegal No. **0011594287****SMILEY WANG-EKVALL, LLP**

Kyra E. Andrassy, State Bar No. 207959
kandrassy@swelawfirm.com
Michael L. Simon, State Bar No. 300822
msimon@swelawfirm.com
Timothy W. Evanston, State Bar No. 319342
tevanston@swelawfirm.com
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Telephone: 714 445-1000
Facsimile: 714 445-1002

Attorneys for Jeffrey E. Brandlin, Receiver

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT, SOUTHERN CALIFORNIA**

SECURITIES AND EXCHANGE COMMISSION,)	Case No. 8:20-cv-02398-JVS-DFM
)	
Plaintiff,)	NOTICE OF DEADLINE TO
)	SUBMIT CLAIMS TO THE
)	RECEIVER
v.)	
)	DEADLINE : APRIL 11, 2023
JUSTINE ROBERT KING; AND)	
ELEVATE INVESTMENTS, LLC)	
)	
Defendants.)	
)	
and)	
SHANNON LEIGH KING)	
)	
Relief Defendants.)	
)	

Pursuant to the Order Granting Motion of Receiver, Jeffrey E. Brandlin, for Order (1) Approving Claim Forms; (2) Setting a Claims Bar Date; and (3) Establishing Summary Claims Procedures, which was entered on September 12, 2022, as Docket No. 92, April 11, 2023, is the deadline to submit claims against the receivership estate of Elevate Investments, LLC, and any affiliates or subsidiaries.

Claim forms have been disseminated by mail and/or email to known investors and creditors. If you did not receive a form, blank claim forms are available either on the website set up for the receivership estate located at <https://www.donlinrecano.com/Clients/ei/Index> or by contacting counsel for the Receiver at kandrassy@swelawfirm.com. Creditors and investors who fail to timely return a claim form will be barred from receiving any distribution from the receivership estate. Claim forms are to be returned to the Receiver and should not be filed with the Court.

DATED: February 10, 2023

SMILEY WANG-EKVALL, LLP

By: /s/ Kyra E. Andrassy
KYRA E. ANDRASSY
Attorneys for Jeffrey E. Brandlin,
Receiver

Publish: Orange County Register March 28, April 4, 2023 11594287

EXHIBIT "3"

CALCULATIONS of DISTRIBUTIONS to INVESTORS (USING the RISING TIDE METHOD)

Printed on:

8/20/24 10:33 AM

TOTAL AMOUNT to be DISTRIBUTED = **\$ 1,400,000**

TOTAL PERCENT to be ALLOWED = **19.014%**

Investors' Claimed Amounts

Claim #	Investor	Total		Net Invested	Percent of Payout	Proposed Distributions	
		Deposits	Payouts			Percent	Amount
		\$ 8,660,912	\$ 397,125	\$ 8,263,787	4.585%		\$ 1,400,000
1	1	\$ 150,000.00	\$ -	\$ 150,000.00	n/a	19.014%	\$ 28,521.28
2	2	\$ 175,000.00	\$ -	\$ 175,000.00	n/a	19.014%	33,274.83
3	3	\$ 324,026.43	\$ -	\$ 324,026.43	n/a	19.014%	61,610.99
4	4	\$ 350,000.00	\$ -	\$ 350,000.00	n/a	19.014%	66,549.65
5	5	\$ 100,000.00	\$ -	\$ 100,000.00	n/a	19.014%	19,014.19
6	6	\$ 50,000.00	\$ 2,997.00	\$ 47,003.00	5.994%	19.014%	6,510.09
7	7	\$ 95,000.00	\$ -	\$ 95,000.00	n/a	19.014%	18,063.48
8	8a, 8b and	\$ 475,000.00	\$ 23,954.00	\$ 451,046.00	5.043%	19.014%	66,363.39
Account No. 8c (CONSOLIDATED)							
9	9	\$ 110,000.00	\$ -	\$ 110,000.00	n/a	19.014%	20,915.60
10	10	\$ 20,000.00	\$ -	\$ 20,000.00	n/a	19.014%	3,802.84
11	11a	\$ 70,000.00	\$ 23,829.00	\$ 46,171.00	34.041%	0.000%	-
Account No. 11b (CONSOLIDATED)							
12	12	\$ 100,000.00	\$ 50,000.00	\$ 50,000.00	50.000%	0.000%	-
13	13	\$ 100,000.00	\$ -	\$ 100,000.00	n/a	19.014%	19,014.19
14	14	\$ 75,000.00	\$ -	\$ 75,000.00	n/a	19.014%	14,260.64
15	15	\$ 190,000.00	\$ -	\$ 190,000.00	n/a	19.014%	36,126.95
16	16	\$ 100,000.00	\$ -	\$ 100,000.00	n/a	19.014%	19,014.19
17	17	\$ 100,000.00	\$ -	\$ 100,000.00	n/a	19.014%	19,014.19
18	18a and	\$ 400,000.00	\$ 80,000.00	\$ 320,000.00	20.000%	0.000%	-
Account No. 18b (CONSOLIDATED)							
19	19	\$ 70,000.00	\$ 30,000.00	\$ 40,000.00	42.857%	0.000%	-
20	20	\$ 400,000.00	\$ -	\$ 400,000.00	n/c	19.014%	76,056.75
21	21	\$ 406,770.00	\$ 660.00	\$ 406,110.00	0.162%	19.014%	76,684.01
22	22	\$ 50,000.00	\$ -	\$ 50,000.00	n/a	19.014%	9,507.09
23	23	\$ 25,000.00	\$ -	\$ 25,000.00	n/a	19.014%	4,753.55
24	24	\$ 200,000.00	\$ -	\$ 200,000.00	n/a	19.014%	38,028.37
25	25	\$ 100,000.00	\$ -	\$ 100,000.00	n/a	19.014%	19,014.19
26	26	\$ 100,000.00	\$ -	\$ 100,000.00	n/a	19.014%	19,014.19
27	27	\$ 1,250,000.00	\$ -	\$ 1,250,000.00	n/a	19.014%	237,677.33
28	28	\$ 500,000.00	\$ -	\$ 500,000.00	n/a	19.014%	95,070.93
29	29	\$ 120,000.00	\$ -	\$ 120,000.00	n/a	19.014%	22,817.02
30	30	\$ 75,000.00	\$ -	\$ 75,000.00	n/a	19.014%	14,260.64
31	31	\$ 50,000.00	\$ -	\$ 50,000.00	n/a	19.014%	9,507.09
32	32	\$ 127,789.00	\$ -	\$ 127,789.00	n/a	19.014%	24,298.04
33	33	\$ 500,000.00	\$ -	\$ 500,000.00	n/a	19.014%	95,070.93
34	34	\$ 213,000.00	\$ 128,685.00	\$ 84,315.00	60.415%	0.000%	-
35	35	\$ 414,043.00	\$ -	\$ 414,043.00	n/a	19.014%	78,726.91
36	36	\$ 600,000.00	\$ -	\$ 600,000.00	n/a	19.014%	114,085.12
37	37	\$ 301,000.00	\$ 57,000.00	\$ 244,000.00	18.937%	19.014%	232.70
38	38	\$ 75,000.00	\$ -	\$ 75,000.00	n/a	19.014%	14,260.64
39	39	\$ 25,000.00	\$ -	\$ 25,000.00	n/c	19.014%	4,753.55
40	40	\$ 25,000.00	\$ -	\$ 25,000.00	n/a	19.014%	4,753.55
41	41	\$ 31,283.90	\$ -	\$ 31,283.90	n/a	19.014%	5,948.38

Investors' Claimed Amounts						Proposed Distributions	
Claim		Total		Net Invested	Percent of Payout	Percent	Amount
		Deposits	Payouts				
42	42	\$ 18,000.00	\$ -	18,000.00	n/a	19.014%	3,422.55
Totals		\$ 8,660,912	\$ 397,125	\$ 8,263,787			\$ 1,400,000

INVESTORS WITH MORE THAN ONE ACCOUNT THAT REQUIRE CONSOLIDATION

8	8a	\$ 325,000.00	\$ -	325,000	n/a	0.000%	-
8	8b	\$ 150,000.00	\$ -	150,000	n/a	0.000%	-
8	8c	\$ -	\$ 23,954.00	(23,954)	5.043%	0.000%	-
Totals		\$ 475,000.00	\$ 23,954.00	\$ 451,046	5.043%	19.014%	\$ 66,363.39

11	11a	\$ 70,000.00	\$ -	70,000	n/a	0.000%	-
11	11b	\$ -	\$ 23,829.00	(23,829)	34.041%	0.000%	-
Totals		\$ 70,000.00	\$ 23,829.00	\$ 46,171	34.041%	0.000%	\$ -

18	18a	\$ 400,000.00	\$ -	400,000	n/a	0.000%	-
18	18b	\$ -	\$ 80,000.00	(80,000)	20.000%	0.000%	-
Totals		\$ 400,000.00	\$ 80,000.00	\$ 320,000	20.000%	0.000%	\$ -

PROOF OF SERVICE

I am over the age of 18 and not a party to the within action; I am employed by Raines Feldman Littrell LLP and its business address is 3200 Park Center Drive, Suite 250, Costa Mesa, California 92626.

On August 20, 2024, I served the following document(s) described as

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION OF RECEIVER TO ALLOW CLAIMS AND TO MAKE AN INTERIM DISTRIBUTION; DECLARATION OF JEFFREY E. BRANDLIN IN SUPPORT THEREOF

☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

SEE ATTACHED SERVICE LIST

☒ **BY COURT VIA NOTICE OF ELECTRONIC FILING ("NEF"):** Pursuant to United States District Court, Central District of California, Local Civil Rule 5-3, the foregoing document will be served by the court via NEF and hyperlinked to the document. On August 20, 2024, I checked the CM/ECF docket for this case and determined that the aforementioned person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated.

☐ **BY MAIL:** I placed said envelope(s) for collection and mailing, following ordinary business practices, at the business offices of Raines Feldman Littrell LLP, and addressed as shown on the attached service list, for deposit in the United States Postal Service. I am readily familiar with the practice of Raines Feldman Littrell LLP for collection and processing correspondence for mailing with the United States Postal Service, and said envelope(s) will be deposited with the United States Postal Service on said date in the ordinary course of business.

☐ **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed in the attached service list.

☐ **BY OVERNIGHT DELIVERY:** I placed said documents in envelope(s) for collection following ordinary business practices, at the business offices of Raines Feldman Littrell LLP, and addressed as shown on the attached service list, for collection and delivery to a courier authorized by _____ to receive said documents, with delivery fees provided for. I am readily familiar with the practices of Raines Feldman Littrell LLP for collection and processing of documents for overnight delivery, and said envelope(s) will be deposited for receipt by _____ on said date in the ordinary course of business.

☐ **BY FACSIMILE:** I caused the above-referenced document to be transmitted to the interested parties via facsimile transmission to the fax number(s) as stated on the attached service list.

☐ **BY PERSONAL SERVICE:** I delivered such envelope(s) by hand to the offices of the addressee(s) in the attached service list.

1 ☐ (State) I declare under penalty of perjury under the laws of the State of California
2 that the above is true and correct.

3 ☒ (Federal) I declare that I am employed in the office of a member of the bar of this
4 court at whose direction the service was made. I declare under penalty of
5 perjury that the above is true and correct.

6 Executed August 20, 2024 at Costa Mesa, California.

7 Ja’Nita Fisher

8 /s/ Ja’Nita Fisher

9 Type or Print Name

10 Signature

11
12
13
14
15
16
17
18
19
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21
22
23
24
25
26
27
28

SERVICE LIST

BY COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”):

- **Kyra E Andrassy**
kandrassy@raineslaw.com,bclark@raineslaw.com,jfisher@raineslaw.com
- **Jeffrey E Brandlin**
kandrassy@swelawfirm.com
- **Lynn Dean**
deanl@sec.gov,LAROFiling@sec.gov,glovernewsomm@sec.gov,irwinma@sec.gov
- **Justin Robert King**
jrking80@gmail.com
- **Shannon King**
slking311@gmail.com
- **Byron Z Moldo**
bmoldo@ecjlaw.com,dperez@ecjlaw.com,amatsuoka@ecjlaw.com
- **Michael J. Quinn**
mquinn@vedderprice.com,adavis@vedderprice.com,michael-quinn-2870@ecf.pacerpro.com,ecfladocket@vedderprice.com
- **Amy Shulman Russell**
arusell@ecjlaw.com,arector@ecjlaw.com
- **Michael Lewis Simon**
msimon@raineslaw.com,lgarrett@swelawfirm.com,gacruz@swelawfirm.com
- **Sonia Singh**
ssingh@ecjlaw.com,dperez@ecjlaw.com
- **Kathryn C. Wanner**
wannerk@sec.gov,LeungG@SEC.GOV,larofiling@sec.gov,irwinma@sec.gov,gilliamk@sec.gov

BY MAIL:

Brandlin/Elevate: List of Creditors

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