

SMILEY WANG-EKVALL, LLP

3200 Park Center Drive, Suite 250

Costa Mesa, California 92626

Tel 714 445-1000 • Fax 714 445-1002

**SMILEY WANG-EKVALL, LLP**

Kyra E. Andrassy, State Bar No. 207959

*kandrassy@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

Counsel for Jeffrey Brandlin, 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,

SHANNON LEIGH KING,

Relief Defendant.

Case No. SACV20-02398-  
JVS(DFMx)

**FIRST STATUS REPORT OF THE  
RECEIVER FOR THE PERIOD  
THROUGH OCTOBER 31, 2021**

No hearing required

Judge: James V. Selna

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

Pursuant to Local Civil Rule 66-6.1, Jeffrey Brandlin, the permanent receiver ("Receiver") appointed over Elevate Investments LLC and its subsidiaries and affiliates (together, "Elevate") provides the following status report to apprise the Court and creditors and investors of the status of the receivership.

1 **I. ACTIONS TAKEN BY THE RECEIVER**

2 **A. The Actions Taken in the First Days of the Receivership**

3 The Receiver previously reported the following about the first days of  
4 the receivership, but includes it again because he has since identified  
5 additional creditors and investors who may not have seen the initial status  
6 report filed by the Receiver while he was still the temporary receiver.

7 Immediately after being notified of his appointment on December 28,  
8 2020, the Receiver and his proposed counsel went to the office location for  
9 Elevate Investments, LLC, located at 501 N. El Camino Real, Suite 226, San  
10 Clemente, CA. The office is located within an executive suite and consists  
11 of one room. The Receiver gained access to the office and, because the  
12 building manager had given Justin King notice of the Receiver's presence,  
13 was soon met by Justin and Shannon King. While the Receiver surveyed  
14 the office, counsel for the Receiver had a phone call with an attorney who  
15 said that he was representing Elevate. The Kings were on the call. Counsel  
16 for the Receiver explained the purpose of the receivership and the scope of  
17 the duties of the Receiver and answered questions about what could be  
18 expected.

19 The Receiver was able to get some information from Mr. King,  
20 including usernames and passwords for the computer and the iPad, the  
21 different web-based programs used by Elevate, and Elevate's Gmail  
22 account. The Receiver and his counsel then changed the passwords in  
23 order to ensure that Mr. King was no longer able to access the data or the  
24 accounts. The Receiver had the computer imaged and reviewed the data  
25 that was retrieved in order to identify investors, creditors, and potential  
26 assets, and to understand how Elevate communicated with investors and  
27 solicited new investments. The Receiver obtained a preliminary list of  
28 potential investors and gave them notice of the appointment of the Receiver

1 and directed them to the website that the Receiver established in order to  
2 communicate with investors.<sup>1</sup> The Receiver changed the lock to the office  
3 and redirected Elevate's mail to the Receiver's office. The Receiver has  
4 since returned possession of the office to the landlord.

5 The temporary restraining order identified four different accounts in the  
6 name of Elevate and its affiliates that were located at two different financial  
7 institutions. Concurrent with gaining control of the office, the Receiver's  
8 team gave notice to the financial institutions of his appointment and the  
9 order freezing of the accounts. The Receiver also requested all documents  
10 for those accounts in order to prepare a forensic accounting to determine  
11 what money came into Elevate and where it went. The Receiver's priority  
12 was with Elevate's account at Charles Schwab, because the account held  
13 some options in derivate investments. The Receiver had a phone call with  
14 representatives from Charles Schwab in order to understand the  
15 investments and to determine the best way to minimize any further loss to  
16 the receivership estate. The Receiver instructed Charles Schwab to sell and  
17 liquidate the positions that remained and obtained \$1,581,932 from Elevate's  
18 account at Charles Schwab.

19 Based on the Receiver's review to date, it appears that Elevate took in  
20 \$8,298,985 from investors, distributed \$409,525 to investors, lost  
21 \$5,534,576 in the market, and dissipated approximately \$2,354,884 of  
22 investor funds.

23 The Standardized Fund Accounting Report through October 31, 2021,  
24 is attached as Exhibit "1."

25  
26  
27  
28 <sup>1</sup> That website is at <https://www.donlinrecano.com/Clients/ei/Index>.

**B. Next Steps to be Taken**

The Receiver is completing his forensic accounting of the funds taken in by Elevate to determine their sources and how they were used. Although the analysis is still in process, it appears that Elevate raised approximately \$6.7 million from investors starting in June 1, 2019, and distributed approximately \$400,000 back to investors. The difference between the funds in the frozen accounts, including Elevate's account at Charles Schwab, and the net investments of the investors was either dissipated or a market loss.

Based on the flow of funds through accounts, the Receiver expects to seek a Court order on a noticed motion to be filed in December to expand the scope of the receivership estate to include Justin King's investment account at Charles Schwab, Shannon King's investment account at Charles Schwab, and funds on deposit in Chase bank accounts belonging to Area Auto Glass, LLC, and AZ Investment Kings, both of which the Receiver believes are affiliates of Elevate, and Chase bank accounts belonging to Justin and Shannon King. These accounts were frozen in December 2020 and have remained frozen. The largest of these accounts is Justin King's account at Charles Schwab which, as of May 31, 2021, had a balance of \$63,568.33.

The Receiver will also use the forensic accounting to identify payments made by Elevate that may be recoverable as fraudulent conveyances or through similar theories. The Receiver expects to seek authority to pursue these claims on a contingency fee basis to avoid depleting the funds on hand in the receivership estate.

Last, the Receiver is using the forensic accounting to finalize the list of investors and quantify the net amount of their investment (i.e., the amount that they put in, less any distributions received). The Receiver expects to

1 seek Court approval in the next quarter of a procedure for creditors and  
 2 investors to file claims against the receivership estate.

3 The Receiver will be hosting a virtual investor meeting on December 9,  
 4 2021, at 6:00 p.m. to provide an update on the status of the receivership to  
 5 investor and give them an opportunity to receive answers to any questions  
 6 that they have.

## 7 8 **II. Receipts and Expenditures of the Receivership Estate**

9 An accounting of the funds received by the Receiver and expenses  
 10 paid to date is attached as Exhibit "1." Through October 31, 2021, the  
 11 Receiver has incurred fees of \$70,837.50 and costs of \$110.29 and his  
 12 counsel, Smiley Wang-Ekvall, has incurred fees of \$45,179.00 and costs of  
 13 \$3,600.50. These fees and costs will be the subject of fee applications that  
 14 are in the process of being prepared.

15  
 16 DATED: November 19, 2021 Respectfully submitted,

17 SMILEY WANG-EKVALL, LLP  
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 19

20 By: /s/ Kyra E. Andrassy  
 21 KYRA E. ANDRASSY  
 22 Counsel for Jeffrey Brandlin,  
 23 Permanent Receiver  
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**EXHIBIT "1"**



**STANDARDIZED FUND ACCOUNTING REPORT for {Name of Fund} - Cash Basis**

Receivership; Civil Court Docket No.

Reporting Period MM/DD/YYYY to MM/DD/YYYY or Final Report Dated MM/DD/YYYY

1/11/21 - 10/31/21

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of MM/DD/YYYY):	1/11/21		
	<b>Increases in Fund Balance:</b>			\$1,581,932.13
Line 2	Business Income			
Line 3	Cash and Securities			
Line 4	Interest/Dividend Income			
Line 5	Business Asset Liquidation			
Line 6	Personal Asset Liquidation			
Line 7	Third-Party Litigation Income			
Line 8	Miscellaneous - Other			
	<b>Total Funds Available (Lines 1 - 8):</b>			\$1,581,932.13
	<b>Decreases in Fund Balance:</b>			
Line 9	Disbursements to Investors			
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals			
Line 10b	Business Asset Expenses		\$1,715.14	
Line 10c	Personal Asset Expenses			
Line 10d	Investment Expenses			
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	<b>Total Third-Party Litigation Expenses</b>			
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments			
	<b>Total Disbursements for Receivership Operations</b>			\$1,715.14
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator.....			
	Independent Distribution Consultant (IDC).....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	<b>Total Plan Development Expenses</b>			
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	<b>Total Plan Implementation Expenses</b>			
	<b>Total Disbursements for Distribution Expenses Paid by the Fund</b>			
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	<b>Total Disbursements to Court/Other:</b>			
	<b>Total Funds Disbursed (Lines 9 - 11):</b>			
Line 13	Ending Balance (As of MM/DD/YYYY):	10/31/21		\$1,580,216.99

**STANDARDIZED FUND ACCOUNTING REPORT for {Name of Fund} - Cash Basis**

Receivership; Civil Court Docket No.

Reporting Period MM/DD/YYYY to MM/DD/YYYY or Final Report Dated MM/DD/YYYY

1/11/21 - 10/31/21

<b>Line 14</b>	<b>Ending Balance of Fund - Net Assets:</b>			
Line 14a	Cash & Cash Equivalents			
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			
	<b>Total Ending Balance of Fund - Net Assets</b>	<b>Cash</b>		<b>\$1,580,216.99</b>

**OTHER SUPPLEMENTAL INFORMATION:**

		Detail	Subtotal	Grand Total
	<b>Report of Items NOT To Be Paid by the Fund:</b>			
<b>Line 15</b>	<b>Disbursements for Plan Administration Expenses Not Paid by the Fund:</b>			
Line 15a	Plan Development Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	<b>Total Plan Development Expenses Not Paid by the Fund</b>			
Line 15b	Plan Implementation Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....			
	Claimant Identification.....			
	Claims Processing.....			
	Web Site Maintenance/Call Center.....			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. FAIR Reporting Expenses			
	<b>Total Plan Implementation Expenses Not Paid by the Fund</b>			
Line 15c	<b>Tax Administrator Fees &amp; Bonds Not Paid by the Fund</b>			
	<b>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</b>			
<b>Line 16</b>	<b>Disbursements to Court/Other Not Paid by the Fund:</b>			
Line 16a	Investment Expenses/CRIS Fees			
Line 16b	Federal Tax Payments			
	<b>Total Disbursements to Court/Other Not Paid by the Fund:</b>			
<b>Line 17</b>	<b>DC &amp; State Tax Payments</b>			
<b>Line 18</b>	<b>No. of Claims:</b>			
Line 18a	# of Claims Received This Reporting Period.....			
Line 18b	# of Claims Received Since Inception of Fund.....			
<b>Line 19</b>	<b>No. of Claimants/Investors:</b>			
Line 19a	# of Claimants/Investors Paid This Reporting Period.....			
Line 19b	# of Claimants/Investors Paid Since Inception of Fund.....			

Receiver:

By:

(signature)

Jeffrey E. Brandlin

(printed name)

President - Brandlin &amp; Associates

(title)

Date:

11-15-21



**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF ORANGE**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 3200 Park Center Drive, Suite 250, Costa Mesa, CA 92626.

On **11/19/2021**, I served true copies of the following document(s) described as  
**FIRST STATUS REPORT OF THE RECEIVER FOR THE PERIOD THROUGH OCTOBER 31, 2021**  
on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**(X) (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 **11/19/2021**, 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.

**(X) (BY MAIL)**. I enclosed the document(s) in a sealed envelope or package and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Smiley Wang-Ekvall, LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Costa Mesa, California.

**( ) (BY E-MAIL)**. By scanning the document(s) and then e-mailing the resultant pdf to the e-mail address indicated above per agreement. Attached to this declaration is a copy of the e-mail transmission.

**( ) (BY FACSIMILE)**. I caused the above-referenced documents to be transmitted to the noted addressee(s) at the fax number as stated. Attached to this declaration is a "TX Confirmation Report" confirming the status of transmission. Executed on \_\_\_\_\_, at Costa Mesa, California.

**( ) STATE** I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.

**(X) FEDERAL** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 19, 2021, at Costa Mesa, California.

*/s/ Lynnette Garrett*

Lynnette Garrett

**SERVICE LIST****BY COURT VIA NOTICE OF ELECTRONIC FILING ("NEF"):**☐ **Kyra E Andrassy**

kandrassy@swelawfirm.com,jchung@swelawfirm.com,lgarrett@swelawfirm.com,gacruz@swelawfirm.com

☐ **Jeffrey E Brandlin**

kandrassy@swelawfirm.com

☐ **Lynn M. Dean**

deanl@sec.gov,LAROFiling@sec.gov,kassabguir@sec.gov,delgadilloj@sec.gov,longoa@sec.gov,simundacc@sec.gov,irwinma@sec.gov

☐ **Justin Robert King**

jrking80@gmail.com

☐ **Shannon King**

slking311@gmail.com

☐ **Michael J. Quinn**

mquinn@vedderprice.com,michael-quinn-2870@ecf.pacerpro.com,ecfladocket@vedderprice.com

☐ **Jennifer Trowbridge**

jennifer.trowbridge@jackolig.com

☐ **Kathryn C Wanner**

wannerk@sec.gov,kassabguir@sec.gov,longoa@sec.gov,simundacc@sec.gov,irwinma@sec.gov,gilliamk@sec.gov

**BY MAIL:**

Justin and Shannon King 26500 Paseo Infinita San Juan Capistrano, CA 92675	Justin and Shannon King 10639 West Chestnut Street Marana, AZ 85653
Michael Tucevich 7511 East Northern Ave Scottsdale AZ 85258	