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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.  
21  
22

Case No.

**PLAINTIFF SECURITIES AND  
EXCHANGE COMMISSION'S *EX*  
*PARTE* APPLICATION FOR A  
TEMPORARY RESTRAINING  
ORDER AND ORDERS: (1)  
FREEZING ASSETS; (2) REQUIRING  
ACCOUNTINGS; (3) PROHIBITING  
THE DESTRUCTION OF  
DOCUMENTS; (4) GRANTING  
EXPEDITED DISCOVERY; AND (5)  
APPOINTING A TEMPORARY  
RECEIVER; AND ORDER TO SHOW  
CAUSE RE PRELIMINARY  
INJUNCTION AND APPOINTMENT  
OF A PERMANENT RECEIVER**

**(FILED UNDER SEAL)**

1 Plaintiff Securities and Exchange Commission (“SEC”) applies, pursuant to  
2 Fed. R. Civ. P. 65(b), for a Temporary Restraining Order prohibiting Defendants  
3 Justin Robert King (“King”) and Elevate Investments LLC (“Elevate”) (collectively  
4 “Defendants”) from committing violations of the antifraud provisions of the federal  
5 securities laws, and for orders freezing assets, requiring accountings, prohibiting the  
6 destruction of documents, granting expedited discovery, and appointment of a  
7 temporary receiver over Defendant Elevate. In addition, the SEC applies for an  
8 Order to Show Cause Re Preliminary Injunction and Appointment of a Permanent  
9 Receiver. This Application is based on the SEC’s complaint, as well as its  
10 accompanying Memorandum of Points and Authorities, its supporting declarations  
11 and exhibits, and any such other evidence and argument as the Court may receive and  
12 permit.

13 **A. Basis for Waiver of Notice under Rule 65(b)**

14 Counsel for the SEC has not advised the Defendants of the date, time, or  
15 substance of its Application, and the SEC applies for emergency injunctive relief on  
16 an *ex parte* basis. Waiver of notice to the Defendants is appropriate, pursuant to Fed.  
17 R. Civ. P. 65(b) and Local Rule 7-19.2, because the specific facts set forth in the  
18 evidence submitted with the Application establish that immediate and irreparable  
19 injury, loss, or damage will result if the Defendants are notified of the SEC’s  
20 Application prior to it being heard. This is true because the Defendants’ fraudulent  
21 scheme is ongoing, and Defendants have already engaged in diversion of client funds.

22 As set forth in more detail in the SEC’s supporting papers, this case involves  
23 an ongoing offering fraud. Since June 2019, King and Elevate have offered interests in  
24 a pooled investment vehicle known as the Elevated Investments Fund (the “Fund”),  
25 raising at least \$7.4 million from investors. However, there is no legal fund entity;  
26 rather, investor money is held in brokerage accounts in the name of King, his wife  
27 Shannon King (“S. King”) and/or Elevate. In offering and selling investments in the  
28 Fund, King and Elevate are making false and misleading statements on Elevate’s

publicly-accessible website. First, Elevate’s website indicates that King’s trading has historically resulted in profits for his clients year after year, including a 61% return for all of his clients’ accounts from June 2019 through June 2020. In fact, King’s trading, across all known accounts associated with him, has resulted in substantial losses year after year, including \$3.8 million in trading losses from June 2019 through June 2020. In addition, Elevate’s website lists certain “Trusted Providers,” which includes broker-dealers TD Ameritrade and Interactive Brokers. In fact, TD Ameritrade closed King’s and Elevate’s accounts in July and August 2020, respectively, because of suspicious activity in the accounts, and King and Elevate have never had accounts at Interactive Brokers.

In addition to making false statements to investors, Defendants have dissipated Fund assets. In just the three months from September through November 2020, King and Elevate raised \$1.87 million from investors and suffered trading losses of \$531,000. Additionally, in same period, King transferred \$298,000 to S. King’s bank account. On December 1, King transferred an additional \$100,000 to S. King’s account. At the end of November 2020, King’s and Elevate’s brokerage accounts held only \$1.99 million.

If the Defendants are given notice of the Application, they will have the ability to raise additional funds from investors or clients, and may dissipate and misuse funds from new and existing clients, thus placing the funds beyond the reach of the Court. The danger of asset dissipation and continuing unlawful conduct are each independently accepted bases for granting a temporary restraining order without notice under Rule 65(b). *See, e.g., SEC v. Schooler*, No. 12–CV–2164–LAB–JMA2012 WL 4049956, at \*2 (S.D. Cal. Sept. 13, 2012); *3BA Int’l LLC v. Lubahn*, No. C10–829RAJ, 2010 WL 2105129, at \*5 (W.D. Wash. May 20, 2010). The Court’s immediate intervention would help prevent continuing violations of the federal securities laws and preserve the *status quo*. *See Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers*, 415 U.S. 423, 439 (1974) (purpose of temporary restraining order is “preserving the status quo and preventing

1 irreparable harm just so long as is necessary to hold a [preliminary injunction]  
2 hearing, and no longer”).

3 **B. Request to File the TRO Application under Seal**

4 Because its Application is made without notice, the SEC has concurrently filed  
5 a separate *ex parte* application asking that the Court seal this Application and the  
6 supporting documents, and the Complaint. The requested sealing order is of limited  
7 duration. The SEC asks that the Complaint and TRO Application be sealed: (a) for  
8 three (3) business days after the Court issues its ruling on the TRO Application, or (b)  
9 upon application by the SEC to unseal which shall be granted upon filing with the  
10 Clerk of the Court. No further order of the Court shall be necessary for the Clerk of  
11 Court to unseal the file. The SEC requests an order placing this case under seal to  
12 prevent notice to the Defendants, preserve assets, and preserve critical records, while  
13 the Court considers the TRO Application. If the papers are not filed under seal,  
14 posting them on PACER would make the Application and supporting papers publicly  
15 available, defeating the purpose of filing the Application without notice.

16 **C. Relief Requested**

17 Because of the ongoing nature of the fraudulent scheme, the SEC seeks to  
18 temporarily enjoin the Defendants from violating Section 10(b) of the Securities  
19 Exchange Act of 1934 and Rule 10b-5 thereunder [15 U.S.C. § 78j(b); 17 C.F.R. §  
20 240.10b-5], Section 17(a) of the Securities Act of 1933, [15 U.S.C. §§ 77q(a)]; and  
21 Sections 206(4) of the Investment Advisers Act of 1940 and Rule 206(4)-8  
22 thereunder. [15 U.S.C. §§ 80b-6(4), 17 C.F.R. § 275.206(4)-8(a)]. Because of the  
23 danger that the Defendants may further dissipate client funds, the SEC also seeks to  
24 freeze the assets of the each of the Defendants and the Relief Defendant. The SEC  
25 also requests orders requiring Defendants and Relief Defendant to provide  
26 accountings, prohibiting the destruction of documents, granting expedited discovery,  
27 and appointing a temporary receiver over Defendant Elevate. Finally, the SEC  
28 requests an order to show cause why a preliminary injunction should not be granted,

1 and a permanent receiver appointed over Defendant Elevate.

2 **D. Local Rule 7-19 Disclosure**

3 Pursuant to Local Rule 7-19, the SEC is not aware of counsel representing any  
4 of the Defendants in connection with this matter.

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6 Dated: December 21, 2020

Respectfully submitted,

7  
8 /s/ Lynn M. Dean

Lynn M. Dean

9 Kathryn Wanner

10 Attorneys for Plaintiff

11 Securities and Exchange Commission  
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