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Attorneys for Jeffrey E. Brandlin,
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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JUSTIN ROBERT KING; AND
ELEVATE INVESTMENTS LLC,

Defendants,

and

SHANNON LEIGH KING,

Relief Defendant.

Case No. 8:20-cv-02398-JVS-DFM

**NOTICE OF HEARING ON
MOTION OF JEFFREY E.
BRANDLIN, PERMANENT
RECEIVER, FOR AUTHORITY TO
COMMENCE LITIGATION TO
RECOVER FRAUDULENT
TRANSFERS AND EMPLOY
ERVIN COHEN & JESSUP LLP AS
SPECIAL COUNSEL, EFFECTIVE
NOVEMBER 15, 2022**

[Motion and Memorandum of Points
& Authorities submitted concurrently
herewith]

DATE: March 13, 2023

TIME: 1:30 p.m.

CTRM: 10C

JUDGE: Hon. James V. Selna

TO ALL INVESTORS OF ELEVATE INVESTMENTS LLC:

PLEASE TAKE NOTICE that unless the Court orders or provides
otherwise, on March 13, 2023, the Court is scheduled to conduct a hearing
on the *Motion of Jeffrey E. Brandlin, Permanent Receiver, for Authority to*

1 *Commence Litigation to Recover Fraudulent Transfers and Employ Ervin*
2 *Cohen & Jessup LLP as Special Counsel Effective November 15, 2022* (the
3 “Motion”). Parties are advised to review the Court’s website at
4 www.cacd.uscourts.gov the Friday prior to the hearing, to determine if a
5 tentative ruling has been posted that affects whether the hearing will go
6 forward. A summary of the relief sought in the Motion is as follows:

7 In the Motion, Jeffrey E. Brandlin, the Permanent Receiver
8 (“Receiver”) for Elevate Investments LLC and its subsidiaries and affiliates
9 (together, “Elevate”), seeks an order authorizing the Receiver to commence
10 litigation to recover fraudulent transfers made to certain individuals and/or
11 entities that received funds from Elevate and where Elevate did not receive
12 adequate consideration in exchange therefor, and to employ Ervin Cohen &
13 Jessup LLP (“ECJ”) as special counsel, effective November 15, 2022.

14 The Motion requests permission for the Receiver to pursue fraudulent
15 transfer claims against individuals or entities that received funds from
16 Elevate and Elevate did not receive adequate consideration in exchange
17 therefor. The Receiver believes these funds are recoverable either as actual
18 or constructive fraudulent transfers.

19 If the Receiver can settle or recover the funds without commencing
20 litigation, he will attempt to do so. However, the Receiver believes it is
21 appropriate to have authority to commence litigation to recover the funds
22 owed if settlements cannot be achieved.

23 The Receiver also seeks the Court’s authority to make an initial
24 settlement offer to the individuals and entities that received alleged
25 fraudulent transfers (hereinafter the “Recipients”) prior to filing suit against
26 them, in the hope that some of the Recipients will agree to return the
27 transfers they received without the necessity of the Receiver commencing
28

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1 suit. The Receiver, therefore, is requesting the Court's authority to make an
 2 initial settlement offer to the Recipients in an amount of not less than 85% of
 3 the demand made on each individual or entity.

4 The Receiver also seeks authority to settle with the Recipients before
 5 or after litigation is commenced without subsequent court approval if the
 6 amount at issue is \$100,000 or less.

7 To prosecute these claims, the Receiver requests authority to retain
 8 Ervin Cohen & Jessup LLP on an hourly basis. ECJ has agreed to reduce
 9 its hourly rate by ten percent, and the Receiver will reimburse ECJ for their
 10 out-of-pocket costs. The Receiver carefully weighed whether to pursue
 11 these claims on a contingency fee basis or on an hourly basis. A
 12 contingency fee basis protects the receivership estate from any risk, but it
 13 can also ultimately result in the receivership estate receiving less than it
 14 would were the litigation pursued on an hourly basis, particularly where
 15 claims have substantial merit. In this case, the Receiver has weighed the
 16 risks and benefits and believes that the retention of ECJ on the foregoing
 17 terms is in the best interests of the receivership estate.

18 For additional information, please see the Motion, which is available on
 19 the website for this case at: <https://www.donlinrecano.com/Clients/ei/Index>.

20
 21 DATED: February 10, 2023 SMILEY WANG-EKVALL, LLP
 22
 23

24 By: /s/ Kyra E. Andrassy
 25 Kyra E. Andrassy
 26 Michael L. Simon
 27 Counsel for Jeffrey E. Brandlin,
 28 Receiver

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 **2/10/2023**, I served true copies of the following document(s) described as

NOTICE OF HEARING ON MOTION OF JEFFREY E. BRANDLIN, PERMANENT RECEIVER, FOR AUTHORITY TO COMMENCE LITIGATION TO RECOVER FRAUDULENT TRANSFERS AND EMPLOY ERVIN COHEN & JESSUP LLP AS SPECIAL COUNSEL, EFFECTIVE NOVEMBER 15, 2022

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 **2/10/2023**, 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 below per agreement.

() (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 February 10, 2023, at Costa Mesa, California.

/s/ Lynnette Garrett

Lynnette Garrett

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SERVICE LIST

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All investors served by U.S. Mail. Addresses withheld from this proof of service to protect the investors' privacy.