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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

12 JOHN SOUZA,) CIVIL ACTION FILED
13 PETITIONER,) NO. 2:17-cv-001924
14 V.)
15 ELEVATE, INC.)
16 RESPONDENT.)

ORDER GRANTING PETITION FOR CUSTODIANSHIP

19 This matter comes before the Court on John Souza’s Petition for Custodianship of
20 Elevate, Inc., a Nevada Corporation, pursuant to NRS § 78.347, or in the alternative for an
21 Inspection of Corporate Records. The Court conducted a hearing on September 5, 2017.
22 Having considered the Verified Petition, Declaration of John Souza, having received
23 evidence, and having heard argument from Counsel, for the reasons that follow, the Court
24 GRANTS the petition and Orders that John Souza (“Souza”) is appointed Custodian of
25 Elevate, Inc. (“Elevate”).

26 || Findings of Fact

27 Elevate was served with the Summons and Petition in this Matter. The commercial
28 registered agent attempted to notify Elevate to no avail. At the hearing on the Petition,

1 Souza demonstrated that, through counsel, he attempted to communicate with the former
2 CEO, Wright Thurston, by and through Elevate's counsel in pending Utah litigation and
3 through another shareholder, but received no response. The evidence adduced at the hearing
4 demonstrates that all three of the officers and directors of Elevate, according the information
5 on file with the Nevada Secretary of State, had resigned from Elevate no later than
6 September 2016. Elevate's business license expired in February 2016, and no filing of the
7 annual list of officers or directors, which was due by February 29, 2016, was made.

8 According to the Verified Petition, Elevate ceased business operations shortly after
9 four of the company's key employees went to work for a competitor in or around October
10 2015. The Petition further shows that Souza is the owner of just over 4 Million shares of
11 Elevate stock, which was corroborated by a written consent of the then current, but now
12 resigned directors.

13 Conclusions of Law

14 Accordingly, the Court finds that pursuant to NRS § 78.347(1)(b), Elevate has
15 abandoned its business and has failed within a reasonable time to take steps to dissolve,
16 liquidate or distribute its assets in accordance with this chapter. Under this statute, Souza,
17 as a shareholder, has standing to petition the Court to appoint a custodian. Souza seeks to
18 have himself appointed as custodian, and by way of his Verified Petition and Declaration,
19 has satisfied the requirements of subsection NRS § 78.347(2).

20 **ORDER**

21 Souza is hereby appointed by this Court as Custodian of Elevate. Pursuant to NRS §
22 78.347(6), Souza has all the powers and title of a trustee appointed under NRS §§ 78.590,
23 78.635 and 78.650. In light of the evidence that Elevate has pending litigation against its
24 former employees, Souza, as Custodian, is specifically authorized to take such action as he
25 deems necessary to investigate and direct those matters, and obtain any and all of the
26 company's corporate and financial records to investigate whether any claims exist against
27 any other party.

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1 Souza, as Custodian, is further ORDERED to:

2 (a) take the necessary steps to reinstate Elevate into compliance as required under
3 NRS § 78.180, and must file proof thereof with the Court, and;

4 (b) after obtaining the information from Elevate, provide reasonable notice to all
5 shareholders of record of a shareholder meeting to be held within a reasonable time after an
6 application for custodianship or receivership has been granted, and file proof thereof, and;

7 (c) provide the Court with a report of the actions taken at the shareholder meeting
8 noticed by the custodian, and;

9 (d) provide the Court with quarterly reports of the activities of the custodian and the
10 board of directors and the progress of the corporation.

11 The Court will retain jurisdiction over the case to ensure compliance with the
12 statutory requirements, and as may be necessary to aid the Custodian in his efforts under this
13 Order. The Alternative Petition for an Inspection of Records is DENIED as MOOT.

14 IT IS SO ORDERED this 19th day of September, 2017.

15 
16 Hon. Jennifer A. Dorsey
17 United States District Judge

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